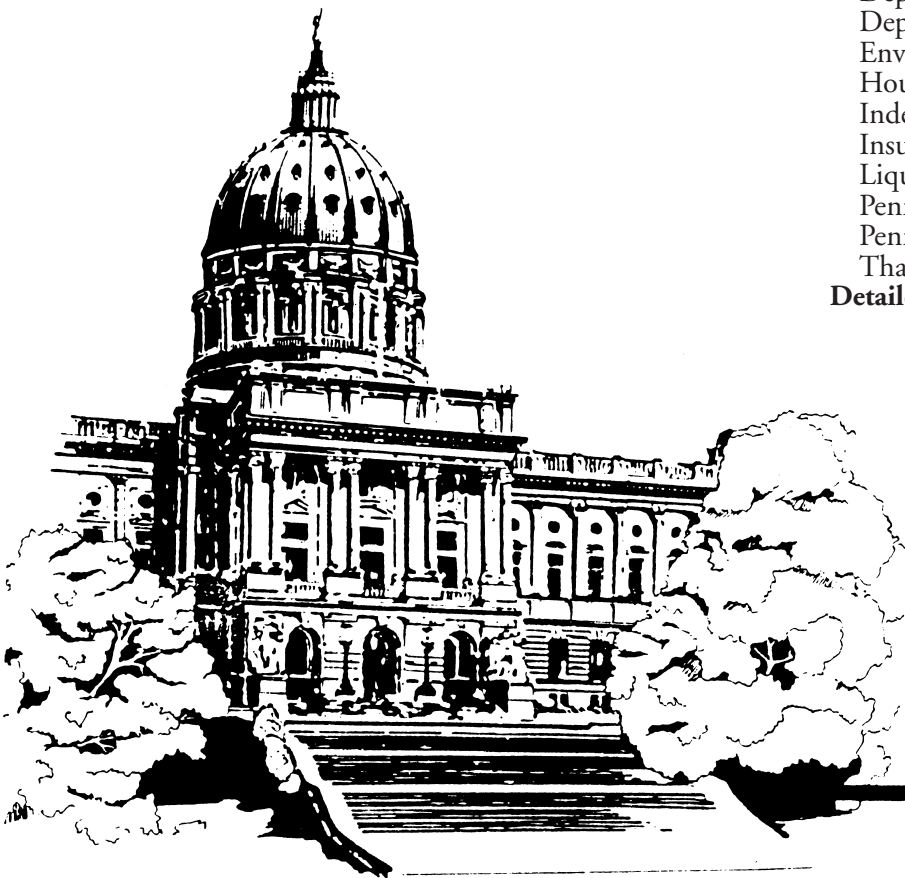


# PENNSYLVANIA BULLETIN

Volume 41  
Saturday, January 8, 2011 • Harrisburg, PA  
Number 2  
Pages 207—322

## Agencies in this issue

The General Assembly  
The Courts  
Department of Banking  
Department of Conservation and Natural Resources  
Department of Environmental Protection  
Department of Health  
Department of Public Welfare  
Department of Transportation  
Environmental Quality Board  
Housing Finance Agency  
Independent Regulatory Review Commission  
Insurance Department  
Liquor Control Board  
Pennsylvania Gaming Control Board  
Pennsylvania Public Utility Commission  
Thaddeus Stevens College of Technology  
**Detailed list of contents appears inside.**



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

**No. 434, January 2011**

CUT ON DOTTED LINES AND ENCLOSE IN AN ENVELOPE

**CHANGE NOTICE**

If information on mailing label is incorrect, please make changes in space provided below and mail to:

**FRY COMMUNICATIONS, INC.**

**Attn: *Pennsylvania Bulletin***

**800 W. Church Rd.**

**Mechanicsburg, PA 17055-3198**

CUSTOMER NUMBER (6 digit number above name)

NAME OF INDIVIDUAL

OFFICE NAME—TITLE

ADDRESS (Number and Street)

(City)

(State)

(Zip Code)

TYPE OR PRINT LEGIBLY

**PENNSYLVANIA**



**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.

Postmaster send address changes to:

**FRY COMMUNICATIONS**

Attn: *Pennsylvania Bulletin*

800 W. Church Rd.

Mechanicsburg, Pennsylvania 17055-3198

(717) 766-0211 ext. 2340

(800) 334-1429 ext. 2340 (toll free, out-of-State)

(800) 524-3232 ext. 2340 (toll free, in State)

Orders for subscriptions and other circulation matters should be sent to:

Fry Communications, Inc.

Attn: *Pennsylvania Bulletin*

800 W. Church Rd.

Mechanicsburg, PA 17055-3198

Copyright © 2011 Commonwealth of Pennsylvania

Editorial preparation, composition, printing and distribution of the *Pennsylvania Bulletin* is effected on behalf of the Commonwealth of Pennsylvania by FRY COMMUNICATIONS, Inc., 800 W. Church Road, Mechanicsburg, Pennsylvania 17055-3198.

# CONTENTS

## GENERAL ASSEMBLY

### COMMISSION ON SENTENCING

Meetings scheduled ..... 213

## THE COURTS

### LOCAL COURT RULES

#### Bucks County

Mortgage foreclosure diversion program; administrative order no. 55 ..... 218

### RULES OF CIVIL PROCEDURE

Amendment of rule 212.3 and adoption of rules 212.5 and 212.6 of the rules of civil procedure; no. 538 civil procedural rules doc. .... 214

Amendment of rules 239 and 239.8 of the rules of civil procedure; no. 539 civil procedural rules doc. .... 215

### RULES OF CRIMINAL PROCEDURE

Amendment of rule 1002 of the rules of criminal procedure; no. 396 criminal procedural rules doc. .... 216

### DISCIPLINARY BOARD OF THE SUPREME COURT

Notice of disbarment (3 documents) ..... 218

## EXECUTIVE AGENCIES

### DEPARTMENT OF BANKING

#### Notices

Actions on applications (2 documents) ..... 256, 257

### DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES

#### Notices

Community Conservation Partnerships Program Grants and workshops ..... 258

### DEPARTMENT OF ENVIRONMENTAL PROTECTION

#### Rules and Regulations

Corrective amendment to 25 Pa. Code § 129.51 ..... 229

#### Notices

Applications, actions and special notices ..... 259

Availability of technical guidance ..... 307

### DEPARTMENT OF HEALTH

#### Notices

Chronic Renal Disease Advisory Committee meeting ..... 307

### DEPARTMENT OF PUBLIC WELFARE

#### Notices

Payments to nonpublic and county nursing facilities; final rates for State fiscal year 2009-2010 ... 307

### DEPARTMENT OF TRANSPORTATION

#### Notices

Sale of land no longer needed for transportation purposes ..... 308

### ENVIRONMENTAL QUALITY BOARD

#### Rules and Regulations

Administration of the Land Recycling Program ..... 230

Dam safety and waterway management ..... 219

#### Proposed Rulemaking

Acceptance of rulemaking petition for study ..... 238

#### Notices

Meeting cancellation ..... 309

### HOUSING FINANCE AGENCY

#### Notices

Homeowner's Emergency Mortgage Assistance Program (HEMAP); interest rate for HEMAP loans closed in 2011 ..... 309

### INDEPENDENT REGULATORY REVIEW COMMISSION

#### Notices

Notice of comments issued ..... 309

### INSURANCE DEPARTMENT

#### Notices

Gnagey Gas & Oil Co.; prehearing ..... 319

Insurance Services Office, Inc.; private passenger automobile loss cost revision; rate filing ..... 319

Review procedure hearings under the Unfair Insurance Practices Act ..... 320

Travelers Home and Marine Insurance Company; homeowners; rate revision ..... 320

### LIQUOR CONTROL BOARD

#### Notices

Expiration of leases ..... 320

### PENNSYLVANIA GAMING CONTROL BOARD

#### Rules and Regulations

Table game rules amendments; temporary rulemaking ..... 234

#### Proposed Rulemaking

Table game equipment ..... 238

### PENNSYLVANIA PUBLIC UTILITY COMMISSION

#### Notices

Service of notice of motor carrier applications ..... 321

Tentative Order ..... 321

Water treatment and distribution operations ..... 322

### THADDEUS STEVENS COLLEGE OF TECHNOLOGY

#### Notices

Request for bids ..... 322

---

Now Available Online at <http://www.pabulletin.com>

---

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

## *Pennsylvania Bulletin*

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

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

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

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

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

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

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

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

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

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

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

### ***Pennsylvania Code***

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

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

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

### **How to Find Documents**

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

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

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

**SUBSCRIPTION INFORMATION: (717) 766-0211  
GENERAL INFORMATION AND FINDING AIDS: (717) 783-1530**

### Printing Format

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

### Fiscal Notes

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

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

### Reproduction, Dissemination or Publication of Information

Third parties may not take information from the *Pennsylvania Code* and *Pennsylvania Bulletin* and reproduce, disseminate or publish such information except as provided by 1 Pa. Code § 3.44. 1 Pa. Code § 3.44 reads as follows:

#### § 3.44. General permission to reproduce content of Code and Bulletin.

Information published under this part, which information includes, but is not limited to, cross references, tables of cases, notes of decisions, tables of contents, indexes, source notes, authority notes, numerical lists and codification guides, other than the actual text of rules or regulations may be reproduced only with the written consent of the Bureau. The information which appears on the same leaf with the text of a rule or regulation, however, may be incidentally reproduced in connection with the reproduction of the rule or regulation, if the reproduction is for the private use of a subscriber and not for resale. There are no other restrictions on the reproduction of information published under this part, and the Commonwealth hereby consents to a reproduction.

## 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.

### 25 Pa. Code (Environmental Protection)

#### Adopted Rules

105 .....	219
129 .....	229
250 .....	230

### 49 Pa. Code (Professional and Vocational Standards)

#### Adopted Rules

20 .....	16
----------	----

### 52 Pa. Code (Public Utilities)

#### Adopted Rules

62 .....	30
----------	----

### 58 Pa. Code (Recreation)

#### Adopted Rules

521 .....	234
525 .....	234
535 .....	234
537 .....	234
541 .....	234
543 .....	234
545 .....	234
549 .....	234
565 .....	234
569 .....	234

#### Proposed Rules

523 .....	238
603a .....	238

### 61 Pa. Code (Revenue)

#### Adopted Rules

1001 .....	41
------------	----

### 67 Pa. Code (Transportation)

#### Adopted Rules

83 .....	46
----------	----

### 231 Pa. Code (Rules of Civil Procedure)

#### Adopted Rules

200 .....	7, 214, 215
-----------	-------------

### 234 Pa. Code (Rules of Criminal Procedure)

#### Adopted Rules

10 .....	216
----------	-----

### 237 Pa. Code (Juvenile Rules)

#### Proposed Rules

1 .....	8
8 .....	8
11 .....	8
12 .....	8
18 .....	8

### 255 Pa. Code (Local Court Rules)

Unclassified .....	14, 218
--------------------	---------

# THE GENERAL ASSEMBLY

## COMMISSION ON SENTENCING

### Meetings Scheduled

The Commission on Sentencing (Commission) gives notice that the following dates have been selected for public meetings in the year 2011:

Thursday, March 3, 2011	Policy Committee Meeting (9 a.m.—12 p.m.) Commission Meeting (1 p.m.—4 p.m.) Harrisburg, PA 17120
Thursday, June 9, 2011	Policy Committee Meeting (9 a.m.—12 p.m.) Commission Meeting (1 p.m.—4 p.m.) Harrisburg, PA 17120
Thursday, September 22, 2011	Policy Committee Meeting (9 a.m.—12 p.m.) Commission Meeting (1 p.m.—4 p.m.) Harrisburg, PA 17120
Thursday, December 8, 2011	Policy Committee Meeting (9 a.m.—12 p.m.) Commission Meeting (1 p.m.—4 p.m.) Harrisburg, PA 17120

Meetings are open to the public. Direct any questions regarding Commission meetings to Mark H. Bergstrom, Executive Director, (814) 863-4368, mhb105@psu.edu.

MARK H. BERGSTROM,  
*Executive Director*

[Pa.B. Doc. No. 11-29. Filed for public inspection January 7, 2011, 9:00 a.m.]



# THE COURTS

## Title 231—RULES OF CIVIL PROCEDURE

### PART I. GENERAL

[ 231 PA. CODE CH. 200 ]

#### Amendment of Rule 212.3 and Adoption of Rules 212.5 and 212.6 of the Rules of Civil Procedure; No. 538 Civil Procedural Rules Doc.

#### Order

*Per Curiam*

And Now, this 15th day of December, 2010, upon the recommendation of the Civil Procedural Rules Committee; the proposal having been published for public comment at 39 Pa.B. 4739 (August 8, 2009) and in the *Atlantic Reporter* (Second Series Advance Sheets, Vols. 973 No. 4, 974 No. 1):

*It Is Ordered* pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Rule 212.3 is amended, and Rules 212.5 and 212.6 are adopted, in the following form.

This *Order* shall be processed in accordance with Pa.R.J.A. No. 103(b), and shall be effective January 15, 2011.

#### Annex A

### TITLE 231. RULES OF CIVIL PROCEDURE

#### PART I. GENERAL

#### CHAPTER 200. BUSINESS OF COURTS

#### Rule 212.3. [ Pre-trial conference ] Pre-Trial Conference.

(a) In any action at any time the court, [ of its own motion ] sua sponte or on motion of any party, may direct the attorneys for the parties or any unrepresented party to appear for a conference to consider:

- (1) The simplification of the issues;
- (2) The [ necessity or desirability of amendments to the pleadings ] entry of a scheduling order;
- (3) The possibility of obtaining admissions of fact and of documents which will avoid unnecessary proof;
- (4) The limitation of the number of expert witnesses;
- (5) [ The advisability of a preliminary reference of issues to a master for findings to be used as evidence when the trial is to be by jury ] Settlement and/or mediation of the case;

**Official Note:** See Rule 212.5 for procedures governing a settlement conference.

(6) Such other matters as may aid in the disposition of the action.

(b) A court may require, pursuant to a court order, various parties to attend a pre-trial conference, including an insurance or similar representative, who has authority to negotiate and settle the case.

(c) In the absence of a court order, at any pre-trial conference held after the filing of the pre-trial statements and that will involve settlement discussions:

(1) prior to the conference date, the attorneys for the parties, or the parties if unrepresented, shall engage in good faith efforts to resolve the case;

(2) an attorney who will be trying the case, or another attorney who has sufficient knowledge of the claims asserted, defenses presented, relief sought and legal issues raised, and has the authority to act on behalf of the client shall attend the pre-trial conference; and

(3) an insurance or similar representative, who has authority to negotiate and settle the case, must either attend the pre-trial conference or be promptly available by telephone.

(d) The court may make an order reciting the action taken at the conference [ , the amendments allowed to the pleadings, ] and the agreements made by the parties as to any of the matters considered, and limiting the issues for trial to those not disposed of by admissions or agreements of the attorneys. Such order when entered shall control the subsequent course of the action unless modified at the trial to prevent manifest injustice.

[ (c) ] (e) The court may establish by rule a pre-trial list on which actions may be placed for consideration as above provided, and may either confine the list to jury actions or to non-jury actions, or extend it to all actions.

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

#### Rule 212.5. Settlement Conference.

(a) At any time, the court, sua sponte or on motion of any party, may enter an order in the form provided in Rule 212.6 scheduling a settlement conference, the purpose of which is to resolve the litigation. Prior to the conference date, the attorneys for the parties, or the parties if unrepresented, shall engage in good faith efforts to resolve the case.

(b) At a settlement conference scheduled pursuant to this rule,

(1) an attorney who will be trying the case, or another attorney who has sufficient knowledge of the claims asserted, defenses presented, relief sought and legal issues raised, and has the authority to act on behalf of the client shall attend the settlement conference;

(2) an insurance or similar representative, who has authority to negotiate and settle the case must be present at the conference, unless the court permits the representative to ensure that he or she will be available by telephone; and

(3) the court shall have discretion to order the attendance of other individuals as reasonably necessary to accomplish resolution of the case.

**Official Note:** Rule 212.3 governs a pre-trial conference which includes consideration of matters relating to the trial of a case. A settlement conference pursuant to this rule considers only the settlement of litigation.

#### Rule 212.6. Settlement Conference. Form of Order.

An order scheduling a settlement conference pursuant to Rule 212.5 shall be substantially in the following form:



(Caption)

**Scheduling Order for Rule 212.5  
Settlement Conference**

For the above-captioned case, a settlement conference pursuant to Rule 212.5 has been scheduled before \_\_\_\_\_ at \_\_\_\_\_ Courthouse

(name of judge)  
at \_\_\_\_\_ o'clock. All parties shall be in compliance with the requirements of Rule 212.5(b).

\_\_\_\_\_ J.

**Explanatory Comment**

The success, or the lack thereof, of settlement negotiations often hinges on the preparation of the parties for such negotiations. To facilitate the settlement of cases, Rule 212.3 governing pre-trial conferences has been amended to provide guidance to the parties when a court schedules a pre-trial conference for the purpose of settlement negotiations. New Rule 212.5 is intended to provide guidance to the parties for a conference scheduled specifically to settle litigation.

The proposed rule when published for comment required an insurance representative with "complete authority" to attend the pre-trial or settlement conference. Persons responding to the publication of the proposed rule pointed out that insurers have different claim resolution procedures. With most insurance companies, there is no one person who has complete authority to negotiate and settle a case, unless it is the president of the company or the vice president of claims. Every insurance representative has limits on his or her authority. In some companies, decisions are made by committees in large cases. The Committee removed the word "complete" so that the rule now requires "an insurance or similar representative who has authority to negotiate and settle the case" to attend the pre-trial or settlement conference.

*By the Civil Procedural Rules Committee*

HONORABLE ROBERT C. DANIELS,  
*Chair*

[Pa.B. Doc. No. 11-30. Filed for public inspection January 7, 2011, 9:00 a.m.]

**PART I. GENERAL**

**[ 231 PA. CODE CH. 200 ]**

**Amendment of Rules 239 and 239.8 of the Rules of Civil Procedure; No. 539 Civil Procedural Rules Doc.**

**Order**

*Per Curiam*

And Now, this 15th 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 Rules 239 and 239.8 of the Pennsylvania Rules of Civil Procedure are 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**

**Rule 239. Local Rules.**

\* \* \* \* \*

(c) Except as otherwise provided by Rule 239.8, to be effective and enforceable:

(1) A local rule shall be in writing.

(2) [ **Seven certified copies** ] **One certified copy** of the local rule shall be filed by the court promulgating the rule with the Administrative Office of Pennsylvania Courts.

(3) Two certified copies of the local rule and a computer diskette containing the text of the local rule shall be distributed by the court promulgating the rule to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

**Official Note:** The diskette must (1) be formatted in one of the following formats: MS-DOS, ASCII, Microsoft Word, or WordPerfect, (2) contain the local rule text as reflected in the "hard copy" version of the rule, and (3) be labeled with court's name and address and computer file name. See 1 Pa. Code § 13.11(b).

(4) One certified copy of the local rule shall be filed by the court promulgating the rule with the Civil Procedural Rules Committee, unless the rule relates to domestic relations matters, in which case it shall be filed with the Domestic Relations Procedural Rules Committee.

(5) The local rule shall be kept continuously available for public inspection and copying in the office of the prothonotary or clerk of court. Upon request and payment of reasonable costs of reproduction and mailing, the prothonotary or clerk shall furnish to any person a copy of any local rule.

**Official Note:** It is contemplated under subdivision (c)(5) that a separate consolidated set of local rules shall be maintained in the prothonotary's or clerk's office.

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

\* \* \* \* \*

(f) No civil action or proceeding shall be dismissed for failure to comply with a local rule.

**Official Note:** See Rule of Judicial Administration 1952 governing the duties and authorities of the trial court in emergency actions. Rule 1952(B)(5) suspends the provisions of this rule during an emergency.

**Rule 239.8. Local Rules. Promulgation. Publication. Effective Date.**

\* \* \* \* \*

(d) A local rule or amendment promulgated pursuant to Rules 239.1 through 239.7 shall become effective upon publication on the Pennsylvania Judiciary's Web Application Portal.

**Official Note:** See Rule of Judicial Administration 1952 governing the duties and authorities of the

**trial court in emergency actions. Rule 1952(B)(5) suspends local rule-making procedures during an emergency.**

**Explanatory Comment**

Recently, the Supreme Court adopted new rules of judicial administration governing the continuation of operations in the event of an emergency. New Rule of Judicial Administration 1952(B)(5) suspends the requirements of the statewide rules governing the promulgation of local rules. A cross-reference to new Pa.R.J.A. 1952 has been added to Rules 239 and 239.8. In addition, current Rule 239(c)(2) requires seven certified copies of a local rule to be sent to the Administrative Office of the Pennsylvania Courts. The amendment to that subdivision requires only one certified copy to be sent to the AOPC.

*By the Civil Procedural Rules Committee*

HONORABLE ROBERT C. DANIELS,  
*Chair*

[Pa.B. Doc. No. 11-31. Filed for public inspection January 7, 2011, 9:00 a.m.]

## Title 234—RULES OF CRIMINAL PROCEDURE

[ 234 PA. CODE CH. 10 ]

**Amendment of Rule 1002 of the Rules of Criminal Procedure; No. 396 Criminal Procedural Rules Doc.**

**Order**

*Per Curiam*

*And Now*, this 22nd day of December, 2010 the proposal having been made without publication pursuant to Pa.R.J.A. No. 103(a)(3) in the interests of justice and efficient administration:

*It Is Ordered* pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Rule 1002 of the Pennsylvania Rules of Criminal Procedure 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 February 20, 2011.

**Annex A**

**TITLE 234. RULES OF CRIMINAL PROCEDURE  
CHAPTER 10. RULES OF CRIMINAL PROCEDURE  
FOR THE PHILADELPHIA MUNICIPAL COURT  
AND THE PHILADELPHIA TRAFFIC COURT**

**PART A. Philadelphia Municipal Court Procedures  
Rule 1002. Procedure in Summary Cases.**

(A) Except as provided in this rule or by local rule authorized by this rule, or elsewhere in Chapter 10, all criminal proceedings in which a person is accused only of one or more non-traffic summary offenses or violations of municipal criminal ordinances shall proceed as provided in Chapter 4 of the Rules of Criminal Procedure.

(B) Non-traffic summary proceedings shall be instituted either by a citation issued to the defendant or arresting without a warrant when arrest is specifically authorized by law.

(1) Issuance of Citation

(a) The law enforcement officer shall issue the citation to the defendant pursuant to Rule 405 (Issuance of Citation), together with a notice to appear, unless required to proceed pursuant to paragraph (B)(1)(e). The notice to appear shall:

(i) direct the defendant to appear before a judge or trial commissioner on a date and at a time certain in a specified court room, **and**

**(ii) shall advise the defendant that failure to appear shall constitute consent to a trial in the defendant's absence, and if the defendant is found guilty, the defendant shall have the right to appeal within 30 days for a trial *de novo*.**

(b) When authorized by local rule promulgated pursuant to Rule 105 (Local Rules), the law enforcement officer may prepare, verify, and transmit a citation electronically. The law enforcement officer contemporaneously shall give the defendant a paper copy of the citation containing all the information required by Rule 403(A) (Contents of Citation) and a notice to appear. The notice to appear shall:

(i) direct the defendant to appear before a judge or trial commissioner on a date and at a time certain in a specified court room, **and**

**(ii) shall advise the defendant that failure to appear shall constitute consent to a trial in the defendant's absence, and if the defendant is found guilty, the defendant shall have the right to appeal within 30 days for a trial *de novo*.**

(c) Within 5 days after issuance of the citation and notice to appear, the citation shall be filed with the clerk of Municipal Court.

(d) When the defendant appears before the judge or trial commissioner as provided in paragraph (B)(1)(a) or (B)(1)(b), the judge or trial commissioner shall explain the process to the defendant.

(i) If the defendant enters a guilty plea, the judge or trial commissioner shall impose the fines and costs.

(ii) If the defendant enters a not guilty plea, the judge or trial commissioner shall set a date for trial before a judge and issue a subpoena to the defendant. **The judge or trial commissioner shall advise the defendant that failure to appear at the trial shall constitute consent to a trial in the defendant's absence, and if the defendant is found guilty, the defendant shall have the right to appeal within 30 days for a trial *de novo*.**

(iii) If applicable, after paying any fee imposed, the defendant may be accepted into the Municipal Court's summary case diversionary program, or any other diversionary program offered pursuant to local rule promulgated pursuant to Rule 105 (Local Rules). When the defendant successfully completes the Municipal Court's summary case diversionary program, the defendant's arrest record automatically will be expunged.

(e) When required by local rule promulgated pursuant to Rule 105 (Local Rules), the law enforcement officer shall take the defendant into custody and transport him or her to the appropriate district police station, where, without unnecessary delay, the law enforcement officer or a superior officer shall prepare and issue the citation to the defendant. Thereafter, the law enforcement officer without unnecessary delay shall transport the defendant to the Municipal Court for proceedings before a judge,

and the case shall proceed as provided by local rule promulgated pursuant to Rule 105 (Local Rules).

(f) The defendant shall not be slated, fingerprinted, or photographed, except as provided by law.

(2) Arrest Without a Warrant

(a) When an arrest without a warrant in a non-traffic summary case is authorized by law, the police officer shall take the defendant into custody and transport him or her to the appropriate district police station, where, without unnecessary delay, the police officer or a superior officer shall prepare and issue a citation to the defendant.

(b) Except when the police officer is required to proceed pursuant to paragraph (B)(1)(e), or as otherwise provided in this rule, the case shall proceed as provided in Rule 441.

(c) If the defendant is to be released pursuant to Rule 441(B), the defendant shall be released on his or her own recognizance and given a notice to appear on a date and at a time certain in a specified court room. **The notice to appear shall advise the defendant that failure to appear shall constitute consent to a trial in the defendant's absence, and if the defendant is found guilty, the defendant shall have the right to appeal within 30 days for a trial *de novo*.**

(d) If the defendant is not released under Rule 441(B), the defendant without unnecessary delay shall be brought before a judge, who shall proceed as provided in Rule 441(C).

(C) If the defendant fails to appear pursuant to the notice to appear **issued as required by paragraphs (B)(1)(a), (B)(1)(b) or (B)(2)(c), or a subpoena issued as required by paragraph (B)(1)(d)(ii), [ a bench warrant shall be issued ] the case shall proceed as provided in paragraph (D).**

(D) **If the defendant fails to appear as required in (C), the trial shall be conducted in the defendant's absence, unless the judge determines that there is a likelihood that the sentence will be imprisonment or that there is other good cause not to conduct the trial in the defendant's absence. If the trial is not conducted in the defendant's absence, the judge shall issue a bench warrant for the defendant's arrest.**

(1) **At trial, the judge shall proceed to determine the facts and render a verdict in the same manner as trials in criminal cases are conducted in the Common Pleas Court when a jury trial has been waived; however, the law enforcement officer observing the defendant's alleged offense may, but shall not be required to, appear and testify against the defendant. In no event shall the failure of the law enforcement officer to appear, by itself, be a basis for dismissal of the charges against the defendant. The allegations in the citation may be recited on behalf of the observing law enforcement officer by his or her representative or designee. The failure of the defendant to appear will be deemed to be a waiver of the right to present defense witnesses.**

(2) **If the defendant is found guilty, the judge shall impose sentence, and shall give notice by first class mail to the defendant of the conviction and sentence, of the right to file an appeal within 30 days for a trial *de novo*, and of the consequences for failing to pay the costs and fines imposed.**

(3) **In appeals from the summary conviction, the law enforcement officer who observed the alleged**

**offense must appear and testify. The failure of a law enforcement officer to appear and testify shall result in the dismissal of the charges unless:**

**(a) the defendant waives the presence of the law enforcement officer in open court on the record;**

**(b) the defendant waives the presence of the law enforcement officer by filing a written waiver signed by the defendant and defense counsel, or the defendant if proceeding *pro se*, with the clerk of courts; or**

**(c) the trial judge determines that good cause exists for the law enforcement officer's unavailability and grants a continuance.**

(E) When the same conduct is proscribed under an Act of Assembly and a municipal criminal ordinance, the charge shall be brought under the Act of Assembly and not under the ordinance.

**Comment**

This rule, which replaced former Rule 1002 in 2005, was developed to accommodate the procedures Philadelphia Municipal Court has implemented to address the issues in non-traffic summary cases unique to Philadelphia to more efficiently handle the vast number of non-traffic summary cases, to protect the defendants' rights to a fair and prompt disposition of their cases, and, when appropriate, to provide the necessary rehabilitation or social services. Municipal Court is required to implement local rules pursuant to Rule 105 (Local Rules) enumerating the details of the summary proceedings following the issuance of a citation or a summons. For purposes of this rule, "local rule" includes all memoranda of understanding and administrative orders that affect non-traffic summary case procedures.

Once a summary case is appealed to the Court of Common Pleas for trial *de novo*, the case shall remain in the Court of Common Pleas. See also Rule 462 and its Comment.

The 2009 amendments to paragraph (B) conform the non-traffic summary citation procedures in Philadelphia with the statewide procedures governing the institution of a non-traffic summary case by issuing a citation to the defendant in person or arresting the defendant without a warrant. See Rules 405 (Issuance of Citation) and 440 (Arrest Without Warrant). The amendments require the police officer to issue a citation as provided in Rule 405 and proceed pursuant to paragraph (B)(1)(a) or (B)(1)(b), unless the case falls within the jurisdiction of one of Philadelphia Municipal Court's Nuisance Night Courts or Community Courts, or to arrest without a warrant when such an arrest is authorized by law.

The contents of the citation must comply with the requirements of Rule 403(A). The notice to appear required by paragraphs (B)(1)(a), (B)(1)(b), and (B)(2)(c) may be added to the citation form.

**Nothing in this rule is intended to permit the admission of double hearsay.**

Arrests without a warrant in summary cases are authorized only in exceptional circumstances, such as cases involving enhanced penalties, or when the defendant fails to produce identification, or when there is violence or the imminent threat of violence, or when there is a likelihood that the defendant will flee.

Nothing in this rule prevents the filing of a citation pursuant to Rules 410 and 411.

The 2009 amendments do not modify the current procedures governing Philadelphia Municipal Court's Nui-



sance Night Courts and Community Courts that are implemented by paragraph (B)(1)(e).

Although defendants in summary cases ordinarily are not slated, photographed, or fingerprinted, the issuing authority should require the defendant to submit to administrative processing and identification procedures (such as fingerprinting) as authorized by law. *See, e.g.*, 18 Pa.C.S. § 3929(g) concerning fingerprinting in retail theft cases.

**The 2010 amendments added new paragraph (D) and related changes to clarify that summary trials in Philadelphia courts may be conducted in the defendant's absence, conforming Philadelphia practice with the statewide procedures governing trials in the defendant's absence. Compare Rules 454, 455 and 462.**

**Nothing in paragraph (D) requires that the trial in absentia be conducted immediately.**

All summary offenses under the motor vehicle laws and parking violations are under the jurisdiction of the Philadelphia Traffic Court. *See* 42 Pa.C.S. §§ 1301–1303, 1321.

**Official Note:** Rule 6002 adopted June 28, 1974, effective July 1, 1974; amended July 1, 1980, effective August 1, 1980; Comment revised January 28, 1983, effective July 1, 1983; amended July 12, 1985, effective January 1, 1986; January 1, 1986 effective date extended to July 1, 1986; amended February 1, 1989, effective July 1, 1989; amended August 9, 1994, effective January 1, 1995; renumbered Rule 1002 and amended March 1, 2000, effective April 1, 2001. Rule 1002 rescinded August 15, 2005, effective February 1, 2006, and replaced by new Rule 1002; amended May 12, 2009, effective February 1, 2010; [ **comment** ] **Comment** revised February 12, 2010, effective April 1, 2010; **amended December 22, 2010, effective February 20, 2011.**

\* \* \* \* \*

[Pa.B. Doc. No. 11-32. Filed for public inspection January 7, 2011, 9:00 a.m.]

## Title 25—LOCAL COURT RULES

### BUCKS COUNTY

#### Mortgage Foreclosure Diversion Program; Administrative Order No. 55

*And Now*, this 20th day of December, 2010, Paragraph 7 of Bucks County Civil Division Administrative Order No. 55, promulgated on June 5, 2009, is hereby amended to read as follows:

7. This Order shall remain in effect until December 31, 2011, unless further extended by the Court.

This Amendment shall take effect thirty days from the date of publication in the *Pennsylvania Bulletin*.

*By the Court*

SUSAN DEVLIN SCOTT,  
*President Judge*

[Pa.B. Doc. No. 11-33. Filed for public inspection January 7, 2011, 9:00 a.m.]

## DISCIPLINARY BOARD OF THE SUPREME COURT

### Notice of Disbarment

Notice is hereby given that Glenn B. Allyn, having been disbarred from the practice of law in the State of New York by Opinion and Order of the Supreme Court of the State of New York, Appellate Division, Second Judicial Department, dated April 22, 2010, the Supreme Court of Pennsylvania issued an Order on December 21, 2010, disbaring Glenn B. Allyn, from the Bar of this Commonwealth, effective January 20, 2011. In accordance with Rule 217(f), Pa.R.D.E., since this formerly admitted attorney resides outside of the Commonwealth of Pennsylvania, this notice is published in the *Pennsylvania Bulletin*.

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

[Pa.B. Doc. No. 11-34. Filed for public inspection January 7, 2011, 9:00 a.m.]

### Notice of Disbarment

Notice is hereby given that Thomas Ashton Edwards having been disbarred from the practice of law in the State of Florida by Order of the Supreme Court of Florida dated April 26, 2001, the Supreme Court of Pennsylvania issued an Order on December 15, 2010, disbaring Thomas Ashton Edwards from the Bar of this Commonwealth, effective January 14, 2011. In accordance with Rule 217(f), Pa.R.D.E., since this formerly admitted attorney resides outside of the Commonwealth of Pennsylvania, this notice is published in the *Pennsylvania Bulletin*.

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

[Pa.B. Doc. No. 11-35. Filed for public inspection January 7, 2011, 9:00 a.m.]

### Notice of Disbarment

Notice is hereby given that Abdoulay A. Swareh having been disbarred by consent from the practice of law in the District of Columbia by Order of the District of Columbia Court of Appeals dated July 24, 2003, the Supreme Court of Pennsylvania issued an Order on December 15, 2010, disbaring Abdoulay A. Swareh from the Bar of this Commonwealth, effective January 14, 2011. In accordance with Rule 217(f), Pa.R.D.E., since this formerly admitted attorney resides outside of the Commonwealth of Pennsylvania, this notice is published in the *Pennsylvania Bulletin*.

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

[Pa.B. Doc. No. 11-36. Filed for public inspection January 7, 2011, 9:00 a.m.]

# RULES AND REGULATIONS

## Title 25—ENVIRONMENTAL PROTECTION

### ENVIRONMENTAL QUALITY BOARD

[ 25 PA. CODE CH. 105 ]

#### Dam Safety and Waterway Management

The Environmental Quality Board (Board) amends Chapter 105 (relating to dam safety and waterway management). The final-form rulemaking addresses the findings from an audit of the Dam Safety Program (Program) by the Auditor General's office, clarifies existing sections and amends outdated sections.

This order was adopted by the Board at its meeting of October 12, 2010.

#### A. *Effective Date*

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

#### B. *Contact Persons*

For further information, contact Roger P. Adams, P.E., Division of Dam Safety, P. O. Box 8554, Rachel Carson State Office Building, Harrisburg, PA 17105-8554, (717) 772-5951; or Margaret O. Murphy, Assistant Counsel, Bureau of Regulatory Counsel, P. O. Box 8464, Rachel Carson State Office Building, Harrisburg, PA 17105-8464, (717) 787-7060. Persons with a disability may use the Pennsylvania AT&T Relay Service, (800) 654-5984 (TDD users) or (800) 654-5988 (voice users). This final-form rulemaking is available through the Department of Environmental Protection's (Department) web site: <http://www.dep.state.pa.us>.

#### C. *Statutory Authority*

The final-form rulemaking is being made under the authority of section 5 of the Dam Safety and Encroachments Act (act) (32 P. S. § 693.5), which grants the Board the authority to adopt regulations and standards for the design, construction, operation, monitoring, maintenance, modification, repair and removal of dams and reservoirs, water obstructions and encroachments as are necessary and proper to carry out the purposes of the act, and sections 1917-A and 1920-A of The Administrative Code of 1929 (71 P. S. §§ 510-17 and 510-20).

#### D. *Background of the Final-Form Rulemaking*

The purpose of the final-form rulemaking is to amend the Department's dam safety and waterway management regulations to address the findings of a recent audit of the Program by the Auditor General's office and to incorporate amendments to strengthen the Program. The Department amends the regulations to address the concerns of the Program and issues raised in the audit. The final-form rulemaking amends numerous sections within Chapter 105 to address Program concerns and address the audit findings by clarifying existing sections and amending outdated sections. The protection of the public will be improved by providing the Commonwealth the financial wherewithal to remove or otherwise modify unsafe or deficient high-hazard dams that are abandoned by their owner or when owners refuse to make necessary safety improvements. The protection of the public will

also be improved by the clarification of engineering design requirements necessary for the proper design and construction of dams.

In summary, the final-form rulemaking clarifies and makes the regulations easier to understand and amends outdated sections.

The final-form rulemaking was approved by the Water Resources Advisory Committee on July 14, 2010.

#### E. *Summary of Changes to the Final Rulemaking*

The final-form rulemaking addresses the findings from an audit of the Program by the Auditor General's office, clarifies existing sections and amends outdated sections. There are no companion Federal regulations.

##### § 105.13a. *Complete applications*

This section was previously § 105.19. The text was moved to new § 105.13a in an effort to keep the application requirement sections together. Minor revisions were made to this section.

##### § 105.13b. *Proof of financial responsibility*

This section was previously § 105.20. The text was moved to new § 105.13b in an effort to keep the application requirements together. The following changes were made to this section:

Proof of financial responsibility will now be required for all existing Hazard Potential Category 1 and Category 2 dams. The former regulation only required proof of financial responsibility when a permit is issued for a dam. This amendment will ensure that sufficient funds are available for the continued operation and maintenance during the lifetime of all existing Hazard Potential Category 1 and Category 2 dams.

The Department may, upon review, request an increase in the amount of the bond or other legal device in subsection (a)(3) as necessary to ensure that sufficient funds are available for continued operation and maintenance during the lifetime of the facility. The Department may not increase this amount more than once every 10 years unless the facility is being modified by permit.

##### § 105.41. *Notices and reports*

For dams, this section was amended to require the permittee or owner to schedule a preconstruction meeting between the permittee or owner, the Department, the contractor and the engineer responsible for construction supervision at least 15 days but not more than 30 days prior to the beginning of construction unless a different time is established by the Department.

##### § 105.42(a). *Terms and conditions of Department permits and approvals*

This section was amended to eliminate the requirement for the permittee to sign the permit, certifying acceptance of the terms and conditions of the permit and returning a signed copy of the permit to the Department. The permittee is still required to sign an acknowledgement form, provided by the Department, acknowledging the terms, conditions, restrictions and covenants in the permit. This eliminates a duplication of the permittee signing both the permit and acknowledgement form and streamlines the permit issuance process. The permit will now be effective upon the Department signing the permit and sending it to the permittee.

§ 105.43. *Time limits*

This section was amended for dams as follows:

The dam permit or other Department approval for construction or modification will not have a completion date.

If the work authorized has not started on or before December 31st of the 5th year following permit issuance or other Department approval, the Department shall be notified 6 months prior to the anticipated start of work so that the project design can be reassessed and reauthorized.

During the design reassessment, the Department may require revisions to the design due to changes in site conditions, dam classification, new technology or revisions to Chapter 105.

If, at any time, the permittee or owner decides not to perform the work, the Department shall be notified in writing and the dam permit or Department approval will become void.

§ 105.81. *Permit applications for construction and modification of dams and reservoirs*

This section was rewritten to more clearly outline the information that needs to be submitted with the application to better inform the regulated community of the information required.

§ 105.82. *Permit applications for operation and maintenance of existing dams and reservoirs*

This section was rewritten to more clearly outline the information that needs to be submitted with the application to better inform the regulated community of the information required.

§ 105.88. *Dam permit issuance*

This new section explains the issuance of a dam permit. The Department will now issue a permit for construction upon approval of application for a new dam or modification of an existing dam. Upon satisfactory completion of work, the Department will issue an operation and maintenance permit for the dam.

§ 105.89. *Letters of Amendment and Letters of Authorization for modification of dams and reservoirs*

This new section explains the use of a Letter of Amendment and Letter of Authorization for authorizing the modification of a dam or reservoir where a permit is not required. Also, it outlines the information required to be submitted for review and approval of the authorization.

§ 105.91(b). *Classification of dams and reservoirs*

This section was amended to add a fourth Hazard Potential Category to eliminate confusion of existing regulations Category 2 High and Category 2 Nonhigh and to bring the Hazard Potential Category designation in line with the revision that is expected in the National Dam Safety Program. The amendment is as follows:

<i>Category</i>	<i>Population at Risk</i>	<i>Economic Loss</i>
1	Substantial (Numerous homes or small businesses or a large business or school.)	Excessive such as extensive residential, commercial, or agricultural damage, or substantial public inconvenience.
2	Few (A small number of homes or small businesses.)	Appreciable such as limited residential, commercial, or agricultural damage, or moderate public inconvenience.
3	None expected (No permanent structures for human habitation or employment.)	Significant damage to private or public property and short duration public inconvenience such as damage to storage facilities or loss of critical stream crossings.
4	None expected (No permanent structures for human habitation or employment.)	Minimal damage to private or public property and no significant public inconvenience.

§ 105.97. *Stability of structures*

This section was expanded to explain the conditions under which the dam must be demonstrated to be stable.

§ 105.98. *Design flood criteria*

This section was amended to more clearly explain how the spillway design flood is determined.

§ 105.107. *Final inspection*

This section was added to require a final inspection with the permittee or owner, the permittee or owner's supervising engineer and the Department's field representative at the completion of work to construct a new dam or the modification of an existing dam.

§ 105.108. *Completion, certification and project costs*

§ 105.109. *As-built plans*

These two new sections were part of former § 105.107. These sections were added and rewritten to better explain the requirements and the information that needs to be

submitted at the completion of work to construct a new dam or to modify an existing dam.

§ 105.111. *Commencement of storage of water, fluid or semifluid*

This section was expanded to better explain the requirements which shall be met prior to the beginning of storage of water, fluid or semifluid behind a newly constructed or modified dam.

§ 105.134. *EAP*

This section was rewritten to more accurately explain the requirements and steps in developing an emergency action plan needed in protecting the public in the event of a dam emergency. Some of the changes are as follows:

Prior to submitting the emergency action plan for review or approval, the permittee or owner shall schedule a meeting with the county emergency management coordinators for those counties affected by the dam's failure.

Each submission of the emergency action plan shall be signed by the dam owners, the dam operators and the



county emergency management coordinators for those counties affected by the dam's failure signifying concurrence with the emergency action plan.

The emergency action plan shall be prepared in accordance with the most recent emergency action plan guidelines developed by the Department and the Pennsylvania Emergency Management Agency (PEMA).

Upon approval of the emergency action plan, the permittee or owner shall provide a copy of the signed approved emergency action plan to the municipal emergency management agencies and emergency response agencies listed in the emergency action plan.

Within 60 days of the date of the Department's approval letter, the permittee or owner shall provide the Department a written statement certifying that a signed approved copy of the emergency action plan has been provided to each municipal emergency management agency and to each emergency response agency listed in the emergency action plan.

Within 60 days of the date of the Department's approval letter, the permittee or owner shall provide the Department a written statement certifying that the notices have been posted in the locations listed in the emergency action plan. The permittee or owner shall certify in each subsequent annual inspection report that the notices remain posted or were reposted in the locations listed in the emergency action plan.

The emergency action plan shall be reviewed and updated every 5 years or the frequency interval indicated in the most recent emergency action plan guidelines developed by the Department and PEMA.

The Department may require the emergency action plan be updated, as necessary, if there is a new owner or operator of the dam, if changes occur in the downstream inundation area or if there is a change in the Hazard Potential Category.

*F. Summary of Comments and Responses on the Proposed Rulemaking*

The language referenced in comments pertaining to both dams and water obstructions and encroachments, where the Department proposed changes, will be reverted back to the existing language and the comments will be addressed in the Water Obstructions and Encroachments 105 regulation package currently under review by the Department.

The following comments were taken into consideration and amendments provided in Chapter 105:

*Comment*

§ 105.97. *Stability of structures.* The proposed amendment provided minimum factors of safety for various analyses such as 1.7 for maximum pool for a gravity dam. This factor of safety is significantly greater than 1.1 that is currently required by the United States Army Corps of Engineers and the commentator requested that Department reconsider the maximum factors for safety presented in the proposed rulemaking. Furthermore, the commentator is concerned that listing the required minimum factor of safety in the regulations does not allow for future changes in the industry:

*Recommendation.* The commentator recommended that the required factors of safety be deleted and published in a separate document, such as design guidance. This will give the Department the ability to rapidly respond to advancements in the field of dam engineering rather than needing to rewrite the regulations.

*Response*

The Department feels that the factors of safety should be in the regulations so they are binding. Currently, the factor of safety required for a concrete gravity dam at maximum pool is 1.7 per the United States Army Corps of Engineers.

In response to flexibility, the Department amended subsection (h) to include the following:

(h) The Department may consider a revised factor of safety for a class of dams or reservoirs when it can be demonstrated that the factor of safety provides for the integrity of the dams or reservoirs and adequately protects life and property.

*Comment*

§ 105.96. *Outlet works.* A commentator requested a definition for calculating "highest mean monthly inflow."

*Response*

The Department agrees with the Department of Transportation's recommendation and amended subsection (a) as follows:

(a) Dams must include a device to allow the complete draining of the reservoir unless the Department determines that an outlet works is not feasible for a specific dam. At minimum, the device must be sized to pass a minimum of 70% of the highest mean monthly inflow at the site plus the capacity to drain the top 2 feet of reservoir storage below normal pool in 24 hours. The highest mean monthly flow shall be determined from statistics of an appropriate stream gage, as approved by the Department, transferred to the dam site by the ratio of the drainage areas. The Department may require an increased size to provide for the integrity of the dam and to protect life and property with an adequate margin of safety.

*G. Benefits, Costs and Compliance*

*Benefits*

The final-form rulemaking clarifies existing regulations to make them easier for the regulated community to understand and to better assure proper planning, design, construction, operation, maintenance and monitoring of dams and reservoirs to protect the health, safety, welfare and property of the public and protect the water quality and natural regime of watercourses.

The final-form rulemaking amends the Department's dam safety and waterway management regulations to address the findings of a recent audit of the Program by the Auditor General's office and to incorporate amendments to strengthen the Program. The audit highlighted regulatory changes to improve the Program. The Department amends the regulations to address the concerns of the Program and issues raised in the audit. The final-form rulemaking amends numerous sections to address Program concerns and address the audit findings by clarifying existing sections and amending outdated sections. The protection of the public will be improved by providing the Commonwealth the financial wherewithal to remove or otherwise modify unsafe or deficient high-hazard dams that are abandoned by their owners or when owners refuse to make necessary safety improvements. The protection of the public will also be improved by the clarification of engineering design requirements necessary for the proper design and construction of dams.

*Compliance Costs*

The final-form rulemaking applies to owners or operators of dams. There are approximately 2,333 owners of

3,256 dams that are affected by the existing regulations. The following table shows a breakdown of the ownership type:

<i>Ownership</i>	<i>New Hazard Potential Category</i>			
	<i>Category 1</i>	<i>Category 2</i>	<i>Category 3</i>	<i>Category 4</i>
County Owned	78	0	2	22
Municipally Owned	183	10	38	331
Privately Owned	340	73	221	1685
State Owned	89	5	17	162

*Category 1.* Substantial population at risk, 10 or more people, or numerous small businesses or a large business or school.

*Category 2.* Few people at risk, less than 10 people or a small number of small businesses.

*Category 3.* No population at risk, but significant damage to private or public property and short duration public inconvenience.

*Category 4.* No population at risk and only minimal damage to private or public property and no significant public inconvenience

The only additional cost in the amendments to the final-form rulemaking is for providing proof of financial responsibility. Proof of financial responsibility will be required from private individuals or businesses who own an existing Hazard Potential Classification Category 1 or Category 2 dam. The proof of financial responsibility must be a bond or other legal device of a form acceptable to the Department, payable to the Commonwealth, which guarantees proper construction, repair, operation and maintenance, inspection and monitoring, and removal, if necessary, of the facility. The cost is derived from an engineering estimate for the removal of the dam, and is dam-specific based on the size and type (earthfill, concrete, stone masonry, and the like) of dam. The proof of financial responsibility can be met by providing the Department with a surety bond or a collateral bond secured by a negotiable bond, cash, certified check, cashier's check, treasurer's check, irrevocable letter of credit or certificate of deposit. The amount of the bond or other legal device could range from \$25,000 to \$200,000 per dam. This would be the actual cost to the owner if they used a negotiable bond, cash, certified check, cashier's check, treasurer's check or certificate of deposit. If the owner provides a surety bond or irrevocable letter of credit, the actual cost would range from \$250 to \$4,000 annually. Because most of the privately owned dams are generally on the smaller side, the amount of the bond and annual maintenance cost will be toward the lower end of the range. Businesses regulated by the Pennsylvania Public Utility Commission (PUC) need only provide a certificate of public convenience from the PUC to meet the proof of financial responsibility requirement. Ownership of the dam by a governmental agency meets the requirement to provide proof of financial responsibility. Should this amendment not be approved the cost to the Commonwealth could be significant. In cases when a bond or other legal device is not in place, the Commonwealth would be responsible, at its expense, to take corrective actions. This would be necessary when a dam hazard emergency develops and the owner is unwilling or unable to take corrective actions necessary to prevent dam failure and potential loss of life downstream.

*Compliance Assistance Plan*

Financial assistance is not necessary. Dam owners affected by the final-form rulemaking will be advised by letter advising of the amendments and how they can comply with the changes. Because most of the amendments are for clarification purposes, there will be little effect on dam owners.

*Paperwork Requirements*

The only additional paperwork required would be the need to obtain the necessary proof of financial responsibility. This is not an annual requirement, as the amount needed for proof of financial responsibility is updated every 10 years.

*H. Sunset Review*

These regulations will be reviewed in accordance with the sunset review schedule published by the Department to determine whether the regulations effectively fulfill the goals for which they were intended.

*I. Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on April 14, 2010, the Department submitted a copy of the notice of proposed rulemaking, published at 40 Pa.B. 2211 (April 24, 2010), to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the House and Senate Environmental Resources and Energy Committees for review and comment.

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

Under section 5.1(j.2) of the Regulatory Review Act (71 P.S. § 745.5a(j.2)), on November 17, 2010, the final-form rulemaking was deemed approved by the House and Senate Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC met on November 18, 2010, and approved the final-form rulemaking.

*J. Findings*

The Board finds that:

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

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

(3) This final-form rulemaking does not enlarge the purpose of the proposed rulemaking published at 40 Pa.B. 2211.

(4) This final-form rulemaking is necessary and appropriate for administration and enforcement of the authorizing acts identified in Section C of this preamble.

K. Order

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

(a) The regulations of the Department, 25 Pa. Code Chapter 105, are amended by amending §§ 105.11, 105.13, 105.15, 105.20a, 105.23, 105.25, 105.26, 105.31, 105.34, 105.43, 105.44, 105.47, 105.51, 105.53, 105.63, 105.64, 105.71, 105.82, 105.91—105.94, 105.98, 105.103, 105.104, 105.106, 105.107, 105.111—105.113, 105.121—105.123, 105.131, 105.133, 105.134, 105.136 and 105.431; by deleting §§ 105.19, 105.20, 105.52, 105.101, 105.132 and 105.432; and by adding §§ 105.13a, 105.13b, 105.88, 105.89, 105.108 and 105.109 to read as set forth at 40 Pa.B. 2211; and by amending §§ 105.1, 105.4, 105.12, 105.14, 105.21, 105.35, 105.41, 105.42, 105.45, 105.46, 105.61, 105.81, 105.96, 105.97, 105.102 and 105.135 to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.

(b) The Chairperson of the Board shall submit this order, 40 Pa.B. 2211 and Annex A to the Office of General Counsel and the Office of Attorney General for review and approval as to legality and form, as required by law.

(c) The Chairperson of the Board shall submit this order, 40 Pa.B. 2211 and Annex A to IRRC and the Senate and House Committees as required by the Regulatory Review Act.

(d) The Chairperson of the Board shall certify this order, 40 Pa.B. 2211 and Annex A and deposit them with the Legislative Reference Bureau as required by law.

(e) This order shall take effect immediately.

JOHN HANGER,  
Chairperson

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

**Fiscal Note:** Fiscal Note 7-452 remains valid for the final adoption of the subject regulations.

**Annex A**

**TITLE 25. ENVIRONMENTAL PROTECTION**

**PART I. DEPARTMENT OF ENVIRONMENTAL PROTECTION**

**Subpart C. PROTECTION OF NATURAL RESOURCES**

**ARTICLE II. WATER RESOURCES**

**CHAPTER 105. DAM SAFETY AND WATERWAY MANAGEMENT**

**Subchapter A. GENERAL PROVISIONS**

**GENERAL**

**§ 105.1. Definitions.**

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

\* \* \* \* \*

*Archaeological site*—A known site of archaeological significance based on the Comprehensive State Plan for Conservation of Archaeological Resources. The Comprehensive State Plan is available from the Historic and Museum Commission.

\* \* \* \* \*

*Contributory drainage area*—Area upstream of a proposed or existing dam, water obstruction or encroachment that contributes runoff to a watercourse.

\* \* \* \* \*

*Dam*—An artificial barrier, together with its appurtenant works, constructed for the purpose of impounding or storing water or other fluid or semifluid, or a refuse bank, fill or structure for highway, railroad or other purposes which does or may impound water or other fluid or semifluid.

\* \* \* \* \*

*EAP—Emergency Action Plan*—A formal document that identifies potential emergency conditions at a dam and specifies preplanned actions to be followed to minimize property damage and loss of life.

(i) The EAP contains procedures and information to assist the dam owner in issuing early warning and notification messages to responsible downstream emergency management authorities of the emergency situation.

(ii) The EAP also contains inundation maps to show the emergency management authorities of the critical areas for action in case of an emergency.

\* \* \* \* \*

*Flowage easements*—An acquired right of use of another person's land for water temporarily or permanently impounded by a dam or backwater from the installation, operation and maintenance of a water obstruction or encroachment.

\* \* \* \* \*

*Hydrologic and hydraulic analysis*—

(i) A study of the effects of an encroachment or water obstruction on the flow carrying capacity of a watercourse.

(ii) A study determining the watershed runoff into a dam and reservoir and the resulting routed outflow from the dam and its spillway structures.

*Incremental dam breach analysis*—A process to determine the highest runoff event during which a dam failure would cause a threat to life, health, property or the environment in areas below the dam in excess of the threat level caused by the same runoff event with no dam failure.

\* \* \* \* \*

*Letter of Amendment for dams*—A letter from the Department amending an existing Dam Permit for major maintenance, repair or improvement projects which do not involve modification to the top-of-dam elevation or modification of the normal pool reservoir elevation.

*Letter of Authorization for dams*—A letter from the Department approving major maintenance, repair or improvement projects which do not involve modification to the top-of-dam elevation or modification of the normal pool reservoir elevation of a dam which has not been previously permitted by the Department and meets the



waiver of permit requirements under § 105.12(b)(1) or (2) (relating to waiver of permit requirements).

\* \* \* \* \*

*Limited Power and Water Supply Act*—The act of June 14, 1923 (P. L. 700, No. 293) (32 P. S. §§ 621—625); and the act of June 14, 1923 (P. L. 704, No. 294) (32 P. S. §§ 591—600), regarding Limited Power Permits and Limited Water Supply Permits from the Water Supply Commission of Pennsylvania and the conditions thereof, to the flooding and use by holders of Limited Power Permits of lands owned by the Commonwealth, to the unlawful use for water or steam power developments of dams and changes in streams hereafter constructed or made otherwise than under Limited Power Permits, and to proceedings for the enforcement of this act.

*Maintenance dredging*—Periodic dredging conducted to accomplish one or more of the following purposes:

- (i) Maintain adequate depths for navigation.
- (ii) Assure proper passage of ice and flood flows.
- (iii) Preserve the safety, stability and proper operation of the dam, water obstruction or encroachment.
- (iv) Restore the natural or previously permitted reservoir capacity.
- (v) Restore flood protection projects to original design dimensions.

*Major dam design revision*—A revision to a previously approved or permitted dam design which requires either the Department’s review or modeling of a revised hydrologic and hydraulic analysis of the dam and reservoir’s capacity to pass or store, or both, the required spillway design flood; the Department’s review or modeling of an analysis to determine the ability of the dam’s spillway or decant to dewater after runoff events; or the Department’s review or modeling of a stability analysis of the revised dam design.

*Maximum credible earthquake*—A seismic event with a 2% probability of exceedance in 50 years.

\* \* \* \* \*

*PMF—Probable maximum flood*—The flood that may be expected from the most severe combination of critical meteorologic and hydrologic conditions that are reasonably possible in an area. The PMF is derived from the probable maximum precipitation (PMP) as determined on the basis of the most recent data available from the National Oceanographic and Atmospheric Administration (NOAA).

\* \* \* \* \*

*Person*—

- (i) A natural person, partnership, association, corporation, public utility, municipality, municipal authority, political subdivision of this Commonwealth, receiver or trustee and a department, board, commission or authority of the Commonwealth.
- (ii) Whenever used in a section prescribing and imposing a penalty or sanction, the term includes the members of an association and the officers of a corporation, municipality or municipal authority.

