

PENNSYLVANIA BULLETIN

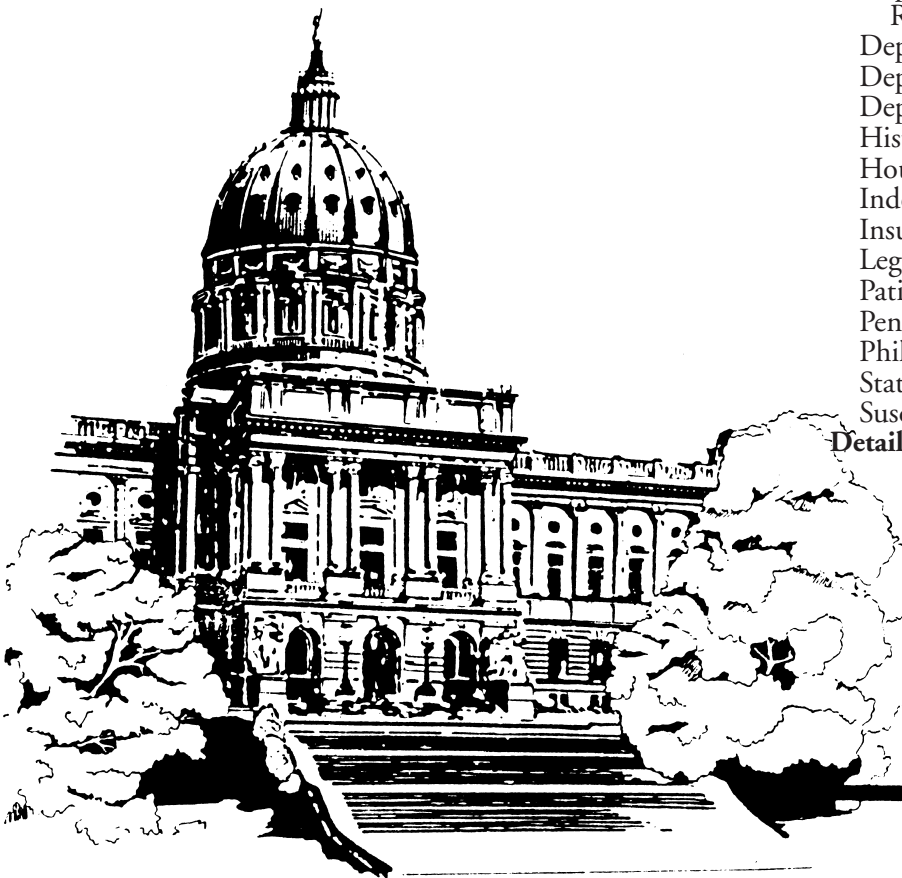
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Saturday, January 15, 2011 • Harrisburg, PA
Number 3
Pages 323—514

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Philadelphia Taxicab and
Limousine Regulations

Part I

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Independent Regulatory Review Commission
Insurance Department
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**Latest Pennsylvania Code Reporters
(Master Transmittal Sheets):**

No. 434, January 2011

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BULLETIN

(ISSN 0162-2137)

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

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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)

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READER'S GUIDE TO THE PENNSYLVANIA BULLETIN AND PENNSYLVANIA CODE

Pennsylvania Bulletin

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

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

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

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

Adoption, Amendment or Repeal of Regulations

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

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

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

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

Citation to the *Pennsylvania Bulletin*

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

Pennsylvania Code

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

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

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

How to Find Documents

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

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

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

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Printing Format

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

Fiscal Notes

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

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

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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.

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THE GOVERNOR

Proclamation of Disaster Emergency

December 29, 2010

Whereas, a prolonged period of severe winter weather across the north-eastern United States, including Pennsylvania, has resulted in serious logistical problems associated with the distribution and delivery of propane gas and heating fuels in the Commonwealth; and

Whereas, representatives from the propane gas and heating fuels industry indicate that relief from federal hour of service limitations for drivers of commercial motor vehicles is necessary to overcome these logistical problems; and

Whereas, investigations made on my behalf by the Department of Environmental Protection and the Pennsylvania Emergency Management Agency have determined that the Commonwealth is, at this time, in need of greater flexibility in the application of federal motor carrier regulations to drivers of commercial vehicles transporting propane gas and heating fuel within the Commonwealth; and

Whereas, a duly declared emergency is necessary in order for the Pennsylvania Department of Transportation to waive federal motor carrier regulations related to hours of service for drivers of commercial motor vehicles transporting propane gas and heating fuels to avoid interruption of the delivery of supplies of propane gas and heating fuels in quantities essential to public welfare within the Commonwealth; and

Whereas, the serious impact of this continuing weather event on both the immediate and long-term economy of the Commonwealth represents a major hardship requiring a comprehensive federal, state, and local partnership for effective recovery.

Therefore, pursuant to the provisions of Subsection 7301(c) of the Emergency Management Services Code (35 Pa.C.S. § 7101, et seq.), I do hereby proclaim the existence of a disaster emergency across the Commonwealth. In accordance with the State Emergency Operations Plans, I hereby direct the Pennsylvania Department of Transportation to waive any laws or regulations in the manner and to the extent necessary to permit the motor carrier operations necessary to provide supplies of propane gas and heating fuel adequate to preserve the public welfare in the Commonwealth. This proclamation shall terminate at 11:59 p.m., January 8, 2011, unless extended by an amendment.

Given under my hand and the Seal of the Governor, at the City of Harrisburg, this twenty-ninth day of December in the year of our Lord, two thousand ten, and of the Commonwealth the two hundred and thirty-fifth.



Governor

[Pa.B. Doc. No. 11-63. Filed for public inspection January 14, 2011, 9:00 a.m.]

THE COURTS

Title 204—JUDICIAL SYSTEM GENERAL PROVISIONS

PART V. PROFESSIONAL ETHICS AND CONDUCT [204 PA. CODE CH. 83]

Amendment of Rule 301 of the Rules of Disciplinary Enforcement; No. 93 Disciplinary Rules Doc.

Order

Per Curiam

And Now, this 3rd day of January, 2011, upon the recommendation of the Disciplinary Board of the Supreme Court of Pennsylvania; the proposal having been published for comment in the *Pennsylvania Bulletin*, 40 Pa.B. 5062 (September 4, 2010):

It Is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Rule 301 of the Pennsylvania Rules of Disciplinary Enforcement 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 in 30 days.

Annex A

TITLE 204. JUDICIAL SYSTEM GENERAL PROVISIONS

PART V. PROFESSIONAL ETHICS AND CONDUCT

Subpart B. DISCIPLINARY ENFORCEMENT

CHAPTER 83. PENNSYLVANIA RULES OF DISCIPLINARY ENFORCEMENT

Subchapter C. DISABILITY AND RELATED MATTERS

Rule 301. Proceedings where an attorney is declared to be incapacitated or severely mentally disabled.

* * * * *

(e) If, during the course of a disciplinary proceeding, the respondent contends that the respondent is suffering from a disability by reason of mental or physical infirmity or illness, or because of addiction to drugs or intoxicants, which makes it impossible for the respondent to prepare an adequate defense, the respondent shall complete and file with the Court a certificate of admission of disability available to the bar through the Office of the Secretary to the Board. The respondent shall serve a copy of the certificate on the Board and disciplinary counsel. The certificate shall:

(1) identify the precise nature of the disability and the specific or approximate date of the onset or initial diagnosis of the disabling condition;

(2) contain an explanation of the manner in which the disabling condition makes it impossible for the respondent to prepare an adequate defense;

(3) have appended thereto the opinion of at least one medical expert that the respondent is unable to prepare an adequate defense and a statement containing the basis for the medical expert's opinion; and

(4) contain a statement, signed by the respondent, that all averments of material fact contained in the certificate and attachments are true upon the respondent's knowledge or information and belief and made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

The respondent may attach to the certificate affidavits, medical records, additional medical expert reports, official records, or other documents in support of the existence of the disabling condition or the respondent's contention of lack of physical or mental capacity to prepare an adequate defense.

Upon receipt of the certificate, the Court thereupon shall enter an order immediately transferring the respondent to inactive status until a determination is made of the respondent's capacity to aid effectively in the preparation of a defense or to continue to practice law in a proceeding instituted in accordance with the provisions of subdivision (d) of this rule[.] unless the Court finds that the certificate does not comply with the requirements of this subdivision, in which case the Court may deny the request for transfer to disability inactive status or enter any other appropriate order. Before or after the entry of the order transferring the respondent to inactive status under this subdivision, the Court may, upon application by disciplinary counsel and for good cause shown, take or direct such action as the Court deems necessary or proper to a determination of whether it is impossible for the respondent to prepare an adequate defense, including a direction for an examination of the respondent by such qualified medical experts as the Court shall designate. In its discretion, the Court may direct that the expense of such an examination shall be paid by the respondent.

The order transferring the attorney to disability inactive status under this subdivision shall be a matter of public record. The certificate of admission of disability and attachments to the certificate shall not be publicly disclosed or made available for use in any proceeding other than a subsequent reinstatement or disciplinary proceeding except:

- (i) upon order of the Supreme Court;
- (ii) pursuant to an express written waiver by the attorney; or
- (iii) upon a request by the Pennsylvania Lawyers Fund for Client Security Board pursuant to Enforcement Rule 521(a) (relating to cooperation with Disciplinary Board).

If the Court shall determine at any time that the respondent is able to aid effectively in the preparation of a defense or is not incapacitated from practicing law, it shall take such action as it deems proper and advisable including a direction for the resumption of the disciplinary proceeding against the respondent.

* * * * *

[Pa.B. Doc. No. 11-64. Filed for public inspection January 14, 2011, 9:00 a.m.]

Title 207—JUDICIAL CONDUCT

PART II. CONDUCT STANDARDS

[207 PA. CODE CH. 51]

Amendment of Rule 15 of the Rules Governing Standards of Conduct of Magisterial District Judges; No. 270 Magisterial Doc.

Order

Per Curiam

And Now, this 29th day of December, 2010, upon the recommendation of the Minor Court Rules Committee, the proposal having been published for public comment before adoption at 40 Pa.B. 5561 (October 2, 2010) and a Final Report to be published with this *Order*:

It Is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Rule 15 of the Rules Governing Standards of Conduct of Magisterial District Judges is amended in the following form.

