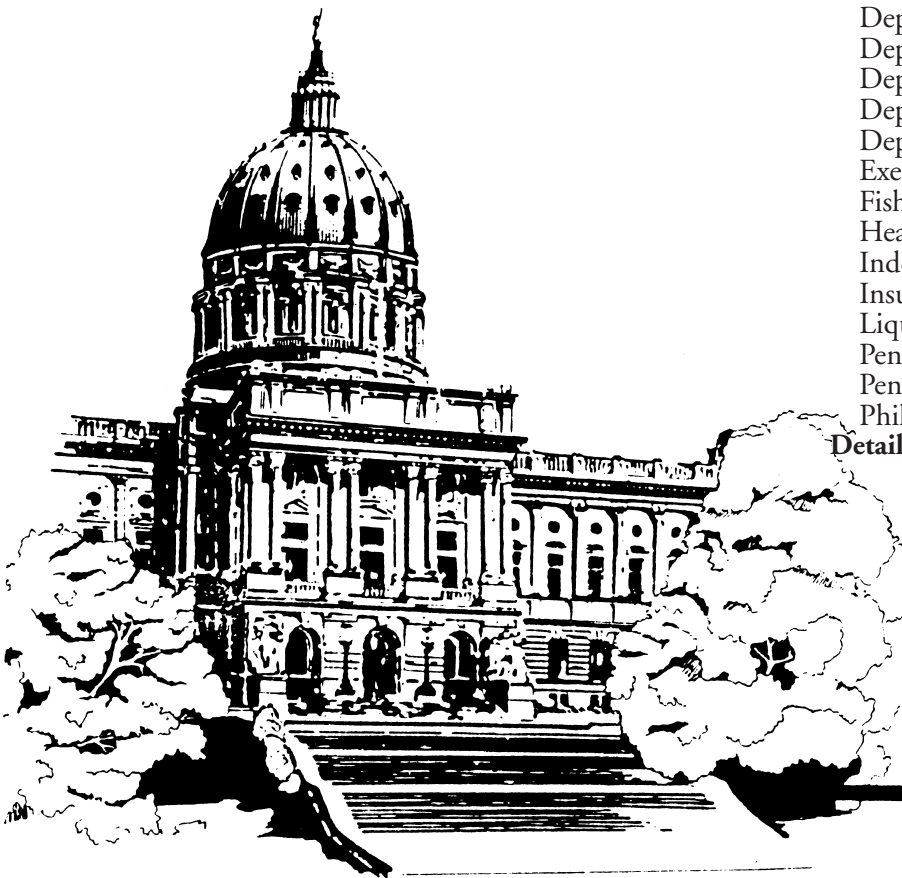


PENNSYLVANIA BULLETIN

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No. 431, October 2010

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Pennsylvania Bulletin

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

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

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

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

Adoption, Amendment or Repeal of Regulations

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

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

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

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

Citation to the *Pennsylvania Bulletin*

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

Pennsylvania Code

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

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

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

How to Find Documents

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

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

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

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Printing Format

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

Fiscal Notes

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

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

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The following numerical guide is a list of the chapters of each title of the *Pennsylvania Code* affected by documents published in the *Pennsylvania Bulletin* during 2010.

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THE GOVERNOR

Title 4—ADMINISTRATION

PART I. GOVERNOR'S OFFICE

[4 PA. CODE CH. 7a]

[EXECUTIVE ORDER NO. 2010-04]

Consumer-Directed Home Care Providers

September 14, 2010

Whereas, the Commonwealth is committed to ensuring Pennsylvania residents have access to high quality home care services; and

Whereas, the Commonwealth, through its Office of Long-Term Living, presently administers various home and community based services, including the Attendant Care Waiver, the Attendant Care Services Act 150 Program, Options and the Aging Waiver; and

Whereas, under these home and community based waiver programs, consumers of home care services have the ability to self-direct their own care and to employ individual providers (providers) through the use of Financial Management Services agencies retained by the Commonwealth and selected by consumers to assist them with payroll and other supportive services; and

Whereas, there is a continuing workforce shortage in recruiting and retaining providers who support Pennsylvania citizens in their homes and the community; and

Whereas, successful home care programs for seniors and persons with disabilities require efforts and strategies to recruit and retain a qualified and trained workforce; and

Whereas, Pennsylvania is rebalancing its long-term living to increase the opportunities for seniors and persons with disabilities to live independently for as long as their health permits them to do so; and

Whereas, the Commonwealth, through its Office of Long-Term Living, is in the process of establishing a statewide rate structure for the payment of certain home and community based services; and

Whereas, consumers of home care services who desire to self-direct and employ providers are best served by an experienced, well-trained, stable provider workforce; and

Whereas, providers work throughout the Commonwealth in the homes of consumers and therefore without representation have no effective means of voicing their collective concerns about the terms of their provision of services; and

Whereas, the Commonwealth has a substantial public interest in protecting the rights of workers to join, form and assist organizations to negotiate on their behalf; and

Whereas, it is essential for the Commonwealth to hear the common concerns of consumers and providers employed by consumers in order to effectively and efficiently administer its home and community based waiver programs and to achieve its goals of rebalancing the system of long-term living and improving access to quality home care; and

Whereas, the Commonwealth is committed to developing a strategy that will address these concerns without interfering with a consumer's right to select, hire, schedule, supervise and terminate an individual provider employed by the consumer.

Now, Therefore, I, Edward G. Rendell, Governor of the Commonwealth of Pennsylvania, by virtue of the authority vested in me by the Constitution of the Commonwealth of Pennsylvania and other laws, do hereby direct the following:



Governor

Fiscal Note: 2010-07. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 4. ADMINISTRATION

PART I. GOVERNOR'S OFFICE

CHAPTER 7a. ADDITIONAL MISCELLANEOUS PROVISIONS

Subchapter C. CONSUMER-DIRECTED HOME CARE PROVIDERS

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§ 7a.21. Selection of a provider representative.

To assist the Commonwealth in addressing the concerns and interests of individual providers, the Commonwealth will recognize a labor organization as the exclusive representative for individual providers, designated in the manner as follows:

(1) *Providers defined.* For the purpose of this subchapter, providers are defined as those providers who are consumer-directed and not employed by a private agency and who provide, under the jurisdiction of the Office of Long-Term Living, ongoing Medicaid or Commonwealth reimbursed non-medical, direct care services to older Pennsylvanians and Pennsylvanians with disabilities, including but not limited to, the Attendant Care Waiver, the Attendant Care Services Act 150 Program, Options and the Aging Waiver.

(2) *Eligible voters.* The Commonwealth will create a list of providers who will constitute eligible voters for the purpose of determining a showing of interest justifying an election and for the election should the showing of interest occur. The list will be composed of providers reimbursed for services from the most recent 3-month period available.

(3) *Showing of interest justifying an election.* For an election to occur, a labor organization must demonstrate to the satisfaction of the Secretary of Labor and Industry, by either authorization cards or petition, that at least 10% of the providers on the eligible voter list request an election. The Secretary of Labor and Industry will designate the American Arbitration Association or another organization with experience in conducting representation elections as election monitor for purposes of showing of interest and conducting the election if a showing of interest occurs. The election shall be conducted by secret mail ballot and commence no later than 30 calendar days from the determination that a showing of interest has been demonstrated. Any other labor organization seeking to intervene or appear on the ballot must demonstrate a 10% showing of interest.

(4) *Majority vote required.* For any labor organization to be recognized as the provider representative of the providers, it must receive at least a majority of the votes cast. After the results are certified, the Commonwealth will recognize the labor organization as the exclusive representative of all

consumer-directed providers covered under this subchapter working within this Commonwealth, for the purpose of negotiation of matters over which the Commonwealth has control.

(5) *Decertification or selection of different provider representative.* A petition to decertify an existing exclusive representative or select a different provider representative may be filed by providers in the same manner as a petition for election, provided the petition is no sooner than 12 months after the representative election has been conducted. In the event a valid agreement is reached that, by its terms, does not exceed 3 years in duration, a decertification petition may be filed by providers in the same manner as a petition for election during the period from 90 calendar days until 60 calendar days immediately preceding the expiration of the agreement.

§ 7a.22. Meeting with the provider representative.

The Commonwealth, acting through the Office of Long-Term Living or joint designee of the Secretaries of Aging and Public Welfare, will engage in negotiations with the provider representative concerning terms and conditions which directly impact providers and which are within the Commonwealth's control, including the maximum unit rate paid for services, minimum portion of Commonwealth payments passed through to providers, training standards and requirements, health care, payroll deductions such as dues and co-premiums, and the creation of a voluntary registry. The negotiation must begin within 30 calendar days after certification of the provider representative. The negotiation may not intrude upon or interfere with a consumer's right to select, hire, directly train, schedule, supervise and terminate any individual provider employed by the consumer.

§ 7a.23. Agreement memorialized.

When agreement is reached, it shall be memorialized in writing. The agreement shall be signed by the Governor, or a representative, and by the provider representative. The terms of the agreement which require State and Federal regulatory or legislative action shall be contingent upon the successful completion of the action. To the extent practical, if any provisions of the agreement require legislative action or the appropriation of funds, the parties will jointly seek the enactment of the legislative or regulatory action.

§ 7a.24. Consumer Workforce Council.

The Consumer Workforce Council (CWC) is established as the unified voice for consumer-employers for the purpose of engaging in discussions regarding common concerns of consumers and providers covered under this subchapter.

(1) *Selection and terms of the CWC.* The CWC will consist of 18 members, diverse by geography and age, selected by the Governor. The Pennsylvania Council for Independent Living, Centers for Independent Living, AARP and the P4A (representing the area agencies on aging) are invited to submit regionally diverse nominations. Each member will be appointed for a 2-year term, renewable for two additional terms if nominated by the Governor. The Chairperson will serve at the pleasure of the Governor and, other than the first Chairperson, must have served for at least 1-year prior to selection as the Chairperson. Other than the first Chairperson, the CWC will provide its recommendations to the Governor regarding selection of the Chairperson.

(2) *Role of the CWC.* To ensure a strong voice for the rights of consumers, the CWC will advise the Office of Long-Term Living or the joint designee of the Secretaries of Aging and Public Welfare designee with respect to any issues or concerns related to this subchapter.

§ 7a.25. Procedure if the parties fail to reach agreements.

Nothing in this subchapter permits providers to engage in a strike or collective cessation of the delivery of services. In the event the parties in the judgment of the Secretary of Labor and Industry reach impasse during negotiations, they will employ the services of a third-party neutral who will make a nonbinding recommendation as to contract provisions. The costs for the services of the arbitrator will be shared equally by the parties.

§ 7a.26. Relationship between provider and consumer will not change.

This subchapter in no way alters the unique relationship between the individual provider and individual consumer. Consumers retain the absolute right to select, hire, terminate and supervise their providers.

§ 7a.27. Relationship between provider and the Commonwealth will not change.

Nothing in this subchapter is intended to grant providers the status of Commonwealth employees.

§ 7a.28. State action exemption.

In affording providers the right to select an exclusive representative, engage in negotiations with the Commonwealth under the terms of this subchapter, the Commonwealth intends that the "State Action" exemption to Federal antitrust laws be fully available to the Commonwealth, to the providers, their provider representative and to the Consumer Workforce Council. The exempt conduct will be actively supervised by the Department of Labor and Industry.

§ 7a.29. Cooperation by State agencies.

Agencies under the Governor's jurisdiction shall take whatever steps necessary to implement this subchapter.

§ 7a.30. Term.

This subchapter shall be effective immediately and remain in effect until rescinded by the Governor.

[Pa.B. Doc. No. 10-1990. Filed for public inspection October 22, 2010, 9:00 a.m.]

PART I. GOVERNOR'S OFFICE

[4 PA. CODE CH. 7a]

[EXECUTIVE ORDER NO. 2010-03]

Pennsylvania-Produced Agricultural Products Program

September 14, 2010

Whereas, Pennsylvania is the most productive agricultural state in the Northeast, with more than 63,000 farms and 7.7 million acres of crop and pasture land; and

Whereas, Pennsylvania farmers are a vital component of the Commonwealth's economy, a leading economic enterprise in the Commonwealth, generating more than \$6.1 billion annually in cash receipts, supporting a \$45 billion a year economic activity, and employing nearly one in seven members of Pennsylvania's workforce; and

Whereas, Pennsylvania-produced agricultural products provide a potential local source for those Commonwealth agencies that purchase agricultural products; and

Whereas Pennsylvania-produced agricultural products are available at costs that are competitive with agricultural products that are produced outside the Commonwealth; and

Whereas, the Department of Agriculture has developed the Pennsylvania Preferred® program to increase sales of Pennsylvania-produced agricultural products; and

Whereas, the purchase and use of Pennsylvania-produced agricultural products by Commonwealth agencies will benefit both Pennsylvania agriculture industry and the agencies that purchase these products.

Now, Therefore, be it resolved that I, Edward G. Rendell, Governor of the Commonwealth of Pennsylvania, by virtue of the authority vested in me by the Constitution of the Commonwealth of Pennsylvania and other laws, do hereby order:

Edward G. Rendell

Governor

Fiscal Note: 2010-08. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 4. ADMINISTRATION

PART I. GOVERNOR'S OFFICE

CHAPTER 7a. ADDITIONAL MISCELLANEOUS PROVISIONS

Subchapter D. PENNSYLVANIA-PRODUCED AGRICULTURAL PRODUCTS PROGRAM

Sec.	
7a.41.	Commonwealth agency purchases.
7a.42.	Identification of sources.
7a.43.	Soliciting vendors.
7a.44.	Report.
7a.45.	Definitions.
7a.46.	Resolving conflicts with other jurisdictions.
7a.47.	Effective date.

§ 7a.41. Commonwealth agency purchases.

All agencies under the jurisdiction of the Governor that purchase agricultural products shall, to the extent permitted by the laws and agreements of the United States and the Commonwealth and so as not to trigger the reciprocal preference laws of other states, purchase Pennsylvania-produced agricultural products when available at competitive prices.

§ 7a.42. Identification of sources.

Agencies shall, prior to purchasing agricultural products, research potential sources of these agricultural products to determine whether there are potential vendors of Pennsylvania-produced agricultural products. At a minimum, agencies shall contact the Department of Agriculture or review Department of Agriculture published lists of producers of Pennsylvania Preferred® agricultural products or licensees of the Pennsylvania Preferred® trademark to identify potential bidders and vendors. The Department of Agriculture will assist agencies in identifying other potential vendors of Pennsylvania-produced agricultural products.

§ 7a.43. Soliciting vendors.

If there are vendors of Pennsylvania-produced agricultural products that would be responsive to the particular needs of the agency, the agency shall solicit a quote, price or proposal from those vendors.

§ 7a.44. Report.

Commonwealth agencies that purchase agricultural products shall, on or before January 1 of each year, provide a report to the Department of Agriculture describing the types, quantities, and costs of each agricultural product purchased and each Pennsylvania-produced agricultural product purchased. The report shall be completed on a form provided by the Department of Agriculture.

§ 7a.45. Definitions.

For purposes of this subchapter, Pennsylvania-produced agricultural products shall consist of any of the following:

(1) Fresh, unprocessed agricultural products with respect to which the Department of Agriculture has granted a license allowing the use of the Pennsylvania Preferred® trademark for marketing purposes.

(2) Processed agricultural products with respect to which the Department of Agriculture has granted a license allowing the use of the Pennsylvania Preferred® trademark for marketing purposes.

(3) Fresh, unprocessed agricultural products with respect to which the vendor provides written certification that the following conditions apply:

(i) One hundred percent of the products are harvested in a raw state (for plant products) or a live state (for animal products) from within this Commonwealth.

(ii) If inspected by the Department of Agriculture, the United States Department of Agriculture, the Food and Drug Administration or an independent certifying organization, the products have met the quality standards of that inspecting body.

(4) Fresh, unprocessed agricultural products with respect to which the vendor provides written certification that the following conditions apply:

(i) The products have been grown within this Commonwealth for at least 75% of the products' production cycle.

(ii) If inspected by the Department of Agriculture, the United States Department of Agriculture, the Food and Drug Administration or an independent certifying organization, the products have met the quality standards of that inspecting body.

(5) Processed agricultural products with respect to which the vendor provides written certification that:

(i) One hundred percent of the final processing and packaging occurred within this Commonwealth.

(ii) If the primary ingredients are grown in this Commonwealth, at least 60% of the processor's annual production is sourced using products meeting the criteria for "Fresh, unprocessed products" described in paragraphs (1)—(4).

(iii) If the primary ingredients are grown in this Commonwealth (these ingredients are "grown in Pennsylvania" if they are listed as being grown in this Commonwealth at a commercial level in the most recent annual report prepared by the Pennsylvania Agricultural Statistics Service), but at a low level of production which means the processor cannot buy enough to meet the 60% criteria at the time of application to the Pennsylvania Preferred Program, the processor buys the maximum amount of Pennsylvania product available to it.

(iv) If the primary ingredients are not grown in this Commonwealth (these ingredients are "not grown in Pennsylvania" if they are not listed as being grown in this Commonwealth at a commercial level in the most recent annual report prepared by the Pennsylvania Agricultural Statistics Service), the processor performs at least 75% of the product's processing operations within this Commonwealth.

(v) The processing is in compliance with all State and Federal food safety and sanitary requirements and has not incurred a major violation of these requirements within the most recent calendar year.

§ 7a.46. Resolving conflicts with other jurisdictions.

It is not the intention of this subchapter to violate or conflict with any international treaty or reciprocal preference statute of another jurisdiction. This subchapter shall be interpreted and applied to avoid any violation or conflict.

§ 7a.47. Effective date.

This order shall take effect immediately.

[Pa.B. Doc. No. 10-1991. Filed for public inspection October 22, 2010, 9:00 a.m.]

THE GENERAL ASSEMBLY

Recent Actions during the 2010 Regular Session of the General Assembly

The following is a summary of recent actions of the General Assembly during the 2010 Regular Session.

<i>Doc. No.</i>	<i>Date of Action</i>	<i>Bill Number</i>	<i>Printer's Number</i>	<i>Effective Date</i>	<i>Subject Matter</i>
2010 GENERAL ACTS OF REGULAR SESSION ENACTED—ACT 060 through 071					
060	Sep 24	SB1200	PN1605	Immediately	Interstate Wildlife Violator Compact Act—enactment
061	Oct 7	HB0105	PN0098	60 days	Second Class City Law—penalty for false personification
062	Oct 7	HB0106	PN0099	60 days	First Class City Government Law—penalty for false personification
063	Oct 7	HB0107	PN0100	60 days	Unauthorized wearing of badge of Bureau of Police in cities of first class, repealed
064	Oct 7	HB0181	PN1851	60 days	Game Code (34 Pa.C.S.)—powers and duties of enforcement officers and resisting or interfering with officer
065	Oct 7	HB1281	PN4021	60 days	Prisons and Parole Code (61 Pa.C.S.)—notice and public hearing relating to community corrections facilities
066	Oct 7	HB1376	PN1677	60 days	Continuing-Care Provider Registration and Disclosure Act—investigations, subpoenas and audits
067	Oct 7	HB1671	PN2112	60 days	Historical and Museum Commission—increasing membership of committee
068	Oct 7	HB1774	PN4065	60 days	Insurance Company Law of 1921—marketing and administration of service contracts being distinct from business of insurance
069	Oct 7	SB0260	PN2134	60 days	Crimes Code (18 Pa.C.S.)—corruption of minors and offense of sexual abuse of children
070	Oct 7	SB0699	PN1888	6 months	Adult Protective Services Act—enactment
071	Oct 7	SB1327	PN1900	60 days	Port of Philadelphia—regulating rates of pilotage and number of pilots

* denotes an effective date with exceptions

Effective Dates of Statutes

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

Advance Copies of Statutes

Section 1106 of Title 1 of the *Pennsylvania Consolidated Statutes* provides that the prothonotaries of each county shall file advance copies of statutes in their offices for public inspection until the *Laws of Pennsylvania* are generally available. Section 2406(h) of The Administrative Code of 1929 provides that the Department of General Services (Department) shall distribute advance sheets of the *Laws of Pennsylvania* to each law judge of the courts, to every county and public library of this Commonwealth and to each member of the General Assembly. These copies shall be furnished without charge. The Department shall also mail one copy of each law enacted during any legislative session to any person who pays to it the sum of \$25.

Requests for annual subscriptions for advance copies of statutes should be sent to the State Bookstore, Commonwealth Keystone Building, 400 North Street, Harrisburg, PA 17120-0053, accompanied by a check or money order in the sum of \$25, payable to the "Commonwealth of Pennsylvania."

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

[Pa.B. Doc. No. 10-1992. Filed for public inspection October 22, 2010, 9:00 a.m.]

THE COURTS

Title 210—APPELLATE PROCEDURE

PART II. INTERNAL OPERATING PROCEDURES

[210 PA. CODE CH. 65]

Amendments to the Superior Court Operating Procedures

The Superior Court of Pennsylvania has adopted amendments to its Internal Operating Procedures. These amendments are reflected in the Superior Court Internal Operating Procedures with amendments to Pa. Code 65.1 et seq.

These changes were approved on September 15, 2010, effective immediately.

Annex A

TITLE 210. APPELLATE PROCEDURE

PART II. INTERNAL OPERATING PROCEDURES

CHAPTER 65. INTERNAL OPERATING PROCEDURES OF THE SUPERIOR COURT

ADMINISTRATIVE OFFICES AND STAFF

§ 65.5. Panels.

* * * * *

C. [If a member of a panel is unable to attend or is disqualified from sitting on a particular case, the presiding judge of that panel shall secure another judge to sit on that case. If a member of a panel is unable to attend or is disqualified from sitting on a particular panel, the President Judge shall designate and assign another judge to sit on the panel.]

1. After the Prothonotary has listed the cases for an argument panel, but before the actual argument of the cases: (a) if a member of a panel becomes unable to participate in the disposition of a particular case, the presiding judge of that panel shall notify the President Judge or his/her designee, and the President Judge or his/her designee shall secure another judge to sit on that case; (b) if a member of a panel becomes unable to participate in a particular panel, the President Judge or his/her designee shall designate and assign another judge to sit on the panel.

2. After the Prothonotary has listed the cases for a submitted panel: (a) if a member of a panel becomes unable to participate in the disposition of a particular case, the case may be decided by the two remaining judges if they agree on the entire disposition of the case; if the two remaining judges are unable to agree on the entire disposition of the case, the panel shall proceed in accordance with I.O.P. 65.5F.; (b) if a member becomes unable to participate in a particular panel, the President Judge or his/her designee shall designate and assign another judge to the panel.

3. If, after oral argument on a case, a judge becomes unable to participate in the disposition of a particular case, the case may be decided by the two remaining judges if they agree on the entire disposition of the case. If the two remaining judges

are unable to agree on the entire disposition of the case, the panel shall proceed in accordance with I.O.P. 65.5F.

D. The presiding judge of each panel shall be the commissioned judge highest in seniority, except where the panel includes the President Judge who shall then be the presiding judge. The presiding judge shall preside at all panel sessions, assign the cases, and record the assignment of cases. The presiding judge shall transmit to the members of the panel and the Reporter a record of all assignments and/or other actions taken by the panel.

E. All discussions, votes, and drafts of decisions prior to the filing of the final decision shall remain confidential.

F. If, following argument or submission, a member of the three judge panel assigned to decide an appeal becomes unavailable, and the remaining two judges are unable to decide the appeal, they shall request the President Judge or his/her designee to either reassign the appeal for reargument or submission before another panel, or they may request that the appeal be reargued before a court en banc. If the full court shall decline to accept the appeal for reargument before a court en banc, the President Judge or his/her designee shall reassign the same to another three judge panel for reargument or submission and decision.

Comment

In accordance with Pa.R.A.P. 3102(a), a panel of three judges constitutes a quorum of the Court. 42 Pa.C.S. § 325(e)(1) authorizes the President Judge to make assignments. Subdivision (C) and (D) of this rule [does] do not alter the effect of Pa.R.A.P. 3102(b).

§ 65.6. Courts en banc.

* * * * *

B. The President Judge shall assign the judges to each en banc panel and shall designate the location, the time, and the date of each session. [**The identity of the members of the en banc panel shall be confidential prior to the session.**] The presiding judge of a Court en banc shall be the commissioned judge highest in seniority, except where the Court en banc includes the President Judge, who shall then preside.

* * * * *

APPELLATE MEDIATION PROGRAM

(*Editor's Note:* The following section is new and printed in regular type to enhance readability.)

§ 65.43. Policy.

The Appellate Mediation Program facilitates settlements or otherwise assists in the resolution of eligible Civil, Family and Orphans' Court appeals. Attorneys with the requisite experience are appointed by the Court to administer the program and conduct mediations. The Mediator shall report directly to the President Judge or his or her designee.

A. After an appeal is filed and contemporaneous with the issuance of docketing information, the Superior Court Prothonotary shall provide the Appellant with a Mediation Statement Form directing the Appellant to submit a

factual and procedural summary of the case, the issues raised on appeal, a copy of any opinion or order entered in the lower court and such other information that might impact the mediation process.

B. The completed Mediation Statement shall be confidential. It shall be delivered directly to the Mediator whose identity and address will be provided with the Appellate Mediation Statement Form. The Mediation Statement shall not be filed with the Prothonotary and shall not be served on opposing counsel.

C. Based on the Mediation Statement and any other submitted documents, the Mediator, in his or her discretion, shall determine whether the case on appeal will be mediated. The Mediator shall notify the parties when a case is selected for mediation. Once the Mediator selects a matter for mediation, participation is mandatory.

D. In the event that a case has not been selected for mediation, a party or parties to such an appeal may request the Mediator to reconsider the case for mediation. The Mediator may, in his or her discretion, accept such reconsidered case for mediation, provided that no case shall be eligible for the mediation program after the filing of Appellant's brief and the Mediator shall not reconsider and accept a case after that time has passed.

E. After selection of a case for mediation, and in order to facilitate the mediation, the Mediator shall distribute instructions, procedures and forms to the parties. The parties will prepare and timely submit to the Mediator all forms sent in conjunction with the mediation program.

F. The Mediator shall schedule and conduct confidential mediation sessions. The mediation of selected cases shall be conducted in person, however, if necessary, the Mediator may permit the mediation to take place telephonically, or by videoconference if available. Such mediation sessions shall be scheduled and completed prior to the date set for the filing of Appellant's initial brief. A briefing schedule shall not be deferred during the pendency of mediation unless the Court determines otherwise. A referral to mediation shall not defer or extend the time for ordering any necessary transcripts. Unless otherwise ordered by the Court and for good cause shown, the appellate process will not be interrupted as a result of the pendency of mediation.

G. Unless the Mediator directs otherwise, mediation sessions must be attended by: 1) for each party, the lead attorney who is responsible for the appeal; 2) the parties to the appeal; and 3) if other than or in addition to a party, by the person or persons with actual, full and complete authority to agree to the terms of a settlement of the case. Attendance by other persons who may beneficially influence a settlement shall be within the discretion of the Mediator.

H. No party shall be bound by statements or actions at a mediation session unless a settlement is reached. If the case settles, the agreement shall be reduced to writing and signed by all parties at the mediation session or as soon as possible thereafter. A settlement agreement shall be binding upon all parties to the agreement.

I. In the event of settlement, the Appellant shall promptly file with the Prothonotary a Praecipe for Discontinuance of the appeal pursuant to Pa.R.A.P. 1973 and serve a copy of the Praecipe on the trial judge who presided in the case in the Court of Common Pleas pursuant to Pa.R.A.P. 121(c). The Praecipe shall contain a Notice of Service of the trial court judge pursuant to Pa.R.A.P. 121(d).

J. The Mediator shall keep confidential any statements made or information developed during the mediation process. The parties, their attorneys and other persons attending the mediation are likewise prohibited from disclosing statements made or information developed during the mediation process to anyone other than clients, principals, co-counsel, or those whose final permission and authority is essential to effectuate a settlement, and then, only upon receiving confirmation that the recipients will honor the confidentiality of the information. Similarly, the parties are prohibited from using any confidential information obtained as a result of the mediation process as a basis for any motion or argument to any court.

K. The Mediator shall not participate in any attempts to enforce a settlement. Further, the Mediator cannot be called as a witness in any action or proceeding to enforce a settlement reached as a result of the Appellate Mediation Program.

L. All mediation communications and mediation documents are confidential, inadmissible and are privileged communications pursuant to 42 Pa.C.S.A. § 5949. Upon completion of the mediation proceedings, the Mediator will destroy, in a secure manner, all written documentation submitted during the consideration of and/or conduct of mediation.

M. The Mediator will provide a program evaluation form, to counsel for the parties and, if appropriate, to parties. Candid evaluations are encouraged, but are voluntary and may be submitted anonymously.

WIRETAPS

§ 65.51. [Policy] (Rescinded).

[Pursuant to § 5704(5) of the Wiretapping and Electronic Surveillance Control Act, it is the policy of the Court not to entertain applications for the installation and use of Pen Registers.]

[Pa.B. Doc. No. 10-1993. Filed for public inspection October 22, 2010, 9:00 a.m.]

Title 25—LOCAL COURT RULES

BUCKS COUNTY Administration Order No. 43

Order of Court

And Now, this 8th day of October 2010, Administrative Order No. 43 is hereby rescinded effective December 1, 2010.

By the Court

SUSAN DEVLIN SCOTT,
President Judge

[Pa.B. Doc. No. 10-1994. Filed for public inspection October 22, 2010, 9:00 a.m.]

INDIANA COUNTY

**Amended Local Rule of Criminal Procedure 117;
No. AD-2-2006****Administrative Order of Court**

And Now, September 30, 2010, it is *Ordered* and *Directed* that Amended Local Rule of Criminal Procedure 117 is adopted as follows:

The Court Administrator is *Directed* to:

1. File one (1) certified paper copy of this Order and Amended Rule with the Administrative Office of Pennsylvania Courts,
2. File two (2) certified paper copies and one (1) diskette or CD-ROM containing this Order and Amended Rule with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*,
3. Publish a copy of this Order and Amended Rule on the Unified Judicial System's web site at <http://ujsportal.pacourts.us>,
4. File one (1) certified copy of the Amended Rule with the Criminal Procedural Rules Committee,
5. Keep continuously available for public inspection copies of the Order and Amended Rule in the Prothonotary & Clerk of Courts.

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

By the Court

WILLIAM J. MARTIN,
President Judge

Local Rule 117. Issuing Warrants; Preliminary Arraignments and Summary Trials; Setting and Accepting Bail; and Magisterial District Judge On-Call and After Hours Procedure.

(a) After hours coverage shall be provided by a Magisterial District Judge, assigned on a rotational schedule in conformity with subsections (d) and (e) of this Rule, who has countywide jurisdiction.

1. The "Duty" Magisterial District Judge will hold Court by video conferencing available from any approved advanced communication technology site. The Magisterial District Court Office will remain closed to the public during after hours coverage except at the discretion of the Magisterial District Judge.

2. In the event a Magisterial District Judge is needed when the Court is not scheduled for after hours coverage for the issuance of a search or arrest warrant, a protection from abuse petition, or other emergency matter; the "Duty" Magisterial District Judge will be contacted through the Indiana County Emergency Management Agency at 724/349-1428.

3. Procedures for executed summary warrants shall be pursuant to P.A.R.Crim.P.431.

(b) Monetary Bond may be posted outside of regularly scheduled daily work hours at the Indiana County Jail.

The Indiana County Sheriff's Office is designated to accept bail deposits as provided in Rule 117, having the defendant sign the bail bond, releasing the defendant and delivering the bail deposit and bail bond to the issuing authority or the Clerk of Courts. After hour bail deposits must be in the form of cash or a money order. The posting of \$10,000.00 or more in cash shall require the submission of Form 8300, an Internal Service Regulation. All

persons wishing to post bail after hours shall contact the duty sheriff by calling the Indiana County Emergency Management Agency at 724/349-1428.

(c) All Magisterial District Judges shall be available during regular Court business hours on regular business days.

(d) A Magisterial District Judge shall be available at 8:00 A. M., 4:00 P. M., and 12:00 A. M. on non-business days and on non-business hours of regular business days.

(1) Magisterial District Judges shall only be available under this subsection for the purpose of executing actions enumerated under Pa.R.Crim.P. 117(A).

(2) An arresting Officer must fax a signed Criminal Complaint and any other pertinent information to the on-duty Magisterial District Judge before any preliminary arraignment.

(3) At least thirty (30) minutes before any period of availability under this section, staff of the Indiana County Jail shall inform the Magisterial District Judge of all pending requests.

(e) A Magisterial District Judge shall be available on-call at all times of all days for the purposes of reviewing and signing search warrants, arrest warrants, and Petition for Emergency Protection From Abuse Orders.

(f) If a preliminary arraignment is required, the arresting Officer shall fax a signed Criminal Complaint and any other pertinent information to the on-duty Magisterial District Judge before any preliminary arraignment. Upon fax, a copy of the Criminal Complaint shall be sent to the Indiana County Jail, and the accused shall be transferred to the Indiana County Jail for purposes of preliminary arraignment.

(g) Magisterial District Judges shall be made available under subsection (d) and subsection (e) on a rotating basis pursuant to the direction of the President Judge.

(h) This Rule shall be made effective thirty (30) days after publication within the *Pennsylvania Bulletin*.

[Pa.B. Doc. No. 10-1995. Filed for public inspection October 22, 2010, 9:00 a.m.]

SCHUYLKILL COUNTY

Administrative Order 2010.2 Amendments; No. AD-139-2010**Public Access Policy of the Unified Judicial
System of Pennsylvania
Official Case Record Public Access
Administrative Order**

And Now, this 6th day of October, 2010, at 10:00 a.m., 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, *It Is Hereby Ordered* that Schuylkill County Administrative Order 2010.2 is Amended and shall be effective 30 days after publication in the *Pennsylvania Bulletin*.

The Court Administrator is directed to:

- 1) File seven (7) certified copies of the Administrative Order with the Administrative Office of Pennsylvania Courts; and

2) Submit the following items to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*:

- a) two (2) certified copies of the Administrative Order;
 - b) a copy of the Administrative Order on a computer diskette.
- 3) Send one (1) certified copy with the Civil Procedural Rules Committee of the Supreme Court of Pennsylvania.
- 4) Forward one (1) copy to the *Schuylkill Legal Record* for Publication.
- 5) Keep continuously available for public inspection and copying in the Office of the Prothonotary.

**Public Access Policy of the Unified Judicial
System of Pennsylvania
Official Case Records of the Magisterial
District Courts**

Schedule for Public Access

A Magisterial staff member will be available every Monday and Wednesday from 1:00 p.m. - 4:30 p.m. and Friday from 1:00 p.m. - 3:00 p.m. to process requests for public Access to Magisterial District Court Records.

Requests to permit access at other times will only be granted by the Magisterial District Judge if there are extenuating circumstances.

Fees

- (1) \$0.25 per page copied;
- (2) Facsimile \$0.25 per page;
- (3) \$5.00 for each quarter (1/4) hour associated with the preparation, copying and re-filing of court dockets involving complex or voluminous records;
- (4) Pre-payment of estimated costs for services may be required at the discretion of the Magisterial District Court Judge;
- (5) Fees paid are non-refundable;
- (6) Fees may be waived if the Magisterial District Judge determines that the requestor is indigent;
- (7) 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 Schuylkill.

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

By the Court

WILLIAM E. BALDWIN,
President Judge

[Pa.B. Doc. No. 10-1996. Filed for public inspection October 22, 2010, 9:00 a.m.]

RULES AND REGULATIONS

Title 58—RECREATION

FISH AND BOAT COMMISSION

[58 PA. CODE CH. 69]

Fishing

The Fish and Boat Commission (Commission) amends Chapter 69 (relating to fishing in Lake Erie and boundary lakes). The Commission is publishing this final-form rulemaking under the authority of 30 Pa.C.S. (relating to the Fish and Boat Code) (code).

A. *Effective Date*

The final-form rulemaking will go into effect on January 1, 2011.

B. *Contact Person*

For further information on the final-form rulemaking, contact Laurie E. Shepler, Esq., P. O. Box 67000, Harrisburg, PA 17106-7000, (717) 705-7810. This final-form rulemaking is available on the Commission's web site at www.fish.state.pa.us.

C. *Statutory Authority*

The amendment to § 69.31 (relating to seasons) is published under the statutory authority of section 2903 of the code (relating to boat and net licenses for boundary lakes).

D. *Purpose and Background*

The final-form rulemaking is designed to improve, enhance and update the Commission's fishing regulations. The specific purpose of the amendment is described in more detail under the summary of change.

E. *Summary of Change*

The harvest of Lake Erie walleye and yellow perch is managed through a quota management system. Each Lake Erie jurisdiction on the Lake Erie Committee (the Commonwealth, Ohio, Michigan, New York and Ontario) is allocated a portion of a total lake-wide annual quota, based on the surface area of each jurisdictional water. Jurisdictional Total Allowable Catch (TAC) is the maximum harvest allowed by sport and commercial sources in individual jurisdictional waters.

The Commission's Lake Erie Research Unit generates an internally derived commercial TAC for this Commonwealth's yellow perch and walleye trap net fisheries. The Commission's current regulations provide that the commercial trap net TAC for this Commonwealth will be published annually in the *Pennsylvania Bulletin* by March 1. This date poses two problems: (1) the most recent year's fishery data is still being finalized at that time; and (2) this date precedes announcement of the Lake Erie Committee TAC, which sets the TAC (sport and commercial) permissible in Commonwealth waters. Extending the announcement of the walleye and yellow perch TAC for this Commonwealth until April 15 will allow the Commission's Lake Erie management biologists additional time to review and integrate contemporary

fishing data into the Commonwealth's TAC calculations and provide time for the formal announcement of Lake Erie Committee TAC. This also will ensure that the Commonwealth's trap net harvest limits are aligned with Lake-wide harvest strategies. The Commission has amended § 69.31 to read as set forth in the proposed rulemaking published at 40 Pa.B. 1530 (March 20, 2010).

F. *Paperwork*

The final-form rulemaking will not increase paperwork and will not create new paperwork requirements.

G. *Fiscal Impact*

The final-form rulemaking will not have adverse fiscal impact on the Commonwealth or its political subdivisions. The final-form rulemaking will not impose new costs on the private sector or the general public.

H. *Public Involvement*

The proposed rulemaking was published at 40 Pa.B. 1530. The Commission did not receive public comments regarding the proposed rulemaking.

Findings

The Commission finds that:

(1) Public notice of intention to adopt the amendment adopted by this order has been 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 promulgated thereunder, 1 Pa. Code §§ 7.1 and 7.2.

(2) A public comment period was provided and no public comments were received.

(3) The adoption of the amendment of the Commission in the manner provided in this order is necessary and appropriate for administration and enforcement of the authorizing statutes.

Order

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

(a) The regulations of the Commission, 58 Pa. Code Chapter 69, are amended by amending § 69.31 to read as set forth at 40 Pa.B. 1530.

(b) The Executive Director will submit this order and 40 Pa.B. 1530 to the Office of Attorney General for approval as to legality and form as required by law.

(c) The Executive Director shall certify this order and 40 Pa.B. 1530 and deposit them with the Legislative Reference Bureau as required by law.

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

JOHN A. ARWAY,
Executive Director

Fiscal Note: Fiscal Note 48A-218 remains valid for the final adoption of the subject regulation.

[Pa.B. Doc. No. 10-1997. Filed for public inspection October 22, 2010, 9:00 a.m.]

PENNSYLVANIA GAMING CONTROL BOARD

[58 PA. CODE CHS. 401a, 405a, 427a, 429a, 431a, 435a, 437a, 440a, 441a, 451a, 465a AND 481a]

Gaming Service Providers and License Term and Renewal

The Pennsylvania Gaming Control Board (Board), under its general authority in 4 Pa.C.S. § 1202(b)(30) (relating to general and specific powers) and the specific authority in 4 Pa.C.S. §§ 1103, 1209(b), 1317(c), 1317.1(c), 1317.2 and 1326, amends Chapters 401a, 405a, 427a, 429a, 431a, 435a, 437a, 440a, 441a, 451a, 465a and 481a to read as set forth in Annex A.

Omission of Proposed Rulemaking

The Board, under section 204 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. § 1204), known as the Commonwealth Documents Law (CDL), and 1 Pa. Code § 7.4 (relating to omission of notice of proposed rulemaking), finds that notice of proposed rulemaking under these circumstances is unnecessary and impractical and therefore may be omitted. The Board's justification for utilizing the final-omitted rulemaking process is that the only changes being made are those specifically required to bring the Board's regulations into conformity with the act of January 7, 2010 (P. L. 1, No. 1) (Act 1).

Act 1 contained the following provisions: defined "gaming service provider" in 4 Pa.C.S. § 1103 (relating to definitions); codified certification and registration requirements for gaming service providers in 4 Pa.C.S. § 1317.2 (relating to gaming service provider); and amended 4 Pa.C.S. §§ 1209, 1317, 1317.1 and 1326 which set forth the time period for the renewal of a license. The amendments in this final-omitted rulemaking reflect these statutory changes.

Purpose of the Final-Omitted Rulemaking

The final-omitted rulemaking amends the term "vendors" to "gaming service provider" and makes licensing amendments to bring the Board's regulations into conformity with Act 1.

Explanation of Amendments to Chapters 401a, 405a, 427a, 429a, 431a, 435a, 437a, 440a, 441a, 451a, 465a and 481a

Throughout these chapters, "vendor" is replaced with "gaming service provider" to conform with Act 1.

In § 427a.3 (relating to manufacturer license term and renewal), the time period for which a license is valid has been changed from 1 to 3 years with renewal applications now due 2 months prior to expiration of the license instead of 6 months in advance. These amendments are consistent with 4 Pa.C.S. § 1317.1(c) and (d) (relating to manufacturer licenses).

In §§ 429a.4 and 440a.3 (relating to manufacturer designee license term and renewal; and management company license term and renewal), the term period for which a license is valid has been changed from 1 to 3 years in conformity with 4 Pa.C.S. § 1326 (relating to license renewals).

In § 431a.3 (relating to supplier license term and renewal), the term period for which a license is valid has been changed from 1 year to 3 years. This amendment is consistent with changes to section 1317(c)(1) of the act.

In § 441a.16 (relating to slot machine license term and renewal), the term period for which a license is valid has

been changed from 1 to 3 years which is consistent with 4 Pa.C.S. § 1209 (relating to slot machine license fee).

Affected Parties

Gaming service providers, previously vendors, as well as licensees and applicants for licenses were impacted by Act 1 and are similarly impacted by this final-omitted rulemaking.

*Fiscal Impact**Commonwealth*

The Board does not anticipate that there will be costs or savings to the Board or other Commonwealth agencies as a result of this final-omitted rulemaking.

Political subdivisions

This final-omitted rulemaking will not have fiscal impact on political subdivisions of this Commonwealth.

Private Sector

As a result of Act 1, applicants for and holders of licenses will experience lower costs. This final-omitted rulemaking, which mirrors the statutory changes, will not result in additional costs or savings.

General public

This final-omitted rulemaking will not have fiscal impact on the general public.

Paperwork Requirements

The extension of the time period that a license is valid from 1 year to 3 years will result in fewer applications for applicants and entities seeking renewals.

Effective Date

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

Contact Person

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

Regulatory Review

Under section 5.1(c) of the Regulatory Review Act (71 P. S. § 745.5a(c)) on August 19, 2010, the Board submitted a copy of the final-form regulations, proposed rulemaking omitted, to the Independent Regulatory Review Commission (IRRC), the Senate Community, Economic and Recreational Development Committee and the House Gaming Oversight Committee (Committees) and the Attorney General. In addition to submitting the final-omitted rulemaking, the Board also provided IRRC, the Committees and the Attorney General with a copy of a detailed Regulatory Analysis Form prepared by the Board.

Under section 5.1(j.1)—(j.3) of the Regulatory Review Act, this final-omitted rulemaking was deemed approved by the Committees on October 6, 2010. IRRC met on October 7, 2010, and approved the regulations in accordance with section 5.1(e) of the Regulatory Review Act.

Findings

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

Order

The Board, acting under 4 Pa.C.S. Part II (relating to gaming), orders that:

(a) The regulations of the Board, 58 Pa. Code Chapters 401a, 405a, 427a, 429a, 431a, 435a, 437a, 440a, 441a, 451a, 465a and 481a, are amended by amending §§ 401a.3, 405a.1, 427a.3, 429a.4, 431a.3, 435a.1, 435a.3, 435a.5, 435a.9a, 437a.1—437a.11, 440a.3, 440a.5, 441a.7, 441a.12—441a.14, 441a.16, 451a.1, 465a.1, 465a.20 and 481a.2 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 certify this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.

(c) This order shall become effective upon publication in the *Pennsylvania Bulletin*.

GREGORY C. FAJT,
Chairperson

(Editor's Note: For a corrective amendment relating to this rulemaking, see 40 Pa.B. 6094 (October 23, 2010).)

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 40 Pa.B. 6226 (October 23, 2010).)

Fiscal Note: 125-130. No fiscal impact; (8) recommends adoption.

Annex A

TITLE. 58. RECREATION

PART VII. GAMING CONTROL BOARD

Subpart A. GENERAL PROVISIONS

CHAPTER 401a. PRELIMINARY PROVISIONS

§ 401a.3. Definitions.

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

* * * * *

Certified gaming service provider—A gaming service provider that holds a gaming service provider certification.

* * * * *

Gaming service provider—

(i) A person who provides goods or services to a slot machine licensee or applicant, but who is not required to be licensed as a manufacturer, manufacturer designee, supplier, management company or junket enterprise.

(ii) The term includes:

(A) Suppliers of alcoholic beverages (if not otherwise regulated by the Pennsylvania Liquor Control Board), food and nonalcoholic beverages.

(B) Refuse handlers.

(C) Vending machine providers and service personnel.

(D) Linen and uniform suppliers.

(E) Janitorial and maintenance companies, not relating to the repair of slot machines or associated equipment.

(F) Tenant businesses or franchises located within licensed facilities.

(G) Providers of transportation services.

(H) Companies, subcontractors and professionals involved in the construction of a facility for a slot machine licensee or applicant.

(I) Lessors of real property or goods.

(J) Other entities which the Board will determine based on detailed analyses by the Board of gaming service provider contracts.

Gaming service provider certification—A certification issued by the Board authorizing a gaming service provider to provide goods or services to a slot machine licensee or applicant.

Gaming service provider registration—A registration issued by the Board authorizing a gaming service provider to provide goods or services to a slot machine licensee or applicant.

* * * * *

Nongaming employee—An employee of a slot machine licensee or certified gaming service provider who is not included within the definition of "principal," "key employee" or "gaming employee," and:

* * * * *

Registered gaming service provider—A gaming service provider that is registered with the Board.

* * * * *

Trade secret—A private formula, pattern, device, cost study or compilation of information which is used in a business and which, if disclosed could negate an advantage over competitors who do not know or use it.

Underwriter—As defined in the Pennsylvania Securities Act of 1972.

CHAPTER 405a. BUREAU OF INVESTIGATIONS AND ENFORCEMENT

§ 405a.1. General duties and powers.

The Bureau has the powers and duties set forth in section 1517 of the act (relating to investigations and enforcement) including:

(1) The investigation and review of applicants seeking a license, permit, certification or registration.

(2) The investigation of licensees, permittees, registrants, certified gaming service providers and other persons for potential violations of the act, including potential violations referred to the Bureau by the Board or other persons.

(3) The monitoring of slot machine operations to ensure compliance with the act, this part and the integrity of gaming, including internal controls, exclusion list enforcement, underage gaming and drinking, individual complaints, information systems, integrity and security issues.

(4) The inspection and examination of all premises where slot machine operations are conducted, gaming devices or equipment are manufactured, sold, distributed or serviced or where records of these activities are prepared or maintained as provided in section 1517(e) of the act. Inspections may include the review and reproduction of any document or record.

(5) The conduct of audits of slot machine operations as necessary to ensure compliance with the act and this part. An audit may include, but is not limited to, reviews, examinations and inspections of:

(i) Accounting, administrative and financial records and procedures utilized by the licensed entity.

(ii) Internal control procedures and management control procedures.

(iii) Security and surveillance departments.

(iv) Corrective action taken by the licensee to resolve reported deficiencies.

(v) Reports issued by an independent certified public accountant or independently registered public accounting firm pertaining to the adequacy of the licensee's system of internal controls over financial reporting.

(vi) The licensee's responses, if any, to the reports noted in paragraph (v).

(vii) Other matters required by the Board or the Bureau.

(6) The referral of possible criminal violations under the act to the Pennsylvania State Police.

(7) Be a criminal justice agency under 18 Pa.C.S. Chapter 91 (relating to criminal history record information).

Subpart B. LICENSING, PERMITTING, CERTIFICATION AND REGISTRATION

CHAPTER 427a. MANUFACTURERS

§ 427a.3. Manufacturer license term and renewal.

(a) The initial manufacturer license will be valid for 1 year from the date of issuance of the license by the Board. Renewals of a manufacturer license will be valid for 3 years from the date of the approval of the renewal of the license by the Board.

(b) A Manufacturer License Renewal Application Form and renewal fee shall be filed at least 2 months prior to the expiration of the current license.

(c) A manufacturer license for which a completed renewal application and fee has been received by the Board will continue in effect for an additional 6 month period or until acted upon by the Board, whichever occurs first.

CHAPTER 429a. MANUFACTURER DESIGNEES

§ 429a.4. Manufacturer designee license term and renewal.

(a) The initial manufacturer designee license will be valid for 1 year from the date of issuance of the license by the Board. Renewals of a manufacturer designee license will be valid for 3 years from the date of the approval of the renewal of the license by the Board.

(b) A renewal application and renewal fee shall be filed at least 2 months prior to the expiration of the current license.

(c) A manufacturer designee license for which a completed renewal application and fee has been received by the Board will continue in effect for an additional 6-month period or until acted upon by the Board, whichever occurs first.

CHAPTER 431a. SUPPLIER LICENSES

§ 431a.3. Supplier license term and renewal.

(a) The initial supplier license will be valid for 1 year from the date of issuance of the license by the Board. Renewals of a supplier license will be valid for 3 years from the date of the approval of the renewal of the license by the Board.

(b) A Supplier License Renewal Application Form and renewal fee shall be filed at least 2 months prior to the expiration of the current license.

(c) A supplier license for which a completed renewal application and fee has been received by the Board will continue in effect for an additional 6 month period or until acted upon by the Board, whichever occurs first.

CHAPTER 435a. EMPLOYEES

§ 435a.1. General provisions.

* * * * *

(m) A registrant who is an employee of a certified gaming service provider or an employee of a certified gaming service provider who has direct contact with the employees of a licensed facility may not wager at the licensed facility where the gaming service provider is currently providing services.

* * * * *

(q) Slot machine licensees, manufacturers, manufacturer designees, suppliers and certified gaming service providers that hire an individual who holds a license, permit or registration issued by the Board shall contact the Bureau of Licensing to confirm that the individual's license, permit or registration is in good standing prior to allowing the individual to work in the licensed facility.

§ 435a.3. Occupation permit.

(a) An applicant for an occupation permit shall submit:

(1) An original and three copies of the Gaming Employee Application and Disclosure Information Form or an electronic application using the SLOTS Link system. When an application for an occupational permit is filed using SLOTS Link, the additional documents required, including releases, shall be submitted to the Board:

(i) Within 5 days of the submission of the SLOTS Link application by an applicant for or holder of a slot machine license.

(ii) Within 10 days of the submission of the SLOTS Link application by an applicant for or holder of a manufacturer, manufacturer designee, or supplier license or an applicant for or holder of a gaming service provider certification.

(2) The nonrefundable application fee posted on the Board's web site (www.pgcb.state.pa.us).

(3) Verification of an offer of employment from a licensed entity.

(b) In addition to the materials required under subsection (a), an applicant for an occupation permit shall:

(1) Promptly provide information requested by the Board relating to its application or regulation and cooperate with the Board in investigations, hearings, and enforcement and disciplinary actions.

(2) Comply with the general application requirements in Chapters 421a and 423a (relating to general provisions; and applications).

(c) An applicant for an occupation permit may be required to reimburse the Board for additional costs, based on the actual expenses incurred by the Board, in conducting the background investigation.

(d) After review of the information submitted under subsections (a) and (b), including a background investigation, the Board may issue a permit if the individual has proven that the individual is a person of good character, honesty and integrity and is eligible and suitable to hold an occupation permit.

(e) An individual who wishes to receive an occupation permit under this chapter may authorize an applicant for

or holder of a slot machine, management company, manufacturer, manufacturer designee or supplier license or gaming service provider certification to file an application on the individual's behalf.

(f) A permit issued under this section will be valid for employment with any licensed entity or certified gaming service provider.

§ 435a.5. Nongaming employee registration.

(a) An applicant for a nongaming employee registration shall submit:

(1) An original and three copies of the Nongaming Employee Registration Form or an electronic application using the SLOTS Link system. When an application for a nongaming employee registration is filed using SLOTS Link, the additional documents required, including releases, shall be submitted to the Board:

(i) Within 5 days of the submission of the SLOTS Link application by an applicant for or holder of a slot machine license.

(ii) Within 10 days of the submission of the SLOTS Link application by an applicant for or holder of a manufacturer, manufacturer designee, or supplier license or an applicant for or holder of a gaming service provider certification.

(2) The nonrefundable application fee posted on the Board's web site (www.pgcb.state.pa.us).

(b) In addition to the materials required under subsection (a), an applicant for a nongaming employee registration shall:

(1) Promptly provide information requested by the Board relating to its application or regulation and cooperate with the Board in investigations, hearings, and enforcement and disciplinary actions.

(2) Comply with the general application requirements in Chapters 421a and 423a (relating to general provisions; and applications).

(c) After review of the information required under subsections (a) and (b), the Board may register the individual if the individual has proven that he is eligible and suitable to be registered under this section.

(d) An individual who wishes to receive a nongaming employee registration under this chapter may authorize an applicant for or holder of a slot machine license or a gaming service provider certification to file an application on the individual's behalf.

(e) A registration issued under this section is valid for employment with any licensed entity or certified gaming service provider.

§ 435a.9a. Gaming service provider employee temporary access credentials.

(a) The Board's casino compliance representatives at a licensed facility may issue a Gaming Service Provider Employee Temporary Access Credential to an employee of a registered or certified gaming service provider that is a construction company that is completing work on the gaming floor or in a restricted area under the registered or certified gaming service provider's original contract, change orders or punch lists, or to complete periodic repairs or warranty work if:

(1) The employee's duties of employment or incidental activities related to employment do not require the employee to touch or have contact with a slot machine or associated equipment other than exterior cleaning.

(2) The employee will be under the supervision of an employee of the slot machine licensee's security department who is authorized to have access to the area where the work is being performed.

(b) To receive a Gaming Service Provider Employee Temporary Access Credential, the employee of the registered or certified gaming service provider that is a construction company shall surrender his driver's license or other photo identification.

(c) A Gaming Service Provider Employee Temporary Access Credential will not be issued to an employee of a registered or certified gaming service provider that is a construction company for more than 12 days in a 12-month period.

(d) Employees of a manufacturer, manufacturer designee or supplier may not be issued a Gaming Service Provider Employee Temporary Access Credential.

CHAPTER 437a. GAMING SERVICE PROVIDER CERTIFICATION AND REGISTRATION

§ 437a.1. General gaming service provider requirements.

(a) A gaming service provider or person seeking to conduct business with a slot machine applicant or licensee, except as provided in § 437a.10 (relating to emergency gaming service provider), shall apply to the Board for registration if:

(1) The total dollar amount of the goods or services to be provided to a single slot machine applicant or licensee or to multiple slot machine applicants or licensees will be or is anticipated to be equal to or greater than \$100,000 but less than or equal to \$500,000 within a consecutive 12-month period.

(2) The employees of the gaming service provider or person seeking to conduct business with a slot machine applicant or licensee will be working on the gaming floor or in restricted areas unless all of the following conditions are met:

(i) The employees will be on the gaming floor for less than 24 hours within a 72-hour period no more than once in any consecutive 3-month period.

(ii) The employees sign-in with the security department at the licensed facility and the Board's casino compliance representatives prior to entering the gaming floor.

(iii) The gaming service provider has received written approval from the Bureau of Licensing for the gaming service provider's employees to be on the gaming floor.

(b) A gaming service provider or person seeking to conduct business with a slot machine applicant or licensee, except as provided in § 437a.10, shall apply to the Board for certification if the total dollar amount of the goods or services to be provided to a single slot machine applicant or licensee or to multiple slot machine applicants or licensees will be or is anticipated to be greater than \$500,000 within a consecutive 12-month period.

(c) A person that provides goods or services indirectly to a slot machine applicant or licensee through an intermediary, holding company or affiliate of the slot machine applicant or licensee shall be required to be registered or certified if the cost of the goods or services provided to the slot machine applicant or licensee exceeds the monetary thresholds in subsections (a) and (b).

(d) The following persons are exempt from the gaming service provider registration and the gaming service provider certification requirements of this chapter:

* * * * *

(g) A person, or subsidiary of a person, that has a class of equity securities listed on the New York Stock Exchange, the NASDAQ Stock Market, the American Stock Exchange or a foreign stock exchange determined by the Bureau of Licensing to have similar listing requirements may be authorized to provide goods or services to slot machine applicants and licensees without applying for registration or certification if the person or subsidiary of the person submits a completed Publicly Traded Gaming Service Provider Form to the Board accompanied by the filing fee posted on the Board's web site (www.pgcb.state.pa.us). A person or subsidiary of a person that is authorized to provide goods and services under this subsection shall be required to:

- (1) Comply with § 437a.7 (relating to registered and certified gaming service provider responsibilities).
- (2) Immediately notify the Board if the person or subsidiary of the person ceases to have a class of equity securities listed on the New York Stock Exchange, the NASDAQ Stock Market, the American Stock Exchange or a foreign stock exchange determined by the Bureau of Licensing to have similar listing requirements.

(h) A slot machine applicant or licensee shall complete and submit to the Bureau of Licensing a Notification of Material Gaming Service Provider Form prior to compensating a gaming service provider \$15,000 or more within a consecutive 12-month period. A slot machine applicant or licensee will not be required to submit a Notification of Material Gaming Service Provider Form to the Bureau of Licensing if either of the following apply to the gaming service provider to be compensated:

- (1) The gaming service provider is exempt under subsection (d).
- (2) The gaming service provider is listed on the Board's authorized gaming service provider list.
- (i) A gaming service provider of a slot machine applicant or licensee whose compensation does not exceed the monetary thresholds contained in this section or who is otherwise not required to be registered or certified under subsection (d) or (g) may be required to be registered or certified if the Board determines that registration or certification is necessary to protect the integrity of gaming.

§ 437a.2. Gaming service provider registration applications.

- (a) A gaming service provider seeking registration shall do one of the following:
 - (1) Complete an original and four copies of a Gaming Service Provider Registration Form—Sponsored. The original and copies and the fee toward the cost of the investigation of the applicant posted on the Board's web site (www.pgcb.state.pa.us) shall be submitted to the Bureau of Licensing by the slot machine applicant or licensee for whom the gaming service provider will provide goods or services unless otherwise directed by the Board.
 - (2) Complete an original and four copies of a Gaming Service Provider Registration Form—Unsponsored. The original and copies and the fee toward the cost of the investigation of the applicant posted on the Board's web site (www.pgcb.state.pa.us) shall be submitted to the

Bureau of Licensing by the gaming service provider unless otherwise directed by the Board.

(b) In addition to the materials required under subsection (a), an applicant for a gaming service provider registration shall:

- (1) Submit the nonrefundable application fee posted on the Board's web site (www.pgcb.state.pa.us).
- (2) Promptly provide information requested by the Board relating to its application or regulation and cooperate with the Board in investigations, hearings and enforcement and disciplinary actions.
- (3) Comply with the general application requirements in Chapters 421a and 423a (relating to general provisions; and applications).
- (4) Submit fingerprints of the following individuals to the Board in a manner prescribed by BIE:
 - (i) Each officer and director of the registered gaming service provider applicant. For purposes of this subparagraph, the term "officer" means a president, chief executive officer, a chief financial officer and a chief operating officer, and any person routinely performing corresponding functions with respect to an organization whether incorporated or unincorporated.
 - (ii) Each individual who has a direct or indirect ownership or beneficial interest of 10% or more in the registered gaming service provider applicant.
 - (iii) Each salesperson of a registered gaming service provider applicant who solicits business from, or has regular contact with, any representatives of a slot machine applicant or licensee or any employee of a registered gaming service provider applicant who will be engaging in that conduct.

- (c) A person who holds any direct or indirect ownership or beneficial interest in a registered gaming service provider or applicant for gaming service provider registration, or has the right to any profits or distributions directly or indirectly, from the registered gaming service provider or applicant for gaming service provider registration may be required to submit fingerprints if the Board determines that the submission of fingerprints of the person is necessary to protect the public interest or to enhance the integrity of gaming in this Commonwealth.
- (d) Each of the individuals required to submit fingerprints under subsection (b)(4) or (c) must be found qualified by the Board.
- (e) An applicant for a gaming service provider registration will be required to reimburse the Board for costs incurred by the Board in conducting the review of the application.
- (f) A gaming service provider registration will not be issued until all fees have been paid.

§ 437a.3. Gaming service provider certification applications.

- (a) A gaming service provider seeking certification shall complete and the slot machine applicant or licensee for whom the gaming service provider will provide goods or services shall submit:
 - (1) An original and four copies of a Gaming Service Provider Certification Application and Disclosure Information Form unless otherwise directed by the Board.
 - (2) The nonrefundable application fee posted on the Board's web site (www.pgcb.state.pa.us).

(3) Applications and release authorizations for each individual required to be qualified under § 437a.4 (relating to qualification of individuals and entities).

(b) In addition to the materials required under subsection (a), an applicant for a gaming service provider certification shall:

(1) Promptly provide information requested by the Board relating to its application or regulation and cooperate with the Board in investigations, hearings, and enforcement and disciplinary actions.

(2) Comply with the general application requirements in Chapters 421a and 423a (relating to general provisions; and applications).

(c) A gaming service provider certification will not be issued until all fees have been paid.

(d) A person required to be a certified gaming service provider under this chapter may request that the Board waive its obligation to be certified by filing a Single Transactional Waiver Form. To be eligible to receive this waiver from the requirements of certification, the person shall demonstrate that the person is proposing to engage in a single transaction with a slot machine applicant or licensee and satisfies the following requirements:

(1) The person's required performance under the contract with the slot machine applicant or licensee does not require the person's employees to be on the gaming floor or in a restricted area.

(2) The person has not filed a Single Transactional Waiver Form with the Board within 2 years of the current waiver request.

(3) The person will not have a continuing business relationship with the slot machine applicant or licensee or have a continuing onsite presence at the licensed facility.

(e) The Board may, in response to misrepresentations or a change in circumstances, revoke a waiver granted under this section and require the recipient of the waiver to comply with the gaming service provider certification requirements of this chapter.

(f) A person who has requested a waiver under this section may not provide goods or services to a slot machine applicant or licensee prior to Board approval of the person's waiver request.

§ 437a.4. Qualification of individuals and entities.

(a) The following individuals shall be required to submit a Pennsylvania Personal History Disclosure Form and be found qualified by the Board:

(1) Each officer and director of a certified gaming service provider or applicant for gaming service provider certification. For the purposes of this paragraph, the term "officer" means a president, chief executive officer, a chief financial officer and a chief operating officer and any person routinely performing corresponding functions with respect to an organization whether incorporated or unincorporated.

(2) Each individual who has a direct or indirect ownership or beneficial interest of 10% or more in the certified gaming service provider or applicant for gaming service provider certification. A certified gaming service provider or applicant for gaming service provider certification shall provide information or documentation requested by the Board necessary to determine compliance with this paragraph.

(3) Each salesperson of a certified gaming service provider or applicant for gaming service provider certifica-

tion who solicits business from, or has regular contact with, any representatives of a slot machine applicant or licensee or any employee of a certified gaming service provider or applicant for gaming service provider certification who will be engaging in that conduct.

(b) Each entity that directly owns 20% or more of the voting securities of a certified gaming service provider or person applying for gaming service provider certification shall be required to file a Gaming Service Provider Certification Form—Private Holding Company with the Board and be found qualified by the Board.

(c) The following persons may be required to submit a Gaming Service Provider Certification Form—Private Holding Company or a Pennsylvania Personal History Disclosure Form and be found qualified by the Board if the Board determines that the qualification of the person is necessary to protect the public interest or to enhance the integrity of gaming in this Commonwealth:

(1) An intermediary or holding company of a certified gaming service provider or applicant for gaming service provider certification not otherwise required to be qualified.

(2) An officer or director of an intermediary or holding company of a certified gaming service provider or applicant for gaming service provider certification.

(3) An employee of a certified gaming service provider or applicant for gaming service provider certification.

(4) A person who holds any direct or indirect ownership or beneficial interest in a certified gaming service provider or applicant for gaming service provider certification, or has the right to any profits or distribution, directly or indirectly, from the certified gaming service provider or applicant for gaming service provider certification.

(5) A trustee of a trust that is required to be found qualified under this section.

(d) The Bureau of Licensing may issue a temporary credential to an individual who is required to be qualified by the Board under this section if:

(1) The individual's presence in the licensed facility is needed.

(2) The company with which the individual is associated is on the Authorized Gaming Service Provider List.

(e) The Bureau of Licensing will issue a permanent credential to an individual who has been found to be qualified under this section if the Gaming Service Provider has been certified.

§ 437a.5. Construction subcontractors.

(a) A construction subcontractor who is otherwise required to be certified or registered may elect to file an On-site Subordinate Pre-Opening Construction Notification Form with the Board in lieu of registration or certification if:

(1) The subcontractor is not providing goods or services through an agreement with a slot machine applicant or licensee.

(2) The subcontractor is not providing goods or services to a person who has entered into a contract with a slot machine applicant or licensee for the construction of a licensed facility.

(b) The On-site Subordinate Gaming Service Provider Notification Form shall be valid for the construction of only one licensed facility, and shall be valid for only 1

year unless the Board, at its sole discretion, renews the On-site Subordinate Gaming Service Provider Notification Form after a showing by the subcontractor that its obligations pursuant to the subcontract have not been fully performed and good cause exists for the delay in the performance.

(c) A subcontractor who elects to file an On-site Subordinate Gaming Service Provider Notification Form as outlined in subsection (a) shall be prohibited from:

(1) Employing any person to work on the gaming floor or in a restricted area of a licensed facility.

(2) Providing, directly or indirectly, goods or service to any other slot machine applicant or licensee other than the slot machine applicant or licensee identified in the On-site Subordinate Gaming Service Provider Notification Form.

§ 437a.6. Registration and certification term and renewal.

(a) Gaming service provider certifications, registrations and renewals issued under this chapter shall be valid for 4 years from the date of Board approval.

(b) Registered and certified gaming service providers shall submit to the Board a completed renewal application and renewal fee at least 60 days prior to the expiration of a certification or registration.

(c) A certification or registration for which a completed renewal application and fee has been received by the Board will continue in effect until the Board sends written notification to the holder of the certification or registration that the Board has approved or denied the certification or registration.

§ 437a.7. Registered and certified gaming service provider responsibilities.

(a) A holder of a gaming service provider certification or registration shall have a continuing duty to:

(1) Provide information requested by the Board relating to licensing or regulation; cooperate with the Board in investigations, hearings, and enforcement and disciplinary actions; and comply with conditions, restrictions, requirements, orders and rulings of the Board in accordance with the act.

(2) Report a change in circumstances that may render the holder of a gaming service provider certification or registration ineligible, unqualified or unsuitable to hold a certification or registration under the standards and requirements of the act and of this part.

(b) An employee of a registered or certified gaming service provider shall be required to obtain an occupation permit under § 435a.3 (relating to occupation permit) if:

(1) The employee is the onsite supervisor of other employees of the gaming service provider whose duties of employment or incidental activities related to employment require the employees to be on the gaming floor or in a restricted area.

(2) The employee's duties of employment or incidental activities related to employment require the employee to be on the gaming floor or in a restricted area and require the employee to touch or have contact with a slot machine or associated equipment.

(c) An employee of a certified gaming service provider that is not required to obtain an occupation permit under subsection (b) shall be required to obtain a nongaming employee registration under § 435a.5 (relating to nongaming employee registration) if:

(1) The employee is the onsite supervisor of other employees who are involved in the construction of a licensed facility.

(2) The employee's duties of employment or incidental activities related to employment require the employee to be on the gaming floor but do not require the employee to touch or have contact with a slot machine or associated equipment other than exterior cleaning.

(3) The employee's duties of employment or incidental activities related to employment require the employee to be in a restricted area, but do not require the employee to touch or have contact with a slot machine or associated equipment other than exterior cleaning and the employee is under the constant supervision of an employee of the slot machine licensee who is licensed or permitted and who is authorized to be in the restricted area.

(4) The employee is the offsite supervisor of employees of the registered or certified gaming service provider working at the licensed facility.

(d) Employees of a registered or certified gaming service provider who are not required to obtain an occupation permit or a nongaming employee registration under subsection (b) or (c) may be required to obtain an occupation permit or nongaming employee registration if the Board determines, after a review of the work being performed, that obtaining a permit or registration is necessary for the protection of the integrity of gaming.

(e) Workers employed by a registered or certified gaming service provider that is a construction company who are completing work on the gaming floor or in a restricted area under their original contract, change orders, punch lists, periodic repairs or warranty work will not be required to comply with the requirements in subsection (b) or (c) if the following conditions are met:

(1) The employee's duties of employment or incidental activities related to employment do not require the employee to touch or have contact with a slot machine or associated equipment other than exterior cleaning.

(2) The employee is under the supervision of an employee of the slot machine licensee's security department who is authorized to have access to the area where the work is being performed.

(3) The employee has been issued a Gaming Service Provider Employee Temporary Access Credential by one of the Board's casino compliance representatives at the licensed facility.

§ 437a.8. Authorized gaming service providers list; prohibited gaming service providers.

(a) The Board will maintain a list of authorized gaming service providers and a list of prohibited gaming service providers. The authorized list will contain the names of persons who:

(1) Have been registered or certified.

(2) Are eligible to file and have filed a completed publicly traded gaming service provider form under § 437a.1(g) (relating to general gaming service provider requirements).

(3) Have been permitted to conduct business with a slot machine licensee or applicant under § 437a.9 (relating to permission to conduct business prior to certification or registration).

(b) Except as permitted under § 437a.1(a)(2), (d) and (g) and § 437a.10 (relating to emergency gaming service provider), a slot machine licensee or applicant may not

purchase goods or services from a gaming service provider, when the employees of the gaming service provider will be working on the gaming floor or in a restricted area or compensate a gaming service provider \$100,000 or more within a consecutive 12-month period, unless the person is on the authorized gaming service provider list. A slot machine licensee or applicant may not enter into an agreement or continue to do business with a gaming service provider on the prohibited gaming service providers list.

(c) The Board may place a person on the prohibited gaming service providers list if:

(1) The gaming service provider has failed to comply with this chapter.

(2) The gaming service provider has failed to cooperate with the Board in the Board's review of the gaming service provider's application for certification or registration.

(3) The gaming service provider's application for certification or registration has been denied or the gaming service provider has had its gaming service provider certification or registration suspended or revoked.

(4) The gaming service provider has failed to provide information to a slot machine applicant or licensee that is necessary for the slot machine applicant or licensee to comply with this chapter.

(d) A person seeking to be removed from the list of prohibited gaming service providers shall file a petition for removal in accordance with § 493a.4 (relating to petitions generally) and shall be responsible for all costs associated with the person's petition for removal from the list of prohibited gaming service providers. The petition must state the specific grounds believed by the petitioner to constitute good cause for removal from the prohibited gaming service providers list and how the gaming service provider has cured any deficiencies that led to the gaming service provider being placed on the prohibited gaming service providers list.

(e) The Board may impose a monetary penalty or other appropriate sanction in connection with the removal of a person from the list of prohibited gaming service providers, or attach any reasonable condition to the removal of a person from the list of prohibited gaming service providers.

§ 437a.9. Permission to conduct business prior to certification or registration.

(a) Notwithstanding § 437a.1 (relating to general gaming service provider requirements), the Bureau of Licensing may authorize an applicant for a gaming service provider certification or registration to conduct business with a slot machine applicant or licensee prior to the certification or registration of the gaming service provider applicant if the following criteria are met:

(1) A completed Gaming Service Provider Registration Form—Un-sponsored has been filed by the gaming service provider, a completed Gaming Service Provider Registration Form—Sponsored has been filed by the slot machine applicant or licensee or a completed Gaming Service Provider Certification Application and Disclosure Information Form has been filed by the slot machine applicant or licensee in accordance with § 437a.2 or § 437a.3 (relating to gaming service provider registration applications; and gaming service provider certification applications).

(2) The slot machine applicant or licensee certifies that it has performed due diligence on the gaming service provider.

(3) The applicant for gaming service provider registration or certification agrees, in writing, that the grant of permission to conduct business prior to registration or certification does not create a right to continue to conduct business and that the Bureau of Licensing may rescind, at any time, the authorization granted pursuant to this section, with or without prior notice to the applicant, if the Bureau of Licensing determines that the suitability of the applicant is at issue or the applicant fails to cooperate in the application process.

(b) If the Office of Enforcement Counsel issues a Notice of Recommendation for Denial to an applicant for certification or registration, the Bureau of Licensing may rescind the permission granted to the applicant for certification or registration to conduct business with a slot machine applicant or licensee under subsection (a). If the permission is rescinded, the applicant for certification or registration shall cease conducting business with the slot machine applicant or licensee by the date specified in the notice of the rescission by the Bureau of Licensing under subsection (c).

(c) The Bureau of Licensing will notify the applicant for certification or registration and the slot machine applicant or licensee by registered mail that permission for the applicant for certification or registration to conduct business with the slot machine applicant or licensee under subsection (a) has been rescinded and that the slot machine applicant or licensee shall cease conducting business with the applicant for certification or registration by the date specified in the notice.

§ 437a.10. Emergency gaming service provider.

(a) A slot machine licensee may utilize a gaming service provider that is not registered or certified when a threat to public health, welfare or safety exists or circumstances outside the control of the slot machine applicant or licensee create an urgency of need which does not permit the delay involved in using the formal method of gaming service provider certification or registration.

(b) When using a gaming service provider that is not registered or certified to respond to an emergency, the slot machine applicant or licensee shall:

(1) File a Gaming Service Provider Emergency Notification Form with the Board within 72 hours of the gaming service provider's commencement of services.

(2) Provide a written explanation to the Board of the basis for the emergency gaming service provider procurement and for the selection of the particular gaming service provider.

(3) File a Gaming Service Provider Registration Form or Gaming Service Provider Certification Form on behalf of the gaming service provider within 20 business days of the filing of the Gaming Service Provider Notification Form.

§ 437a.11. Slot machine applicants' and licensees' duty to investigate.

(a) An applicant for or holder of a slot machine license shall investigate the background and qualifications of the applicants for gaming service provider registration or certification with whom it intends to have a contractual relationship or enter into an agreement.

(b) An applicant for or holder of a slot machine license shall have an affirmative duty to avoid agreements or relationships with persons applying for gaming service provider registration or certification whose background or association is injurious to the public health, safety, mor-

als, good order and general welfare of the people of this Commonwealth, or who threaten the integrity of gaming in this Commonwealth.

(c) An applicant for or holder of a slot machine license shall have a duty to inform the Board of an action by an applicant for or holder of a gaming service provider registration or certification or a gaming service provider that is eligible to file and has filed a completed publicly traded gaming service provider form under § 437a.1(g) (relating to general gaming service provider requirements), which the applicant for or holder of a slot machine license believes would constitute a violation of the act or this part.

CHAPTER 440a. MANAGEMENT COMPANIES

§ 440a.3. Management company license term and renewal.

(a) A management company license or renewal will be valid for 3 years from the date on which the license or renewal is approved by the Board.

(b) A renewal application shall be submitted to the Board at least 60 days prior to the expiration of a management company license.

(c) A management company license for which a completed renewal application and fee has been received by the Board will continue in effect until the Board sends written notification to the holder of the management company license that the Board has approved or denied the management company license.

§ 440a.5. Management contracts.

* * * * *

(f) A management contract submitted for Board review and approval must enumerate with specificity the responsibilities of the slot machine applicant or licensee and management company under the terms and conditions of the management contract. At a minimum, the terms should address whether, and to what extent, the management company is involved in the following:

- (1) Operation of the following departments:
 - (i) Information technology.
 - (ii) Internal audit.
 - (iii) Slot accounting.
 - (iv) Slot management.
 - (v) Security.
 - (vi) Surveillance.
- (2) Design, construction, improvement or maintenance, or both, of the licensed facility.
- (3) Provision of operating capital and financing for the development of the licensed facility.
- (4) Payment of the slot machine license fee.
- (5) Purchase or lease of slot machines or associated equipment.
- (6) Design, implementation or amendment, or both, of the system of internal controls required under section 1322 of the act (relating to slot machine accounting controls and audits) and this part including the financial reporting requirements.
- (7) Hiring, terminating, training and promoting of employees and the employment practices attendant thereto.

(8) The payment of local, State and Federal taxes and slot machine license deposit required pursuant to the act and this part and any penalties imposed by the Board for violations thereof.

(9) Advertising, player incentive or marketing programs.

(10) Compliance with section 1325(b)(1) of the act (relating to license or permit issuance).

(11) Obtaining and maintaining insurance coverage, including coverage of public liability and property loss or damage.

(12) Procurement of gaming service providers and junkets.

(13) Selection of the licensed facility's independent auditor.

(g) Notwithstanding subsections (a)—(f), a slot machine licensee and licensed management company may not contract for the delegation of any benefits, duties or obligations specifically granted to or imposed upon the slot machine licensee by the act.

Subpart C. SLOT MACHINE LICENSING

CHAPTER 441a. SLOT MACHINE LICENSES

§ 441a.7. Licensing hearings for slot machine licenses.

* * * * *

(g) For the purposes of this section, an applicant's demonstration of how it addresses the criteria identified in section 1325(c) of the act must include:

- (1) The location and quality of the proposed facility, including, but not limited to, road and transit access, parking and the facility's centrality to its anticipated market service area.
- (2) The potential for new job creation and economic development which are expected to result from granting a license to an applicant.
- (3) The applicant's good faith plan to recruit, train and upgrade diversity in all employment classifications in the facility.
- (4) The applicant's good faith plan for enhancing the representation of diverse groups in the operation of its facility through the ownership and operation of business enterprises associated with or utilized by its facility or through the provision of goods or services utilized by its facility and through the participation in the ownership of the applicant.
- (5) The applicant's good faith effort to assure that all persons are accorded equality of opportunity in employment and contracting by it and any contractors, subcontractors, assignees, lessees, agents, gaming service providers and suppliers it may employ directly or indirectly.
- (6) The potential for enhancing tourism which is expected to result from granting a license to the applicant.
- (7) The history and success of the applicant in developing tourism facilities ancillary to gaming development in other locations if applicable to the applicant.
- (8) The degree to which the applicant presents a plan for the project which will likely lead to the creation of quality, living-wage jobs and full-time permanent jobs for residents of this Commonwealth generally and for residents of the host political subdivision in particular.

(9) The record of the applicant and its developer in meeting commitments to local agencies, community-based organizations and employees in other locations.

(10) The degree to which potential adverse effects which might result from the project, including costs of meeting the increased demand for public health care and treatment of problem gamblers and their families, child care, public transportation, affordable housing and social services, will be mitigated.

(11) The record of the applicant and its developer regarding compliance with:

(i) Federal, State and local discrimination, wage and hour, disability and occupational and environmental health and safety laws.

(ii) State and local labor relations and employment laws.

(12) The record of the applicant in dealing with its employees and their representatives at other locations.

(13) The applicant's business probity, experience and ability.

(14) Areas of deficiency in the applicant's application previously identified by the Bureau of Licensing or Chief Enforcement Counsel that have not been resolved.

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§ 441a.12. Maintaining agreements; filing of agreements.

* * * * *

(c) *Filing agreements.* Each slot machine licensee shall submit the following to the Board:

(1) A fully signed copy of written agreements with manufacturer applicants or licensees, manufacturer designee applicants or licensees, supplier applicants or licensees and with gaming service providers subject to certification under § 437a.1(b) (relating to general gaming service provider requirements).

(2) A precise written description of any oral agreement, in accordance with subsection (f), with manufacturer applicants or licensees, manufacturer designee applicants or licensees, supplier applicants or licensees and gaming service providers subject to certification under § 437a.1(b).

(3) A fully signed copy of all written agreements relating to land and real estate.

(4) A fully signed copy of all written agreements or a written description of any oral agreement with a person which involves or may involve payments of \$500,000 or more per year to a slot machine licensee.

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§ 441a.13. Board review of agreements and records of agreements.

(a) The Board may review an agreement and record maintained or filed under § 441a.12 (relating to maintaining agreements; filing of agreements) to determine the following:

(1) The reasonableness of the terms of the agreement, including the terms of compensation.

(2) The qualifications of the persons involved in and associated with the agreement, after which the Board may make a finding as to the suitability of the persons to be involved or associated with the slot machine applicant or licensee.

(3) Whether any person involved therein or associated therewith is providing or likely to provide goods or services to, or conducting or likely to conduct business with, a slot machine applicant or licensee or its employees which requires a license, permit, certification, registration or notification under the act or this part, in which case the Board will direct that the appropriate application be promptly filed by the person.

(4) Whether any action is desirable or necessary to regulate, control or prevent economic concentration in any gaming service provider industry or to encourage or preserve competition in any gaming service provider industry.

(b) If the Board finds that an agreement is not in the public interest or is inimical to the interest of gaming in this Commonwealth, the Board may, by order, require the termination of the agreement or association of any person associated therewith or pursue any remedy or combination of remedies provided for in the act or this part. If the agreement or association is not thereafter promptly terminated, the Board may pursue any remedy or combination of remedies provided for in the act or this part.

(c) Each agreement maintained or filed under § 441a.12 shall be deemed to include a provision for its termination without liability on the part of the slot machine applicant or licensee, or on the part of any qualified party to the agreement or any related agreement the performance of which is dependent upon the agreement, if the Board orders that the agreement be terminated in accordance with subsection (b).

(d) Each agreement maintained or filed under § 441a.12 must include a provision requiring that the person who has contracted with the slot machine applicant or licensee comply with the act and this part, including obtaining required licenses, permits, certifications and registrations.

§ 441a.14. Master purchasing and disbursement report.

(a) Each slot machine license applicant or licensee shall generate a monthly Master Purchasing and Disbursement Report for gaming service provider transactions. The report shall be submitted to the Bureau of Licensing no later than the 22nd calendar day of following month. The report must include the following information:

(1) A payee register listing alphabetically by payee all nonpayroll transactions drawn by the slot machine applicant or licensee, including wire transfers and credits to gaming service providers, and the following information next to the name of each payee:

(i) The gaming service provider certification or registration number or exemption code.

(ii) The amount of the individual disbursement or credit.

(iii) The date of the individual disbursement or credit.

(iv) The subtotal of disbursements or credits by payee.

(v) The grand total of all disbursements made during the reporting period.

(vi) The total summarizing all previous payments in the last 12 months beginning from the first payment date.

(2) A payee register listing alphabetically by payee all transactions drawn by any affiliate, intermediary, subsidiary, holding company or agent of the slot machine applicant or licensee for goods or services that benefit the slot machine applicant or licensee, including wire transfers and credits to gaming service providers, and the following information next to the name of each payee:

- (i) The gaming service provider certification or registration number or exemption code.
- (ii) The amount of the individual disbursement or credit.
- (iii) The date of the individual disbursement or credit.
- (iv) The subtotal of disbursements or credits by payee.
- (v) The grand total of all disbursements made during the reporting periods.

(vi) The total summarizing all previous payments in the last 12 months beginning from the first payment date.

(3) A register listing alphabetically by gaming service provider transactions, including wire transfers and credits, in which the slot machine applicant or licensee itself acted in the capacity of a gaming service provider by providing goods or services. The register must include:

- (i) The gaming service provider certification or registration number or exemption code of the gaming service provider to whom the goods or services were provided.
- (ii) The date of each individual transaction.
- (iii) The amount of each individual transaction.
- (iv) A general description of the type of goods or services provided.

(v) Subtotals of payments or credits received by the slot machine licensee or applicant or disbursements or credits made by the slot machine licensee or applicant during the reporting period, by gaming service provider.

(vi) Totals of payments or credits received or disbursements or credits made by the slot machine licensee or applicant within the applicable 12-month period, by gaming service provider.

(b) The reports shall be transmitted to the Bureau of Licensing by means of electronic data transmission in a format prescribed by the Board.

§ 441a.16. Slot machine license term and renewal.

(a) The slot machine license will be valid for 3 years from the date on which the license or renewal is approved by the Board.

(b) A Category 1, Category 2 or Category 3 Slot Machine Renewal Application Form shall be submitted to the Board at least 60 days prior to the expiration of a slot machine license.

(c) A slot machine license for which a completed renewal application has been received by the Board will continue in effect until the Board sends written notification to the holder of the slot machine license that the Board has approved or denied the slot machine license renewal application.

Subpart D. RECORDKEEPING
CHAPTER 451a. RECORDKEEPING
REQUIREMENTS

§ 451a.1. Recordkeeping generally.