\* \* \* \* \*

*Reservoir filling plan*—A plan that sets a schedule for the initial filling of the reservoir behind a new dam or the refilling of a reservoir after the rehabilitation of an existing dam.

\* \* \* \* \*

*Spillway*—A device which safely conveys the design flood of a dam without endangering the dam’s safety or integrity.

\* \* \* \* \*

*Wild trout streams*—A stream identified as supporting naturally reproducing trout populations by the Fish and Boat Commission under 58 Pa. Code § 57.11 (relating to listing of wild trout streams). For a list of wild trout streams, contact the Fish and Boat Commission, www.fish.state.pa.us.

**§ 105.4. Delegations to local agencies.**

(a) Under section 17 of the act (32 P. S. § 693.17) and subject to this section, the Department may by written agreement delegate to a county conservation district or other county agency one or more of its regulatory functions including enforcement and the power to permit, inspect and monitor specified categories of water obstructions and encroachments.

(b) No delegation may be made of the authority to issue permits for a water obstruction or encroachment constructed, owned or maintained by the Commonwealth, a political subdivision or a public utility. Delegations may be made of the powers to inspect and monitor the activities, if the Department retains final authority to approve or disapprove permits, and concurrent authority to inspect, monitor and enforce the act.

(c) To the extent delegated by the agreement, the delegations may include the authority to enforce the act and this chapter and to exercise other powers and duties otherwise vested in the Department to implement the act with respect to the categories of water obstructions and encroachments covered by the delegation.

(d) A delegation agreement will:

- (1) Specify the powers and duties to be performed by the delegated agency.
- (2) Specify the categories of water obstructions and encroachment activities to be covered by the delegated agency.
- (3) Provide for the commitment by the delegated agency of sufficient trained staff and resources to perform the powers and duties to be delegated.
- (4) Require the delegated agency to maintain records of activities performed under the delegation.
- (5) Provide for monitoring and supervision by the Department of performance by the delegated agency of the functions delegated under the agreement.

(e) A permit for a water obstruction or encroachment issued by a delegated agency is subject to review by the Department, unless the right of review is waived by the Department. A permit issued by a delegated agency shall become effective 30 days following the receipt of notice by the Department of issuance, unless the permit is disapproved by the Department or an appeal is filed with the Department under section 17 of the act.

(f) When the Department delegates one or more of its regulatory functions to a local agency, the Department will retain the concurrent power to inspect and monitor

categories of water obstructions and encroachments and to enforce the act and this chapter.

**PERMIT APPLICATIONS**

**§ 105.12. Waiver of permit requirements.**

(a) Under section 7 of the act (32 P. S. § 693.7), the requirements for a permit are waived for the following structures or activities, regardless of when commenced. If the Department upon complaint or investigation finds that a structure or activity which is eligible for a waiver, has a significant effect upon safety or the protection of life, health, property or the environment, the Department may require the owner of the structure to apply for and obtain a permit under this chapter.

(1) A dam not exceeding 3 feet in height in a stream not exceeding 50 feet in width, except wild trout streams designated by the Fish and Boat Commission.

\* \* \* \* \*

(10) A navigational aid or marker, buoy, float, ramp or other device or structure for which a permit has been issued by the Fish and Boat Commission under 30 Pa.C.S. § 5123(a)(7) (relating to general boating regulations).

\* \* \* \* \*

(b) The requirements for a permit for existing structures or activities, as provided in section 6(c) of the act (32 P. S. § 693.6(c)), are waived for the following structures or activities, if construction was completed prior to July 1, 1979. If the Department upon complaint or investigation finds that a structure or activity which is eligible for a waiver, has a significant effect upon safety or the protection of life, health, property or the environment, the Department may require the owner of the structure or activity to apply for and obtain a permit under this chapter.

\* \* \* \* \*

(2) A dam which the Department determines, on the basis of preliminary data submitted by the applicant, is of Size Classification C and Hazard Potential Classification 4, as defined in § 105.91 (relating to classification of dams and reservoirs) and does not have a significant effect on coastal resources or an adverse impact on the environment.

\* \* \* \* \*

**§ 105.14. Review of applications.**

\* \* \* \* \*

(b) In reviewing a permit application under this chapter, the Department will use the following factors to make a determination of impact:

(1) Potential threats to life or property created by the dam, water obstruction or encroachment.

(2) Potential threats to safe navigation created by the dam, water obstruction or encroachment.

(3) The effect of the dam, water obstruction or encroachment on the property or riparian rights of owners upstream, downstream or adjacent to the project.

(4) The effect of the dam, water obstruction or encroachment on regimen and ecology of the watercourse or other body of water, water quality, stream flow, fish and wildlife, aquatic habitat, instream and downstream uses and other significant environmental factors.

(5) The impacts of the dam, water obstruction or encroachment on nearby natural areas, wildlife sanctuar-

ies, public water supplies, other geographical or physical features including cultural, archaeological and historical landmarks, National wildlife refuges, National natural landmarks, National, State or local parks or recreation areas or National, State or local historical sites.

(6) Compliance by the dam, water obstruction or encroachment with applicable laws administered by the Department, the Fish and Boat Commission and river basin commissions created by interstate compact.

(7) The extent to which a project is water dependent and thereby requires access or proximity to or siting within water to fulfill the basic purposes of the project. The dependency must be based on the demonstrated unavailability of any alternative location, route or design and the use of location, route or design to avoid or minimize the adverse impact of the dam, water obstruction or encroachment upon the environment and protect the public natural resources of this Commonwealth.

(8) Present conditions and the effects of reasonably foreseeable future development within the affected watershed upstream and downstream of the dam, water obstruction or encroachment:

\* \* \* \* \*

(c) In reviewing a permit application under § 105.11(c) (relating to permit requirements) and section 6(c) of the act (32 P. S. § 693.6(c)) for the operation and maintenance of an existing dam, water obstruction or encroachment, the Department will use the following factors:

(1) Potential threats to life, property or safe navigation created by the continuing operation or maintenance of the project.

(2) Adverse impact on stream flow, water quality or the environment which might be reduced or mitigated by reasonable changes in the operation of the project.

(3) Compliance of the operation and maintenance of the project with applicable laws administered by the Department, the Fish and Boat Commission and river basin commissions created by interstate compact.

(d) The Department may review a permit application for the operation and maintenance of existing projects without regard to the design criteria and construction requirements in Subchapters B—J. If the Department finds that an existing dam, water obstruction or encroachment is unsafe or adversely affects property or the environment, it may consider application of criteria and requirements reasonably necessary to correct the conditions.

**PERMIT ISSUANCE, TRANSFER AND REVOCATION**

**§ 105.21. Criteria for permit issuance and denial.**

(a) In addition to the other requirements of this chapter, a permit application will not be approved unless the applicant demonstrates that the following conditions are met:

(1) The application is complete and accurate.

(2) The proposed project or action complies with the standards and criteria of this title and with other laws administered by the Department, the Fish and Boat Commission and river basin commissions created by interstate compact.

(3) The proposed project or action will adequately protect public health, safety and the environment.

(4) The proposed project or action is consistent with the environmental rights and values secured by Pa. Const. Art. I, § 27 and with the duties of the Commonwealth as trustee to conserve and maintain public natural resources of this Commonwealth.

(5) The applicant has not been found to be in continuing violation of this title or other laws administered by the Department, the Fish and Boat Commission, or a river basin commission created by interstate compact, including, but not limited to, a violation of an adjudication and order, agreement, consent order or decree, whether or not the applicant's violation resulted in an order or civil penalty assessment.

(6) The applicant has submitted adequate proof of financial responsibility, if required under § 105.13b (relating to proof of financial responsibility).

(b) A permit issued under this chapter shall be subject to the general and special conditions regarding construction, operation, maintenance, inspection and monitoring of a project or action that the Department may deem necessary to assure compliance with the requirements and purposes of this chapter, the act, the Flood Plain Management Act (32 P. S. §§ 679.101—679.601) and other laws administered by the Department, the Fish and Boat Commission and river basin commissions created by interstate compact.

(c) The Department may not issue a permit to operate and maintain a dam, water obstruction or encroachment constructed without a permit unless one of the following is met:

(1) The Department determines that the structure or activity complies with the standards and criteria of this title, including replacement in accordance with § 105.20a (relating to wetland replacement criteria), and with other laws administered by the Department, the Fish and Boat Commission and river basin commissions created by interstate compact.

(2) The Department determines that the structure or activity does not comply with the standards and criteria of this title and with other laws administered by the Department, the Fish and Boat Commission and river basin commissions created by interstate compact, that the effect on wetlands will be mitigated, and at least one of the following is met:

(i) Restoration would cause destruction of a dwelling occupied by a person who had no role in the planning or construction of the project.

(ii) Restoration may result in more long term damage than would be caused by allowing the project to remain in place.

(iii) Restoration would be unsuccessful due to material changes in the condition of the site and its surrounding area.

(iv) There are extraordinary circumstances which preclude restoration.

(d) The reason for denial of a permit application and appeal procedures will be communicated in writing to the applicant.

(e) In an appeal from a Department action concerning a permit application to operate and maintain a dam, water obstruction or encroachment, the applicant has the burden of proving that there is no reasonable basis for the Department's action.

## SUBMERGED LANDS OF THE COMMONWEALTH—LICENSES AND ANNUAL CHARGES

### § 105.35. Charges for use and occupation of submerged lands of this Commonwealth.

\* \* \* \* \*

(c) Charges may not be imposed under section 15 of the act or section 514 of The Administrative Code of 1929 for the following categories of activities and structures:

(1) An activity or structure constructed, owned or operated by a department, commission or agency of the Commonwealth or the Federal government.

(2) A project or activity constructed, or operated primarily for the benefit of a State building or a State institution.

(3) A flood control project constructed, owned or operated by an agency of the Commonwealth, the Federal government or a municipality.

(4) A project or activity constructed, owned or operated by a political subdivision of this Commonwealth which provides potable water supply, sewage disposal or other similar services necessary for public health and welfare, or in connection with a service for which no fees or charges other than general taxes are imposed.

(5) A facility to provide access to the general public to water for recreational boating, fishing, hunting, swimming or other recreation where the access is provided without charge or on a nonprofit basis.

(6) A structure or facility constructed and operated exclusively to improve fish habitat, under a cooperative agreement with the Fish and Boat Commission.

(7) A private recreational dock constructed under a general permit.

(d) The annual charges imposed in subsections (a) and (b) may be revised by the EQB after approval by the Governor and reasonable notice to the holder of a license issued under this section.

(e) This section does not apply to a crossing contiguous to or in a State park or State forest lands. Easements for the crossings shall be administered in accordance with section 514 of The Administrative Code of 1929 and the park and forest land management practices of the Department of Conservation and Natural Resources.

(f) The removal of sand, gravel and other valuable minerals from submerged lands of this Commonwealth are subject to the royalty and agreement provisions established under section 1908-A of The Administrative Code of 1929 (71 P. S. § 510-8).

## CONSTRUCTION REQUIREMENTS AND PROCEDURES

### § 105.41. Notices and reports.

(a) Except for work authorized under §§ 105.12(a), 105.64 and Subchapter L (relating to waiver of permit requirements; emergency permits; and general permits), the permittee shall meet the following:

(1) For permits or approvals issued for water obstructions or encroachments, requirements to provide notice of commencement of work and status reports, if any, shall be identified in conditions of the permit or by order of the Department.

(2) For permits or approvals issued for dams, the permittee or owner shall schedule a preconstruction meet-



ing between the permittee or owner, the Department, the contractor and the engineer responsible for construction supervision. The preconstruction meeting must be conducted at least 15 days but not more than 30 days prior to the commencement of construction unless a different time is established by the Department. Thereafter, a detailed report on the status of construction must be submitted monthly to the Department of Environmental Protection, Division of Dam Safety, until construction has been completed.

(b) The Department may require submission of additional reports, as it deems necessary, on the status of construction.

**§ 105.42. Terms and conditions of Department permits and approvals.**

(a) The permittee shall fully inform the engineer or contractor responsible for the supervision and conduct of work of the terms, conditions, restrictions and covenants covered by a permit, Letter of Amendment, Letter of Authorization, or other Department approval issued under this chapter.

(b) Prior to the commencement of construction, the permittee shall file an acknowledgment form provided by the Department, signed by the permittee and other project personnel, as specified on the form, acknowledging the terms, conditions, restrictions and covenants in the permit and, required by the Department, for a Letter of Amendment or Letter of Authorization. Unless the acknowledgment form has been completed and filed, the permit or other Department approval is void.

(c) A copy of the permit or other Department approval and the acknowledgment form must be available at the work site for inspection upon request by an officer or agent of the Department or another Federal, State, county or municipal agency.

**§ 105.45. Inspections by the Department.**

Work, structures and land covered under a permit or other Department approval issued under this chapter shall at all times be subject to inspection by representatives of the Department, and the permittee or owner shall allow representatives of the Department to enter a property, premises or place associated with the permitted or approved project for the purposes of the inspection.

**§ 105.46. Implementation of erosion and sedimentation control plans.**

(a) During the construction of a dam, water obstruction or encroachment, the permittee shall follow the erosion and sediment control plan prepared in accordance with Chapter 102 (relating to erosion and sediment control) and submitted as part of the application.

(b) Construction must be done in a manner to minimize erosion of banks and bed of the stream and disturbance of the regimen of the stream.

**INVESTIGATION AND CORRECTION OF UNSAFE CONDITIONS—EMERGENCY PROCEDURES**

**§ 105.61. Procedures for investigations.**

The Department may, if it finds there is reasonable cause to suspect the existence of conditions adversely affecting the safety of a dam, water obstruction or encroachment, order the owner to conduct investigations, studies, tests and analyses that may be required to properly evaluate the safety of the structure. The investigations, studies, tests and analyses shall be accomplished under the supervision of a registered professional engineer, experienced in the design, construction, operation

and maintenance of the facilities and approved by the Department, and shall be accomplished in accordance with methods the Department may prescribe. Failure to conduct the ordered investigations, studies, tests and analyses and provide the investigation results of the activities to the Department on request will constitute adequate grounds for revocation or suspension of a permit.

**Subchapter B. DAMS AND RESERVOIRS**

**PERMITS, LETTERS OF AMENDMENTS AND LETTERS OF AUTHORIZATIONS**

**§ 105.81. Permit applications for construction and modification of dams and reservoirs.**

(a) In addition to the information required under §§ 105.13, 105.13a, 105.13b and 105.15, permit applications under this subchapter for the construction or modification of dams and reservoirs must provide the following information:

(1) Reports and data detailing the conduct and results of investigations and tests necessary to determine the safety, adequacy and suitability of design, including:

(i) Data concerning subsoil and rock foundation conditions.

(ii) Data concerning exploratory pits, drilling, coring and tests to determine seepage rates.

(iii) Data concerning the strength tests necessary to measure the physical properties and behavior of foundations and embankment materials at the dam or reservoir site.

(iv) Data concerning the geology of the dam site or reservoir area, indicating possible hazards such as faults, weak seams and joints.

(v) Data concerning availability and quality of construction materials.

(vi) A “Dam Stability Report” as required under § 105.97 (relating to stability of structure).

(vii) Other information as may be necessary to determine the safety, adequacy and suitability of the design, including the design calculations for the dam, which shall be made available to the Department on request.

(2) Site plan and cross sectional views required under § 105.13(d)(1)(i) (relating to permit applications-information and fees).

(3) Construction plans, specifications and design reports to evaluate the safety, adequacy and suitability of the proposed dam, reservoir and appurtenant works in order to determine compliance with this chapter.

(4) A schedule indicating proposed commencement and completion dates for construction.

(5) For projects involving storage of fluids or semifluids other than water, information concerning the chemical content, viscosity and other pertinent physical characteristics of the fluid or semifluid impounded.

(6) An instrumentation plan including justification and design for the installation of permanent monitoring instruments to measure the performance of the dam. If no instrumentation is considered necessary, justification shall be provided.

(7) A hydrologic and hydraulic analysis, submitted as a separate report, which includes:

(i) The size, shape and characteristics of the drainage basin.

(ii) Current precipitation data and precipitation distribution information as required by the Department.

(iii) Streamflow records.

(iv) Flood flow records and estimates.

(v) An incremental dam breach analysis, storage capacity and reservoir surface area for normal pool and maximum storage elevations.

(vi) Other hydrologic and hydraulic determinations necessary for the design and operation of the dam.

(8) For existing dams, copies of the structure's most recent inspection reports.

(9) EAP if required under § 105.134 (relating to EAP).

(10) Proof of title or adequate flowage easements for land area below the top of the dam elevation that is subject to inundation.

(11) An Operation and Maintenance Manual for the dam as required under § 105.131 (relating to operation, maintenance and monitoring).

(12) Other information the Department may require.

(b) The Department may waive specific information requirements of this section in writing, if the Department finds that specific information is not necessary to review the application.

**CLASSIFICATION AND DESIGN CRITERIA FOR APPROVAL OF CONSTRUCTION, OPERATION, MODIFICATION AND MAINTENANCE**

**§ 105.96. Outlet works.**

(a) Dams must include a device to allow the complete draining of the reservoir unless the Department determines that an outlet works is not feasible for a specific dam. At minimum, the device must be sized to pass a minimum of 70% of the highest mean monthly inflow at the site plus the capacity to drain the top 2 feet of reservoir storage below normal pool in 24 hours. The highest mean monthly flow shall be determined from statistics of an appropriate stream gage, as approved by the Department, transferred to the dam site by the ratio of the drainage areas. The Department may require an increased size to provide for the integrity of the dam and to protect life and property with an adequate margin of safety.

(b) In determining the reasonable time period for drainage of the reservoir, the dam owner, the dam owner's engineer, and the Department may consider, without limitation, the following factors:

(1) The damage potential posed by possible failure of the dam.

(2) The risk and nature of potential failure and the time likely to be available to avert the failure after notice of conditions threatening the safety or stability of the dam.

(3) The purpose of the dam and reservoir.

(4) The capacity and stability of available drainage courses to convey the waters released from the reservoir in the event of emergency drainage.

(5) The influence of rapid drawdown on the stability of the dam, its appurtenant works and the upstream natural slopes of the reservoir.

(c) Under normal conditions, the maximum rate of drawdown for reservoirs impounded by earthfill dams should not exceed 1 foot per day without prior approval by the Department. Under emergency conditions, the

maximum rate of partial or complete drawdown of reservoirs must be approved by the Department, when feasible.

(d) Each outlet works must include upstream closure, trashrack, and a means of dissipating the energy of flow at its outlet to assure conveyance of flow without endangering the safety and integrity of the dam or the natural environment of the stream.

**§ 105.97. Stability of structures.**

(a) Dams must be structurally sound and be constructed of sound and durable materials. The structure must be stable during and at the completion of construction.

(b) As part of the permit application for the construction or modification of a dam, the design engineer shall submit to the Department, under professional seal and certification, a report entitled "Dam Stability Report" which clearly demonstrates to the Department that the requirements of subsection (a) have been satisfied. At a minimum, this report must address the following considerations:

(1) The physical properties of the materials available for construction.

(2) A stability analysis based on the properties of the structure's materials and on the seismic forces and seepage conditions affecting the structure.

(3) The methods of construction.

(4) The conditions of operation of the dam and reservoir.

(c) Earthfill dams must be demonstrated to be stable for the following conditions:

(1) Normal pool with steady-state seepage conditions with a factor of safety of 1.5.

(2) Maximum pool with steady-state seepage conditions with a factor of safety of 1.4.

(3) Sudden drawdown from normal pool conditions with a factor of safety of 1.2.

(4) Normal pool with steady-state seepage conditions under seismic forces produced by the maximum credible earthquake with a factor of safety of 1.1.

(5) Completion of construction with no pool with a factor of safety of 1.3.

(d) Gravity dams must be demonstrated to be stable for the following conditions:

(1) Normal pool with appropriate uplift pressures, ice loads and silt loads with a factor of safety of 2.0.

(2) Maximum pool with appropriate uplift pressures and silt loads with a factor of safety of 1.7.

(3) Normal pool with appropriate uplift pressures and silt loads under seismic forces produced by the maximum credible earthquake with a factor of safety of 1.3.

(e) For gravity dams, the overturning stability is acceptable when the resultant of all forces acting on the dam is located as follows:

(1) Within the middle third of the structure for normal pool conditions.

(2) Within the middle half of the structure for maximum pool conditions.

(3) Within the structure for earthquake conditions.

(f) For gravity dams, the foundation bearing pressures must be less than or equal to the allowable for no pool, normal pool and maximum pool conditions and less than 133% of the allowable for earthquake conditions.

(g) The factors of safety for earthfill dams or gravity dams must be the higher of:

- (1) The factors of safety in subsections (c) and (d).
- (2) The factors of safety in the most recent Engineering Manuals developed by the United States Army Corps of Engineers relating to stability of dam structures.

(h) The Department may consider a revised factor of safety for a class of dams or reservoirs when it can be demonstrated that the factor of safety provides for the integrity of the dams or reservoirs and adequately protects life and property.

**CONSTRUCTION REQUIREMENTS AND PROCEDURES**

**§ 105.102. Personnel and supervision.**

(a) The permittee or owner shall file with the Department, at least 15 days prior to the commencement of construction, a statement setting forth the name and employer, including contact information, of the following:

- (1) The professional engineer responsible for oversight and supervision of construction.
- (2) Representatives of the professional engineer.
- (3) Contractors conducting the work authorized by the permit, letter of amendment or letter of authorization as required by the Department.

(b) Work must be conducted under the oversight and supervision of a professional engineer. The professional engineer or a representative of the professional engineer shall be on the work site during significant construction activities until the completion of the dam.

**OPERATION, MAINTENANCE AND EMERGENCIES**

**§ 105.135. Dam hazard emergencies.**

(a) For the purposes of this section, a dam hazard emergency means a condition which the Department, permittee or owner of the dam reasonably finds constitutes an imminent threat to life or property above or below a dam, whether arising from the condition of the dam and appurtenant works or extraordinary natural conditions, affecting the safety and stability of the dam, including flood, earthquake and ice jam.

(b) The emergency procedures and the EAP required under §§ 105.63 and 105.134 (relating to emergency procedures; and EAP) shall be followed by the permittee and owner of a dam or reservoir in the event of an actual or potential dam hazard emergency.

(c) If a dam hazard emergency exists, the permittee or owner of the dam shall immediately notify appropriate emergency management officials identified in the emergency action plan required under §§ 105.63 and 105.134 of the existence of the hazard and request the authorities to initiate appropriate action to assure protection of life and property; and the permittee or owner shall immediately take actions as authorized by the Department necessary to prevent dam failure or loss of life or property.

(d) The Department, upon determining that a dam hazard emergency exists, will notify the owner immediately to take actions the Department determines are necessary to prevent dam failure or loss of life or property.

[Pa.B. Doc. No. 11-37. Filed for public inspection January 7, 2011, 9:00 a.m.]

**PART I. DEPARTMENT OF ENVIRONMENTAL PROTECTION**

**Subpart C. PROTECTION OF NATURAL RESOURCES**

**ARTICLE III. AIR RESOURCES**

**CHAPTER 129. STANDARDS FOR SOURCES**

**Corrective Amendment to 25 Pa. Code § 129.51**

The Department of Environmental Protection has discovered a discrepancy between the agency text of 25 Pa. Code § 129.51 (relating to general) as deposited with the Legislative Reference Bureau and the official text published at 40 Pa.B. 7340, 7354 (December 25, 2010). Amendments made to this section at 40 Pa.B. 7224, 7231 (December 18, 2010) were not incorporated into the December 25th version of the regulation.

Therefore, under 45 Pa.C.S. § 901, the Department of Environmental Protection has deposited with the Legislative Reference Bureau a corrective amendment to 25 Pa. Code § 129.51. The corrective amendment to 25 Pa. Code § 129.51 is effective as of December 25, 2010, the date the defective official text appeared in the *Pennsylvania Bulletin*.

The correct version of 25 Pa. Code § 129.51 appears in Annex A.

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

**Subpart C. PROTECTION OF NATURAL RESOURCES**

**ARTICLE III. AIR RESOURCES**

**CHAPTER 129. STANDARDS FOR SOURCES**

**§ 129.51. General.**

(a) *Equivalency.* Compliance with §§ 129.52, 129.52a, 129.52b, 129.52c and 129.54—129.73 and 129.77 may be achieved by alternative methods if the following exist:

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

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

(3) Compliance by a method other than the use of a low VOC coating, adhesive, sealant, adhesive primer, sealant primer, surface preparation solvent or cleanup solvent or ink which meets the applicable emission limitation in §§ 129.52, 129.52a, 129.52b, 129.52c, 129.67, 129.73 and 129.77 shall be determined on the basis of equal volumes of solids.

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

(5) Adequate records are maintained to ensure enforceability.

(6) The alternative compliance method is incorporated into a plan approval or operating permit, or both, reviewed by the EPA, including the use of an air cleaning device to comply with § 129.52, § 129.52a, § 129.52b, § 129.52c, § 129.67, § 129.68(b)(2) and (c)(2), § 129.73 or § 129.77.

(b) *New source performance standards.* Sources covered by new source performance standards which are more



stringent than those contained in this chapter shall comply with those standards in lieu of the standards found in this chapter.

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

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

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

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

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

[Pa.B. Doc. No. 11-38. Filed for public inspection January 7, 2011, 9:00 a.m.]

## ENVIRONMENTAL QUALITY BOARD

### [ 25 PA. CODE CH. 250 ]

#### Administration of the Land Recycling Program

The Environmental Quality Board (Board) amends Chapter 250 (relating to administration of Land Recycling Program). The final-form rulemaking updates the State-wide health standards (SHS) by using current United States Environmental Protection Agency (EPA) guidance and updated toxicological information. The final-form rulemaking also corrects errors and codifies certain established policies into regulation.

This order was adopted by the Board at its meeting of August 30, 2010.

#### A. *Effective Date*

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

#### B. *Contact Persons*

For further information, contact Troy Conrad, Director, Land Recycling Program, P. O. Box 8471, Rachel Carson State Office Building, Harrisburg, PA 17105-8471, (717) 783-7816; or Kurt Klapkowski, Assistant Counsel, Bureau of Regulatory Counsel, P. O. Box 8464, Rachel Carson State Office Building, Harrisburg, PA 17105-8464, (717) 787-7060. Persons with a disability may use the Pennsylvania AT&T Relay Service, (800) 654-5984 (TDD users) or (800) 654-5988 (voice users). This final-form rulemaking is available electronically through the Department of Environmental Protection's (Department) web site: <http://www.dep.state.pa.us>.

#### C. *Statutory Authority*

This final-form rulemaking is being made under the authority of sections 104(a) and 303(a) of the Land Recycling and Environmental Remediation Standards Act (Land Recycling Act) (35 P.S. §§ 6026.104(a) and 6026.303(a)), and section 1920-A of The Administrative Code of 1929 (71 P.S. § 510-20). Section 104(a) of the Land Recycling Act authorizes the Board to adopt SHS, appropriate mathematically valid statistical tests to define compliance with the Land Recycling Act and other regulations that may be needed to implement the provisions of the Land Recycling Act. Section 303(a) of the Land Recycling Act authorizes the Board to promulgate SHS for regulated substances for each environmental medium and methods used to calculate the standards. Section 1920-A of The Administrative Code of 1929 authorizes the Board to formulate, adopt and promulgate rules and regulations that are necessary for the proper work of the Department.

#### D. *Background of the Final-Form Rulemaking*

The primary purpose of this final-form rulemaking is to update the standards related to cleanup of contaminated sites under the Land Recycling Act. The Land Recycling Act requires the Board to establish by regulation uniform State-wide health-based standards so that any substantial present or probable future risk to human health and the environment is eliminated. The original standards were promulgated in 1997 and codified in Chapter 250. Section 104(a) of the Land Recycling Act explicitly recognizes that the standards would need to be updated over time as better science became available and as the need for clarification or enhancement of the Land Recycling Program (Program) became apparent. Updating the standards serves the public as the Department is able to use the most up-to-date health and scientific information to establish the cleanup standards. In addition, the changes in standards serve both the public and the regulated community as they provide clear information on what is or will be done at contaminated sites. This gives the public notice and provides remediators with a clear endpoint to the remediation process. Several amendments are currently part of guidance, but are being added to Chapter 250 to give the requirements the legal status of a binding norm, which should lead to greater consistency and clarity across this Commonwealth.

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

The Board received comments on the proposed rulemaking from six commentators. Five individuals submitted comments during the 30-day public comment period, subsequent to the publication of proposed rulemaking at 40 Pa.B. 1297 (March 6, 2010). The Department provided the Independent Regulatory Review Commission (IRRC) with all comments received during the public comment period. On May 5, 2010, IRRC submitted written comments to the Board. Based on the comments received, several changes have been made in the final-form rulemaking.

#### § 250.1. *Definitions*

One commentator pointed out that regulations have the full force and effect of law and establish a binding norm that is applicable to all that fall under its jurisdiction and, therefore, regulations must be clear and unambiguous. The commentator felt that the first sentence of the definition for "EQL—estimated quantitation limit" accomplishes this goal, but that the remaining sentences lack the clarity needed to establish a binding norm and should

be deleted. The Board accepts this comment and deleted all but the first sentence of this definition.

§ 250.11. *Periodic review of MSCs*

Two commentators felt that the Board should clarify how the Department will implement this section and the effects that changes to the medium-specific concentrations (MSCs) might have on remediation projects that are either in the planning stages or have already begun. The Board believes that it is sufficient to state that any revised standards will become effective upon publication in the *Pennsylvania Bulletin*. Future changes will be administered in the same manner as with previous amendments to the regulations and the current rulemaking. This means that the new standards must be met in any final report submitted after the day the final-form rulemaking is published. The entire rulemaking process, from the time the initial draft rules are first publicly available, through the proposal of the rules and the official comment period, until the final rules are promulgated, typically takes over 2 years. This provides licensed professionals working on remediation projects sufficient notice of likely changes.

§ 250.304. *MSCs for groundwater*

§ 250.305. *MSCs for soil*

In § 250.304(c), the Board is amending a reference to an EPA Office of Water publication. One commentator felt that, as required under § 1.6 of the *Pennsylvania Code & Bulletin Style Manual* (relating to incorporation by reference), the year or edition of the document being incorporated by reference should be included in the final-form regulation. The Board agrees and has added the year of publication of the document.

In both sections, the Board proposed to add language that would require remediators using the SHS under the Land Recycling Act to address vapor intrusion exposure pathways in one of two ways. One commentator believed that the Department lacks statutory authority under the Land Recycling Act to require evaluation of the vapor intrusion pathway through the MSC formulas or otherwise under the SHS. The Board does not agree with the position of the commentator. Section 303(c) of the Land Recycling Act requires that when establishing an MSC for groundwater and soils that the calculation shall address the ingestion and inhalation of volatiles and particulates. The Land Recycling Act provides authority for the Board to promulgate SHS MSCs that address the vapor intrusion pathway. This can be done directly through promulgation of MSCs that directly address the vapor intrusion pathway, or indirectly through promulgation of MSCs that do not directly address the vapor intrusion pathway but are supplemented by assessment and remediation procedures that otherwise address the vapor intrusion pathway.

One commentator felt that the reference to technical guidance published by the Department is vague. Another commentator felt that it is inappropriate to incorporate technical guidance by reference because it would give the document the authority of a duly promulgated regulation without the benefit of formal notice and a public comment period. The commentator also suggested that the Board consider including the full language of the guidance document in these regulations. In its final-form, the rulemaking does not include any reference to the technical guidance document.

*Appendix A, Table 1. Medium-specific concentrations (MSCs) for organic regulated substances in groundwater*

The proposal to leave the MSCs for methyl tertiary-butyl ether (MTBE) unchanged generated the most comment on the proposed rulemaking. To the extent possible, the Board consolidated the concerns expressed over this decision in this discussion. A commentator raised a unique concern relating to MTBE that is included as a separate comment.

In its discussion of the treatment of this MSC in the preamble to the proposed rulemaking, the Board included the following statement: "The Department has decided that the previously considered revisions for MTBE included in the September 1, 2009 draft, which allowed for higher concentrations of MTBE based on health based calculations, would have resulted in unacceptable taste and odor impacts on groundwater used for drinking water." Public commentators are concerned with the Board's decision to retain the existing numeric value for MTBE. As noted in the preamble to the proposed rulemaking, the Department's Cleanup Standards Scientific Advisory Board also has concerns "because they do not reflect specific health-based criteria from the Land Recycling Act."

Aside from the debate on the underlying science of the MSC for MTBE, a commentator expressed concerns with the process used by the Board. First, as noted by a commentator, "In the absence of an maximum contaminant level (MCL) or a health advisory level (HAL), the Department is statutorily required to calculate the MSC using valid scientific methods that are not more stringent than the health-based criteria set forth in Section 303 of the Land Recycling Act."

One commentator questioned the Board's statutory authority for basing any MSC on unacceptable taste and odor impacts and how the decision to retain the MSC for MTBE at 20 micrograms per liter ( $\mu\text{g/L}$ ) fit into the General Assembly's declaration of policy in section 102 of the Land Recycling Act (35 P. S. § 6026.102).

In the Chapter 250 regulations as adopted at 27 Pa.B. 4181 (August 16, 1997), the Board promulgated a groundwater MSC for MTBE of 20  $\mu\text{g/L}$  based on a draft lifetime health advisory level (HAL) published by the EPA. In reviewing the basis for the MSC for MTBE in preparation for this final-form rulemaking, it was determined that the draft HAL had been deleted from the EPA tables of drinking water standards. In the most recent publication of the EPA drinking water standards, MTBE is listed under a separate table titled Drinking Water Advisories with an advisory level of 20  $\mu\text{g/L}$ . Early drafts of the revised tables for this final-form rulemaking used the toxicity data in Table 5 and the standard formulas to calculate a groundwater MSC. Upon further consideration of the issue, the Board decided not to propose a change in the MSC for MTBE for this final-form rulemaking because, although the draft HAL was not finalized by the EPA, the new EPA drinking water advisory level reflects no change in the degree of protectiveness.

In other, separate comments, one commentator suggested that the Board adopt two separate standards for MTBE—risk-based MSCs and a separate secondary maximum contaminant level (SMCL) based on taste and odor concerns for MTBE. SMCLs are included in the rules already for several metals based on similar reasons. The Board has not accepted this suggestion because the EPA has not promulgated an SMCL level for MTBE.

One commentator related that when there are detectable (that is, above the laboratory detection limits or

practical quantitation limits) levels of MTBE in groundwater but the levels are below the SHS of 20 µg/L, it is the need to remove potential liability issues and deter lawsuits, and not the actual MTBE concentration, that drives the installation of a treatment system on the homeowner's water supply well, and this would still be the case if the standard was changed to 190/960 µg/L, particularly if concentrations were below these numbers yet above the odor threshold of 20 µg/L. However, MSCs apply at the point of compliance independent of actual use of the groundwater. Remediators would not necessarily have an incentive to remediate contaminated groundwater that was below the published MSC levels.

*Appendix A, Table 2. Medium-specific concentrations (MSCs) for inorganic regulated substances in groundwater*

This table includes a reference that indicates that the MSC for sulfate is a primary maximum contaminant level (MCL). The EPA does not currently have a finalized MCL for sulfate. One commentator suggests that the Department remove sulfate from having a proposed risk-based MSC and rely on the SMCL established by the EPA (250 mg/L). In the original 1997 regulations, sulfate appeared on the main Table 2, with an MSC of 500,000 µg/L based upon a draft MCL published by the EPA in its publication "Drinking Water Regulations and Health Advisories" (EPA 822-R-96-001, February, 1996). In subsequent versions of this document, the draft MCL is deleted. The MSC for sulfates has been revised in Table 2 to indicate that the new value is based upon the SMCL of 250,000 µg/L which is published in the 1996 EPA document as well as all subsequent versions of that document. Since the revised MSC is based upon an SMCL, the value for sulfates has been moved from the main body of the table to the table of secondary contaminants. This move is indicated as a deletion of sulfates from the main body of the table and the addition of sulfates to the secondary contaminant portion of the table.

*Preamble—compliance costs*

One commentator felt that when the MSCs are lowered based on toxicological data for chemicals that can be ubiquitous in the environment, the regulated community may be forced to expend additional funds to conduct background studies on these chemicals. Therefore, it may be inappropriate for the Department to state in the preamble that the proposed changes are not expected to add significant costs to the cleanup of contaminated sites. The Board determined that some cleanup standard concentration values will be lower (and therefore their costs will be higher) and some will be higher (resulting in costs that will be lower). The Board is not asserting that the costs for some individual cleanups might not be higher, especially if the individual cleanup involved large volumes of a substance that has a new significantly lower concentration number. The finding of the Board was that the net effect should be negligible.

*F. Benefits, Costs and Compliance*

*Benefits*

The Department and the Board are required to update the cleanup standard concentration values and the associated toxicological data in a timely manner to assure that environmental response actions at contaminated sites are remediated based on the current EPA guidance and current toxicological information.

Meeting this responsibility in these amended regulations assures the protection of the public health and environment relating to exposure to regulated substances

when it has been determined that lower concentrations of a regulated substances are required to meet the standards established by the Land Recycling Act.

These amended regulations also avoid unnecessary expense for remediators when remediating contaminated property when it has been determined that higher concentrations of regulated substances are protective and meet the standards established by the Land Recycling Act.

*Compliance Costs*

These technical amendments to the land recycling regulations will affect owners, operators and purchasers of properties and facilities who volunteer or are required to perform remediation of contaminated sites.

These changes are not expected to add any significant costs to the cleanup of contaminated sites under this Program. Some cleanup standard concentration values will be lower and some will be higher. The net cost should be negligible.

*Compliance Assistance Plan*

The Department regularly provided the regulated public with workshops to explain new regulations, guidance and policy. These are conducted on an average of every 1 to 2 years. Workshops will be planned to coincide with this final-form rulemaking.

*Paperwork Requirements*

No forms or reports are required beyond those established by the Land Recycling Act.

*G. Pollution Prevention*

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

As this Program assumes pollution has taken place, minimizing the release is not an option. However, in remediating a site, potential sources of pollution are often removed to attain the standards in the Land Recycling Act, thus eliminating or minimizing the potential for future exposure to regulated substances.

*H. Sunset Review*

These regulations will be reviewed in accordance with the sunset review schedule published by the Department to determine whether the regulations effectively fulfill the goals for which they were intended.

*I. Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on February 24, 2010, the Department submitted a copy of the notice of proposed rulemaking, published at 40 Pa.B. 1297, to IRRC and the Chairpersons of the House and Senate Environmental Resources and Energy Committees for review and comment.

Under section 5(c) of the Regulatory Review Act, IRRC and the House and Senate Committees were provided



with copies of the comments received during the public comment period, as well as other documents when requested. In preparing the final-form rulemaking, the Department has considered all comments from IRRC, the House and Senate Committees and the public.

Under section 5.1(j.2) of the Regulatory Review Act (71 P.S. § 745.5a(j.2)), on October 20, 2010, the final-form rulemaking was deemed approved by the House and Senate Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC met on October 21, 2010, and approved the final-form rulemaking.

J. Findings

The Board finds that:

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

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

(3) This final-form rulemaking does not enlarge the purpose of the proposed rulemaking published at 40 Pa.B. 1297.

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

K. Order

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

(a) The regulations of the Department, 25 Pa. Code Chapter 250, are amended by amending §§ 250.301, 250.303, 250.306—250.308, 250.407, 250.605, 250.704, 250.707 and Appendix A, Tables 1—6 and by adding § 250.11 to read as set forth at 40 Pa.B. 1297; and by amending §§ 250.1, 250.304 and 250.312 to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.

(Editor's Note: The proposal to amend § 250.305 has been withdrawn. The amendment of § 250.312 was not included in the proposal at 40 Pa.B. 1297.)

(b) The Chairperson of the Board shall submit this order, 40 Pa.B. 1297 and Annex A to the Office of General Counsel and the Office of Attorney General for review and approval as to legality and form, as required by law.

(c) The Chairperson of the Board shall submit this order, 40 Pa.B. 1297 and Annex A to IRRC and the Senate and House Committees as required by the Regulatory Review Act.

(d) The Chairperson of the Board shall certify this order, 40 Pa.B. 1297 and Annex A and deposit them with the Legislative Reference Bureau as required by law.

(e) This order shall take effect immediately.

JOHN HANGER,  
Chairperson

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 40 Pa.B. 6487 (November 6, 2011).)

Fiscal Note: Fiscal Note 7-453 remains valid for the final adoption of the subject regulations.

Annex A

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

Subpart D. ENVIRONMENTAL HEALTH AND SAFETY

ARTICLE VI. GENERAL HEALTH AND SAFETY

CHAPTER 250. ADMINISTRATION OF LAND RECYCLING PROGRAM

Subchapter A. GENERAL PROVISIONS

§ 250.1. Definitions.

In addition to the words and terms defined in the act, the following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

\* \* \* \* \*

*EQL—Estimated quantitation limit*—The lowest concentration that can be reliably achieved within specified limits of precision and accuracy during routine laboratory operating conditions.

*Enterprise zone*—An area specially designated as an enterprise zone under requirements determined by the Department of Community and Economic Development.

*Environmental covenant*—A servitude, as set forth in a document prepared under 27 Pa.C.S. Chapter 65 (relating to Uniform Environmental Covenants Act), arising under an environmental response project which imposes activity and use limitations.

\* \* \* \* \*

*NPDES—National Pollutant Discharge Elimination System*—The National system for the issuance of permits under section 402 of the Federal Clean Water Act (33 U.S.C.A. § 1342) including a state or interstate program which has been approved in whole or in part by the EPA.

*PQL—Practical quantitation limit*—The lowest limit that can be reliably achieved within specified limits of precision and accuracy under routine laboratory conditions for a specified matrix and based on quantitation, precision and accuracy, normal operation of a laboratory and the practical need in a compliance-monitoring program to have a sufficient number of laboratories available to conduct the analyses.

\* \* \* \* \*

Subchapter C. STATEWIDE HEALTH STANDARDS

§ 250.304. MSCs for groundwater.

\* \* \* \* \*

(c) The MSCs for regulated substances contained in groundwater in aquifers used or currently planned to be used for drinking water or for agricultural purposes is the MCL as established by the Department or the EPA as established in § 109.202 (relating to state MCLs, MRDLs and treatment technique requirements) and Health Advisory Levels (HALs) set forth in Drinking Water Standards and Health Advisories, EPA Office of Water Publication No. EPA 822-R-09-011 (October, 2009). For a regulated substance where no MCL has been established, the MSC is the lifetime HAL for that compound. For a regulated substance where neither an MCL nor a lifetime HAL has been established, the MSC is the lowest concentration calculated using the appropriate residential and nonresidential exposure assumptions and the equations in §§ 250.306 and 250.307 (relating to ingestion numeric

values; and inhalation numeric values). New or revised MCLs or HALs promulgated by the Department or the EPA shall become effective immediately for any demonstration of attainment completed after the date the new or revised MCLs or HALs become effective.

\* \* \* \* \*

#### § 250.312. Final report.

(a) For sites remediated under the Statewide health standard, the person conducting the remediation shall submit a final report to the Department which documents attainment of the selected standard. This final report must include site characterization information identified in § 250.204(b)—(e) (relating to final report). The site characterization shall be conducted in accordance with scientifically recognized principles, standards and procedures. The level of detail in the investigation, and the selected methods and analyses, that may include models, must sufficiently define the rate of movement and the present and future extent and fate of contaminants to ensure continued attainment of the remediation standard. The final report must include, as appropriate, an assessment that addresses the vapor intrusion exposure pathway. Interpretations of geologic and hydrogeologic data shall be prepared by a professional geologist licensed in this Commonwealth.

\* \* \* \* \*

[Pa.B. Doc. No. 11-39. Filed for public inspection January 7, 2011, 9:00 a.m.]

## Title 58—RECREATION

### PENNSYLVANIA GAMING CONTROL BOARD

[ 58 PA. CODE CHS. 521, 525, 535, 537, 541, 543, 545, 549, 565 AND 569 ]

#### Table Game Rules Amendments; Temporary Rule-making

The Pennsylvania Gaming Control Board (Board), under its general authority in 4 Pa.C.S. § 1303A (relating to temporary table game regulations) enacted by the act of January 7, 2010 (P. L. 1, No. 1) (Act 1) and the specific authority in 4 Pa.C.S. § 1302A(1) and (2) (relating to regulatory authority), amends temporary regulations in Chapters 521, 525, 535, 537, 541, 543, 545, 549, 565 and 569 to read as set forth in Annex A. The Board's temporary regulations will be added to Part VII (relating to Gaming Control Board) as part of Subpart K (relating to table games).

#### *Purpose of the Temporary Rulemaking*

This temporary rulemaking amends the general provisions and table game internal controls regulations and amends the rules of Pai Gow, Craps and Mini-Craps, Minibaccarat, Midibaccarat, Baccarat, Blackjack, Three Card Poker and Ultimate Texas Hold 'Em Poker in response to requests received from certificate holders.

#### *Explanation of Chapters 521, 525, 535, 537, 541, 543, 545, 549, 565 and 569*

The Board received numerous comments from the industry regarding amendments to various games approved for play.

In Chapter 521 (relating to general provisions), language was added to § 521.5 (relating to waiver of existing

table game regulations), which now allows a certificate holder to file a written request with the Board's Executive Director to offer an authorized table game on an electronic gaming table in a manner that is inconsistent with the Board's regulations, rather than filing a petition with the Board. This provision was added because several inconsistencies were discovered between the Board's regulations and the play on electronic gaming tables, such as whether cards in Blackjack are dealt from left to right in live play or simultaneously in the electronic version. These inconsistencies, which typically do not affect the outcome of play, are more logically rectified by submission of a written request to the Board's Executive Director rather than a petition to the Board.

In § 525.5 (relating to jobs compendium submission), the Board previously required certificate holders to submit a complete jobs compendium on the anniversary date of table games opening. Because Board staff reviews the jobs compendium submissions and because nine properties received authorization to begin table game operations within a 3-week period, the submission date was amended to the yearly anniversary date of each property's slot opening.

In Chapter 535 (relating to Pai Gow), language was added to § 535.4 (relating to Pai Gow tiles; ranking of hands, pairs and tiles; value of the hand) to clarify that when a zero-zero tie occurs between the dealer/banker and a player, individual tiles will not be considered and the tie will go to the dealer/banker.

In Chapter 537 (relating to Craps and Mini-Craps), language was amended in § 537.5a (relating to Buy and Lay Bets) which allows operators the option of collecting vigorish on winning wagers or at the time the player makes the wager.

In Chapters 541, 543 and 545 (relating to Minibaccarat; Midibaccarat; and Baccarat), language was added clarifying that if a dealer collects vigorish on winning payouts, the certificate holder does not have to include on the table layout a numbered area that corresponds to the seat number for the purpose of marking vigorish.

Chapter 549 (relating to Blackjack) allows certificate holders to designate the number of additional times a patron may split a pair, including aces, beyond the first split.

In Three Card Poker, pay table B is amended in § 565.12(k) (relating to payout odds; Envy Bonus; rate of progression; payout limitation) to correct a previous error on the payout for a straight.

Lastly, in Ultimate Texas Hold 'Em Poker, § 569.11 (relating to procedures for completion of each round of play; collection and payment of wagers) is amended to allow a patron to place a Play Wager in an amount equal to three or four times the amount of the player's Ante Wager. This will give patrons some flexibility on how much additional wager to place on the Ante Wager.

#### *Affected Parties*

The amendments in this temporary rulemaking will allow certificate holders additional options on how to conduct table games at their licensed facilities.

#### *Fiscal Impact*

#### *Commonwealth*

The Board does not expect that this temporary rulemaking will have fiscal impact on the Board or any other Commonwealth agency. Internal control procedures sub-

mitted by certificate holders regarding table games rules submissions will be reviewed by existing Board staff.

*Political subdivisions*

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

*Private sector*

This temporary rulemaking will give certificate holders some additional flexibility as to how they conduct table games.

*General public*

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

*Paperwork Requirements*

If a certificate holder selects different options for the play at table games, the certificate holder will be required to submit an updated rules submission reflecting the changes.

*Effective Date*

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

*Public Comments*

While this temporary rulemaking will be effective upon publication, the Board is seeking comments from the public and affected parties as to how this temporary rulemaking might be improved. Interested persons are invited to submit written comments, suggestions or objections regarding this temporary rulemaking within 30 days after the date of publication in the *Pennsylvania Bulletin* to Susan A. Yocum, Assistant Chief Counsel, Pennsylvania Gaming Control Board, P. O. Box 69060, Harrisburg, PA 17106-9060, Attention: Public Comment on Regulation #125-139.

*Contact Person*

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

*Regulatory Review*

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

*Findings*

The Board finds that:

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

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

*Order*

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

(1) The regulations of the Board, 58 Pa. Code Chapters 521, 525, 535, 537, 541, 543, 545, 549, 565 and 569, are amended by amending §§ 521.5, 525.5, 535.4, 537.5a, 541.2, 543.2, 545.2, 549.12, 565.12 and 569.11 to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.

(2) The temporary regulations are effective January 8, 2011.

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

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

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

GREGORY C. FAJT,  
*Chairperson*

**Fiscal Note:** 125-139. No fiscal impact; (8) recommends adoption.

**Annex A**

**TITLE 58. RECREATION**

**PART VII. GAMING CONTROL BOARD**

**Subpart K. TABLE GAMES**

**CHAPTER 521. GENERAL PROVISIONS**

**§ 521.5. Waiver of existing table game regulations.**

(a) A certificate holder that desires to conduct a table game, in a manner that is inconsistent with the Board's regulations, shall file a petition in accordance with § 493a.4 (relating to petitions generally) seeking approval of the Board. The petition, at a minimum, must contain:

(1) A detailed description of the modification to the table game.

(2) The reason why the modification to the table game is being requested.

(3) A list of other gaming jurisdictions where the modification to the table game is currently being used.

(b) Notwithstanding subsection (a), a certificate holder that desires to offer an authorized table game on an electronic gaming table, in a manner that is inconsistent with the Board's regulations, shall file a written request seeking approval of the Board's Executive Director. The request must contain a detailed description of how the authorized table game played on an electronic gaming table varies from the Board's regulations. An approval to conduct the table game in a manner that is inconsistent with the Board's regulations will be limited to only those variations approved by the Board's Executive Director. Any subsequent alterations to the table game that are inconsistent with the Board's regulations would require submission of an additional written request to the Board's Executive Director or a petition to the Board in accordance with subsection (a).

**CHAPTER 525. TABLE GAME INTERNAL CONTROLS**

**§ 525.5. Jobs compendium submission.**

\* \* \* \* \*

(e) Notwithstanding other requirements of this section, each certificate holder shall submit a complete and up-to-date jobs compendium to the Bureau of Gaming Operations and the Bureau of Licensing 12 months after



its receipt of authorization to commence slot operations and every 12 months thereafter.

\* \* \* \* \*

**CHAPTER 535. PAI GOW**

**§ 535.4. Pai Gow tiles; ranking of hands, pairs and tiles; value of the hand.**

\* \* \* \* \*

(e) When comparing high hands or low hands which are of identical value, the hand with the highest ranking individual tile shall be considered the higher ranking hand. If, however, the numeric value of the tiles results in a zero-zero tie, both hands, regardless of the highest ranking tile, are equally bad and the dealer or, if applicable, the bank shall be considered the higher ranking hand.

\* \* \* \* \*

**CHAPTER 537. CRAPS AND MINI-CRAPS**

**§ 537.5a. Buy and Lay Bets.**

(a) In addition to Place Bets to Win on 4, 5, 6, 8, 9 and 10, a certificate holder may, in its Rules Submission under § 521.2 (relating to table games Rules Submissions), offer players the option of placing a Buy Bet to receive true odds on the Place Bet to Win. A certificate holder that offers Buy Bets shall pay winning wagers as follows:

<i>Wager</i>	<i>Payout Odds</i>
Buy Bet on the 4	2 to 1
Buy Bet on the 5	3 to 2
Buy Bet on the 6	6 to 5
Buy Bet on the 8	6 to 5
Buy Bet on the 9	3 to 2
Buy Bet on the 10	2 to 1

(b) In addition to Place Bets to Lose on 4, 5, 6, 8, 9 and 10, a certificate holder may, in its Rules Submission under § 521.2, offer players the option of placing a Lay Bet to receive true odds on the Place Bet to Lose. A certificate holder that offers Lay Bets shall pay winning wagers as follows:

<i>Wager</i>	<i>Payout Odds</i>
Lay Bet against the 4	1 to 2
Lay Bet against the 5	2 to 3
Lay Bet against the 6	5 to 6
Lay Bet against the 8	5 to 6
Lay Bet against the 9	2 to 3
Lay Bet against the 10	1 to 2

(c) A certificate holder that offers Buy and Lay Bets may collect, at time the player makes the wager, a vigorish of up to 5%, as specified in the certificate holder's Rules Submission, of the amount wagered on the Buy or Lay Bet or may collect the vigorish only on a winning Buy or Lay Bet. If collecting a vigorish, the certificate holder shall specify in its Rules Submission which vigorish procedure it will utilize. Except as permitted for the Buy and Lay Bets, a certificate holder may not charge a percentage, fee or vigorish to a player in making any wager in the game of Craps or Mini-Craps.

**CHAPTER 541. MINIBACCARAT**

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

\* \* \* \* \*

(c) The layout for a Minibaccarat table shall be approved by the Bureau of Gaming Operations and contain, at a minimum:

(1) The name or logo of the certificate holder offering the game.

(2) Specific areas designated for the placement of wagers on the Banker's Hand, Players Hand and Tie Hand.

(3) A phrase that states the payout odds for Tie Bets.

(4) Numbered areas that correspond to the seat numbers for the purpose of marking vigorish unless the dealer, in accordance with the option selected in the certificate holder's Rules Submission under § 521.2, collects the vigorish from a player at the time the winning payout is made.

(5) An area designated for the placement of cards for the Player's Hand and Banker's Hand.

(6) If a certificate holder offers the Dragon Bonus Wager:

(i) A separate area designated for the placement of the Dragon Bonus Wager.

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

\* \* \* \* \*

**CHAPTER 543. MIDIBACCARAT**

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

\* \* \* \* \*

(c) The layout for a Midibaccarat table shall be approved by the Bureau of Gaming Operations and contain, at a minimum:

(1) The name or logo of the certificate holder offering the game.

(2) Specific areas designated for the placement of wagers on the Banker's Hand, Players Hand and Tie Hand.

(3) A phrase that states the payout odds for Tie Bets.

(4) Numbered areas that correspond to the seat numbers for the purpose of marking vigorish unless the dealer, in accordance with the option selected in the certificate holder's Rules Submission under § 521.2, collects the vigorish from a player at the time the winning payout is made.

(5) An area designated for the placement of cards for the Player's Hand and Banker's Hand.

(6) If a certificate holder offers the Dragon Bonus Wager:

(i) A separate area designated for the placement of the Dragon Bonus Wager.

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

\* \* \* \* \*

**CHAPTER 545. BACCARAT**

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

\* \* \* \* \*

(b) The layout for a Baccarat table shall be approved by the Bureau of Gaming Operations and, at a minimum, contain:

(1) The name or logo of the certificate holder offering the game.

(2) Specific areas designated for the placement of wagers on the Banker's Hand, Players Hand and Tie Hand.

(3) A phrase that states the payout odds for Tie Bets.

(4) Numbered areas that correspond to the seat numbers for the purpose of marking vigorish unless the dealer, in accordance with the option selected in the certificate holder's Rules Submission under § 521.2, collects the vigorish from a player at the time the winning payout is made.

(5) An area designated for the placement of cards for the Player's Hand and Banker's Hand.

\* \* \* \* \*

**CHAPTER 549. BLACKJACK**

**§ 549.12. Splitting pairs.**

\* \* \* \* \*

(c) After a second card is dealt to each split pair hand, the dealer shall announce the point total of the hand and the player shall indicate his decision to stand, draw or double down with respect that hand. A Certificate holder shall specify in its Rules Submission required under § 521.2 (relating to table games Rules Submissions) the number of additional times a patron may split pairs, including aces.

(d) If the dealer obtains Blackjack after a player splits pairs, the dealer shall only collect the amount of the original wager of the player and may not collect the additional amount wagered in splitting pairs.

**CHAPTER 565. THREE CARD POKER**

**§ 565.12. Payout odds; Envy Bonus; rate of progression; payout limitation.**

\* \* \* \* \*

(k) If a certificate holder offers the Six Card Bonus Wager, the certificate holder shall pay out winning Six

Card Bonus Wagers at the amounts contained in one of the following pay tables selected by the certificate holder in the certificate holder's Rules Submission filed in accordance with § 521.2:

<i>Hand</i>	<i>Payout A</i>	<i>Payout B</i>	<i>Payout C</i>
Royal Flush	1,000 to 1	1,000 to 1	1,000 to 1
Straight Flush	200 to 1	200 to 1	200 to 1
Four-of-a-Kind	50 to 1	100 to 1	100 to 1
Full House	25 to 1	20 to 1	20 to 1
Flush	20 to 1	15 to 1	15 to 1
Straight	10 to 1	9 to 1	10 to 1
Three-of-a-kind	5 to 1	8 to 1	7 to 1

**CHAPTER 569. ULTIMATE TEXAS HOLD 'EM POKER**

**§ 569.11. Procedures for completion of each round of play; collection and payment of wagers.**

(a) After the dealing procedures required under § 569.8, § 569.9 or § 569.10 (relating to procedure for dealing cards from a manual shoe; procedure for dealing cards from the hand; and procedure for dealing the cards from an automated dealing shoe) have been completed, each player shall examine his cards without exposing them to any other person and replace the cards face down on the layout. The dealer shall then, starting with the player farthest to his left and proceeding in a clockwise manner around the table, ask each player if the player wishes to place a Play Wager prior to the dealing of the Flop. The player may either check or place a Play Wager in an amount equal to three or four times the amount of the player's Ante Wager.