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

Annex A

TITLE 207. JUDICIAL CONDUCT

PART II. CONDUCT STANDARDS

CHAPTER 51. STANDARDS OF CONDUCT OF MAGISTERIAL DISTRICT JUDGES

PENNSYLVANIA RULES FOR MAGISTERIAL DISTRICT JUDGES

Rule 15. Public Office and Political Activity.

A. Magisterial district judges shall not hold another office or position of profit in the government of the United States, the Commonwealth or any political subdivision thereof, except in the armed services of the United States or the Commonwealth.

B.(1) **As used in this paragraph, “partisan political activity” includes, but is not limited to, serving as a committee-person, working at a polling place on Election Day, performing volunteer work in a political campaign, making political speeches, making or soliciting contributions for a political campaign, political action committee or organization, attending political gatherings, dinners or other functions, but shall not include involvement in non-partisan or public community organizations or professional groups.**

(2) Magisterial district judges or a candidate for such office shall not:

[(1)] (a) hold office in a political party or political organization or publicly endorse candidates for political office.

[(2)] (b) engage in partisan political activity [, deliver political speeches, make or solicit political contributions (including purchasing tickets for political party dinners or other functions) or attend political or party conventions or gatherings], except as authorized in subdivision C of this rule. Nothing herein shall prevent magisterial district judges or candidates for such offices from making political contributions to a campaign of a member of their immediate family.

C. Magisterial district judges or candidates for such offices may [**in the year they run for office,**] attend political or party conventions or gatherings, speak to such gatherings or conventions on their own behalf, identify themselves as members of a political party, and contribute to [**their own campaign,**] a political party or political organization (including purchasing tickets **with their own personal funds** for political party dinners or other functions) **beginning immediately following the General Election in the year prior to the calendar year in which they may become a candidate for such office.**

D. With respect to their campaign conduct, magisterial district judges or candidates for such office shall:

(1) maintain the dignity appropriate to judicial office, and shall encourage members of their family to adhere to the same standards of political conduct that apply to them.

(2) prohibit public officials or employees subject to their direction or control from doing for them what they are prohibited from doing under this rule; and except to the extent authorized under subdivision D(4) of this rule shall not allow any other person to do for them what they are prohibited from doing under this rule.

(3) not make pledges or promises of conduct in office other than the faithful and impartial performance of the duties of the office; make statements that commit the candidate with respect to cases, controversies or issues that are likely to come before the court; or misrepresent their identity, qualifications, present position, or other fact.

Commentary: The United States Supreme Court in *Republican Party of Minnesota v. White*, 122 S. Ct. 2528 (2002) concluded that a canon of judicial conduct prohibiting judicial candidates from “announcing their views on disputed legal or political issues” is violative of the First Amendment of the United States Constitution.

(4) not themselves solicit or accept campaign funds, or solicit publicly stated support, but they may establish committees of responsible persons to secure and manage the expenditure of funds for their campaign, **including the purchase of tickets for political party dinners or other functions**, and to obtain public statements of support for their candidacy. Such committees are not prohibited from soliciting campaign contributions and public support from lawyers. Candidates’ committees may solicit funds for their campaign **and candidates may contribute to their own campaigns** no earlier than thirty (30) days prior to the first day for filing [**nominating petitions, and all**] **nomination petitions**. All fundraising activities in connection with such campaign shall terminate no later than the last calendar day of the year in which the election is held. Candidates should not use or permit the use of a campaign contribution for the private benefit of themselves or members of their family.

E. Magisterial district judges shall resign their office when they become candidates either in a party primary or in a general election for a non-judicial office.

Official Note: This rule is derived in part from former Rule 15 [**and from Canon 7 of**], the American Bar [**Association and**] **Association’s Model Code of Judicial Conduct, and Canon 7 of the Pennsylvania Supreme Court Code of Judicial Conduct**. This rule prohibits only political activity that is partisan in nature and consequently there is no objection to magisterial district judges becoming engaged in political activity of a public service nature, such as, for example, political

activity [in] on behalf of measures to improve the law, the legal system or the administration of justice.

Nothing in paragraph C is intended to promote the ability of a magisterial district judge or candidate for such office to announce candidacy for office, form a committee or raise funds prior to the date prescribed by law.

FINAL REPORT

Amendments to Rule 15 of the Pennsylvania Rules Governing Standards of Conduct for Magisterial District Judges

General Prohibition on Partisan Political Activity and Permitted Political Activity Prior to Initiation of Campaign

On December 29, 2010, effective immediately, upon recommendation of the Minor Court Rules Committee,¹ the Supreme Court of Pennsylvania approved amendments to Rule 15 of the Pennsylvania Rules Governing Standards of Conduct of Magisterial District Judges.²

I. Background and Discussion

The Minor Court Rules Committee (“the Committee”) was contacted by the chair and vice-chair of the Ethics and Professionalism Committee of the Special Court Judges Association of Pennsylvania with a request to discuss possible amendments to Rule 15 of the Pennsylvania Rules Governing Standards of Conduct of Magisterial District Judges (“Rule 15”) to clarify the point in time at which magisterial district judges and candidates for such office may begin undertaking otherwise prohibited political activity prior to the formal start of campaign activities. While considering those amendments, the Committee also examined the undefined term “partisan political activity,” and drafted a non-inclusive definition to clarify the prohibition on such activity.

The Committee reviewed Rule 15C, which provides that “[m]agisterial district judges or candidates for such offices may *in the year they run for office*” engage in otherwise prohibited political activities. (Emphasis added.) The Committee found the phrase “in the year they run” ambiguous, and agreed that setting a date certain for the permissible initiation of political activities would clarify the matter for both incumbents and candidates.

During its discussion of Rule 15, the Committee examined the term “partisan political activity” as used in Rule 15B(2). The Committee noted that it was not a defined term, and endeavored to draft a non-inclusive definition of “partisan political activity” to aid magisterial district judges in identifying proscribed conduct.

II. Approved Rule Changes

The Committee proposed (1) adding a definition of “partisan political activity” to Rule 15, and (2) amending the permitted period for engaging in political activities to “immediately following the General Election in the year prior to the calendar year in which they may become a candidate for such office.” Because the recommendation provides clarification to magisterial district judges and candidates for office, the Committee respectfully recommended that the Court make changes immediately effective upon adoption.

[Pa.B. Doc. No. 11-65. Filed for public inspection January 14, 2011, 9:00 a.m.]

¹ Minor Court Rules Committee Recommendation 1-2010.
² Supreme Court of Pennsylvania Order No. 270, Magisterial Docket, (December 29, 2010).

Title 231—RULES OF CIVIL PROCEDURE

PART I. GENERAL

[231 PA. CODE CH. 200]

Damages for Delay

CHAPTER 200. BUSINESS OF COURTS

Rule 238. Damages for Delay in an Action for Bodily Injury, Death or Property Damage.

* * * * *

Addendum to Explanatory Comment

The prime rate as set forth in the first edition of the *Wall Street Journal* for a particular year is the basis for calculating damages for delay under Pa.R.C.P. No. 238 as revised November 7, 1988. The prime rate published in the first edition of the *Wall Street Journal* for each of the years specified is as follows:

<i>Date of Publication</i>	<i>Prime Rate Percentage</i>
January 3, 2011	3 1/4
January 4, 2010	3 1/4
January 2, 2009	3 1/4
January 2, 2008	7 1/4
January 2, 2007	8 1/4
January 3, 2006	7 1/4
January 3, 2005	5 1/4
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January 2, 2003	4 1/4
January 2, 2002	4 3/4
January 2, 2001	9 1/2
January 3, 2000	8 1/2
January 4, 1999	7 3/4
January 2, 1998	8 1/2

Official Note: The prime rate for the years 1980 through 1997 may be found in the Addendum to the Explanatory Comment published in the *Pennsylvania Bulletin*, volume 33, page 634 (2/1/03) and on the web site of the Civil Procedural Rules Committee at <http://www.pacourts.us>.

By the Civil Procedural Rules Committee
 HONORABLE ROBERT C. DANIELS,
Chair

[Pa.B. Doc. No. 11-66. Filed for public inspection January 14, 2011, 9:00 a.m.]

PART I. GENERAL

[231 PA. CODE CH. 3000]

Amendment of Rule 3129.2 of the Rules of Civil Procedure; No. 540 Civil Procedural Rules Doc.

Order

Per Curiam

And Now, this 21st day of December, 2010, upon the recommendation of the Civil Procedural Rules Committee; the proposal having been published for comment at 40 Pa.B. 1892 (April 10, 2010) and in the *Atlantic Reporter* (Second Series Advance Sheets, Vol. 989 No. 3):

It Is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Rule 3129.2 of the Pennsylvania Rules of Civil 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 January 21, 2011.

Annex A

TITLE 231. RULES OF CIVIL PROCEDURE

PART I. GENERAL

CHAPTER 3000. JUDGMENTS

**Subchapter D. ENFORCEMENT OF MONEY
JUDGMENTS FOR THE PAYMENT OF MONEY**

Rule 3129.2. Notice of sale; handbills; written notice; publication.

(a) Notice of the sale of real property shall be given by handbills as provided by subdivision (b), by written notice as provided by subdivision (c) to all persons whose names and addresses are set forth in the affidavit required by Rule 3129.1, and by publication as provided by subdivision (d).

Official Note: Where real estate subject to federal liens is sold in execution under a judgment by confession, see the provisions of the Federal Tax Lien Act of 1966 adding sec. 7425(c) to the Internal Revenue Code, 26 U.S.C.A. § 7425(c), providing for notice to the United States.

[For special rules requiring notice by the plaintiff to defendants on judgments by confession entered before December 1, 1973, see Rule 2958.]

* * * * *

(c) The written notice shall be prepared by the plaintiff, shall contain the same information as the handbills or may consist of the handbill and shall be served at least thirty days before the sale on all persons whose names and addresses are set forth in the affidavit required by Rule 3129.1.

* * * * *

(3) If service on any person is not made at least thirty days prior to the date of the sale stated in the notice, such notice shall be deemed timely if the sale is stayed, continued, postponed or adjourned in accordance with Rule 3129.3 to a date certain which is at least thirty days after the date of the last required service.

Official Note: This rule does not state the effect of a failure to give the required notice. See *In re Tax Claim Bureau of Lehigh County 1981 Upset Tax Sale Properties: Appeal of Dian K. [Haas] Hass*, 96 Pa. Commw. 452, 507 A.2d 1294 (1986), involving the failure to give notice of a tax sale.