(a) Manufacturer, junket enterprise, and management company licensees and registered and certified gaming service providers shall maintain adequate records of business operations which shall be made available to the Board upon request. These records include:

- (1) Correspondence with the Board and other local, Commonwealth and Federal governmental agencies.
- (2) Correspondence concerning gaming equipment with a manufacturer, supplier, management company or slot machine licensee.
- (3) Copies of all promotional material and advertising.
- (4) A personnel file on each current and former employee.
- (5) Financial records of all transactions concerning slot machines and associated equipment with a manufacturer, supplier, management company or slot machine licensee.

(6) Copies of all tax returns, reports and other tax documents filed with a taxing entity of the Federal government, the Commonwealth or local taxing entity within this Commonwealth for 7 years or a longer period as prescribed by the taxing entity.

(7) Copies of all general accounting records.

(b) Except as provided in subsection (a)(6), regarding tax documents, the records listed in subsection (a) shall be maintained for at least 5 years.

(c) The records required to be maintained under subsection (a) shall be kept in a location secure from theft, loss or destruction.

Subpart E. SLOT MACHINES AND ASSOCIATED EQUIPMENT

CHAPTER 465a. ACCOUNTING AND INTERNAL CONTROLS

§ 465a.1. Accounting records.

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(c) The detailed, supporting and subsidiary records include:

(1) Records pertaining to revenue that is taxable or subject to taxation under the act.

(2) Records pertaining to the financial statements and all transactions impacting the financial statements of the slot machine licensee including contracts or agreements with licensed manufacturers, suppliers, junket enterprises, certified and registered gaming service providers, contractors, consultants, management companies, attorneys and law firms, accountants and accounting firms, insurance companies, and financial institutions, including statements and reconciliations related thereto.

(3) Records which identify the handle, payout, actual win amounts and percentages, theoretical win amounts and percentages, and differences between theoretical and actual win amounts and percentages, for each slot machine on a week-to-date, month-to-date and year-to-date basis.

(4) Records documenting the costs of complimentary services and items as defined in § 401a.3 (relating to definitions).

(5) Records of loans and other amounts payable by the slot machine licensee.

(6) Records of investments, advances, loan and receivable balances due to the slot machine licensee.

(7) Records created in connection with the system of internal controls submitted to the Board under § 465a.2 (relating to internal control systems and audit protocols).

(8) Records of returned checks.

§ 465a.20. Personal check cashing.

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(b) Personal checks accepted under subsection (a) shall be presented by the patron directly to a slot cashier who shall:

(1) Restrictively endorse the check "for deposit only" to the bank account designated by the slot machine licensee.

(2) Initial the check.

(3) Date and time stamp the check.

(4) Verify that the signature of the patron on the personal check and the patron's physical appearance agree with information recorded in a patron signature file created and maintained by the slot machine licensee in accordance with subsection (c) or with the signature and photograph or physical description contained on a government-issued identification presented by the patron. The slot cashier shall document how the signature verification was performed in connection with the acceptance of each personal check.

(5) For personal checks equaling or exceeding \$500, verify the validity of the check directly with the commercial bank, savings bank, saving and loan association or credit union upon which it is drawn or obtain an authorization and guarantee of the check from a check verification and warranty service certified as a gaming service provider by the Board. The slot cashier shall document how the check verification was performed in connection with the acceptance of each personal check.

(6) Immediately exchange the personal check for cash in an amount equal to the amount for which the check is drawn or place the amount in a customer deposit account under § 465a.23 (relating to customer deposits) for subsequent use at the licensed facility. A slot machine licensee may not accept a check or multiple checks which in the aggregate exceed \$2,500 per patron per gaming day.

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Subpart G. MINORITY AND WOMEN'S BUSINESS ENTERPRISES

CHAPTER 481a. DIVERSITY

§ 481a.2. Definitions.

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

Diversity plan—A plan that promotes and ensures diversity in ownership, participation and operation of regulated entities; and in employment and contracting by regulated entities.

Minority—The ethnic/racial categories identified in employer survey reports that are required by the United States Equal Opportunity Commission and the Office of Federal Contract Compliance Programs of the United States Department of Labor under section 709 of the Civil Rights Act of 1964 (42 U.S.C.A. § 2000e-8) or by subsequent amendments to that Federal act.

Participation plan—An obligation imposed by a regulated entity as part of its contract with a contractor that requires the contractor to utilize minority or women owned business enterprises.

Regulated entity—An applicant for or holder of the following:

(i) Slot machine license.

(ii) Manufacturer license.

(iii) Supplier license.

(iv) Gaming service provider certification.

(v) Junket license.

(vi) Management company license.

[Pa.B. Doc. No. 10-1998. Filed for public inspection October 22, 2010, 9:00 a.m.]

PENNSYLVANIA GAMING CONTROL BOARD

[58 PA. CODE CH. 435a]

Corrective Amendment to 58 Pa. Code § 435a.1

The Pennsylvania Gaming Control Board has discovered a discrepancy between the agency text of 58 Pa. Code § 435a.1 (relating to general provisions), as deposited with the Legislative Reference Bureau and the official text published at 40 Pa.B. 4761, 4763 (August 21, 2010) and the text which will appear in MTS 432 (November, 2010). The version of the amendments set forth at 40 Pa.B. 4761, 4763 inadvertently omitted several subsections from the section.

Therefore, under 45 Pa.C.S. § 901: The Pennsylvania Gaming Control Board has deposited with the Legislative Reference Bureau a corrective amendment to 58 Pa. Code § 435a.1. The corrective amendment to § 435a.1, is effective as of August 21, 2010, the date the defective text appeared in the *Pennsylvania Bulletin*.

The correct version of § 435a.1 appears in Annex A.

SUSAN YOCUM,
Assistant Chief Counsel

Annex A

TITLE 58. RECREATION

PART VII. GAMING CONTROL BOARD

Subpart B. LICENSING, PERMITTING, CERTIFICATION AND REGISTRATION

CHAPTER 435a. EMPLOYEES

§ 435a.1. General provisions.

(a) An individual seeking a key employee license, occupation permit or nongaming employee registration shall apply to the Board as required by this chapter.

(b) In addition to the materials required under §§ 435a.2, 435a.3 and 435a.5 (relating to key employee license; occupation permit; and nongaming employee registration), an applicant shall:

(1) Promptly provide information requested by the Board relating to its application or regulation and cooperate with the Board in investigations, hearings, and enforcement and disciplinary actions.

(2) Comply with the general application requirements in Chapters 421a and 423a (relating to general provisions; and applications).

(c) An individual who receives a license, permit or registration under this part shall have the continuing duty to report to the Board an arrest, charge, indictment or conviction for:

- (1) An offense involving moral turpitude.
- (2) An offense under 18 Pa.C.S. (relating to crimes and offenses).
- (3) An offense under 75 Pa.C.S. (relating to vehicles) which is punishable by 1 year or more.
- (4) An offense under section 13 of The Controlled Substance, Drug, Device and Cosmetic Act (35 P.S. § 780-113(a)) regarding prohibited acts; penalties.
- (5) Any felony offense.
- (6) Comparable offenses in other states or foreign jurisdictions.

(d) The holder of a key employee license, occupation permit, or nongaming employee registration shall provide an updated photograph at the request of the Board.

(e) An individual may not be employed in this Commonwealth by an applicant for or holder of a license, certification or registration under this part in any capacity unless the individual is a citizen of the United States or can demonstrate that he holds a current and valid work authorization and is not restricted from working in the capacity for which employment is sought or held. Authorization to work in the United States may be demonstrated by submitting one of the following:

- (1) A permanent resident alien card.
- (2) A temporary employment authorization card.
- (3) A document which the Board deems to be sufficient evidence or authorization.

(f) A principal or key employee license will not issued to an individual who has been convicted of a felony offense in any jurisdiction.

(g) A principal or key employee license will not be issued to an individual who has been convicted of a misdemeanor gambling offense in any jurisdiction, unless 15 years have elapsed from the date of conviction for the offense.

(h) A permit will not be issued to an individual who has been convicted of a felony offense or misdemeanor gambling offense in any jurisdiction unless 15 years have elapsed from the date of conviction for the offense.

(i) When considering an application for a registration from an individual who has been convicted of a felony or misdemeanor gaming offense in any jurisdiction, an application for a permit from an individual who has been convicted of a felony or misdemeanor gaming offense in any jurisdiction when 15 years have elapsed from the date of the conviction for the offense, or an application for a license from an individual who has been convicted of a misdemeanor gaming offense in any jurisdiction when 15 years have elapsed from the date of the conviction for the offense, Board will consider:

- (1) The nature and duties of the applicant's position with the licensed entity.
- (2) The nature and seriousness of the offense or conduct.
- (3) The circumstances under which the offense or conduct occurred.
- (4) The age of the applicant when the offense or conduct was committed.
- (5) Whether the offense or conduct was an isolated or a repeated incident.

(6) Evidence of rehabilitation, including good conduct in the community, counseling or psychiatric treatment received and the recommendation of persons who have substantial contact with the applicant.

(j) For purposes of this section, a felony offense is any of the following:

- (1) An offense punishable under the laws of this Commonwealth by imprisonment for more than 5 years.
- (2) An offense which, under the laws of another jurisdiction, is either:
 - (i) Classified as a felony.
 - (ii) Punishable by imprisonment for more than 5 years.
- (3) An offense under the laws of another jurisdiction which, if committed in this Commonwealth, would be subject to imprisonment for more than 5 years.

(k) An individual who holds a license or permit may not wager at any licensed facility in this Commonwealth.

(l) A registrant or employee of a slot machine licensee who is not required to obtain a license or permit may not wager at the licensed facility in which the registrant or employee is employed.

(m) A registrant who is an employee of a certified vendor or an employee of a certified vendor who has direct contact with the employees of a licensed facility may not wager at the licensed facility where the vendor is currently providing services.

(n) A licensed, permitted or registered employee shall wait at least 30 days following the date that the employee either leaves employment with a slot machine licensee or is laid off or terminated from employment with a slot machine licensee before the employee may wager at the licensed facility in which the employee was formerly employed.

(o) An individual required to obtain a license or permit by this part shall demonstrate that he is current and not in arrears on any financial obligation owed to the Commonwealth or any subdivision thereof, including court-ordered child-support payments.

(p) An applicant for an occupation permit or nongaming employee registration shall be at least 18 years of age.

(q) Slot machine licensees, manufacturers, manufacturer designees, suppliers and certified vendors who hire an individual who holds a license, permit or registration issued by the Board shall contact the Bureau of Licensing to confirm that the individual's license, permit or registration is in good standing prior to allowing the individual to work in the licensed facility.

(Editor's Note: For a rulemaking affecting this document, see 40 Pa.B. 6083 (October 23, 2010).)

[Pa.B. Doc. No. 10-1999. Filed for public inspection October 22, 2010, 9:00 a.m.]

PENNSYLVANIA GAMING CONTROL BOARD
[58 PA. CODE CHS. 523, 526 AND 549]
Table Game Equipment, Credit and Rules Amendments; 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) and 1327A(a)

(relating to regulatory authority; and other financial transactions), amends temporary regulations in Chapters 523, 526 and 549 (relating to table game equipment; credit; and Blackjack) 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 provides for the use of value chips in exchange for food and beverage served on the gaming floor, allows for the issuance of credit to slot players and amends the rules for Blackjack. These changes were made in response to requests received from certificate holders and based on the Board's experience to date.

Explanation of Chapters 523, 526 and 549

The Board has received numerous comments on the temporary regulations promulgated so far. The Board has 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.

In Chapter 523, the Board previously provided for the acceptance of value chips to authorized employees as personal gratuities. Language was added to § 523.10(l) (relating to exchange and redemption of gaming chips and plaques) which allows authorized employees to also accept value chips in exchange for food and beverage purchased and served to patrons while on the gaming floor.

In Chapter 526, the Board previously promulgated regulations regarding the issuance of credit to a table game patron. New § 526.13a (relating to issuance and reconciliation of Counter Checks) is added to set forth the procedures that shall be followed when issuing a Counter Check to a patron for the purposes of playing a slot machine or table game. The language in § 526.13(e)—(h) (relating to requirements for Counter Checks) regarding the issuance of Counter Checks to table game patrons was moved to § 526.13a(b) and (e)—(g).

In Chapter 549, the In Between Wager was 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 § 549.19 (relating to In Between Wager) is added to provide the rules of the wager, the payout odds and the payout limitation on the In Between Wager.

Affected Parties

The amendments in this temporary rulemaking allow certificate holders additional options on how to conduct table games at their licensed facilities. It will also affect certificate holders that elect to offer credit and patrons who apply for and receive credit.

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. Internal control procedures submitted by certificate holders related to credit will be reviewed by existing Board staff.

Political subdivisions

This temporary rulemaking will not have direct fiscal impact on political subdivisions in this Commonwealth.

Eventually, host municipalities and counties will benefit from the local share funding that is mandated by Act 1.

Private sector

The amendments in this temporary rulemaking will give certificate holders some additional flexibility as to how they conduct table games and food and beverage service on the gaming floor. The addition of an optional side wager may increase the wagers in Blackjack.

Certificate holders that elect to offer credit to slot patrons will have to develop procedures for administering credit at the cashier's cage or slot machine. These procedures will be part of the certificate holder's internal controls which shall be submitted to the Board for approval. Because credit must be interest free, the certificate holder will have to absorb any costs regarding the issuance of credit.

General public

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

Paperwork Requirements

If a certificate holder elects to offer credit, the certificate holder will have to develop forms and recordkeeping systems to track the issuance and redemption of credit.

Effective Date

This temporary rulemaking will become 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 the date of 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 #125-133.

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 523, 526 and 549, are amended by amending §§ 523.10, 526.13 and 549.2; and by adding §§ 526.13a and 549.19 to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.

(2) The temporary regulations are effective October 23, 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: 125-133. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART VII. GAMING CONTROL BOARD

Subpart K. TABLE GAMES

CHAPTER 523. TABLE GAME EQUIPMENT

§ 523.10. Exchange and redemption of gaming chips and plaques.

* * * * *

(1) Employees of a certificate holder may be authorized to receive value chips as personal gratuities and in exchange for food and beverage purchased and served to patrons on the gaming floor. Employees of a certificate holder who are authorized to receive value chips shall redeem the value chips at the cashiers' cage or at another secure location, as approved by the Board, prior to leaving the licensed facility. Value chips redeemed at a noncage employee redemption site shall be exchanged on a daily basis with the cashiers' cage in accordance with procedures approved by the Board. Each certificate holder shall submit to the Board for approval internal controls to ensure the proper exchange and accounting of the value chips received as personal gratuities and for the purchase of food and beverage on the gaming floor.

* * * * *

CHAPTER 526. CREDIT

§ 526.13. Requirements for Counter Checks.

* * * * *

(c) For Counter Checks that are manually prepared:

* * * * *

(3) Access to the Counter Checks shall be maintained and controlled at all times by the finance department employees responsible for the control of and accounting for the unused supply of Counter Checks, and the table games department or cage employees responsible for the preparation of Counter Checks for a patron's signature.

(d) For Counter Checks that are prepared by computer:

(1) The Counter Checks must be a four-part form which consists of an original, a redemption copy, an issuance copy and an accounting copy.

(2) The Counter Checks shall be inserted in a printer that will simultaneously print an original and the other copies.

(3) The information printed on the original Counter Check and the other copies shall be stored in machine-readable form. The stored data must not be susceptible to change or removal by any personnel after preparation of a Counter Check.

* * * * *

§ 526.13a. Issuance and reconciliation of Counter Checks.

(a) A certificate holder may issue Counter Checks in exchange for:

(1) Value chips or plaques provided to a patron at a gaming table.

(2) Cash provided to a slot patron at the cashier's cage or at a slot machine.

(b) For a Counter Check exchanged for value chips or plaques at a gaming table, a pit clerk or above shall:

(1) Verify the patron's identity by either:

(i) Obtaining the patron's signature, on a form, which shall be compared to the signature contained within a patron signature file. The pit clerk or above shall sign the form indicating that the signature of the patron on the form appears to agree with the signature in the patron signature file. The form shall be attached to the accounting copy of the Counter Check exchanged by the patron prior to forwarding it to the accounting department. After the patron's identity has been verified by the pit clerk or above, the requirements for subsequent verification of the patron's identity during the same shift and in the same gaming pit may be satisfied by the employee who performed the initial verification signing a form attesting to the patron's identity before each subsequent Counter Check is exchanged. The form must include the patron's name and the serial number of the initial Counter Check exchanged by the patron. The form shall be attached to the accounting copy of the subsequent Counter Check prior to forwarding the accounting copy to the accounting department.

(ii) Obtaining the attestation of a floorperson or above as to the identity of the patron. The floorperson or above shall record his Board credential number and sign a form attesting to the patron's identity. The form shall be attached to the accounting copy of the Counter Check exchanged by the patron prior to forwarding it to the accounting department.

(2) Determine the patron's remaining credit limit from the cashier's cage.

(3) Prepare the Counter Check for the patron's signature by recording or by electronically inputting, the following information:

(i) The name of the patron exchanging the Counter Check.

(ii) The current date and time.

(iii) The amount of the Counter Check expressed in numerals.

(iv) The game and table number.

(v) The signature of the floorperson or above authorizing acceptance of the check.

(vi) The signature of the preparer or, if computer prepared, the identification code of the preparer.

(4) Place an impression on the back of the original Counter Check a restrictive endorsement "for deposit only" to the certificate holder's bank account.

(5) Present the original and all duplicate copies of the Counter Check to the patron for signature. However, a certificate holder may, in accordance with its approved internal controls, require the patron to sign the original Counter Check only and have a computer generated facsimile of the signature exemplar obtained from the patron's signature file preprinted on the redemption, issuance and accounting copies of a computer prepared Counter Check if:

(i) The patron's signature has previously been recorded in a patron signature file in conformance with § 465a.20 (relating to personal check cashing).

(ii) A legible copy of the signed original Counter Check is made by the certificate holder prior to the presentation of the original Counter Check for collection or payment in accordance with this chapter. The copy shall be maintained by the certificate holder and be available for inspection by representatives of the Board upon request.

(6) Receive the signed Counter Check directly from the patron. The issuance copy of the Counter Check shall then be immediately given to the dealer or boxperson to be exchanged for value chips or gaming plaques. A certificate holder may allow a dealer or boxperson to give the patron value chips or gaming plaques before the patron has signed the Counter Check if the certificate holder includes procedures in the certificate holder's internal controls to verify the patron's identity and available credit limit prior to giving the patron the value chips or gaming plaques.

(i) The original, redemption, and, if applicable, the acknowledgement copies of the Counter Check shall be expeditiously transported to the cashiers' cage where the original and redemption copies shall be maintained and controlled by the cage cashier designated to act as the check bank cashier.

(ii) The accounting copy of the Counter Check shall be maintained and controlled by the pit clerk or above until forwarded to the accounting department as required under subsection (g).

(iii) The issuance copy of the Counter Check shall be deposited by the dealer or boxperson in the drop box.

(c) For a Counter Check exchanged by a slot player for cash at the cage, a cage cashier shall:

(1) Verify the patron's identity by either:

(i) Obtaining the slot patron's signature, on a Counter Check Request Form, which shall be compared to the signature contained within a patron signature file. The cage cashier shall sign the form indicating that the signature of the patron on the form appears to agree with the signature in the patron signature file. The form shall be attached to the accounting copy of the Counter Check exchanged by the slot patron prior to forwarding it to the accounting department.

(ii) Obtaining the attestation of a cage supervisor as to the identity of the patron. The cage supervisor shall record his Board credential number and sign a form attesting to the patron's identity. The form shall be attached to the accounting copy of the Counter Check exchanged by the patron prior to forwarding it to the accounting department.

(2) Determine the slot patron's remaining credit limit.

(3) Prepare the Counter Check for the slot patron's signature by recording or by electronically inputting, the following information:

(i) The name of the slot patron exchanging the Counter Check.

(ii) The current date and time.

(iii) The amount of the Counter Check expressed in numerals.

(iv) The signature of the cage supervisor authorizing acceptance of the check.

(vi) The signature of the slot supervisor authorizing acceptance of the check.

(vii) The signature of the preparer or, if computer prepared, the identification code of the preparer.

(4) Place an impression on the back of the original Counter Check a restrictive endorsement "for deposit only" to the certificate holder's bank account.

(5) Present the original and all duplicate copies of the Counter Check to the slot patron for signature. However, a certificate holder may, in accordance with its approved internal controls, require the slot patron to sign the original Counter Check only and have a computer generated facsimile of the signature exemplar obtained from the slot patron's signature file preprinted on the redemption, issuance and accounting copies of a computer prepared Counter Check if:

(i) The slot patron's signature has previously been recorded in a patron signature file in conformance with § 465a.20.

(ii) A legible copy of the signed original Counter Check is made by the certificate holder prior to the presentation of the original Counter Check for collection or payment in accordance with the provisions of this chapter. The copy shall be maintained by the certificate holder and be available for inspection by representatives of the Board upon request.

(6) Receive the signed original and all duplicate copies of the Counter Check directly from the slot patron.

(i) The original, redemption, and, if applicable, the acknowledgement copies of the Counter Check shall be expeditiously transferred to the cage cashier designated to act as the check bank cashier who shall maintain and control the original and redemption copies.

(ii) The accounting copy of the Counter Check shall be maintained and controlled by the cage cashier and deposited into a locked accounting box until forwarded to the accounting department as required under subsection (g).

(iii) The issuance copy of the Counter Check shall be exchanged for cash and shall be maintained by the cage cashier in the impress fund.

(d) A certificate holder may also issue a Counter Check to a slot patron directly at a slot machine, provided the following procedures and requirements are followed:

(1) A slot supervisor shall obtain the amount of the requested Counter Check and the patron's signature on a two-part Counter Check Request Form and transport both copies of the Counter Check Request Form directly to the cage cashier. The cage cashier shall verify the slot patron's signature in accordance with subsection (c)(1)(i).

(2) Once the slot patron's signature has been verified, the cage cashier shall prepare the Counter Check in accordance with subsection (c)(2), (3) and (4).

(3) The cage cashier shall sign the Counter Check as the preparer of the Counter Check and shall present the original and all duplicate copies of the Counter Check, the original and duplicate copy of the request form and the cash in the amount of the Counter Check to the slot supervisor.

(4) The slot supervisor shall verify the cash against the amount recorded on the Counter Check and the request form. If in agreement, the slot supervisor shall sign the original and duplicate copy of the request form and return the duplicate copy of the request form to the cage cashier.

(5) The cage cashier shall retain the duplicate copy of the request form as evidence of the slot supervisor's receipt of the Counter Check and the cash.

(6) Once the cash has been verified, the funds shall be transported, along with the original request form and the original and all copies of the Counter Check, to the slot patron by the slot supervisor in the presence of a security department employee.

(7) The slot supervisor shall present the original and all duplicate copies of the Counter Check to the slot patron for signature.

(8) Upon receiving the signed original and all duplicate copies of the Counter Check from the slot patron, the security department employee shall verify the slot patron's signature on the original Counter Check against the patron's signature on the original request form. If in agreement, the cash shall be immediately given to the slot patron. Cash may not be given to the slot patron prior to the receipt of the signed Counter Check from the patron.

(9) Once the slot patron has received the cash, the security department employee shall sign the back of the accounting copy of the Counter Check as a witness to the transfer of funds to the slot patron in exchange for the signed Counter Check from the patron. The accounting copy of the Counter Check shall be maintained and controlled by the slot supervisor until forwarded to the accounting department as required under subsection (g).

(10) The security department employee shall immediately return the original, redemption, issuance and acknowledgement copies of the Counter Check to the cage cashier. The cage cashier shall attach the duplicate of the request form to the issuance copy of the Counter Check and maintain them in the impress fund.

(11) The original, redemption, and, if applicable, the acknowledgement copies of the Counter Check shall be expeditiously transferred to the cage cashier designated to act as the check bank cashier who shall maintain and control the original and redemption copies.

(e) The cage cashier designated to act as the check bank cashier shall sign and time stamp the acknowledgement copy of the Counter Check and expeditiously return it to the pit clerk or slot supervisor by means of a security department employee or to the cage cashier. The check bank cashier shall maintain the original and redemption copies of the Counter Check.

(f) The acknowledgement copy of the Counter Check returned to the pit clerk, slot supervisor or the cage cashier shall be reconciled with the accounting copy and maintained and controlled by the pit clerk, slot supervisor or cage cashier until forwarded to the accounting department as required under subsection (g).

(g) At the end of each gaming day the following procedures and requirements shall be observed:

(1) The original and all copies of voided Counter Checks shall be forwarded to the accounting department.

(2) The accounting and acknowledgement copies of Counter Checks retained by the pit clerk, slot supervisor or cage cashier shall be forwarded to the accounting department for agreement with the issuance copy of the Counter Check removed from the drop box or cage cashier's impress fund.

(3) The redemption copy of a Counter Check shall be forwarded to the accounting department subsequent to the redemption or deposit of the original Counter Check for agreement with the accounting and issuance copies of the Counter Check or stored data.

CHAPTER 549. BLACKJACK

§ 549.2. Blackjack table; card reader device; physical characteristics; inspections.

* * * * *

(c) The following must be inscribed on the Blackjack layout:

* * * * *

(6) If a certificate holder offers the In Between Wager:

(i) A separate area designated for the placement of the In Between Wager for each player.

(ii) Inscriptions that advise patrons of the payout odds for the In Between Wager. If the payout odds are not inscribed on the layout, a sign identifying the payout odds for the In Between Wager shall be posted at each Blackjack table.

* * * * *

§ 549.19. In Between Wager.

(a) A player may make an additional In Between Wager which shall have no bearing on any other wagers made by the player. For purposes of the In Between Wager, the ace is always high. The In Between Wager of a player shall win if:

(1) The dealer's up card falls between the player's initial two cards.

(2) The dealer's up card and the player's initial two cards are of the same rank.

(b) If the dealer's up card falls between the player's initial two cards, the player shall be paid according to the respective card spread. A one card spread occurs when only one card falls between the player's initial two cards. For example, if a player has been dealt a 7 and a 9, the player will win with a one card spread if the dealer's up card is an 8. If the dealer's up card and the player's initial two cards are of the same rank, the player has a triple match.

(c) Prior to the first card being dealt for each round of play, a player who has placed a basic wager required under § 549.4 (relating to wagers) may make an additional In Between Wager, which shall be in an amount of at least \$1 and may not exceed the lesser of:

(1) The amount of the wager made by the player under § 549.4(a).

(2) A maximum amount established by the certificate holder in the certificate holder's Rules Submission under § 521.2 (relating to table games Rules Submissions).

(d) An In Between Wager shall be made by placing value chips on the appropriate area of the Blackjack layout.

(e) Immediately after the second card is dealt to each player and the dealer, but prior to additional cards being dealt to any player or the dealer or before any card reader device is utilized, the dealer shall, starting with the player to his far right and moving counterclockwise around the table, settle all In Between Wagers by collecting all losing wagers and paying all winning wagers in accordance with subsection (f).

(f) The certificate holder shall pay out winning In Between Wagers at the odds contained in the following payout table:

<i>Hand</i>	<i>Payout</i>
Triple Match	30 to 1
One Card Spread	10 to 1
Two Card Spread	6 to 1
Three Card Spread	4 to 1
All others	1 to 1

[Pa.B. Doc. No. 10-2000. Filed for public inspection October 22, 2010, 9:00 a.m.]

PROPOSED RULEMAKING

DEPARTMENT OF PUBLIC WELFARE

[55 PA. CODE CH. 5230]

Psychiatric Rehabilitation Services

The Department of Public Welfare (Department), under the authority of Articles IX and X of the Public Welfare Code (62 P. S. §§ 901—922 and 1001—1059), proposes to add Chapter 5230 (relating to psychiatric rehabilitation services) to read as set forth in Annex A.

Purpose of Proposed Rulemaking

The purpose of this proposed rulemaking is to adopt the minimum standards for the issuance of licenses for psychiatric rehabilitation services (PRS) in facilities operated in this Commonwealth.

Background

Psychiatric rehabilitation is a therapeutic rehabilitative service for individuals with mental illness. PRS may decrease the need for or shorten the length of stay in inpatient, partial hospitalization and day treatment settings. PRS helps individuals to achieve valued roles in the community in living, learning and social environments. This proposed rulemaking for the licensing of PRS facilities provides a unified set of standards in accordance with Nationally-recognized practices consistent with the principles established by the United States Psychiatric Rehabilitation Association (USPRA). PRS emphasizes values such as consumer involvement, consumer choice, consumer strengths and individual growth potential, shared decision making as well as outcome accountability.

In 2006, the Office of Mental Health and Substance Abuse Services (OMHSAS) issued correspondence and directives to Commonwealth mental health/mental retardation administrators endorsing the benefits of PRS and encouraging the development and expansion of an array of PRS in each county mental health system. In 2007, the OMHSAS conducted a Statewide survey which identified over 90 PRS programs across this Commonwealth. To further encourage service expansion a Medicaid State Plan Amendment was submitted to the Centers for Medicare and Medicaid Services in May 2010 requesting the inclusion of PRS in the state plan.

To guide the development of regulatory language for the licensing of PRS facilities, the Department convened a broad-based stakeholder group. This stakeholder group consisted of individuals representing county government, behavioral health managed care organizations, provider organizations, consumers of services and their families. The workgroup met several times between May 2009 and February 2010 to assist in drafting the PRS regulatory language.

Requirements

The proposed rulemaking provides licensing standards which include the values and practices of the USPRA. The USPRA practices utilize evidence based practices, which are service delivery practices identified, recognized and verified by research and empirical data to be effective in producing positive outcomes and supporting recovery from mental illness. Standards for the service were developed in 2001 to implement the service within managed care.

Under the current standards, clubhouse programs, which are one of the Nationally-recognized models of PRS, must be certified by the International Committee for Clubhouse Certification (ICCD) within 2 years of licensing by the Department. The Pennsylvania Clubhouse Coalition and other stakeholders offered feedback to the Department indicating the frequent difficulties and unrealistic time frame of obtaining certification within 2 years of licensure due to the typical challenges associated with new program startup. Therefore, under this proposed rulemaking, a certification time frame of 3 years will be required for ICCD certification.

The proposed rulemaking also provides the requirement that individuals receive a statement of rights that ensures that individuals are treated with dignity and respect and receive services in a setting that fosters recovery from mental illness.

The proposed rulemaking provides staffing requirements which allow for minimum staff qualifications, minimum staff to individual ratios and provision of individual and group service, and for delivery of services within a facility or in the community. The proposed rulemaking also allows PRS assistant staff to work independently in the community if that staff person holds a certified psychiatric rehabilitation practitioner (CPRP) credential. The proposed rulemaking also requires the PRS director and a PRS specialist to be CPRP certified, as well as at least 25% of staff to be CPRP certified.

The proposed rulemaking requires a PRS director or delegated supervisor to meet with a staff member face-to-face on an individual basis no less than two times per month. This proposed requirement makes the employee supervision process timely and cost effective. This proposed requirement adds four methods for providing supervision. The Department proposes language that requires staff to complete a 12-hour orientation course and 18 hours of annual training. Under the proposed rulemaking, new staff are required to receive 6 hours of face-to-face mentoring during the orientation period and will receive 8 hours of training on the specific PRS model or approach prior to working independently.

The proposed rulemaking provides requirements for facilities concerning the development and completion of the individual rehabilitation plan (IRP). The proposed rulemaking also standardizes the time frame for completing this process by day 20 of attendance and not more than 60 calendar days after the individual begins service.

Affected Individuals and Organizations

The proposed rulemaking affects facilities that provide PRS and the individuals receiving PRS.

Accomplishments and Benefits

The proposed rulemaking establishes the minimum standards for licensure of PRS facilities. These requirements will contribute to the development of a professionally-qualified and credentialed PRS workforce and will protect consumer health and safety while receiving PRS.

Fiscal Impact

It is anticipated that the implementation of PRS will not have fiscal impact on the Commonwealth, as the reduction in more costly traditional mental health treatments and improved clinical and social outcomes will offset the cost of PRS.

The clinical and social benefits as well as the cost effectiveness of PRS can broadly be categorized as development of skills and supports related to the role functioning that promote recovery from mental illness. A review of PRS literature suggests that PRS results in improved functioning, increased employment and job retention, improved social and community adjustment, and increased independent living. Further studies documented cost offsets in community resources, hospital admissions and days spent in the hospital. Some studies reported lower costs on a per user basis and documented lower overall system costs. There is evidence of cost offsets for PRS compared to use of more intensive and high cost services such as day treatment, partial hospital and psychiatric hospitalization.

PRS is clinically effective and results in improved consumer outcomes. In studies that analyzed cost per user, PRS resulted in lower costs per user. Most cost analysis studies suggest there are cost offsets due to reduced utilization of inpatient admissions and days spent in the hospital setting. Thus, there is evidence to suggest PRS offered in this Commonwealth will contribute to cost savings or cost neutrality, particularly when modeled on evidence-based practices.

Paperwork Requirements

The proposed rulemaking contains the paperwork requirements for facilities that apply for licensure as PRS facilities. Required documents include the following: a facility service description; provider policies, procedures and daily schedules; contracts and letters of agreement; quality improvement documents; and individual rehabilitation plans.

The proposed rulemaking also requires time frames for the completion of paperwork requirements.

Effective Date

The proposed rulemaking will be effective upon final form publication in the *Pennsylvania Bulletin*.

Public Comment

Interested persons are invited to submit written comments, suggestions or objections regarding the proposed rulemaking to Lisa McMullen, Department of Public Welfare, OMHSAS, BPPD, P. O. Box 2675, DGS Complex, Harrisburg, PA 17105-2675, fax (717) 772-7964, PsychRehab@state.pa.us within 30 calendar days after the date of publication of this proposed rulemaking in the *Pennsylvania Bulletin*. Reference Regulation No. 14-521 when submitting comments.

Persons with a disability who require an auxiliary aid or service may submit comments by using the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

Regulatory Review Act

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on October 7, 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 Chairpersons of the House Committee on Health and Human Services and the Senate Committee on Public Health and Welfare. 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, recom-

mendations 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.

HARRIET DICHTER,
Secretary

Fiscal Note: 14-521. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 55. PUBLIC WELFARE

PART VII. MENTAL HEALTH MANUAL

Subpart D. NONRESIDENTIAL AGENCIES/FACILITIES/SERVICES

CHAPTER 5230. PSYCHIATRIC REHABILITATION SERVICES

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GENERAL PROVISIONS

§ 5230.1. Purpose.

The purpose of this chapter is to establish requirements for the licensing of facilities providing PRSs.

§ 5230.2. Scope.

This chapter applies to PRS facilities as defined in this chapter and contains the minimum requirements that shall be met to obtain a license to operate a PRS facility.

§ 5230.3. Definitions.

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

Best practice—Service delivery practice based directly on principles and standards that are generally recognized by a profession and are documented in the professional literature.

CPRP—Certified Psychiatric Rehabilitation Practitioner—A person who has completed the required education, experience and testing, and who is currently certified as a Certified Psychiatric Rehabilitation Practitioner by the USpra.

CPS—Certified peer specialist—A person who has successfully completed the Department-approved training in peer support service and is currently certified as a CPS.

Clubhouse—A psychiatric rehabilitation program that is accredited by the ICCD.

Community support principles—The set of accepted principles for delivery of community mental health services developed by the Department and recognized by the Community Support Program of Pennsylvania.

Coordination of care—Direct contact by a PRS facility with other behavioral health, physical health or human service formal and natural supports, to assure continuity in service planning between service facilities.

County MH/MR administrator—The Mental Health/Mental Retardation administrator who has authority in the geographic area.

Culturally competent—The ability to provide service in a manner that shows awareness of and is responsive to the beliefs, interpersonal styles, attitudes, language and behavior of an individual and family who are referred for or receiving service.

Department—The Department of Public Welfare of the Commonwealth.

Discharge—Discontinuation of service to an individual that is based upon established requirements.

EBP—Evidence based practice—Service delivery practice identified, recognized, and verified by research and empirical data to be effective in producing a positive outcome and supporting recovery.

FTE—Full-time equivalent—37.5 hours per calendar week of staff time.

Face-to-face—Contact between two or more people that occurs at the same location, in person.

Fidelity—The degree to which a system accurately adheres to the specified principles of evidenced based or best practice.

Formal support—An agency, organization or person who provides assistance or resources to others within the context of an official role.

Functional impairment—The loss or abnormality of the ability to perform necessary tasks and roles.

GED—Graduate Equivalency Diploma.

Human services—Programs or facilities designed to meet basic health, welfare and other needs of a society or group.

ICCD—International Center for Clubhouse Development.

IRP—Individual rehabilitation plan—A document that describes the current service needs based on the assessment of the individual, and identifies the individual's goals, interventions to be provided, the location, intensity and duration of services, and staff who will provide the service.

Individual—A person, 18 years or older who has a functional impairment resulting from mental illness, who uses PRS.

Licensed practitioner of the healing arts—Those professional staff currently recognized by the Department as qualified to recommend an individual for service.

MA—Medical Assistance.

Mental health direct service—Working directly with an individual to provide mental health service.

Natural support—A person or organization selected by an individual to provide validation, assistance or resources in the context of a personal or nonofficial role.

Outcome—The observable and measurable result of rehabilitation service.

PRS—Psychiatric rehabilitation service—A recovery-oriented service offered individually or in groups which is predicated upon the principles, values and practice standards of the ICCD, USpra or other Nationally recognized professional PRS association.

PRS facility—An agency or organization licensed by the Department to deliver PRS.

Psychiatric rehabilitation principles—A list of core values inherent in psychiatric rehabilitation as defined by Nationally-recognized professional associations.

QI—Quality improvement plan—A document outlining the ongoing formal process to assure optimal care and maximize service benefit as part of the licensing process.

USpra—The United States Psychiatric Rehabilitation Association.

§ 5230.4. Psychiatric rehabilitation processes and practices.

(a) A PRS facility shall assist an individual to develop, enhance, and retain skills and competencies in living, learning, working and socializing so that an individual can live in the environment of choice and participate in the community.

(b) A PRS facility shall use the PRS process in delivering PRS. The PRS process consists of three phases:

(1) *Assessing phase.*

(i) Developing a relationship and trust.

(ii) Determining readiness.

(iii) Mutual assessment of needs.

(iv) Goal setting.

(2) *Planning phase.*

(i) Prioritizing needed and preferred skills and supports.

(ii) Planning for resource development.

(3) *Intervening phase.*

- (i) Developing new skills.
- (ii) Supporting existing skills.
- (iii) Overcoming barriers to using skills.
- (iv) Creating or modifying resources.

(c) A PRS facility shall ensure that staff training, provider and individual records include the following practices:

(1) Creating a culturally competent, recovery oriented PRS environment consistent with Nationally-recognized values and practice standards.

(2) Engaging an individual in PRS.

(3) Assessing individual strengths, interests and preferences for rehabilitation service with an individual.

(4) Developing strategies to assist an individual in identifying, achieving and maintaining valued roles.

(5) Developing rehabilitation plans with an individual.

(6) Helping an individual increase awareness of community resources and identify preferred options for the rehabilitation process.

(7) Educating an individual about mental illness, wellness and living in recovery.

(8) Providing direct or indirect skills development.

(9) Assisting an individual in identifying, developing and utilizing natural supports.

(10) Reaching out and reengaging an individual.

(d) A facility may provide PRS concurrently with clinical treatment.

(1) A PRS shall begin as soon as clinically possible following diagnosis.

(2) A PRS facility shall collaborate and coordinate with other services with the consent of the individual.

(e) A PRS facility shall follow EBP or best practices.

(f) A PRS facility shall demonstrate fidelity to the specific PRS approach identified in the service description.

(g) A PRS facility may offer PRS in premises or in the community, or in a combination of the two, consistent with an approved service description.

§ 5230.5. Access to facility and records.

(a) A PRS facility shall provide access to the premises and records during inspection and, upon request, by the Department.

(b) A PRS facility shall grant access to private interviews with individuals upon request by the Department and with individual consent.

GENERAL REQUIREMENTS

§ 5230.11. Organizational structure.

A PRS facility shall:

(1) Develop a PRS advisory board that includes participation by individuals and families who utilize mental health services.

(2) Document that the members of the PRS advisory board have been provided with an overview of PRS processes and practices.

(3) Name a director and staff.

§ 5230.12. Inspections and licenses.

(a) A PRS facility shall meet the requirements under Chapter 20 (relating to licensure or approval of facilities and agencies).

(b) A PRS facility may appeal licensure or approval of PRS facilities in accordance with 1 Pa. Code Part II (relating to the General Rules of Administrative Practice and Procedure).

§ 5230.13. Facility records.

A PRS facility shall maintain records that contain copies of the following:

(1) Inspection reports, certifications or licenses issued by state and local agencies.

(2) The PRS statement of rights under § 5230.41 (relating to PRS statement of rights).

(3) Documentation of civil rights compliance.

(4) A detailed service description under § 5230.15 (relating to service description).

(5) PRS facility policies and procedures that address the following:

(i) The implementation of the PRS based upon the service description.

(ii) Nondiscrimination statement.

(iii) Compliance with other applicable State and Federal regulations, including the Americans with Disabilities Act of 1990 (ADA) (42 U.S.C.A. §§ 12101—12213) and the Health Insurance Portability and Accountability Act of 1996 (HIPAA), the act of August 21, 1996 (Pub. L. No. 104-191, 110 Stat. 1936).

(iv) Engagement and outreach to an individual to maintain participation in the IRP.

(v) Complaint, grievance and appeal notices.

(vi) Crisis response.

(vii) Disaster preparedness.

(6) Human resources policies and procedures that address the following:

(i) Job descriptions for positions.

(ii) Criminal history background check requirements and protocol.

(iii) Policies regarding transportation of individuals.

(iv) Evidence of staff credentials or qualifications.

(v) Records of orientation and training, including an annual training plan for staff.

(vi) Staff work schedules and time sheets.

(7) PRS daily schedules.

(8) A copy of contracts or letters of agreement with external funding sources including MCOs or County MH/MR Administrators.

(9) Letters of agreement with mental health services and community agencies.

(10) Quality improvement documents.

(i) Quality improvement plan.

(ii) Data gathering tools.

(iii) Evaluation reports and summaries.

§ 5230.14. Physical site requirements.

A PRS facility shall provide:

(1) A physical location within the facility for record keeping and other administrative functions of the PRS regardless of where service is provided.

(2) Space for the PRS distinct from other services offered simultaneously.

(3) A site that is accessible to the service population.

(4) Space, equipment and supplies that are well-maintained and sufficient to deliver the services as provided in the service description.

(5) Private interview space.

(6) Infection control procedures that document compliance with Occupational Safety and Health Administration.

(7) Protocols that meet applicable Federal, State and local requirements for fire, safety and health, including protocols for the following:

(i) Sanitation.

(ii) Fire drills.

§ 5230.15. Service description.

(a) Prior to the initial licensing visit, and when changes occur, a PRS facility shall submit to the Department a service description that includes the following:

(1) The governing body, advisory structure and an agency table of organization.

(2) The philosophy of the PRS facility, incorporating psychiatric rehabilitation and community support program principles.

(3) The population to be served, including the following:

(i) Anticipated daily attendance.

(ii) Age range.

(iii) Diagnostic groups.

(iv) Plans to identify and accommodate special populations.

(v) Plans to identify and accommodate culturally diverse populations.

(4) The approach of PRS offered including EBPs and best practices utilized.

(i) A PRS facility identified as a clubhouse must be accredited by the International Committee for Clubhouse Certification (ICCD) within 3 years of licensing.

(ii) A PRS facility shall demonstrate fidelity to the specific approach identified in the service description.

(5) The location of service, whether in a facility or in the community, or a combination of both.

(6) Expected service outcomes for individuals.

(7) Staffing.

(i) Staffing patterns.

(ii) Staff to individual ratios.

(iii) Staff qualifications.

(iv) Staff supervision plans.

(v) Staff training protocols.

(8) Service delivery patterns, including frequency, intensity and duration of service.

(9) The days and hours of PRS operation.

(10) The geographic limits of PRS operation.

(11) The physical site, including copies of applicable licenses and certificates.

(12) A process for development of an IRP with an individual.

(13) A referral process.

(14) The methods by which PRS staff and an individual will collaborate to identify community resources and establish linkages.

(15) A process for developing and implementing a QI plan.

(16) A procedure for resolving complaints and grievances.

(b) The Department reserves the right to deny service descriptions and approaches that do not meet EBP or best practices standards.

§ 5230.16. Coordination of care.

A PRS facility shall have written agreements to coordinate care with other service providers, including the following:

(1) Psychiatric inpatient facilities.

(2) Partial hospitalization programs.

(3) Psychiatric outpatient clinics.

(4) Crisis intervention programs.

(5) Case management programs.

(6) Housing and residential programs.

(7) Drug and alcohol programs.

(8) Vocational, educational and social programs.

§ 5230.17. Confidentiality.

A PRS facility shall protect information about an individual in compliance with the Mental Health Procedures Act (50 P. S. §§ 7101—7503), §§ 5100.31—5100.39 (relating to confidentiality of mental health records), the Health Insurance Portability and Accountability Act of 1996 (HIPAA), the act of August 21, 1996 (Pub. L. No. 104-191, 110 Stat. 1936), and the drug and alcohol confidentiality regulations in 4 Pa. Code § 255.5 (relating to projects and coordinating bodies: disclosure of client-oriented information).

INDIVIDUAL RECORD

§ 5230.21. Content of individual record.

A PRS facility shall develop and maintain a unique record for an individual served containing the following:

(1) Information that identifies the individual.

(2) Eligibility for PRS, including diagnosis.

(3) Referral source, reason for referral, and recommendation by a physician or licensed practitioner of the healing arts.

(4) A signed:

(i) Consent to receive services.

(ii) Set of individual consents to release information to other providers.

(iii) Statement that the individual has received and had an opportunity to discuss the oral and written versions of the PRS statement of rights under § 5230.41 (relating to PRS statement of rights).

(iv) Statement that the individual has received verbal and written notification of freedom of choice of providers.

- (5) An assessment and updates.
- (6) The IRP.
- (7) Staff documentation of IRP outcomes.
- (8) Staff documentation of coordination with other services and supports.
- (9) Discharge summary.

§ 5230.22. Record security, retention and disposal.

A PRS facility shall ensure that an individual record meets the following standards:

- (1) The record must be legible throughout.
- (2) The record must identify the individual on each page.
- (3) Entries shall be signed and dated by the responsible licensed provider.
- (4) The record must indicate progress at each day of service, changes in service and response to services.
- (5) Alterations of the record shall be signed and dated.
- (6) The record is kept in a permanent, secure and protected location.
- (7) The record shall be maintained for a minimum of 4 years.
- (8) Records shall be destroyed in a manner that protects confidentiality.

§ 5230.23. Access to individual record.

An individual may review, provide written comments and sign daily entries in the individual record.

ADMISSION, CONTINUED STAY AND DISCHARGE REQUIREMENTS

§ 5230.31. Admission requirements.

(a) To be eligible for PRS, an individual shall meet the following:

(1) Have a written recommendation for PRS by a physician or licensed practitioner of the healing arts acting within the scope of professional practice.

(2) Have the presence or history of a serious mental illness, based upon medical records, which includes one of the following diagnoses by a psychiatrist:

- (i) Schizophrenia.
- (ii) Major mood disorder.
- (iii) Psychotic disorder (not otherwise specified).
- (iv) Schizoaffective disorder.
- (v) Borderline personality disorder.

(3) As a result of the mental illness, have a moderate to severe functional impairment that interferes with or limits performance in at least one of the following domains:

- (i) Living.
- (ii) Learning.
- (iii) Working.
- (iv) Socializing.

(4) Choose to participate in the PRS program.

(b) A PRS facility shall document the functional impairment in an assessment.

§ 5230.32. Continued stay requirement.

A PRS facility shall determine eligibility for continued stay by an assessment that indicates the following:

(1) An individual chooses additional participation in the PRS.

(2) A continued need for service based upon one or both of the following:

(i) As a result of a mental illness, there is a functional impairment or skill deficit that is addressed in the IRP.

(ii) The withdrawal of service could result in loss of rehabilitation gain or goal attained by an individual.

§ 5230.33. Discharge requirements.

When a PRS facility documents one of the following criteria, discharge may occur. An individual:

(1) Has achieved a rehabilitation goal and sustained progress as designated in the IRP.

(2) Has gained maximum rehabilitative benefit.

(3) Will not lose rehabilitation gain or goal as a result of withdrawal of service.

(4) Has voluntarily terminated.

RIGHTS

§ 5230.41. PRS statement of rights.

(a) An individual has the right to be treated with dignity and respect and to be free from physical and mental harm.

(b) An individual has the right to receive PRS in a culturally respectful and nondiscriminatory environment.

(c) An individual has the right to receive PRS in the least restrictive setting that fosters recovery and promotes growth.

(d) An individual has the right to access competent, timely and quality service to assist with fulfillment of a personal goal.

(e) An individual has the right to express a goal which is individualized and reflects informed choice concerning selection, direction or termination of service and service plan.

(f) An individual has the right to choose a service based on individual need, choice and acceptance and not dependent on compliance or participation with another treatment or rehabilitation service.

(g) An individual has the right to keep and use personal possessions in a manner that is reasonable to the service and location. Any necessary limitations shall be clearly communicated and defined, universally applied, and documented.

(h) An individual has the right to offer an opinion and belief, to express a complaint related to service and to the IRP and to have the complaint heard in a fair manner.

(i) An individual has the right to appeal an individual service decision.

(j) An individual has the right to have the assistance of a personally chosen representative or advocate in expressing a complaint or grievance.

(k) An individual has the right to be able to contribute to, have access to, and control release of the individual record.

(l) An individual has the right to have information and records concerning service treated in a confidential manner, as required under the Health Insurance Portability and Accountability Act of 1996 (HIPAA), the act of August 21, 1996 (Pub. L. No. 104-191, 110 Stat. 1936).

(m) A PRS facility shall:

- (1) Assure compliance with the PRS statement of rights.
- (2) Develop and implement a written procedure for assuring compliance with the PRS statement of rights.
- (3) Post the PRS statement of rights within the facility.
- (4) Notify an individual verbally and in writing and include a signed acknowledgement of rights in the individual record.
- (5) Make service decisions in compliance with individual rights.

§ 5230.42. Nondiscrimination.

A PRS facility may not discriminate against an individual or staff on the basis of age, race, sex, religion, ethnic origin, economic status, sexual orientation or gender identity or expression, or disability.

§ 5230.43. Complaint, grievance and appeal procedures.

- (a) The PRS facility shall have written policies and procedures for requesting, responding, and resolving complaints and grievances.
- (b) A PRS facility shall give verbal and written notice to an individual upon admission to the service, explaining complaint, grievance and appeal procedures.
- (c) A PRS facility shall offer assistance to an individual as needed to file a complaint, grievance or appeal.

STAFFING

§ 5230.51. Staff qualifications.

- (a) A PRS director shall have one of the following:
 - (1) A bachelor's degree and CPRP certification.
 - (2) A bachelor's degree and at least 3 years work experience in mental health direct service, 2 years of which must be work experience in PRS. CPRP certification must be attained within 2 years of hire.
- (b) A psychiatric rehabilitation specialist shall have one of the following:
 - (1) A bachelor's degree and 2 years work experience in mental health direct service, 1 year of which must be work experience in PRS. CPRP certification must be attained within 2 years from the date of hire as a psychiatric rehabilitation specialist.
 - (2) CPRP certification.
- (c) A psychiatric rehabilitation worker shall have one of the following:
 - (1) A bachelor's degree.
 - (2) An associate's degree and 1 year work experience in mental health direct service.
 - (3) A CPS certificate and 1 additional year paid or volunteer work experience in mental health direct service.
 - (4) A high school diploma or GED and 2 years work experience in human services which must include 1 year of mental health direct service.
 - (d) A psychiatric rehabilitation assistant shall have a high school diploma or GED and 6 months experience in human services.

§ 5230.52. General staffing patterns.

- (a) A PRS facility shall staff the service according to the following:

(1) The location of services is consistent with the service description.

(2) The service may range from individual service to group service.

(3) The service and the choice of service locations must be determined by the IRP of the individual.

(b) A PRS facility shall employ a director and a specialist for the PRS.

(c) When a service is delivered in a facility, a PRS facility shall have an overall complement of one FTE staff for every ten individuals (1:10), based upon average daily attendance.

(d) When a service is delivered, a PRS facility shall schedule a specialist or worker to be present.

(e) A PRS facility shall develop a schedule that includes a plan to maintain staffing requirements during:

- (1) Staff absence.
- (2) Deployment of staff for community service.

(f) A PRS facility shall document staffing by maintaining work schedules, time records and daily utilization data.

(g) When a PRS operates at more than one facility address, the PRS director shall be present at each licensed PRS facility address an average of 7.5 hours per week in a calendar month.

(h) A minimum of 25% of the FTE staff complement shall meet specialist criteria within 1 year of initial licensing.

(i) A minimum of 25% of the FTE staff complement shall have CPRP credential within 2 years of initial licensing.

(j) Trained staff shall be available, or other accommodations made, to address the language needs of an individual, including American Sign Language and Braille.

§ 5230.53. Individual services.

A PRS facility shall provide individual PRS in a facility or in the community on a one staff to one individual (1:1) ratio.

§ 5230.54. Group services.

(a) A PRS facility shall provide group PRS in a facility or in the community.

(1) When a group service is provided in a facility, group size may vary as long as the one staff to ten individuals (1:10) ratio for the overall service is met.

(2) When a service is delivered in the community, one staff may serve a group of two to five (2:5) ratio individuals.

(b) Individuals participating in a group service shall be working on similar goals, as identified in the individual's IRP.

(c) A PRS facility shall consider personal preferences of an individual and shall inform an individual of the following:

- (1) The location where the group is to meet.
- (2) Purpose of providing service in a community setting.
- (3) The roles of individuals and PRS staff.

(d) A PRS facility shall obtain individual consent to participate in the group activity in a community location.

(e) A PRS facility may not require community group participation and individual preference for one to one (1:1) ratio service shall be honored, per freedom of choice requirements.

(f) A PRS facility shall design group community service as experiential rather than verbal, to protect confidentiality in a public location.

(g) A PRS facility shall arrange for group discussion of the experience, before and after the service in a community setting, to occur in the privacy of the facility.

§ 5230.55. Supervision.

(a) A PRS director shall supervise staff.

(b) A PRS specialist may perform supervisory functions as delegated by the director, consistent with approved job descriptions for the two positions.

(c) A PRS director or PRS specialist shall meet with staff individually, face-to-face, no less than two times per calendar month.

(d) A PRS director shall provide additional supervision utilizing the following methods:

(1) Monitoring active PRS delivery.

(2) Individual case discussions.

(3) Staff meetings.

(e) A PRS director shall annually evaluate staff.

§ 5230.56. Staff training requirements.

A PRS facility shall implement a staff training plan that ensures initial and ongoing training in PRS practices.

(1) Staff that provides services in a PRS shall complete a 12-hour psychiatric rehabilitation orientation course approved by the Department no later than 1 year after hire. This course shall be credited to the annual training requirement listed under paragraph (2) for the calendar year in which it is completed.

(2) Staff providing services in a PRS shall complete 18 hours of training per year with 12 hours specifically focused on psychiatric rehabilitation or recovery practices, or both.

(3) A PRS facility shall assure competency of new staff by providing an additional PRS service specific orientation that includes the following:

(i) Eight hours of training in the specific PRS model or approach outlined in the service description prior to new staff working independently.

(ii) Six hours of face-to-face mentoring of service delivery by a supervisor for new staff before services are delivered independently.

(4) A PRS facility shall assure that training has learning objectives.

(5) A PRS facility shall maintain documentation of training hours in the PRS facility records under § 5230.13(5)(v) (relating to facility records).

§ 5230.57. Criminal history background check.

(a) A PRS facility shall complete a criminal history background check for staff that will have direct contact with an individual.

(b) A PRS facility shall develop and consistently implement written policies and procedures regarding personnel decisions based on the outcome of the criminal history background check.

SERVICE PLANNING AND DELIVERY

§ 5230.61. Assessment.

(a) A PRS facility shall complete an assessment of an individual.

(b) The assessment shall be completed in collaboration with the individual and must:

(1) Include the functioning of the individual in the living, learning, working and socializing domains.

(2) Include strengths and needs of the individual.

(3) Identify existing and needed natural and formal supports, including other health care facilities and social service agencies.

(4) Identify the specific skills, supports and resources the individual needs and prefers to accomplish stated goals.

(5) Identify cultural needs and preferences of the individual.

(6) Be signed by the individual and staff.

(7) Be updated annually and when one of the following occurs:

(i) The individual requests an update.

(ii) The individual completes a goal or objective.

(iii) The individual is not progressing on stated goals.

§ 5230.62. Individual rehabilitation plan.

(a) A PRS staff and an individual shall jointly develop an IRP, that is consistent with the assessment and includes the following:

(1) A rehabilitation goal and objective designed to achieve a measurable outcome.

(2) The method of service provision, including skill development and resource acquisition.

(3) The responsibilities of the individual and the staff.

(4) Action steps and time frame.

(5) The expected frequency and duration of participation in the PRS.

(6) The intended service location.

(7) Dated signatures of the individual, the staff working with the individual and the PRS director.

(b) A PRS facility shall complete an IRP by day 20 of attendance, but no more than 60 calendar days after initial contact.

(c) A PRS facility and an individual shall review and revise the IRP at least every 90 days, and when:

(1) The overall rehabilitation goal is completed.

(2) An objective is completed.

(3) No significant progress is made.

(4) An individual requests a change.

(d) The IRP review must include a comprehensive summary of the individual's progress that includes the following:

(1) A description of the service in the context of the goal identified in the IRP.

(2) Documentation of individual participation and response to service.

(3) A summary of progress or lack of progress toward the goal in the IRP.

(4) A summary of changes made to the IRP.

(5) The dated signature of the individual.

(6) Documentation of the reason if the individual does not sign.

(7) The dated signature of PRS staff.

§ 5230.63. Daily entry.

A PRS facility shall include an entry for the day service was provided in the record of an individual as follows:

(1) Indicates the date, time, duration, location, and type of interaction.

(2) Documents service provided in the context of the goal.

(3) Documents the individual response to service.

(4) Includes the signature of the individual, or if the individual does not sign, document the reason.

(5) Is signed and dated by staff providing the service.

DISCHARGE

§ 5230.71. Discharge.

(a) A PRS facility shall discuss discharge with an individual.

(b) A decision to discharge should be a joint decision between the individual and the PRS.

(c) When a decision to discharge is not a joint decision, the PRS facility shall document the reason for discharge.

(d) When a decision to discharge is reached, a PRS facility shall offer the individual the opportunity to participate in future service.

(e) When an individual voluntarily terminates from the PRS, a PRS facility shall plan and document next steps with the individual, including recommended service and referral.

(f) When it is necessary to discharge an individual from PRS due to the individual's disengagement, prior to discharge the PRS facility shall document:

(1) Attempts to reengage the individual.

(2) The circumstances and rationale for discharge.

(g) When an individual has a recurring or new need for PRS and meets admission criteria, the PRS facility shall reconsider the individual for readmission without regard to previous participation.

§ 5230.72. Discharge summary.

(a) Upon discharge, a PRS facility shall complete a dated and signed discharge summary that must include a description of the following:

(1) Service provided.

(2) Progress.

(3) Reason for discharge.

(4) Referral or recommendation for future service.

(b) A PRS facility shall assure that the discharge summary is:

(1) Completed no more than 30 days after the date of discharge.

(2) Reviewed and signed by the PRS director.

(3) Offered to the individual for review, signature and the opportunity to comment.

QUALITY IMPROVEMENT

§ 5230.81. Quality improvement requirements.

A PRS facility shall establish and implement a written quality improvement plan that meets the following requirements:

(1) Provides for an annual review of the quality, timeliness and appropriateness of services, including the following:

(i) Outcomes for PRS.

(ii) Individual record audits.

(iii) Individual satisfaction.

(iv) Use of exceptions to admission and continued stay requirements.

(v) Evaluation of fidelity to the service description.

(2) Identifies reviewers, frequency and types of audits and methodology for establishing sample size.

(3) Documents that individuals served participate in QI plan development and follow up.

(4) Results in an annual comprehensive summary that:

(i) Reports on actions to address QI findings.

(ii) Is available to the public.

WAIVER OF STANDARDS

§ 5230.91. Request for waiver.

(a) A PRS facility may submit a written request to the Department for a waiver of a specific requirement contained in this chapter.

(b) The Department reserves the right to grant or deny waiver of a specific requirement contained in this chapter.

(c) A waiver request will be considered only in exceptional circumstances.

(d) A waiver will be granted only when the health and safety of an individual and the quality of service are not adversely affected.

(e) The Department reserves the right to revoke a waiver if the conditions required by the waiver are not met.

[Pa.B. Doc. No. 10-2001. Filed for public inspection October 22, 2010, 9:00 a.m.]

[55 PA. CODE CHS. 23, 3800 AND 5310]

Residential Treatment Facilities

The Department of Public Welfare (Department), under the authority of sections 201(2) and 403(b) and Articles IX and X of the Public Welfare Code (code) (62 P. S. §§ 201(2), 403(b), 901—922 and 1001—1080) and section 1905(r)(5) of the Social Security Act (42 U.S.C.A. § 1396 d(r)(5)), proposes to add Chapter 23 (relating to residential treatment facilities) and amend Chapters 3800 and 5310 (relating to child residential and day treatment facilities; and community residential rehabilitation services for the mentally ill) to read as set forth in Annex A.

Purpose of Proposed Rulemaking

The purpose of this proposed rulemaking is to codify minimum licensing and program standards, requirements for participation in the Medical Assistance (MA) Program

and MA payment conditions for residential treatment facilities (RTFs), which provide behavior health services in a 24-hour setting to children under 21 years of age with a diagnosed mental illness or serious emotional or behavioral disorder, or a drug and alcohol diagnosis in conjunction with a diagnosed mental illness or serious emotional or behavioral disorder. The proposed rulemaking will codify the requirements that apply to RTFs in one chapter, replace the requirements for RTFs currently in Chapter 3800 and Notices of Rule Change. It also proposes to require RTFs to be accredited by the Council on Accreditation (COA), the Commission on Accreditation of Residential Facilities (CARF), the Joint Commission (JCAHO) or other accrediting entity approved by the Department. Finally, this proposed rulemaking also proposes to amend § 3800.3 (relating to exemptions) to exempt RTFs and community residential rehabilitation group homes from Chapter 3800. Exempting community residential rehabilitation group homes from Chapter 3800 will give eight bed nonaccredited RTFs that are not located on a larger campus the option to meet the requirements under Chapter 5310 to become licensed as a community residential rehabilitation group home.

The proposed health and safety, treatment, program and payment requirements for comprehensive, culturally competent, medically necessary behavioral health treatment in an RTF were developed after obtaining input through numerous stakeholder meetings and comments to draft proposals prior to publication. By codifying the requirements for RTFs in one chapter, the Department intends to eliminate multiple licensing and monitoring visits to each RTF, thereby enhancing the efficiency of Departmental operations while minimizing interruptions in RTF programs. By requiring accreditation and the concomitant adherence to the standards established by the accrediting entities, in addition to compliance with this proposed rulemaking, the Department intends to enhance the quality of care provided in RTFs.

Requirements

The following is a summary of the specific provisions in the proposed rulemaking:

Sections 23.11—23.22 (relating to general requirements) address the general licensing and approval requirements for an RTF, including maximum capacity, fire safety, reportable and recordable incidents, consent to treatment and confidentiality of records. Section 23.14 (relating to maximum capacity) specifically provides for a maximum number of beds per unit and a maximum number of units per facility. RTFs that currently exceed the proposed maximums will have the opportunity to develop and implement a transition plan to reduce the number of beds. Section 23.17 (relating to reportable incidents) expands the definition of “reportable incident” in Chapter 3800 to include the use of drugs as a restraint.

Sections 23.31—23.34 (relating to child rights) address child rights and include several additional child rights beyond those in Chapter 3800. For example, one additional right is the right to be free from restraint or seclusion used as a means of coercion, discipline, convenience or retaliation. Other additional rights in § 23.32 (relating to specific rights) include the right of the child to advocate for the child’s own needs without retaliation or removal from the RTF, as well as the right to a clean, healthy and comfortable living environment.

Sections 23.41—23.44 (relating to family participation) address family participation and require an RTF to make

efforts to include a child’s family in the planning and delivery of the child’s treatment. The proposed requirements include providing information about the treatment process, the expected length of stay, the type of treatment, the formal process to resolve disagreements and the contact information for advocacy organizations and consumer satisfaction teams. Another proposed requirement is for an RTF to provide opportunities for families to have regular contact with the child and staff, as well as to collaboratively develop a family participation plan that identifies specific goals for the family’s participation in the child’s ongoing treatment. Other proposed requirements include the following: assisting with scheduling visits and travel arrangements; providing treatment services in conjunction with family visits at the RTF in the child’s home and in the community; arranging for family participation in medical appointments; and providing adequate comfortable space for visiting.

Sections 23.51—23.62 (relating to staffing) address staff qualifications, including education and experience, staffing ratios and staff training. These proposed sections require enhanced credentials, increased staffing ratios and more clinically oriented training topics than current requirements, in addition to health and safety training requirements. Section 23.60 (relating to family advocacy) also proposes the requirement that an RTF have a family advocate.

Sections 23.81—23.106, 23.121—23.133, 23.141—23.149, 23.151, 23.161—23.164 and 23.171 address the health and safety issues that are currently in Chapter 3800. Because Chapter 3800 will no longer apply to RTFs, the requirements from that chapter that will continue to apply to RTFs are repeated in this proposed rulemaking. They include the physical site, fire safety, child and staff health, nutrition and safe transportation.

Sections 23.181—23.190 (relating to medications) address the storage, use and administration of medications. Section 23.183 (relating to use of prescription medications) requires that information be provided to a child and the child’s family regarding the effects and side effects of medication. Section 23.187 (relating to administration) limits the ability to administer prescription medications and injections to licensed personnel, except as specified in §§ 23.188 and 23.189 (relating to self-administration; and special circumstances). In addition, § 23.190 (relating to medication performance monitoring) requires that an RTF report to the Department every 6 months the number and percentage of children who are taking multiple psychotropic or antipsychotic medications.

Sections 23.201—23.206 (relating to restrictive procedures) address restrictive procedures and focus on the requirements that an RTF use de-escalation approaches and other alternatives to coercive techniques to reduce or eliminate the need to use restrictive procedures. Section 23.205 (relating to emergency safety intervention) specifically prohibits the use of prone restraint. Section 23.203 (relating to written plan to create a restraint-free environment) requires an RTF to create a written plan with goals and objectives and time frames to develop a trauma-informed approach which establishes a restraint-free environment within the RTF.

Sections 23.221—23.230 (relating to services) address the services that an RTF provides as part of its program. Section 23.221 (relating to description of services) requires an RTF to have a service description with both detailed information about the scope of the program and general information about the services the RTF will provide. The service description must include the number,

ages and special characteristics of the children the RTF proposes to serve. Section 23.224 (relating to content of the ISP) requires an RTF to develop a treatment plan that addresses the behavioral health needs of each child, with specified goals, objectives and interventions, as part of the individual service plan that addresses the broader health, safety and education goals for the child.

Sections 23.241—23.244 and 23.251—23.257 address the requirements regarding the content, storage and retention of child records. Additional requirements for facilities serving nine or more children as well as additional requirements for facilities providing secure care are also included in these sections.

Sections 23.281, 23.282 and 23.291—23.295 address the participation requirements for an RTF licensed under this chapter to become and remain an MA provider. Section 23.291 (relating to general participation requirements for an RTF) includes a new requirement that each RTF shall receive and maintain accreditation by COA, CARF, JACHO or other accrediting body approved by the Department. Participation requirements for an out-of-State RTF and an RTF serving children with a drug and alcohol diagnosis in conjunction with a diagnosed mental illness or serious emotional behavioral disorder are also specified in these sections.

Sections 23.301—23.319, 23.321—23.323, 23.331, 23.332, 23.341, 23.342 and 23.351 address payment provisions, including rate-setting policy, cost reporting, allowable costs, bed occupancy, readmissions, therapeutic and hospital leave, payment conditions and third-party liability. In addition, §§ 23.341 and 23.342 (relating to provider abuse; and administrative sanctions) address administrative sanctions. Section 23.351 (relating to provider right of appeal) addresses an RTF's appeal rights.

Affected Individuals and Organizations

Stakeholders, including children, families, advocates, providers, county and State government representatives, and medical directors of behavioral health managed care organizations have, for the past decade, been providing input to the Department in developing the clinical guidelines and program standards for RTFs in workgroups, through draft documents, at forums and in meetings. The Department has adopted many of the recommendations of these stakeholders in developing this proposed rulemaking.

The incorporation of the requirements for licensure, covering health and safety as well as treatment, participation in the MA program and MA payment conditions into one chapter will result in greater convenience to an RTF, since the RTF will not have to refer to multiple documents to determine the requirements that apply to it. One coordinated annual licensing and monitoring visit from the Department, rather than multiple visits, will also be more convenient for an RTF. Some RTFs that currently participate in the MA program may incur greater costs as a result of the proposed accreditation requirements, number of units per facility, staffing ratios, higher staff qualifications and increased training requirements, but the rate-setting policies address the additional costs associated with these requirements.

Accomplishments and Benefits

The proposed rulemaking benefits children under 21 years of age who need behavioral health services in the more intensive level of care provided in an RTF. The proposed rulemaking promotes quality treatment in meeting a child's needs and assisting in making the transition

to a less-restrictive setting. Children and their families will benefit from the enhanced standards for behavioral health services proposed in this chapter.

Fiscal Impact

The increased costs incurred by an RTF to meet the enhanced staffing and training requirements may result in higher per diem rates for some RTFs, but the expected aggregate reduction in lengths of stay due to high quality behavioral health treatment is expected to offset the fiscal impact of the higher rates. In addition, RTFs that are currently not accredited and choose to remain MA providers will incur the costs associated with accreditation. The Department will be able to build the cost of accreditation into the rates.

Paperwork Requirements

Since the Department is proposing that accreditation be a requirement for participation in the MA program, an RTF that is not accredited will have to complete additional paperwork to become accredited. For those RTFs, it is estimated that the accreditation requirement will also entail several staff hours per week for paperwork in addition to the initial paperwork needed to become accredited. Requirements for accreditation vary by accrediting organization.

Effective Date

This proposed rulemaking will be effective 12 months from the date the final-form rulemaking is published in the *Pennsylvania Bulletin*, with the exception of the accreditation requirement, which will be effective 24 months from the date the final-form rulemaking is published in the *Pennsylvania Bulletin*.

Public Comment

Interested persons are invited to submit written comments, suggestions or objections regarding the proposed rulemaking to Shaye Erhard, Office of Mental Health and Substance Abuse Services, 233 Beechmont Building, DGS Complex, P. O. Box 2675, Harrisburg, PA 17105-2675, ra-rtfcomments@state.pa.us within 30 calendar days after the date of publication of this proposed rulemaking in the *Pennsylvania Bulletin*. Reference regulation No. 14-522 when submitting comments.

Persons with a disability who require an auxiliary aid or service may submit comments by using the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

Regulatory Review Act

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on October 7, 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 Chairpersons of the House Committee on Health and Human Services and the Senate Committee on Public Health and Welfare. 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.

HARRIET DICHTER,
Secretary

Fiscal Note: 14-522. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 55. PUBLIC WELFARE

PART I. DEPARTMENT OF PUBLIC WELFARE

Subpart C. LICENSING/APPROVAL

CHAPTER 23. RESIDENTIAL TREATMENT FACILITIES

Subchap.

- A. GENERAL PROVISIONS
- B. LICENSURE/APPROVAL REQUIREMENTS
- C. PARTICIPATION REQUIREMENTS
- D. PAYMENT PROVISIONS

Subchapter A. GENERAL PROVISIONS

Sec.

- 23.1. Purpose.
- 23.2. Applicability.
- 23.3. Definitions.
- 23.4. Waivers.

§ 23.1. Purpose.

The purpose of this chapter is to establish minimum licensing and treatment standards, MA participation requirements and MA payment conditions for RTFs.

§ 23.2. Applicability.

This chapter applies to RTFs that operate in this Commonwealth to serve children under 21 years of age with a diagnosed mental illness, or serious emotional or behavioral disorder, or a drug and alcohol diagnosis in conjunction with a diagnosed mental illness or serious emotional or behavioral disorder.

§ 23.3. Definitions.

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

Active treatment—The implementation and supervision of interventions and services outlined in a treatment plan.

Antipsychotic medication—A powerful tranquilizer, such as the phenothiazines or butyrophenones, used especially to treat psychosis and believed to act by blocking dopamine nervous receptors.

ASD—Autism Spectrum Disorder

BMI—Body Mass Index.

CAO—County Assistance Office.

CASSP (Child and Adolescent Service System Program)—A philosophy of collaborative service delivery in which services that are rendered to children and their families are least restrictive and least intrusive, child centered, family focused, community based, multisystem and culturally competent.

CCYA—The County Children and Youth Agency.

CMS—Centers for Medicare and Medicaid Services—The agency of the United States Department of Health and Human Services that is responsible for administering the Medical Assistance Program.

CRNP—Certified Registered Nurse Practitioner.

Certified day—A day of care approved by the Department under this chapter.

Child—An individual under 21 years of age.

Contracting agency—A public or private entity that has an agreement with an RTF to pay for services provided by the RTF.

Cost center—A group of services or employees, or both, or another unit or type of activity into which functions of a facility are divided for purposes of expense assignment and allocations.

Day of care—Room, board and professional behavioral health services calculated on a 24-hour day basis using a midnight census hour.

Department—The Department of Public Welfare of the Commonwealth.

Drug used as a restraint—A drug that has the following characteristics:

(i) Is administered to manage a child's behavior in a way that reduces the risk to the safety of the child or others.

(ii) Has the temporary effect of restricting the child's freedom of movement.

(iii) Is not standard treatment for the child's medical or psychiatric condition.

(iv) A drug ordered by a licensed physician as part of ongoing medical treatment, or as pretreatment prior to a medical or dental examination or treatment, is not a drug used as a restraint.

Eligible recipient—An individual who has been determined eligible for MA benefits.

Emergency safety intervention—The use of an intervention, such as a restraint or seclusion, as an immediate response to an emergency safety situation.

Emergency safety situation—Unanticipated child behavior that places the child or others at serious risk of violence or injury if no intervention occurs and that calls for an emergency safety intervention as defined in this section.

Family—Birth, adoptive or foster parents; grandparents; other relatives; nonrelatives identified by the child; and guardians or custodians, except child welfare agencies.

Family advocate—A family member of a child who is currently receiving services or has received services from a child-serving system including mental health, intellectual disabilities, child welfare, juvenile justice, drug and alcohol or special education.

Fire safety expert—A local fire department, fire protection engineer, Commonwealth-certified fire protection instructor, college instructor in fire science, county of Commonwealth fire school, volunteer trained and certified by a county or Commonwealth fire school, or an insurance company loss control representative.

Fiscal year—The period of time beginning July 1 and ending June 30 of the following year.

High Fidelity Wraparound—A team-based, collaborative process for developing and implementing individualized care plans for children with mental health challenges and their families. The therapeutic goals of High Fidelity Wraparound are to meet the needs prioritized by youth and family, improve their ability and confidence to manage their own services and supports, develop or

strengthen their natural social support system over time, and integrate the work of all child serving systems and natural supports into one streamlined plan.

Hospital-reserved bed day—A day when the child is approved for and admitted to an acute care general hospital, a psychiatric or rehabilitation unit of an acute care general hospital, or a psychiatric or rehabilitation hospital and the child is expected to return to the RTF.

ISP—Individual Service Plan.

ISPT—Interagency Service Planning Team.

Intimate sexual contact—An act of an erotic nature involving unclothed physical contact.

JPO—Juvenile probation office.

LEA—Local Education Agency.

MA—Medical Assistance.

MH/MR—Mental Health/Mental Retardation.

Manual restraint—The application of a physical hands-on technique without the use of a device, for the purposes of restraining the free movement of a child's body or portion of a child's body.

Mechanical restraint—A device attached or adjacent to a child's body that the child cannot easily remove that restricts the child's freedom of movement of the child's normal access to the child's body, which include handcuffs, anklets, wristlets, camisoles, helmets with fasteners, muffs and mitts with fasteners, poseys, waist straps, head straps, papoose boards, restraining sheets and similar devices.

Minor—A child under 18 years of age.

Natural supports—A nonpaid assistance, relationship or interaction that allows a child to advance in the community in ways that correspond to the typical routines and social actions of other people and that enhance the child's relationships.

PA—Physician's Assistant.

PRN—Pro Re Nata.

Psychotropic medication—A medication, as defined by active ingredient, in one of the following drug classes:

- (i) Attention deficit hyperactivity disorder agents.
- (ii) Antidepressants.
- (iii) Antidyskinetic agents.
- (iv) Antipsychotic agents.
- (v) Anxiolytic and sedative or hypnotic agents.
- (vi) Mood stabilizers.
- (vii) Substance abuse agents.

RN—Registered Nurse.

RTF—Residential treatment facility—A nonhospital living setting in which behavioral health treatment is provided to one or more children with a diagnosed mental illness, or serious emotional behavioral disorders or a diagnosed substance abuse condition in conjunction with a diagnosed mental illness or serious emotional or behavioral disorder.

Restraint—A manual restraint, mechanical restraint or drug used as a restraint as defined in this section, which does not include briefly holding, without restricting free movement.

Seclusion—Placing a child in a locked room, which includes a room with any type of door-locking device, such as a key lock, spring lock, bolt lock, food pressure lock or physically holding the door shut.

Serious injury—A significant impairment of the physical condition of a child as determined by qualified medical personnel, including, but not limited to, burns, lacerations, bone fractures, substantial hematoma and injuries to internal organs.

Serious occurrence—A child's death, a serious injury or a child's suicide attempt.

Staff—Individuals employed directly or on a contract basis by an RTF.

Trauma-informed care—A philosophy with related intervention practices that recognizes the prevalence and consequences of maltreatment or childhood trauma, is committed to avoiding retraumatization during treatment and care, and promotes resilience to enable the child to overcome the negative consequences of trauma and move forward in the child's development.

§ 23.4. Waivers.

(a) An RTF may submit a written request for a waiver of any provision of this chapter, except as specified in subsection (b), on a form prescribed by the Department, and the Department may grant a waiver of one or more provisions of this chapter if the RTF demonstrates the following:

- (1) A waiver will not jeopardize the health or safety of a child.
- (2) The RTF has an alternative for providing an equivalent level of health, safety and emotional protection of the children.
- (3) The children will benefit from the waiver of the requirement.

(b) The scope, definitions and applicability of this chapter may not be waived.

(c) The Department may grant a waiver unconditionally or subject to conditions that the RTF shall meet, and a decision to grant a waiver will identify the time period for which the waiver will be in effect, subject to the review specified in subsection (e).

(d) An RTF shall notify affected children and their families of the Department's decision to grant or deny a request for a waiver and post both the waiver request and the Department's decision in a conspicuous and public place in the RTF.

(e) The Department will review its decision to grant a waiver annually and may revoke the waiver if the conditions of the waiver are not met.

Subchapter B. LICENSURE/APPROVAL REQUIREMENTS

GENERAL REQUIREMENTS

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GENERAL REQUIREMENTS**§ 23.11. Licensure or approval of facilities.**

The requirements under Chapter 20 (relating to licensure or approval of facilities and agencies) shall be met.

§ 23.12. Inspections and certificates of compliance.

(a) An RTF will be individually inspected at least once a year, including at least one onsite unannounced inspection, unless otherwise specified by statute.

(b) A separate certificate of compliance will be issued for each physical structure that qualifies for a certificate.

(c) The RTF shall post in a conspicuous and public place the current certificate of compliance and a copy of this chapter.

§ 23.13. Appeals.

(a) An RTF may appeal the Department's licensure or approval action under 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law) and 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure), except that the appeal shall be made by filing a petition within 30 days after service of notice of the action.

(b) Subsection (a) supersedes the appeal period of 1 Pa. Code § 35.20 (relating to appeals from actions of the staff).

§ 23.14. Maximum capacity.

(a) An RTF may not exceed 4 units of 12 beds each for a total of 48 beds.

(b) The maximum capacity specified on the certificate of compliance will be based on available bedroom square footage, the number of toilets and sinks, the needs of the population of children residing in the RTF, the RTF's staffing levels, the RTF's program components and the treatment intensity of the RTF.

(c) The maximum capacity specified on the certificate of compliance may not be exceeded and may be temporarily or permanently reduced if the Department determines that the physical plant, clinical programming or needs of the population of children residing in the RTF requires that maximum capacity be reduced.

§ 23.15. Fire safety approval.

(a) If a fire safety approval is required by State statute or regulations, a valid fire safety approval from the appropriate authority, listing the type of occupancy, is required prior to receiving a certificate of compliance under this chapter.

(b) If the fire safety approval is withdrawn or restricted, the RTF shall notify the appropriate Departmental regional office orally within 24 hours and in writing within 48 hours of the withdrawal or restriction with a plan for remedy or a plan for child relocation.

(c) If a building is structurally renovated or altered after the initial fire safety approval is issued, the RTF shall submit to the appropriate Departmental regional office within 2 weeks of the completed renovation, the new fire safety approval, or written certification that a new fire safety approval is not required, from a fire safety authority.

§ 23.16. Child abuse.

(a) An RTF shall immediately report suspected abuse of a child in accordance with 23 Pa.C.S. §§ 6301—6385 (relating to the Child Protective Services Law) and Chapter 3490 (relating to child protective services).

(b) If an allegation of child abuse involves staff, the RTF shall submit and implement a plan of supervision in accordance with 23 Pa.C.S. § 6368 (relating to investigation of reports) and § 3490.56 (relating to county agency investigation of suspected child abuse perpetrated by persons employed or supervised by child care services and residential facilities).

§ 23.17. Reportable incidents.

(a) A reportable incident is one of the following:

- (1) A death of a child.
- (2) A physical act by a child to attempt suicide.
- (3) An injury, trauma or illness of a child requiring inpatient treatment at a hospital.
- (4) An injury, trauma or illness of a child requiring outpatient treatment at a hospital, not to include minor injuries, such as sprains or cuts.
- (5) A violation of a child's rights specified in § 23.32 (relating to specific rights).
- (6) Intimate sexual contact or attempted sexual contact between children, consensual or otherwise.
- (7) Sexual assault of a child.

(8) A child absence from the premises for 2 hours or more without the approval of staff, or for 30 minutes or more without the approval of staff, if the child may be in immediate jeopardy.

(9) Use of a drug as a restraint.

(10) Abuse or misuse of a child's funds.

(11) An outbreak of a serious communicable disease as defined in 28 Pa. Code § 27.2 (relating to specific identified reportable diseases, infections and conditions).

(12) An incident requiring the services of the fire, police or emergency management departments, except for false alarms.

(13) A condition which results in closure of the RTF.

(14) Emergency relocation of a child.

(15) Food poisoning of a child.

(16) Bankruptcy filed by the RTF.

(17) A prescription medication error.

(18) A criminal conviction against the RTF, administrator or staff that occurs after the reporting on the criminal history checks under § 23.51 (relating to child abuse and criminal history checks).

(b) An RTF shall develop, and submit for Department approval, written policies and procedures, on the prevention, reporting, investigation and management of reportable incidents.

(c) An RTF shall complete an initial written reportable incident report, in a format prescribed by the Department, and send it to the appropriate Departmental regional office, the contracting agency, the Department of Health, the RTF's Family Advocate and the Disability Rights Network no later than close of business the next business day. Staff shall document in the child's record that the incident was reported and a copy of the report must be maintained in the child's record.

(d) An RTF shall orally report to the appropriate Departmental regional office and the contracting agency within 12 hours of the following:

- (1) A fire requiring the relocation of children.
- (2) An unexpected death of a child.
- (3) A child's unauthorized absence from the premises, if police have been notified.

(e) An RTF shall initiate an investigation of a reportable incident immediately following the identification of the incident.

(f) An RTF shall submit a final written reportable incident report to the agencies specified in subsection (c) by no later than close of business the next business day following the conclusion of the investigation.

(g) If the final reportable incident report validates the occurrence of the alleged incident, the RTF shall notify, unless restricted by applicable confidentiality statutes, regulations or a court order, the affected child and other children who could be potentially harmed, and their family.

(h) A copy of a reportable incident report shall be maintained for 6 years in the business office of the RTF.

(i) An RTF shall notify the child's parent and, when applicable, the child's guardian or custodian, as soon as possible, and in no case later than 24 hours after a reportable incident relating to a specific child, unless restricted by applicable confidentiality statutes, regula-

tions or a court order. An RTF shall document in the child's record that the parent and, when applicable, the guardian or custodian, has been notified. The documentation must include the date and time of notification, the name of the staff providing notification, and actions taken subsequent to the event until the time of contact with the parent, guardian or custodian.

(j) A report of death must comply with the following:

(1) In addition to the reporting requirements contained in this section, an RTF shall report the death of a child to the CMS regional office by no later than close of business the next business day after a child's death.

(2) An RTF shall document in the child's record that the death was reported to the CMS regional office.