(1) If a player places a Play Wager, the wager shall be placed in the designated Play Wager betting area.

(2) If a player checks, the player shall remain in the game and defer his decision to place a Play Wager to the next betting opportunity.

\* \* \* \* \*

[Pa.B. Doc. No. 11-40. Filed for public inspection January 7, 2011, 9:00 a.m.]

# PROPOSED RULEMAKING

## ENVIRONMENTAL QUALITY BOARD

### Acceptance of Rulemaking Petition for Study

On December 21, 2010, the Environmental Quality Board accepted a rulemaking petition for study under 25 Pa. Code Chapter 23 (relating to Environmental Quality Board policy for processing petitions—statement of policy). The petition, submitted by the Aquashicola—Pohopoco Watershed Conservancy, requests the amendment of 25 Pa. Code § 93.9d (relating to drainage list D) to redesignate Aquashicola Creek in Carbon and Monroe Counties from its current designation of High Quality-Cold Water Fishes, Migratory Fishes (HQ-CWF, MF) to Exceptional Value (EV). Under 25 Pa. Code § 93.4d(a) (relating to processing petitions, evaluations and assessments to change a designated use), the Department of Environmental Protection (Department) is required to publish a notice of intent to assess candidate waters. The Department's assessment notice for Aquashicola Creek will appear in a future issue of the *Pennsylvania Bulletin*.

The previously-referenced petition is available to the public by contacting the Environmental Quality Board, P. O. Box 8477, Harrisburg, PA 17105-8477, (717) 787-4526, and is accessible on the Department's web site at [http://www.portal.state.pa.us/portal/server.pt/community/environmental\\_quality\\_board/14005/eqb\\_meeting\\_schedule\\_2010/661796](http://www.portal.state.pa.us/portal/server.pt/community/environmental_quality_board/14005/eqb_meeting_schedule_2010/661796) (see December 21, 2010, meeting).

JOHN HANGER,  
*Chairperson*

[Pa.B. Doc. No. 11-41. Filed for public inspection January 7, 2011, 9:00 a.m.]

## PENNSYLVANIA GAMING CONTROL BOARD

[ 58 PA. CODE CHS. 523 AND 603a ]

### Table Game Equipment

The Pennsylvania Gaming Control Board (Board), under the general authority in 4 Pa.C.S. § 1202(b)(30) (relating to general and specific powers) and the specific authority in 4 Pa.C.S. §§ 1302A(1) and (5) (relating to regulatory authority), proposes to rescind Chapter 523 (relating to table game equipment) and adopt Chapter 603a (relating to table game equipment) to read as set forth in Annex A.

#### *Purpose of the Proposed Rulemaking*

Under 4 Pa.C.S. § 1303A (relating to temporary table game regulations), the Board initially adopted a temporary regulations in Chapter 523 at 40 Pa.B 2088 (April 24, 2010) and amendments at 40 Pa.B 3109 (June 12, 2010), 40 Pa.B 3827 (July 10, 2010), 40 Pa.B. 6095 (October 23, 2010) and 40 Pa.B. 6943 (December 4, 2010).

The Board is proposing to replace the temporary regulations with the permanent regulations in this proposed rulemaking.

#### *Explanation of Chapter 603a*

Chapter 603a contains standards and procedures regarding the equipment necessary to conduct table games at a licensed facility. Section 603a.1 (relating to definitions) adds definitions for a number of terms used in this chapter.

Section 603a.2 (relating to gaming chips; physical characteristics applicable to all gaming chips, issuance and use, promotional nongaming chips) sets forth the general design requirements for all gaming chips and the process for the review and approval of the designs by the Bureau of Gaming Operations.

Sections 603a.3, 603a.4, 603a.6 and 603a.7 establish the detailed specifications for each type of chip utilized in gaming.

Sections 603a.5 and 603a.8 (relating to Roulette chips; permitted uses, inventory and impressment; and additional sets of gaming chips) address the use of Roulette chips, the related inventory requirements and the requirements for back-up sets of Value and Roulette chips.

Section 603a.9 (relating to plaques; issuance and use, denominations and physical characteristics) contains the requirements for the design and use of plaques.

Sections 603a.10 and 603a.11 (relating to exchange and redemption of gaming chips and plaques; and receipt of gaming chips or plaques from a manufacturer or supplier; inventory, security, storage and destruction of chips and plaques) specify the procedures for the redemption of chips and plaques as well as the requirements for the receipt, storage, distribution, inventory and destruction of chips and plaques.

Sections 603a.12, 603a.13, 603a.15, 603a.16 and 603a.18 set forth the requirements for the physical characteristics, storage, inspection and removal from use of dice, cards and Pai Gow tiles.

Sections 603a.14 and 603a.17 (relating to Sic Bo shaker security procedures; and dealing shoes; automated card shuffling devices) establish the minimum requirements for Sic Bo dice shakers, card dealing shoes and automated card shufflers.

#### *Affected Parties*

Slot machine licensees that elected to become certificate holders were required to purchase equipment which complied with the standards in this proposed rulemaking. Manufacturers of these items had to meet the specifications in this proposed rulemaking for products offered for sale in this Commonwealth.

The Board experienced increased regulatory demands associated with the testing, review and approval of the equipment covered by this proposed rulemaking.

#### *Fiscal Impact*

#### *Commonwealth*

The Board experienced increased costs regarding the testing, review and approval of the equipment covered by this proposed rulemaking and the review of the internal controls governing the storage and use of this equipment. However, the increased costs did not exceed the additional supplemental funding of approximately \$2.1 million provided to the Board under the act of January 7, 2010 (P. L. 1, No. 1) (Act 1).



*Political subdivisions*

This proposed rulemaking will not have fiscal impact on political subdivisions in this Commonwealth. Host municipalities and counties will benefit from the local share funding mandated by Act 1.

*Private sector*

This proposed rulemaking resulted in additional costs for slot machine licensees that elected to become certificate holders and operate table games. Prior to beginning table game operations, certificate holders were required to purchase equipment which met the standards in this proposed rulemaking. While the costs were significant, they are expected to be offset by the revenues generated from the operation of table games at the licensed facilities.

*General public*

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

*Paperwork Requirements*

This proposed rulemaking requires certificate holders to develop internal controls and inventory systems governing the use of table game equipment.

*Effective Date*

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

*Public Comments*

Interested persons are invited to submit written comments, suggestions or objections regarding the proposed rulemaking, within 30 days after the date of publication in the *Pennsylvania Bulletin*, to Susan A. Yocum, Assistant Chief Counsel, Pennsylvania Gaming Control Board, P. O. Box 69060, Harrisburg, PA 17106-9060, Attention: Public Comment on Table Game Equipment, Regulation #125-137.

*Contact Person*

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

*Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on December 21, 2010, the Department submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC). Under section 5(f) of the act, the Board will submit the proposed rulemaking and the required material to the Chairpersons of the House Gaming Oversight Committee and the Senate Community, Economic and Recreational Development Committee no later than the second Monday after the date by which both Committee designations have been published in the *Pennsylvania Bulletin*. A copy of this material is available to the public upon request and is available on the Board's web site at [www.pgcb.state.pa.us](http://www.pgcb.state.pa.us).

Under section 5(g) of the Regulatory Review Act, IRRC may convey any comments, recommendations or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections must specify the regulatory review criteria which have not been met. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Board, the

General Assembly and the Governor of comments, recommendations or objections raised.

GREGORY C. FAJT,  
*Chairperson*

**Fiscal Note:** 125-137. No fiscal impact; (8) recommends adoption.

**Annex A**

**TITLE 58. RECREATION**

**PART VII. GAMING CONTROL BOARD**

**Subpart K. TABLE GAMES**

**CHAPTER 523. (Reserved)**

*(Editor's Note:* As part of this proposed rulemaking, the Board is proposing to rescind Chapter 523 which appears in 58 Pa. Code pages 523-1—523-40, serial pages (352313)—(352352).*)*

Sec.  
523.1—523.18. (Reserved).

**CHAPTER 603a. TABLE GAME EQUIPMENT**

- Sec.
- 603a.1. Definitions.
- 603a.2. Gaming chips; physical characteristics applicable to all gaming chips, issuance and use, promotional nongaming chips.
- 603a.3. Value chips; denominations and physical characteristics.
- 603a.4. Roulette chips; physical characteristics.
- 603a.5. Roulette chips; permitted uses, inventory and impressment.
- 603a.6. Tournament chips.
- 603a.7. Poker rake chips.
- 603a.8. Additional sets of gaming chips.
- 603a.9. Plaques; issuance and use, denominations and physical characteristics.
- 603a.10. Exchange and redemption of gaming chips and plaques.
- 603a.11. Receipt of gaming chips or plaques from a manufacturer or supplier; inventory, security, storage and destruction of chips and plaques.
- 603a.12. Dice; physical characteristics.
- 603a.13. Dice; receipt, storage, inspection and removal from use.
- 603a.14. Sic Bo shaker security procedures.
- 603a.15. Cards; physical characteristics.
- 603a.16. Cards; receipt, storage, inspection and removal from use.
- 603a.17. Dealing shoes; automated card shuffling devices.
- 603a.18. Pai Gow tiles; receipt, storage, inspection and removal from use.

**§ 603a.1. Definitions.**

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

*Chip runner*—An employee of a certificate holder whose job duties include transporting cash to the Poker room cage or the Poker cashier window at the main cage for dealers or patrons of the Poker room to be exchanged for value chips.

*Edge*—The surface of a gaming chip across which its thickness can be measured in a perpendicular line from one face to the other.

*Edge spot*—An identifying characteristic used on the edge of each value chip issued by a certificate holder.

*Face*—Each of the two surfaces of a gaming chip across which the diameter of the gaming chip can be measured.

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

*Roulette chip*—A nonvalue chip which does not contain a denomination on either face which is used for wagering at the game of Roulette.

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

*Primary color*—The predominant color used on a value chip.

*RFID chip*—A value or Roulette chip which contains a radio-frequency identification tag which can be used to determine the authenticity of the chip.

*Secondary color*—Any color on the face or edge of the value chip that is used as a contrast to the value chip's primary color.

*Tournament chip*—A chip used for wagering in a table game tournament or Poker tournament.

*Value chip*—A chip that contains a denomination on each face.

**§ 603a.2. Gaming chips; physical characteristics applicable to all gaming chips, issuance and use, promotional nongaming chips.**

(a) Each gaming chip issued by a certificate holder must be in the form of a disk.

(b) A gaming chip may not be issued by a certificate holder or utilized in a licensed facility until:

(1) The design specifications of the proposed gaming chip are submitted to and approved by the Bureau of Gaming Operations. The design specifications submitted to the Bureau of Gaming Operations must include a detailed schematic depicting the actual size and, as appropriate, location of the following:

(i) Each face, including any indentations or impressions.

(ii) The edge.

(iii) Any colors, words, designs, graphics or security measures contained on the gaming chip.

(2) A sample of each gaming chip, manufactured in accordance with its approved design specifications, made available to the Bureau of Gaming Operations for its inspection and approval at the certificate holder's licensed facility.

(c) Each gaming chip issued by a certificate holder shall be designed and manufactured with sufficient graphics or other security measures, including, at a minimum, those items specifically required to appear on the face or edge of a value chip under this section and § 603a.3 (relating to value chips; denominations and physical characteristics), to prevent, to the greatest extent possible, the counterfeiting of the gaming chip.

(d) A certificate holder may not issue, use or allow a patron to use in its licensed facility any gaming chip that it knows, or reasonably should know, is materially different from the sample of that gaming chip approved by the Bureau of Gaming Operations under this section.

(e) A certificate holder or other person licensed by the Board may not manufacture for, sell to, distribute to or use in any licensed facility outside of this Commonwealth, any gaming chips having the same edge spot or design specifications as those approved for use in a licensed facility in this Commonwealth.

(f) A certificate holder may issue promotional nongaming chips that are prohibited from use in gaming in any licensed facility. The physical characteristics of promotional nongaming chips must be sufficiently distinguishable from approved gaming chips issued by any certificate holder in this Commonwealth so as to reasonably ensure that the promotional gaming chips will not be confused with approved gaming chips. At a minimum, promotional nongaming chips must:

(1) Be unique in terms of size or color.

(2) Have no edge designs.

(3) Bear the name of the certificate holder issuing the promotional nongaming chips and language on both faces stating that the promotional nongaming chips have no redeemable value.

**§ 603a.3. Value chips; denominations and physical characteristics.**

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

(b) The primary color used for each denomination of value chip must be in accordance with the colors specified in subsection (c). A primary color may not be used as a secondary color on a value chip of another denomination if its use on the edge is reasonably likely to cause confusion as to the chip's denomination when the edge alone is visible.

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

(1) \$1—White.

(2) \$2—Blue.

(3) \$2.50—Pink.

(4) \$5—Red.

(5) \$20—Yellow.

(6) \$25—Green.

(7) \$100—Black.

(8) \$500—Purple.

(9) \$1,000—Fire Orange.

(10) \$5,000—Gray.

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

(1) The denomination of the value chip, expressed in numbers.

(2) The name, logo, or other approved identification of the certificate holder issuing the value chip.

(3) The letters "PA" and the name of the city in which the licensed facility is located.

(e) In addition to the characteristics specified in subsection (d), each value chip in a denomination of \$25 or more must contain a design or other identifying characteristic that is unique to the gaming chip manufacturer. Upon approval of a particular design or characteristic by the Bureau of Gaming Operations, the gaming chip manufacturer shall thereafter have the exclusive right to use that design or characteristic on any denomination of value chip. The approved unique design or characteristic may be used on all value chips manufactured for use in

this Commonwealth and may be changed only upon a showing by the gaming chip manufacturer that, despite the change, each value chip of \$25 or more is nonetheless readily identifiable as having been produced by that manufacturer.

(f) Each value chip issued by a certificate holder must contain an edge spot that:

(1) Is applied in a manner that ensures that the edge spot:

(i) Is clearly visible on the edge and on each face of the value chip.

(ii) Remains a permanent part of the value chip.

(2) Is created using both:

(i) The primary color of the chip.

(ii) One or more secondary colors.

(3) Includes a design, pattern or other feature that an individual with adequate training could readily use to identify, when viewed through the surveillance system of the certificate holder, the denomination of the particular value chip when placed in a stack of gaming chips, in the table inventory or in any other location when only the edge of the value chip is visible; provided, however, that the design, pattern or feature created by the primary and secondary colors required by paragraph (2) is sufficient by itself to satisfy the requirements of this paragraph.

(g) When determining the secondary colors to be used to make the edge spot on a particular denomination of value chip, a certificate holder shall use only those secondary colors that are reasonably likely to differentiate the certificate holder's value chip from the same denomination of value chip issued by any other certificate holder.

(h) If an approved value chip uses a single secondary color, no other certificate holder may use a similar secondary color as the sole secondary color on the same denomination of value chip unless it is used in a different pattern or design approved by the Bureau of Gaming Operations under subsection (f)(3).

(i) If an approved value chip uses a combination of two or more secondary colors, no other certificate holder may use that identical combination of secondary colors on the same denomination of value chip unless it is used in a different pattern or design approved by the Bureau of Gaming Operations under subsection (f)(3).

(j) Any value chip issued by a certificate holder in the denomination of:

(1) Less than \$500 must have a uniform diameter of one and 9/16ths inches.

(2) \$500 must have a uniform diameter of one and 9/16ths inches or one and 11/16ths inches.

(3) \$1,000 or more must have a uniform diameter of one and 11/16ths inches.

(k) Each value chip with a denomination below \$25 must contain at least one anticounterfeiting measure and each value chip with a denomination of \$25 or more must contain at least three anticounterfeiting measures in addition to those items specifically required to appear on the face or edge of a value chip by this section.

#### § 603a.4. Roulette chips; physical characteristics.

(a) Each Roulette chip utilized in a licensed facility shall be issued solely for the purpose of gaming at Roulette.

(b) Each Roulette chip issued by a certificate holder must contain identifying characteristics that may appear in any location at least once on each face of the chip and shall be applied in a manner that ensures that each characteristic is clearly visible and remains a permanent part of the chip. The characteristics required under paragraphs (1) and (2) shall be applied in a manner so as to be visible to surveillance employees using the licensed facility's surveillance system. The identifying characteristics of a Roulette chip, at a minimum, must include:

(1) The name, logo, or other approved identification of the certificate holder issuing the Roulette chip.

(2) A unique design, insert or symbol that will permit a set of Roulette chips being used at a particular Roulette table to be distinguished from the Roulette chips being used at every other Roulette table in the licensed facility.

(3) The word "Roulette."

(4) Color and design combinations, approved by the Bureau of Gaming Operations, so as to readily distinguish the Roulette chips of each player at a particular Roulette table from:

(i) The nonvalue chips of every other player at the same Roulette table.

(ii) The value chips issued by any certificate holder.

(c) Each Roulette chip issued by a certificate holder must contain an edge spot, which:

(1) Is applied in a manner which ensures that the edge spot:

(i) Is clearly visible on the edge and, to the extent required by the Bureau of Gaming Operations, on each face of the Roulette chip.

(ii) Remains a permanent part of the Roulette chip.

(2) Is created by using the colors approved for the face of the particular Roulette chip under subsection (b)(4) in combination with one or more other colors that provides a contrast with the color on the face of the Roulette chip and that enable the Roulette chip to be distinguished from the Roulette chips issued by any other certificate holder.

(3) Include a design, pattern or other feature approved by the Bureau of Gaming Operations that an individual with adequate training could readily use to identify, when viewing the Roulette chip through the surveillance system of the certificate holder, the player to whom the Roulette chip has been assigned when the Roulette chip is placed in a stack of gaming chips or in any other location where only the edge of the Roulette chip is visible; provided, however, that the design, pattern or feature created by the colors required under paragraph (2) is sufficient by itself to satisfy the requirements of this paragraph.

#### § 603a.5 Roulette chips; permitted uses, inventory and impressment.

(a) Each Roulette chip shall be assigned to a particular Roulette table and be issued and used for gaming at that table only. All Roulette chips utilized at a particular Roulette table must have the same design, insert or symbol as required under § 603a.4(b)(2) (relating to Roulette chips; physical characteristics). A certificate holder or any employee thereof may not allow a patron to remove a Roulette chip from the Roulette table at which it was issued.

(b) A patron at a Roulette table may not be issued or permitted to game with Roulette chips that are identical



in color and design to any Roulette chip issued to any other patron at the same table. When a patron purchases Roulette chips, a Roulette chip of the same color and design shall be placed in a slot or receptacle attached to the outer rim of the roulette wheel or in another device or location approved by the Bureau of Gaming Operations. At that time, a marker button denoting the value of a stack of 20 Roulette chips of the same color and design shall be placed in the slot, receptacle or other device. For example, a marker button with 100 imprinted on it would be placed in the receptacle to designate that, during the patron's play on that occasion, the Roulette chips of that color and design are each worth \$5.

(c) An impressment of the Roulette chips assigned to each Roulette table shall be completed at least once every month as specified in the certificate holder's internal controls. The certificate holder shall record the results of the impressment in the chip inventory ledger required under § 603a.11 (relating to receipt of gaming chips or plaques from a manufacturer or supplier; inventory, security, storage and destruction of chips and plaques) and perform the impressment as follows:

(1) A floorperson or above shall complete a Roulette Chip Impressment Form to record missing or excess chips and deliver the form and any excess chips to the main bank or chip bank.

(2) Upon receipt of the Roulette Chip Impressment Form, a main bank cashier or chip bank cashier shall, if appropriate, immediately prepare any chips needed to impress the table.

(3) The floorperson or above shall then, if applicable, deliver the Roulette chips needed to restore the impress to the appropriate Roulette table.

(d) The completed Roulette Chip Impressment Form shall be maintained by the accounting department and contain, at a minimum, the following:

(1) The date and time of preparation.

(2) The design schematic of the chip including its primary color and the applicable table number.

(3) The signature of the floorperson or above who completes the Roulette Chip Impressment form and the impressment for the table.

(4) The signature of the main bank cashier or chip bank cashier who reviewed the Roulette Chip Impressment Form and, if necessary, issued the chips to restore the impressment.

(e) Each certificate holder shall record in the chip inventory ledger required under § 603a.11 and submit to the Bureau of Gaming Operations, a monthly summary of the Roulette chip inventory for each Roulette table. This monthly summary must include, at a minimum, the following information for each Roulette chip color and design:

(1) The balance on hand at the beginning of the month.

(2) The number of Roulette chips distributed to the Roulette table during the month.

(3) The number of Roulette chips returned to inventory during the month.

(4) The balance on hand at the end of the month.

#### § 603a.6. Tournament chips.

(a) If a certificate holder conducts table game tournaments, the tournaments shall be conducted using tournament chips.

(b) The identifying characteristics of a tournament chip, at a minimum, must include:

(1) The name, logo, or other approved identification of the certificate holder using the tournament chip.

(2) The word "Tournament."

(3) The denomination of the chip.

(4) The phrase "No Cash Value."

(5) Color or design combinations, approved by the Bureau of Gaming Operations, so as to readily distinguish the tournament chips from:

(i) The Roulette chips used for the play of Roulette at the licensed facility.

(ii) The value chips issued by any certificate holder.

(iii) Poker room rake chips.

(c) Tournament chips shall be stored in a secure area approved by the Bureau of Gaming Operations.

(d) An inventory of all tournament chips to be used in a tournament shall be conducted by the certificate holder prior to the start and after the completion of each tournament. A copy of the inventory report shall be submitted to the Bureau of Gaming Operations no later than 2 days following the conclusion of the tournament.

#### § 603a.7. Poker rake chips.

(a) To facilitate the collection of the rake, a certificate holder may use Poker rake chips in the Poker room.

(b) Poker rake chips shall only be used by dealers and may only be substituted for value chips that have been collected as part of the rake prior to the rake being placed in the drop box.

(c) Unused Poker rake chips shall be kept by the dealer in the table inventory container.

(d) The denominations that may be used for Poker rake chips are \$2, \$3 or \$4.

(e) The identifying characteristics of a Poker rake chip, at a minimum, must include:

(1) The name, logo, or other approved identification of the certificate holder.

(2) The words "Poker Rake Chip."

(3) One of the following denominations: "\$2," "\$3" or "\$4."

(4) Color or design combinations, approved by the Bureau of Gaming Operations, to readily distinguish the Poker rake chips from:

(i) The Roulette chips used for the play of Roulette at the licensed facility.

(ii) The tournament chips used for tournament play at the licensed facility.

(iii) The value chips issued by any certificate holder.

#### § 603a.8. Additional sets of gaming chips.

(a) Within 120 days of the commencement of table games at a licensed facility, the certificate holder shall also have at least one approved set of value chips that may be used as a back-up for the \$25, \$100 and \$500 value chips in active use. Each back-up set of value chips maintained for use by a certificate holder must have secondary colors that are different from the secondary colors of the value chips in active use and may use a different shade of the primary color. All back-up sets of



value chips must conform to the color and design requirements contained in this chapter.

(b) Each certificate holder shall have at least one reserve set of Roulette chips for each color utilized in the licensed facility with a design insert or symbol different from the Roulette chips comprising the primary sets. All back-up sets of Roulette chips must conform to the color and design requirements contained in this chapter.

(c) A certificate holder shall notify the Bureau of Gaming Operations within 24 hours of the discovery of counterfeit chips.

(d) The certificate holder shall remove a set of gaming chips in use from active play whenever:

(1) It is believed the licensed facility is taking on multiple counterfeit chips valued at \$25 or more.

(2) Any other impropriety or defect in the utilization of a set of chips makes removal of the chips in active use necessary.

(3) The Board or its executive director directs that a set of chips be removed from active use.

(e) An approved back-up set of value chips or a reserve set of Roulette chips shall be placed into active play whenever an active set is removed.

(f) Whenever a set of chips in active use are removed from play, the certificate holder shall immediately notify the Bureau of Gaming Operations of the removal and the reasons for the removal.

(g) Each set of gaming chips that the Bureau of Gaming Operations approves shall receive a unique and permanent alphabetical designation. This designation shall be assigned by the certificate holder during the design schematic approval process and shall be used for all inventory procedures required under § 603a.11 (relating to receipt of gaming chips or plaques from a manufacturer or supplier; inventory, security, storage and destruction of chips and plaques).

(h) If a certificate holder uses RFID chips for its value or Roulette chips, the certificate holder may request that the Board waive the requirements in subsection (a) or (b) by filing a petition in accordance with § 493a.4 (relating to petitions generally). The petition, at a minimum, must include:

(1) A detailed description of the RFID technology and devices that will be used at the licensed facility.

(2) A detailed description of how the RFID chips and related equipment will be used in the licensed facility.

(3) A detailed explanation of how the use of the RFID chips and related equipment will reduce or eliminate the potential use of counterfeit value or Roulette chips.

**§ 603a.9. Plaques; issuance and use, denominations and physical characteristics.**

(a) Plaques issued by a certificate holder must be a solid, one-piece object constructed entirely of plastic or other substance approved by the Bureau of Gaming Operations and have at least two but no more than six smooth, plane surfaces. At least two of the plane surfaces, each to be known as a face, must be opposite and parallel to each other and identical in shape, which must be either a square, rectangle or ellipse. Other surfaces of a plaque shall be known collectively as the edge.

(b) Plaques may not be issued by a certificate holder or utilized in a licensed facility unless:

(1) The design specifications of the proposed plaque are submitted to and approved by the Bureau of Gaming Operations. The submission must include a detailed schematic depicting the actual size and, as appropriate, location of the following:

(i) Each face.

(ii) The edge.

(iii) Any colors, words, designs, graphics or security measures contained on the plaque including the minimum identifying characteristics listed in subsection (f).

(2) A sample plaque of each denomination to be used, manufactured in accordance with its approved design specifications, is made available to the Bureau of Gaming Operation for its inspection and approval at the certificate holder's licensed facility.

(3) A system of internal procedures and administrative and accounting controls, governing the distribution, redemption, receipt and inventory of plaques, by serial number, is submitted and approved as part of the certificate holder's internal controls.

(c) The face of a square plaque must have a surface area of no less than 9 square inches. The face of a rectangular or elliptical plaque must be no smaller than 3 inches in length by 2 inches in width. In the case of an elliptical plaque, the length and width of the plaque shall be measured at its axes.

(d) A plaque issued by a certificate holder shall be designed and manufactured with sufficient graphics or other security measures to prevent, to the greatest extent possible, the counterfeiting of the plaque.

(e) A certificate holder may issue and use plaques in denominations of \$5,000 or \$10,000 and other denominations approved by the Bureau of Gaming Operations. Each plaque of a specific denomination utilized by a certificate holder must be in a shape and of a size that is identical to the shape and size of all other plaques of that denomination issued by the certificate holder. The size and shape of each denomination of plaque issued by a certificate holder must be readily distinguishable from the size and shape of every other denomination of plaque issued by the certificate holder.

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

(1) The denomination of the plaque, expressed in numbers of at least 3/8 inch in height.

(2) The name, logo, or other approved identification of the certificate holder issuing the plaque.

(3) A unique serial number.

(g) A certificate holder may not issue, use or allow a patron to use in its licensed facility any plaque that it knows, or reasonably should know, is materially different from the sample of that plaque approved by the Bureau of Gaming Operations.

**§ 603a.10. Exchange and redemption of gaming chips and plaques.**

(a) Wagering at table games in a licensed facility shall be conducted with gaming chips, or plaques.

(b) Value chips previously issued by a certificate holder, which are not in active use by that certificate holder, may not be used for wagering or any other purpose in a licensed facility and shall be redeemed only at the cashiers' cage or Poker room cage as provided for in subsection (h).

(c) Gaming chips or plaques shall be issued to a patron only at the request of the patron and may not be given as change in any transaction other than a gaming transaction. Gaming chips and plaques shall be issued to patrons by:

- (1) Dealers at a banking or nonbanking table game.
- (2) The Poker room cage or the Poker window cashier at the main cage.
- (3) Chip runners to patrons seated at a poker table at which a game is in progress.

(d) Plaques and value chips shall be redeemed by patrons only at the cashiers' cage or Poker room cage.

(e) Except as provided in subsections (k) and (l), and as otherwise may be specifically approved by the Board, each certificate holder shall redeem its gaming chips and plaques only from patrons and may not knowingly redeem gaming chips and plaques from any nonpatron source.

(f) Roulette chips shall be presented for redemption only at the Roulette table from which they were issued and may not be redeemed or exchanged at any other location within a licensed facility. When Roulette chips are presented for redemption, the dealer shall accept them in exchange for an equivalent amount of value chips which may then be used by the patron in gaming or redeemed in the same manner as any other value chip.

(g) A certificate holder shall have the discretion to permit, limit or prohibit the use of value chips in gaming at Roulette in accordance with its Rules Submission submitted under § 601a.2 (relating to table games Rules Submission), provided however, that when value chips are in use at Roulette, it shall be the responsibility of the certificate holder and its employees to keep accurate account of the wagers being made with value chips so that the wagers made by one player are not confused with the wagers made by another player at the table.

(h) Each gaming chip and plaque is solely evidence of a debt that the issuing certificate holder owes to the person legally in possession of the gaming chip or plaque, and shall remain the property of the issuing certificate holder. A certificate holder shall have the right at any time to demand that a person in possession of a gaming chip or plaque surrender the gaming chip or plaque for redemption in accordance with subsection (i).

(i) A certificate holder shall redeem promptly its own genuine gaming chips and plaques presented by a patron in person, unless the gaming chips or plaques were obtained or are being used unlawfully. A certificate holder shall redeem its value chips or plaques by:

- (1) Exchanging the value chips or plaques for an equivalent amount of cash.
- (2) Upon request by a patron, exchanging the value chips or plaques for a check issued by the certificate holder in the amount of the value chips or plaques surrendered and dated the day of the redemption.

(j) Notwithstanding subsection (i), if a patron requests by mail to redeem value chips in any amount, a certificate holder may effectuate the redemption in accordance with internal controls approved by the Board which, at a minimum, must detail procedures for the issuance of a

check from the certificate holder and the transfer of the surrendered value chips to the chip bank in a transaction supported by proper documentation.

(k) A certificate holder shall accept, exchange, use or redeem only gaming chips or plaques that the certificate holder has issued and may not knowingly accept, exchange, use or redeem gaming chips or plaques, or objects purporting to be gaming chips or plaques, that have been issued by any other certificate holder.

(l) Notwithstanding subsection (k), a certificate holder may accept and redeem:

(1) Value chips issued by another certificate holder from a patron upon the patron's representation that the value chips had been purchased or received as payment in a gaming transaction from an employee of the certificate holder working on the premises of the certificate holder.

(2) Value chips issued by any other certificate holder from one of the certificate holder's employees who is authorized to receive gratuities, upon the employee's representation that the chips were received as gratuities in the normal course of his duties while on the premises of the certificate holder.

(m) Employees of a certificate holder may be authorized to receive value chips as personal gratuities. Additionally, cocktail servers and other employees who are serving food and beverage on the gaming floor from nonfixed locations may be authorized to receive value chips in exchange for food and beverage purchased and served to patrons on the gaming floor. Employees of a certificate holder who are authorized to receive value chips as personal gratuities may redeem the value chips at the cashiers' cage or at another secure location in the licensed facility as approved by the Board. Value chips redeemed by employees at a noncage employee redemption site shall be exchanged on a daily basis with the cashiers' cage in accordance with procedures approved by the Board.

(n) A certificate holder shall redeem promptly its own genuine value chips presented to it by any other legally operated certificate holder upon the representation that the value chips were received or accepted unknowingly, inadvertently or in error or were redeemed in accordance with the provisions of subsection (l). Each certificate holder shall submit to the Board for approval as part of the certificate holder's internal controls a system for the exchange, with other legally operated certificate holders, of value chips:

(1) In the certificate holder's possession that have been issued by any other legally operated certificate holder.

(2) The certificate holder has issued that are presented to it for redemption by any other legally operated certificate holder.

(o) Each certificate holder shall post, in a prominent place on the front of the cashiers' cage, any satellite cage and the Poker room cage, a sign that reads as follows: "Gaming chips or plaques issued by another licensed facility may not be used, exchanged or redeemed in this licensed facility."

**§ 603a.11. Receipt of gaming chips or plaques from a manufacturer or supplier; inventory, security, storage and destruction of chips and plaques.**

(a) When gaming chips or plaques are received from a manufacturer or supplier, the chips or plaques shall be unloaded under the supervision of at least two people, one

of whom shall be a supervisor from the finance department and one employee from the security department, and transported to a secure area which is covered by the slot machine licensee's surveillance system. The chips or plaques shall then be opened and checked by at least two people, one of whom shall be a supervisor from the finance department and one employee from the security department. Any deviation between the invoice accompanying the gaming chips and plaques and the actual chips or plaques received or any defects found in the chips or plaques shall be reported promptly to the Bureau of Gaming Operations.

(b) After checking the gaming chips or plaques received, the certificate holder shall record, in a chip inventory ledger, the assigned alphabetical designation, the denomination of the value chips and plaques received, the number of each denomination, and where applicable the serial numbers, of the value chips and plaques received, the number and description of all Roulette chips received, the date of the receipt and the signatures of the individuals who checked the chips and plaques. If the value chips or Roulette chips are not to be put into active use, the ledger must also identify the storage location.

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

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

(d) Gaming chips or plaques may not be stored in the same storage area as dice, cards, Pai Gow tiles or any other gaming equipment.

(e) Whenever any gaming chips or plaques are taken from or returned to an approved storage area, at least two individuals, one of whom shall be a supervisor from the finance department and one employee from the security department, shall be present, and the following information shall be recorded in the chip inventory ledger together with the date and signatures of the individuals involved:

- (1) The alphabetical designation and if applicable, any numeric designation.
- (2) The number, and when applicable, the serial numbers and dollar amount for each denomination of value chip or plaque removed or returned.
- (3) The number and description of the Roulette chips removed or returned.
- (4) The specific storage area being entered.
- (5) The reason for the entry into the storage area.

(f) At the end of each gaming day, a certificate holder shall compute and record the unredeemed liability for each denomination of value chip and plaque. The procedures to be utilized to compute the unredeemed liability shall be submitted as part of the certificate holder's internal controls to the Board for approval.

(g) At least once every month, as specified in the certificate holder's internal controls, each certificate holder shall inventory all sets of value chips, Roulette chips and plaques in its possession and record the result of the inventory in the chip inventory ledger. A physical inventory of value chips, Roulette chips and plaques not in active use shall only be required annually if the inventory procedures incorporate the sealing of the locked compartment containing the value chips, Roulette chips

and plaques not in active use. The procedures to be utilized to inventory value chips, Roulette chips and plaques shall be submitted as part of the certificate holder's internal controls to the Board for approval.

(h) Prior to the destruction of gaming chips or plaques, the certificate holder shall notify the Bureau of Gaming Operations, in writing, of the date and the location at which the destruction will be performed, the denomination, number, and where applicable, the serial number and amount of value chips or plaques to be destroyed, the description and number of Roulette chips to be destroyed and a detailed explanation of the method of destruction.

(i) Unless otherwise authorized by the Bureau of Gaming Operations, the destruction of gaming chips or plaques shall be carried out in the presence of at least two employees of the certificate holder, one of whom shall be from the finance department of the certificate holder and one of whom shall be from any other mandatory department of the certificate holder. The certificate holder shall maintain a written log of the names and license, permit or registration numbers of all employees involved in each destruction, as well as the names and addresses of all nonemployees involved. The certificate holder shall record in the chip inventory ledger the following:

- (1) The denomination, quantity, total value and serial number, if applicable, of all value chips or plaques destroyed.
- (2) The description and number of Roulette chips destroyed.
- (3) The signatures of the individuals who carried out the destruction.
- (4) The date and location where the destruction took place.

(j) A certificate holder shall ensure that at all times there is adequate security, as approved by the Bureau of Gaming Operations, for all gaming chips and plaques in the certificate holder's possession.

**§ 603a.12. Dice; physical characteristics.**

(a) Except as otherwise provided in subsection (b), each die used in the play of table games must:

- (1) Be formed in the shape of a perfect cube and of a size no smaller than 0.750 of an inch on each side nor any larger than 0.775 of an inch on each side.
- (2) Be transparent and made exclusively of cellulose except for the spots, name or logo of the certificate holder and serial number or letters contained thereon.
- (3) Have the surface of each of its sides perfectly flat and the spots contained in each side flush with the area surrounding them.
- (4) Have all edges and corners perfectly square and forming 90° angles.
- (5) Have the texture and finish of each side exactly identical to the texture and finish of all other sides.
- (6) Have its weight equally distributed throughout the cube with no side of the cube heavier or lighter than any other side of the cube.
- (7) Have the six sides bearing white circular spots from one to six respectively with the diameter of each spot equal to the diameter of every other spot on the die.
- (8) Have spots arranged so that:

(i) The side containing one spot is directly opposite the side containing six spots.



(ii) The side containing two spots is directly opposite the side containing five spots.

(iii) The side containing three spots is directly opposite the side containing four spots.

(9) Each spot shall be placed on the die by drilling into the surface of the cube and filling the drilled out portion with a compound which is equal in weight to the weight of the cellulose drilled out and which forms a permanent bond with the cellulose cube, and extend into the cube exactly the same distance as every other spot extends into the cube to an accuracy tolerance of .0004 of an inch.

(10) Have imprinted or impressed thereon a serial number or letters and the name or logo of the certificate holder in whose licensed facility the die is being used.

(b) Dice used in the table games of Pai Gow and Pai Gow Poker must comply with the requirements of subsection (a) except as follows:

(1) Each die must be formed in the shape of a perfect cube and of a size no smaller than .637 of an inch on each side nor any larger than .643 of an inch on each side.

(2) Instead of the name or logo of the certificate holder, a certificate holder may, with the approval of the Bureau of Gaming Operations, have an identifying mark imprinted or impressed on each die.

(3) The spots on each die do not have to be equal in diameter.

**§ 603a.13. Dice; receipt, storage, inspection and removal from use.**

(a) When dice for use in a licensed facility are received from a manufacturer or supplier, the dice shall, immediately following receipt, be unloaded under the supervision of at least two people, one of whom shall be an assistant table games shift manager or above and one employee from the security department, and transported to a secure area which is covered by the slot machine licensee's surveillance system. The boxes of dice shall then be inspected by an assistant table games shift manager or above and one employee from the security department to assure that the seals on each box are intact, unbroken and free from tampering. Boxes that do not satisfy these criteria shall be inspected at this time to assure that the dice contained therein conform to the requirements of this chapter and there is no evidence of tampering. Boxes satisfying these criteria, together with boxes having unbroken, intact and untampered seals shall then be placed for storage in a storage area, the location and physical characteristics of which shall be approved by the Bureau of Gaming Operations.

(b) Dice which are to be distributed to gaming pits or tables for use in gaming shall be distributed from the approved storage area.

(c) The approved storage area must have two separate locks. The security department shall maintain one key and the table games department shall maintain the other key. No person employed by the table games department below an assistant table games shift manager in the organization hierarchy may have access to the table games department key.

(d) Immediately prior to the commencement of each gaming day and at other times as may be necessary, an assistant table games shift manager or above, in the presence of a security department employee, shall remove the appropriate number of dice for that gaming day from the approved storage area.

(e) Envelopes and containers used in this section for dice preinspected at the pit stand or in the approved storage area and for those collected by the security department must be transparent.

(1) The envelopes or containers and the method used to seal them shall be designed or constructed so that any tampering is evident.

(2) The envelopes or containers and seals used shall be approved by the Bureau of Gaming Operations.

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

(1) *Alternative No. 1.*

(i) The assistant table games shift manager or above and the security department employee who removed the dice from the approved storage area shall distribute sufficient dice directly to the pit manager or above in each pit, or place them in a locked compartment in the pit stand, the keys to which shall be in the possession of the pit manager or above.

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

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

(A) For Craps, the boxperson shall, in the presence of a dealer, place the dice in a cup on the table for use in gaming.

(B) For Mini-Craps, the floorperson shall, in the presence of a dealer, place the dice in a cup on the table for use in gaming.

(C) For Sic Bo, the floorperson shall, in the presence of the dealer, place the required number of dice into the shaker and seal or lock the shaker. The floorperson shall then secure the Sic Bo shaker to the table in the presence of the dealer who observed the inspection.

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

(iv) The pit manager or above shall place extra dice for the dice reserve in the pit stand. Dice in the pit stand shall be placed in a locked compartment, the keys to which shall be in the possession of the pit manager or above. No dice taken from the pit stand reserve may be used for actual gaming until the dice have been inspected in accordance with subparagraph (ii).



(2) *Alternative No. 2.*

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

(A) For Craps and Mini-Craps, a boxperson or floorperson in the presence of another boxperson or floorperson, both of whom are assigned the responsibility of supervising the operation and conduct of a Craps or Mini-Craps game.

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

(C) For storage of the dice for the dice reserve in the pit stand, to the pit manager or above.

(ii) To ensure that the dice are in a condition to assure fair play and otherwise conform to the requirements of this chapter, the dice shall be inspected by one of the individuals listed in subparagraph (i)(A) or (B) with a micrometer or other instrument approved by the Bureau of Gaming Operations which performs the same function, a balancing caliper, a steel set square and a magnet. These instruments shall be kept at the pit stand and shall be at all times readily available for use by the casino compliance representatives or other Board employees upon request. The inspection shall be performed on a flat surface which allows the dice inspection to be observed through the slot machine licensee's surveillance system and by any persons in the immediate vicinity of the pit stand.

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

(A) For Craps and Mini-Craps, the boxperson or floorperson who inspected the dice shall, in the presence of the other boxperson or floorperson who observed the inspection, distribute the dice to the boxperson assigned at each Craps table or to the floorperson assigned at each Mini-Craps table. The Craps boxperson or the Mini-Craps floorperson shall, in the presence of the dealer, place the dice in a cup on the table for use in gaming.

(B) For Sic Bo, the floorperson who inspected the dice shall, in the presence of the other floorperson who observed the inspection, place the required number of dice into the shaker and seal or lock the shaker. The floorperson shall then secure the Sic Bo shaker to the table in the presence of the other floorperson who observed the inspection.

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

(iv) The pit manager or above shall place extra sets of dice for the dice reserve in the pit stand, as follows:

(A) Dice in the pit stand shall be placed in a locked compartment, the keys to which shall be in the possession of the pit manager or above.

(B) Except as otherwise provided in subparagraph (v), dice taken from the reserve in the pit stand shall be reinspected by a floorperson or above in the presence of another floorperson or above in accordance with the

inspection procedures set forth in subparagraph (ii), prior to their use for actual gaming.

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

(A) For Craps and Mini-Craps, a set of five dice, after being inspected, shall be placed in a sealed envelope or container. A label that identifies the date of inspection and contains the signatures of those responsible for the inspection shall be attached to the envelope or container.

(B) For Sic Bo, three dice, after being inspected, shall be placed in a sealed envelope or container or sealed or locked in a Sic Bo shaker. A label or seal that identifies the date of inspection and contains the signatures of those responsible for the inspection shall, respectively, be attached to each envelope or container or placed over the area that allows access to open the Sic Bo shaker.

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

(3) *Alternative No. 3.*

(i) The inspection of dice for all table games shall take place in the approved storage area, in the presence of a floorperson or above, the assistant table games shift manager or above and a security department employee.

(ii) Prior to starting the inspection of the dice, notice shall be provided to the certificate holder's surveillance department.

(iii) The dice shall be inspected by the floorperson or above, the assistant table games shift manager or above or both of these individuals, with a micrometer or any other instrument approved by the Bureau of Gaming Operations which performs the same function, a balancing caliper, a steel set square and a magnet to ensure that the dice are in a condition to assure fair play and otherwise conform to the act and this title. These instruments shall be maintained in the approved storage area and shall be at all times readily available for use by the casino compliance representatives or other Board employees upon request.

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

(A) For Craps and Mini-Craps, after each set of five dice are inspected, the dice shall be placed in a sealed envelope or container. A label that identifies the date of the inspection and contains the signatures of those responsible for the inspection shall be attached to each envelope or container.

(B) For Sic Bo, after each set of dice are inspected, three dice shall be sealed or locked in a manual shaker. A seal that identifies the date of the inspection and contains the signatures of those responsible for the inspection shall then be placed over the area that allows access to open the shaker.

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

(D) Reserve dice may be placed in individual sealed envelopes or containers. A label that identifies the date of the inspection and contains the signatures of those responsible for the inspection shall be attached to each envelope or container.

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

(A) For Craps and Mini-Craps, the sealed envelopes or containers of dice shall be distributed to a pit manager or above in each Craps or Mini-Craps pit or placed in a locked compartment in the pit stand by an assistant table games shift manager or above. When the sealed dice are distributed to a Craps or Mini-Craps table, a boxperson at a Craps table or a floorperson at a Mini-Craps table, after assuring the seals are intact and free from tampering, shall open the sealed envelope or container, in the presence of a dealer, and place the dice in a cup on the table for use in gaming.

(B) For Sic Bo, the sealed manual shakers shall be distributed to the pit manager or above supervising the game or placed in a locked compartment in the pit stand. The pit manager or above, after assuring the seal on the shaker is intact and free from tampering shall then secure the manual Sic Bo shaker to the table in a manner approved by the Bureau of Gaming Operations.

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

(vi) When an envelope or container or seal is damaged, broken or shows indication of tampering, the dice in the envelope, container or shaker may not be used for gaming activity unless the dice are reinspected in accordance with paragraph (1) or (2).

(vii) The pit manager or above shall place extra dice for the dice reserve in the pit stand. Dice in the pit stand shall be placed in a locked compartment, the keys to which shall be in the possession of the pit manager or above.

(viii) A micrometer or another instrument approved by the Bureau of Gaming Operations which performs the same function, a balancing caliper, a steel set square and a magnet shall also be maintained in a locked compartment in each pit stand. These instruments shall be at all times readily available for use by the casino compliance representatives or other Board employees upon request.

(ix) The inspection of dice in the approved storage area in accordance with this alternative shall be performed on a flat surface which allows the dice inspection to be observed through the slot machine licensee's surveillance system.

(g) A certificate holder shall remove any dice at any time of the gaming day and file a Dice Discrepancy Report as required under subsection (h) if there is any indication of tampering, flaws or other defects that might affect the integrity or fairness of the game, or at the request of a casino compliance representative.

(h) At the end of each gaming day or at other times as may be necessary, a floorperson or above, other than the individual who originally inspected the dice, shall visually inspect each die that was used for play for evidence of tampering. Evidence of tampering discovered at this time or at any other time shall be immediately reported to the casino compliance representatives by the completion and delivery of a two-part Dice Discrepancy Report and the dice.

(1) Dice showing evidence of tampering shall be placed in a sealed envelope or container.

(i) A label shall be attached to each envelope or container which identifies the table number, date and time the dice were removed and shall be signed by the person assigned to directly operate and conduct the game at that table and the floorperson assigned the responsibility for supervising the operation and conduct of the game.

(ii) A floorperson or above or a security department employee responsible for delivering the dice to the casino compliance representatives shall also sign the label.

(iii) The casino compliance representative receiving the dice shall sign the original and duplicate copy of the Dice Discrepancy Report and retain the original copy. The duplicate copy shall be returned to the pit and maintained in a secure place within the pit until collection by a security department employee.

(2) Other dice that were used for play shall be put into envelopes or containers at the end of the gaming day.

(i) A label shall be attached to each envelope or container which identifies the table number, date and time the dice were removed and shall be signed by the person assigned to directly operate and conduct the game at that table and the floorperson assigned the responsibility for supervising the operation and conduct of the game.

(ii) The envelope or container shall be appropriately sealed and maintained within the pit until collection by a security department employee.

(i) Reserve dice in the locked compartment in a pit stand at the end of the gaming day may be:

(1) Collected and transported to the security department for cancellation or destruction.

(2) Returned to the approved storage area.

(3) Retained in the locked compartment in the pit stand.

(j) Reserve dice in the locked compartment in a pit stand at the end of the gaming day that are to be destroyed or cancelled shall be placed in a sealed envelope or container, with a label attached to each envelope or container which identifies the pit stand where the reserve dice were being stored, the date and time the dice were placed in the envelope or container and is signed by the pit manager or above.

(k) At the end of each gaming day or, in the alternative, at least once each gaming day, as designated by the certificate holder and approved by the Bureau of Gaming Operations, and at other times as may be necessary, a security department employee shall collect and sign all envelopes or containers of used dice and reserve dice that are to be destroyed or cancelled and shall transport the dice to the security department for cancellation or destruction. The security department employee shall also collect duplicate copies of Dice Discrepancy Reports, if any.

(l) At the end of each gaming day or, in the alternative, at least once each gaming day, as designated by the certificate holder and approved by the Bureau of Gaming Operations, and at other times as may be necessary, an assistant table games shift manager or above may collect all reserve dice in a locked compartment in a pit stand. If collected, reserve dice shall be returned to the approved storage area; provided, however, that dice which have not been inspected and sealed in accordance with the requirements in subsection (f)(3) shall, prior to use for actual gaming, be inspected in accordance with the requirements in subsection (f)(1) or (2).

(m) If the reserve dice are not collected, all dice in the dice reserve shall be reinspected in accordance with one of the alternatives listed in subsection (f) prior to their use for gaming, except for those dice maintained in a locked compartment in accordance with subsection (f)(2)(v) or (3)(iv).

(n) Certificate holders shall submit to the Bureau of Gaming Operations for approval internal control procedures for:

(1) A dice inventory system which includes, at a minimum, records of the following:

(i) The number of three and five dice sticks, and the corresponding number of single die, received from a manufacturer or supplier.

(ii) The balance of three and five dice sticks, and the corresponding number of single die, on hand.

(iii) The number of three and five dice sticks removed from storage.

(iv) The number of three and five dice sticks returned to storage.

(v) The number of single die destroyed or canceled.

(vi) The date of each transaction.

(vii) The signatures of the individuals involved.

(2) A reconciliation on a daily basis of the number of three or five dice sticks distributed, the number of single die destroyed or cancelled, the number of three or five dice sticks returned to the approved storage area and, if any, the reserve three or five dice sticks in a locked compartment in a pit stand.

(3) A physical inventory of all dice at least once every 3 months.

(i) This inventory shall be performed by an individual with no incompatible functions and shall be verified to the balance of dice on hand required under paragraph (1)(i).

(ii) Discrepancies shall immediately be reported to the Bureau of Gaming Operations.

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

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

(2) Destruction must occur by shredding or crushing.

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

#### § 603a.14. Sic Bo shaker security procedures.

(a) Manual Sic Bo shakers which have been filled with dice in accordance with § 603a.13(f)(3)(iv)(B) (relating to dice; receipt, storage, inspections and removal from use) may only be stored in a locked compartment in the approved storage area. Manual Sic Bo shakers which have not been filled with dice may be stored in a locked compartment in a pit stand. An automated Sic Bo dice shaker which has been filled with dice must be secured to the Sic Bo table at all times. An automated Sic Bo dice shaker which has not been filled with dice may be stored in a locked compartment in a pit stand.

(b) At the end of each gaming day a pit manager or above shall inspect all Sic Bo shakers that have been placed in use for gaming for evidence of tampering. Evidence of tampering discovered at this time shall be immediately reported to the casino compliance representatives. At a minimum, the reports must include:

(1) The date and time when the tampering was discovered.

(2) The name and license or permit number of the individual discovering the tampering.

(3) The table number where the Sic Bo shaker was used.

(4) The name and license or permit number of the person assigned to directly operate and conduct the game at the Sic Bo table and the supervisor assigned the responsibility for supervising the operation and conduct of the game at the Sic Bo table.

#### § 603a.15. Cards; physical characteristics.

(a) Cards used to play table games authorized under this subpart, must be in decks of 52 cards with each card identical in size and shape to every other card in the deck. Nothing in this section prohibits a manufacturer from manufacturing decks of cards with one or more jokers contained therein; provided, however, that the jokers may not be used by the certificate holder in the play of any game unless authorized by the rules of the game.

(b) Each deck must be composed of cards in four suits: diamonds, spades, clubs and hearts.

(c) Each suit shall be composed of 13 cards: ace, king, queen, jack, 10, 9, 8, 7, 6, 5, 4, 3 and 2. The face of the ace, king, queen, jack and 10 may contain an additional marking, as approved by the Bureau of Gaming Operations, which will permit a dealer, prior to exposing his hole card at the game of Blackjack, to determine if the value of the hole card gives the dealer a Blackjack.

(d) The backs of each card in a deck must be identical and no card may contain any marking, symbol or design that will enable a person to know the identity of any element printed on the face of the card or that will in any way differentiate the back of the card from any other card in the deck.

(e) The backs of all cards in a deck shall be designed to diminish as far as possible the ability of any individual to place concealed markings thereon.

(f) The design placed on the backs of cards used by certificate holders must contain the name or logo of the certificate holder and shall be submitted to the Bureau of Gaming Operations for approval prior to use of the design on cards in gaming activity.

(g) Each deck of cards shall be packaged separately or in a set containing the number of decks authorized in this



subpart and selected by a certificate holder for use in a particular table game. Each package of cards shall be sealed in a manner approved by the Bureau of Gaming Operations to provide evidence of any tampering with the package. If multiple decks of cards are packaged and sealed in a set, the package must have a label that indicates or contain a window that reveals an adequate description of the contents of the package, including:

- (1) The name of the certificate holder for which the cards were manufactured.
  - (2) The game for which the cards are to be used.
  - (3) The colors of the backs of the cards.
  - (4) The date that the cards were manufactured.
  - (5) The total number of cards in the set.
- (h) No deck of cards packaged and sealed in a set may be separated from the set for independent use at a table game.

(i) The cards used by a certificate holder for Poker must be:

- (1) Visually distinguishable from the cards used by that certificate holder to play other table games.
- (2) Made of plastic.

(j) Each certificate holder which elects to offer the game of Poker shall be required to have and use on a daily basis at least four visually distinguishable card backings for the cards to be used at the game of Poker. These card backings may be distinguished by different logos, different colors or different design patterns.

**§ 603a.16. Cards; receipt, storage, inspection and removal from use.**

(a) When decks of cards are received for use in a licensed facility from a manufacturer or supplier, the cards shall, immediately following receipt, be unloaded under the supervision of at least two people, one of whom shall be an assistant table games shift manager or above and one employee from the security department, and transported to a secure area which is covered by the slot machine licensee's surveillance system. The boxes of decks of cards shall then be inspected by an assistant table games shift manager or above and one employee from the security department to assure that the seals on each box are intact, unbroken and free from tampering. Boxes that do not satisfy these criteria shall be inspected at this time to assure that the decks of cards contained therein conform to the requirements of this chapter and there is no evidence of tampering. Boxes satisfying these criteria, together with boxes having unbroken, intact and untampered seals shall then be placed for storage in a storage area, the location and physical characteristics of which shall be approved by the Bureau of Gaming Operations. A certificate holder may have separate cabinets or storage areas for decks of cards to be used at the game of Poker; provided, however, the location and physical characteristics of the cabinets or separate storage areas shall be approved by the Bureau of Gaming Operations.

(b) Approved storage areas shall have two separate locks. The security department shall maintain one key and the table games department shall maintain the other key. No person employed by the table games department below an assistant table games shift manager in the organizational hierarchy may have access to the table games department key for the approved storage areas and, if the certificate holder has a separate Poker storage area, no person below a Poker shift manager in the

organizational hierarchy may have access to the table games department key to the Poker storage area.

(c) Except as provided in subsection (g), immediately prior to the commencement of each gaming day and at other times as may be necessary, an assistant table games shift manager or above, in the presence of a security department employee, shall remove the appropriate number of decks of cards for that gaming day from the approved storage area. The assistant table games shift manager or above and the security department employee who removed the decks shall distribute sufficient decks to the pit managers or above and, if applicable, to the Poker shift manager. The number of decks distributed must include extra decks that shall be placed in the pit stand for the card reserve. Decks of cards in the pit stand shall be placed in a locked compartment, the keys to which shall be in the possession of the pit managers or above or the Poker shift manager or above.

(d) If the decks are to be inspected at open gaming tables in accordance with subsection (h), the pit manager or above shall distribute the decks to the dealer at each table or the Poker shift manager shall transport the decks to the Poker pit stand for subsequent distribution to the dealer at each Poker table either directly by the Poker shift manager or through the floorperson assigned to supervise the dealer. The distribution of the decks to the Poker tables must comply with § 637a.3 (relating to cards; number of decks).

*(Editor's Note: Section 637a.3 will be adopted prior to or upon final adoption of this proposed rulemaking.)*

(e) If the decks are to be preinspected and reshuffled at a closed gaming table as permitted under subsection (u), the pit manager or above or Poker shift manager shall deliver the decks to the dealer and the floorperson or above at the closed gaming table where the preinspection and reshuffling shall be performed.

(f) If the decks have already been preinspected, reshuffled, sealed in containers and placed in the card storage area as permitted under subsection (u)(8)(ii) or (v), the assistant table games shift manager or above and a security department employee shall transport the number of sealed containers of cards needed for that gaming day to the gaming pits where the cards will be utilized and lock the containers in the pit stand. A record of the removal of the sealed containers of cards from the approved storage area and the distribution of sealed containers to the gaming pits shall be maintained by the security department in a manner approved by the Bureau of Gaming Operations.

(g) If the decks of cards to be used for Poker for that gaming day are removed from the Poker storage area, the Poker shift manager or above and a security department employee shall, prior to the commencement of each gaming day and at other times as may be necessary, remove the appropriate number of decks from the Poker storage area and distribute the decks in accordance with subsection (d), (e) or (f). The number of decks distributed must include extra decks that shall be placed in the pit stand for the card reserve. Decks of cards in the pit stand shall be placed in a locked compartment, the keys to which shall be in the possession of the Poker shift manager or above.