(d) Notice containing the information required by subdivision (b) shall also be given by publication by the sheriff once a week for three successive weeks in [a] **one** newspaper of general circulation in the county and in the legal publication, if any, designated by rule of court for publication of notices, the first publication to be made not less than twenty-one days before the date of sale. **No additional publication shall be required.**

Official Note: See Note to Rule 3128 as to time, terms and conditions of sale. See also Rule 3131 as to advertisement where a parcel of real property extends across county lines.

Explanatory Comment

Current Rule 3129.2(d) requires that notice of a sheriff's sale be advertised in (1) a newspaper of general circulation and (2) a legal publication if one has been designated by local rule of court for publication of notices. It has been reported that certain counties are requiring publication of the notice of sheriff's sale in multiple newspapers. This additional publication, which is not required by Rule 3129.2, can significantly increase costs imposed for sheriff's sales. The amendment to Rule 3129.2 clarifies the intent of the rule by adding a sentence to subdivision (d) stating that advertising of a sheriff's sale is required in only one newspaper of general circulation, and in the legal publication, if any, designated by rule of court for publication of notices.

By the Civil Procedural Rules Committee

HONORABLE ROBERT C. DANIELS,
Chair

[Pa.B. Doc. No. 11-67. Filed for public inspection January 14, 2011, 9:00 a.m.]

PART I. GENERAL

[231 PA. CODE CH. 4000]

Proposed Amendment of Rules 4009.1, 4009.11, 4009.12, 4009.21, 4009.23 and 4011 Governing Discovery of Electronically Stored Information with Explanatory Comment; Proposed Recommendation No. 249

While the Civil Procedural Rules Committee proposes that Rules of Civil Procedure 4009.1, 4009.11, 4009.12, 4009.21, 4009.23, and 4011 be amended as set forth herein, the core of the proposal is an explanatory comment, which provides that the discovery of electronically stored information will be governed by the same considerations that govern other discovery. The purpose of the comment is to provide guidance to the trial judge and counsel so that discovery disputes regarding electronically stored information are resolved pursuant to the general principles of Rule 4011, and not pursuant to the Federal Rules of Civil Procedure and the frequently intricate case law developing in the federal courts. In addition, the explanatory comment provides guidance in the form of considerations and potential tools for resolution of questions relating to such discovery to assist both the trial courts and counsel.

The proposed recommendation is being submitted to the bench and bar for comments and suggestions prior to its submission to the Supreme Court of Pennsylvania.

All communications in reference to the proposed recommendation should be sent no later than February 18, 2011 to:

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Counsel
Civil Procedural Rules Committee
601 Commonwealth Avenue, Suite 6200
P. O. Box 62635
Harrisburg PA 17106-2635
FAX 717-231-9526
civilrules@pacourts.us

Annex A

TITLE 231. RULES OF CIVIL PROCEDURE

PART I. GENERAL

CHAPTER 4000. DEPOSITIONS AND DISCOVERY
 PRODUCTION OF DOCUMENTS AND THINGS AND
 ENTRY FOR INSPECTION AND OTHER
 ACTIVITIES

PRODUCTION OF DOCUMENTS AND THINGS
 GENERAL PROVISIONS

Rule 4009.1. Production of Documents and Things.
 General Provisions.

(a) Any party may serve a request upon a party pursuant to Rules 4009.11 and 4009.12 or a subpoena upon a person not a party pursuant to Rules 4009.21 through 4009.27 to produce and permit the requesting party, or someone acting on the party's behalf, to inspect and copy any designated documents (including writings, drawings, graphs, charts, photographs, [**electronically created data, and other compilations of data from which information can be obtained, translated, if necessary, by the respondent party or person upon whom the request or subpoena is served through detection or recovery devices into reasonably usable form**] and **electronically stored information**, or to inspect, copy, test or sample any tangible things or **electronically stored information**, which constitute or contain matters within the scope of Rules 4003.1 through 4003.6 inclusive and which are in the possession, custody or control of the party or person upon whom the request or subpoena is served; and may do so one or more times.

(b) A party requesting electronically stored information may specify the format in which it is to be produced and a responding party or person not a party may object. If no format is specified by the requesting party, **electronically stored information may be produced in the form in which it is ordinarily maintained or in a reasonably usable form.**

* * * * *

REQUEST UPON A PARTY

Rule 4009.11. Request Upon a Party for Production of Documents and Things.

* * * * *

(b) The request shall set forth in numbered paragraphs the items to be produced either by individual item or by category, and describe each item or category with reasonable particularity. Each paragraph shall seek only a single item or a single category of items. The request shall be prepared in such fashion that sufficient space is provided immediately after each paragraph for insertion of the answer.

Official Note: A request seeking electronically stored information should be as specific as possible. Limitations as to time and scope are favored, as are agreements between the parties on production formats and other issues.

See also Rule 4009.1 generally regarding electronically stored information.

Rule 4009.12. Answer to Request Upon a Party for Production of Documents and Things

* * * * *

(d) If a request is reasonably susceptible to one construction under which documents sought to be produced

are within the scope of the request and another construction under which the documents are outside the scope of the request, the answering party shall either produce the documents or identify with reasonable particularity the documents not produced together with the basis for non-production.

Official Note: See Rule 4009.1 regarding electronically stored information.

SUBPOENA UPON A PERSON NOT A PARTY

Rule 4009.21. Subpoena Upon a Person Not a Party for Production of Documents and Things. Prior Notice. Objections.

* * * * *

(d)(1) If objections are received by the party intending to serve the subpoena prior to its service, the subpoena shall not be served. The court upon motion shall rule upon the objections and enter an appropriate order.

Official Note: Subdivision (a) of this rule provides a twenty-day notice period during which a subpoena may not be served.

(2) If objections are not received as provided in paragraph (1), the subpoena may be served subject to the right of any party or interested person to seek a protective order.

Official Note: Rule 4009.22(a) requires the filing of a certificate as a prerequisite to service.

See Rule 4009.1 regarding electronically stored information.

Rule 4009.23. Certificate of Compliance by a Person Not a Party. Notice of Documents or Things Received.

* * * * *

(b) The party receiving documents and things pursuant to the subpoena shall give notice of receipt to every other party to the action and upon the payment of reasonable cost shall

(1) furnish a legible copy of each document to any other party who requests a copy and

(2) allow reasonable access to the things to any other party who requests access.

Official Note: See Rule 4009.1 regarding electronically stored information.

ENTRY UPON PROPERTY FOR INSPECTION AND OTHER ACTIVITIES

Rule 4011. Limitation of Scope of Discovery [and Deposition].

No discovery [or deposition], including discovery of electronically stored information, shall be permitted which

* * * * *

Explanatory Comment—Electronically Stored Information

A. No Importation of Federal Law

Though the term “electronically stored information” is used in these rules, there is no intent to incorporate the federal jurisprudence surrounding the discovery of electronically stored information. The treatment of such issues is to be determined by traditional principles of proportionality under Pennsylvania law as discussed in further detail below.

B. Proportionality Standard

As with all other discovery, electronically stored information is governed by a proportionality standard in order that discovery obligations are consistent with the just, speedy and inexpensive determination and resolution of litigation disputes. The proportionality standard requires the court, within the framework of the purpose of discovery of giving each party the opportunity to prepare its case, to consider: (i) the nature and scope of the litigation, including the importance and complexity of the issues and the amounts at stake; (ii) the relevance of electronically stored information and its importance to the court's adjudication in the given case; (iii) the cost, burden, and delay that may be imposed on the parties to deal with electronically stored information; (iv) the ease of producing electronically stored information and whether substantially similar information is available with less burden; and (v) any other factors relevant under the circumstances.

C. Tools for Addressing Electronically Stored Information

Parties and courts may consider tools such as electronic searching, sampling, cost sharing, and non-waiver agreements to fairly allocate discovery burdens and costs. When utilizing non-waiver agreements, parties may wish to incorporate those agreements into court orders to maximize protection vis-à-vis third parties. *See, e.g.*, Fed. R. Evid. 502(c).

D. Eliminating References to "Depositions"

The elimination of specific references to "depositions" in Rule 4011 is not intended to exclude depositions from the scope of this rule. The reference was eliminated because there was no reason to call out this one form of traditional discovery among many.

[Pa.B. Doc. No. 11-68. Filed for public inspection January 14, 2011, 9:00 a.m.]

PART II. ORPHANS' COURT RULES

[231 PA. CODE PART II]

Order Amending Orphans' Court Rule 15.8 and Adopting Orphans' Court Rule 15.9; No. 511 Supreme Court Rules Doc.

Order

Per Curiam

And Now, this 3rd day of January, 2011, upon the recommendation of the Orphans' Court Procedural Rules Committee; the proposal having been published for comment before adoption at 37 Pa.B. 2575 (June 2, 2007):

It Is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that:

(1) Pa. O.C. Rule 15.8 is amended, with accompanying uniform forms (as amended);

(2) Pa. O.C. Rule 15.9 is adopted, with accompanying uniform forms; and

(3) The Index to Appendix Orphans' Court and Register of Wills Forms is amended, all in the following form.

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

Annex A

TITLE 231. RULES OF CIVIL PROCEDURE

PART II. ORPHANS' COURT RULES

RULE 15[.]: ADOPTIONS

Rule 15.8. [Foreign] Registration of foreign adoption [registration] decree.

(a) [Adoptive] Adopting parent(s) may petition the [court of common pleas] Court of Common Pleas in the county of their residence to register a foreign adoption decree so that it will be given full and final effect in this Commonwealth. The [petition] Petition and Final Decrees shall be in substantially the form approved by the Supreme Court. See Appendix of Forms to these Rules.

(1) As part of the Petition to Register Foreign Adoption Decree, a child's name may be changed from that appearing on the foreign adoption decree if the child is younger than twelve (12) years of age.

(b) A foreign adoption decree previously registered or otherwise finalized by a Court of this Commonwealth or of any other state may not be registered subsequently in another Court of this Commonwealth.

(c) If the Court of Common Pleas determines that the foreign adoption decree can be registered, the Court shall sign the Final Decree and shall direct the Clerk of the appropriate Court to enter the date of the foreign adoption decree and identify the foreign court on the docket. The Clerk shall send Form No. HD01273F, Certificate of Adoption of a Foreign-Born Child, and Form No. HD01275F, Statement of Citizenship and Residency, to the Department of Health, Division of Vital Records, along with a copy of U.S. Government Form N-560, Certificate of Citizenship, and/or a copy of the child's United States passport, if either or both documents have been provided by the adopting parent(s). The Clerk shall issue to the adopting parent(s) a certificate of adoption in accordance with Section 2907 of the Adoption Act. See 23 Pa.C.S. § 2907.