(k) An RTF shall notify the child's parent and, when applicable, the child's guardian or custodian of a child who has been restrained as soon as possible after the initiation of each emergency safety intervention.

(l) A report of a serious occurrence must comply with the following:

(1) An RTF shall report each serious occurrence to both the State Medicaid agency and, unless prohibited by State law, the State-designated protection and advocacy system.

(2) Serious occurrences that must be reported include the following:

(i) The death of a child.

(ii) A serious injury as defined in this chapter.

(iii) An attempted suicide by a child.

(3) Staff shall report a serious occurrence involving a resident to both the Department and the State-designated Protection and Advocacy system by no later than close of business the next business day after a serious occurrence. The report must include the following:

(i) The name of the child.

(ii) A description of the occurrence.

(iii) The name, street address and telephone number of the RTF.

(4) In the case of a minor, an RTF shall notify the child's parent and, when applicable, legal guardian or custodian as soon as possible, and in no case later than 24 hours after the serious occurrence.

(5) An RTF shall document in a child's record that the serious occurrence was reported to both the Department and the State-designated Protection and Advocacy system, including the name of the person to whom the incident was reported. A copy of the report shall be maintained in a child's record, as well as in the incident and accident report logs kept by the facility.

§ 23.18. Recordable incidents.

An RTF shall maintain for 6 years in the business office of the RTF, a record of the following:

(1) Seizures.

(2) Suicidal gestures.

(3) Incidents of staff or residents of the RTF intentionally striking or physically injuring a child.

(4) Property damage of more than \$500.

(5) Child absences from the premises without the approval of staff, that do not meet the definition of reportable incident in § 23.17(a) (relating to reportable incidents).

(6) Injuries, traumas and illnesses of children that do not meet the definition of reportable incident in § 23.17(a), which occur at the RTF or offsite.

(7) Emergency safety situations, the emergency safety interventions used and their outcomes.

§ 23.19. Child funds.

(a) Money earned or received by a child is the child's personal property.

(b) Commingling of child and RTF funds is prohibited.

(c) An RTF may place reasonable limits on the amount of money to which a child has access. The RTF shall develop a policy on access to a child's funds, which must be approved by the Department.

(d) An RTF shall maintain a separate accounting system for child funds, which includes the dates and amounts of deposits and withdrawals.

(e) Except for a child expected to be in the RTF for fewer than 30 days, an RTF shall maintain an interest-bearing account for child funds, with interest earned tracked and applied for the child.

(f) An RTF shall return money left in a child's account to the child upon discharge or transfer.

§ 23.20. Consent to treatment.

(a) An RTF shall comply with the following statutes and regulations relating to consent to treatment, to the extent applicable:

(1) 42 Pa.C.S. §§ 6301—6365 (relating to the Juvenile Act).

(2) The Mental Health Procedures Act (50 P. S. §§ 7101—7503).

(3) Sections 1—5 of the act of February 13, 1970 (P. L. 19, No. 10) (35 P. S. §§ 10101—10105).

(4) Chapter 5100 (relating to mental health procedures).

(5) The Pennsylvania Drug and Alcohol Abuse Control Act (71 P. S. §§ 1690.101—1690.115).

(6) Sections 1.1 and 1.2 of the act of February 13, 1970 (35 P. S. §§ 10101.1 and 10101.2), regarding mental health treatment and release of medical records.

(b) The following consent requirements apply, unless in conflict with the requirements of the statutes and regulations specified in subsection (a):

(1) An RTF shall obtain written consent upon admission, whenever possible, from a child's parent and, when applicable, a child's guardian or custodian, for the provision of routine health care such as child health examinations, dental care, vision care, hearing care and treatment for injuries and illnesses.

(2) An RTF shall obtain separate written consent prior to treatment, from a child's parent and, when applicable, a child's guardian or custodian, for each incidence of nonroutine treatment, such as elective surgery or experimental procedures. If the parent or, when applicable, the guardian or custodian, cannot be located, an RTF shall obtain separate written consent prior to treatment by court order, for each incidence of nonroutine treatment,

such as elective surgery or experimental procedures. A CCYA that has legal custody of a child may not consent to nonroutine treatment.

(3) Consent for emergency care or treatment is not required.

§ 23.21. Confidentiality of records.

(a) An RTF shall comply with the following statutes and regulations relating to confidentiality of records, to the extent applicable.

(1) 23 Pa.C.S. §§ 6301—6386 (relating to the Child Protective Services Law).

(2) 23 Pa.C.S. §§ 2101—2910 (relating to Adoption Act).

(3) The Mental Health Procedures Act (50 P. S. §§ 7101—7503).

(4) Section 602(d) of the Mental Health and Mental Retardation Act (50 P. S. § 4602(d)).

(5) The Confidentiality of HIV-Related Information Act (35 P. S. §§ 7601—7612).

(6) Sections 5100.31—5100.39 (relating to confidentiality of mental health records).

(7) Sections 3490.91—3490.95 (relating to confidentiality).

(8) Sections 1.1 and 1.2 of the act of February 13, 1970 (35 P. S. §§ 10101.1 and 10101.2), regarding mental health treatment and release of medical records.

(9) The Health Insurance Portability and Accountability Act (HIPAA) of 1996, Privacy Rule (45 CFR Parts 160 and 164, Subparts A and E).

(10) 42 CFR Part 2 (relating to confidentiality of alcohol and drug abuse patient records).

(b) The following confidentiality requirements apply unless in conflict with the requirements of the statutes and regulations specified in subsection (a):

(1) A child's record, information concerning a child or family, and information that may identify a child or family by name or address, is confidential and may not be disclosed or used other than in the course of official RTF duties.

(2) Information specified in paragraph (1) shall be released upon request only to the following:

- (i) A child's parent.
- (ii) A child's guardian or custodian.
- (iii) The child's and parent's attorneys.
- (iv) Court and court services, including probation staff.
- (v) County government agencies.
- (vi) Authorized agents of the Department.
- (vii) A child, if the child is 14 years of age or older, unless the information may be harmful to the child. Documentation of the harm to be prevented by withholding information shall be kept in the child's record.

(3) Information specified in paragraph (1) may be released to other providers of service to the child if the information is necessary for the provider to carry out its responsibilities. Documentation of the need for release of the information shall be kept in the child's record.

(4) Information specified in paragraph (1) may not be used for teaching or research purposes unless the infor-

mation released does not contain information which would identify the child or family.

(5) Information specified in paragraph (1) may not be released to anyone specified in paragraphs (2)—(4), without written authorization from the court, if applicable, or the child's parent or, when applicable, the child's guardian or custodian, or the child.

(6) Release of information specified in paragraph (1) may not violate the confidentiality of another child.

§ 23.22. Applicable health and safety laws.

An RTF shall have a valid certificate or approval document from the appropriate State or Federal agency relating to health and safety protections for child required by another applicable law.

CHILD RIGHTS

§ 23.31. Notification of rights, grievance procedures and consent to treatment protections.

(a) The RTF shall develop and implement written grievance procedures for a child, a child's family and staff to ensure the investigation and resolution of grievances regarding an alleged violation of a child's rights.

(b) A copy of a child's rights, the grievance procedures and a list of organizations that can assist in lodging grievances, and applicable consent to treatment protections shall be posted in a conspicuous and public place at the RTF.

(c) A child, a child's parents, unless court-ordered otherwise; and, when applicable, a child's guardian or custodian, shall be informed of the child rights and grievance procedures in an easily understood manner and in the primary language or mode of communication of the child and child's parent or, when applicable, guardian or custodian.

(d) A child shall be informed of these rights and grievance procedures upon admission. The child's parent and, when applicable, a child's guardian or custodian, shall be informed of the child rights and grievance procedures within 7 days of the child's admission, if not present when the child is admitted.

(1) A child, parent and, when applicable, the guardian or custodian, shall be given a copy of this information in writing in the primary language of the child and the child's parent or, when applicable, guardian or custodian. The RTF shall obtain a signed statement acknowledging receipt of this information to be retained in the child's file.

(2) If the RTF is unable to obtain an acknowledgement of receipt, the efforts made to obtain the signature shall be documented in the child's file.

(e) A child and the child's family have the right to lodge a grievance with the RTF for an alleged violation of the rights specified in § 23.32 (relating to specific rights) without fear of retaliation.

§ 23.32. Specific rights.

(a) A child may not be discriminated against because of race, color, religious creed, disability, handicap, ancestry, sexual orientation, national origin, age or sex.

(b) A child may not be abused, mistreated, threatened, harassed or subject to corporal punishment.

(c) A child shall be treated with fairness, dignity and respect.

(d) A child shall be informed of the rules of the RTF.

(e) A child has the right to communicate with others by telephone subject to RTF policy approved by the Department, and written instructions from the CCYA, JPO or court regarding circumstances, frequency, time, payment and privacy of telephone calls.

(f) A child has the right to visit with family at least once a week, at a time and location convenient for the family, the child and the RTF, as outlined in the family participation plan specified in § 23.42 (relating to documentation of efforts for family contacts), unless visits are restricted by court order. This subsection does not restrict more frequent family visits.

(g) A child has the right to receive and send mail.

(1) Outgoing mail may not be opened or read by staff.

(2) Incoming mail from Federal, State or county officials, or from the child's attorney, may not be opened or read by staff.

(3) Incoming mail from persons other than those specified in paragraph (2), may not be opened or read by staff, unless the RTF has reasonable suspicion that contraband, or other information that may jeopardize the child's health, safety, or well-being, may be enclosed. If the RTF has reasonable suspicion that contraband, or other information that may jeopardize the child's health, safety, or well-being may be enclosed, mail may be opened by the child in the presence of staff.

(h) A child has the right to communicate and visit privately with the child's attorney and clergy.

(i) A child has the right to be protected from unnecessary search and seizure. An RTF shall conduct search and seizure procedures, subject to RTF policy approved by the Department.

(j) A child has the right to practice the religion or faith of the child's choice, or not to practice a religion or faith.

(k) A child shall have appropriate medical, behavioral health and dental treatment.

(l) A child shall have appropriate rehabilitation services.

(m) A child shall be free from excessive medication.

(n) A child may not be subjected to unusual or extreme methods of discipline which may cause psychological or physical harm to the child.

(o) A child shall have clean, seasonal clothing that is age and gender appropriate.

(p) A child has the right to the following:

(1) To ask staff questions related to the child's treatment.

(2) To advocate for himself.

(3) To disagree respectfully.

(4) To submit a formal grievance without jeopardizing the child's standing or privileges within the RTF or the right to continued services.

(q) A child shall be free from restraint or seclusion used as a means of coercion, discipline, convenience or retaliation.

(r) A child shall have a clean, healthy and comfortable living environment.

§ 23.33. Prohibition against deprivation of rights.

(a) A child may not be deprived of the specific rights specified in § 23.32 (relating to specific rights) or civil rights.

(b) A child's rights may not be used as a reward or sanction.

(c) A child's visits with family may not be used as a reward or sanction.

§ 23.34. Notification of RTF restraint policy.

At admission, an RTF shall:

(1) Inform both the child, the child's parent and, when applicable, the guardian or custodian, of the RTF's policy regarding the use of restraint during an emergency safety situation that may occur while the child is at the RTF.

(2) Communicate its restraint policy in a language that the child, the child's family, guardian or custodian, understands, including American Sign Language. When necessary, the RTF shall provide interpreters or translators.

(3) Obtain an acknowledgement, in writing, from the child, or in the case of a minor, from the parent or, when applicable, the guardian or custodian that he has been informed of the RTF's policy on the use of restraint during an emergency safety situation. Staff shall file this acknowledgement in the child's record.

(4) Provide a copy of the RTF restraint to the child and, in the case of a minor, to the child's parent or, when applicable, guardian or custodian in a language that the child, the child's family, guardian or custodian understands.

(5) Provide contact information, including the phone number and mailing address, for the Disabilities Rights Network.

FAMILY PARTICIPATION

§ 23.41. Family participation in the treatment process.

An RTF shall ensure that a child's family is given the opportunity to participate fully in the planning for delivery of services to the child as evidenced by the following:

(1) Meetings being held at times convenient to the family with at least 2 weeks notice to maximize the possibility of family participation.

(2) ISPT meetings and other formal meetings with the family as active members of the team.

(3) Demonstrated opportunities for frequent and regular family contact including daily telephone calls and at least weekly visits at the family home or at the RTF, as well as community activities with the family within and outside the RTF to be determined as part of the treatment planning.

(4) Family therapy for the benefit of the child, as well as parent support and education groups involving parents and, when applicable, guardians or custodians, as appropriate, shall be provided to a child as part of the overall treatment offered in the RTF and documented in the child's record.

(5) Efforts to link the child and family with community resources, both formal human service systems and informal community supports. An RTF shall base the choice of community linkages outside the RTF on the planned expectation that the child will be returning to the community and will need support to assist a child in making a smooth transition.

(6) Participation of the family in making appropriate medical and medication decisions including arranging for family participation in the medical appointments when desired by the family.

(7) Participation of the family in making appropriate decisions about the child's activities and schedule.

(8) Having a formal process for families to resolve disagreements about the treatment plan or the delivery of service.

(9) An RTF shall ensure that an onsite meeting with the parents and, when applicable, the guardians or custodians, is arranged within the first 7 days of the child's admission including day of admission, unless the family is present on the day of admission. The following information shall be discussed with the family at the time of the onsite visit:

- (i) Family expectations regarding the child's treatment.
- (ii) The need to jointly develop a written family participation plan that identifies specific goals for family participation in the child's ongoing treatment, to be reviewed and updated at least monthly.
- (iii) Expected length of stay and type of treatment that will be offered.
- (iv) Opportunities for family-focused therapy targeted to benefit the child, using evidence-based approaches, when possible, with discussions about potential frequencies and possible locations when distance is an issue.
- (v) Information about advocacy organizations and consumer satisfaction teams that are available to assist in the lodging of grievances.

§ 23.42. Documentation of efforts for family contacts.

An RTF shall document in the child's record efforts to involve a child's family in service planning and delivery.

§ 23.43. Space onsite for family visits.

An RTF shall have at least one designated area onsite for family visits that offers privacy for the child and family.

§ 23.44. Assistance with coordination of transportation for family contacts.

An RTF shall assist with the coordination of available transportation for the family's onsite participation and visits when the family needs assistance with transportation.

STAFFING

§ 23.51. Child abuse and criminal history checks.

Child abuse and criminal history checks shall be completed for all staff in accordance with 23 Pa.C.S. §§ 6301—6386 (relating to the Child Protective Services Law) and Chapter 3490 (relating to child protective services).

§ 23.52. Staff hiring, retention and utilization.

(a) Staff hiring, retention and utilization shall be in accordance with 23 Pa.C.S. §§ 6301—6386 (relating to the Child Protective Services Law) and Chapter 3490 (relating to child protective services).

(b) Prospective staff responsible for providing direct care to a child shall have a preemployment physical and drug screening.

§ 23.53. RTF director.

(a) There shall be one director responsible for the RTF

(b) The director shall be responsible for the administration and management of the RTF, including the safety and protection of the children, implementation of policies and procedures and compliance with this chapter.

(c) The director shall have one of the following:

(1) A master's degree from an accredited college or university and 2 years work experience in administration or human services.

(2) A bachelor's degree from an accredited college or university and 4 years work experience in administration or human services.

§ 23.54. Medical director.

(a) There shall be one medical director who is responsible for overseeing the delivery of services and programs to children.

(b) The medical director shall be a board-certified or board-eligible psychiatrist with at least 2 years experience in the delivery of behavioral health services to children.

(c) The medical director shall be responsible for the following duties:

(1) Regular and ongoing contact with children and more frequent contact for a child on medication, ensuring at least 2 hours per week of psychiatric time for every 5 children.

(2) Ensuring a psychiatric face-to-face visit with a child on psychotropic medication as deemed clinically appropriate, but not less frequently than every 30 days by the medical director or a psychiatrist working under the direction of the medical director.

(3) Regular and ongoing contact with treatment staff to formulate and monitor the implementation of the child's treatment plans.

(4) Regular and ongoing face-to-face or phone contact with a child's family.

(5) Regular and ongoing contact, as appropriate, with external, community agencies and natural supports important to a child's life, including informal networking and face-to-face participation in ISPT and treatment team meetings.

(6) Preparation of formal, written psychiatric evaluations as required.

(7) Coordination and supervision of RTF staff on clinical and medical matters, including the prescription and monitoring of psychotropic and other medication.

§ 23.55. Clinical director.

(a) There shall be one clinical director who ensures that staff receives training and clinical supervision.

(b) The clinical director shall be a licensed psychologist, a licensed clinical social worker, or a licensed marriage and family therapist, with at least 2 years of experience providing therapeutic interventions to children with serious emotional or behavioral disorders.

(c) The medical director may serve as the clinical director provided that the medical director has at least 2 years of experience providing therapeutic interventions to children with serious emotional or behavioral disorders.

§ 23.56. Mental health professional.

(a) The mental health professional shall have the following duties:

(1) Participating on the treatment team.

(2) Ensuring the implementation of the treatment interventions, therapeutic activities and schedule for the children.

(3) Supervising of mental health workers.

(b) The mental health professional shall have the following:

(1) A graduate degree in a generally recognized clinical, mental health discipline such as psychiatry, social work, psychology, counseling, nursing, rehabilitation or activities therapies.

(2) At least 1 year of clinical experience working with children in a behavioral health program whose operating principles were in accordance with CASSP principles.

§ 23.57. Mental health worker and mental health aide.

(a) The mental health worker shall be responsible for implementing therapeutic interventions.

(b) The mental health worker shall meet one of the following requirements:

(1) Have at least 1 year of experience in a children's behavioral health program whose operating principles were in accordance with CASSP principles and a bachelor's degree, with at least 12 credit hours of education in psychology, sociology, social work, counseling, nursing, education or theology.

(2) Be a licensed RN and have at least 1 year of experience in a children's behavioral health program whose operating principles were in accordance with CASSP principles.

(3) Have a high school diploma or equivalent and at least 4 years of experience in a children's behavioral health program whose operating principles were in accordance with CASSP principles.

(c) A mental health aide shall have a high school diploma or general education development certificate.

§ 23.58. Staff ratios.

(a) The staff to child ratio during awake hours must reflect the needs of the population being served. The minimum staff ratios in this chapter apply unless the Department's clinical consultants determine these minimum staff ratios are inadequate to meet the needs of the population being served as described in the RTF service description.

(b) Staff to child ratios are as follows:

(1) There shall be at least one mental health professional available either onsite or by telephone when a child is at the RTF.

(2) During awake hours, one mental health worker shall be present with every four children.

(3) A mental health worker or mental health aide who is counted in the worker to child ratio must be 21 years of age or older.

(4) For RTFs serving six or more children, whenever six or more children are present at the RTF, there shall be at least one mental health professional for every six children present at the RTF during awake hours.

(5) During sleep hours, one mental health worker or mental health aide shall be present with every six children.

(6) Staff may not sleep while being counted in the staff to child ratios.

§ 23.59. Primary contact.

(a) At the time of a child's admission, an RTF shall designate either a mental health professional or a mental health worker to be the child's primary contact during the child's stay at the RTF, to have primary responsibility for

coordination of the child's care. The assignment of a primary contact will, at no time, preclude a parent, or when applicable, a guardian or custodian from communicating directly with the treating physician or other staff about the child.

(b) The primary contact's responsibilities include the following:

(1) Liaison activities for coordination and collaboration with other individuals and systems involved with the child, including the following:

(i) The family.

(ii) The behavioral health care manager at the appropriate behavioral health managed care organization.

(iii) The county intensive case manager.

(iv) The education system.

(v) The child welfare system, if applicable.

(vi) The juvenile justice system, if applicable.

(2) Participation in the High Fidelity Wraparound, if the child and family have a High Fidelity Wraparound team.

(3) Promoting resiliency through risk reduction and asset-building strategies.

(4) Coordinating the child's aftercare plan with the community agencies that will provide services after discharge, the education system, natural supports and the family prior to the child's return home by doing the following:

(i) Providing an aftercare agency with a comprehensive written discharge summary that includes information on the child's discharge diagnosis, treatment rendered during the RTF stay, treatment plans and the extent to which the child attained identified goals, and treatment team recommendations for the next level of care, following discharge. In addition, the written discharge summary must identify each psychotropic medication and dose, and describe the clinical rationale for each medication.

(ii) Ensuring that medications that the child will need until an appointment with the community based psychiatrist are prepared for discharge.

(iii) Assisting the family in determining whether the prescribed medications are covered by MA. If a medication is not covered, the primary contact shall assist so that an appropriate substitute, which is covered, can be prescribed.

(c) The primary contact shall arrange for an onsite meeting with the parents and, when applicable, the guardians or custodians, within the first 7 days of the child's admission including day of admission and assist in developing the family participation plan as specified in § 23.42 (relating to documentation of efforts for family contacts).

§ 23.60. Family advocacy.

(a) For every 48 children, an RTF shall have on staff, or contract for the services of, a full-time equivalent family advocate. If an RTF serves fewer than 48 children, the RTF shall have on staff, or contract for the services of, a family advocate whose work hours are prorated according to the number of children in the RTF.

(b) The responsibilities of the family advocate include the following:

- (1) Participating in quality improvement activities.
- (2) Ensuring restraint reduction activities.
- (3) Promoting the observance of children's rights.
- (4) Reviewing of grievances.
- (5) Ensuring availability to families and children as requested.
- (6) Monitoring of general conditions.
- (7) Facilitating family involvement plans.
- (8) Participating in ISPT meetings at family request.
- (9) Meeting with children regularly.

§ 23.61. Supervision.

(a) An RTF shall ensure that a child is supervised during awake and sleeping hours by conducting observational checks of each child at least every 15 minutes.

(b) Observational checks of a child specified in subsection (a) must include actual viewing of each child.

(c) Observational checks shall be documented.

§ 23.62. Staff training.

(a) *Orientation.* Prior to working with a child, staff, including temporary staff and volunteers, shall have an orientation to their specific duties and responsibilities; policies and procedures of the RTF, including reportable incident reporting; discipline, care and management of children; and use of restrictive procedures.

(b) *Training.* Prior to working alone with a child and within 120 calendar days after the date of hire, staff, including temporary staff, shall have at least 30 hours of training in the areas specified in this subsection. If staff has completed comparable training within 12 months prior to the date of hire, the requirement for training in this subsection does not apply. Training must include at least the following areas:

- (1) The requirements of this chapter.
- (2) The requirements of 23 Pa.C.S. §§ 6301—6386 (relating to the Child Protective Services Law) and Chapter 3490 (relating to child protective services).
- (3) Fire safety.
- (4) First aid, Heimlich techniques, cardiopulmonary resuscitation and blood-borne pathogen training taught by an individual certified as a trainer by a hospital or other recognized health care organization.
- (5) Crisis intervention, including use of relationships and de-escalation approaches, positive behavior support, suicide prevention and proper, safe use of restraint when it is necessary as an emergency measure to maintain the safety of the child and others, using the least restrictive restraint intervention needed to address the crisis.
- (6) Health and other special issues affecting the population.
- (7) Use of assessment, evaluation and treatment plans as guides to understanding a child's strengths and needed supports in the milieu.
- (8) Principles of milieu treatment and the specific roles of staff in maintaining the therapeutic milieu.

(c) *Ongoing annual training.*

(1) After initial training, staff, including temporary staff, shall have at least 40 hours per year of training relating to the care and management of children. This

requirement does not apply to the initial year of employment unless the person to be trained was exempt from subsection (b).

(2) Staff shall complete training in first aid, Heimlich techniques and cardiopulmonary resuscitation taught by an individual certified as a trainer by a hospital or other recognized health care organization. Staff shall demonstrate their competency on an annual basis even if the certification is for longer than 1 year.

(3) In an RTF serving more than 20 children, staff shall complete training in fire safety taught by a fire safety expert.

(4) In an RTF serving 20 or fewer children, staff shall complete training in fire safety taught by a staff trained by a fire safety expert. Video tapes prepared by a fire safety expert are acceptable for the training if accompanied by an onsite staff trained by a fire safety expert.

(5) A total of 20 hours of training in the following:

(i) Professional ethics and conduct and legal issues including professional boundaries with children and their families; child and general protective services; mandated child abuse reporting; and confidentiality.

(ii) CASSP principles and implementing and supporting those principles in clinical practice.

(iii) Cultural competency as described in the Cultural Competence Clinical/Rehabilitation Standards of Practice published by the Department and available at www.pa.recovery.org.

(iv) The Department's Special Transmittal on Strategies and Practices to Eliminate the Unnecessary Use of Restraint issued on January 30, 2006, or subsequent updates.

(v) RTF policy, including the ability to effectively transfer the application of policy and procedure to the direct care work with a child and a child's family.

(vi) Trauma-informed care, including its provision as part of ongoing care, and attachment issues.

(vii) Signs and symptoms of abuse and neglect.

(viii) Serious emotional or behavioral disorders and other behavioral health needs in children as they relate to the biopsychosocial needs of the children being served.

(ix) Applicable State laws related to the scope of practice for medication administration.

(x) Psychotropic medications, including types, appropriate uses and possible side effects.

(xi) The discharge process.

(xii) Cross-system training appropriate to the population the RTF serves.

(xiii) Current clinical practice and methodologies, including evidence-based practices to address the unique characteristics of the children served and the role of staff in maintaining a therapeutic milieu.

(xiv) Documentation skills and requirements.

(xvi) Recovery and resiliency in children and their families, including how to integrate these philosophies and concepts into treatment approaches for a child and the child's family during the child's RTF stay.

(xvii) Principles of participation on a high fidelity wraparound team.

(xviii) Principles of child development appropriate for the age of the children served.

(xv) Other topics appropriate to the age, characteristics, diagnosis and developmental needs of the children served.

(d) *Restrictive procedure training.*

(1) In addition to the ongoing annual training listed in subsection (c), staff who are responsible for administering restrictive procedures shall demonstrate competency on a semiannual basis in the use of interventions they are permitted to use, and knowledge of the specific circumstances and limited indications for their use.

(2) Only staff trained in the application of the type of restraint to be used may restrain a child during an emergency safety situation.

(3) Training in restraint techniques must include the following:

(i) Techniques to identify staff and child behaviors, events and environmental factors that may trigger circumstances that require the use of a restraint.

(ii) De-escalation techniques and alternative nonrestrictive strategies.

(iii) Knowledge of normal behavior reactions to stress at various ages.

(iv) Nonphysical intervention skills.

(v) The least restrictive intervention based on an individualized assessment of a child's medical or behavioral status or condition.

(vi) Techniques and procedures appropriate for the age and weight of the children served.

(vii) The safe application and use of restraints used, including how to recognize and respond to signs of physical and psychological distress, for example, positional asphyxia.

(viii) Health risks for a child associated with use of specific procedures.

(ix) Monitoring of the physical and psychological well-being of a child who is restrained, including respiratory and circulatory status, skin integrity, vital signs and any special requirements specified by policy associated with the 1-hour face-to-face evaluation.

(x) First-aid techniques and certification in the use of cardiopulmonary resuscitation, including required annual recertification.

(xi) Response to the child's emotional and mental state after use of a restrictive procedure.

(xii) First-hand experience of the specific techniques taught after demonstration by a qualified trainer.

(xiii) A testing process to demonstrate understanding of and ability to apply specific procedures. Staff may only apply procedures in which they have been trained and shown mastery.

(e) *Serving children with ASD.*

(1) Staff of an RTF that proposes to treat children with ASD shall have training specific to the needs of children with ASD.

(2) The trainings under paragraph (1) must be in protocols that yield success with children diagnosed with ASD, such as applied behavior analysis, relationship-based interventions, targeted social skills instruction, strategies to support sensory needs and functional behavioral assessment.

(f) *Record of training.* A record of training including the name of the trained individual, along with the date, source, content, length of each course and copies of any certificates and documentation of competencies received, shall be kept in each staff training file.

PHYSICAL SITE

§ 23.81. Physical accommodations and equipment.

An RTF shall provide or arrange for physical site accommodations and equipment necessary to meet the health and safety needs of a child with a disability.

§ 23.82. Poisons.

(a) Poisonous materials shall be kept locked and inaccessible to a child.

(b) Poisonous materials shall be stored in their original, labeled containers.

(c) Poisonous materials shall be kept separate from food, food preparation surfaces and dining surfaces.

§ 23.83. Heat sources.

Heat sources, such as hot water pipes, fixed space heaters, hot water heaters and radiators, exceeding 120° F that are accessible to a child, shall be equipped with protective guards or insulation to prevent a child from coming in contact with the heat source.

§ 23.84. Sanitation.

(a) Sanitary conditions shall be maintained.

(b) There may be no evidence of infestation of insects or rodents in an RTF.

(c) Trash shall be removed from the premises at least once a week.

(d) Trash in kitchens and bathrooms shall be kept in covered trash receptacles that prevent the penetration of insects and rodents.

(e) Trash outside the RTF shall be kept in covered trash receptacles that prevent the penetration of insects and rodents.

§ 23.85. Ventilation.

Living areas, recreation areas, dining areas, bathrooms, bedrooms and kitchens shall be ventilated by at least one operable window or mechanical ventilation.

§ 23.86. Lighting.

Rooms, hallways, interior stairs, outside steps, outside doorways, porches, ramps and fire escapes shall be lighted to avoid accidents.

§ 23.87. Surfaces.

(a) Floors, walls, ceilings, windows, doors and other surfaces shall be free of hazards.

(b) An RTF may not use asbestos products for renovations or new construction.

§ 23.88. Water.

(a) An RTF shall have hot and cold water under pressure.

(b) Hot water temperature in areas accessible to a child may not exceed 120° F.

(c) An RTF that is not connected to a public water system shall have a coliform water test at least every 3 months, by a Department of Environmental Protection-certified laboratory, stating that the water is safe for drinking. Documentation of the certification shall be kept.

§ 23.89. Air temperature.

(a) Indoor temperature shall be at least 65° F during awake hours when a child is present in the RTF.

(b) Indoor temperature may not be less than 62° F during sleeping hours.

(c) When indoor temperature exceeds 90° F, mechanical ventilation such as fans or air conditioning shall be used.

§ 23.90. Communication system.

(a) An RTF shall have a working, non-coin-operated, telephone with an outside line that is accessible to staff in emergencies.

(b) An RTF shall have a communication system to allow staff to contact other staff in the RTF for assistance in an emergency.

§ 23.91. Emergency telephone numbers.

Telephone numbers for the nearest hospital, police department, fire department, ambulance and poison control center shall be posted on or by a telephone with an outside line.

§ 23.92. Screens.

Windows, including windows in doors, must be securely screened when doors or windows are open.

§ 23.93. Handrails and railings.

(a) A ramp, interior stairway and outside steps exceeding two steps must have a well-secured handrail.

(b) A porch that has over an 18-inch drop must have a well-secured railing.

§ 23.94. Landings and stairs.

(a) There must be a landing which is at least as wide as the doorway, beyond each interior and exterior door which opens directly into a stairway.

(b) Interior stairs must have nonskid surfaces.

§ 23.95. Furniture and equipment.

(a) Furniture and equipment must be free of hazards.

(b) There shall be enough seating furniture to accommodate the largest group of children that may routinely congregate in a room so that no child is required to sit on the floor.

(c) Power equipment shall be kept in safe condition.

(d) Power equipment, excluding normal household appliances, shall be stored in a place that is inaccessible to children.

(e) Power equipment, excluding normal household applications, may not be used by children except under supervision of staff.

§ 23.96. First aid supplies.

An RTF shall have a first aid manual, nonporous disposable gloves, antiseptic, assorted band-aids, adhesive bandages, gauze pads, thermometer, tape, tweezers and scissors that are stored together.

§ 23.97. Elevators.

An elevator must have a valid certificate of operation from the Department of Labor and Industry in accordance with 34 Pa. Code § 7.15 (relating to inspection).

§ 23.98. Indoor activity space.

An RTF shall have separate indoor activity space for activities such as studying, recreation and group activities.

§ 23.99. Recreation space.

An RTF shall have regular access to outdoor, or large indoor, recreation space and equipment.

§ 23.100. Exterior conditions.

(a) The exterior of the building and the building grounds or yard must be free of hazards.

(b) Outside walkways must be free of ice, snow and obstruction.

§ 23.101. Firearms and weapons.

Firearms, weapons and ammunition are not permitted in an RTF or on the RTF grounds, except for those carried by law enforcement personnel.

§ 23.102. Child bedrooms.

(a) A single bedroom must have at least 70 square feet of floor space per child measured wall to wall, including space occupied by furniture.

(b) A shared bedroom must have at least 60 square feet of floor space per child measured wall to wall, including space occupied by furniture.

(c) No more than two children may share a bedroom.

(d) Children of the opposite sex may not share a bedroom.

(e) Ceiling height in each bedroom must be at least an average of 7 1/2 feet.

(f) A bedroom must have a window with a source of natural light.

(g) A child shall have the following in the bedroom:

(1) A bed with solid foundation and fire-retardant mattress in good repair.

(2) A pillow and bedding appropriate for the temperature in the RTF.

(3) A storage area for clothing.

(h) Cots or portable beds are not permitted.

(i) Bunk beds must allow enough space between each bed and the ceiling to allow a child to sit up in bed.

(j) Bunk beds must be equipped with securely attached ladders capable of supporting at least 250 pounds.

(k) The top bunk of bunk beds must be equipped with a secure safety rail on each open side and open end of the bunk.

(l) A bedroom may not be used as a means of egress from or access to another part of the RTF.

§ 23.103. Bathrooms.

(a) There shall be at least one flush toilet for every six children.

(b) There shall be at least one sink for every six children.

(c) There shall be at least one bathtub or shower for every six children.

(d) There shall be slip-resistant surfaces in bathtubs and showers.

(e) Privacy shall be provided for toilets, showers and bathtubs by partitions or doors.

(f) There shall be at least one wall mirror for every six children.

(g) An individual towel, washcloth, comb, hairbrush and toothbrush shall be provided for a child.

(h) Toiletry items including toothpaste, shampoo, deodorant and soap shall be provided.

(i) Bar soap is not permitted unless there is a separate bar clearly labeled for each child.

§ 23.104. Kitchen areas.

(a) An RTF shall have a kitchen area with a refrigerator, sink, cooking equipment and cabinets for storage.

(b) Utensils for eating, drinking and food serving and preparation shall be washed and rinsed after each use.

(c) Food shall be protected from contamination while being stored, prepared, transported and served.

(d) Uneaten food from a person's dish may not be served again or used in the preparation of other dishes.

(e) Cold food shall be kept at or below 40° F. Hot food shall be kept at or above 140° F. Frozen food shall be kept at or below 0° F.

§ 23.105. Laundry.

Bed linens, towels, washcloths and clothing shall be laundered at least weekly.

§ 23.106. Swimming.

(a) Above-ground and in-ground outdoor pools must be fenced with a gate that is locked when the pool is not in use.

(b) Indoor pools shall be made inaccessible to children when not in use.

(c) A certified lifeguard shall be present with the children at all times while children are swimming.

(d) The certified lifeguard specified in subsection (c) may not be counted in the staff to child ratios specified in §§ 23.56 and 23.58 (relating to mental health professional; and staff ratios).

FIRE SAFETY

§ 23.121. Unobstructed egress.

(a) Stairways, hallways, doorways, passageways and egress routes from rooms and from buildings must be unlocked and unobstructed, unless the fire safety approval specified in § 23.15 (relating to fire safety approval) permits locking of certain means of egress under the following circumstances:

(1) A locked facility is medically necessary for the safety of a child through:

- (i) Internal locks within the building or external locks.
- (ii) Secure fencing around the premises of the building.

(2) A child needs immediate admission to locked facility for treatment of behavioral health needs and has associated child-safety or protection needs as determined by CCYA or the juvenile court.

(3) An RTF service description has been approved by the Department and contains information regarding the security of the RTF in addition to information that demonstrates a level of clinical treatment that is beyond the standard level of service expected within a nontreatment focused locked residential facility.

(b) Doors used for egress routes from rooms and from buildings may not be equipped with key-locking devices, electronic card operated systems or other devices which prevent immediate egress of a child from the building.

§ 23.122. Exits.

If more than four children sleep above the ground floor, there must be a minimum of two interior or exterior exits from each floor. If a fire escape is used as a means of egress, it shall be permanently installed.

§ 23.123. Evacuation procedures.

There shall be written emergency evacuation procedures that include staff responsibilities, means of transportation and emergency location.

§ 23.124. Notification of local fire officials.

An RTF shall notify local fire officials in writing of the address of the RTF, location of bedrooms and assistance needed to evacuate in an emergency. The notification shall be kept current.

§ 23.125. Flammable and combustible materials.

(a) Combustible materials may not be located near heat sources.

(b) Flammable materials shall be used safely, stored away from heat sources and inaccessible to children.

§ 23.126. Furnaces.

(a) Furnaces shall be inspected and cleaned at least annually by a professional furnace cleaning company or trained maintenance staff.

(b) Documentation of the inspection and cleaning shall be maintained in the business of the RTF.

§ 23.127. Portable space heaters.

The use of portable space heaters, defined as heaters that are not permanently mounted or installed, is not permitted.

§ 23.128. Wood and coal burning stoves.

The use of wood and coal burning stoves is not permitted.

§ 23.129. Fireplaces.

(a) Fireplaces must be securely screened or equipped with protective guards while in use.

(b) Staff shall be present with a child while a fireplace is in use.

(c) A fireplace chimney and flue shall be cleaned when there is an accumulation of creosote. Written documentation of the cleaning shall be kept.

§ 23.130. Smoke detectors and fire alarms.

(a) An RTF shall have a minimum of one operable automatic smoke detector on each floor, including the basement and attic.

(b) There shall be an operable automatic smoke detector located within 15 feet of a bedroom door.

(c) The smoke detectors specified in subsections (a) and (b) shall be located in common areas or hallways.

(d) Smoke detectors and fire alarms must be of a type approved by the Department of Labor and Industry or listed by Underwriters Laboratories.

(e) If the RTF serves four or more children or if the RTF has three or more stories including the basement and attic, there shall be at least one smoke detector on each floor interconnected and audible throughout the RTF or an automatic fire alarm system that is audible throughout the RTF.

(f) If one or more children or staff are not able to hear the smoke detector or fire alarm system, all smoke

detectors and fire alarms must be equipped so that a person with a hearing impairment will be alerted in the event of a fire.

(g) If a smoke detector or fire alarm becomes inoperative, repair or replacement shall be completed within 48 hours of the time the detector or alarm was found to be inoperative.

(h) There shall be a written procedure for fire safety monitoring if the smoke detector or fire alarm becomes inoperative.

§ 23.131. Fire extinguishers.

(a) There shall be at least one operable fire extinguisher with a minimum 2-A rating for each floor, including the basement and attic.

(b) If the indoor floor area on a floor including the basement or attic is more than 3,000 square feet, there shall be an additional fire extinguisher with a minimum 2-A rating for each additional 3,000 square feet of indoor floor space.

(c) A fire extinguisher with a minimum 2A-10BC rating shall be located in a kitchen. The kitchen fire extinguisher will meet the requirement for one operable fire extinguisher for each floor as required in subsection (a).

(d) Fire extinguishers must be listed by Underwriters Laboratories or approved by Factory Mutual Systems.

(e) Fire extinguishers must be accessible to staff. A fire extinguisher may be kept locked if access to the extinguisher by a child may cause a safety risk to the child. If fire extinguishers are kept locked, staff shall be able to immediately unlock the fire extinguisher in the event of a fire emergency.

(f) Fire extinguishers shall be inspected and approved annually by a fire safety expert. The date of the inspection must be on the extinguisher.

§ 23.132. Fire drills.

(a) An unannounced fire drill shall be held at least once a month.

(b) Fire drills shall be held during normal staffing conditions and not when additional staff are present.

(c) A written fire drill record shall be kept of the following:

- (1) Date.
- (2) Time.
- (3) Amount of time for evacuation.
- (4) Exit route used.
- (5) Number of children in the RTF at the time of the drill.
- (6) Problems encountered.
- (7) Whether the fire alarm or smoke detector was operative.

(d) The evacuation route must allow children to evacuate the entire building into a public thoroughfare, or to a fire-safe area designated in writing within the past year by a fire safety expert, within 2 1/2 minutes or within the period of time specified in writing within the past year by a fire safety expert. The fire safety expert may not be an employee of the RTF.

(e) A fire drill shall be held during sleeping hours at least every 6 months.

(f) Alternate exit routes shall be used during fire drills at least every 3 months.

(g) Fire drills shall be held on different days of the week, at different times of the day and night and on different staffing shifts.

(h) Children shall evacuate to a designated meeting place outside the building or within the fire-safe area during a fire drill.

(i) A fire alarm or smoke detector shall be set off during each fire drill.

(j) An elevator may not be used during a fire drill or a fire.

§ 23.133. False alarms.

An RTF shall document false alarms internally and make the documentation available for review by the Department. The frequency of false alarms should be considered as part of the overall quality assurance plan.

CHILD HEALTH

§ 23.141. Child health and safety.

(a) A child shall have a written health and safety assessment within 24 hours of admission.

(b) The assessment shall be completed or coordinated, signed and dated by medical personnel or staff trained by medical personnel as specified in an RTF training policy approved by the Department.

(c) The assessment must include the following:

- (1) Identification of strengths of the child and family.
- (2) Known or suspected suicide or self-injury attempts or gestures and emotional history which may indicate a predisposition for self-injury or suicide.
- (3) Known incidents of aggressive or violent behavior.
- (4) Substance abuse history.
- (5) Sexual history or behavior patterns that may place the child or other children at a health or safety risk.
- (6) Medical information and health concerns such as allergies; medications; immunization history; hospitalizations; medical diagnoses; family history of medical problems; issues experienced by the child's mother during pregnancy; special dietary needs; illnesses; injuries; dental, mental or emotional problems; body positioning and movement stimulation for children with disabilities; and ongoing medical care needs.
- (7) Trauma history.
- (8) Potential medical or psychological contraindications to the use of manual restraint.

(d) A copy of the health and safety assessment shall be kept in the child's record.

(e) An RTF shall develop a policy for revising and updating the health and safety assessment, which must be approved by the Department.

§ 23.142. Health and safety plan.

If the health and safety assessment in § 23.141 (relating to child health and safety) identifies a health or safety risk, a written plan to protect the child shall be developed and implemented within 24 hours after the assessment is completed.

§ 23.143. Child health examination.

(a) A child shall have a health examination within 3 days after admission and annually thereafter or more

frequently, as specified at specific ages in the periodicity schedule recommended by the American Academy of Pediatrics in the most current version of *Recommendations for Preventive Pediatric Health Care* (RE9939) available at <http://practice.aap.org/content.aspx?aid=1599>.

(b) If a child had a health examination prior to admission that meets the requirements of subsection (e) within the periodicity schedule specified in subsection (a), and there is written documentation of the examination, an initial examination within 3 days is not required. The next examination must occur within the periodicity schedule specified in subsection (a).

(c) If a child will participate in a program that requires physical exertion; a health examination shall be completed before the child is scheduled to participate in the physical exertion portion of the program.

(d) The health examination shall be completed, signed and dated by a licensed physician, CRNP or licensed PA. Written verification of completion of each health examination shall be kept in the child's medical record specifying the following:

- (1) Date of the examination.
- (2) Results of the examination.
- (3) Name and address of the examining practitioner.
- (4) Follow-up recommendations.
- (e) The health examination must include the following:

(1) A comprehensive health and developmental history, which includes both physical and behavioral health development and the following:

(i) The following information about the child's mother's pregnancy, if available:

(A) Use of alcohol, drugs, cigarettes and prescribed medications during the child's mother's pregnancy and signs of fetal alcohol spectrum disorder.

(B) Complications during the child's mother's pregnancy.

(C) Child's weight at birth.

(D) Whether child's birth was early, late or term.

(E) Type and nature of delivery and complications, if applicable.

(F) Child's mother's postpartum complications.

(G) Domestic violence victimization of the child's mother during or after pregnancy.

(ii) Developmental milestones.

(iii) Emotional complications.

(iv) Medical illnesses, injuries, surgeries and hospitalizations.

(v) Drug allergies.

(vi) History of abuse or neglect.

(vii) Out-of-home placements.

(viii) Use of psychotropic medications and responses.

(ix) Regular or special education placement in school.

(x) Nature of special education settings, if applicable.

(xi) Psychological or educational testing and results.

(2) A comprehensive, unclothed physical examination.

(3) Immunizations, screening tests and laboratory tests as recommended by the American Academy of Pediatrics in the most current version of *Recommendations for*

Preventative Pediatric Health Care (RE9939) available at <http://practice.aap.org/content.aspx?aid=1599> including the following laboratory tests:

(i) CBS, differential and platelets.

(ii) Electrolytes.

(iii) Liver function studies.

(iv) BUN and creatinine (renal).

(v) Fasting blood glucose.

(vi) Lipid profile.

(vii) Blood level if one or more of the following medications are being taken:

(A) Lithium.

(B) Depakote.

(C) Tegretol.

(D) Wellbutrin.

(viii) Blood level assessments for a child under 5 years of age, unless the examining practitioner determines that the testing is unnecessary, after reviewing the results of previously conducted blood lead testing, which review and conclusion is documented in the child's medical record.

(ix) Sickle cell screening for a child who is African-American unless the examining practitioner determines that the testing is unnecessary, after reviewing the results of previously conducted sickle cell testing, which review and conclusion is documented in the child's medical record.

(4) A gynecological examination including a breast examination and a Pap test as recommended by medical personnel.

(5) Urine screen for drugs.

(6) Calculation of BMI.

(7) Communicable disease detection, if recommended by medical personnel based on a child's health status and with required written consent in accordance with applicable laws.

(8) Specific precautions to be taken if the child has a communicable disease, to prevent spread of the disease to other children.

(9) An assessment of the child's health maintenance needs, medication regimen and the need for blood work at recommended intervals.

(10) Special health or dietary needs of the child, including consideration of the child's BMI.

(11) Allergies or contraindicated medications.

(12) Medical information pertinent to diagnosis and treatment in case of an emergency.

(13) Physical or mental disabilities of the child, if any.

(14) Health education, including anticipatory guidance.

(15) Recommendations for follow-up physical and behavioral health services, examinations and treatment.

(f) Immunization records, screening tests and laboratory tests may be completed, signed and dated by an RN or licensed practical nurse instead of a licensed physician, CRNP or licensed PA.

§ 23.144. Dental care.

(a) A child shall receive dental care, at as early an age as necessary, needed for relief of pain and infections, restoration of teeth and maintenance of dental health.

(b) A child who is 3 years of age or older shall have a dental examination performed by a licensed dentist and teeth cleaning performed by a licensed dentist or dental technician at least semiannually. If a child has not had a documented dental examination and teeth cleaning within 6 months prior to admission, a dental examination and teeth cleaning shall be performed within 30 days after admission.

(c) Follow-up dental work indicated by the examination, such as treatment of cavities and application of protective sealants, shall be provided in accordance with recommendations by the licensed dentist.

(d) A written record of completion of each dental examination, including the preadmission examination permitted in subsection (b), shall be kept in the child's record, specifying the following:

- (1) Date of the examination.
- (2) Dentist's name and address.
- (3) Procedures completed.
- (4) Follow-up treatment recommended.
- (5) Dates follow-up treatment was provided.

§ 23.145. Vision care.

(a) A child shall receive vision screening and services to include diagnosis and treatment, including eyeglasses, for defects in vision.

(b) A child who is 3 years of age or older shall receive vision screening within 30 days after admission in accordance with the periodicity schedule recommended by the American Academy of Pediatrics in the most current versions of "Guidelines for Health Supervision," and "Eye examination and Vision Screening in Infants, Children and Young Adults (RE9625)."

(c) If a child had a documented vision screening prior to admission that meets the requirements of subsection (a) within the periodicity schedule specified in subsection (b) an initial examination within 30 days after admission is not required. The next screening must occur within the periodicity schedule specified in subsection (b).

(d) Follow-up treatment and services, such as provision of eyeglasses, shall be provided as recommended by the treating practitioner.

(e) A written record of completion of a vision screening, including the preadmission screening permitted in subsection (c), shall be kept in the child's record, and include the following:

- (1) Date of the screening.
- (2) Treating practitioner's name and address.
- (3) Results of the screening.
- (4) Follow-up recommendations.
- (5) Dates follow-up services and treatment were provided.

§ 23.146. Hearing care.

(a) A child shall receive a hearing screening and services to include diagnosis and treatment, including hearing aids, for defects in hearing.

(b) A child who is 3 years of age or older shall receive a hearing screening within 30 days after admission in accordance with the periodicity schedule recommended by the American Academy of Pediatrics in the most current version of "Guidelines for Health Supervision."

(c) If a child had a documented hearing screening prior to admission that meets the requirements of subsection (a) within the periodicity schedule specified in subsection (b) an initial examination within 30 days after admission is not required. The next screening must occur within the periodicity schedule specified in subsection (b).

(d) Follow-up treatment and services, such as provision of hearing aids, shall be provided as recommended by the treating practitioner.

(e) A written record of completion of each hearing screening, including the preadmission screening permitted in subsection (c), shall be kept in the child's record, specifying the following:

- (1) Date of the screening.
- (2) Treating practitioner's name and address.
- (3) Results of the screening.
- (4) Follow-up recommendations.
- (5) Dates follow-up services and treatment were provided.

§ 23.147. Use of tobacco.

(a) Use or possession of tobacco products by a child is prohibited.

(b) Use or possession of tobacco products by staff is prohibited in the RTF and during transportation provided by the RTF.

(c) If staff use tobacco products outside but on the premises of the RTF, the following apply:

(1) An RTF shall have written fire safety procedures. Procedures must include extinguishing procedures and requirements that smoking shall occur at least 100 yards from the RTF and at least 100 yards from flammable or combustible materials or structures.

(2) Written safety procedures shall be followed.

(3) Use of tobacco products shall be out of the sight of the children.

§ 23.148. Health and behavioral health services.

(a) An RTF shall identify acute and chronic conditions of a child and arrange for or provide appropriate medical treatment.

(b) Medically necessary physical and behavioral health services, diagnostic services, follow-up examinations and treatment, such as medical, nursing, pharmaceutical, dental, dietary, hearing, vision, blood lead level, psychiatric and psychological services that are planned or prescribed for the child, shall be arranged for or provided.

§ 23.149. Emergency medical plan.

(a) An RTF shall have a written emergency medical plan listing the following:

(1) The hospital or source of health care that will be used in an emergency.

(2) The method of transportation to be used.

(3) An emergency staffing plan for an emergency situation where staff counted in staff ratio are required to leave the RTF.

(4) Medical and behavioral health conditions or situations under which emergency medical care and treatment are warranted.

(b) A child's parent and, when applicable, a child's guardian or custodian, shall be given a copy of the emergency medical plan upon admission.

(c) A child's parent and, when applicable, a child's guardian or custodian, shall be notified immediately if the emergency plan is implemented for the child.

STAFF HEALTH

§ 23.151. Staff health statement.

(a) Staff or volunteers who come into direct contact with a child or who prepare or serve food, shall submit a staff health statement that the staff or volunteer is free of serious communicable disease that may be spread through casual contact or that the staff or volunteer has a serious communicable disease that may be spread through casual contact, but is able to work in the RTF if specific precautions are taken that will prevent the spread of the disease to children.

(b) The staff health statement shall be signed and dated by a licensed physician, CRNP or licensed PA within 12 months prior to working with a child or food service and every 2 years thereafter.

(c) The RTF shall follow the written instructions and precautions specified in subsection (a).

NUTRITION

§ 23.161. Three meals a day.

An RTF shall provide at least three meals and one snack a day to the children.

§ 23.162. Quantity of food.

(a) The quantity of food served shall meet minimum daily requirements as recommended by the United States Department of Agriculture, unless otherwise recommended in writing by a licensed physician, CRNP or licensed PA for a specific child.

(b) Additional portions of meals shall be available for a child.

§ 23.163. Food groups and alternative diets.

(a) A meal must contain at least one item from the dairy, protein, fruits and vegetables and grain food groups, unless otherwise recommended in writing by a licensed physician, CRNP or licensed PA for a specific child.

(b) Dietary alternatives shall be available for a child who has special health needs, including a need to lower BMI, religious beliefs regarding dietary restrictions or vegetarian preferences.

§ 23.164. Withholding or forcing of food prohibited.

(a) An RTF may not withhold meals or drink as punishment.

(b) A child may not be forced to eat food or drink.

TRANSPORTATION

§ 23.171. Safe transportation.

The following requirements apply whenever an RTF, staff or volunteer provides transportation for a child. These requirements do not apply if transportation is provided by a source other than the RTF.

(1) The mental health worker-to-child ratios specified in § 23.58 (relating to staff ratios) apply.

(2) A child shall be in an individual, age and size appropriate, safety device at all times when the vehicle is in motion.

(3) Restraints may not be used routinely for transport and may only be used in the event of an emergency safety

situation as specified in §§ 23.201 and 23.206 (relating to general information; and restrictive procedure records).

(4) A driver of a vehicle shall be 21 years of age or older.

(5) Vehicles utilized for transportation of a child must comply with local, State and Federal laws.

MEDICATIONS

§ 23.181. Storage of medications.

(a) Prescription and over-the-counter medications shall be kept in their original containers.

(b) Prescription and potentially poisonous over-the-counter medications shall be kept in an area or container that is locked.

(c) Prescription and potentially poisonous over-the-counter medications stored in a refrigerator shall be kept in a separate locked container.

(d) Prescription and over-the-counter medications shall be stored separately.

(e) Prescription and over-the-counter medications shall be stored under proper conditions of sanitation, temperature, moisture and light.

(f) Discontinued and expired medications, and prescription medications for a child who is no longer served at the RTF, shall be disposed of in a safe manner.

§ 23.182. Labeling of medications.

(a) The original container for prescription medications must be labeled with a pharmacy label that includes the child's name, the name of the medication, the date the prescription was issued, the prescribed dosage and the name of the prescribing physician.

(b) Over-the-counter medications must be labeled with the original label.

§ 23.183. Use of prescription medications.

(a) The clinical rationale for a prescribed medication shall be clearly documented in a child's medical record.

(b) A change in medication shall be documented in a child's medical record.

(c) The prescribing physician shall obtain and document consent from the responsible party for medication prescribed, explaining the medication's expected effects, expected side effects and the expected effects of withholding the medication. The responsible party is the individual who initially consented for child's treatment, including the child 14 years of age and older, the child's parent or, when applicable, the child's guardian or custodian.

(d) Psychotropic medication orders shall be written by a physician.

(e) A psychiatrist shall see a child on psychotropic medications at least every 30 days, and more frequently until the child's condition is stable, and document in the child's medical record the child's progress and clinical status.

(f) Dosage changes do not require additional consent; however, an RTF shall notify, by phone or in writing, the child's parents and, when applicable, the child's guardian or custodian, whenever dosage changes are made.

(g) The clinical rationale for a prescribed medication shall be clearly documented on a child's discharge summary or final evaluation.

(h) A prescription medication shall be used only by the child for whom the medication was prescribed.

(i) A child and the child's family may not be threatened or incur negative consequences, including discharge, when they disagree with or refuse a clinical recommendation for medication.

(j) An RTF shall put in place strategies that promote choice in medication decisions including the following:

(1) Full access to information for a child and the child's family about medications, including side effects.

(2) Staff who are willing and able to help a child and the child's family explore and understand the positive and negative possible consequences of taking or not taking a medication.

(3) Processes which are immediately responsive to concerns or side effects which the family or child suspect are related to the medication, including a consult with the prescribing physician within 24 hours, or sooner if necessary.

(4) Staff who are able to identify alternative or complementary strategies which address the areas of concern that the medication seeks to address, including relaxation and coping processes which match a child's interests, temperament, culture and developmental levels.

(k) Prescribed medications shall be included on the ISP.

§ 23.184. Medication log.

(a) A medication log shall be kept for each child. The medication log shall be made available to members of the treatment team.

(b) A child's medication log must include the following:

- (1) A list of prescription medications.
- (2) The prescribed dosage.
- (3) Possible side effects.
- (4) Contraindicated medications.
- (5) Specific administration instructions, if applicable.
- (6) The name of the prescribing physician.
- (7) A list of over-the-counter medications.

(c) For prescription and over-the-counter medication, including insulin administered or self-administered, documentation in the medication log must include the medication that was administered, route of administration, dosage, date, time and the name of the person who administered or self-administered the medication.

(d) The information in subsection (c) shall be logged at the same time a dosage of medication is administered or self-administered.

§ 23.185. Medication errors.

(a) Documentation of a medication error shall be kept in the child's medication log. A medication error includes the failure to administer medication, administering the incorrect medication, administering the correct medication in an incorrect dosage or administering the correct medication at the incorrect time.

(b) After a medication error, follow-up action to prevent a future medication error shall be taken and documented.

§ 23.186. Adverse reaction.

If a child has a suspected adverse reaction to a medication, an RTF shall notify the prescribing physician, the child's parent and, when applicable, the child's guardian or custodian, no later than 24 hours after the

suspected adverse reaction occurs. Documentation of adverse reactions and the physician's response shall be kept in a child's medical record.

§ 23.187. Administration.

(a) Prescription medications, including injections, shall be administered by one of the following:

(1) A licensed physician, licensed dentist, PA, RN, CRNP, licensed practical nurse or licensed paramedic.

(2) A graduate of an approved nursing program functioning under the direct supervision of an RN who is present in the RTF.

(3) A student nurse of an approved nursing program functioning under the direct supervision of a member of the nursing school faculty who is present in the RTF.

(4) A child, if the child meets the requirements in § 23.188 (relating to self-administration).

(5) Staff who have completed a medication training approved by the Department under certain circumstances listed in § 23.189 (relating to special circumstances).

(b) A prescription medication and an injection shall be administered according to the directions specified by a licensed physician, CRNP or licensed PA.

§ 23.188. Self-administration.

A child is permitted to self-administer medications, insulin injections and epinephrine injections for insect bites, food and latex allergies, if the following requirements are met:

(1) A person who meets the qualifications of § 23.187(a)(1)—(3) and (5) (relating to administration) is physically present observing the administration and immediately records the administration in accordance with § 23.184 (relating to medication log).

(2) A child recognizes and distinguishes the medication and knows the condition or illness for which the medication is prescribed, the correct dosage and when the medication is to be taken.

§ 23.189. Special circumstances.

Staff who have completed a medication training approved by the Department are permitted to administer medications in the following circumstances:

(1) The staff who have completed the medication administration training are accompanying one or more children away from the RTF and the person who meets the qualifications in § 23.187(a)(1)—(3) (relating to administration) is not with the group.

(2) Staff who meet the qualifications in § 23.187(a)(1)—(3) are not present at the RTF during sleep hours, and the medication is prescribed to be administered during sleep hours.

(3) A person who meets the qualifications in § 23.187(a)(1)—(3) is unavailable do to an emergency situation caused by a natural disaster, weather related condition, or unexpected illness.

§ 23.190. Medication performance monitoring.

To assist in measuring the quality of care provided and outcomes achieved for a child in an RTF, an RTF shall provide a report to the Department on the following every 6 months:

(1) The number and percentage of children under 21 years of age who are receiving 3 or more psychotropic medications.

(2) The number and percentage of children under 21 years of age who are receiving 1 or more antipsychotic medications.

RESTRICTIVE PROCEDURES

§ 23.201. General information.

(a) If a restrictive procedure is used, the staff who administers the procedure shall have completed training specified in § 23.62(d) (relating to staff training).

(b) Restrictive procedures include time-out, restraint and seclusion.

(c) The only restrictive procedures permitted in an RTF are drugs used as a restraint and manual restraint and those may be used only in an emergency safety situation in accordance with the provisions of this chapter. If the child objects to the administration of a drug used as a restraint, which a physician has determined is needed as a result of an emergency safety situation, an RTF shall have the child evaluated for inpatient psychiatric hospitalization.

(d) A restrictive procedure may not be used in a punitive manner, as a means of coercion, discipline, retaliation or retribution, or for the convenience of staff, or as compensation for lack of staff presence or competency, or as a program substitution.

(e) A restrictive procedure shall be discontinued when a child demonstrates the child has regained self-control. Staff involved in implementing a restrictive procedure shall inform the child during the procedure, in easily understandable language, of the criteria for discontinuation of the restrictive procedure.

(f) A restrictive procedure may not result in harm or injury to a child.

§ 23.202. Restrictive procedure policy.

(a) An RTF shall establish a policy for the use of restrictive procedures and specifically address the use of restraint as an emergency safety intervention in the policy.

(b) The policy must address the requirements set forth in this chapter and applicable Federal laws.

§ 23.203. Written plan to create a restraint-free environment.

(a) An RTF shall submit to the Department a written plan that includes goals and time frames for establishing a trauma-informed care approach to move toward a restraint-free environment within the RTF.

(b) The written plan must include:

(1) Alternative approaches to the use of restraint consistent with a trauma-informed approach and ongoing staff training on alternative approaches and trauma-informed care as specified in § 23.62(d) (relating to staff training).

(2) The data that the RTF will collect and the manner in which the RTF will collect the data based on the requirements of the Department.

(3) Additional data the RTF has chosen to collect.

(4) The RTF's internal performance improvement process to monitor and reduce the use of restraint.

(c) The RTF shall annually review the plan to measure progress toward establishing an environment that is free from the use of restraints and restrictive procedures, modify the plan as needed, and submit any modifications for Department approval.

§ 23.204. Time out.

(a) Time out is used as intervention to provide a child with a period of time in a designated quiet area, such as the child's room or a place away from the area of activity or other child, for the purpose of providing the child an opportunity to learn how to gain self-control.

(b) A child may request time out, or staff who notices a change in a child's behavior that the child has not identified but appears to be escalating, or has escalated, to loss of self-control may ask a child to take time out to retain or regain self-control and function in a more positive manner.

(c) Time out may not be used in a punitive manner or for the purpose of excluding a child from general activities.

(d) Staff shall monitor a child while the child is in time out and record in the child's record the following:

(1) The date and start and end times of the time out.

(2) The reason for the time out, including whether it was requested by the child.

(3) The name of the staff that monitored the time out.

(4) The resolution of the time out, including whether it was or was not successful and the reason for the success or lack of success.

(5) The signature of the monitoring staff.

(c) A child in time out may never be physically prevented from leaving the area where the time out is taking place.

(d) If a child is not permitted to leave the time out area, the intervention ceases to be a time out and is considered seclusion.

§ 23.205. Emergency safety intervention.

(a) *Mechanical restraints.*

(1) Mechanical restraints are prohibited.

(2) The following devices are not considered mechanical restraints:

(i) A device used to provide support for functional body position or proper balance.

(ii) A device used for medical treatment, such as sand bags to limit movement after medical treatment.

(iii) A wheelchair belt that is used for body positioning and support.

(iv) A helmet used for prevention of injury during seizure activity.

(v) A seatbelt used during transportation.

(b) *Seclusion.*

(1) Seclusion is prohibited.

(2) Seclusion does not include the use of a time out room as defined in this chapter.

(3) Locking a child in a bedroom during sleeping hours is considered seclusion.

(c) *Permissible restraint.* A permissible restraint may only be used:

(1) To ensure the safety of a child or others during an emergency safety situation.

(2) After every attempt has been made to anticipate and de-escalate the behavior using methods of intervention less than restraint.

(d) *Maintaining restraints.* Efforts to calm and de-escalate a child should continue even after a restraint is implemented, with the goal of shortening the time needed to maintain the restraint.

(e) *Prohibited interventions.* The following interventions are prohibited:

(1) A restraint that applies pressure or weight on a child's respiratory system.

(2) Prone position restraints.

(3) Drugs used as restraint to control acute, episodic behavior that restricts the movement or function of a child, except for the administration of drugs ordered by a licensed physician and administered by licensed/certified/registered medical personnel on an emergency basis.

(4) The application of startling, painful or noxious stimuli, also referred to as adverse conditioning.

(5) The application of pain for the purpose of achieving compliance, except pressure at a child's jaw point for the purpose of bite release, also referred to as pressure point techniques.

(f) *Emergency safety intervention.* Orders for the use of restraint as an emergency safety intervention.

(1) Prior to ordering and applying a manual restraint, information and history shall be obtained about potential medical or psychological contraindications to the use of manual restraint for a child. This information shall be documented in a child's record and accessible to staff working with the child, including an individual who might order a restraint as an emergency safety intervention.

(2) Manual restraint shall be ordered only by one of the following:

(i) The child's treatment team physician, if available.

(ii) If the child's treatment team physician is not available, one of the following, if permitted by the RTF:

(A) Another physician.

(B) If another physician is not available, a CRNP or PA. Documentation that a physician was not available shall be entered in the restraint log and the child's medical record.

(C) If the individuals specified in clauses (A) and (B) are not available, a licensed psychologist, licensed social worker or licensed clinical social worker. Documentation that individuals specified in clauses (A) and (B) were not available shall be entered in the restraint log and the child's medical record.

(3) If neither the treatment team physician nor one of the alternative individuals specified in paragraph (2) (ii) is available in the RTF at the time of the emergency safety situation, a verbal order for restraint may be obtained from an individual specified in paragraph (2) by an RN or licensed practical nurse (LPN). If an RN or LPN is not in the RTF, a licensed occupational therapist or physical therapist may accept a verbal order for restraint from an individual specified in paragraph (2).

(i) The individual who ordered the restraint must be available to staff for consultation, at least by telephone, throughout the period of restraint.

(ii) A verbal order shall be verified by the individual who ordered the restraint in the child's record.

(4) When a restraint is ordered by someone other than the child's treatment team physician, the treatment team

physician shall be contacted and informed about the use of restraint by the individual who ordered the restraint no later than 24 hours after the restraint was ordered.

(5) An order for a restraint shall be entered into a child's record by the ordering individual.

(6) An order for restraint must include the following:

(i) The name of the ordering physician or other individual specified in paragraph (2)(ii).

(ii) The date and time the order was obtained.

(iii) The specific type of restraint ordered, including length of time for which the order authorized the restraint.

(iv) The reason the restraint was ordered.

(v) The frequency and duration that staff shall monitor the child's vital signs.

(7) The physician or other individual specified in paragraph (2)(ii) shall order the least restrictive restraint likely to be effective in resolving the emergency safety situation taking into account onsite-staff recommendations.

(8) An order to administer a drug used as a restraint must meet the following requirements:

(i) The drug is ordered by a licensed physician.

(ii) The drug is administered by a licensed, certified or registered medical professional.

(iii) The child is examined by a licensed physician immediately prior to each incidence of administering a drug and the licensed physician has given a written order to administer the drug immediately prior to each incidence of administering a drug.

(9) An order for restraint must:

(i) Be limited to no longer than the duration of the emergency safety situation. A standing or PRN order for restraint is prohibited.

(ii) Under no circumstances exceed 2 hours for a child between 18 and 21 years of age, 1 hour for a child between 9 and 18 years of age, and 30 minutes for a child under 9 years of age.

(10) If the restraint is discontinued before the original order expires, a new order shall be obtained prior to reapplying the restraint.

(g) *Application of restraint.*

(1) Only staff trained in the use of emergency safety interventions as specified in § 23.62 (relating to staff training) shall be permitted to apply a restraint.

(2) During a restraint, the trained staff shall:

(i) Continually assess and monitor the physical and psychological well-being of the child.

(ii) Release the hold by changing the position of the physical restraint or the staff applying the restraint at least once every 10 consecutive minutes during the restraint.

(iii) Ensure the safe use of restraint throughout the duration of the restraint and assess both physical and psychological factors of the child.

(iv) Clearly identify for the child the criteria for discontinuation of the restraint.

(v) Discontinue a restraint when a child demonstrates the child has regained self-control.

(3) During a restraint, staff trained in the use of restraint, but who are not applying the restraint, shall continuously observe, monitor and document the physical and emotional condition of the child. Staff shall document the condition of the child at least every 10 minutes after the restraint begins in the child's record.

(4) The use of the restraint must be limited to the duration of the emergency safety situation and until the child's safety and the safety of others can be ensured, even if the order for restraint has not expired.

(5) If the emergency safety situation continues beyond the time specified in the order authorizing the restraint, an RN or other licensed staff, shall contact the individual specified in subsection (f)(2)(ii) to receive further instructions.

(6) During a restraint, a child's physical needs shall be met.

(7) During the use of a drug as a restraint, staff shall monitor the child's vital signs at least once an hour and in accordance with the frequency and duration recommended and documented by the prescribing physician, in addition to the requirements in paragraph (2).

(8) Within 1 hour of the initiation of the restraint, a physician, CRNP, RN or PA trained in the use of emergency safety interventions and permitted by the RTF to assess the physical and psychological well-being of children shall conduct a face-to-face assessment of the physical and psychological well-being of the child including:

- (i) The child's physical and psychological status.
- (ii) The child's behavior.
- (iii) The appropriateness of the intervention measures.
- (iv) Complications resulting from the intervention.

(h) *Medical treatment for injuries.* Medical treatment for injuries resulting from the use of restraint is as follows:

(1) Staff shall assess a child to determine the extent of any injuries and shall obtain medical treatment from qualified medical personnel for a child injured as a result of a restraint immediately after discovery of an injury. Staff that is medically trained to provide emergency first-aid care and cardiopulmonary resuscitation should be available during and after a restraint to provide emergency medical interventions until further follow-up care can be provided.

(2) Staff that applied or participated in a restraint that results in an injury to a child shall meet with supervisory staff and evaluate the circumstances that caused the injury, and the RTF shall develop a plan to prevent further injuries.

(i) *Notification.* Notification of parent and, when applicable, the guardian or custodian shall be as follows:

(1) An RTF shall notify a parent and, when applicable, the guardian or custodian, of a child who has been restrained as soon as possible, but no later than 5 hours after the initiation of the restraint.

(2) An RTF shall document in a child's record that the parent and, when applicable, the guardian or custodian, has been notified of the restraint, including the date and time of notification and the name of the staff providing the notification.

(j) *Documentation of restraint.*

(1) Documentation of a restraint shall be written in a child's medical record and include the following:

(i) A description of the emergency safety situation.

(ii) The order for restraint as specified in subsection (f)(7).

(iii) If an individual specified in subsection (f)(2)(ii) ordered the restraint, an explanation that other staff were unavailable, as specified in subsection (f)(2)(ii).

(iv) For verbal orders, the name and title of the individual ordering the restraint, the time the order was given, the type of restraint ordered and the maximum time for which the restraint was ordered. The licensed staff identified in subsection (f)(3) accepting the verbal order shall sign and date the orders received. The ordering individual shall counter sign the order within 1 business day of the restraint.

(v) The time the restraint actually began and ended.

(vi) The names and job titles of staff involved in the restraint.

(vii) The time and results of the 1 hour assessment, specified in subsection (g)(8).

(viii) The date and time the treatment team physician was contacted and informed about the use of restraint, if the restraint was ordered by someone other than the treatment team physician.

(ix) Other documentation in § 23.206(b) (relating to restrictive procedure records).

(x) The dates, times and methods of attempts to notify a child's parent and, when applicable, the guardian or custodian, and the date and time of successful notification signed by each individual that attempted to contact the parent and, when applicable, the guardian or custodian.

(xi) A summary of each postintervention debriefing.

(xii) A description of all injuries that occur as a result of the restraint, including injuries to staff resulting from restraint.

(2) An RTF shall maintain a record of each emergency safety situation, the restraints used, and their outcomes.

(k) *Postintervention debriefings.*

(1) Shortly after the restraint is discontinued, staff involved in the restraint and supervisory staff shall conduct an informal and brief postrelease debriefment with the child for the purpose of rebuilding trust, helping the child regain composure and briefly discussing how the restraint might have been avoided and can be avoided in the future. If a child requests that the child does not want a particular staff who was involved in the restraint to participate in the postrelease debriefment, that request shall be honored.

(2) Within 24 hours after the restraint is discontinued, staff involved in the restraint, except when the presence of particular staff may jeopardize the well-being of the child, shall meet face-to-face with the child to discuss the circumstances that resulted in the use of restraint and strategies to be used by the staff, the child, or others that could prevent the use of restraint in the future.

(i) Other RTF staff, the RTF Family Advocate, ISPT members, the child's parents and, when applicable, the guardian or custodian, shall be given the opportunity to participate in the meeting.

(ii) If the child's parents and, when applicable, the child's guardian or custodian, attends the meeting, the RTF must conduct the meeting in a language that is understood by the child's parent and, when applicable, the guardian or custodian.

(3) Within 24 hours after the restraint is discontinued, staff involved in the restraint, appropriate supervisory and administrative staff, and the RTF Family Advocate shall conduct a debriefing session that includes, at a minimum, a review and discussion of the following:

(i) The emergency safety situation that required the restraint, including discussion of the participating factors that led up to the restraint.

(ii) Alternative techniques that might have prevented the use of the restraint.

(iii) The procedures, if any that staff are to implement to prevent any recurrence of the use of restraint.

(iv) The outcome of the restraint, including any injuries that may have resulted from the use of restraint.

(4) Staff shall document in the child's record that all three debriefing sessions took place. The documentation must include the following:

(i) The name of staff present for the debriefings.

(ii) The name of staff that were excused from the debriefings.

(iii) Changes to the child's treatment plan that result from the debriefings.

§ 23.206. Restrictive procedure records.

(a) A central record of each use of restrictive procedure shall be kept and include the following:

(1) The specific behavior addressed.

(2) The methods of intervention used to address the behavior, including all less intrusive measures attempted, and the reasons these measures were not effective.

(3) The date and time the procedure was used.

(4) The specific procedure used.

(5) The staff that used the procedure.

(6) The duration of the procedure.

(7) The staff who observed the child during the procedure.

(8) The child's condition upon completion of the procedure.

(9) The order for restraint.

(10) The time and results of the required 1-hour assessment.

(11) The physician or other licensed practitioner who order the restraint shall sign the restraint order in the record as soon as possible.

(b) Documentation of compliance with this section shall be kept in the child's record.

SERVICES

§ 23.221. Description of services.

(a) An RTF shall operate its program and provide services in accordance with a written service description approved by the Department.

(b) The service description must include the following:

(1) The RTF location, legal ownership and administration table of organization.

(2) The vision and mission of the RTF.

(3) A detailed description of how the program will meet the requirements in this chapter and current clinical standards of care.

(4) The scope and a general description of the services provided by the RTF.

(5) The number, ages, needs and any special characteristics of the children the RTF serves.

(6) The specific activities and programs provided by the RTF.

(7) The staff qualifications and staffing ratios with explanations for those that exceed the minimum requirements.

(8) An explanation of the RTF's ability to support and maximize the quality of life and functional abilities of children with emotional and behavioral issues using gender-responsive approaches that include a continuum of out-of-home treatment options for children with behavioral health needs.

(9) A demonstration of the RTF's ability to address special characteristics of the children the RTF intends to serve including neurological disability such as ASD or a co-occurring disorder such as substance abuse or disability such as developmental delay, deafness and blindness.

(10) A written policy regarding staff filing legal charges against a child which includes the following:

(i) The nature of the emotional and behavioral needs of the children residing at the RTF.

(ii) The possibility for injury to staff because of the potential of aggressive behaviors to occur as a result of the clinical conditions of a child.

(iii) A procedure for staff that choose to press charges to inform RTF management and discuss the pros and cons of pressing charges with the RTF director, with documentation of the meeting and meeting outcomes prior to filing charges.

(11) Verification from the LEA of the school district in which the RTF is located stating the following:

(i) The RTF has consulted with the LEA and the LEA has acknowledged its obligation to educate a child who is in an RTF in the most integrated setting and in the public school, whenever appropriate.

(ii) The LEA will meet the education, special education and related service needs of the children in the RTF.

(iii) An RTF shall notify the LEA if the RTF plans to expand or make other changes that will impact the LEA's requirement to provide educational services.

(c) The service description and policies and procedures shall be approved by the Department before the RTF begins operation.

(d) A change to an approved service description, which includes a change in the number of children the RTF plans to serve and to any approved policy or procedure, shall be approved by the Department prior to implementation.

§ 23.222. Admission process.

(a) Prior to admitting a child, an RTF shall interview the child and determine if its services, activities and programs are appropriate for the age, needs and any special characteristics of the child. The RTF shall document its findings. If the RTF determines that its services, activities and programs are not appropriate for the child and the child should not be admitted to the RTF, the RTF shall explain to the referral source in writing the reason the child cannot be admitted to the RTF. The RTF shall

maintain the documentation in the business office of the RTF for periodic review by the Department.

(b) The RTF shall have an admission process that assesses and documents the following for a child, prior to or upon admission:

- (1) A child's diagnosis.
- (2) The results from a structured screening or assessment.
- (3) The service needs of a child.
- (4) A child's legal status.
- (5) The circumstances that make admission of a child necessary.
- (6) The results of a trauma screen administered upon admission or within 7 days of admission with a summary of findings and a discussion of the clinical relevance of the findings to the child's presenting problems. If the RTF has a copy of a trauma screen administered to the child within the prior 4 months, then the RTF does not need to administer another screen, but must include a written discussion of the findings of the earlier trauma screen and the clinical relevance of those findings to the child's presenting problems as required.
- (7) A summary of a strengths and culture discovery or assessment completed upon admission or within 7 days of admission.

(8) How the activities and services provided by the RTF will address the biopsychosocial needs of a child.

(c) An RTF shall retain documentation of the prior approval of the administrator of the Interstate Compact on the Placement of Children in the record of a child admitted from outside of this Commonwealth.

(d) If a child is readmitted to the same RTF within 5 days, the readmission will not be considered a new admission for MA program purposes, but rather a continuation of the original admission.

§ 23.223. Development of the ISP.

(a) A preliminary treatment plan addressing a child's behavioral health needs shall be completed within 24 hours of admission.

(b) An ISP shall be developed for a child within 14 calendar days of a child's admission and include the following:

(1) A comprehensive strengths-based treatment plan addressing the behavioral health needs of a child and based on a diagnostic evaluation and the information related to a child's trauma screen and history demonstrating that trauma-related factors are being addressed in clinical treatment.

(2) Medical needs of a child, including medications.

(3) Psychological, social, behavioral and developmental needs of a child that reflect the need for RTF admission.

(c) The ISP shall be developed by an ISPT, an independent team comprised of the following:

- (1) The child.
- (2) The child's parents and, when applicable, the child's guardian or custodian.
- (3) A person invited by the child or the child's parent.
- (4) A contracting agency representative.
- (5) A representative of the county Mental Health/Mental Retardation Program.

(6) A prescribing or treating psychiatrist or other clinician who will be working with the child.

(7) A representative of the CCYA or JPO if the child is in the child welfare or juvenile justice system.

(8) A child's Behavioral Health MCO.

(9) A representative of the responsible school district if written parental consent has been obtained.

(10) A physician.

(d) The treatment plan portion of the ISP addressing a child's behavioral health needs shall be developed by the treatment team, which must be an interdisciplinary team of physicians and other personnel who are employed by, or provide services to children in, the RTF.

(1) The treatment team shall:

(i) Assess a child's immediate and long-range therapeutic needs, developmental priorities, and personal strengths and limitations.

(ii) Assess the potential resources of a child's family.

(iii) Set treatment objectives.

(iv) Prescribe therapeutic modalities to achieve a plans objective.

(2) The treatment team must include a board-eligible or board-certified psychiatrist and one of the following:

(i) A psychiatric social worker.

(ii) An RN with specialized training or 1 year of experience in treating children with a serious mental illness or emotional or behavioral disorder.

(iii) A licensed occupational therapist who has specialized training or one year of experience in treating children with a serious mental illness or behavioral disorder.

(iv) A psychologist who has a master's degree in clinical psychology or who has been licensed by the Commonwealth.

(e) At least 3 phone or written contacts shall be made at least 2 weeks in advance to invite the child and the child's parent and, when applicable, a guardian or custodian, to participate in the development of the ISP at a time and location convenient for the child and the child's parent, and when applicable, the child's guardian or custodian, and the RTF.

(f) Documentation of a contact made to involve a child's parent and, when applicable, guardian or custodian shall be kept in the child's record.

(g) Persons who participated in the development of the ISP shall sign and date the ISP, with the exception of the child, the child's parent and, when applicable, the child's guardian or custodian, who shall be given the opportunity to, but are not required to, sign the ISP. Disagreement with the ISP or refusal to sign the ISP shall be documented in the child's record.

§ 23.224. Content of the ISP.

An ISP should reflect the needs, strengths, culture and priorities of a child and the child's family, and include the following:

(1) A treatment plan that is written in language understandable to the child and the child's family, and includes the following:

(i) Developmentally appropriate, asset-building treatment goals and objectives, such as building functional competencies.

- (ii) Biologic, psychological and social interventions.
- (iii) The child's identified priorities.
- (iv) The environments in which the child exhibits a behavioral health treatment need.
- (v) An explanation of the appropriate settings and time allocations for an intervention.
- (vi) A detailed description of changes or updates from previous treatment plans.
- (vii) Documentation of the continued clinical need for the service.

(viii) Detailed information to assist the staff with a comprehensive understanding of the specific interventions and objectives with which the staff will be assisting a child in attaining goals.

- (2) Evaluation of the child's skill level for a goal.
- (3) Monthly documentation of the child's progress on each goal.
- (4) Services and training that meet the child's needs, including the child's needs for safety, competency development and permanency.
- (5) A component addressing family involvement including, when applicable, the collaborative efforts with a High-Fidelity Wraparound Team.
- (6) A plan to teach the child health and safety skills including the following:

- (i) Nutrition and food selection.
- (ii) Exercise.
- (iii) Physical self-care.
- (iv) Sleep.
- (v) Coping skills.
- (vi) Relaxation approaches.
- (vii) Personal interests for constructive use of leisure time.
- (viii) Substance use and abuse.
- (ix) Personal safety.
- (x) Healthy interpersonal relationships.
- (xi) Services to others.
- (xii) Decision-making skills.

(7) A component addressing how a child's education needs will be met in accordance with applicable Federal and State laws and regulations.

(8) The anticipated duration of the stay at the RTF.

(9) Discharge and aftercare plan to be addressed during monthly treatment team meetings and during ISPT meetings to ensure continuity of care with a child's family, school and community upon discharge.

(10) Methods to be used to measure progress on the ISP, including who is to measure progress and the objective criteria to be used.

(11) The name of the person responsible for coordinating the implementation of the ISP.

(12) Medical needs, including medication.

§ 23.225. Review and revision of the ISP.

(a) A review of a child's progress on the ISP, and a revision of the ISP if needed, shall be completed at least every 30 days.

(b) A child's ISP shall be revised if one of the following occur:

- (1) There has been no progress on a goal.
- (2) A goal is no longer appropriate.
- (3) A goal needs to be modified.
- (4) A goal needs to be added.

(c) A review and revision of the ISP shall be completed in accordance with § 23.223(b)(1) (relating to development of the ISP.)

(d) An RTF shall notify and invite a child's parents and, when applicable, a guardian or custodian, to participate in the review of the ISP and consider making changes based on a child's clinical course. Parent, and when applicable, guardian or custodian involvement is also to be obtained for a change in type of psychotropic medication.

(e) A child and the child's parent and, when applicable, guardian or custodian, shall contribute to the development, review and revision of a child's ISP.

§ 23.226. Implementation of the ISP.

(a) An RTF shall implement an ISP as written.

(b) An RTF is responsible to assign sufficient staff responsible for the implementation of the ISP, including the treatment plan.

§ 23.227. Copies of the ISP.

(a) A copy of an ISP, revisions to an ISP and monthly documentation of progress shall be provided to the child if the child is over 14 years of age, the parent and, when applicable, the child's guardian or custodian, the contracting agency and a person who participated in the development of or revision to the ISP.

(b) A copy of an ISP, revisions to an ISP and monthly documentation of progress shall be kept in the child's record.

§ 23.228. Behavioral health treatment.

(a) An RTF shall provide behavioral health treatment that is built on the competencies of a child and the child's family, while addressing specific needs of the child including culture, treatment history and family relationships.

(b) Behavioral health treatment must include, at a minimum, the following, which shall be provided as needed:

(1) Individual psychotherapy, group psychotherapy, family therapy and other therapeutic interventions, using evidence-based approaches, when possible, as indicated in the treatment plan, which addresses both the child's presenting behaviors and underlying mental health issues and, when clinically indicated, co-occurring issues to include mental health and substance abuse.

(2) Alternative approaches for a child when individual or group psychotherapy modalities are not considered effective treatment approaches, such as with a child with ASD, alternative approaches must be used.

(3) Both resiliency-promoting therapeutic milieu and trauma-informed care, characterized by supporting dignity, respect and hope, as part of both individual and group programming that includes the following:

- (i) Community meetings.
- (ii) Prosocial peer groups.
- (iii) Psychoeducation groups.

(4) Social skills consistent with a child's successful adaptation to both society norms and a child's individual community.

(5) Age-appropriate training about maintenance of good physical health including, with the permission of a parent and, when applicable, a guardian or custodian, the prevention of sexually transmitted diseases including HIV/AIDS.

(6) Special individualized activities, relevant to a child's medical or physical needs.

(7) Use of psychotropic medication, when indicated.

(8) Training in daily living skills and community access skills.

§ 23.229. Education.

(a) Under 22 Pa. Code Chapters 11, 14 and 15 (relating to student attendance; special education services and programs; and protected handicapped students), a child who is of compulsory school age shall participate in a school program approved by the Department of Education or an educational program under contract with the LEA.

