

# PENNSYLVANIA BULLETIN

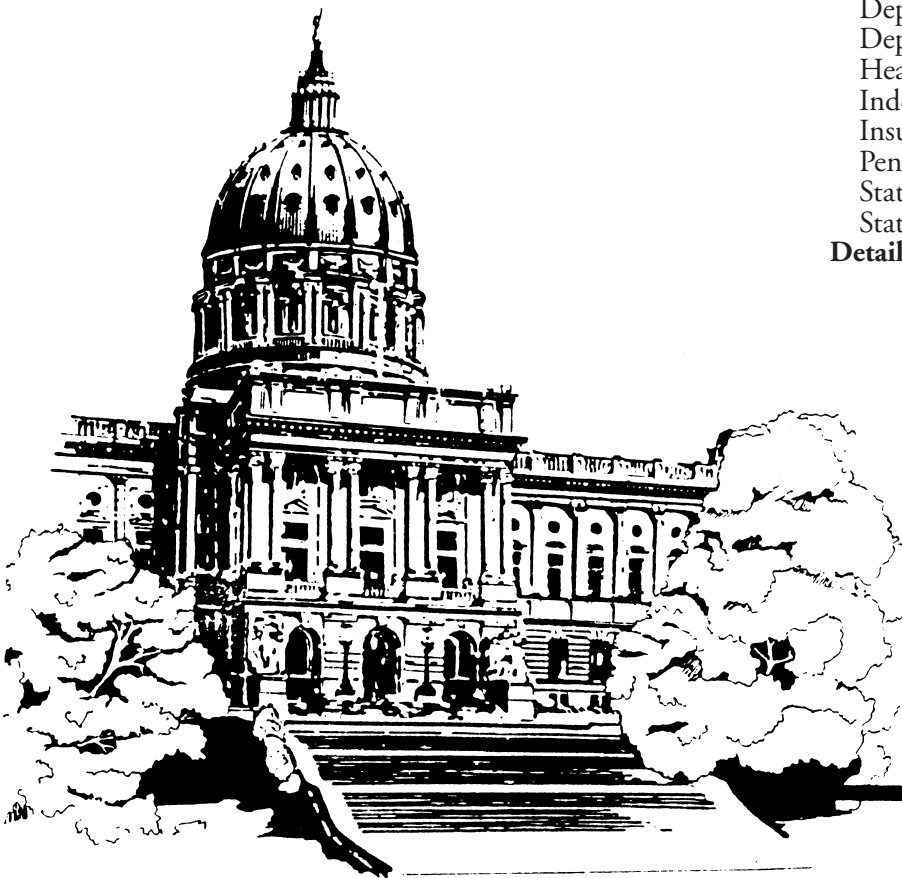
Volume 41  
Saturday, January 1, 2011 • Harrisburg, PA  
Number 1  
Pages 1—206

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for the Subject Index for  
January—December 2010

## Part I

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

**No. 434, January 2011**

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**BULLETIN**

(ISSN 0162-2137)

published weekly by Fry Communications, Inc. for the Commonwealth of Pennsylvania, Legislative Reference Bureau, 641 Main Capitol Building, Harrisburg, Pa. 17120, under the policy supervision and direction of the Joint Committee on Documents pursuant to Part II of Title 45 of the Pennsylvania Consolidated Statutes (relating to publication and effectiveness of Commonwealth Documents). Subscription rate \$82.00 per year, postpaid to points in the United States. Individual copies \$2.50. Checks for subscriptions and individual copies should be made payable to "*Fry Communications, Inc.*" Periodicals postage paid at Harrisburg, Pennsylvania.

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

## *Pennsylvania Bulletin*

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

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

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

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

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

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

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

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

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

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

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

### ***Pennsylvania Code***

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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*.

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

### Fiscal Notes

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

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

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## List of Pa. Code Chapters Affected

The following numerical guide is a list of the chapters of each title of the *Pennsylvania Code* affected by documents published in the *Pennsylvania Bulletin* during 2011.

<b>49 Pa. Code (Professional and Vocational Standards)</b>	<b>231 Pa. Code (Rules of Civil Procedure)</b>
<b>Adopted Rules</b>	<b>Adopted Rules</b>
20 ..... 16	200 ..... 7
<b>52 Pa. Code (Public Utilities)</b>	<b>237 Pa. Code (Juvenile Rules)</b>
<b>Adopted Rules</b>	<b>Proposed Rules</b>
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# THE COURTS

## Title 231—RULES OF CIVIL PROCEDURE

### PART I. GENERAL

[ 231 PA. CODE CH. 200 ]

#### Amendment of Comment to Rule 237.3 of the Rules of Civil Procedure; No. 537 Civil Procedural Rules Doc.

##### Order

*Per Curiam*

*And Now*, this 2nd day of December, 2010, upon the recommendation of the Civil Procedural Rules Committee; the proposal having been submitted without publication pursuant to Pa.R.J.A. No. 103(a)(3):

*It Is Ordered* pursuant to Article V, Section 10 of the Constitution of Pennsylvania that the explanatory comment to Rule 237.3 is amended in the following form.

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

##### Annex A

#### TITLE 231. RULES OF CIVIL PROCEDURE

### PART I. GENERAL

#### CHAPTER 200. BUSINESS OF COURTS

*(Editor's Note: Explanatory Comment—1994 was not codified when adopted at 24 Pa.B. 6259. The full text was published and amended at 31 Pa.B. 627 (February 3, 2001).)*

#### Rule 237.3. Relief from Judgment of Non Pros or by Default.

\* \* \* \* \*

##### Explanatory Comment—1994

*Rule 237.3. Relief from Judgment of Non Pros or by Default.*

Rule 237.3 governs relief from a judgment by default or non pros. Subdivision (a) requires that a verified copy of the complaint or answer sought to be filed be attached to the petition for relief from the judgment. This enables the court to determine from the actual complaint or answer to be filed whether it alleges a meritorious cause of action or defense.

Subdivision (b) eases the burden of a party against whom judgment has been entered and who moves promptly for relief from that judgment. If the petitioner files a petition for relief from the judgment within ten days after entry of the judgment on the docket, the rule requires the court to open the judgment if the proposed complaint or answer states a meritorious cause of action or defense. The rule provides a date certain from which to measure the ten-day period and the language establishing the beginning of that period is derived from Rule 1308 governing appeals in compulsory arbitration.

Case law has imposed three requirements for opening a judgment by default: a petition timely filed, a reasonable explanation or legitimate excuse for the inactivity or delay and a showing of a meritorious defense. Rule of Civil Procedure 3051 similarly states these three requi-

sites for opening a judgment of non pros, substituting the showing of a meritorious cause of action rather than a meritorious defense. Rule 237.3(b) presumes that a petition filed within the required ten-day period is both timely and with reasonable explanation or legitimate excuse for the inactivity or delay. In this context, subdivision (b) requires that the judgment be opened if the petitioner attaches to the petition a verified complaint or answer which states a meritorious cause of action or defense. A note to the rule cautions that the rule is not intended to change the law relating to the opening of judgments in any way or to impose a new standard of timeliness in cases outside the limited circumstances set forth in the rule.

##### Illustrations

In illustrations 1 through 3, the defendant has failed to plead within the required time to a complaint containing a notice to plead.

1. Prior to receiving a notice of intention to enter a default judgment, defendant seeks an agreement with the plaintiff for an extension of time in which to plead. The parties may certainly agree to an extension of time and proceed in accordance with their agreement. However, such an agreement is really unnecessary since the plaintiff cannot enter judgment without giving the ten-day notice required by the rule and the ten-day notice cannot be waived. Defendant may plead within the time up to **[ receiving ] the date of mailing or delivery of the notice plus ten days.** This period of time may be more than might be provided by any agreement. In addition, there is no danger of a judgment being entered as the required notice has not been given.

2. Defendant has received the ten-day notice but cannot file the pleading within the ten-day period. Now, as provided by Rule 237.2, it is appropriate to seek an agreement to extend the time in which to plead since the plaintiff has given the notice which is prerequisite to the entry of judgment and actual entry of the judgment is imminent.

3. Defendant has received the ten-day notice and obtained an agreement extending the time to plead. However, defendant does not plead within the agreed time. Plaintiff may enter judgment by default without further notice as provided by Rule 237.2 and the form of agreement set forth in Rule 237.6.

In illustrations 4 through 6, the plaintiff has entered a valid judgment by default against the defendant and the prothonotary has entered the judgment in the docket and noted the date thereof. Thereafter, the defendant files a petition to open the judgment.

4. The defendant files the petition to open the judgment within ten days of the date on which the prothonotary entered the judgment on the docket and seeks leave to file the answer attached to the petition. The defendant is entitled to the benefit of Rule 237.3(b) by timely filing the petition and attaching an answer. Rule 237.3(b) requires the court to open the judgment upon the defendant demonstrating to the court that the filing of the petition was within the ten-day period and that the answer attached to the petition states a meritorious defense.

5. The defendant files the petition to open the judgment within ten days of the date on which the prothonotary enters the judgment on the docket and seeks leave to

file the preliminary objections attached to the petition. The defendant is not entitled to the benefit of Rule 237.3(b) because, although the petition is timely filed, the rule does not provide for preliminary objections to be attached to the petition. A defendant who wishes to file preliminary objections upon the opening of a judgment must proceed pursuant to case law and meet the standards set forth in *Schultz v. Erie Insurance Exchange*, 505 Pa. 90, 477 A.2d 471 (1984), cited in the note to the rule.

6. The defendant files a petition to open the judgment more than ten days after the date of entry of the judgment on the docket. The petition to open is not within the scope of Rule 237.3(b) which requires that the petition be "filed within ten days after the entry of the judgment on the docket". The defendant must proceed pursuant to case law and meet the standards of *Schultz v. Erie Insurance Exchange*, 505 Pa. 90, 477 A.2d 471 (1984).

Although these illustrations use the example of the entry of a judgment by default and a petition to open the judgment, they are adaptable and thus equally applicable to the entry of a judgment of non pros for failure to file a complaint and a petition to open such a judgment.

**Explanatory Comment**

The 1994 Explanatory Comment to Rule 237.3 provides several illustrations of the application of the rule. A discrepancy exists between Illustration 1 and Rule 237.1(a)(2)(ii) governing notice of praecipe to enter judgment of non pros or by default. The 1994 Explanatory Comment provides that the defendant may plead within the time of receiving the notice of praecipe plus ten days. Rule 237.1(a)(2)(ii) states that the ten-day period shall be calculated forward from the date of the mailing or delivery of the notice. The 1994 Explanatory Comment has been amended to conform with the text of Rule 237.1(a)(2)(ii).

*By the Civil Procedural Rules Committee*

ROBERT C. DANIELS,  
*Chair*

[Pa.B. Doc. No. 11-1. Filed for public inspection December 30, 2010, 9:00 a.m.]

**Title 237—JUVENILE RULES**

**PART I. RULES**

[ 237 PA. CODE CHS. 1, 8, 11, 12 AND 18 ]

**Proposed Rule 195 and Proposed Amendments to Rules 120, 800, 1120, 1202 and 1800**

The Juvenile Court Procedural Rules Committee is planning to recommend to the Supreme Court of Pennsylvania that the modification of Rules 120, 800, 1120, 1202, 1800 and new Rule 195 be adopted and prescribed. These proposed modifications set forth the procedures regarding the authority, duties, and training of juvenile probation officers.

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

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

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

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

All comments shall be received no later than Friday, February 11, 2011.

*By the Juvenile Court  
Procedural Rules Committee*

CYNTHIA K. STOLTZ, Esq.,  
*Chair*

**Annex A**

**TITLE 237. JUVENILE RULES**

**PART I. RULES**

**Subpart A. DELINQUENCY MATTERS**

**CHAPTER 1. GENERAL PROVISIONS**

**PART A. BUSINESS OF COURTS**

**Rule 120. Definitions.**

\* \* \* \* \*

**JUVENILE PROBATION OFFICER is a person who has been appointed by the court or employed by a county's juvenile probation office, who is properly commissioned by being sworn in as an officer of the court to exercise the powers and duties set forth in Rule 195 and the Juvenile Act.**

\* \* \* \* \*

**Comment**

\* \* \* \* \*

The term "disposition" includes all final determinations made by the court. A disposition includes a response to an adjudication of delinquency, such as sending the juvenile to a placement facility or placing the juvenile on probation. It also includes other types of final determinations made by the court. Other final determinations include a finding that the juvenile did not commit a delinquent act pursuant to Rule 408(B), a finding that the juvenile is not in need of treatment, rehabilitation, or supervision pursuant to Rule 409(A)(1), dismissing the case "with prejudice" prior to an adjudicatory hearing, or any other final action by the court that closes or terminates the case.

**A "juvenile probation officer" is an officer of the court. "Properly commissioned" as used in the definition of a juvenile probation officer includes the swearing in under oath or affirmation and receipt of a document, certificate, or order of the court memorializing the authority conferred upon the juvenile probation officer by the court. In addition,**



the powers granted by the commission are to be specified by the President Judge of each judicial district.

The President Judge may enact a local rule specifying the authority granted by the commission or that specifically lists the authority granted to specific juvenile probation officers or class of juvenile probation officers. For example, a supervisory juvenile probation officer may have more authority than a new juvenile probation officer, or a juvenile probation officer who has completed specific training may have more authority than officers who have not received training.

As a part of the authority conferred upon the juvenile probation officer, the President Judge of each judicial district or his or her designee may authorize the juvenile probation officer to be a duly authorized officer to take not only delinquent children into custody but perform any other functions designated by court order. This may include taking a child, juvenile, or minor into custody pursuant to a bench warrant or protective custody order, or there are reasonable grounds to believe that the child, juvenile, or minor: 1) is suffering from an illness or injury, or is in imminent danger from his or her surroundings, necessitating removal; or 2) has run away from his parents, guardian, or other custodian. See 42 Pa.C.S. §§ 6304(a) and 6324 for authority of a duly authorized officer.

Pursuant to Rule 800, 42 Pa.C.S. § 6324 is suspended only insofar as it is inconsistent with this rule, which authorizes the President Judge of each judicial district to designate whether a juvenile probation officer is a duly authorized officer of the court.

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

\* \* \* \* \*

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

*Committee Explanatory Reports:*

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

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

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

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

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

**Final Report explaining the amendments to Rule 120 published with the Court’s Order at 41 Pa.B. 8 (January 1, 2011).**

**PART (D)(2). JUVENILE PROBATION OFFICERS**

195. Authority, Duties, and Training of Juvenile Probation Officer.

(Editor’s Note: The following rule is new and printed in regular type to enhance readability.)

**Rule 195. Authority, Duties, and Training of Juvenile Probation Officer.**

A. *Authority of Juvenile Probation Officer.* A juvenile probation officer shall have the authority to:

- 1) take children, juveniles, and minors into custody pursuant to the following:
  - a) the Juvenile Act, 42 Pa.C.S. §§ 6304 and 6324;
  - b) the Child Protective Services Law (CPSL), 23 Pa.C.S. § 6301 *et seq.*;
  - c) a bench warrant as set forth in Rules 140, 141, and 1140; or
  - d) an order by the President Judge of each judicial district or his or her designee granting the juvenile probation officer the authority of a duly authorized officer;

- 2) supervise and assist a juvenile placed on probation or a child under the court’s protective supervision or care; and

- 3) perform any other functions as designated by the court.

B. *Duties of Juvenile Probation Officer.* Subject to any limitations imposed by the court, a juvenile probation officer shall:

- 1) receive and examine written allegations unless the District Attorney has elected to receive and approve all written allegations pursuant to Rule 231(B);

- 2) make appropriate referrals for informal adjustment, consent decree, or other diversionary programs;

- 3) file petitions if diversionary programs are not appropriate unless the District Attorney has elected to file all petitions pursuant to Rule 330(A);

- 4) make investigations, reports, including social studies pursuant to Rule 513, and recommendations to the court;

- 5) make appropriate referrals to private and public agencies, psychological or psychiatric providers, drug and alcohol facilities or programs, or any other necessary treatments or programs;

- 6) communicate to the court and parties, and facilitate any special needs, including health and education, of the juvenile;

- 7) supervise and assist a juvenile on probation;

- 8) take into custody any children, juveniles, or minors pursuant to paragraph (A)(1); and

- 9) regularly oversee and visit juveniles in placement facilities.

C. *Training.* No later than one year after being appointed or employed, a juvenile probation officer shall be trained on:

- 1) the Juvenile Act;
- 2) the Pennsylvania Rules of Juvenile Court Procedure;
- 3) the Child Protective Services Law (CPSL); and
- 4) any local procedures.

**Comment**

Pursuant to paragraph (A)(1), a juvenile probation officer has the authority to take children, juveniles, and minors into custody pursuant to the CPSL, the Juvenile Act, a bench warrant, or an order of the President Judge of each judicial district or his or her designee. 23 Pa.C.S. § 6301 *et seq.* and 42 Pa.C.S. § 6301 *et seq.*

When a juvenile is under the court’s supervision, the juvenile probation officer may take a juvenile into custody pursuant to the Juvenile Act, 42 Pa.C.S. §§ 6304(a)(5) and 6324(2) and (5), and bench warrants as set forth in Rules 140, 141, and 1140.

When a child, juvenile, or minor is not under the court’s supervision, the juvenile probation officer may act as a duly authorized officer and take a child, juvenile, or minor into custody pursuant to the Child Protective Services Law (CPSL), 23 Pa.C.S. § 6315 and the Juvenile Act, 42 Pa.C.S. §§ 6304 (a)(3) and 6324(1), (3), & (4).

The President Judge or his or her designee may limit the authority of a juvenile probation officer. The President Judge should consider the education, training, and experience of the juvenile probation officer before granting the juvenile probation officer the authority of a duly authorized officer of the court. The juvenile probation officer should be able to exercise discretion when encountering an emergent situation and should be able to take a child into protective custody. For example, the juvenile probation officer may visit a juvenile on probation and encounter a situation when the juvenile or the juvenile’s siblings are in imminent danger or are victims of abuse. The juvenile probation officer should be able to take custody of the siblings, in addition to the juvenile on probation, and immediately notify the county agency.

In these situations, it would be the juvenile probation officer’s duty to protect the child, juvenile, or minor and remove him or her safely. The juvenile probation officer has authority over a juvenile but may bring a child or minor to the county agency for supervision pending a court order that is to be issued immediately. The juvenile probation officer’s duty is enforcement and removal, whereas the county agency’s duty is to supervise and identify an appropriate placement for a child or minor. *See* Rule 1202 and its Comment.

The juvenile probation officer may also assist or supervise a child in the court’s protective supervision or care.

Pursuant to paragraph (A)(3), a juvenile probation officer may perform any other function designated by the court or his or her designee to carry out the purposes of the Juvenile Act.

Pursuant to paragraph (B)(1), the juvenile probation officer is to receive written allegations from local law enforcement agencies to determine if a case may proceed to juvenile court. However, pursuant to Rule 231(B), the District Attorney of any county may require initial receipt and approval of written allegations before a delinquency proceeding may be commenced. *See* Rule 231(B).

Pursuant to paragraph (B)(4) and (5), the juvenile probation officer is to prepare reports compiling the juvenile’s information for the court and make the necessary referrals to programs supported by a need revealed during the investigation.

Pursuant to paragraph (B)(6), the juvenile probation officer is to communicate the information to all parties before approaching the court. *See* Rule 136 for *ex parte* communication.

Pursuant to paragraph (B)(9), the juvenile probation officer, when acting as a duly authorized officer, may take any child, juvenile, or minor into protective custody, including juveniles not currently on probation, if there is reasonable cause to believe that the child, juvenile, or minor is suffering from illness or injury or is in imminent danger. If the danger does not stem from delinquency charges, the juvenile probation officer is to immediately contact the county agency. For protective custody, *see* discussion *supra*, Rule 1210, and 42 Pa.C.S. § 6304.

Pursuant to paragraph (B)(10), the juvenile probation officer is to oversee all juveniles ordered to placement facilities. The juvenile probation officer should visit the placement facilities at least twice a year to determine if: 1) the juvenile is receiving the appropriate treatment; and 2) the facility is meeting the needs of the child. The juvenile probation officer is to report any irregularities or controversies to the court and all parties as soon as they are made known to the juvenile probation officer.

Pursuant to paragraph (C), the juvenile probation officer is to be trained in the Juvenile Act, the Pennsylvania Rules of Juvenile Court Procedure, the CPSL, and any local procedures. The training is to occur within one year of the juvenile probation officer’s appointment or employment. It is best practice for juvenile probation officers to receive training within the first ninety days of employment; however, training programs are offered periodically. It is also best practice that juvenile probation officers receive specialized training and educational updates on a continuing basis.

Specialized training for juvenile probation officers should include delinquency and dependency procedures and areas that address their duties as officers of the court.

**Official Note:** Rule 195 adopted , effective

*Committee Explanatory Reports:*

**Final Report explaining the provisions of Rule 195 published with the Court’s Order at 41 Pa.B. 8 (January 1, 2011).**

**CHAPTER 8. SUSPENSIONS**

**Rule 800. Suspensions of Acts of Assembly.**

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

\* \* \* \* \*

7) **The Act of July 9, 1976, P. L. 586, No. 142, § 2, 42 Pa.C.S. § 6324, which authorizes law enforcement officers to take a child into custody, is suspended only insofar as the Act is inconsistent with Rule 195, which provides that juvenile probation officers may take a child into custody when duly authorized by the President Judge or his or her designee of the officer’s judicial district.**

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

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

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

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

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

[ 12 ] 13) The Act of July 9, 1976, P. L. 586, No. 142, § 2, 42 Pa.C.S. § 6323(a)(2), which provides that a delinquent child may be referred for an informal adjustment by a juvenile probation officer, is suspended only insofar as the Act is inconsistent with Rule 312, which provides that only an alleged delinquent child may be referred for an informal adjustment because the filing of informal adjustment shall occur prior to the filing of a petition.

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

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

[ 15 ] 16) The Act of July 9, 1976, P. L. 586, No. 142, § 2, 42 Pa.C.S. § 6335, which provides for a hearing within ten days of the juvenile's detention unless the exceptions of (a)(1) & (2) or (f) are met, is suspended only insofar as the Act is inconsistent with Rule 391, which

provides for an additional ten days of detention if a notice of intent for transfer to criminal proceedings has been filed.

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

**Comment**

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

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

*Committee Explanatory Reports:*

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

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

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

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

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

**Final Report explaining the amendments to Rule 800 published with the Court's Order at 41 Pa.B. 8 (January 1, 2011).**

**Subpart B. DEPENDENCY MATTERS  
CHAPTER 11. GENERAL PROVISIONS  
PART A. BUSINESS OF COURTS**

**Rule 1120. Definitions.**

\* \* \* \* \*

**JUVENILE PROBATION OFFICER** is a person who has been appointed by the court or employed by a county's juvenile probation office, who is properly commissioned by being sworn in as an officer of the court to exercise the powers and duties set forth in Rule 195 and the Juvenile Act.

\* \* \* \* \*

**Comment**

\* \* \* \* \*

For the family service plan, see 55 Pa. Code § 3130.61

A "juvenile probation officer" is an officer of the court. "Properly commissioned" as used in the definition of a juvenile probation officer includes the

swearing in under oath or affirmation and a document or order of the court memorializing the authority conferred upon the juvenile probation officer by the court. In addition, the powers granted by the commission are to be specified by the President Judge of each judicial district.

The President Judge may enact a local rule specifying the authority granted by the commission or that specifically lists the authority granted to specific juvenile probation officers or class of juvenile probation officers. For example, a supervisory juvenile probation officer may have more authority than a new juvenile probation officer, or a juvenile probation officer who has completed specific training may have more authority than officers who have not received training.

As a part of the authority conferred upon the juvenile probation officer, the President Judge of each judicial district or his or her designee may authorize the juvenile probation officer to be a duly authorized officer to take not only delinquent children into custody but perform any other functions designated by court order. This may include taking a child, juvenile, or minor into custody pursuant to a bench warrant or protective custody order, or there are reasonable grounds to believe that the child, juvenile, or minor: 1) is suffering from an illness or injury, or is in imminent danger from his or her surroundings, necessitating removal; or 2) has run away from his parents, guardian, or other custodian. See 42 Pa.C.S. §§ 6304(a) and 6324 for authority of a duly authorized officer.

Pursuant to Rule 800, 42 Pa.C.S. § 6324 is suspended only insofar as it is inconsistent with this Rule, which requires the President Judge of each judicial district to designate whether a juvenile probation officer is a duly authorized officer of the court.

The definition of "law enforcement officer" does not give the power of arrest to any person who is not otherwise given that power by law.

\* \* \* \* \*

**Official Note:** Rule 1120 adopted August 21, 2006, effective February 1, 2007. Amended March 19, 2009, effective June 1, 2009. Amended December 24, 2009, effective immediately. **Amended** , **effective**

*Committee Explanatory Reports:*

Final Report explaining the provisions of Rule 1120 published with the Court's Order at 36 Pa.B. 5571 (September 2, 2006).

Final Report explaining the amendments to Rule 1120 published with the Court's Order at 39 Pa.B. 1614 (April 4, 2009).

Final Report explaining the amendments to Rule 1120 published with the Court's Order at 40 Pa.B. 222 (January 9, 2010).

**Final Report explaining the amendments to Rule 1120 published with the Court's Order at 41 Pa.B. 8 (January 1, 2011).**

**CHAPTER 12. COMMENCEMENT OF PROCEEDINGS, EMERGENCY CUSTODY, AND PRE-ADJUDICATORY PLACEMENT**

**PART A. COMMENCING PROCEEDINGS**

**Rule 1202. Procedures for Protective Custody by Police And County Agency.**

*A. Protective custody.*

1) *No court order.*

a) A police officer or a juvenile probation officer when duly authorized by the court may take a child into protective custody pursuant to Rule 1200 if there are reasonable grounds to believe that the child is suffering from illness or injury or is in imminent danger from the surroundings and removal is necessary.

\* \* \* \* \*

2) *Court order.*

a) A police officer, juvenile probation officer, or county agency may obtain a protective custody order removing a child from the home pursuant to Rule 1210 if the court finds that remaining in the home is contrary to the welfare and the best interests of the child.

\* \* \* \* \*

**Comment**

Pursuant to Rules 120, 195, and 1120, a juvenile probation officer may be considered a duly authorized officer for purposes of these rules if the President Judge of a judicial district or his or her designee has granted such authority to the juvenile probation officer. Rules 800(7) and 1800(6) suspend § 6324 of the Juvenile Act, which authorizes law enforcement officers to take a child into custody, only insofar as the Act is inconsistent with this Rule, which provides authority for police officers and juvenile probation officers when duly authorized to take a child, juvenile, or minor into custody. See Comment to Rule 195.

Under paragraph (A)(1)(a) & (A)(2)(a), the police officer's or juvenile probation officer's duty is to protect the child and remove the child safely. A police officer or juvenile probation officer may bring the child to the county agency for supervision of the child pending a court order that should be given immediately. The police officer's or juvenile probation officer's duty is enforcement and removal, whereas the county agency's duty is to supervise the child and find an appropriate placement for the child. Only a police officer or duly authorized juvenile probation officer may take custody of the child. See Rule 1800 for suspension of 42 Pa.C.S. § 6324, which provides that law enforcement officers may take a child into custody. [ See Rule 1120 for definition of police officer, which may include a probation officer exercising their power of arrest when authorized by law. ]

\* \* \* \* \*

**Official Note:** Rule 1202 adopted August, 21, 2006, effective February 1, 2007. **Amended** , **effective**

*Committee Explanatory Reports:*

Final Report explaining the provisions of Rule 1202 published with the Court's Order at 36 Pa.B. 5571 (September 2, 2006).

**Final Report explaining the amendments to Rule 1202 published with the Court's Order at 41 Pa.B. 8 (January 1, 2011).**

#### CHAPTER 18. SUSPENSIONS

##### Rule 1800. Suspensions of Acts of Assembly.

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

\* \* \* \* \*

6) The Act of July 9, 1976, P. L. 586, No. 142, § 2, 42 Pa.C.S. § 6324, which authorizes law enforcement officers to take a child into custody, is suspended only insofar as the Act is inconsistent with Rule 1202, which provides for police officers **and duly authorized juvenile probation officers** taking a child into custody.

\* \* \* \* \*

**Official Note:** Rule 1800 adopted August 21, 2006, effective February 1, 2007[; **amended**]. **Amended** March 19, 2009, effective June 1, 2009[; **amended**]. **Amended** September 16, 2009, effective immediately. **Amended** , **effective** .

##### *Committee Explanatory Reports:*

Final Report explaining the provisions of Rule 1800 published with the Court's Order at 36 Pa.B. 5571 (September 2, 2006).

Final Report explaining the amendments to Rule 1800 published with the Court's Order at 39 Pa.B. 1614 (April 4, 2009).

Final Report explaining the amendments to Rule 1800 published with the Court's Order at 39 Pa.B. 5546 (September 26, 2009).

**Final Report explaining the amendments to Rule 1800 published with the Court's Order at 41 Pa.B. 8 (January 1, 2011).**

##### **Explanatory Report**

These proposed rule modifications address the scope of the juvenile probation officer's authority, as well as, the duties, education, and training of those officers.

In looking at a juvenile probation officer's authority, it has been brought to the Committee's attention that in some judicial districts, juvenile probation officers are considered "duly authorized officers" as used in the Juvenile Act, 42 Pa.C.S. § 6324 while in other judicial districts, juvenile probation officers are not considered "duly authorized officers."

To provide clarity and a uniform procedure, these rule modifications allow the President Judge of each judicial district to determine whether juvenile probation officers should be duly authorized officers in that judicial district. The modifications also mandate minimum training requirements of all probation officers.

##### *Rules 120 and 1120*

A new definition for "juvenile probation officer" is being added to this rule. The Comment to this rule further clarifies the definition and outlines what a President Judge may include in a juvenile probation officer's commission.

A President Judge may determine the authority of its probation officers by local rule, or may specifically list the authority granted to specific probation officers or class of probation officers. For example, the President Judge may

give more authority to a supervisory juvenile probation officer or to an officer who has completed advanced training.

There are many factors to consider when granting authority to a juvenile probation officer. The Committee believed that the President Judge would be in the best position to determine the authority of juvenile probation officers in his or her judicial district. The current practice in some counties that allows juvenile probation officers to take alleged dependent children into custody may continue to be utilized if the President Judge designates a juvenile probation officer as a duly authorized officer.

##### *Rule 195*

This proposed new rule sets forth the authority, duties, and training of juvenile probation officers.

Pursuant to paragraph (A) and its Comment, juvenile probation officers shall have the authority to take children, juveniles, and minors into custody pursuant to the Juvenile Act, Child Protective Services Law (CPSL), bench warrants, and by order of court granting specific authority.

The President Judge may grant the Administrative Judge authority to decide which juvenile probation officers are appropriate duly authorized officers of the court. However, only the President Judge of each judicial district may enact a local rule, which grants authority of a duly authorized officer of the court onto a specific class of probation officers. See Rules 121 and 1121 for promulgation of local rules.

Therefore, if a court order directs that a specific juvenile probation officer is to have the authority of a duly authorized officer, the President Judge or his or her designee may grant that order. The Comment to Rules 121 and 1121 clarify that local rules do not include case-specific orders, which would include individual orders naming specific juvenile probation officers as duly authorized officers of the court.

Paragraph (B) addresses the duties of the juvenile probation officer, which may be limited by the court.

Paragraph (C) requires juvenile probation officers, no later than one year after being appointed or employed, to be educated and trained in the procedures of the Juvenile Act, Rules of Juvenile Court Procedure, and the CPSL. This is the minimal requirement. The Committee believes; however, juvenile probation officers should be educated on a continuing basis in all areas of delinquency practice and law, including specialized training as funding permits.

It is best practice to have all juvenile probation officers trained within the first ninety days of employment; however, this may not be feasible in some judicial districts. As educational and training opportunities become available, all juvenile probation officers should be encouraged to attend.

##### *Rule 800 and 1800*

These rules suspend the Juvenile Act only insofar as the Act is inconsistent with this new proposal, which authorizes juvenile probation officers to take children, juveniles, and minors into custody when duly authorized by the court.

##### *Rule 1202*

This rule proposes allowing a juvenile probation officer when authorized as a duly authorized officer of the court to take a child into protective custody.

The Comment clarifies that a juvenile probation officer's authority is equivalent to a police officer's duty when removing a child from the home. The juvenile probation officer must protect the child and remove the child safely. The juvenile probation officer must immediately transport the child to the county agency. The county agency will then supervise the child and immediately identify an appropriate placement.

[Pa.B. Doc. No. 11-2. Filed for public inspection December 30, 2010, 9:00 a.m.]

## Title 255—LOCAL COURT RULES

### DAUPHIN COUNTY

#### Promulgation of Local Rules; No. 1989 CV 1793

##### Order

*And Now*, this 16th day of December, 2010, Dauphin County Local Rules 1915.3, 1915.4-2 and 1915.15(c) are amended as follows and Dauphin County Local Rule 1930 is rescinded:

#### **Rule 1915.3. Custody Actions.**

##### (a) Commencement of Custody Actions

1. A custody action shall be commenced by the filing of an original and one copy of either a custody complaint or a divorce complaint that contains a custody count with the Prothonotary.

2. In addition to the filing fees assessed for the filing of complaints, an additional administrative fee in the amount of \$110.00 shall be paid to the Prothonotary simultaneously with the filing of the custody complaint or the divorce complaint which contains a custody count.

3. The Prothonotary shall forward the original custody complaint or divorce complaint which contains a custody count to the Court Administrator's Office for assignment to a Custody Conference Officer.

4. The Custody Conference Officer shall set the date, time and place of the conference and file a scheduling order with the Prothonotary.

5. Plaintiff(s) shall serve the complaint and the scheduling order upon Defendant(s) promptly in accordance with the applicable Rules of Civil Procedure and shall thereafter file an appropriate certificate of service with the Prothonotary before the date of the scheduled conference.

##### (b) Subsequent actions (petitions for modification or contempt)

1. An original and one copy of the petition for modification of a custody order or a petition for contempt of a custody order shall be filed with the Prothonotary.

2. An administrative fee of \$110.00 shall be paid to the Prothonotary simultaneously with the filing of either the petition for modification of a custody order or a petition for contempt of a custody order.

3. The Prothonotary shall forward the original petition for modification of a custody order or petition for contempt of a custody order to the Court Administrator's Office for assignment to a Custody Conference Officer.

4. The Custody Conference Officer shall set the date, time and place of the conference and file a scheduling order with the Prothonotary.

5. The Petitioner shall serve the petition for modification or contempt and the scheduling order upon the Respondent promptly in accordance with the applicable Rules of Civil Procedure and shall thereafter file an appropriate Certificate of Service with the Prothonotary before the date of the scheduled conference.

6. A copy of the most recent custody order shall be attached to the petition for modification or contempt.

**(c) All parties in a contested custody case are strongly encouraged to attend the Seminar for Separated Families before attendance at the custody conference before a conference officer. To this end, when a custody complaint, petition for modification or petition for contempt are filed with the Prothonotary, all parties shall be provided with a copy of this rule and a pamphlet which provides information on the Seminar for Separated Families. If the filing party is represented, the attorney shall provide this information to his/her client and to all opposing parties. If the filing party is not represented, the conference officer shall provide this information to all parties.**

#### **Rule 1915.4-2. Custody Conference Officers.**

(a) Custody Conference Officers shall be appointed by the Court to:

1. meet with the parties and counsel in a custody action to try to work out an agreed custody arrangement;

2. recommend the appointment of counsel for the child(ren) in appropriate situations;

3. recommend the utilization of home studies and/or expert witnesses in appropriate situations;

4. prepare agreed interim or final orders for review by the Court.

(b) The compensation of Custody Conference Officers shall be set by order of court.

(c) If the parties are able to reach an agreement during the custody conference, the Custody Conference Officer shall prepare a proposed order memorializing the agreement. The proposed order shall be submitted to the judge assigned to handle custody matters for review. The proposed order shall not contain any reference to child support. If approved, the order shall be filed with the Prothonotary and copies shall be distributed to all parties.

(d) To facilitate the conference process and encourage frank, open and meaningful exchanges between the parties and their respective counsel, statements made by the parties, or their witnesses, shall not be admissible as evidence in a custody hearing before the court. The Custody Conference Officer shall not be a witness for or against any party in a custody hearing before the court or in any other proceeding whatsoever.

(e) 1. If the parties are unable to reach an agreement during the custody conference, the Custody Conference Officer shall prepare a Conference Summary Report. The Conference Summary Report shall contain facts gathered by the Custody Conference Officer during the conference and outline the issues for resolution by the Court. The Conference Summary Report shall be filed with the Prothonotary and copies shall be distributed to all parties. The Prothonotary shall forward the Conference

Summary Report to the Court Administrator's Office and the case will be assigned to a judge.

2. All parties are required to attend the Seminar for Separated Families (Seminar) if an agreement is not reached at the custody conference. At the conclusion of the conference, the Custody Conference Officer will serve the parties with the date and time they are scheduled to attend the Seminar.

3. All parties must attend the Seminar prior to the hearing before a judge. Any request for an extension of time within which to attend the Seminar shall be made to the assigned judge in a motion filed with the Prothonotary. The fee for the Seminar shall be determined by the provider and must be paid prior to the Seminar. Payment shall be made by certified check, money order or cash. No personal checks will be accepted. No hearing or trial shall be delayed because of the failure of a party to attend the Seminar.

**Rule 1915.15(c). Cover Sheet to Custody Complaint, Petition for Modification or Petition for Contempt.**

In addition to the information required by Pa.R.C.P. 1915.15(a) or 1915.15(b), each Complaint, Petition for Modification or Petition for Contempt relating to child custody or visitation shall contain a cover sheet in the following format:

Plaintiff : IN THE COURT OF COMMON PLEAS  
 : DAUPHIN COUNTY, PENNSYLVANIA  
 :  
 : CIVIL ACTION  
 : CUSTODY/VISITATION  
 :  
 Defendant : NO.

ORDER OF COURT

AND NOW, upon consideration of the attached Complaint, Petition for Modification or Petition for Contempt of a Custody Order, it is hereby directed that the parties and their respective counsel appear before the Custody Conference Officer, on the \_\_\_\_ day of \_\_\_\_, \_\_\_\_, Dauphin County Courthouse, Front and Market Streets, Harrisburg, Pennsylvania for a Custody Conference. At such Conference, an effort will be made to resolve the issues in dispute; or if this cannot be accomplished, to define and narrow the issues to be heard by the Court, and to enter into a Temporary Order. Children should not attend the conference unless requested by the Custody Conference Officer.

[ If the Defendant or Respondent should fail to appear at the custody conference, the conference may proceed in accordance with Pa.R.C.P. 1915.4-2 (b). ]

The Court strongly recommends that all parties immediately attend the Seminar for Separated Families presented by Interworks which provides helpful information on communication concerning the child(ren) despite disagreements of the parties on those and other topics. Call Interworks to schedule attendance at (717) 236-6630. If resolution is not reached at the custody conference, the Court will order the parties to attend the Seminar.

FOR THE COURT:

Date: \_\_\_\_\_ By \_\_\_\_\_  
 Custody Conference Officer

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

DAUPHIN COUNTY LAWYER REFERRAL SERVICE  
 213 North Front Street  
 Harrisburg, PA 17101  
 (717) 232-7536

AMERICANS WITH DISABILITIES ACT OF 1990

The Court of Common Pleas of Dauphin County is required by law to comply with the Americans with Disabilities Act of 1990. For information about accessible facilities and reasonable accommodations available to disabled individuals having business before the court, please contact the Court Administrator's Office at (717) 780-6624. All arrangements must be made at least 72 hours prior to any hearing or business before the court. You must attend the scheduled conference.

**Rule 1930. Seminar for Separating Parents in Contested Custody Matters.**

**Rescinded**

**Note: See Rules 1915.3 and 1915.4-2 for information about the seminar for separated families.**

These amendments shall be effective 30 days after publication in the *Pennsylvania Bulletin*.

By the Court

TODD A. HOOVER,  
 President Judge

[Pa.B. Doc. No. 11-3. Filed for public inspection December 30, 2010, 9:00 a.m.]

# RULES AND REGULATIONS

## Title 49—PROFESSIONAL AND VOCATIONAL STANDARDS

### STATE BOARD OF MESSAGE THERAPY [ 49 PA. CODE CH. 20 ] Massage Therapy

The State Board of Massage Therapy (Board) adopts §§ 20.1—20.54 to effectuate the Massage Therapy Law (act) (63 P. S. §§ 627.1—627.50).

#### *Effective Date*

The final-form rulemaking will be effective upon publication in the *Pennsylvania Bulletin*. The Board will publish applications for licensure on its web site after the final-form rulemaking has been approved by the Office of Attorney General; however, applications will not be processed until the final-form rulemaking is published in the *Pennsylvania Bulletin*.

#### *Statutory Authority*

Sections 4(2) and 50 of the act (63 P. S. §§ 627.4(2) and 627.50) require the Board to promulgate regulations to effectuate the act.

#### *Summary of Comments and the Board's Response*

The Board received comments from Elite Continuing Education, Ormond Beach, Florida, a company that offers both correspondence and classroom education throughout the United States. The company urged the Board to permit its licensees to complete up to 12 hours of the 24 hours of required continuing education biennially through correspondence courses. The company provided information regarding the continuing education requirements in other states and the number of hours that other states permit licensees to complete through online or other distance education modalities. The company also suggested that the Board consider contracting with a company that tracks continuing education hours and require continuing education providers to report licensee hours to the company, a process used in Florida, which would enable the Board to audit 100% of its licensees.

The American Massage Therapy Association (AMTA) also suggested that the Board increase the number of hours of continuing education that a licensee could earn from distance education. Because of the nature of the practice of massage therapy, the Board believes the majority of licensees' ongoing education should be obtained from sources where the instructor is in the room and able to observe the licensee and provide feedback. In response to the comments, the Board increased the number of hours that may be earned from distance education sources from 6 to 8 hours. The Board has rewritten the provision to require that licensees complete at least 16 contact hours of continuing education, as the Board has already defined contact hour to mean in the physical presence of the instructor.

An individual in Pittsburgh suggested that the requirement that massage linens be washed with bleach is unnecessary, bad for the environment and destructive of the sheets and that washing in hot water with appropriate detergent is more than sufficient. Given that massage

linens are used on unclothed persons, the Board believes that linens should be washed with bleach to ensure that any microbes transferred to the linens are killed.

The Pennsylvania Association of Private School Administrators (PAPSA) sent numerous comments. PAPSA stated that other Board licensees are provided verification of license for free and asked if the Board could do the same. The licensees of the Board will be provided the same verification services as are licensees of other boards within the Bureau of Professional and Occupational Affairs (BPOA). State board licensees are listed on the searchable web site [www.licensepa.state.pa.us](http://www.licensepa.state.pa.us). A fee is not charged to access this web site. The fee for license verification in § 20.3 (relating to fees) is the fee charged for formal verification by the Board office, which is sent on Board letterhead. This verification is generally required when a licensee seeks to obtain licensure by reciprocity to another state. If the other state is satisfied with verifying the license through the web site, the licensee will not need to obtain verification from the Board office or pay the fee for license verification.

Regarding § 20.12 (relating to information that must be provided to prospective students), PAPSA stated that schools accredited by the National Accrediting Commission of Cosmetology Arts and Sciences are required to provide an overall licensure pass rate to students for programs at the school and that those schools will then have to provide a separate licensure pass rate only for their massage therapy programs. PAPSA expressed concern that this could be confusing to students. Schools that are licensed by the State Board of Private Licensed Schools and approved to offer training in massage therapy will be required to report the pass rate of graduates from the massage therapy training program on the massage therapy licensure examinations. The Board does not believe that students will be confused if the school also reports its overall pass rate on other examinations.

Regarding § 20.13 (relating to required knowledge base), PAPSA next noted that there were online sites that offer Nationally-recognized CPR courses that lead to a certificate. PAPSA suggested that online CPR course should not be accepted because of their brief duration and lack of supervised practice. The Board agrees that CPR courses should be taken from sources where there is an instructor present to correct a licensee's technique. The Board added language to § 20.13 to clarify its intent. In addition, the Board notes that it will place on its web site the list of approved CPR courses and will not allow distance education for CPR training.

Regarding § 20.14(b) (relating to student practice), PAPSA noted that some school administrators expressed concerns about the schools' liability that might arise from assigning homework to massage family and friends under indirect supervision. This subsection does not require schools to assign the performance of massage tasks as homework. Schools that have this concern do not have to assign massage tasks for homework.

PAPSA asked for clarification regarding § 20.14(f), which requires a school to maintain records for services provided by students for 3 years. The 3-year period would begin at the last date of service. The Board added language to clarify its intent.

Regarding § 20.21(c) (relating to application for temporary practice permit, initial licensure and licensure by



reciprocity), PAPSA asked whether associate degree students would be able to obtain licensure after completing 600 hours even though they still have a minimum of an additional 900 hours to complete to obtain their degree. The act requires that an individual complete a massage therapy program of at least 600 hours to be eligible for licensure. A student in a program of more than 600 hours would only be eligible for licensure if the school provided documentation that the student had completed the school's massage therapy program.

Regarding § 20.21(d)(3), PAPSA noted that massage therapy students were concerned that they might be unable to obtain a license because they were arrested or charged with a crime, although they were not convicted. PAPSA opined that the regulations extended the barrier to licensure for individuals who have been arrested or charged. PAPSA suggested that the provision should be changed to apply only to convictions and that the Board should provide guidelines for the review process of a conviction to help schools determine if a prospective student will be able to secure a license upon graduation. The act authorizes the Board to deny licensure only to individuals who have been convicted. The regulations do not expand the Board's authority. The act does not restrict the Board from obtaining information relevant to its mission of protecting the public. Obtaining this information from applicants will allow the Board to monitor the criminal process to ensure that it can take appropriate action if a licensee is convicted of a crime. The Board will limit the information that must be disclosed to criminal charges that have been filed. In addition, the Board will provide an explanation on its web site regarding its review of applicants with criminal records.

Regarding § 20.24 (relating to application requirements for existing practitioners), PAPSA asked whether applicants under section 5(b) of the act (63 P. S. § 627.5) would need to provide proof of CPR, submit a background check and provide proof of high school graduation or equivalent with their initial application. These applicants will be required to provide this information and any other information on the application form. Section 20.24(a) requires existing practitioner applicants to submit the information required under § 20.21(b), (c) and (d), which includes, in subsection (b)(1)—(4), a legal form of identification, a criminal history record information, CPR certification and proof of graduation from high school.

Regarding § 20.26(e) (relating to application requirements for temporary practice permits), PAPSA questioned the prohibition on temporary practice permit holders advertising their practice, holding themselves out as licensed massage therapists or using the initials L.M.T. PAPSA stated that a student could not build a practice and become gainfully employed if the student cannot market himself as a licensed massage therapist. Section 2 of the act (63 P. S. § 627.2) clearly defines a "massage therapist" as an individual who has been granted licensure by the Board. Neither students nor temporary practice permit holders have been granted licensure; therefore, neither students nor temporary practice permit holders may hold themselves out as licensed massage therapists or may advertise that they hold a license when they do not. Moreover, § 20.14 limits student practice. The normal process for a massage therapy student to obtain licensure should be quite short. The National Certification Board for Therapeutic Massage and Bodywork (NCBTMB) and the Federation of State Massage Therapy Boards (FSMTB) report test scores to the Board electronically and the Board can obtain test results on a daily basis. Therefore, a student who tests promptly after

completing an educational program could obtain licensure within a matter of a few weeks.

Regarding § 20.33 (relating to continuing education content and providers), PAPSA asked whether at least 6 hours of pedagogical technique be counted towards meeting the continuing education requirement for massage therapy faculty. The act specifies that continuing education develop the skills as a massage therapist, not as a teacher. Therefore, massage therapy faculty will be required to take continuing education courses regarding massage therapy techniques, not teaching techniques.

PAPSA asked whether § 20.51(3) (relating to massage therapy treatment areas), which requires that massage therapy treatment areas provide "illumination for cleaning," was a necessary provision. This paragraph requires that the illumination be adequate for the purpose of cleaning, meaning bright enough to determine areas that might need cleaning, which is a level of brightness not generally used in a treatment area during treatment.

The Pennsylvania Physical Therapy Association (PPTA) provided comments to the Board. PPTA stated its concern with § 20.41 (relating to scope of practice), specifically objecting to the list of soft tissue manifestations and the use of the words "treat" and "treatment." PPTA also objected to the Board's use of the term "therapeutic massage techniques." PPTA suggested that the term should be replaced with "massage therapy techniques." PPTA suggested that the Board provide a definition of the term "treatment plan." Regarding § 20.26, PPTA indicated confusion with what level of services an individual with a temporary practice permit was authorized to perform and suggested the Board further define the level of supervision required. Finally, regarding § 20.34 (relating to penalty for failure to complete continuing education), PPTA questioned whether an individual who had failed to complete required continuing education could practice on an expired license.

The Board received similar comments from the Insurance Federation of Pennsylvania (IFP) opposing proposed § 20.41, which IFP viewed as overly broad and vague. IFP suggested using "tonic relief" to describe the "level of treatment" to be achieved by massage therapy. IFP also suggested that the Board include the statutory limitation from section 17 of the act (63 P. S. § 627.17), which provides that licensure of massage therapists does not mandate insurance companies to provide new coverage for massage therapy services.

Representatives from PPTA and IFP did not attend the publicly announced meetings of the Board on June 29 and 30 and July 7, when the Board discussed these comments and its responses. The Board thoroughly addressed the comments from PPTA and IFP in this preamble, and, on September 15, 2010, delivered the final rulemaking and other regulatory documents to the House Professional Licensure Committee (HPLC), the Senate Consumer Protection and Professional Licensure Committee (SCP/PLC) and the Independent Regulatory Review Commission (IRRC). On that same date, the Board advised commentators that the final rulemaking package had been delivered and directed commentators to IRRC's web site to view the final rulemaking package. The HPLC was scheduled to meet to consider the final rulemaking on September 28, 2010.

On September 24, 2010, PPTA and IFP wrote to the HPLC and objected to the Board's final rulemaking package and urged the HPLC to disapprove the rulemaking and to express its disapproval to IRRC. In its

September 24, 2010, letter, PPTA reasserted that the Board's list of soft tissue manifestations should be stricken. PPTA also restated its objection to the Board's use of "treat," "treatment" and "therapeutic massage techniques." In its September 24, 2010, letter to the HPLC, IFP stated that the Board should strike its list of soft tissue manifestations. In addition, IFP renewed its request that the regulations repeat section 17 of the act.

On September 29, 2010, representatives of the HPLC and Legislature met with representatives of the Department of State, the Board, the Pennsylvania Massage Therapy Association, PPTA and IFP to discuss the concerns. The HPLC then asked the Board to withdraw the regulations. The Board agreed. The Board announced that it would meet in special session on October 12, 2010, to discuss possible amendments.

By way of letters dated October 8, 2010, received by the Board on October 12, 2010, PPTA and IFP provided additional comments to the HPLC and the Board. In its October 8, 2010, letter, PPTA provided its suggestion for the regulatory definition of massage therapists' scope of practice. PPTA suggested the Board delete references to "treatment" or "pain" and also asserted that the Board should delete references to "treatment objectives" in the final-form rulemaking. In its October 8, 2010, letter, IFP endorsed the changes proposed by PPTA and proposed additional amendments. First, IFP proposed that the Board delete statements suggesting that massage therapists "treat" soft tissue manifestations and instead state that massage therapists "provide palliative treatment" to soft tissue manifestations. IFP also proposed changes to the scope of practice proposal made by the HPLC.

The Board met on October 12, 2010, and discussed the proposals by PPTA, IFP and the HPLC. The Board entertained comments from the representatives of the HPLC and PPTA. The Board will generally accept the proposals made by PPTA, IFP and the HPLC and amend § 20.41(a). However, rather than create a new definition when "massage therapy" is already defined in the act, Board will amend this subsection to track the language in section 2 of the act. The Board rejects the suggestions of deviating from the statutory language "treatment of the soft tissue manifestations of the human body" to refer to "tonic treatment" or "palliative treatment." In addition to tracking the statutory language in § 20.41(a), the Board will delete the list of soft tissue manifestation which limited massage therapy practice in the proposed rulemaking. By deleting the list of soft tissue manifestations, the emphasis of the scope of practice provision is shifted to the "structured system of touch, pressure movement, holding and treatment" in the act and away from the Board's prior emphasis on what is touched, applied pressure, moved, held or treated. The system of touch, pressure, movement, holding and treatment that traditionally comprise Western massage therapy includes both soft tissue manipulation (effleurage, petrissage, tapotement, vibration and friction) and active and passive joint movements. The act also specifically includes lymphatic techniques and myofascial release techniques in the definition of "massage therapy." Tracking the statutory language in the regulation neither enlarges nor contracts the scope of practice permitted under the act. The Board will retain § 20.41(b), which provided for both the statutory prohibitions on massage therapists' practice and additional regulatory prohibitions. The Board also adds new subsection (c) that tracks section 17 of the act.

Regarding the use of "therapeutic massage techniques," the Board recognizes that this terminology may be overly

restrictive because these techniques comprise only a part of massage therapy practice and massage therapists may employ massage therapy techniques that are not considered "therapeutic massage techniques." As noted by PPTA, physical therapists are also authorized to provide massage under section 2 of the Physical Therapy Practice Act (63 P. S. § 1302), which defines "physical therapy" to include "the treatment of the individual through the utilization of the effective properties of physical measures such as . . . massage . . ." Other licensed professionals may also employ some therapeutic massage techniques. See, for example, section 2 of The Professional Nursing Law (63 P. S. § 212), which defines the "practice of professional nursing" to include "treating human responses to actual or potential health problems through such services as . . . provision of care supportive to or restorative of life and well-being." The Board will change "therapeutic massage techniques" to "massage therapy" throughout the final-form rulemaking. This will also eliminate the need to define "therapeutic massage techniques." Finally, the Board amends "treatment plan" to "massage therapy treatment plan."

In its comments on the proposed rulemaking and in its September 24, 2010, letter, PPTA objected to allowing an applicant to practice without supervision for up to 6 months after graduation from a massage therapy program but before passing a licensure examination. The act does not limit the practice of temporary practice permit holders; therefore, the Board did not limit the practice of these individuals. Unlicensed persons, including temporary practice permit holders, are forbidden from using the title "L.M.T." or holding themselves out as licensees.

FSMTB also submitted comments. FSMTB opined that the Board should accept only the Massage and Bodywork Licensure Examination (MBLEx), which is offered by FSMTB. The act recognizes the two examinations offered by the NCBTMB as well as the MBLEx. The Board believes it is constrained to do the same.

FSMTB pointed out a typographical error when the Board referred to the organization as "FSBMT." The error has been corrected.

FSMTB pointed out that fees paid to it are refunded, minus a processing fee. The Board made this correction by deleting § 20.23(d) (relating to licensure examinations).

FSMTB noted that it does not restrict the number of times a candidate can fail the MBLEx without having to undertake some intervention before subsequent attempts. FSMTB opined that it would be difficult for the Board to monitor compliance with its limitation in § 20.23(e), and that attempting to enforce the provision could result in the disparate treatment of applicants for licensure by examination and applicants for licensure by reciprocity. The Board agrees and deleted § 20.23(e) from the final-form rulemaking.

Regarding § 20.33, FSMTB asked that it be added to the list of preapproved providers of continuing education, even though FSMTB does not currently provide continuing education review and approval services and apparently does not have definite plans to do so. The Board believes it would be inappropriate to prospectively approve FSMTB's continuing education process before it has been developed.

AMTA submitted comments on several sections of the proposed rulemaking. Regarding § 20.24, AMTA opined that a student who will graduate from a massage therapy education program "on or before the approval and passage of these rules and regulations" should be included as an

existing practitioner. AMTA also stated that “many of the students begin working for employers in the state in the latter portions of their programs. Excluding them would greatly affect business at these establishments and place an undue burden on a student who until this point would have been grandfathered in.”

Subsection 5(b)(1) of the act requires an individual seeking licensure as an existing practitioner to, on the effective date of the subsection, “demonstrate that the applicant has conducted a business and been an active participant in that business which was mainly the practice of massage therapy.” The subsection became effective on October 9, 2010. Individuals who can demonstrate that they were in the active practice of massage therapy on that date, and who comply with the other provisions of the act, can be considered existing practitioners. The effective date of the final-form rulemaking does not affect an individual’s status as an existing practitioner. Once the regulations have been passed, § 20.14 will prohibit massage therapy students from practicing except in the clinical training program operated by the student’s school. Students are permitted to practice specific techniques that are being learned as part of the massage therapy education program, but may not receive any compensation, including a gratuity, for practicing these techniques. Therefore, once the regulations become final, students will no longer be able to be employed as massage therapists.

AMTA next expressed concern about individuals who have taken a maternity leave or a sick/short-term disability leave during the last 5 years and questioned whether these individuals could qualify for licensure under section 5(b) of the act. One of the ways that an existing practitioner can qualify for licensure is if the existing practitioner can demonstrate that he has been in “active, continuous practice for at least 5 years immediately preceding the effective date of this section.” The final-form rulemaking, which allows a practitioner to demonstrate the required 5 years of practice through tax documents and other means, allow an individual to obtain licensure even if the individual took a period of maternity leave. Several other licensing boards have period of practice requirements and the Board is not aware of any difficulties in determining whether an applicant is qualified for licensure despite having taken maternity or a short term disability leave.

AMTA next explained its historic levels of membership and asked for applicants who were at the associate level in 2007 to be permitted to use that membership level to show the first of the past 5 years as a practitioner. Associate level membership was for students and new graduates, but was discontinued on November 30, 2004. After November 20, 2007, individuals were required to participate at the professional level. It is the Board’s understanding that AMTA requires, as a prerequisite to professional level membership, that an individual have completed a minimum of 500 hours of massage therapy instruction or hold a National certification. Therefore, professional members of AMTA will qualify for licensure under section 5(a)(3)(iii) of the act and do not need to apply for licensure under section 5(a)(3)(i) of the act.

AMTA suggested that the Board increase the number of continuing education hours that can be completed online to 8 hours. The Board has done so. AMTA questioned how the Board would address individuals with disabilities such as deafness who rely on online continuing education and whether requirements would be placed on continuing education providers to make accommodations for those

who are disabled. A mechanism is provided in 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure) by which an individual may request a waiver of a regulatory provision when the individual’s circumstances frustrate compliance. The Board will strive to be considerate and treat licensees fairly. As for requiring, through its regulations, continuing education providers to provide accommodations for the disabled, the Board believes that Federal law governs the provision of accommodations.

AMTA also queried whether working toward a degree in a related field, such as kinesiology, at a 2- or 4-year college could count toward meeting the continuing education requirement. The act requires that continuing education courses be related to massage therapy practice. Not all classes in fields such as kinesiology are related to massage therapy practice. An individual may apply to the Board to receive continuing education credit for college courses and provide a detailed syllabus that will allow the Board to determine if continuing education credit can be granted.

Finally, AMTA noted that some of its members expressed concern about the number of continuing education hours required by the Board. The General Assembly determined the number of hours required biennially and the Board cannot deviate from that number.

Regarding § 20.41, AMTA stated that some people hold dual positions within their offices and asked how this would be regulated as to what services they can do and when they can do those services. AMTA gave the example that in the cosmetology field esthetics must be done in a separate room from massage therapy and asked if the individual holds both licenses, can they perform esthetics and massage in the same room. AMTA also asked whether a massage therapist who is also a chiropractic assistant can use devices such as a muscle stimulation unit. Each licensing board regulates the practice of a particular profession or occupation with a defined scope of practice. While practicing and holding oneself out as a massage therapist, an individual shall practice within the scope of practice of a massage therapist. If the same individual also holds another license, that individual can practice within the scope of that license when practicing the other profession and holding himself out as that type of licensee. It is the Board’s understanding that the State Board of Cosmetology restricts the practice of cosmetology and its related subfields, such as esthetics, to the floor space of the cosmetology salon. Therefore, it would appear to the Board that massage therapy cannot be practiced within the floor space of the cosmetology salon, regardless of who is performing the massage therapy services. The Board is not familiar with the scope of practice of a chiropractic assistant but would reiterate its opinion that individuals may practice within the scope of practice of the profession or occupation they are practicing and holding themselves out as practicing during any period of time.

Regarding § 20.42(a)(14) (relating to standards of professional conduct), which requires a licensee to display his license in a location clearly visible to clients, AMTA expressed concern with listing the licensee’s home address on documents that would be in the plain sight of clients. The Board does not require the licensee to display their home address in plain sight of clients; in fact, the Board would encourage licensees to cover their home addresses, such as with black construction paper, when displaying their licenses. However, licenses must be displayed so that the public can know that an individual possesses the license.

Regarding § 20.42(a)(15), which requires licensees to include their license number in advertisements, AMTA asked whether a massage therapist who works for a spa has to have the therapist's license number posted in the spa's advertisement and asked how would a spa with multiple therapists be required to post each therapist's number in the advertising. The provision provides for what a massage therapist shall do; it does not regulate spas. If a massage therapist advertises his practice, the massage therapist shall include the license number in the advertisement. If a business, such as a spa, advertises massage therapy services without naming a massage therapist, the spa is not subject to the regulation. The Board notes, however, that businesses providing massage therapy may only provide massage therapy by licensed individuals.

The Board received a comment from an individual asking the Board to amend the medical device restriction to be open ended, specifically so that licensees could use Spray and Stretch topical anesthetic skin refrigerant. According to the commenter, the product was classified as a medical device by the United States Food and Drug Administration under the authority to approve prescription devices used by health care practitioners under 21 CFR 801.109 (relating to prescription devices). The General Assembly defined "massage therapy" to exclude massage therapists from practicing medicine or using medical procedures or prescribing medicines for which a license to practice the healing arts is required. Massage therapists are not considered practitioners of the healing arts in this Commonwealth and are not permitted to use medical devices in their practice.

On June 9, 2010, the HPLC voted not to take formal action on the Board's proposal until the final rulemaking was submitted and provided the Board with five comments. First, the HPLC requested that the Board define "treatment plan" and asked why a massage therapy student would be developing or modifying a treatment plan on his own. The Board added a definition for the term. Section 20.13 requires a massage therapy education to provide students with skills in the area of the development, implementation and modification of treatment plans. The Board's proposed rulemaking did not allow a massage therapy student to develop or modify a treatment plan on his own. Proposed § 20.14 did not mention treatment plans.

The HPLC next asked the Board to explain its rationale for the inclusion of business subjects in the knowledge base curriculum and continuing education courses for massage therapy. The HPLC commented that this inclusion is inconsistent with continuing education courses of other professions or occupations when business management courses, in particular, are prohibited. The final-form rulemaking provides for at least 25 contact hours of education, out of the minimum 600 hours of required instruction, in professional ethics, and business and law regarding a massage therapy business. Because many massage therapists run their own businesses, the Board believes that some minimal amount of education should be provided to students to give them a better chance of being successful in their practice. Section 20.33(a) requires that creditable continuing education "be designed to advance the licensee's professional knowledge and skills related to the practice of massage therapy as defined in section 2 of the act." In response to a commenter's suggestion that the Board should allow a business class to be creditable toward the continuing education requirement, the Board, in the preamble to the proposed rulemaking, noted that the act "restricts the

granting of credit for taking courses to build one's business." The Board does not believe that the proposed rulemaking indicated that business courses constitute creditable continuing education.

The HPLC noted that a procedure was not presented for licensure by endorsement and that § 20.21 is referenced in § 20.26(b). The Board used "reciprocity" and "endorsement" interchangeably. The Board conformed its language use to the act, which uses "reciprocity."

The HPLC next questioned whether an applicant whose license is refused has due process rights to appeal after unfavorable results from the hearing. The hearing is the Board's provision of the applicant's due process right to be heard. Under 2 Pa.C.S. § 702 (relating to appeals), aggrieved parties have the right to appeal a final determination by a governmental unit to Commonwealth Court.

Finally, the HPLC questioned the definition of "contact hour" in § 20.1 (relating to definitions), which combines the length of time (50 to 60 minute period of instruction) and the circumstances (in the physical presence of an instructor or supervisor) and § 20.32(b) (relating to continuing education hours, maintenance of certificates of completion) provides for a maximum of 6 hours of continuing education in correspondence courses. The HPLC questioned whether the correspondence courses are in 50 to 60 minute periods to meet the quantitative aspect of the definition. The Board anticipates that the course provider would determine the amount of content that would take an average person 50 to 60 minutes to work through, as is done by the boards within the BPOA. For clarity, the Board rewrote § 20.32(c) to delete the reference to correspondence courses and instead refer to the number of hours that shall be taken as "contact hours," a term defined in § 20.1. In addition, the Board deleted "contact" from § 20.32(b), which was inadvertent; ethics courses do not need to be taken in the physical presence of the instructor, a requirement most relevant to therapeutic technique classes.

IRRC submitted comments on July 7, 2010. IRRC recommended that the Board define "soft tissue manifestations," "therapeutic massage techniques," "treatment," and "treatment plan." The Board attempted to define "soft tissue manifestation" by listing manifestations that massage therapists could treat. The regulation has since been amended. Because the General Assembly used the term "soft tissue manifestations" in the act and did not define it, the Board will not again define the term after the HPLC requested that the definition be amended. The term "therapeutic massage techniques" is no longer used and does not need to be defined. The Board defined "treatment" and "massage therapy treatment plan" consistent with the act.

IRRC next commented that the Board's definition of "sexual harassment" should refer to conduct that is "unwanted" or "unwelcome" because Human Relations Commission provisions regarding unlawful employment actions use these terms. The Board disagrees that these terms belong in regulations governing the conduct of massage therapists. On the contrary, a massage therapist is prohibited from deliberate physical contact of a sexual nature with a client even if the contact is "wanted" or "welcome" because professional ethics prohibit this type of personal contact within the professional relationship.

IRRC asked how the Board determined that the proposed fees were appropriate. Regarding the reasonableness of its fees for services in § 20.3, the Board based the fees on reports made by the Department's revenue office.

Fee report forms showing the costs for providing the services were attached to the Regulatory Analysis Form required under the Regulatory Review Act (71 P.S. §§ 745.1-745.12) and IRRC's regulation in 1 Pa. Code § 307.2(c)(1) (relating to delivery of a final-form regulation). The fee report forms show the amount of time expended in processing fee for service items and the amount of overhead charged based on that amount of time.