(h) Except for decks of cards that are preinspected and reshuffled in accordance with subsection (u) or (v), each deck of cards shall be inspected by a dealer and the inspection verified by a floorperson or above prior to the use of the cards on a gaming table. The purpose of the inspection is to assure that the cards specified under § 603a.15 (relating to cards; physical characteristics) are



actually contained in the deck and that the back of each card is not flawed, scratched or marked in any way that might compromise the integrity or fairness of the game. At a minimum, the card inspection at an open gaming table must require:

(1) Each deck of cards to be sorted into sequence and into suit to verify that all cards are present.

(2) A visual inspection of the back of each card.

(i) If after inspecting the cards in accordance with subsection (h), the dealer finds that a card is unsuitable for use, a card is missing from the deck or an extra card is found, the following procedures shall be observed:

(1) A pit manager or above or a Poker shift manager shall bring a replacement deck of cards from the card reserve in the pit stand.

(2) The unsuitable deck shall be placed in a sealed envelope or container, identified by table number, date, and time and shall be signed by the dealer and floorperson assigned to that table or above.

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

(j) Envelopes and containers used to hold or transport cards collected by security must be:

(1) Transparent.

(2) Designed or constructed with seals so that any tampering is evident.

(3) Approved by the Bureau of Gaming Operations.

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

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

(i) Notify surveillance of a card change.

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

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

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

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

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

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

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

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

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

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

(1) At the end of each gaming day or, in the alternative, at least once each gaming day, as designated by the certificate holder in the certificate holder's internal controls, and at other times as may be required by this subpart, a floorperson or above shall collect all used decks of cards required to be removed from play.

(1) The decks of cards collected shall be placed in a sealed envelope or container. A label shall be attached to each envelope or container which identifies the table number, date and time the decks of cards were collected and shall be signed by the dealer and floorperson assigned to the table.

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

(m) A certificate holder shall remove any deck of cards at any time during the day if there is any indication of tampering, flaws, scratches, marks or other defects that might affect the integrity or fairness of the game, or at the request of a casino compliance representative or other Board employee.

(n) Extra decks or packaged sets of multiple decks in the card reserve with broken seals shall be placed in a sealed envelope or container, with a label attached to each envelope or container that contains the number of decks or packaged sets of multiple decks, as applicable, included therein, the date and time the decks were placed in the envelope or container and the signature of the floorperson or above for decks used for Poker and the pit manager or above for decks used for all other games.

(o) At the end of each gaming day or, in the alternative, at least once each gaming day, as designated by the certificate holder in its internal controls, and at other times as may be necessary, a security department employee shall collect and sign all envelopes or containers with damaged decks of cards, decks of cards required to be removed that gaming day, and all extra decks in the card reserve with broken seals and shall return the envelopes or containers to the security department.

(p) At the end of each gaming day or, in the alternative, at least once each gaming day, as designated by the certificate holder in its internal controls, and at other times as may be necessary, an assistant table games shift manager or above may collect all extra decks with intact seals in the card reserve. If the certificate holder maintains a separate storage area for Poker cards, a Poker shift manager or above may collect all extra decks in the card reserve for the game of Poker. If collected, all sealed decks shall either be cancelled, destroyed or returned to the storage area.

(q) When the envelopes or containers of used cards and reserve cards with broken seals are returned to the security department, the cards shall be inspected for tampering, marks, alterations, missing or additional cards or anything that might indicate unfair play.

(1) For cards used in Blackjack, Spanish 21, Baccarat, Midibaccarat or Minibaccarat, the certificate holder shall inspect either:

- (i) All decks used during the day.
- (ii) A sample of decks selected at random or in accordance with an approved stratification plan, provided that the procedures for selecting the sample size and for assuring a proper selection of the sample have been submitted to and approved by the Bureau of Gaming Operations.
- (2) The certificate holder shall also inspect:
- (i) Any decks of cards that the Board requested the certificate holder to remove for the purpose of inspection.
- (ii) Any decks of cards the certificate holder removed for indication of tampering.
- (iii) All cards used for all banked table games other than the games listed in paragraph (1).
- (iv) All cards used for Poker.
- (3) The procedures for inspecting all decks required to be inspected under this subsection must, at a minimum, include:
- (i) The sorting of cards sequentially by suit or utilizing a machine approved by the Bureau of Gaming Operations capable of reading the cards to determine whether any deck contains missing or additional cards.
- (ii) The inspection of the backs with an ultra-violet light.
- (iii) The inspection of the sides of the cards for crimps, bends, cuts or shaving.
- (iv) The inspection of the front and back of all plastic cards for consistent shading and coloring.
- (4) If during the inspection procedures required for cards used in Poker, one or more of the cards in a deck are determined to be unsuitable for continued use, those cards shall be placed in a sealed envelope or container and a two-part Card Discrepancy Report shall be completed in accordance with paragraph (8).
- (5) Upon completion of the inspection procedures required in paragraph (2), each deck of cards used in Poker which is determined suitable for continued use shall be placed in sequential order, repackaged and returned to the approved or Poker storage area for subsequent use. The certificate holder shall develop internal control procedures for returning the repackaged cards to the storage area.
- (6) An individual performing an inspection shall complete a work order form which details the procedures performed and lists the tables from which the cards were removed and the results of the inspection. The individual shall sign the form upon completion of the inspection procedures.
- (7) The certificate holder shall submit the training procedures for the employees performing the inspections required under this subsection in its internal controls.
- (8) Evidence of tampering, marks, alterations, missing or additional cards or anything that might indicate unfair play discovered during an inspection, or at any other time, shall be immediately reported to the casino compliance representatives by the completion and delivery of a two-part Card Discrepancy Report.
- (i) The report must include the decks of cards which are the subject of the report.
- (ii) The decks of cards shall be retained by the casino compliance representatives for further inspection.
- (iii) The casino compliance representative receiving the cards shall sign the original and duplicate copy of the Card Discrepancy Report and retain the original. The duplicate copy shall be retained by the certificate holder.
- (r) Certificate holders shall submit to the Bureau of Gaming Operations for approval internal control procedures for:
- (1) A card inventory system, which includes, at a minimum, the records of the following:
- (i) The balance of decks of cards on hand.
- (ii) The decks of cards removed from storage.
- (iii) The decks of cards returned to storage or received from a manufacturer or supplier.
- (iv) The date of each transaction.
- (v) The signatures of the individuals involved.
- (2) A reconciliation, on a daily basis, of the decks of cards distributed, destroyed or cancelled, returned to the storage area, and, if any, the decks of cards in the card reserve.
- (3) A physical inventory of all decks of cards at least once every 3 months.
- (i) This inventory shall be performed by an individual with no incompatible functions and shall be verified to the balance of decks of cards on hand required in paragraph (1)(i).
- (ii) Discrepancies shall immediately be reported to the Bureau of Gaming Operations.
- (s) Decks of cards in an envelope or container that are inspected as required under subsection (q) and found to be without any indication of tampering, marks, alterations, missing or additional cards or anything that might indicate unfair play, with the exception of plastic cards used at Poker which are of sufficient quality for reuse, shall be destroyed or cancelled within 72 hours of collection. Cards submitted to the Board shall be destroyed or cancelled within 72 hours of release from the Board.
- (1) Destruction of cards must be by shredding.
- (2) Cancellation of cards must be by drilling a circular hole of at least 1/4 of an inch in diameter through the center of each card in the deck.
- (3) The destruction or cancellation of cards must take place in a secure location in the licensed facility covered by the slot machine licensee's surveillance system, the physical characteristics of which shall be approved by the Bureau of Gaming Operations.
- (t) If a deck of plastic cards has been reused 12 or more times and the deck has been determined to be suitable for reuse by the individual performing the inspection procedures required under subsection (q)(3), before the deck shall be reused at a Poker table, the deck shall be inspected by a Poker shift manager or floorperson. A satisfactory inspection shall be documented by the Poker shift manager or floorperson. If the Poker shift manager or floorperson determines that the deck may not be reused, the deck shall be placed in a sealed envelope or container, with a label attached which identifies the date and time the deck was placed in the envelope or container and shall be signed by the Poker shift manager or floorperson. At the end of the gaming day or at other times as may be necessary, the envelope or container shall be collected by a security department employee and be returned to the security department for destruction or cancellation in accordance with subsection (s).

(u) If a certificate holder elects to preinspect and reshuffle cards at a closed gaming table prior to the delivery of the cards to an open gaming table, the procedures in this subsection shall be performed by a dealer and supervised by a floorperson or above with no concurrent supervisory responsibility for open gaming tables. A schedule of the proposed time and location for the preinspection and reshuffling shall be provided to the casino compliance representatives at least 24 hours prior to commencement of the process. The procedures required under paragraphs (1)—(7) shall be recorded by the surveillance department and each recording shall be retained by the certificate holder for at least 7 days.

(1) Upon receipt of the decks of cards in accordance with subsection (e), the dealer shall perform the procedures in paragraphs (2)—(7) independently for each batch of cards that will be sealed in a container in accordance with paragraph (7), with the number of decks of cards in each batch being equal to the number of decks of cards required for the table game in which the decks are intended to be used.

(2) The dealer shall visually inspect the back of each card to assure that it is not flawed, scratched or marked in any way that might compromise the integrity or fairness of the game.

(3) The dealer shall then, either by hand or by using a machine approved by the Bureau of Gaming Laboratory Operations, inspect the front of each card to insure that all cards are present and that there are no extra cards in the deck.

(4) If after inspection, a card is determined to be unsuitable for use, or the deck is missing a card or an extra card is found, the following procedures shall be observed:

(i) The deck containing the unsuitable, missing or extra card shall be placed in a sealed envelope or container which shall be identified by table number, date, and time the deck of cards was placed in the envelope or container and signed by the dealer and floorperson or above performing the preinspection and reshuffle.

(ii) The sealed envelope or container containing the deck containing the unsuitable, missing or extra card shall be maintained by the floorperson or above until collection by a security department employee at the conclusion of the preinspection and reshuffling procedure.

(5) The dealer shall then shuffle the cards by hand or by using an automated card shuffling device.

(6) Upon completion of the preinspection and reshuffling process of the cards in the batch, the dealer and floorperson or above shall complete a two-part Preshuffled/Preinspected Form or other documentation approved by the Bureau of Gaming Operations, which includes, at a minimum, the following:

(i) The time and date the Preshuffled/Preinspected Form was prepared.

(ii) The number of decks in the batch.

(iii) The table games at which the cards will be utilized.

(iv) The signature of the dealer who preinspected and reshuffled the cards, certifying that the cards were preinspected and reshuffled in accordance with this subsection.

(v) The signature of the floorperson or above who witnessed and verified the preinspection and reshuffling.

(vi) The time, date and gaming table to which the sealed container of cards is subsequently delivered.

(vii) The signature of the floorperson or above who delivered the sealed container of cards to the gaming table in accordance with paragraph (9).

(7) The dealer shall then place the preinspected and reshuffled batch of cards, together with the Preshuffled/Preinspected Form or other documentation, in a clear container that conforms to the requirements of subsection (j) and seal the container with a prenumbered label unique to the container. Procedures for the maintenance and security of unused seals, and the distribution, return and reconciliation of seals used on containers holding preinspected and reshuffled cards shall be included in the certificate holder's internal controls.

(8) The sealed containers of cards shall be transported by either:

(i) A pit manager or above or Poker shift manager to the gaming pit of the gaming tables where the cards will be utilized and locked in the pit stand in accordance with subsection (c).

(ii) An assistant table games shift manager or above and a security department employee to the approved storage area or Poker storage area where the cards shall be placed back into the card inventory and segregated from cards that have not been preinspected and reshuffled. A record of the transport of the sealed containers of cards to the approved storage area shall be maintained by the security department in a manner approved by the Bureau of Gaming Operations.

(9) When the preinspected and reshuffled cards are needed for play, each container of cards shall be delivered by a floorperson or above to an open gaming table. Upon delivery, the floorperson or above shall unseal the container, place the decks of cards on the gaming table in front of the dealer, complete and sign the Preshuffled/Preinspected Form, drop the original Preshuffled/Preinspected Form in a locked box in the gaming pit and forward the copy of the Preshuffled/Preinspected Form to the security department.

(10) The dealer at the gaming table shall then cut the cards in the manner prescribed by the rules governing the particular table game.

(v) A certificate holder may use preinspected and reshuffled decks or batches of decks obtained from a licensed manufacturer or supplier in the same manner as decks or batches of decks that are preinspected and reshuffled under subsection (u) if the licensed manufacturer or supplier has been approved to provide preinspected and reshuffled decks or batches of decks by the Bureau of Gaming Operations.

**§ 603a.17. Dealing shoes; automated card shuffling devices.**

(a) The following words and terms when used in this section have the following meanings unless the context clearly indicates otherwise:

*Base plate*—The interior shelf of the dealing shoe on which the cards rest.

*Face plate*—The front wall of the dealing shoe against which the next card to be dealt rests and which typically contains a cutout.

(b) Each manual dealing shoe shall be designed and constructed to maintain the integrity of the game at which the shoe is used and include, at a minimum, the following features:



(1) At least the first 4 inches of the base plate must be white.

(2) The sides of the shoe below the base plate must:

(i) Be transparent, have a transparent sealed cutout or be otherwise constructed to prevent any object from being placed into or removed from the portion of the dealing shoe below the base plate.

(ii) Permit the inspection of this portion of the shoe.

(3) A stop underneath the top of the face plate that precludes the next card to be dealt from being moved upwards for more than 1/8 inch distance.

(c) For a dealing shoe used in Blackjack, the dealing shoe, in addition to meeting the requirements of subsection (b), must have a mark on the side of the shoe that enables the dealer, after aligning the stack of cards against the shoe in accordance with § 633a.6(e) (relating to shuffle and cut of the cards), to insert the cover card in the stack so that approximately one quarter of the stack is behind the cover card.

*(Editor's Note: Section 633a.6 will be adopted prior to or upon final adoption of this proposed rulemaking.)*

(d) For a dealing shoe used in Minibaccarat, Midibaccarat or Baccarat, the dealing shoe, in addition to meeting the requirements of subsection (b), must also meet the following specifications:

(1) Have a removable lid that is opaque from the point where it meets the face plate to a point at least 4 inches from the face plate.

(2) The sides and back above the base plate must be opaque.

(3) Have a device within the shoe, which when engaged, prevents the cards from moving backward in the shoe.

(e) A Pai Gow poker dealing shoe, in addition to meeting the requirements of subsection (b), may also contain a device approved by the Bureau of Gaming Operations on the front of the face plate that precludes the players from viewing the next card to be dealt.

(f) An automated card shuffling device may be utilized, in addition to a manual or automated dealing shoe, if the automated card shuffling device has been approved by the Bureau of Gaming Laboratory Operations and the procedures for shuffling and dealing the cards using the automated card shuffling device are submitted and approved as part of the certificate holder's Rules Submission under § 601a.2 (relating to table games Rules Submissions).

*(Editor's Note: Section 601a.2 will be adopted prior to or upon final adoption of this proposed rulemaking.)*

(g) An automated shuffling device must meet a 95% confidence level using a standard chi-squared test for goodness of fit.

(h) An automated card shuffling device may not provide any information that can be used to aid in the projecting of the outcome of a game, tracking of the cards played and cards remaining to be played, analyzing the probability of the occurrence of an event relating to a game, or analyzing the strategy for playing or betting to be used in a game.

(i) Dealing shoes and automated card shuffling devices in the licensed facility shall be inspected at the beginning of each gaming day by the floorperson assigned to the table prior to cards being placed in them. The purpose of this inspection shall be to assure that there has been no tampering with the shoe or automated card shuffling device.

#### § 603a.18. Pai Gow tiles; receipt, storage, inspection and removal from use.

(a) When sets of tiles to be used at Pai Gow are received from a manufacturer or supplier, the tiles must, immediately following receipt, be unloaded under the supervision of at least two people, one of whom shall be an assistant table games shift manager or above and one employee from the security department, and transported to a secure area which is covered by the slot machine licensee's surveillance system. The boxes of tiles shall then be inspected by the assistant table games shift manager or above and one employee from the security department to assure that the seals on each package are intact, unbroken and free from tampering. Packages that do not satisfy these criteria shall be inspected at this time to assure that the tiles conform to the requirements of this chapter and there is no evidence of tampering. Packages satisfying these criteria, together with packages having unbroken, intact and untampered seals shall then be placed for storage in a storage area, the location and physical characteristics of which shall be approved by the Bureau of gaming Operations.

(b) Sets of tiles which are to be distributed to gaming pits or tables for use in gaming shall be distributed from the approved storage area.

(c) The approved storage area must have two separate locks. The security department shall maintain one key and the table games department shall maintain the other key. No person employed by the table games department below an assistant table games shift manager in the organization hierarchy may have access to the table games department key.

(d) Immediately prior to the commencement of each gaming day and at other times as may be necessary, an assistant table games shift manager or above, in the presence of a security department employee, shall remove the appropriate number of sets of tiles for that gaming day from the approved storage area.

(e) Envelopes and containers used to hold or transport tiles must be transparent.

(1) The envelopes or containers and the method used to seal the envelopes or containers shall be designed or constructed so that any tampering is evident.

(2) The envelopes or containers and seals shall be approved by the Bureau of Gaming Operations.

(f) The assistant table games shift manager or above shall distribute sufficient sets of tiles to the pit manager or above in each Pai Gow pit.

(1) The pit manager or above shall then distribute the sets of tiles to the dealer at each Pai Gow table, and shall place extra sets of tiles in the reserve in the pit stand.

(2) Sets of tiles in the reserve shall be placed in a locked compartment in the pit stand, keys to which shall be in the possession of the pit manager or above.

(g) If during the course of play any damaged tile is detected, the dealer or a floorperson shall immediately notify the pit manager or above. The pit manager or above shall bring a substitute set of tiles to the table from the reserve in the pit stand to replace the entire set of tiles.

(1) The set of damaged tiles shall be placed in a sealed envelope or container, identified by table number, date and time the tiles were placed in the sealed envelope or container and shall be signed by the dealer and the floorperson responsible for supervising the table or the pit manager or above.



(2) The pit manager or above shall maintain the envelope or container in a secure place within the pit until collection by a security department employee.

(h) The floorperson responsible for supervising the table or the pit manager or above shall collect used tiles which shall be placed in a sealed envelope or container.

(1) A label shall be attached to each envelope or container which identifies the table number, date and time the tiles were placed in the envelope or container and shall be signed by the dealer and the floorperson responsible for supervising the table or the pit manager or above.

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

(i) A certificate holder shall remove any tiles at any time of the gaming day if there is any indication of tampering, flaws, scratches, marks or other defects that might affect the integrity or fairness of the game, or at the request of a casino compliance representative or other Board employee.

(1) A label shall be attached to each envelope or container which identifies the table number, date and time the tiles were placed in the envelope or container and shall be signed by the dealer and the floorperson responsible for supervising the table or the pit manager or above.

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

(j) Extra sets of tiles in the reserve which have been opened shall be placed in a sealed envelope or container, with a label attached to each envelope or container which identifies the date and time the tiles were placed in the envelope or container and is signed by the pit manager or above.

(k) At the end of each gaming day or at other times as may be necessary, a security department employee shall collect and sign all envelopes or containers with damaged tiles, tiles used during the gaming day, and all extra tiles in the reserve which have been opened, and return the envelopes or containers to the security department.

(l) At the end of each gaming day or at other times as may be necessary, an assistant table games shift manager may collect all extra sets of tiles in the reserve which have not been opened. If collected, all unopened sets of tiles shall either be cancelled or destroyed or returned to the approved storage area.

(m) Envelopes or containers of used tiles and reserve sets of tiles which have been opened that are returned to the security department, shall be inspected for tampering, marks, alterations, missing or additional tiles or anything that might indicate unfair play.

(1) The procedures for inspecting sets of tiles must, at a minimum, include the following:

- (i) The sorting of tiles by pairs.
- (ii) The visual inspection of the sides and back of each tile for tampering, markings or alterations.
- (iii) The inspection of the sides and back of each tile with an ultra-violet light.

(2) The individual performing the inspection required by this subsection shall complete a work order form which:

- (i) Details the procedures performed.
- (ii) Lists the table from which the tiles were removed.
- (iii) States the results of the inspection.
- (iv) Contains the signature of the individual who conducted the inspection.

(3) Evidence of tampering, marks, alterations, missing or additional tiles or anything that might indicate unfair play discovered during the inspection, or at any other time, shall be immediately reported to the casino compliance representatives by the completion and delivery of a two-part Tile Discrepancy Report.

(4) The two-part report shall be delivered to the casino compliance representatives along with the tiles. The tiles shall be retained for further inspection by the Board.

(5) The casino compliance representative receiving the tiles shall sign the original and duplicate copies of the report and shall retain the original copy. The duplicate copy shall be retained by the certificate holder.

(n) If after completing the inspection procedures required in subsection (m), it is determined that a complete set of 32 tiles removed from a gaming table is free from tampering, markings or alterations, the set may be returned to the Pai Gow storage area for subsequent gaming use in accordance with procedures approved by the Bureau of Gaming Operations. In no event may individual tiles from different sets be used to make a complete set for subsequent gaming.

(o) Certificate holders shall submit to the Board for approval, internal control procedures for:

(1) An inventory system which includes records of at least the following:

- (i) The balance of sets of tiles on hand.
- (ii) The sets of tiles removed from storage.
- (iii) The sets of tiles returned to storage or received from a manufacturer or supplier.
- (iv) The date of each transaction.
- (v) The signatures of the individuals involved.

(2) A reconciliation on a daily basis of:

- (i) The sets of tiles distributed.
- (ii) The sets of tiles destroyed or cancelled.
- (iii) The sets of tiles returned to the approved storage area.
- (iv) The sets of tiles in the tile reserve in a pit stand.

(3) A physical inventory of the sets of tiles at least once every 3 months.

(i) The inventory shall be performed by an individual with no incompatible functions and shall be verified to the balance of the sets of tiles on hand required in paragraph (1)(i).

(ii) Discrepancies shall immediately be reported to the Bureau of Gaming Operations.

(p) Destruction or cancellation of tiles other than those retained for Board inspection, shall be completed within 72 hours of collection. The method of destruction or cancellation shall be approved by the Bureau of Gaming Operations. The destruction or cancellation of tiles shall take place in a secure location in the licensed facility covered by the slot machine licensee's surveillance system, the physical characteristics of which shall be approved by the Bureau of Gaming Operations.

[Pa.B. Doc. No. 11-42. Filed for public inspection January 7, 2011, 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 21, 2010.

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

### BANKING INSTITUTIONS

#### Conversions

<i>Date</i>	<i>Name and Location of Applicant</i>	<i>Action</i>		
12-15-2010	<p><i>From:</i> Team Capital Bank Bethlehem Northampton County</p> <p><i>To:</i> Team Capital Bank Bethlehem Northampton County</p> <p>Conversion from a Federally-chartered savings association to a Pennsylvania State-chartered stock savings bank.</p> <p>Branch offices operated by Team Capital Bank:</p> <table border="0" style="width: 100%;"> <tr> <td style="width: 50%; vertical-align: top;"> <p>18 North Main Street Doylestown Bucks County</p> <p>1901 Hamilton Street Allentown Lehigh County</p> <p>2151 Emrick Boulevard Bethlehem Northampton County</p> <p>178 Center Street Clinton Hunterdon County, NJ</p> <p>30 Route 31 Flemington Hunterdon County, NJ</p> <p>62 West Main Street Somerville Somerset County, NJ</p> </td> <td style="width: 50%; vertical-align: top;"> <p>210 Penns Trail Newtown Bucks County</p> <p>4285 West Tilghman Street Allentown Lehigh County</p> <p>464 Eagle Rock Avenue West Orange Essex County, NJ</p> <p>110 Main Street Flemington Hunterdon County, NJ</p> <p>49 Route 202 Far Hills Somerset County, NJ</p> <p>190 Roseberry Street Phillipsburg Warren County, NJ</p> </td> </tr> </table>	<p>18 North Main Street Doylestown Bucks County</p> <p>1901 Hamilton Street Allentown Lehigh County</p> <p>2151 Emrick Boulevard Bethlehem Northampton County</p> <p>178 Center Street Clinton Hunterdon County, NJ</p> <p>30 Route 31 Flemington Hunterdon County, NJ</p> <p>62 West Main Street Somerville Somerset County, NJ</p>	<p>210 Penns Trail Newtown Bucks County</p> <p>4285 West Tilghman Street Allentown Lehigh County</p> <p>464 Eagle Rock Avenue West Orange Essex County, NJ</p> <p>110 Main Street Flemington Hunterdon County, NJ</p> <p>49 Route 202 Far Hills Somerset County, NJ</p> <p>190 Roseberry Street Phillipsburg Warren County, NJ</p>	Effective
<p>18 North Main Street Doylestown Bucks County</p> <p>1901 Hamilton Street Allentown Lehigh County</p> <p>2151 Emrick Boulevard Bethlehem Northampton County</p> <p>178 Center Street Clinton Hunterdon County, NJ</p> <p>30 Route 31 Flemington Hunterdon County, NJ</p> <p>62 West Main Street Somerville Somerset County, NJ</p>	<p>210 Penns Trail Newtown Bucks County</p> <p>4285 West Tilghman Street Allentown Lehigh County</p> <p>464 Eagle Rock Avenue West Orange Essex County, NJ</p> <p>110 Main Street Flemington Hunterdon County, NJ</p> <p>49 Route 202 Far Hills Somerset County, NJ</p> <p>190 Roseberry Street Phillipsburg Warren County, NJ</p>			

### 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. 11-43. Filed for public inspection January 7, 2011, 9:00 a.m.]

### Actions on Applications

The Department of Banking (Department), under the authority contained in the act of November 30, 1965 (P. L. 847, No. 356), known as the Banking Code of 1965; the act of December 14, 1967 (P. L. 746, No. 345), known as the Savings Association Code of 1967; the act of May 15, 1933 (P. L. 565, No. 111), known as the Department of Banking Code; and the act of December 19, 1990 (P. L. 834, No. 198), known as the Credit Union Code, has taken the following action on applications received for the week ending December 28, 2010.

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

#### BANKING INSTITUTIONS

##### Section 112 Acquisitions

<i>Date</i>	<i>Name and Location of Applicant</i>	<i>Action</i>
12-20-2010	Edward E. Shin and group of passive individual investors Application for approval to acquire 100% of the common stock of Royal Asian Bank, Philadelphia.	Approved

##### Holding Company Acquisitions

<i>Date</i>	<i>Name and Location of Applicant</i>	<i>Action</i>
12-21-2010	e3holdings, inc. Malvern Chester County Application for approval to acquire 100% of American Eagle Savings Bank, Boothwyn.	Filed
12-21-2010	F.N.B. Corporation Hermitage Mercer County Application for approval to acquire 100% of Comm Bancorp, Inc., Clarks Summit, and thereby indirectly acquire 100% of Community Bank and Trust Company, Clarks Summit.	Approved

##### Branch Applications

###### De Novo Branches

<i>Date</i>	<i>Name and Location of Applicant</i>	<i>Location of Branch</i>	<i>Action</i>
12-21-2010	Susquehanna Bank Lititz Lancaster County	203 International Drive Hunt Valley Baltimore County, MD	Filed

###### Branch Relocations

<i>Date</i>	<i>Name and Location of Applicant</i>	<i>Location of Branch</i>	<i>Action</i>
12-20-2010	Susquehanna Bank Lititz Lancaster County	<i>To:</i> Via Bella and Hepburn Streets Williamsport Lycoming County  <i>From:</i> 329 Pine Street Williamsport Lycoming County	Approved

###### Branch Consolidations

<i>Date</i>	<i>Name and Location of Applicant</i>	<i>Location of Branch</i>	<i>Action</i>
12-17-2010	AmeriServ Financial Bank Johnstown Cambria County	<i>Into:</i> 734 South Atherton Street State College Centre County  <i>From:</i> 763 Benner Pike State College Centre County	Effective



**Branch Discontinuances**

<i>Date</i>	<i>Name and Location of Applicant</i>	<i>Location of Branch</i>	<i>Action</i>
12-20-2010	Susquehanna Bank Lititz Lancaster County	225 Williams Street Williamsport Lycoming County	Approved

**SAVINGS INSTITUTIONS**

No activity.

**CREDIT UNIONS****Community Charter Conversions**

<i>Date</i>	<i>Name and Location of Institution</i>	<i>Action</i>
12-20-2010	Moonlight Credit Union Worthington Armstrong County	Effective

Amendment to Article 8 of the credit union's Articles of Incorporation provides the following field of membership: "All people who live, work, worship, attend school in, and businesses and other legal entities in the County of Armstrong, Commonwealth of Pa."

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. 11-44. Filed for public inspection January 7, 2011, 9:00 a.m.]

## DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES

### Community Conservation Partnerships Program Grants and Workshops

The Department of Conservation and Natural Resources (Department) announces the 2011 open application period for the Community Conservation Partnerships Program (C2P2) Grants administered by the Bureau of Recreation and Conservation (Bureau). The primary open application period will officially begin January 3, 2011, and end at 4 p.m. on April 20, 2011. Depending on the funding source, eligible applicants include Commonwealth municipalities and appropriate nonprofit organizations.

All applications must be submitted electronically through the Environmental eGrants System available at <https://www.grants.dcnr.state.pa.us/index.aspx>. No paper, faxed or e-mailed applications will be accepted. All grant information, project guidance documents, program policies and application instructions are available online at <http://www.dcnr.state.pa.us/brc/grants/>. For assistance with the Environmental eGrants System, call the Department's Grants Customer Service Center at (800) 326-7734 or e-mail [DCNR-Grants@state.pa.us](mailto:DCNR-Grants@state.pa.us).

Grant assistance from the Department helps communities in this Commonwealth and organizations plan, acquire and develop recreation, park and trail facilities and conserve open space. The Bureau administers the C2P2 Program which combines several State and Federal funding sources into one grant program.

Examples of eligible projects include community recreation projects to develop and rehabilitate parks and recreation facilities; open space conservation projects including purchase of lands in fee or with a conservation easement to protect critical habitat; developing greenways

and trails; purchasing trail maintenance equipment; river conservation activities like fishing and boating access along river corridors; and partnership projects that provide education and training on natural resource, recreation, parks, greenways and trails.

In 2011, the Department Grant Program will focus on making grant awards that create or enhance this Commonwealth's recreation and conservation infrastructure—supporting sustainable communities, economic development, healthy lifestyles and creating jobs. Specific priorities for grant projects are: park and recreational facilities that demonstrate green principles and connect children to healthy recreation and the outdoors; trails; river access projects and projects identified by regional partnerships including Conservation Landscapes Initiatives, Statewide Significant Greenways and Heritage Areas. For more information on many of these priorities visit [www.paoutdoorreclan.com](http://www.paoutdoorreclan.com).

During January and February, free grants workshops are scheduled at the following locations throughout this Commonwealth, from 8:30 a.m. until 12 p.m. focusing on the Department's greening emphasis, how to develop a competitive and ready to go project and changes to the 2011 C2P2 Grants Program:

January 11, 2011—Bucks County Community College, Newtown (Snow Date: January, 12, 2011)

January 14, 2011—Montgomery County Safety Training Center, Conshohocken (Snow Date: February 18, 2011)

February 1, 2011—Franklin Park Borough Activity Center, Sewickley (Snow Date: February 15, 2011)

February 3, 2011—Luzerne County Community College, Edu. Conf. Ctr., Nanticoke (Snow Date: February 4, 2011)

February 8, 2011—Clarion University, James Gemmill Student Complex, Clarion (Snow Date: February 16, 2011)

February 10, 2011—Boalsburg Volunteer Fire Company, Boalsburg (Snow Date: February 17, 2011)

To register for these workshops, go to <http://www.dcnr.state.pa.us/calendar> under the Workshops-Grants Calendar. In the event of inclement weather, contact Pennsylvania Recreation and Park Society (PRPS) at (814) 234-4272, and/or check the workshop status on the Department's Calendar at [www.dcnr.state.pa.us/calendar](http://www.dcnr.state.pa.us/calendar), or the PRPS web site at [www.prps.org/index.htm](http://www.prps.org/index.htm).

Persons with a disability who wish to submit an application and require assistance should contact Darrel Siesholtz at (717) 787-7672 to accommodate their needs. Voice/TTY users should call (800) 654-5984.

JOHN QUIGLEY,  
Secretary

[Pa.B. Doc. No. 11-45. Filed for public inspection January 7, 2011, 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**

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

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0221708 (Sewage)	Chicora Borough STP 200 Chicora-Fenellton Road Chicora, PA 16025	Butler County Chicora Borough	Buffalo Creek 18-F	Y
PA0210013 (Sewage)	Megan M. Loomis 72 Birchwood Drive Transfer, PA 16154-2418	Mercer County Pymatuning Township	Unnamed Tributary to the Shenango River 20-A	Y

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

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

**PA0053091**, Industrial Waste, SIC Code 2033, **Giorgio Foods Inc.**, PO Box 96, Temple, PA 19560-96. Facility Name: Giorgio Foods Mushroom Proc Plant. This existing facility is located in Maiden creek Township, **Berks County**.

Description of Existing Activity: The application is for a renewal of an NPDES permit for an existing discharge of treated Industrial Waste.

The receiving stream(s), Willow Creek, is located in State Water Plan watershed 3-B and is classified for Cold Water Fishes, aquatic life, water supply and recreation. The discharge is not expected to affect public water supplies.

The proposed effluent limits for Outfall 001 are based on a design flow of 0.5 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	Report	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0	XXX	XXX	9.0
Dissolved Oxygen	XXX	XXX	5.0	XXX	XXX	
Total Residual Chlorine	XXX	XXX	XXX	XXX	XXX	0.55
Color (Pt-Co Units)	XXX	XXX	XXX	XXX	100	XXX
Temperature (° F)						
Jan 1-15	XXX	XXX	XXX	42	XXX	XXX
Jan 16-31	XXX	XXX	XXX	40	XXX	XXX
Feb 1-15	XXX	XXX	XXX	40	XXX	XXX
Feb 16-29	XXX	XXX	XXX	42	XXX	XXX
Mar 1-31	XXX	XXX	XXX	46	XXX	XXX
Apr 1-15	XXX	XXX	XXX	52	XXX	XXX
Apr 16-30	XXX	XXX	XXX	58	XXX	XXX
May 1-15	XXX	XXX	XXX	64	XXX	XXX
May 16-31	XXX	XXX	XXX	72	XXX	XXX
Jun 1-15	XXX	XXX	XXX	80	XXX	XXX
Jun 16-30	XXX	XXX	XXX	84	XXX	XXX
Jul 1-31	XXX	XXX	XXX	87	XXX	XXX
Aug 1-31	XXX	XXX	XXX	87	XXX	XXX
Sep 1-15	XXX	XXX	XXX	84	XXX	XXX
Sep 16-30	XXX	XXX	XXX	78	XXX	XXX
Oct 1-15	XXX	XXX	XXX	72	XXX	XXX



<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>
Temperature (° F) Oct 16-31	XXX	XXX	XXX	66	XXX	XXX
Temperature (° F) Nov 1-15	XXX	XXX	XXX	58	XXX	XXX
Temperature (° F) Nov 16-30	XXX	XXX	XXX	55	XXX	XXX
Temperature (° F) Dec 1-15	XXX	XXX	XXX	51	XXX	XXX
Temperature (° F) Dec 16-31	XXX	XXX	XXX	47	XXX	XXX
CBOD <sub>5</sub> May 1 - Oct 31	42	83	XXX	10	20	25
CBOD <sub>5</sub> Nov 1 - Apr 30	83	166	XXX	20	40	50
Total Suspended Solids	42	84	XXX	10	15	20
Total Dissolved Solids	4,170	8,340	XXX	1,000	2,000	2,500
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	6.3	13	XXX	1.5	3.0	3.5
Ammonia-Nitrogen Nov 1 - Apr 30	19	38	XXX	4.5	9.0	11
Total Phosphorus (Interim)	Report	Report	XXX	Report	Report	XXX
Total Phosphorus (Final)	8.3	16.6	XXX	2.0	4.0	5.0

The proposed effluent limits for Outfall 002 are based on a design flow of 0.00000 MGD.

<i>Parameters</i>	<i>Concentration (mg/l)</i>				
	<i>Minimum</i>	<i>Average Monthly</i>	<i>Daily Maximum</i>	<i>Instant. Maximum</i>	
CBOD <sub>5</sub>	XXX	XXX	Report	XXX	
Chemical Oxygen Demand	XXX	XXX	Report	XXX	
Total Suspended Solids	XXX	XXX	Report	XXX	
Oil and Grease	XXX	XXX	Report	XXX	
Fecal Coliform (CFU/100 ml)	XXX	XXX	Report	XXX	
Total Kjeldahl Nitrogen	XXX	XXX	Report	XXX	
Total Phosphorus	XXX	XXX	Report	XXX	
Total Iron	XXX	XXX	Report	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.

**PA0070271**, Sewage, SIC Code 4952, **Maidencreek Township Authority Berks County**, 1 Quarry Road, Blandon, PA 19510. Facility Name: Maidencreek Township STP. This existing facility is located in Ontelaunee Township, **Berks 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), Willow Creek, is located in State Water Plan watershed 3-B and is classified for Cold Water Fishes, aquatic life, water supply and recreation. The discharge is not expected to affect public water supplies.

The proposed effluent limits for Outfall 001 are based on a design flow of 0.8 MGD.

<i>Parameters</i>	<i>Mass (lb/day)</i>			<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Weekly Average</i>	<i>Minimum</i>	<i>Average Monthly</i>	<i>Weekly Average</i>	<i>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	5.0	XXX	XXX	XXX
CBOD <sub>5</sub> May 1 - Oct 31	47	67	XXX	7	10	14
CBOD <sub>5</sub> Nov 1 - Apr 30	93	133	XXX	14	20	28

<i>Parameters</i>	<i>Mass (lb/day)</i>			<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Weekly Average</i>	<i>Minimum</i>	<i>Average Monthly</i>	<i>Weekly Average</i>	<i>Instant. Maximum</i>
BOD <sub>5</sub>						
Raw Sewage Influent	Report	XXX	XXX	Report	XXX	XXX
Total Suspended Solids						
Raw Sewage Influent	Report	XXX	XXX	Report	XXX	XXX
Total Suspended Solids	67	100	XXX	30	45	50
Total Dissolved Solids	6,672	XXX	XXX	1000	XXX	2000
Fecal Coliform (CFU/100 ml)				200		
May 1 - Sep 30	XXX	XXX	XXX	Geo Mean	XXX	XXX
Fecal Coliform (CFU/100 ml)				2000		
Oct 1 - Apr 30	XXX	XXX	XXX	Geo Mean	XXX	XXX
Ammonia-Nitrogen						
May 1 - Oct 31	10	XXX	XXX	1.5	XXX	3.0
Ammonia-Nitrogen						
Nov 1 - Apr 30	30	XXX	XXX	4.5	XXX	9.0
Total Copper	0.14	XXX	XXX	0.021	XXX	
Total Phosphorus (Interim)	Report	XXX	XXX	Report	XXX	XXX
Total Phosphorus (Final)	13.3	XXX	XXX	2.0	XXX	4.0

The proposed effluent limits for Outfall 002.

<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	Report	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0	XXX	XXX	9.0
Total Suspended Solids	XXX	Report	XXX	10	15	20
		Wkly Avg			Wkly Avg	
Fecal Coliform (CFU/100 ml)	XXX	XXX	XXX	XXX	Report	Report
Total Nitrogen	XXX	XXX	XXX	XXX	Report	Report

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.

*Northcentral Regional Office: Regional Water Management Program Manager, 208 W Third Street Suite 101, Williamsport, PA 17701-6448, Telephone: 570.327.0532.*

**PA0110540**, Industrial Waste (SIC Code 2033), **Furman Foods Inc.**, 770 Cannery Road, P. O. Box 500, Northumberland, PA 17857-5000. This existing facility is located in Point Township, **Northumberland County**.

Description of Existing Activity: The application is for a renewal of an NPDES permit for an existing/expanded discharge of treated industrial waste.

The receiving streams, Unnamed Tributary of West Branch Susquehanna River and West Branch Susquehanna River, are located in State Water Plan watershed 10-D and are classified for Warm Water Fishes and Migratory Fishes, aquatic life, water supply and recreation. The discharges are not expected to affect public water supplies.

The proposed effluent limits for Outfall 001 are based on a long term average flow of 0.16 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	Report	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0	XXX	XXX	9.0
Total Residual Halogens	XXX	XXX	XXX	0.2	XXX	0.5
Temperature (°F) (Interim)	XXX	XXX	XXX	Report	Report	XXX
Temperature (°F) (Final)	XXX	XXX	XXX	Report	110	XXX
Oil and Grease	XXX	XXX	XXX	15	XXX	30
Dissolved Iron	XXX	XXX	XXX	1.5	3	3.7

The proposed effluent limits for Outfall 003 are not based on a design or average flow.

<i>Parameters</i>	<i>Mass (lb/day)</i>			<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Daily Maximum</i>	<i>Minimum</i>	<i>Average Monthly</i>	<i>Daily Maximum</i>	<i>Instant. Maximum</i>
Flow (MGD)	Report	Report	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0	XXX	XXX	9.0

<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>
Dissolved Oxygen	XXX	XXX	6.0	XXX	XXX	XXX
BOD <sub>5</sub>	XXX	XXX	XXX	10	20	25
Total Suspended Solids	XXX	XXX	XXX	10	20	25
Oil and Grease	XXX	XXX	XXX	15	30	30
Fecal Coliform (CFU/100 ml)	XXX	XXX	XXX	200 Geo Mean	Wkly Avg XXX	XXX
Total Phosphorus	XXX	XXX	XXX	0.5	1.0	1.25
Total Nitrogen	XXX	XXX	XXX	5	10	12.5

The proposed effluent limits for Outfall 004 are based on an interim long term average flow of 0.157 MGD and a final long term average flow of 0.539 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	Report	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0	XXX	XXX	9.0
Total Residual Chlorine	XXX	XXX	XXX	0.5	XXX	1.6
BOD <sub>5</sub> (Interim)	98	196	XXX	75	150	188
BOD <sub>5</sub> (Final)	337	674	XXX	75	150	188
Total Suspended Solids (Interim)	98	196	XXX	75	150	188
Total Suspended Solids (Final)	337	674	XXX	75	150	188
Oil and Grease	XXX	XXX	XXX	15	30	30
Fecal Coliform (CFU/100 ml)				200		
May 1 - Sep 30	XXX	XXX	XXX	Geo Mean	XXX	XXX
Fecal Coliform (CFU/100 ml)				2000		
Oct 1 - Apr 30	XXX	XXX	XXX	Geo Mean	XXX	XXX

The proposed monitoring requirements 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	
Kjeldahl—N	Report			Report	
Nitrate-Nitrite as N	Report			Report	
Total Nitrogen	Report	Report		Report	
Total Phosphorus	Report	Report		Report	

The proposed monitoring requirements and, where appropriate, effluent limits for implementation of the Chesapeake Bay Tributary Strategy are as follows for Outfall 004.

<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		Report	
Kjeldahl—N	Report			Report	
Nitrate-Nitrite as N	Report			Report	
Total Nitrogen	Report	Report		Report	
Total Phosphorus	Report	Report		Report	
Net Total Nitrogen (Interim)	Report	Report			
Net Total Nitrogen (Final)	Report	45450			
Net Total Phosphorus (Interim)	Report	Report			
Net Total Phosphorus (Final)	Report	1624			

\* This permit contains conditions which authorize the permittee to apply nutrient reduction credits to meet the Net Total Nitrogen and the Net Total Phosphorus effluent mass limits, under the Department's Trading of Nutrients and Sediment Reduction Credits Policy and Guidelines (Document #392-0900-001, December 30, 2006). The condition includes the requirement to report the application of these credits in Supplemental Discharge Monitoring Reports (DMRs) submitted to the Department.

\* The compliance date for Net Total Nitrogen and Net Total Phosphorus will begin on October 1, 2012. Since these reporting requirements are annual loads, the reporting on compliance with the annual limitations will be required to be reported on the Supplemental DMR—Annual Nutrient Summary by November 28, 2013. This facility is required to monitor and report for Net Total Nitrogen and Net Total Phosphorus from the effective date of the permit until September 30, 2012.



\*\* Total Annual Ammonia Load will be required to be reported on the Supplemental DMR—Annual Nutrient Summary by November 28, 2013.

In addition, the permit contains the following special conditions:

1. Discharge Monitoring Report
2. Chesapeake Bay Schedule
3. Chesapeake Bay Nutrient Requirements
4. Approval Contingency
5. Nuisance Abatement
6. Industrial Waste Disposal
7. Total Residual Chlorine Optimization
8. Stormwater No Exposure Certification
9. Chemical Additives Management

You may make an appointment to review the DEP files on this case by calling the File Review Coordinator at 570-327-3693.

The EPA Waiver is not in effect.

**PA0233960**, Industrial Waste, SIC Code 4953, **Keystone Clearwater Solutions LLC**, 1129 W Governor Road, Harrisburg, PA 17033. Facility Name: Keystone Clearwater Solutions Jersey Shore Facility. This proposed facility is located in Pine Creek Township, **Clinton County**.

Description of Proposed Activity: The application is for a new NPDES permit for a new discharge of treated Industrial Waste.

The receiving stream(s), West Branch Susquehanna River, is located in State Water Plan watershed 9-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 0.504 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	Report	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0	XXX	XXX	9.0
Specific Conductance (µmhos/cm)	XXX	XXX	XXX	Report	Report	XXX
BOD <sub>5</sub>	223	685	XXX	53	163	204
Chemical Oxygen Demand	Report	Report	XXX	Report	Report	XXX
Total Suspended Solids	47	124	XXX	11.3	29.6	37
Total Dissolved Solids	2085	4170	XXX	500	1000	1250
Osmotic Pressure (mOs/kg)	XXX	XXX	XXX	Report	Report	XXX
Oil and Grease	63	XXX	XXX	15	XXX	30
Ammonia-Nitrogen	105	210	XXX	25	50	63
Acidity, Total (as CaCO <sub>3</sub> )	Report	Report	XXX	Report	Report	XXX
Alkalinity, Total (as CaCO <sub>3</sub> )	Report	Report	Report	Report	Report	XXX
Alkalinity, Total (as CaCO <sub>3</sub> )	Report	Report	Report	Report	Report	XXX
Effluent Net	XXX	XXX	1	XXX	XXX	XXX
Total Aluminum	3.2	6.3	XXX	0.75	1.5	1.9
Total Antimony	0.13	0.47	XXX	0.0312	0.111	0.139
Total Arsenic	0.084	0.42	XXX	0.0199	0.0993	0.124
Total Barium	42	84	XXX	10	20	25
Total Beryllium	Report	Report	XXX	Report	Report	XXX
Total Boron	Report	Report	XXX	Report	Report	XXX
Total Cadmium	0.043	0.072	XXX	0.0102	0.0172	0.0255
Total Chromium	0.22	0.70	XXX	0.0522	0.167	0.209
Total Cobalt	0.30	0.77	XXX	0.0703	0.182	0.228
Total Copper	0.80	1.3	XXX	0.19	0.30	0.48
Dissolved Iron	Report	Report	XXX	Report	Report	7.0
Total Iron	6.3	13	XXX	1.5	3.0	4.8
Total Lead	0.67	1.5	XXX	0.16	0.35	0.4
Total Lithium	Report	Report	XXX	Report	Report	XXX
Total Manganese	4.2	8.4	XXX	1.0	2.0	2.5
Total Magnesium	Report	Report	XXX	Report	Report	XXX
Total Calcium	Report	Report	XXX	Report	Report	XXX
Total Mercury	0.0010	0.0027	XXX	0.000246	0.000641	0.000801
Total Molybdenum	Report	Report	XXX	Report	Report	XXX
Total Nickel	1.3	3.3	XXX	0.309	0.794	0.993
Total Selenium	0.29	0.74	XXX	0.0698	0.176	0.220

<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>
Total Silver	0.051	0.13	XXX	0.0122	0.0318	0.0398
Total Sodium	Report	Report	XXX	Report	Report	XXX
Total Strontium Sulfate	42	84	XXX	10	20	25
Total Tin	Report	Report	XXX	Report	Report	XXX
Total Titanium	0.15	0.40	XXX	0.0367	0.0955	0.119
Total Vanadium	0.026	0.067	XXX	0.00612	0.0159	0.0119
Total Zinc	0.22	0.26	XXX	0.0518	0.0628	0.13
o-Cresol	1.1	2.8	XXX	0.252	0.657	0.821
2,4,6-Trichlorophenol	2.4	8.1	XXX	0.561	1.92	2.4
Phenol	0.45	0.65	XXX	0.106	0.155	0.265
Acetone	4.5	15	XXX	1.08	3.65	4.6
Acetophenone	34	127	XXX	7.97	30.2	37.8
Ethylbenzene	0.24	0.48	XXX	0.056	0.114	0.14
Benzene	Report	Report	XXX	Report	Report	XXX
Butyl Benzyl Phthalate	3.7	5.9	XXX	0.89	1.4	2.2
Chloride	0.37	0.79	XXX	0.0887	0.188	0.222
Bromide	1051	2102	XXX	250	500	625
2-Butanone	Report	Report	XXX	Report	Report	XXX
Bis(2-Ethylhexyl)Phthalate	7.8	20	XXX	1.85	4.81	6.0
Ethylene Glycol	0.42	0.90	XXX	0.101	0.215	0.253
Fluoranthene	Report	Report	XXX	Report	Report	XXX
Carbazole	0.11	0.23	XXX	0.0268	0.0537	0.067
n-Decane	1.2	2.5	XXX	0.276	0.598	0.69
n-Octadecane	1.8	4.0	XXX	0.437	0.948	1.09
MBAS	1.3	2.5	XXX	0.302	0.589	0.755
p-Cresol	Report	Report	XXX	Report	Report	XXX
Pyridine	0.86	2.9	XXX	0.205	0.698	0.87
Toluene	0.77	1.6	XXX	0.182	0.370	0.46
Total Xylenes	Report	Report	XXX	Report	Report	XXX
Hardness, Total (as CaCO <sub>3</sub> )	Report	Report	XXX	Report	Report	XXX
Gross Alpha (pCi/L)	XXX	XXX	XXX	Report	Report	XXX
Radium 226/228, Total (pCi/L)	XXX	XXX	XXX	Report	Report	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>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	
Total Nitrogen	Report	Report		Report	
Total Phosphorus	Report	Report		Report	
Net Total Nitrogen*	Report	0			
Net Total Phosphorus*	Report	0			

\* 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 the first full water year (October 1 through September 30).

\*\* The reporting requirements for annual loads will be required to be reported on the Supplemental DMR—Annual Nutrient Summary for each water year.

In addition, the permit contains the following major special conditions:

I. CHESAPEAKE BAY NUTRIENT REQUIREMENTS

II. OTHER REQUIREMENTS

A. The right to require operation and/or construction changes, when necessary, to produce an acceptable discharge

B. Requires proper disposal of sludge

III. STORMWATER REQUIREMENTS

IV. RECEIPT OF RESIDUAL WASTE

You may make an appointment to review the DEP files on this case by calling the File Review Coordinator at 570-327-3693.

The EPA Waiver is not in effect.

**PAS224805**, Storm Water, SIC Code 2452, **Integrity Building Systems, Inc.**, 2435 Housels Run Road, Milton, PA 17847. Facility Name: Integrity Building Systems, Inc. This proposed facility is located in Milton Borough, **Northumberland County**.

Description of Proposed Activity: The application is for a new NPDES permit for a new discharge of treated Storm Water.

The receiving stream(s), Unnamed Tributary of West Branch Susquehanna River, is located in State Water Plan watershed 10-D 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 as follows\*:

Parameters	Mass (lb/day)			Concentration (mg/l)			Minimum Measurement Frequency
	Average	Daily	Minimum	Average	Daily	Instant. Maximum	
	Monthly	Maximum		Monthly	Maximum		
Total Suspended Solids	XXX	XXX	XXX	XXX	Report	XXX	1/year
Total Kjeldahl Nitrogen	XXX	XXX	XXX	XXX	Report	XXX	1/year
Total Iron	XXX	XXX	XXX	XXX	Report	XXX	1/year

\*The permittee may complete an Annual Inspection Form (3800-PM-WSFR0083v) in lieu of submitting a DMR annually.

You may make an appointment to review the DEP files on this case by calling the File Review Coordinator at 570-327-3693.

The EPA Waiver is in effect.

**PA0020800**, Sewage, SIC Code 4952, **White Deer Township Sewer Authority**, PO Box 90, West Milton, PA 17886-0090. Facility Name: White Deer Township Sewer Authority Wastewater Treatment Plant. This existing facility is located in White Deer Township, **Union County**.

Description of Existing Activity: The application is for a renewal of an NPDES permit for an existing discharge of treated Sewage.

The receiving stream(s), Unnamed Tributary to West Branch Susquehanna River, is located in State Water Plan watershed 10-C and is classified for Warm Water Fishes, aquatic life, water supply and recreation. The discharge is not expected to affect public water supplies.

The proposed effluent limits for Outfall 001 are based on a design flow of 0.6 MGD.

Parameters	Mass (lb/day)			Concentration (mg/L)		
	Average	Weekly	Minimum	Average	Weekly	Instant. Maximum
	Monthly	Average		Monthly	Average	
Flow (MGD)	Report	Report	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0	XXX	XXX	9.0
Total Residual Chlorine	XXX	XXX	XXX	0.2	XXX	0.6
CBOD <sub>5</sub>	125	200	XXX	25	40	50
Total Suspended Solids	150	225	XXX	30	45	60
Fecal Coliform (CFU/100 ml)				200		
May 1 - Sep 30	XXX	XXX	XXX	Geo Mean	XXX	1,000
Fecal Coliform (CFU/100 ml)				2000		
Oct 1 - Apr 30	XXX	XXX	XXX	Geo Mean	XXX	10,000
Ammonia-Nitrogen						
May 1 - Oct 31	10	15	XXX	2.0	3.0	4.0
Ammonia-Nitrogen						
Nov 1 - Apr 30	30	45	XXX	6.0	9.0	18

The proposed monitoring requirements and, where appropriate, effluent limits for implementation of the Chesapeake Bay Tributary Strategy are as follows for Outfall 001.

Parameters	Mass (lbs)			Concentration (mg/L)		Minimum Measurement Frequency	Required Sample Type
	Monthly	Annual	Minimum	Monthly	Maximum		
	Report	Report		Average			
Ammonia—N	Report	Report	Report	Report	1/week	8-Hr Composite	
Kjeldahl—N	Report		Report	Report	1/week	8-Hr Composite	
Nitrate-Nitrite as N	Report		Report	Report	1/week	8-Hr Composite	
Total Nitrogen	Report	Report	Report	Report	1/month	Calculation	

Parameters	Mass (lbs)		Concentration (mg/L)			Minimum Measurement Frequency	Required Sample Type
	Monthly	Annual	Minimum	Monthly Average	Maximum		
Total Phosphorus	Report	Report		Report		1/week	8-Hr Composite Calculation
Net Total Nitrogen (Interim)	Report	Report				1/month	Calculation
Net Total Nitrogen (Final)	Report	10,959				1/month	Calculation
Net Total Phosphorus (Interim)	Report	Report				1/month	Calculation
Net Total Phosphorus (Final)	Report	1,461				1/month	Calculation

\* This permit contains conditions which authorize the permittee to apply nutrient reduction credits to meet the Net Total Nitrogen and the Net Total Phosphorus effluent mass limits, under the Department's Trading of Nutrients and Sediment Reduction Credits Policy and Guidelines (Document #392-0900-001, December 30, 2006). The condition includes the requirement to report the application of these credits in Supplemental Discharge Monitoring Reports (DMRs) submitted to the Department.

\* The compliance date for Net Total Nitrogen and Net Total Phosphorus will begin on October 1, 2011. Since these reporting requirements are annual loads, the reporting on compliance with the annual limitations will be required to be reported on the Supplemental DMR—Annual Nutrient Summary by November 28, 2012. This facility is required to monitor and report for Net Total Nitrogen and Net Total Phosphorus from the effective date of the permit until September 30, 2011.

\*\* Total Annual Ammonia Load will be required to be reported on the Supplemental DMR—Annual Nutrient Summary by November 28, 2013.

You may make an appointment to review the DEP files on this case by calling the File Review Coordinator at 570-327-3693.

The EPA Waiver is not in effect.

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

**PA0222771**, Industrial Waste, SIC Code 2999, **International Waxes Inc.**, 1100 E Main Street, Titusville, PA 16354-7808. Facility Name: International Waxes Titusville. This existing facility is located in City of Titusville, **Crawford County**.

Description of Existing Activity: The application is for a new NPDES permit to replace an expired permit for existing discharges of untreated industrial waste and storm water.

The receiving stream, Oil Creek, is located in State Water Plan watershed 16-E and is classified for Cold Water Fishes, aquatic life, water supply and recreation. The discharge is not expected to affect public water supplies.

The proposed effluent limits for Monitoring Point 101 are based on a design flow of 0.017 MGD.

Parameters	Mass (lb/day)			Concentration (mg/l)		
	Average Monthly	Daily Maximum	Minimum	Average Monthly	Daily Maximum	Instant. Maximum
Flow (MGD)	Report	XXX	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6	XXX	XXX	9
Total Residual Chlorine	XXX	XXX	XXX	0.5	0.8	1.2
Oil and Grease	XXX	XXX	XXX	15	23	30

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.

**III. WQM Industrial Waste and Sewerage Applications under The Clean Streams Law**

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

**WQM Permit No. 4910201**, Industrial Waste [SIC 2033], **Furman Foods**, 770 Cannery Road, P. O. Box 500, Northumberland, PA 17857-0500. This existing facility is located in Point Township, **Northumberland County**.