(b) The decision regarding the education portion of a child's day is to be made on an individualized basis utilizing the most integrated setting, with input from members of the ISPT, local public education officials and the child's home school district.

§ 23.230. Discharge and aftercare planning.

(a) A child's discharge and aftercare planning shall occur at a treatment team meeting and must be child centered and incorporate the following:

(1) Short-term goals, such as participation in a sport, community activity or religious organizations.

(2) Long-term life goals, including attainment of independent living and vocational skills and other special skills, such as playing a musical instrument or attending postsecondary education.

(3) A psychiatric discharge summary or final evaluation for a child receiving or who has received psychotropic medication during the child's RTF stay.

(b) Prior to discharge, the RTF shall schedule an appointment with the community behavioral health agency that will provide aftercare and submit documents related to the child's care in the RTF to that behavioral health agency.

(c) Within 14 days prior to discharge, the RTF shall submit the discharge summary to the community behavioral health agency providing aftercare.

(d) For each child receiving or who has received psychotropic medication during the child's RTF stay, the clinical rationale for psychotropic medication shall be clearly documented on the child's psychiatric discharge summary or final evaluation.

(e) Prior to the transfer or discharge of a child, the RTF shall inform, and discuss with the child's parent and, when applicable, the child's guardian or custodian, the recommended transfer or discharge. Documentation of the discussion or transmission of the information shall be kept in a child's record.

(f) No later than 10 days after discharge, if a child was placed in the RTF by another state, the RTF shall document in the child's record that the administrator of the Interstate Compact on the Placement of Children was notified of the discharge.

(g) An RTF shall follow up with a child and family by telephone, 15 and 30 days postdischarge to determine if the child is receiving community-based behavioral health services, as identified in the discharge and aftercare plan.

(h) If, as a result of the RTF telephonic contact at 15 or 30 days postdischarge with a child and family, the RTF learns that a child is not receiving community-based behavioral health services, the primary contact or other designated staff, with child and family consent, shall contact the community-based behavioral health provider, the county MH/MR office, or the CASSP Coordinator to facilitate the provision of the community-based behavioral health services. The outcome of this telephonic contact shall be documented in a child's record.

CHILD RECORDS

§ 23.241. Emergency information.

(a) Emergency information shall be easily accessible at an RTF and documented in a child's record.

(b) Emergency information for a child must include the following:

(1) The name, address, telephone number and relationship of a designated person to be contacted in case of an emergency.

(2) The name, address and telephone number of the child's physician or other source of health care, health insurance and MA information.

(3) The name, address and telephone number of the person able to give consent for medical treatment, if needed.

(4) A copy of the child's most recent health examination.

§ 23.242. Child records.

(a) A separate record shall be kept for a child.

(b) Entries in a child's record must be legible, dated and signed by the person making the entry. The record shall be maintained in an organized and competent manner.

§ 23.243. Content of child records.

A child's record must include the following:

(1) Personal information including:

(i) Name, sex, admission date, birth date and Social Security number.

(ii) Race, height, weight, color of hair, color of eyes and identifying marks.

(iii) Dated photograph of the child taken within the past year.

(iv) Language spoken or means of communication understood by a child and the primary language used by a child's family, if other than English.

(v) Religious affiliation.

(vi) Emergency information required under § 23.241(b) (relating to emergency information).

(2) Physical health records.

(3) Dental, vision and hearing records.

(4) Health and safety assessments.

(5) Behavioral health evaluations during the course of treatment, including psychiatric evaluations, psychological evaluations and psychological testing results, if obtained.

(6) ISP and ISP revisions and summaries of ISP reviews.

(7) Restrictive procedure records relating to the child as required under § 23.206 (relating to restrictive procedure records).

(8) Reports of reportable incidents, as specified in § 23.17 (relating to reportable incidents).

(9) Consent to treatment, as specified in § 23.20 (relating to consent to treatment).

(10) A court order, if applicable.

(11) Admission information specified in §§ 23.221 and 23.222 (relating to description of services; and admission process).

(12) Signed notification of rights, grievance procedures and applicable consent to treatment protections specified in § 23.31 (relating to notification of rights, grievance procedures and consent to treatment protections).

(13) Service records of the contracting agency.

(14) Education records.

(15) Current treatment plans.

(16) Past treatment plans.

(17) Special consultations or assessments completed or requested.

(18) Progress notes that document a child's participation in individual therapy, group therapy, family therapy and other therapeutic interventions.

(19) Documentation of a child's progress toward meeting treatment goals.

(20) Documentation of the family's participation in planning and treatment and ongoing efforts of the RTF to accommodate family schedules and encourage participation.

(21) Current psychotropic medication and documentation of regular medication reviews and the clinical rationale for the psychotropic medication including the following:

(i) A change in medication documented in a medication order.

(ii) Documentation of the administration of a prescribed medication, including dosage, route of administration, staff administering and signature of staff administering.

(22) Documentation of goals of therapeutic leave and the outcomes and reviews following therapeutic leave.

§ 23.244. Record retention.

(a) A child's record shall be kept in a locked location when unattended.

(b) Information in a child's record shall be kept for at least 6 years or until an audit is final or litigation is resolved.

(c) A child's record shall be kept for at least 6 years following a child's discharge or until an audit is final or litigation is resolved, whichever is later.

RTFs SERVING NINE OR MORE CHILDREN

§ 23.251. Additional requirements.

In addition to the other provisions of this chapter, this section and §§ 23.252—23.257 apply to an RTF serving nine or more children.

§ 23.252. Sewage system approval.

An RTF that is not connected to a public sewer system shall have a written sanitation approval for its sewage system by the sewage enforcement official of the municipality in which the RTF is located.

§ 23.253. Evacuation procedures.

Written emergency evacuation procedures and an evacuation diagram specifying directions for egress in the event of an emergency shall be posted in a conspicuous place.

§ 23.254. Exit signs.

(a) Signs bearing the word "EXIT" in plain legible letters shall be placed at an exit.

(b) If the exit or way to reach the exit is not immediately visible, access to an exit shall be marked with readily visible signs indicating the direction of travel.

(c) Exit sign letters must be at least 6 inches in height with the principle strokes of letters at least 3/4 inch wide.

§ 23.255. Laundry.

(a) There shall be a laundry area which is separate from kitchen, dining and other living areas.

(b) Soiled linen shall be covered while being transported through food preparation and food storage areas.

§ 23.256. Dishwashing.

(a) Utensils used for eating, drinking, preparation and serving of food or drink shall be washed, rinsed and sanitized after each use by a mechanical dishwasher or by a method approved by the Department of Agriculture.

(b) A mechanical dishwasher must use hot water temperatures exceeding 140° F in the wash cycle and 180° F in the final rinse cycle or shall be of a chemical sanitizing type approved by the National Sanitation Foundation.

(c) A mechanical dishwasher shall be operated in accordance with the manufacturer's instructions.

§ 23.257. Child bedrooms.

A child's bedroom may not be more than 200 feet from a bathtub or shower and toilet.

Subchapter C. PARTICIPATION REQUIREMENTS

SCOPE OF BENEFITS

Sec. 23.281. Scope of benefits.

CONDITIONS FOR MA PAYMENT

23.282. Policy.

PROVIDER PARTICIPATION

23.291. General participation requirements for an RTF.

23.292. Participation requirements for an out-of-State RTF.

23.293. Participation requirements for an RTF that treats children for drug and alcohol diagnosis in conjunction with a diagnosed mental illness or serious emotional or behavioral disorder.

23.294. Ongoing responsibilities of an RTF.

23.295. Changes of ownership or control.

SCOPE OF BENEFITS

§ 23.281. Scope of benefits.

(a) A child who is an MA recipient is eligible for medically necessary RTF services provided by an RTF enrolled in the MA Program.

(b) A child who is receiving services in an accredited RTF the day preceding the date of the child's 21st birthday continues to be eligible for RTF services until RTF services are no longer medically necessary or the individual is 22 years of age, whichever occurs first.

CONDITIONS FOR MA PAYMENT**§ 23.282. Policy.**

(a) The Department pays for medically necessary services rendered to an eligible individual, as specified in § 23.281 (relating to scope of benefits), by an RTF enrolled in the MA Program.

(b) Payment in the fee-for-service delivery system is made for services provided by an RTF subject to the provisions of this chapter and Chapter 1101 (relating to general provisions).

(c) Payment in the managed care delivery system is made for services provided by an RTF subject to the provisions of this chapter and Chapter 1101, except that the Department may delegate responsibilities to the behavioral health managed care organizations as specified in § 23.319 (relating to Department delegation of responsibility to behavioral health managed care organizations).

(d) Payment for absence without authorization is as follows:

(1) The Department will make payment for up to 2 days of absence without authorization from an RTF when the following conditions are met:

(i) Upon determining that a child is absent without authorization, an RTF shall file a police report and notify the JPO if the child has one. The RTF shall also conduct a search of the RTF buildings, grounds and offsite areas where the staff believes the child might have gone.

(ii) If a child cannot be located within 2 hours of the initial determination that the child is missing, the RTF shall notify the following:

(A) The County MH/MR Office.

(B) The CCYA, if the child is in its custody.

(C) The supervising juvenile court, if the child is under the supervision of the juvenile court.

(D) The child's responsible family member or legal guardian, as appropriate.

(iii) An RTF shall search offsite for at least 4 hours during each 24-hour period that the child is absent without authorization.

(iv) When the child is found or returns voluntarily, the RTF shall notify previously notified parties that the child is no longer absent without authorization.

(v) An action taken to locate the child during the child's absence without authorization and the required notifications shall be documented in the child's medical record. Documentation of onsite and offsite searches must specify the date and hours of search, where the search was conducted, any pertinent findings and be signed by staff that conducted the search.

(2) If the child is readmitted to the same RTF within 5 days, the readmission will not be considered a new admission for program purposes but, rather, a continuation of the original admission.

PROVIDER PARTICIPATION**§ 23.291. General participation requirements for an RTF.**

(a) The Department will regulate participation in the MA program and may refuse to allow an RTF to participate in the MA program. Before allowing enrollment, the Department will consider the MA Program's need for additional RTF services in the RTF's primary service area

as the most important factor in determining whether to grant or deny a request for enrollment as an RTF.

(b) In addition to the participation requirements established in Chapter 1101 (relating to general provisions), to participate in the MA Program, an RTF shall:

(1) Be licensed by the Department as an RTF under this chapter.

(2) Have a service description approved by the Department.

(3) Provide the services described in the service description at the location stated in the service description.

(4) Have in effect a utilization review plan that meets the requirements set forth at 42 CFR Part 456, Subpart D (relating to utilization control: mental hospitals) and provide psychiatric services that meet the requirements of 42 CFR Part 441, Subpart D (relating to inpatient psychiatric services for individuals under age 21 in psychiatric facilities or programs).

(5) Be in compliance with Federal restraint and seclusion requirements and attest annually by July 21 of each year that the facility is in compliance with 42 CFR Part 483, Subpart G (relating to condition of participation for the use of restraint or seclusion in psychiatric residential treatment facilities providing inpatient psychiatric services for individuals under age 21) on a Department-specified form. A facility enrolling as a Medicaid provider shall meet this requirement at the time it executes a provider agreement with the Medicaid agency.

(6) Have a transfer agreement with an acute care hospital and inpatient psychiatric hospital.

(7) Receive and maintain accreditation as a child and adolescent RTF by CARF, COA, JCAHO or by another accrediting body approved by the Department as published in a notice in the *Pennsylvania Bulletin*.

(8) Provide services under the direction of a board-certified or board-eligible psychiatrist.

(9) Meet all ISP requirements as specified in § 23.223 (relating to development of the ISP).

(10) Meet all prior authorization and certification of need requirements as specified in § 23.314 (relating to evaluations and treatment plans).

§ 23.292. Participation requirements for an out-of-State RTF.

An out-of-State RTF shall meet the following requirements:

(1) Be licensed and participate in the Medicaid Program of the state in which the RTF is located, if that state recognizes facilities which provide equivalent services.

(2) Have a service description that meets the requirements in this chapter.

(3) Have a ban on prone restraint.

(4) Meet the requirements established in Chapter 1101 (relating to general provisions) and § 23.291(b)(2)—(8) (relating to general participation requirements for an RTF).

§ 23.293. Participation requirements for an RTF that treats children for drug and alcohol diagnosis in conjunction with a diagnosed mental illness or serious emotional or behavioral disorder.

An RTF that treats children for drug and alcohol conditions shall:

(1) Meet the requirements established in § 23.291 (relating to general participation requirements for an RTF).

(2) Be licensed by the Department of Health to provide drug and alcohol treatment services, unless the RTF contracts with a licensed drug and alcohol agency to provide substance abuse treatment services.

(3) Comply with the Department's current requirements for co-occurring competent service provision found at www.pa-co-occurring.org, including universal screening and assessment for co-occurring disorders, referral protocols for appropriate interventions, the employment of qualified professionals to treat co-occurring disorders and certification as a co-occurring competent RTF.

§ 23.294. Ongoing responsibilities of an RTF.

In addition to the ongoing responsibilities established in § 1101.51 (relating to ongoing responsibilities of providers), an RTF shall:

(1) Comply with State and Federal regulations, statutes, policies and procedures.

(2) Maintain current agreements with general and psychiatric hospitals, community-based mental health services, drug and alcohol services and, to the extent necessary, other RTFs for the prompt and appropriate transfer or referral of a child who requires or may be expected to require care in another setting.

(3) Furnish complete and accurate copies if requested of a child's records and the RTF's fiscal records to the Department or its designees, or Federal and State reviewers within 14 days of the request, unless a different timeframe is specified in the request.

(4) Retain complete, accurate, legible and auditable clinical, medical and fiscal records as specified in § 23.244(a) and (b) (relating to record retention).

(5) Notify the Department of a program site change.

(6) Submit a new attestation that the facility is in compliance with 42 CFR Part 483, Subpart G (relating to condition of participation for the use of restraint or seclusion in psychiatric residential treatment facilities providing inpatient psychiatric services for individuals under age 21) when RTF management changes.

(7) Notify the Department of the RTF's plans for the orderly transfer of children within 5 days of notification from the Department of Health that it has determined that the RTF is out of compliance with 42 CFR Part 483, Subpart G and must close.

§ 23.295. Changes of ownership or control.

(a) If an RTF changes ownership and the new owner wishes to participate in the MA program, the RTF shall submit a new application on the form provided by the Department for participation in the MA program.

(b) When an RTF changes ownership, the Department will approve participation in the MA Program by the new owner if the Department determines the new owner to be eligible to participate in the MA program as described under § 23.291 (relating to general participation requirements for an RTF). The new ownership shall meet Federal and State requirements prior to approving the change.

Subchapter D. PAYMENT PROVISIONS

PAYMENT FOR RTF SERVICES

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- 23.303. Bed occupancy.
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PAYMENT FOR RTF SERVICES

§ 23.301. Allowable costs.

(a) *Allowable costs.*

(1) A facility's allowable costs incurred in providing services on the ISP are considered in the allocation of costs to the MA Program for its eligible recipients.

(2) Total allowable costs of an RTF shall be apportioned between third-party payors so that, within the limits of this subchapter, the share borne by the Department is based upon those actual services and costs related to children who are MA recipients.

(3) An RTF is responsible for the accounting of all costs and services. Miscellaneous costs shall be documented and justified to the Department.

(b) *Determination of allowable costs.* The Department will determine allowable costs in accordance with the following:

(1) The requirements of this subchapter.

(2) For items not specifically identified in this subchapter, the Medicare cost report requirements found in 42 CFR 413 (relating to principles of reasonable cost reimbursement; payment for end-stage renal disease services; optional prospectively determined payment rates for skilled nursing facilities) and the Medicare Provider Reimbursement Manual (HIM-15).

(3) For items not specifically identified in this subchapter, the Medicare cost report requirements found in 42 CFR 413 and the HIM-15, Generally Accepted Accounting Principles (GAAP).

(c) *Administrative costs.*

(1) Administrative costs include costs incurred for a common or joint purpose and are associated with supportive activities that are necessary to maintain the direct

effort involved in providing services to children. These costs are not readily assignable to a specific cost center or program unit.

(2) Administrative costs shall be apportioned as general administration or allocated to other cost centers.

(3) General administrative costs are limited to 13% of the total MA eligible costs less general administrative costs and less depreciation and interest on capital indebtedness.

(4) Allowable administrative costs include the following:

(i) Compensation, fringe benefits and payroll taxes of the RTF's director, controller, purchasing agent, personnel director and other persons performing general supervision or management duties.

(ii) License fees, association dues, legal costs, including attorney's fees if the provider prevails; management fees and advertising.

(iii) Costs associated with the provision of supporting services such as bookkeeping, accounting, data processing and auditing.

(iv) Costs of space used for administrative purposes, including depreciation and interest or rental.

(v) Purchase of supplies and equipment used for administrative purposes.

(vi) Operating costs associated with administrative purposes, such as travel and communications.

(vii) Costs associated with the owners, officers or operators of the facility in accordance with the following:

(A) The salary or compensation cost of owners, officers, operators or persons other than RTF's staff only if their time and involvement is documented, and they are involved in the management of the RTF.

(B) The allowable cost for an owner, officer, operator or person other than RTF staff who are involved in the management of the RTF may not exceed the customary compensation and fringe benefits that a staff would receive if staff performed the work.

(viii) Other costs incurred for a common or joint purpose and are associated with supportive activities necessary to provide the services to children.

(d) *Compensation and staffing costs.*

(1) Compensation for direct care, administrative and support staff is allowable up to the combined prevailing Commonwealth salaries and benefits for functionally equivalent positions for staffing levels and positions specified in the current approved service description as described in § 23.221 (relating to description of services).

(2) Personnel costs for services that are not provided through salaried complement for the provision of necessary services for an MA recipient are allowable. Contracts that specify the nature of the service and define the unit and cost of the service shall be maintained by the facility, in addition to detailed documentation of services rendered.

(e) *RTF maintenance expenses.*

(1) Costs necessary for the establishment, operation and maintenance of the RTF certification and license are allowable to the extent that the maintenance costs do not duplicate costs of services performed by staff.

(2) Maintenance service contracts shall specify the nature and cost of the service in order to be allowable.

(3) Detailed documentation of maintenance service contracts shall be maintained by the RTF with all documentation of services rendered in order to be allowable.

(f) *Unit-of-service contracts.* Costs associated with unit-of-service contracts where a payment is made for each service unit rendered are allowable if the following conditions apply:

(1) Units-of-service for which costs are claimed have been delivered.

(2) The unit-of-service arrangement is more economical and efficient than other contractual relationships.

(3) Services do not duplicate those provided by staff.

(g) *Cost of drug services.*

(1) Drug services costs for medically necessary over-the-counter drugs are allowable.

(2) Detailed and itemized documentation of the claimed expense for drug services shall be maintained.

(3) Drug services costs are allowable for a nonprescription drug such as laxatives, aspirin and antacids if the drug is provided directly to an MA recipient from the RTF's own drug supply, the drug is prescribed by a physician's written order, and is medically necessary.

(4) Payment for prescription medication will be made to an enrolled pharmacy and costs related to prescription drugs that are noncompensable under the MA Program are not considered as allowable costs for an RTF.

(5) The RTF may not solicit or receive remuneration directly or indirectly in cash or in kind from a person in connection with the furnishing of drugs or in connection with referring a recipient to a person for the furnishing of drugs.

(h) *Staff development and training costs.* Costs associated with staff development and training costs are allowable if the training and development are associated with the requirements for each level of staff in the approved service description as described in § 23.221.

(i) *Depreciation allowance.*

(1) Depreciation on capital assets used to provide compensable services to children, including assets for normal, standby or emergency use, and specialized equipment such as wheelchairs, is allowable as specified in this subsection.

(2) An RTF will be reimbursed for allowable depreciation costs only if the RTF is the recorded holder of legal title of the capital asset or specialized equipment.

(3) An RTF shall use the straight-line method of depreciation. Other methods, such as the accelerated method of depreciation are not acceptable.

(4) The amount of annual depreciation shall be determined by first reducing the cost of the asset by any salvage value and then dividing by the number of years of useful life of the asset.

(i) The useful life may be shorter than the physical life depending upon the usefulness of the particular asset to the RTF.

(ii) A useful life may not be less than the relevant useful life published by the Internal Revenue Service or the Uniform Chart of Accounts and Definitions for Hospitals published by the American Hospital Association for the particular asset on which the depreciation is claimed.

(5) Depreciation expense for the year of acquisition and the year of disposal is computed by using either the

half-year or actual time method of accounting. The number of months of depreciation expense may not exceed the number of months that the asset was in service. If the first year of operation is less than 12 months, depreciation is allowed only for the actual number of months in the first year of operation.

(6) The method and procedure, including the assigned useful lives, for computing depreciation shall be applied from year-to-year on a consistent basis and may not be changed, even if the facility is purchased as an ongoing operation.

(7) For depreciation to be allowed for an RTF that previously did not maintain fixed asset records as required in paragraph (13) and did not record depreciation in prior years, the RTF shall use the straight-line method of depreciation for the remaining useful life of the asset. The depreciation must be based on the cost of the asset at the time of original purchase or construction. Depreciation may not be taken on an asset that would have been fully depreciated if it had been properly recorded at the time of acquisition.

(8) Depreciation on an RTF that has no fixed asset records and is sold will be allowed to the extent to which the prior owner would have been allowed.

(9) Leasehold improvements shall be depreciated over the useful life of the asset.

(10) Gains on the sale of fixed and movable assets are considered to be equal to the salvage value which shall be established prior to the sale of the item. Gains on the sale of fixed and movable assets shall offset allowable costs for the period in which the gain was realized. Losses incurred on the sale or disposal of fixed or movable assets will not be reimbursed under the program.

(11) Allowable depreciation will be calculated using the cost basis of an asset, determined as follows:

(i) The cost basis of the depreciable assets of an RTF that are acquired as new shall be the purchase price of the asset.

(ii) The cost basis of the depreciable assets of an RTF that are acquired as used, shall be computed by the following method:

(A) The cost basis is the lower of the purchase price or the fair market value.

(B) Fair market value is the lowest of two or more bona fide appraisals at the time of sale.

(C) Depreciation that was taken or could have been taken by all prior owners shall be subtracted.

(D) Costs incurred during the construction of an asset, such as architectural, consulting, and legal fees, interest, and fund raising shall be capitalized as part of the cost of the asset.

(iii) If an asset is acquired by a trade-in, the cost of the new asset is the sum of the book value of the old asset and any cash or issuance of debt as consideration paid.

(iv) Donated assets shall be recorded at the current appraisal value or the lower of the following if available:

(A) The construction cost.

(B) The original purchase price.

(C) The donor's original purchase price.

(v) The cost basis for depreciable assets of an RTF transferred between related parties shall be the net book

value of the seller at the date of the transfer in order for the related depreciation to be allowed.

(vi) The cost basis for depreciable assets of a facility acquired through stock purchase will remain unchanged from the cost basis of the previous owner in order for the related depreciation to be allowed.

(vii) The cost basis for depreciable assets of an RTF purchased in types of transactions other than those specified in subparagraphs (ii)—(iv) and (viii) may not exceed the seller's basis under this subchapter, less all depreciation that was taken or could have been taken by all prior owners.

(viii) The cost basis for depreciation on any asset the ownership of which changes shall be the lesser of the remaining allowable cost basis of the asset to the first owner of record or the allowable cost basis to the new owner; however, the cost basis must exclude costs, including legal fees, accounting and administrative costs, travel costs, or the cost of feasibility studies, attributable to the negotiation or settlement of the sale or purchase (by acquisition or merger) for which the MA Program previously made payment.

(12) Reasonable cost of depreciation will be allowed for the construction and renovation of buildings to meet applicable Federal, State or local laws and building codes.

(13) Allowable depreciation shall be documented in a fixed asset record that includes the following:

(i) Depreciation method used.

(ii) Description of the asset.

(iii) Date the asset was acquired.

(iv) Cost of the asset.

(v) Salvage value of the asset.

(vi) Depreciation cost.

(vii) Estimated useful life of the asset.

(viii) Depreciation for the year.

(ix) The accumulated depreciation.

(14) Depreciation cost is not allowable for assets expensed under another State or Federal payor.

(j) *Interest.*

(1) Necessary and proper interest on capital and current indebtedness is allowable.

(2) An RTF will be reimbursed for allowable interest on capital indebtedness with respect to an asset only if the facility is the recorded holder of legal title of the assets involved.

(3) Allowable interest on capital indebtedness shall not exceed the amount that a prudent borrower would pay. Interest on capital indebtedness will not be considered prudent if the provider cannot demonstrate that the rate does not exceed the rate available from lenders in this Commonwealth to similar borrowers on the date of the loan commitment.

(4) To be considered allowable, the interest expense shall be incurred and paid within 90 days of the close of the cost reporting period on a loan made to satisfy a financial need of an RTF and for a purpose reasonably related to providing services to children.

(5) Necessary interest on capital indebtedness applying to mortgages, bonds, notes, or other securities on the property and plant of the RTF will be allowed subject to the limitation of the amount recognized for depreciation

purposes. The total value of mortgages, bonds, notes, or other securities on which interest on capital indebtedness is allowed may not exceed the depreciation basis of the assets.

(6) Investment income shall be used to reduce allowable interest expense on capital and current indebtedness unless the investment income is from one of the following:

(i) Gifts, donations and grants that are not restricted by the donor for payment of allowable costs.

(ii) Funded depreciation if the interest earned remains in the funds.

(iii) An RTF's qualified pension fund if the interest earned remains in the fund.

(iv) Interest income from gifts, if the funds on which the interest is derived are not commingled with funds that offset allowable costs.

(v) Fundraising efforts.

(7) Investment income that reduces allowable costs, including income on operating capital, shall be used to reduce interest expense on capital indebtedness first, and then used to reduce noncapital indebtedness.

(8) Interest expense shall be allowable if paid on loans from an RTF's donor-restricted funds, the funded depreciation account, or the RTF's qualified pension fund. The upper limit on allowable interest may not exceed the prime interest rate charged at the time funds are borrowed.

(9) Moneys borrowed for the purchase or redemption of capital stock will be considered as a loan for investment purposes, and the interest paid on those borrowed funds is not an allowable cost.

(10) Interest expense on funds borrowed for capital purchases are not allowable until all funds in the RTF's funded depreciation account are fully expended.

(k) *Rental costs.*

(1) Rental costs for space that is used by the RTF is allowable.

(2) Leasing or rental costs for buildings are allowable if parties are unrelated and the facility demonstrates that the rental or lease is an arm's length transaction and continues as such.

(3) Exceptions to paragraph (2) are allowed if the rental costs are based on a fair market rental appraisal as outlined in paragraph (5), or documented costs of ownership, except that return on equity is not permitted. Documented mortgage interest charges and depreciation are allowable costs.

(4) An RTF shall maintain adequate documentation to substantiate rental costs. Documentation must include copies of the Department's approval specified in paragraph (3), if applicable, the lease, and bills for taxes, insurance, and interest.

(5) An RTF shall maintain documentation of a fair market rental appraisal for all rental properties, from an individual who is a member of the Appraisal Institute, which includes the documented market value of three similar properties including land in the same geographic area.

(6) The maximum allowable annual rental shall be computed as follows:

(i) The property value is based upon the documented fair market value as determined in paragraph (5).

(ii) Net equity is obtained by reducing the property value by the estimated selling costs and any outstanding debt.

(iii) Net equity will be multiplied by the rate for return on equity capital as published by CMS in the "Average Trust Fund Interest Rates," and announced in an annual bulletin published by the Department, for the beginning of the current fiscal year.

(iv) The actual cost of real estate taxes, insurance and interest on any debt, for the current fiscal year, are added to the amount in subparagraph (iii).

(v) The maximum annual rental may not exceed the sum of subparagraphs (iii) and (iv).

(7) An RTF shall maintain documentation of the calculation required in paragraph (6).

(8) Rent is allowable up to the maximum allowable annual rental value.

(9) If an RTF has a multiple-year lease, allowable rental costs are determined by new appraisals or by updating the existing appraisals using the interest rate as published by CMS in the "Average Trust Fund Interest Rates," and announced in an annual bulletin published by the Department, and including current costs for taxes, insurance, and interest as specified in paragraph (6)(iv).

(10) A new appraisal shall be issued for every new lease or lease renewal in order to determine the allowable rental costs.

(l) *Vehicle costs.*

(1) Leasing or rental costs of automobiles are allowable if the RTF can demonstrate that the transaction is an arm's length transaction.

(2) Leasing or rental costs of automobiles are allowable if the automobile is leased or rented from a parent corporation if the RTF can demonstrate it is leasing or renting at less than or equal to the amount other vendors are charging for a similar automobile.

(3) An RTF shall use a competitive bidding process to purchase or lease vehicles.

(4) An RTF shall explore cost differentials between leasing and purchasing of vehicles and choose the least expensive alternative to be allowable.

(5) The expenses related to the personal use of RTF-owned or leased motor vehicles by staff, owners or officers are not allowable.

(6) Daily logs detailing use of vehicles as well as the maintenance activities and costs shall be maintained by the RTF.

(m) *Purchases.* Purchase of services, major renovations, capital equipment and supplies that exceed \$5,000 annually are allowable if they are made through a competitive bidding process or a request for proposal process.

(1) Professional services including those of health care practitioners and attorneys are exempt from this requirement.

(2) A bid may be obtained for a maximum of 3 years.

(3) An RTF may not purchase in a piecemeal fashion to avoid the \$5,000 limit.

(4) Purchases without bids shall be based upon sole source justification supported by documentation of the uniqueness or the limited availability of the service.

(n) *Transportation.*

(1) Transportation expenses are allowable for travel, lodging, subsistence and related items incurred by staff traveling on official business. Reimbursement for transportation expenses may not exceed that paid to employees of the Commonwealth.

(2) Costs incurred in transporting the parent and, when applicable, the guardian or custodian to a family therapy appointment at the facility where the child is present are allowable.

(o) *Start-up costs.*

(1) Start-up costs are costs that were incurred prior to the first day of officially operating as an RTF. Start-up costs are allowable and shall be capitalized as deferred charges and amortized over a minimum of 5 years.

(2) Start-up costs include the following:

- (i) Administrative salaries.
- (ii) Utility costs.
- (iii) Taxes.
- (iv) Insurance.
- (v) Mortgage and other interest.
- (vi) Staff training costs.
- (vii) Repairs and maintenance.
- (viii) Housekeeping.

(ix) Other allowable costs incurred prior to the first day of officially operating as an RTF.

(3) Costs that are properly identifiable as organization costs or capitalizable as construction costs shall be classified as such and excluded from start-up costs.

(4) Costs related to changes in ownership as defined in subsection (i)(11) are not allowable as start-up costs.

(5) Amortized start-up costs shall be reported in General Administration on the budgeted cost report or the cost report. The costs shall be documented on the budget narrative or the cost report. A 60-month amortization period is allowed for these costs.

§ 23.302. Income and offsets to allowable costs.

In the cost report, the RTF should report income from the following as sources to offset allowable costs in the determination of operating costs:

- (1) Payment made by a child or assessed liability that is deducted from the amount billed for the child.
- (2) Gifts, donations, endowments, bequests and contributions restricted by the donor for allowable costs.
- (3) Refunds and cash discounts.
- (4) Grants designated for allowable costs.
- (5) Income from the National School Lunch Program.
- (6) If a child is eligible to participate in the Supplemental Nutrition Program (SNAP), it is the RTF's responsibility to contact the local county assistance office and utilize food stamps accordingly.
- (7) Income from space rental, vending machines and similar items.
- (8) Fundraising efforts restricted for allowable costs
- (9) Interest earned on items specified in paragraphs (1)—(8).

§ 23.303. Bed occupancy.

(a) In calculating an RTF's per diem rate, the Department will compute the number of RTF days of care used at 85% of available days of care if a provider reports an occupancy percentage of less than 85%.

(b) The average annual rate of occupancy is computed by dividing the total actual days of care provided by the total certified bed days available during the fiscal period. The total actual days of care provided include all days of service actually provided plus hospital reserve bed days in full up to the limits specified under § 23.307(b)(1) (relating to general payment policy). Reserved beds counted as actual days of service shall not be filled.

§ 23.304. Cost allocation.(a) *Cost allocation method.*

(1) If a provider operates an RTF as well as other types of programs, the provider shall document at the time of the independent audit how various costs are allocated between the multiple programs, under § 23.301(c) (relating to allowable costs).

(2) The account of the cost allocation must include the following:

- (i) Salary costs for individuals responsible for more than one program.
- (ii) Staff fringe benefits for individuals responsible for more than one program.
- (iii) Rental costs that apply to more than one program.
- (iv) Motor vehicles that are used by more than one program.
- (v) Other related expenses shared by more than one program.

(b) *Disclosure.*

(1) If costs have been allocated between programs and supporting services, disclosure shall be made in the independent audit and in accordance with generally accepted accounting principles in the independent audit.

(2) An RTF shall disclose in the independent audit the existence of any affiliate and its relationship to the established RTF, including the nature of any financial transaction between the affiliate and the RTF.

(c) *Cost centers.* An RTF that operates RTFs in different locations, but uses a consolidated financial report shall designate cost centers for each location in the independent audit. Information accompanying the independent audit must include the basis used to allocate income and expenses to each location.

§ 23.305. Related-party transactions.

(a) An RTF may include in its allowable costs, services and supplies furnished to the RTF by a related-party at an amount equal to the cost of the services and supplies to the related-party.

(b) The cost of services and supplies procured by the RTF through a related-party transaction may not exceed the cost of comparable services and supplies if purchased elsewhere.

(c) The related party's costs include reasonable costs incurred in the furnishing of services and supplies to the provider.

§ 23.306. Costs, limitations and services excluded from the RTF per diem rate.

(a) *Excluded costs.* The following costs are excluded from the operating costs as described in § 23.301(a) (relating to allowable costs) and not included in the RTF per diem rate:

(1) Costs for legal services relating to litigation against the Commonwealth, including administrative appeals, if the litigation is ultimately decided in favor of the Commonwealth.

(2) Administrative costs in excess of 13% of allowable medical assistance costs as specified in § 23.301(c).

(3) Costs for which Federal Financial Participation is precluded by statute including any services not on the ISP or services on the ISP not provided by and in the facility to residents of the RTF.

(4) Education costs associated with the child's Individual Educational Plan, Individual Family Service Plan and ISP which are to be paid for by the child's school district.

(5) Costs related to direct medical education, residency programs and education field placements, including staff costs.

(6) Costs for a service if payment is available from another public agency, insurance or health program, or any other source.

(7) Expenses not related to providing services to MA recipients.

(8) The Department will not contribute to a return on equity for proprietary programs.

(9) Costs associated with the following:

(i) Advertising (excluding employment opportunities).

(ii) Charitable contributions.

(iii) Staff recognition, such as gifts, awards and dinners.

(iv) Staff social functions, such as picnics and athletic teams.

(v) Nonstandard fringe benefits

(vi) Fundraising and marketing

(vii) Life insurance for officers and directors of the governing board, including life insurance premiums necessary to obtain mortgages and other loans.

(viii) Membership fees for social, fraternal and other organizations involved in activities unrelated to the program or an organization defined as a lobbying group under 65 Pa.C.S. Chapter 13A (relating to lobbying disclosure).

(ix) Meals for visitors.

(x) Political activities.

(xi) Related-party rental, leases or other payments in excess of the provision outlined in § 23.305 (relating to related-party transactions).

(xii) Reorganization costs.

(xiii) Federal, State or local income and excess profit taxes.

(xiv) Taxes from which exemptions are available to the provider.

(xv) Bad debts and contractual adjustments.

(xvi) Barber and beautician services.

(xvii) Client allowances.

(xviii) Clothing and shoes for children placed in the RTF.

(xix) Living expenses for live-in employees, including lodging, meals and personal laundry.

(xx) Meals for employees, except for employee meals provided as part of client training activities documented in the child's treatment plan.

(xxi) Penalties, fines or late charges assessed by any source, whether or not related to the RTF.

(xxii) Personal hygiene items for children placed in the RTF.

(xxiii) Personal travel for employees, including personal use of an RTF vehicle.

(xxiv) Transportation and living costs associated with onsite family visits.

(xxv) Nonworking officer salaries

(xxvi) Free care or discounted services.

(xxvii) Personal telephone service.

(xxviii) Personal radio and television service.

(xxix) Direct and indirect costs related to nonallowable cost centers as follows:

(A) Gift, flower and coffee shops.

(B) Homes for administrators or pastors.

(C) Convent areas.

(D) Nurses' quarters.

(xxx) Pennsylvania Capital Stock and Franchise Tax.

(xxxi) Collection expenses associated with bad debts.

(xxxii) Travel expenses for members of the governing body unrelated to the program.

(xxxiii) Vocational rehabilitation services.

(xxxiv) Parties and social activities not related to providing care to MA recipients.

(xxxv) Recreation costs not related to providing care to MA recipients.

(xxxvi) Charity, in-kind and courtesy allowances.

(xxxvii) Extraordinary costs related to, or precipitated by, bankruptcy.

(10) The following services are not included in the per diem and may not be included as a facility cost and will not be reimbursed by Medicaid for any residents of the RTF:

(i) Health care, which is not related to behavioral health.

(ii) Prescription drugs.

(iii) Ambulance services.

(iv) Methadone maintenance.

(v) Diagnostic procedures or laboratory tests.

(vi) Dental services.

(vii) Inpatient hospitalization.

(viii) Emergency room visits.

(ix) Diagnostic or therapeutic procedures for experimental, research or educational purposes.

(x) Experimental or investigation procedures or clinical trial research and services that are not in accordance with customary standards of medical practice or are not commonly used.

(b) *Limitations on reimbursement.*

(1) Costs that are not recognized as allowable costs in a fiscal year may not be carried forward or backward to other fiscal years for inclusion in allowable costs.

(2) Costs of services otherwise included in the ISP that are provided by and in the RTF may be billed by the RTF's subcontractors. However, if the service is not listed on the ISP or is not provided by and in the RTF, Medicaid reimbursement to a subcontractor of the RTF or independent provider is not permitted, including the following:

(i) Health care, which is not related to behavioral health.

(ii) Prescription drugs.

(iii) Methadone maintenance.

(iv) Diagnostic procedures or laboratory tests.

(v) Dental services.

§ 23.307. General payment policy.

(a) *General payment policies.* An admission to an RTF is subject to a retrospective review by the Department in addition to prior authorization review. If the medical record does not support the medical necessity of the admission or continued stay, or if care rendered is found to be inadequate, inappropriate, or harmful to a child, payment may be denied for all or part of the stay. Suspected cases of fraudulent practices by the RTF may be referred for further investigation to the Office of the Attorney General, Medicaid Fraud Control Unit or other agencies, as appropriate.

(b) *Limitations on payment.*

(1) Payment for hospital-reserved bed days:

(i) Payment to an RTF to reserve a bed when a child is hospitalized will only be made if the child is admitted to a licensed hospital or hospital unit accredited by the JCAHO as a hospital, the hospitalization occurs during an RTF stay, and the child is expected to return to the RTF.

(ii) Payment for hospital-reserved bed days is limited to 15 days per calendar year, per child, whether the child was in continuous or intermittent treatment at one or more RTFs during the calendar year. If a child does not return to the RTF, the child shall be deemed discharged on the date of admission to the hospital and hospital-reserved bed days will not be paid for.

(iii) Payment for hospital reserved bed days will begin on the date of the child's admission to the hospital and will be paid at the rate of one-third of the RTF's approved per diem payment rate.

(2) Payment for absence without authorization. The Department will make payment for up to 2 days of absence without authorization from an RTF when the conditions specified in § 23.282(c) (relating to policy) are met.

(c) Payment is not made to an RTF for:

(1) A day of care solely for the purpose of performing evaluations, diagnostic tests or tests not related to a diagnosis that requires behavioral health services in an RTF.

(2) A day of care during which the child was absent from the facility:

(i) Absence without authorization, unless the absence meets the criteria in subsection (b)(2).

(ii) Elopement.

(iii) Discharge against medical advice.

(iv) Hospitalization, unless the hospitalization meets the criteria in subsection (b)(1).

(v) Therapeutic leave.

(vi) Administrative leave of any kind.

(3) Custodial-care related or unrelated to court commitments. Payment for services provided to a child in an RTF under a court commitment will be made only if the RTF services are medically necessary and the child was not placed in the facility by the court system.

(4) Unnecessary admissions and days of care due to conditions which do not require services in an RTF.

(5) A day of care for a child who no longer requires services in an RTF.

(6) A day of care for a child who does not have a current DSM diagnosis including Axes I-V or ICD-9-CM diagnosis along with Axes III-V of the most current DSM supported by clinical documentation.

(7) A day of care not certified in accordance with the Department's admission and continued stay review process described in §§ 23.315 and 23.316 (relating to information required to request admission or continued stay; and admission authorization and continued stay authorization request).

(8) A day of care caused by a delay in requesting or performing necessary diagnostic studies or consultations.

(9) A day of care on or after the effective date of a court-commitment to another RTF.

(10) A day of care due to a delay in applying for a court-ordered commitment.

(11) A day of care provided to a child who is suitable for an alternate nonresidential treatment type or level of care, regardless of whether the child is under voluntary or involuntary commitment.

(12) The day of discharge or transfer to another facility.

(13) A day of care disallowed by the inspection of care requirements specified in § 23.331 (relating to inspection of care reviews: general).

(14) A day of care where the ISP was not in place under §§ 23.223 and 23.224 (relating to development of the ISP; and content of the ISP).

(d) If a determination is made, by an audit or other determination, that the RTF received excess funds in the form of an overpayment from the Department, the funds shall be returned to the Department within 6 months from the date the facility is notified.

§ 23.308. Third-party liability.

(a) RTFs shall utilize available third-party resources, including Medicare Part B for services a child receives while in the RTF.

(b) If expected payment by a third-party resource is not received, an RTF may bill the Department for days of care authorized by the Department and provided to the child.

(c) If an RTF receives reimbursement from a third-party subsequent to payment from the Department, the RTF shall repay the Department by submitting a replacement of prior claim, according to instructions in the Department's Provider Handbook and Billing Guide.

(d) If a child or the legal representative of a child requests a copy of the record of payment or amounts due, an RTF shall submit a copy of the invoice and the request to the Department's Office of Administration, at the address specified in the Department's Provider Handbook and Billing Guide.

(e) Except as specified in subsection (f), if a child has private insurance benefits, the Department will pay the lesser of the following:

(1) An RTF's per diem payment rate multiplied by the number of covered days, minus any third party resources available to the child for the care, including any Medicare Part B payment.

(2) The amount of the insurance plan's deductible and coinsurance minus any other third party resource available to the child for care, including any Medicare Part B payment.

(f) If the third party resources available to a child for care equal or exceed the RTF's per diem rate multiplied by the number of compensable days, the Department will not make payment.

§ 23.309. Payment for services in an out-of-State RTF.

(a) The Department will pay for services furnished by an out-of-State RTF enrolled to participate in the MA program only if the facility meets state requirements and one of the following applies:

(1) The RTF is in a state contiguous to this Commonwealth and located closer to the child's residence than an in-State RTF.

(2) The out-of-State RTF provides a specific program that is medically necessary for a child and is not available in this Commonwealth, as documented in the request for authorization.

(3) An RTF bed is not available in this Commonwealth after referrals to at least three in-State RTFs and all three were unable to accept the child.

(b) The per diem rate for services provided by an out-of-State RTF as established in § 23.312 (relating to general rate-setting policy) will not exceed the lesser of the following:

(1) An RTF's home-state Medicaid per diem payment rate for equivalent services.

(2) The average bed-weighted prospective per diem payment rate for RTFs located in this Commonwealth adjusted, if appropriate, for specialized care not available within this Commonwealth.

(c) The Department will pay the per diem rate established in accordance with this section minus any payments from the child, a legally responsible relative or a third-party resource.

§ 23.310. Billing requirements.

(a) An RTF shall submit invoices to the Department pursuant to the instructions in the Department's Provider Handbook and Billing Guide and subsequent instructions issued by the Department.

(b) Original and resubmitted claims, including replacement claims, must be received for final adjudication within 365 days following the last date of service on the invoice.

(c) If the service spans 2 fiscal years, a separate invoice must be prepared for each fiscal year.

(d) If the service spans 2 different per diem rates, a separate invoice must be prepared for each time period covered by the different rates.

(e) Except as specified in § 23.306 (relating to costs, limitations and services excluded from the RTF per diem rate), services and items provided to the child while in the facility are included in the per diem and shall be included in the RTF services bill and may not be invoiced separately.

§ 23.311. Annual cost reporting.

(a) *Cost reporting.*

(1) An RTF shall provide the Department with an annual cost report and an independent audit performed by an independent public accountant.

(i) The audit must include a schedule prescribed by the Department containing the financial activity of the RTFs.

(ii) The cost report shall be prepared on an accrual basis as required in this subchapter and clarified in the Department's cost report instructions.

(2) An RTF shall identify allowable services, administration, ancillary and related organization costs based on financial and statistical records maintained by the RTF. The cost information contained in the cost report must be current and accurate.

(3) The cost report must cover a fiscal period of 12 consecutive months, from July 1 to June 30, except as noted in paragraph (5).

(4) The cost report for the preceding fiscal year ending June 30 must be submitted to the Department by September 30 of that year.

(5) When an RTF begins operating after the start of the fiscal year, the cost report must cover the period from the date of approval for participation by the Department to June 30.

(6) If the cost report is not submitted by September 30, the Department will assess a daily penalty of \$100.

(b) *Review of a cost report.*

(1) The Department will utilize the cost report and the annual independent audit to establish the per diem rate applicable to the next fiscal year.

(2) The Department may adjust costs reported in the cost report based upon the findings of current or closed audits, cost settlements, approved service description as defined in § 23.221 (relating to description of services), or as a result of other information the Department requests or is made aware of.

(3) The Department will inform the RTF in writing of adjustments to the cost report.

(4) If the Department does not inform the RTF in writing within 180 days of receiving the cost report of adjustments to the cost report, the cost report submitted by the RTF will be accepted by the Department as submitted.

(5) When an RTF files for protection under the bankruptcy laws, a cost report must be filed except where the debtor, RTF, rather than a trustee operates the RTF after

the commencement of the bankruptcy. For example, the situation where the debtor, RTF, is the debtor in possession.

§ 23.312. General rate-setting policy.

Establishment of per diem rate.

(1) The cost report submitted by the provider, as adjusted by the Department, as specified in § 23.311(b) (relating to annual cost reporting), shall be used for the calculation of the per diem rate.

(2) The per diem rate for an RTF will be established by dividing the total projected operating costs by the number of days of care reported in the cost report subject to a minimum of 85% of the maximum number of days based on the number of beds specified on the RTF's Certificate of Compliance.

(3) The total projected operating cost is calculated as follows:

(i) For a new RTF, the total MA allowable costs from the budgeted cost report, including adjustments for income and nonallowable, limited and excluded costs, as determined by the Department.

(ii) For an existing RTF, the cost report filed September 30 as specified in § 23.311, including adjustments for income and nonallowable, limited and excluded costs, as determined by the Department.

(iii) An adjustment factor for each fiscal year, specified by the Department and announced in a bulletin published by the Department annually, is used to project the amount in subparagraph (i) or (ii) for each fiscal year through the end of the fiscal year in which the rate is to be effective. The adjustment factor is applied to the total operating costs on the cost report in subparagraph (i) or (ii), less depreciation on capital assets, limited to buildings and fixed equipment, and interest on capital indebtedness.

(iv) Add to the total operating cost depreciation on capital assets, limited to buildings and fixed equipment, and interest on capital indebtedness to obtain the total projected operating cost.

(v) Add an allowance for retained revenue using a percentage specified by the Department and outlined in a bulletin published by the Department annually.

(4) Once established, the per diem rate shall remain in place throughout the current fiscal year, unless the per diem rate is adjusted as a result of an audit or another determination.

(5) The costs incurred in providing all behavioral health treatment, including staff psychiatrist professional component of physician costs, and room and board are included in the per diem payment for RTF services and may not be billed separately or in addition to the per diem payment rate by the RTF or any other entity with which the RTF may have an agreement to provide such services.

(6) If there is more than one accounting method for handling a cost item, the method initially elected by the RTF shall be followed consistently in subsequent cost reports, unless the RTF submits prior written justification and receives approval from the Department for using a different method.

§ 23.313. Financial records.

(a) An RTF shall maintain adequate financial and statistical records for determination of costs payable under the MA Program for 5 years after the date of last payment.

(b) An RTF shall maintain the following records:

(1) General financial ledgers, journals and books.

(2) Original evidence of cost, such as purchase requisitions, purchase orders, vouchers, vendor invoices, requisitions for supplies, inventories, time cards, payrolls and bases for apportioning costs, that relate to the determination of reasonable costs and that are auditable.

(3) Records related to allocated administrative costs.

(4) Records relating to each cost report.

(5) Cash disbursement journals.

(6) Cash receipts journals.

(7) Payroll journals or computer printouts.

(8) Fixed asset ledgers or equivalent records.

(9) Inventory control records.

(10) Charts of accounts that parallels or cross-walks to the cost report format issued by the Department.

(11) Statement listing all sources of revenue to the RTF, including Federal, State, local and private sources.

(12) Accounting records.

(13) Documentation of staff compensation, by RTF positions and functionally equivalent Commonwealth positions.

§ 23.314. Evaluations and treatment plans.

(a) After admission, the team members specified in § 23.223(d), (e) and (f) (relating to development of the ISP) shall perform and prepare within the scope of their practice medical, psychiatric and psycho-social evaluations within the following time frames:

(1) Within a maximum of 30 days prior to the Department's receipt of an admission certification request or continued stay request; or

(2) Before authorization for payment, if the child becomes eligible for medical assistance after admission.

(b) Team members specified in § 23.223(d) and (e) shall, within their scope of practice, prepare the treatment plan. The plan must document the active treatment to be provided and be designed to achieve the child's discharge at the earliest possible time. RTF treatment plans must comply with the requirements in 42 CFR 441.155(b) and 456.180(b) (relating to individual plan of care; and individual written plan of care) based upon face-to-face contact.

(c) A written report of each evaluation, the treatment plan portion of the ISP and update must be entered in the child's record. RTF reports must be completed at the time of admission or if the individual is already in the facility, immediately upon completion of the evaluation or plan.

§ 23.315. Information required to request admission or continued stay.

(a) Certification of need for RTF services must be included in the documentation specified in subsection (e) and certified by:

(1) The interagency service planning team, prior to admission.

(2) The child's treatment team in concert with the interagency service planning team for continued stay.

(b) For an individual who is an MA recipient when admitted to a facility or program, the interagency service planning team must be independent of the RTF and:

- (1) Include a physician.
 - (2) Have competence in diagnosis and treatment of mental illness, preferably in child psychiatry.
 - (3) Have knowledge of the individual's situation.
- (c) For an individual who applies for Medicaid while in the RTF, such as delayed coverage, the certification must be:

- (1) Made by the team responsible for the ISP as specified in § 23.223(d), (e) and (f) (relating to development of the ISP).
- (2) Cover any period before application for which claims are made.
- (d) The Interagency Service Planning team shall certify the following:
 - (1) Ambulatory care resources available in the community do not meet the treatment needs of the child.
 - (2) Proper treatment of the child's psychiatric condition requires services on an inpatient basis under the direction of a physician.
 - (3) The service can reasonably be expected to improve the child's condition or prevent further regression so that the services will no longer be needed.

(e) Documentation prepared by the ISPT specified in subsection (a) to request admission certification or by the RTF utilization review committee to request continued stay certification in accord with the Department's Utilization Review Manual must include the following:

- (1) The Department-designated form signed by the prescribing physician or designee.
- (2) The most recent psychiatric evaluation signed by the treating psychiatrist. The evaluation must be performed no more than 30 days before the planned admission date or the date the request was received by the Department. The child must have a face-to-face psychiatric evaluation that supports a DSM diagnosis, Axes I through V or an ICD-9-CM diagnosis along with Axes III through V of the most current DSM.

(3) The child's current or proposed treatment plan which meets the requirements under § 23.314 (relating to evaluations and treatment plans).

(4) The child's current or proposed plan of care summary.

(f) The completed Department form which describes services considered and tried prior to the recommendation for RTF services and indicates whether the County MH/MR Office recommends admission or continued stay in the facility.

§ 23.316. Admission authorization and continued stay authorization request.

(a) Admissions to and continued stays in an RTF must be prior authorized by the Department or its designee.

(b) A request for prior authorization must be made in accordance with the process specified in the Department Utilization Review Manual and contain the information required in § 23.315 (relating to information required to request admission or continued stay.)

(1) Except as specified in paragraph (2), an admission to an RTF must occur within 30 days of the date the Department approves the admission. If the admission does not occur, a new authorization request must be completed to update the status of the child and certify that RTF care is still medically necessary.

(2) The certification request for a child receiving service through the CCYA or under the jurisdiction of the juvenile court is the same as paragraph (1), unless the child needs immediate admission to an RTF for treatment of behavioral health needs and has associated child-safety or protection needs as determined by CCYA or the juvenile court. For immediate admissions, the following criteria shall be met:

(i) The child has a DSM-IV (or subsequent version) diagnosis, Axes I through V or ICD-9-CM (or subsequent version) diagnosis, along with Axes III through V, and is not in a mental health or substance abuse crisis.

(ii) The child requires admission because of child-safety or protection issues.

(iii) The interagency service planning team recommends RTF admission to meet the child's treatment needs.

(iv) If the child is admitted to an RTF in accordance with this paragraph, all information to support the admission required under § 23.316 (relating to admission authorization and continued stay authorization request) must be received by the Department within 14 days of the child's admission.

(v) If the Department denies the admission certification, the Department will not make payment for RTF services for the child.

(c) The following apply to recertification for continued stay:

(1) The request for continuation of stay must be made 30 days prior to the expiration of the certified length of stay.

(2) Either of the following conditions apply to request for delayed coverage:

(i) The request must be made within 30 days of the date the child was determined eligible for MA.

(ii) The request must be made within 30 days of the notification by a third-party resource, originally expected to cover the child's treatment, that the requested service is not covered or coverage is exhausted.

(d) This process does not apply to a period of service which was not covered by another payor because the service was not medically necessary using the other payor's criteria, or the other entity's payment policies were not followed and, therefore, resulted in a rejection.

§ 23.317. Authorization determination.

(a) The documentation and information submitted for the authorization request submitted to the Department must include accurate and detailed medical information to establish medical necessity for the admission or continued stay.

(b) The authorization request must include all information specified in § 23.314 (relating to evaluations and treatment plans). If the required information is not present, the request will be returned to the county case manager.

(c) The Department will determine whether the requested RTF services are medically necessary, and compensable so that the recipient receives written notice within 21 days of the date the Department received the request. The requested services will be deemed approved if a determination is not made within 21 days.

(d) Department approval is for medical necessity of care and does not assure the child is, will be, or will continue to be eligible for MA services on the date service is provided.

§ 23.318. Effective date of coverage.

(a) *Admissions.*

(1) *Payment.* Except as specified in paragraph (2):

(i) An RTF will receive payment beginning on the date of admission if the admission occurs within 30 days of the date the Department authorizes the admission.

(ii) An RTF shall inform the Department of the date the child was admitted to the RTF.

(2) *Immediate child-safety or protection admission.*

(i) If the child is admitted under § 23.316(b)(2) (relating to admission authorization and continued stay authorization request) and approvable information is submitted to the Department within 14 days of admission to the facility, the certified days are effective on the date of admission.

(ii) If the child was admitted under § 23.316(b)(2) but the documentation is not received by the Department within 14 days of admission to the facility, the effective date of the approval will be the date complete and approvable information is received by the Department.

(b) *Continued stay.*

(1) *Recertification for a continued stay.*

(i) If an approvable recertification request is received by the Department 30 days prior to the expiration of the certified length of stay, the effective date is the first day after the last day of previously certified stay.

(ii) If the recertification request is received by the Department less than 30 days prior to the expiration of the certified length of stay, and the stay is approved after the expiration of the previously approved stay, each day of delay in requesting an extension subsequent to the last previously certified stay shall result in the reduction of a corresponding number of days approved.

(2) *Delayed coverage.*

(i) If admission procedures were consistent with the requirements in § 23.316 and the child was not determined eligible for MA subsequent to admission, the effective date of the approval will be the date the continued stay certification was requested and approved if the request is made after eligibility was determined, or the date the child is determined eligible for medical assistance coverage if the request was initiated before eligibility was determined.

(ii) If other insurance was expected to pay in full for the service but failed to materialize, the effective date will be the later of the following:

(A) The admission date.

(B) The date the child became eligible for services after the admission.

(iii) If other insurance was expected to pay in full for the service but coverage was exhausted; the effective date will be the later of:

(A) The date coverage was exhausted.

(B) The date the request for certification was received by the Department.

(C) The date the child became eligible for services after the admission.

§ 23.319. Department delegation of responsibility to behavioral health managed care organizations.

Consistent with § 23.282(c) (relating to policy), the Department may delegate specific responsibilities to the behavioral health managed care organizations including, but not limited to, rate setting, medical necessity review, so long as the certifications in § 23.315(c) (relating to information required to request admission or continued stay) are performed by an independent team meeting the requirements, and the establishment of operational procedures.

UTILIZATION CONTROL

§ 23.321. Scope of claim review process.

RTF services provided to a child are subject to the utilization review procedures in this chapter and Chapter 1101 (relating to the general provisions).

§ 23.322. RTF utilization review.

(a) An RTF shall have an RTF utilization review plan.

(b) An RTF shall have a utilization review committee composed of two or more physicians, one of whom is knowledgeable in the diagnosis and treatment of mental diseases, and assisted by other professional personnel.

(c) An RTF utilization review committee may not include an individual who is directly responsible for the care of a child whose care is being reviewed or has a financial interest in the RTF.

(d) An RTF utilization review committee shall:

(1) Conduct reviews of a child's need for admission to an RTF and continued need for residential treatment services.

(2) Ensure that complete documentation is obtained.

(3) Ensure that reauthorization request for continued stay is submitted to the Department with the appropriate time frames specified in § 23.315 (relating to information required to request admission or continued stay).

(e) An RTF shall maintain the original signed copy and continued stay copies of the request documentation and the notification of the number of days certified with the child's medical records. Another copy of the notification of days certified shall be maintained with the RTF billing records.

(f) An RTF's utilization review committee representative shall notify the Department, according to the schedule established by the Department of the following:

(1) A child's admission to the RTF.

(2) A child's discharge from the RTF.

(3) Denial of admission or continued stay.

(g) An RTF shall maintain utilization review records for a minimum of 6 years from the date of submission of that year's end cost report or until any audit or litigation is completed, whichever is later.

(h) The RTF shall submit all clinical and fiscal records and other documents to the Department upon request within the time frame specified by the Department in the request.

§ 23.323. Adverse determinations.

When the RTF utilization review committee denies admission or continued stay, an adverse determination letter must be sent to the county MH/MR office, the Department, the behavioral health MCO, the CCYA with custody of the child, if applicable, and the JPO, if applicable.

INSPECTION OF CARE REVIEWS

§ 23.331. Inspection of care reviews: general.

(a) The Department will conduct an unannounced onsite visit as deemed appropriate by the Department to determine if the RTF continues to meet State and Federal regulations.

(b) An RTF shall provide the Department with a list of MA recipients in the RTF on the date of the visit.

(c) An RTF shall make the medical records of an MA recipient available to the Department representatives reviewing the RTF.

(d) An RTF shall ensure that MA recipients are available to meet in person with the Department representatives reviewing the RTF.

(e) The Department will determine through its review whether State and Federal regulations are met.

§ 23.332. Inspection of care reports.

(a) The Department or a designated agent will report the outcome of the inspection of care review to an RTF.

(b) If the individual or team reviewing the RTF recommends alternate care for a child:

(1) The Department or a designated agent will notify the child or the child's representative and the RTF director of the intended denial of payment authorization.

(2) The child or the child's representative has 30 days from the date the notice is mailed to grieve the decision or request a fair hearing. The RTF does not have the right to grieve or request a fair hearing unless it is acting as a child's representative.

(3) If the child or the child's representative requests a fair hearing within 10 days from the date the notice is mailed, payment for RTF care will continue pending the outcome of the hearing.

(4) If a fair hearing is requested more than 10 days from the date the notice is mailed, payment for RTF care is discontinued effective with the day the individual or team reviewing the RTF recommended alternative care.

(c) If the report from the individual or team reviewing the RTF cites deficiencies, the following apply:

(1) An RTF shall submit a written response to the identified Department office within 30 days of the control date shown on the summary report. The response must outline the RTF's planned course of action including the timeframes for correcting deficiencies.

(2) The individual or team reviewing the RTF will conduct follow-up visits to determine if the deficiencies have been corrected.

ADMINISTRATIVE SANCTIONS

§ 23.341. Provider abuse.

(a) If the Department determines that an RTF has billed for services inconsistent with this chapter, provided services outside the scope of customary standards of medical practice, or otherwise violated the standards set forth in the provider agreement, the RTF shall be subject to the sanctions in Chapter 1101 (relating to general provisions) up to and including termination from the MA program.

(b) If the Department determines that services or items provided by the RTF were not provided according to standards of practice for the particular discipline providing the service or were not medically necessary or were inappropriate, or otherwise noncompensable, the Department will deny payment for the services and items and related services and items and recover payment already made for the services and items and related services and items.

§ 23.342. Administrative sanctions.

If the RTF utilization review committee fails to conduct a continued stay review or fails to notify the Department within 30 days of the expiration of the previously assigned length of stay, the Department will not certify those days between the expiration of the previously assigned length of stay and the date the request for continued stay is received.

PROVIDER RIGHT OF APPEAL

§ 23.351. Provider right of appeal.

(a) An RTF may appeal adverse actions, including authorization, certification and payment, of the Department under Chapter 41 (related to Medical Assistance provider appeal procedures).

(b) RTF staff and subcontractors do not have the right to appeal under this chapter or Chapter 41.

(c) If an RTF appeals a decision by the Department to fully or partially deny payment for a child, the Department will withhold the denied payments pending a decision on the appeal. If a child is in an RTF and receiving services from an RTF, payment will continue.

(d) A child, parent and, when applicable, guardian or custodian, may appeal a denial of authorization, or the provider may appeal on behalf of the child as specified in Chapter 275 (relating to appeal and fair hearings and administrative disqualification hearings).

CHAPTER 3800. CHILD RESIDENTIAL AND DAY TREATMENT FACILITIES

GENERAL PROVISIONS

§ 3800.3. Exemptions.

This chapter does not apply to the following:

* * * * *

(8) Community residences [for individuals with mental illness that provide care to both children and adults in the same facility or community residential host homes for individuals with mental illness that are] certified under Chapter 5310 (relating to community residential rehabilitation services for the mentally ill).

* * * * *

(12) Residential treatment facilities licensed under Chapter 23 (relating to residential treatment facilities).

CHAPTER 5310. COMMUNITY RESIDENTIAL REHABILITATION SERVICES FOR THE MENTALLY ILL

Subchapter A. GENERAL PROVISIONS.

§ 5310.3. Applicability.

* * * * *

(b) This chapter [**does not apply**] applies to child residential facilities which serve exclusively children [, which are governed by Chapter 3800 (relating to child residential and day treatment facilities)].

* * * * *

[Pa.B. Doc. No. 10-2002. Filed for public inspection October 22, 2010, 9:00 a.m.]

FISH AND BOAT COMMISSION

[58 PA. CODE CH. 51]

Administrative; Royalty Rates

The Fish and Boat Commission (Commission) proposes to amend Chapter 51 (relating to administrative provisions). The Commission is publishing this proposed rulemaking under the authority of 30 Pa.C.S. (relating to the Fish and Boat Code) (code).

A. Effective Date

The proposed rulemaking, if approved on final-form rulemaking, will go into effect on January 1, 2011, or publication in the *Pennsylvania Bulletin*, whichever occurs later.

B. Contact Person

For further information on this proposed rulemaking, contact Laurie E. Shepler, Esq., P. O. Box 67000, Harrisburg, PA 17106-7000, (717) 705-7810. This proposed rulemaking is available on the Commission's web site at www.fish.state.pa.us.

C. Statutory Authority

The proposed amendment to § 51.92 (relating to royalty rates) is published under the statutory authority of section 503(c) of the Conservation and Natural Resources Act (CNRA) (71 P. S. § 1340.503(c)).

D. Purpose and Background

There are five companies that currently dredge material from the navigable waters of this Commonwealth and pay royalties to the Commission. Royalties from sand and gravel extracted from Commonwealth waters are paid to the Fish Fund, which is administered under Chapter 5 of the code (relating to fiscal affairs).

Under section 503(c) of the CNRA, the Commission, with the concurrence of the Department of Environmental Protection (Department), is authorized to adjust the amount of royalty payments per ton or cubic yard of usable or merchantable, or both, sand or gravel, or both, extracted from Commonwealth waters. The current royalty rate schedule in § 51.92, which was adopted in 1997, will expire on December 31, 2010.

With an eye towards establishing a new rate schedule, the Commission's Executive Director established a workgroup consisting of Commission and Department

staff and five representatives from the sand and gravel dredging industry and asked them to collaboratively work together and develop a fair and equitable process for setting royalty rates for the 10-year period of January 1, 2011, through December 31, 2020. The workgroup formally met in April and May 2010 to discuss issues pertaining to setting royalty rates, including the need to simplify the annual rate calculation process and employ a market based approach.

With input from the Department and the industry representatives, the Commission proposes to amend § 51.92 to read as set forth in Annex A.

E. Summary of Proposal

The Commission proposes the following schedule for imposition of the updated sand and gravel royalty rates:

(1) During the period January 1 through December 31, 2011, the greater of \$1,000 or \$0.48 per dry ton.

(2) During the period January 1, 2012, through December 31, 2015, the greater of \$1,000 or 6.75% of the immediately preceding year's published price, average value, dollars per metric ton (converted to United States ton) for the commodity sand and gravel in the United States Geological Survey, Mineral Commodity Summary per dry ton, provided that the rate per dry ton is not less than \$0.48.

(3) During the period January 1, 2016, through December 31, 2020, the greater of \$1,000 or 7.0% of the immediately preceding year's published price, average value, dollars per metric ton (converted to United States ton) for the commodity sand and gravel in the United States Geological Survey, Mineral Commodity Summary per dry ton, provided that the rate per dry ton is not less than \$0.48.

F. Paperwork

The proposed rulemaking will not increase paperwork and will not create new paperwork requirements.

G. Fiscal Impact

The proposed rulemaking will impose increased costs on the private sector, namely, those businesses engaged in dredging in this Commonwealth. In 2009, those businesses paid the Commission a royalty rate of \$0.4371 per dry ton and they reported that in 2009, they sold 1,537,131 dry tons of merchantable sand and gravel. They, therefore, paid royalties totaling \$671,880 in 2009. If the companies continue to dredge material in similar quantities in the future and pay the proposed minimum rate of \$0.48 per dry ton, the increased costs will total, at a minimum, approximately \$65,943 per year for all business engaged in dredging. The proposed rulemaking may have a nominal fiscal impact on customers of sand and gravel, including the Commonwealth, its political subdivisions and the general public, if the businesses currently engaged in dredging pass their increased costs on to their customers.

H. Public Comments

Interested persons are invited to submit written comments, objections or suggestions about the proposed rulemaking to the Executive Director, Fish and Boat Commission, P. O. Box 67000, Harrisburg, PA 17106-7000 within

30 days after publication of this proposed rulemaking in the *Pennsylvania Bulletin*. Comments submitted by facsimile will not be accepted.

Comments also may be submitted electronically by completing the form at www.fishandboat.com/regcomments. If an acknowledgment of electronic comments is not received by the sender within 2 working days, the comments should be retransmitted to ensure receipt. Electronic comments submitted in any other manner will not be accepted.

JOHN A. ARWAY,
Executive Director

Fiscal Note: 48A-220. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART II. FISH AND BOAT COMMISSION

Subpart A. GENERAL PROVISIONS

CHAPTER 51. ADMINISTRATIVE PROVISIONS

Subchapter J. ROYALTIES FOR SAND AND GRAVEL PERMITS

§ 51.92. Royalty rates.

Persons holding permits granting them nonexclusive rights and privileges of dredging, excavating, removing and carrying away merchantable sand and gravel under agreements between the permittees and the Department of Environmental Protection shall pay royalties in accordance with the following schedule.

(1) [**During the period, January 1 through December 31, 1998—15¢ per dry ton or 25¢ per cubic yard; or \$1,000, whichever is greater.**

(2) **During the period, January 1, 1999 through June 30, 2000—20¢ per dry ton or 30¢ per cubic yard; or \$1,000, whichever is greater.**

(3) **During the period, July 1, 2000 through December 31, 2001—25¢ per dry ton or 37.5¢ per cubic yard; or \$1,000, whichever is greater.**

(4) **During the period, January 1, 2002 through December 31, 2002—30¢ per dry ton or 40¢ per cubic yard; or \$1,000, whichever is greater.**

(5) **During the period, January 1, 2003 through December 31, 2010—30¢ per dry ton or 40¢ per cubic yard plus or minus an amount equal to the change in the producer price index (PPI) for sand and gravel from the base year (2002), provided that the rate per dry ton may not be less than 25¢.]**

During the period, January 1 through December 31, 2011, the greater of \$1,000 or \$0.48 per dry ton.

(2) **During the period, January 1, 2012, through December 31, 2015, the greater of \$1,000 or 6.75% of the immediately preceding year's published price, average value, dollars per metric ton (converted to U.S. ton) for the commodity sand and gravel in the *United States Geological Survey, Mineral Commodity Summary* per dry ton, provided that the rate per dry ton is not less than \$0.48.**

(3) During the period, January 1, 2016, through December 31, 2020, the greater of \$1,000 or 7.0% of the immediately preceding year's published price, average value, dollars per metric ton (converted to U.S. ton) for the commodity sand and gravel in the *United States Geological Survey, Mineral Commodity Summary* per dry ton, provided that the rate per dry ton is not less than \$0.48.

[Pa.B. Doc. No. 10-2003. Filed for public inspection October 22, 2010, 9:00 a.m.]

[58 PA. CODE CH. 71]

Fishing; Stocking of Designated Waters

The Fish and Boat Commission (Commission) proposes to amend Chapter 71 (relating to propagation and introduction of fish into Commonwealth waters). The Commission is publishing this proposed rulemaking under the authority of 30 Pa.C.S. (relating to the Fish and Boat Code) (code).

A. *Effective Date*

The proposed rulemaking, if approved on final-form rulemaking, will go into effect upon publication in the *Pennsylvania Bulletin*.

B. *Contact Person*

For further information on this proposed rulemaking, contact Laurie E. Shepler, Esq., P. O. Box 67000, Harrisburg, PA 17106-7000, (717) 705-7810. This proposed rulemaking is available on the Commission's web site at www.fish.state.pa.us.

C. *Statutory Authority*

The proposed amendment to § 71.4 (relating to stocking of designated waters) is published under the statutory authority of section 2102 of the code (relating to rules and regulations).

D. *Purpose and Background*

The proposed rulemaking is designed to improve, enhance and update the Commission's administrative regulations. The specific purpose of the proposed amendment is described in more detail under the summary of proposal.

E. *Summary of Proposal*

Section 71.4 currently provides that it is unlawful to place fish in waters that have been designated by the Commission as catch and release, wilderness trout or wild trout management waters except with the express written consent of the Executive Director or a designee. Considering the fact that some waters managed under catch and release programs, including Catch-and-Release, Catch-and-Release Fly-Fishing Only and Catch-and-Release All Tackle, are managed by the Commission with the planting of hatchery trout, § 71.4 should be amended to delete the reference to catch and release. In addition, this section should be amended to make it clear that wild trout management waters listed as Class A waters or Wild Brook Trout Enhancement waters are not to be

stocked. This is in accord with the Commission's statement of policy in § 57.8a (relating to Class A wild trout streams), which prohibits stocking in Class A wild trout waters.

The Commission therefore proposes to amend § 71.4 to read as set forth in Annex A.

F. *Paperwork*

The proposed rulemaking will not increase paperwork and will not create new paperwork requirements.

G. *Fiscal Impact*

The proposed rulemaking will not have adverse fiscal impact on the Commonwealth or its political subdivisions. The proposed rulemaking will not impose new costs on the private sector or the general public.

H. *Public Comments*

Interested persons are invited to submit written comments, objections or suggestions about the proposed rulemaking to the Executive Director, Fish and Boat Commission, P. O. Box 67000, Harrisburg, PA 17106-7000 within 30 days after publication of this proposed rulemaking in the *Pennsylvania Bulletin*. Comments submitted by facsimile will not be accepted.

Comments also may be submitted electronically by completing the form at www.fishandboat.com/regcomments. If an acknowledgment of electronic comments is not received by the sender within 2 working days, the com-

ments should be retransmitted to ensure receipt. Electronic comments submitted in another manner will not be accepted.

JOHN A. ARWAY,
Executive Director

Fiscal Note: 48A-221. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART II. FISH AND BOAT COMMISSION

Subpart B. FISHING

CHAPTER 71. PROPAGATION AND INTRODUCTION OF FISH INTO COMMONWEALTH WATERS

§ 71.4. Stocking of designated waters.

It is unlawful to place fish in waters that have been designated by the Commission as [**catch and release**,] wilderness trout, **wild brook trout enhancement** or **Class A** wild trout [**management**] waters except with the express written consent of the Executive Director or [**his**] a designee. This section does not prohibit a person from returning fish unharmed to the waters from which they were caught or taken.

[Pa.B. Doc. No. 10-2004. Filed for public inspection October 22, 2010, 9:00 a.m.]

STATEMENTS OF POLICY

Title 4—ADMINISTRATION

PART II. EXECUTIVE BOARD

[4 PA. CODE CH. 9]

Reorganization of the Department of Education

The Executive Board approved a reorganization of the Department of Education effective September 21, 2010.

The organization chart at 40 Pa.B. 6155 (October 23, 2010) is published at the request of the Joint Committee on Documents under 1 Pa. Code § 3.1(a)(9) (relating to contents of code).

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

[Pa.B. Doc. No. 10-2005. Filed for public inspection October 22, 2010, 9:00 a.m.]

PART II. EXECUTIVE BOARD

[4 PA. CODE CH. 9]

Reorganization of the Department of Labor and Industry

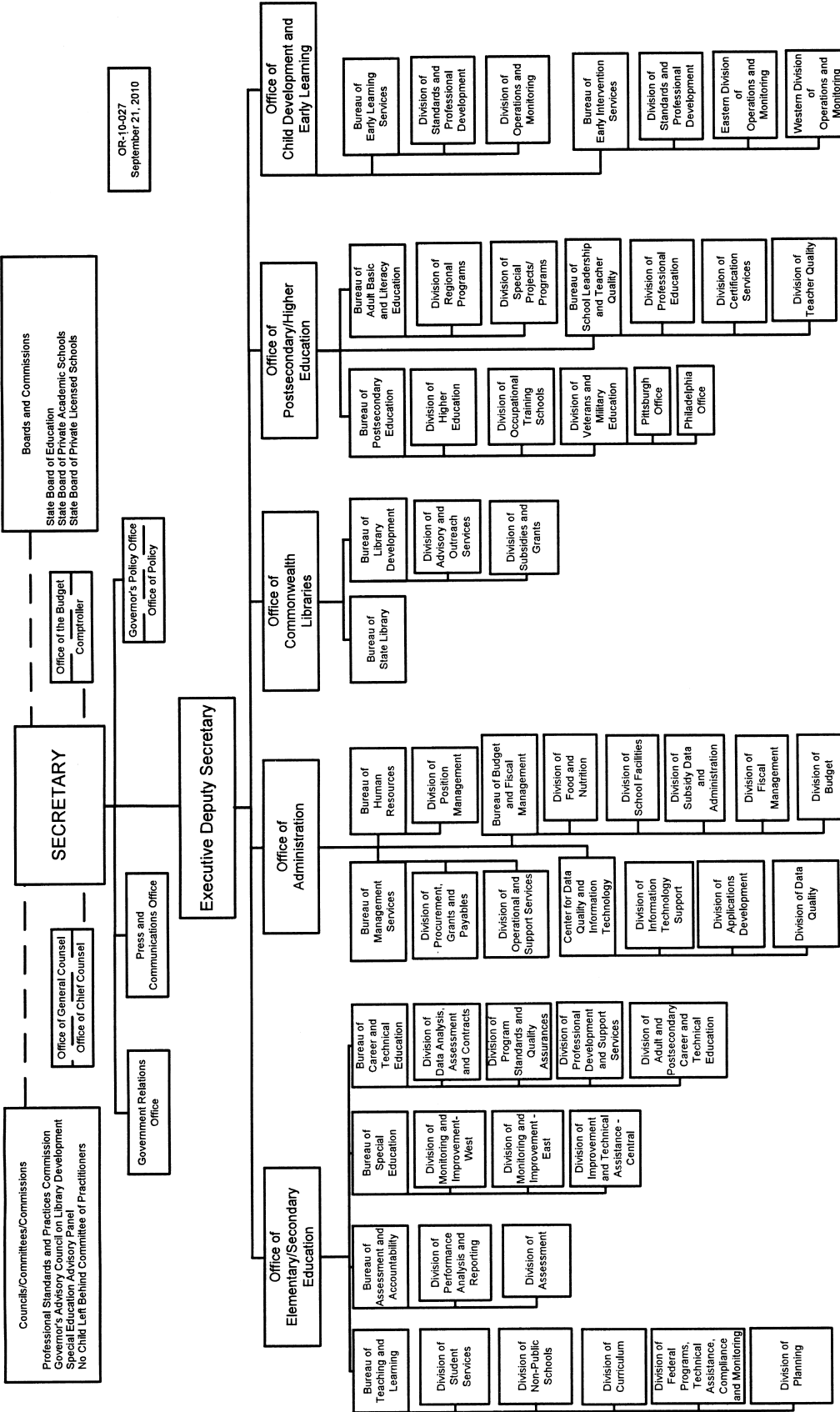
The Executive Board approved a reorganization of the Department of Labor and Industry effective September 21, 2010.

The organization chart at 40 Pa.B. 6156 (October 23, 2010) is published at the request of the Joint Committee on Documents under 1 Pa. Code § 3.1(a)(9) (relating to contents of code).

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

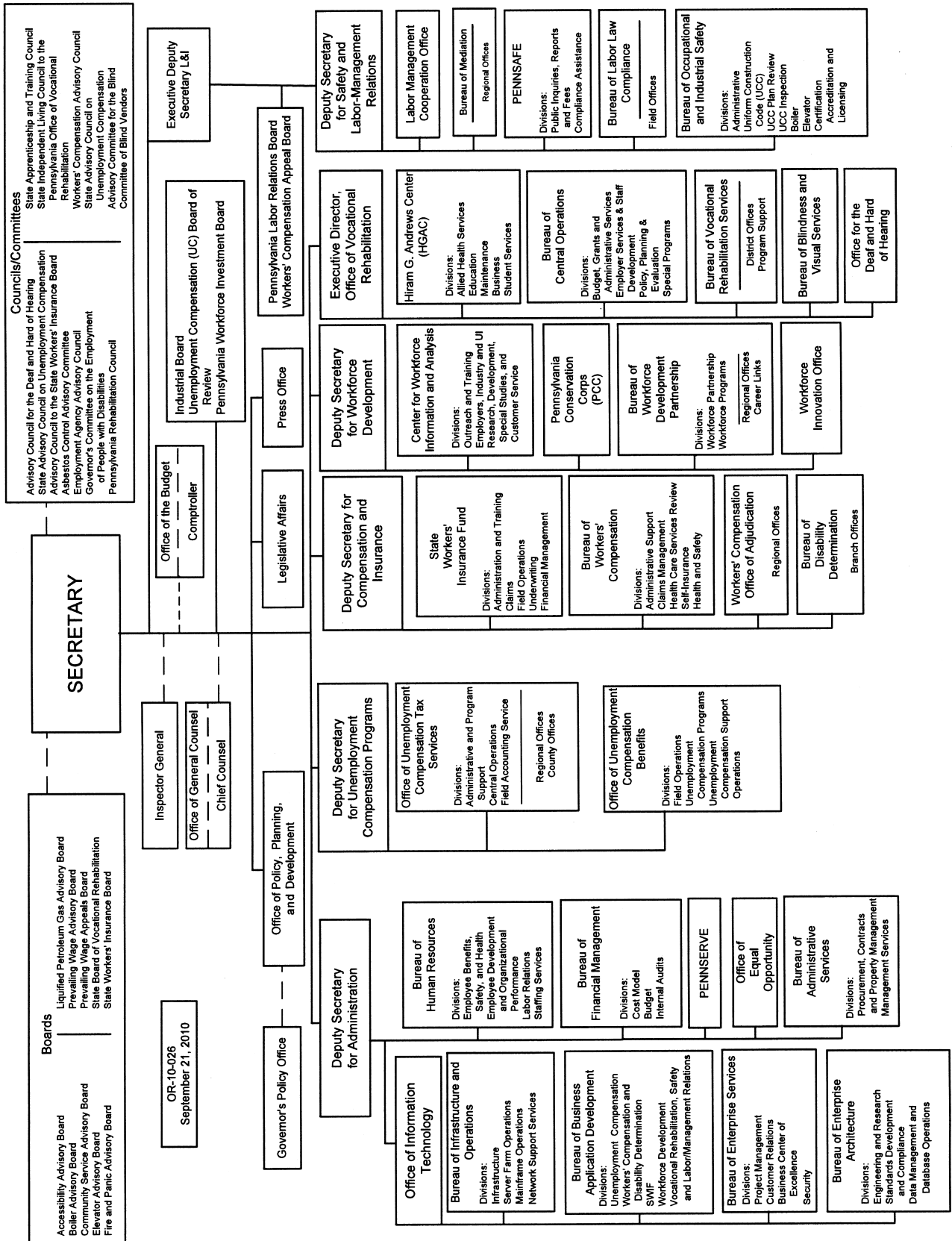
[Pa.B. Doc. No. 10-2006. Filed for public inspection October 22, 2010, 9:00 a.m.]

DEPARTMENT OF EDUCATION



OR-10-027
September 21, 2010

DEPARTMENT OF LABOR AND INDUSTRY



Title 52—PUBLIC UTILITIES

PENNSYLVANIA PUBLIC UTILITY COMMISSION

[52 PA. CODE CH. 69]

[M-2009-2140263/57-276]

Support of Pennsylvania Solar Projects

The Pennsylvania Public Utility Commission (Commission) on September 16, 2010, adopted a final policy statement which sets forth long-term stability that is needed to support solar development and address barriers that could prevent new solar projects.

Public Meeting held
September 16, 2010

Commissioners Present: James H. Cawley, Chairperson; Tyrone J. Christy, Vice Chairperson; John F. Coleman, Jr., Statement and Joint Statement; Wayne E. Gardner; Robert F. Powelson, Joint Statement

*Policy Statement in Support of
Pennsylvania Solar Projects;
Doc. No. M-2009-2140263*

Final Policy Statement Order

By the Commission:

The Commission issued a proposed policy statement at this docket on December 10, 2009 (December 10 Order). The proposed Policy Statement was designed to provide a foundation from which this Commonwealth can achieve the solar renewable energy goals established in the Alternative Energy Portfolio Standards Act, as amended,¹ at the least cost to Pennsylvania consumers. More specifically, the proposed policy statement sought to provide longer term revenue stability likely needed to support both small-scale and large-scale solar development, and to address other barriers that could prevent new solar projects from coming to fruition. By this Order, we adopt the Pennsylvania Solar Projects Policy Statement contained in the Annex to this Order.

The December 10 Order and the Annex containing the proposed Policy Statement were published at 40 Pa.B. 709 (February 6, 2010). Comments on the proposed Policy Statement were due March 8, 2010, with Reply Comments due March 23, 2010.

Comments were filed by ATAS International, Inc. (ATAS); the Carlisle Area School District (CASD); Citizens' Electric Company of Lewisburg, PA and Wellsboro Electric Company (collectively, Citizens' and Wellsboro Electric); Community Energy, Inc. (CEI); ConEdison Competitive Energy Businesses (ConEdison); Constellation Energy Projects & Services Group, Inc., Constellation NewEnergy, Inc. and Constellation Energy Commodities Group, Inc. (collectively, Constellation); Duquesne Light Company (Duquesne); The Energy Association of Pennsylvania (EAPA); EnergyPeak; Metropolitan Edison Company, Pennsylvania Electric Company and Pennsylvania Power Company (collectively, FirstEnergy); Gemstone Lease Management, LLC (Gemstone); Green Energy Capital Partners, LLC (Green Energy); Mid-Atlantic Renewable Energy Association (MAREA); Mid-Atlantic Solar Energy Industries Association and Pennsylvania Solar Energy Industries Association (collectively, MSEIA/PASEIA); New Oxford Municipal Authority (New Oxford); the Office of Consumer Advocate (OCA); the Office of Small Business Advocate (OSBA); the PPL Companies

(PPL); the Solar Alliance (SA); Solardelphia; the Sustainable Energy Fund (SEF); and UGI Utilities, Inc.—Electric Division (UGI). Reply Comments were filed by CASD; Citizens' and Wellsboro Electric; EAPA; FirstEnergy; Gemstone; the Industrial Customer Group² (ICG); MSEIA/PASEIA; New Oxford; SA; and West Penn Power Company d/b/a Allegheny Power (Allegheny).