(d) If the [court of common pleas] Court of Common Pleas determines that the foreign adoption decree cannot be registered, the [adoptive] adopting parent(s) [may] shall proceed as applicable under the provisions set forth in the Adoption Act, 23 Pa.C.S. §§ 2101 *et seq.*, Pa.O.C. Rule 15.9 (specific to the adoption of a foreign born child), and local rules of court [to obtain a full and final decree of adoption].

(e) Adopting parent(s) who are eligible to register the foreign adoption decree under this Rule may, for any reason, proceed under Pa.O.C. Rule 15.9.

Explanatory Note: Pursuant to 23 Pa.C.S. § 2908(b), as amended by Act 96 of 2006, a set of forms, consisting of a [petition for registration of a foreign adoption decree, decrees] Petition to Register Foreign Adoption Decree, Final Decrees approving and denying the [petition] Petition, and detailed [instructions] Instructions for the *pro se* [petitioners, have been created and] petitioner(s) are set forth in the Appendix to these [rules] Rules.

The [petition] **Petition** should be filed with the Clerk of the Orphans' Court Division, except in Philadelphia County, where it should be filed with the Clerk of the Family Court Division. **The Petition and accompanying documents, including the Final Decree, are confidential and should be impounded and withheld from public inspection as provided in the Adoption Act, 23 Pa.C.S. §§ 2905, 2906, 2907 and 2908(f) and Pa.O.C. Rule 15.7.**

The Clerk shall make available to petitioner(s) the necessary Department of Health, Division of Vital Records forms [available to petitioners]: Form No. HD01273F, Certificate of Adoption of a Foreign-Born Child; and Form No. HD01275F, Statement of Citizenship and Residency.

A change of name from that appearing on the foreign adoption decree is permitted without the need to comply with the procedures of 54 Pa.C.S. § 702 if the child is younger than twelve (12) years of age. Cf. 23 Pa.C.S. § 2711(a)(1). If the foreign born adopted child is twelve (12) years of age or older, then the child and parent(s) would need to follow the procedures set forth in 54 Pa.C.S. § 702 and would not be foreclosed by 54 Pa.C.S. § 702(b)(5)(ii) because the name change petition would not be in connection with any adoption proceeding as the foreign adoption is full and final and therefore completed.

A foreign born child who has been issued an IR-2, IR-3 or IH-3 United States visa has had the adoption proceeding fully completed in the foreign country and the foreign adoption decree only needs to be registered here to be given the full force and effect of an adoption decree issued by this Commonwealth. However, situations may arise that necessitate proceeding under Pa.O.C. Rule 15.9 even though the foreign born child has been issued an IR-2, IR-3 or IH-3 United States visa, such as the inclusion of an incorrect birth year on the foreign adoption decree, or other personal family reasons. Proceeding under Pa.O.C. Rule 15.9 is permitted; Pa.O.C. Rule 15.8 is not the exclusive means to obtain a Pennsylvania adoption decree and birth certificate for a foreign born adopted child.

Only one court, whether in this Commonwealth or another state, should exercise jurisdiction over the foreign adoption decree. Thus, if the foreign adoption decree has been registered or otherwise finalized in another state court, the adopting parent(s) need not and should not register the foreign adoption decree in this Commonwealth under this Rule. In similar fashion, if the foreign adoption decree has been registered in this Commonwealth, and thereafter, another petitioner in this Commonwealth seeks to adopt this child, the subsequent proceeding will be a standard proceeding under the applicable provisions of the Adoption Act, 23 Pa.C.S. §§ 2101 *et seq.* Such a situation could occur when the child is to be adopted by a step-parent after divorce or death of the original adopting parent(s), or when, after termination of parental rights, the child is to be adopted by different adopting parent(s).

If the Court determines that the foreign adoption is [determined] not [to be] a full and final adoption because the foreign born child has been issued an IH-4 or IR-4 visa, the [adoptive] adopting parent(s)

[may] shall proceed under [the Adoption Act and local rules to seek a decree of adoption in this Commonwealth] subdivision (d) of this Rule. See also Pa.O.C. Rule 15.9.

IN THE COURT OF COMMON PLEAS
 _____ COUNTY, PENNSYLVANIA
 ORPHANS' COURT DIVISION
(FAMILY COURT DIVISION in Philadelphia County)

IN RE: FOREIGN ADOPTION OF _____
 FILE NO. _____
PETITION TO REGISTER FOREIGN ADOPTION
DECREE

PURSUANT TO 23 Pa. C.S. § 2908

1. Petitioner(s), the Adopting Parent(s) of the above-named adopted child, is/are _____

2. Petitioner(s) reside(s) in _____ County, Pennsylvania, at

 (Street Address)

 (City, State, Zip)

3. Has any other court in this Commonwealth or in any other state reviewed, registered, finalized or otherwise assumed jurisdiction over the foreign adoption decree being registered here:

(circle one) Yes No

If yes, please provide the name of the court, the state and county, what was previously presented to the court and the resulting decision from the court: (Attach all court decrees).

4. The full name of the adopted child at birth as listed on the foreign birth certificate, if available, was _____

5. The full name of the adopted child as written on the foreign adoption decree is _____ .

[4.] 6. The full name [by which] of the adopted child as he or she is to be known from this time forward is _____ .

[5.] 7. The date of birth of the adopted child is _____ .

[6.] 8. The date of the foreign adoption decree is _____ .

[7.] 9. The type of United States visa issued to the adopted child is: [_____]:

(circle one) IR-2, IR-3, IH-3, IR-4, IH-4

[8.] 10. The following documents are attached to this Petition:

a. [Certified copy] Copy of child's birth certificate or other birth identification issued by country of birth; if none, an Affidavit of [Parent(s)] parent(s) stating why none is available.

b. [Certified copy] Copy of Decree of Adoption issued by foreign government; if Decree is not in English, an English translation certified by the translator to be correct [is attached].

c. Copy of adopted child's United States visa.

d. [Pennsylvania Department of Health Form H105.091 (Vital Records Form) with Parts I and II (and Part III, if applicable) completed.] Pennsylvania Department of Health, Division of Vital Records Form No. HD01273F, Certificate of Adoption of a Foreign-Born Child with Parts 1 and 2 (and Part 3, if applicable) completed.

e. Pennsylvania Department of Health, Division of Vital Records Form No. HD01275F, Statement of Citizenship and [Residence] Residency.

f. A copy of U.S. Government Form N-560, Certificate of Citizenship, and/or a copy of the child's United States passport, if either or both documents are available.

WHEREFORE, Petitioner(s) request(s) that this Court enter a Decree authorizing the registration and docketing of the attached Foreign Adoption Decree with the Clerk of the [Orphans'] appropriate Court and decreeing that

_____ shall henceforth be known as [(Birth Name of Adopted Child)] (Name of child as written on Foreign Adoption Decree)

_____ and shall have all the [(Name of Child after Adoption)] (Child's name from this time forward)

rights of a child and heir of the Petitioner(s).

Signature of Adopting Parent*

Signature of Adopting Parent

Daytime telephone no. for Adopting Parent(s)

*When there are two adopting parents, both must sign.

VERIFICATION TO PETITION TO REGISTER FOREIGN ADOPTION DECREE PURSUANT TO 23 Pa.C.S. § 2908

I/We [verify that we], _____, verify that I/we am/are the Petitioner(s) named in the foregoing Petition, that I/we have read and understand the information set forth in the Instructions to the Petition to Register Foreign Adoption Decree[. I/We verify], and that the facts set forth in the foregoing Petition are true and correct to the best of my/our knowledge, information and belief. I/We further verify that all documents attached to this Petition are true and correct copies of the originals. I/We understand that false statements made herein are subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: _____

Signature of Adopting Parent

Signature of Adopting Parent

IN THE COURT OF COMMON PLEAS
_____ COUNTY, PENNSYLVANIA
ORPHANS' COURT DIVISION
(FAMILY COURT DIVISION in Philadelphia County)

IN RE: FOREIGN ADOPTION OF _____

ADOPTION NO. _____

FINAL DECREE

AND NOW, this _____ day of _____, 20____, it is hereby ORDERED [AND] and DECREED that the Petition of _____

(Adopting Parent(s))

to Register Foreign Adoption Decree is GRANTED and that this Court authorizes the registration and docketing of the Foreign Adoption Decree entered on _____ by

(Date of Foreign Adoption Decree)

_____ in _____ .
(Name of Foreign Court) (Foreign Country)

It is FURTHER ORDERED and DECREED that the above Foreign Adoption Decree shall be enforceable as if this Court had entered the Decree and that henceforth **this child** _____

[(Birth Name of Adopted Child)]
(Name of child as written on Foreign Adoption Decree)

shall be known as _____ and shall
(Child's [Name After Adoption]
name from this time forward)

have all the rights of a child and heir of _____ .
(Adopting Parent(s))

BY THE COURT:

J.

IN THE COURT OF COMMON PLEAS
_____ COUNTY, PENNSYLVANIA
ORPHANS' COURT DIVISION
(FAMILY COURT DIVISION in Philadelphia County)

IN RE: FOREIGN ADOPTION OF _____

ADOPTION NO. _____

FINAL DECREE

AND NOW, this _____ day of _____, 20____, it is hereby ORDERED and DECREED that the Petition of _____

(Adopting Parent(s))

to Register Foreign Adoption Decree is DENIED.

BY THE COURT:

J.

INSTRUCTIONS FOR FILING PETITION TO REGISTER FOREIGN ADOPTION DECREE PURSUANT TO 23 Pa.C.S. § 2908

When a child is adopted in conformity with the laws of a foreign country, the adopting parent(s) may register the [foreign adoption] Foreign Adoption Decree so that the [Foreign Adoption] Decree is considered [to be

a] full and final [**decree**], enforceable as if entered pursuant to the Pennsylvania Adoption Act, and a Pennsylvania birth certificate can be obtained.