With regard to education programs under § 20.11 (relating to minimum hour requirements for massage therapy programs), IRRC asked how the Board determined the appropriate number of hours in each subject area that a massage therapy curriculum would be required to provide. The Board reviewed the standards set by massage therapy education program accrediting bodies and the regulations of other states. The Board's final-form rulemaking reflects industry standards for the number of hours in particular subject areas for a massage therapy curriculum.

Regarding § 20.13, IRRC asked for more specificity regarding the legal requirements to be taught to massage therapy students in schools this Commonwealth. The Board amended § 20.13 to refer to Pennsylvania legal requirements, which include licensure requirements and standards of conduct. IRRC also asked the Board to add language to clarify what level of "knowledge" massage therapy education shall provide to its students. The Board declines to add clarifying language because it believes that massage therapy schools already know that they shall educate their students sufficiently to enable the students to pass a licensure examination and practice massage therapy.

Regarding student practice, IRRC asked what was the basis for the 3-year time period to maintain records of student practice in a school's clinical program. The Board based the time period on the 2-year tort statute of limitations and added an additional year. IRRC also suggested relating the provision to the date of service. As previously noted in the response to a similar suggestion from PAPSA, the Board added language to inform the regulated community that records shall be kept for 3 years from the last date of service.

Regarding § 20.14(g), IRRC suggested that the final-form rulemaking include the means by which schools could comply with the requirement that students be identified as students when they are performing services in a student clinic. The Board believes that the schools already identify student clinics as such and that each school can determine the best way to identify students. Some ways already in use include signs, nametags and requiring clients to sign an acknowledgement that a student will perform the massage.

IRRC raised the same concern as the HPLC regarding the Board's interchangeable use of "endorsement" and "reciprocity" in § 20.21. The Board made the language consistent in the final-form rulemaking. IRRC questioned how the Board determined that requiring criminal history records for every state the applicant had lived for the past 5 years was an appropriate limit on the years of review. The provision is for verification purposes only; an applicant is required to disclose criminal convictions. Criminal history records show all convictions, even those that occurred 15 or 20 years ago. The 5-year limitation is geographical and the Board's thinking is that if an applicant is moving from state to state to avoid detection of a criminal history, he would likely move more often than every 5 years.

IRRC asked about the Board's requirement that applicants disclose arrests. This issue was addressed in response to the same inquiry by PAPSA. IRRC erroneously states that the act only permits the Board to refuse licensure to an applicant who has been convicted of a felony under The Controlled Substance, Drug, Device and Cosmetic Act (35 P.S. §§ 780-101—780-144) or comparable law in another jurisdiction or the United States. However, section 9(a)(1) of the act (63 P.S. § 627.9(a)(1)) authorizes the Board to refuse licensure to an applicant who has been convicted of a crime of moral turpitude or an offense that would constitute a felony in this Commonwealth. In addition, section 5(a)(1) of the act requires that applicants demonstrate good moral character.

Regarding § 20.21(d)(4) and (5), IRRC also questioned whether a licensed professional would make the determination of whether an applicant is unable to practice with reasonable skill and safety due to mental or physical conditions or impairment based on the use of drugs or alcohol. Individuals would be referred to the Professional Health Monitoring Program and an appropriate professional would conduct the evaluation. However, if an applicant contests the findings, a hearing is held before the Board and the applicant may present expert testimony on the subject of their ability to practice safely. Other licensing boards that have successfully used this process for many years do not provide extensive regulatory provisions regarding these matters and the Board does not believe there is a need for these regulations to include extensive sections regarding these matters. Finally, IRRC suggested that the Board delete the phrase "any other type of material" from subsection (d)(4) because it is vague. The phrase comes directly from the act and thus is retained.

IRRC next asked for the basis for a 6-month period of time for an applicant to supply missing documentation for an application. The time period was chosen to conform to the length of time that an applicant can practice on a temporary practice permit.

IRRC also suggested that § 20.22 (relating to procedure for licensure denial) reference who will conduct evaluations and licensee appeal rights. The Board added a reference to the Professional Health Monitoring Program and to section 9(c) of the act. IRRC asked whether an applicant would be notified of the results of an evaluation. The applicant would have to obtain the evaluation directly from the evaluator.

IRRC questioned the 90-day time frame for applicants to reapply for the examinations; these are requirements of the testing organizations placed in the regulations to inform applicants. The Board corrected the typographical reference to FSMTB. IRRC also questioned the process of monitoring the additional hours of instructions required under § 20.23(e) for applicants who have failed a licensure examination multiple times to obtain additional hours of instructions. The Board removed the limit on the number of times an applicant could fail the examinations before being required to take more coursework.

IRRC questioned the Board's use of the date October 9, 2010, in § 20.24(c). The date is required under the act. IRRC, like AMTA, asked about new graduates; the Board addressed this issue in its response to AMTA's comments. IRRC also suggested that the Board define "existing practitioners." The Board believes this term is defined in the act.

IRRC next asked what services could be performed by a temporary practice permit holder. The act does not limit the services and the Board does not believe that the services should be limited.

Regarding § 20.32(g), IRRC asked under what circumstances the Board would determine an audit was necessary. A certain percentage of the licensee population will be audited at random, as is done by most of the licensing boards.

Regarding § 20.41, IRRC asked how the Board would regulate “overlapping licensure.” The Board can only regulate the practice of massage therapy; other licensing boards regulate the practice of the professions they oversee. IRRC also recommended that the Board, in its final-form rulemaking, set forth a list of services that dual licensees can perform. The Board cannot define in regulation what services dual licensees can perform; it can only define what services licensed massage therapists can perform. The Board believes its regulation sets forth the scope of practice of licensed massage therapists consistent with the act.

Regarding § 20.42, IRRC asked how the Board would address a situation if a soft tissue manifestation is also a symptom of an underlying condition. The Board is aware that soft tissue manifestations may be symptoms of an underlying condition; for example, some massage therapists provide services solely on referral from a physician and report to the referring physician. The act authorizes licensed massage therapists to apply a system of structured touch, pressure, movement, holding and treatment of the soft tissue manifestations of the human body with the primary intent to enhance health; thus, while a licensed massage therapist does not treat an underlying disease, a licensed massage therapist does provide treatment to soft tissue manifestations to enhance health by treating the soft tissue manifestations of an underlying disease. Section 20.42(a)(5) requires a licensed massage therapist to refer a client to an appropriate health care profession when indicated. If a complaint were filed against a licensee regarding licensee misconduct or a licensee exceeding the permitted scope of practice, the Board would hold a hearing to determine the facts and issue an adjudication, as required under 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law). The Board has the authority to discipline a licensee who exceeds the scope of practice of a licensed massage therapist.

Finally, IRRC asked how a massage therapist would act to safeguard a client from incompetent, abusive or illegal practices, as required under § 20.42(a)(11). By way of example, the Board would point to *Stephens v. State Board of Nursing*, 657 A.2d 71 (Pa. Cmwlth. Ct. 1995), wherein the Commonwealth Court affirmed a decision of the State Board of Nursing disciplining a licensee for failing to safeguard a patient from incompetent or abusive practices when a nurse waited 10 minutes before intervening on a patient’s behalf when a nurse aide was teasing a patient and failed to report the nurse aide to the facility. A licensed massage therapist might fail to safeguard a client if the licensed massage therapist witnessed another licensed massage therapist or other health care worker, such as a nurse aide or physical therapist, abusing a patient and failed to intervene and report the matter to the proper authorities.

During its review of the rulemaking at its October 12, 2010, meeting, the Board corrected § 20.21(b)(2). The subsection required applicants to have the State Police send the applicant’s criminal history record directly to the

Board; however, the Board recently learned that the state policy would release the criminal history record only to the applicant. The amended version will permit an applicant to obtain his record and forward the record to the Board.

The Board made additional amendments for clarity. First, in § 20.3, the Board added a fee for the application for a temporary practice permit which had been inadvertently omitted from the proposed rulemaking. In addition, in describing the fee for verification of licensure, the Board added the terminology of a “letter of good standing,” which is the terminology used in many other states to describe what boards in the BPOA refer to as verification of licensure.

The Board amended § 20.13(a)(6) to add “Pennsylvania” to “legal requirements” since Pennsylvania massage therapy education should provide students with knowledge about Pennsylvania requirements. Subsection (a)(9) was amended from “basic CPR” to “CPR resulting in a Board-approved certification” to add clarity. Board-approved CPR sources have been noted on the Board’s web site. Subsection (c)(4) was amended to correct a typographical error where “decision making” was inadvertently left in the sentence after “utilizing...” was added to conform the paragraph to the other paragraphs in subsection (c). Subsection (c)(6) was amended to correct an incorrect reference.

In § 20.14, the Board amended subsection (c) to incorporate the substantive provisions of subsections (d) and (e) and deleted subsections (d) and (e). The addition of “or other source” was to encompass any other way that a payment might be set up, such as from the clinic as an entity. Subsection (e) is unnecessary as the prohibition in subsection (c) covers what was prohibited by subsection (e).

The Board deleted the reference to providing documents regarding an applicant having been arrested from § 20.21(d)(3). The Board was informed that the charging documents are the first official documents regarding a criminal complaint, not arrest documents.

In § 20.22, the Board provided additional information regarding how an applicant would participate in an evaluation; specifically, the applicant would contact the BPOA’s Professional Health Monitoring Program. The Board added this information so an applicant would know what part of the BPOA to contact if the applicant wished to discuss an impairment issue before applying for licensure.

The Board also made minor amendments to § 20.24. First, in § 20.24(c)(2), the Board added the requirement that an applicant sign the copy of Federal tax form Schedule C if the applicant submits that form. The Board added the signature requirement to conform § 20.24(c)(2) and § 20.24(c)(1), which required that Federal tax returns be signed. In addition, the Board amended § 20.24(c)(3) to require that the proof of membership in a Board-approved professional association be sent directly from the association. This requirement will eliminate the ability of an applicant to provide fraudulent documentation. The same requirement for direct production of documents was added to § 20.24(f) regarding the transcript from an educational institution.

In § 20.31(a) and (b) (related to expiration, renewal and reactivation of license), the Board added the license expiration and renewal dates as the approximate date that the rulemaking is likely to become final is now known. In § 20.31(d), the Board separated out reporting

requirements that had previously been together. The separation allowed the Board to draw more attention to each separate requirement. A longer period was allowed for reporting reciprocal discipline, as this is generally less serious. In subsection (e), language was changed from referring to a "wall certificate" to an "updated license" to reduce confusion about what a wall certificate might be. If a wall certificate is issued by the Board, it is only issued once, upon initial licensure. The Board also deleted the reference in subsection (f) to "signed" in a requirement that a document be both signed and notarized. "Signed" was removed because "notarized" implies signed; a notary notarizes a signature.

For clarity, the Board amended § 20.32 (related to continuing education hours, maintenance of certificates of completion) at subsection (c) to state the requirement in a positive statement rather than a negative statement. Subsection (d) was clarified to require CPR courses to be taken through contact hours, not online courses, to reflect the Board's belief that CPR is best learned through a "hands on" experience.

The Board amended § 20.33(d) to provide that the Board's approval of a proposed continuing education course would be valid for 2 years from the date the course is first given for credit provided the faculty and learning objectives are unchanged. The Board thought it would have been overly restrictive to have its approval of a course valid for only one presentation of the course and would have placed an undue burden on a course provider to reapply for approval if the provider wanted to present the same course more than once. On the other hand, the Board thought some time limit was appropriate. The Board determined that a 2-year approval period would adequately address both concerns.

Finally, the Board amended § 20.34 based on PPTA's concern that the this section would permit an individual to practice when his license is expired. Massage therapy licensees are not permitted to practice on an expired license. The imposition of a civil penalty for failure to complete mandatory continuing education is the most common form of discipline imposed by all licensing boards in the BPOA. The Board is not clear what additional penalty PPTA believes should be imposed against massage therapy licensees who fail to complete continuing education. The continuing education model in the proposed rulemaking was relatively new and was adopted by the State Board of Nursing. The Board determined that it should adopt the more traditional model, which is used by the State Board of Physical Therapy, because it is easier to understand. Therefore, § 20.34(b)—(d) was deleted and subsection (a) was amended.

*Fiscal Impact and Paperwork Requirements*

The final-form rulemaking will have a fiscal impact on massage therapists because there is a cost to licensure and license renewal. Fees, except biennial renewal fees, are based on an estimate of the amount of time required to perform the service to an individual and the type of staff required to perform the service. Biennial renewal fees are developed by the BPOA's Bureau of Finance and Operations and are used to sustain the day-to-day operations of the Board. The final-form rulemaking may have a fiscal impact on individual licensees if massage therapists do not already abide by the minimum safety and cleanliness requirements set forth by the Board. Minor paperwork and recordkeeping requirements are placed on massage therapy schools and providers of continuing education for massage therapists.

The final-form rulemaking will not otherwise have fiscal impact nor impose additional paperwork on the private sector, the general public or the Commonwealth and its political subdivisions.

*Sunset Date*

The Board continuously monitors its regulations. Therefore, a sunset date has not been assigned.

*Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on April 27, 2010, the Board submitted a copy of the notice of proposed rulemaking, published at 40 Pa.B. 2428 (May 8, 2010), to IRRC and the Chairpersons of the HPLC and the SCP/PLC for review and comment.

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

Under section 5.1(j.2) of the Regulatory Review Act, on November 17, 2010, the final-form rulemaking was deemed approved by the HPLC. On November 17, 2010, the final-form rulemaking was deemed approved by the SCP/PLC. Under section 5.1(e) of the Regulatory Review Act, IRRC approved the final-form rulemaking on November 18, 2010.

Under section 5.1(j.2) of the Regulatory Review Act, on November 17, 2010, the final-form rulemaking was deemed approved by the HPLC and the SCP/PLC. Under section 5.1(e) of the Regulatory Review Act, IRRC met on November 18, 2010, and approved the final-form rulemaking.

*Findings*

The Board finds that:

- (1) Public notice of proposed rulemaking was given under sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202) and the regulations promulgated thereunder, 1 Pa. Code §§ 7.1 and 7.2.
- (2) A public comment period was provided as required by law and all comments were considered.
- (3) The amendments made to the final-form rulemaking do not expand the scope of the proposed rulemaking published at 40 Pa.B. 2428.
- (4) This final-form rulemaking is necessary and appropriate for administering and enforcing the authorizing act identified in this preamble.

*Order*

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

- (a) The regulations of the Board, 49 Pa. Code, are amended by adding §§ 20.2, 20.11, 20.12, 20.25, 20.43 and 20.51—20.54 to read as set forth at 40 Pa.B. 2428 and by adding §§ 20.1, 20.3, 20.13, 20.14, 20.21—20.24, 20.26, 20.31—20.34, 20.41 and 20.42 to read as set forth in Annex A.
- (b) The Board shall submit this order, 40 Pa.B. 2428 and Annex A to the Office of General Counsel and the Office of Attorney General as required by law.

(c) The Board shall certify this order, 40 Pa.B. 2428 and Annex A and deposit them with the Legislative Reference Bureau as required by law.

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

ROBERT C. JANTSCH,  
Chairperson

*(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 40 Pa.B. 7000 (December 4, 2010).)*

**Fiscal Note:** Fiscal Note 16A-721 remains valid for the final adoption of the subject regulations.

### Annex A

## TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

### PART I. DEPARTMENT OF STATE

#### Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

#### CHAPTER 20. STATE BOARD OF MASSAGE THERAPY

#### GENERAL PROVISIONS

##### § 20.1. Definitions.

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

*Act*—The Massage Therapy Law (63 P.S. §§ 627.1—627.50).

*Board*—The State Board of Massage Therapy.

*Client*—Any individual, group of individuals, or organization to which an L.M.T. provides massage therapy services.

*Contact hour*—A 50 to 60 minute period of instruction related to the practice of massage therapy in the physical presence of an instructor or supervisor.

*Draping*—The use of linens to cover a massage therapy client to preserve client privacy and modesty, to maintain professional boundaries and for client warmth.

*FSMTB*—The Federation of State Massage Therapy Boards.

*Immediate supervision*—The supervisor or instructor is within visual or audible range of the individual being supervised.

*In-class*—In the physical presence of an instructor or under the immediate supervision of a clinical supervisor.

*Indirect supervision*—The supervision provided by a clinical supervisor or instructor who has given a student instructions on the performance of massage therapy activities, assigned for credit, that are to be practiced outside of class or clinic.

*Informed consent*—A process wherein the massage therapist and a competent client or the client's guardian come to a mutual understanding of the massage therapy treatment, including objectives, benefits and any risks.

*L.M.T.*—Licensed Massage Therapist.

*MBLEx*—Massage and Bodywork Licensure Examination of the Federation of State Massage Therapy Boards.

*Massage therapy treatment plan*—Written documentation that addresses soft tissue manifestations, needs and concerns of the client, including identifying indications, contraindications and precautions of massage therapy

within the scope of the act, how the needs and concerns will be addressed, massage therapy goals and how progress will be assessed.

*NCBTMB*—National Certification Board for Therapeutic Massage and Bodywork.

*NCETM*—National Certification Examination for Therapeutic Massage.

*NCETMB*—National Certification Examination for Therapeutic Massage and Bodywork.

*NESL*—National Examination for State Licensure, an option offered by the NCBTMB which allows individuals to take the NCETM or NCETMB without obtaining National certification.

*Professional relationship*—The relationship between a massage therapist and a client which shall be deemed to exist from the first professional contact or consultation and continue thereafter until 6 months after the last date of a professional service.

*Sexual abuse*—Conduct which constitutes a violation of any provision of 18 Pa.C.S. (relating to crimes and offenses) related to sexual offenses (See 18 Pa.C.S. §§ 3121—3130 (relating to definition of offenses).)

*Sexual harassment*—Deliberate or repeated comments, gestures or physical contacts of a sexual nature.

*Sexual impropriety*—The term includes the following offenses during the professional relationship:

(i) Making sexually demeaning or sexually suggestive comments about or to a client, including comments about a client's body or clothing.

(ii) Unnecessarily exposing a client's body or watching a client dress or undress, unless the client specifically requests assistance due to disability.

(iii) Discussing or commenting on a client's potential sexual performance or requesting details of a client's sexual history or preferences.

(iv) Volunteering information to a client about one's sexual problems, preferences or fantasies.

(v) Behavior, gestures, or expressions to a client that are seductive or of a sexual nature.

(vi) Using draping practices that reflect a lack of respect for the client's privacy.

*Sexual intimacies*—Romantic, sexually suggestive or erotic behavior or soliciting a date.

*Sexual violation*—Sexual conduct, during the professional relationship, between a massage therapist and a client, including any of the following:

(i) Indecent exposure.

(ii) Touching, with the massage therapist's body or an object, the genitals or any sexualized body part of the client for any purpose other than appropriate examination or treatment or when the client has refused or withdrawn consent.

(iii) Encouraging a client to masturbate in the presence of the massage therapist or masturbating while a client is present.

(iv) Providing or offering to provide treatment in exchange for sexual favors.

*Supervisor*—A licensee or instructor who meets the qualifications under section 13(3) of the act (63 P.S. § 627.13(3)).



*Treatment*—The use of massage therapy where the primary intent is to enhance the health and well-being of the client.

**§ 20.3. Fees.**

(a) The following fees are charged for services provided by the Board:

Application for licensure .....	\$65
Application for temporary practice permit .....	\$65
Verification of licensure or letter of good standing ...	\$15
Certification of licensure history .....	\$25
Reactivation of license .....	\$65
Restoration after suspension or revocation .....	\$65
Approval of continuing education program .....	\$65

(b) The following fees are charged to sustain the operations of the Board:

Biennial renewal of license .....	\$75
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(c) In addition to the application fee prescribed in subsection (a), which is payable directly to the Board, a candidate for the MBLEx shall be responsible for any fees charged by the FSMTB for taking the examination.

(d) In addition to the application fee prescribed in subsection (a), which is payable directly to the Board, a candidate for the NESL, the NCETM or the NCETMB shall be responsible for any fees charged by the NCBTMB for taking the examinations.

**EDUCATION**

**§ 20.13. Required knowledge base.**

(a) Massage therapy education must provide students with knowledge of the following:

- (1) Massage and bodywork assessment and application.
- (2) Contraindications and precautions for massage therapy.
- (3) Anatomy and physiology.
- (4) Kinesiology.
- (5) Pathology.
- (6) Pennsylvania legal requirements.
- (7) Business practices.
- (8) Professional ethics.
- (9) CPR resulting in a Board-approved certification.
- (10) Communicable diseases and universal precautions.
- (11) Power differentials and other therapeutic boundary issues as they relate to client interaction.
- (12) Fundamentals of human behavior and respect for clients in the practice of massage therapy.

(b) Massage therapy education must provide students with the practical skills to:

- (1) Administer fundamental massage therapy for the treatment of soft tissue manifestations of the human body.
- (2) Safely utilize topical preparations, thermal and cryogenic modalities, hydrotherapy and movements that lengthen and shorten soft tissues within the client's normal range of motion.
- (3) Maintain safe and effective body mechanics in the application of massage therapy.

(4) Locate and palpate muscle attachments, muscle bellies and other anatomical landmarks necessary for the practice of massage therapy.

(5) Use draping/coverage practices that address both function and safety.

(c) Massage therapy education must provide students with additional skills in the following areas:

(1) Development, implementation and modification of a massage therapy treatment plan that addresses client soft tissue manifestations, needs and concerns, including identifying indications, contraindications and precautions of massage therapy within the scope of the act.

(2) Obtaining informed consent regarding the risks and benefits of the massage therapy treatment plan and application and modification of the massage therapy treatment plan as needed.

(3) Using effective interpersonal communication in the professional relationship.

(4) Utilizing an ethical decision making process that conforms to the ethical standards of the profession, as set forth in this chapter and in the codes of ethics of massage therapy professional associations.

(5) Establishing and maintaining a practice environment that provides for the client's safety and comfort.

(6) Establishing and maintaining client records, professional records and business records in compliance with § 20.42(a)(19) (relating to standards of professional conduct).

**§ 20.14. Student practice.**

(a) A student enrolled in an approved massage therapy program may practice massage therapy by providing services under immediate supervision as part of a clinical training program operated by the school in which the student is obtaining credit.

(b) A student, while enrolled in an approved massage therapy program, may perform techniques learned in class under indirect supervision.

(c) A student may not receive payment from the school, client, or other source for providing massage therapy services; however, a student may accept a nominal gratuity voluntarily given by a client in a clinical training program operated by the school in which the student is obtaining credit.

(d) Massage therapy schools shall maintain records of services provided by students in a clinical training program for at least 3 years from the last date of service.

(e) Students providing services as part of a clinical training program operated by a school shall be clearly identified to the public as students.

**LICENSURE**

**§ 20.21. Application for temporary practice permit, initial licensure and licensure by reciprocity.**

(a) Application forms may be obtained from the Board and are posted on the Board's web site.

(b) An applicant for licensure shall submit to the Board a completed and signed application form, the application fee as set forth in § 20.3 (relating to fees) and the following documents:

- (1) A copy of a legal form of identification, such as a valid driver's license, a current passport, or a valid State identification card.

(2) An official Criminal History Record Information check from the State Police or other state agency for every state in which the candidate has resided during the past 5 years. The reports must be dated within 6 months of the date of application.

(3) CPR certification, that is valid for at least 6 months following the date of application. A list of Board-approved CPR providers will be posted on the Board's web site.

(4) Proof of graduation from high school or the equivalent.

(c) An applicant shall request that the applicant's massage therapy school send directly to the Board the applicant's official transcript showing successful completion of a massage therapy program in the subject matter and hours required by the act and this chapter. If a school is no longer in operation, the Board may accept a copy of the official transcript from the school's record depository.

(d) An applicant shall provide a written explanation and copies of all relevant documents as requested by the Board if:

(1) The applicant is under investigation or has ever been denied professional licensure or disciplined by any professional licensing authority of the Commonwealth or any other jurisdiction of the United States or a foreign country.

(2) The applicant has surrendered a massage therapy license or other professional license in this Commonwealth or any other jurisdiction of the United States or a foreign country.

(3) The applicant has been charged with or convicted of a misdemeanor or felony in this Commonwealth or any other jurisdiction of the United States or a foreign country.

(4) The applicant is unable to practice massage therapy with a reasonable skill and safety by reason of use of alcohol, drugs, narcotics, chemicals or any other type of material.

(5) The applicant is unable to practice massage therapy with a reasonable skill and safety by reason of illness or as a result of any mental or physical condition.

(e) An applicant shall verify that the applicant has read, understood and will comply with the act and this chapter.

(f) An applicant is responsible for ensuring that the Board receives all required documentation. If the application is incomplete, the Board will notify the applicant by means of first class mail, within 8 weeks of the receipt of the application, that the application is incomplete.

(g) Applicants shall supply the missing documentation within 6 months from the date the application is executed by the applicant. After that time, if the documentation has not been submitted, the application will be denied and the application fee forfeited. An applicant who wishes to reapply shall submit a new application and application fee.

(h) An applicant whose name changes during the application process or whose name has changed since the applicant completed massage therapy school shall notify the Board in writing and submit, with the notification of name change, the appropriate supporting documentation (such as, marriage certificate, divorce decree, court documents showing a legal name change).

(i) An applicant whose address changes shall notify the Board in writing and submit both the old and new address to the Board.

(j) If any other information requested on the application changes after the date the applicant submits the application to the Board for licensure, the applicant shall immediately notify the Board, in writing, of the change. Failure to update an application may subject an applicant to refusal of the license or a licensee to discipline under section 9(a)(4) of the act (63 P. S. § 627.9(a)(4)).

#### § 20.22. Procedure for licensure denial.

(a) The Board will inform the applicant, in writing, of the basis upon which the Board has refused the license. The Board will provide the applicant with an opportunity to demonstrate, at a hearing, that the license should be issued.

(b) If information submitted with the application indicates that an applicant may be unable to safely practice massage therapy, the Board will require the applicant to contact the Bureau of Professional and Occupational Affairs' Professional Health Monitoring Program and participate in an evaluation to determine if the applicant can safely practice. An applicant may contest the results of the evaluation at a hearing. The Board will provide an applicant who refuses to participate in an evaluation with an opportunity to demonstrate, at a hearing, that the license should be granted.

(c) In a case when the Board refuses to issue a license, the Board will issue a written final decision setting forth the grounds for the refusal and informing the applicant of the applicant's right to a hearing under section 9(c) of the act (63 P. S. § 627.9(c)).

#### § 20.23. Licensure examinations.

(a) The Board adopts the NCETM and NCETMB, including the NESL option, and MBLEx as approved examinations for initial licensure under section 7 of the act (63 P. S. § 627.7).

(b) An individual who plans to take the MBLEx offered by the FSMTB shall contact the FSMTB directly to apply for examination. The FSMTB will issue the candidate an Authorization to Test, which the candidate may use to schedule the examination. Candidates are responsible for registering for the licensure examination date and site. Candidates who are unable to test within 90 days of the date the FSMTB issued the candidate's Authorization to Test will be required to reapply as a new candidate subject to all application and fee requirements in place at that time.

(c) An individual who plans to take the NCETM or NCETMB examinations, including the NESL option offered by the NCBTMB, shall contact the NCBTMB directly to apply for examination. The NCBTMB will issue the candidate an Authorization to Test, which the candidate may use to schedule the examination. Candidates are responsible for registering for the licensure examination date and site. Candidates who are unable to test within 90 days of the date the NCBTMB issued the candidate's Authorization to Test will be required to reapply as a new candidate subject to all application and fee requirements in place at that time.

#### § 20.24. Application requirements for existing practitioners.

(a) Existing practitioners shall submit, by January 2, 2012, an application, application fee and the information required under § 20.21(b), (c) and (d) (relating to application for temporary practice permit, initial licensure and licensure by reciprocity) if applicable, and shall be subject to the provisions of § 20.21(e)—(i).

(b) Existing practitioners shall establish that they have conducted a business and been an active participant in that business which was mainly the practice of massage therapy by submitting one of the following:

(1) A signed copy of the applicant's Federal tax return for the previous year, that lists the applicant's occupation as massage therapist.

(2) A signed copy of Schedule C of the applicant's Federal income tax return for the previous year demonstrating that the individual has reported income from the practice of massage therapy.

(3) Proof of professional or practitioner membership level or above in a professional association approved by the Board.

(4) For applicants who have been employed as massage therapists, a notarized statement from the applicant's employer (on a form provided by the Board) attesting that the individual is a practicing massage therapist, a copy of the employer's business card or letterhead, and a copy of the applicant's Federal W-2 or 1099 form.

(c) Existing practitioners applying for licensure under section 5(b)(3)(i) of the act (63 P. S. § 627.5(b)(3)(i)) shall demonstrate that they have been in active, continuous practice for at least 5 years immediately preceding October 9, 2010, by submitting one of the following:

(1) Signed copies of the applicant's tax returns for the past 5 years, each listing the applicant's occupation as massage therapist.

(2) Signed copies of Schedule C of the Federal income tax returns for the past 5 years demonstrating that the applicant has reported income from the practice of massage therapy.

(3) Proof, sent directly from a Board-approved professional association, of at least 5 years membership at the professional or practitioner level or above in the professional association.

(4) For applicants who have been employed as massage therapists, a notarized letter from the applicant's employer (on a form provided by the Board) attesting that the individual has practiced massage therapy for at least the last 5 years, a copy of the employer's business card or letterhead, and copies of the applicant's Federal W-2 or 1099 forms for the last 5 years.

(d) Existing practitioners applying for licensure under section 5(b)(3)(ii) of the act shall have the certification agency provide, directly to the Board, evidence that the practitioner passed a massage therapy examination that is part of a certification program accredited by the National Commission for Certifying Agencies.

(e) Existing practitioners applying for licensure under section 5(b)(3)(iii) of the act shall request that their educational program provide an official transcript directly to the Board to demonstrate that the practitioner completed at least 500 hours of instruction in massage and related subjects. Transcripts generated in a language other than English shall be translated into English at the applicant's expense by a professional translation service and verified to be complete and accurate.

(f) Existing practitioners applying for licensure under section 5(b)(3)(iv) of the act shall demonstrate, through certificates of completion, official transcript provided directly from the educational institution, or correspondence from the practitioner's instructor, that the practitioner

completed at least 100 hours of instruction in massage and related subjects and passed the NESL option of the NCBTMB.

(g) Existing practitioners applying for licensure under section 5(b)(3)(v) of the act shall demonstrate, through certificates of completion, official transcript provided directly from educational institution, or correspondence from the practitioner's instructor, that the practitioner completed at least 100 hours of instruction in massage and related subjects and passed the MBLEx.

**§ 20.26. Application requirements for temporary practice permits.**

(a) An applicant for a temporary practice permit shall submit an application form provided by the Board.

(b) In addition to the completed application form, an applicant for a temporary practice permit shall comply with the application procedures under § 20.21(b)(1)—(3) and (c) (relating to application for temporary practice permit, initial licensure and licensure by reciprocity), and shall be subject to the provisions of § 20.21(d) and (e).

(c) A temporary practice permit will expire on the earlier of 6 months from the date of issuance or on the date the candidate fails the licensure examination.

(d) Individuals who have been issued a temporary practice permit will be considered licensees for purposes of applying section 9 of the act, pertaining to refusal, suspension and revocation of licenses.

(e) Individuals who have been issued a temporary practice permit may not hold themselves out as a licensed massage therapist, use the initials L.M.T. or advertise their practice of massage therapy.

**LICENSURE RENEWAL AND REACTIVATION**

**§ 20.31. Expiration, renewal and reactivation of license.**

(a) *Expiration of license.* Licenses expire on January 31 of each odd-numbered year beginning in 2013, regardless of the date of issuance. Licenses are renewable for a 2-year period beginning each October 31 of each even-numbered year beginning in 2012.

(b) *Practice prohibited.* A licensee may not practice massage therapy in this Commonwealth after the last day of January of the renewal year unless the license has been renewed.

(c) *Renewal application.* A licensee shall:

(1) Apply for licensure renewal online or on the form provided by the Board.

(2) Pay the biennial renewal fee as set forth in § 20.3 (relating to fees).

(3) Submit proof of current certification in CPR.

(4) Submit verification of completion of at least 24 hours of Board-approved continuing education.

(5) Submit verification that the licensee has read, understood and will comply with the act and this chapter.

(d) *Reporting requirements.*

(1) Disclosure of licensure or discipline in another jurisdiction. A licensee who becomes licensed to practice massage therapy in another jurisdiction shall report this information on the biennial renewal form or within 90 days of licensure, whichever occurs sooner. Disciplinary action taken in another jurisdiction shall be reported to the Board on the biennial renewal form or within 90 days, whichever is sooner.

(2) Disclosure of the filing of formal criminal charges (information or indictment). A licensee shall report, on the biennial renewal form or within 30 days, whichever occurs sooner, the filing of any criminal charges, the licensee's sentencing on any criminal charges or the licensee's admission into an accelerated rehabilitative disposition program.

(e) *Licensure documentation.* Upon renewing a license, a licensee will receive an updated license and wallet-size card that will show the next expiration date of the license. A licensee who renews online may print a temporary license that may be used until the biennial license is received.

(f) *Inactive status.* A license may be placed on inactive status by the licensee notifying the Board during the online renewal process or in a notarized statement that the licensee wishes to have the license marked inactive. The licensee shall immediately return all licensure documents to the Board and may not practice massage therapy in this Commonwealth until the licensee's license is reactivated and renewed.

(g) *Reactivation.* The holder of an inactive or expired license to practice massage therapy may reactivate and renew the license within 5 years from the date of its expiration by submitting:

- (1) An application to the Board.
  - (2) Payment of the current biennial renewal fee as set forth in § 20.3.
  - (3) Certificates of attendance at continuing education courses required under § 20.32 (relating to continuing education hours; maintenance of certificates of completion) for the previous biennial renewal period.
  - (4) Current CPR certification.
  - (5) An affidavit of nonpractice within this Commonwealth.
- (h) *Late fees.* A licensee who practiced massage therapy on an inactive or expired license will be subject to late fees as prescribed by the Bureau of Professional and Occupational Affairs Fee Act (63 P. S. §§ 1401-101—1401-501) upon renewal.

(i) *Disciplinary action authorized.* A licensee who practiced massage therapy on an inactive or expired license may be subject to discipline by the Board under section 9(a)(7) of the act.

(j) *Demonstration of competence after 5 years.* The holder of an inactive or expired license to practice massage therapy will not be reactivated and renewed if more than 5 years have passed from the date of the license expiration unless the licensee has demonstrated current competence to practice. To demonstrate current competence to practice, a licensee must either prove continuous active practice in another jurisdiction during the past 5 years or achieve a passing score on a licensure examination approved for entry into practice in this Commonwealth.

**§ 20.32. Continuing education hours, maintenance of certificates of completion.**

(a) Licensees shall complete a minimum of 24 hours of continuing education in the field of massage therapy as set forth in section 4(6) of the act (63 P. S. § 627.4(6)) and § 20.33 (related to continuing education content and providers) in the 2-year period immediately preceding the application for license renewal. To be creditable, continuing education must meet the requirements for Board approval set forth in this section and § 20.33.

(b) Licensees shall complete a minimum of 4 hours of continuing education in professional ethics in each biennial renewal period.

(c) A minimum of 16 hours of continuing education shall be earned through contact hours.

(d) Courses for the renewal of the licensee's CPR certification shall be earned through contact hours and may not be used to meet the biennial continuing education requirement.

(e) Licensees shall retain the certificates of completion from continuing education courses for a minimum of 5 years.

(f) A licensee who is unable to complete the required continuing education shall request a waiver or extension from the Board at least 60 days prior to the expiration of the license. The request must include details about the licensee's illness, emergency or hardship, including documentation such as a letter from the licensee's physician or a copy of the licensee's military orders. The Board will respond in writing either granting or denying a request for waiver or extension.

(g) Licensees may be audited to ensure their compliance with the continuing education requirements.

**§ 20.33. Continuing education content and providers.**

(a) Continuing education must be designed to advance the licensee's professional knowledge and skills related to the practice of massage therapy as defined in section 2 of the act (63 P. S. § 627.2).

(b) The following continuing education providers are approved to offer creditable continuing education provided they comply with subsections (a), (c) and (d):

(1) Schools of massage therapy in this Commonwealth operating under section 5(a)(3) of the act (63 P. S. § 627.5(a)(3)).

(2) Schools of massage therapy approved by the Board or accredited by a National accrediting agency recognized by the United States Department of Education.

(3) The American Massage Therapy Association and its state chapters.

(4) NCBTMB-approved providers.

(5) Associated Bodywork and Massage Professionals.

(c) Continuing education providers shall provide certificates of completion to massage therapists that include the name of the massage therapist, name of the course provider, title of the course, date of the course, and number of hours.

(d) Continuing education providers shall retain documentation of the participants in their continuing education programs for at least 5 years.

(e) Providers of continuing education who are not listed in subsection (b) may apply to the Board for approval of a continuing education course by submitting an application and paying the application fee under § 20.3 (relating to fees). The Board will approve only courses that are designed to advance the knowledge and skills of licensees relative to massage therapy as defined in section 2 of the act and that are taught by approved faculty. Approved faculty include massage therapists licensed in the state in which they practice if licensure is required in that state, physical therapists, physicians, professional nurses and chiropractors. Other instructors with demonstrated expertise may be approved on a case-by-case basis. Course

approval is valid for 2 years from the date the course is first given for credit provided the faculty and learning objectives are unchanged.

(f) An L.M.T. may submit a course offered by a continuing education provider not listed in subsection (b) by filing an application with the Board for approval of a continuing education course and paying the application fee set forth in § 20.3. The Board will approve only courses that are designed to advance the knowledge and skills of licensees relative to massage therapy as defined in section 2 of the act and that are taught by approved faculty, as set forth in subsection (e).

(g) The Board reserves the right to reject a continuing education course submitted by a massage therapist who is audited for compliance if the course is outside the scope of practice of massage therapy as defined in the act. A licensee will be notified of the rejection of a course and will be provided the opportunity to apply additional courses the licensee has taken or to take additional courses to meet the continuing education requirement.

**§ 20.34. Penalty for failure to complete continuing education.**

Applicants for license renewal shall provide, on forms provided by the Board, a signed statement verifying whether continuing education requirements have been met. Failure to complete a minimum of 24 hours of continuing education in a biennial period may subject a licensee to discipline under section 9(a)(7) of the act (63 P. S. § 627.9(a)(7)) in accordance with the schedule of civil penalties at § 43b.23 (relating to schedule of civil penalties—massage therapists).

**SCOPE AND STANDARDS OF PRACTICE**

**§ 20.41. Scope of practice.**

(a) Massage therapists apply a system of structured touch, pressure, movement, holding and treatment of the soft tissue manifestations of the human body in which the primary intent is to enhance the health and well-being of the client. Massage therapy includes:

- (1) The external application of water, heat, cold, lubricants and other topical preparations.
- (2) Lymphatic techniques.
- (3) Myofascial release techniques.
- (4) The use of electro-mechanical devices which mimic or enhance the action of the massage techniques.
- (b) Massage therapy practice does not include:
  - (1) The diagnosis or treatment of impairment, illness, disease or disability.
  - (2) Medical procedures.
  - (3) Chiropractic manipulation—adjustment.
  - (4) Physical therapy mobilization—manual therapy.
  - (5) Therapeutic exercise.

(6) Ordering or prescribing drugs or treatments for which a license to practice medicine, osteopathic medicine, nursing, podiatry, optometry, chiropractic, physical therapy, occupational therapy, or other healing art is required.

(7) The application of high velocity/low amplitude force further defined as thrust techniques directed toward joint surfaces.

(8) The use of equipment or devices that require a prescription (for example, ultrasound, diathermy or electrical neuromuscular stimulation).

(c) Licensure under the act may not be construed as requiring new or additional third-party reimbursement or otherwise mandating coverage under 75 Pa.C.S. Chapter 17 (relating to financial responsibility) or the Workers' Compensation Act (77 P. S. §§ 1—1041.4 and 2501—2506).

**§ 20.42. Standards of professional conduct.**

(a) A massage therapist shall:

(1) Maintain current knowledge of the application of massage therapy, including indications, contraindications and precautions.

(2) Undertake a specific technique or use a product or equipment only if the massage therapist has the necessary knowledge, training or skill to competently execute the technique.

(3) Base decisions and actions on behalf of a client on sound ethical reasoning and current principles of practice.

(4) Provide treatment only where there is an expectation that it will be advantageous to the client.

(5) Refer to an appropriate health care professional when indicated in the interest of the client.

(6) Discuss with clients which massage therapy modalities and techniques will be utilized and the benefits of these modalities and techniques, the objectives, and that participation is voluntary and that consent to treatment or participation may be withdrawn at any time.

(7) Obtain written consent prior to performing breast massage.

(8) Modify or terminate the massage therapy session at any time upon request of the client.

(9) Keep client information private and confidential. This standard does not prohibit or affect reporting mandated under State or Federal law to protect children, older adults, or others.

(10) Use safe and functional coverage/draping practices during the practice of massage therapy when the client is disrobed. Safe and functional coverage/draping means that the client's genitals and gluteal cleft and the breast area of female clients are not exposed and that massage or movement of the body does not expose genitals, gluteal cleft or breast area. With voluntary and informed consent of the client, the gluteal and breast drapes may be temporarily moved in order to perform treatment of the area.

(11) Act to safeguard clients from incompetent, abusive or illegal practices of other massage therapists or caregivers.

(12) Continuously maintain current CPR certification.

(13) Be clean, fully-clothed and professional in dress and appearance.

(14) Display the massage therapist's current license with expiration date in a location clearly visible to clients or, when practicing offsite, display the massage therapist's wallet card.

(15) Include the massage therapist's license number in all advertisements.

(16) Conspicuously display the massage therapist's name and the title L.M.T. or the words "Licensed Massage Therapist" on an identification badge or directly on clothing worn in the public areas where massage therapy services are being provided.

(17) Cooperate with the Board, the Department of State or the Bureau of Enforcement and Investigation in the investigation of complaints filed under the act.

(18) Provide massage therapy records immediately upon demand of the Board or its authorized agents.

(19) Maintain massage therapy records for at least 3 years from the last date that services were provided to the client.

(20) Educate clients about maintaining the beneficial effects of massage therapy treatment when indicated by a massage therapy treatment plan.

(21) Obtain the written permission of a parent or guardian, or their representative, prior to providing massage therapy services to a minor.

(22) Require that a parent or guardian, or their representative, be physically present in the room during treatment of a minor.

(b) A massage therapist may not:

- (1) Psychologically or physically abuse a client.
- (2) Violate a client's boundaries with regard to exposure, privacy or disclosure.
- (3) Utilize techniques that are contraindicated based on the client's condition.
- (4) Falsify or knowingly make incorrect entries into the client's record or other related documents.
- (5) Intentionally expose a client's genitals, gluteal cleft or the breasts of a female client except temporarily to perform therapeutic treatment of the area.
- (6) Engage in sexual harassment, sexual impropriety, sexual violation or sexual abuse.
- (7) Engage in sexual intimacies during the professional relationship.
- (8) Perform or offer to perform any services for clients other than those connected with giving massage therapy treatments as defined in section 2 of the act (63 P. S. § 627.2), unless the massage therapist has additional training and licensure, if required, to perform those services.
- (9) Knowingly permit another individual to use the massage therapist's license or temporary permit for any purpose.
- (10) Knowingly aid, abet or assist another person to violate or circumvent a law or this chapter.
- (11) Misappropriate equipment, materials, property or money from an employer or client.
- (12) Refuse a client's request for a refund for the unearned portion of prepaid or packaged massage therapy services. This provision does not apply to gift certificate purchases.

[Pa.B. Doc. No. 11-4. Filed for public inspection December 30, 2010, 9:00 a.m.]

## Title 52—PUBLIC UTILITIES

### PENNSYLVANIA PUBLIC UTILITY COMMISSION

[ 52 PA. CODE CH. 62 ]

[ L-2008-2069115 ]

#### Licensing Requirements for Natural Gas Suppliers

The Pennsylvania Public Utility Commission (Commission) on June 16, 2010, adopted a final rulemaking order which revises the Commission's natural gas supplier licensing regulations regarding level of security needed and forms of security used to satisfy statutory security requirements for licensing.

##### *Executive Summary*

In its October 2005 Report to the General Assembly, the Commission found that there was not effective competition in this Commonwealth's retail natural gas market. The finding was based in part on the low number of natural gas suppliers (NGSs) participating in the market. Docket No. I-00040103. The amount of financial security required for NGS licensing was identified as a possible barrier to market entry and participation.

Based on the Commission's finding, stakeholders met to discuss ways to increase effective competition. The Staff's Report on the SEARCH collaborative suggested the use of reasonable criteria for adjusting the security amount required for NGS licensing and the use of NGS accounts receivable in natural gas distribution company (NGDC) Purchase of Receivables (POR) Programs as an acceptable type of security. On September 11, 2008, the Commission issued a proposed rulemaking order revising PUC NGS licensing regulations. The order was published at 39 Pa.B. 1657 (April 4, 2009). A 60-day comment period was established. Seven parties and the Independent Regulatory Review Commission filed comments. The Commission issued its final rulemaking order on June 16, 2010.

This final rulemaking revises § 62.111: (1) to permit the use of NGS accounts receivable in a Commission-approved POR program to satisfy part of, or all of an NGS' security requirement; and (2) to list possible triggering events for adjusting the security amount and reasonable criteria for the adjustment of the security amount. This section also includes an annual reporting requirement for NGDCs on the adjustment of security amounts, and a list of Commission procedures, formal and informal, that an NGS may use to resolve a dispute over security with an NGDC. The Commission believes that the final regulation better balances an NGS's ability to provide adequate security to maintain its license with an NGDC's actual risk of financial loss in the event of supplier default.

Public Meeting held  
June 16, 2010

*Commissioners Present:* James H. Cawley, Chairperson;  
Tyrone J. Christy, Vice Chairperson, statement follows;  
Wayne E. Gardner; Robert F. Powelson

*Licensing Requirements for Natural Gas Suppliers;  
SEARCH Final Order and Action Plan;  
Natural Gas Supplier Issues;  
Doc. No. L-2008-2069115, I-00040103F0002*

#### **Final Rulemaking Order**

On December 8, 2008, we issued a proposed rulemaking order that set forth revisions to the security requirements for licensing natural gas suppliers at 52 Pa. Code

§ 62.101—62.114. In its September 11, 2008 Final Order and Action Plan regarding the Commission’s *Investigation into the Natural Gas Supply Market: Report on Stakeholder’s Working Group*,<sup>1</sup> Docket No. I-00040103F0002 (SEARCH Order), the Commission had determined that one way to increase effective competition in the retail natural gas market was to revise the security requirements in regard to the amount of security that was needed and the types of security that could be used. Before us today is an order that finalizes the revisions to the Commission’s NGS licensing regulations on these matters.

*Discussion*

*Background*

Section 2208(c)(1)(i) of the Public Utility Code establishes the security requirements for the issuance and maintenance of an NGS license. The section also authorizes the natural gas distribution company (NGDC) to determine the amount and form of the bond or other security that is required for an NGS license. This section reads as follows:

(c) *Financial fitness.*—

(1) In order to ensure the safety and reliability of the natural gas supply service in this Commonwealth, no natural gas supplier license shall be issued or remain in force unless the applicant or holder, as the case may be, complies with all of the following:

(i) *Furnishes a bond or other security in a form and amount to ensure the financial responsibility of the natural gas supplier.* The criteria each natural gas distribution company shall use to determine the amount and form of such bond or other security shall be set forth in the natural gas distribution company’s restructuring filing. In approving the criteria, commission considerations shall include, but not be limited to, the financial impact on the natural gas distribution company or an alternative supplier of last resort of a default or subsequent bankruptcy of a natural gas supplier. The commission shall periodically review the criteria upon petition by any party. The amount and form of the bond or other security may be mutually agreed to between the natural gas distribution company or the alternate supplier of last resort and the natural gas supplier or, failing that, shall be determined by criteria approved by the commission.

66 Pa.C.S. § 2208(c)(1)(i) (emphasis added).

The Commission’s NGS licensing regulations became effective on publication in the *Pennsylvania Bulletin* on July 21, 2001. 31 Pa.B. 3943. *Licensing Requirements for Natural Gas Suppliers*, Order entered April 19, 2001 at Docket No. L-00000150. Section 62.111 addresses bonds and other security. See 52 Pa. Code § 62.111.

In the SEARCH Order, the Commission identified NGDC security requirements as one barrier to supplier participation in the retail market.<sup>2</sup> Referencing the SEARCH Report, the SEARCH Order discussed the criteria used by the NGDC in establishing a security level and the extent of the Commission’s authority under the law to modify security requirements:

<sup>1</sup>The Stakeholders had been convened based on the Commission finding that “effective competition” did not exist in the retail natural gas market in accordance with 66 Pa.C.S. § 2204(g) (relating to investigation and report to General Assembly). See *Investigation into the Natural Gas Supply Market: Report to the General Assembly on Competition in Pennsylvania’s Retail Natural Gas Supply Market*, Order entered at Docket No. I-00040103.

<sup>2</sup>This subject is fully discussed in the SEARCH Report in Section I (Creditworthiness/Security) at pp. 18-21.

The criteria that are to be used by the NGDC to set the amount and form of the security were established in each company’s restructuring proceeding. The level of security is based on a formula that takes into account the NGDC’s exposure to costs. For the retail supply market, this formula involves the peak day demand estimate for capacity, number of days’ potential exposure in a billing cycle, and commodity estimates for quantity and cost. Offsets to the amount of security that a NGS must provide may include calls on capacity, receivable purchases or receivable pledges. NGDC costs related to supplier default as set forth in section 2207(k) of the Public Utility Code may also be taken into account when establishing the amount of security required. 66 Pa.C.S. § 2207(k). SEARCH Report, pp. 18-19.

If a NGDC and NGS cannot come to a mutual agreement, the level or form of security is determined by criteria approved by the Commission. See 66 Pa.C.S. § 2208(c)(1). These criteria were established in the Commission’s NGS licensing regulations and are to be used to determine security levels and acceptable forms for the security when voluntary agreement is not reached. See 52 Pa. Code § 62.111. Section 62.111(c) permits the use of the irrevocable letters of credit, corporate parental or other third party guaranty, and real or personal property. Personal property would include the use of escrow account or the pledge or purchase of receivables. 52 Pa. Code § 62.111(c). SEARCH Report, pp. 18-19.

Also, an individual NGDC’s security requirement, including the level of security, is subject to periodic review by the Commission. 66 Pa.C.S. § 2208(c). See also, *UGI Utilities, Inc.—Gas Division v. PA PUC*, 878 A. 2d 186 (Pa. Cmwlth. 2005) appeal den. 586 Pa. 732; 890 A.2d 1062 (2005) (the Commission has discretion to approve criteria to be used to determine the financial security necessary based upon financial impact on the NGDC by a default by an NGS). Thus, a supplier is not without a remedy to address unreasonable security requirements of an NGDC on a case-by-case basis.

SEARCH Order, pp. 23-24.

The SEARCH Order also discussed the suppliers’ position that uniformity in the use of security instruments across NGDC service territories, and greater acceptance of other types of security by the NGDCs would decrease costs for suppliers and remove a barrier to supplier entry and participation.

However, the SEARCH Report states that suppliers observe that the use of security instruments is not uniform among the companies and contend that this variability is a barrier to market entry and multi-system participation. Suppliers also raised concerns about the escalating cost of security to match the growth of their sales, and opined that there should be a limitation on the frequency of review of required security levels, with specific triggers for that review, such as a percentage change in pool size. SEARCH Report, p. 19.

Suppliers also view the NGDC’s acceptance of only certain financial instruments as a barrier to market entry. Suppliers prefer to use corporate guarantees as the predominant practice. Further, to ensure fairness and remove a possible barrier for market entry, suppliers believe that specific criteria for acceptable financial instruments should be established in a

regulation or order rather than permitting companies to set those through tariffs. SEARCH Report, p. 19.

Establishing standard language for the form of the financial instrument used for security and reasonable criteria for the amount of security should assist NGSs in obtaining security in an acceptable form and amount, while aiding the NGDC in collecting a claim against the security in the event of supplier default. North American Energy Standards Board (NAESB) forms and business practices could be reviewed for appropriateness to develop uniform language to address this issue. SEARCH Report, p. 21. Also, the use of a POR program should be examined as a way to reduce the level of required security, to lessen the need for frequent credit reviews and to ameliorate adjustments in security level that might normally be triggered by changes in a company's creditworthiness rating, which can occur for reasons unrelated to its immediate business interaction and relationships. SEARCH Report, p. 21.

SEARCH Order, pp. 24-25.

After our review of the SEARCH Report, we determined that it was in the public interest to initiate a rulemaking to address security requirements related to NGS licensing. SEARCH Order, p. 25. Our goal was to update the security requirement in the regulations "to better balance the ability of NGS firms to provide adequate security with the NGDC's risk of a supplier default." Specific matters that were to be addressed included: (1) the use of NGS accounts receivable in purchase of receivables programs as fulfillment of some part, or all of security requirements; (2) the adoption of standard language for financial instruments used for security; and (3) the development of reasonable criteria for NGDCs to use to establish the amount of security necessary for licensing purposes. SEARCH Order, p. 26.

The proposed rulemaking order was entered on December 8, 2008, and was published on April 4, 2009, in the *Pennsylvania Bulletin* at 39 Pa.B. 1657. The order established a 60-day comment period. No reply comments were permitted to be filed.

Comments were filed by seven interested parties: the Energy Association of Pennsylvania (EAPA)<sup>3</sup>; the NGS Parties,<sup>4</sup> the Retail Energy Supply Association (RESA)<sup>5</sup>; Philadelphia Gas Works (PGW); National Fuel Gas Distribution Company (NFG); PECO Energy Company (PECO) and Equitable Gas Company (Equitable). The Independent Regulatory Review Commission (IRRC) also filed comments.

We have reviewed and addressed these comments below.

#### Comments

##### § 62.111—Suppliers Serving Large Customers (over 300 Mcf annually)

As a general comment, Equitable states that modifications to § 62.111 should make it clear that the security

<sup>3</sup> Natural gas industry members of EAPA include Columbia Gas of PA, Dominion Peoples, Equitable Gas, National Fuel Gas Distribution Corp., PECO Energy Co., Philadelphia Gas Works, and UGI Utilities, Inc.

<sup>4</sup> The NGS Parties include Agway Energy Services, LLC, Gateway Energy Services Corporation, Interstate Gas Supply, Inc., and Vectren Retail, LLC.

<sup>5</sup> RESA is a non-profit trade association whose members are involved in the wholesale generation of electric generation and the competitive supply of natural gas to residential, commercial and industrial customers. RESA's members include Commerce Energy, Inc., Consolidated Edison Solutions, Inc., Direct Energy Services, LLC, Exelon Energy Company, Gexa Energy, Green Mountain Energy Company, Hess Corporation, Integrys Energy Services, Inc., Liberty Power Corporation, RRI Energy, Sempra Energy Solutions LLC, SUEZ Energy Resources NA, Inc., and US Energy Savings Corporation.

provisions apply only to those natural gas suppliers who offer service to residential customers and small commercial and industrial customers that consume less than 300 Mcf annually. Equitable also expresses the opinion that an NGS that offers service to large commercial and industrial customers should be permitted and required to determine appropriate security with the NGDC outside the parameters of this section. Equitable Comments, Appendix A, p. 1.

#### Resolution

The definition of "natural gas supplier" at 66 Pa.C.S. § 2202 does not categorize a supplier by the class of customers it serves, nor by the volume of natural gas its customers consume. In fact, the only criterion in the definition is that the natural gas supplier provides retail natural gas supply service as opposed to wholesale gas service. For this reason, we see no need to make a distinction between suppliers based on the volume of gas that customers consume, especially since we are attempting to create a more competitive retail market by adopting consistent requirements for suppliers. Accordingly, we will not make the requested change.

As to Equitable's comment that it should be able to determine appropriate security for an NGS that offers service to large commercial and industrial customers outside the parameters of this section, we will note that an NGDC and a supplier can always come to a mutual agreement on the amount of security that the NGS must provide. 66 Pa.C.S. § 2208(c)(1)(i) (relating to requirements for natural gas suppliers; financial fitness). The only caveat is that the NGDC must apply the criteria used as the basis for such an agreement to other agreements with other similarly situated suppliers so as to avoid discriminatory or anticompetitive conduct. See 66 Pa.C.S. § 2209 (relating to market power remediation); 52 Pa. Code §§ 62.141—62.142 (relating to standards of conduct).

##### § 62.111(c)(1)(i)—Security Amount

RESA proposes the addition to the regulation of a formula that would be used to calculate the amount of security that will be required to operate on an NGDC's system. The formula is that "security cannot exceed the NGS' customers' MDQ [Maximum Daily Quantity] times the peak forecasted NYMEX [New York Mercantile Exchange] price for the next 12 months and for upstream capacity to the city gate times 10 days." RESA Comments, p. 4.

RESA also suggests a baseline creditworthiness standard, which if met, would satisfy the section 2208(c) security requirement and would obviate the need for the supplier to post additional security. The standard would entail the supplier having a minimum investment grade credit rating or its equivalent from two of three credit rating agencies. RESA Comments, pp. 5-6. RESA states that the minimum threshold security requirement is warranted to reflect the reduced risk associated with an NGS that has a favorable investment grade/credit rating. RESA Comments, p. 7.

EAPA comments that financial security requirements for NGSs are necessitated by section 2207(k) that permits the NGDC, acting as the supplier of last resort (SOLR), to charge customers returning from a defaulting supplier the rates the supplier would have charged the customer for the remainder of the billing cycle. 66 Pa.C.S. § 2207(k) (relating to rate after service discontinued [by a defaulting supplier]). EAPA Comments, pp. 1-2. This section specifically provides that:



any difference between costs incurred by the supplier of last resort and the amounts payable by the retail gas customer shall be recovered from the natural gas supplier or from the bond or other security provided by the natural gas supplier without recourse to any retail gas customer not otherwise contractually committed for the difference.

66 Pa.C.S. § 2207(k).

The supplier's bond or other security pays the NGDC or the SOLR the difference between the cost of the replacement gas supply for returning customers from a defaulting supplier and the amount that the NGDC or SOLR can collect from those customers for the gas supply under the defaulting supplier's agreement.

EAPA also comments that financial risks imposed by section 2207(k) vary from NGDC to NGDC. For NGDCs that have on-system storage facilities, native natural gas production and ample pipeline capacity, the financial risk of obtaining supply during peak periods may be relatively small. EAPA Comments, p. 2. For those NGDCs who do not, the financial risks may be relatively large. The bond or other security provided by the NGS ensures the financial responsibility of the supplier, but ultimately ensures "the safety and the reliability of the natural gas supply service in this Commonwealth." See 66 Pa.C.S. § 2208(c)(1)(i). EAPA Comments, p. 2.

#### Resolution

Section 2208(c)(1) requires that a supplier provide a bond or other security to ensure its financial responsibility so it can be licensed as an NGS. 66 Pa.C.S. § 2208(c)(1). The purpose of the security is to ensure the financial responsibility of the supplier and the safety and the reliability of the natural gas supply. 66 Pa.C.S. § 2208(c)(1). Specifically, the security can be used to pay, in part, for the costs of replacement gas supply for customers of suppliers who return to default service.

Section 62.111(c)(1) has always recognized that the starting point for setting the security for a licensee was the amount that would satisfy the statutory requirement in 66 Pa.C.S. § 2207(K). Section 62.111(c)(1) reads as follows:

(1) The amount of the security should be reasonably related to the financial exposure imposed on the NGDC or supplier of last resort resulting from the default or bankruptcy of the licensee. At a minimum, the amount of security should materially reflect the difference between the cost of gas incurred and the supplier's charges, if any, incurred by the NGDC or supplier of last resort during one billing cycle.

52 Pa. Code § 62.111(c)(1).

This preliminary security amount could then be adjusted upward or downward based on the criteria set forth in § 62.111(c)(1)(i)(A)—(E).

In reviewing the comments to this rulemaking, we discovered that the use of the phrase "at minimum" in the second sentence as well as the paraphrasing of statutory language from section 2207(k) has created some confusion. For this reason, we will revise this sentence by deleting the phrase "at minimum" and the word "material," and by incorporating the exact statutory language from section 2207(k). This revision should make the method for establishing the preliminary security amount required for licensing more understandable. This amount will then be the security amount ordinarily required, unless one or more of the criteria set forth in § 62.111(c)(1)(i)(A)—(E) warrant an upward or downward adjustment to that amount.

While we agree that an NGS's credit rating may be taken into account by an NGDC in establishing the amount of security, we cannot adopt RESA's proposal to eliminate the security requirement upon the showing of some baseline creditworthiness standard. Risks vary from supplier to supplier, and thus, financial exposure posed by suppliers operating on NGDC systems vary from NGDC to NGDC making a baseline creditworthiness standard based solely on credit or investment ratings difficult, if not impossible, to establish for use in the statewide retail market. However, we understand that some NGDCs do not require an NGS to post additional security when the NGS has a high credit rating, or is backed by a highly rated parental or other corporate guaranty. To the extent that an NGDC has adopted such a standard, we will direct that the NGDC include this standard in its tariff. This will ensure that all NGSs have notice of the standard and will further ensure that the standard is applied in a non-discriminatory manner to all NGSs. We have also revised § 62.111(c) to require NGDCs to include this information in their tariffs.

In regard to the RESA's suggestion to use a standardized formula to calculate the security amount, the law provides NGDCs with the discretion to set the security amount for licensing, and states that the criteria used "shall include, but not be limited to, the financial impact on the natural gas distribution company . . . of a default or subsequent bankruptcy of a natural gas supplier." 66 Pa.C.S. § 2208(c)(1)(i). Because the NGDC may take into account criteria other than the cost of replacement gas when establishing a security amount for a supplier, we do not believe that it appropriate to adopt one standard formula to calculate the security amount for use by all NGDCs. Accordingly, we will not adopt RESA revision to the regulations at this time.

We note, however, that some NGDCs may use their own formulas to calculate the level of security for NGSs operating on their systems. These formulas were established in the NGDCs' restructuring proceedings for the retail supply market. These formulas involve the peak day demand estimate for capacity, the number of days potential exposure in the billing cycle and the commodity estimates for quantity and cost. SEARCH Report, p. 18-19. Again, to promote transparency of credit requirements for licensing, we will direct an NGDC that uses a formula to calculate security amounts to include the formula with other applicable rules for its use in its tariff. We have also revised § 62.111(c) to require NGDCs to include this information in their tariffs.

While the NGDC has the discretion to set the level of security, the Commission has the authority to approve criteria to be used to determine the appropriate amount of security based upon financial impact on the NGDC of a supplier's default, and may review NGDC decisions regarding the application of these criteria. Nevertheless, we expect that the NGDC will establish a security amount that is reasonably related to its financial exposure. See *UGI Utilities v. Pennsylvania Public Utility Commission*, 878 A.2d 186, 192 (Pa. Cmwlth. 2005) (*UGI Utilities*) (the law provides for a "reasonably related" financial security requirement, not the worst case scenario as determined by the NGDC, which is contrary to the intentions of the statute to promote competition and choice in the natural gas industry).

However, when an NGS believes that the amount of security that it is being required to post to obtain a license is too high and it cannot come to an agreement with the NGDC regarding an alternative amount, it may

file a formal complaint against an NGDC. The Commission has adjudicated complaints from suppliers against NGDCs alleging high security amounts, and, based on the record presented, has adjusted security when it was warranted. See *UGI Utilities*, supra. Alternatively, a supplier may follow the procedures to dispute an NGDC's determination of the security amount set forth in § 62.111(c)(8)(i) and (ii) that are discussed below.

§ 62.111(c)(1)(ii)—*Adjustment of Security Amount*

Section 62.111(c)(1)(ii) states that the amount of the security may be adjusted, but not more often than every six months, and the adjustments must be reasonable. It then lists criteria upon which these adjustments must be based. In response to suppliers' complaints about the frequency of security level adjustments and the need for specific triggering events for creditworthiness reviews and security adjustments, we proposed to revise the criteria to make them more stringent. The regulation was revised so that only changes in the NGS's operation that would materially affect the NGDC system operation or reliability or changes that would materially affect the NGS's creditworthiness could trigger a review and adjustment of security.

We have divided the comments filed to this section into two parts to facilitate their disposition.

A. *Six Month Time Restriction*

EAPA and NFG propose eliminating the six months limit on adjusting security and recommends reliance on reasonableness of the requirement to protect against rapid and random changes in security. The argument is that allowing changes more frequently than every 6 months will permit the NGS to maintain different security levels in the winter and the summer because the NGDC will no longer fear being locked into a security amount in the event of a change in circumstances. This would not be a burden to the NGSs and would provide greater flexibility for both parties. As an alternative, NFG suggests a limit or freeze on NGS customer enrollments. EAPA Comments, p. 3; NFG Comments, p. 5.

*Resolution*

The Commission understands the utility of eliminating the six months restriction on adjusting security amounts and will delete it from § 62.111(c)(1)(ii). We believe that elimination of this restriction will allow the NGDC to establish reasonable levels of security for NGSs operating on its system. We will substitute the phrase "as circumstances warrant" for the deleted language.

B. *Triggering Events for Adjustment in Security Amount; Adjustments in Advance of Possible Default; Need to Define Modifiers "Significant" and "Materially" for Clarity*

The EAPA offers revisions to the proposed regulation to achieve two purposes: (1) to ensure that security is provided in advance of supplier default that it is sufficient to cover the financial risk to the NGDC; and (2) to allow for adjustment of the security amount when there is a significant increase in customer number, change in class of customer served or significant change in the volume of gas supplied by the NGS.

PGW states that security levels should be adjusted when there is a significant change in volume of gas provided by the supplier. This change in volume would be independent of an increase in the number of customers since a current commercial or industrial customer could significantly increase its purchase of gas from a supplier and thus significantly increase the financial exposure of

PGW and its customers. PGW and Equitable suggest that a 10% increase in volume would represent a significant increase in volume that would justify an adjustment in the amount of security. NFG and Equitable agree that an increase in gas volume may be more important than an increase in the number of customers. NFG also suggests that the Commission should evaluate a means of tying the ability to adjust security requirements to commodity prices. Equitable Comments, Appendix A, p. 1; NFG Comments, p. 3. PECO supports a threshold of a 25% increase in the projected quantity of natural gas that suppliers deliver or an increase in the projected volume of gas consumed to trigger an increase in security requirements. PECO Comments, pp. 2-3.