Description of Proposed Action/Activity: The applicant proposes the construction of an upgraded industrial waste treatment plant to treat expanded production.

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

**WQM Permit No. 1074405**, Sewerage, **Amendment No.1, Moraine Camplands Association Inc.**, 281 Staff Road, Slippery Rock, PA 16057

This proposed facility is located in Brady Township, **Butler County**.



Description of Proposed Action/Activity: This project proposes a modification of the existing WQM Part II Permit for the treatment plant to add a soda ash feed to the plant headworks, replace the existing air lift pumps in the clarifier with Geysers lift pumps, replace the coarse bubble disc diffusers in the aeration tank with fine bubble disc diffusers, and convert the abandoned plate settler to additional sludge holding capacity.

**WQM Permit No. 1097402**, Sewerage, **Amendment No. 1, Cranberry Township**, 2525 Rochester Road, Cranberry Township, PA 16066-6499.

This existing facility is located in Cranberry Township, **Butler County**.

Description of Proposed Action/Activity: This application is for a design organic loading rerating. The proposal requests increasing the organic design capacity of the plant from 7,600 lbs. BOD<sub>5</sub>/day to 15,000 lbs. BOD<sub>5</sub>/day. No construction is proposed.

**WQM Permit No. 1010404**, Sewerage, **Cranberry Township**, 2525 Rochester Road, Cranberry Township, PA 16066-6499.

This proposed facility is located in Cranberry Township, **Butler County**.

Description of Proposed Action/Activity: The applicant proposes to install a parallel interceptor from Powell Road south to the Marshall Township line. The interceptor will increase the available carrying capacity to accommodate the existing and future sewage flows to the Brush Creek Water Pollution Control Facility.

**WQM Permit No. 6210404**, Sewerage, **City of Warren**, 318 West Third Avenue West, Warren, PA 16365

This proposed facility is located in City of Warren, **Warren County**.

Description of Proposed Action/Activity: The proposed project consists of major upgrades and expansion for the existing City of Warren Wastewater Treatment Plant, to handle wet weather flow rates and minimize associated combined sewer overflows.

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

**WQM Permit No. 0910402**, Sewerage, **Bucks County Water & Sewer Authority**, 1275 Almshouse Road, Warrington, PA 18976.

This proposed facility is located in Middletown Township, **Bucks County**.

Description of Action/Activity: New submersible pump station to replace existing pump station.

**WQM Permit No. 2310401**, Sewerage, **Melmark**, 2600 Wayland Road, Berwyn, PA 19312.

This proposed facility is located in Newtown Township, **Delaware County**.

Description of Action/Activity: Construction and operation of a campus-wide capped gravity sewer.

**WQM Permit No. 0910403**, Sewerage, **Bucks County Water & Sewer Authority**, 1275 Almshouse Road, Warrington, PA 18976.

This proposed facility is located in Bensalem Township, **Bucks County**.

Description of Action/Activity: Replacement of 735 ft of existing 24" sanitary sewer with 30" sewer piping and replacement of 5 manholes.

#### **IV. NPDES Applications for Stormwater Discharges from MS4**

#### **V. Applications for NPDES Waiver Stormwater Discharges from MS4**

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

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

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water / Use</i>
PAI01 091005	USS Real Estate One Ben Fairless Drive Fairless Hills, PA 19030	Bucks	Falls Township	Delaware River South (WWF-MF)

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

*Pike Conservation District: 556 Route 402, Ste 1, Hawley, PA 18428*

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water / Use</i>
PAI025210011	Mr. August H. Gewecke Emmanuel Luthern Church of Milford 118 Chinkapin Dr. Milford, PA 18337	Pike	Dingman	UNT Sawkill Creek (EV, MF)

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI025210008	Charles Miller Route 6 Outparcels 800 Mt. Vernon Hwy. Su 140 Atlanta GA 30328	Pike	Westfall	Delaware River (WWF, MF) UNT to Delaware River (HQ-CWF, MF)

*Lackawanna Conservation District: 1300 Old Plant Rd., Mayfield PA 18433*

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI023510006	Geisinger Health System 100 North Academy Ave. Danville, PA 17822-1540	Lackawanna	Moosic Boro	Spring Brook Creek (HQ-CWF, MF)

*Northampton Conservation District: 14 Gracedale Ave., Nazareth PA 18064*

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI024810011	Water's Edge at Wind Gap, LLC 2437 Soothmoore Drive Bath, PA 18014	Northampton	Wind Gap Boro	Little Bushkill 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)*

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI050410003	James Palmer Beaver County Corporation for Economic Development 150 Insurance Street Beaver, PA 15009	Beaver	City of Aliquippa	Ohio River (WWF)

---

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

---

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>
Phillip Hoover 2862 Harvest Road Elizabethtown, PA 17022	Lancaster	85.9	282.3	Broilers	NA	Renewal
Brain Eckman 357 Black Barren Road Peach Bottom, PA 17563	Lancaster	13.1	493.04	Swine / Dairy	HQ	Renewal
Jonas Sensenig 1147 Silver Spring Road Holtwood, PA 17532	Lancaster	316.8	395	Swine / Dairy / Goats	HQ	Renewal
Gobblers Knob— David Reifsneider 2596 New Bridgeville Road Felton, PA 17322	York	15.4	298.7	Broilers	NA	Renewal (Update)

**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**

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

**Application No. 1910501—Construction** Public Water Supply.

Applicant	<b>Mifflin Township Water Authority</b>
[Township or Borough]	Mifflin Township
County	<b>Columbia</b>
Responsible Official	Mr. James Disidoro, Chairman Mifflin Township Water Authority P. O. Box 487 Mifflinville, PA 18631
Type of Facility	Public Water Supply—Construction
Consulting Engineer	Michael J. Peleschak, P.E. Alfred Benesch & Company 400 One Norwegian Plaza Pottsville, PA 17901
Application Received	December 22, 2010
Description of Action	Installation of a transmission main from the well house to the storage tank, install emergency generator at the well house, and installation of a variable frequency drive on the well pump and a flow meter and chart recorder for the storage tank discharge.

*Southwest Region: Water Supply Management Program Manager, 400 Waterfront Drive, Pittsburgh, Pa 15222-4745*

**Permit No. 3210502, Public Water Supply.**

Applicant	<b>Glen Campbell Borough</b> PO Box 43 Glen Campbell, PA 15742
[Township or Borough]	Glen Campbell Borough
Responsible Official	David Lucas, Council President Glen Campbell Borough PO Box 43 Glen Campbell, PA 15742
Type of Facility	Water treatment system

Consulting Engineer	The EADS Group, Inc., 1126 Eighth Avenue, Altoona, PA 16602
Application Received Date	December 17, 2010
Description of Action	Addition of a chemical feed system for iron and manganese removal, filter and softener media replacement, clear well tank replacement and waterline replacement.

#### MINOR AMENDMENT

#### Applications Received under the Pennsylvania Safe Drinking Water Act

*Southwest Region: Water Supply Management Program Manager, 400 Waterfront Drive, Pittsburgh, Pa 15222-4745*

#### Application No. 5610522GWR, Minor Amendment.

Applicant	<b>Conemaugh Township Municipal Authority</b> Box 429 113 South Main Street Davidsville, PA 15928
[Township or Borough]	Conemaugh Township
Responsible Official	Conemaugh Township Municipal Authority Box 429 113 South Main Street Davidsville, PA 15928
Type of Facility	Water system
Consulting Engineer	The EADS Group, Inc. 450 Aberdeen Drive Somerset, PA 15501
Application Received Date	December 17, 2010
Description of Action	Demonstration of 4-log treatment for groundwater sources

## LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

### UNDER ACT 2, 1995

#### PREAMBLE 1

#### Acknowledgment of Notices of Intent to Remediate Submitted under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.907)

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:

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

**Bechtel's Dairy & Restaurant**, Lewisburg Borough, **Union County**. Molesevich Environmental, LLC, PO Box 654, Lewisburg, PA on behalf of Benderson Development Co., LLC, 570 Delaware Ave., Buffalo, NY 14202 has submitted a Notice of Intent to Remediate soil and groundwater contaminated with unleaded gasoline. The applicant proposes to remediate the site to meet the Site-specific Standard.

#### INFECTIOUS AND CHEMOTHERAPEUTIC WASTE TRANSPORTER LICENSES

**Applications received or withdrawn under the Solid Waste Management Act of July 7, 1980 (P. L. 380, No. 97) (35 P. S. §§ 6018.101—6018.1003) and Act 93 of June 28, 1988 (P. L. 525, No. 93) and regulations to transport infectious and chemotherapeutic waste.**

*Central Office: Bureau of Waste Management, Division of Hazardous Waste Management, PO Box 8471, Harrisburg, PA 17105-8471*



*New Application Received*

**WM Healthcare Solutions, Inc.**, 1001 Fannin Street, Suite 4000, Houston, TX 77002. License No. PA-HC 0244. Received October 12, 2010

*Renewal Applications Received*

**Veolia ES Technical Solutions, LLC**, 1 Eden Lane, Flanders, NJ 07836. License No. PA-HC0221. Received on August 12, 2010.

**The Pennsylvania State University**, 6 Eisenhower Parking Deck, University Park, PA 16802-2116. License No. PA-HC 0153. Received on August 26, 2010.

**Daniel's New Jersey, LLC**, 135 South LaSalle Street, Suite 2850, Chicago, IL 60603. License No. PA-AH 0222. Received on September 20, 2010.

**Pet Memorial Services Corporation**, 126 Turner Lane, West Chester, PA 19380. License No. PA-AH 0195. Received on October 26, 2010.

**The Williamsport Hospital**, 777 Rural Avenue, Williamsport, PA 17701-3109. License No. PA-AH 0186. Received on October 28, 2010.

**Conservative Environmental Services, Inc.**, P. O. Box 745, Mechanicsburg, PA 17055-0745. License No. PA-AH 0224. Received on November 25, 2010.

**OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE**

**Application Received under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003), the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904) and Regulations to Operate Solid Waste Processing or Disposal Area or Site.**

*Southeast Region: Regional Solid Waste Manager, 2 East Main Street, Norristown, PA 19401*

**Permit Application No. 101290. Waste Management of Pennsylvania, Inc.** 3605 Grays Ferry Avenue, Philadelphia PA 19146. This minor permit modification application is seeking the approval to conduct the transfer of the recyclable materials in portion of the Baling and Transfer Building at the Philadelphia Transfer Station and Recycling Center, a municipal waste transfer facility located at 3605 Grays Ferry Avenue in the City of Philadelphia, **Philadelphia County**. The application was received by the Southeast Regional office on December 13, 2010.

**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 Approval 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.**

*Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701*

*Contact: Muhammad Q. Zaman, Environmental Program Manager—Telephone: 570-327-3648*

**41-00080B: Chief Gathering, LLC** (6051 Wallace Road Ext., Suite 210, Wexford, PA 15090) for a plan approval to construct three (3) natural-gas fired compressor engines each equipped with oxidation catalysts at their Canoe Run Compressor Station in Mifflin Township, **Lycoming County**.

The Department's review of the information submitted by Chief Gathering, LLC indicates that the construction of the compressor engines equipped with oxidation catalysts will meet all applicable air quality regulatory requirements pertaining to air-contamination sources and the emission of air contaminants. Based on these findings, the Department intends to approve the application and issue plan approval for the construction of the compressor engines equipped with oxidation catalysts. Additionally, if the Department determines that the compressor engines equipped with oxidation catalysts are operating in compliance with all plan approval conditions, the conditions established in the plan approval will be

incorporated into a State Only operating permit via an administrative amendment pursuant to 25 Pa. Code § 127.450.

The following is a summary of the conditions that the Department proposes to place in the plan approval to be issued to ensure compliance with all applicable regulatory requirements:

1. Pursuant to the best available technology requirements of 25 Pa. Code §§ 127.1 and 127.12, the three 2370 brake horsepower, natural-gas fired reciprocating internal combustion engines shall incorporate a "clean burn" electronic control system to control NO<sub>x</sub> emissions. Additionally, the carbon monoxide, volatile organic compounds, and formaldehyde emissions from each engine shall be controlled by a GT Exhaust Systems Model #201VO-6-300-6124 oxidation catalyst unit. The permittee shall not operate any of the engines without the simultaneous operation of each respective oxidation catalyst at any time.

2. Pursuant to the best available technology requirements of 25 Pa. Code §§ 127.1 and 127.12, the permittee shall only use natural gas as fuel for each engine.

3. Pursuant to the best available technology requirements of 25 Pa. Code §§ 127.1 and 127.12, the permittee shall not permit the following air contaminant emissions from the exhaust of each oxidation catalyst associated with each engine in excess of the limitations listed below:

a. nitrogen oxides (NO<sub>x</sub>, expressed as NO<sub>2</sub>)—0.50 gm/bhp-hr, 2.61 lb/hr, and 11.43 tons in any 12 consecutive month period,

b. carbon monoxide (CO)—0.275 gm/bhp-hr, 1.44 lb/hr and 6.29 tons in any 12 consecutive month period,

c. volatile organic compounds (VOC)—0.158 gm/bhp-hr, 0.82 lb/hr, and 3.60 tons in any 12 consecutive month period,

d. particulate matter (PM/PM10)—0.03 gm/bhp-hr, 0.16 lb/hr and 0.68 tons in any 12 consecutive month period,

e. formaldehyde—0.04 gm/bhp-hr, 0.21 lb/hr and 0.92 tons in any 12 consecutive month period.

f. sulfur oxides (SO<sub>x</sub>, expressed as SO<sub>2</sub>) emissions to not exceed 2 parts per million, by volume, dry basis.

4. Pursuant to the best available technology requirements of 25 Pa. Code §§ 127.1 and 127.12, each oxidation catalyst shall be capable of reducing the carbon monoxide emissions by 90% from each engine.

5. Pursuant to the best available technology requirements of 25 Pa. Code §§ 127.1 and 127.12, the permittee shall equip each oxidation catalyst with instrumentation to monitor and record pressure drop across each oxidation catalyst and the inlet gas temperature of each oxidation catalyst and shall monitor these parameters on a continuous basis.

6. The permittee shall comply with all applicable requirements of Subpart ZZZZ of the National Emission Standards for Hazardous Air Pollutants for each engine as specified in 40 CFR 63.6580—63.6675.

7. The permittee shall comply with all applicable requirements of Subpart JJJJ of the Standards of Performance for New Stationary Sources for each engine as specified in 40 CFR 60.4230—60.4248.

8. The permittee shall perform nitrogen oxide (NO<sub>x</sub>, expressed as NO<sub>2</sub>), carbon monoxide, volatile organic compound and formaldehyde stack tests upon each engine within 120 days from the commencement of operation of

each engine to demonstrate compliance with the emission limitations and the carbon monoxide destruction efficiency requirements from each oxidation catalyst associated with each engine.

The plan approval contains monitoring, recordkeeping and reporting conditions to ensure compliance with applicable Federal and State regulatory requirements.

A copy of the plan approval application is available for public review between 8 a.m. and 4 p.m. at the Department's Northcentral Regional Office. Appointments for scheduling a review may be made by calling the Department at 570-327-3693. Written comments or requests for a public hearing should be directed to Muhammad Q. Zaman, Environmental Program Manager, Department of Environmental Protection, Air Quality Program, Northcentral Regional Office, 208 West Third Street, Suite 101, Williamsport, PA 17701, 570-327-3648.

**60-00020A: Pik Rite, Inc.** (60 Pik Rite Lane, Lewisburg, PA 17837) for modification of a surface coating operation in Buffalo Township, **Union County**. The respective facility is a natural minor facility for which a state only operating permit has been issued.

The Department of Environmental Protection's (Department) review of the information submitted by Pik Rite, Inc. indicates that the air contamination source to be modified will comply with all regulatory requirements pertaining to air contamination sources and the emission of air contaminants including the best available technology requirement (BAT) of 25 Pa. Code §§ 127.1 and 127.12. Based on this finding, the Department proposes to issue a plan approval for the proposed modification.

The volatile organic compound and volatile hazardous air pollutant emissions from the surface coating operation will not exceed 24.43 tons and 6.83 tons per year, respectively.

In addition to the emission limitations, the following is a summary of the types of conditions the Department intends place in the plan approval to ensure compliance with all applicable regulatory requirements including the best available technology requirements of 25 Pa. Code §§ 127.1 and 127.12.

Emission and material throughput restrictions to limit the emission of volatile organic compounds and volatile hazardous air pollutants.

Work practice requirements to operate the source with good air pollution control practices.

Recordkeeping conditions to verify compliance with the emission and throughput limitations and all applicable requirements.

A copy of the plan approval application and the Department's review is available for public review between 8 a.m. and 4 p.m. at the Department's Northcentral Regional Office, 208 West Third Street, Suite 101, Williamsport, PA 17701. Appointments for scheduling a review may be made by calling the Department at 570-327-3693. Written comments or requests for a public hearing should be directed to Muhammad Q. Zaman, Environmental Program Manager, Department of Environmental Protection, Air Quality Program, Northcentral Regional Office, 208 West Third Street, Suite 101, Williamsport, PA 17701, 570-327-3648.

*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 Rd., Atglen, PA 19310) for the 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:*

Notice is hereby given in accordance with 25 Pa. Code §§ 127.44(a) and 127.45(a), that the Department of Environmental Protection (DEP) has received and intends to issue a Plan Approval to **Williams Field Services Company LLC** (1550 Coraopolis Heights Road, Moon Twp., PA 15108) for their facility located in Springville Twp., **Susquehanna County**. This Plan Approval No. 58-329-029 will be incorporated into a Synthetic Minor Permit through an administrative amendment at a later date.

Plan Approval No. 58-329-029 is for the construction of a natural gas compressor station at the Lathrop Compressor Station. The VOC emissions from the facility will not equal or exceed 50 TPY, based on a 12-month rolling sum. The NO<sub>x</sub> emissions from the facility will not equal or exceed 100 TPY, based on a 12-month rolling sum. Total PM, SO<sub>x</sub>, and CO emissions from the facility will not equal or exceed 100 TPY, based on a 12-month rolling sum. The HAPs from the facility must never equal or exceed 10 TPY of any single HAP and must never equal or exceed 25 TPY of all aggregated HAPs, based on a 12-month rolling sum. The Plan approval and Operating Permit will include testing, monitoring, record keeping and reporting requirements designed to keep the sources operating within all applicable air quality requirements.

The facility is subject to NSPS Subpart JJJJ and 25 Pa. Code § 127.12(a)(5) Best Available Technology (BAT) requirements. The visible emission opacity shall not be equal to or greater than 20 % at any time. The company shall be subject to and comply with 25 Pa. Code § 123.31 for malodorous emissions.

Emissions from the engines will meet BAT & NSPS Subpart JJJJ requirements. The Plan Approval and Operating permit will contain additional recordkeeping and operating restrictions designed to keep the facility operating within all applicable air quality requirements.

Copies of the application, DEP's analysis and other documents used in the evaluation of the application are available for public review during normal business hours at Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18701-1915.

Any person(s) wishing to provide DEP with additional information, which they believe should be considered prior to the issuance of this permit, may submit the information to the address shown in the preceding paragraph. Each written comment must contain the following:

Name, address and telephone number of the person submitting the comments.

Identification of the proposed permit No.: 58-329-029.

A concise statement regarding the relevancy of the information or objections to the issuance of the permit.

A public hearing may be held, if the Department of Environmental Protection, in its discretion, decides that such a hearing is warranted based on the comments received. All persons submitting comments or requesting a hearing will be notified of the decision to hold a hearing by publication in the newspaper or the *Pennsylvania Bulletin* or by telephone, where DEP determines such notification is sufficient. Written comments or requests for a public hearing should be directed to Ray Kempa, Chief, New Source Review Section, Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18701-1915, Phone # 570-826-2511 within 30 days after publication date.

---

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

---

*Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701*

*Contact: Muhammad Q. Zaman, Environmental Program Manager—Telephone: 570-327-3648*

**41-00080B: Chief Gathering, LLC** (6051 Wallace Road Ext., Suite 210, Wexford, PA 15090) for a plan approval to construct three (3) natural-gas fired compressor engines each equipped with oxidation catalysts at their Canoe Run Compressor Station in Mifflin Township, **Lycoming County**.

The Department's review of the information submitted by Chief Gathering, LLC indicates that the construction of the compressor engines equipped with oxidation catalysts will meet all applicable air quality regulatory requirements pertaining to air-contamination sources and the emission of air contaminants. Based on these findings, the Department intends to approve the application and issue plan approval for the construction of the compressor engines equipped with oxidation catalysts. Additionally, if the Department determines that the compressor engines equipped with oxidation catalysts are operating in compliance with all plan approval conditions, the conditions established in the plan approval will be incorporated into a State Only operating permit via an administrative amendment pursuant to 25 Pa. Code § 127.450.

The following is a summary of the conditions that the Department proposes to place in the plan approval to be issued to ensure compliance with all applicable regulatory requirements:

9. Pursuant to the best available technology requirements of 25 Pa. Code §§ 127.1 and 127.12, the three 2370 brake horsepower, natural-gas fired reciprocating internal combustion engines shall incorporate a "clean burn" electronic control system to control NO<sub>x</sub> emissions. Additionally, the carbon monoxide, volatile organic compounds, and formaldehyde emissions from each engine shall be controlled by a GT Exhaust Systems Model #201VO-6-300-6124 oxidation catalyst unit. The permittee shall not operate any of the engines without the simultaneous operation of each respective oxidation catalyst at any time.

10. Pursuant to the best available technology requirements of 25 Pa. Code §§ 127.1 and 127.12, the permittee shall only use natural gas as fuel for each engine.

11. Pursuant to the best available technology requirements of 25 Pa. Code §§ 127.1 and 127.12, the permittee



shall not permit the following air contaminant emissions from the exhaust of each oxidation catalyst associated with each engine in excess of the limitations listed below:

a. nitrogen oxides (NO<sub>x</sub>, expressed as NO<sub>2</sub>)—0.50 gm/bhp-hr, 2.61 lb/hr, and 11.43 tons in any 12 consecutive month period,

b. carbon monoxide (CO)—0.275 gm/bhp-hr, 1.44 lb/hr and 6.29 tons in any 12 consecutive month period,

c. volatile organic compounds (VOC)—0.158 gm/bhp-hr, 0.82 lb/hr, and 3.60 tons in any 12 consecutive month period,

d. particulate matter (PM/PM10)—0.03 gm/bhp-hr, 0.16 lb/hr and 0.68 tons in any 12 consecutive month period,

e. formaldehyde—0.04 gm/bhp-hr, 0.21 lb/hr and 0.92 tons in any 12 consecutive month period.

f. sulfur oxides (SO<sub>x</sub>, expressed as SO<sub>2</sub>) emissions to not exceed 2 parts per million, by volume, dry basis.

12. Pursuant to the best available technology requirements of 25 Pa. Code §§ 127.1 and 127.12, each oxidation catalyst shall be capable of reducing the carbon monoxide emissions by 90% from each engine.

13. Pursuant to the best available technology requirements of 25 Pa. Code §§ 127.1 and 127.12, the permittee shall equip each oxidation catalyst with instrumentation to monitor and record pressure drop across each oxidation catalyst and the inlet gas temperature of each oxidation catalyst and shall monitor these parameters on a continuous basis.

14. The permittee shall comply with all applicable requirements of Subpart ZZZZ of the National Emission Standards for Hazardous Air Pollutants for each engine as specified in 40 CFR 63.6580—63.6675.

15. The permittee shall comply with all applicable requirements of Subpart JJJJ of the Standards of Performance for New Stationary Sources for each engine as specified in 40 CFR 60.4230—60.4248.

16. The permittee shall perform nitrogen oxide (NO<sub>x</sub>, expressed as NO<sub>2</sub>), carbon monoxide, volatile organic compound and formaldehyde stack tests upon each engine within 120 days from the commencement of operation of each engine to demonstrate compliance with the emission limitations and the carbon monoxide destruction efficiency requirements from each oxidation catalyst associated with each engine.

The plan approval contains monitoring, recordkeeping and reporting conditions to ensure compliance with applicable Federal and State regulatory requirements.

A copy of the plan approval application is available for public review between 8 a.m. and 4 p.m. at the Department's Northcentral Regional Office. Appointments for scheduling a review may be made by calling the Department at 570-327-3693. Written comments or requests for a public hearing should be directed to Muhammad Q. Zaman, Environmental Program Manager, Department of Environmental Protection, Air Quality Program, Northcentral Regional Office, 208 West Third Street, Suite 101, Williamsport, PA 17701, 570-327-3648.

**60-00020A: Pik Rite, Inc.** (60 Pik Rite Lane, Lewisburg, PA 17837) for modification of a surface coating operation in Buffalo Township, **Union County**. The respective facility is a natural minor facility for which a state only operating permit has been issued.

The Department of Environmental Protection's (Department) review of the information submitted by Pik Rite,

Inc. indicates that the air contamination source to be modified will comply with all regulatory requirements pertaining to air contamination sources and the emission of air contaminants including the best available technology requirement (BAT) of 25 Pa. Code §§ 127.1 and 127.12. Based on this finding, the Department proposes to issue a plan approval for the proposed modification.

The volatile organic compound and volatile hazardous air pollutant emissions from the surface coating operation will not exceed 24.43 tons and 6.83 tons per year, respectively.

In addition to the emission limitations, the following is a summary of the types of conditions the Department intends place in the plan approval to ensure compliance with all applicable regulatory requirements including the best available technology requirements of 25 Pa. Code §§ 127.1 and 127.12.

Emission and material throughput restrictions to limit the emission of volatile organic compounds and volatile hazardous air pollutants.

Work practice requirements to operate the source with good air pollution control practices.

Recordkeeping conditions to verify compliance with the emission and throughput limitations and all applicable requirements.

A copy of the plan approval application and the Department's review is available for public review between 8 a.m. and 4 p.m. at the Department's Northcentral Regional Office, 208 West Third Street, Suite 101, Williamsport, PA 17701. Appointments for scheduling a review may be made by calling the Department at 570-327-3693. Written comments or requests for a public hearing should be directed to Muhammad Q. Zaman, Environmental Program Manager, Department of Environmental Protection, Air Quality Program, Northcentral Regional Office, 208 West Third Street, Suite 101, Williamsport, PA 17701, 570-327-3648.

*Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481*

*Contact: Mark Gorog, New Source Review Chief—Telephone: 814-332-6940*

**10-028I: Armstrong Cement & Supply** (100 Clearfield Road, Cabot, PA 16023-9531) for installation of a new burner system on both Portland cement kilns (Sources 101 and 121) in Winfield Township, **Butler County**.

In accordance with 25 Pa. Code §§ 127.44(b) and 127.424(b), the Department of Environmental Protection (Department) intends to issue an air quality plan approval for the cement manufacturing facility in Winfield Township, Butler County. This Plan Approval includes the installation of a new burner system on both cement kilns. This is a Title V facility, Permit #10-00028.

This plan approval will, in accordance with 25 Pa. Code § 127.450, be incorporated into the Title V operating permit through an administrative amendment at a later date.

The projected actual emissions from the total of both kilns combined after the modification of the burners will be:

- a) 936 tons of NO<sub>2</sub>, calculated as a 12-month average;
- b) 1216 tons of SO<sub>2</sub>, calculated as a 12-month average;
- c) 22.2 tons of total pm, calculated as a 12-month average;



d) 19.2 tons of pm-10, calculated as a 12-month average;

e) 14.2 tons of pm 2.5, calculated as a 12-month average; and,

f) 56.0 tons of CO, calculated as a 12-month average

This plan approval is potentially subject to the following Federal and State Regulations:

40 CFR Parts 51 and 52: Prevention of Significant Deterioration (PSD) and 25 Pa. Code, Subchapter E Nonattainment New Source Review (NNSR). This project does not result in either a significant emission increase or a significant net emission increase. Therefore, neither 40 CFR Parts 51 and 52 PSD or 25 Pa. Code, Subchapters D and E for PSD and NNSR, respectively, apply.

25 Pa. Code § 127.12(a)(5) Since the burner tip modification project does not meet the definition of a new source as per 25 Pa. Code § 121.1, this project is not subject to Best Available Technology (BAT) analysis. Per 25 Pa. Code § 127.11, a Plan Approval is required to allow the modification of an air contamination source.

40 CFR 64.5(a)(2) CAM. The burner tip modification is not considered a control device pursuant to the CAM definition in 40 CFR 64.1. Therefore, CAM is not applicable to the proposed project.

25 Pa. Code §§ 145.143—145.146. The proposed modification to Furnace No. 3 is subject to the requirements for the emissions of NOx for cement kilns during the ozone season. The applicable NOx limit during the ozone season is 3.88 pounds of NOx per ton of clinker produced for long wet-process cement kilns. The requirements in these sections were included in the plan approval.

The Plan Approval will include conditions that require performance testing, monitoring, record keeping, reporting, work practice standards, and additional requirements for both kilns designed to keep the facility operating within all applicable air quality requirements.

Copies of the application, the Department's analysis and other documents used in the evaluation of the application are available for public review during normal business hours at:

Department of Environmental Protection  
Air Quality Program  
230 Chestnut Street  
Meadville, PA 16335

Any person(s) wishing to provide the Department with additional information, which they believe should be considered prior to the issuance of this permit, may submit the information to the address shown in the preceding paragraph. The Department will consider any written comments received within 30 days of the publication of this notice.

Each written comment must contain the following:

- i. Name, address and telephone number of the person submitting the comments.
- ii. Identification of the proposed permit No. 10-028I.
- iii. A concise statement regarding the relevancy of the information or objections to the issuance of the permit.

A public hearing may be held, if the Department, in its discretion, decides that such a hearing is warranted based on the comments received. All persons submitting comments or requesting a hearing will be notified of the decision to hold a hearing by publication in the newspaper or the *Pennsylvania Bulletin* or by telephone, where

the Department determines such notification is sufficient. Written comments or requests for a public hearing should be directed to:

New Source Review Section, Air Quality Program  
Department of Environmental Protection  
230 Chestnut Street  
Meadville, PA 16335  
Phone: 814-332-6940

Persons with a disability who wish to comment and require an auxiliary aid, service or other accommodations to do so should by calling 814-332-6940, or the Pennsylvania AT&T Relay Service at 1-800-654-5984 (TDD) to discuss how the Department may accommodate their needs.

**24-083S: Mersen USA St Marys—PA Corp.** (215 Stackpole Street, Saint Marys, PA 15857-1401), for the installation of four (4) carbon mixers and a new pulverizer with a dust collector. This equipment will be located in the facility at 1032 Trout Run Road, which is in the City of Saint Marys, **Elk County**.

Pursuant to 25 Pa. Code §§ 127.44(b) and 127.424(b), the Pennsylvania Department of Environmental Protection (DEP) intends to issue Plan Approval 24-083S to Mersen USA St Marys for four (4) carbon mixers and a new pulverizer with a dust collector, for the facility located at 1032 Trout Run Road, in the City of Saint Marys, Elk County. The Plan Approval will subsequently be incorporated into a facility Operating Permit through an administrative amendment in accordance with 25 Pa. Code § 127.450.

Plan Approval No. 24-083S is for the installation of four (4) carbon mixers and a new pulverizer with a dust collector. Based on the information provided by the applicant and DEP's own analysis, the combined subject sources will have the potential to emit approximately 0.1 tons per year of nitrogen oxides, 3.41 tons per year of volatile organic compounds, less than 0.1 tons per year of carbon monoxide, 3.05 tons per year of particulate matter and 6.35 tons per year of sulfur oxides.

The Plan Approval will contain testing, monitoring, recordkeeping, reporting and work practice requirements designed to keep the facility operating within all applicable air quality requirements.

#### OPERATING PERMITS

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

*Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701*

*Contact: Muhammad Zaman, Environmental Program Manager—Telephone: 570-327-3648*

**47-00001: PPL Montour LLC** (P. O. Box 128, Washingtonville, PA 17884-0128) for renewal of the Title IV and Title V Operating Permits for their facility in Derry Township, **Montour County**. The facility is currently operating under amended Title V Operating Permit 47-00001 revised November 16, 2006. The facility's main sources include two (2) coal-fired electricity generating units (EGUs); two (2) auxiliary boilers; fly-ash handling system; coal storage pile; fly-ash disposal site; limestone/gypsum storage, handling, and processing operation; wastewater treatment lime storage silo; and five (5) diesel-fired emergency engines. The facility has the potential to emit major quantities of carbon monoxide, nitrogen oxides, sulfur oxides, particulate matter, volatile organic

compound and hazardous air pollutant emissions. The proposed Title V operating permit for renewal has incorporated the CAM provisions applicable to the EGUs for monitoring of the performance of the electrostatic precipitators (ESPs) that control particulate matter emissions. The CAM provisions included in the proposed Title V operating permit require ESP parameter monitoring using continuous systems to monitor and record the total power of each ESP box which indicates compliance within an appropriate range that will be determined by testing. Operation of scrubber recycle-pumps will also be monitored and reasonable compliance with the PM limitation will be verified by testing a minimum of two (2) of five (5) recycle-pumps in operation. Additionally, a Maximum Achievable Control Technology (MACT) Standard review was performed during the renewal Title V operating permit review. As a result of this review, the renewal Title V operating permit contains appropriate MACT standards applicable to sources at the Montour SES. The proposed Title V operating permit contains applicable regulatory requirements including monitoring, recordkeeping, and reporting conditions to ensure compliance with applicable Federal and State regulations.

The Title IV permit for the two (2) pulverized bituminous coal, tangentially-fired utility boilers at the Montour SES are classified under the NO<sub>x</sub> Acid Rain Program as Phase II Group 1 units. During the Department's review, the SO<sub>2</sub> allowances were obtained from EPA's Acid Rain Program database and would be as follows:

*Calendar*

Year	2008	2009	2010	2011	2012
Unit 1	24191	24191	24018	24018	24018
Unit 2	24680	24680	24723	24723	24723

Units 1 and 2 at the Montour SES operate with SCR control to comply with the Acid Rain Program and have been operating as early election Phase I units since 1999. The Title IV permit is also included by reference in the renewal Title V operating permit.

*Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481*

*Contact: Matthew Williams, Facilities Permitting Chief—Telephone: 814-332-6940*

**62-00012: RRI Energy Mid-Atlantic Power Holdings, LLC—Warren Generating Station** (121 Champion Way, STE 200, Canonsburg, PA 15317-5817) for re-issuance of a Title V Operating Permit to operate an electricity generating facility, in Conewango Township, **Warren County**. The facility uses a Combustion Turbine to generate electricity during peak demand periods. The proposed permit also includes the requirements from the Federal and State Clean Air Interstate Rule (CAIR).

*SERO:*

**23-0108C: Barry Callebaut USA, LLC** (903 Industrial Highway, Eddystone, PA 19022) for the modification of emission limits of a regenerative thermal oxidizer, used to control emissions from a cocoa processing facility. This plan approval modifies Plan Approval No. 23-0108B. The cocoa processing facility is located in Eddystone Borough, **Delaware County**. This facility is a non-Title V facility. The regenerative thermal oxidizer reduces VOC emissions by 98 percent or to a maximum concentration of 7 ppm, as propane. The facility will continue to utilize various cyclones and a mist eliminator to control emissions of PM from the facility. The Plan Approval will contain monitoring, recordkeeping, and operating conditions designed to

keep the facility operating within the allowable emissions and all applicable air quality requirements.

**46-0161D: Reading Materials, Inc.** (394 Sanatoga Road, Pottstown, PA 19464) for the modification of the Baghouse pressure drop range at their Asphalt Plant located in Lower Pottsgrove Township, **Montgomery County**. This application is to modify Condition No. 7, Work Practice Requirements in Section D in State Only Operating Permit 46-00161 from 4 to 5 inches of water to 1 to 5 inches of water. The 1 to 5 inch range was observed during compliance stack testing as well as onsite inspections by the Department. There will be no emission increase with this modification. The Plan Approval will still include work practice standards, testing, monitoring, and recordkeeping requirements designed to keep the facility operating within all applicable air quality requirements.

**46-0272: Tech Tube, Inc.** (750 Vandenberg Road, King of Prussia, PA 19406) for the installation of a Batch Vapor Degreaser and a Carbon Adsorption System to control the Volatile Organic Compounds emissions in Upper Merion Township, **Montgomery County**. Tech Tube is a minor facility. The Degreaser uses trichloroethylene as a cleaning agent. The Degreaser is subject to Subpart T-National Emission Standards for Halogenated Solvent Cleaning. The Plan Approval will include monitoring, testing and recordkeeping requirements designed to keep the facility operating within all applicable air quality requirements.

**46-0274: Tegrant Diversified Brands, Inc.** (161 Corporate Drive, Montgomeryville, PA 18936) for the installation of an insulated shipping container manufacturing operation in Montgomery Township, **Montgomery County**. Tegrant Diversified Brands is a minor facility. The manufacturing process is a closed mold, rigid polyurethane foam molding operation which uses materials containing Volatile Organic Compounds. The Plan Approval will include work practice standards, monitoring, and recordkeeping requirements designed to keep the facility operating within all applicable air quality requirements.

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

*Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701*

*Contact: Muhammad Q. Zaman, Environmental Program Manager—Telephone: 570-327-3648*

**55-00010: National Limestone Quarry, Inc.** (PO Box 937, Middleburg, PA 17842) for their Paxtonville Quarry in Franklin Township, **Snyder County**. The facility's main sources include stone crushing process equipment, one (1) cold cleaning degreaser, and three (3) storage tanks. The facility has the potential to emit sulfur oxides (SO<sub>x</sub>), nitrogen oxides (NO<sub>x</sub>), carbon monoxide (CO), particulate matter (PM<sub>10</sub>), volatile organic compounds (VOCs), and hazardous air pollutants (HAPs) below the major emission thresholds. The proposed operating permit contains all applicable requirements including Federal and State regulations. In addition, monitoring, recordkeeping and reporting conditions regarding compliance with all applicable requirements are included.

**49-00011: Earthgrains Baking Co., Inc.** (249 North Eleventh Street, Sunbury, PA 17801) for their Butter Krust bakery facility in Sunbury City, **Northumberland County**. The facility is a bakery, which produces bread and rolls. The facility has the potential to emit major quantities of VOCs. The facility has taken a synthetic minor restriction not to exceed the major emission threshold for VOCs. The facility has the potential to emit particulate matter (PM10), NO<sub>x</sub>, SO<sub>x</sub>, CO, and HAPs below the major thresholds. The proposed operating permit contains applicable regulatory requirements including monitoring, recordkeeping, and report conditions.

*Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745*

*Contact: Barbara Hatch, Facilities Permitting Chief—Telephone: 412-442-4174*

**03-00139: Brady's Ben Corporation—Kaylor Plant** (209 Cove Run Road East Brady, PA 16028) for limestone mining and quarrying for retail and wholesale in Brady's Bend Township, **Armstrong County**. The operation of the facility's air contamination source consisting of 1-primary crusher, 1-hammer mill, 3-vibrating screens, 1-wash plant, 11-transfer belts, 6 stockpiles, and unloading/loading of trucks. The facility is required to conduct a weekly survey of the facility during daylight hours while the facility is operating to ensure compliance with the fugitive emission and odor restrictions in 25 Pa. Code §§ 123.1, 123.2, and 123.31. Records of the weekly surveys performed must be recorded including date, time, observer, observation taken and if any corrective action. The permit also includes operation requirements, monitoring requirements, and recordkeeping requirements for the facility. This is a State Only Permit Renewal.

## 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>		greater than 6.0; less than 9.0	

<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.

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

**40663023R5. Pagnotti Enterprises, Inc.**, (46 Public Square, Suite 600, Wilkes-Barre, PA 18702), renewal of an existing anthracite surface mine, refuse reprocessing and refuse disposal operation in Hazle Township, **Luzerne County** affecting 640.0 acres, receiving stream: none. Application received: December 9, 2010.

**40663027R5. Jeddo-Highland Coal Company**, (46 Public Square, Suite 600, Wilkes-Barre, PA 18702), renewal of an existing anthracite surface mine and refuse

disposal operation in Hazle Township, **Schuylkill County** affecting 154.9 acres, receiving stream: none. Application received: December 9, 2010.

**54693047R5. Pagnotti Enterprises, Inc.**, (46 Public Square, Suite 600, Wilkes-Barre, PA 18702), renewal of an existing anthracite coal refuse reprocessing operation in Mahanoy Township, **Schuylkill County** affecting 698.0 acres, receiving stream: none. Application received: December 9, 2010.

**19950101R3. Blaschak Coal Corp.**, (P. O. Box 12, Mahanoy City, PA 17948), renewal of an existing anthracite surface mine and refuse disposal operation in Conyngham Township and Centralia Borough, **Columbia County** affecting 846.0 acres, receiving stream: none. Application received: December 9, 2010.

*Noncoal Applications Received*

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

Parameter	30-day Average	Daily Maximum	Instantaneous Maximum
Suspended solids	10 to 35 mg/l	20 to 70 mg/l	25 to 90 mg/l
Alkalinity exceeding acidity* 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*

**11040301 and NPDES No. PA0212873. Jigging Technologies, LLC**, 950 Riders Road, Johnstown, PA 15906, transfer of an existing bituminous surface mine from Pheasant and Shearer, 204 Atlantic Street, Johns-

town, PA 15904, located in East Taylor Township, **Cambria County**, affecting 19.6 acres. Receiving stream(s): Hickson Run classified for the following use(s): warm water fishery. There are no potable water supply intakes within 10 miles downstream. Application received: December 16, 2010.

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

**43100302. Terra Resources, LLC** (267 Gilmore Road, Enon Valley, PA 16120) Commencement, operation and restoration of a large industrial mineral operation in Jefferson Township, **Mercer County** affecting 52.1 acres. Receiving streams: Lackawannock Creek classified for the



following state-wide uses: TSF, and unnamed tributary to Shenango River classified for the following state-wide uses: WWF. There are no potable surface water supply intakes within 10 miles downstream. Application received: December 16, 2010.

**25100303 and NPDES Permit No. PA0258997. J.D. Diversified Services, Inc.** (3463 Beaver Street, Springboro, PA 16435-4403) Commencement, operation and restoration of a large industrial mineral operation in Springfield Township, **Erie County** affecting 43.0 acres. This surface mining permit application is located within the watershed of Crooked Creek, classified for the following state-wide uses: HQ. There will be no surface water discharge to Crooked Creek. Application received: December 20, 2010.

*Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, 814-342-8200*

**41100301 and NPDES No. PA0257486. Glenn O. Hawbaker, Inc.** (1952 Waddle Road, Suite 203, State College, PA 16803-1694). Application for commencement, operation and restoration of a large noncoal surface mine located in Armstrong Township, **Lycoming County** affecting 98.5 acres. Receiving stream: Hagerman's miles downstream. Application received: December 16, 2010.

**59100301 and NPDES No. PA0257494. Wesley J. Cole** (343 Jess Drive Lane, Middlebury Center, PA 16935). Application for commencement, operation and reclamation of a large noncoal surface mine located in Middlebury Township, **Tioga County** affecting 20.0 acres. Receiving streams: Crooked Creek (Warm Water Fishery) to Tioga River (Warm Water Fishery) to Susquehanna River (Warm Water Fishery). There are no potable water supply intakes within 10 miles downstream. Application received: December 17, 2010.

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

**13760301C6 and NPDES Permit No. PA0124214. Eastern Industries, Inc.,** (4401 Camp Meeting Road, Center Valley, PA 18034), renewal of NPDES Permit for discharge of treated mine drainage from a quarry operation in Lower Towamensing Township, **Carbon County**, receiving stream: unnamed tributary to Aquashicola Creek, classified for the following use: cold water fishes. Application received: December 15, 2010.

**6276SM2A1C12 and NPDES Permit No. PA0594512. Martin Limestone, Inc.,** (P. O. Box 550, Blue Ball, PA 17506), renewal of NPDES Permit for discharge of treated mine drainage from a quarry operation in East Earl Township, **Lancaster County**, receiving stream: Conestoga River, classified for the following use: warm water fishes. Application received: December 17, 2010.

## FEDERAL WATER POLLUTION CONTROL ACT, SECTION 401

The following permit applications, requests for Environmental Assessment approval and requests for 401 Water Quality Certification have been received by the Department. 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

*Southcentral Region: Watershed Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110. Telephone: 717-705-4707.*

**E22-564: Williamstown Borough Sewer Authority,** P. O. Box 44, Williamstown, PA 17098, Williams Township, **Dauphin County**, ACOE Baltimore District

To construct and maintain: (1) a 4.0-foot diameter by 14.0-foot deep fiberglass pumping station in the floodway of Wiconisco Creek (WWF); (2) a 30.0-foot by 30.0-foot by 6.0-foot high chain link fence in the floodway of Wiconisco Creek (WWF); (3) a 39.0-foot long, 3.0-foot high by 8.0-inch wide concrete retaining wall in the floodway of Wiconisco Creek (WWF); (4) an 18.0-inch PVC outfall with associated endwall in the floodway of Wiconisco Creek (WWF); (5) a 4.0-foot diameter manhole in the floodway of Wiconisco Creek (WWF); (6) a 50.0-foot wide by 140.0-foot long earthen stormwater detention facility in the floodway of Wiconisco Creek (WWF); and (7) the grading and paving of a 420.0-square foot area in the floodway to provide access around the treatment facility. Also to restore and maintain: (1) 50.0-feet of an unnamed tributary to Wiconisco Creek (WWF); and (2) 0.01 acres of Palustrine Scrub Shrub wetlands, all for the purpose of improving a sewage treatment facility and correcting pollution caused by malfunctioning on-lot septic systems. The project is located 500.0 feet south of the intersection of West Market Street and South Orange Street (Lykens, PA quadrangle, N: 14.23 inches, W: 0.23 inches; Latitude 40° 34' 42" N, Longitude 76° 37' 36" W) in Williams Township, Dauphin County.

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

**E10-464, FRA Development Group, LP**, 215 Executive Drive, Suite 300, Cranberry Township, PA 16066. FRA Stream Mitigation Sites, Cranberry Township, **Butler County**, ACOE Pittsburgh District (Baden, PA Quadrangle N: 40°, 44', 17.4"; W: 80°, 8', 12.6" and Mars, PA Quadrangle N: 40°, 42', 33.6"; W: 80°, 6', 31.7").

The applicant proposes stream restoration activities within a 740 linear foot reach of UNT Brush Creek, a perennial WWF stream, adjacent to Freshcorn Road (N: 40°, 44', 17.4"; W: 80°, 8', 12.6") and within a 715 linear foot reach of UNT Brush Creek, a perennial WWF stream, adjacent to Park Road within Cranberry Park (N: 40°, 42', 33.6"; W: 80°, 6', 31.7"). Stream restoration activities include: the creation of stream bank layback areas along 740 linear feet at the Freshcorn Road site, the construction and maintenance of rock cross-vanes and J-hook vanes at both stream restoration sites and the planting of riparian buffer vegetation at both stream restoration sites.

*Northeast Region: Oil and Gas Management Program Manager, Northcentral Regional Office, 208 West Third Street, Suite 101, Williamsport, PA 17701*

**E5329-002. Allegheny Enterprises, Inc.**, 3885 Roller Coaster Road, Corsica, PA, 15829-3833. Kelly Troyer/Edgerton Pipeline, in Bingham Township, **Potter County**, ACOE Baltimore District.

To construct, operate, and maintain a 4" natural gas pipeline with impacts to the following:

(1) Crossing 236.0 lineal feet of EV wetland (PEM) and 7.0 lineal feet of Turner Creek (CWF) via boring, (Ulysses, PA Quadrangle, Latitude: 41° 57' 18.8", Longitude: 77° 46' 25.6");

(2) Crossing 52.0 lineal feet of EV wetland (PEM) and 6.0 lineal feet of an unnamed tributary to Turner Creek (CWF) via boring, (Ulysses, PA Quadrangle, Latitude: 41° 57' 47.0", Longitude: 77° 46' 52.0");

(3) Crossing 3.0 lineal feet of an unnamed tributary to Turner Creek (CWF) via open cut trenching, with temporary impacts to 61.2 square feet (0.01 acre), (Ulysses, PA Quadrangle, Latitude: 41° 57' 49.0", Longitude: 77° 47' 41.7");

(4) Crossing 1.5 lineal feet of Shanty Hollow (CWF) via open cut trenching, with temporary impacts to 31.4 square feet (0.01 acre), (Ulysses, PA Quadrangle, Latitude: 41° 57' 57.8", Longitude: 77° 48' 5.9");

(5) Crossing 111.0 lineal feet of EV wetland (PEM) via open cut trenching, with temporary impacts to 2166.0 square feet (0.05 acre), (Ulysses, PA Quadrangle, Latitude: 41° 57' 45.6", Longitude: 77° 49' 42.6");

(6) Crossing 2.0 lineal feet of an unnamed tributary to Genesee River (CWF) via open cut trenching; with temporary impacts to 39.0 square feet (0.01 acre), (Ulysses, PA Quadrangle, Latitude: 41° 57' 44.7", Longitude: 77° 49' 41.9");

(7) Crossing 235.0 lineal feet of EV wetland (PEM) via open cut trenching, with temporary impacts to 3583.0 square feet (0.08 acre), (Ulysses, PA Quadrangle, Latitude: 41° 57' 42.6", Longitude: 77° 49' 47.3");

(8) Crossing 61.0 lineal feet of EV wetland (PFO) via open cut trenching, with temporary impacts to 1205.0 square feet (0.03 acre), (Ulysses, PA Quadrangle, Latitude: 41° 57' 36.1", Longitude: 77° 50' 0.6");

(9) Crossing 170.0 lineal feet of EV wetland (R3EM) and 30.0 lineal feet of Genesee River (CWF) via boring, (Ulysses, PA Quadrangle, Latitude: 41° 57' 32.9", Longitude: 77° 50' 6.8").

The project will result in 458.0 lineal feet of temporary EV wetland impacts via boring, 431.0 lineal feet of temporary channel impacts via boring, 6954.0 square feet (0.16 acre) of temporary EV wetland impacts via open cut trenching, and 6.5 lineal feet (131.6 square feet) of temporary channel impacts via open cut trenching.

#### ENVIRONMENTAL ASSESSMENTS

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

**EA25-051, US Army Corps of Engineers (Buffalo District)**, 1776 Niagara Street, Buffalo, NY 14207. Erie Harbor Dredging 2011, request for Section 401 Water Quality Certification. Environmental Assessment to Dredge the Erie Harbor, and Place Dredge Material in Open Lake Disposal Area, in City of Erie, Millcreek Township, Presque Isle State Park, Erie Harbor, **Erie County**, ACOE Pittsburgh District:

{ERIE HARBOR DREDGING: Erie North PA Quadrangle N: approx. 5.25 inches; W: approx. 10.25 inches}.

{OPEN LAKE DISPOSAL: Erie North PA Quadrangle N: approx. 14.0 inches; W: approx. 8.25 inches}.

The applicant proposes to conduct maintenance dredging of authorized Federal navigational channels of Erie Harbor, which include the Entrance Channel, Harbor Basin, Approach Area, and two Harbor Areas, in order to maintain sufficient depth for deep-draft commercial vessels. An estimated total of approximately 210,000 cubic yards of material is proposed to be dredged during this dredging cycle from Erie Harbor Federal Navigation Channels. The majority of materials are expected to be dredged from the Entrance Channel, Harbor Basin, and Approach Area portions of the Harbor.

The applicant further proposes the discharge of the associated dredged materials from the Federal navigational channels of Erie Harbor, described above, at the existing, authorized one-mile square, open-lake discharge area used for dredged material discharge since the 1930's, located approximately 3.3 miles from the Erie Harbor Pierhead Light, at an azimuth of 009 degrees, 00 minutes, into Lake Erie.

This dredging project proposes to impact 246.6 acres of Lake Erie, Erie Channel and Presque Isle Bay. The open-lake disposal project proposes to impact 1 square mile of Lake Erie.

## 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**

*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>
PA0025399— SEW	Christiana Borough 10 West Slokum Avenue Christiana, PA 17509	Lancaster County / Christiana Borough and Chester County / West Sadsbury Township	East Branch Octoraro Creek / 7-K	Y
PA0084506— SEW	Starlite Camping Resort 1500 Furnace Hill Road Stevens, PA 17578	Lancaster County / Clay Township	Dryswale to Middle Creek / 7-J	Y
PA0086941— SEW	Dwayne Kocher Stardust Motel 3418 Susquehanna Trail Duncannon, PA 17020-9445	Perry County / Watts Township	Susquehanna River / 6-C	Y



<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>
PA0085880— SEW	Albert D. Hafer & Christina Hafer 127 Lee Spring Road Blandon, PA 19510-9736	Berks County / Ruscombmanor Township	Dry Trench to UNT Willow Creek / 3-B	Y
PA0247642— SEW	Clay Manor Homeowner's Association 11 East Manor Drive Lititz, PA 17543	Lancaster County / Elizabeth Township	Middle Creek / 7-J	Y
PA0247731— SEW	DS Waters of America, Inc. (DS Bottled Water Ephrata) 1761 Newport Road Ephrata, PA 17522-8761	Lancaster County / West Earl Township	stormwater swale to the Cocalico Creek / 7-J	Y
PA0082589— SEW	Fairview Township Authority (Southern) 599 Lewisberry Road New Cumberland, PA 17070-2399	York County / Fairview Township	UNT to Fishing Creek / 7-E	Y
PA0261505— IW	Lebanon Seaboard Corporation 1600 East Cumberland Street Lebanon, PA 17042-8323	Lebanon County / South Lebanon Township	drainage swale to UNT to Quittapahilla Creek	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0033031 (Industrial Waste)	Department of Conservation and Natural Resources— Pymatuning State Park Tuttle Campground 2660 Williamsfield Road Jamestown, PA 16134	Crawford County North Shenango Township	Shenango River Pymatuning Reservoir 20-A	Y
PA0033014 (Sewage)	Department of Conservation and Natural Resources— Pymatuning State Park Linesville Beach 2660 Williamsfield Road Jamestown, PA 16134	Crawford County Pine Township	Shenango River Pymatuning Reservoir 20-A	Y
PA0239577 (Sewage)	USDA Forest Service Red Bridge Recreation Area STP 4 Farm Colony Drive Warren, PA 16365	McKean County Hamilton Township	Kinzua Creek 16-B	Y
PA0004995 (Industrial Waste)	Armstrong Cement & Supply Corporation 100 Clearfield Road Cabot, PA 16023-9531	Butler County Winfield Township	Rough Run 17-F	Y

## II. New or Expanded Facility Permits, Renewal of Major Permits and EPA Nonwaived Permit Actions

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

**NPDES Permit No. PA0008184**, Industrial Waste, **Harsco Corporation**, 350 Popular Church Road, Camp Hill, PA 17011.

This proposed facility is located in Harrisburg City, **Dauphin County**.

Description of Proposed Action/Activity: Termination of Permit.

**NPDES Permit No. PA0261297**, Industrial Waste, **John Weidman & Sons, Inc.**, 541 East Main Street, PO Box 416, Ephrata, PA 17522.

This proposed facility is located in Ephrata Township, **Lancaster County**.

Description of Proposed Action/Activity: Authorization to discharge to UNT Cocalico Creek in Watershed 7-J.

**NPDES Permit No. PA0084450, Amendment No. 1**, Industrial Waste, **Washington Headquarters Services**, 201 Beasley Drive, Suite 100, Fort Detrick, MD 21702.

This proposed facility is located in Liberty Township, **Adams County**.



Description of Proposed Action/Activity: Authorization to discharge to Miney Branch and UNT to Miney Branch in Watershed 13-D.

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

**NPDES Permit No. PA0233986**, Sewage, SIC Code 4952, **Aaron Kinter**, 301 Pleasant Valley Road, Cogan Station, PA 17728-8903.

This proposed facility is located in Hepburn Township, **Lycoming County**.

Description of Proposed Action/Activity: Issuance of an NPDES Permit for a new discharge of treated Sewage.

**NPDES Permit No. PA0028665**, Sewage, SIC Code 4952, **Jersey Shore Borough Lycoming County**, Jersey Shore Boro Auth, Jersey Shore, PA 17740.

This existing facility is located in Jersey Shore Borough, **Lycoming County**.

Description of Existing Action/Activity: Issuance of an NPDES Permit for an existing discharge of treated Sewage.

### III. WQM Industrial Waste and Sewerage Actions under The Clean Streams Law

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

**WQM Permit No. 6710408**, Sewage, **Penn Township**, 20 Wayne Avenue, Hanover, PA 17331.

This proposed facility is located in Penn Township, **York County**.

Description of Proposed Action/Activity: Construction of new sewer lines to eliminate the existing Laurel Drive and Timber Lane Pump Stations.

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

**WQM Permit No. 01411003**, Sewage, SIC Code 4952, **Aaron Kinter**, 301 Pleasant Valley Road, Cogan Station, PA 17728-8903.

This proposed facility is located in Hepburn Township, **Lycoming County**.

Description of Proposed Action/Activity: Construction and operation of a small flow treatment facility consisting of a 1,00 gallon concrete septic tank, dosing pump, 612 s.f. subsurface sand filter, chlorine tablet erosion chlorinator and a 500 gallon chlorine contact tank.

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

**WQM Permit No. 2571411**, Sewerage, **Amendment No. 1, Mainlines, Manholes, and Wastewater Treatment Inc.**, 9214 Tannery Road, Girard, PA 16417

This proposed facility is located in Girard Township, **Erie County**.

Description of Proposed Action/Activity: Issuance of a WQM Permit Amendment to replace tertiary tank with two new fixed media tertiary filtration tanks, enlarging the chlorine contact tank, adding dechlorination, and adding an effluent pump station.

**WQM Permit No. 1010404**, Sewerage, **Cranberry Township**, 2525 Rochester Road, Cranberry Township, PA 16066-6499.

This proposed facility is located in Cranberry Township, **Butler County**.