Background

Governor Edward Rendell signed the Alternative Energy Portfolio Standards Act of 2004 (AEPS Act) (P.L. 1672, No. 213), into law on November 30, 2004. The AEPS Act, which took effect on February 28, 2005, established an alternative energy portfolio standard for this Commonwealth. The AEPS Act requires that an annually increasing percentage of electricity sold to retail electric customers by electric distribution companies (EDCs) and electric generation suppliers (EGSs) be derived from alternative energy resources. The Commission has been charged with using its general powers to carry out, execute and enforce the provisions of the AEPS Act. The Commission and the Department of Environmental Protection (Department) are to jointly monitor compliance with the AEPS Act, the development of the alternative energy market, the costs of alternative energy, and to conduct an ongoing alternative energy planning assessment. The Commission and the Department are to report their findings and any recommendations for changes to the AEPS Act to the General Assembly on a regular basis.

Governor Edward Rendell signed Act 35 of 2007, P.L. 114, (Act 35) into law on July 17, 2007, which took effect immediately. Act 35 amended the AEPS Act in several respects. In particular, Act 35 revised the schedule for the solar photovoltaic requirements such that the requirements increase on an annual basis as opposed to increases in 5 year increments. *See* 73 P.S. § 1648.3(b)(2). This legislation also made it clear that the solar photovoltaic requirement is a percentage of total retail sales, not a percentage of the Tier I requirements. *Id.* In addition, the Act 35 amendments required the Commission to consider EDCs' and EGSs' efforts in obtaining alternative energy credits through competitive solicitations and seeking to procure alternative energy credits or alternative energy through long-term contracts in any *force majeure* determination. *See* 73 P.S. § 1648.2.

At the September 25, 2008, Public Meeting, the Commission adopted a Final Rulemaking Order at Docket No. L-00060180³ that codified prior Commission interpretations of the AEPS Act and resolved issues relevant to its implementation. Among other things, the Commission set forth the specific Tier I, solar photovoltaic, and Tier II targets an EDC and EGS must meet in every compliance year. *See* 52 Pa. Code § 75.61. The Commission also set forth the method for determining alternative compliance payments that EDCs and EGSs pay for failure to obtain the required number of alternative energy credits, to include the minimum required number of alternative energy credits from solar photovoltaic facilities. *See* 52 Pa. Code § 75.65. The solar photovoltaic alternative compliance payment is determined by the average prevailing market price for solar photovoltaic credits and the amount of subsidies given to customer-generators for installing solar photovoltaic systems. *See* 73 P.S. § 1648.3(f). The Commission's regulations set forth the

² The Industrial Customer Groups consisted of the Industrial Energy Consumers of Pennsylvania, the Duquesne Industrial Intervenor, the Me-Ed Industrial Users Group, the Penn Power Users Group, the Penelec Industrial Customer Alliance, the Philadelphia Area Industrial Energy Users Group, the PP&L Industrial Customer Alliance and the West Penn Power Industrial Intervenor.

³ Order entered on September 29, 2008.

¹ 73 P.S. §§ 1648.1—1648.8 and 66 Pa.C.S. § 2814.

method for determining the solar photovoltaic alternative compliance payment. *See* 52 Pa. Code § 75.65(b).

In addition to the above, the Commission's regulations permit default service providers to recover reasonable and prudent costs for the following: (1) electricity generated by an alternative energy system and delivered to the default service provider's customers; (2) alternative energy credits purchased and used within the same reporting period for compliance purposes; (3) alternative energy credits purchased in one reporting year and banked for use in one of two later reporting years; and (4) alternative energy credits purchased in the true-up period to satisfy compliance obligations. 52 Pa. Code § 75.68. The Commission's regulations also require default service providers to identify a competitive procurement process for acquiring alternative energy credits. 52 Pa. Code § 75.68(b).

Governor Edward Rendell signed the Alternative Energy Investment Act⁴ (AEI Act) into law on July 9, 2008, which became effective on the same day. Among other things, the AEI Act established funding, administered by DEP, for solar energy projects installed at owner-occupied dwellings and small businesses. *See* 73 P. S. § 1649.306. In addition, the AEI Act established funding, administered by the Commonwealth Financing Authority with assistance from the Department of Community and Economic Development, for solar energy related alternative energy production projects. *See* 73 P. S. § 1649.307.

Governor Edward Rendell signed Act 129 of 2008, P. L. 1592, (Act 129) into law on October 15, 2008, which took effect on November 14, 2008. Among other things, Act 129 requires default service providers to acquire electric power through competitive procurement processes that must include one or more of the following: (1) auctions; (2) requests for proposal; or (3) bilateral agreements. 66 Pa.C.S. § 2807(e)(3.1). This power must include a prudent mix of spot market purchases, short-term contracts and long-term contracts of more than 4 years, but not more than 20 years. 66 Pa.C.S. § 2807(e)(3.2). These provisions apply to any type of energy purchased by a default service provider, including alternative energy credits for compliance with the AEPS Act. 66 Pa.C.S. § 2807(e)(3.5). A prudent mix of contracts must be designed to ensure adequate and reliable service, and the least cost to customers over time for comparable types of energy sources. 66 Pa.C.S. §§ 3807(e)(3.4) and (3.5).

Discussion

The legislation and regulations discussed above establish a clear policy to promote the construction of solar projects in this Commonwealth. Even with the establishment of such a clear policy, the Commission is concerned that there are still barriers to a more expansive development of solar projects to support the Commonwealth's alternative energy goals. The Commission believes that to meet these goals, it is important that this Commonwealth's EDCs, their customers and those interested in developing solar projects are not impeded in their economic analysis of such projects by solar alternative energy credit price uncertainty. The purpose of this policy statement is to develop a process to overcome such price uncertainty that will in turn promote funding of future solar projects that benefit electric consumers in this Commonwealth.

⁴ 73 P. S. §§ 1649.101—1649.711.

As such, the Commission adopts a Policy Statement in Support of Pennsylvania Solar Projects. In the following sections we will review each element of the policy statement.

A. 52 Pa. Code § 69.2901 (Purpose)

This section sets forth the intent and reasons for the policy statement. Specifically, the Commission believes that the General Assembly established a policy to promote the construction of solar projects, both large and small. The Commission is concerned that barriers, such as alternative energy credit price uncertainty, currently exist that prevent the development of solar projects. The intent of this policy statement is to outline a process to provide more alternative energy credit price certainty and to reduce or eliminate barriers to solar project development.

1. Commentators' Positions

The Comments addressing the purpose section of the proposed policy statement were generally supportive. (*See* CASD Comments at 3, Duquesne Comments at 1, FirstEnergy Comments at 3 and 4, New Oxford Comments at 3, PPL Comments at 3 and 4, SA Comments at 2, and UGI Comments at 1.) Duquesne and Allegheny, however, caution the Commission against favoring in-state over out-of-state solar projects. (Duquesne Comments at 1 and 2, and Allegheny Reply Comments at 2.) Duquesne further suggests that the policy statement should apply to EGSs as well as EDCs, as both have an AEPS Act compliance obligation and both serve customers in the Commonwealth. (Duquesne Comments at 2.)

EAPA expressed concern that the policy statement only addressed the benefits for solar development and did not acknowledge potential negative implications, such as burdening EDCs with long-term contracts in the face of decreasing levels of default service. (EAPA Comments at 3.) EAPA also expressed concern about the policy statement's focus on supporting both large-scale and small-scale solar projects located within the Commonwealth, suggesting that lowest cost SRECs should prevail, regardless of the size of the solar project or its location. (EAPA Comments at 4.)

FirstEnergy cautions that the policy statement must balance initiatives to promote solar projects with the Act 129 requirement that default service must be least cost over time. (FirstEnergy Comments at 4.) PPL and FirstEnergy suggest that the policy statement have a three-year sunset date as its purpose is short-term in nature. (PPL Comments at 4 and FirstEnergy Reply Comments at 2.) ICG supports PPL's recommendation to revisit the policy in 3 years' time to determine whether regulatory intervention should be lifted. (ICG Reply Comments at 7.)

ATAS and EnergyPeak suggest that the policy statement should address a prevailing wage requirement imposed by the Department of Labor and Industry. (ATAS Comments at 1 and EnergyPeak Comments at 1.)

Gemstone supported the purpose of the policy statement and disagreed with EAPA's concerns. Specifically, Gemstone asserted that the policy statement promotes the creation of SRECs from both large- and small-scale projects in a manner that is consistent with the AEPS Act. (Gemstone Reply Comments at 4.) Gemstone further asserted that the policy statement is not biased against out-of-state solar projects. (*Id.*) Gemstone opposed the suggestion by PPL that the policy statement sunset in 3

years, as it would signal to all interested stakeholders that the policy statement cannot be relied upon. (Gemstone Reply Comments at 7.)

2. Disposition

The Commission acknowledges the concerns raised by commentators regarding the implication that this policy statement favors in-state over out-of-state solar projects. The Commission, however, stresses that any reference to promoting the development of renewable or solar energy in this Commonwealth is referencing the Pennsylvania General Assembly's intent to require EDCs and EGSs serving customers in this Commonwealth to use a certain percentage of solar energy to serve its customers in this Commonwealth. As Gemstone points out in its Reply Comments, any references to procuring SRECs contained in this policy statement are silent as to the origin of the qualifying facility generating the SRECs.

Regarding the concerns raised by commentators that the policy statement favors large-scale over small-scale solar projects, the Commission points out that references to the size of solar projects simply recognizes the inherent differences between the needs of small- and large-scale solar projects. It is not the intent of the Commission to favor one size project over the other, but to promote all solar projects, by recognizing the different needs and balancing the interests of the solar developer, the regulated utility and the citizens of this Commonwealth.

The Commission agrees with Gemstone that establishing a date when this policy statement will sunset, as proposed by PPL, would make the policy statement irrelevant upon its adoption. Such a sunset date would increase regulatory uncertainty, as the Commission's stated policy would end in a relatively short period based on an arbitrary date, as opposed to a change in the conditions for solar development. The Commission stresses that this is a policy statement, not a regulation, and as such, it will not have the full force of law. The Commission, however, does recognize that the SREC market conditions may change over time and, as such, this policy statement may have to be revised to remain relevant. The Commission believes that the participants in the stakeholder working group established by this policy statement are likely to have the relevant knowledge and expertise to identify and propose solutions to issues that arise as the SREC market changes. Therefore, the Commission will encourage the stakeholder working group to propose changes to this policy statement after the policy statement has been in effect and utilized for an adequate period of time to demonstrate its effectiveness in meeting its stated purpose.

The Commission declines to address the Department of Labor's prevailing wage requirements as suggested by ATAS and EnergyPeak, as the prevailing wage requirements are beyond the Commission's jurisdiction.

B. 52 Pa. Code § 69.2902 (Definitions)

This section sets forth the definitions for the terms used within the policy statement.

1. Commentators' Positions

In their Comments, CASD and New Oxford suggest adding a definition for Electric Generation Supplier. CASD and New Oxford also question the establishment of 200kW as the dividing line between small-scale and large-scale solar projects, suggesting that some other mechanism be used to define solar project size. CASD and New Oxford question why the SREC market price contains only the price for large-scale solar projects and

suggests that the price for all SRECs be posted in real time. CASD and New Oxford suggest that the full retail value of net metered energy be more clearly defined through this policy statement. (CASD Comments at 3—5 and New Oxford Comments at 3—5.) CASD and New Oxford support the establishment of a "Market Clearinghouse" that acts like a "stock exchange" for SRECs. (CASD Reply Comments at 3 and New Oxford Reply Comments at 3.)

PPL suggests that the threshold between small- and large-scale solar projects be revised upward, from 200kW to 500kW nameplate capacity. PPL asserts that keeping the threshold at 200kW will result in increased costs associated with developing and implementing an RFP process to acquire relatively small unit quantities of SRECs from individual projects. PPL asserts that these increased administrative burdens and costs will be significant and unnecessary. PPL posits that solar projects below 500kW are best suited for aggregation. (PPL Comments at 5 and 6.) Finally, PPL suggests that the definition for solar aggregator provide for the aggregation of small-scale solar projects to a combined nameplate capacity of 500kW to make clear that solar aggregators may participate in an RFP process for large-scale solar projects. (PPL Comments at 6 and 7.) Gemstone disagrees, asserting that making the threshold 500kW would further limit the number of solar projects that could participate in an EDC RFP process. (Gemstone Reply Comments at 8.)

SEF recommends that solar projects be broken into three size categories. Specifically, SEF recommends that large-scale solar include solar projects with a nameplate capacity of 300kW or more. SEF also suggests that a medium-scale solar project be added with a nameplate capacity of 15kW to less than 300kW, with the small-scale including projects with a nameplate capacity under 15kW. (SEF Comments at 2.) SEF asserts that there is a significant difference between the market for 100kW solar systems and 10kW solar systems, noting that current residential solar project's average size is 6kW, with the small commercial solar projects averaging 79kW. SEF posits that these capacity differences result in significant differences in the ability to monetize the value of solar alternative energy credits. (SEF Comments at 1 and 2.) MAREA, CASD and New Oxford offered support for the addition of a category for solar projects with a nameplate capacity of less than 15kW. (MAREA Comments at 4, CASD Reply Comments at 3 and New Oxford Reply Comments at 3.)

EAPA comments that the AEPS Act does not distinguish among solar generators based on size, asserting that creating a separate market for SRECs based on system size is inconsistent with the AEPS Act. EAPA further posits that a 200kW size threshold for direct contracts between EDCs and generators is too low, asserting that aggregation should be used to assist project owners in selling their SRECs. (EAPA Reply Comments at 3.)

MSEIA/PASEIA notes that the policy statement recognized very small scale projects with a nameplate capacity of 15kW or less, but not as a separate category. While recognizing the differences between these very small-scale projects and small-scale projects, MSEIA/PASEIA believe that for simplicity, these projects should be bundled together. MSEIA/PASEIA asserts that the Commission should maintain the threshold level of 200kW; again noting that changing the threshold is unnecessary, as it adds another layer of complexity when taking into ac-

count other regulatory guidance, such as net metering, interconnection and the PA Sunshine Program. (MSEIA/PASEIA Reply Comments at 2.)

SA supports the solar project size threshold contained in the policy statement. SA posits that the proposed policy statement fairly balanced the costs by setting the price for small-scale generators based on the winning bids for large-scale solar project RFPs. SA notes that the policy statement does mitigate ratepayer impacts of large- and small-scale deployment needs by stating in § 69.2903(i) that “the price negotiated for SRECs should not exceed the Commission approved average winning bid price in the EDC’s most recent RFP for large-scale solar projects.” (SA Reply Comments at 2 and 3.)

Solardelphia suggests that the term “bilateral contract” be defined in the context of SREC trading, especially as regards to credits sold forward in multi-year contracts. (Solardelphia Comments at 1.)

2. Disposition

We have added the definition for “electric generation supplier” as suggested. We, however, decline to extend the applicability of the policy statement to EGSs as suggested by Duquesne, as the Commission does not have rate making and rate recovery authority over EGSs. With that said, we strongly encourage EGSs to utilize, where applicable, the standards developed as a result of this policy statement.

We decline to revise the definitions of small-scale and large-scale solar projects as suggested by various parties. We agree with MSEIA/PASEIA and SA that adding an additional size category adds a level of complexity without commensurate benefit. The Commission believes that the very small projects are adequately represented within the small-scale solar project category. Regarding PPL’s suggestion that the threshold between the two categories be increased to 500kW, the Commission declines to make this change at the present time. The Commission notes, however, that as more experience is gained or the solar market changes, the Commission can revisit this issue in the future and revise the policy statement.

Regarding the suggestions by CASD and New Oxford to use the policy statement and the working group to establish specific rules for interconnection of customer-generator facilities and to revise the value of net metered energy, the Commission declines to do so as they are beyond the scope of the policy statement. As other parties point out, the rules for net metering and interconnection are established in the Commission’s regulations at 52 Pa. Code §§ 75.11—75.15, 75.21, 75.22, 75.31—75.40 and 75.51. With this Order, the Commission is establishing a policy statement that does not have the full force and effect of law and cannot be used to revise or circumvent regulations. If the Commission chooses to revise the net metering and interconnection regulations, CASD and New Oxford will have an opportunity to suggest changes to the regulations for the Commission to consider at that time.

The Commission declines to require the posting of all SREC prices as CASD and New Oxford suggest. Such data is market sensitive and may allow parties to exercise market power. The purpose of posting the average large-scale project winning bid prices is to set the maximum price of SRECs obtained from small-scale projects through bilateral contracts. The Commission believes that a competitive bidding process is the most cost-effective way to get SRECs at competitive rates. The Commission, however, recognizes that there are barriers and inefficiencies related to small-scale project participation in a competi-

tive bidding process. Therefore, the policy statement is in effect setting the average bid SREC price from competitive bid processes as the maximum price for SRECs from small-scale projects, to ensure that EDC customers get a reasonable bargain for SRECs from all solar projects.

Regarding the suggestion that the Commission establish a “stock exchange” for SRECs, the Commission declines to establish a market for SRECs at this time as we are uncertain as to whether such actions are within our authority under the AEPS Act and the Public Utility Code. We note, however, that there are private independent entities offering a market for SRECs at this time. These markets also provide a level of SREC price transparency.

C. 52 Pa. Code § 69.2903 (RFPs to establish reasonable expenses)

This section sets forth processes and standards for obtaining solar photovoltaic alternative energy credits through competitive bids and contracts.

1. SREC Procurement From Large-scale Solar Projects

This subsection endorses the use of a competitive bidding process that EDCs can use in obtaining solar photovoltaic alternative energy credits that is consistent with the Public Utility Code and Chapter 54 of the Commission’s regulations.

a. Commenters’ Positions

CASD and New Oxford both support a fair, transparent and open competitive bidding process for large-scale solar projects, but question the Commission’s ability and authority to approve or reject bids submitted to such RFPs. (CASD Comments at 5 and New Oxford Comments at 5.)

Citizens’ and Wellsboro Electric support the Commission’s goal to promote the development of solar projects, noting that as SREC obligations increase in the region, there is a concern about the adequacy and liquidity of the SREC market, especially for smaller EDCs. (Citizens’ and Wellsboro Electric Comments at 3.) Citizens’ and Wellsboro Electric believe, however, that a bilateral approach with no distinction between large-scale and small-scale projects would produce the best results for their ratepayers and provide them the best opportunity to find an appropriate long-term SREC arrangement. (Citizens’ and Wellsboro Electric Comments at 3.)

ConEdison supports the Commission’s encouragement of EDCs to use a transparent competitive procurement process for SRECs from large-scale facilities with standardized RFP documents. ConEdison posits that reliance on a standardized competitive procurement process is the most effective way to encourage participation by large-scale solar developers and will ensure the most cost-effective result. (ConEdison Comments at 4.)

Duquesne supports the RFP process for large-scale solar projects as those production facilities are fairly standard and lend themselves to an RFP process. Duquesne also expressed interest in acquiring solar power in an effort to support cost-effective solar resources in the region, noting its proposal to issue an RFP for a 5MW solar facility, with the output to be used for residential and lighting POLR supply. (Duquesne Comments at 2.)

FirstEnergy suggests provisions for a multi-EDC RFP process, asserting that it would increase administrative efficiencies and create greater interest in the RFP. (FirstEnergy Comments at 5.) FirstEnergy further suggests that the policy statement provide for a Commission

created solar market and project assessment report on a periodic basis. Finally, FirstEnergy states that the final decision on the type of solicitation and procurement implemented should be left to the individual EDC. FirstEnergy notes that the policy statement appears to allow for this flexibility, but suggests that the policy statement should be more explicit on this point. (*Id.*)

Gemstone proposes language that strongly encourages EDCs to promptly and regularly issue RFPs for SRECs from large-scale solar projects. Gemstone also proposes language that makes the price for SRECs obtained through an RFP the market price for the purchase of SRECs from small-scale solar projects. (Gemstone Comments at 2.) Furthermore, Gemstone believes that as the purpose of long-term contracts is to spur development of the solar market throughout the year, it would be more appropriate to have EDC RFPs staggered throughout the year. Gemstone, however, expressed its openness to learning more about FirstEnergy's reasoning for an annual statewide procurement process. (Gemstone Reply Comments at 6.)

Green Energy suggests that utility scale solar plants that are interconnected to PJM Interconnection, LLC (PJM) should be considered in RFPs, noting that the operational date for qualified bidders should be extended from the current 12 months to 24 months due to the long development cycles associated with PJM. (Green Energy Comments at 2.)

ICG expresses a concern that long-term contracts between solar project developers and EDCs may limit the supply of SRECs available for EGSs to purchase, thus increasing the cost of compliance for EGSs and their industrial customers. ICG suggests that the Commission monitor the availability of SRECs and be ready to declare *force majeure* if a shortage materializes. (ICG Reply Comments at 5.)

MSEIA/PASEIA suggest that no EDC should be allowed to purchase its entire yearly requirement through the RFP process. MSEIA/PASEIA further suggest that a fixed percentage of an EDC's SREC requirement should come from small-scale solar generators. Finally, MSEIA/PASEIA suggest that once an EDC's RFP bidding process is complete, the EDC should simply offer standard bilateral contracts for the purchase of SRECs from small-scale generators on a first come, first served basis, at the average weighted price established by the RFP. (MSEIA/PASEIA Comments at 5.)

The OSBA supports separate standardized bidding qualifications, such as standardized financial qualifications, for large-scale and small-scale solar projects, as well as negotiating bilateral contract qualifications for small-scale solar projects and aggregators. The OSBA posits that allowing each EDC to set its own peculiar terms and conditions adds complexity and costs, and would add barriers to potential bidder participation. (OSBA Comments at 5.) The OSBA suggests that the policy statement require a minimum of three unaffiliated bidders as a necessary condition for accepting a bid or offer. (OSBA Comments at 8.) The OSBA further suggests that the Commission should consider a single Statewide procurement of SRECs for all EDCs. (OSBA Comments at 6.) SA expressed concern that a Statewide procurement program may have significant unintended consequences. (SA Reply Comments at 4.) Citizens' and Wellsboro Electric posit that the OSBA's reasons for a Statewide procurement process are entirely speculative and unsub-

stantiated and such a process may not be appropriate for small EDCs. (Citizens' and Wellsboro Electric Reply Comments at 6.)

SA suggests that each EDC be required to submit a plan to procure SRECs every 3 years. SA asserts that this will ensure a consistent rate of development and avoid "boom and bust" cycles. (SA Comments at 3.) SA expresses a concern that a Statewide procurement program may present significant and unintended consequences that have the potential to reverse the progress made to date in solar development. SA suggests that there may be variations in the Statewide procurement approach that could preserve solar development progress that can be explored and evaluated by the working group. (SA Reply Comments at 4.)

b. Disposition

The Commission declines to revise the language in this subsection as suggested by the commentators. In response to CASD's and New Oxford's concern about the Commission's authority to approve or reject RFP bids, the Public Utility Code establishes such authority. Specifically, the Public Utility Code at 66 Pa.C.S. § 2807(e)(3.5), gives the Commission authority to approve or reject an EDC's default service plan for purchasing electric generation supply service, including alternative energy credits. Furthermore, the Commission's regulations at 52 Pa. Code § 54.188 (relating to Commission review of default service programs and rates) establishes the Commission's procedures for reviewing the results of competitive bid processes conducted in accordance with Commission approved default service plans.

Several EDCs recommended that the policy statement provide more flexibility to EDCs to establish an SREC procurement process that meets its unique needs. As this is a policy statement that does not have the full force and effect of law, EDCs will be able to propose alternative SREC procurement plans in their default service filings that meet the default service standards set forth in 66 Pa.C.S. § 2807(e) and supported by the evidence.

The Commission declines to adopt a policy statement that promotes a multi-EDC or Statewide purchase of SRECs as FirstEnergy and the OSBA suggest. The Commission does not believe that a single Statewide or multi-EDC solicitation for SRECs is authorized by the Public Utility Code. In addition, the Commission does not believe that such a method would provide the best results for EDCs, EGSs or their customers. The Commission agrees with SA that a single Statewide or multi-EDC solicitation for SRECs could have significant unintended consequences that would negatively impact solar development and the market for SRECs. Therefore, the Commission encourages the EDCs to coordinate their procurement schedules submitted in each default service plan to verify that it is consistent with the annual increase in SRECs for AEPS Act compliance obligations and to ensure that it does not conflict with other default service plan procurement schedules. Such coordination will help ensure a consistent rate of solar development, avoiding any "boom or bust" cycles that could occur if the various EDC default service plan procurement schedules inadvertently select nearly identical dates, resulting in a defacto multi-EDC procurement or long periods with no SREC procurement activity.

Finally, the Commission declines to set specific competitive bid standards and requirements in this policy statement as proposed by some commentators. The Commission believes that such standards should be developed

through the working group and developed within the context of each EDC's default service plan, based on the needs of the EDC and the evidence of record.

2. SREC Procurement From Small-Scale Solar Projects

This subsection endorses specific conditions the Commission will use in reviewing bilateral contracts between EDCs and small-scale solar photovoltaic alternative energy systems to obtain SRECs. These conditions look to historical competitive bids for SRECs to establish a reasonable price for alternative energy credits obtained through bilateral contracts with small-scale solar projects.

a. Commentators' Positions

CASD and New Oxford express confusion as to why the Commission is putting so many conditions on bilateral contracts between EDCs and small solar project developers for SRECs, again, questioning the Commission's authority over such contracts. (CASD Comments at 6 and New Oxford Comments at 6.)

ConEdison supports the use of bilateral contracts with certain conditions, as set forth in the proposed policy statement. ConEdison posits that these conditions are appropriate measures to ensure that EDC procurements result in the purchase of SRECs from a mix of large- and small-scale projects, noting that these conditions encourage the development of small-scale projects while also ensuring that EDCs obtain the most cost-effective SRECs available. (ConEdison Comments at 4.)

Constellation suggests that § 69.2903(b)(2)(v) should be clarified to make clear that bilateral contracts are only allowed for small-scale projects and not allowed for large-scale projects. (Constellation Comments at 9 and 10.) Constellation requests that the Commission clarify whether the intent of § 69.2903(b)(2)(iii) was to require EDCs to purchase a minimum amount of SRECs from small-scale solar projects. (Constellation at 10.) Citizens' and Wellsboro Electric posit that these restrictions are not authorized by Act 129 and would unduly restrict the tools and options available to EDCs to fulfill their statutory obligation to procure SRECs at the least cost to customers. (Citizens' and Wellsboro Electric Reply Comments at 5.)

Duquesne also supports the use of bilateral contracts to procure SRECs from small-scale solar projects. (Duquesne Comments at 2 and 3.) Duquesne, however, objects to the requirement that EDCs post the amount of small-scale SRECs yet to be purchased on the AEPS Credit Administrator's web site. Duquesne posits that this data is market sensitive information, and is concerned that disclosure of this information would affect the ability of an EDC to negotiate the best price for its customers. (Duquesne Comments at 3.) Duquesne also objects to subsection (iv), that limits the amount of SRECs contracted for from small-scale projects to the number of SRECs procured from large-scale projects. Duquesne posits that this is an unjustified restraint on its goal to procure SRECs in the most cost-effective manner. Duquesne stresses that small-scale solar projects collectively benefit the local EDC by reducing electrical losses and congestion, and meeting increased demand for power without construction of new high voltage transmission lines. (Duquesne Comments at 4.) Duquesne suggests that subsection (iv) be removed. (Duquesne Comments at 5.) Gemstone opposes the deletion of this subsection as it would allow EDCs to simply purchase from large systems, causing an unfair balance of systems in the market. (Gemstone Reply Comments at 7.)

Gemstone suggests that a separate RFP process for small-scale solar projects is not necessary, practical or economical. Gemstone also suggests that the large-scale solar project RFP results be used to set prices for SRECs purchased from small-scale solar projects, unless there is evidence that the large-scale project RFP price was skewed. Finally, Gemstone suggests that contracts for SRECs from small-scale projects should not be delayed; stressing that EDCs should purchase SRECs from both small- and large-scale solar projects. (Gemstone comment at 3—5.)

MAREA suggests that EDCs be permitted to purchase existing SRECs from micro-scale solar generators physically located within the EDC's service territory. MAREA posits that the purchase of existing SRECs would eliminate the need for security when dealing with micro-scale generators. In addition to the conditions for bilateral contracts set forth in the policy statement, MAREA suggests several other conditions to be applied to purchases of SRECs from micro-scale solar projects. These added conditions include setting the price at no less than 15% of the average weighted price of SRECs from the most recent RFP for large-scale projects, requiring the purchase of all micro-scale generated SRECs within the EDC's service territory before the EDC can purchase micro-scale SRECs generated outside its service territory, and limiting administrative costs imposed on micro-scale solar facility owners to 20% of SREC price. (MAREA Comments at 5 and 6.)

The OCA comments that using the same standards for procuring SRECs through an RFP process for both large- and small-scale solar projects may not produce the best results for small-scale solar projects. The OCA suggests that separate standards should be established for small-scale solar project RFPs that can be developed through the stakeholder working group. (OCA Comments at 3.) Regarding the price for SRECs generated from small-scale solar projects, the OCA suggests that the Commission consider other market price information in setting the price, as the most recent RFP for the purchase of SRECs from large-scale projects may contain stale information. (OCA Comments at 4.) The OCA further recommends that the limit on the amount of SRECs an EDC can purchase from small-scale projects be eliminated as it may impose an undue barrier to small-scale projects. (*Id.*)

PPL and Solardelphia suggest that the reference to a competitively bid RFP process be deleted from this section, asserting that aggregators of small-scale solar projects participating in a large-scale solar project RFP would be more cost-effective. PPL and Solardelphia posit that requiring EDCs to manage multiple small sources would increase the EDC's administrative burden for a relatively small number of credits. (PPL Comments at 7 and Solardelphia Comments at 1.) PPL suggests that another alternative would be to allow customer-generators to participate in an EDC's tariff offering, presumably having customer-generators relinquish ownership of any credits produced in return for a reduced rate. (PPL Comments at 7 and 8.)

SA and MSEIA/PASEIA support establishing a separate, stand alone procurement process for SRECs from small-scale solar projects that would draw heavily from the standard contract development for large-scale solar project SREC procurement and suggest several changes. Specifically, SA and MSEIA/PASEIA suggest that the price for SRECs from small-scale projects be developed using the weighted average of all accepted winning RFP bids within a given service territory that would remain in

effect until the next large-scale solar project SREC RFP took place. The weighted average price should exclude atypical bids that skew the average and would detrimentally impact the price setting mechanism. EDCs should be required to publish the amount of SRECs needed at the beginning of the buy period. A standard contract should be available and offered to small-scale solar project owners or aggregators on a first-come, first-served basis. (SA Comments at 9 and 10, and MSEIA/PASEIA Comments at 3 and 4.) EAPA suggests that the Commission should seek to strike an appropriate balance between encouraging development of more solar facilities and minimizing the cost associated with acquiring SRECs, such as encouraging the use of aggregators to assist selling of SRECs from small-scale projects. (EAPA Reply Comments at 3.)

SA and MSEIA/PASEIA suggest that EGSs that initiate RFPs should have the same requirements as the EDCs. Finally, SA and MSEIA/PASEIA suggest that aggregators should be encouraged to participate, with the Commission developing rules for certifying or otherwise approving qualified aggregators. (SA Comments at 9 and 10, and MSEIA/PASEIA Comments at 3 and 4.)

MSEIA/PASEIA further suggest that no EDC should be allowed to purchase its entire yearly requirement through the RFP process without offering a substantial quantity of capacity through the small-scale solar project standard contracts. Furthermore, MSEIA/PASEIA suggest that a fixed percentage of SREC requirements should be reserved for the small-scale solar projects, to be determined by the Commission or negotiated with the help of a small generator working group. (MSEIA/PASEIA Comments at 5.) SEF suggests that 5% and 7.5% of an EDC's SREC procurement should be allocated to micro-scale and small-scale solar projects respectively. (SEF Comments at 3.) MSEIA/PASEIA express opposition to a fixed carve out based on system size and a belief that market conditions will allow for competitive procurement options among participants, as long as there is a commitment to procurement strategies that promote all sizes of solar systems. (MSEIA/PASEIA Reply Comments at 2.)

b. Disposition

In response to CASD's and New Oxford's concerns about the Commission's authority over bilateral contracts and the conditions placed on bilateral contracts by this policy statement, as stated in Section 1 previously, the Public Utility Code and the Commission's regulations give the Commission authority to approve the procurement of alternative energy credits by EDCs for default service. See also 66 Pa.C.S. § 508. Furthermore, as expressed previously, the Commission believes that a competitive bid process will produce the best results for default service customers. The Commission also believes that bilateral contracts provide a viable avenue for EDCs to procure SRECs produced by solar projects that cannot participate or that cannot compete in a competitive bid process due to administrative or economic barriers. The conditions on bilateral contracts delineated in this policy statement strike a balance between ensuring that the EDC can obtain SRECs at a reasonable rate for its default service and encouraging the development of solar energy of all sizes for use by all classes of customers.

Duquesne objects to subsection (iv) in the proposed policy statement, that limited the amount of SRECs contracted for from small-scale projects to the number of SRECs procured from large-scale projects. Duquesne asserted that this is an unjustified restraint on its goal to procure SRECs in the most cost-effective manner. The

Commission agrees that this subsection is unnecessary and could cause confusion. As Duquesne points out, the market price for SRECs from small-scale projects should dictate the limit to be obtained from these sources. In addition, this limitation may cause confusion as to the number of SRECs an EDC can purchase from the spot or short term market. Such confusion could impact an EDC's ability to meet the mandatory requirements of the AEPS Act. As such, the Commission has deleted this subparagraph from the policy statement.

Again, the Commission declines to set further specific standards or requirements for the purchase of SRECs from small-scale projects. Again, such specific standards and requirements can be developed through the working group and in EDC default service plan proceedings based on the circumstances and the evidence presented.

3. EDC Cost Recovery

This subsection addresses the cost recovery of SRECs procured through the RFP and bilateral contract approaches described in the policy statement.

a. Commentators' Positions

Citizens' and Wellsboro Electric express concern over rate recovery language contained in the policy statement, and seek clarification as to whether this language will limit cost recovery for EDCs when the procurement is consistent with a Commission-approved procurement plan and the costs are properly recoverable under the AEPS Act and Public Utility Code. Citizens' and Wellsboro Electric believe that EDCs that comply with the AEPS Act are still entitled to cost recovery associated with the purchase of alternative energy credits, even if those purchases do not follow the procurement approaches outlined in the Solar Policy Statement. (Citizens' and Wellsboro Electric Comments at 4 and 5.)

EAPA comments that EDCs will incur administrative costs to develop and implement procurement plans consistent with the policy statement. Allegheny, EAPA and FirstEnergy suggest that the Commission should clarify that these administrative costs are also recoverable under the AEPS Act. (Allegheny Reply Comments at 3, EAPA Comments at 4 and FirstEnergy Comments at 6.)

FirstEnergy suggests that the policy statement be revised to provide for the recovery of SREC procurement costs through a non-bypassable mechanism from shopping and non-shopping customers alike, where the EDC agrees to procure SRECs on behalf of its default service supply as well as the EGS' supply. FirstEnergy posits that this cost recovery mechanism should enable consistent SREC procurement, stabilize the development of SRECs, foster the growth and development of retail energy markets without SREC overhang, and minimize costs to retail customers. (FirstEnergy Comments at 6.) Finally, FirstEnergy believes that costs related to educating customers about solar projects and promoting such projects must be fully and timely recovered. (FirstEnergy Comments at 7 and 8.)

PPL supports the cost recovery provision in the policy statement. PPL, however, recommends that the policy statement be revised to encourage EDCs to sell any excess SRECs obtained through resulting long-term contracts with revenues received from such sales credited to the EDC's customers through the AEPS Act cost recovery mechanism. In addition, PPL recommends that the policy statement explicitly state that such sales are not subject to an after-the-fact prudence review, other than for fraud or market manipulation. (PPL Comments at 8 and 9.)

Gemstone supports PPL's proposal for clarifying the cost recovery provision. (Gemstone Reply Comments at 8.)

UGI suggests that the policy statement specify that if weather normalized actual default service loads are more than 5% less than projected default service loads and the EDC is unable to resell the SRECs in the secondary market at a cost equal to or greater than the long-term contract cost, then the EDC should be able to recover the associated shortfall on a timely basis through a surcharge applicable to all the distribution rates of all customers of the affected class or classes. (UGI Comments at 2.)

b. Disposition

The Commission declines to revise the language contained in this subsection. The purpose of this provision is to express the Commission's general intent to approve cost recovery for the purchase of SRECs through the methods outlined in the policy statement, provided it is consistent with the cost recovery provisions of the AEPS Act and all other applicable law. This provision is not intended to preclude or otherwise restrict recovery of costs related to SRECs or other alternative energy credits acquired through other methods that are approved in an EDC's competitive procurement plan and consistent with the cost recovery provisions of the AEPS Act and all other applicable law. By including this provision, the Commission is not pre-judging or pre-determining what costs are to be recovered.

Specific concerns raised by Allegheny, EAPA, FirstEnergy and PPL regarding cost recovery of certain costs, such as costs associated with the sale of excess credits acquired in long-term contracts, administrative costs associated with an EDC's procurement plan, including education costs directed to potential sellers of SRECs, are best addressed in appropriate proceedings. We agree that these costs, as well as others,⁵ that are related, prudent, just and reasonable are recoverable in accordance with the AEPS Act and other applicable law. The AEPS Act specifically states that "any direct or indirect costs for the purchase by electric distribution of resources to comply with this section, including, but not limited to, . . . , payments for alternative energy credits, . . . , shall be recovered on a full and current basis . . . as a cost of generation supply under 66 Pa.C.S. § 2807." See 73 P. S. § 1648.3(a)(3)(ii). A "default service provider shall have the right to recover on a full and current basis, pursuant to a reconcilable automatic adjustment clause under section 1307 (related to sliding scale of rates; adjustments), all reasonable costs incurred under this section and a commission-approved competitive procurement plan." 66 Pa.C.S. § 2807(e)(3.9). Therefore, if the costs are proved to be related, prudent, just and reasonable during an appropriate proceeding, and are incurred under the default service provisions of the Public Utility Code and a competitive procurement plan approved by the Commission, they shall be recoverable.

Regarding concerns raised by PPL and UGI about after-the-fact prudence review and recovery of costs associated with long-term contracts for SRECs, we are reminded of our experience with purchased power agreements approved by the Commission pursuant to the Public Utility Regulatory Policies Act of 1978 (PURPA). Similar to the qualifying facilities under PURPA, solar generation has been determined to be in the public interest by its inclusion as an alternative energy source in the AEPS Act. As with Commission approved long-term

PURPA contracts, it would be inappropriate for us to endanger the development of cost-effective solar generation by holding the threat of contract re-visitation over the heads of EDCs and solar developers. We note that it has been this Commission's policy to review such contracts at the time they are presented to the Commission for approval and not to subsequently review the contracts, absent evidence of some nefarious conduct such as fraud or market manipulation. See *Petition of Pennsylvania Electric Company Request for Approval of Rate Recovery, Under the Energy Cost Rate, for the Costs proposed to be Paid under an Agreement with Scrubgrass Power Corporation*, Docket No. P-870248, 1988 Pa. PUC LEXIS 101. This is also consistent with the approach taken by our legislature for default service purchased power contracts. The Commission may not modify default service contracts or disallow their costs unless, after notice and opportunity to be heard, it is determined that the contract fails to comply with the Commission-approved procurement plan or the contract is found to be the result of "fraud, collusion or market manipulation with respect to those contracts." 66 Pa.C.S. § 2807(e)(3.8)(ii).

D. 52 Pa. Code § 69.2904 (Contracts)

This section promotes the development and utilization of standardized contracts for purchasing solar photovoltaic alternative energy credits. It sets forth suggested reasonable terms and conditions that the Commission believes are important for promoting the development of solar photovoltaic projects in this Commonwealth. A stakeholder working group is established to develop the standardized contracts. Finally, the policy statement encourages the development of an education program to inform the public about and to promote solar photovoltaic projects.

1. Standardized Contracts

This subsection encourages EDCs to use standardized contracts for purchase of SRECs from both large- and small-scale solar projects. The standardized contract with small-scale projects should be simple, understandable and provide for purchases from aggregators.

a. Commentators' Positions

CASD and New Oxford believe that it is a good idea to have standardized contracts but there may be exceptions that should be considered. CASD and New Oxford are unsure as to how the length of 5 to 20 years was chosen and how that would affect contracts that are shorter or longer. (CASD Comments at 6 and New Oxford Comments at 6.)

ConEdison recommends including a requirement that any SREC procured through long-term contracts be disposed of in a competitively neutral manner that does not create an advantage for EDCs over EGSs. ConEdison suggests limiting the procurement to SRECs as provided in the policy statement and allocating the SRECs to all load serving entities in the EDC's territory on a load ratio share basis. ConEdison posits that EDCs have potential advantages over EGSs that can be exacerbated by long-term contracts. (ConEdison Comments at 2 and 3.)

EAPA asserts that long-term contracts may allow some projects to move forward, but it should be recognized that technology can change quickly, and long-term contracts could hurt future EDC customers. The policy statement should recognize the potential negative consequences of long-term contracts. (EAPA Comments at 2 and 3.)

FirstEnergy believes that in addition to standardized contracts with terms of 5 to 20 years, EDCs should be

⁵ See 52 Pa. Code § 69.1808 (relating to default service cost elements) under the Default Service and Retail Electric Markets Policy Statement that contains a list of potentially related costs.

permitted to retain an ability to sell and purchase SRECs from brokers and aggregators to balance out the EDC's needs to meet its AEPS Act requirements. (FirstEnergy Comments at 6 and 7.) FirstEnergy also believes that standardized contracts should be used as a starting point with parties being able to make mutually agreed upon changes that have no impact on solar development. FirstEnergy also suggests that several types of standardized agreements be developed and utilized. (FirstEnergy Comments at 7.)

Gemstone asserts that to accurately relate a large-scale solar project RFP's average SREC price to small-scale solar project SREC prices with different contract lengths, a conversion method should be used to maintain consistency between SREC prices. (Gemstone Comments at 6.)

Green Energy comments that recent RFPs approved by the Commission involved firm 10-year contract terms that discriminate against solar projects that obtained Alternative Energy Investment Act grants administered by the Department of Community and Economic Development through the Commonwealth Financing Authority. Green Energy asserts that contract terms of ten or more years require the project developer to forfeit the grant. Green Energy posits that this puts projects partially funded by Alternative Energy Investment Act grants at a disadvantage compared to projects not receiving grant money. Green Energy, CASD and New Oxford suggest that contract terms be limited to 9 years or less. (Green Energy Comments at 1, CASD Reply Comments at 4 and New Oxford Reply Comments at 4.) SA, however, recommends that the policy statement set the term for long-term contracts at 10 years. SA posits that setting long-term contracts at a defined term of 10 years represents a compromise between the desire to reduce costs for ratepayers and the increased risks associated with long term term contracts, by reducing complexity and uncertainty. SA asserts that separating projects that received Alternative Energy Investment Act grants from those that compete for SREC contracts with EDCs would level the playing field. (SA Comments at 3.)

MAREA and OSBA assert that long-term contracts for small- and large-scale projects would need to be different as the projects vary considerably. (MAREA Comments at 3 and OSBA Comments at 5.) Large-scale projects generate hundreds of SRECs from a single site annually making contractual agreements, oversight, and transaction costs manageable. Small-scale projects with a nameplate capacity of less than 15kW require EDCs to purchase SRECs from many more sites that have substantially more variability and risks, such as change of ownership, litigation, contract default, system failure and damage. (MAREA Comments at 3.)

PPL agrees that the RFP process is the preferred approach to procure SRECs and standardized contracts could be beneficial for RFP procurements. PPL, however, asserts that a Statewide form of standardized contract must fairly and equitably allocate risk between solar developers, EDCs and EDCs' customers. (PPL Comments at 9.) PPL posits that if efforts to standardize contracts are not successful, existing Commission-approved default service contracts should be used as a form of contract for procurement of SRECs in the RFP processes. (PPL Comments at 10.) SA disagrees, asserting that the procurements PPL referenced were an inadequate substitute for standardized long-term contracts. (SA Reply Comments at 4 and 5.)

SA agrees that EDCs should employ standardized contracts for the purchase of SRECs from small- and

large-scale projects to reduce complexity and costs for the industry as well as ratepayers. SA, however, is concerned that certain contract provisions should be carefully considered as they may increase complexity and costs. SA would like to see a single contractual term for SRECs. SA recommends 15 year contracts for the long-term procurement of SRECs, but would accept 10 years as a single fixed term. (SA Comments at 3.) SA discusses a staged approach for long-term contracts where utilities place suppliers on a short-list based on pre-qualification and pricing, and then negotiate to a final purchase power agreement, using a standardized utility contract as a starting point. SA recommends allowing for negotiation of minor contract provisions during the selection process for larger projects that are not net-metered to create a more competitive market for new supply. (SA Comments at 10.)

CEI supports standardization of contracts for reasons provided in SA's Comments; however, CEI holds that it is problematic to fully pre-negotiate a contract for larger projects as the market is just beginning to develop. (CEI Comments at 1.) CEI and SA recommend allowing for negotiation of minor contract provisions. (CEI Comments at 1 and SA Reply Comments at 6.)

SEF asserts that EDCs should employ standardized contracts for SREC purchases from large-scale, medium-scale and small-scale solar projects. SEF also asserts that contracts for SREC purchases from medium-scale projects provide an option to purchase SRECs from solar aggregators. (SEF Comments at 2 and 4.)

b. Disposition

The Commission declines to modify this subsection as proposed by various parties. The intent of this provision is to set forth the Commission's policy determination that standardized contracts should be used where appropriate to reduce the time and administrative costs associated with developing and entering into such contracts. As written, this provision provides the working group and EDCs the flexibility to adopt many, if not all, of the suggested contract standards, terms and conditions. Again, it is not the intent of the Commission to establish binding contract standards, terms and conditions with this policy statement. Such standards, terms and conditions are to be explored and developed through the working group and within the context of the EDCs' default service plan proceedings based on the EDCs' specific circumstances and the evidence presented.

2. Contracts With Solar Aggregators

This subsection encourages EDCs to enter into agreements with solar aggregators for the purchase of SRECs from various sources.

a. Commentators' Positions

CASD and New Oxford assert that recommending a process for purchasing SRECs from aggregators seems premature as the market is so new in development at this time. In addition, CASD and New Oxford express an expectation that the Commission would oversee the establishment of reasonable financial qualifications for aggregators. (CASD Comments at 6 and 7, and New Oxford Comments at 6 and 7.)

Constellation suggests that the Commission clarify provisions regarding EDCs' use of aggregators. Specifically, Constellation suggests that the policy statement should set the prevailing SREC market price at a particular point in time based on the price paid for SRECs by the EDC to an aggregator. Constellation also suggests that the Commission should require EDCs to use a

competitive RFP process to identify the lowest cost aggregators and contract with no fewer than two of the lowest cost aggregators. In addition, the Commission should require aggregators to provide proof that they sold at least 500 SRECs in the preceding 12 months. Finally, Constellation asserts that aggregators should be subject to penalties equal to the solar alternative compliance payment. (Constellation Comments at 8 and 9.)

EAPA notes that there are currently no standards governing who may serve as a solar aggregator, nor are there requirements governing acceptable technical and financial fitness for aggregators. EAPA suggests that absent such minimum requirements, the Commission should recognize that EDCs will be forced to exercise care in entering into such contracts, such as requiring financial security from the aggregators. (EAPA Comments at 5.) EAPA also states that requiring EDCs to contract with numerous small-scale solar generators would be costly and impractical. (EAPA Comments at 3.)

FirstEnergy suggests that the policy statement provide for the procurement of SRECs from solar aggregators, not just projects. FirstEnergy posits that including solar aggregators in the RFP process would bring more competition, create a potential for creditworthy counterparties to act as intermediaries, and allow EDCs to seek bids in round numbers, with aggregators filling in any gaps through purchases or selling off excess SRECs to meet the RFP obligations. (FirstEnergy Comments at 4 and 5.) FirstEnergy posits that EDCs need the ability to contract with aggregators that are not tied to a specific project. FirstEnergy asserts that this flexibility will allow for better credit protection helping to ensure customers receive the benefit of the transaction and will allow aggregators to provide an inventory function and reduce EDC costs. (FirstEnergy Comments at 7.)

Gemstone suggests offering specific guidance on the details of agreements with aggregators on issues such as a non-burdensome procurement process, appropriate project detail, and financial qualifications. (Gemstone Comments at 7.)

The OSBA recommends that the policy statement encourage EDCs to contract for SRECs with aggregators that obtain SRECs from creditworthy small business owners of small-scale solar projects. (OSBA Comments at 8.)

b. Disposition

The Commission declines to revise this subsection as proposed by the various commentators. Specifically, the Commission declines to set specific qualifications for aggregators at this time as we are uncertain as to whether establishing specific qualifications are within our authority under the AEPS Act and the Public Utility Code. Regarding the suggestions for specific standards, terms and conditions for agreements between aggregators and EDCs, the Commission again declines to set such standards, terms and conditions in this policy statement. Such standards, terms and conditions are best developed through the working group and the EDCs' default service plan proceedings based on the EDCs' circumstances and the evidence presented.

3. Performance Guarantees, Security and Other Contract Terms

This subsection sets forth suggested bid and performance security guidelines for small-scale solar projects.

a. Commentators' Positions

CASD and New Oxford agree that small-scale solar projects should not be required to provide security relating to project completion or performance, but smaller projects may become expensive and some level of security or assurance should be provided. CASD and New Oxford suggest that this matter should be discussed in the working group. (CASD Comments at 6 and 7, and New Oxford Comments at 6 and 7.)

Duquesne believes that small projects should post security given the fines EDCs could face for non-compliance with the AEPS Act. Duquesne is concerned with the language that excludes small-scale solar projects from providing assurance for project completion and performance. Duquesne suggests that security should not be cost-prohibitive but should be in place for all projects. (Duquesne Comments at 5.) Gemstone disagrees with Duquesne's perspective that small projects should post security. (Gemstone Reply Comments at 7.)

EAPA expresses concern that if no security is in place for small-scale solar projects, EDCs will be required to buy SRECs on the spot market or make alternative compliance payments if projects fail. EAPA believes this does not adequately consider the interest of default service customers. (EAPA Comments at 5.) Gemstone notes that EAPA's Comments on aggregator requirements for security confirm that EDCs need to adjust their large-scale project security requirements for small-scale projects or small-scale projects will not be developed. Gemstone further notes that balance is critical so that small-scale projects are not impeded from participating in the SREC market with large-scale projects. (Gemstone Reply Comments at 4 and 5.)

Gemstone urges adoption of additional language that reminds EDCs that standards for development and performance security should be appropriately lower for small-scale projects due to reduced access to credit enhancements and the wider portfolio diversification inherent in small-scale projects. (Gemstone Comments at 7.)

The OCA expresses concern as to whether the 15kW size is the appropriate size point at which to require security. The OCA also expresses concern that there are no standards for establishing reasonable levels of security, performance guarantees or other terms. The OCA suggests that the Commission provide more specific guidelines to reduce uncertainty and controversy. In addition, the OCA suggests that the Commission provide additional guidance pertaining to reasonable allocation of risk for small-scale project failure due to *force majeure*, as well as reasonable financial qualifications for solar aggregators. (OCA Comments at 5.) FirstEnergy and Allegheny, however, believe that performance guarantees and bid securities are necessary to ensure the proper commitment to the fulfillment of contract obligations. (FirstEnergy Reply Comments at 3 and Allegheny Reply Comments at 3 and 4.) Allegheny further asserts that if small-scale developers are freed from security requirements, EDCs should be indemnified should the projects not deliver or otherwise default on their obligations. (Allegheny Reply Comments at 4.)

SA, MSEIA/PASEIA and Solardelphia suggest that no bid security should be required of small-scale projects, with an exception for incomplete projects, where a development security, not to exceed 2% of the contract value and not forfeited prior to 12-months of contract date, is permissible. (SA Comments at 9 and 10, MSEIA/PASEIA Comments at 3 and 4 and Solardelphia Comments at 1.)

FirstEnergy, however, posits that performance and bid securities are necessary to ensure the proper commitment to fulfilling contract obligations, as the EDCs face significant civil penalties for non-compliance with the AEPS Act. (FirstEnergy Reply Comments at 3.) FirstEnergy asserts that such a risk should be placed on solar developers. (FirstEnergy Reply Comments at 2.)

Solardelphia suggests that security deposits for solar generators under 15kW should not be required. For systems 15kW to 50kW, Solardelphia suggests that a security deposit of no more than a small percentage of the contracted amount should be authorized. (Solardelphia Comments at 1.)

b. Disposition

The Commission declines to revise this subsection as suggested by several commentators. The intent of this subsection is to express the Commission's belief that performance and security guarantees are appropriate for small-scale solar projects in a limited number of circumstances due to the nature of such projects and the persons or entities that install them. As previously stated, it is not the intent of the Commission to establish specific standards, terms and conditions for contracts between EDCs and sellers of SRECs through this policy statement. Such specific standards, terms and conditions are to be explored and developed through the working group and the EDCs' default service plan proceedings based on the EDCs' circumstances and the evidence presented.

4. Contracts on Behalf of Residential Customers

This subsection encourages EDCs to contract with solar aggregators to obtain SRECs generated by facilities owned by creditworthy residential customers.

a. Commentators' Positions

The OCA supports the provision that encourages EDCs to contract for SRECs with solar aggregators that obtain SRECs from residential owners of small-scale solar projects. The OCA, however, would like the Commission to clarify what it means to be a creditworthy residential owner and whether such a requirement would be appropriate. OCA recommends removing the word 'creditworthy' with respect to residential customers. (OCA Comments at 6.)

b. Disposition

The Commission has removed the word "creditworthy" from this subsection as OCA suggests. As we have stated throughout this Order, the specific standards, terms and conditions of contracts between EDCs, residential customers and aggregators should be explored and developed through the working group and based on the specific circumstances under which the contracts are being entered into. The Commission's intent in including this subsection is to express the Commission's belief that the development of solar energy for use by residential electric customers will benefit both the retail electric customers and the EDCs.

5. Stakeholder Working Group

This subsection establishes a working group to develop and update standardized contracts and other related documents.

a. Commentators' Positions

CASD and New Oxford question whether the working group should be used to establish standardized SREC RFPs and related contracts. (CASD Comments at 5 and New Oxford Comments at 5.) CASD and New Oxford suggest that the working group meet monthly and estab-

lish specific rules requiring EDCs to provide interconnection at locations where no customer service exists. CASD and New Oxford suggest that there should be constant monitoring and examination of contracting as it relates to SREC purchasing. (CASD Comments at 7 and New Oxford Comments at 7.)

Gemstone suggests that to keep documentation up to date, the Commission should note in the policy statement that experience gained from implementation of the policy statement should also be applied to the contract and document updating process. (Gemstone Comments at 8.) Gemstone also supports a working group quarterly review process for contract modifications. (Gemstone Reply Comments at 10.)

b. Disposition

With the adoption of this policy statement, the Commission is establishing a solar project stakeholder working group to explore and develop standardized contracts and other related documents for EDC purchase of SRECs from solar developers of both large- and small-solar projects. This working group is to meet at least semiannually. The efforts of this working group are to be published on the Commission's web site. To facilitate the efforts of this working group, the Commission has placed some proposed standard contracts and other documents on the Commission's Alternative Energy web page at http://www.puc.state.pa.us/electric/electric_alt_energy.aspx. The solar project stakeholder working group is to be composed of EDC representatives, EGS representatives, Commission staff, public advocates, solar aggregators, solar developers and other interested stakeholders. The Director of Operations is to designate the leader of this working group.

6. Customer Education

This subsection encourages EDCs to educate its retail customers about opportunities to sell SRECs.

a. Commentators' Positions

CASD and New Oxford state that customer education is critically important for the success and continued growth of the solar market. (CASD Comments at 7 and New Oxford Comments at 7.)

FirstEnergy posits that EDCs must be allowed to fully recover, in a timely fashion, any costs related to customer education about solar and to promote solar. FirstEnergy suggests that solar education initiatives be given the same cost recovery treatment as SREC acquisitions. (FirstEnergy Comments at 7 and 8.)

The OCA agrees that educating consumers on this opportunity should be included within each EDC's educational programs. (OCA Comments at 6.)

b. Disposition

The Commission adopts this subsection of the proposed policy statement to encourage EDCs to provide education to its retail customers about the opportunities available for the development of solar energy and the sale of associated SRECs. EDCs are encouraged to file solar energy education programs as part of their SREC procurement plan. Cost recovery for such education programs should be addressed in the context of the default service procurement plan filings.

Conclusion

Based on the foregoing discussion, we will adopt this Policy Statement regarding Pennsylvania Solar Projects as set forth in Annex A. *Therefore,*

It Is Ordered That:

1. Title 52 of the Pa. Code is amended by adding §§ 69.2901—69.2904 to read as set forth in Annex A.

2. The Secretary shall submit this order and Annex A to the Governor's Budget Office for review of fiscal impact.

3. The Secretary shall certify this order and Annex A and deposit them with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

4. This final policy statement shall become effective upon publication in the *Pennsylvania Bulletin*.

5. A solar project stakeholder working group composed of EDC representatives, EGS representatives, Commission staff, public advocates, solar aggregators, solar developers and other interested stakeholders be established. The Director of Operations is to designate the leader of this working group.

6. The efforts of the solar project stakeholder working group be published on the Commission's Alternative Energy Internet domain page.

7. A copy of this order shall be posted on the Commission's public Internet domain and be served upon all electric distribution companies operating in this Commonwealth, the Office of Consumer Advocate, the Office of Small Business Advocate, the Office of Trial Staff, the Department of Environmental Protection, the Department of Community and Economic Development, all licensed electric generation suppliers and all parties that filed Comments under this Docket.

8. The contact person for technical issues related to this matter is Scott Gebhardt, Energy Review Specialist, Bureau of Conservation, Economics and Energy Planning, (717) 425-2860 or sgebhardt@state.pa.us. The contact person for legal issues related to this matter is Kriss Brown, Assistant Counsel, Law Bureau, (717) 787-4518 or kribrown@state.pa.us.

ROSEMARY CHIAVETTA,
Secretary

Statement of Commissioner John F. Coleman, Jr.

Before the Commission for consideration is the proposed adoption of a Policy Statement relating to solar projects.

Prior to joining my staff, Matthew Totino was employed by a law firm that is counsel to a party that participated in the above-captioned proceeding. Therefore, to avoid any appearance of impropriety arising from his previous employment, I wish to note that I have not been advised by Matthew Totino regarding this matter.

JOHN F. COLEMAN, Jr.,
Commissioner

Joint Statement of Commissioners Robert F. Powelson and John F. Coleman, Jr.

We wish to begin by expressing our strong concerns with any legislative attempts to increase the current Alternative Energy Portfolio Standards Act ("AEPS") requirements. In our view, it is critically important that we not change the legislative provisions in order to promote one renewable source over another. We also want to stress that additional AEPS mandates on the solar front warrant open and honest debate on compliance costs as well as the impact on ratepayers going forward. We are deeply concerned with forcing consumers to pay for additional solar energy at a cost that is three to four times higher than other generation sources.

We also firmly believe that solar renewable energy credits ("SRECs") should not be based on an artificially established floor price. The SREC market should be permitted to develop, unencumbered. Moreover, we strongly believe that agreements to purchase SRECs should not be mandated to have terms beyond 10 to 15 years in length.

With that being said, we would like to add our thoughts to the solar energy policy statement currently before us.

First, EDCs should be provided additional flexibility to manage SRECs through: 1) the extension of bank-life of purchased SRECs to five years beyond their vintage; and 2) prior to the expirations, any unused SRECs may be monetized, with any loss or gain on the sale to be borne by/shared with customers. This will permit EDCs that do not have an immediate need to participate in the SREC market.

Further, our hope is that the guidance provided today will also serve to support distributed generation solar projects completed under our Act 129 compliance programs. Additionally, to the extent that an EDC contributes capital to a solar project under a Commission-approved Act 129 compliance program, the EDC should have a right of first refusal to purchase any SRECs attributable to such a project.

ROBERT F. POWELSON,
Commissioner

JOHN F. COLEMAN, Jr.,
Commissioner

Fiscal Note: Fiscal Note 57-276 remains valid for the final adoption of the subject regulations.

Annex A**TITLE 52. PUBLIC UTILITIES****PART I. PUBLIC UTILITY COMMISSION****Subpart C. FIXED SERVICE UTILITIES****CHAPTER 69. GENERAL ORDERS, POLICY STATEMENTS AND GUIDELINES ON FIXED UTILITIES****PENNSYLVANIA SOLAR PROJECTS****§ 69.2901. Purpose.**

(a) Beginning in 2004, the General Assembly enacted, and the Governor signed, a series of legislation promoting the development of renewable energy in this Commonwealth generally, and solar alternative energy specifically. In 2004, the AEPS Act established a requirement that the power purchased for customers in this Commonwealth by EDCs and EGSs must include a component of solar photovoltaic electricity from solar alternative energy sources or solar alternative energy credits, known in the industry as SRECs. Under the AEPS Act, an SREC is referred to as a solar alternative energy credit, or solar Alternative Energy Credit (AEC). An AEC is earned when 1 megawatt hour of electricity is generated from an approved alternative energy source. In 2007, the AEPS Act was amended and, among other provisions, solar thermal energy was added to the definition of Tier I alternative energy sources. The Commission is responsible for ensuring compliance with the AEPS Act.

(b) In 2008, the Alternative Energy Investment Act (AEI Act) (73 P.S. §§ 1649.101—1649.711) was signed into law, providing, among other things, funding through the Department of Environmental Protection for small-scale solar projects in owner-occupied dwellings and small businesses. Additional funds for large-scale solar projects

were made available by the AEI Act through the Department of Community and Economic Development (DCED).

(c) These acts establish a clear policy to promote the construction of small- and large-scale solar projects in this Commonwealth. Even though that policy has been clearly articulated, the Commission is concerned that barriers still exist that prevent new solar projects from becoming a reality in this Commonwealth. EDCs in this Commonwealth, their customers and those interested in developing solar projects of any size are impeded in their economic analysis of those projects by the uncertainty of a price to assign the SRECs that would be generated by small or large-scale solar projects. This section and §§ 69.2902—69.2904 (relating to definitions; RFPs to establish SREC values recoverable as a reasonable expense; and contracts for the purchase of SRECs by EDCs) outline a process by which entry barriers can be overcome.

§ 69.2902. Definitions.

The following words and terms, when used in §§ 69.2901, 69.2903 and 69.2904, have the following meanings, unless the context clearly indicates otherwise:

AEPS Act—The Alternative Energy Portfolio Standard Act (73 P. S. §§ 1648.1—1648.8).

EDC—*Electric distribution company*—The term has the same meaning as defined in 66 Pa.C.S. § 2803.

EGS—*Electric generation supplier*—The term has the same meaning as defined in 66 Pa.C.S. § 2803 (relating to definitions).

Large-scale solar project—An alternative energy generation system employing solar photovoltaic technology with a nameplate capacity of 200kW or more.

RFP—Request for proposal

SREC market price—The weighted average of all accepted winning bids in response to an EDC RFP for large-scale solar project solar alternative energy credits, as those credits are defined in section 2 of the AEPS Act (73 P. S. § 1648.2.)

SRECs—Solar renewable energy credits.

Small-scale solar project—An alternative energy generation system employing solar photovoltaic with a nameplate capacity of less than 200kW.

Solar aggregator—A person or entity that purchases for resale, or otherwise consolidates for sale, solar alternative energy credits for resale to EDCs and electric generation suppliers.

Stakeholder working group—A group composed of EDCs, EGSS, Commission staff, public advocates, solar aggregators and other interested parties that meets at least semiannually and proposes to the Commission updates to standardized solar alternative energy credit RFPs and related contracts that are posted on the Commission's web site.

§ 69.2903. RFPs to establish SREC values recoverable as a reasonable expense.

(a) *SREC procurement from large-scale solar projects.* The Commission encourages EDCs to issue RFPs for large-scale solar projects whose SREC output will be used to meet EDC obligations under the AEPS Act. RFPs should provide for a fair, transparent and open competitive bidding process. Standardized RFP documents developed by the stakeholder working group should be utilized.

The Commission will review and either approve or reject bids submitted in response to the RFPs within a reasonable period of time.

(b) *SREC procurement from small-scale solar projects.* EDCs are encouraged to procure SRECs from small-scale solar projects through competitively bid RFP processes and bilateral contracts.

(1) When an RFP process is used, EDCs should adhere to the same standards in use for large-scale solar project RFPs. The Commission will review and evaluate bids for small-scale solar RFPs within a reasonable period of time.

(2) EDCs may enter into bilateral contracts for SRECs from small solar projects subject to the following conditions:

(i) The price negotiated for SRECs should not exceed the Commission-approved average winning bid price in the EDC's most recent RFP for large-scale solar projects.

(ii) When an EDC has not utilized an RFP for a large-scale project, the price negotiated for SRECs should not exceed the Commission-approved average winning bid price from the most recent large-scale solar RFP by another EDC in this Commonwealth, as reported on the Commission's AEPS Credit Administrator's web site under subparagraph (iii).

(iii) The amount of small-scale solar project SRECs yet to be procured by the EDC, and the EDC's historic and current average SREC market prices from each of the EDC's large solar project procurements should be listed on the Commission's AEPS Credit Administrator's web site, as well as the EDC's web site, and updated at least monthly.

(iv) The bilateral contract approach should be used to support the development of small-scale solar projects located in this Commonwealth.

(c) *EDC cost recovery.* The cost of SRECs acquired through procurement approaches referred to in subsection (a) and (b) may be recovered consistent with the AEPS Act and other applicable law.

§ 69.2904. Contracts for the purchase of SRECs by EDCs.

(a) *Standardized contracts.* EDCs should employ standardized contracts for their purchase of SRECs from large-scale solar projects and small-scale solar projects. The standardized contract for small-scale solar projects should be simple, understandable and provide for the option to purchase SRECs from solar aggregators. Standardized contracts for the long-term procurement of SRECs should be from 5 to 20 years in length.

(b) *Contracts with solar aggregators.* The Commission finds it reasonable and efficient, and therefore encourages EDCs to execute a master agreement with a solar aggregator for the purchase of SRECs from various sources that establishes a prevailing SREC market price at a particular point in time through letter agreements that incorporate the terms of the master agreement.

(c) *Performance guarantees, security and other contract terms.* While EDCs may require the posting of bid security in an RFP for large-scale solar projects, bid security for small-scale solar projects is not necessary due to the manner in which the SREC market price for these projects is established. In addition, small-scale solar projects under 15kW in nameplate capacity may use estimates to report SREC generation to the PJM-GATS

system, as authorized under the AEPS Act, and should not be required to provide security relating to project completion or performance. Small-scale solar project contracts for projects at or above 15kW in nameplate capacity, or from a solar aggregator selling the EDC SRECs from projects 15kW or more in nameplate capacity, may contain a security deposit, refundable upon completion of project construction and certification of initial performance, as well as a performance guarantee refundable over the performance period or at the end of the contract. These provisions may be included to ensure that the aggregated solar projects supporting the SRECs are actually constructed and perform as designed. Security deposits for projects 15kW or more in nameplate capacity, or aggregated projects 15kW or more in nameplate capacity, may be converted, upon reasonable advance notice by the EDC to the impacted parties, from a refund to a performance guarantee upon project completion and certification. In addition, small-scale solar project SREC contracts may provide for EDC remote monitoring of solar installations. Contracts between EDCs and others for the purchase of SRECs from small-scale solar projects may also provide for a reasonable allocation of the risk of a project failing due to force majeure-type events. EDCs may

establish reasonable financial qualifications for solar aggregators from whom they purchase SRECs.

(d) *Contracts on behalf of residential customers.* EDCs are encouraged to contract for SRECs with solar aggregators that obtain SRECs from residential owners of small-scale solar projects. These projects can provide a beneficial way for those customers to cope with the volatility of electricity prices.

(e) *Stakeholder working group.* An EDC standardized contract and other related documents, for the purchase of SRECs from large-scale solar projects and small-scale solar projects should be posted on the Commission's web site and periodically updated by means of input from a stakeholder working group to ensure that these contracts reflect the most recent developments in Pennsylvania law and energy policy.

(f) *Customer education.* An EDC is encouraged to educate its retail customers of the opportunity to sell SRECs under the large-scale solar project RFP solicitation and the small-scale solar program in support of local development of solar resources.

[Pa.B. Doc. No. 10-2007. Filed for public inspection October 22, 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 Grant 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 in section 1002(b) of the Dog Law (3 P. S. § 459-1002(b)).

A proposed version of these guidelines and conditions was published at 40 Pa.B. 5199 (September 11, 2010). The Department invited public and legislative review of these proposed guidelines and conditions in accordance with 7 Pa. Code § 23.4 (relating to guidelines and conditions). The Department received no comments on the proposed guidelines and conditions and by this notice establishes the proposed guidelines and conditions as the final guidelines and conditions for the Program.

The guidelines and conditions for the Program are set as follows.

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 section 102 of 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.
 - 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 section 102 of the Dog Law.

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.

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 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 stray 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 under 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. 10-2008. Filed for public inspection October 22, 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 October 12, 2010.

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

BANKING INSTITUTIONS

Conversions

<i>Date</i>	<i>Name and Location of Applicant</i>	<i>Action</i>
10-8-2010	<i>From:</i> Team Capital Bank Bethlehem Northampton County <i>To:</i> Team Capital Bank Bethlehem Northampton County Application for approval to convert from a federally-chartered savings association to a Pennsylvania state-chartered stock savings bank.	Filed

Branch Applications

De Novo Branches

<i>Date</i>	<i>Name and Location of Applicant</i>	<i>Location of Branch</i>	<i>Action</i>
10-7-2010	Citizens Bank of Pennsylvania Philadelphia Philadelphia County	475 Ben Franklin Road South Indiana Indiana County	Approved
10-7-2010	ESB Bank Ellwood City Lawrence County	Rochester Road and Graham Park Drive Cranberry Township Butler County	Approved
10-8-2010	Centric Bank Harrisburg Dauphin County	1625 Market Street Camp Hill Cumberland County	Filed

Branch Consolidations

<i>Date</i>	<i>Name and Location of Applicant</i>	<i>Location of Branch</i>	<i>Action</i>
10-7-2010	AmeriServ Financial Bank Johnstown Cambria County	<i>Into:</i> 734 South Atherton Street State College Centre County <i>From:</i> 763 Benner Pike State College Centre County	Approved

Branch Discontinuances

<i>Date</i>	<i>Name and Location of Applicant</i>	<i>Location of Branch</i>	<i>Action</i>
9-30-2010	First Commonwealth Bank Indiana Indiana County	312 North Liberty Street New Castle Lawrence County	Closed
10-7-2010	S & T Bank Indiana Indiana County	225 Lucerne Road Lucerne Mines Indiana County	Approved

Articles of Amendment

<i>Date</i>	<i>Name and Location of Institution</i>	<i>Action</i>
10-12-2010	Standard Bank, PaSB Murrysville Westmoreland County	Approved and Effective

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

No activity.

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

STEVEN KAPLAN,
Secretary

[Pa.B. Doc. No. 10-2009. Filed for public inspection October 22, 2010, 9:00 a.m.]

DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT

Weatherization Assistance Program; American Recovery and Reinvestment Act State Plan; Public Hearing

The Department of Community and Economic Development (Department) will hold a public hearing on Wednesday, November 3, 2010, at 10 a.m. in PUC Hearing Room 2, Plaza Level of the Commonwealth Keystone Building, 400 North Street, Harrisburg, PA. The purpose of this hearing is to receive comments on the proposed amendments to the Commonwealth's American Recovery and Reinvestment Act (ARRA) State Weatherization Plan.

The first ARRA plan amendment will accommodate the additional funds awarded to the state under the Sustainable Energy Resources for Consumers (SERC) grant.

SERC funds have been made available to expand the materials, benefits and technologies not covered under the Weatherization Assistance Program. In this Commonwealth, \$1,379,821 was awarded to the Commission on Economic Opportunity and the Scranton Lackawanna Human Development Agency to install hybrid water heaters and in-home energy use monitors in Luzerne and Lackawanna Counties.

In the second amendment, the Department intends to amend ARRA plans to accommodate the changes necessary to do the following: reduce the allocation awarded to the York County Board of Commissioners, Carbon County Community Action Committee for Human Services and the Pennsylvania Housing Finance Agency; and increase allocations granted to the Philadelphia Housing Development Corporation and the Commission on Economic Opportunity of Luzerne County.

Finally, the Department intends to amend the ARRA and regular plan to establish performance contracting plan by implementing Performance Standards and

Metrics and an Addendum to Performance Standards and Metrics for Redistribution of ARRA and Annual DOE Dollars.

Copies of the plan may be obtained by contacting the Department of Community and Economic Development, Office of Energy Conservation and Weatherization, 4th Floor, Commonwealth Keystone Building, 400 North Street, Harrisburg, PA 17120, (717) 214-7707 or it can be downloaded from the Department's web site at www.newpa.com.

Written comments may be submitted to E. Craig Heim, Executive Director, Office of Energy Conservation and Weatherization, 4th Floor, Commonwealth Keystone Building, 400 North Street, Harrisburg, PA until 5 p.m. on Monday, November 1, 2010.

Persons with a disability who wish to attend this hearing and require auxiliary aid, services or other accommodations to participate in the proceedings, should contact Jacquelyn Allen, (717) 214-7707 to discuss how the Department may accommodate their needs.

Persons wishing to testify at the hearing should contact Jacquelyn Allen, (717) 214-7707 to schedule their presentation.

AUSTIN J. BURKE,
Secretary

[Pa.B. Doc. No. 10-2010. Filed for public inspection October 22, 2010, 9:00 a.m.]

DEPARTMENT OF EDUCATION

Hearing Regarding Cyber Charter School Application

The Department of Education (Department) has scheduled a public hearing regarding the three cyber charter school applications received on October 1, 2010. The hearing will be held on Monday, November 29, 2010 in Heritage A on the lobby level at 333 Market Street, Harrisburg, PA beginning at 9:15 a.m. The hearing pertains to the following applicants seeking to operate cyber charter schools beginning in the 2011-2012 school

year: the V3 Academy Cyber Charter School Cyber Community Charter of PA; and the Frontier Virtual Charter High School. The purpose of the hearing is to receive information from the applicants about the proposed cyber charter schools and to receive comments from interested persons regarding the applications. The applications can be viewed on the Department's web site at ww.w-pde.state.pa.us.

Each charter applicant will have 30 minutes to present information about the proposed cyber charter school. Individuals who wish to provide comments at the hearing must send the Department and the applicant a copy of the comments on or before November 8, 2010. Failure to comply with this deadline will preclude the respective individual from providing verbal comments at the hearing. Verbal comments may be limited based on the number of individuals requesting time to provide comments, and may also be limited if the comments are duplicative or repetitive of other individual's comments. A panel of individuals who have reviewed the applications will conduct the hearing. The panel members may question the applicants regarding issues identified during their review, as well as issues raised in the written comments filed before the hearing date. Panel members may also question individuals who offer verbal comments. Commentators will not be permitted to question either the applicants or the panel members. Individuals who are unable to attend the hearing may also provide the Department and the respective applicant with written comments on or before November 24, 2010. Any written comments provided to the Department by this deadline will become part of the certified record.

Comments sent to the Department should be addressed to Gregg Spadafore, Bureau of Teaching and Learning Support, 333 Market Street, 5th Floor, Harrisburg, PA 17126-0333. An agenda will be prepared after November 15, 2010, when the Department is aware of the number of individuals who wish to provide verbal comments at the hearing. That agenda will provide the order of presentation, as well as specify the amount of time allotted to each commentator. Individuals wanting a copy of the agenda should call Gregg Spadafore at (717) 705-2881.

THOMAS E. GLUCK,
Acting Secretary

[Pa.B. Doc. No. 10-2011. Filed for public inspection October 22, 2010, 9:00 a.m.]

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Applications, Actions and Special Notices

APPLICATIONS

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

This Notice provides information about persons who have applied for a new, amended or renewed NPDES or WQM permit, a permit waiver for certain stormwater discharges, or submitted a Notice of Intent (NOI) for coverage under a General Permit. The applications concern, but are not limited to, discharges related to industrial, animal or sewage waste, discharges to groundwater, discharges associated with municipal separate storm sewer systems (MS4), stormwater associated with construction activities or concentrated animal feeding operations (CAFOs) (hereinafter referred to as "applications"). This Notice is provided in accordance with regulations at 25 Pa. Code Chapters 91 and 92 and 40 CFR Part 122, implementing provisions of the Pennsylvania Clean Streams Law, 35 P.S. §§ 691.1 *et seq.*, and the federal Clean Water Act, 33 USCA §§ 1251 *et seq.*

<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 listed in Section I, the Department of Environmental Protection (Department) has made a tentative determination to re-issue 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 listed in Section II, as well as applications for MS4 Individual Permits, and Individual Stormwater Construction Permits listed 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 EPA Region III Administrator has waived the right to review or object to proposed NPDES permit actions under the waiver provision 40 CFR 123.24(d).

Persons wishing to comment on any of these NPDES applications are invited to submit a statement to the contact office noted above the application, within 30 days from the date of this public notice. Persons wishing to comment on any WQM permit application are invited to submit a statement, to the office noted above 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. All comment submittals 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, and 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 any public hearings are held.

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

I. NPDES Renewal Applications

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

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0084506 (SEW)	Starlite Camping Resort 1500 Furnace Hill Road Stevens, PA 17578	Lancaster County / Clay Township	Dryswale to Middle Creek / 7J	Y
PA0247731 (IW)	DS Waters of America, Inc.— Ephrata Bottled Water 1761 Newport Road Ephrata, PA 17522	Lancaster County / West Earl Township	Cocalico Creek / 7J	Y
PAS203503 (IW)	Mueller Water Products Beck Manufacturing 1200 Abernathy Road, NE, Suite 1200 Atlanta, GA 30328	Franklin County Antrim Township	UNT to Muddy Run / 13-C	Y
PA0084883 (Sew)	Broad Top City Borough P. O. Box 220 Broad Top City, PA 16621-0220	Huntingdon County Broad Top City Borough	Shoup Run / 11-D	Y
PA0030473 (Sew)	West Shore School District P. O. Box 803 New Cumberland, PA 17070-0803	York County Fairview Township	UNT to Yellow Breeches Creek / 7-E	Y
PA0084182 (Sew)	Peters Township Municipal Authority of Franklin County 5000 Steele Avenue P. O. Box 19 Lemasters, PA 17231	Franklin County Peters Township	West Branch Conococheage / 13-C	Y

NPDES No. (Type)	Facility Name & Address	County & Municipality	Stream Name (Watershed #)	EPA Waived Y/N ?
PA0084191 (Sew)	Peters Township Municipal Authority of Franklin County 5000 Steele Avenue P. O. Box 19 Lemasters, PA 17231	Franklin County Peters Township	West Branch Conococheage / 13-C	Y

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

NPDES No. (Type)	Facility Name & Address	County & Municipality	Stream Name (Watershed No.)	EPA Waived Y/N?
PA0032514 (Sewage)	Denton Hill State Park 5661 US 6 West Coudersport, PA 16915	Potter County Ulysses Township	Ninemile Run (9-A)	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 ?
PA0221007	Volant Borough P. O. Box 96 530 Main Street Volant, PA 16156-00096	Lawrence County Volant Borough	Neshannock Creek, 20-A	Y

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

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

PA0021563, Sewage, SIC Code 4952, 221320, **Gettysburg Borough Municipal Authority**, 59 East High Street, Gettysburg, PA 17325. Facility Name: Gettysburg STP. This existing facility is located in Gettysburg Borough, **Adams County**.

Description of Existing Activity: The application is for an amendment of an NPDES permit for an existing discharge of treated Sewage.

The receiving stream(s), Rock Creek is located in State Water Plan watershed 13D and is classified for Warm Water Fishes, aquatic life, water supply and recreation. The discharge is not expected to affect public water supplies.

The proposed effluent limits for Outfall 001 are based on an interim design flow of 2.45 MGD and a final design flow of 3.0 MGD.

Parameters	Mass (lb/day)			Concentration (mg/l)		
	Average Monthly	Weekly Average	Minimum	Average Monthly	Weekly Average	Instant. Maximum
Flow (MGD) (Interim)	Report	Report	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0	XXX	XXX	9.0
Dissolved Oxygen	XXX	XXX	5.0	XXX	XXX	XXX
CBOD ₅ May 1 - Oct 31 (Interim)	306	459	XXX	15	22.5	30
CBOD ₅ Nov 1 - Apr 30 (Interim)	510	817	XXX	25	40	50
CBOD ₅ (Final)	250	375	XXX	10	15	20
Total Suspended Solids (Interim)	612	919	XXX	30	45	60
Total Suspended Solids (Final)	375	563	XXX	15	22.5	30
Fecal Coliform (CFU/100 ml) May 1 - Sep 30	XXX	XXX	XXX	200 Geo Mean	XXX	XXX
Fecal Coliform (CFU/100 ml) Oct 1 - Apr 30	XXX	XXX	XXX	2000 Geo Mean	XXX	XXX
Ammonia-Nitrogen May 1 - Oct 31 (Interim)	40	XXX	XXX	2.0	XXX	4.0
Ammonia-Nitrogen Nov 1 - Apr 30 (Interim)	122	XXX	XXX	6.0	XXX	12

Parameters	Mass (lb/day)			Concentration (mg/l)		
	Average Monthly	Weekly Average	Minimum	Average Monthly	Weekly Average	Instant. Maximum
Ammonia-Nitrogen						
May 1 - Oct 31 (Final)	27	XXX	XXX	1.0	XXX	2.0
Ammonia-Nitrogen						
Nov 1 - Apr 30 (Final)	81	XXX	XXX	3.0	XXX	6.0
Total Phosphorus (Interim)	20	XXX	XXX	1.0	XXX	2.0
Total Phosphorus (Final)	8.5	XXX	XXX	0.6	XXX	1.2

The final limits are effective 6/1/2012

The proposed monitoring requirements and, where appropriate, effluent limits for implementation of the Chesapeake Bay Tributary Strategy are as follows for Outfall 001.

Parameters	Mass (lbs)			Concentration (mg/l)	
	Monthly	Annual	Minimum	Monthly Average	Maximum
Ammonia---N	Report	Report	XXX	Report	XXX
Kjeldahl---N	Report	XXX	XXX	Report	XXX
Nitrate-Nitrite as N	Report	XXX	XXX	Report	XXX
Total Nitrogen	Report	Report	XXX	Report	XXX
Total Phosphorus	Report	Report	XXX	Report	XXX
Net Total Nitrogen (Interim)	Report	Report	XXX	XXX	XXX
Net Total Nitrogen (Final)	Report	44748	XXX	XXX	XXX
Net Total Phosphorus (Interim)	Report	Report	XXX	XXX	XXX
Net Total Phosphorus (Final)	Report	5966	XXX	XXX	XXX

* This permit contains conditions which authorize the permittee to apply nutrient reduction credits to meet the Net Total Nitrogen and the Net Total Phosphorus effluent mass limits, under the Department's Trading of Nutrients and Sediment Reduction Credits Policy and Guidelines (Document #392-0900-001, December 30, 2006). The condition includes the requirement to report the application of these credits in Supplemental Discharge Monitoring Reports (DMRs) submitted to the Department.

* The compliance date for Net Total Nitrogen and Net Total Phosphorus will begin on 10/1/2012. Since these reporting requirements are annual loads, the reporting on compliance with the annual limitations will be required to be reported on the Supplemental DMR - Annual Nutrient Summary by November 28, 2012. This facility is required to monitor and report for Net Total Nitrogen and Net Total Phosphorus from the effective date of the permit until September 30, 2012.

You may make an appointment to review the DEP files on this case by calling the File Review Coordinator at 717-705-4732.

The EPA Waiver is not in effect.

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

PA0253987-A1, Industrial Waste, SIC, 4953, **Somerset Regional Water Resources, LLC**, 888 Stoystown Road, Somerset, PA 15501.

This application is for amendment of an NPDES permit to discharge treated process water and storm water from Somerset Regional Water Resources' Industrial Wastewater Treatment Plant in Somerset Township, **Somerset County**.

The following effluent limitations are proposed for discharge to the receiving waters, unnamed tributaries of the East Branch of Coxes Creek, classified as trout stocking fisheries with existing and/or potential uses for aquatic life, water supply, and recreation. The first existing/proposed downstream potable water supply (PWS) is Ohiopyle Borough Municipal Water Works, located at Ohiopyle.