The EAPA states that the "25% change in customers" trigger for adjustment of security amount is arbitrary and does not consider a change in the volume of natural gas supplied. If the parties cannot agree on the meaning of the term "significant," the proposed § 62.111(c)(6) provides a means to resolve the dispute. Thus, prescriptive triggers can be avoided and the final sentence of the proposed regulation at § 62.111(c)(i)(ii)(C) can be deleted. EAPA Comments, p. 3.

IRRC states that this provision should be revised to reflect the impact on the NGDC's financial risk of changes in volume delivered or consumed as well as changes in the number of customers. IRRC also states that the PUC should specify the percentage change in volume that could trigger an adjustment to the amount of security required. IRRC Comments, p. 2.

In regard to timing, NFG states that directing a change in security only if an event materially affects system operations or reliability potentially subjects all customers to unnecessary risk that could have been avoided if an NGS was required to post appropriate security before it materially impacted system operations. In other words, NFG believes it is appropriate to have sufficient security to cover material impacts on the system operations before, and not after, the event occurs. In addition, NFG states that an early warning of a supplier's default could be discerned from a pattern of operating violations that may not, at the time, have been material. NFG Comments, pp. 2-3.

PGW recommends that the criteria that would trigger an adjustment in the level of security for an NGS should be expanded to include "significant changes in a licensee's recent operating history that materially affected NGDC system operations or reliability on other NGDC systems." PGW Comments, pp. 2-3.

NFG objects to the use of the phrases "significant changes" and "materially affects" because they are too broad and ambiguous for regulations. NFG also characterizes the "materiality" clause (as affecting system reliability) as a loophole that would only benefit potentially unreliable NGSs. NFG Comments, pp. 3-4. NFG recommends deletion of this language.

IRRC states that "significant changes" should be defined or clearly explained in § 62.111(c)(1)(ii)(A) and (B). IRRC also states that the term "material affects" in § 62.111(c)(1)(ii)(A), (B) and (E) should be defined in each instance or include the criteria that are to be used in each instance to determine if there is a material effect. IRRC's Comments, p. 1.

*Resolution*

In regard to circumstances that may warrant a change in the level of security, we agree that a substantial change in volume of gas sold by a supplier could warrant

an adjustment of the security amount, and so we will revise § 62.111(c)(1)(i)(C) to add “change in volume of gas” as a triggering event for adjusting security amounts.

However, security adjustments for changes in the price of natural gas require more careful consideration. We can foresee that price volatility could cause an NGDC to request an ever escalating amount of security for a short term period. The NGS would then be obliged to request a change in security when prices fell. Accordingly, we will add a provision that a 25% change in the unit price of gas averaged over a consecutive 30 day period will constitute a significant change in price that would support a change in security level.

In regard to the percentage change in the number of customers served, we will follow IRRC’s comment and better define the changes that may be considered to be a significant change that could trigger a change in security levels. Specifically, we have revised § 62.111(c)(1)(ii)(C) to add a time element so that a significant change in customer number would be a change of 25% averaged over a consecutive 30 day period. We have added this same qualification to better define a change in volume of gas delivered that could trigger a change in security amount. We note that a 25% benchmark may appear to be overly generous, but it cuts both ways. Just as a 25% increase in customers would act as a triggering event that would allow an NGDC to increase an NGS’s security amount, a 25% decrease in customers would act as an event that would allow a supplier to request a decrease in security amount.

We have revised the following sections to add language that explain circumstances relating to credit rating services and investment rating services that could materially affect a licensee’s creditworthiness:

- Section 62.111(c)(1)(ii)(B)—when two of five listed credit rating companies change the licensee’s credit rating.
- Section 62.111(c)(1)(ii)(D)—when a two of the five listed investment ratings service change the licensee’s ratings of its issued securities.

As now revised, § 62.111(c)(1)(ii)(B) would be applicable to a supplier’s credit score for obtaining a bond or letter of credit from an insurance company or bank or other surety. Section 62.111(c)(1)(ii)(D), as now revised, may be most applicable to situations where the NGDC has agreed to accept a corporate, parental or other third-party guaranty as security. See § 62.111(c)(2)(iii). To ensure that a supplier’s change in rating was not a mistake or fluke, we added the requirement that two of the five listed major ratings companies would need to make the change in rating to trigger an adjustment in the security amount.

In response to IRRC’s comment, we have also revised § 62.111(c)(2)(ii)(E) to explain that an NGDC system’s operation or reliability could be materially impacted when a supplier fails to deliver natural gas supply sufficient to meet its customers’ needs on five separate occasions within a 30 day period, or fails to comply with NGDC operational flow orders as defined at 52 Pa. Code § 69.11 (relating to definitions). These are only two examples of how an NGDC could be impacted when a supplier defaults on gas delivery volumes.

In regard to the comments that urge that changes in an NGS’s operating history on other NGDC systems that materially affect system operation and reliability should also be considered as a basis for adjusting the security amount, we agree. A record of an NGS’s compliance with

other NGDC system requirements is a fair predictor of its future compliance with another NGDC’s system requirements. For this reason, we believe that the operating history of an applicant or a licensee on other NGDC systems may also be considered by an NGDC when it establishes the initial security amount necessary for the applicant to be licensed as an NGS in Pennsylvania. Accordingly, we have revised both §§ 62.111(c)(1)(i)(A) and 62.111(c)(1)(ii)(A) consistent with this discussion.

Finally, for consistency, we added a reference to § 62.111(c)(i)(A)—(E), as now revised, in § 62.111(c)(1)(i)(D) to better explain the phrase “information that materially affects a licensee’s creditworthiness” in regard to establishing the initial security amount for NGS licensing requirement.

#### § 62.111(c)(2)—Types of Security

This section lists the legal and financial instruments that shall be acceptable for security. In the proposed rulemaking order, we revised the list to include escrow accounts, accounts pledged to the NGDC or sold by the supplier in an NGDC purchase of receivables program, and “calls on capacity” or other operational offsets that may be mutually agreeable to NGDC and NGS.

In its comments, NFG argues that accounts receivable that are ‘sold’ cannot be used as security by anyone. NFG states that the financial exposure imposed by an NGS on an NGDC may be reduced by a purchase of receivables program. The accounts receivable will not be a security instrument, but it will lower the financial exposure of the NGDC through the ability of the NGDC to “off-set” any potential liabilities incurred by the NGS with payments due under the POR. NFG Comments, pp. 5-6.

Equitable states that the final regulations for POR programs have not yet been established so it is premature to include receivables as a type of acceptable security. Currently Equitable forwards NGS receivables once per calendar month. Equitable questions whether it would be acceptable for the NGDC to retain 100% of the NGS receivables if the NGS fails to deliver gas during a winter month. Equitable also states that an NGDC should be allowed to retain 100% of NGS receivables in the event of a mid-month NGS failure to deliver, and receivables considered to be acceptable security. The receivables would be used to satisfy the NGS obligations with the balance, if any, payable to the NGS. Equitable notes that NGSs have historically failed during periods of a run-up in gas prices. Equitable Comments, Appendix A, pp. 1-2.

PECO states that if an NGDC purchases NGS customer receivables, the receivables belong to the NGDC and the NGDC acquires the increased risk of uncollectible accounts. NGDCs should not be required to use those receivables to satisfy NGS security requirements. PECO Comments, p. 4.

IRRC states that the PUC needs to provide further justification for including accounts receivable as acceptable security. This direction is based on comments that receivables cannot quickly be converted to cash, and alone, should not be an acceptable form of security. IRRC Comments, p. 2.

RESA suggests adding an additional operational offset to be used as security in § 62.111(c)(2)(vi): “netting NGDC gas supply purchases against NGS collateral requirements.” RESA Comments, p. 7.

NFG comments that “cash” should be added as a form of security. NFG also comments that “escrow accounts” should be deleted as a type of security because of the administrative expenses involved in maintaining such an account. NFG Comments, p. 5.

#### *Resolution*

The use of the word “sold” in the provision that permitted purchase of receivables to be used as security collateral was to provide flexibility to NGDCs in designing “purchase of receivables” programs (POR). Because of the legal ambiguity unintentionally created, we have replaced the word “sold” with “assigned.”

In response to IRRC’s comment regarding the need to justify the use of receivables as a security, we note that accounts receivable represent a future stream of income owed to the NGS, and thus, are an asset. As such, receivables are NGS personal property, a type of security that has been recognized as an acceptable form of security since the regulations were first promulgated on July 21, 2001. See 52 Pa. Code § 62.111(c)(3); 31 Pa.B. 3943. By way of further explanation, in POR programs NGS receivables are pledged or are assigned to the NGDC, thereby transferring an asset to the NGDC which, in turn, reduces the financial risk to the NGDC in the event of an NGS default on its obligations, e.g., failure to deliver gas in the necessary quantities. The discounting of NGS receivables in an NGDC’s POR accounts for the risk of uncollectibles, and reduces the NGDC’s overall financial exposure by improving the quality of those NGS accounts receivable which now belong to the NGDC. For these reasons, we believe that receivables in a POR program are an acceptable form of security. We will also adopt RESA’s suggestion and will add the “netting” of “NGDC gas supply purchases from the NGS” against “NGS security requirements” as another example of an operational offset that is acceptable as security in § 62.111(c)(2)(vi).

In addition, we will clarify that NGS receivables in a POR program, or any of the other financial or legal instruments or property, real or personal, listed as acceptable forms of security in § 62.111(c)(2) need not by itself satisfy the entire security amount. The NGS may offer to provide one or more these forms of security to satisfy the total security amount required for licensing.

We will also revise this section to add “cash” as an acceptable type of security at § 62.111(c)(2)(vii). However, we will not eliminate the use of “escrow accounts” as suggested by NFG. We understand that there may be additional costs involved with maintaining an escrow account, but if the NGDC and NGS are both agreeable to its use, responsibility for the maintenance cost is just another point for agreement.

Ideally, the NGS and the NDC will come to an agreement on the amount and the form of security that the NGS will need to provide to maintain its license. However, the NGDC’s determinations in regard to the security amount or the forms of security it will accept is subject to Commission review and must be reasonable in regard to the individual supplier and consistent in regard to all suppliers to guard against discriminatory or anti-competitive conduct. See 52 Pa. Code § 62.111(c).

#### *§ 62.111(c)(4)—Use of NAESB Standards*

This proposed section states that, when practicable, the NGDC shall use applicable North American Energy Standards Board (NAESB) forms or language for financial and legal instruments.

In its comments, Equitable believes that the use of forms and language in security instruments should also be at the discretion of the NGDC and proposes the following language:

When practicable and in the NGDC’s discretion, the NGDC shall use applicable North American Energy Standards Board forms or language for financial and legal instruments that are used for security.

In regard to § 62.111(c)(4), Equitable states that the use of forms and language in security instruments should be at the discretion of the NGDC. Equitable Comments, Appendix A, p. 2.

#### *Resolution*

The Commission declines to revise this section. The standardization of business practices, including forms, was identified as a means to increase supplier participation in the statewide retail natural gas supply market. SEARCH Order, pp. 26-33. NAESB has developed numerous forms that are in use in the natural gas industry today. While NAESB business practices, forms and language for financial and legal instruments will be examined more thoroughly in the rulemaking, Natural Gas Distribution Company Business Practices, Order entered May 1, 2009 at Docket No. L-2008-2069117, we see no reason not to encourage their use, where practical, here.

#### *§ 62.111(c)(5)—Annual Reporting Requirements*

Proposed § 62.111(c)(5) imposes an annual reporting requirement on the NGDCs. The purpose of this reporting requirement is to gather information about the NGDC’s application of established criteria to set and adjust levels of security for suppliers that operate on the NGDC’s system. The report will be filed with the Commission’s Secretary.

PGW comments that § 62.111(c)(5)(iv), which requires that the NGDC report “the number of times in the last quarter that the NGDC determined that a change in the level of security was needed for a supplier to maintain its license,” should be changed to the number of times in the last year. PGW Comments, p. 5. EAPA provided the same comment. EAPA Comments, p. 4.

In its comments, EAPA offers revisions to streamline and consolidate the new reporting requirements and clarifies that it is not the NGDC, but the Commission who grants the license. EAPA states that its revisions underscore that the amount and form of the security should be reasonably related to the financial exposure imposed on the NGDC or SOLR resulting from a potential default or bankruptcy of the NGS. The criteria established for security must “ensure the financial responsibility” of the licensee in the event of default or bankruptcy, and EAPA’s proposed revisions use that specific wording. EAPA Comments, p. 4.

#### *Resolution*

The Commission has proposed an annual reporting requirement to gather information about the criteria used by NGDCs to establish security amounts and the rules used by NGDCs to adjust security amounts to obtain, and maintain an NGS license. See 52 Pa. Code § 62.111(c)(5). The information collected will be used to study the criteria and rules used by the NGDCs to establish and adjust security amounts for NGSs operating on their systems. The data will also be used to evaluate the consistency of the application by an NGDC of its criteria and rules to NGSs operating on its system. It is envisioned that the collected data may also be used to

standardize these criteria and rules so that they may be included for use by all NGDCs in a standardized supplier coordination tariff.

Based on the comments, we have revised the reporting requirements to clarify that it is the Commission and not the NGDC that grants an NGS a license. While § 62.111(b) makes it clear that the purpose of the security requirement for licensing is to ensure the licensee's financial responsibility, we have added EAPA's suggested language that reiterates this point in regard to security that the licensee must have in place to maintain its license in § 62.111(c)(5)(ii). We also revised § 62.111(c)(5)(iv) to delete language that requests data be reported "for the last quarter" as being inconsistent with an annual reporting requirement.

*§ 62.111(c)(6)—Dispute Resolution Procedures*

Proposed § 62.111(c)(6) lists four Commission processes that an NGS may pursue if it is unable to reach an agreement with the NGDC on the form or amount of security to be provided: informal mediation; alternate dispute resolution with the OALJ; litigation of a formal complaint; and petition for Commission review of NGDC criteria for security levels. The first alternative presented, informal mediation, may be requested by filing a dispute with the Commission's Secretary. The Secretary will assign the complaint to the appropriate bureau that will act as the mediator between the NGS and the NGDC.

In its comments, RESA suggests that the Commission add a provision that lists the Commission processes, formal and informal that an NGS may pursue to resolve a dispute with the NGDC on the form and/or amount of security. RESA Comments, p. 9.

NFG states that there is no mention of the Office of Competitive Market Oversight<sup>6</sup> in the dispute resolution section and states that attempting to resolve the dispute through the OCMO should be required before an NGS can attempt to obtain other Commission intervention by filing a formal complaint. NFG Comments, p. 6. PECO comments that supplier complaints should be initially referred to the OCMO for mediation and advisory purposes. PECO Comments, p. 5.

NFG also states that the section does not explain how the financial security should be handled pending the resolution of the dispute. NFG suggests that in order to protect system reliability and NGDC ratepayers, an NGS must post the required security in order to provide or continue to provide service on the NGDC system pending the dispute resolution. NFG Comments, p. 7. PECO comments that the Commission should clarify its intent that NGSs continue to provide service to customers during disputes. PECO Comments, p. 5.

Equitable states that the NGDC should have the right of appeal to the Commission from a bureau decision concerning NGS security. Equitable Comments, Appendix A, p. 3. EAPA supports the dispute resolution provision and suggests revising it to require the NGS first to attempt to resolve the issue with the NGDC: to assign the dispute to the OCMO; and to require an existing licensee to post the adjusted security amount requested by the NGDC until the dispute is resolved. The rationale is to ensure that there is adequate security in place to cover the financial exposure of the NGDC while the dispute is being resolved. EAPA Comments, p. 5.

<sup>6</sup> In the SEARCH Action Plan, the Commission directed that an independent unit be created within the Commission to oversee the development and the functioning of the competitive retail natural gas market. SEARCH Order, pp. 8-10 and Ordering Paragraph 5. The unit, the Office of Competitive Market Supply, was created within the Office of the Director of Operations by Secretarial Letter dated January 9, 2009 at Docket No. M-2009-2082042.

IRRC states that several commentators noted that the regulation does not address the NGS's responsibilities to customers during the dispute resolution process. IRRC suggests that, in the final form regulation, the Commission should clarify the responsibilities of all parties during the pendency of the dispute. IRRC Comments, p. 2.

*Resolution*

We have not identified the Office of Competitive Market Office as the Commission office that will mediate a dispute about the amount of security because we did not want to limit our ability in making such assignments. In § 62.111(c)(8)(1), we did expand the list of bureaus that will be involved in informal mediation to include an "office, or other designated unit." The term "other designated unit" is intended to include working groups composed of staff and other stakeholders.

We have included a requirement that the NGS must contact the NGDC and attempt to resolve the dispute over the security amount before filing for Commission intervention through informal mediation, alternative dispute resolution or litigation. We agree that the parties should make an initial attempt to resolve the differences between themselves. However, we do not see the necessity of requiring an existing licensee to go through an informal mediation process before it may file a formal complaint with the Commission. Accordingly, we will not adopt this suggestion.

We also will not adopt the suggestion that we provide for a right of appeal to the Commission from a bureau decision concerning NGS security because it is unnecessary. Section 5.44 of the Commission's Rules of Practice and Procedure already permits a party to appeal the decision of Commission staff. See 52 Pa. Code § 5.44 (relating to petitions for appeal from actions of the staff).

In response to IRRC's comment, we have added § 62.111(c)(9) that clarifies the responsibilities of the NGS and the NGDC to all parties, including customers, during the pendency of a dispute, including the requirement that the NGS post the amount of security requested by the NGDC. The Commission notes that it expects that the security amount requested by the NGDC will be a good faith estimate necessary to ensure the financial responsibility of the supplier as this amount may be subject to change or refund depending on the ultimate resolution of the dispute.

*§ 62.111(c)(7)—NGS Request for Change in Security*

RESA states that the NGDCs should be permitted to request a peak (winter) and off-peak (summer) security calculation to reflect the decrease in customer load and thus, a reduction to the NGDC's risk of supplier default, during the off-peak period. This formula, which is based on the New York's Uniform Business Practices, would calculate security based on the published gas price forecasts, as well as the cost of capacity (generally calculated as the weighted average cost of capacity), which would most accurately reflect the costs and risks an NGDC would face upon supplier default. RESA Comments, p. 4.

RESA also requests the addition of a provision that permits an NGS to request a reduction in security upon certain conditions including a rating upgrade to the minimal rating level of two of the three following agencies: Standard and Poor's Rating Services, Moody's Investor Service, Inc. and Fitch, Inc., or a significant decrease in the total usage of the supplier's customers for 30 days; or a significant decrease in gas supply cost lasting for 30 days. RESA further proposes that a significant reduction

be defined as a reduction of 25% in total customer load or in gas supply costs. This addition would further reduce market entry barriers for suppliers and ensure broader participation by existing suppliers. RESA Comments, p. 6.

IRRC suggests that the regulation permit suppliers to request a reduction in security under certain circumstances where it is apparent that there is a reduction in the risk of supplier default. IRRC states that RESA recommends that specific criteria be used in demonstrating the reduction of risk and a 5-calendar day time limit within which the NGDC must make its decision. IRRC questions if there is an existing process by which the supplier can seek decreased security requirements. If there is a process, then it should be included in this regulation. If there is no process in place, the Commission should consider including one in the final form regulations. IRRC Comments, p. 1.

#### *Resolution*

The Commission first notes that the elimination of the 6 month restriction on adjusting security amounts in § 62.111(c)(1)(ii) should facilitate seasonal levels of bonding, and permit a supplier to ask for reduction in security when the risk of financial exposure to the NGDC decreases.

The Commission has provided criteria for the adjustment of security in § 62.111(c)(1)(ii)(A)—(E) that may be used by the NGDC to increase the security amount when financial risk to the NGDC is increased, and by the NGS to request a reduction in security amount when the financial risk to the NGDC decreases. Section 62.111(c)(7) sets forth a procedure, including specific deadlines for response, that may be used by the NGS to request a decrease in security amount when the NGS is unable to come to agreement with an NGDC for a lower security amount. We believe that these revisions are consistent with and satisfy RESA's and IRRC's comments on this issue.

#### *Conclusion*

The Commission adopts the regulation revised herein as final. This rulemaking revises § 62.111 to include, *inter alia*, the development of reasonable criteria for establishing the initial security amount and for adjusting the security amount for an NGS license, regardless of whether the request for the adjustment is made by the NGDC or the NGS. Also established is an NGDC annual reporting requirement that will permit the Commission to collect data relating to the adjustment of security amounts and the triggering events, financial or operational, or both, that triggered the adjustment. The revision also permits the use of escrow accounts, cash, and NGS accounts receivable in a Commission-approved POR program to reduce the total security requirement. Finally, § 62.111(c)(7) establishes a process by which a supplier can request a reduction in security amount, and § 62.111(c)(8) sets forth an informal procedure that may be used by the NGS in lieu of filing a formal complaint to resolve a dispute with an NGDC over the amount of security required for licensing. The Commission believes that these regulations, as revised, better balance the ability of an NGS to provide adequate security to maintain its license with an NGDC's actual risk of financial loss in the event of supplier default.

Accordingly, under 66 Pa.C.S. §§ 501, 2203(12) and 2208, sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202), known as the Commonwealth Documents Law, and the regulations promulgated thereunder in 1 Pa. Code §§ 7.1, 7.2, and

7.5, section 204(b) of the Commonwealth Attorneys Act (71 P. S. § 732.204(b)), section 745.5 of the Regulatory Review Act (71 P. S. § 745.5) and section 612 of The Administrative Code of 1929 (71 P. S. § 232) and the regulations promulgated thereunder in 4 Pa. Code §§ 7.231—7.234, the Commission adopts as final the amendments to § 62.111 as set forth in Annex A; *Therefore*,

#### *It Is Ordered That:*

1. The regulations of the Commission, 52 Pa. Code Chapter 62, are amended by amending § 62.111 to read as set forth in Annex A.

2. The Secretary shall submit this order and Annex A to the Office of Attorney General for approval as to legality.

3. The Secretary shall submit this order and Annex A to the Governor's Budget Office for review of fiscal impact.

4. The Secretary shall submit this order and Annex A for review by the designated standing committees of both houses of the General Assembly, and for review and approval by IRRC.

5. The Secretary shall certify this order and Annex A with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

6. This amendment shall become effective upon publication in the *Pennsylvania Bulletin*.

7. The contact persons for this final-form rulemaking are Annunciata Marino, FUS, (717) 772-2151 (technical) and Patricia Krise Burket, Assistant Counsel, (717) 787-3464. Alternate formats of this document are available to persons with disabilities and may be obtained by contacting Sherri DelBiondo, Regulatory Review Assistant, Law Bureau, (717) 772-4597.

8. A copy of this order and Annex A shall be served on all jurisdictional natural gas distribution companies, natural gas suppliers, the Office of Consumer Advocate, the Office of Small Business Advocate and all other parties that filed comments at Doc. No. L-2008-2069115, Licensing Requirements for Natural Gas Suppliers.

9. Within 30 days after the date that this amendment becomes effective, all natural gas distribution companies shall file with the Commission's Secretary revised tariff pages consistent with this order and this amendment. The natural gas distribution company shall serve a copy of this compliance filing on all natural gas suppliers licensed in its service territory.

ROSEMARY CHIAVETTA,  
*Secretary*

*Statement of Vice Chairman Tyrone J. Christy*

Before the Commission for consideration is the Final Rulemaking Order in the above captioned matter, recommending approval of revisions to the Commission's security requirements for licensing of natural gas suppliers (NGSS) at 52 Pa. Code §§ 62.101—62.114. This rulemaking resulted from our September 11, 2008 Final Order and Action Plan regarding the Commission's *Investigation into the Natural Gas Supply Market: Report on Stakeholder's Working Group (SEARCH Order)*, Docket No. I-00040103F0002. In the SEARCH Order, the Commission determined that one way to increase effective

competition in the retail natural gas market was to revise the NGS licensing regulations in regard to the level of security needed and the forms of security that could be used to satisfy the statutory security requirement for licensing. Seven parties filed comments in response to the proposed rulemaking order: the Energy Association of Pennsylvania (EAPA); Philadelphia Gas Works (PGW); National Fuel Gas Distribution Company (NFG); Equitable Gas Company (Equitable); PECO Energy (PECO); the NGS Parties and the Retail Energy Supply Association (RESA).

I am concerned about one aspect of the proposed revisions to our licensing requirements, that being the inclusion of accounts receivable pledged or assigned to a natural gas distribution company (NGDC) by a supplier participating in a NGDC purchase of receivables (POR) program as an acceptable form of security. It is important to note that financial security requirements for NGSs are necessitated by Section 2207(k) of the Public Utility Code, 66 Pa.C.S. § 2207(k), which requires a NGDC, acting as supplier-of-last-resort, to charge customers returning from a defaulting NGS the rates the NGS would have charged the customer for the remainder of the billing cycle. The statute provides, “Any difference between the cost incurred by the supplier of last resort and the amount payable by the retail gas customer shall be recovered from the natural gas supplier or from the bond or other security provided by the natural gas supplier. . . .” The purpose of the bond or other security is to ensure the financial responsibility of the NGS.

The addition of accounts receivable as a form of security has created significant concerns from several of the parties submitting comments to this rulemaking proceeding. The EAPA states that participation in a NGDC POR program by a NGS may reduce the financial risk or exposure created by the default or bankruptcy of a NGS and may impact the amount of security necessary, but participation in the program cannot in itself be the security. NFG states that the notion that an entity could use something it has sold or pledged as security is fundamentally flawed. NFG avers that the receivables may reduce the financial exposure imposed by a NGS on a NGDC, but the impact will not be a security instrument. PGW states that receiving a pledge of accounts receivable is not as simple as receiving a bond, a letter of credit or being the beneficiary of money deposited into escrow. PGW avers that it is simply not possible for a supplier to provide a security interest in accounts receivable that it does not own. Equitable and PECO have submitted similar concerns on this issue and state that receivables do not adequately mitigate risk for NGDCs and should not be eligible for use as security.

I must respectfully dissent, partially, from the majority's decision today on this one aspect of the proposed rulemaking as I agree with the aforementioned comments that receivables pledged or assigned to a NGDC by a NGS participating in the NGDC's POR program should not be included as an acceptable security instrument or property. While I agree that the amount of receivables under a POR program may reduce the financial exposure by a NGS on a NGDC, that reduced financial exposure should be considered in the context of the overall NGDC formula for security. This formula would consider, among many details, the current level of customers, the volume of natural gas delivered and the average price of natural gas. As a result, I would have preferred that the proposed

regulations rely upon adjustments to the level of security by the aforementioned issue and excluded the use of POR program receivables as a form of NGS security.

TYRONE J. CHRISTY,  
Vice Chairperson

*(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 40 Pa.B. 6752 (November 20, 2010).)*

**Fiscal Note:** Fiscal Note 57-266 remains valid for the final adoption of the subject regulation.

**Annex A**

**TITLE 52. PUBLIC UTILITIES**

**PART I. PUBLIC UTILITY COMMISSION**

**Subpart C. FIXED SERVICE UTILITIES**

**CHAPTER 62. NATURAL GAS SUPPLY CUSTOMER CHOICE**

**Subchapter D. LICENSING REQUIREMENTS FOR NATURAL GAS SUPPLIERS**

**§ 62.111. Bonds or other security.**

(a) A license will not be issued or remain in force until the licensee furnishes proof of a bond or other security. See section 2208(c)(1)(i) of the act (relating to requirements for natural gas suppliers).

(b) The purpose of the security requirement is to ensure the licensee's financial responsibility. See section 2208(c)(1)(i) of the act.

(c) The amount and the form of the security, if not mutually agreed upon by the NGDC and the licensee, shall be based on the criteria established in this section. The criteria shall be applied in a nondiscriminatory manner. The Commission will periodically review the established criteria upon petition by any party. The NGDC shall include the rules, formulas and standards it uses to calculate and adjust security amounts in a tariff.

(1) The amount of the security should be reasonably related to the financial exposure imposed on the NGDC or supplier of last resort resulting from the default or bankruptcy of the licensee. The amount of security should reflect the difference between the cost of gas incurred by the NGDC or supplier of last resort and the amount payable by the licensee's retail gas customers during one billing cycle.

(i) The amount of security established under this paragraph may be modified based on one or more of the following:

(A) The licensee's past operating history on the NGDC's system and on other NGDC systems, including the length of time that the licensee operated on the NGDC system, the number of customers served and past supply reliability problems.

(B) The licensee's credit reports.

(C) The number and class of customers being served.

(D) Information that materially affects a licensee's creditworthiness as set forth in subparagraph (ii)(A)—(E).

(E) The licensee's demonstrated capability to provide the volume of natural gas necessary for its customers' needs.

(ii) The amount of the security may be adjusted as circumstances warrant. The adjustments must be reasonable and based on one or more of the following criteria:

(A) A change in a licensee's recent operating history on the NGDC system or on other NGDC systems that has

materially affected NGDC system operation or reliability. A change that could materially affect NGDC system operation or reliability may occur when a supplier fails to deliver natural gas supply sufficient to meet its customers' needs, or fails to comply with NGDC operational flow orders as defined in § 69.11 (relating to definitions).

(B) A change in a licensee's credit reports that materially affects a licensee's creditworthiness. A licensee's creditworthiness could be materially affected when two of the following credit rating companies change the licensee's credit rating:

- (I) Dun & Bradstreet.
- (II) Standard & Poor's Rating Services, Inc.
- (III) TransUnion LLC.
- (IV) Equifax, Inc.
- (V) Experian Information Solutions, Inc.

(C) A significant change in the number of customers served, in the volume of gas delivered, or in the unit price of natural gas or a change in the class of customers being served by the licensee. A change over a consecutive 30-day period of 25% in the number of customers served, in the volume of gas delivered or in the average unit price of natural gas would represent a significant change.

(D) A change in operational or financial circumstances that materially affects a licensee's creditworthiness. A licensee's creditworthiness could be materially affected when two of the following investment rating companies change the licensee's rating of its issued securities from an investment grade or good rating to a speculative or moderate credit risk rating, and vice versa:

- (I) Standard & Poor's Rating Services, Inc.
- (II) Moody's Investment Service, Inc.
- (III) Fitch, Inc.
- (IV) A. M. Best Company, Inc.
- (V) DBRS, Inc.

(E) A change in the licensee's demonstrated capability to provide the volume of natural gas necessary for its customers' needs that materially affects NGDC system operation or reliability. A change that could materially affect NGDC system operation or reliability may occur when a supplier fails to deliver natural gas supply sufficient to meet its customers' needs on five separate occasions within a 30-day period, or fails to comply with NGDC operational flow orders as defined in § 69.11.

(2) The following legal and financial instruments and property shall be acceptable as security:

- (i) Bond.
- (ii) Irrevocable letter of credit.
- (iii) Corporate, parental or other third-party guaranty.
- (iv) Escrow account.

(v) Accounts receivable pledged or assigned to an NGDC by a licensee participating in the NGDC's purchase of receivables program that has been approved by the Commission as being consistent with Commission orders, guidelines and regulations governing the programs.

(vi) Calls on capacity, netting NGDC gas supply purchases from the NGS against NGS security requirements, or other operational offsets as may be mutually agreed upon by the NGDC and the NGS.

(vii) Cash.

(3) In addition to the requirements in this section, small suppliers with annual operating revenues of less than \$1 million may utilize real or personal property as security with the following supporting documentation:

(i) A verified statement from the licensee that it has clear title to the property and that the property has not been pledged as collateral, or otherwise encumbered in regard to any other legal or financial transaction.

(ii) A current appraisal report of the market value of the property.

(4) When practicable, the NGDC shall use applicable North American Energy Standards Board forms or language for financial and legal instruments that are used as security.

(5) The NGDC shall file an annual report with the Secretary no later than April 30 of each year. The report must contain the following information for the prior calendar year:

(i) The criteria that is used to establish the amount of security that an applicant must provide to the NGDC in order to be granted a license by the Commission.

(ii) The criteria that is used to determine the amount of security that a licensee must provide to ensure its financial responsibility in order to maintain a license.

(iii) The criteria that is used to determine that a change in the amount of security is needed for the licensee to maintain a license.

(iv) The number of instances in the last year that the NGDC determined that a change in the amount of security was needed for a licensee to maintain its license. For each instance, the following information shall be reported:

- (A) The name of the licensee involved.
- (B) The date of the NGDC's determination.
- (C) The reason for the determination.
- (D) The licensee's response to the NGDC determination.

(v) The types of legal instruments, financial instruments and property, real and personal, that the NGDC accepted as security for licensing purposes. For each security type reported, the following information shall be reported:

- (A) The name of the applicant or licensee involved.
- (B) The name and address of the bank, company or other entity that is acting as the surety or guarantor.
- (C) The amount of security.
- (D) The date that the security was posted.

(6) When an NGDC determines that an adjustment in the amount or type of security that a licensee must provide to maintain its license is warranted, the NGDC shall provide notice of its determination to the licensee in writing. The NGDC's determination must be based on the criteria in paragraphs (1), (2) and (3). The licensee shall comply with the NGDC's determination no later than 5 business days after the date that the licensee was served with notice of the NGDC's determination. When the licensee disagrees with the NGDC's determination, the licensee may file a dispute with the NGDC in accordance with paragraph (8).

(7) A licensee may request that the NGDC adjust the amount or type of security the licensee must provide to



maintain its license. The licensee shall provide its request in writing to the NGDC. The request must be based on criteria in paragraphs (1), (2) and (3). The NGDC shall make its determination on the request and provide a written response to the licensee within 5 business days after the date that the request was made. When the NGDC agrees to the requested adjustment in security, the licensee shall post the security within 5 business days after the date that the licensee was served with notice of the NGDC's determination. When the licensee disagrees with the NGDC's determination, the licensee may file a dispute with the NGDC in accordance with paragraph (8).

(8) When there is a dispute relating to the form or amount of security, the applicant or licensee shall notify the NGDC of the dispute and attempt to resolve the dispute. If a resolution is not reached within 30 days after the date that the NGDC is notified of the dispute, the applicant or the licensee may:

(i) Submit the dispute to the Secretary for assignment to the appropriate bureau, office, or other designated unit for informal mediation and resolution. A party dissatisfied with the staff determination may file a petition for appeal from a decision made by the Bureau under § 5.44 (relating to petitions for appeal from staff) or may file a formal complaint with the Commission under §§ 5.21 and 5.22 (relating to formal complaints generally; and content of formal complaint).

(ii) File a formal complaint with the Commission and request alternative dispute resolution by the Office of Administrative Law Judge.

(iii) File a formal complaint with the Commission and proceed with the litigation of the complaint.

(iv) File a petition with the Commission and request review of the criteria used by the NGDC.

(9) When a licensee submits a dispute or files a formal complaint relating to an adjustment in security by an NGDC, the following obligations apply:

(i) The licensee shall provide to the NGDC the adjusted security amount as directed by the NGDC. The licensee shall maintain the adjusted amount of security until the dispute or complaint is resolved or until directed otherwise by the Commission.

(ii) The licensee shall continue to operate on the NGDC system in accordance with system operation and business rules and practices until the dispute or complaint is resolved or until directed otherwise by the Commission.

(iii) The licensee shall cause to be delivered to the NGDC system natural gas supply in the volume necessary to fulfill its customers requirements and provide customer support services until the dispute or complaint is resolved or until directed otherwise by the Commission.

(iv) The NGDC shall permit the licensee to continue to operate on the NGDC system until the dispute or complaint is resolved or until directed otherwise by the Commission.

(d) The licensee shall submit to the Commission documentation demonstrating that it has complied with the bonding or security requirement. One copy of each bond, letter of credit, or other financial or legal instrument or document evidencing an agreement between the licensee and the NGDC shall be submitted to the Commission.

(e) Licensee liability for violations of 66 Pa.C.S. (relating to the Public Utility Code) and Commission orders and regulations is not limited by these security requirements.

[Pa.B. Doc. No. 11-5. Filed for public inspection December 30, 2010, 9:00 a.m.]

## Title 61—REVENUE

### DEPARTMENT OF REVENUE

#### [ 61 PA. CODE CH. 1001 ]

### Amendments to Pennsylvania Gaming Cash Flow Management

The Secretary of Revenue, under 4 Pa.C.S. Part II (relating to Pennsylvania Race Horse Development and Gaming Act) (act), specifically section 1501 of the act (relating to responsibility and authority of department), amends Chapter 1001 (relating to Pennsylvania gaming cash flow management). The act of January 7, 2010 (P. L. 1, No. 1) (Act 1) further amended the act to authorize table games in this Commonwealth. The Department of Revenue (Department) adopts this final-omitted rulemaking to facilitate its responsibilities of cash flow management of table game revenue under the act.

Because of time constraints associated with implementation of Act 1, the Department, under section 204 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. § 1204), known as the Commonwealth Documents Law (CDL), and the regulation thereunder, 1 Pa. Code § 7.4 (relating to omission of notice of proposed rulemaking), finds that notice of proposed rulemaking, under the circumstances, is impracticable and, therefore, may be omitted.

The Department's justification for utilizing the final-omitted rulemaking process is that it is in the public interest to implement the regulations for the cash flow management of table game revenue to facilitate prompt implementation of its responsibilities as defined by the act.

#### *Purpose of Final-Omitted Rulemaking*

The timely adoption of this final-omitted rulemaking will provide procedures for the administration and distribution of gross table game revenue.

The act legalizes the operation of table games at a number of venues across this Commonwealth. The Pennsylvania Gaming Control Board (Board) has the primary responsibility for regulatory oversight of gaming activity in this Commonwealth and is separately promulgating regulations in 58 Pa. Code Part VII (relating to Gaming Control Board).

#### *Explanation of Regulatory Requirements*

The Department is amending Chapter 1001 to promulgate regulations necessary to implement the cash flow management of table game revenue in this Commonwealth for accurate accounting and collection of revenues due the Commonwealth from table gaming operations.

A broad change has been made throughout the regulations to add "and certificate holder" to the term "licensed gaming entity." For purposes of the regulations, the two terms are used in tandem. Other amendments to the regulations include the following:

Sections 1001.1 and 1001.2 (relating to scope; and purpose) are amended to add the term "gross table game revenue."

Section 1001.3 (relating to definitions) amends the following definitions: “annual minimum distribution” is revised to reflect changes to section 1403(c)(3) of the act (relating to establishment of State Gaming Fund and net slot machine revenue distribution); “CCS” is revised to accurately reflect the parameters of the system; and “fund” is amended by adding “and gross table game revenue.”

In addition, three definitions are added to facilitate the responsibilities of cash flow management of table game revenue under this act: “certificate holder,” “General Fund” and “gross table game revenue.”

Section 1001.4(b) (relating to calculations of credit against tax and Race Horse Improvement Daily Assessment) is amended to reflect changes to sections 1406(a)(2) and (2.1) of the act (relating to distributions from Pennsylvania Race Horse Development Fund).

“Certificate holders” is added to the heading of § 1001.5 (relating to administration and distribution of moneys held by licensed gaming entities, certificate holders and the Commonwealth). The term “General Fund” is added in subsection (a). Subsection (b) contains new paragraphs that are inserted regarding “deposits and transfers of gross table game revenue to Treasury by certificate holders.” Former subsection (b) is renumbered to subsection (c) and has been amended to delete “on the same banking day” to reflect a change in Department procedure. Former subsection (c) is renumbered to subsection (d). Subsection (d)(1) and (2) contains new references to appropriate sections of the act regarding distributions of local share assessments.

The heading and text of § 1001.6 (relating to administration of amounts deposited by licensed gaming entities and certificate holders with Treasury to pay Commonwealth gaming related costs and expenses) are amended to remove the “(\$5 million)” references and add “certificate holders.” Language has been inserted with references to the appropriate section of the act.

Section 1001.7 (relating to deposits of license, permit and other fees) has been amended to include new language regarding deposits of table game fees and fines within the General Fund.

Section 1001.8 (relating to State Gaming Fund transfers) contains several amendments. Subsection (b)(2) is amended to replace the January 1 publication date of the annual inflation adjustment notice with February 1. This new date reflects a more accurate time frame for filing the notice. The Department is required to utilize the Consumer Price Index, which is released in January, for the annual inflation adjustment. Subsection (c)(1) and (2) have been amended to add language regarding the certificate holders’ reporting of table game revenue to the Department.

Section 1001.10(b) (relating to Pennsylvania Race Horse Development Fund transfers) is amended to add language referencing exceptions in the act regarding distributions from the Pennsylvania Race Horse Development Fund.

#### *Fiscal Impact*

The Department determined that the final-omitted rulemaking will have minimal fiscal impact on the Commonwealth.

#### *Paperwork*

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

#### *Effectiveness/Sunset Date*

The final-omitted rulemaking will become effective upon publication in the *Pennsylvania Bulletin*. The regulations are scheduled for review within 5 years of publication. A sunset date has not been assigned.

#### *Contact Person*

The contact person for an explanation of the final-form rulemaking is Mary R. Sprunk, Office of Chief Counsel, Department of Revenue, Dept. 281061, Harrisburg, PA 17128-1061.

#### *Regulatory Review*

Under section 5.1(c) of the Regulatory Review Act (71 P. S. § 745.5a(c)), on November 3, 2010, the Department submitted a copy of the final-omitted rulemaking to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Committee on Finance and the Senate Committee on Finance. On the same date, the final-omitted rulemaking was submitted to the Office of Attorney General for review and approval under the Commonwealth Attorneys Act (71 P. S. §§ 732-101—732-506).

Under section 5.1(j.1) of the Regulatory Review Act, on December 15, 2010, the final-omitted rulemaking was deemed approved by the Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC met on December 16, 2010, and approved the final-omitted rulemaking.

#### *Findings*

The Department finds that:

(1) Under section 204 of the CDL, the Department 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 this rulemaking that reduces the burden to the taxpayer.

(2) The regulations are necessary and appropriate for the administration and enforcement of the authorizing statute.

#### *Order*

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

(a) The regulations of the Department, 61 Pa. Code Chapter 1001, are amended by amending §§ 1001.1—1001.8 and 1001.10 to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.

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

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

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

C. DANIEL HASSELL,  
*Secretary*

*(Editor’s Note:* For the text of the order of the Independent Regulatory Review Commission relating to this document, see 41 Pa.B. 118 (January 1, 2011).)

**Fiscal Note:** 15-450. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 61. REVENUE

PART IX. PENNSYLVANIA GAMING CASH FLOW MANAGEMENT

CHAPTER 1001. PENNSYLVANIA GAMING CASH FLOW MANAGEMENT

GENERAL PROVISIONS

§ 1001.1. Scope.

This chapter establishes procedures for the administration and distribution of all net slot machine revenue, gross table game revenue, collection of tax and collection of other assessments under the act. In addition, this chapter clarifies the administrative procedures for transferring the statutorily established amounts of funding as prescribed in the act.

§ 1001.2. Purpose.

The purpose of this chapter is to notify prospective licensed entities and certificate holders, as well as the general public, of the procedures and requirements for distributing net slot machine revenue, gross table game revenue, collection of tax and collection of other assessments.

§ 1001.3. Definitions.

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

\* \* \* \* \*

*Annual minimum distribution*—As provided under the act, 2% of the gross terminal revenue of the licensed gaming entity or \$10 million, whichever is greater.

\* \* \* \* \*

*CCS*—The central control computer system controlled by the Department and accessible by the Board, to which all slot machines communicate for the purpose of recording, reviewing, reporting and auditing real-time information regarding the events that occur during the operation of a slot machine. The system calculates the taxes and assessments due daily and provides information to the Department to track daily deposits.

*Certificate holder*—As defined in section 1103 of the act (relating to definitions).

\* \* \* \* \*

*Fund*—A fiscal and accounting entity with a self-balancing set of accounts recording cash and other financial resources, together with all related liabilities and residual equities or balances and the changes therein, that are segregated for the purpose of carrying on specific activities or attaining certain objectives established for the receipt of gross terminal revenue distributions and gross table game revenue under the act.

*General Fund*—The fund into which general, non-earmarked revenues of the Commonwealth are deposited and from which monies are appropriated to pay the general expenses of the Commonwealth.

*Gross table game revenue*—As defined in section 1103 of the act.

\* \* \* \* \*

§ 1001.4. Calculations of credit against tax and Race Horse Improvement Daily Assessment.

(a) *Credit against tax*. The amount of the credit must be equal to the difference between the tax calculated at

the rate in effect when a license was issued to the licensed gaming entity and certificate holder and the tax calculated at the increased rate. The credit shall be applied on a dollar-for-dollar basis but may not extend beyond the 10-year period following the initial issuance of the license.

(b) *Race Horse Improvement Daily Assessment*. The amount of this assessment shall be calculated in accordance with section 1405(b) of the act (relating to Pennsylvania Race Horse Development Fund).

§ 1001.5. Administration and distribution of moneys held by licensed gaming entities, certificate holders and the Commonwealth.

(a) *Application of section*. This section applies to the collection of tax, the collection of other assessments and all transfers of moneys to and from the General Fund, State Gaming Fund, Pennsylvania Gaming Economic Development and Tourism Fund, Pennsylvania Race Horse Development Fund and any other fund as specified in this chapter.

(b) *Deposits and transfers of gross table game revenue to Treasury by certificate holders*.

(1) Certificate holders shall make computations of table game revenue in accordance with section 13A62 of the act (relating to table game taxes), on a daily basis and report the computed amount to the Department on a weekly basis on the form and in the manner prescribed by the Department.

(2) A deposit is required to be made at the time the report is submitted to the Department into the Department's collection account established to collect the taxes and assessments.

(c) *Deposits and transfers to Treasury by licensed gaming entities*.

(1) The Department will notify each licensed gaming entity, Treasury and Office of the Budget of the actual amount each licensed gaming entity shall be required to deposit with Treasury as calculated by the CCS in accordance with sections 1323, 1403 and 1405—1407 of the act. A licensed gaming entity shall make deposits with Treasury after receipt of the Department's notice to the licensed gaming entity and by the date and times specified by the Department.

(2) Payments shall be electronically transferred by the licensed gaming entities and available to the Commonwealth by the deadline established by the Department. Moneys shall be deposited in the Department's Collection Account.

(3) System problems or failures, such as power outages and states of emergency, will not excuse the licensed gaming entity from making the required deposits in a timely manner. The licensed gaming entity shall immediately notify the Department and the Board of any of these problems.

(4) The Department will maintain records of deposits to the Department's Collection Account under this chapter and will share information, as practicable, to assist Treasury in its reconciliation of deposits into its Concentration Account.

(5) The administration of assessments will be as follows:

(i) *Proration of assessment*. Upon imposition of the annual minimum distribution amount, as specified in section 1403(c)(3) of the act (relating to establishment of State Gaming Fund and net slot machine revenue distri-

bution), regardless of whether the minimum is subject to the budgetary limitations of section 1403 of the act, the required minimum shall be prorated for that portion of the municipality's fiscal year that the Board determines that the licensed gaming entity was actually in operation.

(ii) *Limitation of assessment.* Upon imposition of the minimum distribution upon the licensed gaming entity, the required minimum shall be paid in accordance with the administrative procedures of this section.

(6) The Department reserves the right, upon notice served upon the licensed gaming entity and the Board, to temporarily disable the licensed gaming entity's slot machines through the CCS until the Department receives verification that the required deposit has been made.

(d) *Distributions of local share assessments.*

(1) *Distributions of local share assessments to municipalities.* If a licensed gaming entity and certificate holder fails to reach the requisite annual minimum distribution as required under the act within 15 days following the end of the municipality's fiscal year, the Department will notify the licensed gaming entity and certificate holder of the shortfall and the amount to be remitted. A licensed gaming entity and certificate holder shall remit the difference required to meet the requisite annual minimum distribution as required under the act within 15 days following the end of the municipality's fiscal year. The licensed gaming entity and certificate holder shall remit the required payment to the Department for distribution in accordance with sections 1403(c)(3) and 13A63(c) of the act (relating to establishment of state gaming fund and net slot machine revenue distribution; and local share assessment). Distributions specified in this chapter shall be made by the licensed gaming entity and certificate holder to the Department, no later than 15 days from the Department's notice of the shortfall.

(2) *Distributions of local share assessments to counties.* The Department will make distributions in accordance with sections 1403(c)(2) and 13A63(b) of the act. If the minimum distribution exceeds the applicable annual municipal allocation cap in section 1403(c)(3) of the act, the amount in excess of the municipal allocation cap shall be distributed by the Department in accordance with section 1403(c)(2) of the act.

**§ 1001.6. Administration of amounts deposited by licensed gaming entities and certificate holders with Treasury to pay Commonwealth gaming related costs and expenses.**

(a) No later than 2 business days prior to the commencement of slot machine operations, the licensed gaming entity and certificate holder shall make all deposits required under section 1401 of the act (relating to slot machine licensee deposits) in the Department's Collection Account. Upon transfer of the deposit into Treasury's Concentration Account, the deposit shall be credited to an account established in Treasury for the licensed gaming entity and certificate holder. The account established shall also be used to recognize and account for all future deposits required from the licensed gaming entity and certificate holder by the Department for administrative costs and all future withdrawals made by the Department for reimbursement of administrative costs.

(b) Each licensed gaming entity and certificate holder shall maintain a minimum account balance with Treasury in accordance with section 1401 of the act.

(c) Moneys related to this account shall be transferred to the Department's Collection Account and from Treas-

ury by EFT or other methods of funds transfer in accordance with § 1001.5(c) (relating to administration and distribution of moneys held by licensed gaming entities, certificate holders and the Commonwealth).

(d) Reimbursement of Commonwealth expenses will be as follows:

(1) The Department will issue to the licensed gaming entity and certificate holder, periodic assessments of expenses incurred by the Board, Department, Office of Attorney General and the Pennsylvania State Police, regarding expenses directly related to the licensed gaming entity and certificate holder, under budgets approved by the Board and upon appropriation by the General Assembly as required in section 1402.1 of the act (relating to itemized budget reporting). Expenses not included in budgets approved by the Board may not be assessed against the licensed entity under this section.

(2) Expenses incurred by the Commonwealth and assessed to the licensed gaming entity and certificate holder shall be charged back to the licensed gaming entity and certificate holder and deducted from the licensed gaming entity's and certificate holder's account, as specified in section 1401 of the act (relating to slot machine licensee deposits) and this section.

(3) General administrative costs of the Commonwealth not specifically assessed to a licensed gaming entity and certificate holder under paragraph (1), shall be borne by each licensed gaming entity and certificate holder on a pro rata basis, at the discretion of the Secretary of Revenue until all Category 1 and Category 2 licensed gaming entities and certificate holders are operating as permitted under the act.

**§ 1001.7. Deposits of license, permit and other fees.**

The fees for manufacturers' and suppliers' licenses, employment permits and other licenses and permits as the Board may require, excluding license fees paid for Categories 1, 2 and 3 licenses under sections 1209 and 1305 of the act (relating to slot machine license fee; and Category 3 slot machine license), shall be deposited with Treasury into a restricted receipt account within the State Gaming Fund. Fees to be paid under section 13A61 of the act (relating to table game authorization fee) and fees related to table games to be paid under section 1208 of the act (relating to collection of fees and fines) shall be deposited within the General Fund in accordance with section 13A61(f). The fees deposited within the Gaming Fund will be transferred from a restricted receipt account into a restricted revenue account of the State Gaming Fund to be used by the Board to pay its operating expenses. License fees paid for Categories 1, 2 and 3 licenses under sections 1209 and 1305 of the act shall be paid into the State Gaming Fund in accordance with sections 1209(d) and 1305 of the act.

**§ 1001.8. State Gaming Fund transfers.**

(a) *Application of section.* This section applies to the transfers of moneys to and from the State Gaming Fund.

(b) *Quarterly distributions.* Quarterly distributions from the State Gaming Fund to counties or municipalities in which a licensed facility is located, as determined by the Board, and as specified in Chapter 14 of the act (relating to revenues), shall be performed in accordance with the Governor's Management Directive 305.4 (relating to payments to counties), § 1001.5 (relating to administration and distribution of moneys held by licensed gaming entities, certificate holders and the Commonwealth) and the following provisions:

(1) The Department will submit payment requisitions, accompanied by documentation, to the Office of the Budget for payment through Treasury.

(2) The Department will determine the annual inflation adjustment and will publish notice of the inflation adjustment in the *Pennsylvania Bulletin* by February 1 of each year.

(3) The Department will make distributions quarterly, no later than 30 days following the end of each calendar quarter.

(c) *Tax, assessments and credit against tax.*

(1) Determinations of gross terminal revenue and the calculations of taxes and other assessments due will be determined by the Department based on the actual calculations by the CCS and the certificate holders' weekly reports of table game revenue made to the Department.

(2) Except in the case of gross table game revenue which will be self-reported to the Department by the certificate holders, the Department will notify each licensed gaming entity and Treasury of the amount of tax and other assessments due to the Commonwealth.

(3) Each licensed gaming entity and certificate holder shall deposit the amount specified in paragraph (2) into the Department's Collection Account, in the manner prescribed under § 1001.5(c).

(4) The Department will enter into an agreement with each licensed gaming entity setting forth the terms and conditions of any credit against tax as claimed by the licensed gaming entity.

(5) Taxes and other assessments due as determined by the Department shall remain payable by the licensed gaming entity and certificate holder to the Department in accordance with section 1501(a) of the act (relating to responsibility and authority of department) regardless of any discrepancies between the licensed gaming entity's and certificate holder's calculation and that of the Department's or amounts contested by any party concerning the credit against taxes due. Resolution of disputed payments due will be addressed by the Department through adjustments it makes to its calculation of future payment amounts due. The Department may make adjustments to its calculation of future payment amounts due after resolution of any dispute regarding the amount of taxes due. The Department will provide notice to the Board of the final calculations of taxes due under this subsection.

(6) Any remittance due that is caused by the imposition of the tax or other assessments on nonbanking days as well as holidays shall be remitted by the licensed gaming entity and certificate holder on the next banking day. For example, any tax that has accrued on Independence Day shall be transferred on the following banking day.

(d) *Imposition of a penalty.* Failure to comply with this section that results in the failure to transmit the requisite amounts to the Department's Collection Account shall result in the imposition of a penalty of 5% per month up to a maximum of 25% of the amounts due and unpaid by the licensed gaming entity and certificate holder. Payments made by a licensed gaming entity toward delinquent amounts, including penalties, shall be allocated to

the licensed gaming entity's delinquency in accordance with the priority of payments as specified under section 209 of the Taxpayers' Bill of Rights (72 P. S. § 3310-209).

**§ 1001.10. Pennsylvania Race Horse Development Fund transfers.**

(a) Prior to making each Race Horse Improvement Daily Assessment against a licensed gaming entity, the Department will determine the amount of each licensed gaming entity's gross terminal revenue.

(b) Except as provided in section 1406(a)(2) and (2.1) of the act (relating to distributions from Pennsylvania Race Horse Development Fund), 18% of the gross terminal revenue of each Category 1 licensed gaming entity shall be returned to each active and operating Category 1 licensed gaming entity that conducts live racing subject to the assessment cap in section 1405(c) of the act (relating to Pennsylvania Race Horse Development Fund), and subject to the allocations specified in section 1406(a)(1)(i)—(iii) of the act.

(c) Procedures concerning Pennsylvania Race Horse Development transfers are as follows:

(1) Department personnel will notify the respective licensed gaming entity and Treasury of the actual amount each licensed gaming entity shall be required to deposit in the Department's Collection Account as determined by the CCS. Deposits shall be made on the same banking day as the date of the notice by the Department.

(2) Moneys shall be transferred by the licensed gaming entity by EFT or other method as the Department may require and shall be deposited in the Department's Collection Account prior to being transferred to Treasury's Concentration Account.

(3) System problems or failures, such as power outages and states of emergency, will not excuse the licensed gaming entity from making the required deposits in a timely manner. The licensed gaming entity shall immediately notify the Department and the Board of any of these problems.

(4) The Department will maintain records of the Department's Collection Account under this chapter and will share information as practicable, to assist Treasury in its reconciliation of deposits to its Concentration Account.

(d) The Department will notify each active and operating Category 1 licensee conducting live racing, Treasury and Office of the Budget of the amounts each active and operating Category 1 licensee conducting live racing will receive. An eligible Category 1 licensee will receive from Treasury a weekly payment from the Pennsylvania Race Horse Development Fund in accordance with the act. The deposits required under section 1406(a)(1)(ii) of the act will be deducted by the Department before making the payment to each active and operating licensee and transferred to the appropriate State fund, under section 1406 of the act.

(1) Payments will be electronically transferred by the Commonwealth and will be available to the licensee by the deadline established by the Department.

(2) Both Treasury and the Department will maintain records of distributions under this chapter and will share information, as practicable, to assist each agency in its reconciliation process.

(e) For purposes of the calculations and distributions of section 1406(a) of the act, live racing will be determined annually, and as a Category 1 licensed gaming entity commences live racing in accordance with section 1303(b) of the act (relating to additional Category 1 slot machine license requirements).

[Pa.B. Doc. No. 11-6. Filed for public inspection December 30, 2010, 9:00 a.m.]

## Title 67—TRANSPORTATION

### DEPARTMENT OF TRANSPORTATION

#### [ 67 PA CODE CH. 83 ]

#### Corrective Amendment to 67 Pa. Code § 83.5

The Department of Transportation has discovered a discrepancy between the agency text of 67 Pa. Code § 83.5 (relating to other physical and medical standards) as deposited with the Legislative Reference Bureau and as published at 40 Pa.B. 5813 (October 9, 2010) and the official text as published in the *Pennsylvania Code Reporter* (Master Transmittal Sheet No. 433). Subsection (b) (relating to disqualification on provider's recommendation) was inadvertently omitted.

Therefore, under 45 Pa.C.S. § 901: The Department of Transportation has deposited with the Legislative Reference Bureau a corrective amendment to 67 Pa. Code § 83.5. The corrective amendment to 67 Pa. Code § 83.5 is effective as of December 4, 2010, the date the defective official text was announced in the *Pennsylvania Bulletin*.

The correct version of 67 Pa. Code § 83.5 appears in Annex A.

#### Annex A

### TITLE 67. TRANSPORTATION

#### PART I. DEPARTMENT OF TRANSPORTATION

##### Subpart A. VEHICLE CODE PROVISIONS

#### ARTICLE IV. LICENSING

### CHAPTER 83. PHYSICAL AND MENTAL CRITERIA, INCLUDING VISION STANDARDS RELATING TO THE LICENSING OF DRIVERS

#### § 83.5. Other physical and medical standards.

(a) *General disqualifications.* A person who has any of the following conditions will not be qualified to drive:

(1) Unstable diabetes mellitus leading to severe hypoglycemic reactions or symptomatic hyperglycemia unless there has been a continuous period of at least 6 months free from a disqualification in this paragraph. Once the diabetic condition has stabilized, and as long as the individual has not had another disqualifying episode within the last 6 months, the driving privilege may be restored. The individual shall submit to a diabetic examination, which includes an HbA1C test as well as a vision screening, and the treating health care provider shall certify on a completed form provided by the Department that the individual has been free from a disqualifying episode. Thereafter, the individual shall submit to a diabetic examination, which includes an HbA1C test as well as a vision screening, in accordance with the following schedule:

(i) Six months after the diabetic examination required in this paragraph, the individual shall submit to a

follow-up diabetic examination and the treating health care provider shall certify, on a completed form provided by the Department, that the individual has been free from a disqualifying episode.

(ii) Twelve months after the previous diabetic examination, the individual shall submit to a follow-up diabetic examination and the treating health care provider shall certify, on a completed form provided by the Department, that the individual has been free from a disqualifying episode.

(iii) Twenty-four months after the previous diabetic examination, the individual shall submit to a follow-up diabetic examination and the treating health care provider shall certify, on a completed form provided by the Department, that the individual has been free from a disqualifying episode.

(iv) Forty-eight months after the previous diabetic examination, the individual shall submit to a follow-up diabetic examination and the treating health care provider shall certify, on a completed form provided by the Department, that the individual has been free from a disqualifying episode.

(v) Diabetic examination may be required more frequently if recommended by the treating health care provider.

(vi) Providing the condition of the individual remains under good control, the individual will not be required to submit to additional diabetic examinations.

(2) A waiver may be granted if an individual has been previously free from severe hypoglycemic reactions or symptomatic hyperglycemia for the preceding 6 months and the subsequent severe hypoglycemic reaction or symptomatic hyperglycemia occurred while the individual was under the treating health care provider's care, during or concurrent with a nonrecurring transient illness, toxic ingestion or metabolic imbalance. This waiver will only be granted if the treating health care provider submits written certification indicating it is a temporary condition or isolated incident not likely to recur.

(3) Cerebral vascular insufficiency or cardiovascular disease which, within the preceding 6 months, has resulted in one or more of the following:

(i) Syncopal attack or loss of consciousness.

(ii) Vertigo, paralysis or loss of qualifying visual fields.

(4) Periodic episodes of loss of consciousness which are of unknown etiology or not otherwise categorized, unless the person has been free from episode for the year immediately preceding.

(b) *Disqualification on provider's recommendation.* A person who has any of the following conditions will not be qualified to drive if, in the opinion of the provider, the condition is likely to impair the ability to control and safely operate a motor vehicle:

(1) Loss of a joint or extremity as a functional defect or limitation.

(2) Impairment of the use of a joint or extremity as a functional defect or limitation.

(i) The provider should inform the patient of the prohibition against driving due to the functional impairment.

(ii) The provider shall inform the Department in writing of the impairment if the condition has lasted or is expected to last longer than 90 days.

(3) Rheumatic, arthritic, orthopedic, muscular, vascular or neuromuscular disease.

(i) The provider should inform the patient of the prohibition against driving due to the functional impairment.

(ii) The provider shall inform the Department in writing of the impairment if the condition has lasted or is expected to last longer than 90 days.

(4) Cerebral vascular insufficiency or cardiovascular disease which, within the preceding 6 months, has resulted in lack of coordination, confusion, loss of awareness, dyspnea upon mild exertion or any other sign or symptom which impairs the ability to control and safely perform motor functions necessary to operate a motor vehicle.

(5) Mental disorder, whether organic or without known organic cause, as described in the current Diagnostic and Statistical Manual of Mental Disorders (DSM) published by the American Psychiatric Association, 1700 18th Street NW, Washington, DC 20009, especially as manifested by the symptoms set forth in subparagraphs (i)—(iii). While signs or symptoms of mental disorder may not appear during examination by the provider, evidence may be derived from the person's history as provided by self or others familiar with the person's behavior.

(i) Inattentiveness to the task of driving because of, for example, preoccupation, hallucination or delusion.

(ii) Contemplation of suicide, as may be present in acute or chronic depression or in other disorders.

(iii) Excessive aggressiveness or disregard for the safety of self or others or both, presenting a clear and present danger, regardless of cause.

(6) Periodic episodes of loss of attention or awareness which are of unknown etiology or not otherwise categorized, unless the person has been free from episode for the year immediately preceding, as reported by a licensed physician.

(7) Use of any drug or substance, including alcohol, known to impair skill or functions, regardless whether the drug or substance is medically prescribed.

(8) Other conditions which, in the opinion of a provider, is likely to impair the ability to control and safely operate a motor vehicle.

(c) *Driving examination.* A person who has any of the conditions enumerated in subsection (b)(1), (2), (3) or (8) may be required to undergo a driving examination to determine driving competency, if the Department has reason to believe that the person's ability to safely operate a motor vehicle is impaired. The person may be restricted to driving only when utilizing appropriate adaptive equipment.

[Pa.B. Doc. No. 11-7. Filed for public inspection December 30, 2010, 9:00 a.m.]

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# PROPOSED RULEMAKING

## DEPARTMENT OF HEALTH

### **Act 110 of 2010 (HB 1482); Photo Identification Tags Interim Regulations; Public Meeting**

The Department of Health, under Act 110 of 2010, which adds section 809.2 to the Health Care Facilities Act (35 P. S. § 448.809b), will hold a public meeting on Friday, January 14, 2011. The meeting will be held in the 2nd Floor Auditorium of the Rachel Carson State Office Building, which is located on the 2nd Floor, Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA 17101 from 9:30 a.m. to 12 p.m. The purpose of the meeting will be to discuss and receive comments on the regulations to be adopted regarding photo identification tags for employees that deliver direct care to consumers outside of the health care facility or employment agency.

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 Roxann Arbegast-Boes, Executive Assistant, Deputy Secretary for Quality Assurance at (717) 783-8665. 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, R.N.,  
*Acting Secretary*

[Pa.B. Doc. No. 11-8. Filed for public inspection December 30, 2010, 9:00 a.m.]



# NOTICES

## DEPARTMENT OF BANKING

### Actions on Applications

The Department of Banking (Department), under the authority contained in the act of November 30, 1965 (P. L. 847, No. 356), known as the Banking Code of 1965; the act of December 14, 1967 (P. L. 746, No. 345), known as the Savings Association Code of 1967; the act of May 15, 1933 (P. L. 565, No. 111), known as the Department of Banking Code; and the act of December 19, 1990 (P. L. 834, No. 198), known as the Credit Union Code, has taken the following action on applications received for the week ending December 7, 2010.

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

### BANKING INSTITUTIONS

#### Branch Applications

#### De Novo Branches

<i>Date</i>	<i>Name and Location of Applicant</i>	<i>Location of Branch</i>	<i>Action</i>
11-29-2010	Graystone Tower Bank Lancaster Lancaster County	1001 Carlisle Street Hanover York County	Opened

### SAVINGS INSTITUTIONS

No activity.

### CREDIT UNIONS

No activity.

The Department's web site at [www.banking.state.pa.us](http://www.banking.state.pa.us) includes public notices for more recently filed applications.

STEVEN KAPLAN,  
*Secretary*

[Pa.B. Doc. No. 11-9. Filed for public inspection December 30, 2010, 9:00 a.m.]