Description of Proposed Action/Activity: Construction of a parallel interceptor from Powell Road south to the Marshall Township line. The interceptor will increase the available carrying capacity to accommodate the existing and future sewage flows to the Brush Creek Water Pollution Control Facility.

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

**WQM Permit No. WQG02151010**, Sewerage, **Kendall-Crosslands Communities**, P. O. Box 100, Kennett Square, PA 19348.

This proposed facility is located in Kennett Township, **Chester County**.

Description of Action/Activity: Construction and operation of a sanitary sewer extension and two pump station.

**WQM Permit No. 1588442**, Sewerage, **Transfer**, East Vincent Township, 262 Ridge Road, Spring City, PA 19475.

This proposed facility is located in East Vincent Township, **Chester County**.

Description of Action/Activity: Permit transferred from East Vincent Township Municipal Authority to East Vincent Township for operation of Bartons Meadow WWTP.

### IV. NPDES Stormwater Discharges from MS4 Permit Actions

### V. NPDES Waiver Stormwater Discharges from MS4 Actions

### VI. NPDES Discharges of Stormwater Associated with Construction Activities Individual Permit Actions

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

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI01 1503103	BK Campbell, Inc. 402 Bayard Road, Ste 100 Kennett Square, PA 19348	Chester	Lower Oxford Township	Tributaries to West Branch Big Elk Creek (HQ-TSF-MF)
PAI01 1504029	BK Campbell, Inc. 402 Bayard Road, Ste 100 Kennett Square, PA 19348	Chester	Lower Oxford Township	Tributaries to West Branch Big Elk Creek (HQ-TSF-MF)
PAI01 1506088	BK Campbell, Inc. 402 Bayard Road, Ste 100 Kennett Square, PA 19348	Chester	Upper Oxford Township	West Branch Big Elk Creek (HQ-TSF-MF)
PAI01 1509004	BK Campbell, Inc. 402 Bayard Road, Ste 100 Kennett Square, PA 19348	Chester	Lower Oxford Township	West Branch Big Elk Creek (HQ-TSF-MF)
PAI01 151037	Real Estate Services, University of Pennsylvania 3101 Walnut Street Philadelphia, PA 19104	Chester	East and West Marlborough Townships	Red Clay Creek (TSF)
PAI01 151038	Southdown Homes, Inc. 55 Country Club Road, Ste 204 Downingtown, PA 19335	Chester	East and West Brandywine and Wallace Townships	Culberton Run (HQ-TSF)

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

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI024509004	Iroquois Ridge Partners, LLP 600 Smith Hill Road Stroudsburg, PA 18360	Monroe	Pocono Twp	Transue Run (HQ-CWF, MF) Dry Sawmill Run (HQ-CWF, MF)
PAI026409007(1)	Central Wayne Regional Authority 100 Fourth Street, Suite 8 Honesdale, PA 18431	Wayne	Honesdale Boro	West Branch Lackawaxen River (HQ-TSF, MF) Lackawaxen River (HQ-TSF, MF) Dyberry Creek (HQ-CWF, MF) UNT to Lackawaxen River (HQ-CWF, MF)

**VII. Approvals to Use NPDES and/or Other General Permits**

The EPA Region III Administrator has waived the right to review or object to this permit action under the waiver provision 40 CFR 123.23(d).

**List of NPDES and/or Other General Permit Types**

PAG-1	General Permit for Discharges from Stripper Oil Well Facilities
PAG-2	General Permit for Discharges of Stormwater Associated with Construction Activities (PAR)
PAG-3	General Permit for Discharges of Stormwater from Industrial Activities
PAG-4	General Permit for Discharges from Small Flow Treatment Facilities
PAG-5	General Permit for Discharges from Gasoline Contaminated Ground Water Remediation Systems
PAG-6	General Permit for Wet Weather Overflow Discharges from Combined Sewer Systems
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>
Richland Township Bucks County	PAG0200 0905088-R	Stanton Properties, LLC 330 Armwell Road Hillsborough, NJ 0884	Tohickon Creek (TSF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
Falls Township Bucks County	PAG0200 091067	Waste Management of PA., Inc. 1000 New ford Mill Road Morrisville, PA 19087	Delaware River (WWF-MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
Middletown Township Bucks County	PAG0200 0909107	AmeriCorp Homes One South State Street Newtown, PA 18940	Delaware River (WWF-MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
Ridley Park Borough and Ridley Township Delaware County	PAG0200 231020	PA Department of Transportation 7000 Geerdes Boulevard King of Prussia, PA 19406-1525	Little Crum Creek (WWF-MF); Stoney Creek (WWF-MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
City of Philadelphia Philadelphia County	PAG0200 511023	Ogontz Avenue Revitalization Co 1537 Haines Street Philadelphia, PA 19126	Tacony Creek (WWF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
Limerick Township Montgomery County	PAG20200 461079	Raymond J. Clarke 104 Saylor Road Schwenksville, PA 19473	Perkiomen Creek (TSF-MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
Lower Salford Township Montgomery County	PAG0200 461085	David Lukof 391 Main Street Harleysville, PA 19438	West Branch Skippack Creek (TSF-MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
Whitemarsh Township Montgomery County	PAG0200 461058	7 East Skippack Pike Assoc., LP One Presidential Blvd, Ste 300 Bala Cynwyd, PA 19004	Wissahickon Creek (TSF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
Plymouth Township Montgomery County	PAG0200 4609025-2	PA Department of Transportation 7000 Geerdes Boulevard King of Prussia, PA 19406	Schuylkill River, Plymouth Creek and Gulp Creek (WWF-MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
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

<i>Facility Location: Municipality &amp; County</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water / Use</i>	<i>Contact Office &amp; Phone No.</i>
Mount Joy Township Adams County	PAG2000106006-1	Barton L. Breighner Barton Real Estate, LLC 420 Bulk Plant Road Littlestown, PA 17340	Little Run/WWF	Adams County Conservation District 670 Old Harrisburg Road, Suite 201 Gettysburg, PA 17325 717-334-0636
Canton Township Bradford County	PAG2000810019	D & C Rentals, LLC 556 Ward Hill Rd Canton, PA 17724	UNT to Mill Creek CWF	Bradford County Conservation District Stoll Natural Resource Center RR 5, Box 5030C Towanda, PA 18848 (570) 265-5539, X 6
Fayette County Luzerne Twp.	PAG2002610013	Brownsville Municipal Authority PO Box 330 7 Jackson Street Brownsville, PA 15417	UNT to Cox Run (WWF)	Fayette County CD 10 Nickman Plaza Lemont Furnace, PA 15456 724-438-4497
Fayette County Georges Twp.	PAG2002610016	Calfrac Well Services Corp. Wes Mobley 717-17 Street, Suite 1445 Denver, CO 80202	Georges Creek (WWF)	Fayette County CD 10 Nickman Plaza Lemont Furnace, PA 15456 724-438-4497
Indiana County White Twp.	PAG02003210004	ALDI, Inc. 6000 North Noah Drive Saxonburg, PA 16056-9730	UNT McCarthy Run (CWF)	Indiana County CD 625 Kolter Drive, Suite 8 Indiana, PA 15701-3571 724-471-4751
Washington County Peters Twp.	PAG02006310020	Craig Cozza CHT Peters, LLC PO Box 453 Carnegie, PA 15106	Little Chartiers Creek (WWF)	Washington County CD 602 Courthouse Square Washington, PA 15301 724-228-6774

*General Permit Type—PAG-3*

<i>Facility Location: Municipality &amp; County</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water / Use</i>	<i>Contact Office &amp; Phone No.</i>
Upper Saucon Twp Lehigh County	PAR802254	First Student Inc 600 Vine St, Su. 1400 Cincinnati OH 45202	Saucon Creek (CWF)	PA DEP Northeast Regional Office 2 Public Square Wilkes-Barre, PA 18701-1915 570-826-2511
Wilson Boro Northampton County	PAR802263	NAGSCO 2 Madison Avenue Larchmount, NY 10538	Lehigh River (WWF)	PA DEP Northeast Regional Office 2 Public Square Wilkes-Barre, PA 18701-1915 570-826-2511
Berks County / Reading City	PAR143519	United Corrstack 720 Laurel Street Reading, PA 19602	Schuylkill River / WWF / 3C	DEP—SCRO—WQ 909 Elmerton Ave Harrisburg, PA 17110 717-705-4707

*General Permit Type—PAG-12*

<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>
Delmar Township, Tioga County	PAG124802	Pheasant Hill Farm of Balsam LLC, 601 Faulkner Road, Wellsboro, PA 16901	UNT of Stony Fork Creek, CWF	PADEP-NCRO 208 West Third Street, Suite 101, Williamsport, PA 17701, (570) 327-3636



## 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. 0610534 MA, Minor Amendment, Public Water Supply.**

Applicant	<b>Laurel Center CSW</b>
Municipality	Tilden Township
County	<b>Berks</b>
Responsible Official	Edward Schmitz, Maintenance Director Laurel Center 125 Holly Road Hamburg, PA 19256
Type of Facility	Installation of 36' of 24" diameter chlorine contact piping at Entry Points 101 & 102. Demonstration of 4-Log Treatment of Viruses for GWR.
Consulting Engineer	Douglas E Berg, P.E. Entech Engineering Inc 4 South 4th Street 125 Holly Road Reading, PA 19603
Permit to Construct Issued:	12/6/2010

<b>Permit No. 5010502, Public Water Supply.</b>	
Applicant	<b>Urban Perry Manor LLC</b>
Municipality	Oliver Township
County	<b>Perry</b>
Responsible Official	Andrew Delman, President 445 N. Wells Suite 200 Chicago, IL 60654
Type of Facility	Corrosion control treatment installation.
Consulting Engineer	Stephen M. Yingst, P.E. Criterium-Yingst Engineers, Inc. 421 W. Chocolate Avenue Hershey, PA 17033
Permit to Construct Issued:	12/20/2010

<b>Permit No. 2210510, Public Water Supply.</b>	
Applicant	<b>Yellow Breeches Education Center</b>
Municipality	West Hanover Township
County	<b>Dauphin</b>
Responsible Official	James Kohler 1524 Pine Tree Avenue Harrisburg, PA 17122-9638
Type of Facility	Installation of pH adjustment and poly/orthophosphate for LCR treatment.
Consulting Engineer	Janet R McNally, P.E. William F. Hill & Assoc., Inc. 207 Baltimore St. Gettysburg, PA 17325
Permit to Construct Issued:	12/20/2010

<b>Permit No. 3610546 MA, Minor Amendment, Public Water Supply.</b>	
Applicant	<b>P.C.S. Chadaga</b>
Municipality	Earl Township
County	<b>Lancaster</b>
Responsible Official	P.C.S. Chadaga 1300 Market St, Suite 201 PO Box 622 Lemoyne, PA 17043-0622
Type of Facility	Installation of chlorine contact tanks and demonstration of 4-log treatment of viruses
Consulting Engineer	Charles A Kehew II, P.E. James R. Holley & Assoc., Inc. 18 South George St. York, PA 17401
Permit to Construct Issued:	12/20/2010

**Operations Permit** issued to: **Renninger's Farm Market**, 3060584, Maxatawny Township, **Berks County** on 12/14/2010 for the operation of facilities approved under Construction Permit No. 0610515 MA.

**Operations Permit** issued to: **The York Water Company**, 7670100, Manheim Township, **York County** on 12/17/2010 for the operation of facilities approved under Construction Permit No. 6710507 MA.

**Operations Permit** issued to: **Hanover Toyota**, 7010992, Oxford Township, **Adams County** on 12/23/2010 for the operation of facilities approved under Construction Permit No. 0110510 MA.

**Operations Permit** issued to: **Oley Township Municipal Authority**, 3060053, Heidelberg Township, **Berks County** on 12/14/2010 for the operation of facilities approved under Construction Permit No. 0610516 MA.

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

**Permit No. Minor Amendment (1407503)—Operation** Public Water Supply.

Applicant	<b>Walker Township Water Association</b>
[Township or Borough]	Walker Township
County	<b>Centre</b>
Responsible Official	David Foreman, President Walker Township Water Association P. O. Box 160 Mingoville, PA 16856
Type of Facility	Public Water Supply
Consulting Engineer	David A. McCullough, P.E. Uni-Tec Consulting Engineers, Inc. 2007 Cato Avenue State College, PA 16801
Permit Issued Date	December 20, 2010
Description of Action	Operation of the Snyderstown PRV vault.

**Permit No. Minor Amendment—Operation** Public Water Supply.

Applicant	<b>Ulster Municipal Authority</b>
[Township or Borough]	Ulster Township
County	<b>Bradford</b>
Responsible Official	Ulster Municipal Authority P. O. Box 157 Ulster, PA 18850
Type of Facility	Public Water Supply
Consulting Engineer	Travis Long, P.E. Gwin, Dobson & Foreman, Inc. 3121 Fairway Drive Altoona, PA 16650
Permit Issued Date	December 22, 2010
Description of Action	Well # 1 screen replacement.

*Southwest Region: Water Supply Management Program Manager, 400 Waterfront Drive, Pittsburgh, Pa 15222-4745*

**Permit No. 0410502**, Public Water Supply.

Applicant	<b>New Sewickley Township Municipal Authority</b> 233 Miller Road Rochester, PA 15074
[Borough or Township]	New Sewickley Township
County	<b>Beaver</b>
Type of Facility	Water storage tank

Consulting Engineer	Michael Baker Jr., Inc. 4301 Dutch Ridge Road Beaver, PA 15009
---------------------	--

Permit to Construct Issued	December 13, 2010
----------------------------	-------------------

**Permit No. 5608507A1**, Public Water Supply.

Applicant	<b>Jenner Township</b> , 2058 Lincoln Highway, Boswell, PA 15531
[Borough or Township]	Jenner Township
County	<b>Somerset</b>
Type of Facility	Water system
Consulting Engineer	The EADS Group, Inc. 450 Aberdeen Drive Somerset, PA 15501
Permit to Construct Issued	December 21, 2010

**Operations Permit** issued to: **Municipal Authority of Westmoreland County**, 124 Park and Pool Road, New Stanton, PA 15672, (PWSID #5260036) Hempfield Township, **Westmoreland County** on December 21, 2010 for the operation of facilities approved under Construction Permit # 2609501.

**Operations Permit** issued to: **Fairchance Borough**, 125 West Church Street, Fairchance, PA 15436, (PWSID #5260007) Fairchance Borough, **Fayette County** on December 21, 2010 for the operation of facilities approved under Construction Permit # 2686501A1.

**Operations Permit** issued to: **Highland Sewer and Water Authority**, 120 Tank Drive, Johnstown, PA 15904, (PWSID #4110017) Summerhill Township, **Cambria County** on December 21, 2010 for the operation of facilities approved under Construction Permit # 1108503.

**Operations Permit** issued to: **Nanty Glo Water Authority**, 1015 First Street, Nanty Glo, PA 15943, (PWSID #4110023) City of Nanty Glo, **Cambria County** on December 21, 2010 for the operation of facilities approved under Construction Permit # 1107501MA.

**Permit No. 5610508MA**, **Minor Amendment**. Public Water Supply.

Applicant	<b>Rockwood Borough Municipal Authority</b> 358 Market Street Rockwood, PA 15557
[Borough or Township]	Rockwood Borough
County	<b>Somerset</b>
Type of Facility	Water treatment system
Consulting Engineer	The EADS Group, Inc. 450 Aberdeen Drive Somerset, PA 15501
Permit to Construct Issued	December 16, 2010

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

**Permit No. 1694502-MA2**, Public Water Supply

Applicant	<b>Knox Borough</b>
Township or Borough	Knox Borough
County	<b>Clarion County</b>

Type of Facility      Public Water Supply  
 Consulting Engineer    Barry M. English, PE  
 Permit to Construct    12/20/2010  
 Issued

**Permit No. 1694502-MA3**, Public Water Supply

Applicant              **Knox Borough**  
 Township or Borough    Knox Borough  
 County                 **Clarion County**  
 Type of Facility        Public Water Supply  
 Consulting Engineer    Barry M. English, PE  
 Permit to Construct    12/20/2010  
 Issued

**Permit No. 1010504**, Public Water Supply

Applicant              **Lakeview Mobile Home Park**  
 Township or Borough    Middlesex Township  
 County                 **Butler County**  
 Type of Facility        Public Water Supply  
 Consulting Engineer    Chapin S. Storrar, PE  
 Permit to Construct    12/22/2010  
 Issued

**Permit No. 1010502**, Public Water Supply

Applicant              **St. Barnabas Health Systems  
 Inc-Valencia Woods Nursing  
 Center; The Arbors**  
 Township or Borough    Valencia Borough  
 County                 **Butler County**  
 Type of Facility        Public Water Supply  
 Consulting Engineer    Dennis J. Duryea, PA, PE  
 Permit to Construct    12/23/2010  
 Issued

**Operations Permit** issued to **Mount Jewett Borough Authority**, Mount Jewett Borough, **McKean County** on December 20, 2010. Action is for operation of recently renovated 250,000 gallon elevated storage tank, known as the "Crest Hill Tank" No 1, in accordance with construction permit 844W-T1-MA3, issued October 29, 2010.

**Operations Permit** issued to **Johnsonburg Municipal Authority**, Johnsonburg Borough, **Elk County** on December 23, 2010. Action is for operation of recently replaced filter media in Filter Nos. 1 & 2 with in-kind materials/design and modified chlorine gas room at the Powers Run Water Treatment Plant. Corroded underdrain connections were also replaced with brass fittings. An operation inspection was conducted by Department personnel on December 22, 2010. This permit is issued in accordance with construction permit 2402501-MA1, issued January 23, 2009.

**SEWAGE FACILITIES ACT PLAN APPROVAL**

**Plan Approvals Granted under the Pennsylvania Sewage Facilities Act (35 P. S. § 750.5)**

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

*Plan Location:*

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Borough of Evans City	204B Jackson Street Evans City, PA 16033-1164	Butler

*Plan Description:* The approved plan provides for constructing a new 0.85 MGD secondary treatment process utilizing sequential batch reactor technology. Other components include preliminary treatment upgrades, conversion of the existing aeration/clarifier tanks into aerated sludge holding tanks, UV disinfection system and effluent flow metering. 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.

**HAZARDOUS SITES CLEAN-UP  
 UNDER THE ACT OF  
 OCTOBER 18, 1988**

**Public Notice of proposed Consent Order and Agreement**

**Upper Salford Township, Montgomery County, PA**

The Department of Environmental Protection ("Department"), under the authority of Section 1113 of the Pennsylvania Hazardous Sites Cleanup Act ("HSCA"), 35 P. S. § 6020.1113, hereby provides notice that it has entered into an agreement with Upper Salford Township ("the Township") where the Baghurst Alley HSCA Site ("the Site") is located. The agreement provides for the Township's cooperation in a HSCA response action and enables the Department to design and construct a community water supply system to serve properties affected by a plume of groundwater contamination. These properties are located on or adjacent to Hendricks Road, Baghurst Alley, and Old Church Road in Upper Salford Township, Montgomery County, PA, the area of the Site.

The Department's well sample results indicate that hazardous substances including 1,1,1 trichloroethane (TCA), 1,1 dichloroethene (DCE), dichloroethane (DCA) and 1,4-Dioxane have been released into the groundwater in the Site area. As an interim remedy, the Department provided both bottled water as well as whole house carbon filtration systems to impacted property owners. The community water supply will provide a permanent source of potable water to residents affected by the contamination. By its execution of the agreement, the Township seeks to voluntarily cooperate with the Department's efforts to abate the release and threatened release of hazardous substances impacting the Site. The Township will assume ownership and control of the community water supply system after completion of construction.

Section 1113 of HSCA, 35 P. S. § 6020.1113 states that, "settlement shall become final upon the filing of the Department's response to the significant written comments". The Township's and the Department's agreement is available for public review and comment. The agreement can be examined from 8 a.m. to 4 p.m. at the Department's Southeast Regional Office, located at 2 East Main Street, Norristown, PA 19401, by contacting either Dustin Armstrong, (484) 250-5723 or Gina M. Thomas, Esquire at (484) 250-5930. Mr. Armstrong and Ms. Thomas may also be contacted electronically at [darmsstrongstate.pa.us](mailto:darmsstrongstate.pa.us) and [githomasstate.pa.us](mailto:githomasstate.pa.us), respec-



tively. The public comment period for the agreement will extend for 60 days from today's date. Persons may submit written comments regarding the agreement within 60 days from today's date, by submitting them at the above address.

### Notice of Interim Response Completion

#### TCE Run Site, Salford Township and Upper Salford Township, Montgomery County

The Department of Environmental Protection (Department) under the authority of the Hazardous Sites Cleanup Act, 35 P. S. § 6020.101 *et seq.*, has completed an interim response at the TCE Run Site, Salford Township and Upper Salford Township, Montgomery County. The Department's response action included an investigation of the TCE Run Site (Site), located in Salford Township and Upper Salford Township, Montgomery County. The investigation included soil and groundwater sampling as well as monitoring of numerous private drinking water supply wells within the Site area. This monitoring included over ten years of residential well sampling.

The investigation revealed that approximately 50 residential drinking water wells were impacted by trichloroethene (TCE). TCE is a volatile organic compound, frequently used as a metal degreaser. The Department identified a groundwater contamination plume affecting residences along Moyer Road, in Salford Township and Upper Salford Township; and Thompson Road, Joanne Lane, Shady Lane, Sumneytown Pike, Old Sumneytown Pike, Bergey Road, Gladys Way, and Diminjan Lane in Upper Salford Township. At the onset of the investigation, TCE was detected in concentrations above its Maximum Contaminant Level (MCL) of 5 micrograms per liter (ug/l) for drinking water, adopted by the United States Environmental Protection Agency (EPA) pursuant to the Safe Drinking Water Act, *as amended*, 42 U.S.C. § 300f *et seq.* and by the Pennsylvania Environmental Quality Board pursuant to the Pennsylvania Safe Drinking Water Act, 35 P. S. § 721 *et seq.*

The Department's interim response comprised the installation and maintenance of whole-house carbon filtration units in the impacted homes. This alternative was protective of the public health and the environment. It eliminated the threat to the public health from TCE formerly found in the drinking water at levels exceeding its MCL. The filters removed TCE and other volatile organic contamination in the affected water supplies to undetectable levels, or to levels well below the MCLs, thereby eliminating the threat to human health.

Of the approximately 50 residential wells formerly impacted by the groundwater contamination, none presently exceed the MCL for TCE. Based on over ten years of sampling and analysis of well water in the area, trends indicate that volatile organic compounds from the site, including TCE, are not now present in drinking water supplies above applicable MCLs, and will not exceed the MCLs in these wells. Thus, the Department proposes to discontinue residential water supply sampling and discontinue carbon filter system maintenance within the Site area.

An Administrative Record, which contains more detailed information concerning this proposed interim response action, is available for public inspection. The Administrative Record may be examined from 8:00 AM to 4:00 PM at the Department's office at 2 East Main Street,

Norristown, PA 19401, (484) 250-5960. Those interested in examining the Administrative Record should contact David Ewald at (484) 250-5725 to arrange for an appointment. An additional copy of the Administrative Record is available for review at the Upper Salford Township Municipal Building at 1441 Salford Station Road in Upper Salford Township, Montgomery County.

Pursuant to Section 506(d) of HSCA, 35 P. S. § 6020.506(d), a public hearing will be held on February 23, 2011 at 7:00 PM at the Upper Salford Township Municipal Building which is located at 1441 Salford Station Road, Salfordville, Montgomery County. Persons who want to present formal oral comments regarding this interim response may do so by registering with the Department before the meeting. Individuals may register by calling the Department's Community Relations Coordinator, Lynda Rebarchak, at (484) 250-5820.

Persons with a disability who wish to attend the February 23, 2011 meeting and require an auxiliary aid, service or other accommodation to participate in the proceedings should contact Lynda Rebarchak at the telephone number listed above or through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs. The public may also submit written comments regarding the Department's interim response action during the period of public comment. In accordance with Section 506(c) of HSCA, the Department has established a period for public comment that is now open and will close on April 2, 2010. Written comments should be addressed to David Ewald, Project Officer, Pennsylvania Department of Environmental Protection, 2 East Main Street, Norristown, PA 19401.

Individuals with questions concerning this notice should contact David Ewald at (484) 250-5725, or by email at [dewald@state.pa.us](mailto:dewald@state.pa.us).

## 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:

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

**Arco Logistics, Inc. Release**, Green Township, **Clinton County**. Northridge Group Inc., 1172 Ride Road, Northumberland, PA 17857 on behalf of Arco Logistics, Inc, 6835 Cochran Road, Solon, OH 44139 has submitted a Final Report within 90 days of a release concerning remediation of site soil contaminated with diesel fuel. The report is intended to document remediation of the site to meet the Statewide Health Standard.

**Former Getty Pumping Station Griffith Road**, Muncy Creek Township, **Lycoming County**. SAIC, 6310 Allentown Blvd., Harrisburg, PA 17112 on behalf of Texaco Downstream Properties, Inc., c/o CBRES, 6001 Bollinger Canyon Road, San Ramon, CA 94583 has submitted a Remedial Investigation Report concerning remediation of site soil and groundwater contaminated with various volatile and semi volatile organic compounds associated with petroleum products such as diesel fuel and crude oil. The report is intended to document remediation of the site to meet the Site-specific Standard.

**Johnson's Café Release**, Montoursville Borough, **Lycoming County**. James P. Sposito Associates, 11 Archbald St., Carbondale, PA 18407 on behalf of Gordon Snyder, 334 Broad St., Montoursville, PA 17754 has submitted Final Report within 90 days of the release 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.

*Southwest Region: Environmental Cleanup Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.*

**Rosedale Tract KOZ and Lower Ore Yard KOZ**, City of Johnstown, **Cambria County**. L. Robert Kimball Associates, 615 West Highland Avenue, P. O. Box 1000, Ebensburg, PA 1531 on behalf of the Johnstown Redevelopment Authority, 401 Washington Street, 4th Floor, Johnstown, PA 15901 has submitted a Site Specific Final Report concerning the remediation of site soil contaminated with heavy metals. The Final Report was noticed in the *Johnstown Tribune Democrat*.

## 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 Standards 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 a 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:

*Northeast Region: Eric Supey, Environmental Cleanup Program Manager, 2 Public Square, Wilkes-Barre, PA 18701-1915.*

**Pocono MHP-Lot 29**, 740 Jumper Road, Plains Township, **Luzerne County**. Daniel Nealon, Quad Three Group, Inc., 72 Glenmaura National Boulevard, Moosic, PA 18507 submitted a Final Report (on behalf of their

client, REO Trust, LLC 1300 Market Street, Suite 201, Lemoyne, PA 17043-1420), concerning the remediation of soil found to have been impacted by No 2 fuel oil as a result of a slow leak in the copper line fitting at the base of a 275-gallon aboveground storage tank. The report documented attainment of the residential Statewide Health Standard for soil and was approved on December 15, 2010.

**Regan Property**, 56 Flintlock Trail, Tobyhanna Township, **Monroe County**. Paul Martino, Pennoni Associates, Inc. One Drexel Plaza, 3001 Market Street, 2nd Floor, Philadelphia, PA 19104 has submitted a Final Report (on behalf of his clients Christian and Gretchen Regan, 13 N. Morgan Avenue, Havertown, PA 19083), concerning the remediation of soils found to have been impacted by No. 2 fuel oil as a result of a leaking aboveground storage tank. The report documented attainment of the Statewide Health Standard for soil and was approved on December 17, 2010.

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

**Sternat Residence**, Robeson Township, **Berks County**. Trimpi Associates, Inc., 1635 Old Plains Road, Pennsburg, PA 18073, on behalf of Jill and Don Sternat, 216 Watercress Drive, Birdsboro, PA 19508 and Federated Insurance, PO Box 328, Owatonna, MN 55060, submitted a Final Report concerning remediation of site soils contaminated with No. 2 fuel oil from a ruptured aboveground storage tank. The Final Report demonstrated attainment of the Residential Statewide Health standard, and was approved by the Department on December 17, 2010.

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

**Quality Carriers and FLEET Transit Truck Accident**, Ridgway Township, **Elk County**. Environmental Alliance, 117 Olde Farm Office Road, Suite 135, Duncansville, PA 16635 on behalf of Quality Carriers, Inc., 4041 Parks Oaks Boulevard, Tampa, FL 33610-9524 and FLEET Transit, Inc., 3400 Fairfield Road, Baltimore, MD 21226-1088 has submitted a Final Report concerning the remediation of site soils contaminated with Benzene, Toluene, Ethylbenzene, MtBE, Naphthalene, Cumene, 1,2,4 Trimethyl benzene, 1,3,5 Trimethyl benzene, and Aluminum. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department on November 23, 2010.

**Honeywell Farmers Valley South of Cole Creek (Farmers Valley Wax Plt—Area South of Cole Creek)**, Keating Township, **McKean County**. URS Corporation, Foster Plaza 4, 501 Holiday Drive Suite 300, Pittsburgh, PA 15220 on behalf of Pennzoil-Quaker State Company, 910 Louisiana OSP 687, Houston, TX 77002 has submitted a Risk Assessment/Final Report concerning the remediation of site soil & site groundwater contaminated with petroleum hydrocarbons. The Risk Assessment/Final Report demonstrated attainment of the Site-Specific Standard and was approved by the Department on November 9, 2010.

*Southwest Region: Environmental Cleanup Program Manager, 400 Waterfront Drive, Pittsburgh, Pa 15222-4745*

**RIDC City Center of Duquesne**, City of Duquesne, **Allegheny County**. KU Resources, 22 South Linden Street, Duquesne PA 15110 on behalf of the RIDC of Southwestern Pennsylvania, the American textile Company, Inc., MBC Properties (Miller Bros Construction),

Ruttenberg Realty Company, LLC., Greater Pittsburgh Community Food Bank, and the Regional Trail Alliance has submitted a Combined Remedial Investigation, Risk Assessment and Cleanup Plan Report concerning the remediation of site soil and groundwater. Soil is contaminated with semi-volatile organic compounds, volatile organic compounds, metals and PCBs while groundwater is contaminated with volatile organic compounds and metals. The Combined Report was approved on December 20, 2010.

#### HAZARDOUS WASTE TRANSPORTER LICENSE

**Actions on applications for Hazardous Waste Transporter License received under the Solid Waste Management Act of July 7, 1980 (P. L. 380, No. 97) (35 P. S. §§ 6018.101—6018.1003) and regulations to transport hazardous waste.**

*Central Office: Bureau of Land Recycling and Waste Management, Division of Hazardous Waste Management, PO Box 8471, Harrisburg, PA 17105-8471*

*Hazardous Waste Transporter License Issued*

**Better Management Corporation**, P. O. Box 130, Columbiana, OH 44408. License No. PA-AH 0773. Effective August 31, 2010.

**Cemco-Custom Environmental Management**, P. O. Box 212, Hainesport, NJ 08036. License No. PA-AH 0776. Effective November 15, 2010.

**WM Healthcare Solutions, Inc.**, 1001 Fannin Street, Suite 4000, Houston, TX 77002. License No. PA-AH 0775. Effective November 15, 2010.

**IISG Central Region, LLC**, 2021 S. Schaefer Highway, Detroit, MI 48217. License No. PA-AH 0774. Effective November 30, 2010.

**Haz-mat Environmental Services, LLC**, P. O. Box 37392, Charlotte, NC 28237. License No. PA-AH 0778. Effective December 7, 2010.

*Hazardous Waste Transporter License Renewed*

**Bionomics, Inc.**, P. O. Box 817, Kingston, TN 37763. License No. PA-AH 0730. Effective September 17, 2010.

**Jade Tank Lines, Inc.**, P. O. Box 1621, Wilmington, NC 28401. License No. PA-AH 0759. Effective September 17, 2010.

**US Environmental, Inc.**, 409 Boot Road, Downingtown, PA 19335. License No. PA-AH 0675. Effective September 17, 2010.

**Bed Rock, Inc.**, DBA TSMTCO, P. O. Box 113, Joplin, MO 64802. License No. PA-AH 0697. Effective September 17, 2010.

**Laidlaw Carriers Van GP, Inc.**, 1179 Ridgeway Road, Woodstock ON N4S 1 E3 Canada. License No. PA-AH 0714. Effective September 22, 2010.

**Heritage-Crystal Clean, LLC**, 2175 Point Blvd, Suite 375, Elgin, IL 60123. License No. PA-AH 0672. Effective September 28, 2010.

**Ameritech Environmental Services, Inc.**, P. O. Box 539, Eliot, ME 03903. License No. PA-AH 0677. Effective October 22, 2010.

**Technic, Inc.**, 1 Spectacle Street, Cranston, RI 02910. License No. PA-AH S134. Effective October 22, 2010.

**Environmental Coordination Services**, 3237 US Highway 19, Cochran, PA 16314. License No. PA-AH 0757. Effective November 2, 2010.

**Bishop & Associates, Inc.**, P. O. Box 6483, Baltimore, MD 21230. License No. PA-AH 0717. Effective November 2, 2010.

**Transport Rollex LTEE**, 910 Boul Lionel-Boulet, Varennes, PQ J3X 1P7 Canada. License No. PA-AH 0544. Effective November 9, 2010.

**Envirite of Ohio, Inc.**, 2050 Central Avenue S E, Canton, OH 44707. License No. PA-AH 0548. Effective November 16, 2010.

**Vickery Transportation, Inc.**, 18375 E, 345 S, Grammer, IN 47236. License No. PA-AH 0698. Effective November 16, 2010.

**Envirite of Pennsylvania, Inc.**, 730 Vogelsong Road, York, PA 17404. License No. PA-AH 0549. Effective December 1, 2010.

**Environmental Transport Group, Inc.**, P. O. Box 296, Flanders, NJ 07836-0296. License No. PA-AH 0104. Effective December 2, 2010.

**Buffalo Fuel Corporation**, 4870 Packard Road, Niagara Falls, NY 14304. License No. PA-AH 0147. Effective December 3, 2010.

**Ross Transportation Services, Inc.**, 36790 Giles Road, Grafton, OH 44044. License No. PA-AH 0133. Effective December 7, 2010.

**Dart Trucking Company, Inc.**, P. O. Box 157, 11017 Market Street, North Lima, OH 44452. License No. PA-AH 0219. Effective December 15, 2010.

**Transwaste, Inc.**, 3 Barker Drive, Wallingford, CT 06492. License No. PA-AH 0674. Effective December 17, 2010.

---

**Hazardous Waste Transporter License, actions taken under the Solid Waste Management Act of July 7, 1980 (P. L. 380, No. 97) (35 P. S. §§ 6018.101—6018.1003) and regulations to transport hazardous waste.**

---

*Central Office:—Bureau of Land Recycling and Waste Management, Division of Hazardous Waste Management, PO Box 8471, Harrisburg, PA 17105-8471*

*Hazardous Waste Transporter License Expired*

**Inland Waters Pollution Control Services, LLC**, 2021 S. Schaefer Highway, Detroit, MI 48217. License No. PA-AH 0746. August 31, 2010.

*Hazardous Waste Transporter License Voluntarily Terminated*

**Republic Services of South Carolina, LLC, DBA Fenn-Vac**, P. O. Box 62679, North Charleston, SC 29419-2679. License No. PA-AH 0542. Effective July 12, 2010.

**Stericycle, Inc.**, 18 Water Street, Reading, PA 19605. License No. PA-AH 0710. Effective November 1, 2010.

#### **INFECTIOUS AND CHEMOTHERAPEUTIC WASTE TRANSPORTER LICENSE**

---

**Actions on applications for Infectious and Chemotherapeutic Waste Transporter License received under the Solid Waste Management Act of July 7, 1980 (P. L. 380, No. 97) (35 P. S. §§ 6018.101—6018.1003) and Act 93 of June 28, 1988 (P. L. 525, No. 93) and regulations to transport infectious and chemotherapeutic waste.**

---

*Central Office: Bureau of Land Recycling and Waste Management, Division of Hazardous Waste Management, PO Box 8471, Harrisburg, PA 17105-8471*

*Infectious and Chemotherapeutic Waste Transporter License Renewed*

**Veolia ES Technical Solutions, LLC**, 1 Eden Lane, Flanders, NJ 07836. License No. PA-HC0221. Received on August 12, 2010.

**The Pennsylvania State University**, 6 Eisenhower Parking Deck, University Park, PA 16802-2116. License No. PA-HC 0153. Received on August 26, 2010.

**Daniel's New Jersey, LLC**, 135 South LaSalle Street, Suite 2850, Chicago, IL 60603. License No. PA-AH 0222. Received on September 20, 2010.

**Pet Memorial Services Corporation**, 126 Turner Lane, West Chester, PA 19380. License No. PA-AH 0195. Received on October 26, 2010.

**The Williamsport Hospital**, 777 Rural Avenue, Williamsport, PA 17701-3109. License No. PA-AH 0186. Received on October 28, 2010.

**Conservative Environmental Services, Inc.**, P. O. Box 745, Mechanicsburg, PA 17055-0745. License No. PA-AH 0224. Received on November 25, 2010.

*Infectious and Chemotherapeutic Waste Transporter License Issued*

**WM Healthcare Solutions, Inc.**, 1001 Fannin Street, Suite 4000, Houston, TX 77002. License No. PA-HC 0244. Effective November 10, 2010.

#### **OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE**

---

**Permits Issued under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003), the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904) and Regulations to Operate Solid Waste Processing or Disposal Area or Site.**

---

*Southeast Region: Regional Solid Waste Manager, 2 East Main Street, Norristown, PA 19401*

**Permit No. 400633. Wheelabrator Falls, Inc.**, 1201 New Ford Mill Road, Morrisville PA 19067-3701. This minor permit modification application has been approved for the facility's operation plan to reflect the utilization of the existing Material Recovery Facility (MRF) as a collection center for single stream source-separated recyclable materials. The Wheelabrator Falls, Inc. is a resource recovery facility located in Falls Township, **Bucks County**. The permit was issued by the Southeast Regional Office on December 17, 2010.

*Southeast Region: Regional Solid Waste Manager, 2 East Main Street, Norristown, PA 19401*

**Permit No. 301338. Calgon Carbon Corporation**, 1055 Boot Road, Downingtown PA 19355, East Caln Township, **Chester County**. This permit was issued to allow for the short-term, continued operation of the Downingtown Transfer Station Facility, an existing residual waste transfer facility, during the review of the facility's 10-year renewal application. The permit was issued by the Southeast Regional Office on December 21, 2010.



## AIR QUALITY

**General Plan Approval and Operating Permit Usage Authorized under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127 to construct, modify, reactivate or operate air contamination sources and associated air cleaning devices.**

*Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401*

*Contact: Sachin Shankar, New Source Review Chief—Telephone: 484-250-5920*

**GP3-46-0091: Glasgow, Inc.** (P. O. Box 1089, Glenside, PA 19038) on December 21, 2010, to operate a portable nonmetallic mineral processing plant in Conshohocken Borough, **Montgomery County**.

**GP14-09-0132: Donald R. Kreider, VMD** (1501 2nd Street Pike, Southampton, PA 18966) on December 23, 2010, to operate a pet crematory in Upper Southampton Township, **Bucks County**.

**GP1-15-0100: WorldColor (USA) LLC—d.b.a. WorldColor Atglen** (4581 Lower Valley Road, Atglen, PA 19310) on December 23, 2010, to operate a high pressure steam boiler (No. 7) in West Sadsbury Township, **Chester County**.

**GP1-15-0101: WorldColor (USA) LLC—d.b.a. WorldColor Atglen** (4581 Lower Valley Road, Atglen, PA 19310) On December 23, 2010, to operate a small natural gas fired combustion unit (boiler No. 7) in West Sadsbury Township, **Chester County**.

*Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110*

*Contact: Thomas J. Hanlon, Chief, East Permitting Section—Telephone: 717-705-4862 or Daniel Husted, Chief, West Permitting Section—Telephone: 717-949-7935*

**GP13-28-05035: St. Thomas Development, Inc.—Highway Materials, Inc.** (1750 Walton Road, Blue Bell, Pennsylvania 19422-0465) on December 21, 2010, for a batch asphalt plant at the Saint Thomas Quarry in Saint Thomas Township, **Franklin County**.

**GP15-36-03040: Wenger's Feed Mill, Inc.** (101 West Harrisburg Avenue, Rheems, Pennsylvania 17570-0026) on December 21, 2010, for addition of three (3) new bin vent filters on existing storage bins at the feed manufacturing facility located in Mount Joy Township, **Lancaster County**.

*Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701*

*Contact: Muhammad Q. Zaman, Environmental Program Manager—Telephone: 570-327-3648*

**GP5-53-103A: Pennsylvania General Energy Co., L.L.C.** (120 Market Street, Warren, PA 16365) on December 13, 2010, to construct and operate one (1) 155.2 bhp natural gas-fired compressor engine under the General Plan Approval and/or General Operating Permit for Natural Gas, Coal Bed Methane Or Gob Gas Production Or Recovery Facilities (BAQ-GPA/GP-5) at their Well 1877 Compressor Station in Eulalia Township, **Potter County**.

**GP3-17-497: R. S. Services** (119 Falls Road, Beech Creek, PA 16822) on December 21, 2010, to construct and operate a portable non-metallic mineral jaw crusher and a portable non-metallic mineral vibratory screen with associated water spray dust suppression systems pursu-

ant to the General Plan Approval And/OR General Operating Permit For Portable Nonmetallic Mineral Processing Plants (BAQ-PGPA/GP-3) at their facility in Goshen Township, **Clearfield County**.

**GP11-17-497: R. S. Services** (119 Falls Road, Beech Creek, PA 16822) on December 21, 2010, to construct and operate one Deutz model BF6M1015C diesel-fired engine with a rating of 366 brake horsepower (bhp) and one Deutz model BF4M2012 diesel-fired engine with a rating of 100 bhp pursuant to the General Plan Approval And/OR General Operating Permit (BAQ-GPA/GP-11): Nonroad Engines at their facility in Goshen Township, **Clearfield County**.

**GP3-14-229: Glenn O. Hawbaker, Inc.** (450 East College Avenue, Bellefonte, PA 16823) on December 21, 2010, to construct and operate a portable non-metallic mineral crusher with associated water spray dust suppression system pursuant to the General Plan Approval And/OR General Operating Permit For Portable Nonmetallic Mineral Processing Plants (BAQ-PGPA/GP-3) at their Pleasant Gap facility in Spring Township, **Centre County**.

*Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481*

*Contact: Mark Gorog, New Source Review Chief—Telephone: 814-332-6940*

**GP5-42-233A: EOG Resources, Inc.—Clermont Compressor Station** (21 Compressor Road, Wilcox, PA 15780) on December 16, 2010, to operate a natural gas fired compressor engine (BAQ-GPA/GP-5) in Sergeant Township, **McKean County**.

**Plan Approvals Issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and regulations in 25 Pa. Code Chapter 127, Subchapter B relating to construction, modification and reactivation of air contamination sources and associated air cleaning devices.**

*Northeast Region: Air Quality Program, 2 Public Square, Wilkes Barre, PA 18711-0790*

*Contact: Ray Kempa, New Source Review Chief—Telephone: 570-826-2507*

**58-329-016: Cabot Oil & Gas Corp.** (5 Penn Center West, Suite 401, Pittsburgh, PA 15276) on December 10, 2010, to install four (4) new compressor engines and one (1) stand-by engine generator set at their Lathrop Compressor Station site in Springville Township, **Susquehanna County**.

**54-399-045: Silberline Manufacturing Co., Inc.** (130 Lincoln Drive, Tamaqua, PA 18252) on December 22, 2010, to modify their existing aluminum pigment manufacturing process to add additional equipment with controls at their facility in Rush Township, **Schuylkill County**.

*Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110*

*Contact: Thomas J. Hanlon, Chief, East Permitting Section—Telephone: 717-705-4862 or Daniel Husted, Chief, West Permitting Section—Telephone: 717-949-7935*

**67-05092G: Starbucks Coffee Co.** (3000 Espresso Way, York, Pennsylvania 17402-8035) on December 15, 2010, for installation of drums and burners on Coffee Roasters 1A and 1B and replacement of burners on the



catalytic oxidizers associated with those roasters at the coffee manufacturing facility in East Manchester Township, **York County**.

*Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745*

*Contact: Mark Gorog and Barb Hatch, Environmental Engineer Managers—Telephone: 412-442-4163/5226*

**11-00527: Phoenix Services, LLC** (1717 West Doe Run Road, Unionville, PA 19375) on December 21, 2010, to construct and begin initial temporary operation of a slag processing and handling facility to be named Johnstown Slag Preparation Facility and in Franklin Borough, **Cambria County**.

*Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481*

*Contact: Mark Gorog, New Source Review Chief—Telephone: 814-332-6940*

**24-167A: E Carbon America, LLC** (806 Theresia Street, St. Marys, PA 15857) on December 15, 2010, to modify the method of operation for the carbon baking kilns and construction of the impregnation department in St Marys City, **Elk County**. This is a Title V facility.

**62-017S: United Refining Co.** (15 Bradley Street, Warren, PA 16365) on December 16, 2010, to modify several existing sources to produce reduced benzene gasoline (meet EPA's MSAT II fuel requirements) in Warren City, **Warren County**. This is a Title V facility.

---

**Plan Approval Revisions Issued including Extensions, Minor Modifications and Transfers of Ownership under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code §§ 127.13, 127.13a and 127.32.**

---

*Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401*

*Contact: Sachin Shankar, New Source Review Chief—Telephone: 484-250-5920*

**46-0172B: Gemalto, Inc.** (101 Park Drive, Montgomeryville, PA 18936) on November 22, 2010, to operate a new sakurai silk screen press in Montgomery Township, **Montgomery County**.

*Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110*

*Contact: Thomas J. Hanlon, Chief, East Permitting Section—Telephone: 717-705-4862 or Daniel Husted, Chief, West Permitting Section—Telephone: 717-949-7935*

**28-05011B: Waste Management Disposal Services of PA, Inc.** (9446 Letzberg Road, Greencastle, PA 17225-9317) on December 22, 2010, to expand the existing landfill and the landfill gas collection system at their existing Mountain View Reclamation facility in Antrim Township, **Franklin County**. The plan approval was extended.

**67-05041A: Defense Logistics Agency** (DESSP-PG "S" Avenue & 3rd Street, Building 750, New Cumberland, PA 17070) on December 22, 2010, to construct three (3) new boilers to replace four (4) existing boilers at the Defense Distribution Depot Susquehanna, PA in Fairview Township, **York County**. The plan approval was extended.

*Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481*

*Contact: Mark Gorog, New Source Review Chief—Telephone: 814-332-6940*

**42-004E: American Refining Group** (77 North Kendall Avenue, Bradford, PA 16701) on December 21, 2010, for a minor plan approval amendment to waive the H<sub>2</sub>S performance testing and implement an H<sub>2</sub>S alternative monitoring plan associated with the Hydrotreater Unit and the flue gas Desulfurization Unit permitted in Plan Approval 42-004C at their Bradford facility in Bradford City, **McKean County**. This is a Title V facility, Permit No. 42-0004.

**43-305D: Champion Carrier Corp.** (2755 Kirila Road, Hermitage, PA 16148-9019) on December 20, 2010, to reactivate Paint Booth No. 3 to coat steel parts at their facility in the City of Hermitage, **Mercer County**. The facility currently has a State Only Operating Permit No. 43-00305.

---

**Operating Permits for Non-Title V Facilities Issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter F.**

---

*Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401*

*Contact: Janine Tulloch-Reid, Facilities Permitting Chief—Telephone: 484-250-5920*

**09-00022: Cleveland Steel Container Corp.** (350 Mill Street, Quakertown, PA 18951) on December 20, 2010, for a renewal of a Synthetic Minor Operating Permit in Quakertown Borough, **Bucks County**. The facility's emission points include paint booths and lithographic printing presses, which emit major levels of Volatile Organic Compounds (VOC); however, with this renewal, Cleveland Steel is capping VOC emissions to below the major level threshold of 25 tons per year VOC. There are no new sources at the facility and no new applicable regulations in this permit. Compliance Assurance Monitoring (CAM) requirements have been removed from the permit because the facility is no longer a Title V facility. The renewal permit will include monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

**15-00058: Martin Limestone, Inc.** (199 Quarry Road, Honey Brook, PA 19344) on December 20, 2010, for operation of a limestone crushing plant in Honey Brook Township, **Chester County**. The major sources of air pollutant emissions include a primary, a secondary and two tertiary crushers, their associated triple-deck screens and conveyers powered by electricity. The operation of this plant will result in Particulate Matter (PM) being emitted into the atmosphere. This Operating Permit is for a non-Title V (State Only), Natural Minor facility. It contains monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

*Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110*

*Contact: Thomas J. Hanlon, Chief, East Permitting Section—Telephone: 717-705-4862 or Daniel Husted, Chief, West Permitting Section—Telephone: 717-949-7935*

**28-03045: Dominion Transmission, Inc.** (445 West Main Street, Clarksburg, West Virginia 26301-2843) on December 21, 2010, for their natural gas pumping station in Hamilton Township, **Franklin County**. This is a renewal of the State Only Operating permit.

**07-03045: Cargill, Inc.—Animal Nutrition Mfg.** (965 Frederick Road, Martinsburg, Pennsylvania 16662-8862) on December 9, 2010, for their animal feed manufacturing facility in Taylor Township, **Blair County**. This is a renewal of the State Only Operating permit.

**07-3033: James E. Van Zandt VA Medical Center** (2907 Pleasant Valley Boulevard, Altoona, Pennsylvania 16602-4377) on December 15, 2010, for their boilers emergency generators, parts washer and ethylene oxide sterilizers at their medical facility in Logan Township, **Blair County**. This is a renewal of the State Only Operating permit.

*Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481*

*Contact: Matthew Williams, Facilities Permitting Chief—Telephone: 814-332-6940*

**37-00290: Ferrotech Corp.** (526 South Jefferson Street, New Castle, PA 16101) on December 16, 2010, to re-issue a Natural Minor Operating Permit to operate this scrap metal processing facility in New Castle City, **Lawrence County**. The facility's primary emission sources are the cutting torches used to sever large pieces of scrap.

**42-00155: MSL Oil and Gas Corp.** (Route 219 and Route 59 intersection, Lewis Run, Lafayette, PA 16738) on December 21, 2010, to operate a gas production and distribution corporation in Lafayette Township, **McKean County**. The significant sources are one compressor engine of 360 HP with refrigeration system and re-boiler, one 186 HP compressor engine with catalytic converter, one 180 HP compressor engine and miscellaneous equipment leaks. The facility is a natural minor because the emissions from the facility are less than Title V emission thresholds.

**Operating Permit Revisions Issued including Administrative Amendments, Minor Modifications or Transfers of Ownership under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code §§ 127.412, 127.450, 127.462 and 127.464.**

*Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401*

*Contact: Janine Tulloch-Reid, Facilities Permitting Chief—Telephone: 484-250-5920*

**15-00094: Metallurgical Products Co.** (P. O. Box 598, West Chester, PA 19381) on December 20, 2010, the State Only Operating Permit has been amended to incorporate plan approval Nos. PA-15-0094, 15-0094A, and 15-0094B requirements, in accordance with 25 Pa. Code 127.450. The amended State Only Operating Permit contains the applicable regulatory requirements including monitoring, recordkeeping, reporting and emission limits for the facility in West Goshen Township, **Chester County**.

*Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745*

*Contact: Barbara Hatch, Facilities Permitting Chief—Telephone: 412-442-4174*

**26-00475: Amerikohl Aggregates, Inc.—Jim Mountain Plant** (State Route 653, Mill Run, PA 15464) on December 10, 2010, the Department administratively amended the State Only Operating Permit to incorporate the change of ownership into the Operating Permit located in Springfield Township, **Fayette County**.

**Operating Permits Denied, Terminated, Suspended or Revoked under the Air Pollution Control Act (35 P. S. §§ 4001—4015) 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*

**20-00292: MacLean Saegertown LLC** (One Crawford Street, Saegertown, PA 16433) on December 16, 2010, for revocation of their State Only Operating Permit for the cutting tool and machine tool accessory manufacturing facility in Saegertown Borough, **Crawford County**. The primary sources at the facility were 1 hot water boiler (1.3 mmbtu/hr), 4 augers and 8 remote parts washers, and an immersion parts washer. The facility removed the 4 augers and 8 parts washers. The VOC from parts washing at the facility decreased from 1,260 gallons in 2009 to 110 gallons in 2010. The facility estimated the potential VOC emissions from the facility as 1.25 TPY and the sources were therefore exempted from plan approval. Since the facility is not required to have a plan approval and the potential VOC emissions from the facility are less than 8 TPY, an operating permit is not required. This operating permit was therefore revoked.

**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*

**56950110 and NPDES No. PA0213217. Heritage Coal and Natural Resources, LLC**, 208 W. Mud Pike, Rockwood, PA 15557, permit renewal for continued operation and restoration of a bituminous surface mine in Elk Lick Township, **Somerset County**, affecting 166.8 acres. Receiving stream(s): unnamed tributaries to/and Flag Run; unnamed tributaries to/and Casselman River, Crab Run classified for the following use(s): cold water and warm water fisheries. There are no potable water supply intakes within 10 miles downstream. Application received: October 13, 2010. Permit issued: December 20, 2010.

**32990101 and NPDES No. PA0235016. Walter L. Houser Coal Company, Inc.**, 12968 US Route 422, Kittanning, PA 16201, permit renewal for reclamation



only of a bituminous surface mine in Washington Township, **Indiana County**, affecting 38.5 acres. Receiving stream(s): Sugar Camp Run to the South Branch Plum Creek classified for the following use(s): cold water fishery. There are no potable water supply intakes within 10 miles downstream. Application received: October 25, 2010. Permit issued: December 20, 2010.

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

**03950113 and NPDES Permit No. PA0201529. Britt Energies, Inc.** (P. O. Box 515, Indiana, PA 15701). Permit renewal issued for commencement, operation, and reclamation of a bituminous surface mining site with a status of three years not started, located in Burrell and South Bend Townships, **Armstrong County**, affecting 93.0 acres. Receiving streams: unnamed tributary to Crooked Creek and Crooked Creek. Renewal application received: September 16, 2010. Permit renewal issued: December 21, 2010.

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

**33820149 and NPDES Permit No. PA0605557. Strishock, LLC** (220 Hillcrest Drive, DuBois, PA 15801) Transfer of an existing bituminous strip operation from Strishock Coal Company in Washington Township, **Jefferson County** affecting 54.0 acres. Receiving streams: Unnamed tributary to Mill Creek. Application received: September 10, 2010. Permit Issued: December 21, 2010.

**33030101 and NPDES Permit No. PA0242292. Strishock, LLC** (220 Hillcrest Drive, DuBois, PA 15801) Transfer of an existing bituminous strip operation from Strishock Coal Company in Washington Township, **Jefferson County** affecting 103.5 acres. Receiving streams: Horm Run. Application received: September 10, 2010. Permit Issued: December 21, 2010.

*Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, 814-342-8200*

**17950113 and NPDES No. PA0220159. Waroquier Coal Co.** (P. O. Box 128, Clearfield, PA 16830). Permit renewal of an existing bituminous surface mine located in Greenwood Township, **Clearfield County** affecting 60.2 acres. Receiving streams: unnamed tributaries to Watts Creek, Watts Creek classified for High Quality Cold Water Fisheries. There are no potable water supply intakes within 10 miles downstream. Application received: November 5, 2010. Permit issued: December 14, 2010.

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

**54850107R5. Lone Eagle Coal Co., Inc.**, (2068 Old Phoenix Road, Pottsville, PA 17901), renewal of an existing anthracite surface mine in Foster Township, **Schuylkill County** affecting 59.93 acres, receiving stream: Crystal Run. Application received: March 5, 2010. Renewal issued: December 21, 2010.

**54850107GP104. Lone Eagle Coal Co., Inc.**, (2068 Old Phoenix Road, Pottsville, PA 17901), General NPDES Permit for stormwater discharges associated with mining activities on Surface Mining Permit No. 54850105 in Foster Township, **Schuylkill County**. Application received: November 12, 2010. Permit issued: December 21, 2010.

#### *Noncoal Applications Returned*

*Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, 814-342-8200*

**53102805. Preston E. Hoopes** (1002 Empson Road, Ulysses, PA 16948). Commencement, operation, and restoration of small noncoal gravel permit located in Ulysses, Township, **Potter County**, affecting 2.0 total acres. Receiving stream(s): California Creek and Pine Creek. Application received: May 13, 2010. Application returned: December 20, 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.

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

**26050401 and NPDES Permit No. PA0250643. Laurel Aggregates, Inc.** (300 Dents Run Road, Morgantown, WV 26501). Permit revised to add 1.5 acres to an existing large noncoal surface mining site (limestone quarry) located in Springhill Township, **Fayette County**, now affecting 110.5 acres. Receiving streams: Rubles Run. Application received: May 21, 2010. Revised permit 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*

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

**38104121. Keystone Blasting Service**, (15 Hopeland Road, Lititz, PA 17543), construction blasting for Carl Wenger Dwelling in Myerstown Borough, **Lebanon County** with an expiration date of February 28, 2011. Permit issued: December 17, 2010.

**15104004. Explo-Craft, Inc.**, (P. O. Box 1332, West Chester, PA 19380), construction blasting at Quaker Ridge in West Goshen Township, **Chester County** with an expiration date of December 15, 2011. Permit issued: December 22, 2010.

**46104002. Explo-Craft, Inc.**, (P. O. Box 1332, West Chester, PA 19380), construction blasting at West Laurel Hill Cemetery in Lower Merion Township, **Montgomery County** with an expiration date of December 22, 2011. Permit issued: December 22, 2010.