Adopting parent(s) seeking to register the Foreign Adoption Decree must:

1. Complete, sign and date the Petition to Register Foreign Adoption Decree and Verification. *If a Foreign Adoption Decree shows that there are two adopting parents, both [**parents**] **parent(s)** must execute the Petition to Register Foreign Adoption Decree.*

2. Attach the following documents to the Petition:

- A [**certified**] copy of the Foreign Adoption Decree;
- A [**certified**] copy of the child's birth certificate. If no birth certificate was issued, a [**certified**] copy of any other birth identification issued by the country of birth should be attached. If no birth certificate or birth identification can be obtained, an Affidavit stating the reason should be submitted;
- A copy of the child's United States visa;
- An English translation of all documents not in English, [**certified**] **with a verification** by the translator [**to be**] **that all translations are true and correct;**
- [**Form H105.091 (Pennsylvania Department of Health, Vital Records, Certificate of Adoption) with Parts I and II (and Part III if applicable) completed;**] **Pennsylvania Department of Health, Division of Vital Records Form No. HD01273F, Certificate of Adoption of a Foreign-Born Child with Parts 1 and 2 (and Part 3, if applicable) completed;**
- Pennsylvania Department of Health, **Division of Vital Records Form No. HD01275F, Statement of Citizenship and Residency [**Form.**];**
- **If available, a copy of U. S. Government Form N-560 and/or a copy of the child's U.S. passport.**

3. The Petition to Register with the attachments should be filed with the Clerk of the Orphans' Court Division of the Court of Common Pleas in **the county in which the adopting parent(s) reside(s)**, except for Philadelphia County resident(s), who must file with the Family Court Division. A filing fee will be charged in accordance with the fee schedule of the county court.

After the Petition to Register is filed, it will be submitted to the Court for review. If the Petition to Register and accompanying documents establish that the foreign adoption of the child is full and final, the Court will enter a Decree directing the registration of the Foreign Adoption Decree. The Clerk of the appropriate [**court**] **Court** will then issue a certificate of adoption and transmit [**form H105.091 and the Statement of Citizenship and Residency Form**] to the Department of Health, Division of Vital Records **Forms HD01273F and HD01275F, and if provided by the adopting parent(s), a copy of U.S. Government Form N-560 and/or a copy of the child's United States passport.**

If the Court cannot determine that the foreign adoption is full and final, it will enter a Decree denying the [**petition**] **Petition**. In that case, it will be necessary to proceed [**under the Adoption Act and any local rules of court to obtain a full and final Pennsylvania adoption decree**] **under Pa.O.C. Rule 15.9.**

Some of the following are reasons why a foreign adoption may not be a full and final adoption eligible for registration:

- both adopting parents were not present for the adoption hearing in the foreign country **and the foreign country is not a Hague Convention country;** or
- the sole adopting parent was not present at the adoption hearing in the foreign country **and the foreign country is not a Hague Convention country;** or
- the foreign court did not enter a final adoption Decree or Order or its equivalent; or
- the child's United States visa is not the type that [**would afford**] **affords** the child full United States citizenship.

If the child has an IH-4 or IR-4 United States visa, it will be necessary to proceed under Pa.O.C. Rule 15.9.

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

Rule 15.9. Petition for adoption of a foreign born child.

(a) *General Rule.* Adopting parent(s) who are residents of the Commonwealth may petition the Court of Common Pleas in any county as provided in Section 2302 of the Adoption Act (see 23 Pa.C.S. § 2302) to proceed with an adoption of their foreign born child who has entered the United States pursuant to an IR-2, IR-3, IH-3, IR-4 or IH-4 United States visa.

(b) *Required Documents.* The following documents shall be filed in the following order with the Clerk of the appropriate division of the Common Pleas Court:

- (1) Preliminary Decree;
- (2) Final Decree;
- (3) Petition for Adoption of a Foreign Born Child;
- (4) Copy of United States visa;
- (5) Reports of investigations, home studies, preplacement and postplacement;
- (6) Copy of birth certificate of foreign born child (if available), with translation;
- (7) Copy of any other relevant foreign decrees and/or documents with translations;
- (8) Consents of any person and/or agency having custody and/or legal and/or physical rights to the child;
- (9) Report of Intermediary (if an intermediary agency was involved);
- (10) Verifications signed by petitioner(s), intermediary and translator(s) stating that facts set forth are true and correct, copies are true and correct copies of originals, that the English translation of foreign documents is accurate, and that false statements are subject to the penalties of 18 Pa.C.S. § 4904;
- (11) Pennsylvania Department of Health, Division of Vital Records Form No. HD01273F, Certificate of Adoption of a Foreign-Born Child with Parts 1 and 2 (and Part 3, if applicable) completed;
- (12) Pennsylvania Department of Health, Division of Vital Records Form No. HD01275F, Statement of Citizenship and Residency; and
- (13) A copy of U.S. Government Form N-560, Certificate of Citizenship, and/or a copy of the child's United States passport, if either or both documents are available.

(c) *Form of Documents:* The Preliminary Decree, Final Decree, Petition for Adoption of a Foreign Born Child, Report of Intermediary (if applicable), and verifications referenced in subparagraph (b)(10) above shall be in substantially the form approved by the Supreme Court. See Appendix of Forms to these Rules.

(d) *Judicial Review and Hearing.*

(1) *Scope of Review.* The Petition and accompanying documents filed under this Rule shall be subject to review by the Court as prescribed by the Pennsylvania Adoption Act, 23 Pa.C.S. §§ 2101 *et seq.*, Pennsylvania Orphans' Court Rules and local rules of court.

(2) *Home Study and Investigation.* The Court may rely in whole or in part upon a home study containing information required by Section 2530(b) of the Adoption Act and an investigative report containing information required by Section 2535(b) of the Adoption Act previously commissioned in the foreign adoption proceeding without regard to when such reports were prepared. See 23 Pa.C.S. §§ 2530, 2535. The Court may in its discretion require additional reports and investigations to be made in accordance with the Pennsylvania Adoption Act, Pennsylvania Orphans' Court Rules and local rules of court.

(3) *Original Documents, Decrees and Translations.* All original documents, decrees and translations must be available for review by the Court upon request.

(4) *Pre-adoption Requirements.* In order to grant an adoption, the Court must be satisfied that the pre-adoption requirements set forth in Sections 2530—2535 of the Adoption Act have been met. See 23 Pa.C.S. §§ 2530—2535. If the adopting parent(s) were Pennsylvania residents at the time that the United States visa was issued to the foreign born child, the Court may accept an IH or IR United States visa as proof that the pre-adoption requirements have been met.

(5) *Proof that the Child is an Orphan.* In order to grant an adoption, the Court must be satisfied that the child to be adopted is an orphan. The Court may accept the child's IH or IR United States visa as proof that the foreign born child is an orphan.

(6) *Hearing.* The Court shall schedule a hearing to allow for testimony pursuant to Sections 2721—2724 of the Adoption Act. See 23 Pa.C.S. §§ 2721—2724. Petitioner(s) and the child to be adopted shall appear at the hearing. The Court may in its discretion require the presence of additional persons, including a representative of the intermediary.

(e) *Disclosure of Fees and Costs.* Prior to or at the hearing, a report shall be filed setting forth the amount of fees, expenses and costs paid or to be paid to counsel, the intermediary and/or any other person or agency in connection with the adoption of the foreign born child. The Court may request an itemization of any of the amount(s) reported.

(f) *Final Decree.* After the hearing, the Court shall determine if the adoption of the foreign born child can be granted, and if so, the Court shall enter a decree as provided in Section 2902 of the Adoption Act. See 23 Pa.C.S. § 2902.

(g) *Clerk of the Appropriate Court.* Upon the filing of a decree granting the adoption under this Rule, the Clerk of the appropriate Court shall enter the decree and date of the decree on the docket. The Clerk shall send Form No. HD01273F, Certificate of Adoption of a Foreign-Born Child, and Form No. HD01275F, Statement of Citizenship and Residency, to the Department of Health, Division of

Vital Records, along with a copy of U.S. Government Form N-560, Certificate of Citizenship, and/or a copy of the child's United States passport, if either or both documents have been provided by the adopting parent(s). The Clerk shall issue to the adopting parent(s) a certificate of adoption in accordance with Section 2907 of the Adoption Act. See 23 Pa.C.S. § 2907.

(h) *Only One Court May Assume Jurisdiction.* A parent shall not proceed under this Rule if the foreign adoption has been registered or otherwise finalized by a Court of this Commonwealth or any other state.

Explanatory Note: Pursuant to 23 Pa.C.S. § 2908(e), as amended by Act 96 of 2006, a set of forms, consisting of a Petition for Adoption of a Foreign Born Child, Report of Intermediary, Verification of Translator, Preliminary Decree, and Final Decree are set forth in the Appendix to these Rules.

In most instances, the adopting parent(s) of a foreign born child who has entered the United States with an IR-2, IR-3 or IH-3 United States visa will not need to proceed under Pa.O.C. Rule 15.9, but can register the foreign adoption decree pursuant to Pa.O.C. Rule 15.8. Situations may arise, though, that necessitate proceeding under this Rule, such as the inclusion of an incorrect birth year on the foreign adoption decree, or other personal family reasons. In these situations, adopting parent(s) of a foreign born child entering the United States with an IR-2, IR-3, or IH-3 United States visa may proceed under Pa.O.C. Rule 15.9; however, adopting parent(s) should be advised by counsel of the additional costs, additional documentation required, and the delay caused by the need for a hearing.

If a foreign born child has entered the United States with an IH-4 or IR-4 United States visa, the adopting parent(s) must proceed under Pa.O.C. Rule 15.9 because the adoption of their foreign born child was not finalized in the country of the child's birth.

Only one state court, whether in this Commonwealth or another state, should exercise jurisdiction over the registration of the foreign adoption decree or the completion of the adoption initiated in the native country of the foreign born child. Thus, if the adoption has been finalized or the foreign adoption decree has been registered in another state court or in another court within this Commonwealth, the adopting parent(s) need not and should not proceed under this Rule. In similar fashion, if the adoption of the foreign born child has been finalized in this Commonwealth, and thereafter, another petitioner seeks to adopt this child, the subsequent proceeding will be a standard proceeding under the applicable provisions of the Adoption Act, 23 Pa.C.S. §§ 2101 *et seq.* Such a situation could occur when the child is to be adopted by a step-parent after divorce or death of the original adopting parent(s), or when, after termination of parental rights, the child is to be adopted by different adopting parent(s).

The documents referenced in Pa.O.C. Rule 15.9 should be filed with the Clerk of the Orphans' Court Division, except in Philadelphia County, where they should be filed with the Clerk of the Family Court Division. The Petition and accompanying documents under this Rule, including the decree granting the adoption, are confidential and should be impounded and withheld from public inspection as provided in the Adoption Act, 23 Pa. C.S. §§ 2905 *et seq.* and Pa.O.C. Rule 15.7.