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### Actions on Applications

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## BANKING INSTITUTIONS

## Conversions

<i>Date</i>	<i>Name and Location of Applicant</i>	<i>Action</i>												
12-9-2010	<p><i>From:</i> Team Capital Bank Bethlehem Northampton County</p> <p><i>To:</i> Team Capital Bank Bethlehem Northampton County</p> <p>Application for approval to convert from a Federally-chartered savings association to a Pennsylvania State-chartered stock savings bank.</p>	Approved												
12-13-2010	<p><i>From:</i> Peoples National Bank Hallstead Susquehanna County</p> <p><i>To:</i> Peoples Neighborhood Bank Hallstead Susquehanna County</p> <p>Conversion from a National banking association to a Pennsylvania State-chartered bank. Peoples Neighborhood Bank is a wholly-owned subsidiary of Peoples Financial Services Corporation, Hallstead, an existing bank holding company.</p> <p>Branch offices operated by Peoples Neighborhood Bank:</p> <table border="0" style="width: 100%;"> <tr> <td style="width: 50%;">494 North Gravel Pond Road Clarks Summit Lackawanna County</td> <td style="width: 50%;">25109 SR 11 Hallstead Susquehanna County</td> </tr> <tr> <td>126 Main Street Hop Bottom Susquehanna County</td> <td>695 Grow Avenue Montrose Susquehanna County</td> </tr> <tr> <td>215 Erie Boulevard Susquehanna Susquehanna County</td> <td>US Route 6 and Bridge Street Meshoppen Wyoming County</td> </tr> <tr> <td>42—48 State Street Nicholson Wyoming County</td> <td>83 East Tioga Street Tunkhannock Wyoming County</td> </tr> <tr> <td>1235 Front Street Binghamton Broome County, NY</td> <td>1026 Conklin Road Conklin Broome County, NY</td> </tr> <tr> <td>108 Second Street Deposit Broome County, NY</td> <td></td> </tr> </table>	494 North Gravel Pond Road Clarks Summit Lackawanna County	25109 SR 11 Hallstead Susquehanna County	126 Main Street Hop Bottom Susquehanna County	695 Grow Avenue Montrose Susquehanna County	215 Erie Boulevard Susquehanna Susquehanna County	US Route 6 and Bridge Street Meshoppen Wyoming County	42—48 State Street Nicholson Wyoming County	83 East Tioga Street Tunkhannock Wyoming County	1235 Front Street Binghamton Broome County, NY	1026 Conklin Road Conklin Broome County, NY	108 Second Street Deposit Broome County, NY		Effective
494 North Gravel Pond Road Clarks Summit Lackawanna County	25109 SR 11 Hallstead Susquehanna County													
126 Main Street Hop Bottom Susquehanna County	695 Grow Avenue Montrose Susquehanna County													
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1235 Front Street Binghamton Broome County, NY	1026 Conklin Road Conklin Broome County, NY													
108 Second Street Deposit Broome County, NY														

## Holding Company Acquisitions

<i>Date</i>	<i>Name and Location of Applicant</i>	<i>Action</i>
12-10-2010	<p>Tower Bancorp, Inc. Harrisburg Dauphin County</p> <p>Acquisition of 100% of First Chester County Corporation, West Chester, and indirect acquisition of 100% of First National Bank of Chester County, West Chester.</p>	Effective

## Consolidations, Mergers, and Absorptions

<i>Date</i>	<i>Name and Location of Applicant</i>	<i>Action</i>		
12-10-2010	<p>Graystone Tower Bank Lancaster Lancaster County</p> <p>Merger of First National Bank of Chester County, West Chester, with and into Graystone Tower Bank, Lancaster.</p> <p>As a result of the merger, the following branch offices of First National Bank of Chester County became branch offices of Graystone Tower Bank:</p> <table border="0" style="width: 100%;"> <tr> <td style="width: 50%;">9 North High Street West Chester Chester County</td> <td style="width: 50%;">15 Freedom Boulevard Coatesville Chester County</td> </tr> </table>	9 North High Street West Chester Chester County	15 Freedom Boulevard Coatesville Chester County	Effective
9 North High Street West Chester Chester County	15 Freedom Boulevard Coatesville Chester County			

<i>Date</i>	<i>Name and Location of Applicant</i>		<i>Action</i>
	99 Manor Avenue Downingtown Chester County	111 East Uwchlan Avenue Exton Chester County	
	309 Lancaster Avenue Frazer Chester County	1109 East Baltimore Pike Kennett Square Chester County	
	1660 East Street Kennett Square Chester County	100 Old Forge Lane Kennett Square Chester County	
	126 West Cypress Street Kennett Square Chester County	741 West Cypress Street Kennett Square Chester County	
	275 Limestone Road Oxford Chester County	700 Nutt Road Phoenixville Chester County	
	1371 Boot Road West Chester Chester County	698 Downingtown Pike West Chester Chester County	
	6 East Street Road West Chester Chester County	Paoli Pike and 5 Points Road West Chester Chester County	
	1436 Pottstown Pike West Chester Chester County	887 South Matlack Street West Chester Chester County	
	849 West Baltimore Pike West Grove Chester County	417 Village Drive Carlisle Cumberland County	
	411 North Middletown Road Media Delaware County	1343 West Baltimore Pike Wawa Delaware County	
	American Way Corporate Center 3840 Hempland Road Mountville Lancaster County		

### Branch Applications

#### De Novo Branches

<i>Date</i>	<i>Name and Location of Applicant</i>	<i>Location of Branch</i>	<i>Action</i>
11-8-2010	Community First Bank Reynoldsville Jefferson County	601 Main Street Clarion Clarion County	Opened
12-6-2010	Northwest Savings Bank Warren Warren County	202 East Main Street Youngsville Warren County	Opened
12-6-2010	Susquehanna Bank Lititz Lancaster County	900 Kenilworth Drive Towson Baltimore County, MD	Opened
12-9-2010	Standard Bank, PaSB Murrysville Westmoreland County	Eastgate Shopping Center US Route 30 Greensburg Westmoreland County	Filed

#### Branch Relocations

<i>Date</i>	<i>Name and Location of Applicant</i>	<i>Location of Branch</i>	<i>Action</i>
12-10-2010	Citizens Bank of Pennsylvania Philadelphia Philadelphia County	<i>To:</i> 1671 Butler Plank Road Glenshaw Allegheny County  <i>From:</i> 1700 William Flynn Parkway Glenshaw Allegheny County	Filed

<i>Date</i>	<i>Name and Location of Applicant</i>	<i>Location of Branch</i>	<i>Action</i>
12-13-2010	Northwest Savings Bank Warren Warren County	<i>To:</i> 2864 Earlstown Road Centre Hall Centre County  <i>From:</i> 219 North Pennsylvania Avenue Centre Hall Centre County	Filed

**Branch Discontinuances**

<i>Date</i>	<i>Name and Location of Applicant</i>	<i>Location of Branch</i>	<i>Action</i>
11-30-2010	Orrstown Bank Shippensburg Cumberland County	201 South Cleveland Avenue Hagerstown Washington County, MD	Closed
12-6-2010	Susquehanna Bank Lititz Lancaster County	806 Dulaney Valley Road Towson Baltimore County, MD	Closed
12-7-2010	Standard Bank, PaSB Murrysville Westmoreland County	187 Hyndman Road Hyndman Bedford County	Approved

**SAVINGS INSTITUTIONS**

No activity.

**CREDIT UNIONS**

No activity.

The Department's web site at [www.banking.state.pa.us](http://www.banking.state.pa.us) includes public notices for more recently filed applications.

STEVEN KAPLAN,  
*Secretary*

[Pa.B. Doc. No. 11-10. Filed for public inspection December 30, 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 regarding 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 (CAFO). This notice is provided in accordance with 25 Pa. Code Chapters 91 and 92a and 40 CFR Part 122, implementing The Clean Streams Law (35 P. S. §§ 691.1—691.1001) and the Federal Clean Water Act (33 U.S.C.A. §§ 1251—1376).

<i>Location</i>	<i>Permit Authority</i>	<i>Application Type or Category</i>
Section I	NPDES	Renewals
Section II	NPDES	New or Amendment
Section III	WQM	Industrial, Sewage or Animal Waste; Discharge into Groundwater
Section IV	NPDES	MS4 Individual Permit
Section V	NPDES	MS4 Permit Waiver
Section VI	NPDES	Individual Permit Stormwater Construction
Section VII	NPDES	NOI for Coverage under NPDES General Permits

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

For applications for new NPDES permits and renewal applications with major changes in Section II, as well as applications for MS4 Individual Permits and Individual Stormwater Construction Permits in Sections IV and VI, the Department, based upon preliminary reviews, has made tentative determinations 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 United States Environmental Protection Agency (EPA) Region III Administrator has waived the right to review or object to proposed NPDES permit actions under the waiver provision in 40 CFR 123.24(d).

Persons wishing to comment on NPDES applications are invited to submit statements to the contact office noted before the application within 30 days from the date of this public notice. Persons wishing to comment on WQM permit applications are invited to submit statements to the office noted before the application within 15 days from the date of this public notice. Comments received within the respective comment periods will be considered in the final determinations regarding the applications. A comment submittal 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 public hearings on applications. A public hearing may be held if the responsible office considers the public response significant. If a hearing is scheduled, a notice of the hearing will be published in the *Pennsylvania Bulletin* and a newspaper of general circulation within the relevant geographical area. The Department will postpone its final determination until after a public hearing is held.

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

### I. NPDES Renewal Applications

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

NPDES No. (Type)	Facility Name & Address	County & Municipality	Stream Name (Watershed No.)	EPA Waived Y/N?
PA0061921 (Sewage)	Caesars Brookdale On The Lake Brookdale & Dyson Roads Scotrun, PA 18355	Monroe County Pocono Township	Brookdale Lake 1E High Quality Cold Water Fishes	Y
PA0065021 (Sewage)	Meck Realty Properties II, LLC 1506 Centre Turnpike P. O. Box 215 Orwigsburg, PA 17961	Schuylkill County West Brunswick Township	Pine Creek (03A)	Y

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

NPDES No. (Type)	Facility Name & Address	County & Municipality	Stream Name (Watershed #)	EPA Waived Y/N ?
PA0046302 (IW)	PA American Water—Hershey WTP 800 West Hersheypark Drive Hershey, PA 17033	Dauphin County/ South Hanover Township	Swatara Creek & Manada Creek / 7-D	Y
PA0084603 (SEW)	Fairmount Homes 333 Wheat Ridge Drive Ephrata, PA 17522-8558	Lancaster County/ West Earl Township	Conestoga River / 7-J	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 ?
PA0102431 (Sewage)	Cedar Acres MHP 1650 Harlansburg Road New Castle, PA 16101	Lawrence County Scott Township	Unnamed tributary of Slippery Rock Creek 20-C	Y

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

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

**PA0027383**, Sewage, SIC Code 4952, **Southwest Delaware County Municipal Authority**, One Gamble Lane, Aston, PA 19014. Facility Name: Southwest Delaware County Municipal Authority STP. This existing facility is located in Aston Township, **Delaware County**.

Description of Existing Activity: The application is for a renewal of an NPDES permit for an existing discharge of treated Sewage and stormwater.

The receiving stream(s), Baldwin Run and Chester Creek, is located in State Water Plan watershed 3-G and is classified for Warm Water Fishes and Migratory Fishes, aquatic life, water supply and recreation. The discharge is not expected to affect public water supplies.

The proposed effluent limits for Outfall 002 are based on a design flow of 6 MGD.

<i>Parameters</i>	<i>Mass (lb/day)</i>			<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Weekly Average</i>	<i>Instant. Minimum</i>	<i>Average Monthly</i>	<i>Weekly Average</i>	<i>Instant. Maximum</i>
Flow (MGD)	Report	Report Daily Max	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0	XXX	XXX	9.0
Dissolved Oxygen	XXX	XXX	3.0	Report	XXX	XXX
Total Residual Chlorine	XXX	XXX	XXX	0.1	XXX	0.3
CBOD <sub>5</sub>						
May 1 - Oct 31	750	1150	XXX	15	23	30
CBOD <sub>5</sub>						
Nov 1 - Apr 30	1250	1900	XXX	25	38	50
Total Suspended Solids	1500	2250	XXX	30	45	60
Fecal Coliform (CFU/100 ml)	XXX	XXX	XXX	200	XXX	1000
				Geo Mean		
Ammonia-Nitrogen						
May 1 - Oct 31	150	XXX	XXX	3.0	XXX	6.0
Ammonia-Nitrogen						
Nov 1 - Apr 30	450	XXX	XXX	9.0	XXX	18.0
Total Copper	1.05	2.10	XXX	0.021	0.042	0.052
		Daily Max			Daily Max	
Bis(2-Ethylhexyl)Phthalate	XXX	XXX	XXX	Report	Report	Report
					Daily Max	
Dieldrin	XXX	XXX	XXX	Report	Report	Report
					Daily Max	

The proposed effluent limits for Outfall 003 are based on an average flow of stormwater run off.

<i>Parameters</i>	<i>Mass (lb/day)</i>			<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Minimum</i>	<i>Average Monthly</i>	<i>Maximum</i>	<i>Instant. Maximum</i>
pH (S.U.)	XXX	XXX	XXX	XXX	Report	XXX
CBOD <sub>5</sub>	XXX	XXX	XXX	XXX	Report	XXX
Chemical Oxygen Demand	XXX	XXX	XXX	XXX	Report	XXX
Total Suspended Solids	XXX	XXX	XXX	XXX	Report	XXX
Oil and Grease	XXX	XXX	XXX	XXX	Report	XXX
Total Kjeldahl Nitrogen	XXX	XXX	XXX	XXX	Report	XXX
Total Phosphorus	XXX	XXX	XXX	XXX	Report	XXX
Dissolved Iron	XXX	XXX	XXX	XXX	Report	XXX

The proposed effluent limits for Outfall 004 are based on an average flow of stormwater run off.

<i>Parameters</i>	<i>Mass (lb/day)</i>			<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Minimum</i>	<i>Average Monthly</i>	<i>Maximum</i>	<i>Instant. Maximum</i>
pH (S.U.)	XXX	XXX	XXX	XXX	Report	XXX
CBOD <sub>5</sub>	XXX	XXX	XXX	XXX	Report	XXX
Chemical Oxygen Demand	XXX	XXX	XXX	XXX	Report	XXX
Total Suspended Solids	XXX	XXX	XXX	XXX	Report	XXX
Oil and Grease	XXX	XXX	XXX	XXX	Report	XXX
Total Kjeldahl Nitrogen	XXX	XXX	XXX	XXX	Report	XXX
Total Phosphorus	XXX	XXX	XXX	XXX	Report	XXX
Dissolved Iron	XXX	XXX	XXX	XXX	Report	XXX

In addition, the permit contains the following major special conditions:

1. Operator Notification
2. Average Weekly Definition
3. Remedial Measures
4. No Stormwater
5. Acquire Necessary Property Rights

6. Test Methods
7. Chlorine Minimization
8. Proper Sludge Disposal
9. Watershed TMDL/WLA Data
10. 2/ Month Sampling
11. Operation and Maintenance Plan
12. Laboratory Certification
13. Fecal Coliform Reporting
14. SSO Reporting
15. Offsite Wastewater Information
16. Connecting to DELCORA
17. Stormwater Outfall Condition
18. Operation and Implementation of a Pretreatment Program

You may make an appointment to review the DEP files on this case by calling the File Review Coordinator at 484-250-5910.

The EPA Waiver is not in effect.

**PA0058467**, Industrial Waste, **Brandywine Realty Trust**, 555 East Lancaster Ave, Suite 100, Radnor, PA 19087. This facility is located in Upper Merion Township, **Montgomery County**.

Description of Activity: Renewal of an NPDES permit for the discharge of non-contact cooling water from a building HVAC unit. Building is located at 630 Allendale Road.

The receiving stream, tributary to Trout Creek (PA Stream Code 00982), is in the State Water Plan watershed 3F and is classified for: WWF, aquatic life, water supply, and recreation. The nearest downstream public water supply intake is for the Pennsylvania American Water Company—Norristown District located on the Schuylkill River.

The proposed effluent limits for Outfall 001 are based on a design flow of 1,800 GPD.

<i>Parameters</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		<i>Instantaneous</i>
	<i>Average</i> <i>Monthly</i>	<i>Maximum</i> <i>Daily</i>	<i>Average</i> <i>Monthly</i>	<i>Maximum</i> <i>Daily</i>	<i>Maximum</i> <i>(mg/l)</i>
Temperature					110° F
Total Dissolved Solids			Report		Report
pH	Within 6.0 and 9.0 Standard Units				

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

1. Remedial Measures Required if Public Nuisance
2. Dry Stream Discharge
3. BAT/ELG Standards
4. Approved Usage Rates
5. Chemical Additives
6. Transfer of Ownership
7. Proper Disposal of Solids
8. TMDL/WLA Analysis is Necessary
9. No Discharge Reporting
10. Certified Laboratory

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

**PA0086622**, Sewage, SIC Code 4952, **Newport Plaza Association LP**, 44 S Bayles Avenue, Port Washington, NY 11050-3765. Facility Name: Newport Plaza Mall. This existing facility is located in Howe Township, **Perry County**.

Description of Existing Activity: The application is for a renewal of an NPDES permit for an existing discharge of treated Sewage.

The receiving stream(s), Unnamed Tributary to Juniata River, is located in State Water Plan watershed 12-B and is classified for Warm Water Fishes, aquatic life, water supply and recreation. The discharge is not expected to affect public water supplies.

The proposed effluent limits for Outfall 001 are based on a design flow of 0.015 MGD.

<i>Parameters</i>	<i>Mass (lb/day)</i>			<i>Concentration (mg/l)</i>	
	<i>Average Monthly</i>	<i>Daily Maximum</i>	<i>Minimum</i>	<i>Average Monthly</i>	<i>Daily Maximum</i>
Flow (MGD)	Report	Report	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6	XXX	9
Dissolved Oxygen	XXX	XXX	5.0	XXX	XXX
CBOD <sub>5</sub>	XXX	XXX	XXX	10	XXX
Total Suspended Solids	XXX	XXX	XXX	10	XXX
Fecal Coliform (CFU/100 ml)	XXX	XXX	XXX	200	XXX
Ammonia-Nitrogen					
May 1 - Oct 31	XXX	XXX	XXX	3	XXX
Ammonia-Nitrogen					
Nov 1 - Apr 30	XXX	XXX	XXX	9	XXX

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 in effect.

**PA0021539**, Sewage, SIC Code 4952, **Williamsburg Municipal Authority**, 305 East 2nd Street, Williamsburg, PA 16693-1041. Facility Name: Williamsburg Municipal Authority STP. This existing facility is located in Catherine Township, **Blair County**.

Description of Existing Activity: The application is for a renewal of an NPDES permit for an existing discharge of treated Sewage.

The receiving stream(s), Frankstown Branch Juniata River, is located in State Water Plan watershed 11-A and is classified for Trout Stocking, aquatic life, water supply and recreation. The discharge is not expected to affect public water supplies.

The proposed effluent limits for Outfall 001 are based on a design flow of 0.331 MGD.

<i>Parameters</i>	<i>Mass (lb/day)</i>			<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Daily Maximum</i>	<i>Minimum</i>	<i>Average Monthly</i>	<i>Weekly Average</i>	<i>Instant. Maximum</i>
pH (S.U.)	XXX	XXX	6.0	XXX	XXX	9.0
Dissolved Oxygen	XXX	XXX	5.0	XXX	XXX	XXX
CBOD <sub>5</sub>	69	110	XXX	25	40	50
Total Suspended Solids	83	Wkly Avg 124	XXX	30	45	60
Fecal Coliform (CFU/100 ml)		Wkly Avg				
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

The proposed monitoring requirements and, where appropriate, effluent limits for implementation of the Chesapeake Bay Tributary Strategy are as follows for Outfall 001.

<i>Parameters</i>	<i>Mass (lbs)</i>			<i>Concentration (mg/l)</i>	
	<i>Monthly</i>	<i>Annual</i>	<i>Minimum</i>	<i>Monthly Average</i>	<i>Maximum</i>
Ammonia—N	Report	Report	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	7,306	XXX	XXX	XXX
Net Total Phosphorus (Interim)	Report	Report	XXX	XXX	XXX
Net Total Phosphorus (Final)	Report	974	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.

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.

**PA0020664**, Sewage, SIC Code 4952, **Middletown Borough Authority**, 60 W Emaus Street, Middletown, PA 17057-1407. Facility Name: Middletown Borough Authority STP. This existing facility is located in Middletown Borough, **Dauphin 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), Susquehanna River, is located in State Water Plan watershed 7-C and is classified for Warm Water Fishes, Migratory 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 2.2 MGD.

<i>Parameters</i>	<i>Mass (lb/day)</i>			<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Daily</i>	<i>Minimum</i>	<i>Average Monthly</i>	<i>Weekly Average</i>	<i>Instant. Maximum</i>
Flow (MGD)	Report	Report	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0	XXX	XXX	9.0
Dissolved Oxygen	XXX	XXX	5.0	XXX	XXX	XXX
Total Residual Chlorine	XXX	XXX	XXX	0.5	XXX	1.6
CBOD <sub>5</sub>	459	734	XXX	25	40	50
		Wkly Avg				
BOD <sub>5</sub>						
Raw Sewage Influent	Report	Report	XXX	Report	XXX	XXX
Total Suspended Solids						
Raw Sewage Influent	Report	Report	XXX	Report	XXX	XXX
Total Suspended Solids	550	826	XXX	30	45	60
		Wkly Avg				
Fecal Coliform (CFU/100 ml)						
May 1 - Sep 30	XXX	XXX	XXX	200	XXX	XXX
				Geo Mean		
Fecal Coliform (CFU/100 ml)						
Oct 1 - Apr 30	XXX	XXX	XXX	2000	XXX	XXX
				Geo Mean		
Ammonia-Nitrogen	XXX	XXX	XXX	Report	XXX	XXX
Total Phosphorus	37	XXX	XXX	2.0	XXX	4.0

The proposed monitoring requirements and, where appropriate, effluent limits for implementation of the Chesapeake Bay Tributary Strategy are as follows for Outfall 001.

<i>Parameters</i>	<i>Mass (lbs)</i>		<i>Minimum</i>	<i>Concentration (mg/l)</i>	
	<i>Monthly</i>	<i>Annual</i>		<i>Monthly Average</i>	<i>Maximum</i>
Ammonia—N	Report	Report		Report	
Kjeldahl—N	Report			Report	
Nitrate-Nitrite as N	Report			Report	
Total Nitrogen	Report	Report		Report	
Total Phosphorus	Report	Report		Report	
Net Total Nitrogen (Interim)	Report	Report			
Net Total Nitrogen (Interim)	Report	26,788			
Net Total Nitrogen (Final)	Report	40,182			
Net Total Phosphorus (Interim)	Report	3,572			
Net Total Phosphorus (Interim)	Report	Report			
Net Total Phosphorus (Final)	Report	5,358			

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

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

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.

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

**PA0032760—Amendment No. 1**, Sewage, SIC Code 4173, **Pennsylvania Department of Transportation Design Bureau**, PO Box 3060, Harrisburg, PA 17105-360. Facility Name: Pennsylvania Department of Transportation Rest Area 17. This existing facility is located in Deer Creek Township, **Mercer County**.

Description of Existing Activity: The application is for an amendment of an NPDES permit for an existing discharge of treated sewage from a highway rest area, to add a compliance schedule to achieve the final total phosphorus limit.

The receiving stream(s), Unnamed Tributary to Lake Wilhelm (Sandy Creek), is located in State Water Plan watershed 16-G and is classified for Warm Water Fishes, aquatic life, water supply and recreation. The discharge is not expected to affect public water supplies.

The proposed effluent limits for Outfall 001 are based on a design flow of 0.0087 MGD.

<i>Parameters</i>	<i>Mass (lb/day)</i>			<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Daily Maximum</i>	<i>Minimum</i>	<i>Average Monthly</i>	<i>Daily Maximum</i>	<i>Instant. Maximum</i>
Flow (MGD)	Report					
pH (S.U.)			6.0			9.0
Dissolved Oxygen			3.0			
Total Residual Chlorine				0.6		1.4
CBOD <sub>5</sub>				25		50
Total Suspended Solids				30		60
Fecal Coliform (CFU/100 ml)				200		
May 1 - Sep 30				Geo Mean		
Fecal Coliform (CFU/100 ml)				2000		
Oct 1 - Apr 30				Geo Mean		
Ammonia-Nitrogen				25		50
Total Phosphorus (Interim)				Report		
Total Phosphorus (Final)				1.0		2.0

Special Conditions:

1. TRC Minimization
2. Compliance schedule for Total Phosphorus limit.

You may make an appointment to review the DEP files on this case by calling the File Review Coordinator at 814-332-6340.

The EPA Waiver is in effect.

**PA0032751—Amendment No. 1**, Sewage, SIC Code 4173, **PA DOT Design Bureau, PennDOT Bureau Of Design**, Harrisburg, PA 17105-3060. Facility Name: PA DOT Rest Area 18. This existing facility is located in Deer Creek Township, **Mercer County**.

Description of Existing Activity: The application is for an amendment of an NPDES permit for an existing discharge of treated Sewage to add a compliance schedule for the installation of Phosphorus removal equipment.

The receiving stream, Black Run, is located in State Water Plan watershed 16-G and is classified for Warm Water Fishes, aquatic life, water supply and recreation. The discharge is not expected to affect public water supplies.

The proposed effluent limits for Outfall 001 are based on a design flow of 0.0087 MGD.

#### INTERIM LIMITS

<i>Parameters</i>	<i>Mass (lb/day)</i>			<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Daily Maximum</i>	<i>Minimum</i>	<i>Average Monthly</i>	<i>Daily Maximum</i>	<i>Instant. Maximum</i>
Flow (MGD)	Report	XXX	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6	XXX	XXX	9
Total Residual Chlorine	XXX	XXX	XXX	1.0	XXX	2.3
CBOD <sub>5</sub>	XXX	XXX	XXX	25	XXX	50
Total Suspended Solids	XXX	XXX	XXX	30	XXX	60

<i>Parameters</i>	<i>Mass (lb/day)</i>			<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Daily Maximum</i>	<i>Minimum</i>	<i>Average Monthly</i>	<i>Daily Maximum</i>	<i>Instant. Maximum</i>
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	XXX	XXX	XXX	8.5	XXX	17.0
Ammonia-Nitrogen Nov 1 - Apr 30	XXX	XXX	XXX	25.5	XXX	51.0
Total Phosphorus	XXX	XXX	XXX	Report	XXX	Report

**FINAL LIMITS**

<i>Parameters</i>	<i>Mass (lb/day)</i>			<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Daily Maximum</i>	<i>Minimum</i>	<i>Average Monthly</i>	<i>Daily Maximum</i>	<i>Instant. Maximum</i>
Flow (MGD)	Report	XXX	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6	XXX	XXX	9
Total Residual Chlorine	XXX	XXX	XXX	1.0	XXX	2.3
CBOD <sub>5</sub>	XXX	XXX	XXX	25	XXX	50
Total Suspended Solids	XXX	XXX	XXX	30	XXX	60
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	XXX	XXX	XXX	8.5	XXX	17.0
Ammonia-Nitrogen Nov 1 - Apr 30	XXX	XXX	XXX	25.5	XXX	51.0
Total Phosphorus	XXX	XXX	XXX	1.0	XXX	2.0

In addition, the permit contains the following major special conditions:

- Schedule of Compliance for Phosphorus

You may make an appointment to review the DEP files on this case by calling the File Review Coordinator at 814-332-6340.

The EPA Waiver is in effect.

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**III. WQM Industrial Waste and Sewerage Applications under The Clean Streams Law**


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

**WQM Permit No. 3691410, Amendment 10-1, Sewerage, Turkey Hill Dairy, Inc., 2601 River Road, Conestoga, PA 17516.**

This proposed facility is located in Manor Township, **Lancaster County**.

Description of Proposed Action/Activity: Seeking permit amendment approval for the installation of a dissolved air flotation unit system at their existing treatment plant.

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

**WQM Permit No. 1410403, Sewerage [SIC 4952], University Area Joint Authority, 1576 Spring Valley Road, State College, PA 16801-8499.**

This proposed facility is located in State College Borough & College Township, **Centre County**.

Description of Proposed Action/Activity: The project will generally consist of a pressurized 8-inch diameter PVC waterline to convey beneficial reuse water from the existing terminus (Centre Hills Booster Station) to the proposed constructed wetland site. Upon completion of construction associated with this project, the new terminus of the extension will be capped. Also, a small service lateral and tap will be provided to the residents of Colonial Court, a residential housing development, for lawn watering purposes.

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**IV. NPDES Applications for Stormwater Discharges from MS4**


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**V. Applications for NPDES Waiver Stormwater Discharges from MS4**


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


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*Northcentral Region: Watershed Management Program Manager, 208 West Third Street, Williamsport, PA 17701*

*Columbia County Conservation District: 702 Sawmill Road, Suite 204, Bloomsburg, PA 17815, (570) 784-1310, X 102*

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI041910003	PA Department of Conservation & Natural Resources 6th Floor, RCSOB PO Box 8552 Harrisburg, PA 17105-8552	Columbia	Conyngham Township	South Branch Roaring Creek HQ-CWF

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

*Butler County Conservation District, 122 McCure Drive, Butler PA 16001-6501*

The following permit was published on December 25, 2010, with the incorrect applicant name and address. This submission is correct.

<i>NPDES Application No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI 0610 10 006	Penn United Technologies Inc PO Box 399 Saxonburg PA 16056	Butler	Jefferson Township	UNT Little Buffalo Creek HQ-TSF

*Cambria District: Environmental Program Manager, 286 Industrial Park Road, Ebensburg, PA 15931-4119.*

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI093710001	PA DEP Cambria Office 286 Industrial Park Road Ebensburg, PA 15931-4119	Lawrence County	Little Beaver Township	Unnamed Tributary to Beaver Dam Run To Beaver Dam Run/HQ-CWF

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


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PAG-12	CAFOs
PAG-13	Stormwater Discharges from MS4

**STATE CONSERVATION COMMISSION**  
**NUTRIENT MANAGEMENT PLANS RELATED TO APPLICATIONS FOR**  
**NPDES PERMITS FOR CAFOs**

The State Conservation Commission has taken the following actions on previously received applications for nutrient management plans under 3 Pa.C.S. Chapter 5, for agricultural operations that have or anticipate submitting applications for new, amended or renewed NPDES permits or NOIs for coverage under a general permit for CAFOs under 25 Pa. Code Chapter 92a. This notice is provided in accordance with 25 Pa. Code Chapter 92a and 40 CFR Part 122, implementing The Clean Streams Law and the Federal Clean Water Act.

Persons aggrieved by an action may appeal under 3 Pa.C.S. § 517, section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to Administrative Agency Law) to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania AT&T Relay Service at (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create a right of appeal beyond that permitted by applicable statutes and decision law.

For individuals who wish to challenge actions, 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>
Kar-Dale-Acres Dale Hoffman 243 Healy Road Shinglehouse, PA 16748	Potter	988.4	1325.15	Dairy, Beef	High Quality Eleven Mile Creek Big Hollow Deering Hollow Dwight Hollow	Renewal

**PUBLIC WATER SUPPLY (PWS) PERMITS**

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

Persons wishing to comment on permit applications are invited to submit statements to the office listed before 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 an application. A comment 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 related documents are on file at the office listed before the application and available for public review. Arrangements for inspection and copying information should be made with the office listed before 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 before the application. TDD users may contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

**SAFE DRINKING WATER**

**Applications Received under the Pennsylvania Safe Drinking Water Act**

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

**Permit No. 3610545**, Public Water Supply.

Applicant	<b>Leola Sewer Authority</b>
Municipality	Upper Leacock Township
County	<b>Lancaster</b>

Responsible Official	J Robert Rissler, Chief Water Operator 36 Hillcrest Avenue PO Box 325 Leola, PA 17540
Type of Facility	Public Water Supply
Consulting Engineer	Yves Pollart, P.E. RETTEW 5031 Richard Lane PO Box 325 Mechanicsburg, PA 17055
Application Received:	12/8/2010
Description of Action	Additon of a sequestering agent at Entry Points 101 and 102 for general corrosion control.

**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—6026.907)**

Sections 302—305 of the Land Recycling and Environmental Remediation Standards Act (act) (35 P. S. §§ 6026.302—6026.305) require the Department to publish in the *Pennsylvania Bulletin* an acknowledgment noting receipt of Notices of Intent to Remediate. An acknowledgment of the receipt of a Notice of Intent to Remediate is used to identify a site where a person proposes to, or has been required to, respond to a release of a regulated substance at a site. A person intending to use the background standard, Statewide health standard, the site-specific standard or intend to remediate a site as a special industrial area shall 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 cleanup standards or 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 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 following site, 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 as follows. During this comment period, the municipality may request that the person identified as the remediator of the site develop and implement a public involvement plan. Requests to be involved and comments should be directed to the remediator of the site.

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

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

*Southeast Region: Environmental Cleanup Program Manager, 2 East Main Street, Norristown, PA 19401*

**Crouse Building Facility**, Limerick Township, **Montgomery County**. Richard D. Trimpi, Trimpi Associates Inc., 1635 Old Plains Road, Pennsburg, PA 18073 on behalf of Ira Saligman, 200 Chamounix Rd, Wayne, PA 19087 has submitted a Notice of Intent to Remediate. Groundwater at the site has been impacted with the release of chlorinated solvents. The intended future use of the site is commercial. A summary of the Notice of Intent to Remediate was reported to have been published in *The Mercury* on October 6, 2010.

**Mt. Airy Shopping Center**, City of Philadelphia, **Philadelphia County**. Charlene Drake, REPSG, 6901 Kingsessing Avenue, Suite 201, Philadelphia, PA 19142 on behalf of Brahlin Properties, 1535 Chestnut Street, Suit 200, Philadelphia, PA 19102 has submitted a Notice of Intent to Remediate. Groundwater and soil at the site has been impacted with the release of chlorinated solvents. The future use of the property will be both residential (school use) and non-residential for continued use as well as for the construction and operation of a school building. A summary of the Notice of Intent to Remediate was reported to have been published in *The Philadelphia Daily News* on October 23, 2010.

**Parker Hannifin Corporation Inc**, Fanconia Township, **Montgomery County**. Matthew A. Cousino, AECOM, Four Gateway Center, 444 Liberty Avenue, Suite 700, Pittsburgh, PA 15222 on behalf of Martha Connell, Parker Hannifin, 245 Township Line Road, Hatfield, PA 19440 has submitted a Notice of Intent to Remediate. Groundwater at the site has been impacted with the release of chlorinated solvents. The future use of the site is expected to continue to be used for industrial and non-residential purpose.

**GTS Welco Levittown Facility**, Tullytown Borough, **Bucks County**. I Scott Renneisen, Synergy Environmental Inc. 155 Railroad Plaza, 1st Floor, Royersford, PA 19468, James Anderson, GTS-Welco, 8110 Route 13, Levittown, PA 19057 has submitted a Notice of Intent to Remediate. Groundwater at the site has been impacted with the release of unleaded gasoline. The intended future use of the property will remain the same as the current use, retail sales of welding supplies and compressed gas distribution. A summary of the Notice of Intent to Remediate was reported to have been published in the *Bucks County Courier Times* on August 2, 2010.

**Synthes**, East Goshen Township, **Chester County**. Daniel E. Erdman, Keystone E-Sciences Group Inc., 590 East Lancaster Avenue, Suite 200, Frazer, PA 19355 on behalf of Bryan Lee, Synthes, USA HQ, Inc., 1302 Wrights Lane, West Chester, PA 19380 has submitted a Notice of Intent to Remediate. Soil at the site has been impacted with the release of diesel fuel. The current and intended future use of the property is commercial.

**Tadlock Residence**, Falls Township, **Bucks County**. Richard D. Trimpi, Trimpi Associates, Inc., 1635 Old Plains Road, Pennsburg, PA 18073, Ty Gawlik, State Farm Insurance Company, PO Box 8061, Ballston Spay, NY 12020-8061 on behalf of John Tadlock, 21 Timothy Lane, Levittown, PA 19054 has submitted a Notice of Intent to Remediate. Groundwater and soil at the site has been impacted with the release of no. 2 fuel oil. A summary of the Notice of Intent to Remediate was reported to have been published in the *Bucks County Courier Times* on October 13, 2010.

**French Creek Center West**, Borough of Phoenixville, **Chester County**. James F. Mullan, Hocage Consulting, Inc, 987 Haddon Avenue, Collingswood, NJ 08108 on behalf of Eric Moore, Phoenix French Creek Manor, LLC, 121 Bridge Street. Phoenixville, PA 19460 has submitted a Notice of Intent to Remediate. Soil and groundwater at the site has been impacted with the release of inorganics. The subject property is slated for redevelopment with a mix of non-residential (commercial, office, etc.) uses. A summary of the Notice of Intent to Remediate was reported to have been published in *The Mercury* on September 24, 2010.

**Septa Malvern Station**, Borough of Malvern, **Chester County**. Craig Herr, RT Environmental Service, Inc., 215 West Church Road, King of Prussia, PA 19406 on behalf of Mr. Glenn Morris, Septa, 61 North Warren Avenue, Malvern, PA 19355 has submitted a Notice of Intent to Remediate. Soil at the site has been impacted with the release of unleaded gasoline. The intended future use of the site will remain a commuter parking lot. A summary of the Notice of Intent to Remediate was reported to have been published in the *Daily Local News* on October 11, 2010.

**210 Leedom Street Property**, Borough of Jenkintown, **Montgomery County**. William F. Schmidt, Pennoni Associates, Inc. 3001 Market Street, Philadelphia, PA 19104, Paul Martino, Pennoni Associates, Inc. 3001 Market Street, Philadelphia, PA 19104 on behalf of Joe English, Borough of Jenkintown, 700 Summit Avenue, Jenkintown, PA 19046 has submitted a Notice of Intent to Remediate. Soil and groundwater at the site has been impacted with the release of chlorinated solvents. The future use of the site will remain the same.

**Amoroso Property**, Falls Township, **Bucks County**. Richard Trimpi, Trimpi Associates, Inc. 1635 Old Plains Road, Pennsburg, PA 18073, Christine Dimmig, State

Farm Insurance Company, PO Box 8061, Ballston Spa, NY 12020-8061 on behalf of Anthony Amoroso, 82 Blue Spruce Lane, Levittown, PA 19054 has submitted a Notice of Intent to Remediate. Soil and groundwater at the site has been impacted with the release of no. 2 fuel oil. The intended future use of the site is residential. A summary of the Notice of Intent to Remediate was to have been reported in the *Bucks County Courier Times* on October 13, 2010.

**Loostyn Property**, City of Philadelphia, **Philadelphia County**. James Morrow, GHR Consulting Service, Inc., 224B S. Maple Street, Ambler, PA 19002 on behalf of Aurora Mannino, 3798 Spring Valley, Doylestown, PA 18901 has submitted a Notice of Intent to Remediate. Groundwater and soil at the site has been impacted with the release of chlorinated solvents. The future use of the site will remain the same.

**Moyer Residence**, Borough of Pottstown, **Montgomery County**. Andrew K. Markoski, Patriot Environmental Management, LLC, PO Box 629, Douglassville, PA 19518, John Palmer, Automotive Service Inc., 1350 West High Street, Pottstown, PA 19464 on behalf of Douglas Moyer, 264 Lee Avenue, Pottstown, PA 19464 has submitted a Notice of Intent to Remediate. Soil at the site has been impacted with the release of no. 2 fuel. The intended future use of the property will remain residential. A summary of the Notice of Intent to Remediate was to have been reported in the *Pottstown Mercury* on October 29, 2010.

**Lakeman & Gilbert Residence**, Warwick Township, **Chester County**. Richard D. Trimpi, Trimpi Associates, Inc, 1635 Old Plains Road, Pennsburg, PA 18073, Frank Guarrier, Allstate Insurance care of Curtin Heefner, 250 N. Pennsylvania Avenue, Morrisville, PA 19067 on behalf of Ann Goedeke, 2053 Harmonyville Road, Pottstown, PA 19465, Thomas Lakeman, 2051 Harmonyville Road, Pottstown, PA 19465 has submitted a Notice of Intent to Remediate. Soil and groundwater at the site has been impacted with the release of no. 2 fuel oil. The future use of the site will remain the same. A summary of a Notice of Intent to Remediate was to have been published in *The Mercury* on November 18, 2010.

**Johnson & Johnson Pharmaceutical Research Development, LLC**, Uwchlan Township, **Chester County**. Heath A. Brown, Environmental Standard, 1140 Valley Forge Road, PA 19842, Steven Ohrwaschel, Lewis Environmental Group, 155 Railroad Plaza, Royersford, PA 19468 on behalf of David G. Link, Johnson & Johnson PRD, LLC, PO. Box 776, Welsh & McKean Roads, Spring House, PA 19477 has submitted a Notice of Intent to Remediate. Soil at the site has been impacted with the release of used motor oil. The intended use of the property is non-residential/industrial.

**Walker Property**, Thornbury Township, **Chester County**. Richard D. Trimpi, Trimpi Associates, Inc., 1635 Old Plains Road, Pennsburg, PA 18973, Jason Richards, Mark 1 Restoration Service, Inc, 140 New Britain Blvd., Chalfont, PA 18914 on behalf of Susan Walker, 41-28 45th Street, Sunnyside, NY 1104 has submitted a Notice of Intent to Remediate. Soil at the site has been impacted with the release of no. 2 fuel oil. The future use of the site will remain the same. A summary of the Notice of Intent to Remediate was to have been reported in the *Daily Local News* on November 8, 2010.

**Feisler/Sadsburyville**, Sadsbury Township, **Chester County**. Richard D. Trimpi, Trimpi Associates, Inc., 1635 Old Plains Road, Pennsburg, PA 18973, Frank Lynch,

EnviroLink, 165 Daleville Road, Cochranville, PA 19330 has submitted a Notice of Intent to Remediate. Soil at the site has been impacted with the release of no. 2 fuel oil. A summary of the Notice to Intent to Remediate was to have been reported in the *Daily Local News* on July 22, 2010.

*Southwest Region: Environmental Cleanup Program Manager, 400 Waterfront Drive, Pittsburgh, Pa 15222-4745*

**Herb Springer Residence**, Perryopolis Borough, **Fayette County**. Miller Environmental Inc., 514 Hartman Run Road, Morgantown, WV 26505 on behalf of property owner B&P Industries, LLC, PO BOX 622 Perryopolis, PA 15473 and tenant Mr. Springer, 136 Janet Street, Perryopolis, PA 15473 has submitted a Notice of Intent to Remediate. A home heating fuel oil release has resulted in vapor complaints in nearby businesses. Petroleum impacts in soil surrounding the ASTs, trailer and along a subsurface sanitary line have been observed. Source removal of petroleum impacted soils will result in attainment of the residential statewide health standard.

## AIR QUALITY

### PLAN APPROVAL AND OPERATING PERMIT APPLICATIONS

#### NEW SOURCES AND MODIFICATIONS

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

The Department received applications for Plan Approvals 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 listed before the applications. Persons interested in reviewing the application files should contact the appropriate regional office to schedule appointments.

Persons wishing to receive a copy of a proposed Plan Approval or Operating Permit shall indicate interests to the Department regional office within 30 days of the date of this notice and shall file protests or comments on a proposed Plan Approval or Operating Permit within 30 days of the Department providing a copy of the proposed documents to persons or within 30 days of its publication in the *Pennsylvania Bulletin*, whichever comes first. Interested persons may also request that hearings be held concerning a proposed Plan Approval or Operating Permit. A comment or protest filed with the Department regional office shall include a concise statement of the objections to the issuance of the Plan Approval or Operating Permit and relevant facts which serve as the basis for the objections. If the Department schedules a hearing, a notice will be published in the *Pennsylvania Bulletin* at least 30 days prior the date of the hearing.

Persons with a disability who wish to comment and require an auxiliary aid, service or other accommodation to participate should contact the regional office listed before the application. 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 121–143, the Federal Clean Air Act (42 U.S.C.A. §§ 7401–7671q) and regulations adopted under the Federal Clean Air Act.

### PLAN APPROVALS

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

*Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401*

*Contact: Sachin Shankar, New Source Review Chief—Telephone: 484-250-5920*

**15-0002G: WorldColor—USA, LLC—formerly known as Quebecor World Atglen, Inc.** (4581 Lower Valley Road, Atglen, PA 19310) for installation of a new unenclosed 10-unit rotogravure publication printing press and an associated solvent recovery system and the removal of an older solvent recovery system and two (2) unenclosed rotogravure publication printing presses at their facility in West Sadsbury Township, **Chester County**. As a result of potential emissions of VOC, the facility is a Title V facility. The Plan Approval will contain recordkeeping requirements and operating restrictions designed to keep the facility operating within all applicable air quality requirements.

*Northeast Region: Air Quality Program, 2 Public Square, Wilkes Barre, PA 18711-0790*

*Contact: Ray Kempa, New Source Review Chief—Telephone: 570-826-2507*

**39-312-051: Buckeye Energy Services LLC** (5 TEK Park, 9999 Hamilton Blvd., Breinigsville, PA 18031) for installation of a new VCU unit at their facility in Lower Macungie Township, **Lehigh County**.

**40-399-071: PPL Susquehanna LLC** (769 Salem Blvd, Berwick, PA 18603-6828) for modification of their existing Title V Operating Permit to include miscellaneous sources at their facility in Salem Township, **Luzerne County**.

**39-312-052: Sunoco Partners Mkt & Term LP** (525 Fritztown Road, Singing Spring, PA 19608) for installation of a new VRU unit at their facility in Whitehall Township, **Lehigh County**.

**40-312-046: Sunoco Partners Mkt & Term LP** (525 Fritztown Road, Singing Spring, PA 19608) for installation of a new VRU unit at their facility in Edwardsville Borough, **Luzerne County**.

*Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481*

*Contact: Mark Gorog, New Source Review Chief—Telephone: 814-332-6940*

**20-037A: U.S. Bronze Foundry & Machine, Inc** (18649 Brakeshoe Road, Meadville, PA 16335), for the construction of four electric induction furnaces and a baghouse in Woodcock Township, **Crawford County**. This is a State Only facility.

**Intent to Issue Plan Approvals and Intent to Issue or Amend Operating Permits under the Air Pollution Control Act and 25 Pa. Code Chapter 127, Subchapter B. These actions may include the administrative amendments of an associated operating permit.**

*Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745*

*Contact: B. Hatch, Environmental Engineer Managers—Telephone: 412-442-4163/5226*

**63-00958: MarkWest Liberty Midstream and Resources, LLC** (1515 Arapahoe Street Tower 2, Suite 700, Denver, CO 80202-2126) to allow the installation and initial temporary operation of four (4) new natural gas-fired compressor engines rated at 1980 bhp each and a new natural gas-fired dehydrator re-boiler rated at 2.0 MMBtu/hr at their Welling Compressor Station in Buffalo Township, **Washington County**.

In accordance with 25 Pa. Code §§ 127.44–46 the Department of Environmental Protection (DEP) intends to issue Air Quality Plan Approval: PA-63-00958 to allow the installation and initial temporary operation of four new natural gas-fired compressor engines rated at 1980 bhp each and a new natural gas-fired dehydrator re-boiler rated at 2.0 MMBtu/hr at the Welling Compressor Station located in Buffalo Township, Washington County. Two currently authorized natural gas-fired compressor engines rated at 1380 bhp each, one dehydrator (including reboiler) rated for 100 mmscf/day of natural gas, one gunbarrel separation tanks with a capacity of 500 bbl, three condensate tanks with a capacity of 400 bbl each, and one saltwater tank with a capacity of 400 bbl have previously been authorized for installation under GP5-63-00958 and will be incorporated into this plan approval for a total of six engines, one dehydrator, one separation tank, three condensate tanks, and one saltwater tank.

Potential emissions from the facility are estimated to be 34.79 tons of nitrogen oxides (NO<sub>x</sub>), 24.17 tons of carbon monoxide (CO), 24.25 tons of volatile organic compounds (VOC), 2.17 tons of formaldehyde, and 4.38 tons of hazardous air pollutants (HAP) per year. The plan approval will include federally enforceable emission limits on the engines for NO<sub>x</sub>, CO, and VOC. Best available technology (BAT) for the proposed sources is combusting natural gas, rich burn combustion for each engine controlled by three-way catalysts, good combustion practices including the use of air to fuel ratio controllers and proper maintenance and operation. The authorization is subject to State regulations, Federal New Source Performance Standards (NSPS) including 40 CFR Part 60, Subpart JJJJ for spark ignition internal combustion engines, and Federal National Emission Standards for Hazardous Air Pollutants (NESHAPS) including 40 CFR Part 63, Subpart HH for oil and natural gas production facilities. Federal requirements for Mandatory Greenhouse Gas Reporting from 40 CFR Part 98 have also been included in this Plan Approval. Compliance with emission limitations will be demonstrated through stack testing. Plan Approval has been conditioned to ensure compliance with all applicable rules. Once compliance with the Plan Approval is demonstrated, the applicant will subsequently apply for a State Only Operating Permit in accordance with Pa. Code Title 25 Subchapter F.

Those who wish to provide the Department with additional written information that they believe should be considered prior to the issuance of the Plan Approval may submit the information to Alan Binder, Pennsylvania



Department of Environmental Protection, 400 Waterfront Drive, Pittsburgh, PA, 15222. Each written comment must contain the following:

Name, address and telephone number of the person submitting the comments.

Identification of the proposed Plan Approval (PA-63-00958).

Concise statements regarding the relevancy of the information or objections to issuance of the Plan Approval.

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

For additional information you may contact Alan Binder at 412-442-4168.

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**Intent to Issue Operating Permits under the Air Pollution Control Act and 25 Pa. Code Chapter 127, Subchapter F.**

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*Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19428*

*Contact: Janine Tulloch-Reid, Facilities Permitting Chief—Telephone: 484-250-5920*

**23-00109: Catalyst International, Inc.** (1050 Ashland Avenue, Folcroft, PA 19032) for issuance of a State Only Operating Permit for laminating operations at their facility in Folcroft Borough, **Delaware County**. Plan Approval, 23-0109A, is being incorporated into the facility synthetic minor initial operating permit, 23-00109. This facility is synthetic minor for Volatile Organic Compounds (VOC) and Hazardous Air Pollutants (HAPs). This Operating Permit will include monitoring and recordkeeping requirements to ensure that this facility complies with all applicable air quality regulations.

*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*

**21-05030: Ahlstrom Filtration LLC** (122 Butler Street, Mt. Holly Springs, PA 17065) for operation of two (2) natural gas/#6 fuel oil fired boilers in Mt. Holly Springs Borough, **Cumberland County**. This action is a renewal of the state-only operating permit issued in 2006. The permit renewal 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.

**31-03001: The Walter Mcllvain Co.** (4683 Brickyard Rd., Alexandria, PA 16611) for operation of a wood-fired boiler and wood fuel (sawdust) cyclone in Porter Township, **Huntingdon County**. This is a renewal of the facility's state only operating permit issued in 2004.

**67-03069: H & H Castings, Inc.** (4300 Lincoln Highway, York, PA 17406) for aluminum foundry operations in Hellam Township, **York County**. This is a renewal of the facility's state only operating permit issued in 2004.

*Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481*

*Contact: Matthew Williams, New Source Review Chief—Telephone: 814-332-6940*

**10-00237: Fox Funeral Home** (410 West Main Street, PO Box 305, Saxonburg, PA 16056) for renewal of a State Only Operating Permit for their facility in Saxonburg Borough, **Butler County**. The facility is a Natural Minor. The primary sources at the facility include a crematory and miscellaneous natural gas combustion units. The renewal permit contains emission restrictions, recordkeeping, and work practice requirements to ensure compliance with the Clean Air Act and the Air Pollution Control Act.

## COAL AND NONCOAL MINING ACTIVITY APPLICATIONS

Applications under the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.19a); the Noncoal Surface Mining Conservation and Reclamation Act (52 P. S. §§ 3301—3326); The Clean Streams Law; the Coal Refuse Disposal Control Act (52 P. S. §§ 30.51—30.66); and The Bituminous Mine Subsidence and Land Conservation Act (52 P. S. §§ 1406.1—1406.20a). Mining activity permits issued in response to applications will also address the applicable permitting requirements of the following statutes: the Air Pollution Control Act (35 P. S. §§ 4001—4014); the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1002).

The following permit applications to conduct mining activities have been received by the Department. A copy of an application is available for inspection at the district mining office indicated before 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 a person or an officer or head of Federal, state or local government agency or authority to the Department at the address of the district mining office indicated before each application within 30 days of this publication or within 30 days after the last publication of the applicant's newspaper advertisement, as provided by 25 Pa. Code §§ 77.121—77.123 and 86.31—86.34.

Written comments or objections regarding a mining permit application should contain the name, address and telephone number of the person submitting comments or objections, the 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.

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

When an 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 in Table 2. Discharges from noncoal mines located in some geologic settings (for example, in 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 specifies the parameters. The limits will be in the ranges specified in Table 1.

More restrictive effluent limitations, restrictions on discharge volume or restrictions on the extent of mining that may occur will be incorporated into an NPDES permit when necessary for compliance with water quality standards and antidegradation requirements (in accordance with 25 Pa. Code Chapters 91—96).

The procedures for determining the final effluent limits, using a mass-balance equation or model, are 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 Loads.

Persons wishing to comment on NPDES permit applications should submit statements to the Department at the

address of the district mining office indicated before 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. A comment 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 contain the name, address, telephone number and the interest of the party filing the request and state the reasons why a hearing is warranted. A public hearing may be held if the Department considers the public interest significant. If a hearing is scheduled, a notice of the hearing on the NPDES permit application will be published in the *Pennsylvania Bulletin* and a newspaper of general circulation within the relevant geographical area. When a public hearing is held, the Department will consider comments from the public hearing in the final determination on the NPDES permit application.

#### *Coal Applications Received*

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

Parameter	30-Day Average	Daily Maximum	Instantaneous Maximum
Iron (total)	1.5 to 3.0 mg/l	3.0 to 6.0 mg/l	3.5 to 7.0 mg/l
Manganese (total)	1.0 to 2.0 mg/l	2.0 to 4.0 mg/l	2.5 to 5.0 mg/l
Suspended solids	10 to 35 mg/l	20 to 70 mg/l	25 to 90 mg/l
Aluminum (Total)	0.75 to 2.0 mg/l	1.5 to 4.0 mg/l	2.0 to 5.0 mg/l
pH <sup>1</sup>		greater than 6.0; less than 9.0	
Alkalinity greater than acidity <sup>1</sup>			

<sup>1</sup>The parameter is applicable at all times.

A settleable solids instantaneous maximum limit of 0.5 ml/l applied to: surface runoff (resulting from a precipitation event of less than or equal to a 10-year 24-hour event) from active mining areas; active areas disturbed by coal refuse disposal activities; and mined areas backfilled and revegetated; and drainage (resulting from a precipitation event of less than or equal to a 1-year 24-hour event) from coal refuse disposal piles.

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

**56900112 and NPDES No. PA058976. Future Industries, Inc.**, P. O. Box 157, Meyersdale, PA 15552, permit renewal for the continued operation and restoration of a bituminous surface mine in Summit Township, **Somerset County**, affecting 650 acres. Receiving stream(s): Stony Batter Run and Shaffer Run classified for the following use(s): cold water fisheries. There are no potable water supply intakes within 10 miles downstream. Application received: December 13, 2010.

**56663069 and NPDES No. PA0120944. Action Mining, Inc.**, 1117 Shaw Mines Road, Meyersdale, PA 15552, revision of an existing bituminous surface and auger mine

to add additional mining area in Elk Lick and Summit Townships, **Somerset County**, affecting 3040.0 acres. Receiving stream(s): unnamed tributaries to/and Casselman River and unnamed tributaries to/and Elk Lick Creek classified for the following use(s): cold water fishery. There are no potable water supply intakes within 10 miles downstream. Application received: December 2, 2010.

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

**03080101 and NPDES Permit No. PA0251364. Amerikohl Mining, Inc.** (202 Sunset Drive, Butler, PA 16001). Revision application to add mining the Lower Kittanning coal seam and module 26 for re-mining of an existing bituminous surface mine, located in Redbank Township, **Armstrong County**, affecting 125 acres. Receiving streams: unnamed tributaries to Mahoning Creek, classified for the following use: CWF. There is no potable water supply intake within 10 miles downstream from the point of discharge. Application received: December 8, 2010.

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

**54931601C2. Sherman Coal Co., Inc.**, (P. O. Box 93, Elysburg, PA 17824), boundary correction of an anthracite coal preparation and coal refuse disposal operation to add 4.3 acres for a total of 14.2 acres permitted and a stream variance in Frailey Township, **Schuylkill County**, re-

ceiving stream: Middle Creek. Application received: December 7, 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*

**31950301 and NPDES No. PA0213268. Glass Bagging Enterprises, Inc.**, P. O. Box 120, Duncansville, PA 16635, renewal of NPDES Permit, Hopewell Township, **Huntingdon County**. Receiving stream(s): unnamed tributaries to Shy Beaver Creek classified for the following use(s): warm water fishery. The first downstream potable water supply intake from the point of discharge is Lake Raystown Resort. Application received: December 10, 2010.

**32900301 and NPDES No. PA0598712. Edward C. Griffith Quarrying, Inc.**, 14472 Rt. 119 Highway North, Rochester Mills, PA 15771, revision of an existing bituminous surface mine to change the land use from pastureland and/or land occasionally cut for hay to commercial/industrial land in North Mahoning Township, **Indiana County**, affecting 45.3 acres. Receiving stream(s): unnamed tributaries to Little Mahoning Creek classified for the following use(s): high quality cold water fishery. There are no potable water supply intakes within 10 miles downstream. Application received: December 2, 2010.

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

**5380-10960304-E-1. Quality Aggregates, Inc.** (4955 Steubenville Pike, Suite 245, Pittsburgh, PA 15205) Application for a stream encroachment to conduct mining activities within 100 feet of unnamed tributaries No. 1 and 1A to the South Branch Slippery Rock Creek in Washington Township, **Butler County**. Receiving streams: Unnamed tributaries to South Branch 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: December 13, 2010.

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

**06100301 and NPDES Permit No. PA0224898. Berks Products Corp.**, (P. O. Box 9000, Wyomissing, PA

19610), commencement, operation and restoration of a quarry operation and discharge of treated mine drainage in Ontelaunee Township, **Berks County** affecting 350.0 acres, receiving stream: Maiden Creek and Schuylkill River, classified for the following uses: warm water fishery and migratory fishery. Application received: December 10, 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. Section 401 of the Federal Water Pollution Control Act (FWPCA) (33 U.S.C.A. § 1341) requires the Commonwealth to certify that the involved projects will not violate the sections 301—303, 306 and 307 of the FWPCA (33 U.S.C.A. §§ 1311—1313, 1316 and 1317) as well as relevant State requirements. Persons objecting to approval of a request for certification under section 401 of the FWPCA, the issuance of a Dam Permit or Water Obstruction and Encroachment Permit or the approval of an Environmental Assessment shall submit comments, suggestions or objections within 30 days of the date of this notice as well as any questions to the office noted before an 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, drawings and other data pertinent to the certification request are available for inspection between 8 a.m. and 4 p.m. on working days at the office noted before the application.

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

**WATER OBSTRUCTIONS AND ENCROACHMENTS**

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

**E58-292. Buck Ridge Stone, LLC**, P. O. Box 114, Montrose, PA 18801, in New Milford Township, **Susquehanna County**, U.S. Army Corps of Engineers, Baltimore District.

To construct and maintain an intake pump in Salt Lick Creek (HQ-CWF) and to modify and maintain an existing stone pad in the floodway of Salt Lick Creek having a length of approximately 630 feet and a width varying from 120 feet to 250 feet with work consisting of removing vegetation and stabilizing the surface of the pad with rock. The purpose of the project is water withdrawal for Marcellus Shale Gas Production. The project is located on the east side SR 0011 approximately 0.2 mile north of T698 in New Milford Township, Susquehanna County (Great Bend, PA-NY, PA Quadrangle, Latitude: 41° 54' 25 N"; Longitude: 75° 43' 59 W").

*Southcentral Region: Watershed Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110. Telephone: 717-705-4707.*

**E01-296: Mason-Dixon Resorts, LP**, 1094 Baltimore Pike, Gettysburg, PA 17325-1101, Cumberland Township, **Adams County**, ACOE Baltimore District

The applicant proposes to:

1) remove existing structures and to construct and maintain a 60.0-foot long, 6.0-inch depressed, 30.0-inch X 19.0-inch horizontal elliptical reinforced concrete pipe in an unnamed tributary to Marsh Creek (CWF) with a depressed rip rap apron extending 26.0-feet downstream,

2) remove existing structures and to place and maintain fill and to construct and maintain a 478.3-foot long, 6.0-inch depressed, 36.0-inch reinforced concrete pipe in wetlands associated with an unnamed tributary to Marsh Creek (CWF) with a depressed rip rap apron extending 21.0-feet downstream,

3) construct and maintain a 100.0-foot long, 6.0-inch depressed, 36.0-inch reinforced concrete pipe in an unnamed tributary to Marsh Creek (CWF) with a depressed rip rap apron extending 10.0-feet downstream,

4) remove existing structures and to extend and maintain an existing 99.0-foot long, 35.0-inch X 24.0-inch corrugated metal pipe arch, with a 22.89-foot long, 35.0-inch X 24.0-inch corrugated metal pipe arch and a 555.00-foot long, 36.0-inch reinforced concrete pipe in an unnamed tributary to Marsh Creek (CWF) with a depressed rip rap apron extending 10.0-feet downstream,

5) remove existing structures and to install and maintain a 79.0-foot X 12.0-foot wooden pedestrian bridge and a 138.0-foot X 12.0-foot wooden pedestrian bridge across an unnamed tributary to Marsh Creek (CWF), all for the purpose of reconfiguring an existing commercial site.

The project is located at 2636 Emmitsburg Road, Gettysburg, PA 17325 (Fairfield, PA Quadrangle N: 2.5 inches, W: 2.8 inches; Latitude: 39° 45' 46", Longitude: 77° 16' 12"), in Cumberland Township, Adams County. To

compensate for wetland impacts, the Permittee shall provide a minimum of 0.17-acres of replacement wetlands onsite.

*Northcentral Region: Watershed Management Program Manager, 208 West Third Street, Williamsport, PA 17701, 570-327-3636*

**E08-463. Appalachia Midstream Services, LLC**, 100 IST Center, Horseheads, NY. 14845-1015. Stagecoach Junction Compressor Station in Tuscarora and Wyalusing Townships, **Bradford County**, ACOE Baltimore District. (Laceyville, PA. 7.5' Quadrangle: 41° 41' 36.8" N; -76° 12' 41.9" W).

To place and maintain fill in 0.10 acres of a palustrine emergent wetland system for the purpose of constructing a compressor station and related support facilities. Replacement wetlands (0.14 acres) will be built on site. The site is located approximately 2.0 miles northeast of the SR 706 (Taylor Ave)/SR 1004 (Turkey Path Road) intersection, on the northwest side of SR 1004.

**E14-540. Moshannon Valley Joint Sewer Authority**, 1108 13th Avenue, PO Box 429, Altoona, PA 16603-0429. Renovations to Regional Water Pollution Control Facility to meet Chesapeake Bay nutrient limits, in Rush Township, **Centre County**, ACOE Baltimore District (Philipsburg, PA Quadrangle N: 40° 54' 27"; W: 78° 13' 26").

To construct and maintain: 1) clean fill in 8.2 acres of the 100-year floodplain, 2) 2.84 acres of wetlands within a few hundred feet of the facility to mitigate for 1.42 acres of wetland fill related to the floodplain fill located on the southwest side of the existing treatment plant. This project proposes to permanently impact 1.42 acres of wetland and no direct impacts to Moshannon Creek, which is classified as a Trout Stocked Fishery.

**E49-313. Shamokin-Coal Township Joint Sewer Authority**, 114 Bridge Street, Shamokin, PA 17872-7690. Sewer Plant Upgrades, in Ralpho Township, **Northumberland County**, ACOE Baltimore District (Shamokin, PA Quadrangle Latitude: 40-48-54.3; Longitude: 76-35-0.5).

The Shamokin-Coal Township Joint Sewer Authority is proposing to complete upgrades to the existing sewage treatment plant. The upgrades include two new outfalls to Shamokin Creek, which carries a water quality designation of Warm Water Fishery. Additionally, the application proposes to install a discharge line connecting to an existing outfall. This connection will be facilitated by means of a manhole set at grade in the floodplain of Shamokin Creek. This permit also includes 401 Water Quality Certification.

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

**E63-516-A1. Washington County Council on Economic Development**, 40 South Main Street, Washington, PA 15301. To impact six wetlands in Hanover Township, **Washington County**, Pittsburgh ACOE District. (Burgettstown, PA Quadrangle: N: 9.9 inches; W: 4.0 inches; Latitude: 40° 26' 11.8"; Longitude: 80° 24' 48"). The applicant proposes to develop and maintain a 165 acre parcel of property (Starpointe Business Park Phase 1B) to be used for a mixed use blend of industrial, commercial, office and research purposes. The development includes impacts to six wetlands with a cumulative impact of 0.65 acres and impacts to approximately 483 LF of unnamed tributaries of Raccoon Creek (WWF). The

development will be constructed approximately 1,000 LF southeast of the intersection of Starpointe Boulevard and Waller Way.

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

**E10-466, North Boundary Partners, LP**, 11279 Perry Highway, Wexford, PA 15090. Marketplace of Cranberry, in Cranberry Township, **Butler County**, ACOE Pittsburgh District (Mars, PA Quadrangle N: 40°, 43', 20"; W: 80°, 6', 22").

The applicant proposes commercial development, associated infrastructure, and parking areas on two land parcels totaling approximately 16 acres located at the northwest and southeast corners of the State Route 19 and North Boundary Road intersection in Cranberry Township, Butler County involving the following: (1) to construct and maintain a 670 linear feet stream enclosure of a perennial unnamed tributary to Brush Creek (WWF); (2) to construct and maintain a 300 linear feet stream enclosure and a 100 linear feet stream enclosure of two ephemeral unnamed tributaries to Brush Creek (WWF);

(3) to permanently fill all onsite PEM/PSS wetlands totaling 1.37 acres; (4) to mitigate for the watercourse impacts by conducting restoration activities on approximately 930 feet of Brush Creek (WWF) within Cranberry Township's Garham Park property consisting of low bank armoring, riparian planting, and j-hook installation; (5) to mitigate for the wetland impacts by constructing 1.58 acres of replacement wetlands within Cranberry Township's Garham Park property.