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

Parameter	Mass (lb/day)		Concentration (mg/l)		Instant. Maximum
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	
Flow (Mgd)	Monitor and Report				
Total Suspended Solids	Report	Report	Not Detectable		
BOD-5 Day	90.6	181	8.35	16.7	
Oil and Grease	Report	Report	Not Detectable		
Aluminum	Report	Report	Not Detectable		
Barium	2.60	5.21	0.24	0.48	
Iron	Report	Report	Not Detectable		
Manganese	Report	Report	Not Detectable		
Strontium	Report	Report	Not Detectable		
Benzene	0.011	0.022	0.001	0.002	
Ethylbenzene	Report	Report	Monitor and Report		

Parameter	Mass (lb/day)		Concentration (mg/l)		Instant. Maximum
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	
Toluene	Report	Report	Monitor and Report		
Xylenes	Report	Report	Monitor and Report		
Total BTEX	1.08	2.17	0.1	0.2	
Monoethylene Glycol	Report	Report	Monitor and Report		
Phenols	Report	Report	Not Detectable		
Acetone	38.2	76.4	3.52	7.04	
Acetophenone	0.610	1.24	0.0562	0.114	
2-Butanone	20.1	52.2	1.85	4.81	
o-Cresol	6.09	20.8	0.561	1.92	
p-Cresol	1.74	3.47	0.160	0.320	
Pyridine	1.97	4.01	0.182	0.370	
2,4,6-Trichlorophenol	0.011	0.022	0.001	0.002	
Boron	17.4	34.7	1.60	3.20	
Copper	0.098	0.195	0.009	0.018	
Lead	0.033	0.065	0.003	0.006	
Silver	0.022	0.043	0.002	0.004	
Zinc	0.835	1.67	0.077	0.154	
Naphthalene	0.575	1.15	0.053	0.106	
Total Dissolved Solids	5,425	8,137	500	750	
Chloride		2,712		250	
Sulfate		2,712		250	
Bromide	Report	Report	Monitor and Report		
Osmotic Pressure (mOs/kg)			50.3	100.6	
Acidity	Report	Report	Less than alkalinity		
Alkalinity	Report	Report	Monitor and Report		
Gross Alpha (pCi/L)			Monitor and Report		
Radium 226/228 (pCi/L)			Monitor and Report		
pH	not less than 6.0 nor greater than 9.0 S.U.				

OTHER CONDITIONS: Special conditions concerning priority pollutant sampling, compliance with “not detectable” effluent limitations, residual/hazardous waste disposal, storm water, oil-bearing wastewaters, and chemical additives.

Outfalls 002, 003, 004, and 005: new discharges of storm water.

Parameter	Mass (lb/day)		Concentration (mg/l)		Instant. Maximum
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	
Discharges from these outfalls shall consist solely of uncontaminated storm water runoff.					

OTHER CONDITIONS: Condition requiring sampling and analysis of storm water discharges within six months of facility start-up.

The EPA waiver is not in effect.

PA0023141, Sewage, **Hastings Area Sewer Authority**, 207-1 Fifth Avenue, PO Box 559, Hastings, PA 16646-0559.

This application is for renewal of an NPDES permit to discharge treated sewage from Hastings Sewer Authority Sewage Treatment Plant in Elder Township, **Cambria County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Brubaker Run, which are classified as a cold water migratory fishery with existing and/or potential uses for aquatic life, water supply, and recreation. The first downstream potable water supply intake from this facility is the: Keystone Water Company located on the West Branch Susquehanna River.

Outfall 001: existing discharge, design flow of 0.6 mgd.

Parameter	Monthly Average	Concentration (mg/l)		Instant. Maximum	Mass (lbs)	
		Weekly Average	Daily Maximum		Monthly Load	Annual Load
CBOD-5	25	37.5		50		
Total Suspended Solids	30	45		60		
Ammonia-Nitrogen						
May 1 to Oct 31	2.0	3.0		4.0		
Nov 1 to Apr 30	5.0	7.5		10.0		
Fecal Coliform						
May 1 - Sept. 30	200/100ml as a geometric mean					
Oct. 1 - Apr. 30	2,000/100 ml as a geometric mean					
Dissolved Oxygen	not less than 6.0 mg/l					
pH	not less than 6.0 nor greater than 9.0					
Ammonia-N	Report				Report	Report

Parameter	Monthly Average	Concentration (mg/l)		Instant. Maximum	Mass (lbs)	
		Weekly Average	Daily Maximum		Monthly Load	Annual Load
Kjeldahl-N	Report				Report	
Nitrate-Nitrite as N	Report				Report	
Total Nitrogen	Report				Report	Report
Total Phosphorus	Report				Report	Report
Net Total Nitrogen	Report				Report	16,438*
Net Total Phosphorus	Report				Report	2,192*

* This permit contains a condition which authorizes the permittee to apply nutrient reduction credits to meet the Net Total Nitrogen and the Net Total Phosphorus effluent mass limits, under the Department's Trading of Nutrients and Sediment Reduction Credits Policy and Guidelines (Document #392-0900-001, December 30, 2006). The condition includes the requirement to report the application of these credits in Supplemental Discharge Monitoring Reports (DMRs) submitted to the Department.

* The compliance date for Net Total Nitrogen and Net Total Phosphorus will begin on October 1, 2012. Since these reporting requirements are annual loads, the reporting on the compliance with the annual limitations will be required to be reported on the Supplemental DMR - Annual Nutrient Summary by November 28, 2012. This facility is required to monitor and report for Net Total Nitrogen and Net Total Phosphorus from the effective date of the permit until September 30, 2013.

The EPA waiver is not in effect.

PA0110469, Sewage, SIC Code 4952, **Patton Borough Cambria County**, PO Box 175, Patton, PA 16668. Facility Name: Patton Borough STP. This existing facility is located in Patton Borough, **Cambria 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 Chest Creek is located in State Water Plan watershed 8-B and is classified for Cold Water Fishes, aquatic life, water supply and recreation. The discharge is not expected to affect public water supplies.

The proposed effluent limits for Outfall 001 are based on a design flow of 0.54 MGD.

Parameters	Mass (lb/day)			Concentration (mg/l)		
	Average Monthly	Weekly Average	Minimum	Average Monthly	Weekly Average	Instant. Maximum
Flow (MGD)	Report	Report Daily Max	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0	XXX	XXX	9.0
CBOD5						
May 1 - Oct 31	90.1	135.2	XXX	20	30	40
Nov 1 - Apr 30	112.7	169.0	XXX	25	37.5	50
Total Suspended Solids	135.2	202.8	XXX	30	45	60
Fecal Coliform (CFU/100 ml)						
May 1 - Sep 30	XXX	XXX	XXX	200 Geo Mean	XXX	1000
Fecal Coliform (CFU/100 ml)						
Oct 1 - Apr 30	XXX	XXX	XXX	2000 Geo Mean	XXX	10000
Ammonia-Nitrogen						
May 1 - Oct 31	54.1	81.1	XXX	12.0	18.0	24.0

The proposed monitoring requirements and, where appropriate, effluent limits for implementation of the Chesapeake Bay Tributary Strategy are as follows for Outfall 001.

Parameter	Mass (lbs)		Concentration (mg/l)		
	Monthly Load	Annual Load	Monthly Average	Weekly Average	Instantaneous Maximum
Ammonia-N	Report	Report	Report		
Kjeldahl-N	Report		Report		
Nitrate-Nitrite as N	Report		Report		
Total Nitrogen	Report	Report	Report		
Total Phosphorus	Report	Report	Report		
Net Total Nitrogen	Report	9,863	Report		
Net Total Phosphorus	Report	1,315	Report		

* This permit contains conditions which authorize the permittee to apply nutrient reduction credits to meet the Net Total Nitrogen and the Net Total Phosphorus effluent mass limits, under the Department's Trading of Nutrients and Sediment Reduction Credits Policy and Guidelines (Document #392-0900-001, December 30, 2006). The condition includes the requirement to report the application of these credits in Supplemental Discharge Monitoring Reports (DMRs) submitted to the Department.

* The compliance date for Net Total Nitrogen and Net Total Phosphorus will begin on October 1, 2013. Since these reporting requirements are annual loads, the reporting on compliance with the annual limitations will be required to be reported on the Supplemental DMR - Annual Nutrient Summary by November 28, 2013. This facility is required to monitor and report for Net Total Nitrogen and Net Total Phosphorus from the effective date of the permit until September 30, 2013.

** Total Annual Ammonia Load will be required to be reported on the Supplemental DMR - Annual Nutrient Summary by November 28, 2013.

The EPA Waiver is not in effect.

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

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

WQM Permit No. 3410401, Sewerage, **Beale Township**, 573 Cider Press Road, Port Royal, PA 17082.

This proposed facility is located in Beale Township, **Juniata County**.

Description of Proposed Action/Activity: Seeking approval for the construction / operation of a sanitary collection system and lagoon wastewater treatment system with spray irrigation.

WQM Permit No. 2810404, Sewerage, **Guilford Township Authority**, 115 Spring Valley Road, Chambersburg, PA 17201.

This proposed facility is located in Guilford Township, **Franklin County**.

Description of Proposed Action/Activity: Seeking approval for upgrades to the Penn National Pump Station; remove existing pumps and controls, replace with new pumps and controls and a new generator, divert flow into previously constructed and unused force main - will divert flow from Chambersburg WWTP to Quincy Township WWTP.

WQM Permit No. 6795415, Amendment 10-1, Sewerage, **Eastern York County Sewer Authority**, PO Box 6206, Hellam, PA 17406.

This proposed facility is located in Hallam Borough, **York County**.

Description of Proposed Action/Activity: Seeking approval for a BNR upgrade and improvements to the existing plant in order to meet the nutrient limits set by the Chesapeake Bay Nutrient Reduction Strategy.

WQM Permit No. 0701401, Sewerage, **Jason L. Sensenig**, 1729 Kerbaugh Dam Lane, Tyrone, PA 16686.

This proposed facility is located in Antis Township, **Blair County**.

Description of Proposed Action/Activity: Seeking approval for the construction/operation of a small flow sewage system to replace their existing malfunctioning system, serving their single family residence.

WQM Permit No. 0701402, Sewerage, **Todd A. Harshbarger**, 3060 Homer's Gap Road, Altoona, PA 16601.

This proposed facility is located in Logan Township, **Blair County**.

Description of Proposed Action/Activity: Seeking approval for the construction/operation of a small flow sewage system to replace their existing malfunctioning system, serving their single family residence.

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

WQM Permit No. WQG016184, Sewerage, **Jeffrey L. Mosholder**, 124 Woodside Drive, Somerset, PA 15501

This proposed facility is located in Somerset Township, **Somerset County**.

Description of Proposed Action/Activity: Application for the construction and operation of a single residence sewage treatment facility.

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

WQM Permit No. 1672403, Sewerage, **Amendment No. 1, Redbank Valley Municipal Authority**, 243 Broad Street, New Bethlehem, PA 16242

This existing facility is located in New Bethlehem Borough, **Armstrong County**.

Description of Proposed Action/Activity: Expand and upgrade the existing Redbank Valley Municipal Authority STP from 0.3 mgd to 0.59 mgd to eliminate hydraulic overload.

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

WQM Permit No. 1599422, Amendment, Valley Forge Sewer Authority, 333 Pawling Road, Phoenixville, PA 19460.

This proposed facility is located in Schuylkill Township, **Chester County**.

Description of Action/Activity: Expansion of existing wastewater treatment facility from 9.2 MGD to 11.6 MGD connected flow.

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

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

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

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

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water / Use</i>
PAI01 1503093-R	Toll Brothers, Inc. 1180 Station Boulevard Chester Springs, PA 19465	Chester	Upper Uwchlan Township	Pickering Creek (HQ-TSF-MF)
PAI01 1509022 - Phase 2-5	Tel Hai Retirement Community 1200 Tel Hai Circle PO Box 190 Honey Brook, PA 19344	Chester	Honey Brook Township	Unnamed Tributary Two Log Run (HQ-TSF)
PAI01 151028	The Hankin Group 707 Eagleview Boulevard PO Box 562 Exton, PA 19341	Chester	Uwchlan Township	Shamona Creek (HQ-TSF-MF)
PAI01 231002	County of Delaware 201 West Front Street Media, PA 19063	Delaware	Middletown and Aston Townships	Chester Creek (TSF-MF)

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

Monroe County Conservation District: 8050 Running Valley Road, Stroudsburg, PA 18360, 570-629-3060.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water / Use</i>
PAI024505001-R	Jim Schlier P. O. Box 471 Tannersville, Pa 18372	Monroe	Pocono Twp.	Scot Run, HQ-CWF, MF

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

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water / Use</i>
PAI033110001	Bruce Cox 1618 Ridge Road Warriors Mark, PA 16877	Huntingdon	Warriors Mark Township	UNT to Warriors Mark Run/ CWF-HQ

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

Butler County Conservation District, 122 McCune Drive, Butler PA 16001-6501. Phone: (724) 284-5270

<i>NPDES Application No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water / Use</i>
PAI 0610 09 001 (1)	PA Dept of Transportation District 10-0 2550 Oakland Avenue Indiana PA 15701	Butler	Jackson Township and Harmony Borough	Little Connoquenessing Creek CWF
PAI 0610 09 001 (2)	PA Dept of Transportation District 10-0 2550 Oakland Avenue Indiana PA 15701	Butler	Jackson Township and Harmony Borough	Little Connoquenessing Creek CWF
PAI 0610 10 004	Vernon A. Frey F and H Development LLC 4359 Gibsonia Road Gibsonia PA 15044	Butler	Buffalo Township	Sarver Run HQ-TSF

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

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

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

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, Rachael Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania AT&T Relay Service at (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

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.

NUTRIENT MANAGEMENT PLAN—PUBLIC NOTICE SPREADSHEET

<i>Agricultural Operation Name and Address</i>	<i>County</i>	<i>Total Acres</i>	<i>Animal Equivalent Units</i>	<i>Animal Type</i>	<i>Special Protection Waters (HQ or EV or NA)</i>	<i>Renewal/ New</i>
Jim Hershey 338 Sunnyburn Road Elizabethtown, PA 17022	Lancaster	530	667.25	Swine/ Broilers	NA	R
Alan Harnish 3421 Blue Rock Rd Lancaster, PA 17603	Lancaster	46	548.22	Swine	NA	R
Brubaker Farms Partnership 493 Musser Rd Mount Joy, PA 17552	Lancaster	1,915.80	2188.17	Dairy/ Broiler/ Swine	HQ	R

**PUBLIC WATER SUPPLY (PWS)
PERMITS**

Pursuant to the Pennsylvania Safe Drinking Water Act, the following parties have applied for a public water supply permit to construct or substantially modify a public water system.

Persons wishing to comment on the permit application are invited to submit a statement to the office listed above the application within 30 days of this public notice. Comments received within this 30-day comment period will be considered in the formulation of the final determinations regarding this application. Comment responses 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. 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 above the application and available for public review. Arrangements for inspection and copying information should be made with the office listed above the application.

Persons with a disability that require an auxiliary aid service or other accommodations to participate during the 30-day public comment period should contact the office listed above the application. TDD users may contact the Department through the Pennsylvania AT&T Relay Service at 1-800-654-5984.

SAFE DRINKING WATER

Applications Received under the Pennsylvania Safe Drinking Water Act (35 P. S. §§ 721.1—721.17)

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

Application No. 5810502MA, Public Water Supply.

Applicant **Pennsylvania American Water Co.**

[Township or Borough] Thompson Township
Susquehanna County

Responsible Official David R. Kaufman, PE
Vice Pres. - Engineering
800 West Hershey Park Drive
Hershey, PA 17033

Type of Facility Community Water System

Consulting Engineer James P. Conner, PE
Pennsylvania-American
Water Co.
100 North Pennsylvania Avenue
Wilkes-Barre, PA 18701
570-830-6538

Application Received Date September 30, 2010

Description of Action Application for modification of the Thompson No. 2 treatment facility to increase contact volume and install instrumentation to meet Groundwater Rule requirements. The existing chemical feed system will also be modified.

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

Application No. 3610538 MA, Minor Amendment, Public Water Supply.

Applicant **Terre Hill Borough**

Municipality Terre Hill Borough

County **Lancaster**

Responsible Official Robert R Rissler, Public Works Superintendant
PO Box 250
300 Broad Street
Terre Hill, PA 17581-0250

Type of Facility Public Water Supply

Consulting Engineer Russell M. Smith, P. E.
SSM Group, Inc.
1047 North Park Road
Reading, PA 19610

Application Received: 10/1/2010

Description of Action Installation of chlorine contact piping at Entry Points 101 and 102. Demonstration of 4-log treatment of viruses for Entry Points 100, 101, 102 and 103.

Southwest Region: Water Supply Management Program Manager, 400 Waterfront Drive, Pittsburgh, Pa 15222-4745

Permit No. 0210519, Public Water Supply.

Applicant **Municipal Authority of the Borough of Oakmont**
721 Allegheny Avenue
Oakmont, PA 15139

[Township or Borough] Oakmont Borough

Responsible Official John Dunlap, General Manager
Municipal Authority of the
Borough of Oakmont
721 Allegheny Avenue
Oakmont, PA 15139

Type of Facility Water treatment plant

Consulting Engineer NIRA Consulting Engineers, Inc.
950 Fifth Avenue
Coraopolis, PA 15108

Application Received Date September 20, 2010

Description of Action Cleaning and painting of the Crescent Hill water storage tank. Project also includes the installation of a mixing system.

Permit No. 0210520, Public Water Supply.

Applicant **Pennsylvania American Water Company**
800 West Hersheypark Drive
PO Box 888
Hershey, PA 17033

[Township or Borough] Baldwin Borough and the City of Pittsburgh

Responsible Official David Kaufman, P. E.
Vice President-Engineering
Pennsylvania American
Water Company
800 West Hersheypark Drive
PO Box 888
Hershey, PA 17033

Type of Facility Hays mine water system

Consulting Engineer Gannett Fleming, Inc.
207 Senate Avenue
Camp Hill, PA 17011-2316

Application Received Date September 16, 2010

Description of Action Construction of the high service pump station at the Hays Mine water treatment plant.

Permit No. 0210521, Public Water Supply.

Applicant **Pittsburgh Water & Sewer Authority**
1200 Penn Avenue
2nd Floor
Pittsburgh, PA 15222-4204

[Township or Borough] City of Pittsburgh

Responsible Official Michael Kenney,
Executive Director
Pittsburgh Water &
Sewer Authority
1200 Penn Avenue
2nd Floor
Pittsburgh, PA 15222-4204

Type of Facility Water treatment plant

Consulting Engineer Camp, Dresser & McKee, Inc.
2740 Smallman Street
Pittsburgh, PA 15222

Application Received Date September 28, 2010

Description of Action Rehabilitation of all rapid sand filters at the Aspinwall Water Treatment Plant.

Permit No. 0210517, Public Water Supply.

Applicant **Municipal Authority of the Borough of West View**
210 Perry Highway
Pittsburgh, PA 15229

[Township or Borough] Neville Township

Responsible Official Joseph Dinkel, Executive Director of Operations
Municipal Authority of the Borough of West View
210 Perry Highway
Pittsburgh, PA 15229

Type of Facility Water treatment plant

Consulting Engineer Bankson Engineers, Inc.
267 Blue Run Road
PO Box 200
Indianola, PA 15051

Application Received Date July 13, 2010

Description of Action Installation of a polyaluminum chloride, sodium permanganate and sodium hydroxide feed systems.

MINOR AMENDMENT

Applications Received under the Pennsylvania Safe Drinking Water Act (35 P. S. §§ 721.1—721.17)

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

Application No. 3910511MA

Applicant **Macungie Borough Authority**

[Township or Borough] Borough of Macungie
Lehigh County

Responsible Official Tracy A. Smith, Maint. Supervisor
Macungie Borough Authority
21 Locust Street
Macungie, PA 18062

Type of Facility Community Water System

Consulting Engineer Timothy A. Miller, PE
Keystone Consulting Engineers, Inc.
6235 Hamilton Boulevard
Wescosville, PA 18106
610-395-0971

Application Received Date September 20, 2010

Description of Action Application to add additional conveyance segments at Well Nos. 1 and 2 to provide additional contact volume for meeting the Groundwater Rule 4-log requirements for disinfection of viruses.

Southwest Region: Water Supply Management Program Manager, 400 Waterfront Drive, Pittsburgh, Pa 15222-4745

Application No. 0310506GWR, Minor Amendment.

Applicant **Cowanshannock Municipal Authority**
Box 127
NuMine, PA 16244

[Township or Borough] Cowanshannock Township

Responsible Official George Wranich, Operator
Cowanshannock Municipal Authority
Box 127
NuMine, PA 16244

Type of Facility Sagamore water system

Consulting Engineer Bankson Engineers, Inc.
267 Blue Run Road
PO Box 200
Indianola, PA 15051

Application Received Date October 1, 2010

Description of Action 4-log demonstration for groundwater sources.

Application No. 2610508GWR, Minor Amendment.

Applicant **Nemacolin Woodlands, Inc.**
1001 LaFayette Drive
Farmington, PA 15330

[Township or Borough] Wharton Township

Responsible Official James Bungard, Operator
Nemacolin Woodlands, Inc.
1001 LaFayette Drive
Farmington, PA 15330

Type of Facility NWL water treatment plant

Consulting Engineer McMillen Engineering
115 Wayland Smith Drive
Uniontown, PA 15401

Application Received Date October 4, 2010

Description of Action 4-log demonstration for groundwater sources.

Application No. 1110509GWR, Minor Amendment.

Applicant **Northern Cambria Municipal Authority**
1202 Philadelphia Avenue
Northern Cambria, PA 15714

[Township or Borough] Northern Cambria Borough

Responsible Official Ronald Depto, Jr., Operator
Northern Cambria Municipal Authority
1202 Philadelphia Avenue
Northern Cambria, PA 15714

Type of Facility Water system
 Consulting Engineer Stiffler McGraw and Associates
 1731 North Juniata Street
 Hollidaysburg, PA 16648
 Application Received Date October 4, 2010
 Description of Action 4-log demonstration for
 groundwater sources.

Application No. 5610513GWR, Minor Amendment.

Applicant **Municipal Authority of
 Boswell Borough**
 300 Stonycreek Street
 Boswell, PA 15531
 [Township or Borough] Boswell Borough
 Responsible Official Ronald Geisweidt, Operator
 Municipal Authority of
 Boswell Borough
 300 Stonycreek Street
 Boswell, PA 15531

Type of Facility Water system
 Consulting Engineer The EADS Group, Inc.
 450 Aberdeen Drive
 Somerset, PA 15501

Application Received Date September 16, 2010
 Description of Action 4-log demonstration for
 groundwater sources.

Application No. 2610506GWR, Minor Amendment.

Applicant **Mountain Water Association**
 PO Box 527
 Fairchance, PA 15436
 [Township or Borough] Georges Township
 Responsible Official John Trump, Manager
 Mountain Water Association
 PO Box 527
 Fairchance, PA 15436

Type of Facility Water system
 Consulting Engineer Fayette Engineering
 Company Inc.
 2200 University Drive
 P.O. Box 1030
 Uniontown, PA 15401-1030

Application Received Date September 16, 2010
 Description of Action 4-log demonstration for
 groundwater sources.

Application No. 5610514GWR, Minor Amendment.

Applicant **Cairnbrook Improvement
 Association**
 PO Box 264
 Cairnbrook, PA 15924
 [Township or Borough] Shade Township
 Responsible Official Michael Kubek, Plant Engineer
 Cairnbrook Improvement
 Association
 PO Box 264
 Cairnbrook, PA 15924

Type of Facility Water system
 Consulting Engineer
 Application Received Date September 14, 2010
 Description of Action 4-log demonstration for
 groundwater sources.

Application No. 5610515GWR, Minor Amendment.

Applicant **Small Water Association**
 PO Box 124
 Cairnbrook, PA 15924
 [Township or Borough] Shade Township
 Responsible Official Michael Kubek, Plant Engineer
 Small Water Association
 PO Box 124
 Cairnbrook, PA 15924

Type of Facility Water system
 Consulting Engineer
 Application Received Date September 14, 2010
 Description of Action 4-log demonstration for
 groundwater sources.

Application No. 5610518GWR, Minor Amendment.

Applicant **Seven Springs Municipal
 Authority**
 290 Lagoon Lane
 Champion, PA 15622
 [Township or Borough] Middlecreek Township
 Responsible Official Donald Mansberry, Operator
 Seven Springs Municipal
 Authority
 290 Lagoon Lane
 Champion, PA 15622

Type of Facility Water system
 Consulting Engineer Widmer Engineering
 225 West Crawford Avenue
 Connellsville, PA 15425

Application Received Date September 23, 2010
 Description of Action 4-log demonstration for
 groundwater sources.

Application No. 5610511GWR, Minor Amendment.

Applicant **Hidden Valley Utility
 Services**
 PO Box 4038
 Hidden Valley, PA 15502
 [Township or Borough] Hidden Valley
 Responsible Official Glenn Fodor, Operator
 Hidden Valley Utility Services
 PO Box 4038
 Hidden Valley, PA 15502

Type of Facility Water system
 Consulting Engineer
 Application Received Date August 30, 2010
 Description of Action 4-log demonstration for
 groundwater sources.

Application No. 0410511GWR, Minor Amendment.

Applicant **Monaca Borough Water Department**
928 Pennsylvania Avenue
Monaca, PA 15061

[Township or Borough] Monaca Borough

Responsible Official Mario Leone, Jr.,
Borough Manager
Monaca Borough
Water Department
928 Pennsylvania Avenue
Monaca, PA 15061

Type of Facility Water system

Consulting Engineer

Application Received Date October 1, 2010

Description of Action 4-log demonstration for
groundwater sources.

Application No. 0310505GWR, Minor Amendment.

Applicant **Manor Township Joint Municipal Authority**
2310 Pleasant View Drive
Ford City, PA 16226-1535

[Township or Borough] Manor Townshiop

Responsible Official Kenneth Wilsoncroft, Operator
Manor Township Joint
Municipal Authority
2310 Pleasant View Drive
Ford City, PA 16226-1535

Type of Facility Water system

Consulting Engineer Bankson Engineers, Inc.
267 Blue Run Road
PO Box 200
Indianola, PA 15051

Application Received Date October 1, 2010

Description of Action 4-log demonstration for
groundwater sources.

Application No. 1110508GWR, Minor Amendment.

Applicant **Spangler Municipal Authority**
1202 Philadelphia Avenue
Northern Cambria, PA 15714

[Township or Borough] Barr Township

Responsible Official Ronald Depto, Jr.
Spangler Municipal Authority
1202 Philadelphia Avenue
Northern Cambria, PA 15714

Type of Facility Water system

Consulting Engineer Stiffler McGraw and Associates
1731 North Juniata Street
Hollidaysburg, PA 16648

Application Received Date October 4, 2010

Description of Action 4-log demonstration for
groundwater sources.

Application No. 5610512GWR, Minor Amendment.

Applicant **Jennerstown Municipal Authority**
PO Box 99
Jennerstown, PA 15547

[Township or Borough] Jennerstown Borough and
Jenner Township

Responsible Official Ronald Geisweidt, Operator
Jennerstown Municipal
Authority
PO Box 99
Jennerstown, PA 15547

Type of Facility Water system

Consulting Engineer The EADS Group, Inc.
450 Aberdeen Drive
Somerset, PA 15501

Application Received Date September 16, 2010

Description of Action 4-log demonstration for
groundwater sources.

Application No. 2610507GWR, Minor Amendment.

Applicant **National Pike Water Authority**
4888 National Pike
Markleysburg, PA 15459

[Township or Borough] Henry Clay Township

Responsible Official Mike Martin, Operator
National Pike Water Authority
4888 National Pike
Markleysburg, PA 15459

Type of Facility Water system

Consulting Engineer McMillen Engineering
115 Wayland Smith Drive
Uniontown, PA 15401

Application Received Date September 17, 2010

Description of Action 4-log demonstration for
groundwater sources.

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

Application No. 3386502-MA3, Minor Amendment

Applicant **Brockway Borough Municipal Authority**

Township or Borough Brockway Borough/Jefferson
County

Responsible Official Michael Arnold, Chairman

Type of Facility Public Water System

Application Received Date 09/27/2010

Description of Action Additional piping for Well No. 3
for contact time improvements
per Groundwater Rule.

WATER ALLOCATIONS

Applications received under the act of June 24, 1939 (P.L. 842, No. 365) (35 P.S. §§ 631—641) relating to the Acquisition of Rights to Divert Waters of this Commonwealth

Southwest Region: Water Supply Management Program Manager, 400 Waterfront Drive, Pittsburgh, Pa 15222-4745

WA4-92C, Water Allocations - Revised. Midland Borough Municipal Authority, 946 Railroad Avenue, Midland, PA 15059, **Beaver County**. The applicant is requesting the right to withdraw 10 million gallons of water per day from the Ohio River - 5 million gallons for drinking water purposes from either the existing intake at Allegheny Ludlum or the Borough's proposed intake and 5 million gallons for non-potable use from the Borough's proposed intake.

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

WA 10-201B, Water Allocations. Municipal Borough of North East, 31 West Main Street, North East, PA 16428, North East Township, **Erie County**. The permittee has submitted a permit application to renew their water allocation which currently authorizes a withdrawal of water from West Branch French Creek. This water is pumped into Eaton Reservoir. A mile long tunnel is used to transfer water from Eaton Reservoir to the 16-Mile Creek watershed. North East Borough is proposing to discontinue pumping water from West Branch French Creek, but will continue to transfer water from Eaton Reservoir to the 16-Mile Creek watershed.

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, 303, 304 and 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 any 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, or 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 site(s) identified below, 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 below. During this comment period the municipality may request that the person identified below, 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, please contact the Environmental Cleanup Program Manager in the Department of Environmental Protection Regional Office under 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 listed. TDD users may telephone the Department through the AT&T Relay Service at 1-(800) 654-5984.

The Department of Environmental Protection has received the following Notice(s) of Intent to Remediate:

Southeast Region: Environmental Cleanup Program Manager, 2 East Main Street, Norristown, PA 19401

Kearny Elementary School, City of Philadelphia, **Philadelphia County**. Gloria Hunsberger, Kleinfelder East Inc., 800 East Washington Street, West Chester, PA 19380 on behalf of Francine Locke, School District of Philadelphia, School District of Philadelphia Office of Environmental Management & Services, 440 North Broad Street, 3rd Floor, Room 3053, Philadelphia, PA 19103 has submitted a Notice of Intent to Remediate. Soil at the site has been impacted with the release of lead and naphthalene. The future use of the site will remain the same.

Northeast Region: Environmental Cleanup Program, 2 Public Square, Wilkes-Barre, PA 18701-1915.

Former Poly Clean Dry Cleaners, 276 Susquehanna Boulevard, West Hazleton Borough, **Luzerne County**. Michael A. Christie, Penn Environmental & Remediation, Inc., 2755 Bergey Road, Hatfield, PA 19440 and Darryl D. Borrelli, Manko, Gold, Katcher & Fox, L.L.P., 401 City Avenue, Suite 500, Bala Cynwyd, PA 19004 have submitted a Notice of Intent to Remediate (on behalf of their client, WP Valmont Associates, L.P., 940 E. Haverford Road, Bryn Mawr, PA 19010), concerning the remediation of soil and groundwater found to have been impacted by PCE, Toluene, 1,1,1-Trichloroethane, and cis-1,2-Dichloroethene as a result of historical operations at the site. The applicant proposes to remediate the site to meet the Statewide Health Standard and the Site-Specific Standard for soil and groundwater. The proposed future use of the property will be non-residential for continued use as a retail shopping center. A summary of the Notice of Intent to Remediate is expected to be published in the local newspaper serving the general area sometime in the near future.

RESIDUAL WASTE GENERAL PERMITS

Application(s) Received under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003); the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904); and Residual Waste Regulations for a General Permit to Operate Residual Waste Processing Facilities and the Beneficial Use of Residual Waste other than Coal Ash.

Central Office: Division of Municipal and Residual Waste, Rachel Carson State Office Building, Floor 14, 400 Market Street, Harrisburg, PA 17105-8472.

General Permit Application No. WMGR127. BCRD, LLC., 5429 Harding Highway, Mays Landing, NJ 08330.

General Permit Numbered WMGR127 is for the processing of (a) liquid manure, (b) Glycerin, (c) dewatered sewage sludge from wastewater treatment plant, and (d) dairy wastewater, and beneficial use as an alternative fuel for the power generation. The electricity produced will be used at the facility or transmitted to the local electric utility grid for consumers use. Central Office received the application on June 28, 2010 and determined it administratively complete on October 6, 2010.

Comments concerning the application should be directed to C. D. Vu, General Permits and Beneficial Use Section, Division of Municipal and Residual Waste, Bureau of Waste Management, P. O. Box 8472, Harrisburg, PA 17105-8472. Persons interested in obtaining more information about the general permit application may contact the Division at (717) 787-7381. TDD users may contact the Department through the Pennsylvania Relay service, (800) 654-5984. Public comments must be submitted within 60 days of this notice and may recommend revisions to, and approval or denial of the application.

AIR QUALITY

NOTICE OF PLAN APPROVAL AND OPERATING PERMIT APPLICATIONS

NEW SOURCES AND MODIFICATIONS

The Pennsylvania Department of Environmental Protection (DEP) 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 DEP, 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.

Notice is hereby given that DEP has received applications for plan approvals and/or operating permits from the following facilities.

Copies of these 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 the proposed Plan Approval or Operating Permit must indicate their interest to the DEP 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 DEP 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. Any comments or protests filed with DEP 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 DEP 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 below. TDD users may 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 through 143, the Federal Clean Air Act and regulations adopted under the Act.

PLAN APPROVALS

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

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745

Contact: M. Gorog & B. Hatch, Environmental Engineer Managers—Telephone: 412-442-4163/5226

Correction was put into Northwest Region should have been in Southwest Region

26-00588: Laurel Mountain Midstream, LLC (1550 Coraopolis Heights Road, Suite 140, Moon Township, PA 15108) for construction of the Shamrock Compressor Station, a natural gas compressor station, in German Township, **Fayette County**.

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

Northeast Region: Air Quality Program, 2 Public Square, Wilkes Barre, PA 18711-0790

Contact: Ray Kempa, New Source Review Chief—Telephone: 570-826-2507

PA 54-399-045: Silberline Manufacturing Co., Inc. (130 Lincoln Drive, Tamaqua, PA 18252-0420) for installation of a new mini batch process and associated presses and tanks to their existing operation to produce aluminum pigment for their plant in Rush Township, **Schuylkill County**.

In accordance with 25 *PA Code* §§ 127.44(b) and 127.424(b), the Department of Environmental Protection (DEP) intends to issue a plan approval to Silberline Manufacturing Company, Inc., 130 Lincoln Drive, Tamaqua, PA 18252-0420, for their plant in Rush Township, Schuylkill County. The facility currently has a Title

V Operating Permit No. 54-00041. 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 54-399-045 is for the installation of a new mini batch process and associated presses and tanks to their existing operation to produce aluminum pigment. The process is being added to produce small made to order batches in order to meet customer demand. The installation of the equipment will result in the emission increase of 7.8 tons per year of VOCs. VOC emissions from the facility shall be recorded on a monthly basis and included in quarterly reports that are submitted to the Department. Further details on the conditions and the reasons for their inclusion are available upon request.

Copies of the applications, DEP's analysis and other documents used in the evaluation of the application are available for public review during normal business hours at the Northeast Regional Office, 2 Public Square, Wilkes-Barre, PA 18701-1915.

Any person(s) wishing to provide DEP with additional information they believe should be considered prior to the issuance of this permit may submit the information to the address shown in the preceding paragraph. The submittal of written comment must contain the following:

Name, address and telephone number of the commentator.

Identification of the proposed Permit No. 54-399-045.

A concise statement regarding the relevancy of the information or objections to the issuance of the permit.

A public hearing may be held, if the Department of Environmental Protection, in its discretion, decides that such a hearing is warranted based on comments received. All persons submitting comments or requesting a hearing will be notified of the decision to hold a hearing by publication in the newspaper or the *Pennsylvania Bulletin* or by telephone, where DEP determines such notification is sufficient. Written comments or requests for a public hearing should be directed to Mr. Ray Kempa, Chief, New Source Review Section, 2 Public Square, Wilkes-Barre, PA 18701-1915, or 570-826-2511.

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: 717-949-7935

06-05105B: Green Gas Pioneer Crossing Energy, LLC (4251 SW High Meadows Avenue, Palm City, FL 34990) for installation of two additional landfill gas to electric energy units at their Pioneer Crossing Landfill in Exeter Township, **Berks County**.

In accordance with 25 PA Code §§ 127.44(a) and 127.45(a), the Department of Environmental Protection (DEP) has received and intends to issue a Plan Approval to the abovementioned company for the abovementioned project. This plan approval may be incorporated into the company's facility-wide permit via an administrative amendment at a later date.

Plan Approval 06-05105B is for the addition of two units. Each unit is a 2233 Hp Reciprocating Internal Combustion Engine using landfill gas as the fuel and powering a 1600 KW electric generator. The company shall be subject to and comply with 40 CFR 63 Subpart ZZZZ (National Emissions Standards for Hazardous Air Pollutants for Stationary Reciprocating Internal Combustion

Engines) and 40 CFR 60 Subpart JJJJ (Standards of Performance for Stationary Spark Ignition Internal Combustion Engines). The Plan Approval will contain additional recordkeeping and operating restrictions designed to keep the facility operating within all applicable air quality requirements. The potential increase in air emissions from the proposed project are 129 tons per year of CO, 22.2 tons per year of SOx, 21.6 tons per year of NOx, 2.8 tons per year of PM, 12 ton per year of VOC and 13 tons per year of HAPs.

Copies of the application, DEP's analysis and other documents used in the evaluation of the application are available for public review during normal business hours at DEP's Southcentral Regional Office, 909 Elmerton Avenue, Harrisburg, PA 17110.

A person may oppose the proposed plan approval, or may provide the Department with additional information to consider in its review, by filing a written protest with the Department at the address listed below. Each written comment must contain the following:

- Name, address and telephone number of the person submitting the comments.
- Identification of the proposed permit by the permit number listed above.
- A concise statement regarding the relevancy of the information or objections to the issuance of the permit.

A 30-day comment period, from the date of publication of this notice in the *PA Bulletin*, will exist for the submission of comments or protests.

Mr. Thomas Hanlon may be contacted at 717-705-4862, or at PA DEP Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110, for additional information or for the submission of comments or protests.

Plan approvals issued to sources identified in 25 Pa. Code Section 127.44(b)(1)—(4) or plan approvals issued to sources with limitations on the potential to emit may become part of the SIP, and will be submitted to EPA for review and approval.

Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701

Contact: Muhammad Q. Zaman, Environmental Program Manager—Telephone: 570-327-3648

49-00047A: Furman Foods, Inc. (PO Box 500, 770 Cannery Road, Northumberland PA 17857-0500) for construction of an anaerobic digester that will handle maximum 0.85 MGD of wastewater from the plant's process in order to reduce the volume of wastewater sent to the irrigation field. Digester construction will also expand the current on-site treatment capabilities and further process additional wastewater from projected business growth. Further processing is also required for nutrient reduction as part of the Chesapeake Bay Tributary Strategy. Furman Foods also propose to install a flare and engine that will respectively control and combust biogas generated from the digester. The proposed engine will be a nominal 225 kW; bio-gas-fired engine-generator set to produce electricity at the wastewater treatment plant located on-site at the plant in Point Township, **Northumberland County**. A new scrubber will scrub the biogas sent to the engine to remove hydrogen sulfide. The scrubber media will be iron sponge (wood chip impregnated with iron oxide).

The Department of Environmental Protection's (Department) review of the information submitted by Furman Foods, Inc. indicates that the air contamination sources to

be constructed will comply with applicable regulatory requirements pertaining to air contamination sources including the best available technology requirements of 25 Pa. Code Section 127.1 and 127.12. Based on this finding, the Department proposes to issue a plan approval for the proposed construction described in the previous paragraph.

The emissions (PTEs) from the digester will not exceed on a 12-consecutive month period basis; 3 tpy of nitrogen oxides, 15 tons of carbon monoxide, and 35 tons of sulfur dioxide using the flare for biogas destruction throughout the entire 12-consecutive month period and based on 8760 hours of operation. During normal operation, the engine will combust most (> 70%) of the biogas from the digester. The PTEs during normal operation from the engine are approximately equal to 3.4 tpy of nitrogen oxides, 1.7 tons of carbon monoxide, 0.1 tons of sulfur dioxide, 0.7 tpy of VOC as non-methane hydrocarbons, and 0.7 tpy of formaldehyde. To demonstrate compliance with ton per 12 CMP emissions limitations from the engines, Furman Foods will be required to conduct EPA reference method testing on the engine's exhaust for nitrogen oxides, carbon monoxide, volatile organic compounds, and formaldehyde. Testing will measure the average emissions rate over at least three (3), 1-hour periods to assure the rates do not exceed the following guaranteed rates: nitrogen oxides—1.0 g/Bhp-hr, carbon monoxide—0.5 g/Bhp-hr, volatile organic compound—0.2 g/Bhp-hr, and formaldehyde—0.07 g/Bhp-hr.

In addition to the emission limitations above, the following is a summary of the types of conditions the Department intends to place in Plan Approval 49-00047A to ensure compliance with applicable Federal and State regulatory requirements including the best available technology requirements of 25 Pa. Code Sections 127.1 and 127.12.

Annual testing on the engine for NO_x and CO.

Monitoring requirement of the H₂S from the outlet of the scrubber.

Monitoring requirements of the pilot flame of the flare and temperature of the combustion zone in the flare.

Monitoring requirement of the engine's catalyst inlet temperature.

Monitoring requirements of monthly engine and flare run-time hours.

Work practice requirements to construct and operate the engine (and catalyst), scrubber, and flare in accordance with the manufacturer's recommendations and good air pollution control practices.

Work practice requirements to operate the flare at minimum combustion zone temperature equal to 1400 Fahrenheit and retention time equal to 0.3 seconds.

Recordkeeping of the engine and flare parameters.

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, Air Quality Program, Department of Environmental Protection, Northcentral Regional Office, 208 West Third Street, Suite 101, Williamsport, PA 17701, 570-327-3648 within 30 days of the publication date for this notice.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745

Contact: B. Hatch, Environmental Engineer Managers—Telephone: 412-442-4163/5226

65-00354B: Sunoco Partners Marketing & Terminals L.P. (525 Fritztown Road, Sinking Spring, PA, 19608) for installation of one new vapor recovery unit at their Delmont Terminal at 1734 Old Route 66 in Salem Township, **Westmoreland County**.

In accordance with 25 PA Code §§ 127.44(b) and 127.45, the Pennsylvania Department of Environmental Protection (DEP) intends to issue Major Source Plan Approval to allow the installation of one new vapor recovery unit at the Delmont Terminal, located at 1734 Old Route 66 in Salem Township, Westmoreland County. The facility currently has a Title V Operating Permit, No. TV-65-00354. The existing vapor combustion system will remain in place as a backup emission control device. The provisions of this plan approval will subsequently be incorporated into the Title V Operating Permit through an amendment in accordance with 25 Pa Code § 127.450.

Annual emissions from the proposed facility are estimated to be 49.31 tons of VOC and emissions of 0.96 tons of all HAPs combined under the normal operation scenario, with the vapor recovery unit in operation. Emissions under the alternate operation scenario are estimated to be 99.72 tons of VOC and emissions of 1.76 tons of all HAPs combined, with the vapor combustion unit in operation. Gasoline throughput at the facility shall not exceed 483,296,354 gallons in any consecutive 12-month period. The vapor recovery unit shall emit no more than 0.000083 lbs (10 mg/per liter) of VOC to the atmosphere for every gallon of gasoline loaded from the vapor recovery unit under the normal operation scenario. The vapor combustion unit shall emit no more than 0.00029 lbs (35 mg/per liter) of VOC to the atmosphere for every gallon of gasoline loaded from the vapor combustion unit under the alternate operation scenario. The proposed process units are subject to the applicable requirements of 25 PA Code, Chapter 127, related to construction, modification, reactivation and operation of sources, 40 CFR 60 Subpart XX, related to standards of performance for bulk gasoline terminals and 40 CFR 63 Subpart BBBB related to national emission standards for hazardous air pollutants for source category: gasoline distribution bulk terminals, bulk plants, and pipeline facilities. The Plan Approval contains appropriate emission limitations, testing, monitoring, recordkeeping, reporting requirements, and work practice standards. Further details on the conditions and the reasons for their inclusion are available upon request

Copies of the application, DEP's analysis and other documents used in the evaluation of the application are available for public review during normal business hours at 400 Waterfront Drive, Pittsburgh, PA 15222.

Interested persons may submit written comments, suggestions or objections concerning the proposed Plan Approval to the regional office within 30 days of publication of this notice. Written comments submitted to the Department during the 30-day public comment period shall include the following:

Name, address and telephone number of the commentator.

Identification of the proposed Plan Approval No. PA-65-00354B.

A concise statement regarding the relevancy of the information or objections to the issuance of the permit.

A public hearing may be held, if the Department of Environmental Protection, in its discretion, decides that such a hearing is warranted based on the comments received. All persons submitting comments or requesting a hearing will be notified of the decision to hold a hearing by publication in the newspaper or the *Pennsylvania Bulletin* or by telephone, where DEP determines such a notification is sufficient. Written comments or requests for a public hearing should be directed to Martin Hochhauser, P. E., New Source Review, 400 Waterfront Drive, Pittsburgh, PA, 15222, 412-442-4057.

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.

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: 717-949-7935

28-05040: Industrial Power Generating Co., LLC (5416 Buchanan Trail West, Greencastle, PA 17225) for their electric power generating facility in Peters Township, **Franklin County**. This is a renewal of the Title V Operating Permit issued in 2005. The permit will contain all of the emission limits and work practice standards along with all monitoring, recordkeeping and reporting requirements from the previous permit to ensure the facility complies with the applicable air quality regulations.

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

Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19428

Contact: Janine Tulloch-Reid, Facilities Permitting Chief—Telephone: 484-250-5920

09-00022: Cleveland Steel Container Corp. (350 Mill Street, Quakertown, PA 18951) for a renewal of a Synthetic Minor Operating Permit in Quakertown Borough, **Bucks County**. The facility's emission points include paint booths and lithographic printing presses, which emit major levels of Volatile Organic Compounds (VOC); however, with this renewal, Cleveland Steel is capping VOC emissions to below the major level threshold of 25 tons per year VOC. There are no new sources at the facility and no new applicable regulations in this permit. Compliance Assurance Monitoring (CAM) requirements have been removed from the permit because the facility is no longer a Title V facility. The renewal permit will include monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

15-00058: Martin Limestone, Inc. (199 Quarry Road, Honey Brook, Pa 19344) for operation of a limestone crushing plant in Honey Brook Township, **Chester County**. The major sources of air pollutant emissions include a primary, a secondary and two tertiary crushers, their associated triple-deck screens and conveyers powered by electricity. The operation of this plant will result in Particulate Matter (PM) being emitted into the atmosphere. This Operating Permit is for a non-Title V (State Only), Natural Minor facility. It contains 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

48-00092: Essex Northeast Service Center Co. (P. O. Box 1648, Mason City, IA 50401) for a door frame manufacturing / painting plant in the Forks Township, **Northampton County**. The facility's main source of emissions is a paint spray booth. The facility has applied to the Department as a Synthetic Minor facility. The proposed operating permit contains all applicable requirements including Federal and State regulations. In addition, emission limits, throughput restrictions and monitoring, recordkeeping and reporting conditions regarding compliance with all applicable requirements are also included.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481

Contact: Matthew Williams, New Source Review Chief—Telephone: 814-332-6940

10-00277: Wiest Asphalt Products & Paving, Inc. (310 Mitchell Hill Road, Butler, PA 16002-9182) to re-issue a Synthetic Minor Permit to operate a hot mix asphalt plant in Summit Township, **Butler County**. The significant sources are natural gas boiler for asphalt tank, batch mix asphalt plant, fugitives from batch process and asphalt tank. The facility has taken a restriction on production not exceeding 495,000 tons per year to qualify as a Synthetic Minor facility.

20-00043: Dunbar Asphalt Products, Inc. (11203 Ellion Road, Conneaut Lake, PA 16316) to re-issue a Synthetic Minor Permit to operate a hot mix asphalt plant located in Sadsbury Township, **Crawford County**. The significant sources are the hot mix batch plant; hot elevators, screens, bins, asphalt cement storage tank, cold aggregate bins and the finished products silos. The facility has taken a restriction on production not exceeding 495,000 tons per year to qualify as a Synthetic Minor facility.

PLAN APPROVALS

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

Northeast Region: Air Quality Program, 2 Public Square, Wilkes Barre, PA 18711-0790

Contact: Ray Kempa, New Source Review Chief—Telephone: 570-826-2507

PA 45-310-057: Eureka Stone Quarry, Inc. - Pocono Quarry (PO Box 249, Chalfont, PA 18914) for installation of a new Digester Vibrating Grizzly for their facility in Hamilton Township, **Monroe County**.

In accordance with 25 Pa. Code §§ 127.44(a) and 127.45(a), the Department of Environmental Protection (DEP) has received and intends to issue a Plan Approval to Eureka Stone Quarry, Inc. (Pocono Quarry) (PO Box 249, Chalfont, PA 18914) for their facility located in

Hamilton Township, Monroe County. This Plan Approval No. 45-310-057 will be incorporated into a Synthetic Minor Permit through an administrative amendment at a later date.

Plan Approval No. 45-310-057 is for the installation of a new Digester Vibrating Grizzly. The crushing operation is subject to NSPS Subpart OOO requirements. The company shall be subject to and comply with 25 Pa. Code 123.31 for malodorous emissions. These limits will meet BAT requirements for this source. The Plan Approval and Operating permit will contain additional recordkeeping and operating restrictions designed to keep the facility operating within all applicable air quality requirements.

Copies of the application, DEP's analysis and other documents used in the evaluation of the application are available for public review during normal business hours at Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18701-1915.

Any person(s) wishing to provide DEP with additional information, which they believe should be considered prior to the issuance of this permit, may submit the information to the address shown in the preceding paragraph. Each written comment must contain the following:

Name, address and telephone number of the person submitting the comments.

Identification of the proposed permit No.: 45-310-057.

A concise statement regarding the relevancy of the information or objections to the issuance of the permit.

A public hearing may be held, if the Department of Environmental Protection, in its discretion, decides that such a hearing is warranted based on the comments received. All persons submitting comments or requesting a hearing will be notified of the decision to hold a hearing by publication in the newspaper or the *Pennsylvania Bulletin* or by telephone, where DEP determines such notification is sufficient. Written comments or requests for a public hearing should be directed to Ray Kempa, Chief, New Source Review Section, Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18701-1915, Phone # 570-826-2511 within 30 days after publication date.

COAL AND NONCOAL MINING ACTIVITY APPLICATIONS

Applications under the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.31); 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. Notices of requests for 401 Water Quality Certifications are included in individual application notices, as noted.

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—123 and 86.31—34 (relating to public notices of filing of permit applications, opportunity for comment, and informal conferences).

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 (relating to public hearing-informal conferences) or § 86.34 (relating to informal conferences), must contain the name, address and telephone number of the requestor; the application number; a brief summary of the issues to be raised by the requestor at the conference; and a statement whether the requestor desires to have the conference conducted in the locality of the proposed mining activities.

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

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

For noncoal mining activities, the proposed limits are found in Table 2 below. 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 through 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 (MOU) Concerning Water Quality Management, NPDES Program Implementation, and Related Matters. Other specific factors to be considered include public comments and Total Maximum Daily Load(s) (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 above each application within 30 days of this public notice. Comments received within the comment period will be considered in the final determinations regarding

the NPDES permit applications. Comments must include the name, address and telephone number of the writer and a concise statement to inform the Department of the exact basis of a comment and the relevant facts upon which it is based.

The Department will also accept requests or petitions for a public hearing on NPDES permit applications, as provided in 25 Pa. Code § 92.61. The request or petition for a public hearing shall be filed within 30 days of this public notice and shall contain the name, address, telephone number and the interest of the party filing the request, and shall state the reasons why a hearing is warranted. A public hearing may be held if the Depart-

ment considers the public interest significant. If a hearing is scheduled, a notice of the hearing on the NPDES permit application will be published in the *Pennsylvania Bulletin* and a newspaper of general circulation within the relevant geographical area. In the case where a public hearing is held, the Department will consider comments from the public hearing in the final determination on the NPDES permit application.

Coal Applications Received

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

<i>Parameter</i>	<i>30-Day Average</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>
Iron (total)	1.5 to 3.0 mg/l	3.0 to 6.0 mg/l	3.5 to 7.0 mg/l
Manganese (total)	1.0 to 2.0 mg/l	2.0 to 4.0 mg/l	2.5 to 5.0 mg/l
Suspended solids	10 to 35 mg/l	20 to 70 mg/l	25 to 90 mg/l
Aluminum (Total)	0.75 to 2.0 mg/l	1.5 to 4.0 mg/l	2.0 to 5.0 mg/l
pH ¹		greater than 6.0; less than 9.0	
Alkalinity greater than acidity ¹			

¹ 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

56090109 and NPDES No. PA0262838. Wilson Creek Energy, LLC, 140 West Union Street, Somerset, PA 15501, transfer of an existing bituminous surface and auger from Godin Mining, Inc., 128 Colton Drive, Stoystown, PA 15563, located in Lincoln Township, **Somerset County**, affecting 22.6 acres. Receiving stream(s): unnamed tributaries to Quemahoning Creek classified for the following use(s): cold water fishery (CWF). There are no potable water supply intakes within 10 miles downstream. Application received: September 17, 2010.

32070105 and NPDES No. PA0262412. Bedrock Mines, LP, 111 Freeport Road, Pittsburgh, PA 15215, revision of an existing bituminous surface mine to add 5.2 acres to the permit area in Washington Township, **Indiana County**, affecting 35.0 acres changing it to 40.2 acres. Receiving stream(s): South Branch Plum Creek classified for the following use(s): cold water fishery. There are no potable water supply intakes within 10 miles downstream. Application received: September 28, 2010.

56050102 and NPDES No. PA0249751. Sherpa Mining Contractors, Inc., 337 Benny Road, Hooversville, PA 15936, permit renewal for the continued operation and restoration of a bituminous surface and auger mine in Shade Township, **Somerset County**, affecting 63.6 acres. Receiving stream(s): unnamed tributaries to Oven Run and Stonycreek River classified for the following use(s): cold water fishery. The first downstream potable water

supply intake from the point of discharge is Hooversville Borough Municipal Authority Mine is within 1/2 mile of Wilbur Community Water Company. Application received: September 28, 2010.

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

26050104 and NPDES Permit No. PA0250724. Daniel J. Patterson (20 Elizabeth Drive, Smithfield, PA 15478). Application received to transfer permit currently issued to Amerikohl Mining, Inc., for continued operation and reclamation of an existing bituminous surface/auger mining site located in Nicholson Township, **Fayette County**, affecting 209.7 acres. Receiving streams: unnamed tributaries to Jacobs Creek and Georges Creek, classified for the following use: warm water fishes. There are two potable water supply intakes within ten miles downstream of the point of discharge: Masontown Water Works and Carmichaels Municipal Authority. Transfer application received: September 30, 2010.

26050104 and NPDES Permit No. PA0250724. Daniel J. Patterson (20 Elizabeth Drive, Smithfield, PA 15478). Renewal application for continued operation and reclamation of an existing bituminous surface/auger mining site located in Nicholson Township, **Fayette County**, affecting 209.7 acres. Receiving streams: unnamed tributaries to Jacobs Creek and Georges Creek, classified for the following use: warm water fishes. There are two potable water supply intakes within ten miles downstream of the point of discharge: Masontown Water Works and Carmichaels Municipal Authority. Transfer application received: September 30, 2010.

Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, 814-342-8200

17950102 and NPDES No. PA0220001. Hilltop Coal Co. (12 Dutchtown Road, Houtzdale, PA 16651). Permit renewal for reclamation only on an existing bituminous surface mine located in Bigler Township, **Clearfield County** affecting 25.0 acres. Receiving streams: Upper

Morgan Run classified for Cold Water Fishery, North Branch Clearfield Creek to the West Branch of the Susquehanna River classified for High Quality Cold Water Fisheries. There are no potable water supply intakes within 10 miles downstream. Application received: September 24, 2010.

17980118 and NPDES No. PA0238112. Waroquier Coal Co. (P. O. Box 128, Clearfield, PA 16830). Renewal for continued operation of an existing bituminous surface mine located in Lawrence Township, **Clearfield County** affecting 193.2 acres. Receiving streams: unnamed tributaries to Montgomery Creek and unnamed tributaries to West Branch of the Susquehanna River classified for cold water fisheries. There are no potable water supply in-

takes within 10 miles downstream. Application received: September 24, 2010.

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

54663021R5. Reading Anthracite Company, (P. O. Box 1200, Pottsville, PA 17901), renewal of an existing anthracite surface mine operation in New Castle Township, **Schuylkill County** affecting 693.0 acres, receiving stream: none. Application received: October 4, 2010.

Noncoal Applications Received

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

Parameter	Table 2		
	30-day Average	Daily Maximum	Instantaneous Maximum
Suspended solids	10 to 35 mg/l	20 to 70 mg/l	25 to 90 mg/l
Alkalinity exceeding acidity* pH*		greater than 6.0; less than 9.0	

* The parameter is applicable at all times.

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

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

21012801. John W. Nolt, 199 Ridge Road, Newville, PA 17241, bond release on a small noncoal (industrial minerals) operation in North Newton Township, **Cumberland County**, affecting 5.0 acres. Receiving stream(s): unnamed tributary to Green Spring Creek. Application received: January 15, 2010.

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

37860305 and NPDES Permit No. PA0212032. Three Rivers Aggregates, LLC (225 North Shore Drive, Pittsburgh, PA 15212) Transfer of an existing large sand & gravel operation from Ennstone, Inc., d/b/a Three Rivers Aggregates in Plain Grove Township, **Lawrence County** affecting 103.0 acres. Receiving streams: Taylor Run, classified for the following state-wide uses: CWF. There are no potable surface water supply intakes within 10 miles downstream. Application received: October 6, 2010.

37910305 and NPDES Permit No. PA0208485. Three Rivers Aggregates, LLC (225 North Shore Drive, Pittsburgh, PA 15212) Transfer of an existing large sand & gravel operation from Ennstone, Inc., d/b/a Three Rivers Aggregates in Plain Grove Township, **Lawrence County** affecting 51.0 acres. Receiving streams: Taylor Run, classified for the following state-wide uses: CWF. There are no potable surface water supply intakes within 10 miles downstream. Application received: October 6, 2010.

37930305 and NPDES Permit No. PA0211745. Three Rivers Aggregates, LLC (225 North Shore Drive, Pittsburgh, PA 15212) Transfer of an existing large sand & gravel operation from Ennstone, Inc., d/b/a Three Rivers Aggregates in Plain Grove Township, **Lawrence County** affecting 127.0 acres. Receiving streams: Unnamed tributary to Taylor Run and Taylor Run, classified for the following state-wide uses: CWF. There are no potable surface water supply intakes within 10 miles downstream. Application received: October 6, 2010.

37940302 and NPDES Permit No. PA0212041. Three Rivers Aggregates, LLC (225 North Shore Drive, Pittsburgh, PA 15212) Transfer of an existing large sand & gravel operation from Ennstone, Inc., d/b/a Three Rivers Aggregates in Plain Grove & Scott Townships, **Lawrence County** affecting 137.5 acres. Receiving streams: Unnamed tributary to Slippery Rock Creek, classified for the following state-wide uses: CWF. There are no potable surface water supply intakes within 10 miles downstream. Application received: October 6, 2010.

10000305 and NPDES Permit No. PA0241792. Three Rivers Aggregates, LLC (225 North Shore Drive, Pittsburgh, PA 15212) Transfer of an existing large sand & gravel operation from Ennstone, Inc., d/b/a Three Rivers Aggregates in Worth Township, **Butler County** affecting 111.0 acres. Receiving streams: Unnamed tributary to Black Run and Black Run, classified for the following state-wide uses: CWF. There are no potable surface water supply intakes within 10 miles downstream. Application received: October 6, 2010.

10010306 and NPDES Permit No. PA0241903. Three Rivers Aggregates, LLC (225 North Shore Drive, Pittsburgh, PA 15212) Transfer of an existing large sand & gravel operation from Ennstone, Inc., d/b/a Three Rivers Aggregates in Worth Township, **Butler County** affecting 122.0 acres. Receiving streams: Unnamed tributary to Slippery Rock Creek, classified for the following state-wide uses: CWF. There are no potable surface water supply intakes within 10 miles downstream. Application received: October 6, 2010.

37080303 and NPDES Permit No. PA0258598. Three Rivers Aggregates, LLC (225 North Shore Drive, Pittsburgh, PA 15212) Transfer of an existing large sand & gravel operation from Ennstone, Inc., d/b/a Three Rivers Aggregates in Plain Grove & Scott Townships, **Lawrence County** affecting 71.0 acres. Receiving streams: Unnamed tributary to Taylor Run, classified for the following state-wide uses: CWF. There are no potable surface water supply intakes within 10 miles downstream. Application received: October 6, 2010.

Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, 814-342-8200

08090301T and NPDES No. PA0257036. Keystone Rock & Excavating LLC (6100 N. Western Ave., P. O. Box 18496, Oklahoma City, OK 73154-0496). Transfer of an existing large industrial mineral surface mine located in West Burlington Township, **Bradford County** affecting 26.6 acres. Receiving streams: unnamed tributary and Sugar Creek to Tomjack Creek classified for Trout Stocked Fisheries. There are no potable water supply intakes within 10 miles downstream. Application received: September 28, 2010.

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

38950301C2 and NPDES Permit No. PA0223646. 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 Cornwall Borough, **Lebanon County**, receiving stream: unnamed tributary to Snitz Creek, classified for the following use: trout stocking fishes. Application received: October 5, 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. Section 401 of the Federal Water Pollution Control Act (FWPCA) (33 U.S.C. 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. §§ 1311—1313, 1316 and 1317 as well as relevant state requirements. Persons objecting to approval of a request for certification under Section 401 or to the issuance of a Dam Permit or Water Obstruction and Encroachment Permit, or the approval of an Environmental Assessment 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. 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. Each individual 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, draw-

ings and other data pertinent to the certification request are available for inspection between the hours of 8:00 AM and 4:00 PM on each working day at the office noted above the application.

If you are a person with a disability and wish to attend the hearing and you require an auxiliary aid, service or other accommodation to participate in the proceedings, please contact the specified program. TDD users may contact the Department through the Pennsylvania AT&T Relay Service at 1-800-654-5984.

Applications Received under the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27) and Section 302 of the Flood Plain Management Act (32 P. S. § 679.302) and Requests for Certification Under Section 401 of the Federal Water Pollution Control Act (33 U.S.C. § 1341(a)).

WATER OBSTRUCTIONS AND ENCROACHMENTS

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

E29-098: McConnellsburg Sewer Authority, P. O. Box 681, McConnellsburg, PA 17233, Wastewater Treatment Facility Improvements, Ayr Township, **Fulton County**, ACOE Baltimore District

The applicant proposes to demolish the existing structure, construct and maintain a headworks station, a 280,000 gallon equalization tank, a stormwater infiltration bed, a stormwater management detention pond and to install and maintain a 6.0-inch PVC pipe outfall in the 100-year floodplain of Big Cove Creek (CWF, MF) for the purpose of upgrading the McConnellsburg Waste Water Treatment Facility. The project is located at the existing wastewater treatment facility along Great Cove Road (Meadow Grounds, PA Quadrangle N: 9.40 inches, W: 0.60 inches, Latitude: 39°55'36", Longitude: 78°00'18") in Ayr Township, Fulton County.

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

E02-1643. Steve Bower, 547 Princess Drive, Elizabeth, PA 15047-2648. To construct and maintain a bridge in Elizabeth Township, **Allegheny County**, Pittsburgh ACOE District. (Donora, PA Quadrangle N: 18.5 inches; W: 10.0 inches; Latitude: 40° 13' 40"; Longitude: 79° 49' 19"). The applicant proposes to construct and maintain a bridge having a span of 15.0 feet with an underclearance of 4.0 feet across the channel of Gillespie Run (WWF) for the purpose of providing access to applicant's property. The project is located on the south side of Pine View Road, just southwest from the intersection of Pine View Road and Long Hollow Road and will impact approximately 14.0 linear feet of stream channel. The applicant also proposes to construct and maintain a temporary stream crossing consisting of a portable bridge across the channel of said stream.

E03-452. Pennsylvania Department of Transportation, Distict 10-0, 2550 Oakland Avenue, P. O. Box 429, Indiana, PA 15701. To construction and maintain a relocation of Whiskey Run in West Kittanning and East Franklin Township, **Armstrong County**, Pittsburgh ACOE District. (Kittanning, PA Quadrangle, N: 11.2 inches, W: 4.8 inches; Latitude: 40° 48' 43.7" and Longi-

tude: 79° 32' 5.4"). The applicant proposes to construct and maintain a 380 ft relocation of Whiskey Run (WWF) with a drainage area of 1 square mile. Within the relocation one 101 ft long by 14 ft span by 8.5 ft high box culvert and one 132 ft long by 14 ft span by 7.5 ft high box culverts depressed one ft will be constructed and maintained. In addition, one 57 ft long by 10 ft span by 8 ft high culvert shall be removed and the stream restored; and one 100 ft long by 6 ft high by 10 ft span box culvert shall be removed. This project is associated with the SR 268 and SR 1038 (Butler Road) intersection improvement project, located on the border between East Franklin and West Kittanning Townships.

Northcentral Region: Oil and Gas Management Program Manager, 208 West Third Street, Suite 101, Williamsport, PA 17701

E4129-003 Anadarko E&P Company, LP, P. O. Box 1330, Houston, Texas 77251-1330, McHenry Township, **Lycoming County**, ACOE Baltimore District.

To construct, operate, and maintain a surface water withdrawal along Pine Creek (HQ-CWF) adjacent to Route 414 south of Jersey Mills (Jersey Mills Quadrangle 41° 21' 3.26"N 77° 24' 10.3"W). The proposed withdrawal will include a submersible pump with related materials set in the stream bed parallel to the direction of stream flow. The project will result in 264 square feet of stream impacts all for the purpose of obtaining water to use to develop multiple Marcellus Shale wells.

E4129-002: East Resources Management, LLC, 190 Thorn Hill Road, Warrendale, PA 15086, Union Township, **Tioga County**, ACOE Baltimore District.

To construct and maintain:

(1) a 16 inch diameter natural gas gathering line crossing of a palustrine emergent (PEM) wetland. Impacted Area: 486 square feet; (Ralston, PA Quadrangle 41° 34' 53.01"N 76° 55' 31.21"W).

(2) a temporary road crossing using a 20 foot long, 15 inch diameter corrugated metal pipe and a 16 inch diameter natural gas gathering line crossing of an unnamed tributary to Sugar Works Run (HQ-CWF). Impacted Area: 1,114 square feet; (Ralston, PA Quadrangle 41° 35' 2.24"N 76° 55' 37.99"W).

(3) a 16 inch and 8 inch diameter natural gas gathering line crossing and a temporary road crossing of a palustrine emergent (PEM) EV wetland. Impacted Area: 953 square feet; (Ralston, PA Quadrangle 41° 35' 43.02"N 76° 55' 17.81"W).

(4) a 16 inch and 8 inch diameter natural gas gathering line crossing and temporary road crossing of a palustrine emergent (PEM) EV wetland. Impacted Area: 21,667 square feet; (Ralston, PA Quadrangle 41° 35' 46.28"N 76° 55' 16.70"W).

(5) a 16 inch and 8 inch diameter natural gas gathering line crossing and a temporary road crossing of a palustrine emergent (PEM) EV wetland. Impacted Area: 2,535 square feet; (Ralston, PA Quadrangle 41° 35' 48.42"N 76° 55' 14.62"W).

(6) a 16 inch and 8 inch diameter natural gas gathering line crossing and a temporary road crossing of a palustrine emergent (PEM) wetland. Impacted Area: 2,120 square feet; (Ralston, PA Quadrangle 41° 36' 5.26"N 76° 55' 14.09"W).

(7) a 16 inch and 8 inch diameter natural gas gathering line crossing and a temporary road crossing of a

palustrine emergent (PEM) EV wetland. Impacted Area: 1,167 square feet; (Ralston, PA Quadrangle 41° 36' 6.07"N 76° 55' 13.97"W).

(8) a 16 inch and 8 inch diameter natural gas gathering line crossing of a palustrine emergent (PEM) wetland. Impacted Area: 32 square feet; (Ralston, PA Quadrangle 41° 36' 6.23"N 76° 55' 13.36"W).

(9) a 16 inch and 8 inch diameter natural gas gathering line crossing and a temporary road crossing of a palustrine emergent (PEM) wetland. Impacted Area: 10,028 square feet; (Ralston, PA Quadrangle 41° 36' 9.33"N 76° 55' 17.56"W).

(10) a 16 inch and 8 inch diameter natural gas gathering line crossing and a temporary road crossing of a palustrine emergent (PEM) wetland. Impacted Area: 960 square feet; (Ralston, PA Quadrangle 41° 36' 10.37"N 76° 55' 19.55"W).

(11) a 16 inch and 8 inch diameter natural gas gathering line crossing and a temporary road crossing of a palustrine emergent (PEM) wetland. Impacted Area: 3,191; (Ralston, PA Quadrangle 41° 36' 10.98"N 76° 55' 20.61"W).

(12) a 16 inch and 8 inch diameter natural gas gathering line crossing and a temporary road crossing of a palustrine emergent (PEM) wetland. Impacted Area: 1,355 square feet; (Ralston, PA Quadrangle 41° 36' 11.59"N 76° 55' 24.37"W).

(13) a 16 inch and 8 inch diameter natural gas gathering line crossing Sugar Works Run (HQ-CWF). Impacted Area: 54 square feet; (Ralston, PA Quadrangle 41° 36' 12.26"N 76° 55' 36.61"W).

(14) a 16 inch and 8 inch diameter natural gas gathering line crossing of a palustrine emergent (PEM) wetland. Impacted Area: 50 square feet; (Ralston, PA Quadrangle 41° 36' 10.90"N 76° 55' 43.92"W).

(15) a 16 inch and 8 inch diameter natural gas gathering line crossing and a temporary road crossing of a palustrine emergent (PEM) wetland. Impacted Area: 1,496 square feet; (Ralston, PA Quadrangle 41° 36' 11.13"N 76° 55' 46.03"W).

(16) a 16 inch and 8 inch diameter natural gas gathering line crossing of a palustrine emergent (PEM) wetland. Impacted Area: 227 square feet; (Ralston, PA Quadrangle 41° 36' 10.84"N 76° 55' 22.90"W).

(17) a 16 inch and 8 inch diameter natural gas gathering line temporary crossing of a palustrine emergent (PEM) wetland. Impacted Area: 1,400 square feet; (Ralston, PA Quadrangle 41° 36' 12.70"N 76° 55' 14.87"W).

(18) a 16 inch and 8 inch diameter natural gas gathering line temporary crossing of a palustrine emergent (PEM) wetland. Impacted Area: 205 square feet; (Ralston, PA Quadrangle 41° 36' 9.88"N 76° 55' 12.93"W).

The project will result in 47 linear feet of temporary stream impacts from utility line crossings, 20 linear feet of temporary stream impacts from temporary road crossings, a total of 47,872 square feet (1.10 acres) of wetland impacts all for the purpose of installing a natural gas gathering line with associated access roadways.

STORAGE TANKS

SITE-SPECIFIC INSTALLATION PERMITS

The following Storage Tank Site-Specific Installation Permit application has been received by the Department of Environmental Protection (Department) and is currently under review. Persons wishing to comment on the proposed permit are invited to submit a statement to the Bureau of Waste Management, Division of Storage Tanks, PO Box 8763, Harrisburg, PA 17105-8763, within 30 days from the date of this publication. Comments received within this 30-day period will be considered in the formulation of the final determinations regarding this application. Responses should include the name, address and telephone number of the writer and a concise statement to inform the Department of the exact basis of the comment and the relevant facts upon which it based.

The following applications have been received for Storage Tank Site-Specific Installation Permits under the authority of the Storage Tank Spill Prevention Act (35 P. S. §§ 6021.304, 504, 1101—1102) and under 25 Pa Code Chapter 245, Subchapter C.

<i>SSIP Application No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Tank Type</i>	<i>Tank Capacity</i>
10012	National Oilwell Varco, L.P. 1078 Matthew Street Watsonstown, PA 17777 Attn: Mr. James Eckhardt	Northumberland	Watsonstown Borough	24 ASTs storing drilling fluids	504,000 gallons total

ACTIONS

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

The Department of Environmental Protection (Department) has taken the following actions on previously received applications for new, amended and renewed NPDES and WQM permits, applications for permit waivers and Notices of Intent (NOIs) for coverage under General Permits. This Notice of Final Action is provided in accordance with regulations at 25 Pa. Code Chapters 91 and 92 and 40 CFR Part 122, implementing provisions of the Pennsylvania Clean Streams Law, 35 P. S. §§ 691.1 *et seq.*, and the Federal Clean Water Act, 33 USCA §§ 1251 *et seq.*

<i>Location</i>	<i>Permit Authority</i>	<i>Application Type or Category</i>
Section I	NPDES	Renewals
Section II	NPDES	New, 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 through 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 Permit(s). The approval for coverage under these 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. The 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 above the action.

Any person aggrieved by any of these actions may appeal that action to the Environmental Hearing Board, pursuant to section 4 of the Environmental Hearing Board Act, 35 P. S. Section 7514, and the Administrative Agency Law, 2 PA.C.S. Chapter 5A. the appeal should be sent to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, PO Box 8457, Harrisburg, PA 17105-8457, 717-787-3483. TDD users may contact the Board through the Pennsylvania Relay Service, 800-654-5984. Appeals must be filed with the Environmental Hearing 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 you want to challenge an action, your appeal must reach the board within 30 days. You do not need a lawyer to file an appeal with the Board.

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

I. NPDES Renewal Permit Actions

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 ?
PA0239585	Lawrence J. Adams 125 Wallace Road Portersville, PA 16051	Butler County Muddycreek Township	Unnamed Tributary to Big Run 20-C	Y

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

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

PA0233625, Industrial Waste SIC [5083], **Warner Tractor and Equipment, Inc.**, RR 3, Box 460, Troy, PA 16947.

This proposed facility is located in Troy Township, **Bradford County**.

Description of Proposed Activity: New NPDES permit for an existing agricultural and construction equipment washing operation.

The receiving stream, Unnamed Tributary to Sugar Creek, is in the State Water Plan watershed 4C and is classified for: Trout Stocking Fishes. The nearest downstream public water supply intake for Danville Municipal Water Authority is located on the Susquehanna River and is approximately 157.7 miles below the point of discharge.

The proposed effluent limits for Outfall 001 are based on a design flow of 0.00015 MGD.

Parameter	Mass (lb/day)		Concentration (mg/l)		Instantaneous Maximum mg/l
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	
C-BOD5			Monitor		
Dissolved Iron					7
Oil and Grease			15		30
Total Suspended Solids			30		75
pH			6.0 to 9.0 standard units at all times		

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

1. Nuisance Conditions
2. Solid Waste Disposal
3. Dry Stream Discharges
- 4.

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

NPDES Permit No. PA0254100, Industrial Waste, **Worthington Sunoco**, 1050 Route 422, Worthington, PA 16262

This proposed facility is located in Worthington Borough, **Armstrong County**

Description of Proposed Action/Activity: Permit issuance for the treatment and discharge of petroleum product-contaminated groundwater.

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

NPDES Permit No. PA0002674, Industrial Waste, **American Refining Group, Inc.**, 77 North Kendall Avenue, Bradford, PA 16701-1726.

This existing facility is located in Bradford City and Foster Township, **McKean County**.

Description of Proposed Action/Activity: Issuance of a renewal NPDES permit for an existing discharge of treated Industrial Waste. This is a major discharge.

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

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

WQM Permit No. 6710405, Sewerage, **Glen Rock Sewer Authority**, 11714 North Main Street Ext., PO Box 205, Glen Rock, PA 17327-0205.

This proposed facility is located in Glen Rock Borough, **York County**.

Description of Proposed Action/Activity: Permit approval for the construction/operation of sewerage facilities consisting of: upgrade the existing treatment plant to meet proposed nutrient limits specified in NPDES Permit Issued by DEP on March 11, 2010.

WQM Permit No. 0197403, Amendment 10-1, Sewerage, **Gettysburg Borough Municipal Authority**, 59 East High Street, PO Box 3307, Gettysburg, PA 17315.

This proposed facility is located in Gettysburg Borough, **Adams County**.

Description of Proposed Action/Activity: This permit amendment is to clarify the design hydraulic capacity of 5.9 MGD maximum monthly flow as part of permit appeal settlement.

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

WQM No. 5510201, CAFO Operation [SIC 1213], **Ideal Family Farms, LLC, Gerald Stauffer**, P. O. Box 215, Selinsgrove, PA 17870-0215.

This proposed facility is located at 89 BP Finishing Lane, Beavertown, PA 17813, in Beaver Township, **Snyder County**.

Description of Proposed Activity: Ideal Family Farms, LLC proposes to construct and operate a manure influent tank, food waste tank, covered anaerobic digester and a biogas-fired engine/generator set to process on-site manure and external sources of food processing wastes (whey, eggs, candy wash water, milk, juices, bakery waste, fruit and vegetables). These facilities will produce methane gas ("biogas") that will be utilized to fuel an engine to generate electricity. A utility building for the biogas-fired engine/generator set will be constructed with a circulating closed-loop hot water temperature control system that will heat the anaerobic digester. No industrial waste discharge is anticipated or proposed from the closed-loop hot water temperature control system in the permit application. There is no CAFO NPDES permit expansion planned or coordinated with this permit.

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

WQM Permit No. 3068401-T1-A1, Industrial Waste, **Allegheny Energy Supply Company, LLC**, 800 Cabin Hill Drive, Greensburg, PA 15601

This existing facility is located in Monongahela Township, **Greene County**

Description of Proposed Action/Activity: Permit issuance for the installation of a flow equalization tank for the on-site sewage treatment plant.

WQM Permit No. 0494402-A1, Sewerage, **Economy Borough Municipal Authority**, 2860 Conway-Wallrose Road, Baden, PA 15005

This existing facility is located in Economy Borough, **Beaver County**

Description of Proposed Action/Activity: Permit issuance to replace submersible pumps in the Highfield and Freedom Road Pump Stations.

WQM Permit No. 6510407, Sewerage, **The Hempfield Township Municipal Authority**, 1146 Woodward Drive, Greensburg, PA 15601

This proposed facility is located in Hempfield Township, **Westmoreland County**

Description of Proposed Action/Activity: Permit issuance to construct sanitary sewers to serve the Lincoln Heights Area.

WQM Permit No. WQG016182, Sewerage, **Telford Paul**, 7732 Lincoln Highway, Central City, PA 15926

This proposed facility is located in Shade Township, **Somerset County**

Description of Proposed Action/Activity: Permit issuance for the construction and operation of a single residence sewage treatment facility.

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

WQM Permit No. WQG018777, Sewerage, **Debra Stoyer**, 57 West Methodist Road, Greenville, PA 16125

This proposed facility is located in Hempfield Township, **Mercer County**.

Description of Proposed Action/Activity: A Single Residence Small Flow Treatment Facility.

WQM Permit No. 2009404, Sewerage, **Meadville Area Sewer Authority**, 1320 Park Avenue, Meadville, PA 16335.

This proposed facility is located in West Mead Township, **Crawford County**.

Description of Proposed Action/Activity: The proposed project will replace the existing Meadville Area Sewer Authority (MASA) Wastewater Pump Station located on Alden Street Extension.

WQM Permit No. WQG018778, Sewerage, **Paul Howick**, 2716 Station Hill Road, Russell, PA 16345

This proposed/existing facility is located in Sugar Grove Township, **Warren County**.

Description of Proposed Action/Activity: A Single Residence Small Flow Treatment Facility.

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

WQM Permit No. 4610403, Sewerage, **Upper Merion Municipal Utility Authority**, 175 West Valley Forge Road, King of Prussia, PA 19406.

This proposed facility is located in Upper Merion Township, **Montgomery County**.

Description of Action/Activity: Extension of a proposed force main to serve Village @ Valley Forge.

WQM Permit No. WQG02231009, Sewerage, **Rose Tree Media School District**, 308 N. Olive Street, Media, PA 19063

This proposed facility is located in Upper Providence Township, **Delaware County**.

Description of Action/Activity: Construction and operation of a new pump station and force main.

WQM Permit No. 1502419, Sewerage, **Amendment #3, Valley Township**, 890 West Lincoln Highway, P. O. Box 467, Coatesville, PA 19320.

This proposed facility is located in Valley Township, **Chester County**.

Description of Action/Activity: Reprogramming the variable frequency drives to allow the pump station to operate at 800 gpm maximum peak pumping rate, with any one pump out of service.

WQM Permit No. 4608412, Sewerage, **Amendment, Borough of Bryn Athyn**, 2835 Buck Road, P. O. Box 683, Bryn Athyn, PA 19009.

This proposed facility is located in Bryn Athyn Borough, **Montgomery County**.

Description of Action/Activity: The proposed upgrades include an aerated influent EQ tank and an aerated holding tank.

WQM Permit No. 2308405, Sewerage, **Central Delaware County Authority**, 212 B Unity Terrace, Rutledge, PA 19070.

This proposed facility is located in Newtown Township, **Delaware County**.

Description of Action/Activity: Replacement of approximately 42,820 linear feet of existing 12"-42" diameter sanitary sewer.

WQM Permit No. 1596410, Sewerage, **Renewal, Little Washington Wastewater Company**, 762 West Lancaster Avenue, Bryn Mawr, PA 19010.

This proposed facility is located in Thornbury Township, **Chester County**.

Description of Action/Activity: A sequencing batch reactor, sand filtration, chlorine disinfection and dechlorination of a permitted NPDES stream discharge along with drip irrigation.

IV. NPDES Stormwater Discharges from Municipal Separate Storm Sewer Systems (MS4) Permit Actions

V. NPDES Waiver Stormwater Discharges from Municipal Separate Storm Sewer Systems (MS4) Actions

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

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

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI01 1505034-R	Archdiocese of Philadelphia 222 North 17th Street Philadelphia, PA 19103 and St. Peter Parish 2835 Manor Road West Brandywine, PA 19320	Chester	West Brandywine Township	Beaver Creek (CWF-MF)
PAI01 1509027	St. Joseph's Church 3640 Schuylkill Road Spring City, PA 19475-1523	Chester	East Vincent Township	Stony Run (HQ)
PAI01 1509030	Stillwater Presbyterian Church PO Box 641 Kennett Square, PA 19348	Chester	London Grove Township	Unnamed Tributary East Branch White Clay Creek (EV)
PAI01 151013	Paul A.Kavanagh 143 Webb Road Lincoln University, PA 19352	Chester	Upper Oxford Township	Unnamed Tributary East Branch Big Elk Creek (HQ-TSF-MF)
PAI01 151022	Hankin Family Limited Partnership 707 Eagleview Boulevard Exton, PA 19341-1159	Chester	East Goshen Township	Unnamed Tributary Ridley Creek (HQ-TSF)
PAI01 2306006 - Phase I	Sentinel Ridge Development, LLC 110 North Phoenixville Pike, Suite 200 Malvern, PA 19355	Delaware	Marple Township	Crum Creek (WWF)

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

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI024510008	Pennsylvania Department of Transportation District 5 1002 Hamilton St. Allentown, PA 18101	Monroe	Tobyhanna Township and Tunkhannock Township	UNT to Tobyhanna Creek, HQ-CWF, MF

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

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI034410001	Dave McNitt CENPA Development, LLC P. O. Box 171 Thornton, PA 19373-0171	Mifflin	Brown Township	Quillas Creek/ WWF

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

Centre County Conservation District: 414 Holmes Avenue, Suite 4, Bellefonte, PA 16823, (814) 355-6817

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI041410002	PA Dept of Transportation PO Box 342 Clearfield, PA 16830	Centre	Rush Township	Wolf Run/Big Fill Watershed EV

Clearfield County Conservation District: 650 Leonard Street, Clearfield, PA 16830, (814) 765-2629

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI041710002	American Towers, Inc c/o Jared Morley 10 Presidential Way Woburn, MA 01810	Clearfield	Union Township	Blanchard Run, Montgomery Run & Anderson Creek HQ-CWF, MF

VII. Approvals to Use NPDES and/or Other General Permits

The EPA Region III Administrator has waived the right to review or object to this permit action under the waiver provision 40 CFR 123.23(d).