**40104006. John Brainard, Brainard Explosives, LLC**, (3978 SR 2073, Kingsley, PA 18826), construction blasting for the Applewood Estates Catch Basin in Exeter Township, **Luzerne County** with an expiration date of February 28, 2011. Permit issued: December 22, 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

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

**E06-648: Borough of Shillington, Michael Mountz**, 2 East Lancaster Avenue, Shillington Borough, PA 19607, **Berks County**, ACOE Philadelphia District.

To construct a 13,400 linear foot 24-inch PVC sanitary sewer main to replace an existing cast iron and vitrified clay sewer main that is deteriorating. The sewer main will cross the Wyomissing Creek (HQ-CWF) seven times, will cross wetlands identified as Exceptional Value, and will convey sewage to the Joint Municipal Authority of Wyomissing Valley's wastewater treatment facility. The project is located along Old Wyomissing Road (Reading, PA Quadrangle N: 11.0 inches; W: 13.5 inches; Latitude: 40°19'30"; Longitude: 75°57'37") in Shillington Borough, Berks County.

**E44-141: CENPA Development, LLC**, 38 Clayburgh Road, Thornton, PA 19373, Quillas Creek Sanitary Sewerline Construction, Brown Township, **Mifflin County**, ACOE Baltimore District

To construct and maintain: 1) a 12.0-inch PVC sanitary sewer line in and across a palustrine emergent (PEM) wetland in the Kishacoquillas Creek (CWF, MF) watershed, temporarily impacting a 0.05 acre of exceptional value PEM wetland; 2) a 12.0-inch PVC sanitary sewer line in and across an unnamed tributary to Kishacoquillas Creek (CWF, MF); 3) approximately 1,070.0 lineal feet of 12.0-inch PVC sanitary sewer line and three sanitary sewer manholes in and along the floodway of Kishacoquillas Creek (CWF, MF); 4) a 12.0-inch PVC sanitary sewer line in and across an unnamed tributary to Kishacoquillas Creek (CWF, MF); 5) approximately 65.0 lineal feet of 12.0-inch sanitary sewer line in and along the floodway of Kishacoquillas Creek (CWF, MF); 6) a 12.0-inch sanitary sewer line in and across a PEM/PFO wetland in the Kishacoquillas Creek watershed, temporarily impacting a 0.05 acre of exceptional value PEM/PFO wetland; 7) a 12.0-inch PVC sanitary sewer line in and across a PFO wetland in the Kishacoquillas Creek (CWF, MF) watershed, temporarily impacting a 0.07 acre of exceptional value PFO wetland; 8) approximately 205.0 lineal feet of 12.0-inch sanitary sewer line in and along the floodway of Kishacoquillas Creek (CWF, MF), and 9) a 12.0-inch PVC sanitary sewer line in and across an unnamed tributary to Kishacoquillas Creek (CWF, MF). The project purpose is to provide sanitary sewer service to the proposed Quillas Creek residential subdivision. The project is located approximately 0.6 mile southwest of the intersection of S.R. 655 and U.S. 322 in Brown Township, Mifflin County (Burnham, PA Quadrangle N: 6.95 inches, W: 13.75 inches; Latitude 40°39'36", Longitude 77°36'14").

**E36-848: Ware Trust, Paul Ware**, 229 North Duke Street, Lancaster, PA 17601, Lancaster Township, **Lancaster County**, ACOE Baltimore District

To remove an existing 13.5-foot long by 6.2-foot wide stone arch pedestrian footbridge having a normal span of 5.0 feet, an 18.1-foot long by 4.2-foot wide wooden deck pedestrian footbridge having a normal span of 10.3 feet, and an 11.6-foot long by 1.5-foot wide and 3.5-foot high stone weir all in an unnamed tributary to the Little Conestoga Creek (WWF). Also to remove 2,346.0 cubic yards of floodplain material in order to convert 600.0 feet of an unnamed tributary to the Little Conestoga Creek (WWF) to 0.347 acres of emergent wetlands for the purpose of achieving improved downstream channel stability (Lancaster, PA Quadrangle: 8.5-inches North, 11.65-inches West; Latitude: 40° 02' 48"N, Longitude: 76° 19' 60"W) in Lancaster Township, Lancaster County.

*Northcentral Region: Watershed Management Program Manager, 208 West Third Street, Williamsport, PA 17701, 570-327-3636*



**E41-611. Pennsylvania General Energy Company, LLC**, 120 Market Street, Warren, Pa 16365. PGE Pine Creek Intake Project, in Watson Township, **Lycoming County**, ACOE Baltimore District (Waterville, PA Quadrangle N: 41°15'16"; W: -77°19'50").

To construct and maintain: 1) a temporary cofferdam, 2) one partially submerged 4-foot 4-inch long 12.75-inch diameter wedgewire screen intake that has the intake's pipe's centerline set flush with the stream bed in a 10-foot by 2-foot by 2-foot gabion basket, upstream warning buoy and no upstream bollards within the streambed of Pine Creek, 3) 121 linear feet of concrete encased 10-inch diameter PVC pipe from the intake to the pump station in the stream bed and left bank, 4) one sunken 10-foot diameter pump station in the left 100-year floodway of Pine Creek with 1.5 cubic yards of above ground displacement, 5) 540 linear feet of 8-inch diameter HDPE pipe in the 100-year floodway between the pump station and the air burst building with temporary wetland impacts, 6) 410 linear feet of 8-inch diameter pipe outside the 100-year floodway from the metering chamber to the transfer station with temporary wetland impacts, 7) one 8-inch water pipeline under stream #1 via directional drilling, 8) one 8-inch water pipeline under stream #2 via directional drilling, with the intake in Pine Creek and located 2,266 feet west-northwest of the SR 44 / SR973 intersection (Waterville, PA Quadrangle N: 41°15'16"; W: -77°19'50") in Watson Township, Lycoming County. The project proposes to: 1) 60 linear feet of temporary stream impacts, 2) 11 feet of permanent stream impacts, and 3) 0.28 acres of temporary wetland impacts in High Quality-Trout Stocked Fisheries of Pine Creek.

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

**E10-459, Regional Industrial Development Corporation of Southwest PA**, 425 Sixth Avenue, Suite 500, Pittsburgh, PA 15219-1822. Thorn Hill Industrial Park Development, in Cranberry Township, **Butler County**, ACOE Pittsburgh District (Mars, PA Quadrangle N: 40°, 40', 17.11"; W: 80°, 6', 33.52").

construct and maintain continued development of the existing 925-acre Thorn Hill Industrial Park west and adjacent to S.R. 76 (PA Turnpike) involving encroachments on the following parcels:

Lower Parcel

Stream Enclosures:

1. UNT Brush Creek S-8, 16'w × 7'10"h × 90' l - concrete arch/embankment fill & 40' l, rock apron/bank protection, 130 LF permanent impact, 40° 40' 40.095" N / 80° 6' 24.214" W

Wetland Impacts:

1. Wetland JLY-11 by culvert and fill, 16'w × 7'10"h × 90' l - concrete arch/embankment fill & 40' l rock apron/bank protection, 0.18 Ac permanent impact, 40° 40' 40.095" N / 80° 6' 24.214" W

2. Wetland JLY-11 by embankment fill, 0.24 Ac permanent impact, 40° 40' 34.745" N / 80° 6' 20.258" W

3. Wetland JLY-16 by embankment fill (partial), 0.24 Ac permanent impact, 40° 40' 36.869" N / 80° 6' 16.337" W

4. Wetland JLY-11 by embankment fill, 0.51 Ac permanent impact, 40° 40' 39.835" N / 80° 6' 19.469" W

Floodway Encroachments:

1. UNT Brush Creek S-8 by embankment fill, 360 LF, 40° 40' 36.162" N / 80° 6' 21.829" W

2. Brush Creek by borrow/waste excavation, 300 LF, 40° 40' 38.888" N / 80° 6' 15.926" W

Parcel 539

Wetland Impacts:

1. Wetland CEC-539-A by embankment fill, 0.21 Ac permanent impact, 40° 40' 37.727" N / 80° 7' 09.907" W

2. Wetland CEC-539-C by embankment fill, 0.03 Ac, 40° 40' 33.835" N / 80° 7' 07.588" W

Stream Fill:

1. UNT Brush Creek CECStream A (i), 564 LF, permanent impact, 40° 40' 36.191" N / 80° 7' 08.379" W

Parcel 544

Wetland Impact:

1. Wetland JLY-12 by embankment fill, 0.26 Ac permanent impact, 40° 40' 46.982" N / 80° 7' 07.879" W

The project includes:

1. construction and maintenance of associated utility line crossings and stormwater outfalls on various parcels with associated temporary and permanent stream and wetland impacts,

2. construction and maintenance of 150 linear feet of vegetative stabilization and rock riprap protection of Brush Creek of Brush Creek on the Lower Parcel

3. construction and maintenance of mitigation wetlands (0.90 acre PEM and 1.52 acre PSS)

Brush Creek and UNTs Brush Creek are classified as warm water fisheries. The project proposes to permanently impact 2.92 acres of wetland (0.90 acre PEM and 0.76 acre PSS) The Thorn Hill Industrial Park is located in Marshall Township, Allegheny County and Cranberry Township, Butler County. Approximately 80% of the 925 acres of the industrial park have been developed since 1971. There are approximately 125 undeveloped acres in Allegheny County and 80 undeveloped acres in Butler County.

**E37-184, PA DOT, District 11-0**, Bridgeville, PA SR 0018-L11 Jefferson Street Bridge Across Neshannock Creek, in City of New Castle, **Lawrence County**, ACOE Pittsburgh District (New Castle North, PA Quadrangle N: 40°, 59', 45.7"; W: 80°, 20', 49.4").

To remove the 59-foot long existing single span through girder bridge and to construct and maintain 53.3-foot long prestressed concrete spread box beam bridge having two clear spans of 78.25 feet and an underclearance of 12 feet on a 70 degree skew across Neshannock Creek on S.R. 0018, Segment 0310, Offset 0520 (Jefferson Street) and to regrade and stabilize approximately 320 feet of the right (north) bank of Neshannock Creek extending downstream from the bridge necessary to offset impacts to the 100-year flood elevations resulting from the introduction of a pier within the channel.

**E02-1635, Regional Industrial Development Corporation of Southwest PA**, 425 Sixth Avenue, Suite 500, Pittsburgh, PA 15219-1822, Thorn Hill Industrial Park Development, in Cranberry Township, **Butler County**, ACOE Pittsburgh District (Mars, PA Quadrangle N: 40°, 40', 17.11"; W: 80°, 6', 33.52").

construct and maintain continued development of the existing 925 acre Thorn Hill Industrial Park (Mars and

Baden, PA Quadrangle N: 40°, 40', 17.11"; W: 80°, 6', 33.52") west and adjacent to S.R. 76 (PA Turnpike) involving encroachments on the following parcels in Marshall Township, Allegheny County.

Parcel 25

Wetland Impacts:

1. Wetland CJW-1 by a fill associated with a stormwater outfall (25A), 0.005 Ac permanent impact, 40 40'22.302"N / 80 6'30.376"W

2. Wetland CJW-1 by a fill associated with stormwater outfall (25B), 0.005 Ac permanent impact, 40 40'23.351"N / 80 6'28.761"W

Parcel 56

Wetland Impacts:

1. Wetland CJW-4 by embankment fill, 0.30 Ac permanent impact, 40 39'41.140" N / 80 5' 48.384" W

Parcel 63R

Wetland Impacts:

1. Wetland CJW-4 by embankment fill, 0.24 Ac permanent impact, 40 39' 42.640"N / 80 5' 50.909"W

Parcel 65

Wetland Impacts:

1. Wetland CJW-10 by embankment cut/fill, 0.35 Ac permanent impact, 40 39' 47.984" N / 80 6' 07.098" W

Stream Enclosure:

1. UNT Brush Creek KDR-9 (intermittent), 15' x 110' C.P.P extension, 109 LF permanent impact, 40 39' 42.037" N / 80 6' 09.506" W

Parcel 66

Culverts:

1. UNT Brush Creek KDR-2 (p), 15' w x 6' h x 55' l box culvert & 20' l rock apron/bank protection, 75 LF permanent impact, 40 39' 43.856" N / 80 6' 14.481" W

2. UNT Brush Creek KDR-2 (p), channel change and 15' w x 6' h x 70' l box culvert & 20' l rock apron/bank protection, 90 LF permanent impact, 40 39' 43.825" N / 80 6' 11.558" W

Parcel 69

Wetland and Floodway Impacts:

1. Wetland CJW-6 and floodway UNT Brush Creek by embankment fill, 0.11 Ac permanent impact, 40 39' 46.651" N / 80 6' 00.694" W

2. Wetland CJW-4 and floodway UNT Brush Creek by a wall and embankment fill, 0.21 Ac permanent impact, 40 39' 47.448 N / 80 5' 56.340" W

Parcel B Rev

Culvert

1. UNT Brush Creek, KDR-15, 7'7"w x 4' 10"h x 60' l conc elliptical culvert & 15' l rock apron/bank protection, 75 LF permanent impact, 40 40'20.794" N/ 80 7'02.870" W

2. Wetland CJW-32 by culvert 7'7"w x 4' 10"h x 60' l conc elliptical culvert & 15' l rock apron/bank protection, 0.04 Ac permanent impact, 40 40'20.794" N/ 80 7'02.870" W

Mitigation Area Impacts

Parcel 56

Channel Change:

UNT Brush Creek KDR-26, channel fill, 162 LF of permanent impact, 40 39' 37.521" N / 80 5' 44.737" W  
Parcels 56 & 63

Floodway Excavation for a Mitigation Site:

Brush Creek floodway, mitigation site excavation (cut only), 1,200 LF of permanent impact, 40 39' 43.675" N / 80 5' 47.463" W

Parcel 63R

Floodway Excavation for a Mitigation Site:

Brush Creek streambank /floodway, mitigation site cut, riprap ford, rock channel protection, 100 LF of permanent impact, 40 39' 47.940" N / 80 5' 49.529" W

The project includes:

1. construction and maintenance of associated utility line crossings and stormwater outfalls on various parcels with associated temporary and permanent stream and wetland impacts,

2. construction and removal of temporary construction crossings,

3. construction and maintenance of a minimum of 1300 feet of watercourse mitigation (channel change and reconstruction of a UNT Brush Creek (KDR-26) on Parcels 56 and 63R within a portion of the wetland mitigation area). The watercourse mitigation is for impacts in both the Cranberry Township, Butler County and Marshall Township, Allegheny County portions of the project.

4. construction and maintenance of 200 linear feet of vegetative stabilization and rock riprap protection of Brush Creek on Parcel 56 and 150 linear feet of vegetative stabilization and rock riprap protection of an UNT Brush Creek (KDR-2) on Parcels 63R and 69,

5. construction and maintenance of culverts in UNT Brush Creek KDR-12 and UNT Brush Creek KDR-4 having drainage areas less than 100 acres and having lengths of 70 feet and 60 feet respectively,

6. to construct and maintain the relocation of 400 feet of an ephemeral UNT Brush Creek on Parcel 544, will be removed and placed within the E10-459 Butler County permit as item 6 on page 2 of the 8 because this item (parcel 544) is located within Butler County.

7. to conduct Japanese knotweed eradication on Parcels 56 and 63R,

8. construction and maintenance of mitigation wetlands (0.65 acre PEM, 0.42 acre PSS, 0.39 acre PFO and 0.27 POW) on parcels 56 and 63R in Marshall Township, Allegheny County for impacts in Marshall Township, Allegheny County

9. construction and maintenance of mitigation wetlands (0.9 acre PEM and 1.52 acre PSS) on parcels 56 and 63R in Marshall Township, Allegheny County for impacts in Cranberry Township, Butler County

The project in Marshall Township, Allegheny County proposes to permanently impact 1.26 acres of wetland (0.65 acre PEM, 0.21 acre PSS, 0.13 acre PFO and 0.27 POW). The Thorn Hill Industrial Park is located in Marshall Township, Allegheny County and Cranberry Township, Butler County. Approximately 80% of the 925 acres of the industrial park have been developed since

1971. There are approximately 125 undeveloped acres in Allegheny County and 80 undeveloped acres in Butler County.

#### 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.

*Southwest Region: Oil & Gas Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.*

10/08/2010  
 ESCGP-1 No.: ESX10-051-0024 Major Revision  
 Applicant Name: Laurel Mountain Midstream LLC  
 CONTACT: Lisa Reaves  
 Address: 1550 Coraopolis Heights Road, Suite 140  
 City: Moon Township State: PA Zip Code: 15108  
 County: Fayette Township(s): Lower Tyrone  
 Receiving Stream(s) And Classifications: UNT's to Youghiohgheny River WWR, Other

09/20/2010  
 ESCGP-1 No.: ESX09-059-0008  
 Applicant Name: Eastern American Energy Corporation  
 Contact Person: Seth Burdette  
 Address: 1380 Route 286 Highway East, Suite 221  
 City: Indiana State: PA Zip Code: 15701  
 County: Greene Township(s): Jefferson  
 Receiving Stream(s) and Classifications: Muddy Creek (WWF)/Lower Monongahela, Other  
 Secondary Water Monongahela River (WWF)

11/03/2010  
 ESCGP-1 No.: ESX10-129-0034  
 Applicant Name: XTO Energy Inc  
 Contact Person: Kissel Bernhard  
 Address: 395 Airport Road  
 City: Indiana State: PA Zip Code: 15701  
 County: Westmoreland Township(s): Fairfield  
 Receiving Stream(s) and Classifications: Hendricks Creek-TSF, Other  
 Secondary Water: Tubmill Creek

11/01/2010  
 ESCGP-1 No.: ESX10-007-0003

Applicant Name: Chesapeake Appalachia, LLC  
 Contact Person: Tal Oden  
 Address: P. O. Box 18496  
 City: Oklahoma City State: OK Zip Code: 73154  
 County: Beaver Township(s): South Beaver  
 Receiving Stream(s) and Classifications: UNT to Brush Run—(HQ-CWF)  
 Secondary Water Brush Run—(HQ-CWF)

10/06/2010  
 ESCGP-1 No.: ESX10-125-0086  
 Applicant Name: CNX Gas Company LLC  
 Contact Person: Daniel Bitz  
 Address: 200 Evergreen Drive  
 City: Waynesburg State: PA Zip Code: 15370  
 COUNTY Washington Township(s): South Franklin and Morris  
 Receiving Stream(s) and Classifications: Tenmile Creek, Short Creek—TSF, Other  
 Secondary Water Tenmile Creek—TSF

11/18/2010  
 ESCGP-1 No.: ESX10-125-0098  
 Applicant Name: MarkWest Liberty Midstream & Resources, LLC  
 Contact Person: Robert McHale  
 Address: 601 Technology Drive Suite 103  
 City: Canonsburg State: PA Zip Code: 15137  
 County: Washington Township(s): Amwell  
 Receiving Stream(s) and Classifications: UNTs to Bane Creek and UNTs to Little Ten Mile Creek, Other  
 Secondary Water: Bane Creek and Little Ten Mile Creek

10/28/2010  
 ESCGP-1 No.: ESX10-063-0008  
 Applicant Name: Mountain Gathering LLC  
 Contact Person: Tom Dixon  
 Address: 395 Airport Road  
 City: Indiana State: PA Zip Code: 15701  
 County: Indiana Township(s): Center  
 Receiving Stream(s) and Classifications: UNT Cherry Run (CWF) Conemaugh River—Blacklick Creek Watershed  
 Secondary Water Two Lick Creek (TSF)

11/12/2010  
 ESCGP-1 No.: ESX10-059-0085  
 Applicant Name: Laurel Mountain Midstream, LLC  
 Contact Person: Lisa Reaves  
 Address: 1550 Coraopolis Heights Road  
 City: Moon Township State: PA Zip Code: 15108  
 County: Greene Township(s): Monongahela & Greene  
 Receiving Stream(s) and Classifications: Whiteley Creek WWF & UNT to Whiteley Creek WWF/Upper Monongahela Watershed, Other

11/12/2010  
 ESCGP-1 No.: ESX09-129-0026  
 Applicant Name: Atlas Energy Resources, LLC  
 Contact Person: Jeremy Hritz  
 Address: 800 Mountain View Drive  
 City: Smithfield State: PA Zip Code: 15478  
 County: Westmoreland Township(s): Sewickley  
 Receiving Stream(s) and Classifications: UNT to Little Sewickley Creek, Other  
 Secondary Water Sewickley Creek

11/18/2010  
 ESCGP-1 NO.: ESX10-059-0088  
 Applicant Name: Atlas Energy resources, LLC  
 CONTACT PERSON: Jeremy Hritz  
 ADDRESS: 800 Mountain View Drive  
 City: Smithfield State: PA Zip Code: 15478



County: Greene Township(s): Franklin  
Receiving Stream(s) and Classifications: UNT 40503 to  
Browns Creek and Mud Lick Run, HQ

11/30/2010

ESCGP-1 NO.: ESX10-125-0100

Applicant Name: Range Resources—Appalachia LLC

CONTACT: Carla Suszkowski

ADDRESS: 380 Southpointe Boulevard

City: Canonsburg State: PA Zip Code: 15317

County: Washington Township(s): Chartiers

Receiving Stream(s) and Classifications: UNT to

Chartiers Run, Other

Secondary Water Chartiers Run

11/16/2010

ESCGP-1 NO.: ESX10-129-0030 Major Revision

Applicant Name: RW Gathering LLC Williams Production  
Appalachia LLC

CONTACT: David R. Freudenrich

ADDRESS: 1000 Town Center Suite 130

City: Canonsburg State: PA Zip Code: 15317

County: Westmoreland Township(s): Derry

Receiving Stream(s) and Classifications: Other CWF &  
WWF (Cold & Warm Water Fishes)

Secondary Water Conemaugh River & Loyalhanna

11/09/2010

ESCGP-1 NO.: ESX10-051-0045

Applicant Name: Phillips Exploration Inc

CONTACT: Gary Clark

ADDRESS: 502 Keystone Drive

City: Warrendale State: PA Zip Code: 15086

County: Fayette Township(s): Dunbar

Receiving Stream(s) and Classifications: UNT of  
Dickerson Run—WWF, Other

Secondary Water: Dickerson Run-WWF

11/08/2010

ESCGP-1 NO.: ESX10-063-0009

Applicant Name: XTO Energy Inc

CONTACT: Bernhardt Kissel

ADDRESS: 395 Airport Road

City: Indiana State: PA Zip Code: 15701

County: Indiana Township(s): Center

Receiving Stream(s) and Classifications: Two Lick Creek  
TSF Other,

Secondary Water Blacklick Creek TSF

11/12/2010

ESCGP-1 NO.: ESX10-125-0096

Applicant Name: MarkWest Liberty Midstream &  
Resources LLC

CONTACT: Robert McHale

ADDRESS: 601 Technology Drive Suite 130

City: Canonsburg State: PA Zip Code: 15137

County: Washington Township(s): Blaine

Receiving Stream(s) and Classifications: UNT's to Buffalo  
Creek & Buffalo Creek HQ

Secondary Water: Ohio River

11/18/2010

ESCGP-1 NO.: ESX10-129-0035

Applicant Name: Laurel Mountain Midstream LLC

CONTACT: Lisa Reaves

ADDRESS: 1550 Coraopolis Heights Rd

City: Moon Township State: PA Zip Code: 15108

County: Westmoreland Township(s): South Huntingdon  
Receiving Stream(s) and Classifications: Painter's Run

WWF & Unt's to Youghioghny River WWE

Youghioghny Watershed, Other

11/29/2010

ESCGP-1 NO.: ESX10-059-0046 Major Revision

Applicant Name: Laurel Mountain Midstream LLC

CONTACT: Lisa Reaves

ADDRESS: 1550 Coraopolis Heights Rd

City: Washington State: PA Zip Code: 15108

County: Greene Township(s): Franklin

Receiving Stream(s) and Classifications: Mud Lick Run

HQ-WWF Brwons Creek HQ-WWF HQ

11/23/2010

ESCGP-1 NO.: ESX10-051-0049

Applicant Name: Caiman Energy LLC

CONTACT: Steven Skellie

ADDRESS: 5944 Sherry lane Suite 645

City: Dallas State: TX Zip Code: 75225

County: Fayette Township(s): Henry Clay

Receiving Stream(s) and Classifications: UNT Little  
Sandy Creek, HQ

Secondary Water Little Sandy Creek

12/24/2010

ESCGP-1 NO.: ESX10-125-0099

Applicant Name: Chesapeake Appalachia, LLC

CONTACT: Tal Oden

ADDRESS: P O Box 18496

City: Oklahoma City State: OK Zip Code: 73154

County: Washington Township(s): Carroll/Fallowfield

Receiving Stream(s) and Classifications: UNT of Taylor's  
Run—(WWF) Ohio Watershed, Other

Secondary Water Taylor's Run-(WWF)—Pigeon (WWF)-

Monongahela River—(WWF)

11/18/2010

ESCGP-1 NO.: ESX09-129-0020 Major Revision

Applicant Name: Atlas Energy Resources, LLC

CONTACT: Jeremy Hirtz

ADDRESS: 800 Mountain View Drive

City: Smithfield State: PA Zip Code: 15478

County: Westmoreland Township(s): South Huntingdon

Receiving Stream(s) and Classifications: Painters Run,  
Other

Secondary Water; Hunters Run

11/02/2010

ESCGP-1 NO.: ESX10-051-0042

Applicant Name: Atlas Energy Resources, LLC

CONTACT: Jeremy Hirtz

ADDRESS: 800 Mountain View Drive

City: Smithfield State: PA Zip Code: 15478

County: Fayette Township(s): Dunbar

Receiving Stream(s) and Classifications: UNT Rankin  
Run, WWF/Middle Monogahela River Watershed

Secondary Water Redstone Creek

11/9/2010

ESCGP-1 NO.: ESX10-051-0044

Applicant Name: Atlas Energy Resources, LLC

CONTACT: Jeremy Hirtz

ADDRESS: 800 Mountain View Drive

City: Smithfield State: PA Zip Code: 15478

County: Fayette Township(s): North Union

Receiving Stream(s) and Classifications: UNT 40044 to  
Redstone Creek, Other

Secondary Water Redstone Creek

11/18/2010

ESCGP-1 NO.: ESX10-129-0037

Applicant Name: Laurel Mountain Midstream LLC

CONTACT: Lisa Reaves

ADDRESS: 1550 Coraopolis Heights Road, Suite 140

City: Moon Township State: PA Zip Code: 15108

County: Westmoreland Township(s): Moon Township

Receiving Stream(s) and Classifications: UNTs to



Browneller Run WWF UNT to Youghiogeny River  
WWF and UNT to Cedar Creek WWF Loyalhanna  
Creek Watershed

11/12/2010

ESCGP-1 NO.: ESX10-063-0008 Major Revision  
Applicant Name: Mountain Gathering LLC  
CONTACT: Tom Dixson  
ADDRESS: 395 Airport Road  
City: Indiana State: PA Zip Code: 15701  
County: Indiana Township(s): Center  
Receiving Stream(s) and Classifications: Cherry Run/  
Kiskiminetas River, Other

11/19/2010

ESCGP-1 NO.: ESX10-129-0039  
Applicant Name: CONSOL Gas Company  
CONTACT: Craig Neal  
ADDRESS: 280 Indian Springs Road Suite 333  
City: Indiana State: PA Zip Code: 15701  
County: Westmoreland Township(s): Washington/Bell  
Receiving Stream(s) and Classifications: Beaver Run  
Reservoir/Poke Run/Beaver Run HQ

10/27/2010

ESCGP-1 NO.: ESX10-129-0033  
Applicant Name: Laurel Mountain Midstream, LLC  
CONTACT: Lisa Reaves  
ADDRESS: 1550 Coraopolis Heights Road, Suite 140  
City: Moon Township State: PA Zip Code: 15108  
County: Westmoreland Township(s): South Huntingdon  
Receiving Stream(s) and Classifications: UNT's to  
Sewickley Creek WWF, Painter's Run WWF Hunter's  
Run & UNT's WWF, Other

11/12/10

ESCGP-1 NO.: ESX10-051-0046  
Applicant Name: Phillips Exploration, Inc.  
CONTACT: Gary Clark  
ADDRESS: 502 Keystone Drive  
City: Warrendale State: PA Zip Code: 15086  
County: Fayette Township(s): Franklin  
Receiving Stream(s) and Classifications: UNT to  
Crabapple Run—WWF, Other

12/17/10

ESCGP-1 NO.: ESX10-125-0097  
Applicant Name: Atlas Energy Resources, LLC  
CONTACT: Jeremy Hirtz  
ADDRESS: 800 Mountain View Drive  
City: Smithfield State: PA Zip Code: 15478  
County: Washington Township(s): Deemston & East  
Bethlehem  
Receiving Stream(s) and Classifications: UNT to Fishpot  
Run and UNT to Monongahela River/Monongahela  
River, Other

12/3/10 Major Revision

ESCGP-1 NO.: ESX10-125-0019  
Applicant Name: Range Resources—Appalachia, LLC  
CONTACT: Carla Suszkowski  
ADDRESS: 380 Southpointe Boulevard, Suite 300  
City: Canonsburg State: PA Zip Code: 15317  
County: Washington Township(s): Mt. Pleasant  
Receiving Stream(s) and Classifications: UNT to Cherry  
Run / Raccoon Creek, Other

12/2/10 Subsequent Phase

ESCGP-1 NO.: ESX10-063-0008  
Applicant Name: Mountain Gathering, LLC  
CONTACT: Tom Dixson  
ADDRESS: 395 Airport Drive  
City: Indiana State: PA Zip Code: 15701  
County: Indiana Township(s): Center  
Receiving Stream(s) and Classifications:

12/6/10 Major Revision

ESCGP-1 NO.: ESX09-125-0046  
Applicant Name: Range Resources—Appalachia, LLC  
CONTACT: Carla Suszkowski  
ADDRESS: 380 Southpointe Boulevard, Suite 300  
City: Canonsburg State: PA Zip Code: 15317  
County: Washington Township(s): Independence  
Receiving Stream(s) and Classifications: UNT to  
Sugarcamp Run, HQ

*Northcentral Region: Oil & Gas Management Program  
Manager, 208 West Third Street, Williamsport, PA 17701*

ESCGP-1 # ESX10-033-0003(03) PHASE II

Applicant Name Energy Corporation of America  
Contact Person Benjamin Carpenter  
Address 501 56th Street South East  
City, State, Zip Charleston, WV 25304  
County Clearfield  
Township(s) Goshen Twp.  
Receiving Stream(s) and Classification(s) Coldstream,  
Pine and Trout Runs, West Branch Susquehanna River

ESCGP-1 # ESX10-015-0359

Applicant Name Talisman Energy USA, Inc.  
Contact Person Tracy Gregory  
Address 337 Daniel Zenker Drive  
City, State, Zip Horseheads, NY 14845  
County Bradford  
Township(s) Windham Twp.  
Receiving Stream(s) and Classification(s) Trout Brook

ESCGP-1 # ESX10-015-0346

Applicant Name Southwestern Production Company  
Contact Person Dave Sweeley  
Address 181 W. Tioga Street, Ste. 2  
City, State, Zip Tunkhannock, PA 18657  
County Bradford  
Township(s) Herrick Twp.  
Receiving Stream(s) and Classification(s) UNT of  
Rummerfield Creek, Cold Creek, Camp Creek,  
Wyalusing Creek, Susquehanna River

ESCGP-1 # ESX10-131-0039

Applicant Name Chesapeake Appalachia, LLC  
Contact Person Eric Haskins  
Address 101 North Main Street  
City, State, Zip Athens, PA 18810  
County Wyoming  
Township(s) Braintrim Twp.  
Receiving Stream(s) and Classification(s) UNT to  
Susquehanna River, UNT to Black Walnut Creek,  
Black Walnut Creek, Susquehanna River

ESCGP-1 # ESX10-015-0323

Applicant Name Chesapeake Appalachia, LLC  
Contact Person Eric Haskins  
Address 101 North Main Street  
City, State, Zip Athens, PA 18810  
County Bradford  
Township(s) Rome and Orwell Twps.  
Receiving Stream(s) and Classification(s) Johnson Creek  
(East and West), Jerome Creek, Wysox Creek

ESCGP-1 # ESX10-131-0037

Applicant Name Chesapeake Appalachia, LLC  
Contact Person Eric Haskins  
Address 101 North Main Street  
City, State, Zip Athens, PA 18810  
County Wyoming  
Township(s) Windham Twp.  
Receiving Stream(s) and Classification(s) UNT to  
Susquehanna River, Susquehanna River

ESCGP-1 # ESX10-015-0355  
 Applicant Name Chesapeake Appalachia, LLC  
 Contact Person Eric Haskins  
 Address 101 North Main Street  
 City, State, Zip Athens, PA 18810  
 County Bradford  
 Township(s) Sheshequin Twp.  
 Receiving Stream(s) and Classification(s) UNT of  
 Susquehanna River and Horn Brook, Susquehanna  
 River

ESCGP-1 # ESX10-015-0354  
 Applicant Name Chesapeake Appalachia, LLC  
 Contact Person Eric Haskins  
 Address 101 North Main Street  
 City, State, Zip Athens, PA 18810  
 County Bradford  
 Township(s) Tuscarora Twp.  
 Receiving Stream(s) and Classification(s) UNT to Fargo  
 Creek, Fargo Creek

ESCGP-1 # ESX10-015-0261  
 Applicant Name Chesapeake Appalachia, LLC  
 Contact Person Eric Haskins  
 Address 101 North Main Street  
 City, State, Zip Athens, PA 18810  
 County Bradford  
 Township(s) Asylum Twp.  
 Receiving Stream(s) and Classification(s) Durell Creek,  
 UNT to Susquehanna River, Susquehanna River

ESCGP-1 # ESX10-015-0308  
 Applicant Name Chesapeake Appalachia, LLC  
 Contact Person Eric Haskins  
 Address 101 North Main Street  
 City, State, Zip Athens, PA 18810  
 County Bradford  
 Township(s) Leroy Twp.  
 Receiving Stream(s) and Classification(s) McCraney Run

ESCGP-1 # ESX10-115-0039(01)  
 Applicant Name Chesapeake Appalachia, LLC  
 Contact Person Eric Haskins  
 Address 101 North Main Street  
 City, State, Zip Athens, PA 18810  
 County Susquehanna  
 Township(s) Rush Twp.  
 Receiving Stream(s) and Classification(s) UNT to  
 Wyalusing Creek (west), UNT to Deer Lick  
 Creek (east), East Branch Wyalusing Creek

ESCGP-1 # ESX10-015-0199(01)  
 Applicant Name Chesapeake Appalachia, LLC  
 Contact Person Eric Haskins  
 Address 101 North Main Street  
 City, State, Zip Athens, PA 18810  
 County Bradford  
 Township(s) Asylum  
 Receiving Stream(s) and Classification(s) UNT to Ellis  
 Creek, Ellis Creek

ESCGP-1 # ESX10-015-0353  
 Applicant Name Chesapeake Appalachia, LLC  
 Contact Person Eric Haskins  
 Address 101 North Main Street  
 City, State, Zip Athens, PA 18810  
 County Bradford  
 Township(s) Wilmot Twp.  
 Receiving Stream(s) and Classification(s) Panther Lick  
 Creek, Sugar Run Creek

ESCGP-1 # ESX10-117-0250  
 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) Custard Run,  
 UNT of Custard Run

ESCGP-1 # ESX10-015-0344  
 Applicant Name Chesapeake Appalachia, LLC  
 Contact Person Eric Haskins  
 Address 101 North Main Street  
 City, State, Zip Athens, PA 18810  
 County Bradford  
 Township(s) Wilmot Twp.  
 Receiving Stream(s) and Classification(s) (2) UNT to  
 Panther Lick Creek, Panther Lick Creek

ESCGP-1 # ESX10-015-0357  
 Applicant Name Chesapeake Appalachia, LLC  
 Contact Person Eric Haskins  
 Address 101 North Main Street  
 City, State, Zip Athens, PA 18810  
 County Bradford  
 Township(s) Warren Twp.  
 Receiving Stream(s) and Classification(s) Prince Hollow  
 Run

ESCGP-1 # ESX10-015-0362  
 Applicant Name Chesapeake Appalachia, LLC  
 Contact Person Eric Haskins  
 Address 101 North Main Street  
 City, State, Zip Athens, PA 18810  
 County Bradford  
 Township(s) Warren Twp.  
 Receiving Stream(s) and Classification(s) UNT to Prince  
 Hollow Run, Prince Hollow Run

ESCGP-1 # ESG10-117-0195(01)  
 Applicant Name Ultra Resources  
 Contact Person Erica Tokarz  
 Address 5 East Avenue #108  
 City, State, Zip Wellsboro, PA 16901-1613  
 County Tioga  
 Township(s) Elk Twp.  
 Receiving Stream(s) and Classification(s) Thompson  
 Hollow, O'Connor Branch, Elk Run, Fourmile Run

ESCGP-1 # ESG10-117-0238  
 Applicant Name Ultra Resources  
 Contact Person Erica Tokarz  
 Address 5 East Avenue #108  
 City, State, Zip Wellsboro, PA 16901-1613  
 County Tioga  
 Township(s) Elk Twp.  
 Receiving Stream(s) and Classification(s) Dead Horse  
 Hollow, Schnoover Hollow, Mill Run, Elk Run Basin

ESCGP-1 # ESX10-117-0253  
 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) Charleston Twp.  
 Receiving Stream(s) and Classification(s) UNT to Babb  
 Creek, W. Br. Susquehanna River Basin, Babb Creek to  
 Pine Creek to W. Br. Susquehanna River

ESCGP-1 # ESX10-037-0005  
 Applicant Name Chief Oil & Gas LLC  
 Contact Person Michael Hritz

Address 6051 Wallace Road, Ext. Ste 210  
 City, State, Zip Wexford, PA 15090  
 County Columbia  
 Township(s) Jackson Twp.  
 Receiving Stream(s) and Classification(s) UNT to Little  
 Fishing Creek, Little Fishing Creek, Green Creek,  
 Fishing Creek

ESCGP-1 # ESX10-033-0008  
 Applicant Name Chief Oil & Gas LLC  
 Contact Person Michael Hritz  
 Address 6051 Wallace Road, Ext. Ste 210  
 City, State, Zip Wexford, PA 15090  
 County Clearfield  
 Township(s) Goshen Twp.  
 Receiving Stream(s) and Classification(s) UNT to Little  
 Trout Run, W. Br. Susquehanna

ESCGP-1 # ESX10-033-0009  
 Applicant Name EXCO Resources (PA), LLC  
 Contact Person Larry Sanders  
 Address 3000 Ericsson Drive, Suite 200  
 City, State, Zip Warrendale, PA 15086  
 County Clearfield  
 Township(s) Morris & Graham  
 Receiving Stream(s) and Classification(s) UNT to Alder  
 Run

*Northwest Region: Oil and Gas Program Manager, 230  
 Chestnut St., Meadville, PA 16335*

ESCGP-1 #ESX10-123-0008  
 Applicant Catalyst Energy, Inc.—Lot 476  
 Contact Douglas E. Jones  
 Address 800 Cranberry Woods Dr. Suite 290  
 City Cranberry Township State PA Zip Code 16066  
 County Warren Township(s) Pleasant(s)  
 Receiving Stream(s) and Classification(s) Sill Run—CWF,  
 Morrisson Run—EV, Browns Run/Allegheny River—EV/  
 Other

ESCGP-1 #ESX10-083-0008A  
 Applicant East Resources Management, LLC—Warrant  
 3077 1001-2H Major Modification  
 Contact Jefferson Long  
 Address 190 Thorn Hill Road  
 City Warrendale State PA Zip Code 15086  
 County Forest Township(s) Jenks(s)  
 Receiving Stream(s) and Classification(s) South Branch  
 Kinzua Creek—HQ/CWF, Allegheny River Basin  
 (List Q)

ESCGP-1 #ESX10-019-0052  
 Applicant Name Phillips Exploration, Inc.—David T.  
 Nicklas No. 1  
 Contact Person Gary A. Clark  
 Address 502 Keystone Drive  
 City Warrendale State PA Zip Code 15086  
 County Butler Township(s) Jefferson  
 Receiving Stream(s) and Classification(s) UNT of  
 Connoquenessing Creek—WWF, Connoquenessing  
 Creek—WWF

ESCGP-1 #ESX10-065-0017  
 Applicant EXCO Resources (PA), LLC—Lougee Pad 151  
 Contact Larry M. Sanders  
 Address 3000 Ericsson Drive, Suite 200  
 City Warrendale State PA Zip Code 15086  
 County Jefferson Township(s) Washington(s)  
 Receiving Stream(s) and Classification(s) Five Mile Run/  
 Mill Creek—Other

ESCGP-1 #ESX10-047-0013A  
 Applicant Seneca Resources—Production Well Pad G  
 Contact Mr. Mike Clinger  
 Address 51 Zents Blvd  
 City Brookville State PA Zip Code 15825  
 County Elk & McKean County Township(s) Wetmore &  
 Jones Township(s)  
 Receiving Stream(s) and Classification(s) Tributaries of  
 Wilson Creek (CW) and Tributaries of Long Run (CW)

ESCGP-1 #ESX10-019-0053  
 Applicant Phillips Exploration, Inc.—Hranica, Et. Al. 2H  
 Contact Gary Clark  
 Address 502 Keystone Drive  
 City Warrendale State PA Zip Code 15086  
 County Butler Township(s) Buffalo(s)  
 Receiving Stream(s) and Classification(s) McDowell  
 Run—TSF, Little Bull Run—TSF, Bull Run—TSF

---

## SPECIAL NOTICES

---

### **Plan Revision Approval under the Municipal Waste Planning, Recycling and Waste Planning, Recycling and Waste Reduction Act of 1988, Act 101**

*Northcentral Region: Waste Management Program  
 Manager, 208 West Third Street, Suite 101, Williamsport,  
 PA 17701.*

The Department of Environmental Protection (Department) approved the Cameron County Municipal Waste Management Non-Substantial Plan Revision (“Revision”) on December 20, 2010. Key features of the Revision include market participant landfill disposal, recycling options, yard waste composting, and a combination of in-county waste water treatment and out-of-county treatment and land application of biosolids. The Revision is a public document and may be viewed at the Northcentral Regional Office, at the address noted above. Questions concerning the approval of the Revision should be directed to Larry Holley, Department of Environmental Protection, Bureau of Land Recycling and Waste Management, Division of Waste Minimization and Planning, P. O. Box 8472, Harrisburg, PA 17105-8472, (717) - 787-7382, or to Michelle Ferguson, Regional Planning and Recycling Coordinator, Waste Management Program, at the Northcentral Regional Office at (570)-327-3636.

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

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



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

[Pa.B. Doc. No. 11-46. Filed for public inspection January 7, 2011, 9:00 a.m.]

### Availability of Technical Guidance

Technical guidance documents are available on the Department of Environmental Protection's (Department) web site at <http://www.elibrary.dep.state.pa.us>. The "Technical Guidance Final Documents" heading is the link to a menu of the various Department bureaus where each bureau's final technical guidance documents are posted. The "Technical Guidance Draft Documents" heading is the link to the Department's draft technical guidance documents.

#### *Ordering Paper Copies of Department Technical Guidance*

The Department encourages the use of the Internet to view and download technical guidance documents. When this option is not available, persons can order a paper copy of any of the Department's draft or final technical guidance documents by contacting the Department at (717) 783-8727.

In addition, bound copies of some of the Department's documents are available as Department publications. Check with the appropriate bureau for more information about the availability of a particular document as a publication.

#### *Changes to Technical Guidance Documents*

Following is the current list of recent changes. Persons who have questions or comments about a particular document should call the contact person whose name and phone number is listed with each document.

#### *Draft Technical Guidance—Substantive Revision*

DEP ID: 385-2125-001. Title: 4-Log Treatment of Viruses Demonstration Guidance. Description: This document contains the draft guidance and procedures developed to guide and support staff implementation of the requirements for the ground water rule under the drinking water management programs. Written Comments: The Department is seeking comments on draft technical guidance No. 385-2125-001. Interested persons may submit written comments on this draft technical guidance document by February 8, 2011. Comments submitted by facsimile will not be accepted. The Department will accept comments submitted by e-mail. A return name and address must be included in each e-mail transmission. Written comments should be submitted to: Kevin McLeary, Department of Environmental Protection, Bureau of Water Standards and Facility Regulation, Division of Planning and Permits, Rachel Carson State Office Building, 11th Floor, P. O. Box 8774, Harrisburg, PA 17105-8467 or [kmcleary@state.pa.us](mailto:kmcleary@state.pa.us). Contact: Questions regarding the draft technical guidance document should be directed to Kevin McLeary at (717) 783-1820 or [kmcleary@state.pa.us](mailto:kmcleary@state.pa.us).

Effective Date: Upon publication of notice as final in the *Pennsylvania Bulletin*.

JOHN HANGER,  
Secretary

[Pa.B. Doc. No. 11-47. Filed for public inspection January 7, 2011, 9:00 a.m.]

## DEPARTMENT OF HEALTH

### Chronic Renal Disease Advisory Committee Meeting

The Renal Disease Advisory Committee, established by section 4 of the act of June 23, 1970 (P. L. 419, No. 140) (35 P. S. § 6204), will hold a public meeting on Friday, January 21, 2011, from 10 a.m. to 2 p.m. The meeting will be held in Conference Room 327, Health and Welfare Building, 625 Forster Street, Harrisburg, PA 17120.

Questions regarding this notice should be directed to Carolyn S. Cass, Director, Division of Child and Adult Health, Department of Health, Health and Welfare Building, 625 Forster Street, Seventh Floor—East Wing, Harrisburg, PA 17120. Persons with a disability may submit questions to Carolyn S. Cass in alternative formats, such as audiotape, Braille or TDD (717) 783-6514 or TT (800) 654-5984. Persons with a disability who require an alternative format of this document (for example, large print, audio tape or Braille) should contact Carolyn S. Cass to make the necessary arrangements.

This meeting is subject to cancellation without notice.

MICHAEL K. HUFF, R.N.,  
Acting Secretary

[Pa.B. Doc. No. 11-48. Filed for public inspection January 7, 2011, 9:00 a.m.]

## DEPARTMENT OF PUBLIC WELFARE

### Payments to Nonpublic and County Nursing Facilities; Final Rates for State Fiscal Year 2009-2010

This notice announces the Department of Public Welfare's (Department) final annual case-mix per diem payment rates for State Fiscal Year (FY) 2009-2010 for nonpublic and county nursing facilities that participate in the Medical Assistance (MA) Program.

#### *NonPublic Nursing Facility Per Diem Rates*

As required by the case-mix payment methodology set forth in 55 Pa. Code Chapter 1187, Subchapter G (relating to rate setting), the Department annually sets an MA per diem rate for each nonpublic nursing facility provider. Each facility's annual per diem rate is comprised of four components: resident care; other resident related; administrative; and capital.

The act of July 4, 2008 (P. L. 557, No. 44) (Act 44), among other things, directed the Department to apply a budget adjustment factor (BAF) in calculating rates for MA nonpublic and county nursing facilities over a 3-year period, beginning July 1, 2008, and ending June 30, 2011, and to phase-out the use of county nursing facility costs in nonpublic nursing facility rate setting over a period of 3-rate years, beginning FY 2009-2010 and ending on June 30, 2012. The Department will continue to include county nursing facilities in determining peer groups in accordance with 55 Pa. Code § 1187.94(1)(v) (relating to peer grouping for price setting) for rate years 2009-2010, 2010-2011 and 2011-2012. Once peer groups have been determined, the Department will calculate an interim median by adding each county nursing facility's costs from the three most recent audited cost reports to a



noncollapsed peer group based on bed size and Metropolitan Statistical Area group. For rate year 2009-2010, the phase-out median will equal 75% of the interim median plus 25% of the median calculated in accordance with 55 Pa. Code § 1187.98(b)(2) (relating to phase-out median determination).

The Federal Centers for Medicare and Medicaid Services (CMS) approved State Plan Amendment (SPA) 09-018 on September 22, 2010. SPA 09-018 states that the BAF for rate setting year 2009-2010 shall limit the estimated aggregate change in the Statewide day-weighted average payment rate for MA nursing facility services for county and nonpublic nursing facilities so that the aggregate percentage rate of increase for the period that begins July 1, 2009, and ends on June 30, 2010, is limited to the amount permitted by the funds appropriated by the General Appropriations Act of 2009. For the rate setting year, beginning July 1, 2009, and ending June 30, 2010, the BAF for nonpublic nursing facilities is equal to 0.90275.

#### *County Nursing Facility Per Diem Rates*

As required by the rate methodology set forth in 55 Pa. Code Chapter 1189, Subchapter D (relating to rate setting), the Department sets an annual MA per diem rate for each county nursing facility provider. As stated in 55 Pa. Code § 1189.91(b) (relating to per diem rates for county nursing facilities), for each rate year beginning on or after July 1, 2007, the per diem rate paid to a county nursing facility for a rate year will be the facility's prior rate year per diem rate multiplied by a BAF.

In addition, as required by 55 Pa. Code § 1189.91(d), the Department followed the formula set forth in the Commonwealth's approved State Plan to determine that the BAF for FY 2009-2010 for county nursing facilities is 1.01. CMS approved State Plan Amendment 09-017 on September 22, 2010.

SPA 09-017 states that for rate setting year 2009-2010 and 2010-2011, the BAF shall limit the estimated aggregate increase in the Statewide day-weighted average payment rate for MA nursing facility services for county and nonpublic nursing facilities so that the aggregate percentage rate of increase for the period that begins July 1, 2005, and ends on June 30, 2011, is limited to the amount permitted by the funds appropriated by the General Appropriations Acts. The formula for this BAF as it applies to county nursing facilities is  $BAF = 1.00 + 0.01$ .

The final annual per diem rates for FY 2009-2010 are available on the web site for the Department at: [www.dpw.state.pa.us/provider/doingbusiness\\_withdpw/longtermcarecasemixinformation/index.htm](http://www.dpw.state.pa.us/provider/doingbusiness_withdpw/longtermcarecasemixinformation/index.htm) and at local county assistance offices throughout this Commonwealth or by contacting Marilyn Yocum, Department of Public Welfare, Office of Long-Term Living at (717) 705-3705.

#### *Public Process*

The Department published a notice in the *Pennsylvania Bulletin* announcing its proposed case-mix per diem payment rates for nonpublic and county nursing facilities for FY 2009-2010 at 40 Pa.B. 3629 (June 26, 2010) and invited interested persons to submit comments. No comments were received by the Department in response to the proposed rate notice.

#### *Appeals*

Following publication of this notice, the Department will send rate letters to each MA nursing facility to notify the facilities of their final rates for FY 2009-2010. The rate letter will also advise each facility that it may file an

administrative appeal if the facility believes that the Department made any errors or otherwise disagrees with its final rates for FY 2009-2010. A provider's appeal must be in writing and filed with the Department's Bureau of Hearings and Appeals, 2330 Vartan Way, 2nd Floor, Harrisburg, PA 17110-9721, within 33 days of the date of the Department's letter notifying the facility of its final rates. Facilities should refer to 67 Pa.C.S. Chapter 11 (relating to Medical Assistance hearings and appeals) and to the Department's regulations at 55 Pa. Code Chapter 41 (relating to Medical Assistance provider appeal procedures) for more detail regarding their appeal rights and the requirements related to written appeals.

#### *Fiscal Impact*

The change in payment rates, will result in an estimated increased cost of \$24.433 million (\$8.360 million in State funds) for per diem rate payments to nonpublic nursing facilities and an estimated increased cost of \$5.539 million (\$1.895 million in State funds) for per diem rate payments for county nursing facilities' FY 2009-2010 rates compared to the facilities' final FY 2008-2009 per diem rates. Funding for these changes has been included in the MA Long-Term Care appropriation.

#### *Public Comment*

Interested persons are invited to submit written comments regarding this notice to the Department of Public Welfare/Department of Aging, Office of Long-Term Living, Bureau of Policy and Strategic Planning, Attention: Marilyn Yocum, Forum Place, 5th Floor, 555 Walnut Street, Harrisburg, PA 17101-1919. Comments received within 30 days will be reviewed and considered for any subsequent revision of the notice.

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

MICHAEL P. NARDONE,  
*Acting Secretary*

**Fiscal Note:** 14-NOT-677. (1) General Fund; (2) Implementing Year 2009-10 is \$10,255,000; 1st Succeeding Year 2010-11 is \$10,255,000; 2nd Succeeding Year 2011-12 is \$10,255,000; 3rd Succeeding Year 2012-13 is \$10,255,000; 4th Succeeding Year 2013-14 is \$10,255,000; 5th Succeeding Year 2014-15 is \$10,255,000; (4) 2008-09 Program—\$672,597,000; 2007-08 Program—\$692,585,000; 2006-07 Program—\$695,297,000; (7) Long-Term Care; (8) recommends adoption. Funds have been included in the budget to cover this increase.

[Pa.B. Doc. No. 11-49. Filed for public inspection January 7, 2011, 9:00 a.m.]

## DEPARTMENT OF TRANSPORTATION

### Sale of Land No Longer Needed for Transportation Purposes

The Department of Transportation (Department), under section 2003(e)(7) of The Administrative Code of 1929 (71 P. S. § 513(e)(7)), intends to sell certain land owned by the Department.

The following properties are available for sale by the Department.

1. Parcel No. 59—21st Ward, City of Pittsburgh, Allegheny County. This parcel contains approximately 8,301.53 ± square feet or 0.1906 ± acre of unimproved land located on the westerly side of Blake Way between Page and Hopkins Streets. The estimated fair market value of the parcel is \$36,000.

2. Parcel No. 42—21st Ward, City of Pittsburgh, Allegheny County. This parcel contains approximately 14,797.82 ± square feet or 0.3397 ± acre of unimproved land located between Faulsey Way, Page Street and relocated Chateau Street. The estimated fair market value of the parcel is \$32,000.

Interested public entities are invited to express their interest in purchasing this parcel within 30 calendar days from the date of publication of this notice to H. Daniel Cessna, P. E., District Executive, Department of Transportation, Engineering District 11-0, 45 Thoms Run Road, Bridgeville, PA 15017.

ALLEN D. BIEHLER, P.E.,  
*Secretary*

[Pa.B. Doc. No. 11-50. Filed for public inspection January 7, 2011, 9:00 a.m.]

## ENVIRONMENTAL QUALITY BOARD

### Meeting Cancellation

The January 19, 2011, meeting of the Environmental Quality Board (Board) is cancelled. The next regularly scheduled meeting of the Board is scheduled for Tuesday, February 15, 2011, at 9 a.m. in Room 105, Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA 17105. An agenda and meeting materials for the February 15, 2011, meeting will be available on the Department of

## INDEPENDENT REGULATORY REVIEW COMMISSION

### Notice of Comments Issued

Section 5(g) of the Regulatory Review Act (71 P. S. § 745.5(g)) provides that the Independent Regulatory Review Commission (Commission) may issue comments within 30 days of the close of the public comment period. The Commission comments are based upon the criteria contained in section 5.2 of the Regulatory Review Act (71 P. S. § 745.5b).

The Commission has issued comments on the following proposed regulations. The agencies must consider these comments in preparing the final-form regulation. The final-form regulations must be submitted within 2 years of the close of the public comment period or it will be deemed withdrawn.

<i>Reg. No.</i>	<i>Agency/Title</i>	<i>Close of the Public Comment Period</i>	<i>IRRC Comments Issued</i>
14-522	Department of Public Welfare Residential Treatment Facilities 40 Pa.B. 6109 (October 23, 2010)	11/22/10	12/22/10
14-521	Department of Public Welfare Psychiatric Rehabilitation Services 40 Pa.B. 6101 (October 23, 2010)	11/22/10	12/22/10

Environmental Protection's web site at <http://www.depweb.state.pa.us> (DEP Keywords: "EQB").

Questions concerning the Board's next scheduled meeting may be directed to Michele Tate at (717) 783-8727 or [mtate@state.pa.us](mailto:mtate@state.pa.us).

JOHN HANGER,  
*Chairperson*

[Pa.B. Doc. No. 11-51. Filed for public inspection January 7, 2011, 9:00 a.m.]

## HOUSING FINANCE AGENCY

### Homeowner's Emergency Mortgage Assistance Program (HEMAP); Interest Rate for HEMAP Loans Closed in 2011

Under section 406-C of the Housing Finance Agency Law (35 P. S. § 1680.406c), the Housing Finance Agency (Agency) is to determine prior to the end of each calendar year, the rate of interest for Homeowner's Emergency Mortgage Assistance Program (HEMAP) loans closed in the next calendar year, which rate is not to exceed the rate of interest established by the Department of Banking under section 301 of the act of January 30, 1974 (P. L. 13, No. 6), referred to as the Loan Interest and Protection Law, and referred to commonly as the Usury Law.

The Agency has determined that the rate of interest for HEMAP loans closed during calendar year 2011 shall be 5.25%.

This notice shall take effect immediately

BRIAN A. HUDSON, Sr.,  
*Executive Director*

[Pa.B. Doc. No. 11-52. Filed for public inspection January 7, 2011, 9:00 a.m.]

57-278

Pennsylvania Public Utility Commission  
Call Recording for Telephone Companies  
40 Pa.B. 5819  
(October 9, 2010)

11/23/10

IRRC  
12/23/10

**Department of Public Welfare  
Regulation #14-522 (IRRC #2878)**

**Residential Treatment Facilities**

**December 22, 2010**

We submit for your consideration the following comments on the proposed rulemaking published in the October 23, 2010 *Pennsylvania Bulletin*. Our comments are based on criteria in section 5.2 of the Regulatory Review Act (71 P. S. § 745.5b). Section 5.1(a) of the Regulatory Review Act (71 P. S. § 745.5a(a)) directs the Department of Public Welfare (Department) to respond to all comments received from us or any other source.