**E33-243, Kevin Shannon**, 90 Beaver Drive, Suite 110B, Drawer J., Terbovich Bridge Project (Shannon), in Snyder Township, **Jefferson County**, ACOE Pittsburgh District (Carman, PA Quadrangle N: 41°, 16', 2.18"; W: -78°, 52', 6.99").

Project is to convert a remotely located temporary bridge crossing of the South Branch of North Fork Creek into a 20' wide by 30' long bank-to-bank permanent steel bridge crossing with a total of three supporting roadway culverts: one 15" culvert roughly 6' south of bridge, one 15" culvert roughly 8' north of bridge and a 24" culvert roughly 600' north of bridge.

## 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 has taken the following actions on previously received applications for new, amended and renewed NPDES and WQM permits, applications for permit waivers and NOIs for coverage under General Permits. This notice of final action is provided in accordance with 25 Pa. Code Chapters 91 and 92a and 40 CFR Part 122, implementing provisions of The Clean Streams Law (35 P.S. §§ 691.1—691.101) and the Federal Clean Water Act (33 U.S.C.A. §§ 1251—1376).

<i>Location</i>	<i>Permit Authority</i>	<i>Application Type or Category</i>
Section I	NPDES	Renewals
Section II	NPDES	New or Amendment
Section III	WQM	Industrial, Sewage or Animal Wastes; Discharges to Groundwater
Section IV	NPDES	MS4 Individual Permit
Section V	NPDES	MS4 Permit Waiver
Section VI	NPDES	Individual Permit Stormwater Construction
Section VII	NPDES	NOI for Coverage under NPDES General Permits

Sections I—VI contain actions regarding industrial, animal or sewage wastes discharges, discharges to groundwater, and discharges associated with MS4, stormwater associated with construction activities and CAFOs. Section VII contains notices for parties who have submitted NOIs for Coverage under General NPDES Permits. The approval for coverage under these General NPDES Permits is subject to applicable effluent limitations, monitoring, reporting requirements and other conditions 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 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 before the action.

Persons aggrieved by an action may appeal that action to the Environmental Hearing Board (Board) 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 Administrative Agency Law). 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 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 a right of appeal beyond that permitted by applicable statutes and decisional law.

For individuals who wish to challenge an action, the appeal 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 contact a lawyer at once. Persons who cannot afford a lawyer may qualify for free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

**I. NPDES Renewal Permit Actions**

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

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed No.)</i>	<i>EPA Waived Y/N?</i>
PAS602204 (Storm Water)	SR Recycling, Inc. 400 Daniels Road, Rte 946 Nazareth, PA 18064	Northampton County Bushkill Township	Unnamed Tributary of East Branch Monocacy Creek (2-C) HQ-CWF	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0026620 (Sew)	Borough of Millersville 10 Colonial Drive Millersville, PA 17551-1416	Lancaster County Manor Township	Conestoga River / 7-J	Y
PA0021563 Amendment No. 1 (Sew)	Gettysburg Borough Municipal Authority Adams County 59 East High Street, PO Box 3307 Gettysburg, PA 17325	Adams County Gettysburg Borough	Rock Creek / 13-D	Y
PA0081264 (Sew)	Mountainview Thoroughbred Racing Association Penn National of Grantville PO Box 32 Grantville, PA 17028	Dauphin County East Hanover Township	UNT of Swatara Creek / 7-D	Y
PA0014672 (IW—Stormwater)	Exide Technologies Reading Smelter Spring Valley & Nolan Street Reading, PA 19605	Berks County Muhlenburg Township	Schuylkill River and Bernhart Creek / 3-C	Y

**II. New or Expanded Facility Permits, Renewal of Major Permits and EPA Nonwaived Permit Actions**

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

**NPDES Permit No. PA0011266 A-1**, Industrial Waste, **Cabot Corporation**, 1223 County Line Road, Boyertown, PA 19512.

This proposed facility is located in Douglass Township, **Montgomery County**.

Description of Proposed Action/Activity: Approval for the amendment of an NPDES permit to discharge from a facility known as Cabot Corporation—Boyertown Plant to Swamp Creek in Watershed 3-E.

**NPDES Permit No. PA0051926 A-2**, Industrial Waste, **Exelon Generation Co. LLC**, 3146 Sanatoga Road, Pottstown, PA 19464.

This proposed facility is located in Limerick Township, **Montgomery County**.

Description of Proposed Action/Activity: Approval for the amendment of an NPDES permit to discharge from a facility known as Limerick Generating Station to Possum Hollow Run, Schuylkill River and Sanatoga Creek in Watershed 3-D.

**NPDES Permit No. PA0011231**, Industrial Waste, **Conoco Phillips Company and Buckeye Pipe Line Company, LP**, 5 Tek Park, 9999 Hamilton Boulevard, Breinigsville, PA 18031.

This proposed facility is located in Chichester Township, **Delaware County**.

Description of Proposed Action/Activity: Approval for the renewal of an NPDES permit to discharge stormwater runoff and treated groundwater from a facility known as Chelsea Pipeline Station and Tank Farm to Marcus Hook Creek in Watershed 3-G.

**NPDES Permit No. PA0050423**, Sewage, **Sisters Servants of the Immaculate Heart of Mary**, 1140 King Road, Immaculata, PA 19345.

This proposed facility is located in East Whiteland Township, **Chester County**.

Description of Proposed Action/Activity: Approval for the renewal of an NPDES permit to discharge treated sewage from a facility known as Villa Maria STP to Unnamed Tributary of Ridley Creek in Watershed 3-G.

**NPDES Permit No. PA0052353**, Sewage, **Buckingham Township**, P. O. Box 413, Buckingham, PA 18960.

This proposed facility is located in Buckingham Township, **Bucks County**.

Description of Proposed Action/Activity: Approval of an NPDES permit to discharge 236,000 gpd of treated sewage from the Buckingham Village WWTP to Mill Creek (Lahaska Creek) in Watershed 2F-Neshaminy.

### III. WQM Industrial Waste and Sewerage Actions under The Clean Streams Law

*Northeast Region: Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18701-1915*

**WQM Permit No. 5410409**, Sewerage, **Little Washington Wastewater Co.**, 762 West Lancaster Ave., Bryn Mawr, PA 19010

This proposed facility is located in East Union Twp., **Schuylkill County**, PA.

Description of Proposed Action/Activity: The proposed project involves sewers extensions in four sections of the Eagle Rock development; namely, Western Summit South Phases V, VI, and VII, and Algonquin Valley. The sewer extensions consist of low pressure sewers with individual grinder pumps and the sewage will be conveyed to Little Washington Wastewater Company's existing treatment plant via connection to the Tomhicken Creek Interceptor.

**WQM Permit No.5210402**, Sewerage, **Lake Adventure Community Association**, 500 Lake Adventure, Milford, PA 18337

This proposed facility is located in Dingman Twp., **Pike County**, PA.

Description of Proposed Action/Activity: The proposed project involves converting two existing 80,000 gallons per day sewage treatment plants into Sequencing Batch Reactor sewage treatment systems capable of treating 160,000 gallons per day.

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

**WQM Permit No. WQG020051002**, Sewage, **Broad Top Township**, 187 Municipal Road, Defiance, PA 16633-0057.

This proposed facility is located in Broad Top Township, **Bedford County**.

Description of Proposed Action/Activity: Construction/Operation of the Langdondale Sewer Extension Project

### IV. NPDES Stormwater Discharges from MS4 Permit Actions

### V. NPDES Waiver Stormwater Discharges from MS4 Actions

### VI. NPDES Discharges of Stormwater Associated with Construction Activities Individual Permit Actions

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

NPDES Permit No.	Applicant Name & Address	County	Municipality	Receiving Water/Use
PAI023909016	Weis Market, Inc. 1000 South Second Street Sunbury PA 17801	Lehigh Co.	Upper Macungie Twp	Hassen Creek (HQ-CWF, MF)

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

*Beaver County Conservation District, 156 Cowpath Road, Aliquippa, PA 15001, (724-378-1701).*

NPDES Permit No.	Applicant Name & Address	County	Municipality	Receiving Water/Use
PAI050410002	Mark Taylor Chippewa Township 2811 Darlington Road Beaver Falls, PA 15010	Beaver	Chippewa Township	Unnamed Tributary to North Fork Little Beaver Creek (HQ-CWF)

*Somerset County Conservation District, 6024 Glades Pike, Suite 103, Somerset, PA 15501, (814-445-4352).*

NPDES Permit No.	Applicant Name & Address	County	Municipality	Receiving Water/Use
PAI055610001	The Buncher Resort & Hospitality Group, LLC Penn liberty Plaza 1, Suite 300 Pittsburgh, PA 15222	Somerset	Jefferson Township	Kooser Run (HQ-CWF)

### VII. Approvals to Use NPDES and/or Other General Permits

The EPA Region III Administrator has waived the right to review or object to this permit action under the waiver provision in 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
PAG-7	General Permit for Beneficial Use of Exceptional Quality Sewage Sludge by Land Application
PAG-8	General Permit for Beneficial Use of Nonexceptional Quality Sewage Sludge by Land Application to Agricultural Land, Forest, a Public Contact Site or a Land Reclamation Site
PAG-8 (SSN)	Site Suitability Notice for Land Application under Approved PAG-8 General Permit Coverage
PAG-9	General Permit for Beneficial Use of Residential Septage by Land Application to Agricultural Land, Forest or a Land Reclamation Site
PAG-9 (SSN)	Site Suitability Notice for Land Application under Approved PAG-9 General Permit Coverage
PAG-10	General Permit for Discharge Resulting from Hydrostatic Testing of Tanks and Pipelines
PAG-11	(To Be Announced)
PAG-12	CAFOs
PAG-13	Stormwater Discharges from MS4

*General Permit Type—PAG-02*

*Facility Location:*

<i>Municipality &amp; County</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water / Use</i>	<i>Contact Office &amp; Phone No.</i>
Lewistown Borough Mifflin County	PAG2004410006	David Frey, Borough Manager Borough of Lewistown 2 East Third Street Lewistown, PA 17044	Juniata River/WWF	Mifflin County Conservation District 20 Windmill Hill #4 Burnham, PA 17009 717-248-4695
Beale Township Juniata County	PAG2033410005	Beale Township 573 Cider Press Road Port Royal, PA 17082	Markee Creek/CWF	Juniata County Conservation District 146 Stoney Creek Drive, Suite 4 Mifflintown, PA 17059 717-436-8953, Ext 5
Shippensburg Borough Cumberland County	PAG202002110023	Kevin Nehf Vigilant Hose Company of Shippensburg 129 East King Street Shippensburg, PA 17257	Burd Run/CWF	Cumberland County Conservation District 310 Allen Road Carlisle, PA 17013 717-240-7812
Ferguson Township Centre County	PAG2001410018	Giant Food Stores, LLC 1149 Harrisburg Pike Carlisle, PA 17013	UNT to Bald Eagle Creek CWF	Centre County Conservation District 414 Holmes Avenue, Suite 4 Bellefonte, PA 16823 (814) 355-6817
Boggs Township Centre County	PAG2001410019	Nevin Pighetti Pighetti Office/Bestway Travel Plaza PO Box 256 Milesburg, PA 16853	Bald Eagle Creek TSF	Centre County Conservation District 414 Holmes Avenue, Suite 4 Bellefonte, PA 16823 (814) 355-6817
Wolf Township Lycoming County	PAG2004110015	Carlton Decker 872 Elm Dr. Hughesville, PA 17737	UNT Muncy Creek CWF Gregg's Run CWF	Lycoming County Conservation District 542 County Farm Rd Suite 202, Montoursville, PA 17754, (570) 433-3003
Indiana County Burrell Township	PAG02003210007	Trek Development Group	Conemaugh River (WWF)	Indiana County CD 625 Kolter Drive, Suite 8 Indiana, PA 15701-3571 724-471-4751



<i>Facility Location: Municipality &amp; County</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water / Use</i>	<i>Contact Office &amp; Phone No.</i>
Washington County East Finley Township & Greene County Richhill Township	PAG02006310022	Consol Pennsylvania Coal Company, LLC 1000 Consol Energy Drive Canonsburg, PA 15317	Enlow Fork (TSF)	Washington County CD 602 Courthouse Square Washington, PA 15301 724-228-6774
Girard Borough Erie County	PAG02 0025 10 012	Sheetz Inc. 817 Brookfield Drive Seven Fields PA 16046	UNT Lake Erie CWF; MF	Erie Conservation District 814-825-6403
Keating Township McKean County	PAG02 0042 10 003	McKean County Joseph Demott Jr. 500 West Main Street Smethport PA 16749	Marvin Creek CWF	McKean Conservation District 814-337-4001
Clarion County, Farmington Township	PAG02091610007	Bureau of Abandoned Mine Reclamation Cambria Office 286 Industrial Park Road Ebensburg, PA 15931-4119	Coon Creek/ CWF	PA DEP Cambria Office 286 Industrial Park Road Ebensburg, PA 15931-4119 814-472-1800
Butler County, Cherry Township	PAG02091010008	Bureau of Abandoned Mine Reclamation Cambria Office 286 Industrial Park Road Ebensburg, PA 15931-4119	Slippery Rock Creek/ CWF	PA DEP Cambria Office 286 Industrial Park Road Ebensburg, PA 15931-4119 814-472-1800
Cambria County White Township	PAG02091110009	Bureau of Abandoned Mine Reclamation Cambria Office 286 Industrial Park Road Ebensburg, PA 15931-4119	Clearfield Creek/ WWF, MF	PA DEP Cambria Office 286 Industrial Park Road Ebensburg, PA 15931-4119 814-472-1800
Butler County, Cherry Township	PAG02091010010	Bureau of Abandoned Mine Reclamation Cambria Office 286 Industrial Park Road Ebensburg, PA 15931-4119	Unnamed tributary to South Branch to Slippery Rock Creek/ CWF	PA DEP Cambria Office 286 Industrial Park Road Ebensburg, PA 15931-4119 814-472-1800

## 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 3 Pa.C.S. Chapter 5, for agricultural operations that have or anticipate submitting applications for new, amended or renewed NPDES permits or NOIs for coverage under a general permit for CAFOs under 25 Pa. Code Chapter 92a. This notice is provided in accordance with 25 Pa. Code Chapter 92a and 40 CFR Part 122, implementing The Clean Streams Law and the Federal Clean Water Act.

Persons aggrieved by an action may appeal under 3 Pa.C.S. § 517, section 4 of the Environmental Hearing Board Act and 2 Pa.C.S. §§ 501—508 and 701—704 to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania AT&T Relay Service at (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create a right of appeal beyond that permitted by applicable statutes and decision law.

For individuals who wish to challenge actions, 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>
Smiling Porker Farms 676 Granger Lane Morris, PA 16938	Lycoming	435	556.03	Finishing Swine	HQ-CWF Huges Run	Approved

**PUBLIC WATER SUPPLY (PWS) PERMITS**

The Department has taken the following actions on applications received under the Pennsylvania Safe Drinking Water Act (35 P. S. §§ 721.1—721.17) for the construction, substantial modification or operation of a public water system.

Persons aggrieved by an action may appeal that action to the Environmental Hearing Board (Board) under section 4 of the Environmental Hearing Board Act and 2 Pa.C.S. §§ 501—508 and 701—704. 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 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 a right of appeal beyond that permitted by applicable statutes and decisional law.

For individuals who wish to challenge an action, the appeal 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 document to a lawyer at once. Persons who cannot afford a lawyer may qualify for free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

**SAFE DRINKING WATER**

**Actions taken under the Pennsylvania Safe Drinking Water Act**

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

**Permit No. 3810505 MA, Minor Amendment, Public Water Supply.**

Applicant	<b>Quentin Water Company, Inc.</b>
Municipality	West Cornwall Township
County	<b>Lebanon</b>

Responsible Official	William M. White, Operator PO Box 243 Quentin, PA 17083-0243
Type of Facility	Well Nos. 1 & 3, and storage tank modifications related to the GWR 4-log treatment of viruses.
Consulting Engineer	David J Gettle Kohl Bros., Inc. PO Box 350 Myerstown, PA 17067
Permit to Construct Issued:	12/14/2010

**Operations Permit** issued to: **Dover Township**, 7670072, Dover Township, **York County** on 12/14/2010 for the operation of facilities approved under Construction Permit No. 6709508 MA.

**Operations Permit** issued to: **Lykens Borough Authority**, 7220022, Lykens Borough, **Dauphin County** on 12/14/2010 for the operation of facilities approved under Construction Permit No. 2210516 MA.

**Operations Permit** issued to: **Denver Borough**, 7360017, Denver Borough, **Lancaster County** on 12/15/2010 for the operation of facilities approved under Construction Permit No. 3610543 MA.

**Operations Permit** issued to: **Bonneauville Borough**, 7010012, Bonneauville Borough, **Adams County** on 12/14/2010 for the operation of facilities approved under Construction Permit No. 0110513 MA.

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

**Permit No. Minor Amendment—Operation Public Water Supply.**

Applicant	<b>Penn Township Municipal Authority</b>
[Township or Borough]	Penn Township
County	<b>Snyder</b>
Responsible Official	Mr. Scott L. Sharp Penn Township Municipal Authority 2595 Route 522, Suite 20 P. O. Box 155 Selinsgrove, PA 17870
Type of Facility	Public Water Supply
Consulting Engineer	N/A

Permit Issued Date December 15, 2010  
 Description of Action 4-log inactivation of viruses at Entry Point 101 (Well No. 1A).

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

**Permit No. 1010503, Public Water Supply**

Applicant **PA American Water Company**  
 Township or Borough City of Butler  
 County **Butler County**  
 Type of Facility Public Water Supply  
 Consulting Engineer Jerry Hankey, PE  
 Permit to Construct 12/16/2010  
 Issued

**Operations Permit** issued to **Erie City Water Works**, City of Erie, **Erie County** on December 16, 2010. Action is for operation of recent repairs & upgrades to the Chestnut Street Water Filtration Plant, in response to an operation inspection conducted by Department personnel on December 7, 2010, and in accordance with construction permit 7223-T1-MA4, issued April 13, 2010.

**Operations Permit** issued to **Albion Borough Municipal Authority**, Albion Borough, **Erie County** on December 16, 2010. Action is for operation of chlorine contact lines at the Gage Road Treatment Facility to provide 4-log treatment of viruses prior to the first customer, per the PA GWR, and in response to an operation inspection conducted by Department personnel on November 29, 2010. This permit is issued in accordance with construction permit 2510502, issued September 7, 2010.

**SEWAGE FACILITIES ACT PLAN APPROVAL**

**Plan Approvals Granted under the Pennsylvania Sewage Facilities Act (35 P. S. § 750.5)**

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

*Plan Location:*

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Kelly Township	551 Ziegler Road Lewisburg, PA 17837	Union

*Plan Description:* The approved Act 537 Update calls for the continued service of West Milton, the Lewisburg Federal Penitentiary, Evangelical Hospital, and residential areas in the eastern portion of the Township by the existing Kelly Township Municipal Authority wastewater treatment facility (WWTF). That WWTF is projected to have sufficient capacity for current and future flows. The Kelly Crossroads area proposes construction of a low pressure sewer system and a 15,000 gpd package WWTP with discharge to Little Buffalo Creek to serve Forty Six (46) homes. The total project cost is estimated to be \$1,812,000. The remaining portions of the Township not served by public sewers will be managed by a Sewage Management Program that requires, among other things, inspection and pumping of septic tanks every three years. Finally, all new subdivisions or land development proposing onlot sewage disposal will be required to establish both a primary and secondary disposal area. The Department's review of the sewage facilities Special Study has not identified any significant environmental impacts re-

sulting from this proposal. Any required WQM Permits must be obtained in the name of the municipality or authority as appropriate.

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

*Plan Location:*

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Toby Township	25 Elder Road Rimersburg, PA 16248	Clarion County

*Plan Description:* The approved plan is for the project that will extend sanitary sewers to approximately 104 Equivalent Dwelling Units (EDU's) in Toby Township. Approximately 13,100 LF 8" gravity sewers, 6,500 LF 4" force main, 3 individual grinder pumps and a lift station are proposed to connect existing EDU's in Toby Township to existing sewerage infrastructure in Rimersburg Borough, with final treatment at the Rimersburg Borough Wastewater Treatment Plant. The mostly residential service area includes Route 68 North from the Rimersburg Borough line to Curllsville Road (SR2011), and the Carwick Road (T-352) area between Route 68 North and Baker School Road (T-375). Estimated cost of the project is \$1,810,120.00, with an estimated monthly user rate of \$73.00 per EDU. Clarion County Department of Planning and Development has assured consistency with the Clarion County Comprehensive Plan. An inter-municipal agreement exists between Rimersburg Borough, Rimersburg Municipal Authority and Toby Township. Construction is scheduled to begin in December 2011 with construction scheduled for completion in May 2012. 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.

**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—6026.907).**

Provisions of Sections 301—308 of the Land Recycling and Environmental Remediation Standards Act (act) (35 P. S. §§ 6026.301—6026.308) require the Department to publish in the *Pennsylvania Bulletin* a notice of submission of plans and reports. A final report is submitted to document cleanup of a release of a regulated substance at a site to one of the act's remediation standards. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis for selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed and summaries of sampling analytical results which demonstrate that remediation has attained the cleanup standard selected. Submission of plans and reports, other than the final report, will 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, contact the environmental cleanup program manager in the Department 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. 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*

**Smallgirl Construction Christian Street Property**, City of Philadelphia, **Philadelphia County**. Douglass Schott, Brickhouse Environmental, 515 South Franklin Street, West Chester, PA 19382, Kurt Spiess, EMG Remediation Services, 5066R West Chester Pike, PO Box 129, Edgemont, PA 19028 on behalf of Dawn Malin of Smallgirl Construction, Smallgirl Construction-Christian, Street Partnership, 2332 Carpenter Street, Philadelphia, PA 19146 has submitted a Final Report concerning remediation of site soil contaminated with no. 2 fuel oil. The report is intended to document remediation of the site to meet the Statewide Health Standard and Site Specific Standard.

**Heilweil Parcel B**, City of Philadelphia, **Philadelphia County**. Raymond Scheinfeld, P.G., Weston Solutions, Inc, 2 International Plaza Suite 540, Philadelphia, PA 19113, Michael J. McCartney, City of Philadelphia Division of Aviation, Philadelphia International Airport Terminal E, Philadelphia, PA 19153 on behalf of Paul Masciantonio Esq. Law Offices, 1806 Callowhill Street, Philadelphia, PA 19130 has submitted a Final Report concerning remediation of site groundwater and soil contaminated with chlorinated solvents. The report is intended to document remediation of the site to meet the Statewide Health Standard.

**Chichester School District**, Upper Chichester Township, **Delaware County**. Tom Fizzano, MACTEC Engineering and Consulting, Inc., 1787 Sentry Parkway West, Suite 120, Blue Bell, PA 19422, Prashant Gupta, Honeywell International, Inc. Building 1-1-21, 4101 Bermuda Hundred Road, Chester, PA 23836 on behalf of Howard Adams, Chichester School District School Board. PO Box 2100 has submitted a Final Report concerning remediation of site soil and groundwater contaminated with pesticides. The report is intended to document remediation of the site to meet the Statewide Health Standard.

**Sunoco Inc Old Pennell Road**, Aston Township, **Delaware County**. Jeff W. Brudereck, GES 440 Creamery Way, Suite 500, Exton, PA 19341, Martin Liebhardt, Sunoco Inc., 10 Industrial Highway, MS4, Lester, PA 19029 on behalf of Anthony Morelli, 3460 Pennell Road, Aston, PA 19063, Lloyd Yarnell, 3461 Pennell Road, PA

19029, Bruce Snyder, True Value, 5000 Pennell Road, Aston, PA 19063, Glenn Gualtieri, 102 Old Pennell Road, Aston, PA 19063, Dean Fountain, 460 Old Pennell Road, Aston, PA 19063, Hope McGown, 100 Old Pennell Road, Aston, PA 19063, Gary Link, 105A Old Pennell Road, Aston, PA 19063, Walter Rupricki, State Route 452 & Old Pennell Road, Aston, PA 19063 has submitted a Final Report concerning remediation of site groundwater and soil contaminated with unleaded gasoline. The report is intended to document remediation of the site to meet the Statewide Health Standard.

**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 353, Philadelphia, PA 19103 has submitted a Final Report concerning remediation of site soil and contaminated with lead and naphthalene, voc's, pah's and metals. The report is intended to document remediation of the site to meet the Statewide Health Standards.

**Rite Aid 3637**, City of Philadelphia, **Philadelphia County**. Bradley S. Wolf, BL Companies, Inc. One South Market Square, 213 Market Street, 6th Floor, Harrisburg, PA 17101, John Thatcher, BL Companies, Inc. One South Market Square, 213 Market Street, 6th Floor, Harrisburg, PA 17101 on behalf of Robert Lerner, Rite Aid Corporation, 30 Hunter Lane, Camp Hill, PA 17011 has submitted a Final Report concerning remediation of site soil and groundwater contaminated with organic and metals. The report is intended to document remediation of the site to meet the Site Specific Standard.

**3062 South 61st Street**, City of Philadelphia, **Philadelphia County**. Gerald Kirkpatrick, Environmental Standards, Inc., 1140 Valley Forge Road, P. O. Box 810, Valley Forge, PA 19482, Joseph Kraycik, Environmental Standards, Inc., 1140 Valley Forge Road, P. O. Box 810, Valley Forge, PA 19482, Dane Kane, Essington Avenue Partners, II LP, 2701 Renaissance Boulevard, 4th Floor, King of Prussia, PA 19406 on behalf of Thomas Dalfo, Philadelphia Authority for Industrial Development, 2600 Centre Square West, 1500 Market Street, Philadelphia, PA 19102 has submitted a Final Report concerning remediation of site groundwater contaminated with chlorinated solvents. The report is intended to document remediation of the site to meet the Site Specific Standard.

**Crouse Building Facility**, Limerick Township, **Montgomery County**. Richard D. Trimpi, Trimpi Associates, Inc. 1635 Old Plains Road, Pennsburg, PA 18073, Andy Meadows, The Tryee Group, Inc., 828 North Hanover Street, Pottstown, PA 19464 on behalf of Ira Saligman, 826 Associates, LP, 200 Chamounix RD, Wayne, PA 19087 has submitted a Final Report concerning remediation of site groundwater contaminated with chlorinated solvents. The report is intended to document remediation of the site to meet the Statewide Health Standard.

**Ochal Residence**, Warrington Township, **Bucks County**. Richard D. Trimpi, Trimpi Associates, Inc. 1635 Old Plains Road, Pennsburg, PA 18073, John Patcella, Allstate Insurance Company, 309 Lakeside Drive Suite 100, Horsham, PA 19044 on behalf of Kathy Ochal, 2329 Jericho Drive, Jamison, PA 18929 has submitted a 90 day Final Report concerning remediation of site soil contaminated with no. 2 fuel oil. The report is intended to document remediation of the site to meet the Statewide Health Standard.

**Haverford Middle School**, Haverford Township, **Delaware County**. Sean Cheluis, SSM Group, Inc, P. O. Box 6307, Reading, PA 19610 on behalf of Charles Inman, School District of Haverford Township, 1701 Darby Road, Havertown, PA 19083 has submitted a Final Report concerning remediation of site soil contaminated with diesel fuel. The report is intended to document remediation of the site to meet the Statewide Health Standard.

**DuPont Marshall Laboratory Site**, City of Philadelphia, **Philadelphia County**. Matthew Brill, URS Corporation, 335 Commerce Drive, Suite 300, Fort Washington, PA 19034, David Kistner, URS Corporation, 335 Commerce Drive, Suite 300, Fort Washington, PA 19034 on behalf of Sathya Yalvigi, E. I. Du Pont de Nemours and Company Marshall Laboratory, 3401 Grays Ferry Avenue, Philadelphia, PA 19146 has submitted a Remedial Investigation Report concerning remediation of site soil and groundwater contaminated with inorganics and lead. The report is intended to document remediation of the site to meet the Site Specific Standard.

**Rohm & Hass Chemical LLC**, Bristol Township, **Bucks County**. Geoff Arbogast, URS Corporation, 335 Commerce Drive, Suite 300, Fort Washington, PA 19034 on behalf of Lloyd Davis, Rohm and Haas Chemicals, LLC, 200 Route 413, Bristol, PA, 19007 has submitted a 90 day Final Report concerning remediation of site soil contaminated with inorganics. The report is intended to document remediation of the site to meet the Statewide Health Standard.

**GTS Welco Levittown Facility**, Tullytown Borough, **Bucks County**. I. Scott Remmiesen, Synergy Environmental Inc., 155 Railroad Plaza, 1st Floor, Royersford, PA 19468, James Anderson, GTS-Welco, 5272 Tilghman Street, Allentown, PA 18104 on behalf of Bryan Gentry, Gentry Family Realty, LP, 1800 North 11th Street, Reading, PA 19604 has submitted a Final Report/Remedial Investigation Report concerning remediation of site groundwater contaminated with unleaded gasoline. The report is intended to document remediation of the site to meet the Statewide Health Standard.

**Essington Avenue Property Redevelopment Project**, City of Philadelphia, **Philadelphia**. Gerald Kirkpatrick, Environmental Standards, Inc., 1140 Valley Forge Road PO Box 810, Valley Forge, PA 19482 on behalf of Kevin Klye, Essington Avenue, Partners, LLP, 2701 Renaissance Boulevard, 4th Floor, King of Prussia, PA 19406 has submitted a Final Report concerning remediation of site soil and groundwater contaminated with Voc and pHs and metals. The report is intended to document remediation of the site to meet the Site Specific Standard.

**Walker Property**, Thornbury Township, **Chester County**. Richard D. Trimpi, Trimpi Associates, Inc, 1635 Old Plains Road, Pennsburg, PA 18073, Jason Richards, Mark 1 Restoration Service, Inc. 140 New Britain Blvd, Chalfont, PA 18914 on behalf of Susan Walker, 41-28 45th Street, Sunnyside, NY 11104 has submitted a Final Report concerning remediation of site soil contaminated with no. 2 fuel oil. The report is intended to document remediation of the site to meet the Statewide Health Standard.

**Courts at Springbrooke**, Aston Township, **Delaware County**. Henry G. Bienkowski, Mulry and Cressell Environmental, Inc. 1691 Horseshoe Pike, Suite 3, Glenmore, PA 19343, Martin D. Liebhaedt, Sunoco, Inc. (R&M) 10 Industrial Highway, Lester, PA 19029 on behalf of James A. Nolen, III, Nolen Companies, Inc. 950 West Valley Forge Road, King of Prussia, PA 19406 has submitted a

Final Report concerning remediation of site soil contaminated with lead. The report is intended to document remediation of the site to meet the Statewide Health Standard.

**Absco Parcel A**, City of Philadelphia, **Philadelphia County**. Nicholas DeRose, Langan Engineering and Environmental Service, PO Box 1569, Doylestown, PA 18901 on behalf of Paul Rabinovitch, 1300 North Second Limited Partnership, 7 North Mountain Avenue, Montclari, NJ 07042 has submitted a Final Report concerning remediation of site soil contaminated with metals, pcb's and lead. The report is intended to document remediation of the site to meet the Site Specific Standard.

**Fesler/Sadsburyville**, Sadsbury Township, **Chester County**. Richard D. Trimpi, Trimpi Associates, Inc. 1635 Old Plains Road, Pennsburg, PA 18073, Frank Lynch, EnviroLink, 165 Daleville Road, Cochranville, PA 19330 on behalf of Bradley Feisler, 935 Old Wilmington Road, Sadsburyville, PA 19320 has submitted a Final Report concerning remediation of site soil contaminated with no. 2 fuel oil. The report is intended to documents remediation of the site to meet the Statewide Health Standard.

**Septa Malvern Station**, Borough of Malvern, **Chester County**. Craig Herr, RT Environmental Services, Inc. 215 West Church Road, King of Prussia, PA 19406 on behalf of Glenn Morris, Septa, 1234 Market Street, Philadelphia, PA 19107 has submitted a Final Report concerning remediation of site soil contaminated with no. 2 fuel oil The report is intended to document remediation of the site to meet the Statewide Health Standard.

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

**Cumberland Technology Park Site**, Hampden Township, **Cumberland County**. BL Companies, 4242 Carlisle Pike, Suite 260, Camp Hill, PA 17011, on behalf of John and Kathryn Harbilas, 33 North Second Street, Harrisburg, 17101, submitted a Final Report concerning remediation of groundwater contaminated with chlorinated solvents. The report is intended to document remediation of the site to meet a combination of the Statewide Health and Site-Specific standards.

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

**Bolton Metal Products formerly Cerro Metal Products-Plant 4** Spring Township, **Centre County**. Chambers Environmental Group, Inc., 629 East Rolling Ridge Drive, Bellefonte, PA 16823 on behalf of The Marmon Group, LLC, 181 West Madison St., Chicago, IL 60602 has submitted a Cleanup Plan concerning remediation of site groundwater contaminated with hydraulic oil that contained polychlorinated biphenyls (PCBs) Aroclor 1248. The report is intended to document remediation of the site to meet the Site-specific Standard.

## LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

### UNDER ACT 2, 1995

#### PREAMBLE 3

**The Department has taken action on the following plans and reports under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.907).**

Section 250.8 of 25 Pa. Code and administration of the Land Recycling and Environmental Remediation Stan-

dards Act (act) require the 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 nonresidential exposure factors, a description of the remediation performed and summaries of sampling methodology and analytical results which demonstrate that the remediation has attained the cleanup standard selected. Plans and reports required by 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 the act for compliance with selection of a special industrial area remediation. The baseline remedial investigation, based on the work plan, is compiled into the baseline environmental report to establish a reference point to show existing contamination, describe proposed remediation to be done and include a description of existing or potential public benefits of the use or reuse of the property. The Department may approve or disapprove plans and reports submitted. This notice provides the Department's decision and, if relevant, the basis for disapproval.

For further information concerning the plans and reports, contact the environmental cleanup program manager in the Department regional office 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. 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*

**The Preserve Residential Development Site**, New Hanover Township **Montgomery County**. Michael Beardsley, BL Companies, 2143 Market Street, 6th Floor, Harrisburg, PA 17101 on behalf of David D. Waltz, First Cornerstone Bank, 1004 West Ninth Avenue, King of Prussia, PA 19406 has submitted a Final Report concerning the remediation of site soil contaminated with no. 2 fuel oil. The Final report demonstrated attainment of the Statewide Health Standard and was approved by the Department on November 22, 2010.

**Villanova University**, Radnor Township **Delaware County**. Tony Finding, Brownfield Associates, Inc, 500 Coatesville Road, West Grove, PA 19390, Shaun Quinlan, Brownfield Associates, Inc, 500 Coatesville Road, West

Grove, PA 19390 on behalf of Erka Lynch, Villanova University, 800 Lancaster Avenue, Villanova, PA 19085 has submitted a Final Report concerning the remediation of site soil contaminated with no. 2 fuel oil. The Final report demonstrated attainment of the Statewide Health Standard and was approved by the Department on December 3, 2010.

**Alessi MFG**, Collingdale Borough **Delaware County**. Victoria Ryan, Brickhouse Environmental, 515 South Franklin Street, West Chester, PA 19382, Douglas Schott, P.G. Brickhouse Environmental, 515 South Franklin Street, West Chester, PA 19382, Kurt Spiess, EMT Remediation, Services, 5066R West Chester Pike, Edgemont, PA 19028, on behalf of Richard Alessi, Alessi Manufacturing Corporation, 19 Jackson Avenue, Collingdale, PA 19023 has submitted a Final Report concerning the remediation of site groundwater contaminated with chlorinated solvents. The Final report demonstrated attainment of the Background Standard and was approved by the Department on December 9, 2010.

**Horwitz Residence**, Whitpain Township **Montgomery County**. Richard D. Trimpi, Trimpi Associates, Inc., 1635 Old Plains Road, Pennsburg, PA 18073, Deb Alesi, State Farm Insurance Company, P. O. Box 13, Concordville, PA 19331 on behalf of Seth Horwitz, 645 Chatham Lane, Blue Bell, PA 19422 has submitted a Final Report concerning the remediation of site soil contaminated with no. 2 fuel oil. The Final report demonstrated attainment of the Statewide Health Standard and was approved by the Department on November 15 2010.

**Blue Grass Plaza**, City of Philadelphia, **Philadelphia County**. Richard Werner, Environmental Consulting, Inc. 50 East Washington Street, Suite 375, Norristown, PA 19401 on behalf of Lennard Katz, Blue Gras Mall Associates, 45-17 Marathon Parkway, Little Neck NY 11362 has submitted a Final Report concerning the remediation of site groundwater contaminated with chlorinated solvents. The Final report demonstrated attainment of the Site Specific Standard and was approved by the Department on December 9, 2010.

**NVF MFG Facility**, Kennett Square Borough **Chester County**. Paul Miller, P. E. Environmental Alliance, Inc, 660 Yorklyn Road, Hockessin, DE 19707 on behalf of George Beer, Rockhooper, LLP, 722 Yorklyn Road, Hockessin, DE 19707 has submitted a Remedial Investigation /Cleanup Plan concerning the remediation of site groundwater and soil contaminated with chlorinated solvents. The Remedial Investigation/Cleanup Plan was approved by the Department on November 15, 2010.

**Septa Malvern Station**, Borough of Malvern **Chester County**. Craig Herr, RT Environmental Services, Inc., 215 West Church Road, King of Prussia, PA 19406 on behalf of Septa 1234 Market Street, 12th Floor, Philadelphia, PA 19107 has submitted a Final Report concerning the remediation of site soil contaminated with no. 2 fuel oil. The Final report demonstrated attainment of the Statewide Health Standard and was approved by the Department on December 2, 2010.

**Sugarhouse Casino**, City of Philadelphia, **Philadelphia County**. Christopher Orzechowski, Keating Environmental Management, 123 John Robert Thomas Drive, Exton, PA 19341, Megan M. Garner, Keating Environ-

mental Management, 123 John Robert Thomas Drive Exton, PA 19341 on behalf of Terrance J. McKenna. HSP Gaming, LP, c/o Keating Consulting, LLC., The Phoenix 1600 Arch Street, Suite 300, Philadelphia, PA 19103 has submitted a Remedial Investigation/Cleanup Plan concerning the remediation of site groundwater contaminated with Chlorinated solvents. The Remedial Investigation/Cleanup Plan was approved by the Department on November 30, 2010.

**375 Commerce Drive**, Upper Dublin Township **Montgomery County**. Thomas Jones, Penn Environmental & Remediation, Inc. 2755 Bergey Road, Hatfield, PA 19440 on behalf of Mark Weingberg, Weinberg Family Trust, 803 Camarillo Road, Suite C, Camarillo, CA 93013 has submitted a Remedial Investigation/Cleanup Plan concerning the remediation of site soil and groundwater contaminated with chlorinated solvents. The Remedial Investigation/Cleanup Plan was approved by the Department on November 29, 2010.

**2181 Bennett Road Property**, City of Philadelphia, **Philadelphia County**. Michael Christie, Penn E&R, Inc. 2755 Bergey Road. Hatfield, PA 19440, Darryl Borrelli, Manko, Gold, Katcher & Fox, LLP, 401 City Avenue, Suite 500, Bala Cynwyd, PA 19004 on behalf of Harold Janow, 2181 Bennett Road, Inc. 203 Albon Road, Hewlett, NY 11557 has submitted a Remedial Investigation /Cleanup Plan concerning the remediation of site groundwater and soil contaminated with chlorinated solvents. The Remedial Investigation/Cleanup Plan were approved by the Department on November 5, 2010.

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

**Richard and Cynthia Newcomer Residence**, Jackson Township, **York County**. Trimpi Associates, Inc., 1635 Old Plains Road, Pennsburg, PA 18073, on behalf of Richard and Cynthia Newcomer, 230 Perry Avenue, York, PA 17408; James Martin, 228 Perry Avenue, York, PA 17408, and State Farm Insurance Company, PO Box 8061, Ballston Spa, NY 12020-8061, submitted a Final Report concerning remediation of site soils contaminated with No. 2 fuel oil. The Final Report demonstrated attainment of the Residential Statewide Health standard, and was approved by the Department on December 15, 2010.

**Peter Styer Residence**, Warwick Township, **Lancaster County**. Reliance Environmental, Inc., 130 East Chestnut Street, Lancaster, PA 17602, on behalf of Peter Styer, c/o Sandy Styer-Martin, 17 Church Street, Lititz, PA 17543, submitted a Remedial Investigation Report and Cleanup Plan concerning remediation of site soils and groundwater contaminated with No. 2 fuel oil. The Report and Plan were approved by the Department on December 16, 2010. The site will be remediated to the Residential Statewide Health and Site-Specific standards.

**SICO—Mount Joy Upper Rack**, Mount Joy Borough, **Lancaster County**. Onesky Engineering, Inc., 444 Creamery Way, Suite 300, Exton, PA 19341, on behalf of The SICO Company/The Clarence Schock Foundation, 15 Mount Joy Street, PO Box 127, Mount Joy, PA 17552, submitted a Final Report concerning remediation of site soils and groundwater contaminated with petroleum products. The Final Report demonstrated attainment of the

Residential Statewide Health standard, and was approved by the Department on December 16, 2010.

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

**Hiner Transport Accident**, Lamar Township, **Clinton County**. Northridge Group Inc., 1172 Ridge Road, Northumberland, PA 17857 on behalf of Hiner Transport, 1350 South Jefferson St., Huntington, IN 46750 has submitted a Final Report within 90 days of the release concerning remediation of site soil contaminated with diesel fuel, motor oil and antifreeze/water. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department on December 10, 2010.

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

**Walton Property**, East Mead Township, **Crawford County**. Environmental Coordination Services & Recycling, 3237 Highway 19, Cochranon, PA 16314 on behalf of Gerold and Carol Walton, 124105 Plank Road, Meadville, PA 16335 has submitted a Final Report concerning the remediation of site soils contaminated with No. 2 Fuel Oil. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department on November 19, 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.**

*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*

**GP3-28-03057: David H. Martin Excavating, Inc.** (4961 Cumberland Highway, Chambersburg, Pennsylvania 17202) on December 13, 2010, to install and operate a portable stone crushing plant at the Shale Pit No. 4 in Antrim Township, **Franklin County**.

**GP11-28-03057: David H. Martin Excavating, Inc.** (4961 Cumberland Highway, Chambersburg, Pennsylvania 17202) on December 13, 2010, to install and operate a non-road diesel engine at the Shale Pit No. 4 in Antrim Township, **Franklin County**.

**Plan Approvals Issued under the Air Pollution Control Act 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.**

*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*

**06-05100E: Ontelaunee Power Operating Co., LLC** (5115 Pottsville Pike, Reading, Pennsylvania 19605-9729) on December 13, 2010, to modify the carbon monoxide annual limit for the two (2) combined cycle turbines at their electrical generating facility in Ontelaunee Township, **Berks County**.

**06-05105B: Green Gas Pioneer Crossing Energy, LLC** (4251 SW High Meadows Avenue, Palm City, Florida 17113-2538) on December 13, 2010, to add two (2) landfill gas-fired reciprocating internal combustion engines (2,233 HP each) to power two 1,600 KW electric generators at the landfill gas to energy facility at their Pioneer Crossing Landfill in Exeter Township, **Berks County**.

*Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481*

*Contact: Mark Gorog, New Source Review Chief—Telephone: 814-332-6940*

**10-325A: Butler VA Medical Center** (325 New Castle Road, Butler, PA 16001) on December 2, 2010, for three (3) existing 25.4 MMBtu/hr capacity gas and #2 fuel oil fired boilers at their facility in Butler Township, **Butler County**.

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**Plan Approval Revisions Issued including Extensions, Minor Modifications and Transfers of Ownership under the Air Pollution Control Act and 25 Pa. Code §§ 127.13, 127.13a and 127.32.**

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*Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401*

*Contact: Sachin Shankar, New Source Review Chief—Telephone: 484-250-5920*

**23-0111A: Centocor Research and Development, Inc.** (145 King of Prussia Road, Radnor, PA 19087) on December 15, 2010, to operate the diesel/#2 fuel-fired internal combustion engine(s) in Radnor Township, **Delaware County**.

**23-0111B: Centocor Research and Development, Inc.** (145 King of Prussia Road, Radnor, PA 19087) on December 15, 2010, to operate the emergency electric generator in Radnor Township, **Delaware County**.

**23-0003M: ConocoPhillips Co.** (4101 Post Road, Trainer, PA 19061) on December 14, 2010, to operate the existing Southside cooling tower in Trainer Borough, **Delaware County**.

**23-0108B: Barry Callebaut U.S.A., LLC** (903 Industrial Highway, Eddystone, PA 19022) on December 15, 2010, to operate an alkalization process and a thermal oxidizer in Eddystone Borough, **Delaware County**.

**15-0094A: Metallurgical Products Co.** (810 Lincoln Avenue, West Chester, PA 19381) on December 15, 2010, to operate a fiber bed filter collector in West Goshen Township, **Chester County**.

**15-0094B: Metallurgical Products Co.** (810 Lincoln Avenue, West Chester, PA 19381) on December 15, 2010, to operate (2) two copper alloying furnaces in West Goshen Township, **Chester County**.

**46-0069C: Highway Materials, Inc.** (1750 Walton Road, Blue Bell, PA 19422) on December 14, 2010, to operate a pulse-jet baghouse in Whitemarsh Township, **Montgomery County**.

**46-0262A: Penn Color, Inc.** (2755 Bergey Road, Hatfield, PA 19440) on December 14, 2010, to operate the pigment mixing operation in Hatfield Township, **Montgomery County**.

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**Title V Operating Permits Issued under the Air Pollution Control Act and 25 Pa. Code Chapter 127, Subchapter G.**

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*Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481*

*Contact: Matthew Williams, Facilities Permitting Chief—Telephone: 814-332-6940*

**20-00194: Lord Corp.** (601 South Street, Saegertown, PA 16433) on December 14, 2010, to re-issue a Title V Permit Number to operate their adhesive and coating manufacturing facility in Saegertown Borough, **Crawford County**. The facility's major emission sources include material preparation, milling, grinding, mixing, and miscellaneous natural gas usage. The facility is a major facility due to its potential to emit VOCs.

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**Operating Permit Revisions Issued including Administrative Amendments, Minor Modifications or Transfers of Ownership under the Air Pollution Control Act and 25 Pa. Code §§ 127.412, 127.450, 127.462 and 127.464.**

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*Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401*

*Contact: Janine Tulloch-Reid, Facilities Permitting Chief—Telephone: 484-250-5920*

**09-00048: H & K Materials—a Division of Haines & Kibblehouse, Inc.** (300 Skunk Hollow Road, Chalfont, PA 18914) on December 17, 2010, for the facility in Hilltown Township, **Bucks County**. This State-only operating permit was administratively amended by the Department. During the previous amendment of the Operating Permit, on December 4, 2009, the Department inadvertently left out conditions from the Operating Permit. The Department has reinstated these conditions with this amendment.

*Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481*

*Contact: Matthew Williams, Facilities Permitting Chief—Telephone: 814-332-6940*

**10-00337: Cellco Partnership—Verizon Wireless** (200 Allegheny Drive, Warrendale, PA 15086-7517) on December 15, 2010, issued an administrative amendment to the State Operating Permit to incorporate the change in responsible official in Cranberry Township, **Butler County**.

**42-00172: Momentive Specialty Chemical, Inc.** (PO Box 7227, Mount Jewett, PA 16740-7227) on December 14, 2010, issued an administrative amendment to the State Operating Permit to incorporate the name change from Hexion Specialty Chemical to Momentive Specialty Chemical on October 1, 2010 in Sergeant Township, **McKean County**.

**42-00184: Keystone Powdered Metal Co.** (1935 State Street, Saint Marys PA 15857) on December 6, 2010, for an administrative amendment of the State Operating Permit to incorporate the conditions of Plan Approvals 42-184I in Lewis Run Borough, **McKean County**.



**De Minimis Emissions Increases Authorized under 25 Pa. Code § 127.449.**

*Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19404*

*Contact: Janine Tulloch-Reid, Facilities Permitting Chief—Telephone: 484-250-5920*

**Title V Operating Permit No. 09-00003: Superpac, Inc.** (1220 Industrial Boulevard, Southampton, PA 18966) for its facility located in Upper Southampton Township, **Bucks County**. The facility is a manufacturing-commercial printing processor, which operates flexographic printing presses, numerous space heaters, and various miscellaneous sources associated with printing and manufacturing. Superpac, Inc. is a major facility for Volatile Organic Compound (VOC) emissions and is currently operating under Title V Operating Permit No. 09-00003. The print section of the existing machine Source ID 110-Flexo Press CI-12 with Dryer will be replaced. Press speed and inks, thinners and clean-up solvents applied will not change with this modification. Production volume will increase by approximately 15% due to quicker changeover time. Based on the information provided in the plan approval application, the increase in VOC emissions, as calculated per 25 Pa. Code § 127.203a(a)(1)(i), is 0.70 tons per year (4.64 tons per year to 5.34 tons per year) and is considered to be a de minimis emission increase, according to 25 Pa. Code § 127.449(d)(5). The press will continue to use water-based inks that meet the requirements of 25 Pa. Code § 129.67(b)(1). Superpac, Inc. will comply with the existing VOC emission limit of 10 tons per year for Source ID 110 and terms and conditions of the Title V Operating Permit.

**46-00101: Ball Aerosol & Specialty Container Inc.** (431 Privet Road, Horsham, PA 19044-1220) on October

14, 2010, a facility in Horsham Township, **Montgomery County** submitted a minor modification to include De minimis increase for VOC's. Ball Aerosol & Specialty Container Inc is a metal can manufacturing facility. The sources of emissions include: side seam stripe lines (6), stripe cleaning, and parts washers.

The facility has applied to have the following emissions, which will be the result of the increased throughputs due to an increase in production:

VOCs less than 4.3 tons during the term of the permit.

These emission increases qualify as de minimis increases under 25 Pa. Code § 127.449. The facility will now have a VOC emission limit of 24.9 tons per year calculated on a 12-month rolling sum.

Monitoring, record keeping and reporting requirements have been added to the permit to address applicable limitations.

*Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481*

*Contact: Matthew Williams, New Source Review Chief—Telephone: 814-332-6940*

**10-00300: Spang & Company—Magnetics Division** (796 East Butler Road, East Butler, PA 16029) for their facility in East Butler Borough, **Butler County**. The De minimis emission increase is for the construction of the Amorphous Powder Core Process. In addition, this source is exempt from plan approval as it complies with 25 Pa. Code § 127.14(a)(8). The Department hereby approves the De minimis emission increase. The following table is a list of the De minimis emission increases as required by 25 Pa. Code 127.449(i). This list includes the De minimis emission increases since the State Only Operating Permit issuance on June 15, 2005.

Date	Source	PM10 (tons)	SOx (tons)	NOx (tons)	VOC (tons)	CO (tons)
7/6/10	Kool Mu Insulating Barrels (11)	0.48				
12/13/10	Amorphous Powder Core Process	0.162			0.55	
Total Reported Increases		0.642			0.55	
Allowable		0.6 ton/source 3 tons/facility	1.6 tons/source 8 tons/facility	1 ton/source 5 tons/facility	1 ton/source 5 tons/facility	4 tons/source 20 tons/facility

**Operating Permits Denied, Terminated, Suspended or Revoked under the Air Pollution Control Act and 25 Pa. Code §§ 127.431 and 127.461.**

*Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481*

*Contact: Matthew Williams, New Source Review Chief—Telephone: 814-332-6940*

**37-00126: Viridian Systems LLC** (300 Southwest Avenue, Tallmadge, OH 44278-2235) on December 14,

2010, for revocation of their State Only Operating Permit for the operation of the roofing asphalt coating manufacturing facility in New Beaver Borough, **Lawrence County**. The sources in the permit (roof coating manufacturing operation and propane usage) and associated control device were removed from service. This operating permit was revoked because of a permanent shutdown of operations at the facility and facility closing as of March 31, 2010.

## ACTIONS ON COAL AND NONCOAL MINING ACTIVITY APPLICATIONS

**Actions on applications under the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.19a); the Noncoal Surface Mining Conservation and Reclamation Act (52 P. S. §§ 3301—3326); The Clean Streams Law; the Coal Refuse Disposal Control Act (52 P. S. §§ 30.51—30.66); and The Bituminous Mine Subsidence and Land Conservation Act (52 P. S. §§ 1406.1—1406.20a).** 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 applications will also address the application permitting requirements of the following statutes: the Air Quality Pollution Act (35 P. S. §§ 4001—4014); the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1002).

### Coal Permits Actions

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

**11080102 and NPDES No. PA0262641. Bell Resources, Inc.**, 1340 Hoyt Road, Curwensville, PA 16833, commencement, operation and restoration of a bituminous surface mine in Susquehanna Township, **Cambria County**, affecting 35.2 acres. Receiving stream(s): West Branch of the Susquehanna River classified for the following use(s): cold water fishery. There are no potable water supply intakes within 10 miles downstream. Application received: May 16, 2008. Permit issued: December 16, 2010.

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

**03100101 and NPDES Permit No. PA0251925. Bedrock Mines, LP** (111 Freeport Road, Pittsburgh, PA 15215). Permit issued for commencement, operation, and reclamation of a bituminous surface mining site located in North Buffalo Township, **Armstrong County**, affecting 33.3 acres. Receiving streams: unnamed tributaries to Nicholson Run to Allegheny River. Application received: April 5, 2010. Permit issued: December 15, 2010.

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

**37050101 and NPDES Permit No. PA0242616. Amerikohl Mining, Inc.** (202 Sunset Drive, Butler, PA 16001) Renewal of an existing bituminous strip operation in Wayne & Shenango Townships, **Lawrence County** affecting 147.0 acres. Receiving streams: Unnamed tributaries to Duck Run. This renewal is issued for reclamation only. Application received: October 12, 2010. Permit Issued: December 13, 2010.

**16050111 and NPDES Permit No. PA0258041. Neiswonger Construction, Inc.** (17592 Route 322, Strattanville, PA 16258) Renewal of an existing bituminous strip, sandstone, shale and clay removal operation in Porter Township, **Clarion County** affecting 86.0 acres. Receiving streams: Unnamed tributary to Licking Creek and unnamed tributary to West Fork of Leatherwood Creek. This renewal is issued for reclamation only. Application received: October 12, 2010. Permit Issued: December 13, 2010.

**33813020 and NPDES Permit No. PA0603465. Leonard W. Yenzi** (P. O. Box 62, Anita, PA 15711) Renewal of an existing bituminous strip and beneficial use of coal ash operation in Winslow Township, **Jefferson County** affecting 285.2 acres. Receiving streams: Two unnamed tributaries to Front Run and Front Run, unnamed tributary to Trout Run. Application received: August 18, 2010. Permit Issued: December 16, 2010.

### Noncoal Permits Actions

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

**16940308. County Landfill, Inc. d/b/a County Environmental Services, Inc.** (c/o AW Niagara Falls Landfill, 5600 Niagara Falls Blvd., Niagara Falls, NY 14304) Renewal of NPDES Permit No. PA0226939 in Farmington Township, **Clarion County**. Receiving streams: Unnamed tributary to Little Coon Run, unnamed tributary to Licking Creek, and unnamed tributary to Toby Creek. Application received: October 25, 2010. Permit Issued: December 15, 2010.

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

**58102801. Rock Ridge Stone, Inc.**, (7295 Kingsley Road, Kingsley, PA 18826), commencement, operation and restoration of a quarry operation in Great Bend Township, **Susquehanna County** affecting 5.0 acres, receiving stream: none. Application received: March 1, 2010. Permit issued: December 14, 2010.

**8073SM1C9 and NPDES Permit No. PA0614602. Highway Materials, Inc.**, (1750 Walton Road, Blue Bell, PA 19422), boundary correction of an existing quarry operation and stream variance in Marlborough Township, **Montgomery County** affecting 80.0 acres, receiving stream: Unami Creek. Application received: August 21, 2009. Correction issued: December 16, 2010

**8073SM1C10 and NPDES Permit No. PA0614602. Highway Materials, Inc.**, (1750 Walton Road, Blue Bell, PA 19422), renewal of an existing NPDES Permit for discharge of treated mine drainage from a quarry operation in Marlborough Township, **Montgomery County**, receiving stream: Unami Creek. Application received: September 17, 2009. Renewal issued: December 16, 2010.

## ACTIONS ON BLASTING ACTIVITY APPLICATIONS

**Actions on applications under the Explosives Acts of 1937 and 1957 and 25 Pa. Code § 211.124. Blasting activity performed as part of a coal or noncoal mining activity will be regulated by the mining permit for that coal or noncoal mining activity.**

### Blasting Permits Actions

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

**651004012. RWS Development** (8958 Hill Drive, North Huntingdon, PA 15642). Blasting activity permit for the demolition of the missile silos location in North Huntingdon Township, **Westmoreland County**. The duration of blasting is expected to last three months. Blasting permit issued: December 13, 2010.

**63104007. Aarcon Enterprises, Inc.** (13641 State Route 993, Trafford, PA 15083). Blasting activity permit for the construction of the MoJo seismic activity well site located in Amwell Township, **Washington County**. The

duration of blasting is expected to last ten months. Blasting permit issued: December 13, 2010.

**30104010. Aarcon Enterprises, Inc.** (13641 State Route 993, Trafford, PA 15083). Blasting activity permit for the construction of the Alpha Pad # 2, to conduct seismic activity well pad located in Jackson Township, **Washington County**. The duration of blasting is expected to last seven months days. Blasting permit issued: December 16, 2010.

**63104008. Alex E. Paris Contracting** (P. O. Box 369, Atlas, PA 15004). Blasting activity permit for the construction of the Baker Copressor site, located in Amwell Township, **Washington County**. The duration of blasting is expected to last one year. Blasting permit issued: December 16, 2010.

## FEDERAL WATER POLLUTION CONTROL ACT SECTION 401

The Department has taken the following actions on previously received permit applications, requests for Environmental Assessment approval and requests for Water Quality Certification under section 401 of the Federal Water Pollution Control Act (FWPCA) (33 U.S.C.A. § 1341).

Except as otherwise noted, the Department has granted 401 Water Quality Certification certifying that the construction and operation described will comply with sections 301—303, 306 and 307 of the FWPCA (33 U.S.C.A. §§ 1311—1313, 1316 and 1317) and that the construction will not violate applicable Federal and State water quality standards.

Persons aggrieved by an action may appeal that action to the Environmental Hearing Board (Board) under section 4 of the Environmental Hearing Board Act and 2 Pa.C.S. §§ 501—508 and 701—704. 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 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 a right of appeal beyond that permitted by applicable statutes and decisional law.

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

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

**Actions on applications for the following activities filed under the Dam Safety and Encroachments Act (32 P.S. §§ 693.1—693.27), section 302 of the Flood Plain Management Act (32 P.S. § 679.302) and The Clean Streams Law and Notice of Final Action for Certification under section 401 of the FWPCA.**

*Permits, Environmental Assessments and 401 Water Quality Certifications Issued:*

### WATER OBSTRUCTIONS AND ENCROACHMENTS

*Northcentral Region: Watershed Management Program Manager, 208 West Third Street, Williamsport, PA 17701, 570-327-3636*

**E53-437. Pennsylvania General Energy Company, LLC**, 120 Market Street, Warren, PA 16365-2510. Pine Hill Natural Gas Pipeline Development, Eulalia Township, **Potter County**, ACOE Baltimore District (Short Run, PA Quadrangle Latitude: 41° 36' 35.02"; Longitude: 77° 49' 42.88").

The applicant proposes to construct, operate and maintain a six inch diameter natural gas pipeline crossing beneath Little Lyman Run for the development of natural gas at the Pine Hill Site. Trenching for pipeline installation across the stream and all construction access shall be completed in dry work conditions by dam and pumping, fluming or diverting stream flow around the work area. Since Little Lyman Run is a wild trout fishery, no pipeline construction or future repair work shall be conducted in or along the stream channel between October 1 and December 31 without prior written approval from the Pennsylvania Fish and Boat Commission. The project is located along the western right-of-way of Horton Road approximately 1605-feet south of Junction Road and Horton Road intersection.

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

**E02-1627. Wilkins Township**, 110 Peffer Road, Turtle Creek, PA 15145. To operate and maintain the existing wall along Sawmill Run in Wilkins Township, **Allegheny County**, Pittsburgh ACOE District. (Braddock, PA Quadrangle: N: 6.6 inches; W: 11.4 inches; Latitude: 40° 24' 41"; Longitude: 79° 49' 55".) To operate and maintain an existing jumbo block wall (74 LF) and two existing gabion basket walls (19 LF and 54 LF) along the left bank of Sawmill Run; to operate and maintain fill behind the 54 LF gabion basket wall and to operate and maintain jumbo block fill within the channel of said stream for a distance of approximately 24 feet. The project is located on the west side of Wilbur Avenue, approximately 300.0 feet southwest from the intersection of Wilbur Avenue and Brown Avenue.

### ENVIRONMENTAL ASSESSMENTS

*Central Office: Bureau of Waterways Engineering, Rachel Carson State Office Building, Floor 3, 400 Market Street, Harrisburg, PA 17105*

**D15-414EA. Natural Lands Trust**, 449 Lucky Hill Road, West Chester, PA 19382. East Bradford Township **Chester County**, ACOE Philadelphia District.

Project proposes to breach and remove Stroud Preserve Dam across a tributary to East Branch Brandywine Creek (WWF) for the purpose of eliminating a threat to public safety and restoring the stream to a free flowing condition. The project will restore approximately 700 feet of stream channel. The dam is located approximately 3650 feet southwest of the intersection of Strasburg Road (SR162) and Brandywine Creek Road (T550) (Unionville, PA Quadrangle; Latitude: 39° 56' 53", Longitude: -75° 39' 16").

### EROSION AND SEDIMENT CONTROL

The following Erosion and Sediment Control permits have been issued.

Persons aggrieved by an action may appeal that action to the Environmental Hearing Board (Board) under section 4 of the Environmental Hearing Board Act and 2 Pa.C.S. §§ 501—508 and 701—704. 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 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 a right of appeal beyond that permitted by applicable statutes and decisional law.

For individuals who wish to challenge an action, the appeal 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.

*Northcentral Region: Oil & Gas Management Program Manager, 208 West Third Street, Williamsport, PA 17701*

ESCGP-1 # ESX10-117-0251  
Applicant Name Chesapeake Appalachia, LLC  
Contact Person Eric Haskins  
Address 101 North Main Street  
City, State, Zip Athens, PA 18810  
County Tioga  
Township(s) Morris Twp.  
Receiving Stream(s) and Classification(s) Three Springs Run

ESCGP-1 # ESX10-117-0252  
Applicant Name Talisman Energy USA, Inc.  
Contact Person Tracy Gregory  
Address 337 Daniel Zenker Drive  
City, State, Zip Horseheads, NY 14845  
County Tioga  
Township(s) Liberty Twp.  
Receiving Stream(s) and Classification(s) UNT to Zimmerman Creek and UNT to Blacks Creek, Zimmerman Creek, Blacks Creek

ESCGP-1 # ESX10-015-0310  
Applicant Name Chief Oil & Gas LLC  
Contact Person Michael Hritz  
Address 6051 Wallace Road, Ext. 210  
City, State, Zip Wexford, PA 15090  
County Bradford  
Township(s) Asylum Twp.  
Receiving Stream(s) and Classification(s) UNT to North Branch Susquehanna River, Susquehanna River

ESCGP-1 # ESX10-117-0245  
Applicant Name East Resources Management, LLC  
Contact Person Jefferson Long  
Address 190 Thorn Hill Road  
City, State, Zip Warrendale, PA 15086  
County Tioga  
Township(s) Delmar Twp.  
Receiving Stream(s) and Classification(s) East Branch Stony Fork, W. Br. Susquehanna River, Stony Fork

ESCGP-1 # ESX10-105-0033  
Applicant Name Triana Energy, LLC  
Contact Person Rachelle King  
Address 900 Virginia Street East, Ste 400  
City, State, Zip Charleston, WV 25301  
County Potter  
Township(s) Summit Twp.  
Receiving Stream(s) and Classification(s) UNT to Nelson Run, Nelson Run

ESCGP-1 # ESX10-115-0014  
Applicant Name Cabot Oil & Gas Corp.  
Contact Person Phil Stalnak  
Address 5 Penn Center West, Suite 401  
City, State, Zip Pittsburgh, PA 15276  
County Susquehanna  
Township(s) Bridgewater, Brooklyn, Dimock Twps.  
Receiving Stream(s) and Classification(s) Hop Bottom Creek, Meshoppen Creek, and their UNTs

## SPECIAL NOTICES

### Advertisement for Facility Qualification Requests

In accordance with Act 101 and Section 272 of the PA Solid Waste Rules and Regulation (as amended), the County of Cambria is seeking waste disposal capacity for municipal waste (MSW) for a minimum of five (5) years, with an option to extend said capacity for an additional five (5) years, for a total of ten (10) years. Cambria County is hereby soliciting responses in order to qualify facilities that could provide all, or some of the processing/disposal capacity for the County generated MSW, beginning on or after March 1, 2011. Copies of Cambria County's Facility Qualification Request (FQR) may be obtained from the Cambria County Solid Waste Authority, P. O. Box 445, 507 Manor Drive, Ebensburg, PA 15931. Electronic forms are available by e-mailing Kris Howdysshell at: khowdysshell@co.cambria.pa.us or by calling 814-472-2109.

All responses must be made on the Submittal Form and in accordance with the Instructions to Respondents provided in the FQR. The respondent must submit the original and three (3) copies to the address listed above, Attention Kris Howdysshell, by 3:00 p.m. EST on January 21, 2011. Qualified facilities will receive formal notification of their selection after review and evaluation of responses by the Cambria County SWAC at its scheduled meeting.

Cambria County reserves the right to reject any or all responses and to waive any informality in the solicitation process.

[Pa.B. Doc. No. 11-11. Filed for public inspection December 30, 2010, 9:00 a.m.]