List of NPDES and/or Other General Permit Types

PAG-1	General Permit for Discharges From Stripper Oil Well Facilities
PAG-2	General Permit for Discharges of Stormwater Associated With Construction Activities (PAR)
PAG-3	General Permit for Discharges of Stormwater From Industrial Activities
PAG-4	General Permit for Discharges From Small Flow Treatment Facilities
PAG-5	General Permit for Discharges From Gasoline Contaminated Ground Water Remediation Systems
PAG-6	General Permit for Wet Weather Overflow Discharges From Combined Sewer Systems (CSO)
PAG-7	General Permit for Beneficial Use of Exceptional Quality Sewage Sludge by Land Application
PAG-8	General Permit for Beneficial Use of Non-Exceptional 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-02**Facility Location:*

<i>Municipality & County</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Richland Township Bucks County	PAG0200 091052	OPMG Associates, LP 120 East Lancaster Avenue Ardmore, PA 19003	Unnamed Tributary Beaver Run (TSF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
Thornbury Township Chester County	PAG0200 151032	Cheyney University 1837 University Circle Cheyney, PA 19319	Chester Creek (TSF-MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
East Caln Township Chester County	PAG0200 151026	Shearin IV Boot Road, LP 5160 Militia Hill Road Plymouth Meeting, PA 19462	East Branch Brandywine Creek (WWF-MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
East Bradford Township Chester County	PAG0200 1505048-R	Thomas R. Wilson 800 Sconnelltown Road West Chester, PA 19380	Unnamed Tributary Plum Run (WWF-MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
London Grove Township Chester County	PAG0200 151018	London Grove Township Municipal Authority 372 Rose Hill Road, Ste 300 West Grove, PA 19390	Unnamed Tributary East Branch White Clay Creek (CW)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
London Britain Township Chester County	PAG0200 151029	London Britain Township PO Box 215 Kemblesville, PA 19347	Christina River (WWF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
Thornbury Township Delaware County	PAG0200 2308051	Peter Bowers 342 New Market Court Chesterbrook, PA 19087	West Branch Chester Creek (TSF-MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
Aston Township Delaware County	PAG0200 2308015	Aston Properties, LLC 1023 East Baltimore Pike Media, PA 19063-5126	Marcus Hook Creek (WWF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
Ridley, Springfield, Nether Providence, Upper Providence, Marple Townships and Swarthmore Borough	PAG0200 2309022	Central Delaware County Authority 212 B Unity Terrace Rutledge, PA 19070	Crum Creek (WWF-MF-CWF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
City of Philadelphia Philadelphia County	PAG0201 511031	Philadelphia Housing Authority 3100 Penrose Ferry Road Philadelphia, PA 19145	Pennypack Creek (WWF-MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
Wilkes-Barre City, Luzerne County	PAG02004010007	East Wilkes-Barre Congregation of Jehovah's Witnesses Carl Garret 72 West North St. Wilkes-Barre, PA 18701	Unnamed tributary to Mill Creek, CWF, MF	Luzerne County Conservation Dist. 570-674-7991
Exeter Borough, Luzerne County	PAG02004008036	J & K Construction Kenneth Kizis 1305 Wyoming Ave. Exeter, PA 18643	Hicks Creek, CWF, MF	Luzerne County Conservation Dist. 570-674-7991
Pittston Township, Luzerne County	PAG02004010009	Federal Aviation Administration (FAA) Daniel B. McCormick 534 Lidy Rd. Dupont, PA 18641	Lidy Creek, CWF, MF	Luzerne County Conservation Dist. 570-674-7991

<i>Facility Location: Municipality & County</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water / Use</i>	<i>Contact Office & Phone No.</i>
Avoca Borough and Dupont Borough Luzerne County	PAG02004009027	PA Department of Transportation Debbie Noone 55 Keystone Industrial Park Dunmore, PA 18512	Mill Creek, CWF, MF	Luzerne County Conservation Dist. 570-674-7991
Lower Allen Township Cumberland County	PAG2002110011	Pastor James Schambach Christian Life Assembly 2645 Lisburn Road Camp Hill, PA 17011	UNT to Yellow Breeches/ CWF	Cumberland County Conservation District 310 Allen Road, Suite 301 Carlisle, PA 17013 717-240-7812
East Pennsboro Township Cumberland County	PAG2002110007	George Sullenberger Deer Trace at Penn Valley 212 Maple Avenue Camp Hill, PA 17011	UNT to Conodoguinet Creek/ WWF-MF	Cumberland County Conservation District 310 Allen Road, Suite 301 Carlisle, PA 17013 717-240-7812
Point Township Northumberland County	PAG2004910014	Furman Foods, Inc. 770 Cannery Road Northumberland, PA 17857	UNT to West Branch Susquehanna River WWF	Northumberland County Conservation District RR 3, Box 238-C Sunbury, PA 17801 (570) 286-7114, X 4
Shamokin Dam Borough Snyder County	PAG2005510003	PA Dept of Conservation & Natural Resources PO Box 8451 Harrisburg, PA 17105	Susquehanna River WWF	Snyder County Conservation District 403 West Market Street Middleburg, PA 17842 (570) 837-0007, X 5
Liberty Township Tioga County	PAG2005910007	Shawn Stille Oregon Hill Grace Chapel Church PO Box 100 Liberty, PA 16930	Little Fall Creek HQ	Tioga County Conservation District 50 Plaza Lane Wellsboro, PA 16901 (570) 724-1801, X 3
Kelly Township White Deer Township Union County	PAG2006010009	PA Department of Transportation PO Box 218 Montoursville, PA 17754-0218	UNT to Little Buffalo Creek CWF, MF	Union County Conservation District Union County Government Center 155 North 15th Street Lewisburg, PA 17837 (570) 524-3860
Beaver County Center Township	PAG2000410004	Gary Birmingham Golden Peak Developers 546 Third Street Beaver, PA 15009	Shafer Run and Poorhouse Run (WWF)	Beaver County CD 156 Cowpath Road Aliquippa, PA 15001 724-378-1701
Cambria County East Conemaugh & Franklin Boroughs	PAG02001110009	PA Department of Transportation, District 9-0 1620 N. Juniata Street Hollidaysburg, PA 16648	Little Conemaugh River (WWF)	Cambria County CD 401 Candlelight Drive, Suite 221 Ebensburg, PA 15931 814-472-2120
Greene County Perry & Dunkard Townships	PAG02003010008	AMD Reclamation, Inc. 306 Dents Run Road Morgantown, WV 26601	Glade Run (WWF)	Greene County CD 19 South Washington Street Waynesburg, PA 15370-2053 724-852-5278
Cranberry Township Butler County	PAG02 0010 10 004	Cranberry Township 2525 Rochester road Cranberry PA 16066	Brush Creek WWF	Butler Conservation District 724-284-5270
Forward Township Butler County	PAG02 0010 10 015	Frank Shipley 121 Dutch Road Harmony PA 16037	UNT to Connoquenessing Creek WWF	Butler Conservation District 724-284-5270

<i>Facility Location: Municipality & County</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water / Use</i>	<i>Contact Office & Phone No.</i>
Rockdale Township Crawford County	PAG02 0020 10 002	PennDOT Eng. District 1-0 255 Elm Street Oil City PA 16301	French Creek WWF	Crawford Conservation District 814-763-5269
Millcreek Township Erie County	PAG02 0025 10 006	PennDOT Eng. District 1-0 255 Elm Street Oil City PA 16301	Wilkins Run CWF;MF	Erie Conservation District 814-825-6403
Fairview Township Erie County	PAG02 0025 10 008	HCF Management Inc 110 Shawnee Road Lima OH 45805	Walnut Creek / Lake Erie CWF;MF	Erie Conservation District 814-825-6403

General Permit Type—PAG-3

<i>Facility Location: Municipality & County</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water / Use</i>	<i>Contact Office & Phone No.</i>
York County / Spring Garden Township	PAR213522	Standard Concrete Products Company 700 North Sherman Street York, PA 17402	Mill Creek / WWF / 7H	DEP—SCRO— Water Management Program 909 Elmerton Avenue Harrisburg, PA 17110 717-705-4707
Woodward Township, Clearfield County	PAR64845	Natalies Auto Salvage 1920 Henderson Street Houtzdale, PA 16651	Unnamed Tributary to North Branch Upper Morgan Run (CWF)	DEP Northcentral Regional Office Water Management 208 W Third Street Suite 101, Williamsport, PA 17701-6448 570.327.0532
Lawrence Township, Clearfield County	PAR604846	Natalies Auto Salvage 1920 Henderson Street Houtzdale, PA 16651	Unnamed Tributary to Moose Creek (CWF)	DEP Northcentral Regional Office Water Management 208 W Third Street Suite 101, Williamsport, PA 17701-6448 570.327.0532
Muncy Township, Lycoming County	PAR234812	Charlote Pipe & Foundry Co. 4201 Old Charlotte Highway PO Box 1339 Monroe, NC 28111	Wolf Run, CWF	DEP Northcentral Regional Office Water Management 208 W Third Street Suite 101, Williamsport, PA 17701-6448 570.327.0532
City of Pittsburgh Allegheny County	PAR206159	Tech Industries, Inc. 300 Mifflin Road Pittsburgh, PA 15207	Glass Run	Southwest Regional Office: Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 412-442-4000
Elk Lick Township Somerset County	PAR206162	West Salisbury Foundry & Machine PO Box 541 Salisbury, PA 15558	Casselman River	Southwest Regional Office: Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 412-442-4000

*Facility Location:
Municipality &
County**Permit No.**Applicant Name &
Address**Receiving
Water / Use**Contact Office &
Phone No.*Hempfield
Township
Westmoreland
County

PAR606160

Tollgate Auto
Parts Company
194 Tollgate Hill Road
Greensburg, PA 15601

Jack's Run

Southwest Regional
Office:
Water Management
Program Manager
400 Waterfront Drive
Pittsburgh, PA
15222-4745
412-442-4000*General Permit Type—PAG-4**Facility Location:
Municipality &
County**Permit No.**Applicant Name &
Address**Receiving
Water / Use**Contact Office &
Phone No.*Blair County /
Antis Township

PAG043905

Jason L. Sensenig
1729 Kerbaugh
Dam Lane
Tyrone, PA 16686Sugar Run /
WWFDEP—SCRO
909 Elmerton Avenue
Harrisburg, PA 17110
717-705-4707Blair County /
Logan Township

PAG043906

Todd Harshbarger
3060 Homers Gap Road
Altoona, PA 16601Homer's Gap Run /
WWFDEP—SCRO
909 Elmerton Avenue
Harrisburg, PA 17110
717-705-4707Shade Township
Somerset County

PAG046417

Telford Paul
7732 Lincoln Highway
Central City, PA 15926UNT To Fallen Timber
RunSouthwest Regional
Office:
Water Management
Program Manager
400 Waterfront Drive
Pittsburgh, PA
15222-4745
(412) 442-4000Hempfield
Township, Mercer
County

PAG041010

Debra Stoyer 57 West
Methodist Road
Greenville, PA 16125Unnamed Tributary to
the Shenango River 20-ADEP NWRO
Water Management
230 Chestnut Street
Meadville, PA 16335-3481
814/332-6942Sugar Grove
Township, Warren
County

PAG041011

Paul Howick 2716
Station Hill Road
Russell, PA 16345Unnamed Tributary to
Stillwater Creek, 16-BDEP NWRO
Water Management
230 Chestnut Street
Meadville, PA 16335-3481
814/332-6942*General Permit Type—PAG-8**Facility Location:
Municipality &
County**Permit No.**Applicant Name &
Address**Site Name &
Location**Contact Office &
Phone No.*City of Easton,
Northampton Co.

PAG08-2219

Easton Area Joint
Sewer Authority
50-A-South Delaware
DriveEaston, PA
18042 Easton Area
Joint Sewer Authority
50-A-South Delaware
Drive
Easton, PA 18042PA DEP NERO
2 Public Square
Wilkes-Barre, PA
18701-1915
570-826-2511Milford Township
Juniata CountyPAG080002
PAG080003
PAG080004
PAG080006
PAG080008
PAG080018
PAG082203
PAG082211
PAG083501
PAG083502Synagro
1605 Dooley Rd.
Whiteford, MD 21160Steve Long Farm #2
Milford Township
Juniata CountyDEP-SCRO
909 Elmerton Avenue
Harrisburg, PA
17110-8200
717-705-4707

NOTICES

6207

*Facility Location:
Municipality &
County*

Permit No.

*Applicant Name &
Address*

*Site Name &
Location*

*Contact Office &
Phone No.*

PAG083506
PAG083510
PAG083515
PAG083517
PAG083518
PAG083522
PAG083535
PAG083540
PAG083542
PAG083547
PAG083551
PAG083556
PAG083565
PAG083567
PAG083573
PAG083596
PAG083597
PAG083600
PAG086106
PAG083825
PAG089903
PAG089904
PAG089905
PABIG9903

Milford Township
Juniata County

PAG080002
PAG080003
PAG080004
PAG080006
PAG080008
PAG080018
PAG082203
PAG082211
PAG083501
PAG083502
PAG083506
PAG083510
PAG083515
PAG083517
PAG083518
PAG083522
PAG083535
PAG083540
PAG083542
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PAG083596
PAG083597
PAG083600
PAG086106
PAG083825
PAG089903
PAG089904
PAG089905
PABIG9903

Synagro
1605 Dooley Rd.
Whiteford, MD 21160

SteveLong
Farm #1
Milford Township
Juniata County

DEP—SCRO
909 Elmerton Avenue
Harrisburg, PA
17110-8200
717-705-4707

*General Permit Type—PAG-8 (SSN)**Facility Location:*

<i>Municipality & County</i>	<i>Applicant Name & Address</i>	<i>Site Name</i>	<i>Permit Number</i>	<i>Contact Office & Phone No.</i>
Burrell Township Indiana County	Synagro 264 Prisani Street PO Box 35 Bovard, PA 15619	Little Reclamation Biosolids Site	733720	Southwest Regional Office: Water Management Program Manager 400 Waterfront Drive Pittsburgh PA 15222-4745 (412) 442-4000

*General Permit Type—PAG-12**Facility Location:*

<i>Municipality & County</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water / Use</i>	<i>Contact Office & Phone No.</i>
Lancaster County / Rapho Township	PAG123690	Jodie Brubaker 1681 Hossler Road Manheim, PA 17545	UNT Back Run / TSF	DEP—SCRO— Watershed Management Program 909 Elmerton Avenue Harrisburg, PA 17110 717-705-4802
Lancaster County / Clay Township	PAG123583	Jared Rottmund Pigtail Acres, LLC 1030 Girl Scout Road Stevens, PA 17578	UNT Indian Run / TSF	DEP—SCRO— Watershed Management Program 909 Elmerton Avenue Harrisburg, PA 17110 717-705-4802
Berks County / Bethel Township	PAG123561	Elvin L. Martin 980 Little Mountain Road Myerstown, PA 17067	Crosskill Creek / CWF	DEP—SCRO— Watershed Management Program 909 Elmerton Avenue Harrisburg, PA 17110 717-705-4802

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, Rachael Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania AT&T Relay Service at (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

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>
Martin's Pine Lane Farm Samuel Martin 11441 Gehr Rd. Waynesboro, PA 17268	Franklin	115.3	106.7	Layers	NA	A
Dale Frank 3167 Bossler Rd Elizabethtown, PA 17022	Lancaster	357.5	789.4	Swine/ Broiler/ steer	NA	A
Noah Kreider & Sons 1461 Lancaster Rd Manheim, PA 17545	Lancaster	450	2961.48	Layers	HQ	A
Galen Nolt 222 Little Britain Church Rd Peach Bottom, PA 17563	Lancaster	350.0	522.8	Swine/ Layers/ Dairy	HQ	A

PUBLIC WATER SUPPLY (PWS) PERMITS

The Department of Environmental Protection (Department) has taken the following actions on applications received under the Safe Drinking Water Act for the construction, substantial modification or operation of a public water system.

Any person aggrieved by these actions may appeal, pursuant to Section 4 of the Environmental Hearing Board Act, 35 P.S. § 7514, and the Administrative Agency Law, 2 Pa.C.S. Chapter 5A, 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 Board through the Pennsylvania Relay Service, 800-654-5984. Appeals must be filed with the Environmental Hearing 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 decisional law.

If you want to challenge this action, your appeal must reach the Board within 30 days. You do not need a lawyer to file an appeal with the Board.

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

SAFE DRINKING WATER

Actions taken under the Pennsylvania Safe Drinking Water Act (35 P. S. 721.1-721.17)

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

Operations Permit 1510511 issued to: **Superior Water Company**, 1885 Swamp Pike, Gilbertsville, PA 19525

(PWSID# 1150547) North Coventry Township, Chester County on June 02, 2010, for operation of

Facilities approved under construction permit # 1509516 for operations to Suburbia Shopping Center Water System located at North Coventry Township, **Chester County**.

Operations Permit 4610518 issued to: **Audubon Water Company**, 2650 Eisenhower Avenue, Norristown, PA 19403

(PWSID# 1460055) North Coventry Township, Chester County on July 7, 2010, for operations Facilities approved under construction permit # 4603503 for operations to Well No. AWC-14 and Air Stripper located at Lower Providence Township, **Montgomery County**.

Operations Permit 4610530 issued to: **Schwenksville Borough Authority**, 298 Main Street, Schwenksville, PA 19473.

(PWSID# 1460042) Schwenksville Borough, Chester County on July 13, 2010, for operations to Sodium Hypochlorite Feed Systems at Well Nos. 7 and 3 located Schwenksville Borough, **Montgomery County**.

Operations Permit 0910529 issued to: **Richland Township Water Authority**, 1328 California Road, Suite-D, Quakertown, PA 18951.

(PWSID1090134) Richland Township, Bucks County on August 30, 2010, for operation of Facilities approved under construction permit # 0908514 for operations to Quakertown Christian School Well No. 1 located at Richland Township, **Bucks County**.

Operations Permit 4610528 issued to: **Andorra Spring Water Company**, 2201 Barron Hill Road, Conshohocken, PA 19428

(PWSID# 1466020) Whitemarsh Township, Montgomery County on September 20, 2010, for operations of Facilities approved under construction permit # 4610528 for operations to BWV-100 Water Vending Machines at Andorra Springs Water Company located at Whitemarsh Township, **Montgomery County**.

Operations Permit 4610519 issued to: **Aqua Pennsylvania, Inc.**, 762 West Lancaster Avenue, Bryn Mawr, PA 19010

Perkiomeen Township, **Montgomery County** on July 20, 2010, for operations Facilities to Rahn Well No. 1 New Pump at Aqua Pennsylvania, Inc. located at Perkiomen Township, **Montgomery County**.

Operations Permit 0910527 issued to: **Tinicum Elementary School.**, 162 E. Dark Hollow Road, Pipersville, PA 18947.

(PWSID# 1091299) Tinicum Township, Bucks County on August 20, 2010, for operation of Facilities approved under construction permit # 0910515 for operations to Tinicum Elementary School Well located at Tinicum Township, **Bucks County**.

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

Permit No. 3610504, Public Water Supply.

Applicant **Bartville Store & Locker**
Municipality Bart Township
County **Lancaster**
Responsible Official Daniel B. King, Owner
103 Rosedale Road
Christiana, PA 17509
Type of Facility Addition of nitrate treatment and a 120-gallon chlorine contact tank. 4-Log Demonstration for Entry Point 100
Consulting Engineer Charles A Kehew II, P.E.
James R. Holley & Assoc., Inc.
18 South George St.
York, PA 17401
Permit to Construct Issued: 9/29/2010

Permit No. 3610507, Public Water Supply.

Applicant **Elizabethtown Area School District**
Municipality Mount Joy Township
County **Lancaster**
Responsible Official Ronald M Nobile,
Physical Plant Director
600 East High Street
Elizabethtown, PA 17022
Type of Facility Installation of lead and copper corrosion control, sodium hypochlorite disinfection and 4-Log demonstration
Consulting Engineer Clayton E Bubeck, P.E.
Rettew Associates Inc
3020 Columbia Avenue
Lancaster, PA 17603
Permit to Construct Issued: 9/29/2010

Permit No. 2110505, Public Water Supply.

Applicant **CHR Corporation**
Municipality Monroe Township
County **Cumberland**
Responsible Official Tim L Rutter, President
2295 Susquehanna Trail Road,
Suite C
York, PA 17404
Type of Facility A new transient non-community water system with nitrate treatment for Rutter's Farm store No. 66.

Consulting Engineer Eric Thomas, P.E.
LSC Design, Inc.
111- East Princess Street
York, PA 17403
Permit to Construct Issued: 10/5/2010

Permit No. 0610517 MA, Minor Amendment, Public Water Supply.

Applicant **Maidencreek Township Authority**
Municipality Maidencreek Township
County **Berks**
Responsible Official Patrick Donovan,
General Manager
1 Quarry Road
O Box 319
Blandon, PA 19510
Type of Facility Addition of approximately 150' of 30" diameter contact pipe at existing Well No. 2 to achieve 4-log inactivation of viruses. Also provided 4-log demonstration for inactivation of viruses for all other sources.
Consulting Engineer Gregory T Unger, P.E.
Systems Design
Engineering, Inc.
1032 James Drive
Leesport, PA 19533
Permit to Construct Issued: 9/29/2010

Operations Permit issued to: **Triple J. Mobile Home Park, Inc.**, 7360055, Leacock Township, **Lancaster County** on 9/29/2010 for the operation of facilities approved under Construction Permit No. 3609507.

Operations Permit issued to: **High Spring Water**, 7366299, Warwick Township, **Lancaster County** on 9/30/2010 for the operation of facilities approved under Construction Permit No. 3609512.

Operations Permit issued to: **Williamsburg Municipal Authority**, 4070022, Williamsburg Borough, **Blair County** on 9/29/2010 for the operation of facilities approved under Construction Permit No. 4070022.

Source Water Protection Program Approval issued to **Halifax Area Water and Sewer Authority**, P. O. Box 443, Halifax, PA 17032, PWSID 722040, Halifax Borough, **Dauphin County** on October 5, 2010.

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

Operations Permit issued to **Bradford City Water Authority**, PWSID #6420014, Bradford City; Foster, Lafayette & Bradford Townships, **McKean County** on October 4, 2010. Action is for operation of the Big Shanty Road Pump Station and in response to an operation inspection conducted by Department personnel on September 29, 2010. The operations permit also includes various existing pump stations & storage facilities already in operation, and in accordance with construction permit 4207501, issued February 14, 2008.

WATER ALLOCATIONS

Actions taken on applications received under the act of June 24, 1939 (P. L. 842, No. 365) (35 P. S. §§ 631—641) relating to the acquisition of rights to divert waters of the Commonwealth

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

WA-585 Water Allocation, Lower Bucks County Joint Municipal Authority, 7900 Route 13, Levittown, PA 19057. Tullytown Borough, **Bucks County**. This application is for Lower Bucks County Joint Municipal Authority Permit Renewal.

WA-434-A Water Allocation, Red Hill Water Authority, P. O. Box 26, Red Hill, PA 18076. Red Hill Borough, **Montgomery County**. This application is for Red Hill Water Authority permit renewal for the peak day withdraw of 450,000 gallons per day from Kemmerer Spring.

STORMWATER MANAGEMENT

Action on plans submitted under the Stormwater Management Act of October 4, 1978 (32 P. S. Section 680.9)

Bureau of Watershed Management, P. O. Box 8775, Harrisburg, Pennsylvania 17105-8775

The Act 167 Countywide Stormwater Management Plan for Luzerne County, submitted by **Luzerne County**, was approved on October 5, 2010. This plan applies to all watersheds and all areas within Luzerne County.

The Act 167 Countywide Stormwater Management Plan for Crawford County, submitted by **Crawford County**, was approved on October 8, 2010. This plan applies to all watersheds and all areas within Crawford County.

SEWAGE FACILITIES ACT PLAN APPROVAL

Plan Approvals Granted under the Pennsylvania Sewage Facilities Act (35 P. S. § 750.5)

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

Plan Location:

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Beale Township	573 Cider Press Road, Port Royal, PA 17082	Juniata

Plan Description: The approved plan provides for the serving the sewage disposal needs of the Village of Walnut with a 12,075 GPD average annual flow lagoon treatment facility with disposal via slow rate surface application (spray irrigation). The Department's review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal. Any required NPDES Permits or WQM Permits must be obtained in the name of the municipality or authority as appropriate.

Plan Location:

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Burnham Borough	200 First Avenue, Burnham, PA 17009	Mifflin

Plan Description: The approved plan provides for a biological nutrient reduction upgrade to the existing sewage treatment plant in order to comply with the Chesapeake Bay Tributary Strategy. The capacity of the sewage treatment plant will remain at an annual average daily flow of 0.64 MGD. The plan also provides for the installation of 1,900 feet of new sanitary sewer on Ridge, Freedom and Poplar streets to eliminate combined sewer overflow #06 and the CSO at the sewage treatment plant. The Department's review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal. Any required NPDES Permits or WQM Permits must be obtained in the name of the municipality or authority as appropriate.

Plan Location:

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
North Middleton Township	2051 Spring Road, Carlisle, PA 17013	Cumberland

Plan Description: The approved plan provides for a biological nutrient reduction upgrade to the existing sewage treatment plant in order to comply with the Chesapeake Bay Tributary Strategy. The capacity of the sewage treatment plant will remain at an annual average daily flow of 1.3 MGD. The Department's review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal. Any required NPDES Permits or WQM Permits must be obtained in the name of the municipality or authority as appropriate.

Plan Location:

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Mount Holly Springs Borough	200 Harman Street, Mt. Holly Springs, PA 17065	Cumberland

Plan Description: The approved plan provides for a biological nutrient reduction upgrade and expansion to the sewage treatment plant from a 0.6 MGD to A 0.7 MGD annual average flow in order to comply with the Chesapeake Bay Tributary Strategy. The Department's review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal. Any required NPDES Permits or WQM Permits must be obtained in the name of the municipality or authority as appropriate.

Plan Location:

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Broad Top Township	PO Box 57, Defiance, PA 16633	Bedford County

Plan Description: The approved plan provides for the construction of a sanitary wastewater collection system and pump station on the south side of State Road 26 to serve 34 existing homes. The Department's review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this

proposal. Any required NPDES Permits or WQM Permits must be obtained in the name of the municipality or authority as appropriate.

Plan Location:

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Perry Township	680 Moselem Springs Rd. Shoemakersville, PA 19555	Berks County

Plan Description: The approved plan provides for expansion of the Glen Gery Brick Company to generate an additional 3200 gallons of sewage per day to be served by a proposed spray irrigation system for denitrification. The proposed development is located on South Pottsville Pk. Perry Township, Berks County. The plan revision DEP number is A3-06951-055-2. The Department's review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal. Any required NPDES Permits or WQM Permits must be obtained in the name of the municipality or authority as appropriate.

Plan Location: on the north side of Roxbury Road, 1000 feet east of Mongul Hill Road.

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Southampton Township	P. O. Box 352 Shippensburg, PA. 17257	Franklin County

Plan Description: The approved plan, in the name of Wayne Diehl, provides for a small flow treatment facility to serve a new residence on Lot 2D. The small flow treatment facility is planned to discharge into an unnamed tributary to Conodoguinet Creek. The Department'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 owner.

SEWAGE FACILITIES ACT PLAN DISAPPROVAL

Plan Disapprovals Granted under the Pennsylvania Sewage Facilities Act (35 P. S. § 750.5)

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

Plan Location:

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
(Martic)	(370 Steinman Road, Pequea, PA 17565)	Lancaster County

Plan Description: The David and Sarah Stoltzfus proposed plan revision for one residential lot of 15 acres (approx) generating 400 gpd in sewage flows using an on lot sewage system, plus a residue lot, was disapproved because the High Quality Stream Assessment shows that there will be an impact to Tucquan Creek and the module did not first consider the use of best management practices to reduce or eliminate this impact as required by Chapter 93, Section 93.4c(b)(2). The proposed subdivision is located in the southeast corner of Tucquan Glen Road and Pencroft Road in Martic Township, Lancaster County. The DEP code number is A3-36940-191-2 and the APS number is 726390.

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 non-residential 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 reuse 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, please contact the Environmental Cleanup Program Manager in the Department of Environmental Protection Regional Office under 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 listed. TDD users may telephone the Department through the 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

Imperial Plaza Shopping Center, City of Philadelphia, **Philadelphia County**. Timothy Mangold, GZA GeoEnvironmental, Inc. 501 Office Center Drive, Suite 220, Fort Washington, PA 18034 on behalf of Richard Skriloff, Imperial Aramingo, LLP, 234 Closter Dock Road, Closter, NJ 076324 has submitted a Final Report/ Remedial Investigation Report concerning remediation of site groundwater contaminated with diesel fuel. The report is intended to document remediation of the site to meet the Site Specific Standard.

919 Wallace Street, City of Philadelphia, **Philadelphia County**. Thomas S. Jones, Penn E&R, Inc, 2755

Bergey Road, Hatfield, PA 19440, Darryl D. Borrelli, Manko, Gold, Katcher & Fox, LLP, 401 City Avenue, Suite 500, Bala Cynwyd, PA 19004 on behalf of Jack Levin, Roselawn Abstract LP, 1411 Walnut Street, Third Floor, Philadelphia, PA 19102 has submitted a Final Report concerning remediation of site soil contaminated with inorganic. The report is intended to document remediation of the site to meet the Site Specific Standard.

Northeast Region: Ronald S. Brezinski, Environmental Cleanup Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.

Reedy Property, 43 King Fisher Drive, Barry Township, **Schuylkill County**. David R. Crowther, BlackRock Environmental, LLC, P. O. Box 288, Nazareth, Pa 18064 has submitted a Final Report for Groundwater (on behalf of his client, Lawrence Reedy, 43 King Fisher Drive, Ashland, PA 17921), concerning the remediation of soils found to have been impacted by kerosene as a result of a release from a 275-gallon aboveground storage tank. The report was submitted to document attainment of the Statewide Health Standard for groundwater. A public notice regarding the submission of the Final Report was published in *The Republican-Herald* on September 24, 2010.

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

Rose Ball Residence, Bell Township, **Clearfield County**. Mountain Research, LLC, 825 25th St., Altoona, PA 16601 on behalf of Rose Ball, 2001 Clover Run Road, Mahaffey, PA 15757 has submitted a Final Report concerning remediation of site groundwater contaminated with heating oil. The report is intended to document remediation of the site to meet the Statewide Health Standard.

Southwest Region: Environmental Cleanup Program Manager, 400 Waterfront Drive, Pittsburgh, Pa 15222-4745

RIDC City Center of Duquesne, City of Duquesne, **Allegheny County**. KU Resources, 22 South Linden Street, Duquesne PA 15110 on behalf of the RIDC of Southwestern Pennsylvania, the American textile Company, Inc., MBC Properties (Miller Bros Construction), Rutenberg Realty Company, LLC., Greater Pittsburgh Community Food Bank, and the Regional Trail Alliance has submitted a Combined Remedial Investigation, Risk Assessment and Cleanup Plan Report concerning the remediation of site soil and groundwater. Soil is contaminated with semi-volatile organic compounds, volatile organic compounds, metals and PCBs while groundwater is contaminated with volatile organic compounds and metals. The Combined Report was noticed in the *McKeesport Daily News* on August 21, 2010.

Westinghouse Air Brake Technology Company (WABTEC), Wilmerding Borough, **Allegheny County**. American Geosciences, Inc., 3925 Reed Boulevard, Suite 400, Murrysville, PA 15668-1848 on behalf of Westinghouse Air Brake Technology Company, 1001 Air Brake Avenue, Wilmerding, PA 15148 has submitted a Final Report concerning the remediation of site soil and groundwater contaminated with heavy metals, solvents, BTEX and PAHs. The Final report was noticed in the *Tribune-Review* on October 5, 2010.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

PREAMBLE 3

The Department has taken action on the following plans and reports under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908).

Provisions of 25 PA Code § 250.8, Administration of the Land Recycling and Environmental Remediation Standards Act (Act) requires the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* a notice of its 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 non-residential 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 reuse 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, please contact the Environmental Cleanup Program Manager in the Department of Environmental Protection Regional Office under 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 listed. TDD users may telephone the Department through the 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 Doylestown Work Center, Plumstead Township **Bucks County**. Sean M. Damon, P.G., Langan Engineering & Environmental, P. O. Box 1569, Doyles-

town, PA 18901, James McElman, PG, Verizon Environmental Management, 7701 E. Telecom Drive, MC:FLTDSB1M, Temple Terrace, FL 33637 on behalf of Mike Nickerson, Central Bucks School District, 320 West Swamp Road, Doylestown, PA 18901 has submitted a Final Report concerning the remediation of site soil contaminated with inorganic. The Final report demonstrated attainment of the Statewide Health Standard and was approved by the Department on September 7, 2010.

Summit Cleaners, Middletown Township, **Bucks County**. Kevin J. Billings, P. E. Property Solutions Incorporated, 323 New Albany Road, Moorestown, NJ 08057 on behalf of Ronald D. Gigliotti, Gigliotti Group, Inc, Suite 2G-H, Summit Square Center, State Route 413 on a Doublewoods Road, Langhorne, PA 19 19047 has submitted a Remedial Investigation/Final Report concerning the remediation of site soil and groundwater contaminated with chlorinated solvents. The Remedial Investigation/Final report demonstrated attainment of the Site Specific Standard and was approved by the Department on October 4, 2010.

1104 Greentree Lane, Lower Merion Township, **Montgomery County**. Michael Welsh, Welsh Environmental Inc, 131 Clearview Drive, Downingtown, PA 19335, Staci Cottone, J&J Spill Service and Supplies, P. O. Box 370, Blue Bell, PA 19422 on behalf of Bruce Lev, 1104 Greenlane, PA 19072 has submitted a Final Report concerning the remediation of site soil contaminated with unleaded gasoline. The Final report demonstrated attainment of the Statewide Health Standard and was approved by the Department on October 4, 2010.

West Conshohocken MGP Gulp Creek Site, West Conshohocken Borough, **Montgomery County**. Bruce Middleman, Stantec 400 Davis Drive Suite 400, Plymouth Meeting, PA 19462, on behalf of Benjamin Henry, Peco Energy Company, 2301 Market Street, S7-2, Philadelphia, PA 19101 has submitted a Final Report concerning the remediation of site groundwater contaminated with inorganic. The Final was placed on hold by the Department on October 5, 2010.

Penn Fishing Reel MFG Company, City of Philadelphia, **Philadelphia County**. Andrew Bonas, Environ International Corporation, 214 Carnegie Center, Princeton, NJ 08540, on behalf of David Shanks Penn Fishing Reel Manufacturing Company, 3028 West Hunting Park Avenue, Philadelphia, PA 19131 has submitted a Final Report concerning the remediation of site soil contaminated with chlorinated solvents. The Final report demonstrated attainment of the Statewide Health Standard and was approved by the Department on September 7, 2010.

ChaddsFord Collision, City of Philadelphia, **Philadelphia County**. Steven Cox, Brown Environmental, Service Corporation, 301 South State Street, Suite S201, Newtown, PA 18940, Roman Iwaskiw, Brown Environmental Service Corporation, 310 South State Street, Suite S201, Newtown, PA 18940 has submitted a Remedial Investigation/Risk Assessment and Cleanup Plan concerning the remediation of site soil and groundwater contaminated with unleaded and lead gasoline. The Remedial Investigation/Risk Assessment and Cleanup Plan were approved by the Department on September 7, 2010.

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

Paoli Transportation Truck Fire. Laporte Township, **Sullivan County**. Northridge Group Inc., 1172 Ridge Road, Northumberland, PA 17857 on behalf of Paoli

Transportation, PO Box 335, Badin, NC 28009 has submitted a Final Report within 90-days of the release concerning remediation of site soil contaminated with diesel fuel. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department on October 4, 2010.

Southwest Region: Environmental Cleanup Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745

119—123 Adams Avenue, Borough of Canonsburg, **Washington County**. Accredited Environmental Technologies, Inc., 28 North Pennell Road, Media, PA 19063 on behalf of the Redevelopment Authority of the County of Washington, 100 West Beau Street, Suite 603, Washington, PA 15301 has submitted a Baseline Environmental Report concerning the remediation of site soil and groundwater contaminated with chlorinated solvents from previous dry cleaning operations. The Baseline Environmental Report was approved by the Department and the Special Industrial Area Consent Order and Agreement was entered into on August 5, 2010 with the Department. An environmental covenant was also executed on August 5, 2010.

Former Worldwide Refractories, Resco Products, Inc., Tarentum Borough, **Allegheny County**. Conestogrovers & Associates, 103 Gamma Drive Extension, Suite 190, Pittsburgh, PA 15238 on behalf of William Brown, Resco Products, Inc., Penn Center West Building 2, Suite 430, Pittsburgh, PA 15276 has submitted a combined Remedial Investigation and Final Report concerning the remediation of site soil and groundwater contaminated with arsenic and antimony. The Remedial Investigation and Final Report was approved on October 8, 2010. An environmental covenant restricting extraction of groundwater and residential end uses was executed on October 8, 2010.

TIPPINS Riverfront Park Fac, City of Pittsburgh, **Allegheny County**. GAI Consultants Inc, 385 East Waterfront Drive, Homestead, PA 15120-5005 on behalf of the Urban Redevelopment Authority of Pittsburgh, 200 Ross Street, Pittsburgh, PA 15219 has submitted a Baseline Remedial Investigation Work Plan concerning site soil and groundwater. The Work Plan was approved on October 8, 2010.

Ambridge Regional Distribution and Manufacturing Center, Ambridge Borough, Harmony Township, **Beaver County**. John Matviya, Brownfield Consultant, P. O. Box 64, New Alexandria, PA 15670 on behalf of Gene Pash, Value Ambridge Associates, LP, 2301 Duss Avenue, Suite 1, Ambridge, PA 15003 has submitted a Baseline Environmental Report concerning the remediation of site soil and groundwater from historical steel manufacturing businesses. Demonstration of attainment of the site specific standard will be accomplished by using engineering and institutional controls. The Baseline Environmental Report was approved by the Department on October 8, 2010.

HAZARDOUS WASTE TREATMENT, STORAGE AND DISPOSAL FACILITIES

Actions taken under the Solid Waste Management Act (35 P.S. §§ 6018.101—6018.1003) and Regulations to Operate a Hazardous Waste Treatment, Storage, or Disposal Facility

Southeast Region: Regional Solid Waste Manager, 2 East Main Street, Norristown, PA 19401

PAD002334753. Occidental Chemical Corporation, 375 Armand Hammer Blvd, Pottstown PA. Bond release request was submitted by the owner. The bond was originally submitted for the hazardous waste management facility (North and South Lagoons, concrete basins), which was closed in 1997. Request for bond release approved by the Southeast Regional Office on October 6, 2010. Upon this action becoming final, the bond release will be processed. This action does not impact the bond that remains in place for the closed residual waste landfill, nor does it impact the CERCLA remediation that is ongoing at the site.

Southcentral Region: Anthony Rathfon, Regional Solid Waste Manager, 909 Elmerton Avenue, Harrisburg, PA 17110

Permit No. PAD990753089. Exide Technologies, Spring Valley Road and Nolan Street, Reading, PA, Muhlenberg Township and Laureldale Borough, **Berks County**. Permit for hazardous waste storage issued on September 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. WMGR121 NWR01. Keystone Clearwater Solutions LLC, Route 528, Wahlville, PA 16033, Forward Township, **Butler County**. Registration to operate under General Permit No. WMGR121 for the processing of raw gas well flow-back and produced water ("frac" water), generated during hydraulic fracturing and extraction of natural gas from the Marcellus Shale geologic formation by chemical and physical processing. The Registration was approved and issued by the Northwest Regional Office on October 12, 2010.

OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE

Permit(s) 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 Regulations to Operate Solid Waste Processing or Disposal Area or Site

Northcentral Region: Regional Solid Waste Manager, 208 West Third Street, Williamsport, PA 17701

Permit Application No. 101649. Phoenix Resources, Inc., 782 Antrim Road, Wellsboro, PA 16901, Duncan Township, **Tioga County**. The minor permit modification is for liner upgrades to Phase I & Phase II cells to meet the Class I residual waste requirements. The permit was issued by the Northcentral Regional Office on October 6, 2010.

Persons interested in reviewing the permit may contact Lisa D. Houser, P.E., Facilities Manager, Williamsport Regional Office, 208 West Third Street, Suite 101, Williamsport, PA 17701, (570) 327-3740. TDD users may contact the Department through the Pennsylvania Relay service, (800) 654-5984.

Southwest Regional Office, Regional Solid Waste Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, Telephone 412.442.4000.

Permit ID No. 101700. Route Longview Waste Systems Company, d/b/a Penn Waste Systems, 149 Nichol Avenue, Stowe Township, PA 15136. Operation of a Construction and Demolition Waste Transfer Facility in Stowe, Township, Allegheny. Permit issued in the Regional Office on October 6, 2010.

Permit ID No. 300491. EME Homer City Generation, LP, 1750 Power Plant Road, Homer City, PA 15748-9558. Operation of a captive residual waste landfill in Center and Blacklick Townships, **Indiana County**. Permit issued in the Regional Office on October 7, 2010.

AIR QUALITY

General Plan Approval and Operating Permit Usage Authorized under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127 to construct, modify, reactivate or operate air contamination sources and associated air cleaning devices.

Northeast Region: Air Quality Program, 2 Public Square, Wilkes Barre, PA 18711-0790

Contact: Ray Kempa, New Source Review Chief—Telephone: 570-826-2507

64-310-026GP3: NEV, Inc. (239 Golf Hill Road, PO Box A, Honesdale, PA 18431) on September 23, 2010, to construct and operate a Portable Crushing Operation with watersprays at their site in Texas Township, **Wayne County**.

64-329-001GP9: NEV, Inc. (239 Golf Hill Road, PO Box A, Honesdale, PA 18431) on September 23, 2010, to construct and operate an IC engine at their site in Texas Township, **Wayne County**.

35-399-045GP2: Baker Hughes Oilfield Operations, Inc. (17021 Aldine Westfield Road, Houston, TX 77073) on September 23, 2010, to construct 16 storage tanks at their site in Carbondale, **Lackawanna 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: 717-949-7935

GP14-38-03057A: Ruffner-Porterfield Funeral Directors & Cremation Services, Ltd. (890 Isabel Drive, Lebanon, Pennsylvania 17042) on October 7, 2010, for a human crematory incinerator in North Cornwall Township, **Lebanon County**. The General Permit was reissued due to a change in ownership.

GP1-21-03006: Nestlé Purina PetCare Co. (6509 Brandy Lane, Mechanicsburg, Pennsylvania 17050-2817) on October 6, 2010, for three natural gas fired boilers at their animal feed manufacturing facility in Hampden Township, **Cumberland County**.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745

Contact: Mark Gorog and Barb Hatch, Environmental Engineer Managers—Telephone: 412-442-4163/5226

GP5-63-00954C: MarkWest Liberty Midstream and Resources, LLC (1515 Arapahoe Street Tower 2, Suite 700, Denver, CO 80202-2126) on October 7, 2010, to allow the installation and operation of two new natural gas-fired compressor engines (one of which will replace an existing engine) rated at 1380 bhp each and controlled by oxidation catalysts under GP-5 for natural gas production at the Brighich Compressor Station, located in Chartiers Township, **Washington County**. A total of five compressor engines are authorized for operation at this site.

Plan Approvals Issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and regulations in 25 Pa. Code Chapter 127, Subchapter B relating to construction, modification and reactivation of air contamination sources and associated air cleaning devices.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481

Contact: Mark Gorog, New Source Review Chief—Telephone: 814-332-6940

25-066H: Accuride Corp. (1015 East 12th Street, Erie, PA 16503) on September 30, 2010, to install two (2) 7000 ton forge presses and associated control devices at their facility in the City of Erie, **Erie County**.

37-181B: Xaloy Inc.—Tanner Plating Division (925 Industrial Street, New Castle, PA 16102) on October 1, 2010, to construct a Chrome Tank No. 1 subject to 40 CFR 63 Subpart N in New Castle City, **Lawrence County**. This is a State Only facility.

Plan Approval Revisions Issued including Extensions, Minor Modifications and Transfers of Ownership under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code §§ 127.13, 127.13a and 127.32.

Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401

Contact: Sachin Shankar, New Source Review Chief—Telephone: 484-250-5920

15-0061A: Phoenixville Hospital Co., LLC. (140 Nutt Road, Phoenixville, PA 19460) on October 7, 2010, to operate a 1250-kW emergency electric generator internal combustion engine in Phoenixville Borough, **Chester County**.

46-0198N: Blommer Chocolate Co. (1101 Blommer Drive, East Greenville, PA 18041) on October 7, 2010, to operate exhaust from a cartridge dust collector in Upper Hanover Township, **Montgomery County**.

15-0009C: AGC Chemicals America Inc. (255 South Bailey Road, Downingtown, PA 19355) on October 7, 2010, to operate an emission control system in Caln Township, **Chester County**.

46-0005AD: Merck, Sharp & Dohme Corp. (P. O. Box WP20, West Point, PA 19486) on October 7, 2010, to operate the manufacturing pharmaceutical preparation operation Upper Gwynedd Township, **Montgomery County**.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745

Contact: M. Gorog & B. Hatch, Environmental Engineer Managers—Telephone: 412-442-4163/5226

32-00040B: RRI Energy Wholesale Generation, LLC (121 Champion Way, Suite 200, Canonsburg, PA 15317) on October 11, 2010, with an expiration date of April 11, 2011, to allow for continued temporary operation of the sources covered under plan approval at RRI's Seward Generating Station in East Wheatfield Township, **Indiana County**. The plan approval has been extended.

32-00040B: RRI Energy Wholesale Generation, LLC (121 Champion Way, Suite 200, Canonsburg, PA 15317) on October 7, 2010, to change the responsible official at RRI's Seward Generating Station in East Wheatfield Township, **Indiana County**. The Plan Approval Expires on April 11, 2011.

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

Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401

Contact: Janine Tulloch-Reid, Facilities Permitting Chief—Telephone: 484-250-5920

23-00037: Sunoco Partners Marketing & Terminals, LP—Fort Mifflin Terminal (1801 Market Street, Philadelphia, PA 19103-1699) on October 7, 2010, for renewal of the Title V Operating Permit in Tinicum Township, **Delaware County**. The current permit expires October 31, 2010. The facility is a marine terminal for loading and unloading tankers and barges containing various petroleum products. No changes have taken place at this facility that were not previously permitted. The renewal contains all applicable requirements including monitoring, recordkeeping and reporting. The sources at this facility are not subject to Compliance Assurance Monitoring (CAM) pursuant to 40 CFR Part 64.

Northeast Region: Air Quality Program, 2 Public Square, Wilkes Barre, PA 18711-0790

Contact: Norman Frederick, Facilities Permitting Chief—Telephone: 570-826-2507

48-00091: PPL Generation (PPL)—Lower Mount Bethel Energy, LLC (6079 DePues Ferry Road, Bangor, PA 18013) on September 30, 2010, to issue a Title V Operating Permit for operation of two (2) natural gas-fired, combined cycle electric generating turbines at their facility in Lower Mount Bethel Township, **Northampton 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: 717-949-7935

21-05053: PPL Renewable Energy, LLC (Two North Ninth Street, GENPL2, Allentown, PA 18101-1105) on October 7, 2010, for an engine generating facility to generate electric power for the electric power grid from landfill gas generated by the Community Refuse Service, Inc. **Cumberland County** in Hopewell Township, **Cumberland County**.

Operating Permits for Non-Title V Facilities Issued under the Air Pollution Control Act (35 P.S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter F.

Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401

Contact: Janine Tulloch-Reid, Facilities Permitting Chief—Telephone: 484-250-5920

09-00158: Allied Crematory, LLC (864 Bristol Pike, Bensalem, PA 19020) on October 5, 2010, for renewal of the Non-Title V State Only Operating Permit for operation of two (2) existing incinerators at a crematory in Bensalem Township, **Bucks County**. There are no changes to the existing crematory (Source ID 101) listed in the facility-wide permit. The newest crematory (Source ID 102) has been operating under General Permit-14 No. 09-301-125GP; this renewal permit incorporates the requirements of GP No. 09-301-125GP. The facility has the potential to emit less than 25 tons of Volatile Organic Compounds (VOC) and less than 25 tons per year of Nitrogen Oxides (NOx); the facility is a Natural Minor. The renewal permit will include monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

09-00152: Gelest, Inc. (11 East Steel Road, Morrisville, PA 19067) on October 5, 2010, for a State-Only, Natural Minor Permit in Falls Township, **Bucks County**. The Company has a specialty chemical operation with mainly seven (7) reactors and an electric dryer controlled by condenser and two scrubbers. This facility is a Natural Minor facility. The estimated total VOC emissions from the facility are less than 21.66 tpy, and total HAPs emissions are less than 17.98 tpy. The permit will contain monitoring, recordkeeping, and reporting requirements designed to address all applicable air quality requirements.

23-00092: Abbonizio Recycling Corp. (2900 West Front Street, Chester, PA 19013) On October 5, 2010, for renewal of a non-Title V, State Only Operating Permit in Chester Township, **Delaware County**. Abbonizio Recycling Corporation operates a 125 ton per hour, portable nonmetallic mineral crushing plant. There are no engines associated with the crusher. The only pollutant of concern is particulate matter (PM/PM-10/PM-2.5). This facility is categorized as a natural minor facility. The permit includes monitoring, record keeping and reporting requirements to address all applicable air quality requirements.

46-00268: Colorcon, Inc. (275 Ruth Road, Harleysville, PA 19438) On October 7, 2010, for operation of a 1,500-kW, diesel fuel-fired internal combustion engine/electric generator (generator set) at a new facility, which will be located in Lower Salford Township, **Montgomery County**. The facility will be a non-Title V facility. The operation of the generator set will be restricted to 400 full-load operating hours per year to ensure that emission into the outdoor atmosphere of NOx from the generator set does not exceed 6.66 tpy. The generator set is subject to: (1) the Standards of Performance for New Stationary Sources for Stationary Compression Ignition Internal Combustion Engines (40 CFR 60, Subpart IIII); (2) the Tier 2 emission standards specified in 40 CFR 89.112; and (3) the additional NOx requirements specified in 25 Pa. Code §§ 129.203--129.205. The plan approval will include monitoring, recordkeeping, reporting and work practice requirements

designed to keep the facility operating within 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: 717-949-7935

67-03046: Cycle Chem, Inc. (550 Industrial Drive, Pennsylvania 17339-9537) on October 1, 2010, for the waste solvent processing facility in Fairview Township, **York County**. This is a renewal of the State Only Operating permit.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481

Contact: Matthew Williams, Facilities Permitting Chief—Telephone: 814-332-6940

10-00319: Main Steel Polishing Co., Inc. (6 Whiting Drive, Harmony, PA 16037) on October 7, 2010, to re-issue a Natural Minor Operating Permit for the slitting and polishing of stainless steel coils in the Borough of Harmony, **Butler County**.

20-00301: Universal Well Services, Inc. (13549 S Mosiertown Road, Meadville, PA 16335-8317), on October 5, 2010, for an initial Natural Minor Permit to operate a drilling oil and gas company. This initial Natural Minor Permit is for the maintenance and fabrication of the company vehicles. The major emitting sources are a truck paint booth, small paint booth and degreaser unit. The facility is located in Vernon Township, **Crawford County**. The facility is natural minor because the emission of pollutants is less than Title V emission threshold limits.

25-00037: Joseph McCormick Construction Co., Inc.—Wesleyville Plant (1507 Wesley Avenue, Erie, PA 16510-1675) on October 5, 2010, to re-issue a Synthetic Minor Permit to operate a hot mix asphalt plant in Wesleyville Borough, **Erie County**. The significant sources are batch asphalt plant with dryer, material conveyors and baghouse. The facility becomes synthetic minor because of the throughput restriction to escape from the Title V threshold limits.

Operating Permit Revisions Issued including Administrative Amendments, Minor Modifications or Transfers of Ownership under the Air Pollution Control Act (35 P.S. §§ 4001—4015) and 25 Pa. Code §§ 127.412, 127.450, 127.462 and 127.464.

Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401

Contact: Janine Tulloch-Reid, Facilities Permitting Chief—Telephone: 484-250-5920

09-00108: Bucks County Water & Sewer Authority (910 Haunted Lane, Bensalem, PA 19020) on October 6, 2010, for operation of a packed bed tower wet air scrubber to control odors from the sanitary sewage pump station located in Bensalem Township, **Bucks County**. The issued State Only Operating Permit was administratively amended to incorporate sources (two diesel fuel-fired generators) and conditions contained in the General Operating Permit/General Plan Approval GP9-09-0021.

ACTIONS ON COAL AND NONCOAL MINING ACTIVITY APPLICATIONS

Actions on applications under the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.31); 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); 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 NPDES permit application and, if noted, the request for a Section 401 Water Quality Certification. Mining activity permits issued in response to such applications will also address the application permitting requirements of the following statutes; the Air Quality Control Act (35 P. S. §§ 4001—4015); the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003).

Coal Applications Returned

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

26080105 and NPDES Permit No. PA0251518. Amerikohl Mining, Inc. (1384 State Route 711, Stahlstown, PA 15687). Application for a bituminous surface mine has been withdrawn, located in North Union Township, **Fayette County**, affecting 56.2 acres. Receiving streams: unnamed tributaries to Cove Run, classified for the following use: WWF. Application withdrawn: October 4, 2010.

Coal Permits Actions

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

11803038 and NPDES No. PA0121533. Cooney Brothers Coal Company, P. O. Box 246, Cresson, PA 16630, permit renewal for the continued operation and restoration of a bituminous surface and auger mine in Adams and Ogle Townships, **Cambria and Somerset Counties**, affecting 1589.8 acres. Receiving stream(s): unnamed tributaries to/and Babcock Creek classified for the following use(s): cold water fishery. There are no potable water supply intakes within 10 miles downstream. Application received: March 16, 2010. Permit issued: September 27, 2010.

56743138 and NPDES No. PA0606511. Cooney Brothers Coal Company, P. O. Box 246, Cresson, PA 16630, permit renewal for the continued operation and restoration of a bituminous surface and auger mine in Ogle and Adams Townships, **Somerset and Cambria Counties**, affecting 739.5 acres. Receiving stream(s): Paint Creek; unnamed tributaries to/and Babcock Creek classified for the following use(s): cold water fishery. There are no potable water supply intakes within 10 miles downstream. Application received: March 16, 2010. Permit issued: September 27, 2010.

Permit No. 56950106 and NPDES Permit No. PA0213161, PBS Coals, Inc., P. O. Box 260, Friedens, PA 15541, permit renewal for the continued operation and restoration of a bituminous surface mine in Stonycreek Township, **Somerset County**, affecting 138.0 acres. Receiving stream(s): unnamed tributary to/and Schrock Run classified for the following use(s): cold water fishery.

There are no potable water supply intakes within 10 miles downstream. Application received: July 19, 2010. Permit issued: October 6, 2010.

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

26000104 and NPDES Permit No. PA0202886. Patterson Coal Company (20 Elizabeth Drive, Smithfield, PA 15478). Permit renewal issued for reclamation only of an existing bituminous surface mining site located in German, Georges, and South Union Townships, **Fayette County**, affecting 183.7 acres. Receiving streams: unnamed tributary to North Branch of Browns Run, North Branch of Browns Run, Browns Run, Monongahela River. Renewal application received: August 9, 2010. Reclamation-only renewal issued: October 4, 2010.

26960101 and NPDES Permit No. PA0201600. Daniel J. Patterson (20 Elizabeth Drive, Smithfield, PA 15478). Transfer of permit currently issued to Patterson Coal Company for continued operation and reclamation of a bituminous surface mining site located in Georges Township, **Fayette County**, affecting 48.0 acres. Receiving streams: unnamed tributary to York Run. Transfer application received: April 1, 2010. Transfer permit issued: October 4, 2010.

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

10990103 and NPDES Permit No. PA0241610. Ben Hal Mining Company (389 Irishtown Road, Grove City, PA 16127) Renewal of an existing bituminous strip operation in Slippery Rock Borough & Slippery Rock Township, **Butler County** affecting 9.5 acres. Receiving streams: Unnamed tributaries to Wolf Creek. Application received: August 16, 2010. Permit Issued: October 4, 2010.

10040103 and NPDES Permit No. PA0242535. Anandale Quarries, Inc. (219 Goff Station Road, Boyers, PA 16020) Revision to an existing bituminous strip operation to change the post-mining land use from forestland to unmanaged natural habitat on the Samuel W. Tiche property in Venango Township, **Butler County**. Receiving streams: Seaton Creek. Application received: August 2, 2010. Permit Issued: October 4, 2010.

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

22851601C. Rausch Creek Land, LP, (978 Gap Street, Valley View, PA 17983), correction to revise the post-mining land use of an existing anthracite coal preparation plant operation in Wiconisco Township, **Dauphin County** affecting 13.0 acres, receiving stream: none. Application received: July 12, 2010. Correction issued: October 5, 2010.

54803004C8. Rausch Creek Land, LP, (978 Gap Street, Valley View, PA 17983), correction to revise the post-mining land use of an existing anthracite surface mine operation in Hegins and Porter Townships, **Schuylkill County** affecting 214.0 acres, receiving stream: none. Application received: July 12, 2010. Correction issued: October 5, 2010.

54803019C. Rausch Creek Land, LP, (978 Gap Street, Valley View, PA 17983), correction to revise the post-mining land use of an existing anthracite surface mine operation in Hegins and Porter Townships, **Schuylkill County** affecting 1313.0 acres, receiving stream: none. Application received: July 12, 2010. Correction issued: October 5, 2010.

54803203C4 and NPDES Permit No. PA0123862. Rausch Creek Land, LP, (978 Gap Street, Valley View, PA 17983), correction to revise the post-mining land use of an existing anthracite coal refuse reprocessing operation in Hegins Township, **Schuylkill County** affecting 76.0 acres, receiving stream: East Branch Rausch Creek. Application received: July 12, 2010. Correction issued: October 5, 2010.

54841304C. Rausch Creek Land, LP, (978 Gap Street, Valley View, PA 17983), correction to revise the post-mining land use of an existing anthracite underground mine operation in Hegins Township, **Schuylkill County** affecting 57.2 acres, receiving stream: none. Application received: July 12, 2010. Correction issued: October 5, 2010.

54850207C2 and NPDES Permit No. PA0592901. Rausch Creek Land, LP, (978 Gap Street, Valley View, PA 17983), correction to revise the post-mining land use of an existing anthracite coal refuse reprocessing operation in Hegins Township, **Schuylkill County** affecting 39.08 acres, receiving stream: East Branch Rausch Creek. Application received: July 12, 2010. Correction issued: October 5, 2010.

54880203C. Rausch Creek Land, LP, (978 Gap Street, Valley View, PA 17983), correction to revise the post-mining land use of an existing anthracite coal refuse reprocessing operation in Tremont Township, **Schuylkill County** affecting 15.8 acres, receiving stream: Rowe Tunnel to Lorberrry Creek. Application received: July 12, 2010. Correction issued: October 5, 2010.

54920103C. Rausch Creek Land, LP, (978 Gap Street, Valley View, PA 17983), correction to revise the post-mining land use of an existing anthracite surface mine operation in Tremont Township, **Schuylkill County** affecting 47.6 acres, receiving stream: none. Application received: July 12, 2010. Correction issued: October 5, 2010.

54930102C and NPDES Permit No. PA0223492. Rausch Creek Land, LP, (978 Gap Street, Valley View, PA 17983), correction to revise the post-mining land use of an existing anthracite surface mine operation in Porter Township, **Schuylkill County** affecting 462.0 acres, receiving stream: East Branch Rausch Creek. Application received: July 12, 2010. Correction issued: October 5, 2010.

40850201R5. Beaver Brook Coal Company, (406 Moon Hill Drive, Schuylkill Haven, PA 17972), renewal of an existing anthracite coal refuse reprocessing operation in Hazle Township, **Luzerne County** affecting 312.0 acres, receiving stream: none. Application received: October 9, 2009. Renewal issued: October 6, 2010.

Noncoal Permits Actions

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

20080301. Andrew M. Kosturick (8565 State Highway 285, Conneaut Lake, PA 16316) Revision to an existing large sandstone operation to add blasting in East Fallowfield Township, **Crawford County**. Receiving streams: Unnamed tributary to Crooked Creek. Application received: May 12, 2010. Permit Issued: October 4, 2010.

37920303. Three Rivers Aggregates, LLC (225 North Shore Drive, Pittsburgh, PA 15212) Transfer of an existing large sand & gravel operation from Ennstone, Inc., d/b/a Three Rivers Aggregates in Taylor Township, **Lawrence County** affecting 56.0 acres. Receiving

streams: Beaver River. Application received: June 28, 2010. Permit Issued: October 5, 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

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

32104004. Duane Houkom, Inc., Box 123, Blue Springs, MO 64015, blasting activity permit issued for a bridge demolition project in Tunnelton Borough, **Indiana County**. Blasting activity permit end date is October 20, 2010. Permit issued: October 4, 2010.

11104001. Laurel Highlands Landfill, 260 Laurel Ridge Road, Johnstown, PA 15909, blasting activity permit issued for landfill expansion in Jackson Township, **Cambria County**. Blasting activity permit end date is completion of landfill. Permit issued: October 4, 2010.

31104002. General Energy Company, LLC, 120 Market Street, Warren, PA 16365, blasting activity permit issued for a gas well site in Todd Township, **Huntingdon County**. Blasting activity permit end date is July 1, 2011. Permit issued: October 5, 2010.

28104001. Wampum Hardware Company, 636 Paden Road, New Galilee, PA 16141, blasting activity permit issued for PA Turnpike borrow area exit 201 in Lurgan Township, **Franklin County**. Blasting activity permit end date is March 30, 2011. Permit issued: October 5, 2010.

56104001. Dynamic Drilling, LLC, 10373 Taylor Road, Herron, MI 49744, blasting activity permit issued for seismic exploration project in Addison Township, **Somerset County**. Blasting activity permit end date is December 30, 2010. Permit issued: October 7, 2010.

Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, 814-342-8200

08104126. Austin Powder Northeast LLC (25800 Science Park Drive, Beechwood, OH 44122). Blasting for a gas well pad located in New Albany Boro, **Bradford County**. Permit issued: October 1, 2010. Permit expires: October 1, 2010.

41104114. Midstream Explosives LLC (289 Southside Drive, Newville, PA 17241). Blasting for a pipeline in Cummings, Mifflin and Watson Townships, **Lycoming County**. Permit issued: October 5, 2010. Permit expires: October 1, 2011.

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

15104110. Schlouch, Inc., (P. O. Box 69, Blandon, PA 19510), construction blasting for Malvern Preparatory School in Malver Borough, **Chester County** with an expiration date of September 27, 2011. Permit issued: October 5, 2010.

36104154. Keystone Blasting Service, (15 Hopeland Road, Lititz, PA 17543), construction blasting for Stone

Henge Reserve in Maheim Township, **Lancaster County** with an expiration date of October 30, 2011. Permit issued: October 5, 2010.

36104156. Brubacher Excavating, Inc., (P. O. Box 528, Bowmansville, PA 17507), construction blasting for Clearbrook Development in East Donegal Township, **Lancaster County** with an expiration date of October 31, 2010. Permit issued: October 5, 2010.

06104109. Schlouch, Inc., (P.O. Box 69, Blandon, PA 19510), construction blasting for Albright College Lacrosse Field in Muhlenberg Township, **Berks County** with an expiration date of October 5, 2011. Permit issued: October 6, 2010.

06104110. J Roy's, Inc., (P. O. Box 125, Bowmansville, PA 17507), construction blasting for Routes 222 & 183 interchange in Bern Township, **Berks County** with an expiration date of October 1, 2011. Permit issued: October 6, 2010.

09104115. American Infrastructure, Inc., (P. O. Box 98, Worcester, PA 19490), construction blasting for Carriage Hill in Plumstead Township, **Bucks County** with an expiration date of October 1, 2011. Permit issued: October 6, 2010.

15104111. American Infrastructure, Inc., (P. O. Box 98, Worcester, PA 19490), construction blasting for SR 52 Project in Pennsbury and Kennett Townships, **Chester County** with an expiration date of December 1, 2011. Permit issued: October 6, 2010.

38104115. Keystone Blasting Service, (15 Hopeland Road, Lititz, PA 17543), construction blasting for Falcon Crest in South Lebanon Township, **Lebanon County** with an expiration date of October 31, 2011. Permit issued: October 6, 2010.

46104115. Schlouch, Inc., (PO Box 69, Blandon, PA 19510), construction blasting for The Preserve in New Hanover Township, **Montgomery County** with an expiration date of October 5, 2011. Permit issued: October 6, 2010.

23104106. Maine Drilling & Blasting, (P. O. Box 1140, Gardiner, ME 04345), construction blasting for Concord Township Athletic Fields in Concord Township, **Delaware County** with an expiration date of January 1, 2011. Permit issued: October 7, 2010.

48104110. Austin Powder Northeast, LLC, (25800 Science Park Drive, Beachwood, OH 44122), construction blasting for Chrin Commerce Center Phase II in Palmer and Lower Nazareth Townships, **Northampton County** with an expiration date of September 14, 2011. Permit issued: October 7, 2010.

58104119. Midstream Explosives, LLC, (289 Southside Drive, Newville, PA 17241), construction blasting for Polovitch Pipeline Project in Lathrop and Nicholson Townships, **Susquehanna County** with an expiration date October 1, 2011. Permit issued: October 8, 2010.

FEDERAL WATER POLLUTION CONTROL ACT SECTION 401

The Department of Environmental Protection 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 of Environmental Protection has granted 401 Water Quality Certifi-

cation 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. §§ 1311—1313, 1316 and 1317, and that the construction will not violate applicable Federal and State Water Quality Standards.

Any person aggrieved by these actions may appeal, pursuant to Section 4 of the Environmental Hearing Board Act, 35 P. S. Section 7514, and the Administrative Agency Law, 2 Pa.C.S. Chapter 5A, 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 Board through the Pennsylvania Relay Service, 800-654-5984. Appeals must be filed with the Environmental Hearing 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 you want to challenge this action, your appeal must reach the board within 30 days. You do not need a lawyer to file an appeal with the Board.

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

Actions on applications for the following activities filed under the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27), Section 302 of the Flood Plain Management Act (32 P. S. § 679.302) and the Clean Streams Law (35 §§ 691.1—691.702) and Notice of Final Action for Certification under Section 401 of the Federal Water Pollution Control Act (33 U.S.C.A. § 1341).

Permits, Environmental Assessments and 401 Water Quality Certifications Issued:

WATER OBSTRUCTIONS AND ENCROACHMENTS

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

E22-561: Borough of Highspire, 640 Eshelman Street, Highspire, PA 17034, Highspire Borough, **Dauphin County**, ACOE Baltimore District

To construct and maintain: (1) 900.0 feet of 6.0-foot wide and 4,555.0 feet of 8.0-foot wide stone pedestrian walking path, and 1,678.0 feet of 8.0-foot wide timber pedestrian boardwalk in the floodway of the Susquehanna River (WWF) impacting 0.08-acres of PEM wetlands, and (2) 260.0 square feet of open water of the Highspire Reservoir (Steelton, PA Quadrangle N: 14.8 inches, W: 3.7 inches; Latitude: 40° 12.25' 02", Longitude: 75° 46.36' 50"), for the purpose of making improvements to the existing Reservoir Park. The project is located between Ann Street and White House Lane in Highspire Borough, Dauphin County. Wetland mitigation in the amount of 0.09 acres PEM wetlands will occur onsite.

E21-415: Pennsylvania Turnpike Commission, Frank J. Kempf, P. O. Box 67676, Harrisburg, PA

17106-7676, Mount Rock Spring Creek bridge replacement, West Pennsboro Township, **Cumberland County**, ACOE Baltimore District

To remove the existing two-span bridge and to construct and maintain a 121.5-foot wide, pre-stressed single span concrete spread box beam bridge with a normal span of 63.5 feet and a minimum underclearance of 5.6 feet, including wing walls, R-7 scour protection, and the temporary construction of sheet pile cofferdams in and across Mount Rock Spring Creek (WWF). The project purpose is to improve transportation safety and roadway standards. The project is located at mile marker 218.10 along the Pennsylvania Turnpike (Plainfield, PA quadrangle, N: 15.1 inches, W: 7.9 inches, Latitude: 40° 12' 18", Longitude: -77° 18' 16") in West Pennsboro Township, Cumberland County.

E36-870. Suburban Lancaster Sewer Authority, James Witman, Authority Chairman, PO Box 458, Lancaster, PA 17608-0458, West Lampeter Township, **Lancaster County**, ACOE Baltimore District

To construct and maintain a 17.0-foot long by 6.75-foot high, by 2.0-foot thick extension to an existing underground concrete cut off wall/encasement of an existing 10.0-inch sanitary sewer line across Mill Creek (WWF), and to stabilize and maintain 50.0 linear feet of streambank of Mill Creek (WWF) using geo-textile and R-5 riprap, all for the purpose of protecting the existing sewer line and stabilizing the streambank. The project is located 350.0 feet east of the Willow street Pike bridge (SR 222) (Lancaster, PA Quadrangle: 0.7 inches N, 6.1 inches W; Latitude: 40° 0' 12", Longitude: 76° 17' 33") in West Lampeter Township, Lancaster County.

Northcentral Region: Watershed Management Program Manager, 208 West Third Street, Williamsport, PA 17701, 570-327-3636

E60-207. John A. Rodkey, 249 Green Street, Mifflinburg, PA 17844. Residential Structure in Hartley Township, **Union County**, ACOE Baltimore District (Weikert, PA Quadrangle N: 40°51'31.7"; W: -77° 15'19.5").

To: 1) remove an existing 26-foot by 28-foot cabin, 2) construct and maintain a 33-foot by 36-foot house with a finished floor elevation of 667.5 feet on eighteen 16-inch by 16-inch CMU piers partially sited in the 100-year flood way of Penn's Creek, located 1,500 feet west on Nikomahs Drive from the intersection with Creek Road. This permit was issued under Section 105.13(e) "Small Projects."

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

E02-1629. Allegheny County Department of Public Works, 542 Forbes Avenue, Room 501, Pittsburgh, PA 15219. To remove the existing bridge and construct a new bridge, also construct 3 temporary causeways in the Borough of Turtle Creek and North Versailles Township, **Allegheny County**, Pittsburgh ACOE District. (Bradock, PA Quadrangle N: 5.1 inches; W: 10.4 inches; Latitude: 40° 24' 11"; Longitude: 79° 49' 29"). To remove the existing structure and to construct and maintain a new bridge (Greensburg Pike Bridge No. 6 (TL06)) having spans of 100.5 ft., 126.5 ft., 209.5 ft., and 226.5 ft. with a minimum underclearance of 43.0 ft. across the channel of Turtle Creek (WWF), and two 18" stormwater outfalls for the purpose of improving highway safety. This permit also authorizes the construction and maintenance of 3 temporary causeways and a ramp to allow access to the bridges during demolition and construction. The project is located

on Greensburg Pike, approximately 500.0 feet northwest from the intersection of Greensburg Pike and SHR 02194. This permit replaces Permit No. E02-944 that was issued on May 22, 1991.

E11-335. Robert Woloschuk, 317 Park Hill Dr., Park Hill, PA 15945. To remove 40' from upstream portion of a diameter culvert in East Taylor Township, **Cambria County**, Pittsburgh ACOE District. (Geistown, PA Quadrangle N: 20.1"; W: 17.3"; Latitude: 40° 21' 46" and Longitude: 78° 52' 26"). To remove approximately 40' from the upstream portion of a 36" diameter culvert, and to operate and maintain the remaining approximately 230' of the 36" stream enclosure, to emplace rip-rap at the terminus of a 24" stream enclosure immediately upstream of the 36" stream enclosure, and to make adjustments to the slope of both enclosures to allow water to flow freely all on an unnamed tributary to the Little Conemaugh River (CWF). The project is located approximately 225' west of State Route 271, approximately one mile southeast of Hinckston Dam.

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

E25-725, TSK Partners, Inc. dba McInnes Rolled Rings, 1533 East 12th Street, Erie, PA 16511. McInnes Rolled Rings Manufacturing Site Expansion, in the City of Erie, **Erie County**, ACOE Pittsburgh District (Erie North, PA Quadrangle N: 42°, 8', 80"; W: 80°, 2', 51").

to fill 0.76 acres of PEM wetlands for the expansion of the McInnes Rolled Rings industrial facilities at 1533 East 12th Street in the City of Erie, Erie County. The proposed mitigation is a payment of \$14,000 to the PA Wetland Replacement Fund and a contribution of \$26,900 to the Millcreek Township Sewer Authority for the Walnut Creek - Zimmerly Road stream restoration project in the Walnut Creek Watershed, Millcreek Township, Erie County.

ENVIRONMENTAL ASSESSMENTS

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

EA59-017. Lycoming Creek Watershed Association, P. O. Box 173, Cogan Station, PA 17728. Union Township, Tioga County, and Tiadaghton Township, **Lycoming County**, ACOE Baltimore District.

Stream stabilization project, referred to as the Roaring Branch II Stream Restoration Project, in which the applicant has requested a restoration waiver to construct, operate, and maintain channel changes, floodway fill, eight (8) rock straight vanes, three (3) log vanes and a W-weir cross vane. The project will result in 220 feet of permanent stream impact to Roaring Branch and 1,790 feet of permanent impact to Lycoming Creek. The designated use for Roaring Branch is High Quality-Cold Water Fishery and the designated use for Lycoming Creek is Cold Water Fishery. This project is the second phase of a previously approved restoration project in the Roaring Branch and Lycoming Creek watersheds (Ralston, PA Quadrangle; Latitude: N 41° 33' 16"; Longitude: W 76° 57' 48").

Central Office: Bureau of Waterways Engineering, Rachel Carson State Office Building, Floor 3, 400 Market Street, Harrisburg, PA 17105

D30-003EA. Mr. and Mrs. Ed Presley, 323 Toms Run Road, Brave, PA 15316, Wayne Township **Greene County**, ACOE Pittsburgh District.

Project proposes to breach and remove Brave Station Dam across Dunkard Creek (WWF) for the purpose of eliminating a threat to public safety and restoring the stream to a free flowing condition. The project will restore approximately 1700 linear feet of stream channel. The dam is located approximately 2300 feet northeast of the intersection of SR3009 and Oak Forest Road (SR3013) (Wadestown, PA Quadrangle; Latitude: 39° 43' 43", Longitude: -80° 15' 09").

D35-015EA. Pennsylvania-American Water Company, 852 Wesley Drive, Mechanicsburg, PA 17055. Spring Brook Township, **Lackawanna County**, ACOE Philadelphia District.

To construct and maintain overtopping protection and increase spillway capacity at Nesbitt Dam across Spring Brook (HQ-CWF) for the purpose of improving public safety. The dam is located approximately 4700-feet northwest of the intersection of SR 502 and Kilmer Road (Avoca, PA Quadrangle, Latitude: 41°19'35"; Longitude: -75°39'13"). The project proposes permanent impacts to 0.20-acre of PEM wetland; 265 lineal feet of unnamed tributary to Spring Brook (HQ-CWF); and 225 lineal feet of Spring Brook (HQ-CWF); and temporary impacts to 35 lineal feet of Spring Brook. The applicant proposes to create 0.21-acre of replacement wetland.

EROSION AND SEDIMENT CONTROL

The following Erosion and Sediment Control (ESCP) Permit(s) have been issued. Any person aggrieved by these actions may appeal, pursuant to Section 4 of the Environmental Hearing Board Act, 35 P. S. Section 7514, and the Administrative Agency Law, 2 Pa.C.S. Chapter 5A, 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 Board through the Pennsylvania Relay Service, 800-654-5984. Appeals must be filed with the Environmental Hearing 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 you want to challenge this action, your appeal must reach the board within 30 days. You do not need a lawyer to file an appeal with the Board.

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

Northwest Region: Oil and Gas Program Manager 230 Chestnut St. Meadville, PA 16335

ESCGP-1 #ESX10-083-0030—Clermont Impoundment
Applicant EOG Resources, Inc.
Contact Nathan Wells
Address 400 Southpointe Boulevard, Suite 300
City Cannonsburg State PA Zip Code 15317
County McKean Township(s) Sergeant(s)
Receiving Stream(s) and Classification(s) East Branch
Clarion River—HQ

SPECIAL NOTICES

Request for Proposals for Integrated Municipal Solid Waste Management Services Clearfield County

In accordance with the Pennsylvania Municipal Waste Planning, Recycling and Waste Reduction Act, Act 101 of July 28, 1988, P. L. 556, No. 101, 53 P. S. § 4000.101 et seq. ("Act 101") and § 272 of the Pennsylvania Rules and Regulations, 25 Pa. Code, Chapter 272, as amended, the Clearfield County Board of Commissioners are hereby soliciting proposals for integrated municipal solid waste management services which include waste disposal capacity for all municipal solid waste (MSW), including construction/demolition waste (C/D) and municipal sewage sludge (Sludge) generated from within Clearfield County for a minimum of ten (10) years commencing January 1, 2012.

Sealed proposals will be received by the Office of Clearfield County Controller at the Clearfield County Administration Building, 212 East Locust Street, Clearfield, Pennsylvania 16830 until 4:00 p.m., prevailing time on December 15, 2010. All proposals will be publicly opened by the Clearfield County Commissioners at 10:00 a.m. on December 28, 2010 at the Clearfield County Administration Building.

Copies of the Request for Proposals (RFP) may be purchased on or after September 28, 2010 from the Office of the Clearfield County Controller at the Clearfield County Annex Building, 230 East Market Street Clearfield, PA 16830, (814) 765-2641 Ext. 5991 (before October 12, 2010) or at the Clearfield County Administration Building, 212 East Locust Street, Clearfield, PA 16830, (814) 765-2642, Ext. 5991 (after October 12, 2010) by pre-payment of a non-refundable amount of **\$50.00** per proposal. Proposers should make checks payable to: Clearfield County.

All proposals must be made on the Proposal Forms and be in accordance with the Instruction to Proposers contained in the Request for Proposals. The Proposer is required to submit one (1) original and three (3) copies of the Proposal to the County at the address listed below. Envelopes containing the proposals must be sealed and clearly labeled to show the name and address of the proposer, the statement "Proposal for Integrated Municipal Solid Waste Management Services," and be addressed to: Attention: Clearfield County Controller, 212 East Locust Street, Clearfield, PA 16830.

Plan Revision Approval under the Municipal Waste Planning, Recycling and Waste Planning, Recycling and Waste Reduction Act of 1988, Act 101

Southeast Region: Waste Management Program Manager, 2East Main Street, Norristown, PA 19401-4915.

The Department of Environmental Protection (Department) approved the Chester County Municipal Waste Plan Revision on September 7, 2010.

Persons aggrieved by an action may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users may contact the Environmental Hearing Board (Board) through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Board

within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary to the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

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

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

The plan revision is a public document and may be viewed at the Department Regional Office previously noted.

Questions concerning this approval should be directed to Larry Holley, Waste Planning Section, Department of Environmental Protection, Bureau of Land Recycling and Waste Management, Division of Waste Minimization and Planning, P. O. Box 8472, Harrisburg, PA 17105-8472 or to James Wentzel, Regional Manager, Waste Management Program at the previous Regional Office.

HAZARDOUS SITES CLEAN-UP UNDER THE ACT OF OCTOBER 18, 1988

**Cohen Scrapyard,
Bradford County, Pennsylvania**

The Department of Environmental Protection ("DEP"), under the authority of the Hazardous Sites Cleanup Act, Act of October 18, 1988, P. L. 756, No. 108, *as amended*, 35 P. S. §§ 6020.101—6020.1305 ("HSCA"), has entered into a Consent Order and Agreement for Inability to Pay Settlement with Norman Cohen, Charlotte Cohen, and Shari Cohen, who has power of attorney ("Cohen").

The DEP and Cohen have agreed to a settlement whereby Cohen will reimburse the DEP for up to \$130,000.00 in HSCA Funds spent by the DEP. The HSCA Funds were spent towards the remediation of an automobile junkyard Cohen had owned and operated, which was closed in approximately 1998. The property is identified as Tax Parcel No. 09-020-10-00 ("Site").

Inspections conducted by the Department in 1994 noted numerous violations such as antifreeze draining to the ground surface, waste tires, stained soils and stressed vegetation, batteries, and 55-gallon drums containing waste paint. Subsequent negotiations with Cohen, a November 27, 2000 Administrative Order, and a court order from Commonwealth Court resulting from a petition to enforce the administrative order, as well as other court proceedings, did not accomplish the necessary waste removal and site characterization activities. During the summer of 2003, DEP used HSCA funds to retain the services of Baker Environmental, Inc., a consultant, to remove containerized wastes from the Site and to perform initial soil characterization activities. Four above-ground storage tanks, two underground storage tanks and forty-

three containers of petroleum products and waste, paints, roof coatings, antifreeze and hydraulic oils were removed. In May 2004, the DEP's mobile lab was on the Site to further characterize the extent of the soil contamination. The DEP has spent approximately \$131,593.98 of HSCA Funds towards assessment and remedial activity at the Site.

Financial information provided by Cohen, which Cohen has certified to be true, has documented Cohen's financial inability to complete the work. The settlement includes a mortgage on the Cohen home located at 202 Lincoln Street, Sayre, PA 18840, Tax Parcel No. 33-030.22-334-000-000 ("Home"). The proceeds from the sale of the Home shall go to DEP after Cohens have not lived in the Home for a twenty-four consecutive month period, and there is no good faith belief that neither Charlotte Cohen nor Norman Cohen will be able to return to live in the Home. Cohen shall pay a minimum of \$77,300.00 and up to \$130,000.00 to reimburse DEP. If the sale of the Home is for less than \$130,000, and the sales agreement has been approved by DEP, the mortgage will be satisfied in full.

Copies of the full agreement are in the hands of PA DEP, Office of Chief Counsel, Attention: Amy Ershler, 208 West Third Street, Suite 101, Williamsport, PA 17701, (570) 321-6568, and Melissa Keeffe, DeSisti & Keeffe, 325 North Keystone Avenue, Sayre, PA, 18840, telephone: (570) 888-2352, and may be reviewed by any interested party on request during normal business hours.

DEP shall receive and consider comments relating to the settlement for 60 days from the date of publication of this notice. Comments should be sent to the address noted above for the Office of Chief Counsel, PA DEP. DEP reserves the right to withdraw from the settlement if comments received disclose facts or considerations not previously known to DEP which indicate that the settlement is inappropriate, improper, or not in the public interest. At the conclusion of the 60 day comment period, if there are comments, then DEP shall meet with the Cohens to address the public comments. If there are not adverse comments, within two weeks after the mortgage has been recorded, DEP will request that Commonwealth Court mark the case filed to 164 M.D. 2001, of DEP v. Cohen as settled and discontinued.

Plan Revision Approval under the Municipal Waste Planning, Recycling and Waste Planning, Recycling and Waste Reduction Act of 1988, Act 101

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

The Department of Environmental Protection (Department) approved the Bedford County Municipal Waste Management Plan Revision on September 17, 2010.

Persons aggrieved by an action may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. 7514) and 2 Pa.C.S. 501—508 and 701—704 (relating to the Administratively Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users may contact the Environmental Hearing Board (Board) through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*,

unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

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

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

The plan revision is a public document and may be viewed at the Department Regional Office previously noted.

Questions concerning this approval should be directed to Anthony Rathfon, Program Manager, Department of Environmental Protection, Waste Management Program at the previous Regional Office.

[Pa.B. Doc. No. 10-2012. Filed for public inspection October 22, 2010, 9:00 a.m.]

Availability of the Fiscal Year Report for the Reclamation Fee O & M Trust Account

The Department of Environmental Protection (Department) announces the availability of a draft Fiscal Year Report for the Reclamation Fee O & M Trust Account. This account was established to provide the money for the operation and maintenance of mine drainage treatment facilities at mine sites with post-mining discharges at ABS Legacy Sites as defined in 25 Pa. Code § 86.1 (relating to definitions). This report is required by 25 Pa. Code § 86.17 (relating to permit and reclamation fees). The report contains a financial analysis of the revenue and expenditures from the account for Fiscal Year (FY) 2009-2010 and provides projections for the FY 2010-2011. The report will be reviewed with the Mine Reclamation Advisory Board at the meeting scheduled for October 28, 2010.

The report is available at the following web site: www.dep.state.pa.us/dep/deputate/minres/bmr/reports/.

For further information, contact William S. Allen, Jr., Department of Environmental Protection, Bureau of Mining and Reclamation, Rachel Carson State Office Building, 5th Floor, P. O. Box 8461, Harrisburg, PA 17105-8461, (717) 787-5103, wallen@state.pa.us. Persons with a disability may contact the Department by using the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDL users) or (800) 654-5988 (voice users).

JOHN HANGER,
Secretary

[Pa.B. Doc. No. 10-2013. Filed for public inspection October 22, 2010, 9:00 a.m.]

General Permit for Short-Term Construction Projects; BMR-GP-103 Modification

In accordance with section 26(b) of the Noncoal Surface Mining Conservation and Reclamation Act (52 P. S. § 3326(b)) and 25 Pa. Code Chapter 77, Subchapter J (relating to general permits), the Department of Environmental Protection (Department) by this notice proposes to modify the General Permit for Short-Term Construction Projects (BMR-GP-103). The proposed modifications include the following: allowing for blasting to occur if specifically authorized under a Blasting Activity Permit; assessing a fee of \$725 for processing the application and administering the permit; requiring a full-cost reclamation bond; allowing for a one-time revision to the project; allowing for wetland or stream encroachments so long as they can be authorized under a general permit issued under 25 Pa. Code Chapter 105 (relating to dam safety and waterway management); and allowing for processing of material as long as it can be authorized under an Air Quality general permit or waiver.

This general permit is for use by eligible persons for the extraction of noncoal minerals to supply fill material for a specific construction project. The noncoal minerals extracted under this General Permit must be used solely on the construction project identified in the registration application and cannot be used or sold for any other purpose. The duration of the mineral extraction may not exceed 1 year unless a 3-month extension can be justified and is approved by the Department. The maximum area that a project may affect under this general permit is 5 acres (2.02 hectares).

This general permit is only valid for licensed mine operators who have submitted an administratively complete and acceptable registration application that has been approved in writing by the Department. A separate NPDES permit may be needed.