The Clerk shall make available to the petitioner(s) the necessary Department of Health, Division of Vital Records forms: Form No. HD01273F, Certificate of Adoption

of a Foreign-Born Child; and Form No. HD01275F, State-
ment of Citizenship and Residency.

IN THE COURT OF COMMON PLEAS OF
_____ COUNTY, PENNSYLVANIA
ORPHANS' COURT DIVISION
(FAMILY COURT DIVISION in Philadelphia
County)

IN RE: ADOPTION OF _____
(initials only)

ADOPTION NO. _____

PRELIMINARY DECREE

AND NOW, this day of _____, 20____, upon con-
sideration of the within Petition and on the motion
of _____, Esquire, attorney for Petitioner(s)
or _____, Pro Se, a hearing thereon is
fixed for _____ in _____ before the
Honorable _____ at _____ am/pm.

Notice shall be given to the following persons and or
entities having any legal and/or physical rights to the
child:

1. NAME _____

ADDRESS _____

RELATIONSHIP _____

2. NAME _____

ADDRESS _____

RELATIONSHIP _____

3. NAME _____

ADDRESS _____

RELATIONSHIP _____

BY THE COURT:

J.

IN THE COURT OF COMMON PLEAS OF
_____ COUNTY, PENNSYLVANIA
ORPHANS' COURT DIVISION
(FAMILY COURT DIVISION in Philadelphia
County)

IN RE: ADOPTION OF _____
(initials only)

ADOPTION NO. _____

FINAL DECREE

AND NOW, this _____ day of _____, 20____,
upon consideration of the within Petition and after the
hearing thereon, the Court having made an investigation
to verify the statements of the Petition and other facts to
give the Court full knowledge as to the desirability of the

proposed adoption; and the Court, being satisfied, finds
that the statements made in the Petition are true, that
the needs and welfare of the child proposed to be adopted
will be promoted by this adoption, and that all require-
ments of the Adoption Act have been met, it is hereby
ORDERED, ADJUDGED and DECREED that this child,
_____ is hereby adopted,

(Name of child as written on Foreign Decree)

shall be known as _____ and shall
(Child's name from this time forward)

have all the rights of a child and heir of _____ .
(Adopting Parent(s))

_____, and shall be subject to the duties of a
child to said adopting parent(s).

BY THE COURT:

J.

IN THE COURT OF COMMON PLEAS OF
_____ COUNTY, PENNSYLVANIA
ORPHANS' COURT DIVISION
(FAMILY COURT DIVISION in Philadelphia
County)

IN RE: ADOPTION OF _____
(initials only)

ADOPTION NO. _____

PETITION FOR ADOPTION OF A FOREIGN BORN
CHILD

To the Honorable, the Judge of said Court:

The Petition of _____
(Name(s) of Adopting Parent(s))

under 23 Pa. C.S. §§ 2701 and 2908 respectfully states
that:

1. At least one of the Petitioners filing this Petition is a
resident of the Commonwealth of Pennsylvania and has
resided in this Commonwealth since _____ .
(Provide at least
month and year)

2. No other court in this Commonwealth or in any
other state has reviewed, registered, finalized or other-
wise assumed jurisdiction over the adoption of this child,
except as follows:

(Provide name of court, county and state)

Explain the proceeding previously initiated and the
resulting decision from the court: (Attach all court de-
crees).

3. Petitioner(s) desire(s) to adopt this child known as

_____,
(Name of child as written on Foreign Decree)

and intend that such child shall be treated as one of
(his/her/their) heirs and hereby declare(s) that (he/she/
they) will perform all the duties of parent(s) to him/her.

4. The child has entered the United States pursuant to
a United States visa. A true and correct copy of the
United States visa is attached as an exhibit to this
Petition. The United States visa was issued as an:

(Please circle one) IR-2, IR-3, IH-3, IR-4 or IH-4

5. a) The child's full name as shown on the United States visa is _____

b) The full birth name of the child as listed on the foreign birth certificate (if available) is _____

c) The full name of the child as it appears on the foreign decree is _____

d) The full name of the child as he/she is to be known from this time forward is _____

6. The child has resided with Petitioner(s) for the following length of time _____

7. Information concerning the Petitioner(s), the adopting parent(s), is as follows:

a) *Adopting Father:*

1) Full name _____

2) Residence _____

3) Marital status _____

4) Age _____

5) Occupation _____

6) Religious affiliation _____

7) Racial background _____

8) Relationship to adoptee by blood or marriage, if any _____

9) Daytime telephone no. _____

b) *Adopting Mother:*

1) Full name _____

2) Residence _____

3) Marital status _____

4) Age _____

5) Occupation _____

6) Religious affiliation _____

7) Racial background _____

8) Relationship to adoptee by blood or marriage, if any _____

9) Daytime telephone no. _____

8. The following reports, as applicable, have been completed as of the dates set forth below. A true and correct copy of each of these reports is attached as an exhibit to this Petition.

a) Report of Intermediary described in 23 Pa.C.S. § 2533 _____

b) Home Study and/or Preplacement Reports described in 23 Pa.C.S. § 2530 _____

c) Investigation Reports described in 23 Pa.C.S. § 2535 _____

d) Postplacement Reports, if any _____

9. Information concerning the intermediary agency, if any, is as follows:

Name of agency _____

Address _____

Telephone no. _____

County where office is located _____

10. If there is no report of an intermediary, the following information is being provided by the Petitioner(s) as to the adoptee child:

a) Sex _____

b) Racial background _____

c) Age _____

d) Birth date _____

e) Birthplace _____

f) Places of residence since birth _____

g) Religious affiliation _____

h) A full statement of the value of all property owned or possessed by the child, if any _____

i) State whether medical history information was obtained, and if not, explain why not _____

11. If there is no report of an intermediary, and the adoptee child is under 18 years of age, provide the following information as to the birth mother, if known:

a) Name _____

b) Residence or last known address _____

c) Racial background _____

d) Age _____

e) Marital status as of the time of the birth of child _____

f) Marital status during one year prior to birth of child _____

g) Religious affiliation _____

h) Birth mother's parental rights were terminated by decree of _____ dated _____

12. If there is no report of an intermediary, and the adoptee child is under 18 years of age, provide the following information as to the birth father, if known:

a) Name _____

b) Residence or last known address _____

c) Racial background _____

d) Age _____

e) Marital status as of the time of the birth of child _____

f) Marital status during one year prior to birth of child _____

g) Religious affiliation _____

h) Birth father's parental rights were terminated by decree of _____ dated _____

13. If there is no report of an intermediary, attach a copy of the birth certificate. If no birth certificate or other birth identification issued by the country of birth can be obtained, a statement of the reason and a detailed

explanation of the efforts made to obtain the certificate are required and attached as an exhibit to this Petition.

14. If there is no report of an intermediary, attach copies of any foreign decrees and/or documents concerning this adoption, including any decree terminating the parental rights of birth mother and/or birth father, if needed, with an English translation for those decrees and/or documents not in English, certified by a translator to be true and correct translations of the foreign decrees and/or documents.

15. If there is no report of an intermediary, attach all consents required by Section 2711 of the Adoption Code, 23 Pa.C.S. § 2711. If consents are not required, explain

16. Attach Pennsylvania Department of Health, Division of Vital Records Form No. HD01273F, Certificate of Adoption of a Foreign-Born Child with Parts 1 and 2 (and Part 3, if applicable) completed.

17. Attach Pennsylvania Department of Health, Division of Vital Records Form No. HD01275F, Statement of Citizenship and Residency.

18. Attach a copy of U.S. Government Form N-560, Certificate of Citizenship, and/or a copy of the child's United States passport, if either or both documents are available.

19. It is the desire of the Petitioner(s) that the relationship of parent and child be established between the Petitioner(s) and the adoptee child.

WHEREFORE, Petitioner(s) pray your Honorable Court to enter a Final Decree that the child proposed to be adopted shall have all the rights of a child and heir of Petitioner(s) and Petitioner(s) shall be subject to the duties as parent(s) of such child, and that the child's name shall henceforth be

DATE: _____

Signature of Adopting Parent*

Signature of Adopting Parent

(If represented, counsel's name, address, and telephone number)

* When there are two adopting parents, both must sign.

VERIFICATION TO PETITION FOR ADOPTION OF A FOREIGN BORN CHILD

I/We, _____, verify that I/we are the Petitioner(s) named in the foregoing Petition and that the facts set forth therein are true and correct to the best of my/our knowledge, information and belief. I/We further verify that all documents attached to this Petition are true and correct copies of the originals. I/We understand that false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

DATE: _____

Signature of Adopting Parent

Signature of Adopting Parent

**IN THE COURT OF COMMON PLEAS OF
_____ COUNTY, PENNSYLVANIA
ORPHANS' COURT DIVISION
(FAMILY COURT DIVISION in Philadelphia County)**

IN RE: ADOPTION OF _____
(initials only)

ADOPTION NO. _____

**REPORT OF THE INTERMEDIARY IN THE
ADOPTION OF A FOREIGN BORN CHILD**

The report of the agency, _____, as intermediary, under 23 Pa.C.S. § 2533, states as follows:

1. Intermediary's address _____

Intermediary's telephone no. _____

County where office is located: _____

2. The facts as to the adoptee child are:

a) Name _____

b) Sex _____

c) Racial background _____

d) Age _____

e) Birth date _____

f) Birthplace _____

g) Religious affiliation _____

3. Date of the placement of the child with the Petitioner(s), adopting parent(s), _____

4. If known, the facts as to the birth mother are:

a) Name _____

b) Residence or last known address _____

c) Racial background _____

d) Age _____

e) Marital status as of the time of the birth of the child _____

f) Marital status during one year prior to birth of the child _____

g) Religious affiliation _____

h) Birth mother's parental rights were terminated by decree of _____ dated _____

5. If known, the facts as to the birth father are:

a) Name _____

b) Residence or last known address _____

c) Racial background _____

d) Age _____

e) Marital status as of the time of the birth of the child _____

f) Marital status during one year prior to birth of the child _____

g) Religious affiliation _____

h) Birth father's parental rights were terminated by decree of _____ dated _____

6. All consents required by 23 Pa. C.S. § 2711 are attached to this Report as exhibits or are not required for the following reasons, provide explanation:

7. a) A true and correct copy of the birth certificate or a registration of the birth by the country of birth is attached to this Report as an exhibit. If no birth certificate or other birth identification issued by the country of birth can be obtained, a statement of the reason and a detailed explanation of the efforts made to obtain the certificate are attached as exhibits to this Report.

b) Attach copies of any foreign decrees and/or documents concerning this adoption, including any decree terminating the parental rights of birth mother and/or birth father, with an English translation for those decrees and/or documents not in English, certified by a translator to be true and correct translations of the decrees and/or documents.