## DEPARTMENT OF HEALTH

### Approved Prearrest and Evidential Breath Testing Devices

The Department of Health (Department) has statutory authority to approve both prearrest and evidential breath testing devices for use by law enforcement officials to determine the alcohol content of blood by analysis of a person's breath. This notice contains the combined lists of prearrest breath testing devices and evidential breath testing devices.

The Department approves prearrest breath testing devices as required by 28 Pa. Code §§ 5.101—5.104 (relating to equipment to determine blood alcohol content under the Vehicle Code and the Fish and Boat Code). Authority to promulgate these regulations is contained in the Vehicle Code, 75 Pa.C.S. § 1547(k) (relating to chemical testing to determine amount of alcohol or controlled substance), the Fish and Boat Code, 30 Pa.C.S. § 5125(k) (relating to chemical testing to determine amount of alcohol or controlled substance), the Game and Wildlife Code, 34 Pa.C.S. § 2502(j) (relating to chemical test to determine amount of alcohol) and section 2102(g) of The Administrative Code of 1929 (71 P. S. § 532(g)).

Prearrest breath testing devices approved under this authority may be used by police officers, waterways patrolmen and officers enforcing the Vehicle Code, the Fish and Boat Code and the Game and Wildlife Code in conducting preliminary determinations of the alcohol content of blood of persons suspected of driving, boating, hunting or furtaking, while under the influence of alcohol. Officers and patrolmen use these devices to assist them in determining whether or not a person should be placed under arrest for violation of 75 Pa.C.S. § 3802 (relating to driving under influence of alcohol or controlled substance), for violation of 30 Pa.C.S. § 5502 (relating to operating watercraft under influence of alcohol or controlled substance), for violation of 34 Pa.C.S. § 2501 (relating to hunting or furtaking prohibited while under influence of alcohol or controlled substance), or for any other criminal offense under the Vehicle Code, the Fish and Boat Code, or the Game and Wildlife Code, which involves operating a vehicle or boat, hunting or furtaking while under the influence of alcohol.

The National Highway Traffic Safety Administration (NHTSA) of the United States Department of Transportation published model specifications for Screening Devices to Measure Alcohol in Bodily Fluids at 59 FR 39382 (August 2, 1994). These specifications established performance criteria and methods for testing alcohol screening devices using either breath or bodily fluids such as saliva to measure blood alcohol content. NHTSA established these specifications to support state laws and the United States Department of Transportation's workplace alcohol testing program. The Department has elected to use the NHTSA criteria for approving devices for the prearrest testing of a person's breath to determine the alcohol content of the person's blood.

NHTSA published a conforming products list of alcohol screening devices at 72 FR 4559 (January 31, 2007). The breath testing devices included in this Federal approval list have been incorporated into the list in this notice. Since this notice lists only those devices which test breath, items on the NHTSA list that test saliva or other bodily fluids are not included in this notice.

Additionally, there are a number of breath testing devices on this list of approved equipment that may be used as both prearrest and evidential testing devices. Any device on this list that was evaluated using the 1993 Model Specifications for Evidential Breath Testers (58 FR 48705 (September 17, 1993)) also fully meets the requirements of the Model Specifications for prearrest screening devices. Both procedures evaluate the performance of instruments at the 0.020% alcohol level.

The Department approves evidential breath testing devices under the authority of 75 Pa.C.S. § 1547(c)(1), 30 Pa.C.S. § 5125(c)(1) and 34 Pa.C.S. § 2502(c).

Evidential breath testing devices approved under this notice may be used by law enforcement officials to obtain

test results which will be admissible in evidence in any summary or criminal proceeding in which the defendant is charged with a violation of 75 Pa.C.S. § 3802, or any other violation of the Vehicle Code arising out of the same action; or 30 Pa.C.S. § 5502, or any other violation of the Fish and Boat Code arising out of the same action; or 34 Pa.C.S. § 2501, or any other violation of the Game and Wildlife Code arising out of the same action. Law enforcement agencies should determine that an approved training program in the use of the equipment is available in accordance with the previously referenced statutes before purchasing any of the devices contained on this list.

The approval of evidential equipment listed in this notice is based on the evaluation of the equipment by NHTSA. Equipment which met Federal requirements was published at 75 FR 11624 (March 11, 2010) as a Conforming Products List. The list contained in this notice is based on NHTSA's Conforming Products Lists.

Instruments marked with an asterisk (\*) meet the Model Specifications detailed at 49 FR 48854 (December 14, 1984) (that is, instruments tested at breath alcohol concentrations of 0.000, 0.050, 0.101 and 0.151 gram of alcohol per 210 liters of air). Instruments not marked with an asterisk meet the Model Specifications detailed at 58 FR 48705, and were tested at breath alcohol concentrations of 0.000, 0.020, 0.040, 0.080 and 0.160 gram of alcohol per 210 liters of air. The amended specifications that were published at 58 FR 48705, added a test for the presence of acetone and other low molecular weight alcohols including methyl and isopropyl. Instruments whose precision and accuracy have been evaluated in the latter concentration range (that is, devices not marked with an asterisk) should be used when reliable results are required at blood alcohol concentrations below 0.050%.

NHTSA also evaluates equipment to determine if it must be operated at fixed locations (that is, nonmobile equipment) or can be transported to nonfixed operational sites in the field (mobile equipment). Most equipment on the list is approved for mobile and nonmobile operation. The listing at the end of this notice specifies nonmobile equipment only.

The instruments not marked with an asterisk meet the specifications for use as prearrest or evidentiary breath testing devices. The instruments marked with an asterisk may be used as evidentiary devices for law enforcement purposes that are concerned with blood alcohol concentrations at or above 0.050%. These instruments may also be used as prearrest breath testing devices if they are approved for mobile operations. However, these instruments may not be used for making arrests under the Vehicle Code, the Fish and Boat Code or the Game and Wildlife Code where blood alcohol concentrations below 0.050% must be determined. Nonmobile devices can only be used as evidentiary testing instruments since they are not portable. Before purchasing breath testing devices, law enforcement officials should consult with the manufacturer of the equipment they intend to purchase to verify that the devices can be used for their intended purposes.

Law enforcement agencies that plan to utilize a device which does not appear on the following list should contact the manufacturer of the equipment to verify that it has been evaluated by NHTSA and found to meet NHTSA's performance requirements. If a device is approved by NHTSA after the date of this publication, the manufacturer of the device will need to forward documentation of NHTSA acceptability to Dr. M. Jeffery Shoemaker at the

following address so that the Department has information sufficient to enable it to include the device in the next revision of this notice in the *Pennsylvania Bulletin*.

Some of the devices included in this notice are listed under the name of more than one manufacturer. This is due to the fact that the name of the manufacturer has changed or the right to produce a device has been transferred to a different company. In these instances, the device is listed under the name of every company that was ever associated with the device to allow law enforcement agencies to continue using devices bearing the name of a previous manufacturer.

To facilitate accessibility to information concerning breath alcohol testing devices which are approved for law enforcement purposes in the Commonwealth, the Department will publish revisions of this list of equipment semiannually as notices in the *Pennsylvania Bulletin*. This practice was implemented in 2009 and will proceed even if an updated conforming products list has not appeared in the *Federal Register* since the Department's last annual publication of approved breath testing devices.

Questions regarding this list should be directed to M. Jeffery Shoemaker, Ph.D.; Director, Division of Chemistry and Toxicology, Department of Health, Bureau of Laboratories, P. O. Box 500, Exton, PA 19341-0500, (610) 280-3464.

Persons with a disability who require an alternative format of this notice (for example, large print, audiotope, Braille) may contact Dr. Shoemaker at V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

**AK Solutions, Inc., Palisades Park, NJ<sup>1</sup>**

Alcoscan AL-2500  
 AlcoChecker  
 AlcoKey  
 AlcoMate  
 AlcoMate<sup>3</sup> (aka: AlcoHAWK Pro by Q3 Inovations)  
 AlcoMate Accu Cell AL-9000  
 AlcoMate Core<sup>4</sup> (formerly known as Alcoscan AL-6000)  
 AlcoMate Premium AL-7000, with replaceable Premium Sensor Modules (SM-7000)<sup>5</sup>  
 AlcoMate Prestige AL-6000, with replaceable Prestige Sensor Modules (SM-6000)<sup>6</sup>  
 AlcoMate Pro  
 Alcoscan AL-5000  
 Alcoscan AL-6000  
 SafeMate<sup>2</sup> (formerly known as AlcoChecker)  
 SafeDrive (formerly known as AlcoKey)

**Akers Laboratories, Inc., Thorofare, NJ**

Alcohol  $\checkmark$ <sup>TM</sup>

**Akers Biosciences, Inc., Thorofare, NJ**

Breath Alcohol  $\checkmark$  .02 Detection System<sup>8</sup>

**Alco Check International, Hudsonville, MI**

Alco Check 3000 D.O.T.<sup>7</sup>  
 Alco Check 9000<sup>7</sup>  
 Alco Screen 3000

**Alcohol Countermeasures Systems, Inc., Port Huron, MI**

Alert J3AD\*  
 PBA 3000C

**Alcohol Countermeasure Systems Corp., Missis-  
 sauga, Ontario, Canada**

Alert J3AD\*  
 Alert J4X.ec  
 PBA3000C

**Alcohol Countermeasure Systems, Inc., Cincinnati,  
 OH**

Alert J4

**Approved Technology, Inc., Grand Rapids, MI**

Alco-Check I  
 Alco-Check II  
 Alco-Check 3000

**BAC Solutions, Inc., Birmingham, Michigan**

BACmaster\*

**BAC Systems, Inc., Ontario, Canada**

Breath Analysis Computer\*

**B.E.S.T. Labs., Boardman, Ohio**

PB 9000e

**BHP Diagnostix, West Chester, PA**

Prevent

**CAMEC Ltd., North Shields, Tyne and Ware, Eng-  
 land**

IR Breath Analyzer\*

**CMI-MPH, Owensboro, KY**

CMI S-D2  
 CMI S-L2

**CMI, Inc., Owensboro, KY**

AlcoBlow  
*Intoxilyzer Model:*

200  
 200D  
 240 (aka Lion Alcolmeter 400 + outside the US)  
 300  
 400  
 400PA  
 500 (aka: Alcolmeter 500-Lion Laboratories)  
 1400  
 4011\*  
 4011A\*  
 4011AS\*  
 4011AS-A\*  
 4011AS-AQ\*  
 4011AW\*  
 4011A27-10100\*  
 4011A27-10100 with filter\*  
 5000  
 5000 (w/Cal. Vapor Re-Circ.)  
 5000 (w/3/8" ID hose option)  
 5000CD  
 5000CD/FG5  
 5000EN  
 5000 (CAL DOJ)  
 5000 (VA)  
 8000  
 PAC 1200\*  
 S-D2  
 S-D5

**Craig Technologies International Ltd., Aurora, CO**

BreathScan

**Decator Electronics, Decator, IL**

Alco-Tector model 500\*

**Draeger Safety Diagnostics Inc., (aka: National Draeger) Irving, TX***Alcotest Model:*

6510  
6810  
7010\*  
7110\*  
7110 MKIII  
7110 MKIII-C  
7410  
7410 Plus  
7510  
9510

*Breathalyzer Model:*

900\*  
900A\*  
900BG\*  
7410  
7410-II

**EnviteC by Honeywell GmbH, Fond du Lac, WI**

AlcoQuant 6020

**First Innovative Technology Group, Ltd. Hong Kong**

AAT198-Pro

**Gall's Inc., Lexington, KY**

Alcohol Detection System-A.D.S. 500

**Guth Laboratories, Inc., Harrisburg, Pennsylvania**

Alco-Tector  
Alco-Tector Mark X  
Alcotector BAC-100  
Alcotector C<sub>2</sub>H<sub>5</sub>OH  
Alcotector WAT89EC-1  
Alcotector WAT90  
Mark X Alcohol Checker

**Han International Co., Ltd., Seoul, Korea**

A.B.I. (Alcohol Breath Indicator) (aka: AlcoHAWK ABI by Q3 Innovations).

**KHN Solutions, LLC, San Francisco, California**

BACTRACK Select S50<sup>9</sup>  
BACTRACK Select S80<sup>9</sup>

**Intoximeters, Inc., St. Louis, MO**

Indium Encapsulation System  
Photo Electric Intoximeter\*  
GC Intoximeter MK II\*  
GC Intoximeter MK IV\*  
Auto Intoximeter\*  
Intox EC-IR  
Intox EC-IR 2  
Portable Intox EC-IR

*Intoximeter Model:*

3000\*  
3000 (rev B1)\*  
3000 (rev B2)\*  
3000 (rev B2A)\*  
3000 (rev B2A) w/FM option\*  
3000 (Fuel Cell)\*  
3000D\*  
3000DFC\*  
Alcomonitor  
Alcomonitor CC  
Alco-Sensor  
Alco-Sensor III  
Alco-Sensor III (Enhanced with Serial Numbers above 1,200,000)  
Alco-Sensor IV  
Alco-Sensor IV-XL  
Alco-Sensor V

Alco-Sensor AZ  
Alco-Sensor FST  
Alco-Sensor Light Display  
Intox EC/IR  
Intox EC/IR II  
Intox EC/IR II (enhanced with serial number 10,000 or higher)  
Portable Intox EC/IR II  
RBT-AZ  
RBT III  
RBT III-A  
RBT-IV  
RBT-IV with CEM (cell enhancement module)

**Komyo Kitagawa, Kogyo, K.K.:**

Alcolyzer DPA-2\*  
Breath Alcohol Meter PAM 101B\*

**Lifeloc Technologies, Inc. (formerly Lifeloc, Inc.) Wheat Ridge, CO:**

Life Loc PBA 3000  
PBA 3000-B  
PBA 3000-P\*  
PBA 3000-C  
Alcohol Data Sensor  
Phoenix  
Phoenix 6.0  
EV 30  
FC 10  
FC 20

**Lion Laboratories, Ltd., Cardiff, Wales, UK***Alcolmeter Model:*

Auto-Alcolmeter\*  
300  
400  
400+ (aka: Intoxilzyer 240 in the U.S.)  
500 (aka: Intoxilyzer 500-CML, Inc.)  
SD-2\*  
SD-5 (aka: S-D5 in the U.S.)  
EBA\*

*Intoxilyzer Model:*

200  
200D  
1400  
5000 CD/FG5  
5000 EN

**Luckey Laboratories, San Bernardino, CA***Alco-Analyzer Model:*

Mobat Sober-Meter-SM II  
1000\*  
2000\*

**Nanopuls AB, Uppsala, Sweden**

Evidenzer

**Medi-Scan, Inc., Denver, CO**

BreathScan

**National Draeger, Inc., Durango, CO***Alcotest Model:*

7010\*  
7110\*  
7110 MKIII  
7110 MKIII-C  
7410  
7410 Plus  
7410 Screener  
9510  
6510  
6810

*Breathalyzer Model:*

900\*  
900A\*  
900BG\*  
7410  
7410-II

**National Draeger, Inc., Pittsburgh, PA**

Alcotest

**National Patent Analytical Systems, Inc., Mansfield, OH**

*BAC DataMaster (with or without the Delta-1 accessory)*

BAC Verifier DataMaster (with or without the Delta-1 accessory)  
DataMaster cdm (with or without the Delta-1 accessory)  
DataMaster DMT

**Omicron Systems, Palo Alto, CA**

Intoxilyzer 4011\*  
Intoxilyzer 4011AW\*

**PAS International, Fredericksburg, VA**

Mark V. Alcovisor  
PAS IIIa  
PAS Vr

**Plus 4 Engineering, Minturn, CO**

5000 Plus 4\*

**Q3 Innovations, Inc., Independence, IA4**

AlcoHAWK Precision  
AlcoHAWK Slim  
AlcoHAWK Slim 2  
AlcoHAWK Elite  
AlcoHAWK ABI (aka: A.B.I. (Alcohol Breath indicator) by Han Intl.)  
AlcoHAWK Micro  
AlcoHAWK PRO (aka: AlcoMate by AK Solutions)  
AlcoHAWK PT500

**RepCo Marketing, Raleigh, NC**

Alco Tec III  
AlcoTec Breath-Alcohol Tester  
Breath Alcohol Tester Model BT-2  
Breath Alcohol Tester Model BT-3

**Seju Co. of Taejeon, Korea**

Safe-Slim

**Seres, Paris, France**

Alco Master  
Alcopro

**Siemens-Allis, Cherry Hill, NJ**

Alcomat\*  
Alcomat F\*

**Smith and Wesson Electronics, Springfield, MA**

*Breathalyzer Model:*

900\*  
900A\*  
1000\*  
2000\*  
2000 (Non-Humidity Sensor)\*

**SoundOff, Inc., Hudsonville, MI**

Alco-Check  
Alco-Check II  
AlcoData  
Alco Screen 1000  
Digitox D.O.T.

Preliminary Breath Test II  
Seres Alco Master  
Seres Alcopro

**Stephenson Corp.**

Breathalyzer 900\*

**Takai-Denshi Inc., Tokyo, Japan:**

ALC-PRO II (US)

**Team Building Systems, Inc., Houston, TX**

BreathScan

**U.S. Alcohol Testing, Inc./Protection Devices, Inc., Rancho Cucamonga, CA**

Alco-Analyzer 1000  
Alco-Analyzer 2000  
Alco-Analyzer 2100

**Verax Systems, Inc., Fairport, NY**

BAC Verifier\*  
BAC Verifier Datamaster  
BAC Verifier Datamaster II\*

<sup>1</sup> The AlcoMate was manufactured by Han International of Seoul, Korea, but marketed and sold in the United States by AK Solutions.

<sup>2</sup> Manufactured by Seju Engineering, Korea.

<sup>3</sup> Han International does not market or sell devices directly in the United States market. Other devices manufactured by Han International are listed under AK Solutions, Inc. and Q-3 Innovations, Inc.

<sup>4</sup> Manufactured by Sentech Korea Corp.

<sup>5</sup> These devices utilize replaceable semiconductor detectors. Instead of recalibrating the device, a new calibrated detector can be installed. This device comes with four detectors including the one that was already installed.

<sup>6</sup> These devices utilize replaceable semiconductor detectors. Instead of recalibrating the device, a new calibrated detector can be installed. This device comes with five detectors including the one that was already installed.

<sup>7</sup> While these devices are still being sold, they are no longer manufactured or supported.

<sup>8</sup> The Breath Alcohol  $\sqrt{.02}$  Detection System consists of a single-use disposable breath tube used in conjunction with an electronic analyzer that determines the test result. The electronic analyzer and the disposable breath tubes are lot specific and manufactured to remain calibrated throughout the shelf-life of the device. This screening device cannot be used after the expiration date.

<sup>9</sup> Manufactured by DA Tech Co., Ltd., Korea.

**Nonmobile only****Decator Electronics**

Alco-Tector model 500\*

**Draeger Safety, Inc.**

Alcotest Model 9510

**Intoximeters, Inc.**

Photo Electric Intoximeter\*  
Intoximeter Model—Alcomonitor  
Intoximeter Model—EC/IR II (enhanced with serial number 10,000 or higher)

**Lion Laboratories, Ltd.**

Auto-Alcolmeter\*

**Luckey Laboratories**

Alco-Analyzer Model—1000\*  
Alco-Analyzer Model—2000\*



**U.S. Alcohol Testing, Inc./Protection Devices, Inc.,  
Rancho Cucamonga, CA**  
Alco-Analyzer 1000  
Alco-Analyzer 2000

MICHAEL K. HUFF, R.N.,  
*Acting Secretary*

[Pa.B. Doc. No. 11-12. Filed for public inspection Decemner 30, 2010, 9:00 a.m.]

### **Human Immunodeficiency Virus (HIV) Community Prevention Planning Committee Public Meetings**

The Statewide HIV Community Prevention Planning Committee, established by the Department of Health (Department) under sections 301(a) and 317 of the Public Health Service Act (42 U.S.C.A. §§ 241(a) and 247b), will hold a public meeting on Wednesday, January 19, 2011, from 9 a.m. to 4 p.m. and on Thursday, January 20, 2011, from 9 a.m. to 4 p.m. at the Harrisburg Holiday Inn West, 5401 Carlisle Pike, Mechanicsburg, PA 17050.

The Department reserves the right to cancel this meeting without prior notice.

For additional information, contact Kenneth McGarvey, Department of Health, Bureau of Communicable Diseases, 625 Forster Street, Room 1010, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-0572.

Persons with a disability who wish to attend the meeting and require an auxiliary aid, service or other accommodation to do so, should also contact Kenneth McGarvey at the previously listed number, or at V/TT (717) 783-6514 for speech and/or hearing impaired persons, or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

MICHAEL K. HUFF, R.N.,  
*Acting Secretary*

[Pa.B. Doc. No. 11-13. Filed for public inspection December 30, 2010, 9:00 a.m.]

### **Laboratories Approved to Determine Analyses of Blood and/or Serum for Controlled Substances under the Clinical Laboratory Act, the Vehicle Code, the Fish and Boat Code, and the Game and Wildlife Code**

The following laboratories are licensed by the Department of Health (Department) under The Clinical Laboratory Act (35 P.S. §§ 2151—2165) and/or the Clinical Laboratories Improvement Act of 1967 (42 U.S.C.A. § 263a) and are currently approved by the Department under 28 Pa. Code § 5.50 (relating to approval to provide special analytical services) to perform analyses of blood and/or serum for the determination of controlled substances. This approval is based on demonstrated proficiency in periodic tests conducted by the Department's Bureau of Laboratories. These laboratories are also approved and designated for purposes of the Vehicle Code, 75 Pa.C.S. §§ 1547 and 3755 (relating to chemical testing to determine amount of alcohol or controlled substance; and reports by emergency room personnel), the Fish and Boat Code, 30 Pa.C.S. § 5125 (relating to chemical testing to determine amount of alcohol or controlled substance) and the Game and Wildlife Code, 34 Pa.C.S.

§ 2502 (relating to chemical test to determine amount of alcohol), as qualified to perform the types of services which will reflect the presence of controlled substances or their biotransformation products in blood and/or serum.

Depending upon their capability and performance in proficiency surveys, laboratories are approved to perform screening and/or confirmatory analyses on blood and/or serum. Laboratories approved to perform screening analyses are designated on the approval list by an "S" followed by the letters "B" for blood and/or "Se" for serum. Laboratories approved to screen both blood and serum would therefore have "SBSe" listed after their laboratory name. Laboratories approved to offer confirmatory analyses are designated on the approval list by a "C" followed by the letters "B" for blood and/or "Se" for serum. Laboratories approved to perform confirmatory analyses on both serum and blood would therefore have "CBSe" listed after their laboratory name.

Screening analyses provide a presumptive indication that a controlled substance is present. Confirmatory testing is used to substantiate screening results.

Persons seeking forensic blood and/or serum analysis services from any of the listed laboratories should determine that the laboratory employs techniques and procedures acceptable for medicolegal purposes. They should also determine that the director of the facility is agreeable to performing analyses for forensic purposes. Persons seeking the analyses are responsible for specifying the extent to which the presence of a controlled substance is to be verified. That specification should be predicated upon the purpose for which the analysis is being sought.

The Vehicle Code contains a provision in 75 Pa.C.S. § 1547(c)(3)(ii) that permits test results on blood or urine for alcohol or controlled substances to be introduced into evidence at legal proceedings in this Commonwealth if the laboratory is located in another state and is not licensed and approved by the Department to provide these services. This section states that the test results may be admissible into evidence at summary or criminal proceedings in which the defendant is charged with a violation of 75 Pa.C.S. § 3802 (relating to driving under influence of alcohol or controlled substance) if the laboratory that performed the test is licensed by the state in which the facility is located and licensed under the Federal Clinical Laboratory Improvement Amendments of 1988 (Pub. L. No. 100-578, 102 Stat. 2903). A similar provision appears in the Fish and Boat Code in 30 Pa.C.S. § 5125(c)(3)(ii).

The name or location of a laboratory is sometimes changed but the personnel and testing procedures of the facility remain unchanged. When changes of this type occur, the Clinical Laboratory Permit number does not change. If questions arise about the identity of a laboratory due to a name or location change, the Clinical Laboratory Permit number should be used as the primary identifier. To assist in identifying a laboratory that performed a test if the name or location of the facility changed, the Clinical Laboratory Permit number of the facility at the time the list was prepared is included in the list of approved laboratories above the name of the laboratory.

The list of approved laboratories will be revised approximately semiannually and published in the *Pennsylvania Bulletin*. Questions regarding this list should be directed to M. Jeffery Shoemaker, Ph.D., Director, Divi-

sion of Chemistry and Toxicology, Department of Health, Bureau of Laboratories, P. O. Box 500, Exton, PA 19341-0500, (610) 280-3464.

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30483  
AIT LABORATORIES—SBS<sub>e</sub>, CBS<sub>e</sub>  
2265 EXECUTIVE DRIVE  
INDIANAPOLIS, IN 46241  
(317) 243-3894

00671  
ALLEGHENY COUNTY MED EX DIV OF LAB—SBS<sub>e</sub>,  
CBS<sub>e</sub>  
1520 PENN AVENUE  
2ND FLOOR  
PITTSBURGH, PA 15222  
(412) 350-4425

24997  
ATLANTIC DIAGNOSTIC LABORATORIES LLC—SBS<sub>e</sub>,  
CBS<sub>e</sub>  
3520 PROGRESS DRIVE  
UNIT C  
BENSALEM, PA 19020  
(267) 525-2470

00266  
DEPT OF PATHOLOGY & LAB MED-HUP—SS<sub>e</sub>, CS<sub>e</sub>  
3400 SPRUCE STREET  
PHILADELPHIA, PA 19104  
(215) 662-3423

00977  
DRUGSCAN INC—SBS<sub>e</sub>, CBS<sub>e</sub>  
1119 MEARN'S ROAD  
P. O. BOX 2969  
WARMINSTER, PA 18974  
(215) 674-9310

24655  
HEALTH NETWORK LABORATORIES—SBS<sub>e</sub>, CBS<sub>e</sub>  
2024 LEHIGH STREET  
ALLENTOWN, PA 18103-4798  
(610) 402-8150

20512  
LABCORP OCCUPATIONAL TESTING SER—SBS<sub>e</sub>,  
CBS<sub>e</sub>  
1904 ALEXANDER DRIVE  
P. O. BOX 12652  
RESEARCH TRIANGLE PARK, NC 27709  
(919) 572-7465

09003  
MAYO CLINIC DEPT LAB MED & PATH—SBS<sub>e</sub>, CS<sub>e</sub>  
200 FIRST STREET  
SW HILTON 530  
ROCHESTER, MN 55905  
(507) 284-3018

05574  
MEDTOX LABORATORIES INC—SBS<sub>e</sub>, CBS<sub>e</sub>  
402 WEST COUNTY ROAD D  
ST PAUL, MN 55112  
(651) 286-6217

00504  
NATIONAL MED SVCS INC/DBA NMS LABS—SBS<sub>e</sub>,  
CBS<sub>e</sub>  
3701 WELSH ROAD  
WILLOW GROVE, PA 19090  
(215) 657-4900

29741  
NORTHERN TIER RESEARCH—SBS<sub>e</sub>, CBS<sub>e</sub>  
1300 OLD PLANK ROAD  
MAYFIELD, PA 18433  
(570) 351-6153

30984  
OFFICE OF THE DISTRICT ATTORNEY—SS<sub>e</sub>  
37 E HIGH STREET  
FORENSIC LAB  
CARLISLE, PA 17103  
(717) 240-6526

00250  
PARKWAY CLINICAL LABORATORIES—SS<sub>e</sub>  
3494 D PROGRESS DRIVE  
BENSALEM, PA 19020  
(215) 245-5112

00520  
PC LAB INC—SBS<sub>e</sub>, CBS<sub>e</sub>  
1320 FIFTH AVENUE  
PITTSBURGH, PA 15219  
(412) 391-6118

31399  
QUEST DIAGNOSTICS—SB, CB  
EMPLOYER SOLUTIONS  
1777 MONTREAL CIRCLE  
TUCKER, GA 30084  
(770) 936-5007

01136  
QUEST DIAGNOSTICS NICHOLS INSTITUTE—SBS<sub>e</sub>,  
CBS<sub>e</sub>  
14225 NEWBROOK DRIVE  
P. O. BOX 10841  
CHANTILLY, VA 20153-0841  
(703) 802-6900

00482  
QUEST DIAGNOSTICS OF PA INC—SBS<sub>e</sub>, CBS<sub>e</sub>  
875 GREENTREE ROAD  
4 PARKWAY CENTER  
PITTSBURGH, PA 15220-3610  
(412) 920-7600

25461  
QUEST DIAGNOSTICS VENTURE LLC—SBS<sub>e</sub>, CBS<sub>e</sub>  
875 GREENTREE ROAD  
4 PARKWAY CENTER  
PITTSBURGH, PA 15220-3610  
(412) 920-7631

00151  
ST JOSEPH QUALITY MEDICAL LAB—SBS<sub>e</sub>, CBS<sub>e</sub>  
2500 BERNVILLE ROAD  
READING, PA 19605-9453  
(610) 378-2200

00018  
WVHCS HOSP DBA PENNANT LABORATORY—SS<sub>e</sub>  
575 NORTH RIVER STREET  
WILKES-BARRE, PA 18764  
(570) 829-8111

00141  
 YORK HOSPITAL—SSe  
 1001 SOUTH GEORGE STREET  
 YORK, PA 17405  
 (717) 851-2345

MICHAEL K. HUFF, R.N.,  
*Acting Secretary*

[Pa.B. Doc. No. 11-14. Filed for public inspection December 30, 2010, 9:00 a.m.]

**Laboratories Approved to Determine Blood Alcohol Content under the Clinical Laboratory Act, the Vehicle Code, the Fish and Boat Code and the Game and Wildlife Code**

The following laboratories are licensed by the Department of Health (Department) under The Clinical Laboratory Act (35 P.S. §§ 2151—2165) and are currently approved by the Department under 28 Pa. Code §§ 5.50 and 5.103 (relating to approval to provide special analytical services; and blood tests for blood alcohol content) to perform alcohol analyses of blood and/or serum and plasma. This approval is based on demonstrated proficiency in periodic tests conducted by the Department's Bureau of Laboratories.

Since procedures for determining the alcohol content of serum and plasma are identical and results obtained from serum or plasma derived from a blood sample are the same, laboratories that demonstrate reliability in the determination of alcohol in serum are approved to analyze both serum and plasma for alcohol content. These laboratories are also approved and designated under the provisions of the Vehicle Code, 75 Pa.C.S. §§ 1547 and 3755 (relating to chemical testing to determine amount of alcohol or controlled substance; and reports by emergency room personnel), the Fish and Boat Code, 30 Pa.C.S. § 5125 (relating to chemical testing to determine amount of alcohol or controlled substance), and the Game and Wildlife Code, 34 Pa.C.S. § 2501 (relating to hunting or furtaking prohibited while under influence of alcohol or controlled substance) as qualified to perform the types of specialized services which will reflect the presence of alcohol in blood and/or serum and plasma. Laboratories located outside this Commonwealth may not provide blood and/or serum and plasma alcohol testing services in this Commonwealth unless they are licensed by the Department and approved for that purpose.

Persons seeking forensic blood and/or serum and plasma analysis services from the following designated laboratories should determine that the laboratory employs techniques and procedures acceptable for forensic purposes, and that the director of the facility is agreeable to performing determinations for this purpose. The list of approved laboratories will be revised approximately semi-annually and published in the *Pennsylvania Bulletin*.

The name or location of a laboratory is sometimes changed but the personnel and testing procedures of the facility remain unchanged. When changes of this type occur, the Clinical Laboratory Permit number does not change. If questions arise about the identity of a laboratory due to a name or location change, the Clinical Laboratory Permit number should be used as the primary identifier. To assist in identifying a laboratory that performed a test if the name or location of the facility changed, the Clinical Laboratory Permit number of the facility at the time the list was prepared is included in the list of approved laboratories above the name of the laboratory.

The Department's blood alcohol and serum/plasma alcohol proficiency testing programs are approved by the United States Department of Health and Human Services in accordance with the requirements contained in the Clinical Laboratory Improvement Amendments of 1988 (42 U.S.C.A. § 263a) and implementing regulations 42 CFR 493.901 and 493.937 (relating to approval of proficiency testing programs; and toxicology), which are administered by the Centers for Medicare and Medicaid Services. Participation in these programs may therefore be used to demonstrate acceptable performance for approval purposes under both Federal and Commonwealth statutes.

Questions regarding this list should be directed to M. Jeffery Shoemaker, Ph.D., Director, Division of Chemistry and Toxicology, Department of Health, Bureau of Laboratories, P. O. Box 500, Exton, PA 19341-0500, (610) 280-3464.

The Commonwealth's Vehicle Code at 75 Pa.C.S. § 1547(c)(3)(ii) also permits test results on blood or urine for alcohol or controlled substances to be introduced into evidence in certain legal proceedings in this Commonwealth if the laboratory is located in another state and is not licensed and approved by the Department to provide forensic blood and/or serum and plasma analysis services. This section states that the test results will be admissible into evidence at summary or criminal proceedings in which the defendant is charged with a violation of 75 Pa.C.S. § 3802 (relating to driving under influence of alcohol or controlled substance) or any other violation of the Vehicle Code arising out of the same action if the laboratory that performed the test is licensed to conduct the test by the state in which the facility is located and licensed under the Clinical Laboratory Improvement Amendments of 1988 (Pub. L. No. 100-578, 102 Stat. 2903). A similar provision appears in the Fish and Boat Code at 30 Pa.C.S. § 5125(c)(3)(ii).

Persons with a disability who require an alternative format of this notice (for example, large print, audiotape, Braille) should contact Dr. Shoemaker at the previously referenced address or phone number. Persons who are speech or hearing impaired may use V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

The symbols S and B indicate the following:

S = approved for serum and plasma analyses

B = approved for blood analyses

SB = approved for serum, plasma and blood analyses

00212  
 ABINGTON MEMORIAL HOSPITAL—S  
 1200 OLD YORK ROAD  
 ABINGTON, PA 19001  
 (215) 576-2350

27180  
 ADVANCED TOXICOLOGY NETWORK—B  
 3560 AIR CENTER COVE  
 SUITE 101  
 MEMPHIS, TN 38118  
 (901) 794-5770

00233  
 ALBERT EINSTEIN MEDICAL CENTER—S  
 5501 OLD YORK RD  
 LABS-TOWER BLDG  
 GROUND FL  
 PHILADELPHIA, PA 19141-3001  
 (215) 456-6157

- 00671  
ALLEGHENY COUNTY MED EX DIV OF LAB—SB  
1520 PENN AVENUE  
2ND FLOOR  
PITTSBURGH, PA 15222  
(412) 350-4425
- 28233  
ALLEGHENY GENERAL HOSP DEPT OF LAB MED—S  
320 E NORTH AVENUE  
PITTSBURGH, PA 15212  
(412) 359-6886
- 00077  
ALLEGHENY GENERAL HOSPITAL—S  
1307 FEDERAL STREET  
PITTSBURGH, PA 15212  
(412) 359-3521
- 00100  
ALLEGHENY VALLEY HOSPITAL LAB—S  
1301 CARLISLE STREET  
NATRONA HEIGHTS, PA 15065  
(724) 224-5100
- 00120  
ALTOONA REGIONAL HEALTH SYSM—BON  
SECOURS CAMPUS—SB  
2500 SEVENTH AVENUE  
ALTOONA, PA 16602-2099  
(814) 949-4495
- 00119  
ALTOONA REGIONAL HEALTH SYSTEM LAB—SB  
620 HOWARD AVENUE  
ALTOONA, PA 16601-4899  
(814) 946-2340
- 00192  
ARIA HEALTH—S  
380 NORTH OXFORD VALLEY ROAD  
LANGHORNE, PA 19047-8304  
(215) 934-5227
- 00236  
ARIA HEALTH—S  
FRANKFORD AVE & WAKELING STREET  
PHILADELPHIA, PA 19124  
(215) 831-2068
- 00341  
ARIA HEALTH—S  
10800 KNIGHTS ROAD  
PHILADELPHIA, PA 19114  
(215) 612-4000
- 00041  
ARMSTRONG COUNTY MEMORIAL HOSP—S  
1 NOLTE DRIVE  
KITTANNING, PA 16201  
(724) 543-8500
- 00047  
ASSOCIATED CLINICAL LABORATORIES—SB  
1526 PEACH STREET  
ERIE, PA 16501  
(814) 461-2400
- 24997  
ATLANTIC DIAGNOSTIC LABORATORIES LLC—SB  
3520 PROGRESS DRIVE  
UNIT C  
BENSALEM, PA 19020  
(267) 525-2470
- 00251  
AYER CLINICAL LAB PENNSYLVANIA HOSPITAL—S  
800 SPRUCE STREETS  
PHILADELPHIA, PA 19107  
(215) 829-3541
- 00320  
BARNES KASSON HOSPITAL LAB—S  
400 TURNPIKE STREET  
SUSQUEHANNA, PA 18847  
(570) 853-5059
- 00001  
BERWICK HOSPITAL LABORATORY—S  
701 EAST 16TH STREET  
BERWICK, PA 18603  
(570) 759-5110
- 00301  
BHS LABORATORY—S  
ONE HOSPITAL WAY  
BUTLER, PA 16001  
(724) 284-4510
- 00002  
BLOOMSBURG HOSPITAL—S  
549 E FAIR STREET  
BLOOMSBURG, PA 17815  
(570) 387-2124
- 00033  
BRADFORD REGIONAL MEDICAL CENTER—B  
116—156 INTERSTATE PKWY  
BRADFORD, PA 16701-0218  
(814) 362-8247
- 00296  
BRANDYWINE HOSPITAL—S  
201 REECEVILLE ROAD  
COATESVILLE, PA 19320  
(610) 383-8000
- 00053  
BROOKVILLE HOSPITAL—S  
100 HOSPITAL ROAD  
BROOKVILLE, PA 15825  
(814) 849-2312
- 00107  
CANONSBURG GENERAL HOSPITAL—S  
100 MEDICAL BOULEVARD  
CANONSBURG, PA 15317  
(724) 745-3916
- 00131  
CARLISLE REGIONAL MEDICAL CENTER—S  
361 ALEXANDER SPRING ROAD  
CARLISLE, PA 17015-9129  
(717) 249-1212
- 00132  
CHAMBERSBURG HOSPITAL DEPT OF  
PATHOLOGY—S  
112 NORTH SEVENTH STREET  
CHAMBERSBURG, PA 17201  
(717) 267-7153
- 00310  
CHARLES COLE MEMORIAL HOSPITAL—S  
1001 EAST SECOND STREET  
COUDERSPORT, PA 16915  
(814) 274-5510
- 00198  
CHESTER COUNTY HOSPITAL—S  
701 E MARSHALL ST  
WEST CHESTER, PA 19380  
(610) 431-5182

- 00227  
CHESTNUT HILL HOSPITAL—S  
8835 GERMANTOWN AVENUE  
DEPT OF PATHOLOGY  
PHILADELPHIA, PA 19118  
(215) 248-8113
- 00228  
CHILDRENS HOSP OF PHILADELPHIA—S  
ONE CHILDRENS CENTER  
34TH & CIVIC  
PHILADELPHIA, PA 19104  
(215) 590-4446
- 00329  
CLARION HOSPITAL—S  
1 HOSPITAL DRIVE  
CLARION, PA 16214  
(814) 226-9500
- 00026  
CLEARFIELD HOSPITAL—S  
809 TURNPIKE AVENUE  
P. O. BOX 992  
CLEARFIELD, PA 16830  
(814) 768-2280
- 00005  
COMMUNITY MEDICAL CENTER—S  
1800 MULBERRY STREET  
SCRANTON, PA 18510  
(570) 969-8000
- 00125  
CONEMAUGH VALLEY MEMORIAL HOSP—SB  
LABORATORY DEPT  
1086 FRANKLIN STREET  
JOHNSTOWN, PA 15905  
(814) 534-9000
- 00326  
CORRY MEMORIAL HOSPITAL—S  
612 WEST SMITH STREET  
CORRY, PA 16407  
(814) 664-4641
- 00201  
CROZER CHESTER MED CENTER—S  
1 MEDICAL CENTER BOULEVARD  
UPLAND, PA 19013  
(610) 447-2000
- 00209  
CROZER-CHESTER MED CTR—SPRINGFLD—S  
190 WEST SPROUL ROAD  
SPRINGFIELD, PA 19064  
(610) 447-2000
- 00204  
DELAWARE COUNTY MEMORIAL HOSP—S  
501 NORTH LANSDOWNE AVENUE  
DREXEL HILL, PA 19026-1186  
(610) 284-8100
- 00266  
DEPT OF PATHOLOGY & LAB MED—HUP—SB  
3400 SPRUCE STREET  
PHILADELPHIA, PA 19104  
(215) 662-3423
- 00194  
DOYLESTOWN HOSPITAL—S  
ATTN: JUDY RYAN  
595 W STATE STREET  
DOYLESTOWN, PA 18901  
(215) 345-2250
- 00977  
DRUGSCAN INC—B  
1119 MEARNS RD  
P. O. BOX 2969  
WARMINSTER, PA 18974  
(215) 674-9310
- 00027  
DUBOIS REG MED CTR—WEST UNIT—S  
100 HOSPITAL AVE  
DUBOIS, PA 15801  
(814) 371-2200
- 00175  
EASTON HOSPITAL—S  
250 SOUTH 21ST ST  
EASTON, PA 18042-3892  
(610) 250-4819
- 00332  
ELLWOOD CITY HOSPITAL—S  
724 PERSHING ST  
ELLWOOD CITY, PA 16117  
(724) 752-0081
- 00612  
ENDLESS MOUNTAINS HEALTH SYSTEMS—S  
3 GROW AVENUE  
MONTROSE, PA 18801-1103  
(570) 278-3801
- 00164  
EPHRATA COMMUNITY HOSPITAL—S  
169 MARTIN AVE  
P. O. BOX 1002  
EPHRATA, PA 17522  
(717) 733-0311
- 00032  
ERHC ST MARYS LABORATORY—B  
763 JOHNSONBURG RD  
SAINT MARYS, PA 15857  
(814) 788-8525
- 00181  
EVANGELICAL COMMUNITY HOSPITAL—S  
1 HOSPITAL DRIVE  
LEWISBURG, PA 17837  
(570) 522-2510
- 00115  
FRICK HOSPITAL—S  
508 SOUTH CHURCH STREET  
MOUNT PLEASANT, PA 15666  
(724) 547-1500
- 00330  
FULTON COUNTY MEDICAL CENTER—S  
214 PEACH ORCHARD ROAD  
MCCONNELLSBURG, PA 17233  
(717) 485-6143
- 00173  
GEISINGER MEDICAL LABORATORIES—SB  
100 N ACADEMY AVENUE  
DANVILLE, PA 17822-0131  
(570) 271-6338
- 00019  
GEISINGER WYOMING VALLEY MED CTR—S  
1000 E MOUNTAIN DRIVE  
WILKES-BARRE, PA 18711  
(570) 826-7830

00122  
GETTYSBURG HOSPITAL—SB  
147 GETTYS STREET  
GETTYSBURG, PA 17325  
(717) 337-4120

00152  
GNADEN HUETTEN MEMORIAL HOSP—SB  
211 NORTH 12TH STREET  
LEHIGHTON, PA 18235  
(610) 377-7083

00299  
GOOD SAMARITAN HOSPITAL—B  
4TH & WALNUT STS  
P. O. BOX 1281  
LEBANON, PA 17042-1218  
(717) 270-7986

00196  
GRAND VIEW HOSPITAL—S  
700 LAWN AVE  
SELLERSVILLE, PA 18960  
(215) 453-4528

00061  
GROVE CITY MEDICAL CENTER—SB  
631 NORTH BROAD STREET EXT  
GROVE CITY, PA 16127  
(724) 450-7125

00654  
GUTHRIE CLINIC LABORATORIES—S  
ONE GUTHRIE SQUARE  
SAYRE, PA 18840  
(570) 882-4160

00239  
HAHNEMANN UNIVERSITY HOSPITAL—S  
BROAD & VINE STS  
MS 113  
PHILADELPHIA, PA 19102  
(215) 762-1783

00046  
HAMOT MEDICAL CENTER—S  
201 STATE STREET  
ERIE, PA 16550  
(814) 877-3131

00139  
HANOVER HOSPITAL LABORATORY—S  
300 HIGHLAND AVE  
HANOVER, PA 17331  
(717) 637-3711

00010  
HAZLETON GENERAL HOSPITAL—S  
700 EAST BROAD  
HAZLETON, PA 18201  
(570) 501-4152

00169  
HEALTH NETWORK LABORATORIES—S  
1627 WEST CHEW STREET  
ALLENTOWN, PA 18102  
(610) 402-8150

00549  
HEALTH NETWORK LABORATORIES—S  
1200 SOUTH CEDAR CREST BLVD  
ALLENTOWN, PA 18103  
(610) 402-8150

00600  
HEALTH NETWORK LABORATORIES—S  
2545 SCHOENERSVILLE ROAD  
BETHLEHEM, PA 18017-7384  
(610) 402-8150

24655  
HEALTH NETWORK LABORATORIES—SB  
2024 LEHIGH STREET  
ALLENTOWN, PA 18103-4798  
(610) 402-8150

00166  
HEART OF LANCASTER REGIONAL MEDICAL  
CENTER—S  
1500 HIGHLANDS DRIVE  
LITITZ, PA 17543  
(717) 625-5605

00205  
HERITAGE VALLEY BEAVER—S  
1000 DUTCH RIDGE ROAD  
BEAVER, PA 15009  
(724) 728-7000

00101  
HERITAGE VALLEY SEWICKLEY LAB—S  
720 BLACKBURN RD  
SEWICKLEY, PA 15143  
(412) 741-6600

00103  
HIGHLANDS HOSPITAL—S  
401 EAST MURPHY AVENUE  
CONNELLSVILLE, PA 15425  
(724) 628-1500

00130  
HOLY SPIRIT HOSPITAL—S  
503 N 21ST STREET  
CAMP HILL, PA 17011-2288  
(717) 763-2206

00052  
INDIANA REGIONAL MEDICAL CENTER—S  
HOSPITAL ROAD  
P. O. BOX 788  
INDIANA, PA 15701-0788  
(724) 357-7167

00135  
J C BLAIR MEMORIAL HOSPITAL—S  
1225 WARM SPRINGS AVENUE  
HUNTINGDON, PA 16652  
(814) 643-8645

00054  
JAMESON MEMORIAL HOSPITAL—S  
1211 WILMINGTON AVENUE  
NEW CASTLE, PA 16105  
(724) 656-4080

00240  
JEANES HOSPITAL—S  
7600 CENTRAL AVE  
PHILADELPHIA, PA 19111  
(215) 728-2347

00038  
JEFFERSON REGIONAL MED CTR—S  
P. O. BOX 18119  
565 COAL VALLEY ROAD  
PITTSBURGH, PA 15236  
(412) 469-5723

- 00200  
JENNERSVILLE REGIONAL HOSPITAL—S  
1015 WEST BALTIMORE PIKE  
WEST GROVE, PA 19390  
(610) 869-1080
- 00034  
KANE COMMUNITY HOSPITAL—B  
4372 ROUTE 6  
KANE, PA 16735  
(814) 837-4570
- 00532  
KENSINGTON HOSPITAL—S  
136 WEST DIAMOND STREET  
PHILADELPHIA, PA 19122  
(215) 426-8100
- 01088  
LABCORP OF AMERICA HOLDINGS—SB  
69 FIRST AVENUE  
P. O. BOX 500  
RARITAN, NJ 08869  
(908) 526-2400
- 00165  
LANCASTER GENERAL HOSPITAL—S  
555 N DUKE STREET  
P. O. BOX 3555  
LANCASTER, PA 17604  
(717) 544-4331
- 00167  
LANCASTER REGIONAL MED CENTER—S  
250 COLLEGE AVENUE  
P. O. BOX 3434  
LANCASTER, PA 17604  
(717) 291-8022
- 00215  
LANSDALE HOSPITAL—S  
100 MEDICAL CAMPUS DRIVE  
LANSDALE, PA 19446  
(215) 361-4625
- 00114  
LATROBE AREA HOSPITAL—S  
ONE MELLON WAY  
LATROBE, PA 15650  
(724) 537-1550
- 00138  
LEWISTOWN HOSPITAL—B  
400 HIGHLAND AVENUE  
LEWISTOWN, PA 17044  
(717) 242-7474
- 00030  
LOCK HAVEN HOSPITAL—B  
24 CREE DRIVE  
LOCK HAVEN, PA 17745  
(570) 893-5000
- 00193  
LOWER BUCKS HOSPITAL LABORATORY—S  
501 BATH ROAD  
BRISTOL, PA 19007  
(215) 785-9300
- 00213  
MAIN LINE HEALTH LAB—BRYN MAWR—S  
130 S BRYN MAWR AVENUE  
BRYN MAWR, PA 19010  
(610) 526-3554
- 00242  
MAIN LINE HEALTH LABORATORIES—S  
100 EAST LANCASTER AVENUE  
WYNNEWOOD, PA 19096  
(610) 645-2615
- 00199  
MAIN LINE HEALTH LABS—PAOLI—S  
255 WEST LANCASTER AVENUE  
PAOLI, PA 19301  
(610) 648-1000
- 00004  
MARIAN COMMUNITY HOSPITAL—S  
100 LINCOLN AVENUE  
CARBONDALE, PA 18407  
(717) 281-1042
- 09003  
MAYO CLINIC DEPT LAB MED & PATH—SB  
200 FIRST STREET  
SW HILTON 530  
ROCHESTER, MN 55905  
(507) 284-3018
- 00049  
MEADVILLE MED CTR—LIBERTY ST—S  
751 LIBERTY STREET  
MEADVILLE, PA 16335  
(814) 336-5000
- 05574  
MEDTOX LABORATORIES INC—SB  
402 WEST COUNTY ROAD D  
ST PAUL, MN 55112  
(651) 286-6217
- 00140  
MEMORIAL HOSPITAL CLINICAL LAB—S  
325 S BELMONT STREET  
P. O. BOX 15118  
YORK, PA 17403  
(717) 843-8623
- 00023  
MEMORIAL HOSPITAL LAB—SB  
1 HOSPITAL DRIVE  
TOWANDA, PA 18848  
(570) 265-2191
- 00203  
MERCY FITZGERALD HOSPITAL—S  
1500 LANSDOWNE AVENUE  
DARBY, PA 19023  
(610) 237-4262
- 00247  
MERCY HEALTH LAB/MHOP—S  
501 S 54TH STREET  
PHILADELPHIA, PA 19143  
(215) 748-9181
- 00219  
MERCY HEALTH LAB/MSH—S  
2701 DEKALB PIKE  
NORRISTOWN, PA 19401  
(610) 278-2078
- 00336  
MERCY HEALTH PARTNERS—S  
746 JEFFERSON AVENUE  
SCRANTON, PA 18510  
(570) 348-7100

00313  
MERCY TYLER HOSPITAL—S  
880 SR 6 W  
TUNKHANNOCK, PA 18657-6149  
(570) 836-4705

28436  
METHODIST DIV TJUH CLINICAL LAB—S  
2301 SOUTH BROAD STREET  
PHILADELPHIA, PA 19148  
(215) 952-9057

00231  
MEYERSDALE COMMUNITY HOSPITAL—S  
200 HOSPITAL DR  
MEYERSDALE, PA 15552  
(814) 634-5911

00269  
MIDVALLEY HOSPITAL—S  
1400 MAIN STREET  
PECKVILLE, PA 18452  
(570) 383-5520

00128  
MINERS MEDICAL CENTER—S  
290 HAIDA AVENUE  
P. O. BOX 689  
HASTINGS, PA 16646  
(814) 247-3100

00108  
MONONGAHELA VALLEY HOSPITAL INC—S  
1163 COUNTRY CLUB ROAD  
MONONGAHELA, PA 15063  
(724) 258-1021

00217  
MONTGOMERY HOSPITAL LAB—S  
POWELL & FORNANCE STS  
NORRISTOWN, PA 19401  
(610) 270-2173

00007  
MOSES TAYLOR HOSPITAL—S  
700 QUINCY AVENUE  
SCRANTON, PA 18510  
(570) 340-2100

00214  
MOSS REHAB EINSTEIN AT ELKINS PARK—S  
60 EAST TOWNSHIP LINE ROAD  
ATTN: LAB  
ELKINS PARK, PA 19027  
(215) 456-6150

00025  
MOUNT NITTANY MEDICAL CENTER—B  
1800 EAST PARK AVENUE  
STATE COLLEGE, PA 16803  
(814) 234-6117

00035  
MUNCY VALLEY HOSPITAL—S  
215 EAST WATER ST  
MUNCY, PA 17756  
(570) 546-8282

00304  
NASON HOSPITAL—S  
105 NASON DRIVE  
ROARING SPRING, PA 16673  
(814) 224-2141

00504  
NATIONAL MED SVCS INC/DBA NMS LABS—SB  
3701 WELSH ROAD  
WILLOW GROVE, PA 19090  
(215) 657-4900

00248  
NAZARETH HOSPITAL—S  
2601 HOLME AVE  
PHILADELPHIA, PA 19152  
(215) 335-6245

29741  
NORTHERN TIER RESEARCH—SB  
1300 OLD PLANK ROAD  
MAYFIELD, PA 18433  
(570) 351-6153

30984  
OFFICE OF THE DISTRICT ATTORNEY—S  
37 E HIGH STREET  
FORENSIC LAB  
CARLISLE, PA 17103  
(717) 240-6526

00099  
OHIO VALLEY GENERAL HOSPITAL—S  
25 HECKEL RD  
MCKEES ROCKS, PA 15136  
(412) 777-6161

00334  
PALMERTON HOSPITAL—SB  
135 LAFAYETTE AVENUE  
PALMERTON, PA 18071  
(610) 826-1100

00520  
PC LAB INC—SB  
1320 FIFTH AVENUE  
PITTSBURGH, PA 15219  
(412) 391-6118

00258  
PENN PRESBYTERIAN MEDICAL CENTER—S  
51 NORTH 39TH ST  
DEPT OF PATH & LAB  
PHILADELPHIA, PA 19104-2640  
(215) 662-3435

00316  
PENN STATE MILTON S HERSHEY MED CTR—S  
500 UNIVERSITY DRIVE  
HERSHEY, PA 17033  
(717) 531-8353

22533  
PENNSYLVANIA DEPT OF HEALTH—SB  
110 PICKERING WAY  
EXTON, PA 19341  
(610) 280-3464

00197  
PHOENIXVILLE HOSPITAL LABORATORY—S  
140 NUTT ROAD  
DEPT OF PATHOLOGY  
PHOENIXVILLE, PA 19460-0809  
(610) 983-1612

00157  
PINNACLE HEALTH AT COMMUNITY GENERAL  
HOSPITAL—S  
4300 LONDONDERRY ROAD  
P. O. BOX 3000  
HARRISBURG, PA 17109  
(717) 782-3340



00155  
PINNACLE HEALTH AT HARRISBURG HOSPITAL  
LAB—SB  
100 SOUTH 2ND STREET  
HARRISBURG, PA 17101  
(717) 782-3340

00022  
POCONO MEDICAL CENTER LAB—SB  
206 EAST BROWN STREET  
EAST STROUDSBURG, PA 18301  
(570) 476-3544

00221  
POTTSTOWN HOSPITAL COMPANY, LLC—S  
1600 EAST HIGH STREET  
POTTSTOWN, PA 19464  
(610) 327-7000

00300  
PUNXSUTAWNEY AREA HOSPITAL—S  
81 HILLCREST DRIVE  
PUNXSUTAWNEY, PA 15767  
(814) 938-1820

22715  
QUEST DIAGNOSTICS—SB  
10101 RENNER BOULEVARD  
LENEXA, KS 66219-9752  
(913) 888-1770

31399  
QUEST DIAGNOSTICS—SB  
EMPLOYER SOLUTIONS  
1777 MONTREAL CIRCLE  
TUCKER, GA 30084  
(770) 936-5007

27461  
QUEST DIAGNOSTICS INC—SB  
400 EGYPT ROAD  
NORRISTOWN, PA 19403  
(610) 631-4219

01136  
QUEST DIAGNOSTICS NICHOLS INSTITUTE—SB  
14225 NEWBROOK DRIVE  
P. O. BOX 10841  
CHANTILLY, VA 20153-0841  
(703) 802-6900

00482  
QUEST DIAGNOSTICS OF PA INC—SB  
875 GREENTREE ROAD  
4 PARKWAY CENTER  
PITTSBURGH, PA 15220-3610  
(412) 920-7600

25461  
QUEST DIAGNOSTICS VENTURE LLC—SB  
875 GREENTREE ROAD  
4 PARKWAY CENTER  
PITTSBURGH, PA 15220-3610  
(412) 920-7631

00150  
READING HOSPITAL & MED CTR—S  
6TH AND SPRUCE STREETS  
WEST READING, PA 19611  
(610) 988-8080

00206  
RIDDLE MEMORIAL HOSPITAL—S  
1068 W BALTIMORE PIKE  
MEDIA, PA 19063  
(610) 891-3339

00243  
ROXBOROUGH MEMORIAL HOSPITAL—S  
5800 RIDGE AVE  
PHILADELPHIA, PA 19128  
(215) 487-4394

00171  
SACRED HEART HOSPITAL—S  
4TH & CHEW STS  
ATTN LAB DEPT  
ALLENTOWN, PA 18102  
(610) 776-4727

00087  
SAINT CLAIR MEMORIAL HOSPITAL—S  
1000 BOWER HILL RD  
PITTSBURGH, PA 15243  
(412) 561-4900

00174  
SAINT LUKES HOSPITAL—S  
801 OSTRUM STREET  
BETHLEHEM, PA 18015  
(610) 954-4558

00328  
SAINT MARY MEDICAL CENTER—S  
LANGHORNE—NEWTOWN RD  
LANGHORNE, PA 19047  
(215) 710-2162

00048  
SAINT VINCENT HEALTH CENTER—S  
232 WEST 25TH STREET  
ERIE, PA 16544  
(814) 452-5383

00182  
SCHUYLKILL MC E NORWEGIAN ST—S  
700 EAST NORWEGIAN STREET  
POTTSVILLE, PA 17901  
(570) 621-4032

00183  
SCHUYLKILL MC S JACKSON ST—SB  
420 SOUTH JACKSON STREET  
POTTSVILLE, PA 17901  
(570) 621-5262

29214  
SED MEDICAL LABORATORIES—SB  
LOVELACE HEALTH SYSTEMS, INC.  
5601 OFFICE BOULEVARD  
ALBUQUERQUE, NM 87109  
(505) 727-6209

00064  
SHARON REGIONAL HEALTH SYSTEM—SB  
740 EAST STATE STREET  
SHARON, PA 16146  
(724) 983-3911

00039  
SOLDIERS & SAILORS MEM HOSP—S  
CENTRAL AVENUE  
WELLSBORO, PA 16901  
(570) 723-0133

00297  
SOMERSET HOSPITAL CENTER FOR HEALTH—S  
225 S CENTER AVENUE  
SOMERSET, PA 15501  
(814) 443-5000

00105  
SOUTHWEST REGIONAL MEDICAL CENTER—S  
350 BONAR AVENUE  
WAYNESBURG, PA 15370  
(724) 627-2608

22376  
SPECIALTY LABORATORIES INC—S  
27027 TOURNEY ROAD  
VALENCIA, CA 91355  
(661) 799-6543

00361  
ST CATHERINE MED CTR—FOUNTAIN SPRINGS—S  
101 BROAD STREET  
ASHLAND, PA 17921  
(570) 875-5988

00260  
ST CHRISTOPHERS HOSP FOR CHILDREN—S  
ERIE AVENUE AT FRONT STREET  
PHILADELPHIA, PA 19134  
(215) 427-4207

00151  
ST JOSEPH QUALITY MEDICAL LAB—SB  
2500 BERNVILLE ROAD  
READING, PA 19605-9453  
(610) 378-2200

00261  
ST JOSEPH'S HOSPITAL—DIV NPHS—S  
16TH ST & GIRARD AVENUE  
PHILADELPHIA, PA 19130  
(215) 787-9000

00318  
ST LUKES HOSP ALLENTOWN CAMPUS—S  
1736 HAMILTON STREET  
ALLENTOWN, PA 18104  
(610) 628-8646

00180  
ST LUKES MINERS MEMORIAL HOSPITAL—S  
360 WEST RUDDLE STREET  
P. O. BOX 67  
COALDALE, PA 18218  
(570) 645-2131

00195  
ST LUKES QUAKERTOWN HOSPITAL—S  
1021 PARK AVENUE  
QUAKERTOWN, PA 18951  
(215) 538-4681

00094  
SUBURBAN CLINICAL LABORATORY—S  
100 SOUTH JACKSON AVENUE  
BELLEVUE, PA 15202  
(412) 734-6020

00207  
TAYLOR HOSPITAL DIV OF CCMC—S  
175 EAST CHESTER PIKE  
RIDLEY PARK, PA 19078  
(610) 595-6450

00235  
TEMPLE UNIV HOSPITAL EPISCOPAL CAMPUS—S  
100 EAST LEHIGH AVENUE  
PHILADELPHIA, PA 19125-1098  
(215) 707-4353

00265  
TEMPLE UNIVERSITY HOSPITAL—S  
3401 N BROAD ST  
PHILADELPHIA, PA 19140  
(215) 707-4353

00104  
THE UNIONTOWN HOSPITAL LABORATORY—S  
500 WEST BERKELEY STREET  
UNIONTOWN, PA 15401  
(724) 430-5143

00085  
THE WESTERN PA HOSP—FORBES REGIONAL  
CAMPUS—S  
2570 HAYMAKER ROAD  
MONROEVILLE, PA 15146  
(412) 858-2560

00241  
THOMAS JEFFERSON UNIVERSITY HOSP—S  
125 S. 11TH ST  
204 PAVILLION  
PHILADELPHIA, PA 19107  
(215) 955-1644

00051  
TITUSVILLE AREA HOSPITAL—S  
406 WEST OAK STREET  
TITUSVILLE, PA 16354  
(814) 827-1851

00124  
TYRONE HOSPITAL—S  
187 HOSPITAL DRIVE  
TYRONE, PA 16686  
(814) 684-6384

00121  
UPMC BEDFORD MEMORIAL—SB  
10455 LINCOLN HIGHWAY  
EVERETT, PA 15537  
(814) 623-3506

00059  
UPMC HORIZON GREENVILLE—SB  
110 NORTH MAIN STREET  
GREENVILLE, PA 16125  
(724) 588-2100

00057  
UPMC HORIZON SHENANGO—SB  
2200 MEMORIAL DRIVE  
FARRELL, PA 16121  
(724) 981-3500

00098  
UPMC MCKEESPORT LABORATORY—S  
1500 FIFTH AVENUE  
MCKEESPORT, PA 15132  
(412) 664-2233

00082  
UPMC MERCY DEPT OF LAB MEDICINE—S  
1400 LOCUST STREET  
PITTSBURGH, PA 15219  
(412) 232-7831

00084  
UPMC PASSAVANT—S  
9100 BABCOCK BLVD  
PITTSBURGH, PA 15237  
(412) 367-6700

05784  
UPMC PASSAVANT LABORATORY CRANBERRY—S  
ONE ST FRANCIS WAY  
CRANBERRY TOWNSHIP, PA 16066  
(724) 772-5370

00083  
UPMC PRESBYTERIAN SHADYSIDE CP PUH—S  
ROOM 5929  
MAIN TOWER CHP  
200 LOTHROP STREET  
PITTSBURGH, PA 15213-2582  
(412) 648-6000

00091  
UPMC SAINT MARGARET HOSPITAL—S  
815 FREEPORT ROAD  
PITTSBURGH, PA 15215  
(412) 784-4000

00092  
UPMC SHADYSIDE—S  
5230 CENTRE AVENUE  
GROUND FLOOR WEST WING  
PITTSBURGH, PA 15232  
(412) 623-5950

00066  
WARREN GENERAL HOSPITAL—S  
2 CRESCENT PARK  
WARREN, PA 16365  
(814) 726-3860

00111  
WASHINGTON HOSPITAL—S  
155 WILSON AVE  
WASHINGTON, PA 15301  
(724) 223-3136

00298  
WAYNE MEMORIAL HOSPITAL—S  
601 PARK STREET  
HONESDALE, PA 18431  
(570) 253-1300

00133  
WAYNESBORO HOSPITAL—S  
501 E MAIN STREET  
WAYNESBORO, PA 17268  
(717) 765-3403

00095  
WESTERN PENNSYLVANIA HOSPITAL—S  
4800 FRIENDSHIP AVE  
PITTSBURGH, PA 15224  
(412) 578-5779

30245  
WESTFIELD HOSPITAL LABORATORY—S  
4815 W TILGHMAN STREET  
ALLENTOWN, PA 18104  
(610) 973-8425

00112  
WESTMORELAND REGIONAL HOSPITAL—S  
532 W PITTSBURGH STREET  
GREENSBURG, PA 15601  
(724) 832-4365

00037  
WILLIAMSPORT HOSP & MED CENTER—SB  
777 RURAL AVENUE  
WILLIAMSPORT, PA 17701-3198  
(570) 321-2300

00106  
WINDBER HOSPITAL—S  
600 SOMERSET AVE  
WINDBER, PA 15963  
(814) 467-6611

00018  
WVHCS HOSP DBA PENNANT LABORATORY—SB  
575 NORTH RIVER STREET  
WILKES-BARRE, PA 18764  
(570) 829-8111

25064  
WVU HOSPITAL CLINICAL LABS—S  
1 MEDICAL CENTER DR  
P. O. BOX 8009  
MORGANTOWN, WV 26506-8009  
(304) 598-4241

00141  
YORK HOSPITAL—S  
1001 SOUTH GEORGE STREET  
YORK, PA 17405  
(717) 851-2345

MICHAEL K. HUFF, R.N.,  
*Acting Secretary*

[Pa.B. Doc. No. 11-15. Filed for public inspection December 30, 2010, 9:00 a.m.]

### Laboratories Approved to Determine Urine Controlled Substance Content under the Clinical Laboratory Act, the Vehicle Code, the Fish and Boat Code and the Game and Wildlife Code

The following laboratories are licensed by the Department of Health (Department) under The Clinical Laboratory Act (35 P.S. §§ 2151—2165) and are currently approved by the Department under 28 Pa. Code § 5.50 (relating to approval to provide special analytical services) to perform analyses of urine for the determination of controlled substances or their biotransformation products.