Persons conducting noncoal mining activities under this general permit shall implement erosion and sedimentation controls in accordance with 25 Pa. Code Chapter 102 (relating to erosion and sediment control and stormwater management) and shall implement the reclamation and revegetation requirements of this general permit. A full-cost reclamation bond will be required.

A copy of the draft revised General Permit will be made available on the Department's web site at www.depweb.state.pa.us (DEP Keyword: Public Participation; select Proposals Open for Comment). A copy of the draft revised General Permit may also be obtained by contacting Department of Environmental Protection, Bureau of Mining and Reclamation, Permits Division, P. O. Box 8461, Harrisburg, PA 17105-8461.

The Department requests written comments on the proposed revisions to this General Permit by November 15, 2010. Comments received by facsimile will not be accepted. Interested persons may submit written comments, suggestions or objections to the Department of Environmental Protection, Bureau of Mining and Reclamation, Permits Division, P. O. Box 8461, Harrisburg, PA 17105-8461, RA-EPBMRComments@state.pa.us. Questions can be addressed by calling (717) 787-9580 or e-mailing wallen@state.pa.us.

Following the close of the public comment period, the Department will issue the modified General Permit.

Notice of the final language of the General Permit will be published in the *Pennsylvania Bulletin*.

JOHN HANGER,
Secretary

[Pa.B. Doc. No. 10-2014. Filed for public inspection October 22, 2010, 9:00 a.m.]

Nutrient and Sediment Reduction Credit Trading Program; Notice of Actions

The Department of Environmental Protection (Department) provides notice of the following action under the Nutrient and Sediment Reduction Credit Trading Program (Trading Program). This action was taken under The Clean Streams Law (35 P.S. §§ 691.1—691.1001) and 25 Pa. Code § 96.8 (relating to use of offsets and tradable credits from pollution reduction activities in the Chesapeake Bay Watershed) (see 40 Pa.B. 5790 (October 9, 2010)).

Trading is a market-based program that provides incentives for entities to create nutrient reduction credits by going beyond statutory, regulatory or voluntary obligations and goals by removing nutrients from a watershed. The credits can be traded to help others more cost-effectively meet their obligations or goals. The primary purpose of the Trading Program is to provide for more efficient ways for National Pollutant Discharge Elimination System permittees to meet their effluent limits for nutrients and sediment. Currently, the focus of the program is on the Chesapeake Bay Watershed.

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

For individuals who wish to challenge an action, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board. Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

For further information about this certification or the Trading Program, contact Ann Roda, Water Planning Office, Department of Environmental Protection, P. O. Box 2063, Harrisburg, PA 17105-2063, (717) 787-4726, aroda@state.pa.us or visit the Department's web site at www.depweb.state.pa.us (DEP Programs: Nutrient Trading).

The following proposals have been certified by the Department. The certification of these proposals is considered a final action of the Department.

American Farmland Trust (1200 18th Street North West, Suite 800, Washington, DC 20036). This certification is applicable to the nutrient reductions generated from the nitrogen reduction practice completed as part of American Farmland Trust's Planned Nitrogen Reduction Program with Client's PA10-008B, PA10-014, PA10-016, PA10-017 and PA10-018. Each Client is located in Lancaster County. This certification includes a verification plan, and authorizes the generation of nitrogen credits. Notice of the proposal for this certification was published for comment at 40 Pa.B. 5022 (August 28, 2010).

Elizabethtown Borough's Wastewater Treatment Plant (located at the intersection of Amosite and Bainbridge Roads in West Donegal Township, Lancaster County). This certification is applicable to the operation of the Elizabethtown Borough's Wastewater Treatment Plant and was submitted by CDM. This certification includes a verification plan and authorizes the generation of nitrogen and phosphorous credits. Notice of the proposal for this certification was published for comment at 40 Pa.B. 3424 (June 19, 2010).

JOHN HANGER,
Secretary

[Pa.B. Doc. No. 10-2015. Filed for public inspection October 22, 2010, 9:00 a.m.]

DEPARTMENT OF GENERAL SERVICES

Real Estate for Sale Butler County

The Department of General Services (Department) will accept bids for the purchase of 0.18-acre ± of land and single family residence located at 212 East Cooper Street, Borough of Slippery Rock, Butler County. Bids are due Friday, January 14, 2011. Interested parties wishing to receive a copy of Solicitation No. 94375 should view the Department's web site at www.dgs.state.pa.us or call Jayne Fitzpatrick at (717) 787-2834.

ELIZABETH A. O'REILLY,
Acting Secretary

[Pa.B. Doc. No. 10-2016. Filed for public inspection October 22, 2010, 9:00 a.m.]

DEPARTMENT OF HEALTH

Long-Term Care Nursing Facilities; Requests for Exception

The following long-term care nursing facility is seeking an exception to 28 Pa. Code § 201.3 (relating to definitions).

Redstone Highlands Health Care Center
6 Garden Center Drive
Greensburg, PA 15601

The following long-term care nursing facilities are seeking an exception to 28 Pa. Code § 205.6(a) (relating to function of building).

Masonic Village at Elizabethtown
One Masonic Drive
Elizabethtown, PA 17022-2119
FAC ID 131502

St. Paul Homes
339 East Jamestown Road
Greenville, PA 16125
FAC ID 971602

The following long-term care nursing facility is seeking an exception to 28 Pa. Code § 201.3 and 28 Pa. Code § 205.67(k) (relating to electric requirements for existing and new construction).

Normandie Ridge
1700 Normandie Drive
York, PA 17404

These requests are on file with the Department of Health (Department). Persons may receive a copy of the request for exception by requesting a copy from the Division of Nursing Care Facilities, Room 526, Health and Welfare Building, Harrisburg, PA 17120, (717) 787-1816, fax (717) 772-2163, ra-paexcept@state.pa.us.

Persons who wish to comment on this exception request may do so by sending a letter by mail, e-mail or facsimile to the Division at the address listed previously.

Comments received by the Department within 15 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of the request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so, should contact V/TT (717) 783-6514 for speech and/or hearing impaired persons or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

MICHAEL K. HUFF,
Acting Secretary

[Pa.B. Doc. No. 10-2017. Filed for public inspection October 22, 2010, 9:00 a.m.]

Traumatic Brain Injury Advisory Board Meeting

The Traumatic Brain Injury Advisory Board, established under section 1252 of the Federal Traumatic Brain Injury Act of 1996 (42 U.S.C.A. § 300d-52), will hold a public meeting on Thursday, November 4, 2010. The meeting will be held in the large conference room of the Community Center, which is located on the 2nd Floor, Giant Food Store, 2300 Linglestown Road, Harrisburg, PA 17110, from 10 a.m. to 3 p.m.

For additional information, or for persons with a disability who wish to attend the meeting and require an auxiliary aid, service or other accommodation to do so, contact Naomi Zeiset, Administrative Assistant, Division of Child and Adult Health Services at (717) 772-2762, 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.

This meeting is subject to cancellation without notice.

MICHAEL K. HUFF,
Acting Secretary

[Pa.B. Doc. No. 10-2018. Filed for public inspection October 22, 2010, 9:00 a.m.]

HEALTH CARE COST CONTAINMENT COUNCIL

Meetings Scheduled

The Health Care Cost Containment Council (Council) has scheduled the following meetings: Wednesday, November 3, 2010, Data Systems Committee at 10 a.m., Payment Data Advisory Group at 1 p.m. and Executive Committee at 3 p.m.; and Council Meeting on Thursday, November 4, 2010, 10 a.m.

The meetings will be either held or accessible from the conference room at the Council Office, 225 Market Street, Suite 400, Harrisburg, PA 17101. The public is invited to attend. Persons in need of accommodation due to a disability who wish to attend the meetings should contact René Greenawalt, (717) 232-6787 at least 24 hours in advance so that arrangements can be made.

JOE MARTIN,
Executive Director

[Pa.B. Doc. No. 10-2019. Filed for public inspection October 22, 2010, 9:00 a.m.]

INDEPENDENT REGULATORY REVIEW COMMISSION

Action Taken by the Commission

The Independent Regulatory Review Commission met publicly at 10 a.m., Thursday, October 7, 2010, and announced the following:

Action Taken—Regulations Approved:

Pennsylvania Gaming Control Board #125-108: Principal Licensing Amendments (amends 58 Pa. Code Chapter 433a)

Pennsylvania Gaming Control Board #125-130: General Provisions (amends 58 Pa. Code Chapters 401a, 405a, 427a, 429a, 431a, 435a, 437a, 440a, 441a, 451a, 465a and 481a)

Department of Agriculture #2-149: Pesticides (amends 7 Pa. Code Chapter 128)

Department of Public Welfare #14-518: Revisions to the Special Allowance for Supportive Services Requirements; Road to Economic Self-sufficiency Through Employment and Training (RESET) Program (amends 55 Pa. Code Chapter 165)

Action Taken—Regulations Disapproved: Order Not Yet Issued

*Department of Agriculture #2-160: Milk Sanitation

*State Registration Board for Professional Engineers, Land Surveyors and Geologists #16A-4710: Continuing Education

*Department of State #16-43: Schedule of Civil Penalties—Engineers, Land Surveyors and Geologists

*State Board of Chiropractic #16A-4318: Continuing Education Violations

*Department of State #16-44: Schedule of Civil Penalties—Chiropractors

*Will advise when order is issued.

Approval Order

Public Meeting held
October 7, 2010

Commissioners Voting: Arthur Coccodrilli, Chairperson; George D. Bedwick, Vice Chairperson; S. David Fineman, Esq., by Phone; Silvan B. Lutkewitte, III; John F. Mizner, Esq., by Phone

*Pennsylvania Gaming Control Board—
Principal Licensing Amendments;
Regulation No. 125-108 (#2814)*

On January 6, 2010, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the Pennsylvania Gaming Control Board (Board). This rulemaking amends 58 Pa. Code Chapter 433a. The proposed regulation was published in the January 16, 2010 *Pennsylvania Bulletin* with a 30-day public comment period. The final-form regulation was submitted to the Commission on August 19, 2010.

This regulation amends existing principal license requirements to improve clarity and to reduce the requirements to obtain a principal license.

We have determined this regulation is consistent with the statutory authority of the Board (4 Pa.C.S. § 1202(b)(30)) and the intention of the General Assembly. Having considered all of the other criteria of the Regulatory Review Act, we find promulgation of this regulation is in the public interest.

By Order of the Commission:

This regulation is approved.

Approval Order

Public Meeting held
October 7, 2010

Commissioners Voting: Arthur Coccodrilli, Chairperson; George D. Bedwick, Vice Chairperson; S. David Fineman, Esq., by Phone; Silvan B. Lutkewitte, III; John F. Mizner, Esq., by Phone

*Pennsylvania Gaming Control Board—
General Provisions;
Regulation No. 125-130 (#2865)*

On August 19, 2010, the Independent Regulatory Review Commission (Commission) received this regulation from the Pennsylvania Gaming Control Board (Board). This rulemaking amends 58 Pa. Code Chapters 401a, 405a, 427a, 429a, 431a, 435a, 437a, 440a, 441a, 451a, 465a and 481a. Notice of proposed rulemaking was omitted for this regulation; it will become effective upon publication in the *Pennsylvania Bulletin*.

This regulation revises the Board's regulations to bring them into conformity with provisions of Act 1 of 2010.

We have determined this regulation is consistent with the statutory authority of the Board (4 Pa.C.S. §§ 1103, 1202(b)(30), 1209(b), 1317(c), 1317.1(c)(1), 1317.2, and 1326) and the intention of the General Assembly. Having considered all of the other criteria of the Regulatory Review Act, we find promulgation of this regulation is in the public interest.

By Order of the Commission:

This regulation is approved.

Approval Order

Public Meeting held
October 7, 2010

Commissioners Voting: Arthur Coccodrilli, Chairperson; George D. Bedwick, Vice Chairperson; S. David Fineman, Esq., by Phone; Silvan B. Lutkewitte, III; John F. Mizner, Esq., by Phone

*Department of Agriculture—
Pesticides;
Regulation No. 2-149 (#2793)*

On September 15, 2009, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the Department of Agriculture (Department). This rulemaking amends 7 Pa. Code Chapter 128. The proposed regulation was published in the September 26, 2009 *Pennsylvania Bulletin* with a 30-day public comment period. The final-form regulation was submitted to the Commission on August 31, 2010.

This final-form regulation updates existing pesticide regulations to conform to changes in state law and federal requirements, reduce recordkeeping requirements and amend fees.

We have determined this regulation is consistent with the statutory authority of the Department (3 P.S. § 111.27(b)(2)) and the intention of the General Assembly. Having considered all of the other criteria of the Regulatory Review Act, we find promulgation of this regulation is in the public interest.

By Order of the Commission:

This regulation is approved.

Approval Order

Public Meeting held
October 7, 2010

Commissioners Voting: George D. Bedwick, Acting Chairperson; S. David Fineman, Esq., by Phone; Silvan B. Lutkewitte, III; John F. Mizner, Esq., by Phone

*Department of Public Welfare—Revisions to the
Special Allowance for Supportive Services
Requirements; Road to Economic Self-sufficiency
Through Employment and Training (RESET) Program;
Regulation No. 14-518 (#2833)*

On April 12, 2010, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the Department of Public Welfare (Department). This rulemaking amends 55 Pa. Code Chapter 165. The proposed regulation was published in the April 24, 2010 *Pennsylvania Bulletin* with a 30-day public comment period. The final-form regulation was submitted to the Commission on August 25, 2010.

This regulation amends regulations pertaining to special allowances for supportive services, in particular the Road to Economic Self-Sufficiency through Employment and Training Program.

We have determined this regulation is consistent with the statutory authority of the Department (62 P. S. §§ 201(2), 403(b) and 408(c)) and the intention of the General Assembly. Having considered all of the other criteria of the Regulatory Review Act, we find promulgation of this regulation is in the public interest.

By Order of the Commission:

This regulation is approved.

ARTHUR COCCODRILLI,
Chairperson

[Pa.B. Doc. No. 10-2020. Filed for public inspection October 22, 2010, 9:00 a.m.]

Notice of Comments Issued

Section 5(g) of the Regulatory Review Act (71 P. S. § 745.5(g)) provides that the Independent Regulatory Review Commission (Commission) may issue comments within 30 days of the close of the public comment period. The Commission comments are based upon the criteria contained in section 5.2 of the Regulatory Review Act (71 P. S. § 745.5b).

The Commission has issued comments on the following proposed regulation. The agency must consider these comments in preparing the final-form regulation. The final-form regulation must be submitted within 2 years of the close of the public comment period or it will be deemed withdrawn.

<i>Reg. No.</i>	<i>Agency/Title</i>	<i>Close of the Public Comment Period</i>	<i>IRRC Comments Issued</i>
53-9	Joint Committee on Documents Preliminary Provisions; Definitions 40 Pa.B. 4329 (August 7, 2010)	9/7/10	10/7/10

Joint Committee on Documents
Regulation #53-9 (IRRC #2861)
Preliminary Provisions; Definitions
October 7, 2010

We submit for your consideration the following comments on the proposed rulemaking published in the August 7, 2010 *Pennsylvania Bulletin*. Our comments are based on criteria in section 5.2 of the Regulatory Review Act (71 P. S. § 745.5b). Section 5.1(a) of the Regulatory Review Act (71 P. S. § 745.5a(a)) directs the Joint Committee on Documents (Committee) to respond to all comments received from us or any other source.

Section 1.4.—Definitions.—Implementation procedures.

This proposed regulation adds a definition for “copy” to the preliminary provisions of the *Pa Code (Code)*. It defines “copy” as “an electronic or printed version.” Under

1 Pa. Code §§ 15.1 through 15.6, numerous government entities are to be provided with one copy of documents, in particular the *Code* and *Pa Bulletin (Bulletin)*, with the subscription paid by the Commonwealth. According to the Preamble, the distribution of the *Code* and *Bulletin* is paid for by the Legislative Reference Bureau (LRB). The Preamble also states that as a result of the proposed definition, “most entities listed in Chapter 15 will no longer receive paper copies of the *Code* and *Bulletin* paid for by the LRB.”

In light of 1 Pa. Code Chapter 15, the Committee should explain in the Preamble to the final-form regulation how it intends to comply with the existing distribution requirements.

ARTHUR COCCODRILLI,
Chairperson

[Pa.B. Doc. No. 10-2021. Filed for public inspection October 22, 2010, 9:00 a.m.]

Notice of Filing of Final Rulemakings

The Independent Regulatory Review Commission (Commission) received the following regulations. They are scheduled to be considered on the dates noted. The Commission’s public meetings are held at 333 Market Street, 14th Floor, Harrisburg, PA at 10 a.m. To obtain a copy of the regulation, interested parties should first contact the promulgating agency. If a copy cannot be obtained from the promulgating agency, the Commission will provide a copy or a copy can be obtained on the web site, www.irrc.state.pa.us.

Final-Form

<i>Reg. No.</i>	<i>Agency/Title</i>	<i>Received</i>	<i>Public Meeting</i>
7-459	Environmental Quality Board Oil and Gas Wells	10/12/10	11/18/10
7-452	Environmental Quality Board Dam Safety and Waterway Management	10/12/10	11/18/10

ARTHUR COCCODRILLI,
Chairperson

[Pa.B. Doc. No. 10-2022. Filed for public inspection October 22, 2010, 9:00 a.m.]

INSURANCE DEPARTMENT

Application for Approval to Acquire Control of Keystone Insurance Company and AAA Mid-Atlantic Insurance Company

California State Automobile Association Inter-Insurance Bureau has filed an application for approval to acquire control of Keystone Insurance Company and AAA Mid-Atlantic Insurance Company, each a Pennsylvania domiciled stock property and casualty insurance company. The filing was made under Article XIV of The Insurance Company Law of 1921 (40 P. S. §§ 991.1401—991.1413).

Persons wishing to comment on the acquisition are invited to submit a written statement to the Insurance Department (Department) within 30 days from the date of this issue of the *Pennsylvania Bulletin*. Each written statement must include name, address and telephone number of the interested party; identification of the application to which the statement is addressed; and a concise statement with sufficient detail and relevant facts to inform the Department of the exact basis of the statement. Written statements should be directed to Robert Brackbill, Company Licensing Division, Insurance Department, 1345 Strawberry Square, Harrisburg, PA 17120, fax (717) 787-8557 or e-mail rbrackbill@state.pa.us.

ROBERT L. PRATTER,
Acting Insurance Commissioner

[Pa.B. Doc. No. 10-2023. Filed for public inspection October 22, 2010, 9:00 a.m.]

Capital Advantage Insurance Co. Rate Filing; Medical-Surgical Portion of Special Care Individual Direct Pay Basic Hospitalization/Medical-Surgical Contract (Form IA-SC-C); CBC Filing No. 10-5E

On October 6, 2010, the Insurance Department (Department) received from Capital Advantage Insurance Co. a filing for a rate increase for the medical-surgical portion of its Special Care Individual Direct Pay Basic Hospitalization/Medical-Surgical Contract (Form IA-SC-C) to reflect the anticipated cost of the Patient Protection and Affordable Care Act, signed into law on March 23, 2010.

The company requests a 6.2% rate increase to reflect these required changes.

The requested effective date of the change is January 1, 2011, although the newly mandated benefits will become effective for new policies issued on or after September 23, 2010.

Unless formal administrative action is taken prior to January 6, 2011, 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. To access the filing, under "How to Find..." click on "View Current Rate Filings."

Copies of the filing are also available for public inspection, by appointment, during normal working hours at the Department's Harrisburg office.

Interested parties are invited to submit written comments, suggestions or objections to James Sabater, Insur-

ance Department, Insurance Product Regulation and Market Enforcement, Room 1311, Strawberry Square, Harrisburg, PA 17120, 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. 10-2024. Filed for public inspection October 22, 2010, 9:00 a.m.]

Capital BlueCross Rate Filing; Hospitalization Portion of Special Care Individual Direct Pay Basic Hospitalization/Medical-Surgical Contract (Form IA-SC-C); CBC Filing No. 10-5D

On October 6, 2010, the Insurance Department (Department) received from Capital BlueCross a filing for a rate increase for the hospitalization portion of its Special Care Individual Direct Pay Basic Hospitalization/Medical-Surgical Contract (Form IA-SC-C) to reflect the anticipated cost of the Patient Protection and Affordable Care Act, signed into law on March 23, 2010.

The company requests a 6.2% rate increase to reflect these required changes.

The requested effective date of the change is January 1, 2011, although the newly mandated benefits will become effective for new policies issued on or after September 23, 2010.

Unless formal administrative action is taken prior to January 6, 2011, 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. To access the filing, under "How to Find..." click on "View Current Rate Filings."

Copies of the filing are also available for public inspection, by appointment, during normal working hours at the Department's Harrisburg office.

Interested parties are invited to submit written comments, suggestions or objections to James Sabater, Insurance Department, Insurance Product Regulation and Market Enforcement, Room 1311, Strawberry Square, Harrisburg, PA 17120, 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. 10-2025. Filed for public inspection October 22, 2010, 9:00 a.m.]

Hiram Reinhart, Jr.; Hearing

Appeal of Hiram Reinhart, Jr. under the Storage Tank and Spill Prevention Act; Underground Storage Tank Indemnification Fund; USTIF File No. 2009-172(S); Doc. No. UT10-10-004

The proceedings in this matter will be governed by 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Ad-

ministrative Agency Law); 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure); and any other relevant procedure provisions of law.

A prehearing telephone conference shall be held on December 1, 2010, at 9:30 a.m. A hearing shall occur on December 15, 2010, at 9:30 a.m., in the Administrative Hearings Office, Room 200, Capitol Associates Building, 901 North Seventh Street, Harrisburg, PA 17102. Motions preliminary to those at hearing, protests, petitions to intervene, notices of appearance or notices of intervention, if any, must be filed with the Hearings Administrator at the previously listed address on or before November 15, 2010. Answers to petitions to intervene, if any, shall be filed on or before November 29, 2010.

On or before November 15, 2010, each party shall file with the Administrative Hearings Office a prehearing statement which shall contain: (1) a comprehensive statement of undisputed facts to be stipulated between the parties; (2) a statement of additional contended facts; (3) names and address of witnesses along with the specialties of experts to be called; (4) a list of documents to be used at the hearing; (5) special evidentiary or other legal issues; and (6) the estimated time for the party's case. Contemporaneously with service of the prehearing statement on the opposing party, each party shall supply the other with a copy of any report generated by an expert witness designated on the prehearing statement. Any report subsequently received from a party's expert witness prior to hearing shall be supplied to the other party within 2 business days. Copies of expert reports need not be filed with the Administrative Hearings Office. Experts will be permitted to testify only on matters substantially contemplated by reports supplied to the other party in accordance with this paragraph.

Persons with a disability who wish to attend the previously-referenced administrative hearing and require an auxiliary aid, service or other accommodation to participate in the hearing, should contact Donna R. Fleischauer, Human Resources Director at (717) 705-4194.

ROBERT L. PRATTER,
Acting Insurance Commissioner

[Pa.B. Doc. No. 10-2026. Filed for public inspection October 22, 2010, 9:00 a.m.]

LIQUOR CONTROL BOARD

Expiration of Leases

The Liquor Control Board seeks the following new site:
Berks County, Wine & Spirits Store #0606 (Relocation), Hamburg, PA

Lease Expiration Date: Entered 90-day status since August 31, 2010.

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 5,000 net useable square feet of new or existing retail commercial space in Tilden Township, Berks County, in the close vicinity of Route 61 and Cabela Drive.

Proposals due: November 12, 2010, at 12 p.m.

Department: Liquor Control Board
Location: Room 216, Northwest Office Building, Forster and Capital Streets, Harrisburg, PA 17124-0001
Contact: Joseph P. Hannon, (717) 787-3016

Wayne County, Wine & Spirits Store #6402 (Relocation), Honesdale, PA

Lease Expiration Date: Entered 90-day status since April 30, 2010.

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 3,000 to 5,000 net useable square feet of new or existing retail commercial space in the Honesdale, Wayne County area. Location must be easily accessible to serve Honesdale and surrounding areas. The proposed location must have convenient, off-street parking and allow for tractor-trailer deliveries.

Proposals due: November 12, 2010, at 12 p.m.

Department: Liquor Control Board
Location: Real Estate Division, Room 216, Northwest Office Building, Forster and Capital Streets, Harrisburg, PA 17124-0001
Contact: Joseph P. Hannon, (717)787-3016

Westmoreland County, Wine & Spirits Store #6515 (Relocation), Lower Burrell, PA

Lease Expiration Date: January 31, 2012

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 5,000 net useable square feet of new or existing retail commercial space in a shopping center environment with free parking and rear door loading area near the intersection of Leechburg and Craigdell Roads in the City of Lower Burrell.

Proposals due: November 12, 2010, at 12 p.m.

Department: Liquor Control Board
Location: Real Estate Division, 158 Purity Road, Suite B, Pittsburgh, PA 15235-4441
Contact: George D. Danis, (412) 723-0124

PATRICK J. STAPLETON, III,
Chairperson

[Pa.B. Doc. No. 10-2027. Filed for public inspection October 22, 2010, 9:00 a.m.]

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Indirect Transfer of Control

A-2010-2203943 and A-2010-2203944. ITC DeltaCom, Inc. and EarthLink, Inc. Joint application of ITC DeltaCom, Inc. and EarthLink, Inc. for approval of the indirect transfer of control of DeltaCom, Inc. and Business Telecom, Inc.

Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). Filings must be made with the Secretary of the Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant, on or before November 8, 2010. The documents filed in support of the application are available for

inspection and copying at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday, on the Pennsylvania Public Utility Commission's web site at www.puc.state.pa.us, and at the applicant's business address.

Joint Applicants: ITC DeltaCom, Inc., Earthlink, Inc., DeltaCom, Inc., Business Telecom, Inc.

Through and By Counsel: Tony S. Lee, Esquire, Venable, LLP, 575 7th Street, North West, Washington, DC 20036

ROSEMARY CHIAVETTA,
Secretary

[Pa.B. Doc. No. 10-2028. Filed for public inspection October 22, 2010, 9:00 a.m.]

Natural Gas

A-2010-2203699. Peoples Natural Gas Company. Application of Peoples Natural Gas Company for approval to lease excess storage capacity at its Rager Mountain Storage facility to Rager Mountain Storage Company, LLC and to transfer a portion of the base and working natural gas in its Rager Mountain Storage Facility to Rager Mountain Storage Company, LLC.

Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). Filings must be made with the Secretary of the Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant, on or before November 8, 2010. The documents filed in support of the application are available for inspection and copying at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday, on the Pennsylvania Public Utility Commission's web site at www.puc.state.pa.us, and at the applicant's business address.

Applicant: Peoples Natural Gas Company

Through and By Counsel: Michael W. Gang, Esquire, David P. Zambito, Esquire, Christopher T. Wright, Esquire, Post & Schell, PC, 17 North Second Street, 12th Floor, Harrisburg, PA 17101-1601

ROSEMARY CHIAVETTA,
Secretary

[Pa.B. Doc. No. 10-2029. Filed for public inspection October 22, 2010, 9:00 a.m.]

Service of Notice of Motor Carrier Applications

The following temporary authority and/or permanent authority applications for the right to render service as a common carrier or contract carrier in this Commonwealth have been filed with the Pennsylvania Public Utility Commission. Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). A protest shall indicate whether it applies to the temporary authority application, the permanent authority application, or both. Filings must be made with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant by November 8, 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-2010-2202828. Lifestyle Limousine, Inc., t/a Lifestyle Limousine (4187 New Holland Road, Mohnton, Berks County, PA 19540-8632)—persons, in limousine service, between points in the Counties of Berks, Dauphin, Lancaster, Northampton, Lehigh, Bucks, Delaware, Montgomery and Chester. *Attorney:* Andrea Mertz, Waldman Law Group, PC, 3 Park Plaza, Wyomissing, PA 19610.

A-2010-2202899. Greene County Taxi Service, LLC (2540 Smith Creek Road, Waynesburg, Greene County, PA 15370), a limited liability company of the Commonwealth—persons, upon call or demand, in Greene County. *Attorney:* J. William Hook, 189 West High Street, P. O. Box 792, Waynesburg, PA 17370.

A-2010-2203043. Bruce C. Shuey (23 Railway Avenue, Millersburg, PA 17061)—persons, in paratransit service, limited to persons whose personal convictions prevent them from owning or operating motor vehicles, from points in Dauphin County, to points in Pennsylvania, and return.

Application of the following for amendment to the certificate of public convenience approving the operation of motor vehicles as common carriers for transportation of household goods as described under the application.

A-2010-2202568. Bradley A. Kleffel, t/a Kleffel's Moving & Delivery Service (5490 Berne Road, Mohrsville, Berks County, PA 19541), household goods in use between points in the County of Berks; *SO AS TO PERMIT:* household goods in use in the Counties of Lehigh, Schuylkill, Lebanon, Carbon and Montgomery.

*Pennsylvania Public Utility Commission, Bureau of
Transportation and Safety v. Sangare, Inc.;*
Doc. No. C-2010-2133686, A-00113591

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 Sangare, Inc., Respondent, maintains a principal place of business at 5859 Larchwood Avenue, Philadelphia, PA 19143.
2. That Respondent was issued a Certificate of Public Convenience by this Commission on January 16, 1997, at A-00113591.
3. That Respondent was advised by letter dated May 10, 2005, that its medallion authority was being transferred to the Philadelphia Parking Authority. At that time, Respondent was advised that its taxicab service

which had an origin and destination outside of the City of Philadelphia remained subject to the regulatory oversight of the PA PUC.

4. That Respondent was advised by letter dated September 11, 2009, that it failed to file a valid tariff with this Commission as required by 52 Pa. Code § 23.11. Respondent was provided 60 days to file an acceptable tariff. To date, Respondent has not filed an acceptable tariff. The penalty is \$250.00.

Wherefore, the Bureau of Transportation and Safety Prosecutory Staff hereby requests that the Commission fine Sangare, Inc., the sum of two hundred and fifty dollars (\$250.00) for the illegal activity described in the complaint and order such other remedy as the Commission may deem to be appropriate.

Respectfully submitted,

Wendy J. Keezel, Chief of Enforcement
Motor Carrier Services & Enforcement Division
Bureau of Transportation and Safety
P. O. Box 3265
Harrisburg, PA 17105-3265

VERIFICATION

I, Wendy J. Keezel, Chief of Enforcement for the Motor Carrier Services and Enforcement Division of the Bureau of Transportation and Safety, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect the Bureau will be able to prove the same at any hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: _____

Wendy J. Keezel, Chief of Enforcement
Motor Carrier Services and Enforcement
Division
Bureau of Transportation and Safety

NOTICE

A. You must file an answer within twenty (20) days of the date of service of this complaint. The date of service is the mailing date as indicated at the top of the Secretarial cover letter for this complaint and notice, 52 Pa. Code § 1.56(a). An answer is a written explanation of circumstances wished to be considered in determining the outcome. The answer shall raise all factual and legal arguments that you wish to claim in your defense and must include the reference number of this complaint. Your answer must be verified and the original and three (3) copies sent to:

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
P. O. Box 3265
Harrisburg, PA 17105-3265

B. If you fail to answer this complaint within twenty (20) days of the date of service, the Bureau of Transportation and Safety will request that the Commission issue a Secretarial Letter imposing a penalty. Each day you continue to violate any regulation, direction, requirement or Order of the Commission is a separate and distinct offense, subject to additional penalties.

C. You may elect not to contest this complaint by filing an acceptable tariff and by paying the fine proposed in this Complaint by certified check or money order. The tariff must be filed with the:

Compliance Office, Bureau of Transportation and Safety
Pennsylvania Public Utility Commission
P. O. Box 3265
Harrisburg, PA 17105-3265

The fine payment must be made to the Commonwealth of Pennsylvania and should be forwarded to:

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
P. O. Box 3265
Harrisburg, PA 17105-3265

Your payment is an admission that you committed the alleged violation and an agreement to cease and desist from further violations. Upon receipt of an acceptable tariff and payment of the proposed fine, the complaint proceeding shall be closed.

D. If you file an Answer, which admits or fails to deny the allegations of the Complaint, the Bureau of Transportation and Safety will request that the Commission issue a Secretarial Letter imposing a penalty.

E. If you file an Answer which contests the Complaint, the matter will be assigned to an Administrative Law Judge for hearing and decision. The judge is not bound by the optional fine set forth above.

F. If you have questions regarding this Complaint or if you would like an alternative format to this Complaint (for persons with disabilities), please contact the Compliance Office at (717) 787-1227.

*Pennsylvania Public Utility Commission, Bureau of
Transportation and Safety v. Khalsa Cab, Inc.;*
Doc. No. C-2010-2135190, A-00121353

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 Khalsa Cab, Inc., Respondent, maintains a principal place of business at 35 Over Hill Road, Upper Darby, PA 19082.

2. That Respondent was issued a Certificate of Public Convenience by this Commission on February 11, 2005, at A-00121353.

3. That Respondent was advised by letter dated May 10, 2005, that its medallion authority was being transferred to the Philadelphia Parking Authority. At that time, Respondent was advised that its taxicab service which had an origin and destination outside of the City of Philadelphia remained subject to the regulatory oversight of the PA PUC.

4. That Respondent was advised by letter dated September 4, 2009, that it failed to file a valid tariff with this Commission as required by 52 Pa. Code § 23.11. Respondent was provided 60 days to file an acceptable tariff. To date, Respondent has not filed an acceptable tariff. The penalty is \$250.00.

Wherefore, the Bureau of Transportation and Safety Prosecutory Staff hereby requests that the Commission fine Khalsa Cab, Inc., the sum of two hundred and fifty dollars (\$250.00) for the illegal activity described in the complaint and order such other remedy as the Commission may deem to be appropriate.

Respectfully submitted,

Wendy J. Keezel, Chief of Enforcement
Motor Carrier Services & Enforcement Division
Bureau of Transportation and Safety
P. O. Box 3265
Harrisburg, PA 17105-3265

VERIFICATION

I, Wendy J. Keezel, Chief of Enforcement for the Motor Carrier Services and Enforcement Division of the Bureau of Transportation and Safety, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect the Bureau will be able to prove the same at any hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: _____

Wendy J. Keezel, Chief of Enforcement
Motor Carrier Services and Enforcement
Division
Bureau of Transportation and Safety

NOTICE

A. You must file an answer within twenty (20) days of the date of service of this complaint. The date of service is the mailing date as indicated at the top of the Secretarial cover letter for this complaint and notice, 52 Pa. Code § 1.56(a). An answer is a written explanation of circumstances wished to be considered in determining the outcome. The answer shall raise all factual and legal arguments that you wish to claim in your defense and must include the reference number of this complaint. Your answer must be verified and the original and three (3) copies sent to:

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
P. O. Box 3265
Harrisburg, PA 17105-3265

B. If you fail to answer this complaint within twenty (20) days of the date of service, the Bureau of Transportation and Safety will request that the Commission issue a Secretarial Letter imposing a penalty. Each day you continue to violate any regulation, direction, requirement or Order of the Commission is a separate and distinct offense, subject to additional penalties.

C. You may elect not to contest this complaint by filing an acceptable tariff and by paying the fine proposed in this Complaint by certified check or money order. The tariff must be filed with the:

Compliance Office, Bureau of Transportation and Safety
Pennsylvania Public Utility Commission
P. O. Box 3265
Harrisburg, PA 17105-3265

The fine payment must be made to the Commonwealth of Pennsylvania and should be forwarded to:

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
P. O. Box 3265
Harrisburg, PA 17105-3265

Your payment is an admission that you committed the alleged violation and an agreement to cease and desist from further violations. Upon receipt of an acceptable tariff and payment of the proposed fine, the complaint proceeding shall be closed.

D. If you file an Answer, which admits or fails to deny the allegations of the Complaint, the Bureau of Transportation and Safety will request that the Commission issue a Secretarial Letter imposing a penalty.

E. If you file an Answer which contests the Complaint, the matter will be assigned to an Administrative Law Judge for hearing and decision. The judge is not bound by the optional fine set forth above.

F. If you have questions regarding this Complaint or if you would like an alternative format to this Complaint (for persons with disabilities), please contact the Compliance Office at (717) 787-1227.

*Pennsylvania Public Utility Commission, Bureau of
Transportation and Safety v. Time Taxi, Inc.;*
Doc. No. C-2010-2135210, A-00113120

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 Time Taxi, Inc., Respondent, maintains a principal place of business at 49 Bruce Drive, Holland, PA 18966.

2. That Respondent was issued a Certificate of Public Convenience by this Commission on June 20, 1996, at A-00113120.

3. That Respondent was advised by letter dated May 10, 2005, that its medallion authority was being transferred to the Philadelphia Parking Authority. At that time, Respondent was advised that its taxicab service which had an origin and destination outside of the City of Philadelphia remained subject to the regulatory oversight of the PA PUC.

4. That Respondent was advised by letter dated September 11, 2009, that it failed to file a valid tariff with this Commission as required by 52 Pa. Code § 23.11. Respondent was provided 60 days to file an acceptable tariff. To date, Respondent has not filed an acceptable tariff. The penalty is \$250.00.

Wherefore, the Bureau of Transportation and Safety Prosecutory Staff hereby requests that the Commission fine Time Taxi, Inc., the sum of two hundred and fifty dollars (\$250.00) for the illegal activity described in the complaint and order such other remedy as the Commission may deem to be appropriate.

Respectfully submitted,

Wendy J. Keezel, Chief of Enforcement
Motor Carrier Services & Enforcement Division
Bureau of Transportation and Safety
P. O. Box 3265
Harrisburg, PA 17105-3265

VERIFICATION

I, Wendy J. Keezel, Chief of Enforcement for the Motor Carrier Services and Enforcement Division of the Bureau of Transportation and Safety, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect the Bureau will be able to prove the same at any hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: _____

Wendy J. Keezel, Chief of Enforcement
Motor Carrier Services and Enforcement
Division
Bureau of Transportation and Safety

NOTICE

A. You must file an answer within twenty (20) days of the date of service of this complaint. The date of service is the mailing date as indicated at the top of the Secretarial cover letter for this complaint and notice, 52 Pa. Code § 1.56(a). An answer is a written explanation of circumstances wished to be considered in determining the outcome. The answer shall raise all factual and legal arguments that you wish to claim in your defense and must include the reference number of this complaint. Your answer must be verified and the original and three (3) copies sent to:

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
P. O. Box 3265
Harrisburg, PA 17105-3265

B. If you fail to answer this complaint within twenty (20) days of the date of service, the Bureau of Transportation and Safety will request that the Commission issue a Secretarial Letter imposing a penalty. Each day you continue to violate any regulation, direction, requirement or Order of the Commission is a separate and distinct offense, subject to additional penalties.

C. You may elect not to contest this complaint by filing an acceptable tariff and by paying the fine proposed in this Complaint by certified check or money order. The tariff must be filed with the:

Compliance Office, Bureau of Transportation and Safety
Pennsylvania Public Utility Commission
P. O. Box 3265
Harrisburg, PA 17105-3265

The fine payment must be made to the Commonwealth of Pennsylvania and should be forwarded to:

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
P. O. Box 3265
Harrisburg, PA 17105-3265

Your payment is an admission that you committed the alleged violation and an agreement to cease and desist from further violations. Upon receipt of an acceptable tariff and payment of the proposed fine, the complaint proceeding shall be closed.

D. If you file an Answer, which admits or fails to deny the allegations of the Complaint, the Bureau of Transportation and Safety will request that the Commission issue a Secretarial Letter imposing a penalty.

E. If you file an Answer which contests the Complaint, the matter will be assigned to an Administrative Law Judge for hearing and decision. The judge is not bound by the optional fine set forth above.

F. If you have questions regarding this Complaint or if you would like an alternative format to this Complaint (for persons with disabilities), please contact the Compliance Office at (717) 787-1227.

*Pennsylvania Public Utility Commission, Bureau of
Transportation and Safety v. Kayla Enterprises, Inc.;*
Doc. No. C-2010-2131238, A-00120764

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 Kayla Enterprises, Inc., Respondent, maintains a principal place of business at 5937 A N Hutchinson Street, Philadelphia, PA 19141.

2. That Respondent was issued a Certificate of Public Convenience by this Commission on June 28, 2004, at A-00120764.

3. That Respondent was advised by letter dated May 10, 2005, that its medallion authority was being transferred to the Philadelphia Parking Authority. At that time, Respondent was advised that its taxicab service which had an origin and destination outside of the City of Philadelphia remained subject to the regulatory oversight of the PA PUC.

4. That Respondent was advised by letter dated September 4, 2009, that it failed to file a valid tariff with this Commission as required by 52 Pa. Code § 23.11. Respondent was provided 60 days to file an acceptable tariff. To date, Respondent has not filed an acceptable tariff. The 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 Kayla Enterprises, Inc., the sum of two hundred and fifty dollars (\$250.00) for the illegal activity described in the complaint and order such other remedy as the Commission may deem to be appropriate.

Respectfully submitted,

Wendy J. Keezel, Chief of Enforcement
Motor Carrier Services & Enforcement Division
Bureau of Transportation and Safety
P. O. Box 3265
Harrisburg, PA 17105-3265

VERIFICATION

I, Wendy J. Keezel, Chief of Enforcement for the Motor Carrier Services and Enforcement Division of the Bureau

of Transportation and Safety, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect the Bureau will be able to prove the same at any hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: _____
 Wendy J. Keezel, Chief of Enforcement
 Motor Carrier Services and Enforcement
 Division
 Bureau of Transportation and Safety

NOTICE

A. You must file an answer within twenty (20) days of the date of service of this complaint. The date of service is the mailing date as indicated at the top of the Secretarial cover letter for this complaint and notice, 52 Pa. Code § 1.56(a). An answer is a written explanation of circumstances wished to be considered in determining the outcome. The answer shall raise all factual and legal arguments that you wish to claim in your defense and must include the reference number of this complaint. Your answer must be verified and the original and three (3) copies sent to:

Rosemary Chiavetta, Secretary
 Pennsylvania Public Utility Commission
 P. O. Box 3265
 Harrisburg, PA 17105-3265

B. If you fail to answer this complaint within twenty (20) days of the date of service, the Bureau of Transportation and Safety will request that the Commission issue a Secretarial Letter imposing a penalty. Each day you continue to violate any regulation, direction, requirement or Order of the Commission is a separate and distinct offense, subject to additional penalties.

C. You may elect not to contest this complaint by filing an acceptable tariff and by paying the fine proposed in this Complaint by certified check or money order. The tariff must be filed with the:

Compliance Office, Bureau of Transportation and Safety
 Pennsylvania Public Utility Commission
 P. O. Box 3265
 Harrisburg, PA 17105-3265

The fine payment must be made to the Commonwealth of Pennsylvania and should be forwarded to:

Rosemary Chiavetta, Secretary
 Pennsylvania Public Utility Commission
 P. O. Box 3265
 Harrisburg, PA 17105-3265

Your payment is an admission that you committed the alleged violation and an agreement to cease and desist from further violations. Upon receipt of an acceptable tariff and payment of the proposed fine, the complaint proceeding shall be closed.

D. If you file an Answer, which admits or fails to deny the allegations of the Complaint, the Bureau of Transportation and Safety will request that the Commission issue a Secretarial Letter imposing a penalty.

E. If you file an Answer which contests the Complaint, the matter will be assigned to an Administrative Law Judge for hearing and decision. The judge is not bound by the optional fine set forth above.

F. If you have questions regarding this Complaint or if you would like an alternative format to this Complaint (for persons with disabilities), please contact the Compliance Office at (717) 787-1227.

*Pennsylvania Public Utility Commission, Bureau of
 Transportation and Safety v. F & G Car Co.;*
Doc. No. C-2010-2137681, A-00110960

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 F & G Car Co., Respondent, maintains a principal place of business at 413 Parlin Place, Philadelphia, PA 19116.

2. That Respondent was issued a Certificate of Public Convenience by this Commission on February 22, 1994, at A-00110960.

3. That Respondent was advised by letter dated May 10, 2005, that its medallion authority was being transferred to the Philadelphia Parking Authority. At that time, Respondent was advised that its taxicab service which had an origin and destination outside of the City of Philadelphia remained subject to the regulatory oversight of the PA PUC.

4. That Respondent was advised by letter dated September 11, 2009, that it failed to file a valid tariff with this Commission as required by 52 Pa. Code § 23.11. Respondent was provided 60 days to file an acceptable tariff. To date, Respondent has not filed an acceptable tariff. The Bureau of Transportation and Safety's Motor Carrier Services and Enforcement Prosecutory Staff's proposed civil penalty for this violation is \$250.00.

Wherefore, the Bureau of Transportation and Safety Prosecutory Staff hereby requests that the Commission fine F & G Car 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:

Rosemary Chiavetta, Secretary
 Pennsylvania Public Utility Commission
 P. O. Box 3265
 Harrisburg, PA 17105-3265

B. If you fail to answer this complaint within twenty (20) days of the date of service, the Bureau of Transportation and Safety will request that the Commission issue a Secretarial Letter imposing a penalty. Each day you continue to violate any regulation, direction, requirement or Order of the Commission is a separate and distinct offense, subject to additional penalties.

C. You may elect not to contest this complaint by filing an acceptable tariff and by paying the fine proposed in this Complaint by certified check or money order. The tariff must be filed with the:

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 Pennsylvania Public Utility Commission
 P. O. Box 3265
 Harrisburg, PA 17105-3265

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Rosemary Chiavetta, Secretary
 Pennsylvania Public Utility Commission
 P. O. Box 3265
 Harrisburg, PA 17105-3265

Your payment is an admission that you committed the alleged violation and an agreement to cease and desist from further violations. Upon receipt of an acceptable tariff and payment of the proposed fine, the complaint proceeding shall be closed.

D. If you file an Answer, which admits or fails to deny the allegations of the Complaint, the Bureau of Transportation and Safety will request that the Commission issue a Secretarial Letter imposing a penalty.

E. If you file an Answer which contests the Complaint, the matter will be assigned to an Administrative Law Judge for hearing and decision. The judge is not bound by the optional fine set forth above.

F. If you have questions regarding this Complaint or if you would like an alternative format to this Complaint (for persons with disabilities), please contact the Compliance Office at (717) 787-1227.

*Pennsylvania Public Utility Commission, Bureau of
 Transportation and Safety v. Destination Cab Co.;*
Doc. No. C-2010-2128696, A-00114007

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 Destination Cab Co., Respondent, maintains a principal place of business at 6243 Throtter Street, Philadelphia, PA 19111.

2. That Respondent was issued a Certificate of Public Convenience by this Commission on July 16, 1997, at A-00114007.

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 Destination Cab Co., the sum of two hundred and fifty dollars (\$250.00) for the illegal activity described in the complaint and order such other remedy as the Commission may deem to be appropriate.

Respectfully submitted,

Wendy J. Keezel, Chief of Enforcement
 Motor Carrier Services & Enforcement Division
 Bureau of Transportation and Safety
 P. O. Box 3265
 Harrisburg, PA 17105-3265

VERIFICATION

I, Wendy J. Keezel, Chief of Enforcement for the Motor Carrier Services and Enforcement Division of the Bureau of Transportation and Safety, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect the Bureau will be able to prove the same at any hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: _____
 Wendy J. Keezel, Chief of Enforcement
 Motor Carrier Services and Enforcement
 Division
 Bureau of Transportation and Safety

NOTICE

A. You must file an answer within twenty (20) days of the date of service of this complaint. The date of service is the mailing date as indicated at the top of the Secretarial cover letter for this complaint and notice, 52 Pa. Code § 1.56(a). An answer is a written explanation of circumstances wished to be considered in determining the outcome. The answer shall raise all factual and legal arguments that you wish to claim in your defense and must include the reference number of this complaint. Your answer must be verified and the original and three (3) copies sent to:

Rosemary Chiavetta, Secretary
 Pennsylvania Public Utility Commission
 P. O. Box 3265
 Harrisburg, PA 17105-3265

B. If you fail to answer this complaint within twenty (20) days of the date of service, the Bureau of Transportation and Safety will request that the Commission issue a Secretarial Letter imposing a penalty. Each day you continue to violate any regulation, direction, requirement or Order of the Commission is a separate and distinct offense, subject to additional penalties.

C. You may elect not to contest this complaint by filing an acceptable tariff and by paying the fine proposed in this Complaint by certified check or money order. The tariff must be filed with the:

Compliance Office, Bureau of Transportation and Safety
 Pennsylvania Public Utility Commission
 P. O. Box 3265
 Harrisburg, PA 17105-3265

The fine payment must be made to the Commonwealth of Pennsylvania and should be forwarded to:

Rosemary Chiavetta, Secretary
 Pennsylvania Public Utility Commission
 P. O. Box 3265
 Harrisburg, PA 17105-3265

Your payment is an admission that you committed the alleged violation and an agreement to cease and desist from further violations. Upon receipt of an acceptable tariff and payment of the proposed fine, the complaint proceeding shall be closed.

D. If you file an Answer, which admits or fails to deny the allegations of the Complaint, the Bureau of Transportation and Safety will request that the Commission issue a Secretarial Letter imposing a penalty.

E. If you file an Answer which contests the Complaint, the matter will be assigned to an Administrative Law Judge for hearing and decision. The judge is not bound by the optional fine set forth above.

F. If you have questions regarding this Complaint or if you would like an alternative format to this Complaint (for persons with disabilities), please contact the Compliance Office at (717) 787-1227.

*Pennsylvania Public Utility Commission, Bureau of
 Transportation and Safety v. Prosha Cab Co.;*
Doc. No. C-2010-2132468, A-00120812

COMPLAINT

The Pennsylvania Public Utility Commission (Commission) is a duly constituted agency of the Commonwealth of Pennsylvania empowered to regulate public utilities within the Commonwealth. The Commission has del-

egated its authority to initiate proceedings, which are prosecutory in nature to the Bureau of Transportation and Safety and other bureaus with enforcement responsibilities. Pursuant to that delegated authority and Section 701 of the Public Utility Code, the Bureau of Transportation and Safety Prosecutory Staff hereby represents as follows:

1. That Prosha Cab Co., Respondent, maintains a principal place of business at 9331 A Bains Street, Philadelphia, PA 19115.

2. That Respondent was issued a Certificate of Public Convenience by this Commission on March 29, 2004, at A-00120812.

3. That Respondent was advised by letter dated May 10, 2005, that its medallion authority was being transferred to the Philadelphia Parking Authority. At that time, Respondent was advised that its taxicab service which had an origin and destination outside of the City of Philadelphia remained subject to the regulatory oversight of the PA PUC.

4. That Respondent was advised by letter dated September 11, 2009, that it failed to file a valid tariff with this Commission as required by 52 Pa. Code § 23.11. Respondent was provided 60 days to file an acceptable tariff. To date, Respondent has not filed an acceptable tariff. The Bureau of Transportation and Safety's Motor Carrier Services and Enforcement Prosecutory Staff's proposed civil penalty for this violation is \$250.00.

Wherefore, the Bureau of Transportation and Safety Prosecutory Staff hereby requests that the Commission fine Prosha Cab Co., the sum of two hundred and fifty dollars (\$250.00) for the illegal activity described in the complaint and order such other remedy as the Commission may deem to be appropriate.

Respectfully submitted,

Wendy J. Keezel, Chief of Enforcement
 Motor Carrier Services & Enforcement Division
 Bureau of Transportation and Safety
 P. O. Box 3265
 Harrisburg, PA 17105-3265

VERIFICATION

I, Wendy J. Keezel, Chief of Enforcement for the Motor Carrier Services and Enforcement Division of the Bureau of Transportation and Safety, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect the Bureau will be able to prove the same at any hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: _____

Wendy J. Keezel, Chief of Enforcement
 Motor Carrier Services and Enforcement
 Division
 Bureau of Transportation and Safety

NOTICE

A. You must file an answer within twenty (20) days of the date of service of this complaint. The date of service is the mailing date as indicated at the top of the Secretarial cover letter for this complaint and notice, 52 Pa. Code § 1.56(a). An answer is a written explanation of circumstances wished to be considered in determining the outcome. The answer shall raise all factual and legal arguments that you wish to claim in your defense and

must include the reference number of this complaint. Your answer must be verified and the original and three (3) copies sent to:

Rosemary Chiavetta, Secretary
 Pennsylvania Public Utility Commission
 P. O. Box 3265
 Harrisburg, PA 17105-3265

B. If you fail to answer this complaint within twenty (20) days of the date of service, the Bureau of Transportation and Safety will request that the Commission issue a Secretarial Letter imposing a penalty. Each day you continue to violate any regulation, direction, requirement or Order of the Commission is a separate and distinct offense, subject to additional penalties.

C. You may elect not to contest this complaint by filing an acceptable tariff and by paying the fine proposed in this Complaint by certified check or money order. The tariff must be filed with the:

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 Pennsylvania Public Utility Commission
 P. O. Box 3265
 Harrisburg, PA 17105-3265

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Rosemary Chiavetta, Secretary
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 P. O. Box 3265
 Harrisburg, PA 17105-3265

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D. If you file an Answer, which admits or fails to deny the allegations of the Complaint, the Bureau of Transportation and Safety will request that the Commission issue a Secretarial Letter imposing a penalty.

E. If you file an Answer which contests the Complaint, the matter will be assigned to an Administrative Law Judge for hearing and decision. The judge is not bound by the optional fine set forth above.

F. If you have questions regarding this Complaint or if you would like an alternative format to this Complaint (for persons with disabilities), please contact the Compliance Office at (717) 787-1227.

*Pennsylvania Public Utility Commission, Bureau of
 Transportation and Safety v. W D Cab Co.;*
Doc. No. C-2010-2135202, A-00110297

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 W D Cab Co., Respondent, maintains a principal place of business at 6019 Greenway Avenue, Philadelphia, PA 19142.

2. That Respondent was issued a Certificate of Public Convenience by this Commission on August 25, 1992, at A-00110297.

3. That Respondent was advised by letter dated May 10, 2005, that its medallion authority was being transferred to the Philadelphia Parking Authority. At that time, Respondent was advised that its taxicab service which had an origin and destination outside of the City of Philadelphia remained subject to the regulatory oversight of the PA PUC.

4. That Respondent was advised by letter dated September 11, 2009, that it failed to file a valid tariff with this Commission as required by 52 Pa. Code § 23.11. Respondent was provided 60 days to file an acceptable tariff. To date, Respondent has not filed an acceptable tariff. The Bureau of Transportation and Safety's Motor Carrier Services and Enforcement Prosecutory Staff's proposed civil penalty for this violation is \$250.00.

Wherefore, the Bureau of Transportation and Safety Prosecutory Staff hereby requests that the Commission fine W D Cab Co., the sum of two hundred and fifty dollars (\$250.00) for the illegal activity described in the complaint and order such other remedy as the Commission may deem to be appropriate.

Respectfully submitted,

Wendy J. Keezel, Chief of Enforcement
 Motor Carrier Services & Enforcement Division
 Bureau of Transportation and Safety
 P. O. Box 3265
 Harrisburg, PA 17105-3265

VERIFICATION

I, Wendy J. Keezel, Chief of Enforcement for the Motor Carrier Services and Enforcement Division of the Bureau of Transportation and Safety, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect the Bureau will be able to prove the same at any hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: _____

Wendy J. Keezel, Chief of Enforcement
 Motor Carrier Services and Enforcement
 Division
 Bureau of Transportation and Safety

NOTICE

A. You must file an answer within twenty (20) days of the date of service of this complaint. The date of service is the mailing date as indicated at the top of the Secretarial cover letter for this complaint and notice, 52 Pa. Code § 1.56(a). An answer is a written explanation of circumstances wished to be considered in determining the outcome. The answer shall raise all factual and legal arguments that you wish to claim in your defense and must include the reference number of this complaint. Your answer must be verified and the original and three (3) copies sent to:

Rosemary Chiavetta, Secretary
 Pennsylvania Public Utility Commission
 P. O. Box 3265
 Harrisburg, PA 17105-3265

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C. You may elect not to contest this complaint by filing an acceptable tariff and by paying the fine proposed in this Complaint by certified check or money order. The tariff must be filed with the:

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 Pennsylvania Public Utility Commission
 P. O. Box 3265
 Harrisburg, PA 17105-3265

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Rosemary Chiavetta, Secretary
 Pennsylvania Public Utility Commission
 P. O. Box 3265
 Harrisburg, PA 17105-3265

Your payment is an admission that you committed the alleged violation and an agreement to cease and desist from further violations. Upon receipt of an acceptable tariff and payment of the proposed fine, the complaint proceeding shall be closed.

D. If you file an Answer, which admits or fails to deny the allegations of the Complaint, the Bureau of Transportation and Safety will request that the Commission issue a Secretarial Letter imposing a penalty.

E. If you file an Answer which contests the Complaint, the matter will be assigned to an Administrative Law Judge for hearing and decision. The judge is not bound by the optional fine set forth above.

F. If you have questions regarding this Complaint or if you would like an alternative format to this Complaint (for persons with disabilities), please contact the Compliance Office at (717) 787-1227.

*Pennsylvania Public Utility Commission, Bureau of
 Transportation and Safety v. Venture Cab Corp.;*
Doc. No. C-2010-2137678, A-00118808

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 Venture Cab Corp., Respondent, maintains a principal place of business at 641 North Broad Street, Philadelphia, PA 19123.

2. That Respondent was issued a Certificate of Public Convenience by this Commission on June 17, 2002, at A-00118808.

3. That Respondent was advised by letter dated May 10, 2005, that its medallion authority was being transferred to the Philadelphia Parking Authority. At that

time, Respondent was advised that its taxicab service which had an origin and destination outside of the City of Philadelphia remained subject to the regulatory oversight of the PA PUC.

4. That Respondent was advised by letter dated September 11, 2009, that it failed to file a valid tariff with this Commission as required by 52 Pa. Code § 23.11. Respondent was provided 60 days to file an acceptable tariff. To date, Respondent has not filed an acceptable tariff. The Bureau of Transportation and Safety's Motor Carrier Services and Enforcement Prosecutory Staff's proposed civil penalty for this violation is \$250.00.

Wherefore, the Bureau of Transportation and Safety Prosecutory Staff hereby requests that the Commission fine Venture Cab Corp., the sum of two hundred and fifty dollars (\$250.00) for the illegal activity described in the complaint and order such other remedy as the Commission may deem to be appropriate.

Respectfully submitted,

Wendy J. Keezel, Chief of Enforcement
 Motor Carrier Services & Enforcement Division
 Bureau of Transportation and Safety
 P. O. Box 3265
 Harrisburg, PA 17105-3265

VERIFICATION

I, Wendy J. Keezel, Chief of Enforcement for the Motor Carrier Services and Enforcement Division of the Bureau of Transportation and Safety, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect the Bureau will be able to prove the same at any hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: _____

Wendy J. Keezel, Chief of Enforcement
 Motor Carrier Services and Enforcement
 Division
 Bureau of Transportation and Safety

NOTICE

A. You must file an answer within twenty (20) days of the date of service of this complaint. The date of service is the mailing date as indicated at the top of the Secretarial cover letter for this complaint and notice, 52 Pa. Code § 1.56(a). An answer is a written explanation of circumstances wished to be considered in determining the outcome. The answer shall raise all factual and legal arguments that you wish to claim in your defense and must include the reference number of this complaint. Your answer must be verified and the original and three (3) copies sent to:

Rosemary Chiavetta, Secretary
 Pennsylvania Public Utility Commission
 P. O. Box 3265
 Harrisburg, PA 17105-3265

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C. You may elect not to contest this complaint by filing an acceptable tariff and by paying the fine proposed in this Complaint by certified check or money order. The tariff must be filed with the:

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 Harrisburg, PA 17105-3265

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 Pennsylvania Public Utility Commission
 P. O. Box 3265
 Harrisburg, PA 17105-3265

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D. If you file an Answer, which admits or fails to deny the allegations of the Complaint, the Bureau of Transportation and Safety will request that the Commission issue a Secretarial Letter imposing a penalty.

E. If you file an Answer which contests the Complaint, the matter will be assigned to an Administrative Law Judge for hearing and decision. The judge is not bound by the optional fine set forth above.

F. If you have questions regarding this Complaint or if you would like an alternative format to this Complaint (for persons with disabilities), please contact the Compliance Office at (717) 787-1227.

*Pennsylvania Public Utility Commission, Bureau of
 Transportation and Safety v. Raymonde Cab Co.;*
Doc. No. C-2010-2132474, A-00114749

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 Raymonde Cab Co., Respondent, maintains a principal place of business at 1461 McKinley Street, Philadelphia, PA 19149.

2. That Respondent was issued a Certificate of Public Convenience by this Commission on July 10, 1998, at A-00114749.

3. That Respondent was advised by letter dated May 10, 2005, that its medallion authority was being transferred to the Philadelphia Parking Authority. At that time, Respondent was advised that its taxicab service which had an origin and destination outside of the City of Philadelphia remained subject to the regulatory oversight of the PA PUC.

4. That Respondent was advised by letter dated September 11, 2009, that it failed to file a valid tariff with this Commission as required by 52 Pa. Code § 23.11. Respondent was provided 60 days to file an acceptable tariff. To date, Respondent has not filed an acceptable tariff. The Bureau of Transportation and Safety's Motor

Carrier Services and Enforcement Prosecutory Staff's proposed civil penalty for this violation is \$250.00.

Wherefore, the Bureau of Transportation and Safety Prosecutory Staff hereby requests that the Commission fine Raymonde Cab Co., the sum of two hundred and fifty dollars (\$250.00) for the illegal activity described in the complaint and order such other remedy as the Commission may deem to be appropriate.

Respectfully submitted,

Wendy J. Keezel, Chief of Enforcement
 Motor Carrier Services & Enforcement Division
 Bureau of Transportation and Safety
 P. O. Box 3265
 Harrisburg, PA 17105-3265

VERIFICATION

I, Wendy J. Keezel, Chief of Enforcement for the Motor Carrier Services and Enforcement Division of the Bureau of Transportation and Safety, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect the Bureau will be able to prove the same at any hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: _____

Wendy J. Keezel, Chief of Enforcement
 Motor Carrier Services and Enforcement
 Division
 Bureau of Transportation and Safety

NOTICE

A. You must file an answer within twenty (20) days of the date of service of this complaint. The date of service is the mailing date as indicated at the top of the Secretarial cover letter for this complaint and notice, 52 Pa. Code § 1.56(a). An answer is a written explanation of circumstances wished to be considered in determining the outcome. The answer shall raise all factual and legal arguments that you wish to claim in your defense and must include the reference number of this complaint. Your answer must be verified and the original and three (3) copies sent to:

Rosemary Chiavetta, Secretary
 Pennsylvania Public Utility Commission
 P. O. Box 3265
 Harrisburg, PA 17105-3265

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 P. O. Box 3265
 Harrisburg, PA 17105-3265

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Rosemary Chiavetta, Secretary
 Pennsylvania Public Utility Commission
 P. O. Box 3265
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D. If you file an Answer, which admits or fails to deny the allegations of the Complaint, the Bureau of Transportation and Safety will request that the Commission issue a Secretarial Letter imposing a penalty.

E. If you file an Answer which contests the Complaint, the matter will be assigned to an Administrative Law Judge for hearing and decision. The judge is not bound by the optional fine set forth above.

F. If you have questions regarding this Complaint or if you would like an alternative format to this Complaint (for persons with disabilities), please contact the Compliance Office at (717) 787-1227.

*Pennsylvania Public Utility Commission, Bureau of
 Transportation and Safety v. Saas Cab Co.;*
Doc. No. C-2010-2132485, A-00120769

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 Saas Cab Co., Respondent, maintains a principal place of business at 922 Thorton Road, Horsham, PA 19044.

2. That Respondent was issued a Certificate of Public Convenience by this Commission on July 23, 2004, at A-00120769.

3. That Respondent was advised by letter dated May 10, 2005, that its medallion authority was being transferred to the Philadelphia Parking Authority. At that time, Respondent was advised that its taxicab service which had an origin and destination outside of the City of Philadelphia remained subject to the regulatory oversight of the PA PUC.

4. That Respondent was advised by letter dated September 11, 2009, that it failed to file a valid tariff with this Commission as required by 52 Pa. Code § 23.11. Respondent was provided 60 days to file an acceptable tariff. To date, Respondent has not filed an acceptable tariff. The Bureau of Transportation and Safety's Motor Carrier Services and Enforcement Prosecutory Staff's proposed civil penalty for this violation is \$250.00.

Wherefore, the Bureau of Transportation and Safety Prosecutory Staff hereby requests that the Commission fine Saas Cab Co., the sum of two hundred and fifty dollars (\$250.00) for the illegal activity described in the complaint and order such other remedy as the Commission may deem to be appropriate.

Respectfully submitted,

Wendy J. Keezel, Chief of Enforcement
 Motor Carrier Services & Enforcement Division
 Bureau of Transportation and Safety
 P. O. Box 3265
 Harrisburg, PA 17105-3265

VERIFICATION

I, Wendy J. Keezel, Chief of Enforcement for the Motor Carrier Services and Enforcement Division of the Bureau of Transportation and Safety, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect the Bureau will be able to prove the same at any hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: _____
 Wendy J. Keezel, Chief of Enforcement
 Motor Carrier Services and Enforcement
 Division
 Bureau of Transportation and Safety

NOTICE

A. You must file an answer within twenty (20) days of the date of service of this complaint. The date of service is the mailing date as indicated at the top of the Secretarial cover letter for this complaint and notice, 52 Pa. Code § 1.56(a). An answer is a written explanation of circumstances wished to be considered in determining the outcome. The answer shall raise all factual and legal arguments that you wish to claim in your defense and must include the reference number of this complaint. Your answer must be verified and the original and three (3) copies sent to:

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 Pennsylvania Public Utility Commission
 P. O. Box 3265
 Harrisburg, PA 17105-3265

B. If you fail to answer this complaint within twenty (20) days of the date of service, the Bureau of Transportation and Safety will request that the Commission issue a Secretarial Letter imposing a penalty. Each day you continue to violate any regulation, direction, requirement or Order of the Commission is a separate and distinct offense, subject to additional penalties.

C. You may elect not to contest this complaint by filing an acceptable tariff and by paying the fine proposed in this Complaint by certified check or money order. The tariff must be filed with the:

Compliance Office, Bureau of Transportation and Safety
 Pennsylvania Public Utility Commission
 P. O. Box 3265
 Harrisburg, PA 17105-3265

The fine payment must be made to the Commonwealth of Pennsylvania and should be forwarded to:

Rosemary Chiavetta, Secretary
 Pennsylvania Public Utility Commission
 P. O. Box 3265
 Harrisburg, PA 17105-3265

Your payment is an admission that you committed the alleged violation and an agreement to cease and desist from further violations. Upon receipt of an acceptable tariff and payment of the proposed fine, the complaint proceeding shall be closed.

D. If you file an Answer, which admits or fails to deny the allegations of the Complaint, the Bureau of Transportation and Safety will request that the Commission issue a Secretarial Letter imposing a penalty.

E. If you file an Answer which contests the Complaint, the matter will be assigned to an Administrative Law Judge for hearing and decision. The judge is not bound by the optional fine set forth above.

F. If you have questions regarding this Complaint or if you would like an alternative format to this Complaint (for persons with disabilities), please contact the Compliance Office at (717) 787-1227.

*Pennsylvania Public Utility Commission, Bureau of
 Transportation and Safety v. Penntaxi, Inc.;*
Doc. No. C-2010-2135163, A-00118840

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 Penntaxi, Inc., Respondent, maintains a principal place of business at 1405 West Pike Street, Philadelphia, PA 19140.

2. That Respondent was issued a Certificate of Public Convenience by this Commission on August 30, 1996, at A-00118840.

3. That Respondent was advised by letter dated May 10, 2005, that its medallion authority was being transferred to the Philadelphia Parking Authority. At that time, Respondent was advised that its taxicab service which had an origin and destination outside of the City of Philadelphia remained subject to the regulatory oversight of the PA PUC.

4. That Respondent was advised by letter dated September 11, 2009, that it failed to file a valid tariff with this Commission as required by 52 Pa. Code § 23.11. Respondent was provided 60 days to file an acceptable tariff. To date, Respondent has not filed an acceptable tariff. The Bureau of Transportation and Safety's Motor Carrier Services and Enforcement Prosecutory Staff's proposed civil penalty for this violation is \$250.00.

Wherefore, the Bureau of Transportation and Safety Prosecutory Staff hereby requests that the Commission fine Penntaxi, Inc., the sum of two hundred and fifty dollars (\$250.00) for the illegal activity described in the complaint and order such other remedy as the Commission may deem to be appropriate.

Respectfully submitted,

Wendy J. Keezel, Chief of Enforcement
 Motor Carrier Services & Enforcement Division
 Bureau of Transportation and Safety
 P. O. Box 3265
 Harrisburg, PA 17105-3265

VERIFICATION

I, Wendy J. Keezel, Chief of Enforcement for the Motor Carrier Services and Enforcement Division of the Bureau

of Transportation and Safety, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect the Bureau will be able to prove the same at any hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: _____

Wendy J. Keezel, Chief of Enforcement
 Motor Carrier Services and Enforcement
 Division
 Bureau of Transportation and Safety

NOTICE

A. You must file an answer within twenty (20) days of the date of service of this complaint. The date of service is the mailing date as indicated at the top of the Secretarial cover letter for this complaint and notice, 52 Pa. Code § 1.56(a). An answer is a written explanation of circumstances wished to be considered in determining the outcome. The answer shall raise all factual and legal arguments that you wish to claim in your defense and must include the reference number of this complaint. Your answer must be verified and the original and three (3) copies sent to:

Rosemary Chiavetta, Secretary
 Pennsylvania Public Utility Commission
 P. O. Box 3265
 Harrisburg, PA 17105-3265

B. If you fail to answer this complaint within twenty (20) days of the date of service, the Bureau of Transportation and Safety will request that the Commission issue a Secretarial Letter imposing a penalty. Each day you continue to violate any regulation, direction, requirement or Order of the Commission is a separate and distinct offense, subject to additional penalties.

C. You may elect not to contest this complaint by filing an acceptable tariff and by paying the fine proposed in this Complaint by certified check or money order. The tariff must be filed with the:

Compliance Office, Bureau of Transportation and Safety
 Pennsylvania Public Utility Commission
 P. O. Box 3265
 Harrisburg, PA 17105-3265

The fine payment must be made to the Commonwealth of Pennsylvania and should be forwarded to:

Rosemary Chiavetta, Secretary
 Pennsylvania Public Utility Commission
 P. O. Box 3265
 Harrisburg, PA 17105-3265

Your payment is an admission that you committed the alleged violation and an agreement to cease and desist from further violations. Upon receipt of an acceptable tariff and payment of the proposed fine, the complaint proceeding shall be closed.

D. If you file an Answer, which admits or fails to deny the allegations of the Complaint, the Bureau of Transportation and Safety will request that the Commission issue a Secretarial Letter imposing a penalty.

E. If you file an Answer which contests the Complaint, the matter will be assigned to an Administrative Law Judge for hearing and decision. The judge is not bound by the optional fine set forth above.

F. If you have questions regarding this Complaint or if you would like an alternative format to this Complaint (for persons with disabilities), please contact the Compliance Office at (717) 787-1227.

*Pennsylvania Public Utility Commission, Bureau of
 Transportation and Safety v. Jeiby & Vallery, Inc.;*
Doc. No. C-2010-2135172, A-00117602

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 Jeiby & Vallery, Inc., Respondent, maintains a principal place of business at 5160 Whitaker Avenue, Philadelphia, PA 19124.

2. That Respondent was issued a Certificate of Public Convenience by this Commission on May 8, 2001, at A-00117602.

3. That Respondent was advised by letter dated May 10, 2005, that its medallion authority was being transferred to the Philadelphia Parking Authority. At that time, Respondent was advised that its taxicab service which had an origin and destination outside of the City of Philadelphia remained subject to the regulatory oversight of the PA PUC.

4. That Respondent was advised by letter dated September 11, 2009, that it failed to file a valid tariff with this Commission as required by 52 Pa. Code § 23.11. Respondent was provided 60 days to file an acceptable tariff. To date, Respondent has not filed an acceptable tariff. The Bureau of Transportation and Safety's Motor Carrier Services and Enforcement Prosecutory Staff's proposed civil penalty for this violation is \$250.00.

Wherefore, the Bureau of Transportation and Safety Prosecutory Staff hereby requests that the Commission fine Jeiby & Vallery, Inc., the sum of two hundred and fifty dollars (\$250.00) for the illegal activity described in the complaint and order such other remedy as the Commission may deem to be appropriate.

Respectfully submitted,

Wendy J. Keezel, Chief of Enforcement
 Motor Carrier Services & Enforcement Division
 Bureau of Transportation and Safety
 P. O. Box 3265
 Harrisburg, PA 17105-3265

VERIFICATION

I, Wendy J. Keezel, Chief of Enforcement for the Motor Carrier Services and Enforcement Division of the Bureau of Transportation and Safety, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect the Bureau will be able to prove the same at any hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: _____

Wendy J. Keezel, Chief of Enforcement
 Motor Carrier Services and Enforcement
 Division
 Bureau of Transportation and Safety

NOTICE

A. You must file an answer within twenty (20) days of the date of service of this complaint. The date of service is the mailing date as indicated at the top of the Secretarial cover letter for this complaint and notice, 52 Pa. Code § 1.56(a). An answer is a written explanation of circumstances wished to be considered in determining the outcome. The answer shall raise all factual and legal arguments that you wish to claim in your defense and must include the reference number of this complaint. Your answer must be verified and the original and three (3) copies sent to:

Rosemary Chiavetta, Secretary
 Pennsylvania Public Utility Commission
 P. O. Box 3265
 Harrisburg, PA 17105-3265

B. If you fail to answer this complaint within twenty (20) days of the date of service, the Bureau of Transportation and Safety will request that the Commission issue a Secretarial Letter imposing a penalty. Each day you continue to violate any regulation, direction, requirement or Order of the Commission is a separate and distinct offense, subject to additional penalties.

C. You may elect not to contest this complaint by filing an acceptable tariff and by paying the fine proposed in this Complaint by certified check or money order. The tariff must be filed with the:

Compliance Office, Bureau of Transportation and Safety
 Pennsylvania Public Utility Commission
 P. O. Box 3265
 Harrisburg, PA 17105-3265

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Rosemary Chiavetta, Secretary
 Pennsylvania Public Utility Commission
 P. O. Box 3265
 Harrisburg, PA 17105-3265

Your payment is an admission that you committed the alleged violation and an agreement to cease and desist from further violations. Upon receipt of an acceptable tariff and payment of the proposed fine, the complaint proceeding shall be closed.

D. If you file an Answer, which admits or fails to deny the allegations of the Complaint, the Bureau of Transportation and Safety will request that the Commission issue a Secretarial Letter imposing a penalty.

E. If you file an Answer which contests the Complaint, the matter will be assigned to an Administrative Law Judge for hearing and decision. The judge is not bound by the optional fine set forth above.

F. If you have questions regarding this Complaint or if you would like an alternative format to this Complaint (for persons with disabilities), please contact the Compliance Office at (717) 787-1227.

*Pennsylvania Public Utility Commission, Bureau of
Transportation and Safety v. Mehat Corp.;*
Doc. No. C-2010-2135191, A-00121274

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 Mehat Corp., Respondent, maintains a principal place of business at 130 Chatham Road, Upper Darby, PA 19082.

2. That Respondent was issued a Certificate of Public Convenience by this Commission on February 11, 2005, at A-00121274.

3. That Respondent was advised by letter dated May 10, 2005, that its medallion authority was being transferred to the Philadelphia Parking Authority. At that time, Respondent was advised that its taxicab service which had an origin and destination outside of the City of Philadelphia remained subject to the regulatory oversight of the PA PUC.

4. That Respondent was advised by letter dated September 4, 2009, that it failed to file a valid tariff with this Commission as required by 52 Pa. Code § 23.11. Respondent was provided 60 days to file an acceptable tariff. To date, Respondent has not filed an acceptable tariff. The 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 Mehat Corp., the sum of two hundred and fifty dollars (\$250.00) for the illegal activity described in the complaint and order such other remedy as the Commission may deem to be appropriate.

Respectfully submitted,

Wendy J. Keezel, Chief of Enforcement
Motor Carrier Services & Enforcement Division
Bureau of Transportation and Safety
P. O. Box 3265
Harrisburg, PA 17105-3265

VERIFICATION

I, Wendy J. Keezel, Chief of Enforcement for the Motor Carrier Services and Enforcement Division of the Bureau of Transportation and Safety, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect the Bureau will be able to prove the same at any hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: _____

Wendy J. Keezel, Chief of Enforcement
Motor Carrier Services and Enforcement
Division
Bureau of Transportation and Safety

NOTICE

A. You must file an answer within twenty (20) days of the date of service of this complaint. The date of service is the mailing date as indicated at the top of the Secretarial cover letter for this complaint and notice, 52 Pa. Code § 1.56(a). An answer is a written explanation of circumstances wished to be considered in determining the outcome. The answer shall raise all factual and legal arguments that you wish to claim in your defense and must include the reference number of this complaint. Your answer must be verified and the original and three (3) copies sent to:

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
P. O. Box 3265
Harrisburg, PA 17105-3265

B. If you fail to answer this complaint within twenty (20) days of the date of service, the Bureau of Transportation and Safety will request that the Commission issue a Secretarial Letter imposing a penalty. Each day you continue to violate any regulation, direction, requirement or Order of the Commission is a separate and distinct offense, subject to additional penalties.

C. You may elect not to contest this complaint by filing an acceptable tariff and by paying the fine proposed in this Complaint by certified check or money order. The tariff must be filed with the:

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Pennsylvania Public Utility Commission
P. O. Box 3265
Harrisburg, PA 17105-3265

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Rosemary Chiavetta, Secretary
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P. O. Box 3265
Harrisburg, PA 17105-3265

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D. If you file an Answer, which admits or fails to deny the allegations of the Complaint, the Bureau of Transportation and Safety will request that the Commission issue a Secretarial Letter imposing a penalty.

E. If you file an Answer which contests the Complaint, the matter will be assigned to an Administrative Law Judge for hearing and decision. The judge is not bound by the optional fine set forth above.

F. If you have questions regarding this Complaint or if you would like an alternative format to this Complaint (for persons with disabilities), please contact the Compliance Office at (717) 787-1227.

*Pennsylvania Public Utility Commission, Bureau of
Transportation and Safety v. R.N.A. Cab Co.;*
Doc. No. C-2010-2132471, A-00115069

COMPLAINT

The Pennsylvania Public Utility Commission (Commission) is a duly constituted agency of the Commonwealth of Pennsylvania empowered to regulate public utilities within the Commonwealth. The Commission has del-

egated its authority to initiate proceedings, which are prosecutory in nature to the Bureau of Transportation and Safety and other bureaus with enforcement responsibilities. Pursuant to that delegated authority and Section 701 of the Public Utility Code, the Bureau of Transportation and Safety Prosecutory Staff hereby represents as follows:

1. That R.N.A. Cab Co., Respondent, maintains a principal place of business at 6300 Newtown Avenue, Philadelphia, PA 19111-5609.

2. That Respondent was issued a Certificate of Public Convenience by this Commission on September 23, 1998, at A-00115069.

3. That Respondent was advised by letter dated May 10, 2005, that its medallion authority was being transferred to the Philadelphia Parking Authority. At that time, Respondent was advised that its taxicab service which had an origin and destination outside of the City of Philadelphia remained subject to the regulatory oversight of the PA PUC.

4. That Respondent was advised by letter dated September 11, 2009, that it failed to file a valid tariff with this Commission as required by 52 Pa. Code § 23.11. Respondent was provided 60 days to file an acceptable tariff. To date, Respondent has not filed an acceptable tariff. The Bureau of Transportation and Safety's Motor Carrier Services and Enforcement Prosecutory Staff's proposed civil penalty for this violation is \$250.00.

Wherefore, the Bureau of Transportation and Safety Prosecutory Staff hereby requests that the Commission fine R.N.A. Cab Co., the sum of two hundred and fifty dollars (\$250.00) for the illegal activity described in the complaint and order such other remedy as the Commission may deem to be appropriate.

Respectfully submitted,

Wendy J. Keezel, Chief of Enforcement
Motor Carrier Services & Enforcement Division
Bureau of Transportation and Safety
P. O. Box 3265
Harrisburg, PA 17105-3265

VERIFICATION

I, Wendy J. Keezel, Chief of Enforcement for the Motor Carrier Services and Enforcement Division of the Bureau of Transportation and Safety, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect the Bureau will be able to prove the same at any hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: _____

Wendy J. Keezel, Chief of Enforcement
Motor Carrier Services and Enforcement
Division
Bureau of Transportation and Safety

NOTICE

A. You must file an answer within twenty (20) days of the date of service of this complaint. The date of service is the mailing date as indicated at the top of the Secretarial cover letter for this complaint and notice, 52 Pa. Code § 1.56(a). An answer is a written explanation of circumstances wished to be considered in determining the outcome. The answer shall raise all factual and legal arguments that you wish to claim in your defense and

must include the reference number of this complaint. Your answer must be verified and the original and three (3) copies sent to:

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
P. O. Box 3265
Harrisburg, PA 17105-3265

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Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
P. O. Box 3265
Harrisburg, PA 17105-3265

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F. If you have questions regarding this Complaint or if you would like an alternative format to this Complaint (for persons with disabilities), please contact the Compliance Office at (717) 787-1227.

ROSEMARY CHIAVETTA,
Secretary

[Pa.B. Doc. No. 10-2030. Filed for public inspection October 22, 2010, 9:00 a.m.]

Telecommunications

A-2010-2203591. Verizon North Retain Co. and Dynalink Communications, Inc. Joint petition of Verizon North Retain Co. and Dynalink Communications, Inc. for approval of an interconnection agreement under section 252 of the Telecommunications Act of 1996.

Verizon North Retain Co. and Dynalink Communications, Inc., by its counsel, filed on October 7, 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 Verizon North Retain Co. and Dynalink Communications, 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. 10-2031. Filed for public inspection October 22, 2010, 9:00 a.m.]

Telecommunications Services

A-2010-2203953, A-2010-2203954, A-2010-2203955 and A-2010-2203957. Bandwidth.com CLEC, LLC. Application of Bandwidth.com CLEC, LLC for approval to offer, render, furnish or supply telecommunications services to the public as a competitive local exchange carrier in the service territories of Frontier Communications Commonwealth Telephone Company; Consolidated Communications of Pennsylvania Company; The United Telephone Company of Pennsylvania, LLC, d/b/a CenturyLink; and Windstream Pennsylvania, LLC.

Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). Filings must be made with the Secretary of the Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant, on or before November 8, 2010. The documents filed in support of the application are available for inspection and copying at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday, on the Pennsylvania Public Utility Commission's web site at www.puc.state.pa.us, and at the applicant's business address.

Applicant: Bandwidth.com CLEC, LLC

Through and By Counsel: Chris Matton, General Counsel, Bandwidth.com CLEC, LLC, 4001 Weston Parkway, Cary, NC 27513

ROSEMARY CHIAVETTA,
Secretary

[Pa.B. Doc. No. 10-2032. Filed for public inspection October 22, 2010, 9:00 a.m.]

Telecommunications Services

A-2010-2203065. Dynalink Communications, Inc. Application of Dynalink Communications, Inc. for approval to offer, render, furnish or supply telecommunications services to the public as a competitive local ex-

change carrier in the service territory of The United Telephone Company of Pennsylvania, LLC, d/b/a CenturyLink.

Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). Filings must be made with the Secretary of the Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant, on or before November 8, 2010. The documents filed in support of the application are available for inspection and copying at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday, on the Pennsylvania Public Utility Commission's web site at www.puc.state.pa.us, and at the applicant's business address.

Applicant: Dynalink Communications, Inc.

Through and By Counsel: Lance J.M. Steinhart, Esq., Angela Janssen, Legal Assistant, Lance J.M. Steinhart PC, 1720 Windward Concourse, Suite 115, Alpharetta, GA 30005, (770) 232-9200, fax: (770) 232-9208, lsteinhart@telecomcounsel.com, ajanssen@telecomcounsel.com

ROSEMARY CHIAVETTA,
Secretary

[Pa.B. Doc. No. 10-2033. Filed for public inspection October 22, 2010, 9:00 a.m.]

PHILADELPHIA REGIONAL PORT AUTHORITY

Request for Bids

The Philadelphia Regional Port Authority will accept sealed bids for Project No. 10-127.1, Landside Infrastructure Repairs, Packer Avenue Marine Terminal (PAMT), until 2 p.m. on Thursday, November 18, 2010. All information concerning this project can be obtained from their web site www.philaport.com under Procurement, or call the Procurement Department at (215) 426-2600.

JAMES T. MCDERMOTT, Jr.,
Executive Director

[Pa.B. Doc. No. 10-2034. Filed for public inspection October 22, 2010, 9:00 a.m.]

Request for Bids

The Philadelphia Regional Port Authority will accept sealed bids for Project No. 10-128.1, Waterside Infrastructure Repairs, Packer Avenue Marine Terminal (PAMT), until 3 p.m. on Thursday, November 18, 2010. All information concerning this project can be obtained from their web site www.philaport.com under Procurement, or call the Procurement Department at (215) 426-2600.

JAMES T. MCDERMOTT, Jr.,
Executive Director

[Pa.B. Doc. No. 10-2035. Filed for public inspection October 22, 2010, 9:00 a.m.]