8. Attach a verified list of itemized fees and/or expenses paid or to be paid to or received by the intermediary and/or any other person or persons to the knowledge of the intermediary by reason of the adoption placement.

9. A full description and statement of the value of all property owned or possessed by the child, if any, is as follows:

10. No provision of any act regulating the interstate placement of children has been violated with respect to the placement of the child.

11. The child's medical history information was obtained and is available, except as follows: _____

DATE: _____
Signature (Type name of signor, title, and name of agency)

VERIFICATION TO REPORT OF INTERMEDIARY

I, _____, verify that I am _____ of _____
(Title)

(Name of Agency)

and I am authorized to take this verification on its behalf, and that the facts set forth in the foregoing Report are true and correct to the best of my knowledge, information and belief. I further verify that all documents attached to this Report are true and correct copies of the originals. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

DATE: _____
Signature

VERIFICATION OF TRANSLATOR

I, _____, verify that I am a licensed translator and that all translations of the foreign documents which are attached to this Petition are true and correct English translations of the originals. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

DATE: _____

Signature

INDEX TO APPENDIX

ORPHANS' COURT AND REGISTER OF WILLS FORMS

ADOPTED BY SUPREME COURT PURSUANT TO Pa. O.C. Rule 1.3

Available as Fill-in Forms on Website of Administrative Office of Pennsylvania Courts

[<http://www.aopc.org/Index/Forms/IndexForms.asp>.]
<http://www.pacourts.us/Forms/OrphansCourtForms.htm>

Orphans' Court and Administration Forms

* * * * *

F. Foreign Adoption Forms

1. Registration Forms—Pa.O.C. Rule 15.8

- a. Petition to Register Foreign Adoption Decree
- b. Final Decree—Granted
- c. Final Decree—Denied
- d. Instructions for Filing Petition

2. Completion of Foreign Adoption Forms—Pa.O.C. Rule 15.9

- a. Preliminary Decree
- b. Final Decree
- c. Petition for Adoption of a Foreign Born Child
- d. Report of the Intermediary
- e. Verification of Translator

[Pa.B. Doc. No. 11-69. Filed for public inspection January 14, 2011, 9:00 a.m.]

Title 25—LOCAL COURT RULES

LACKAWANNA COUNTY

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

Order

And Now, this 8th day of December, 2010, it is hereby Ordered and Decreed that the following Lackawanna County Rules of Civil Procedure are amended as follows:

- 1. New Lacka. Co. R.C.P. 3190, 3191, 3192 and 3193 are adopted as reflected in the following Rule;
- 2. Pursuant to Pa. R.C.P. 239(c)(2)—(6), the following Local Rules shall be disseminated and published in the following manner:

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

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

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

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

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

3. The adoption of new Lackawanna County R.C.P. Nos. 3190, 3191, 3192 and 3193 shall become effective thirty (30) days after the date of their publication in the *Pennsylvania Bulletin* pursuant to Pa. R.C.P. 239(d).

By the Court

CHESTER P. HARHUT,
President Judge

Rule 3190. Real Estate Tax Assessment Appeal.

(a) A real estate tax assessment appeal from a decision of the Lackawanna County Board of Assessment Appeals as to the amount of assessment for real estate tax purposes or as to exemption of real estate from payment of real estate taxes shall be captioned "Real Estate Tax Assessment Appeal" and shall be filed with the Clerk of Judicial Records within the time prescribed by statute.

(b) A Real Estate Tax Assessment Appeal shall contain the following:

(1) Caption designating the named party taking the appeal as Appellant, the Lackawanna County Board of Assessment Appeals as Appellee, and if Appellant is a taxing authority it shall join the owner of the real estate involved as of course as a party in the assessment appeal by designating such named owner in the caption as Respondent.

(2) Brief description of the subject real estate, its location, name and address of the owner, and municipality and school district wherein the real estate is located.

(3) Nature of and reasons for the appeal.

(4) Reference to the decision of Lackawanna County Board of Assessment Appeals (Board) from which the appeal is taken. A copy of the Board's notice of decision shall be attached as an exhibit.

(5) Verification consisting of a verified statement as "verified" is defined in Pa. R.Civ.P. No. 76.

(c) Appellant shall serve copies of the appeal by certified or registered mail upon the Board at its official office and, unless named as the appellant, upon the Board of County Commissioners of Lackawanna County and upon the legislative governing body of the municipality and the board of school directors of the school district wherein the real estate is located at their respective official offices, or,

in the absence of an official office, at the last known address of the secretary of said body and upon the respondent owner of the real estate at said owner's last known address.

(d) Appellant shall file with the Clerk of Judicial Records within ten (10) days of the filing of the Real Estate Tax Assessment Appeal, proof of service of copies thereof consisting of a verified statement (as "verified" is defined in Pa. R.Civ.P. No. 76) that service was made by certified or registered mail, with the sender's receipt for certified or registered mail attached thereto.

(e) No response is required to be made by Appellee or by the County, municipality, school district or Respondent owner of real estate served with copy of Real Estate Tax Assessment Appeal.

Rule 3191. Intervention.

(a) The County, municipality, or school district not named as Appellant may intervene as of course during pendency of the appeal by filing a Notice of Intervention with Clerk of Judicial Records.

(b) Notice of Intervention shall contain the name of the intervening party designated as intervenor in the caption, and shall set forth that such identified party is intervening.

(c) Intervenor shall serve copies of Notice of Intervention by certified or registered mail upon Appellant, Appellee, any Respondent owner and any other intervening parties of record.

(d) Intervenor shall file with the Clerk of Judicial Records within ten (10) days of the filing of Notice of Intervention, proof of service of copies thereof consisting of a verified statement (as "verified" is defined in Pa. R.Civ.P. No. 76) that service was made by certified or registered mail, with the sender's receipt for certified or registered mail attached thereto.

(e) No response is required to be made by any party served with copy of Notice of Intervention.

Rule 3192. Discovery.

(a) Depositions and Discovery shall be applicable to real estate tax assessment appeals, unless otherwise ordered by the court.

Rule 3193. Pretrial Status Conference.

(a) The court sua sponte or upon application of a party shall schedule a pretrial status conference. Notification of conference need be given by the court only to Appellant, Appellee, Respondent owner if any, and such other parties who have intervened of record.

(b) Each party of record shall file with the Clerk of Judicial Records, a Pretrial Status Conference Memorandum and serve a copy thereof on the trial judge at least seven (7) days prior to the date of scheduled conference along with proof of service of copies thereof upon parties of record by personal service or by regular mail. Proof of service shall consist of a verified statement as "verified" is defined in Pa. R.Civ.P. No. 76.

(c) Pretrial Status Conference Memorandum shall contain a summary statement of facts, stipulations desired, witnesses expected to be called, exhibits expected to be offered, legal issues, and special problems presented, if any.

[Pa.B. Doc. No. 11-70. Filed for public inspection January 14, 2011, 9:00 a.m.]

YORK COUNTY

Amendments to Orphans' Court Rules; No. 67-10-01897**Administrative Order Amending York County Local Orphans' Court Rules**

And Now, this 30th day of December 2010, pursuant to Pennsylvania Orphans' Court Rule 1.2, and Pa.R.J.A. 103(c) it is hereby Ordered and Decreed that the York County Orphans' Court Rules are amended as follows. These *Amendments* to the York County Orphans' Court rules shall become effective thirty (30) days after publication in the *Pennsylvania Bulletin*.

Any prior local rule and any prior administrative order in whole or part which is in conflict with any portion of the rule changes announced in paragraphs 1-4 of this Administrative Order (collectively "*Amendments*") are hereby vacated and repealed.

1. Current York County Orphans' Court Rules ("Y.C.O.C.R.") 7.1.2 and 7.1.3 are hereby *Repealed*.

2. Current Y.C.O.C.R. 7.1.1, 15.1.1, 15.4.1, and 15.5.1 are hereby *Amended* as follows.

3. The note to current Y.C.O.C.R. 2.3.1 (Definitions) is hereby *Amended* as follows: "For local rules applicable to exceptions, see Y.C.O.C.R. 7.1.1 [**and 7.1.2**]."

4. Proposed new rules 15.1.2 and 15.5.2 are hereby *Adopted* as follows.

It Is Further Ordered that in accordance with Pa.R.J.A. No. 103(c), the Clerk of the Orphans' Court Division ("Clerk") shall:

(a) forward ten certified copies of this Administrative Order and the accompanying attachments to the Administrative Office of Pennsylvania Courts (AOPC), for filing and distribution by the AOPC as set forth in Pa.R.J.A. No. 103(c)(2);

(b) cause this Administrative Order and the attached rules thereto to be posted conspicuously on the Clerk's website (currently <http://www.york-county.org/departments/courts/orphan.htm>) for viewing, downloading, and printing by attorneys and the public.

(c) The County District Court Administrator ("Court Administrator") shall supervise the distribution this Administrative Order and the following rules thereto to all Judges of this Court.

(d) The Court Administrator shall cause this Administrative Order and the following rules thereto to be posted conspicuously on the York County web site and cause copies of these *Amendments* to be made for distribution, upon payment of reasonable costs of reproduction.

(e) The Court Administrator shall cause a notice of these *Amendments* to appear at least two times in the *York Legal Record*.

By the Court

RICHARD K. RENN,
President Judge

Amendments to York County Orphans' Court Rules**RULE 7. EXCEPTIONS.****Rule 7.1.1. Exceptions—Form and Service.**

(a) Exceptions shall be filed in writing with the Clerk, numbered consecutively, signed by the exceptant or the exceptant's attorney, and each exception shall:

(1) be specific as to description and amount;

(2) raise but one issue of law and fact, but if there are several exceptions to items included in or omitted from the adjudication, order, or decree relating to the same issue, all such exceptions shall be included in the same exception; and

(3) set forth briefly the reason or reasons in support thereof.