**1. General.—Economic and fiscal impacts of the regulation, and protection of the public health safety and welfare; Implementation procedures.**

One of the criteria IRRC must consider in determining whether a regulation is in the public interest is the economic or fiscal impacts of the regulation. See 71 P. S. § 745.5b(b)(1). The proposed regulation submittal does not include a plausible evaluation of the economic and fiscal impact of this regulation. This in turn, as outlined by many commentators, also brings into consideration the criterion of the protection of the public health, safety and welfare relating to the proposed regulation. See 71 P. S. § 745.5b(b)(2).

In order to make a determination of whether this regulation is in the public interest, the Department must provide a detailed evaluation of the costs imposed by the final-form regulation, the effect on the revenues of the businesses the providers run, and ultimately how the final-form regulation protects the overall public health, safety and welfare of the children in a Residential Treatment Facility (RTF). The following is a detailed outline of our concerns and the concerns expressed by public commentators relating to the economic impact of the regulation and the accompanying information provided by the Department.

*Costs imposed*

In the proposed regulation's Preamble the Department states the following relating to fiscal impact:

The increased costs incurred by an RTF [Residential Treatment Facility] to meet the enhanced staffing and training requirements may result in higher per diem rates for some RTFs, but the expected aggregate reduction in lengths of stay due to high quality behavioral health treatment is expected to offset the fiscal impact of the higher rates. In addition, RTFs that are currently not accredited and choose to remain MA [Medical Assistance] providers will incur the costs associated with accreditation. The Department will be able to build the cost of accreditation into the rates.

In this statement, the Department itself recognizes to some degree increased costs imposed by the regulation. However, in its responses to Questions 17 to 19 on the Regulatory Analysis Form (RAF), the Department makes

the following statements relating to "costs and/or savings . . . associated with compliance":

- Regulated community—"Not applicable."
- Local governments—"Not applicable."
- State government—"No fiscal impact is anticipated as a result of these changes."

Many commentators strongly disagree with cost estimates provided in the Preamble and the RAF. Commentators believe the cost of compliance for providers and the Department will involve substantial direct and indirect costs. Commentators cited the following:

- The Pennsylvania Council of Children, Youth and Family Services commented that there are clearly significant costs associated with compliance that the Department has not considered. Estimated costs for consultant fees to accomplish accreditation are \$150,000, with the alternative that equivalent staff time would have to be allocated to accomplish accreditation. The staffing requirements will impose significant costs including staffing ratios, staffing structure and training requirements. Detailed examples of partial compliance costs are provided showing an annual estimated cost difference of \$723,000 related to staffing requirements.

- The Pennsylvania Community Providers Association stated that the analysis and cost impact assumptions provided by the Department are without foundation and are likely inaccurate . . . The Department must be accountable for the development of a much more detailed analysis of the fiscal and service system impact of these regulations at the agency, county and state level. Currently RTF programs are required to submit a cost report annually and these should be used as the foundation for the Department to formulate a realistic economic impact assessment.

- The Sarah A. Reed Children's Center estimated their facility reasonably expects to incur additional costs in the range of \$466,000 to \$766,000 per year, an increase of 7.7% to 13% if the regulation is enacted as proposed.

- Woods Services, Inc. stated that the imposition of a medical model on non-medically oriented programs is both clinically inappropriate and excessively expensive. It provided an estimate of additional annual costs of \$1.3 million with one-time transition costs of \$470,000.

- Silver Springs—Martin Luther School says these regulations will not be cost neutral. Their current deficit is \$787,000 because the per diem set by the Office of Medical Assistance does not cover costs. The Mental Health Professional as required by the regulations will add \$419,000 of costs.

- Perseus House, Inc. estimates the proposed staffing ratios combined with travel expenses for family work is that the increases will be anywhere from 30% to 40% dependent on the current rate and the site.

- Southwest Behavioral Health Management, Inc. believes consideration should be given not only to the increased costs to the provider to meet the increased standards, but also to the local economy, and how capacity limits will affect local businesses, tax base and unemployment.



- Devereux Foundation believes the requirements for accreditation will be costly to both the providers who are not accredited (82 current providers according to the Department's response to RAF Question 16) and will be borne by the Department within the rate structure of the providers. The Department's assumptions appear to be based on intuitive judgment and have not been subjected to actuarial methods of estimating costs.

- Other commentators believe that staffing and staffing ratio provisions impose inflexible costs that limit a provider's ability to reduce costs to maintain viability.

In addition to the issues raised by public commentators, we question whether the Department itself will have increased costs as a result of this regulation. While several provisions are similar to existing requirements in Chapter 3800, we question whether the Department will experience increased costs from provisions requiring Department actions including the following sections:

- 23.4. Waivers.
- 23.12. Inspections and certificates of compliance.
- 23.13. Appeals.
- 23.15. Fire safety approval.
- 23.16. Child abuse.
- 23.17. Reportable incidents.
- 23.18. Recordable incidents.
- 23.203. Written plan to create a restraint-free environment.
- 23.221. Description of services.
- 23.331. Inspection of care reviews: general.
- 23.332. Inspection of care reports.
- 23.341. Provider abuse.
- 23.342. Administrative sanctions.
- 23.351. Provider right of appeal.

We recommend that the Department meet with the public commentators, other members of the regulated community, and others who may be affected by the final-form regulation to discuss and evaluate costs imposed by this regulation, and consider whether more costly provisions provide sufficient benefit to make them justifiable. In order to satisfy the criterion of economic impact and fiscal impacts of the regulation, we recommend that the Department provide a detailed analysis of the costs imposed by the provisions in the final-form regulation.

#### *Effect on Revenue*

Under Subsection 23.14(a), "an RTF may not exceed 4 units of 12 beds each for a total of 48 beds." This provision limits the size of RTFs in three ways: by units, by beds in the unit and by total number of beds. We have the following concerns:

- Regarding the limitation to 4 units, according to the Department's response to Question 15 of the RAF, 58 of the 82 non-accredited RTFs and 17 of the 81 accredited RTFs exceed the maximum number of units per location. By the Department's numbers, this equates to 75 of the existing 163 providers, or 46%, who would have to downsize to meet the requirements of the regulation.

- Regarding the limitation on the number of beds, several commentators state their facilities exceed this requirement. Consequently, to comply with the regulation, these facilities would have vacant beds in their units.

- Regarding the limitation on the total number of beds to 48, several commentators said they exceed this number.

Additionally, Section 23.102 places limits on the size of child bedrooms, and Subsection (c) limits a room to two children. One provider commented that it allows four children to a room. While the requirements in Section 23.102 are similar to Chapter 3800, it appears that Chapter 23 will introduce further limitations compared to existing practice.

Overall, our concern is that, based on the public comment, downsizing to meet the regulatory requirements means a facility will not be able to serve as many patients, and consequently will lose revenues as a result of the limitation on the number of units per location.

We recommend that the Department meet with the public commentators to evaluate existing facilities and the loss of revenue they will experience from this regulation. In order to satisfy the criterion of economic and fiscal impacts of the regulation, we recommend that the Department provide a detailed analysis of the revenue loss to existing facilities affected by the regulation in the submittal of the final-form regulation.

#### *Alternatives for children upon displacement*

According to several public comments, many existing facilities will either have to downsize or may become financially unviable as a result of this regulation. Commentators question what will happen to children who will be displaced by existing facilities. They speculate that these children will be pushed into other types of treatment facilities, or will end up in hospitals, which would be more expensive overall. In addition to an evaluation of the costs imposed and revenue losses, the Department needs to explain what will happen to children who cannot remain at a facility and the resulting effect on other service providers.

#### *Effect on local economies*

In conjunction with downsizing facilities, commentators believe the regulation would cause people at existing facilities to be laid off from their current duties. The Department should discuss this concern with the commentators and provide an estimate of how many people who are currently employed at these facilities would have to seek other employment or become unemployed as a result of this regulation.

#### *Explain how the benefits of the regulation outweigh any cost and adverse effects*

RAF Question 21 asks for the above explanation. The Department responded:

The increased costs incurred by an RTF to meet the enhanced staffing and training requirements may result in higher per diem rates for some RTFs, but the expected aggregate reduction in lengths of stay due to high quality behavioral health treatment is expected to offset the fiscal impact of the higher rates.

Many commentators strongly disagree with this statement. In stark contrast to the Department's evaluation, commentators provided cost estimates and revenue loss estimates, along with projections of possible unemployment caused by the regulation that far exceed what the Department included in its evaluation. We ask the Department to provide the detailed studies and calculations that support the Department's response to RAF Question 21 in the final-form regulation.

*Accreditation and regulation*

Paragraph 23.291(b)(7) states an RTF shall:

Receive and maintain accreditation as a child and adolescent RTF by CARF, COA, JCAHO or by another accrediting body approved by the Department as published in a notice in the *Pennsylvania Bulletin*.

A commentator supportive of accreditation observes that to maintain accreditation by these bodies the RTF must meet the accreditation standards. Therein is an opportunity to reduce and simplify the regulatory credentialing and quality assurance process required by the Department, along with the costs imposed directly by the Department's regulations. Given the requirement for accreditation, why are all of the other provisions in the regulation needed and not duplicative of the requirements for accreditation?

*Allowable costs*

Several commentators expressed concern that some costs are not allowable for reimbursement, such as portions of administrative costs, accreditation costs, preadmission interviews, health care, meals for a visitor, transportation, therapeutic leave, costs for seasonal clothing and barber and beautification services. The Department should explain whether these services are reimbursable and explain why.

*Implementation procedures*

In the Preamble, the Department states that the regulations will be effective 12 months from the date the final-form rulemaking is published in the *Pennsylvania Bulletin*. A commentator suggests that 12 months is not long enough to create the new services required by the regulation and to replace bed capacity eliminated by the regulation. The Department should explain how RTFs can reasonably implement the regulation in 12 months.

**2. What facilities does this regulation affect?—Consistency with statute; Need; Economic impact; Clarity.**

The regulation defines the term "RTF—Residential Treatment Facility" as:

A nonhospital living setting in which behavioral health treatment is provided to one or more children with a diagnosed mental illness, or serious emotional behavioral disorders or a diagnosed substance abuse condition in conjunction with a diagnosed mental illness or serious emotional or behavioral disorder.

The Drug and Alcohol Service Providers Organization of Pennsylvania (DASPOP) commented with several questions and concerns, including "Does this regulation affect licensed drug and alcohol addiction treatment programs including licensed drug and alcohol programs serving the child welfare system and impose additional requirements upon them?" DASPOP also asks what the status is of a facility where young people are treated with a drug and alcohol diagnosis in conjunction with a diagnosed mental illness or serious emotional or behavioral disorder.

We believe that Section 23.2. *Applicability* should provide further guidance than is found in the regulation's definitions. We recommend that the Department clearly delineate in the regulation, such as in Section 23.2, what specific treatments and facilities must comply with Chapter 23.

**3. Possible conflict with statutes.**

*Health Insurance Portability and Accountability Act (HIPAA)*

Commentators raised concerns with storage of information relating to HIPAA. For example, a commentator believes that HIPAA would be violated by Section 23.17 since it requires storage of information at business offices. We recognize that an RTF must comply with HIPAA under Paragraph 23.21(a)(9). However, based on public comment, the Department should review the requirements of the regulation in conjunction with HIPAA and provide an explanation of how the regulation is compliant with HIPAA.

*Act 147 of 2004*

A commentator questions whether the consent to treatment provisions in Sections 23.20, 23.21 and 23.31 for parental consent on behalf of a minor up to age 18 comply with Act 147 of 2004. The Department should review the regulation in conjunction with Act 147 of 2004 and provide an explanation of how the regulation is compliant with Act 147 of 2004.

**4. Coordination of RTF requirements with other departments.—Consistency with statute.**

The Department cites as statutory authority for this regulation 62 P. S. §§ 201(2), 403(b), 901—922 and 1001—1080. Under 62 P. S. § 921(a), the Department is directed to prevent duplication by calling upon any other department, board or commission of the Commonwealth of Pennsylvania to cooperate with it in the performance of its duties and responsibilities. Also, under 35 P. S. § 448.803, the Department of Health and other departments shall make every reasonable effort to prevent duplication of inspections and examinations. The Department should explain how it implemented and considered these statutory provisions in the development of the regulation of RTFs.

**5. Advanced Notice of Final Rulemaking.**

The Department describes in response to RAF Question 22 that stakeholders have been meeting to establish clinical guidelines and program standards for RTFs over the past decade in workgroups, through draft documents, at forums and meetings with recommendations that have been considered in drafting the proposed regulation. This is supported by some comments that describe an open process in developing this regulation. However, some commentators appear to either not have been part of that process, or were unaware of the specific language that resulted from those meetings. Several commentators complained that 30 days was not enough time to develop thorough comments on this regulation.

It is clear by the issues raised in the comments, the intensity of comment, the broad range of commentators and volume of comment that the Department's regulatory language has not yet achieved consensus on many issues. The Department should work with affected parties to develop improved ideas for achieving its policy objectives without imposing unnecessary or unreasonable financial burdens. Additionally, the Department should publish an Advanced Notice of Final Rulemaking to allow the opportunity to review and resolve any remaining issues prior to submittal of a final-form regulation into the formal process.

**6. Section 23.2. Applicability.—Consistency with statute; Clarity.**

This section is not clear for two reasons. First, as mentioned above, it does not provide sufficient informa-

tion to determine what facilities are affected and what facilities are not affected. Second, it uses the phrase “children under 21 years of age.” We question here and in the definition of “child” the statutory basis for a child to be over 18 years of age.

### 7. Section 23.3. Definitions.—Clarity.

#### *Child*

Child is defined as an individual under 21 years of age. The Department cites as statutory authority for this regulation 62 P. S. §§ 201(2), 403(b), 901—922 and 1001—1080. We did not find a direct definition of the term “child” in these citations. Also, we recognize that age does not reflect the best recognition of the needs of persons with a mental disability.

Several commentators believe that a child should be defined as under 18 years of age. Other statutory provisions define child as under 18, including 62 P. S. §§ 746 and 772. The Department should either amend its regulatory definition of child to a person under 18 years of age or alternatively explain why the definition is consistent with the statute.

#### *Intimate sexual contact*

A commentator believes this definition, by using the phrase “unclothed physical contact,” could exclude inappropriate contact of a sexual nature involving clothed physical contact. The Department should clarify this definition to address the commentator’s concern.

#### *Minor*

This term is defined as “a *child* under 18 years of age.” (Emphasis added.) As the regulation is written, the use of the term “child,” in the definition of “minor” is contradictory because the regulation also defines “child” as “an individual under 21 years of age.” The Department should reconcile these definitions.

#### *PRN*

In our review of the regulation, we could only find this term used in Subparagraph 23.205(f)(9)(i). We suggest deleting this definition from Section 23.3 and defining the term in Subparagraph 23.205(f)(9)(i).

### 8. Section 23.4. Waivers.—Reasonableness; Fiscal impact.

#### *Timeframe*

This section prescribes a waiver process, but does not specify when the Department will respond to a request. Without a timeframe, the regulation would allow a waiver request to be indeterminate. The regulation should specify a specific amount of time for the Department to respond to a waiver request.

#### *Use of waivers*

As stated previously in these comments, according to the Department’s response to Question 15 of the RAF, 58 of the 82 non-accredited RTFs and 17 of the 81 accredited RTFs exceed the maximum number of units per location prescribed in the proposed regulation. This could cause extensive requests for waiver of this provision alone. To the extent possible, the Department should consider amendments to the regulatory scheme that would minimize the need for waivers.

### 9. Section 23.12. Inspections and certificates of compliance.—Need; Reasonableness; Economic impact.

#### *Coordination of inspections*

A commentator observes that an accredited facility is already inspected by the accrediting body. We recognize that the statute directs annual inspections. Can the Department coordinate its inspections with the inspections done by an accrediting body?

#### *Post a copy of this chapter*

Subsection (c) requires an RTF to post a copy of this chapter. Commentators appropriately questioned the practicality of posting a document that is more than 150 pages long. After a final-form regulation is finished, these regulations will be available on the Pennsylvania Code website (www.pacode.com). We suggest requiring the RTF to post a citation to Chapter 23 and the website where the regulations can be found. The regulation could also require that an RTF make a copy of the regulations available upon request.

### 10. Section 23.14. Maximum capacity.—Need; Economic impact; Reasonableness; Timetable for compliance; Feasibility.

*An RTF may not exceed 4 units of 12 beds each for a total of 48 beds*

Subsection 23.14(a) states, “an RTF may not exceed 4 units of 12 beds each for a total of 48 beds.” We ask the following questions:

- Given the staffing requirements in the regulation, and in particular Subsection 23.58(b) that specifies staff to child ratios, why is it necessary to limit the overall number of units, children per unit and the ultimate size of a facility to 48 children?
- How was the limit of 4 units determined?
- How was the limit of 12 beds per unit determined?
- How was the limit of 48 beds determined?

The Department should justify the need to limit the size of facilities to the numbers specified in the regulation. In addition, the Department should provide the studies it relied upon in reaching the numbers included in the regulation.

#### *Presenting population*

A commentator states the regulation limits the RTF’s ability to reallocate beds based on the presenting population at any one time. The limitations could result in facilities using an inefficient allocation of its beds and units because specialized units may be needed to accommodate a particular group of youth. The Department should explain how an RTF would operate under Subsection 23.14(a) when the presenting population differs from the structure envisioned by Subsection 23.14(a).

Section 23.14 is prescriptive and detailed. How does this provision match the physical site of existing facilities? For example, if an existing facility has six units of eight beds, why couldn’t that facility qualify without requesting a waiver? Also, why shouldn’t a facility qualify whose units have 14 beds? Why does the regulation need to prescribe numbers of units and beds in a unit, rather than just a limitation on the number of children?

#### *Transition plan*

In the description of Section 23.14 in the Preamble, the Department states that “RTFs that currently exceed the proposed maximums will have the opportunity to develop and implement a transition plan to reduce the number of beds.” There are four concerns. First, why wasn’t this plan specified in the regulation? Second, how long can a



facility take to make this transition? Third, what would a facility have to demonstrate in order to qualify for the transition? Finally, what alternatives can a facility consider if the transition to 48 beds makes a facility unprofitable? The final-form regulation should include provisions that specify the required components of a transition plan, the process for approval of the plan and how to amend a plan.

**11. Section 23.17. Reportable incidents.—Protection of the public.**

*Reporting restraints*

Paragraph (a)(9) requires reporting of use of a drug as a restraint. Should this also include reporting of any restraint such as manual restraint?

*Disability Rights Network*

The Disability Rights Network requested that Subsection (c) use the term “State-Designated Protection and Advocacy System” rather than “Disability Rights Network.” The Department should review this comment and the use of “Disability Rights Network” in Subsection (c). This also applies to Subsection 23.34(e).

**12. Section 23.21. Confidentiality of records.—Clarity.**

A commentator believes the regulation should include the Federal Educational Rights and Protection Act (FERPA). The Department should add FERPA or explain why it is not needed.

**13. Section 23.32. Specific rights.—Feasibility; Clarity.**

*Gender identity*

Several commentators requested the addition of “gender identity” to Subsection (a). They cite higher risk of depression and suicide for those who experience this discrimination. The Department should add gender identity to Subsection (a) or explain why it is not necessary.

*Communication method*

Subsection (d) requires a child to be informed of the rules of the RTF. Some commentators asked that this communication be provided in a language the child understands, including sign language as needed. We agree that the communication of rules is without value if the child cannot understand it. We recommend that the regulation require communication by a method the child can understand.

*Excessive medication*

This section applies to the children within a licensed RTF, and as such regulates the activities and actions of the RTF. This section includes several reasonable provisions that the RTF can control, such as access to appropriate medical care and advocacy. In relation to Subsection (m) though, the regulation states “a child shall be free from excessive medication.” While we agree with the ideal that excessive medication should not be used, we have two practical concerns.

First, “excessive” medication would be a medical judgment taking into account many factors. How would the RTF itself determine whether medication is “excessive”?

Second, what action is the RTF expected to take? Generally speaking, these medical judgments would be under the jurisdiction of licenses issued by the various boards under the Department of State’s Bureau of Professional and Occupational Affairs. What avenue does the RTF have to comply with the regulation?

**14. Section 23.34. Notification of RTF restraint policy.—Clarity.**

Should Paragraph (4) state “provide a copy of the RTF restraint policy . . .”? (Emphasis Added)

**15. Section 23.41. Family participation in the treatment process.—Protection of the public welfare; Clarity.**

A commentator observed that the regulation does not address circumstances where there are court related custody issues. The Department should add provisions to address custody as it relates to family participation or explain why they are not needed.

**16. STAFFING—Need; Economic impact; Reasonableness; Protection of the public health, safety and welfare; Implementation procedures.**

Sections 23.51 to 23.62 provide detailed requirements for staffing at RTFs. In the Preamble, the Department explains that these sections require enhanced credentials, increased staffing ratios, and more clinically oriented training topics than current requirements, in addition to health and safety training requirements. The Department should provide further support for how it determined the positions are needed and how it determined appropriate credentials for the positions. Also, the Department should explain the effect of the regulation on current RTFs and employees, and why a grandfather provision was not included.

**17. Section 23.53. RTF director.—Economic impact; Reasonableness; Protection of the public health, safety and welfare.**

Under 55 Pa. Code § 3800.53(a), a director may be responsible for more than one facility. Why wasn’t this provision included in this section?

**18. Section 23.54. Medical director.—Reasonableness; Economic impact; Implementation procedures.**

Subsection (b) requires the medical director to be a board-certified or board-eligible psychiatrist. A commentator states there is a shortage of psychiatrists in Pennsylvania and suggests delegating functions down to the clinical director position. The Department should explain whether there are enough psychiatrists in Pennsylvania to fulfill the need created by this regulation.

**19. Section 23.55. Clinical director.—Reasonableness; Economic impact; Implementation procedures.**

A commentator is concerned that the credentials for this position as specified in Subsection (b) will increase costs. The commentator also questions whether persons who hold this position could be grandfathered. The Department should explain the cost of hiring a person with these qualifications. Additionally, the Department should explain why it did not include a grandfather provision in the regulation.

**20. Section 23.58. Staff ratios.—Economic impact; Protection of the public health, safety and welfare; Reasonableness; Implementation procedures.**

Commentators believe the ratios in this section represent levels required for acute care, which is not representative of the staffing needed for RTF care. Other commentators believe the staffing for awake hours is excessive and prohibitively costly. Some commentators questioned what positions could be counted toward the specified ratios. We recognize the regulations address a potentially broad range of settings. The Department should explain

why the staffing ratios in this section are the best alternative and what positions may be included in the ratios. The Department should also explain the cost impact on existing facilities to meet the staffing ratios in the regulation.

**21. Section 23.59. Primary contact.—Reasonableness; Need; Economic impact; Clarity.**

Subsection (b) lists the primary contact's responsibilities, including serving as a liaison, and coordinating the after care plan. However, commentators question the need for all of the responsibilities listed in the regulation and state the position described is performed by as many as three persons in their facility. They also state that Paragraph (2), requiring participation in the High Fidelity Wraparound and Paragraph (3) requiring promotion "of resiliency through risk reduction and asset-building strategies" are vague and appear to go beyond coordination of care. The Department should review the primary contact responsibilities and explain why they are all needed in regulation and assigned to one position. Additionally, the Department should further explain what is intended by Paragraphs (2) and (3).

**22. Section 23.60. Family advocacy.—Reasonableness; Economic impact.**

*Independence*

This section requires an RTF to have on staff, or contract for the services of, a family advocate for every 48 children. Commentators question the potential conflict of interest of a family advocate employed by the facility. We agree. The Department should reconsider whether a family advocate can effectively and freely provide the advice a family needs when the family advocate's advice may impose costs on the RTF and the family advocate's employment, pay and benefits are provided by the RTF.

*Qualifications*

Subsection (b) lists nine responsibilities of the family advocate, including promoting the observance of children's rights and reviewing grievances. These responsibilities appear to require some degree of expertise in order to effectively carry out the responsibilities. However, the definition of the term "family advocate" in Section 23.3 envisions the family advocate to be "a family member of a child who is currently receiving services . . ." Could a family member who does not have expertise in the responsibilities listed in Subsection (b) perform effectively on behalf of a child?

The definition of family advocate and the responsibilities for that advocate listed in Subsection (b) do not appear to be consistent. The Department should review the definition and Section 23.60 and either amend the regulation as appropriate for the position of family advocate, including the qualifications required, or explain what is envisioned for the role of a family advocate.

*Medicaid reimbursement*

Finally, is the cost of a family advocate an allowable cost for Medicaid reimbursement? The Department should also quantify the cost of this service.

**23. Section 23.61. Supervision.—Protection of the public; Need.**

A commentator suggests that the requirements in this section are more applicable to a hospital setting than an RTF setting. On the other hand, another commentator suggests reducing the observation times to seven minutes. The Department should explain why all RTFs need to make visual observations every 15 minutes and document that observation.

**24. Section 23.62. Staff Training.—Clarity; Reasonableness; Need; Economic impact.**

*Hours of training*

Paragraph (c)(5) requires a total of 20 hours of training from the list that includes 18 subjects of training. Commentators are confused as to whether annual training must include all 18 topics. The Department should amend this provision so that it is clear what training is required annually.

*Amount of training*

Other commentators believe the training is excessive. The Department should explain the need for the number of hours of training and the cost of that training.

*High fidelity wraparound*

A commentator states that high fidelity wraparound is not available in all counties. Why is training in this specific treatment model required under Subsection (c)? Should the regulation allow training in other types of treatment models?

*Clarity*

We note that the subparagraph designations should be reviewed. Designation of Subparagraph "(xv)" was omitted, but it was later used as the last Subparagraph designation.

**25. Section 23.82. Poisons.—Protection of the public health, safety and welfare.**

Commentators suggest adding a requirement that states "child use of household cleaning supplies must be directly supervised by staff." This suggestion is made because children have been reported to have ingested cleaning products. The Department should consider adding this provision.

**26. Section 23.87. Surfaces.—Clarity.**

Should this section include a reference to the possibility of lead paint, as is included in 55 Pa. Code § 3800.87(b)?

**27. Section 23.143. Child health examination.—Reasonableness; Protection of the public health, safety and welfare.**

Subsections (a) and (b) specify requirements for a medical examination within three days after admission. Commentators believe it will be difficult to schedule this examination in three days. We note that 55 Pa. Code § 3800.143(a) allows 15 days. Why is the timeframe of three days reasonable and needed?

**28. Section 23.147. Use of tobacco products.—Reasonableness.**

This section limits the "use or possession" of tobacco products. Commentators state they can enforce use of tobacco, but question how an RTF can enforce possession. We agree, particularly for staff who otherwise meet the law relating to tobacco products. We note that Subsection (c) appears inconsistent with Subsection (b) in that Subsection (c) describes allowable use of tobacco by staff. The Department should review this section for consistency and provide clear guidance that an RTF can reasonably comply with.

**29. Section 23.188. Self-administration.—Reasonableness.**

A commentator suggests that this section be revised to reflect use of medication delivery systems such as patches and inhalers. We agree that, for example, the requirement in Paragraph (1) may be impractical to log a

medication use when an inhaler is used “as needed” for an asthma attack. The Department should review this provision and amend it as appropriate to accommodate various medication delivery systems.

**30. Section 23.190. Medication performance monitoring.—Economic impact; Reasonableness.**

A commentator questions what the Department will do with the information required to be reported by this section. The Department should explain what this information is used for and why it is needed to be reported every six months.

**31. Section 23.201. General information.—Clarity; Protection of the public health, safety and welfare.**

*Time out*

Subsections (b) and (c) are not clear regarding time out. Under Subsection (b), time out is designated as a restrictive procedure, and would appropriately be included in the restrictive procedure policy required by Section 23.203. Also, time out is permissible within the limits specified in Section 23.204. The concern is that Subsection (c) states that the only restrictive procedures permitted in an RTF are drugs used as a restraint and manual restraint. As written, Subsection (c) would prohibit time out, which appears to be inconsistent with Section 23.204. In Subsection (c), is the phrase “only restrictive procedures permitted” the appropriate phrase, or should Subsection (c) use the phrase “only restraints permitted”? We recommend that the Department clarify the status of time out in the regulation.

*Harm or injury to a child*

Subsection (f) states, “a restrictive procedure may not result in harm or injury to a child.” While we agree with this premise, commentators state that it is naive to think an emergency restraint can be expected to have no possibility of harming the child and that risks are included in restraint consent forms. Again, we agree with the safety premise of Subsection (f), however the Department should explain whether the standard imposed by Subsection (f) is always attainable in emergency safety situations.

**32. Section 23.205. Emergency safety intervention.—Clarity.**

The term “treatment team physician” appears in Subsection (f). It is not clear who this is because the term is not defined. We recommend defining this term or using another term that is defined.

**33. Section 23.223. Development of the ISP.—Clarity.**

The term “treatment team” appears in Paragraph (d)(1). It is not clear who this is because the term is not defined. We recommend defining this term or using another term that is defined.

**34. Section 23.255. Laundry.—Protection of the public health.**

Subsection (b) states soiled linen shall be covered while being transported through food preparation and food storage areas. For health reasons, why wouldn't this apply to transportation of soiled linen throughout the facility?

**35. Section 23.292. Participation requirements for an out-of-state RTF.—Reasonableness; Adverse effects on competition.**

In response to RAF Question 25, the Department states that this rulemaking will not put Pennsylvania at a

competitive disadvantage with other states and other states have comparable regulations for their RTFs. A commentator is concerned that this section of the regulation would not require an out-of-state provider to meet in-state requirements such as staffing and the 48 bed limit. The Department should explain how this section appropriately protects in-state facilities from unfair competition with out-of-state facilities.

**36. Section 5310.3. Applicability.—Clarity.**

The amendments to Subsection (b) do not clearly establish the applicability of Chapter 5310 and its separation from Chapter 23 for two reasons. First, the term “child” differs between Chapter 5310 and Chapter 23. Under Chapter 5310 a “child” is defined as under 18 years of age whereas Chapter 23 defines “child” as under 21 years of age. What is the status of a person 18, 19 or 20 years old?

Second, it is not clear whether and how Subsection (b), and consequently Chapter 5310, relate to Chapter 23. For example, referring to Chapter 3800, Paragraph 3800.3(12) establishes a clear exemption of Chapter 23. We recommend that a similar exemption be added to Section 5310.3 or alternatively that this provision clearly explain its applicability to Chapter 23.

Department of Public Welfare  
Regulation #14-521 (IRRC #2879)

Psychiatric Rehabilitation Services

December 22, 2010

We submit for your consideration the following comments on the proposed rulemaking published in the October 23, 2010 *Pennsylvania Bulletin*. Our comments are based on criteria in section 5.2 of the Regulatory Review Act (71 P.S. § 745.5b). Section 5.1(a) of the Regulatory Review Act (71 P.S. § 745.5a(a)) directs the Department of Public Welfare (Department) to respond to all comments received from us or any other source.

**1. Fiscal impact.**

This proposed regulation adds Chapter 5230 to Title 55 of the Pa. Code, which adopts minimum standards for the issuance of licenses for psychiatric rehabilitative services (PRS) in facilities operated in this Commonwealth. According to the Preamble, the Department anticipates that “the implementation of PRS will not have fiscal impact on the Commonwealth, as the reduction in more costly traditional mental health treatments and improved clinical and social outcomes will offset the cost of PRS.”

However, several commentators indicate that this statement overlooks the implementation costs imposed on the regulated community, in particular relating to staff training and the required general staffing patterns.

In the final-form regulation, the Department needs to provide a more detailed cost-benefit and fiscal impact analysis of the regulation that addresses the potential implementation costs anticipated by commentators.

**2. Section 5230.3. Definitions.—Statutory authority; Consistency with federal law; Need; Implementation procedures; Clarity.**

*Fidelity*

This term is used to classify the degree to which a PRS adheres to best practices. The Wedge Medical Center questions how a PRS is expected to measure “fidelity.” We



agree and recommend that the final-form regulation explain how the Department expects a PRS to quantify this term.

*Licensed practitioner of the healing arts*

The proposed regulation defines this term as “those professional staff currently recognized by the Department as qualified to recommend an individual for service.” Several commentators indicate that this term is unclear, as it does not explain which staff the Department “recognizes.” We agree and suggest that the final-form regulation specify who the Department would consider a “licensed practitioner of the healing arts.” In addition, several commentators indicate that the source of this term may be federal requirements relating to medical assistance. If so, then we recommend that the Department also include a cross-reference to these federal provisions in the final-form regulation.

*Natural support*

In this definition, how does the Department intend for a person or organization to provide “validation” to an individual? The final-form regulation should clarify this issue.

*PRS facility*

This term is defined as “an agency or organization . . . licensed . . . to deliver PRS.” However, both the PA Community Providers Association (PCPA) and the Philadelphia Coalition commented that including the word “facility” is confusing since it is normally associated with an actual building not an agency or organization. In addition, what is the Department’s statutory authority for defining this term as an agency or organization when the statute defines it as various locations? See 62 P.S. § 1001. The Department should explain why the term “facility” is appropriate.

*Psychiatric rehabilitation principles*

This definition references “Nationally-recognized professional associations,” but does not identify these associations. The final-form regulation should provide a list of the professional associations that apply.

**3. Section 5230.14. Physical site requirements.—Implementation procedures; Clarity.**

This section addresses the physical site requirements for a PRS facility. We raise two issues.

First, Paragraph (2) requires “space for the PRS distinct from other services offered simultaneously.” Several commentators state that this will prevent various recovery programs from operating as blended outpatient and PRS services. The final-form regulation should be clarified to allow PRS facilities to offer integrated services, or the Department should explain why such a clarification is unnecessary.

Second, Paragraph (6) requires compliance with Occupational Safety and Health Administration (OSHA). To improve clarity, the final-form regulation should include a cross-reference to the appropriate OSHA standard.

**4. Section 5230.22. Record security, retention and disposal.—Reasonableness; Need; Clarity.**

This section establishes standards for maintenance of individual records. We have three concerns.

First, Paragraph (2) states that “the record must identify the individual on each page.” The Wedge Medical Center states that this requirement is too excessive and

will result in an increase in time spent by staff on paperwork. The Department should explain the need for this requirement.

Second, Paragraph (3) states that “entries shall be signed and dated by the responsible licensed provider.” Several commentators indicate that use of the term “licensed provider” is unclear, as not all staff are licensed. The final-form regulation should clarify whether the Department intended for only licensed staff to sign these entries.

Finally, Paragraph (4) requires a record of progress on each day of service. What is the need for such records to be created daily?

**5. Section 5230.31. Admission requirements.—Reasonableness; Need; Implementation procedures; Clarity.**

This section details the patient eligibility requirements for admission into a PRS. However, several commentators note that existing PRS standards contain an exception process for admission that is not contained in the proposed rulemaking. Commentators argue that the proposed regulation only permits admission into a PRS for specific illnesses listed in Paragraph (2), and that a PRS needs the flexibility to review other mental health diagnosis for admission, as circumstances arise. The Department should explain why the regulation does not permit an admission exception process for other diagnoses not contained in Paragraph (2).

**6. Section 5230.51. Staff qualifications.—Reasonableness; Need; Implementation procedures; Clarity.**

This section establishes qualifications for a PRS director, a psychiatric rehabilitation specialist, a psychiatric rehabilitation worker, and a psychiatric rehabilitation assistant. We have two concerns.

First, several commentators state that the qualifications for a PRS director are too stringent. Some argue that they may result in recruiting issues, since commentators believe PRSs will not be able to find applicants with these qualifications. Conversely, the PA Chapter of the National Association of Social Workers recommends raising the qualifications for both a PRS director and a psychiatric rehabilitation specialist. The Department should explain how it established the qualifications for both the PRS director and the psychiatric rehabilitation specialist.

Second, the regulation requires both a PRS director and a psychiatric rehabilitation specialist to have a CPRP (Certified Psychiatric Rehabilitation Practitioner) certification within two years of hire. The PA Association of Psychiatric Rehabilitation Services believes that it may take some individuals more time to complete these requirements, and recommends a waiver or exception process. Commentators also question whether existing staff without this credential but with a certain amount of experience could be “grandfathered.” Has the Department considered these options?

**7. Section 5230.52. General staffing patterns.—Reasonableness; Need; Implementation procedures; Clarity.**

*Subsection (c)*

Subsection (c) states that “when a service is delivered in a facility, a PRS facility shall have an overall complement of one FTE [full-time equivalent] staff for every ten individuals (1:10), based upon average daily attendance.” Several commentators suggest that a complement based

on attendance during each shift is more feasible than average daily attendance. How did the Department determine that measuring the average daily attendance was the appropriate option?

*Subsections (h) and (i)*

Subsections (h) and (i) each require a minimum of 25% of the FTE staff complement to have the specialist criteria and the CPRP credential within a certain period after initial licensing. PCPA states that because this will require staff to earn these credentials or be trained, these provisions will be costly for the providers, and may result in non-compliance if staff turnover is too high. An individual commentator also questions how PRS licenses would be accurately evaluated and audited in the years when facilities would be unable to reach compliance. The Department should explain the need for the 25% ratio.

In Subsection (h), what is “specialist criteria?” The final-form regulation should explain this term.

**8. Section 5230.54. Group services.—Reasonableness; Need; Clarity.**

Subsection (a)(2) states that “when a service is delivered in the community, one staff may serve a group of two to five (2:5) ratio individuals.” Several commentators question whether the ratio includes two to five individuals per staff or two staff per five individuals. We agree that this phrase is vague and recommend that the Department clearly distinguish between staff and individuals in the final-form regulation.

**9. Section 5230.55. Supervision.—Reasonableness; Need; Implementation procedures; Clarity.**

Subsection (c) requires a PRS director or specialist to “meet with staff individually, face-to-face, no less than two times per calendar month.” Several commentators note that this requirement is too prescriptive. The Department should explain the need for this requirement.

**10. Section 5230.61. Assessment.—Implementation procedures; Clarity.**

Subsection (b)(7) requires assessments to “be updated annually and when one of the following occurs. . . .” Several commentators are concerned that writing an entirely new assessment in each circumstance would affect the flow of treatment. HOPE @ Allegheny COMHAR, Inc. indicates that this may even result in redundancy with the Individual Rehabilitation Plan (IRP). To improve clarity, the final-form regulation should explain whether to “update” means to rewrite the assessment completely or simply provide relevant updates to the existing plan.

**11. Section 5230.62. Individual rehabilitation plan.—Reasonableness; Need; Implementation procedures; Clarity.**

Subsection (c) requires “a PRS facility and an individual shall review and revise the IRP at least every 90 days . . .” and under certain conditions. Both the Philadelphia Community Collaborative (PCC) and NHS Human Services (NHS) raise concerns about this process for review and revision. Both commentators state that “the IRP is a comprehensive and often times sequential document . . . therefore when the objective is achieved . . . there are several more objectives . . . to address collaboratively.” PCC further states that “to spend time addressing revisions would interrupt the flow of the

psychiatric rehabilitation process. . . .” What is the need for including this “review and revise” requirement? The final-form regulation should clarify this issue.

Similar to the comments regarding assessments, NHS also questions whether a completely new IRP is necessary with each revision, or if it can simply include the relevant updates. Like Subsection 5230.61(b)(7), the final-form regulation should specifically explain what “revision” encompasses for an IRP.

**12. Section 5230.63. Daily entry.—Reasonableness; Need.**

This section requires daily entries by PRS staff for each day services are provided. These entries include description of the service, any documentation, and the signature of the individual and the staff member. The majority of the commentators object to this section, stating that writing these entries is disruptive and takes staff away from spending time with patients, and that it is often difficult to have the document signed by both staff and the individual. The Latino Members of COMHAR HOPE are concerned about the difficulty surrounding preparing and signing these entries for patients who are subject to language barriers. Has the Department considered these concerns? In the Preamble to the final-form regulation, the Department should explain the need for daily entries.

**13. Section 5230.71. Discharge.—Implementation procedures.**

This section explains the process for discharging a patient. Subsections (e) and (f) discuss the process and plan for individuals who voluntarily terminate from a PRS. However, PCPA notes the difficulty in establishing a plan for patients who terminate participation by not returning to the program. The final-form regulation should explain how the Department intends for PRS staff to develop discharge plans in these circumstances. Similar concerns apply to the requirements for a discharge summary in Section 5230.72.

---

**Pennsylvania Public Utility Commission  
Regulation #57-278 (IRRC #2877)**

**Call Recording for Telephone Companies**

**December 23, 2010**

We submit for your consideration the following comments on the proposed rulemaking published in the October 9, 2010 *Pennsylvania Bulletin*. Our comments are based on criteria in section 5.2 of the Regulatory Review Act (71 P. S. § 745.5b). Section 5.1(a) of the Regulatory Review Act (71 P. S. § 745.5a(a)) directs the Pennsylvania Public Utility Commission (PUC) to respond to all comments received from us or any other source.

**Section 63.137. Service monitoring and related matters.—Statutory authority; Economic or fiscal impact; Reasonableness; Need; Possible conflict with or duplication of statutes; Implementation procedures; Clarity.**

This rulemaking eliminates the prohibition placed on jurisdictional telephone utilities of recording telephone calls between customers and utility employees for any reason. Under the rulemaking, calls between telephone

utility employees, customers, potential customers or applicants can be recorded if certain conditions are met. The conditions are enumerated under § 63.137(2)(iv) and the paragraphs of this subsection are quoted below:

(A) A telephone company shall give notice to its customers with a bill insert or equivalent customer contact explaining the call recording process and the opt-out process at least 30 days before commencing call recording or to new customers at the time service commences.

(B) A telephone company shall provide callers calling a company telephone number equipped to record customer or prospective customer calls with a prerecorded message that the call may be monitored or recorded for training or quality control purposes.

(C) The prerecorded message must advise callers that they have the option to discontinue the call and to request a call back on an unrecorded line and provide instructions on how to request a call back prior to any aspect of the call being recorded.

(D) Recorded telephone calls shall be used solely for the purpose of training or measuring and improving service quality and may not be used for formal or informal evidentiary purposes.

(E) Recorded calls shall be erased after a 90-day or shorter retention period.

We have four concerns. First, commentators contend that Paragraphs (A), (C), and (E) and parts of (D) are not needed and are not reasonable. They point out that other regulated utilities are allowed to record calls without having to satisfy the conditions outlined in § 63.137(2)(iv). We believe that the PUC has failed to explain the need for the conditions being placed on jurisdictional telephone utilities. We suggest that Paragraphs (A), (C) and (E) and the language pertaining to “formal or informal evidentiary purposes” found in Paragraph (D) be deleted from the final-form regulation. If the Paragraphs and language are not deleted, we request a more detailed explanation of why they are needed and why the PUC considers them to be reasonable.

Second, PUC has not quantified the costs associated with complying with the requirements of § 63.137(2)(iv). We believe the elimination of the prohibition on call recording is beneficial to the regulated community. While we understand that the recording of calls for the purpose of training or measuring and improving service quality is not mandatory, an analysis of these costs would assist this Commission in determining if the requirements are reasonable and in the public interest.

Third, what is the PUC’s statutory authority for the provision found in § 63.137(2)(iv)(D) that prohibits recorded calls from being used for formal or informal evidentiary purposes? In addition, what is meant by the phrase “formal or informal evidentiary purposes”?

Finally, under § 63.167(2)(iv)(E), recorded calls must be erased after 90 days. We ask the PUC to explain how this requirement would work in conjunction with the requirement of Pennsylvania’s Wiretapping and Electronic Surveillance Control Act (18 Pa.C.S.A. § 5704(15)), which requires recordings to be destroyed within one year from the date of recording.

SILVAN B. LUTKEWITTE, III,  
*Chairperson*

[Pa.B. Doc. No. 11-53. Filed for public inspection January 7, 2011, 9:00 a.m.]

## INSURANCE DEPARTMENT

### Gnagey Gas & Oil Co.; Prehearing

#### Appeal of Gnagey Gas & Oil Co. under the Storage Tank and Spill Prevention Act; Underground Storage Tank Indemnification Fund; USTIF File No. 2007-0128(F); Doc. No. UT10-12-012

The proceedings in this matter will be governed by 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law); 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure); and any other relevant procedure provisions of law.

A prehearing telephone conference shall be held on February 10, 2011, at 9:30 a.m. A hearing shall occur on February 24, 2011, at 9:30 a.m., in the Administrative Hearings Office, Room 200, Capitol Associates Building, 901 North Seventh Street, Harrisburg, PA 17102. Motions preliminary to those at hearing, protests, petitions to intervene, notices of appearance or notices of intervention, if any, must be filed with the Hearings Administrator at the previously listed address on or before January 24, 2011. Answers to petitions to intervene, if any, shall be filed on or before February 7, 2011.

On or before January 24, 2011, each party shall file with the Administrative Hearings Office a prehearing statement which shall contain: (1) a comprehensive statement of undisputed facts to be stipulated between the parties; (2) a statement of additional contended facts; (3) names and address of witnesses along with the specialties of experts to be called; (4) a list of documents to be used at the hearing; (5) special evidentiary or other legal issues; and (6) the estimated time for the party’s case. Contemporaneously with service of the prehearing statement on the opposing party, each party shall supply the other with a copy of any report generated by an expert witness designated on the prehearing statement. Any report subsequently received from a party’s expert witness prior to hearing shall be supplied to the other party within 2 business days. Copies of expert reports need not be filed with the Administrative Hearings Office. Experts will be permitted to testify only on matters substantially contemplated by reports supplied to the other party in accordance with this paragraph.

Persons with a disability who wish to attend the previously-referenced administrative hearing and require an auxiliary aid, service or other accommodation to participate in the hearing should contact Donna R. Fleischauer, Human Resources Director at (717) 705-4194.

ROBERT L. PRATTER,  
*Acting Insurance Commissioner*

[Pa.B. Doc. No. 11-54. Filed for public inspection January 7, 2011, 9:00 a.m.]

#### Insurance Services Office, Inc.; Private Passenger Automobile Loss Cost Revision; Rate Filing

On December 17, 2010, the Insurance Department (Department) received from Insurance Services Office, Inc. a filing for a proposed loss cost level change for private passenger automobile insurance.

The advisory organization requests an overall 2.1% increase in loss costs effective September 1, 2011.



Unless formal administrative action is taken prior to February 15, 2011, the subject filing may be deemed approved by operation of law.

A copy of the filing is available on the Department's web site at [www.insurance.pa.gov](http://www.insurance.pa.gov). To access the filing, under "How to Find..." click on "View Current Rate Filings."

Interested parties are invited to submit written comments, suggestions or objections to Xiaofeng Lu, Insurance Department, Insurance Product Regulation, 1311 Strawberry Square, Harrisburg, PA 17120, [xlu@state.pa.us](mailto:xlu@state.pa.us) within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

ROBERT L. PRATTER,  
*Acting Insurance Commissioner*

[Pa.B. Doc. No. 11-55. Filed for public inspection January 7, 2011, 9:00 a.m.]

### Review Procedure Hearings under the Unfair Insurance Practices Act

The following insurer has requested a hearing as authorized by section 8 of the Unfair Insurance Practices Act (act) (40 P. S. § 1171.8) in connection with their company's termination of the insurer's homeowner policy. The hearing will be held in accordance with the requirements of the act; 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure); and 31 Pa. Code §§ 56.1—56.3 (relating to Special Rules of Administrative Practice and Procedure). The administrative hearing will be held in the Insurance Department's regional office in Philadelphia, PA. Failure by an appellant to appear at a scheduled hearing may result in dismissal with prejudice.

The following hearing will be held in the Philadelphia Regional Office, Spring Garden Hearing Room 4031, 801 Market Street, Philadelphia, PA 19107.

Appeal of Nationwide Mutual Fire Insurance Company; file no. 10-216-94725; Leona Sims; Doc. No. PH10-12-013; January 20, 2011, 3 p.m.

Parties may appear with or without counsel and offer relevant testimony and/or other relevant evidence. Each party must bring documents, photographs, drawings, claims files, witnesses, and the like, necessary to support the party's case. A party intending to offer documents or photographs into evidence shall bring enough copies for the record and for each opposing party.

Following the hearing and receipt of the stenographic transcript, the Insurance Commissioner (Commissioner) will issue a written order resolving the factual issues presented at the hearing and stating what remedial action, if any, is required. The Commissioner's Order will be sent to those persons participating in the hearing or their designated representatives. The Order of the Commissioner may be subject to judicial review by the Commonwealth Court.

Persons with a disability who wish to attend the previously-referenced administrative hearing and require an auxiliary aid, service or other accommodation to participate in the hearing should contact Donna R. Fleischauer, Human Resources Director at (717) 705-4194.

ROBERT L. PRATTER,  
*Acting Insurance Commissioner*

[Pa.B. Doc. No. 11-56. Filed for public inspection January 7, 2011, 9:00 a.m.]

### Travelers Home and Marine Insurance Company; Homeowners; Rate Revision

On December 20, 2010, the Insurance Department (Department) received from Travelers Home and Marine Insurance Company a filing for a rate level change for homeowners insurance.

The companies request an overall 3.99% increase amounting to \$3,528,000 annually, to be effective March 25, 2010, for new business and May 31, 2010, for renewal business.

Unless formal administrative action is taken prior to February 18, 2011, the subject filing may be deemed approved by operation of law.

A copy of the filing is available on the Department's web site at [www.insurance.pa.gov](http://www.insurance.pa.gov). To access the filing, under "How to Find..." click on "View Current Rate Filings."

Interested parties are invited to submit written comments, suggestions or objections to Xiaofeng Lu, Insurance Department, Insurance Product Regulation, 1311 Strawberry Square, Harrisburg, PA 17120, [xlu@state.pa.us](mailto:xlu@state.pa.us) within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

ROBERT L. PRATTER,  
*Acting Insurance Commissioner*

[Pa.B. Doc. No. 11-57. Filed for public inspection January 7, 2011, 9:00 a.m.]

## LIQUOR CONTROL BOARD

### Expiration of Leases

The Liquor Control Board seeks the following new site:

Washington County, Wine & Spirits Store #6314/#6301 (Consolidation/Relocation)

Wine & Spirits Store #6314, 980 Jefferson Avenue, Washington, PA 15301-3868

Wine & Spirits Store #6301, 189 South Main Street, Washington, PA 15301-4948

*Lease expiration dates:* #6314, Entered 90-day status since April 1, 2009; #6301, Entered 90-day status since December 1, 2007

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 4,500 to 5,000 net useable square feet of new or existing retail commercial space on Jefferson Avenue in Washington, PA. Location between Wylie Avenue and Maiden Street preferred. The proposed location must have free off-street parking and provide tractor trailer delivery access.

*Proposals due:* January 28, 2011, at 12 p.m.

**Department:** Liquor Control Board  
**Location:** Real Estate Division, 158 Purity Road, Suite B, Pittsburgh, PA 15235-4441  
**Contact:** Bruce R. VanDyke, Jr., (412) 723-0124

PATRICK J. STAPLETON, III,  
*Chairperson*

[Pa.B. Doc. No. 11-58. Filed for public inspection January 7, 2011, 9:00 a.m.]

# PENNSYLVANIA PUBLIC UTILITY COMMISSION

## Service of Notice of Motor Carrier Applications

The following temporary authority and/or permanent authority applications for the right to render service as a common carrier or contract carrier in this Commonwealth have been filed with the Pennsylvania Public Utility Commission. Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). A protest shall indicate whether it applies to the temporary authority application, the permanent authority application, or both. Filings must be made with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant by January 24, 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.

### **Applications of the following for approval to begin operating as common carriers for transportation of persons as described under each application.**

**A-2010-2214003. Tropical Tanning and Beauty Salon, Inc., t/a Arrive N Style Limousine Service** (14 Bellefonte Avenue, Suite 1, Lock Haven, PA 17745)—a corporation of the Commonwealth, for the right to begin to transport, by motor vehicle, persons in limousine service, from points in Centre, Clinton and Lycoming Counties, to points in Pennsylvania, and return; excluding areas under the jurisdiction of the Philadelphia Parking Authority.

**A-2010-2216522. Jere W. Martin** (430 West South Avenue, Canton, Bradford County, PA 17724), persons in paratransit service, limited to persons whose personal convictions prevent them from owning or operating motor vehicles, from points in Bradford and Tioga Counties to points in Pennsylvania, and return.

**A-2010-2216853. Kenneth J. Weaver** (846 1/2 Ballstown Road, Lititz, Lancaster County, PA 19543), for the right to begin to transport persons, in paratransit service, limited to persons whose personal convictions prevent them from owning or operating motor vehicles, from points in the County of Lancaster to points in Pennsylvania, and return.

### **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-2010-2215541. Star Express Transport, LLC, t/a Star Express Shuttle Service** (P. O. Box 61196, Harrisburg, Dauphin County, PA 17106), a corporation of the Commonwealth, for the additional right to transport, as a common carrier, by motor vehicle, persons in airport transfer service, from points in the Counties of Cumberland, Dauphin and York to the following airports: Harrisburg International Airport located in Dauphin County, Lancaster Airport located in Lancaster County, Lehigh Valley International Airport located in Lehigh County,

Philadelphia International Airport located in the Counties of Delaware and Philadelphia and Pittsburgh International Airport located in Allegheny County.

ROSEMARY CHIAVETTA,  
Secretary

[Pa.B. Doc. No. 11-59. Filed for public inspection January 7, 2011, 9:00 a.m.]

## Tentative Order

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

*Asia Talk Telecom, Inc.  
(2009 Assessment Report);  
A-311396*

## Tentative Order

*By the Commission:*

Asia Talk Telecom, Inc. (Asia Talk) has failed to file its 2009 Assessment Report pursuant to section 510(b) of the Public Utility Code. 66 Pa.C.S. § 510(b). Specifically, 66 Pa.C.S. § 510(b) provides that:

On or before March 31 of each year, every public utility shall file with the commission a statement under oath showing its gross intrastate operating revenues for the preceding calendar year.

Asia Talk is a telecommunications interexchange reseller certificated at A-311396. Commission staff's several attempts to reach Asia Talk by mail and phone to file the missing report have been unsuccessful. However, in its investigation staff did learn from a former consultant for Asia Talk that they cannot reach the company either and that it is likely that Asia Talk is out of business.

The Commission puts the industry on notice that we will not hesitate to invoke our authority under the Public Utility Code to ensure timely compliance with our regulations and orders including the ordering of such other remedy as the Commission may deem appropriate. 66 Pa.C.S. §§ 504, 505, 506, and 3301. Based on the above facts, we tentatively conclude that it is appropriate to revoke Asia Talk's certificate of public convenience without the necessity of a formal complaint as being in the public interest. Furthermore, the Commission may take other appropriate action, including the imposition of penalties under section 3301, in lieu of cancellation, if Asia Talk seeks relief from this Tentative Order; *Therefore,*

*It Is Ordered That:*

1. Revocation of Asia Talk Telecom, Inc.'s certificate of public convenience is hereby tentatively approved as being in the public interest.

2. The Secretary serve a copy of this Tentative Order upon the Office of Consumer Advocate, the Office of Small Business Advocate, and the Office of Trial Staff, and also cause a copy of this Tentative Order to be published in the *Pennsylvania Bulletin* with a 30-day comment period.

3. Absent the filing of adverse public comment within 30 days after publication in the *Pennsylvania Bulletin*, this Tentative Order shall become final without further action by the Commission.

4. Upon this order becoming final, and without further action by the Commission, the certificate of public convenience held by Asia Talk Telecom, Inc. at A-311396 shall be canceled, and Asia Talk Telecom, Inc.'s name stricken from all active utility lists maintained by the Commission's Bureau of Fixed Utility Services and the Assessment Section of the Bureau of Administrative Services.

ROSEMARY CHIAVETTA,  
*Secretary*

[Pa.B. Doc. No. 11-60. Filed for public inspection January 7, 2011, 9:00 a.m.]

### Water Treatment and Distribution Operations

**A-2010-2216685. Aldick Associates, Inc. Water Division** Application of Aldick Associates, Inc. Water Division, for approval of the abandonment or discontinuance of its water treatment and distribution operations to the public in this Commonwealth.

Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). Filings must be made with the Secretary of the Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant, on or before January 24, 2011. The documents filed in support of the application are available for inspection and copying at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday, on the Pennsylvania Public Utility Commission's web site at [www.puc.state.pa.us](http://www.puc.state.pa.us), and at the applicant's business address.

*Applicant:* Aldick Associates, Inc.—Water Division

*Through and By Counsel:* Gino O. DiNicola, Esquire, Pfeiffer, Brown, DiNicola and Frantz, 1800 West End Avenue, Pottsville, PA 17901

ROSEMARY CHIAVETTA,  
*Secretary*

[Pa.B. Doc. No. 11-61. Filed for public inspection January 7, 2011, 9:00 a.m.]

## THADDEUS STEVENS COLLEGE OF TECHNOLOGY

### Request for Bids

Thaddeus Stevens College of Technology is soliciting bids for Project 10-0002 for the following:

1—Platform—MicroScribe MLX System—66" spherical work space 33" of reach .003" (.0762 mm) accuracy

System includes: 1 MicroScribe MLX, 1 Tip calibration fixture, 1 USB Cable, 1 Universal Power Supply, 1 Hand Switch, 1 standard 60 deg tip, 1 Certificate of Accuracy, 1 getting started guide, 1 cardboard box with foam lining, 1 seat of MUS software 1 year Limited Warranty

1—Software—DezignWorks for Pro E. Works with G or M series Microscribe Educational pricing

1—Misc.—Training—4 hours of getting started web based MicroScribe and DezignWorks with ProE

Bid documents can be obtained from Nancy Froeschle, Thaddeus Stevens College, 750 East King Street, Lancaster, PA 17602, (717) 299-7787, fax (717) 391-3557 or [froeschle@stevenscollege.edu](mailto:froeschle@stevenscollege.edu).

DR. WILLIAM E. GRISCOM,  
*President*

[Pa.B. Doc. No. 11-62. Filed for public inspection January 7, 2011, 9:00 a.m.]