This approval is based on demonstrated proficiency in periodic tests conducted by the Department's Bureau of Laboratories. These laboratories are also approved and designated for purposes of the Vehicle Code, 75 Pa.C.S. §§ 1547 and 3755 (relating to chemical testing to determine amount of alcohol or controlled substance; and reports by emergency room personnel), the Fish and Boat Code, 30 Pa.C.S. § 5125 (relating to chemical testing to determine amount of alcohol or controlled substance) and the Game and Wildlife Code, 34 Pa.C.S. § 2502 (relating to chemical test to determine amount of alcohol), as qualified to perform the types of services which will reflect the presence of controlled substances or their biotransformation products in urine.

Depending upon their capability and performance in proficiency surveys, laboratories are approved to perform screening and/or confirmatory urine drug analyses. Laboratories approved to perform screening tests only are designated on the approval list by an "S" after the laboratory's name. Laboratories approved to perform confirmatory testing only are designated by a "C" following the laboratory's name. Those approved to perform both screening and confirmatory analyses are designated by the letters "SC." Screening analyses provide a presumptive indication that a controlled substance is present. Confirmatory testing is used to substantiate screening results.

Persons seeking forensic urine drug analysis services from any of the listed laboratories should determine that the laboratory employs techniques and procedures acceptable for the purpose. They should also determine that the director of the facility is agreeable to performing analyses

for that purpose. Persons seeking the analyses are responsible for specifying the extent to which the presence of a controlled substance is to be verified. That specification should be predicated upon the purpose for which the analysis is being sought. The list of approved laboratories will be revised approximately semiannually and published in the *Pennsylvania Bulletin*.

The Commonwealth's Vehicle Code contains a provision in 75 Pa.C.S. § 1547(c)(3)(ii) that permits test results on blood or urine for alcohol or controlled substances to be introduced into evidence at legal proceedings in this Commonwealth if the laboratory is located in another state and is not licensed and approved by the Department to provide these services. This section states that the test results may be admissible into evidence at summary or criminal proceedings in which the defendant is charged with a violation of 75 Pa.C.S. § 3802 (relating to driving under influence of alcohol or controlled substance) or any other violation of that title arising out of the same action if the laboratory that performed the test is licensed by the state in which the facility is located and licensed under the Federal Clinical Laboratory Improvement Amendments of 1988 (Pub. L. No. 100-5768, 102 Stat. 2903). A similar provision appears in the Fish and Boat Code at 30 Pa.C.S. § 5125(c)(3)(ii).

The name or location of a laboratory is sometimes changed but the personnel and testing procedures of the facility remain unchanged. When changes of this type occur, the Clinical Laboratory Permit number does not change. If questions arise about the identity of a laboratory due to a name or location change, the Clinical Laboratory Permit number should be used as the primary identifier. To assist in identifying a laboratory that performed a test if the name or location of the facility changed, the Clinical Laboratory Permit number of the facility at the time the list was prepared is included in the list of approved laboratories above the name of the laboratory.

Questions regarding this list should be directed to M. Jeffery Shoemaker, Ph.D., Director, Division of Chemistry and Toxicology, Department of Health, Bureau of Laboratories, P. O. Box 500, Exton, PA 19341-0500, (610) 280-3464.

Persons with a disability who require an alternative format of this notice (for example, large print, audiotope, Braille) should contact Dr. Shoemaker at the previously referenced address or phone number. Persons who are speech or hearing impaired may use V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

00212  
ABINGTON MEMORIAL HOSPITAL—S  
1200 OLD YORK ROAD  
ABINGTON, PA 19001  
(215) 576-2350

27908  
ACM MEDICAL LABORATORY—SC  
160 ELMGROVE PARK  
ROCHESTER, NY 14624  
(716) 429-2264

27180  
ADVANCED TOXICOLOGY NETWORK—SC  
3560 AIR CENTER COVE  
SUITE 101  
MEMPHIS, TN 38118  
(901) 794-5770

30483  
AIT LABORATORIES—SC  
2265 EXECUTIVE DRIVE  
INDIANAPOLIS, IN 46241  
(317) 243-3894

00233  
ALBERT EINSTEIN MEDICAL CENTER—S  
5501 OLD YORK RD  
LABS-TOWER BLDG  
GROUND FL  
PHILADELPHIA, PA 19141-3001  
(215) 456-6157

24496  
ALERE TOXICOLOGY SERVICES INC—SC  
450 SOUTHLAKE BOULEVARD  
RICHMOND, VA 23236  
(804) 378-9130

26008  
ALERE TOXICOLOGY SERVICES INC—SC  
1111 NEWTON STREET  
GRETNA, LA 70053  
(504) 361-8989

00116  
ALLE KISKI MED CNTR NEW KENSINGTON—S  
651 FOURTH AVENUE  
NEW KENSINGTON, PA 15068  
(724) 226-7089

00671  
ALLEGHENY COUNTY MED EX DIV OF LAB—SC  
1520 PENN AVENUE  
2ND FLOOR  
PITTSBURGH, PA 15222  
(412) 350-4425

28233  
ALLEGHENY GENERAL HOSP DEPT OF LAB MED—S  
320 E NORTH AVENUE  
PITTSBURGH, PA 15212  
(412) 359-6886

00077  
ALLEGHENY GENERAL HOSPITAL—S  
1307 FEDERAL STREET  
PITTSBURGH, PA 15212  
(412) 359-3521

00100  
ALLEGHENY VALLEY HOSPITAL LAB—S  
1301 CARLISLE STREET  
NATRONA HEIGHTS, PA 15065  
(724) 224-5100

00120  
ALTOONA REGIONAL HEALTH SYSM—BON  
SECOURS CAMPUS—S  
2500 SEVENTH AVENUE  
ALTOONA, PA 16602-2099  
(814) 949-4495

00119  
ALTOONA REGIONAL HEALTH SYSTEM LAB—S  
620 HOWARD AVENUE  
ALTOONA, PA 16601-4899  
(814) 946-2340

30223  
AMERITOX LTD—SC  
9930 WEST HWY 80  
MIDLAND, TX 79706  
(432) 561-5091

- 26620  
AMMON ANALYTICAL LABORATORY—SC  
1622 SOUTH WOOD AVENUE  
LINDEN, NJ 07036  
(908) 862-4404
- 31148  
ANALYTICAL DIAGNOSTIC LAB—S  
2115 AVENUE X  
BROOKLYN, NY 11235  
(718) 646-6000
- 00192  
ARIA HEALTH—S  
380 NORTH OXFORD VALLEY ROAD  
LANGHORNE, PA 19047-8304  
(215) 934-5227
- 00236  
ARIA HEALTH—S  
FRANKFORD AVE & WAKELING STREET  
PHILADELPHIA, PA 19124  
(215) 831-2068
- 00341  
ARIA HEALTH—S  
10800 KNIGHTS ROAD  
PHILADELPHIA, PA 19114  
(215) 612-4000
- 00047  
ASSOCIATED CLINICAL LABORATORIES—S  
1526 PEACH STREET  
ERIE, PA 16501  
(814) 461-2400
- 00363  
ATLANTIC DIAGNOSTIC LABORATORIES INC—S  
1570 GARRETT ROAD  
UPPER DARBY, PA 19082  
(610) 626-2112
- 24997  
ATLANTIC DIAGNOSTIC LABORATORIES LLC—SC  
3520 PROGRESS DRIVE  
UNIT C  
BENSALEM, PA 19020  
(267) 525-2470
- 31171  
AVEE LABORATORIES INC—SC  
14440 MYERLAKE CIRCLE  
CLEARWATER, FL 33760  
(757) 530-9990
- 00251  
AYER CLINICAL LAB PENNSYLVANIA HOSPITAL—S  
800 SPRUCE STREETS  
PHILADELPHIA, PA 19107  
(215) 829-3541
- 00320  
BARNES KASSON HOSPITAL LAB—S  
400 TURNPIKE STREET  
SUSQUEHANNA, PA 18847  
(570) 853-5059
- 21553  
BENDINER & SCHLESINGER INC—SC  
140 58TH STREET  
SUITE 8D  
BROOKLYN, NY 11220  
(212) 254-2300
- 00001  
BERWICK HOSPITAL LABORATORY—S  
701 EAST 16TH STREET  
BERWICK, PA 18603  
(570) 759-5110
- 00301  
BHS LABORATORY—S  
ONE HOSPITAL WAY  
BUTLER, PA 16001  
(724) 284-4510
- 27615  
BIOLOGICAL SPECIALTY CORPORATION—S  
2165 NORTH LINE STREET  
COLMAR, PA 18915  
(215) 997-8771
- 27616  
BIOLOGICAL SPECIALTY CORPORATION—S  
1236 NEW RODGERS RD  
#851  
BRISTOL, PA 19007  
(215) 826-9282
- 27617  
BIOLOGICAL SPECIALTY CORPORATION—S  
22 SOUTH 4TH STREET  
READING, PA 19602  
(610) 375-9862
- 22757  
BIOREFERENCE LABORATORIES INC—SC  
481B EDWARD H. ROSS DRIVE  
ELMWOOD PARK, NJ 07407  
(201) 791-3600
- 00002  
BLOOMSBURG HOSPITAL—S  
549 E FAIR STREET  
BLOOMSBURG, PA 17815  
(570) 387-2124
- 00033  
BRADFORD REGIONAL MEDICAL CENTER—S  
116-156 INTERSTATE PKWY  
BRADFORD, PA 16701-0218  
(814) 362-8247
- 00296  
BRANDYWINE HOSPITAL—S  
201 REECEVILLE ROAD  
COATESVILLE, PA 19320  
(610) 383-8000
- 00472  
BROOKSIDE CLINICAL LAB INC—S  
4000 EDMONT AVENUE  
BROOKHAVEN, PA 19015  
(610) 872-6466
- 29116  
CALLOWAY LABORATORIES INC—SC  
34 COMMERCE WAY  
WOBURN, MA 01801  
(781) 224-9899
- 00107  
CANONSBURG GENERAL HOSPITAL—S  
100 MEDICAL BOULEVARD  
CANONSBURG, PA 15317  
(724) 745-3916
- 00131  
CARLISLE REGIONAL MEDICAL CENTER—S  
361 ALEXANDER SPRING ROAD  
CARLISLE, PA 17015-9129  
(717) 249-1212

00751  
CEDAR CREST EMERGICENTER—S  
1101 SOUTH CEDAR CREST BOULEVARD  
ALLENTOWN, PA 18103  
(610) 435-3111

22388  
CENTER FOR DISEASE DETECTION—SC  
11603 CROSSWINDS WAY  
SUITE 100  
SAN ANTONIO, TX 78217  
(210) 590-3033

00132  
CHAMBERSBURG HOSPITAL DEPT OF PATHOL-  
OGY—S  
112 NORTH SEVENTH STREET  
CHAMBERSBURG, PA 17201  
(717) 267-7153

00310  
CHARLES COLE MEMORIAL HOSPITAL—S  
1001 EAST SECOND STREET  
COUDERSPORT, PA 16915  
(814) 274-5510

00198  
CHESTER COUNTY HOSPITAL—S  
701 E MARSHALL ST  
WEST CHESTER, PA 19380  
(610) 431-5182

00227  
CHESTNUT HILL HOSPITAL—S  
8835 GERMANTOWN AVENUE  
DEPT OF PATHOLOGY  
PHILADELPHIA, PA 19118  
(215) 248-8113

00228  
CHILDRENS HOSP OF PHILADELPHIA—S  
ONE CHILDRENS CENTER  
34TH & CIVIC  
PHILADELPHIA, PA 19104  
(215) 590-4446

00329  
CLARION HOSPITAL—S  
1 HOSPITAL DRIVE  
CLARION, PA 16214  
(814) 226-9500

00026  
CLEARFIELD HOSPITAL—S  
809 TURNPIKE AVENUE  
P. O. BOX 992  
CLEARFIELD, PA 16830  
(814) 768-2280

27845  
CLINICAL REFERENCE LABORATORY—SC  
8433 QUIVIRA ROAD  
LENEXA, KS 66215  
(913) 492-3652

24916  
CLINICAL SCIENCE LABORATORY INC—SC  
51 FRANCIS AVENUE  
MANSFIELD, MA 02048  
(508) 339-6106

00005  
COMMUNITY MEDICAL CENTER—S  
1800 MULBERRY STREET  
SCRANTON, PA 18510  
(570) 969-8000

00125  
CONEMAUGH VALLEY MEMORIAL HOSP—S  
LABORATORY DEPT  
1086 FRANKLIN STREET  
JOHNSTOWN, PA 15905  
(814) 534-9000

00326  
CORRY MEMORIAL HOSPITAL—S  
612 WEST SMITH STREET  
CORRY, PA 16407  
(814) 664-4641

00201  
CROZER CHESTER MED CENTER—S  
1 MEDICAL CENTER BOULEVARD  
UPLAND, PA 19013  
(610) 447-2000

00209  
CROZER-CHESTER MED CTR—SPRINGFLD—S  
190 WEST SPROUL ROAD  
SPRINGFIELD, PA 19064  
(610) 447-2000

00204  
DELAWARE COUNTY MEMORIAL HOSP—S  
501 NORTH LANSDOWNE AVENUE  
DREXEL HILL, PA 19026-1186  
(610) 284-8100

00266  
DEPT OF PATHOLOGY & LAB MED—HUP—SC  
3400 SPRUCE STREET  
PHILADELPHIA, PA 19104  
(215) 662-3423

28893  
DOMINION DIAGNOSTICS LLC—SC  
211 CIRCUIT DRIVE  
NORTH KINGSTOWN, RI 02852  
(401) 667-0800

00194  
DOYLESTOWN HOSPITAL—S  
ATTN: JUDY RYAN  
595 W STATE STREET  
DOYLESTOWN, PA 18901  
(215) 345-2250

00977  
DRUGSCAN INC—SC  
1119 MEARNS RD  
P. O. BOX 2969  
WARMINSTER, PA 18974  
(215) 674-9310

00175  
EASTON HOSPITAL—S  
250 SOUTH 21ST ST  
EASTON, PA 18042-3892  
(610) 250-4819

00332  
ELLWOOD CITY HOSPITAL—S  
724 PERSHING ST  
ELLWOOD CITY, PA 16117  
(724) 752-0081

31625  
EMPIRE CITY LABORATORIES—S  
4306 3RD AVENUE  
2ND FLOOR  
BROOKLYN, NY 11232  
(516) 941-7244

00612  
ENDLESS MOUNTAINS HEALTH SYSTEMS—S  
3 GROW AVENUE  
MONTROSE, PA 18801-1103  
(570) 278-3801

00164  
EPHRATA COMMUNITY HOSPITAL—S  
169 MARTIN AVE  
P. O. BOX 1002  
EPHRATA, PA 17522  
(717) 733-0311

00032  
ERHC ST MARYS LABORATORY—S  
763 JOHNSONBURG RD  
SAINT MARYS, PA 15857  
(814) 788-8525

00181  
EVANGELICAL COMMUNITY HOSPITAL—S  
1 HOSPITAL DRIVE  
LEWISBURG, PA 17837  
(570) 522-2510

00115  
FRICK HOSPITAL—S  
508 SOUTH CHURCH STREET  
MOUNT PLEASANT, PA 15666  
(724) 547-1500

20644  
FRIENDS HOSPITAL—S  
4641 ROOSEVELT BOULEVARD  
PHILADELPHIA, PA 19124-2399  
(215) 831-4600

09163  
FRIENDS MEDICAL LAB INC—SC  
5820 SOUTHWESTERN BLVD  
BALTIMORE, MD 21227  
(412) 247-4417

00330  
FULTON COUNTY MEDICAL CENTER—S  
214 PEACH ORCHARD ROAD  
MCCONNELLSBURG, PA 17233  
(717) 485-6143

30188  
GARCIA CLINICAL LABORATORY INC—S  
2195 SPRING ARBOR ROAD  
JACKSON, MI 49201  
(517) 787-9200

00173  
GEISINGER MEDICAL LABORATORIES—SC  
100 N ACADEMY AVENUE  
DANVILLE, PA 17822-0131  
(570) 271-6338

00019  
GEISINGER WYOMING VALLEY MED CTR—S  
1000 E MOUNTAIN DRIVE  
WILKES-BARRE, PA 18711  
(570) 826-7830

26799  
GHHA/HHWC OCC HEALTH LAB—S  
50 MOISEY DRIVE  
HAZLETON, PA 18202  
(570) 459-1028

00152  
GNADEN HUETTEN MEMORIAL HOSP—S  
211 NORTH 12TH STREET  
LEHIGHTON, PA 18235  
(610) 377-7083

00299  
GOOD SAMARITAN HOSPITAL—S  
4TH & WALNUT STS  
P. O. BOX 1281  
LEBANON, PA 17042-1218  
(717) 270-7986

00061  
GROVE CITY MEDICAL CENTER—S  
631 NORTH BROAD STREET EXT  
GROVE CITY, PA 16127  
(724) 450-7125

00654  
GUTHRIE CLINIC LABORATORIES—S  
ONE GUTHRIE SQUARE  
SAYRE, PA 18840  
(570) 882-4160

00239  
HAHNEMANN UNIVERSITY HOSPITAL—S  
BROAD & VINE STS MS 113  
PHILADELPHIA, PA 19102  
(215) 762-1783

00139  
HANOVER HOSPITAL LABORATORY—S  
300 HIGHLAND AVE  
HANOVER, PA 17331  
(717) 637-3711

00010  
HAZLETON GENERAL HOSPITAL—S  
700 EAST BROAD  
HAZLETON, PA 18201  
(570) 501-4152

00169  
HEALTH NETWORK LABORATORIES—S  
1627 WEST CHEW STREET  
ALLENTOWN, PA 18102  
(610) 402-8150

00549  
HEALTH NETWORK LABORATORIES—S  
1200 SOUTH CEDAR CREST BLVD  
ALLENTOWN, PA 18103  
(610) 402-8150

00600  
HEALTH NETWORK LABORATORIES—S  
2545 SCHOENERSVILLE ROAD  
BETHLEHEM, PA 18017-7384  
(610) 402-8150

24655  
HEALTH NETWORK LABORATORIES—SC  
2024 LEHIGH STREET  
ALLENTOWN, PA 18103-4798  
(610) 402-8150

00166  
HEART OF LANCASTER REGIONAL MEDICAL  
CENTER—S  
1500 HIGHLANDS DRIVE  
LITITZ, PA 17543  
(717) 625-5605

00205  
HERITAGE VALLEY BEAVER—S  
1000 DUTCH RIDGE ROAD  
BEAVER, PA 15009  
(724) 728-7000

00101  
HERITAGE VALLEY SEWICKLEY LAB—S  
720 BLACKBURN RD  
SEWICKLEY, PA 15143  
(412) 741-6600

00103  
HIGHLANDS HOSPITAL—S  
401 EAST MURPHY AVENUE  
CONNELLSVILLE, PA 15425  
(724) 628-1500

00216  
HOLY REDEEMER HOSPITAL—S  
1648 HUNTINGDON PIKE  
MEADOWBROOK, PA 19046  
(215) 947-3000

00130  
HOLY SPIRIT HOSPITAL—S  
503 N 21ST STREET  
CAMP HILL, PA 17011-2288  
(717) 763-2206

00052  
INDIANA REGIONAL MEDICAL CENTER—S  
HOSPITAL ROAD  
P. O. BOX 788  
INDIANA, PA 15701-0788  
(724) 357-7167

00135  
J C BLAIR MEMORIAL HOSPITAL—S  
1225 WARM SPRINGS AVENUE  
HUNTINGDON, PA 16652  
(814) 643-8645

00054  
JAMESON MEMORIAL HOSPITAL—S  
1211 WILMINGTON AVENUE  
NEW CASTLE, PA 16105  
(724) 656-4080

00240  
JEANES HOSPITAL—S  
7600 CENTRAL AVE  
PHILADELPHIA, PA 19111  
(215) 728-2347

00038  
JEFFERSON REGIONAL MED CTR—S  
P. O. BOX 18119  
565 COAL VALLEY ROAD  
PITTSBURGH, PA 15236  
(412) 469-5723

00200  
JENNERSVILLE REGIONAL HOSPITAL—S  
1015 WEST BALTIMORE PIKE  
WEST GROVE, PA 19390  
(610) 869-1080

00312  
JERSEY SHORE HOSPITAL—S  
1020 THOMPSON STREET  
JERSEY SHORE, PA 17740  
(570) 398-0100

00532  
KENSINGTON HOSPITAL—S  
136 WEST DIAMOND STREET  
PHILADELPHIA, PA 19122  
(215) 426-8100

21306  
LAB CORP OCCUPATIONAL TEST SRVCS—SC  
1120 STATELINE ROAD WEST  
SOUTHAVEN, MS 38671  
(886) 827-8042

20512  
LABCORP OCCUPATIONAL TESTING SER—SC  
1904 ALEXANDER DRIVE  
P. O. BOX 12652  
RESEARCH TRIANGLE PARK, NC 27709  
(919) 572-7465

01088  
LABCORP OF AMERICA HOLDINGS—SC  
69 FIRST AVENUE  
P. O. BOX 500  
RARITAN, NJ 08869  
(908) 526-2400

00165  
LANCASTER GENERAL HOSPITAL—S  
555 N DUKE STREET  
P. O. BOX 3555  
LANCASTER, PA 17604  
(717) 544-4331

00167  
LANCASTER REGIONAL MED CENTER—S  
250 COLLEGE AVENUE  
P. O. BOX 3434  
LANCASTER, PA 17604  
(717) 291-8022

00215  
LANSDALE HOSPITAL—S  
100 MEDICAL CAMPUS DRIVE  
LANSDALE, PA 19446  
(215) 361-4625

00114  
LATROBE AREA HOSPITAL—S  
ONE MELLON WAY  
LATROBE, PA 15650  
(724) 537-1550

00138  
LEWISTOWN HOSPITAL—S  
400 HIGHLAND AVENUE  
LEWISTOWN, PA 17044  
(717) 242-7474

24802  
LGH DIAB/HBP/DUKE—LIME ST CAMPUS—S  
620 N DUKE STREET  
DUKE & LIME STREET  
CAMPUS LABS  
LANCASTER, PA 17604  
(717) 544-4331

00030  
LOCK HAVEN HOSPITAL—S  
24 CREE DRIVE  
LOCK HAVEN, PA 17745  
(570) 893-5000

00193  
LOWER BUCKS HOSPITAL LABORATORY—S  
501 BATH ROAD  
BRISTOL, PA 19007  
(215) 785-9300

00639  
MAGEE-WOMENS HOSPITAL OF UPMC HEALTH  
SYSTEM—S  
300 HALKET STREET  
PITTSBURGH, PA 15213  
(412) 647-4651



00213  
MAIN LINE HEALTH LAB—BRYN MAWR—S  
130 S BRYN MAWR AVENUE  
BRYN MAWR, PA 19010  
(610) 526-3554

00242  
MAIN LINE HEALTH LABORATORIES—S  
100 EAST LANCASTER AVENUE  
WYNNEWOOD, PA 19096  
(610) 645-2615

00199  
MAIN LINE HEALTH LABS—PAOLI—S  
255 WEST LANCASTER AVENUE  
PAOLI, PA 19301  
(610) 648-1000

00004  
MARIAN COMMUNITY HOSPITAL—S  
100 LINCOLN AVENUE  
CARBONDALE, PA 18407  
(717) 281-1042

27684  
MARWORTH—S  
BOX 36 LILLY LAKE ROAD  
WAVERLY, PA 18471  
(570) 563-1112

09003  
MAYO CLINIC DEPT LAB MED & PATH—SC  
200 FIRST STREET  
SW HILTON 530  
ROCHESTER, MN 55905  
(507) 284-3018

00049  
MEADVILLE MED CTR—LIBERTY ST—S  
751 LIBERTY STREET  
MEADVILLE, PA 16335  
(814) 336-5000

05574  
MEDTOX LABORATORIES INC—SC  
402 WEST COUNTY ROAD D  
ST PAUL, MN 55112  
(651) 286-6217

00140  
MEMORIAL HOSPITAL CLINICAL LAB—S  
325 S BELMONT STREET  
P. O. BOX 15118  
YORK, PA 17403  
(717) 843-8623

00023  
MEMORIAL HOSPITAL LAB—S  
1 HOSPITAL DRIVE  
TOWANDA, PA 18848  
(570) 265-2191

00203  
MERCY FITZGERALD HOSPITAL—S  
1500 LANSDOWNE AVENUE  
DARBY, PA 19023  
(610) 237-4262

00247  
MERCY HEALTH LAB/MHOP—S  
501 S 54TH STREET  
PHILADELPHIA, PA 19143  
(215) 748-9181

00219  
MERCY HEALTH LAB/MSH—S  
2701 DEKALB PIKE  
NORRISTOWN, PA 19401  
(610) 278-2078

00336  
MERCY HEALTH PARTNERS—S  
746 JEFFERSON AVENUE  
SCRANTON, PA 18510  
(570) 348-7100

00313  
MERCY TYLER HOSPITAL—S  
880 SR 6 W  
TUNKHANNOCK, PA 18657-6149  
(570) 836-4705

28436  
METHODIST DIV TJUH CLINICAL LAB—S  
2301 SOUTH BROAD STREET  
PHILADELPHIA, PA 19148  
(215) 952-9057

31050  
MILLENIUM LABORATORIES—SC  
16981 VIA TAZON  
SUITE F  
SAN DIEGO, CA 92127  
(858) 451-3535

00128  
MINERS MEDICAL CENTER—S  
290 HAIDA AVENUE  
P. O. BOX 689  
HASTINGS, PA 16646  
(814) 247-3100

28907  
MIRMONT TREATMENT CENTER—S  
100 YEARSLEY MILL ROAD  
LIMA, PA 19063  
(610) 744-1400

00108  
MONONGAHELA VALLEY HOSPITAL INC—S  
1163 COUNTRY CLUB ROAD  
MONONGAHELA, PA 15063  
(724) 258-1021

00217  
MONTGOMERY HOSPITAL LAB—S  
POWELL & FORNANCE STS  
NORRISTOWN, PA 19401  
(610) 270-2173

00214  
MOSS REHAB EINSTEIN AT ELKINS PARK—S  
60 EAST TOWNSHIP LINE ROAD  
ATTN: LAB  
ELKINS PARK, PA 19027  
(215) 456-6150

00025  
MOUNT NITTANY MEDICAL CENTER—S  
1800 EAST PARK AVENUE  
STATE COLLEGE, PA 16803  
(814) 234-6117

00035  
MUNCY VALLEY HOSPITAL—S  
215 EAST WATER ST  
MUNCY, PA 17756  
(570) 546-8282

00304  
 NASON HOSPITAL—S  
 105 NASON DRIVE  
 ROARING SPRING, PA 16673  
 (814) 224-2141

00504  
 NATIONAL MED SVCS INC/DBA NMS LABS—SC  
 3701 WELSH ROAD  
 WILLOW GROVE, PA 19090  
 (215) 657-4900

00248  
 NAZARETH HOSPITAL—S  
 2601 HOLME AVE  
 PHILADELPHIA, PA 19152  
 (215) 335-6245

27246  
 NORCHEM DRUG TESTING LABORATORY—SC  
 1760 EAST ROUTE 66  
 SUITE 1  
 FLAGSTAFF, AZ 86004  
 (928) 526-1011

29741  
 NORTHERN TIER RESEARCH—SC  
 1300 OLD PLANK ROAD  
 MAYFIELD, PA 18433  
 (570) 351-6153

30984  
 OFFICE OF THE DISTRICT ATTORNEY—S  
 37 E HIGH STREET  
 FORENSIC LAB  
 CARLISLE, PA 17103  
 (717) 240-6526

00099  
 OHIO VALLEY GENERAL HOSPITAL—S  
 25 HECKEL RD  
 MCKEES ROCKS, PA 15136  
 (412) 777-6161

00250  
 PARKWAY CLINICAL LABORATORIES—S  
 3494 D PROGRESS DRIVE  
 BENSALAM, PA 19020  
 (215) 245-5112

00520  
 PC LAB INC—SC  
 1320 FIFTH AVENUE  
 PITTSBURGH, PA 15219  
 (412) 391-6118

00258  
 PENN PRESBYTERIAN MEDICAL CENTER—S  
 51 NORTH 39TH ST  
 DEPT OF PATH & LAB  
 PHILADELPHIA, PA 19104-2640  
 (215) 662-3435

00316  
 PENN STATE MILTON S HERSHEY MED CTR—S  
 500 UNIVERSITY DRIVE  
 HERSHEY, PA 17033  
 (717) 531-8353

22533  
 PENNSYLVANIA DEPT OF HEALTH—SC  
 110 PICKERING WAY  
 EXTON, PA 19341  
 (610) 280-3464

31082  
 PHAMATECH INC—SC  
 10151 BARNES CANYON ROAD  
 SAN DIEGO, CA 92121  
 (858) 643-5555

00197  
 PHOENIXVILLE HOSPITAL LABORATORY—S  
 140 NUTT ROAD  
 DEPT OF PATHOLOGY  
 PHOENIXVILLE, PA 19460-0809  
 (610) 983-1612

00157  
 PINNACLE HEALTH AT COMMUNITY GENERAL  
 HOSPITAL—S  
 4300 LONDONDERRY ROAD  
 P. O. BOX 3000  
 HARRISBURG, PA 17109  
 (717) 782-3340

00155  
 PINNACLE HEALTH AT HARRISBURG HOSPITAL  
 LAB—S  
 100 SOUTH 2ND STREET  
 HARRISBURG, PA 17101  
 (717) 782-3340

00022  
 POCONO MEDICAL CENTER LAB—S  
 206 EAST BROWN STREET  
 EAST STROUDSBURG, PA 18301  
 (570) 476-3544

00221  
 POTTSTOWN HOSPITAL COMPANY, LLC—S  
 1600 EAST HIGH STREET  
 POTTSTOWN, PA 19464  
 (610) 327-7000

21648  
 PSYCHEMEDICS CORPORATION—SC  
 5832 UPLANDER WAY  
 CULVER CITY, CA 90230  
 (800) 522-7424

00300  
 PUNXSUTAWNEY AREA HOSPITAL—S  
 81 HILLCREST DRIVE  
 PUNXSUTAWNEY, PA 15767  
 (814) 938-1820

22715  
 QUEST DIAGNOSTICS—SC  
 10101 RENNER BOULEVARD  
 LENEXA, KS 66219-9752  
 (913) 888-1770

31399  
 QUEST DIAGNOSTICS—SC  
 EMPLOYER SOLUTIONS  
 1777 MONTREAL CIRCLE  
 TUCKER, GA 30084  
 (770) 936-5007

09620  
 QUEST DIAGNOSTICS CLIN LABS INC—SC  
 8401 FALLBROOK AVENUE  
 WEST HILLS, CA 91304  
 (818) 737-6268

00315  
 QUEST DIAGNOSTICS CLINICAL LABS INC—SC  
 900 BUSINESS CENTER DRIVE  
 HORSHAM, PA 19044  
 (215) 957-9300

27461  
QUEST DIAGNOSTICS INC—SC  
400 EGYPT ROAD  
NORRISTOWN, PA 19403  
(610) 631-4219

01136  
QUEST DIAGNOSTICS NICHOLS INSTITUTE—SC  
14225 NEWBROOK DRIVE  
P. O. BOX 10841  
CHANTILLY, VA 20153-0841  
(703) 802-6900

00482  
QUEST DIAGNOSTICS OF PA INC—SC  
875 GREENTREE ROAD  
4 PARKWAY CENTER  
PITTSBURGH, PA 15220-3610  
(412) 920-7600

25461  
QUEST DIAGNOSTICS VENTURE LLC—SC  
875 GREENTREE ROAD  
4 PARKWAY CENTER  
PITTSBURGH, PA 15220-3610  
(412) 920-7631

24249  
QUINTILES LABORATORIES LTD—SC  
1600 TERRELL MILL ROAD  
SUITE 100  
MARIETTA, GA 30067  
(770) 373-3500

00150  
READING HOSPITAL & MED CTR—S  
6TH AND SPRUCE STREETS  
WEST READING, PA 19611  
(610) 988-8080

25348  
REDWOOD TOXICOLOGY LABORATORY—SC  
3650 WESTWIND BOULEVARD  
SANTA ROSA, CA 95403  
(707) 577-7958

00206  
RIDDLE MEMORIAL HOSPITAL—S  
1068 W BALTIMORE PIKE  
MEDIA, PA 19063  
(610) 891-3339

00243  
ROXBOROUGH MEMORIAL HOSPITAL—S  
5800 RIDGE AVE  
PHILADELPHIA, PA 19128  
(215) 487-4394

30821  
RXTOX INC—SC  
51 PROF PLAZA  
850 CLAIRTON BLVD  
SUITE 1300  
PITTSBURGH, PA 15236  
(412) 460-1310

00171  
SACRED HEART HOSPITAL—S  
4TH & CHEW STS  
ATTN LAB DEPT  
ALLENTOWN, PA 18102  
(610) 776-4727

00087  
SAINT CLAIR MEMORIAL HOSPITAL—S  
1000 BOWER HILL RD  
PITTSBURGH, PA 15243  
(412) 561-4900

00174  
SAINT LUKES HOSPITAL—S  
801 OSTRUM STREET  
BETHLEHEM, PA 18015  
(610) 954-4558

00328  
SAINT MARY MEDICAL CENTER—S  
LANGHORNE—NEWTOWN RD  
LANGHORNE, PA 19047  
(215) 710-2162

29838  
SAN DIEGO REFERENCE LABORATORY—SC  
6122 NANCY RIDGE DRIVE  
SAN DIEGO, CA 92121  
(800) 677-7995

00182  
SCHUYLKILL MC E NORWEGIAN ST—S  
700 EAST NORWEGIAN STREET  
POTTSVILLE, PA 17901  
(570) 621-4032

00183  
SCHUYLKILL MC S JACKSON ST—S  
420 SOUTH JACKSON STREET  
POTTSVILLE, PA 17901  
(570) 621-5262

28471  
SECON OF LOUISIANA—S  
825 KALISTE SALOOM RD  
BRANDYWINE 1  
SUITE 100  
LAFAYETTE, LA 70508  
(337) 235-3712

29038  
SECON OF NEW ENGLAND—SC  
415 MAIN STREET  
4TH FLOOR  
WORCESTER, MA 01608  
(508) 831-0703

00185  
SHAMOKIN AREA COMMUNITY HOSPITAL—S  
4200 HOSPITAL ROAD  
COAL TOWNSHIP, PA 17866-9697  
(570) 644-4200

00064  
SHARON REGIONAL HEALTH SYSTEM—S  
740 EAST STATE STREET  
SHARON, PA 16146  
(724) 983-3911

27649  
SMA MEDICAL LABORATORIES—S  
940 PENNSYLVANIA BOULEVARD  
UNIT E  
FEASTERVILLE, PA 19053  
(215) 322-6590

00039  
SOLDIERS & SAILORS MEM HOSP—S  
CENTRAL AVENUE  
WELLSBORO, PA 16901  
(570) 723-0133

00297  
SOMERSET HOSPITAL CENTER FOR HEALTH—S  
225 S CENTER AVENUE  
SOMERSET, PA 15501  
(814) 443-5000

22376  
SPECIALTY LABORATORIES INC—S  
27027 TOURNEY ROAD  
VALENCIA, CA 91355  
(661) 799-6543

00361  
ST CATHERINE MED CTR—FOUNTAIN SPRINGS—S  
101 BROAD STREET  
ASHLAND, PA 17921  
(570) 875-5988

00260  
ST CHRISTOPHERS HOSP FOR CHILDREN—S  
ERIE AVENUE AT FRONT STREET  
PHILADELPHIA, PA 19134  
(215) 427-4207

00151  
ST JOSEPH QUALITY MEDICAL LAB—SC  
2500 BERNVILLE ROAD  
READING, PA 19605-9453  
(610) 378-2200

00261  
ST JOSEPH'S HOSPITAL—DIV NPHS—S  
16TH ST & GIRARD AVENUE  
PHILADELPHIA, PA 19130  
(215) 787-9000

00318  
ST LUKES HOSP ALLENTOWN CAMPUS—S  
1736 HAMILTON STREET  
ALLENTOWN, PA 18104  
(610) 628-8646

00180  
ST LUKES MINERS MEMORIAL HOSPITAL—S  
360 WEST RUDDLE STREET  
P. O. BOX 67  
COALDALE, PA 18218  
(570) 645-2131

29015  
STERLING REFERENCE LABORATORIES—SC  
2617 EAST L STREET  
#A  
TACOMA, WA 98421-2205  
(253) 552-1551

00094  
SUBURBAN CLINICAL LABORATORY—S  
100 SOUTH JACKSON AVENUE  
BELLEVUE, PA 15202  
(412) 734-6020

00187  
SUNBURY COMMUNITY HOSPITAL—S  
350 NORTH 11TH STREET  
SUNBURY, PA 17801  
(570) 286-3491

31474  
TASC INC—SC  
2234 N 7TH STREET  
PHOENIX, AZ 85006  
(602) 257-7588

00207  
TAYLOR HOSPITAL DIV OF CCMC—S  
175 EAST CHESTER PIKE  
RIDLEY PARK, PA 19078  
(610) 595-6450

00235  
TEMPLE UNIV HOSPITAL EPISCOPAL CAMPUS—S  
100 EAST LEHIGH AVENUE  
PHILADELPHIA, PA 19125-1098  
(215) 707-4353

00265  
TEMPLE UNIVERSITY HOSPITAL—S  
3401 N BROAD ST  
PHILADELPHIA, PA 19140  
(215) 707-4353

00104  
THE UNIONTOWN HOSPITAL LABORATORY—S  
500 WEST BERKELEY STREET  
UNIONTOWN, PA 15401  
(724) 430-5143

00085  
THE WESTERN PA HOSP—FORBES REGIONAL  
CAMPUS—S  
2570 HAYMAKER ROAD  
MONROEVILLE, PA 15146  
(412) 858-2560

00241  
THOMAS JEFFERSON UNIVERSITY HOSP—S  
125 S. 11TH ST  
204 PAVILLION  
PHILADELPHIA, PA 19107  
(215) 955-1644

00051  
TITUSVILLE AREA HOSPITAL—S  
406 WEST OAK STREET  
TITUSVILLE, PA 16354  
(814) 827-1851

00124  
TYRONE HOSPITAL—S  
187 HOSPITAL DRIVE  
TYRONE, PA 16686  
(814) 684-6384

00121  
UPMC BEDFORD MEMORIAL—S  
10455 LINCOLN HIGHWAY  
EVERETT, PA 15537  
(814) 623-3506

00059  
UPMC HORIZON GREENVILLE—S  
110 NORTH MAIN STREET  
GREENVILLE, PA 16125  
(724) 588-2100

00057  
UPMC HORIZON SHENANGO—S  
2200 MEMORIAL DRIVE  
FARRELL, PA 16121  
(724) 981-3500

00098  
UPMC MCKEESPORT LABORATORY—S  
1500 FIFTH AVENUE  
MCKEESPORT, PA 15132  
(412) 664-2233

00082  
UPMC MERCY DEPT OF LAB MEDICINE—S  
1400 LOCUST STREET  
PITTSBURGH, PA 15219  
(412) 232-7831

00058  
UPMC NORTHWEST—S  
100 FAIRFIELD DRIVE  
SENECA, PA 16346  
(814) 676-7120

05784  
UPMC PASSAVANT LABORATORY CRANBERRY—S  
ONE ST FRANCIS WAY  
CRANBERRY TOWNSHIP, PA 16066  
(724) 772-5370

00083  
UPMC PRESBYTERIAN SHADYSIDE CP PUH—SC  
ROOM 5929  
MAIN TOWER CHP  
200 LOTHROP STREET  
PITTSBURGH, PA 15213-2582  
(412) 648-6000

00091  
UPMC SAINT MARGARET HOSPITAL—S  
815 FREEPORT ROAD  
PITTSBURGH, PA 15215  
(412) 784-4000

00092  
UPMC SHADYSIDE—S  
5230 CENTRE AVENUE  
GROUND FLOOR  
WEST WING  
PITTSBURGH, PA 15232  
(412) 623-5950

27225  
US DRUG TESTING LABORATORIES INC—SC  
1700 SOUTH MOUNT PROSPECT ROAD  
DES PLAINES, IL 60018  
(847) 375-0770

00335  
VALLEY FORGE MED CTR & HOSP—S  
1033 W GERMANTOWN PIKE  
NORRISTOWN, PA 19403  
(610) 539-8500

00066  
WARREN GENERAL HOSPITAL—S  
2 CRESCENT PARK  
WARREN, PA 16365  
(814) 726-3860

00298  
WAYNE MEMORIAL HOSPITAL—S  
601 PARK STREET  
HONESDALE, PA 18431  
(570) 253-1300

00133  
WAYNESBORO HOSPITAL—S  
501 E MAIN STREET  
WAYNESBORO, PA 17268  
(717) 765-3403

00095  
WESTERN PENNSYLVANIA HOSPITAL—S  
4800 FRIENDSHIP AVE  
PITTSBURGH, PA 15224  
(412) 578-5779

30245  
WESTFIELD HOSPITAL LABORATORY—S  
4815 W TILGHMAN STREET  
ALLENTOWN, PA 18104  
(610) 973-8425

00112  
WESTMORELAND REGIONAL HOSPITAL—S  
532 W PITTSBURGH STREET  
GREENSBURG, PA 15601  
(724) 832-4365

00037  
WILLIAMSPORT HOSP & MED CENTER—S  
777 RURAL AVENUE  
WILLIAMSPORT, PA 17701-3198  
(570) 321-2300

00018  
WVHCS HOSP DBA PENNANT LABORATORY—SC  
575 NORTH RIVER STREET  
WILKES-BARRE, PA 18764  
(570) 829-8111

00141  
YORK HOSPITAL—S  
1001 SOUTH GEORGE STREET  
YORK, PA 17405  
(717) 851-2345

MICHAEL K. HUFF, R.N.,  
*Acting Secretary*

[Pa.B. Doc. No. 11-16. Filed for public inspection December 30, 2010, 9:00 a.m.]

### Laboratories Approved to Perform Blood Lead and/or Erythrocyte Protoporphyrin Determinations under the Clinical Laboratory Act

The following laboratories are licensed in accordance with The Clinical Laboratory Act (35 P.S. §§ 2151—2165), and are currently approved under 28 Pa. Code § 5.50 (relating to approval to provide special analytical services) to perform analyses of blood for lead or erythrocyte protoporphyrin content. This approval is based on demonstrated proficiency in periodic evaluations conducted by the Bureau of Laboratories of the Department of Health (Department).

Lead poisoning is a reportable noncommunicable disease. Approved laboratories which offer blood lead testing services are required to inform the Department of actual or possible incidents of this condition in accordance with 28 Pa. Code § 27.34 (relating to reporting cases of lead poisoning.) These regulations specify the following requirements for reporting by clinical laboratories:

(1) A clinical laboratory shall report all blood lead test results on both venous and capillary specimens for persons under 16 years of age to the Department's Childhood Lead Poisoning Prevention Program, Division of Maternal and Child Health, Bureau of Family Health.

(2) A clinical laboratory shall report an elevated blood lead level in a person 16 years of age or older to the Department's Division of Environmental Health Epidemiology, Bureau of Epidemiology or to other locations as designated by the Department. An elevated blood lead level is defined by the National Institute for Occupational Safety and Health (NIOSH). As of January 26, 2002, NIOSH defines an elevated blood lead level as a venous blood lead level of 25 micrograms per deciliter or higher.

The Department will publish in the *Pennsylvania Bulletin* any NIOSH update of the definition within 30 days of NIOSH's notification to the Department.

(3) A clinical laboratory which conducts blood lead tests of 100 or more specimens per month shall submit results electronically in a format specified by the Department.

(4) A clinical laboratory which conducts blood lead tests of less than 100 blood lead specimens per month shall submit results either electronically or by hard copy in the format specified by the Department.

(5) A laboratory which performs blood lead tests on blood specimens collected in this Commonwealth shall be licensed as a clinical laboratory and shall be specifically approved by the Department to conduct those tests.

(6) Blood lead analyses requested for occupational health purposes on blood specimens collected in this Commonwealth shall be performed only by laboratories which are licensed and approved as specified in paragraph (5), and which are also approved by the Occupational Safety and Health Administration of the United States Department of Labor under 29 CFR 1910.1025(j)(2)(iii) (relating to lead).

(7) A clinical laboratory shall complete a blood lead test within 5 work days of the receipt of the blood specimen and shall submit the case report to the Department by the close of business of the next work day after the day on which the test was performed. The clinical laboratory shall submit a report of lead poisoning using either the hardcopy form or electronic transmission format specified by the Department.

(8) When a clinical laboratory receives a blood specimen without all of the information required for reporting purposes, the clinical laboratory shall test the specimen and shall submit the incomplete report to the Department.

Erythrocyte protoporphyrin determinations may be performed as an adjunct determination to substantiate blood lead levels of 25 micrograms per deciliter or higher. Since erythrocyte protoporphyrin concentrations may not increase as a result of low-level exposures to lead, direct blood lead analysis is the only reliable method for identifying individuals with blood lead concentrations below 25 micrograms per deciliter.

Persons seeking blood lead or erythrocyte protoporphyrin analyses should determine that the laboratory employs techniques and procedures acceptable for the purpose for which the analyses are sought. Laboratories offering blood lead analysis only are designated with the letter "L" following the name of the laboratory. Those offering erythrocyte protoporphyrin analysis only are designated with the letter "P." Laboratories offering both services are designated with the letters "LP."

The list of approved laboratories will be revised approximately semiannually and published in the *Pennsylvania Bulletin*.

The name or location of a laboratory is sometimes changed but the personnel and testing procedures of the facility remain unchanged. When changes of this type occur, the Clinical Laboratory Permit number does not change. If questions arise about the identity of a laboratory due to a name or location change, the Clinical Laboratory Permit number should be used as the primary identifier. To assist in identifying a laboratory that performed a test if the name or location of the facility changed, the Clinical Laboratory Permit number of the

facility at the time the list was prepared is included in the list of approved laboratories above the name of the laboratory.

The Department's blood lead proficiency testing program is approved by the United States Department of Health and Human Services in accordance with 42 CFR 493.901 and 493.937 (relating to approval of proficiency testing programs; and toxicology), which are administered by the Centers for Medicare and Medicaid Services. Participation in these programs may therefore be used to demonstrate acceptable performance for approval purposes under both Federal and Commonwealth statutes.

Questions regarding this list should be directed to M. Jeffery Shoemaker, Ph.D., Director, Division of Chemistry and Toxicology, Department of Health, Bureau of Laboratories, P. O. Box 500, Exton, PA 19341-0500, (610) 280-3464.

Persons with a disability who require an alternative format of this notice (for example, large print, audiotape, Braille) should contact Dr. Shoemaker at the previously referenced address or phone number. Persons who are speech or hearing impaired may use V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

22912  
ACL LABORATORIES—LP  
8901 WEST LINCOLN AVE  
WEST ALLIS, WI 53227  
(414) 328-7945

29169  
ADVANCED TOXICOLOGY NETWORK—LP  
3560 AIR CENTER COVE  
SUITE 101  
MEMPHIS, TN 38118  
(901) 794-5770

00016  
ANGELINE KIRBY MEM HEALTH CENTER—L  
71 NORTH FRANKLIN STREET  
WILKES-BARRE, PA 18701  
(570) 822-4278

24997  
ATLANTIC DIAGNOSTIC LABORATORIES LLC—LP  
3520 PROGRESS DRIVE  
UNIT C  
BENSALEM, PA 19020  
(267) 525-2470

20506  
CENTRAL PA ALLIANCE LABORATORY—L  
1803 MT ROSE AVENUE  
SUITE C3-C4  
YORK, PA 17403  
(717) 851-1426

00228  
CHILDRENS HOSP OF PHILADELPHIA—L  
ONE CHILDRENS CENTER  
34TH & CIVIC  
PHILADELPHIA, PA 19104  
(215) 590-4446

27845  
CLINICAL REFERENCE LABORATORY—LP  
8433 QUIVIRA ROAD  
LENEXA, KS 66215  
(913) 492-3652

- 00561  
EAST PENN MFG CO INC—L  
DEKA RD  
KELLER TECH CENTER  
P. O. BOX 147  
LYONS STATION, PA 19536  
(610) 682-6361
- 00332  
ELLWOOD CITY HOSPITAL—LP  
724 PERSHING ST  
ELLWOOD CITY, PA 16117  
(724) 752-0081
- 31378  
ENZO CLINICAL LABS—L  
60 EXECUTIVE BLVD  
FARMINGDALE, NY 11735  
(631) 755-5500
- 00173  
GEISINGER MEDICAL LABORATORIES—L  
100 N ACADEMY AVENUE  
DANVILLE, PA 17822-0131  
(570) 271-6338
- 25914  
GENOVA DIAGNOSTICS—L  
63 ZILICOA STREET  
ASHEVILLE, NC 28801  
(828) 253-0621
- 20802  
HAGERSTOWN MEDICAL LABORATORY—L  
11110 MEDICAL CAMPUS RD  
STE 230  
HAGERSTOWN, MD 21742  
(301) 790-8670
- 24655  
HEALTH NETWORK LABORATORIES—LP  
2024 LEHIGH STREET  
ALLENTOWN, PA 18103-4798  
(610) 402-8150
- 05618  
LAB CORP OF AMERICA HOLDINGS—LP  
6370 WILCOX ROAD  
DUBLIN, OH 43016-1296  
(800) 282-7300
- 21885  
LAB CORP OF AMERICA HOLDINGS—LP  
1447 YORK COURT  
BURLINGTON, NC 27215  
(800) 334-5161
- 01088  
LABCORP OF AMERICA HOLDINGS—LP  
69 FIRST AVENUE  
P. O. BOX 500  
RARITAN, NJ 08869  
(908) 526-2400
- 00242  
MAIN LINE HEALTH LABORATORIES—L  
100 EAST LANCASTER AVENUE  
WYNNEWOOD, PA 19096  
(610) 645-2615
- 29685  
MAYO CLINIC DEPARTMENT OF LAB MEDICINE &  
PATHOLOGY—L  
3050 SUPERIOR DRIVE NW  
ROCHESTER, MN 55901  
(507) 538-3458
- 09003  
MAYO CLINIC DEPT LAB MED & PATH—P  
200 FIRST STREET  
SW HILTON 530  
ROCHESTER, MN 55905  
(507) 284-3018
- 29251  
MAYO MEDICAL LABORATORIES NEW  
ENGLAND—LP  
160 DASCUMB ROAD  
ANDOVER, MA 01810  
(978) 658-3600
- 24668  
MCMURRAY PEDIATRIC & ADOLESCENT  
MEDICINE—L  
6000 WATERDAM PLAZA DRIVE  
#280  
MCMURRAY, PA 15317  
(724) 941-8199
- 26302  
MEDICAL ASSOCIATES BDHG—P  
935 HIGHLAND BLVD  
SUITE 2200  
BOZEMAN, MT 59715  
(406) 587-5123
- 05574  
MEDTOX LABORATORIES INC—LP  
402 WEST COUNTY ROAD D  
ST PAUL, MN 55112  
(651) 286-6217
- 00504  
NATIONAL MED SVCS INC/DBA NMS LABS—LP  
3701 WELSH ROAD  
WILLOW GROVE, PA 19090  
(215) 657-4900
- 30553  
NATIONWIDE CHILDRENS HOSPITAL—LP  
CORE LAB AND LAB INFORMATION SYSTEMS  
700 CHILDRENS DRIVE  
COLUMBUS, OH 43205  
(614) 722-5376
- 23801  
PACIFIC TOXICOLOGY LABORATORIES—LP  
9348 DE SOTO AVENUE  
CHATSWORTH, CA 91311  
(818) 598-3110
- 02125  
PED ALLIANCE ST CLAIR PED DIV—L  
1580 MCLAUGHLIN RUN ROAD  
PINERIDGE COMMONS  
SUITE 208  
UPPER ST CLAIR, PA 15241  
(412) 221-2121
- 25170  
PEDIATRIC CARE SPECIALISTS—L  
1322 EISENHOWER BOULEVARD  
JOHNSTOWN, PA 15904  
(814) 266-8840
- 22533  
PENNSYLVANIA DEPT OF HEALTH—LP  
110 PICKERING WAY  
EXTON, PA 19341  
(610) 280-3464

00022  
POCONO MEDICAL CENTER LAB—L  
206 EAST BROWN STREET  
EAST STROUDSBURG, PA 18301  
(570) 476-3544

00324  
PRIMARY CARE HLTH SERV INC LAB—L  
7227 HAMILTON AVE  
PITTSBURGH, PA 15208  
(412) 244-4728

00255  
PUBLIC HEALTH LAB CITY OF PHILA—L  
500 SOUTH BROAD STREET  
ROOM 359  
PHILADELPHIA, PA 19146  
(215) 685-6812

22715  
QUEST DIAGNOSTICS—LP  
10101 RENNER BOULEVARD  
LENEXA, KS 66219-9752  
(913) 888-1770

00315  
QUEST DIAGNOSTICS CLINICAL LABS INC—L  
900 BUSINESS CENTER DRIVE  
HORSHAM, PA 19044  
(215) 957-9300

00669  
QUEST DIAGNOSTICS INCORPORATED—L  
ONE MALCOLM AVENUE  
TETERBORO, NJ 07608  
(201) 393-5895

21422  
QUEST DIAGNOSTICS INCORPORATED—LP  
1901 SULPHUR SPRING ROAD  
BALTIMORE, MD 21227  
(301) 247-9100

01136  
QUEST DIAGNOSTICS NICHOLS INSTITUTE—LP  
14225 NEWBROOK DRIVE  
P. O. BOX 10841  
CHANTILLY, VA 20153-0841  
(703) 802-6900

00482  
QUEST DIAGNOSTICS OF PA INC—LP  
875 GREENTREE ROAD  
4 PARKWAY CENTER  
PITTSBURGH, PA 15220-3610  
(412) 920-7600

25461  
QUEST DIAGNOSTICS VENTURE LLC—LP  
875 GREENTREE ROAD  
4 PARKWAY CENTER  
PITTSBURGH, PA 15220-3610  
(412) 920-7631

00150  
READING HOSPITAL & MED CTR—L  
6TH AND SPRUCE STREETS  
WEST READING, PA 19611  
(610) 988-8080

31527  
SHIEL MEDICAL LABORATORY—L  
63 FLUSHING AVENUE  
BROOKLYN NAVY YARD  
UNIT 336  
BROOKLYN, NY 11205  
(718) 552-1000

22376  
SPECIALTY LABORATORIES INC—L  
27027 TOURNEY ROAD  
VALENCIA, CA 91355  
(661) 799-6543

00151  
ST JOSEPH QUALITY MEDICAL LAB—L  
2500 BERNVILLE ROAD  
READING, PA 19605-9453  
(610) 378-2200

00104  
THE UNIONTOWN HOSPITAL LABORATORY—L  
500 WEST BERKELEY STREET  
UNIONTOWN, PA 15401  
(724) 430-5143

00083  
UPMC PRESBYTERIAN SHADYSIDE CP PUH—L  
ROOM 5929  
MAIN TOWER CHP  
200 LOTHROP STREET  
PITTSBURGH, PA 15213-2582  
(412) 648-6000

00018  
VWHCS HOSP DBA PENNANT LABORATORY—L  
575 NORTH RIVER STREET  
WILKES-BARRE, PA 18764  
(570) 829-8111

MICHAEL K. HUFF, R.N.,  
*Acting Secretary*

[Pa.B. Doc. No. 11-17. Filed for public inspection December 30, 2010, 9:00 a.m.]

## DEPARTMENT OF MILITARY AND VETERANS AFFAIRS

### Determination of Need; Disabled Veterans' Real Estate Tax Exemption

Under 51 Pa.C.S. § 8904 (relating to duty of commission), the State Veterans' Commission (Commission) fixes uniform and equitable standards for the determination of need for certain disabled veterans and their unmarried surviving spouses to qualify for an exemption from real estate taxes on their principal dwellings. In so doing, the Commission is required by law to apply a rebuttable presumption that an applicant with annual income of \$75,000 or less has a need for the exemption.

Section 8904 of 51 Pa.C.S. further provides that, beginning January 1, 2009, the Commission will adjust the annual income level qualifying for the rebuttable presumption in an amount equal to the change in the Consumer Price Index for the preceding 2 years. Thus, effective January 1, 2009, the income level qualifying for the rebuttable presumption was adjusted to \$79,050.

Section 8904 of 51 Pa.C.S. requires that income level be adjusted effective January 1, 2011. During the 2-year period from December 1, 2008, until November 30, 2010, the Consumer Price Index (All Urban Consumers/Seasonally Adjusted) increased by a total of 2.9%. Accordingly, beginning January 1, 2011, the Commission will apply a rebuttable presumption that an applicant for the Disabled Veterans' Real Estate Tax Exemption program with an annual income of \$81,340 or less demonstrates a need for the exemption.



In applying the \$81,340 annual income level, the Office of Deputy Adjutant General for Veterans' Affairs will follow the following approach in determining the effective date of the exemption.

Applications pending on December 31, 2010, which are determined to demonstrate need based on eligibility criteria applicable on or before that date, shall be effective based on the date of application as provided by 43 Pa. Code § 5.25 (relating to effective date of exemption).

Applications pending on December 31, 2010, which did not demonstrate need applying the prior annual rebuttable presumption income level, but which would meet the need eligibility criteria applicable on January 1, 2011, shall be effective as of January 1, 2011.

Applications filed with the local boards for assessment and revision of taxes or similar board or agency on or after January 1, 2011, shall be effective based on the date of application as provided by 43 Pa. Code § 5.25.

Applicants who were denied certificates of need prior to January 1, 2011, but who believe they qualify after that date, may reapply, with the effective date of any exemption being based on the date of the new application as provided by 43 Pa. Code § 5.25.

STEPHEN M. SISCHO,  
Major General, PaANG  
Acting Adjutant General

[Pa.B. Doc. No. 11-18. Filed for public inspection December 30, 2010, 9:00 a.m.]

## DEPARTMENT OF REVENUE

### Pennsylvania Lucky Emerald 8s Instant Lottery Game

Under the State Lottery Law (72 P.S. §§ 3761-101—3761-314) and 61 Pa. Code § 819.203 (relating to notice of instant game rules), the Secretary of Revenue hereby provides public notice of the rules for the following instant lottery game:

1. *Name:* The name of the game is Pennsylvania Lucky Emerald 8s.

2. *Price:* The price of a Pennsylvania Lucky Emerald 8s instant lottery game ticket is \$5.

3. *Play Symbols:* Each Pennsylvania Lucky Emerald 8s instant lottery game ticket will contain one play area. The play symbols and their captions printed in black ink, located in the play area are: 1 (ONE), 2 (TWO), 3 (THREE), 4 (FOUR), 5 (FIVE), 6 (SIX), 7 (SEVEN), Bell (BELL) symbol, Coins (COIN) symbol, Gold Bar (GBAR) symbol, Horseshoe (SHOE) symbol, Star (STAR) symbol, Diamond (DIAM) symbol, Sapphire (SAPH) symbol, Ruby (RUBY) symbol, Moon (MOON) symbol and an 8 (EIGHT) symbol. The play symbols and their captions printed in green ink, located in the play area are: 1 (ONE), 2 (TWO), 3 (THREE), 4 (FOUR), 5 (FIVE), 6 (SIX), 7 (SEVEN), Bell (BELL) symbol, Coins (COIN) symbol, Gold Bar (GBAR) symbol, Horseshoe (SHOE) symbol, Star (STAR) symbol, Diamond (DIAM) symbol, Sapphire (SAPH) symbol, Ruby (RUBY) symbol, Moon (MOON) symbol, Emerald (EMERALD) symbol and a Green 8 (GEIGHT) symbol.

4. *Prize Symbols:* The prize symbols and their captions are: \$2<sup>00</sup> (TWO DOL), \$5<sup>00</sup> (FIV DOL), \$8<sup>00</sup> (EGT DOL),

\$10<sup>00</sup> (TEN DOL), \$16<sup>00</sup> (SIXTN), \$20<sup>00</sup> (TWENTY), \$40<sup>00</sup> (FORTY), \$50<sup>00</sup> (FIFTY), \$80<sup>00</sup> (EIGHTY), \$100 (ONE HUN), \$800 (EGT HUN), \$1,000 (ONE THO), \$8,000 (EGT THO) and \$80,000 (EGTY THO).

5. *Prizes:* The prizes that can be won in this game are: \$2, \$5, \$8, \$10, \$16, \$20, \$40, \$50, \$80, \$100, \$800, \$1,000, \$8,000 and \$80,000. A player can win up to 12 times on a ticket.

6. *Approximate Number of Tickets Printed For the Game:* Approximately 4,800,000 tickets will be printed for the Pennsylvania Lucky Emerald 8s instant lottery game.

#### 7. Determination of Prize Winners:

(a) Holders of tickets with an Emerald (EMERALD) symbol, with the symbol and caption printed in green ink, and a prize symbol of \$80,000 (EGTY THO) appearing in the "prize" area to the right of that Emerald (EMERALD) symbol, on a single ticket, shall be entitled to a prize of \$80,000.

(b) Holders of tickets with an Emerald (EMERALD) symbol, with the symbol and caption printed in green ink, and a prize symbol of \$8,000 (EGT THO) appearing in the "prize" area to the right of that Emerald (EMERALD) symbol, on a single ticket, shall be entitled to a prize of \$8,000.

(c) Holders of tickets with an 8 (EIGHT) symbol, with the symbol and caption printed in black ink, and a prize symbol of \$1,000 (ONE THO) appearing in the "prize" area to the right of that 8 (EIGHT) symbol, on a single ticket, shall be entitled to a prize of \$8,000.

(d) Holders of tickets with an Emerald (EMERALD) symbol, with the symbol and caption printed in green ink, and a prize symbol of \$800 (EGT HUN) appearing in the "prize" area to the right of that Emerald (EMERALD) symbol, on a single ticket, shall be entitled to a prize of \$800.

(e) Holders of tickets with an 8 (EIGHT) symbol, with the symbol and caption printed in black ink, and a prize symbol of \$100 (ONE HUN) appearing in the "prize" area to the right of that 8 (EIGHT) symbol, on a single ticket, shall be entitled to a prize of \$800.

(f) Holders of tickets with an 8 (EIGHT) symbol, with the symbol and caption printed in black ink, and a prize symbol of \$50<sup>00</sup> (FIFTY) appearing in the "prize" area to the right of that 8 (EIGHT) symbol, on a single ticket, shall be entitled to a prize of \$400.

(g) Holders of tickets with an Emerald (EMERALD) symbol, with the symbol and caption printed in green ink, and a prize symbol of \$100 (ONE HUN) appearing in the "prize" area to the right of that Emerald (EMERALD) symbol, on a single ticket, shall be entitled to a prize of \$100.

(h) Holders of tickets with an Emerald (EMERALD) symbol, with the symbol and caption printed in green ink, and a prize symbol of \$80<sup>00</sup> (EIGHTY) appearing in the "prize" area to the right of that Emerald (EMERALD) symbol, on a single ticket, shall be entitled to a prize of \$80.

(i) Holders of tickets with a Green 8 (GEIGHT) symbol, with the symbol and caption printed in green ink, and a prize symbol of \$80<sup>00</sup> (EIGHTY) appearing in the "prize"

area to the right of that Green 8 (GEIGHT) symbol, on a single ticket, shall be entitled to a prize of \$80.

(j) Holders of tickets with an 8 (EIGHT) symbol, with the symbol and caption printed in black ink, and a prize symbol of \$10.<sup>00</sup> (TEN DOL) appearing in the “prize” area to the right of that 8 (EIGHT) symbol, on a single ticket, shall be entitled to a prize of \$80.

(k) Holders of tickets with an Emerald (EMERALD) symbol, with the symbol and caption printed in green ink, and a prize symbol of \$50.<sup>00</sup> (FIFTY) appearing in the “prize” area to the right of that Emerald (EMERALD) symbol, on a single ticket, shall be entitled to a prize of \$50.

(l) Holders of tickets with an Emerald (EMERALD) symbol, with the symbol and caption printed in green ink, and a prize symbol of \$40.<sup>00</sup> (FORTY) appearing in the “prize” area to the right of that Emerald (EMERALD) symbol, on a single ticket, shall be entitled to a prize of \$40.

(m) Holders of tickets with an 8 (EIGHT) symbol, with the symbol and caption printed in black ink, and a prize symbol of \$5.<sup>00</sup> (FIV DOL) appearing in the “prize” area to the right of that 8 (EIGHT) symbol, on a single ticket, shall be entitled to a prize of \$40.

(n) Holders of tickets with an Emerald (EMERALD) symbol, with the symbol and caption printed in green ink, and a prize symbol of \$20.<sup>00</sup> (TWENTY) appearing in the “prize” area to the right of that Emerald (EMERALD) symbol, on a single ticket, shall be entitled to a prize of \$20.

(o) Holders of tickets with an Emerald (EMERALD) symbol, with the symbol and caption printed in green ink,

and a prize symbol of \$16.<sup>00</sup> (SIXTN) appearing in the “prize” area to the right of that Emerald (EMERALD) symbol, on a single ticket, shall be entitled to a prize of \$16.

(p) Holders of tickets with an 8 (EIGHT) symbol, with the symbol and caption printed in black ink, and a prize symbol of \$2.<sup>00</sup> (TWO DOL) appearing in the “prize” area to the right of that 8 (EIGHT) symbol, on a single ticket, shall be entitled to a prize of \$16.

(q) Holders of tickets with an Emerald (EMERALD) symbol, with the symbol and caption printed in green ink, and a prize symbol of \$10.<sup>00</sup> (TEN DOL) appearing in the “prize” area to the right of that Emerald (EMERALD) symbol, on a single ticket, shall be entitled to a prize of \$10.

(r) Holders of tickets with an Emerald (EMERALD) symbol, with the symbol and caption printed in green ink, and a prize symbol of \$8.<sup>00</sup> (EGT DOL) appearing in the “prize” area to the right of that Emerald (EMERALD) symbol, on a single ticket, shall be entitled to a prize of \$8.

(s) Holders of tickets with an Emerald (EMERALD) symbol, with the symbol and caption printed in green ink, and a prize symbol of \$5.<sup>00</sup> (FIV DOL) appearing in the “prize” area to the right of that Emerald (EMERALD) symbol, on a single ticket, shall be entitled to a prize of \$5.

8. *Number and Description of Prizes and Approximate Odds:* The following table sets forth the approximate number of winners, amounts of prizes and approximate odds of winning:

<i>Reveal An Emerald Symbol, Win Prize Shown To The Right Of That Symbol. Win With Prizes Of:</i>	<i>Win:</i>	<i>Approximate Odds Are 1 In:</i>	<i>Approximate No. of Winners Per 4,800,000 Tickets:</i>
\$5	\$5	12.5	384,000
\$8	\$8	15	320,000
\$5 × 2	\$10	60	80,000
\$10	\$10	60	80,000
\$8 × 2	\$16	300	16,000
\$2 w/8 SYMBOL	\$16	54.55	88,000
\$16	\$16	300	16,000
\$5 × 4	\$20	200	24,000
\$10 × 2	\$20	200	24,000
\$20	\$20	150	32,000
\$5 w/8 SYMBOL	\$40	120	40,000
\$8 × 5	\$40	600	8,000
\$10 × 4	\$40	600	8,000
(\$16 × 2) + \$8	\$40	600	8,000
\$20 × 2	\$40	600	8,000
\$40	\$40	600	8,000
\$5 × 10	\$50	6,000	800
(\$5 w/8 SYMBOL) + (\$5 × 2)	\$50	6,000	800
\$10 × 5	\$50	6,000	800
(\$16 × 2) + \$10 + \$8	\$50	6,000	800
(\$20 × 2) + (\$5 × 2)	\$50	6,000	800
\$50	\$50	6,000	800
\$8 × 10	\$80	2,667	1,800
\$10 w/8 SYMBOL	\$80	1,333	3,600
\$16 × 5	\$80	3,429	1,400
\$20 × 4	\$80	3,429	1,400
GREEN 8 SYMBOL	\$80	480	10,000
\$40 × 2	\$80	3,000	1,600
\$80	\$80	2,667	1,800

Reveal An Emerald Symbol,  
Win Prize Shown To The  
Right Of That Symbol. Win  
With Prizes Of:

(\$8 × 10) + (\$10 × 2)  
(\$10 w/8 SYMBOL) + (\$10 × 2)  
\$20 × 5  
\$50 × 2  
GREEN 8 SYMBOL + \$20  
\$100  
\$80 × 10  
GREEN 8 SYMBOL × 10  
(\$50 w/8 SYMBOL) + (\$50 × 8)  
\$100 w/8 SYMBOL  
\$800  
\$1,000 w/8 SYMBOL  
\$800 × 10  
\$8,000  
\$80,000

Win:

\$100  
\$100  
\$100  
\$100  
\$100  
\$100  
\$800  
\$800  
\$800  
\$800  
\$8,000  
\$8,000  
\$8,000  
\$80,000

Approximate  
Odds Are 1 In:

4,800  
4,800  
6,000  
6,000  
3,429  
4,800  
120,000  
40,000  
60,000  
60,000  
60,000  
240,000  
480,000  
480,000  
480,000

Approximate No.  
of Winners Per  
4,800,000  
Tickets:

1,000  
1,000  
800  
800  
1,400  
1,000  
40  
120  
80  
80  
80  
20  
10  
10  
10

"8" (EIGHT) symbol = win 8 times the prize shown to the right of it.  
"GREEN 8" (GEIGHT) symbol = win \$80 instantly.

Prizes, including top prizes, are subject to availability at the time of purchase.

9. *Retailer Incentive Awards:* The Lottery may conduct a separate Retailer Incentive Game for retailers who sell Pennsylvania Lucky Emerald 8s instant lottery game tickets. The conduct of the game will be governed by 61 Pa. Code § 819.222 (relating to retailer bonuses and incentive).

10. *Unclaimed Prize Money:* For a period of 1 year from the announced close of Pennsylvania Lucky Emerald 8s, prize money from winning Pennsylvania Lucky Emerald 8s instant lottery game tickets will be retained by the Secretary for payment to the persons entitled thereto. If no claim is made within 1 year of the announced close of the Pennsylvania Lucky Emerald 8s instant lottery game, the right of a ticket holder to claim the prize represented by the ticket, if any, will expire and the prize money will be paid into the State Lottery Fund and used for purposes provided for by statute.

11. *Governing Law:* In purchasing a ticket, the customer agrees to comply with and abide by the State Lottery Law (72 P.S. §§ 3761-101—3761-314), 61 Pa. Code Part V (relating to State Lotteries) and the provisions contained in this notice.

12. *Termination of the Game:* The Secretary may announce a termination date, after which no further tickets from this game may be sold. The announcement will be disseminated through media used to advertise or promote Pennsylvania Lucky Emerald 8s or through normal communications methods.

C. DANIEL HASSELL,  
Secretary

[Pa.B. Doc. No. 11-19. Filed for public inspection December 30, 2010, 9:00 a.m.]

## Pennsylvania Pot O' Gold '11 Instant Lottery Game

Under the State Lottery Law (72 P.S. §§ 3761-101—3761-314) and 61 Pa. Code § 819.203 (relating to notice of instant game rules), the Secretary of Revenue hereby provides public notice of the rules for the following instant lottery game:

1. *Name:* The name of the game is Pennsylvania Pot O' Gold '11.

2. *Price:* The price of a Pennsylvania Pot O' Gold '11 instant lottery game ticket is \$2.

3. *Play Symbols:* Each Pennsylvania Pot O' Gold '11 instant lottery game ticket will contain one play area featuring a "WINNING NUMBERS" area and a "YOUR NUMBERS" area. The play symbols and their captions located in the "WINNING NUMBERS" area are: 1 (ONE), 2 (TWO), 3 (THREE), 4 (FOUR), 5 (FIVE), 6 (SIX), 7 (SEVEN), 8 (EIGHT), 9 (NINE), 10 (TEN), 11 (ELEVN), 12 (TWLV), 13 (THRTN), 14 (FORTN), 15 (FIFTN), 16 (SIXTN), 17 (SVNTN), 18 (EGHTN), 19 (NINTN) and 20 (TWENT). The play symbols and their captions located in the "YOUR NUMBERS" area are: 1 (ONE), 2 (TWO), 3 (THREE), 4 (FOUR), 5 (FIVE), 6 (SIX), 7 (SEVEN), 8 (EIGHT), 9 (NINE), 10 (TEN), 11 (ELEVN), 12 (TWLV), 13 (THRTN), 14 (FORTN), 15 (FIFTN), 16 (SIXTN), 17 (SVNTN), 18 (EGHTN), 19 (NINTN), 20 (TWENT), Leprechaun (LEPCH) symbol and a Pot Of Gold (PTGOLD) symbol.

4. *Prize Symbols:* The prize symbols and their captions located in the "YOUR NUMBERS" area are: \$1.<sup>00</sup> (ONE DOL), \$2.<sup>00</sup> (TWO DOL), \$4.<sup>00</sup> (FOR DOL), \$5.<sup>00</sup> (FIV DOL), \$10.<sup>00</sup> (TEN DOL), \$20.<sup>00</sup> (TWENTY), \$40.<sup>00</sup> (FORTY), \$50.<sup>00</sup> (FIFTY), \$100 (ONE HUN), \$400 (FOR HUN), \$1,000 (ONE THO) and \$17,000 (SVNTN THO).

5. *Prizes:* The prizes that can be won in this game are: \$1, \$2, \$4, \$5, \$10, \$20, \$40, \$50, \$100, \$400, \$1,000 and \$17,000. The player can win up to 10 times on a ticket.

6. *Approximate Number of Tickets Printed For the Game:* Approximately 6,120,000 tickets will be printed for the Pennsylvania Pot O' Gold '11 instant lottery game.

7. *Determination of Prize Winners:*

(a) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches either of the "WINNING NUMBERS" play symbols and a prize symbol of \$17,000 (SVNTN THO) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$17,000.

(b) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches either of the "WINNING NUMBERS" play symbols and a prize symbol

of \$1,000 (ONE THO) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$1,000.

(c) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Pot Of Gold (PTGOLD) symbol, and a prize symbol of \$100 (ONE HUN) appears in each of the ten "prize" areas, on a single ticket, shall be entitled to a prize of \$1,000.

(d) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches either of the "WINNING NUMBERS" play symbols and a prize symbol of \$400 (FOR HUN) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$400.

(e) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Pot Of Gold (PTGOLD) symbol, and a prize symbol of \$40<sup>00</sup> (FORTY) appears in each of the ten "prize" areas, on a single ticket, shall be entitled to a prize of \$400.

(f) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Leprechaun (LEPCH) symbol, and a prize symbol of \$100 (ONE HUN) appears under the Leprechaun (LEPCH) symbol, on a single ticket, shall be entitled to a prize of \$200.

(g) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches either of the "WINNING NUMBERS" play symbols and a prize symbol of \$100 (ONE HUN) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$100.

(h) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Leprechaun (LEPCH) symbol, and a prize symbol of \$50<sup>00</sup> (FIFTY) appears under the Leprechaun (LEPCH) symbol, on a single ticket, shall be entitled to a prize of \$100.

(i) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Pot Of Gold (PTGOLD) symbol, and a prize symbol of \$10<sup>00</sup> (TEN DOL) appears in each of the ten "prize" areas, on a single ticket, shall be entitled to a prize of \$100.

(j) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Leprechaun (LEPCH) symbol, and a prize symbol of \$40<sup>00</sup> (FORTY) appears under the Leprechaun (LEPCH) symbol, on a single ticket, shall be entitled to a prize of \$80.

(k) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches either of the "WINNING NUMBERS" play symbols and a prize symbol of \$50<sup>00</sup> (FIFTY) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$50.

(l) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Pot Of Gold (PTGOLD) symbol, and a prize symbol of \$5<sup>00</sup> (FIV DOL) appears in each of the ten "prize" areas, on a single ticket, shall be entitled to a prize of \$50.

(m) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches either of the "WINNING NUMBERS" play symbols and a prize symbol of \$40<sup>00</sup> (FORTY) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$40.

(n) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Leprechaun (LEPCH) symbol, and a prize symbol of \$20<sup>00</sup> (TWENTY) appears under the Leprechaun (LEPCH) symbol, on a single ticket, shall be entitled to a prize of \$40.

(o) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Pot Of Gold (PTGOLD) symbol, and a prize symbol of \$4<sup>00</sup> (FOR DOL) appears in each of the ten "prize" areas, on a single ticket, shall be entitled to a prize of \$40.

(p) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches either of the "WINNING NUMBERS" play symbols and a prize symbol of \$20<sup>00</sup> (TWENTY) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$20.

(q) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Leprechaun (LEPCH) symbol, and a prize symbol of \$10<sup>00</sup> (TEN DOL) appears under the Leprechaun (LEPCH) symbol, on a single ticket, shall be entitled to a prize of \$20.

(r) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Pot Of Gold (PTGOLD) symbol, and a prize symbol of \$2<sup>00</sup> (TWO DOL) appears in each of the ten "prize" areas, on a single ticket, shall be entitled to a prize of \$20.

(s) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches either of the "WINNING NUMBERS" play symbols and a prize symbol of \$10<sup>00</sup> (TEN DOL) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$10.

(t) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Leprechaun (LEPCH) symbol, and a prize symbol of \$5<sup>00</sup> (FIV DOL) appears under the Leprechaun (LEPCH) symbol, on a single ticket, shall be entitled to a prize of \$10.

(u) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Pot Of Gold (PTGOLD) symbol, and a prize symbol of \$1<sup>00</sup> (ONE DOL) appears in each of the ten "prize" areas, on a single ticket, shall be entitled to a prize of \$10.

(v) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches either of the "WINNING NUMBERS" play symbols and a prize symbol of \$5<sup>00</sup> (FIV DOL) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$5.

(w) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches either of the "WINNING NUMBERS" play symbols and a prize symbol of \$4<sup>00</sup> (FOR DOL) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$4.

(x) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Leprechaun (LEPCH) symbol, and a prize symbol of \$2<sup>00</sup> (TWO DOL) appears under the Leprechaun (LEPCH) symbol, on a single ticket, shall be entitled to a prize of \$4.

(y) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches either of the "WINNING NUMBERS" play symbols and a prize symbol of \$2<sup>00</sup> (TWO DOL) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$2.

(z) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Leprechaun (LEPCH) symbol, and a prize symbol of \$1<sup>00</sup> (ONE DOL) appears under the Leprechaun (LEPCH) symbol, on a single ticket, shall be entitled to a prize of \$2.

(aa) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches either of the "WINNING NUMBERS" play symbols and a prize symbol

of \$1<sup>00</sup> (ONE DOL) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$1.

8. *Number and Description of Prizes and Approximate Odds:* The following table sets forth the approximate number of winners, amounts of prizes and approximate odds of winning:

When Any Of Your Numbers  
Match Either Winning  
Number, Win Prize Shown  
Under The Matching Number.  
Win With Prize(s) Of:

Win:	Approximate Odds Are 1 In:	Approximate No. Of Winners Per 6,120,000 Tickets	
\$1 × 2	\$2	37.5	163,200
\$1 w/LEPRECHAUN	\$2	30	204,000
\$2	\$2	30	204,000
\$1 × 4	\$4	75	81,600
\$2 × 2	\$4	150	40,800
\$2 w/LEPRECHAUN	\$4	37.5	163,200
\$4	\$4	75	81,600
\$1 × 5	\$5	150	40,800
\$1 + (\$1 w/LEPRECHAUN) + \$2	\$5	50	122,400
\$5	\$5	150	40,800
POT OF GOLD w/(\$1 × 10)	\$10	250	24,480
\$2 × 5	\$10	300	20,400
(\$1 w/LEPRECHAUN) + (\$2 × 4)	\$10	375	16,320
\$5 w/LEPRECHAUN	\$10	300	20,400
\$10	\$10	300	20,400
POT OF GOLD w/(\$2 × 10)	\$20	750	8,160
\$4 × 5	\$20	750	8,160
\$5 × 4	\$20	750	8,160
\$10 × 2	\$20	1,500	4,080
\$10 w/LEPRECHAUN	\$20	500	12,240
\$20	\$20	750	8,160
POT OF GOLD w/(\$4 × 10)	\$40	1,333	4,590
(\$4 × 5) + (\$5 × 4)	\$40	4,000	1,530
\$5 × 8	\$40	2,000	3,060
\$10 × 4	\$40	4,000	1,530
\$20 × 2	\$40	4,000	1,530
\$20 w/LEPRECHAUN	\$40	1,000	6,120
\$40	\$40	2,000	3,060
POT OF GOLD w/(\$5 × 10)	\$50	2,000	3,060
\$10 × 5	\$50	6,000	1,020
(\$10 w/LEPRECHAUN) + (\$5 × 6)	\$50	3,000	2,040
(\$20 w/LEPRECHAUN) + \$10	\$50	3,000	2,040
\$50	\$50	3,000	2,040
POT OF GOLD w/(\$10 × 10)	\$100	6,000	1,020
\$20 × 5	\$100	12,000	510
(\$40 w/LEPRECHAUN) + (5 × 4)	\$100	12,000	510
\$50 w/LEPRECHAUN	\$100	5,217	1,173
\$100	\$100	8,000	765
POT OF GOLD w/(\$40 × 10)	\$400	120,000	51
\$50 × 8	\$400	120,000	51
(\$100 w/LEPRECHAUN) + (\$100 × 2)	\$400	120,000	51
\$400	\$400	120,000	51
POT OF GOLD w/(\$100 × 10)	\$1,000	180,000	34
\$1,000	\$1,000	180,000	34
\$17,000	\$17,000	360,000	17

Get a "LEPRECHAUN" (LEPCH) symbol, win double the prize shown under it.

Get a "POT OF GOLD" (PTGOLD) symbol, win all 10 prizes shown.

Prizes, including top prizes, are subject to availability at the time of purchase.

9. *Retailer Incentive Awards:* The Lottery may conduct a separate Retailer Incentive Game for retailers who sell Pennsylvania Pot O' Gold '11 instant lottery game tickets.

The conduct of the game will be governed by 61 Pa. Code § 819.222 (relating to retailer bonuses and incentive).

10. *Unclaimed Prize Money:* For a period of 1 year from the announced close of Pennsylvania Pot O' Gold '11, prize money from winning Pennsylvania Pot O' Gold '11

instant lottery game tickets will be retained by the Secretary for payment to the persons entitled thereto. If no claim is made within 1 year of the announced close of the Pennsylvania Pot O' Gold '11 instant lottery game, the right of a ticket holder to claim the prize represented by the ticket, if any, will expire and the prize money will be paid into the State Lottery Fund and used for purposes provided for by statute.

11. *Governing Law:* In purchasing a ticket, the customer agrees to comply with and abide by the State Lottery Law (72 P.S. §§ 3761-101—3761-314), 61 Pa. Code Part V (relating to State Lotteries) and the provisions contained in this notice.

12. *Termination of the Game:* The Secretary may announce a termination date, after which no further tickets from this game may be sold. The announcement will be disseminated through media used to advertise or promote Pennsylvania Pot O' Gold '11 or through normal communications methods.

C. DANIEL HASSELL,  
*Secretary*

[Pa.B. Doc. No. 11-20. Filed for public inspection December 30, 2010, 9:00 a.m.]

## DEPARTMENT OF TRANSPORTATION

### Requests for Modification or Inclusion of Funding for Public Use Airport Projects in the 2012 Four-Year Plan

Airport development funding requests submitted by public use airports to the Department of Transportation, Bureau of Aviation (Bureau) for inclusion in the Twelve-Year Plan or Four-Year Plan are eligible for consideration if submitted by December 1, 2011.

The Bureau is accepting funding requests by public use airports for inclusion in the Twelve-Year Plan or Four-Year Plan through the close of business on December 1, 2011. Requests must be submitted to the Bureau electronically through the Joint Automated Capital Improvement Program database after May 31, 2011, but no later than December 1, 2011. All requests must be submitted by the deadline to be eligible for grant funding consideration.

Each year, under 74 Pa.C.S. §§ 6121 and 6122 (relating to tax on aviation fuels; and allocation of funds) and 67 Pa. Code §§ 473.5a and 473.5b (relating to project selection process and criteria; and important dates and notification procedure), the Bureau selects projects to maintain a balanced Four-Year Plan from Twelve-Year Plan/Four-Year Plan projects on file by the submission deadline.

More detailed Twelve- or Four-Year Program information is available at [www.dot.state.pa.us](http://www.dot.state.pa.us) or by contacting the Bureau at (717) 705-1260.

ALLEN D. BIEHLER, P. E.,  
*Secretary*

[Pa.B. Doc. No. 11-21. Filed for public inspection December 30, 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, January 12, 2011, Data Systems Committee Teleconference at 10 a.m. and Thursday, January 13, 2011, Council Meeting at 10 a.m.

The teleconference will be accessible from the conference room at the Council Office, 225 Market Street, Suite 400, Harrisburg, PA 17101. The public is invited to attend. Persons who need accommodation due to a disability and wish to attend the meeting should contact Reneé Greenawalt, (717) 232-6787 at least 24 hours in advance so that arrangements can be made.

JOE MARTIN,  
*Executive Director*

[Pa.B. Doc. No. 11-22. Filed for public inspection December 30, 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, December 16, 2010, and announced the following:

*Regulations Deemed Approved under section 5(g) of the Regulatory Review Act—Effective November 30, 2010:*

Insurance Department #11-245: Property and Casualty Actuarial Opinion (amends 31 Pa. Code Chapter 118a)

Insurance Department #11-244: Actuarial Opinion and Memorandum (amends 31 Pa. Code Chapter 84b)

Insurance Department #11-246: Recognition of the 2001 CSO Mortality Table and the 2001 CSO Preferred Class Structure Mortality Table For Use in Determining Minimum Reserve Liabilities (amends 31 Pa. Code Chapter 84d)

Insurance Department #11-247: Valuation of Life Insurance Policies (amends 31 Pa. Code Chapter 84c)

*Action Taken—Regulations Approved:*

Department of Revenue #15-450: Amendments to Pennsylvania Gaming Cash Flow Management (amends 61 Pa. Code Chapter 1001)

Insurance Department #11-240: Education and Training for Applicants and Insurance Producers (deletes 31 Pa. Code Chapter 39 and replaces it with Chapter 39a)

Department of Labor and Industry #12-74: Unemployment Compensation; Employee Provisions (amends 34 Pa. Code Chapter 65)

Department of Labor and Industry #12-78: Unemployment Compensation; Administration (amends 34 Pa. Code Chapter 61)

State Registration Board for Professional Engineers, Land Surveyors and Geologists #16A-4710: Continuing Education (amends 49 Pa. Code Chapter 37)

Department of State, Bureau of Professional and Occupational Affairs #16-43: Schedule of Civil Penalties—Engineers, Land Surveyors and Geologists (amends 49 Pa. Code Chapter 43b)

State Board of Chiropractic #16A-4318: Continuing Education Violations (amends 49 Pa. Code § 5.77)

Department of State #16-44: Schedule of Civil Penalties—Chiropractors (amends 49 Pa. Code § 43b.22)

Department of Agriculture #2-160: Milk Sanitation (rescinds 7 Pa. Code Chapter 59 and replaces it with a new Chapter 59a)

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### Approval Order

Public Meeting held  
December 16, 2010

*Commissioners Voting:* Silvan B. Lutkewitte, III, Chairperson; George D. Bedwick, Vice Chairperson; Arthur Coccodrilli; S. David Fineman, Esq.; John F. Mizner, Esq.

*Department of Revenue—  
Amendments to Pennsylvania Gaming  
Cash Flow Management;  
Regulation No. 15-450 (#2882)*

On November 3, 2010, the Independent Regulatory Review Commission (Commission) received this regulation from the Department of Revenue (Department). This rulemaking amends 61 Pa. Code Chapter 1001. Notice of proposed rulemaking was omitted for this regulation; it will become effective upon publication in the *Pennsylvania Bulletin*.

This final-omitted rulemaking amends the Department's Gaming Cash Flow Management regulations to allow for the administration and distribution of gross table game revenue.

We have determined this regulation is consistent with the statutory authority of the Department (4 Pa.C.S.A. § 1501) 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.

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### Approval Order

Public Meeting held  
December 16, 2010

*Commissioners Voting:* Silvan B. Lutkewitte, III, Chairperson; George D. Bedwick, Vice Chairperson; Arthur Coccodrilli; S. David Fineman, Esq.; John F. Mizner, Esq.

*Insurance Department—  
Education and Training for Applicants  
and Insurance Producers;  
Regulation No. 11-240 (#2812)*

On December 14, 2009, the Independent Regulatory Review Commission (Commission) received this proposed

regulation from the Insurance Department (Department). This rulemaking deletes 31 Pa. Code Chapter 39 and replaces it with Chapter 39a. The proposed regulation was published in the December 26, 2009 *Pennsylvania Bulletin* with a 30-day public comment period. The final-form regulation was submitted to the Commission on November 9, 2010.

This rulemaking establishes new training requirements for insurance producers and insurers writing long term care insurance and insurance producers selling flood insurance. It also clarifies existing training and education requirements for insurance producers.

We have determined this regulation is consistent with the statutory authority of the Department (71 P. S. § 186 and 40 P. S. §§ 310.4, 310.8 and 310.98) 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.

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### Approval Order

Public Meeting held  
December 16, 2010

*Commissioners Voting:* Silvan B. Lutkewitte, III, Chairperson; George D. Bedwick, Vice Chairperson; Arthur Coccodrilli; S. David Fineman, Esq.; John F. Mizner, Esq.

*Department of Labor and Industry—  
Unemployment Compensation; Employee Provisions;  
Regulation No. 12-74 (#2846)*

On May 10, 2010, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the Department of Labor and Industry (Department). This rulemaking amends 34 Pa. Code Chapter 65. The proposed regulation was published in the May 22, 2010 *Pennsylvania Bulletin* with a 30-day public comment period. The final-form regulation was submitted to the Commission on November 9, 2010.

This rulemaking updates the Department's existing regulations, pertaining to employee provisions for unemployment compensation, to conform to current law and practice.

We have determined this regulation is consistent with the statutory authority of the Department (43 P. S. § 761(a)) 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.

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### Approval Order

Public Meeting held  
December 16, 2010

*Commissioners Voting:* Silvan B. Lutkewitte, III, Chairperson; George D. Bedwick, Vice Chairperson; Arthur Coccodrilli; S. David Fineman, Esq.; John F. Mizner, Esq.

*Department of Labor and Industry—  
Unemployment Compensation; Administration;  
Regulation No. 12-78 (#2847)*

On May 10, 2010, the Independent Regulatory Review Commission (Commission) received this proposed regula-

tion from the Department of Labor and Industry (Department). This rulemaking amends 34 Pa. Code Chapter 61. The proposed regulation was published in the May 22, 2010 *Pennsylvania Bulletin* with a 30-day public comment period. The final-form regulation was submitted to the Commission on November 9, 2010.

This rulemaking updates the Department's existing regulations, pertaining to administration of unemployment compensation, to conform to current law and practice.

We have determined this regulation is consistent with the statutory authority of the Department of Labor and Industry (43 P.S. § 761(a)) 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.

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**Approval Order**

Public Meeting held  
December 16, 2010

*Commissioners Voting:* Silvan B. Lutkewitte, III, Chairperson; George D. Bedwick, Vice Chairperson; Arthur Coccodrilli; S. David Fineman, Esq.; John F. Mizner, Esq.

*State Registration Board for Professional Engineers, Land Surveyors and Geologists—Continuing Education;  
Regulation No. 16A-4710 (#2762)*

On April 22, 2009, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the State Registration Board for Professional Engineers, Land Surveyors and Geologists (Board). This rulemaking amends 49 Pa. Code Chapter 37. The proposed regulation was published in the May 2, 2009 *Pennsylvania Bulletin* with a 30-day public comment period. A final-form regulation was submitted to the Commission on September 3, 2010, but was disapproved by the Commission on October 7, 2010. The Board resubmitted the final-form regulation with changes to the Commission on November 24, 2010.

This regulation establishes continuing education requirements for licensees of the Board as set forth by Engineer, Land Surveyor and Geologist Registration Law, as amended by Act 25 of 2010.

We have determined this regulation is consistent with the statutory authority of the Board (63 P.S. § 151(l)) 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.

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**Approval Order**

Public Meeting held  
December 16, 2010

*Commissioners Voting:* Silvan B. Lutkewitte, III, Chairperson; George D. Bedwick, Vice Chairperson; Arthur Coccodrilli; S. David Fineman, Esq.; John F. Mizner, Esq.

*Department of State; Bureau of Professional and Occupational Affairs—  
Schedule of Civil Penalties—Engineers,  
Land Surveyors and Geologists;  
Regulation No. 16-43 (#2764)*

On April 22, 2009, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the Department of State (Department). This rulemaking amends 49 Pa. Code Chapter 43b. The proposed regulation was published in the May 2, 2009 *Pennsylvania Bulletin* with a 30-day public comment period. A final-form regulation was submitted to the Commission on September 3, 2010, but was disapproved by the Commission on October 7, 2010, at the request of the Department's counsel, given that the companion Regulation #16A-4710 (IRRC #2762) had been disapproved at the same public meeting. The Department resubmitted the final-form regulation without changes to the Commission on November 24, 2010.

This final regulation would establish a civil penalty schedule for violations of the continuing education requirements of the State Registration Board for Professional Engineers, Land Surveyors and Geologists (Board). This regulation is the companion piece to Regulation #16A-4710 (IRRC #2762) from the Board entitled: "Continuing Education."

We have determined this regulation is consistent with the statutory authority of the Department (63 P.S. §§ 2205(a), 151(g) and 158(b)) 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.

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**Approval Order**

Public Meeting held  
December 16, 2010

*Commissioners Voting:* Silvan B. Lutkewitte, III, Chairperson; George D. Bedwick, Vice Chairperson; Arthur Coccodrilli; S. David Fineman, Esq.; John F. Mizner, Esq.

*State Board of Chiropractic—  
Continuing Education Violations;  
Regulation No. 16A-4318 (#2792)*

On September 11, 2009, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the State Board of Chiropractic (Board). This rulemaking amends 49 Pa. Code § 5.77. The proposed regulation was published in the September 26, 2009 *Pennsylvania Bulletin* with a 30-day public comment period. A final-form regulation was submitted to the Commission on September 3, 2010, but was disapproved by the Commission on October 7, 2010. The Department resubmitted the final-form regulation with changes to the Commission on November 24, 2010.

This regulation clarifies the course of action the Board will take against a licensee who fails to comply with the continuing education provisions in the Chiropractic Practice Act (63 P.S. § 625.507(a)).



We have determined this regulation is consistent with the statutory authority of the Board (63 P.S. § 625.302(3)) 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.

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### Approval Order

Public Meeting held  
December 16, 2010

*Commissioners Voting:* Silvan B. Lutkewitte, III, Chairperson; George D. Bedwick, Vice Chairperson; Arthur Coccodrilli; S. David Fineman, Esq.; John F. Mizner, Esq.

*Department of State—  
Schedule of Civil Penalties—Chiropractors;  
Regulation No. 16-44 (#2791)*

On September 11, 2009, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the Department of State (Department). This rulemaking amends 49 Pa. Code § 43b.22. The proposed regulation was published in the September 26, 2009 *Pennsylvania Bulletin* with a 30-day public comment period. A final-form regulation was submitted to the Commission on September 3, 2010, but was disapproved by the Commission on October 7, 2010, at the request of the Department's counsel, given that the companion Regulation #16A-4318 (IRRC #2792) had been disapproved at the same public meeting. The Department resubmitted the final-form regulation without changes to the Commission on November 24, 2010.

This final regulation establishes a civil penalty schedule for violations of the continuing education requirements of the State Board of Chiropractic (Board). This regulation is the companion piece to Regulation #16A-4318 (IRRC # 2792) from the Board entitled: "Continuing Education Violations."

We have determined this regulation is consistent with the statutory authority of the Department (63 P.S. § 2205(a)) 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.

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### Approval Order

Public Meeting held  
December 16, 2010

*Commissioners Voting:* Silvan B. Lutkewitte, III, Chairperson; George D. Bedwick, Vice Chairperson; Arthur Coccodrilli; S. David Fineman, Esq.; John F. Mizner, Esq.

*Department of Agriculture—  
Milk Sanitation;  
Regulation No. 2-160 (#2777)*

On July 21, 2009, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the Department of Agriculture (Department). This rulemaking rescinds 7 Pa. Code Chapter 59 and

replaces it with a new Chapter 59a. The proposed regulation was published in the August 1, 2009 *Pennsylvania Bulletin* with a 60-day public comment period. At its October 7, 2010 public meeting, the Commission voted to disapprove the final-form regulation. On November 22, 2010, the Department submitted its report containing the revised final-form regulation to the Commission.

This final-form rulemaking reflects developments in the dairy industry, brings Pennsylvania's sanitation standards into alignment with federal standards and requirements, and consolidates and updates provisions addressing the production of raw milk for human consumption.

We have determined this regulation is consistent with the statutory authority of the Department (31 P.S. § 660(c) and 31 P.S. § 20.13) 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.

SILVAN B. LUTKEWITTE, III,  
Chairperson

[Pa.B. Doc. No. 11-23. Filed for public inspection December 30, 2010, 9:00 a.m.]

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## INSURANCE DEPARTMENT

### Increase in the Accident Surcharge Dollar Threshold (Cap) to \$1,450; Notice No. 2011-01

Insurers writing private passenger automobile insurance in this Commonwealth may not, by law, penalize their policyholders (for example, apply rate surcharges or otherwise increase premiums) whose aggregate claim cost over a 3-year period does not exceed a certain threshold (cap). This threshold (cap) applies to any person injured or property damaged, and is measured in excess of any deductible or self-insured retention. Effective July 1, 2011, the Insurance Department (Department) has increased the threshold (cap) to \$1,450.

Section 1799.3(a) of 75 Pa.C.S. (relating to limit on cancellations, refusals to renew, refusals to write, surcharges, rate penalties and point assignments) does not allow an insurer to "cancel or refuse to renew a policy or apply any surcharge, rate penalty or driver record point assignment" when the threshold (cap) is not exceeded.

By law, the Department is required to adjust the amount of the threshold (cap) at least once every 3 years. Section 1799.3(e) of 75 Pa.C.S. stipulates the adjustment be made relative to changes in the Consumer Price Index for medical care and automobile maintenance and repair costs and may be rounded to the nearest \$50. The underlying indices have averaged 3.3% (medical care) and 2.7% (maintenance and repair), annually, since the last adjustment. The previous adjustment to the threshold (cap) was effective July 1, 2008, when the threshold (cap) increased to \$1,350.

Each individual insurer, ISO, AIPSO and MSO should file the previously mentioned change for prior approval by April 1, 2011, and specify an effective date of no later than July 1, 2011.

To expedite the review process, companies are advised to limit their rate/rule filings to the required threshold revision only. Any unrelated changes, revisions and manual pages should not be included in the filing. Additionally, "surcharge disclosure plan(s)" required under section 1793(b) (relating to special provisions relating to premiums) do not require the Department's review and prior approval and should not be submitted in response to this notice.

Questions regarding this notice may be directed to Bojan Zorkic, Actuarial Review Division, Insurance Department, 1311 Strawberry Square, Harrisburg, PA 17120, (717) 787-6968, bzorkic@state.pa.us.

ROBERT L. PRATTER,  
*Acting Insurance Commissioner*

[Pa.B. Doc. No. 11-24. Filed for public inspection December 30, 2010, 9:00 a.m.]

## PENNSYLVANIA PUBLIC UTILITY COMMISSION

### Numbering Plan Area Relief Planning for the 814 NPA

Public Meeting held  
December 16, 2010

*Commissioners Present:* James H. Cawley, Chairperson;  
Tyrone J. Christy, Vice Chairperson; John F. Coleman,  
Jr.; Wayne E. Gardner; Robert F. Powelson

*Petition of the North American Numbering Plan  
Administrator on behalf of the Pennsylvania  
Telecommunications Industry for Approval of  
Numbering Plan Area Relief Planning  
for the 814 NPA; P-2009-2112925*

#### Final Order

*By the Commission:*

In this order, the Commission revisits the issue of area code exhaust<sup>1</sup> and the implementation of relief to address such exhaust. On June 9, 2009, the North American Numbering Plan Administrator (NANPA), Neustar, Inc. (Neustar), in its role as the neutral third party Numbering Plan Area (NPA) Relief Planner for Pennsylvania,<sup>2</sup> acting on behalf of the Pennsylvania telecommunications industry (Industry) filed a petition with the Commission requesting approval of its plan for the 814 Numbering Plan Area ("NPA" or "area code"). The Commission, therefore, is faced with deciding which form of area code relief should be implemented for the 814 area code and when the new area code must be added.

#### Background

The 814 area code is one of Pennsylvania's original four area codes. It was established in 1947. The geographic area covered by the 814 area code generally comprises the central portion of the state. The 814 NPA extends in a northerly direction to the borders of the state of New York, in a westerly direction towards the borders of the state of Ohio, and in a southerly direction to the borders

<sup>1</sup> The unavailability of NXX codes in an area code for assignment to telecommunications carriers leads to the exhaust of the area code.

<sup>2</sup> The NANPA is the entity that allocates numbering resources and monitors the viability of area codes to determine when all of the numbers available in the area code are nearing exhaust.

of the state of Maryland. The 814 NPA is divided into 178 rate centers which encompass twenty-six counties and includes such cities as State College, Altoona, Johnstown, Somerset and Erie.

Much of the information leading to the current area code relief process for the 814 NPA can be found in prior Commission orders. Therefore, we will not go into much detail in this order. Relief planning for the 814 area code initially began in 2002 when the 2001 Number Resource Utilization Forecast (NRUF) and NPA Exhaust Analysis June 1, 2001 Update (2001 NRUF Report)<sup>3</sup> indicated that the 814 NPA would exhaust during the first quarter of 2005. Consequently, the telecommunications industry met on March 21, 2002, in Pittsburgh, Pennsylvania, to discuss various relief alternatives that were set forth in the Initial Planning Document (IPD) that NANPA had distributed to them pursuant to the NPA Relief Planning Guidelines. The IPD contained descriptions, maps, general facts and assumptions, and the projected lives of a total of five relief alternatives consisting of three two-way geographic split alternatives, referred to in the IPD as Alternatives #1, #2 and #5, an all-services distributed overlay relief alternative, referred to as Alternative #3 and a technology specific overlay, referred to as Alternative #4.

At this March 21st meeting, the participants discussed the attributes of the relief alternatives and reached consensus to recommend to the Commission Alternative #3, the all-services distributed overlay plan, as the preferred method of relief for the 814 NPA. The all-services distributed overlay, would superimpose a new NPA over the same geographic area covered by the existing 814 NPA. All existing customers would retain the 814 area code and would not have to change their telephone numbers. Consistent with Federal Communications Commission (FCC) regulations, the relief plan would require 10-digit dialing for all local calls within and between the 814 NPA and the new NPA. The Industry further recommended that calls between NPAs be dialed using 1+10-digits and 0+10 dialing for operator assisted calls. Lastly, Industry participants reached consensus to recommend to the Commission a thirteen-month schedule for implementation of the overlay.

However, due to the implementation of the number conservation measure 1,000-block (1K) number pooling<sup>4</sup> in the 814 area code, the 814 area code experienced an unprecedented, efficient use its numbering resources, which, in turn, lengthened the life expectancy of the 814 area code. The Industry acknowledged the disruption to customers caused by changes in their area code, especially when implementing such area code relief is no longer necessary. Consequently, the Industry decided to delay filing the petition for relief until such time that future NRUF reports indicated a more immediate need.

Subsequently, the April 2009 NRUF Report indicated that the 814 NPA was projected to exhaust all of its available NXX codes during the third quarter of 2012. After the release of the April 2009 NRUF Report, the Industry met via conference call to re-initiate the 814 area code relief process and decided to file an updated petition for relief with the Commission recommending the

<sup>3</sup> Federal rules that went into effect on July 17, 2000, require all carriers to report to the NANPA their historical and forecast utilization data. 47 CFR 52.15(f). These reports are made semi-annually and are referred to as the "NRUF Reports." Using this data along with the rate of assignment of NXX codes in the NPA, the NANPA predicts the exhaust date for all NPAs in its NPA Exhaust Analysis. These reports can be found at [www.nanpa.com](http://www.nanpa.com).

<sup>4</sup> Thousand-block number pooling is the process by which a 10,000 block of numbers is separated into ten sequential blocks of 1,000 numbers and allocated separately to providers within a rate center.

same relief as before, an all-services distributed overlay. That petition was filed with the Commission on June 9, 2009.

By an Order entered July 29, 2009, the Commission denied the Industry's recommendation and requested written comments from interested parties on the five relief alternatives that had initially been presented by Neustar to the telecommunications industry at the March 21, 2002 meeting. Thereafter, by an Order entered January 28, 2010, the Commission scheduled five public input hearings in various cities located throughout the 814 NPA to receive comments and discuss the relief alternatives.<sup>5</sup>

The Commission has reviewed the written comments and the transcripts of the public input hearings regarding which form of area code relief should be implemented upon the exhaust of the 814 NPA and the timeframe for the implementation of the relief. The Commission would like to express its sincere thanks to those that submitted written comments in this proceeding and to those who attended and participated in the public input hearings and offered their concerns and suggestions regarding which form of area code relief the Commission should implement for the 814 area code. In particular, the Commission notes the comments submitted by the Honorable State Representatives Carl Metzgar and John Hornaman, the Office of Consumer Advocate and the Borough of Somerset. The Commission has taken all of this into consideration in resolving the question of area code relief for the 814 area code.

### Discussion

When the supply of numbers available within an NPA, or area code, is estimated to exhaust, some form of area code relief must be implemented so that customers in that area can continue to obtain the services they desire from the carrier of their choice. Pursuant to Section 251(e) of the Act, 47 U.S.C. § 251(e), the FCC delegated authority to state commissions to direct the form of area code relief in such situations. The FCC has adamantly maintained that state commissions cannot engage in number conservation measures to the exclusion of, or as a substitute for, timely area code relief.<sup>6</sup>

The latest NRUF Report indicates that the 814 NPA is now projected to exhaust its remaining supply of telephone numbers by the first quarter of 2013. We believe that this change in the projected forecast date for the 814 NPA is due in part to our efforts before the FCC to have it grant us the authority to implement mandatory 1K number pooling statewide.<sup>7</sup> Nonetheless, in accordance with the FCC's directives, we must continue with this instant area code relief process. Therefore, we must implement timely area code relief, i.e., add a new area code, when area codes are about to exhaust their supply of NXX codes.

When faced with the need to implement new area codes, the Commission must decide two very important issues. First, the Commission must decide how to implement the new area code (i.e., a geographic split or an overlay). Second, the Commission must determine when the new area code needs to be implemented.

State commissions generally have the ability to use four viable options to introduce a new area code in order to

resolve area code exhaust. However, the two most common methods of introducing new area codes are the geographic split or an overlay. Both of these options have their advantages and drawbacks. We note that local calling areas do not change no matter which method of area code relief is implemented.

With a geographic split, the geographic area covered by the existing area code is split into two smaller sections. One of the sections retains the existing area code while the other geographic section receives the new area code, which causes residential customers and businesses in that section to have to change their telephone numbers. Nevertheless, local calling areas do not change and both sections retain the ability to use seven-digit dialing when making calls within each corresponding geographic area. Conversely, telephone calls between the two geographic areas, even if rated as "local" calls by the telephone company, cannot be completed without the use of ten-digit dialing.

The other option is an all-services overlay. An overlay area code "covers" the pre-existing area code, most often serving the identical geographic area. This option puts an end to further shrinking of the geographic size of the area code. Additionally, all existing numbers in the overlaid geographic area are able to keep the old area code, and only new telephone lines are assigned the new area code if the old area code has run out of numbers. Consequently, a customer might have two different area codes for telephone lines serving his or her home or place of business. Furthermore, since with an overlay there are multiple area codes for the same geographic area, all calls, including local calls, require ten-digit dialing in order to be completed. In fact, per FCC mandate, states are required to impose ten-digit dialing for all calls, even if those calls are made within the same area code. This purportedly eliminates a dialing disparity between customers in the old area code and those in the new overlay area code.

The Commission recognizes that both the overlay and geographic split create certain inconveniences, described above, for the citizens and businesses of the State. The Commission notes that the industry reached a consensus to implement an all-services distributed overlay for the geographic area covered by the 814 NPA, which would create a new area code to service the area and require ten-digit dialing to complete all calls. On the whole, however, we believe that a geographic split for the 814 area code creates fewer inconveniences than an overlay. It has always been our preference to implement the form of area code relief that is the least disruptive to residential customers and businesses that reside within the distressed area code. Upon our review of the written comments received and the transcript from the various public input hearings, many disagree with the industry's consensus recommendation to implement an all-services distributed overlay for the geographic area covered by the 814 NPA.

We agree with the sentiments of the majority of the commenters that a geographic split is a more appropriate and less disruptive means of implementing area code relief in the 814 area code. As noted by some of the comments we received, they believed that a geographic split would certainly cause the least amount of customer confusion if the new area codes maintained some semblance of a geographic "identity" to its residents and would also be the least disruptive to them because of the retention of seven-digit dialing in both area codes.

<sup>5</sup> The public input hearings were held in the cities of Altoona, Johnstown, State College, Erie and Somerset.

<sup>6</sup> In the Matter of Numbering Resource Optimization, CC Docket Nos. 99-200, 96-98, NSD File No. L-99-101 (2000).

<sup>7</sup> Implementation of Additional Delegated Authority Granted to Pennsylvania by the Federal Communications Commission in its Order Released May 18, 2010—Mandatory Thousands-Block Number Pooling in the 215/267, 570, 610/484, 717 and 814 NPAs, M-2010-2178173 (Order entered June 3, 2010).

We note that there are three defined “communities of interest” within the 814 area code such as Erie and its surrounding area, Johnstown/Altoona, and State College and its surrounding area. Nevertheless, because of its sheer geographic size and the locations of these diverse communities of interest, we believe the 814 area code lends itself to the imposition of a geographic split.

As noted above, the 814 area code encompasses a large portion of the state from the borders of Maryland to the borders of the state of New York. We understand that a geographic split’s primary disadvantage to customers is that it will change the area code portion of telephone numbers for roughly half of the current telephone subscribers in the 814 area code. All customers in the geographic area receiving the new area code will need to notify their friends, relatives, business associates, and customers of the change. Thus, the persons who call the affected numbers may typically have to call twice and then update their paper and computer records. It may also be necessary to have cellular telephones serviced to accept the new area code.

The Commission acknowledges that this will create an inconvenience to customers. Also, commercial customers may incur the cost of modifying letterheads, business cards, and advertising or risk having their incoming calls misdirected. Nevertheless, this impact will be mitigated by the extended length of time necessary to transition to the new area code (e.g., stationery and other items containing the old area code will deplete during the transition period and can be replaced by supplies containing the new area code) as discussed.

Furthermore, most of the geographical region of the 814 area code is rural. We note that most of the businesses in the rural areas within the 814 area code generally serve a limited portion of the area code and consequently only use seven digits on their signage and advertising. Thus, the imposition of an overlay, which means mandatory ten-digit dialing, would prove more costly to these types of businesses.

When implementing a geographic split as a relief plan the FCC requires that the difference in projected life between the two area codes be no greater than 10 years to avoid the necessity of consumers undergoing another relief plan in a short period of time. Based on the FCC’s parameters and the defined “communities of interest” within the 814 area code, the proposed split boundary line we are adopting is the one as described in Alternative #2 of Neustar’s June 9, 2009 filing with the Commission. See, map attached as Appendix A.

We will direct Neustar to implement Alternative #2 as the form of area code relief for the 814 area code. The proposed split line runs along rate center boundaries approximately to the east of Jefferson, Elk and McKean Counties. We believe that the location of the boundary split in Alternative #2 does not divide close communities of interest and, thus, believe that the detrimental impact of transitioning to a new area code will be negligible for all. Additionally, the proposed split runs in a north/south direction east of the rate centers Shinglehouse, Wilcox, Kersey, Dubois and Sykesville. Moreover, after a recalculation of the most recent forecast data by Neustar, Area A has a life expectancy of 18 years and Area B has a life expectancy of 22 years.

Since Area A consists of two of the communities of interest, Johnstown/Altoona and State College and its surrounding areas, it will retain the 814 NPA. Area B, on the map in Appendix A, in which Erie and its surrounding areas reside, will change to the new area code.

Next, we must determine the implementation timeline for the geographic split of the 814 area code. The FCC has noted that state commissions are uniquely positioned “to ascertain and weigh the very local and granular information inherent in area code relief decision making.”<sup>8</sup> Additionally, FCC regulations at 47 CFR 52.19(a) state that “state commissions may resolve matters involving the introduction of new area codes within their states, which includes establishing the necessary dates for the implementation of relief plans.”

The Commission notes that the 814 area code is currently projected to exhaust its remaining supply of NXX codes by the first quarter of 2013, which is approximately 26 months away. As we noted previously, we believe that the implementation of mandatory number pooling throughout all the rate centers within the 814 area code will continue to add to the number of NXX codes available for assignment in this NPA and, thus, prolong its life even further.

We acknowledge that, while a state commission may not utilize numbering optimization measures in lieu of implementing timely area code relief, it may minimize the consumer impact of traditional area code relief by not implementing new area codes sooner than necessary. Even the FCC has noted that the implementation of new area codes before they are necessary forces consumers to go through the expense, trouble and dislocation of changing telephone numbers or dialing patterns earlier or more often than necessary.<sup>9</sup>

In view of the well-documented disruption to customers caused by changes in their area code, it is in the public interest to assure that new area codes are opened only when it is necessary, and only after the existing number resources in the existing area code are close to exhaustion. Therefore, temporarily delaying the proposed implementation schedule of the new area code will not adversely impact consumers.

We will direct that all network preparation for the implementation of the geographic split of the 814 area code be completed no later than February 1, 2012, at 12:01 a.m. (EST). We believe that this timeframe is sufficient for telecommunications carriers and alarm companies to prepare their individual networks and systems in preparation of the new area code.

When introducing a new area code, there is an adjustment period commonly known as a permissive dialing period. The permissive dialing period will not commence before February 1, 2012, which is the activation date of the new area code. During the permissive dialing period, customers may reach numbers in the new area code that is to be changed by either dialing the 814 NPA code or the new NPA code or using seven digits. Nevertheless, during the permissive period, customers are encouraged to make calls using the correct NPA code. At the end of the permissive period, the mandatory dialing period commences and all calls must be made using the correct NPA code or the customer will reach a recorded announcement stating they must hang up and redial the number using the new area code plus the seven-digit number. This recording will be available for a few months.

<sup>8</sup> *In the Matter of Numbering Resource Optimization*, Second Report and Order, CC Docket No. 99-200, FCC 00-429 (rel. December 29, 2000).

<sup>9</sup> *Id.*

Accordingly, the following timeline is the implementation schedule for the geographic split we are proposing for the 814 area code:

<i>Event</i>	<i>Time frame</i>
Network Preparation Period	14 months
Activation of Area Code Split and Permissive Dialing Period (Calls terminating within the new NPA can be dialed using either the 814 NPA code or the new NPA code)	6 months
Mandatory dialing period begins at the end of the Permissive Dialing Period (with recorded announcement)	2 months (after Permissive Dialing Period)
Total Implementation Interval	22 months

With the geographic split of the 814 NPA, the dialing plan will be as follows:

**Dialing Plan for the New NPA and the 814 NPA**

<i>Type of Call</i>	<i>Call Terminating in</i>	<i>Dialing Plan</i>
Local & Toll Calls	Home NPAs (HNPA)	7 digit basis with no prefix (NXXXXXX), or with a prefix "1" and 10 digits (1 + NPA + NXX + XXXX)
Local & Toll Calls	Foreign NPA (FNPA)	1+10 digits (1+NPA-NXX-XXXX)
Operator Services Credit card, collect, third party	HNPA or FNPA	0+10 digits (0+NPA-NXX-XXXX)

\* 1+10 digit dialing for all HNPA and FNPA calls permissible at each service provider's discretion

Additionally, we direct Neustar to provide us with monthly updates on the projected exhaust date of the 814 NPA so that the Commission can ensure that no NXX code holders in this Commonwealth will be without adequate numbering resources to meet customer demand. This is necessary so that we can determine whether the implementation timeline we have set forth previously adequately ensures that area code relief is timely in this instance or might have to be revised sometime in the near future.

**Conclusion**

We encourage the industry and Neustar to continue to work together with the Commission to ensure that new area codes are not unnecessarily opened in the Commonwealth when other viable alternatives are available. Nevertheless, the policy of the Commission is to ensure that numbering resources are made available on an equitable, efficient and timely basis in Pennsylvania; *Therefore,*

*It Is Ordered That:*

1. Neustar, Inc.'s June 9, 2009, petition filed with the Commission on behalf of the Pennsylvania telecommunications industry at the previously listed docket for approval of its relief plan for the 814 area code is hereby granted to the extent consistent with the body of this Order.

2. The 814 NPA is hereby geographically split into two area codes as set forth in Alternative #2 of Neustar, Inc.'s

June 9, 2009, filing with the Commission. *See*, map attached as Appendix A. Area A will retain the 814 area code and Area B will receive the new area code.

3. All NXX code holders in Pennsylvania are directed to complete all network preparation to their systems that is necessary to implement the new NPA no later than February 1, 2012.

4. The permissive dialing period will not commence until February 1, 2012, which is the activation date of the new area code.

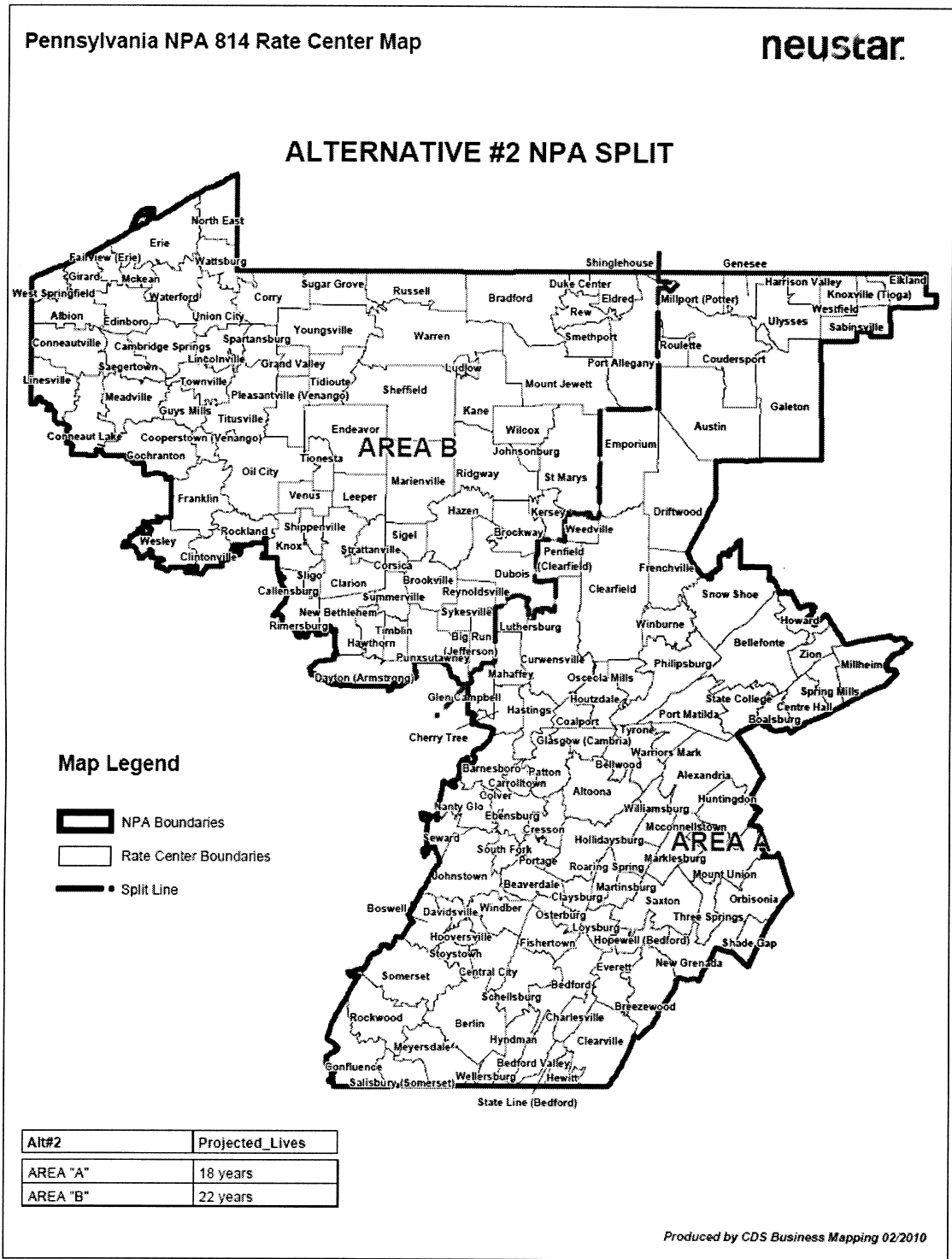
5. From the effective date of this Order, the North American Numbering Plan Administrator shall provide this Commission with monthly updates on the projected exhaust date of the 814 NPA. Time to exhaust in months shall be calculated and based on actual carrier demand for numbers. The monthly updates shall be addressed to Mr. Christopher Hepburn, Bureau of Fixed Utility Services.

6. A copy of this order shall be published in the *Pennsylvania Bulletin* and also posted on the Commission's web site at <http://www.puc.pa.state.us/>.

7. A copy of this order shall be served to all NXX code holders in Pennsylvania, the Office of Consumer Advocate, the Office of Small Business Advocate, the Pennsylvania Telephone Association, and Neustar, Inc.

ROSEMARY CHIAVETTA,  
*Secretary*

APPENDIX A



[Pa.B. Doc. No. 11-25. Filed for public inspection December 30, 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 January 19, 2011. Documents filed in support of the applications are available for inspection and copying at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday, and at the business address of the respective applicant.

#### **Application of the following for approval of the additional right and privilege of operating motor vehicles as common carriers for transportation of persons as described under the application.**

**A-2010-2215382. Jeffrey L. Curry t/a Curry Limousine** (146 Birch Drive, Lewistown, Mifflin County, PA 17044), for the additional right to transport, as a common carrier, by motor vehicle, persons in group and party service, in vehicles seating 11—15 passengers, including the driver, from points in the Counties of Blair, Centre, Dauphin, Huntingdon, Juniata, Mifflin, Perry and Snyder, to points in Pennsylvania, and return, excluding service under the jurisdiction of the Philadelphia Parking Authority.

#### **Application of the following for the approval of the right and privilege to *discontinue/abandon* operating as common carriers by motor vehicle and for cancellation of the certificate of public convenience as described under the application.**

**A-2010-2215588. Pennway Express** (P. O. Box 4737, Syracuse, NY 13281-4737)—for the discontinuance of service and cancellation of its certificate as a common carrier, by motor vehicle, authorizing the transportation of household goods in use service: (1) from points in the City of DuBois, Clearfield County, to other points in Pennsylvania, and vice versa; (2) between points in the City of DuBois, Clearfield County, and within 15 miles by the usually traveled highways of the limits of said city, and from points in said area, to other points in Pennsylvania, and vice versa; and (3) between points in the Borough of Brookville, Jefferson County.

ROSEMARY CHIAVETTA,  
*Secretary*

[Pa.B. Doc. No. 11-26. Filed for public inspection December 30, 2010, 9:00 a.m.]

## STATE BOARD OF EDUCATION

### **Approval of the Chester Upland School District as a Member of the Local Sponsor of the Delaware County Community College**

At a regular public meeting held November 18, 2010, the State Board of Education (State Board) approved the

application of the Chester Upland School District (Chester Upland) to become a member of the Local Sponsor of the Delaware County Community College (College). In its application, Chester Upland sought the approval of the State Board under section 1902-A(c) of the Public School Code of 1949 (24 P. S. § 19-1902-A(c)). The Board of Directors of the College and the 11 current local sponsors of the College endorsed the Chester Upland's application. The resolution adopted by the State Board reflecting Chester Upland's approval appears as follows.

ADAM A. SCHOTT,  
*Executive Director*

### **RESOLUTION**

#### **Action Item 1117.1**

*Whereas*, under section 1902-A(a)(3) of the Public School Code of 1949 (24 P. S. § 19-1902-A(a)(3)), the State Board of Education ("State Board") must approve or disapprove petitions of school districts or municipalities that apply for participation in an established community college; and

*Whereas*, in accord with section 1902-A(a)(3) of the Public School Code, the State Board may not approve a petition unless it is accompanied by the consent of the governing bodies of the majority of the members of the local sponsor of the established community college to the participation of the petitioning school district or municipality; and

*Whereas*, the Chester Upland School District ("Chester Upland") on June 23, 2010, approved a resolution requesting that the eleven current sponsor school districts of the Delaware County Community College support Chester Upland's petition to become the community college's twelfth local sponsor; and

*Whereas*, as part of its resolution, Chester Upland agreed to the terms and conditions set forth in the Agreement and Plan of Sponsorship and Establishment of Delaware County Community College dated December 31, 1966; and

*Whereas*, all eleven current sponsor school districts of the Delaware County Community College have passed resolutions in support of Chester Upland's petition; and

*Whereas*, the Board of Directors of the Delaware County Community College on September 15, 2010, adopted a resolution in support of Chester Upland's petition; and

*Whereas*, the City of Chester and the Chester Upland School District have clearly outlined their respective financial commitments to this sponsorship; and

*Whereas*, the State Board published notice of Chester Upland's petition in the November 6, 2010, edition of the *Pennsylvania Bulletin* and invited public comment on the petition (see 40 Pa.B. 6495); and

*Whereas*, the Department of Education has reviewed the petition and recommends approval by the Council of Higher Education and State Board of Education; and

*Whereas*, the Council of Higher Education on November 17, 2010, recommended that the State Board approve Chester Upland's petition.

*Now, Therefore, Be It*

*Resolved*: That the State Board of Education approves the petition of the Chester Upland School District to

participate as a local sponsor of the Delaware County Community College, effective January 1, 2011.

[Pa.B. Doc. No. 11-27. Filed for public inspection December 30, 2010, 9:00 a.m.]

### **Approval of The New Teacher Project to Administer an Alternative Certification Program in Partnership with the Pittsburgh Public Schools**

Under 22 Pa. Code § 403.4(c)(3) (relating to highly qualified teachers), “Teachers successfully completing a National teacher-training program approved by the State Board that requires a candidate to demonstrate mastery of the subject area to be taught and professional knowledge needed for classroom effectiveness, may be certified to teach in this Commonwealth without meeting further academic and testing requirements.” Further, 22 Pa. Code § 403.4(c)(3)(iii) provides that “National teacher-training programs identified for State Board consideration after December 28, 2002, may be approved by State Board resolution without the need to amend this chapter.”

Following the Department’s review and determination that the program meets the requirements of 22 Pa. Code § 403.4(c)(3), on November 17, 2010, the Department presented to the State Board of Education (State Board) a recommendation to approve The New Teacher Project (Project) to administer a teacher training program in partnership with the Pittsburgh Public Schools (Schools). Acting under 22 Pa. Code § 403.4(c)(3)(iii), at a regular public meeting held on November 18, 2010, the State Board approved the Project to operate a pilot alternative certification program in partnership with the Schools. The resolution adopted by the State Board reflecting this approval appears as follows.

ADAM A. SCHOTT,  
*Executive Director*

#### **RESOLUTION**

##### **Action Item 1117.2**

*Whereas*, exercising authority granted to it by section 2603-B(d)(10)(i) of the Public School Code of 1949 (24 P. S. § 26-2603-B(d)(10)(i)), the Pennsylvania Department of Education (“Department”) promulgated the standards now set forth in 22 Pa. Code Chapter 403 in order to comply with certain provisions of the No Child Left Behind Act of 2001; and

*Whereas*, in accord with section 2603-B(d)(10)(i) of the Public School Code, the State Board of Education (“State Board”) approved the Department’s standards as now codified at 22 Pa. Code Chapter 403; and

*Whereas*, 22 Pa. Code § 403.4(c)(3) (relating to highly qualified teachers; additional certification avenues) provides that “Teachers successfully completing a National teacher-training program approved by the State Board that requires a candidate to demonstrate mastery of the subject area to be taught and professional knowledge needed for classroom effectiveness, may be certified to teach in this Commonwealth without meeting further academic and testing requirements”; and

*Whereas*, a National teacher-training program known as “The New Teacher Project” has agreed to enter into a partnership with the Pittsburgh School District, also known as Pittsburgh Public Schools; and

*Whereas*, applying the same criteria used in evaluating post baccalaureate teacher training programs and the regulations set forth in § 403.4(c)(3) for National Training Programs, the Department has reviewed and evaluated the teacher-training program that the New Teacher Project seeks to provide in partnership with Pittsburgh Public Schools; and

*Whereas*, the Department has determined that the teacher-training program that the New Teacher Project seeks to provide in partnership with Pittsburgh Public Schools requires a candidate to demonstrate mastery of the subject area to be taught through successful completion of content area assessments; and

*Whereas*, the Department has determined that the teacher-training program that the New Teacher Project seeks to provide in partnership with Pittsburgh Public Schools requires a candidate to demonstrate the professional knowledge needed for classroom effectiveness in that its program is consistent with the candidate competencies set forth in the relevant professional educator program specific guidelines developed by the Department; and

*Whereas*, 22 Pa. Code § 403.4(c)(3)(iii) provides that “National teacher-training programs identified for State Board consideration after December 28, 2002, may be approved by State Board resolution without the need to amend this chapter”; and

*Whereas*, the Department has recommended for State Board approval the National teacher-training program known as “The New Teacher Project” to be administered in partnership with Pittsburgh Public Schools; and

*Whereas*, the New Teacher Project requires a candidate to demonstrate mastery of the subject area to be taught and professional knowledge needed for classroom effectiveness; and

*Whereas*, at the regular business meeting of the State Board held September 15, 2010, the leadership of Pittsburgh Public Schools and the Pittsburgh Federation of Teachers provided an overview of the school district’s teacher effectiveness initiative; and

*Whereas*, at the regular business meeting of the State Board held November 17, 2010, the Department, Pittsburgh Public Schools, and the New Teacher Project made a presentation related to the school district’s Teacher Academy initiative; and

*Whereas*, this initiative is aimed at increasing the diversity of the school district’s applicant pool and recruiting experienced professionals to teach in high-priority areas for at least five years; and

*Whereas*, this initiative will be evaluated against the same high standards expected of post baccalaureate postsecondary institutions; and

*Whereas*, the State Board recognizes the important efforts to date among members of the General Assembly to create rigorous, high-quality alternative certification pathways, and urges further action in this regard; and

*Whereas*, acting pursuant to 22 Pa. Code § 403.4(c)(3)(iii), the State Board, at its November 18, 2010, meeting, publicly voted to approve the New Teacher Project.

*Now, Therefore, Be It*

*Resolved:* That teachers successfully completing the New Teacher Project in partnership with the Pittsburgh Public Schools, as described herein, may be certified to teach in this Commonwealth without meeting further academic and testing requirements, provided the teacher



satisfies the basic certification requirements prescribed by the Public School Code (see 24 P.S. §§ 12-1202 and 12-1209), including having good moral character, being at least eighteen years of age, and possessing a bachelor's degree.

*Resolved:* That the New Teacher Project and Pittsburgh Public Schools shall report to the State Board of Education and the Department of Education before November 18, 2011, on the progress of this initiative.

*Resolved:* That the Department of Education shall review the alternative certification program and report its findings to the State Board no later than November 18, 2012.

*Resolved:* That following review of the findings and recommendations of the Department, the State Board may act by resolution to modify or terminate the approval of the alternative certification program as described in this Resolution.

*Resolved:* Absent action by the State Board to modify or terminate the program as described in the preceding paragraph, the alternative certification program shall continue to be approved pursuant to this resolution for so long as the program continues to meet the requirements of statute and the regulations of the State Board.

[Pa.B. Doc. No. 11-28. Filed for public inspection December 30, 2010, 9:00 a.m.]

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