(b) A party filing exceptions shall serve a copy thereof no later than the day of such filing upon all parties in interest affected thereby. The attorney for the exceptant, or the exceptant, shall certify to the Clerk in writing that a copy of the exceptions has been served as required by this Rule and shall attach a list of those on whom service was made.

[Rule 7.1.2. (Exceptions—Time and Place of Filing)—Repealed]**[Rule 7.1.3. (Exceptions—Form)—Repealed]****RULE 15. ADOPTIONS.****Rule 15.1.1. General Practice and Procedure.**

All reports and petitions relating to adoption shall be filed with the Clerk and shall be in such form as is designated from time to time by the Court. The Court may publish special filing instructions and procedures on the county website maintained by the Clerk. All filing fees shall be paid at the time of filing.

Rule 15.1.2. Additional Contents of Filings in Adoption Matters.

(a) *Telephone number*. Every Petition for Adoption shall include in the body of the petition or by separate attachment, personal telephone number(s) by which the Court-appointed investigator may contact the Petitioners to schedule the in-home investigation.

(b) *Form of certain filings*. Every Report of Intention to Adopt and Petition for Adoption filed of record shall be typewritten and shall contain the caption of the case, the nature of the proceeding, the file number, and either the signature of the attorney, below which shall be the attorney's name, address, telephone number and attorney identification number, or the signature of the party, below which shall be the party's name, address, and telephone number. Backing required under Rule 1.2.2 shall not be required in adoption matters.

(c) *Background reports and clearances*.

(1) *Required reports and clearances*. All Petitioners seeking to adopt shall submit to the Court prior to or at the time of filing a Petition for Adoption each of the following documents, which shall be executed within one (1) year of filing the Petition for Adoption:

(a) Report of criminal history record information from the Pennsylvania State Police;

(b) Pennsylvania child abuse clearance certificate from the Department of Public Welfare; and

(c) Report of Federal criminal history record information if a Petitioner is required to file a Report of Intention to Adopt.

(2) *Residence outside of Commonwealth*. The information required in paragraph (c)(1)(a) and (c)(1)(b) is also required from each state where every Petitioner seeking to adopt has resided in the five (5) years preceding the filing of the Petition for Adoption.

(3) *Adult household residents.* The information required in paragraphs (c)(1) and (c)(2) is also required of every individual over eighteen (18) years of age who resides within the household of Petitioners.

(4) *Exception.* A parent of the adoptee, by birth or previous adoption, who has joined a Petition for Adoption or executed a consent to the proposed adoption pursuant to 23 Pa.C.S. § 2711 shall not be required to comply with paragraphs (c)(1) and (c)(2) of this Rule.

Note: The background reports and clearances required by this Rule are referenced in 23 Pa.C.S. § 6344.

Rule 15.4.1. Claims or Acknowledgments of Paternity.

In every proceeding brought to terminate any parental rights as to an adoptee born in Pennsylvania, Petitioners shall obtain and provide to the Court at the time of the hearing thereon official documentation obtained from the Pennsylvania Department of Public Welfare or a Domestic Relations Office in Pennsylvania stating whether any paternity claims or acknowledgments have been filed with the Department in accordance with 23 Pa.C.S. § 5103(b) as to each adoptee as to whom termination of parental rights is sought.

Rule 15.5.1. Notice in Adoption Proceedings.

(a) *General rule.* Notice of any hearing related to an adoption shall be given in strict conformity with the Adoption Act, 23 Pa.C.S. §§ 2301 et seq., and the Orphans' Court Rules of this Commonwealth and this County.

(b) *Specific circumstances and exceptions.*

(1) *Adult Adoptee.* If an adoptee is eighteen (18) years of age or older, a separate Petition to Waive Notice of the hearing(s) to any parent of the adoptee may be filed by the prospective adoptive parent(s).

(2) *Notice by Publication.* If a person to be notified is not represented by legal counsel, cannot be personally served with notice, and cannot be served by mail because his/her residence is not known, a separate Petition Seeking Authority to Provide Notice by Publication may be filed by the prospective adoptive parent(s). Facts supporting the Petition that cannot be verified by the Petitioner(s) shall be stated in an affidavit accompanying the Petition. If the Petition is granted, notice by publication shall comply with Rule 5.1.1 and be given at least once a week during three successive calendar weeks in a newspaper of general circulation published at or near the last known address of the person to be notified and also in the legal periodical, if any, in that county.

(3) *Identity of Person to be Notified Unknown.* If, after reasonable investigation, the identity of a person to be notified is unknown, a separate Petition to Waive Notice to that person may be filed by the prospective adoptive parent(s). The Petition shall set forth all information known relating to the identity or possible whereabouts of the person to be notified and what reasonable investigation was undertaken to identify that individual. Facts supporting the Petition that cannot be verified by the Petitioner(s) shall be stated in an affidavit accompanying the Petition.

(4) *Verification and Proposed Order.* Each Petition allowed by sections (b)(1)-(3) of this Rule shall be accompanied by a verification and a proposed court order.

Rule 15.5.2. Adult Adoptee Name Change—Alternative Procedure.

(a) *Application for Change of Name as exhibit to Petition for Adoption.* In lieu of filing a separate Petition for

Change of Name with the Prothonotary's Office required by YCCiv. 5730, Petitioners seeking to adopt and requesting a change of an adult adoptee's name pursuant to Pa.O.C.R. 15.5(e), may instead initiate a change of name proceeding for an adult adoptee by attaching as an exhibit to their Petition for Adoption, an Application for Change of Name in conformity with 54 Pa.C.S. § 701(a.1)(2). Attached to the Application for Change of Name shall be a fingerprint card completed by the adult adoptee and a verification form signed by the adult adoptee and Petitioners. The Application for Change of Name shall be filed with the Clerk of Orphans' Court Division and does not have to comply with the requirements in YCCiv. 205.2 as stated in YCCiv. 5730(a)(1).

(b) *Evidence of notice.* Petitioners seeking to adopt and requesting a change of an adult adoptee's name pursuant to the alternative procedure in this Rule shall comply with the requirements in YCCiv. 5730(b) and (c)(1).

(c) *Evidence of official searches.* Petitioners seeking to adopt and requesting a change of an adult adoptee's name pursuant to the alternative procedure in this Rule shall comply with the requirements in YCCiv. 5730(c)(2).

[Pa.B. Doc. No. 11-71. Filed for public inspection January 14, 2011, 9:00 a.m.]

DISCIPLINARY BOARD OF THE SUPREME COURT

Notice of Administrative Suspension

Notice is hereby given that the following attorneys have been Administratively Suspended by Order of the Supreme Court of Pennsylvania dated November 18, 2010, under Pennsylvania Rules of Disciplinary Enforcement 219 which requires that all attorneys admitted to practice in any court of this Commonwealth must pay an annual assessment of \$200.00. The Order became effective December 18, 2010.

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

Adams, Jennifer H.
New York, NY

Adelman, Cort Andrew
Voorhees, NJ

Ahmad, Sarah
Arlington, VA

Alsobrook, Victor Shawn, Jr.
Los Angeles, CA

Andersen, Charles E.
Las Vegas, NV

Anyaku, Azubike Nnamdi
Houston, TX

Apoldo, Louis James
Cherry Hill, NJ

Arati, Shakyamuni-Re Shiva
Catonsville, MD

Argenziano, Frank Jon
Toms River, NJ

Bander, Yigal
Baton Rouge, LA

Barksdale, Antoinette
Washington, DC

Barrett, Mark James
Denver, Co

Barth, Richard T.
Sewell, NJ

Belanger, Brian S.
Charlotte, NC

Bell, Kristen Lee
New Albany, OH

Berman, Michael Eric
Long Beach, NY

Borchers, Kourtney Anna
Haddon Township, NJ

Braverman, Fred Ronald
Cherry Hill, NJ

Brennan, James C.
Vienna, VA

Bucaram, Assad Omar
Spain

Buck, Carl Vincent, III
Mount Holly, NJ

Burke, Douglas Allen
Cape May Court House, NJ

Burr, Scott Allen
Miami Beach, FL

Bryum, Glenn David
Wilmington, DE

Camiso, Nichole
Bordentown, NJ

Chandler, Carol
Princeton, NJ

Chapple, Kevin L.
Washington, DC

Coffman, Joshua Ray
Apopka, FL

Cohen, Philice Krevolin
Skillman, NJ

Conley, Robert Frank
Fair Lawn, NJ

Curtis, Michael Thomas
Weirton, WV

D'Alfonso, Mario J.
Cherry Hill, NJ

Delaney, Robert Emmett
McKinney, TX

Dineen, Melissa Ann
Groveland, MA

Ditomo, John Patrick
Wilmington, DE

Dorchinsky, Brian Michael
Plainsboro, NJ

Dugan, John Christopher
Pine Hill, NJ

Dunbar, Steven F.
Phillipsburg, NJ

Duncan, Dwayne Berisford
New Brunswick, NJ

Earl, Elizabeth Hayes
Chicago, IL

Eldridge, John J.
Long Branch, NJ

Erichsen, Per-Otto L.
Oriental, NC

Espaillet, Joseph Gustavo
White Plains, NY

Ferguson, John Thomas, II
Daufuskie Island, SC

Fine, Ellen Deborah
New York, NY

Fitch, Patrick Douglas
Washington, DC

Frederick, Laura Ann
Huntington Beach, CA

Fruchter, Raquel M.
Hoboken, NJ

Fruehling, James Kenneth
Middletown, DE

Galloway, Gerard Melvin
Windsor Mill, MD

Gaughan, Vincent Joseph
Mount Holly, NJ

Ginsberg, Robyn Lynn
Washington, DC

Glass, L. Edward
Placitas, NM

Graham, Herta Rahm
Rochester, VT

Graham, William Robb
Cinnaminson, NJ

Green, Patrick Brian
Stratford, NJ

Green, Richard Edward
Cherry Hill, NJ

Green, Sean-Michael
Hyde Park, NY

Hamlar, Deidre Diane
Blacklick, OH

Hanna, Gerarda Anne
Christiansted, USVI

Hanratty, James Patrick
Akron, OH

Hanson, Mary M.
Torrance, CA

Harrington, Michael Patrick
White Plains, NY

Hemphill, William Bruce
Elkton, MD

Ignatoff, Mitchell Edward
Middlesex, NJ

Ippolito, Carl M.
Pennington, NJ

Jacobs, Kurt Hazlett
Washington, DC

Jaffe, Gary
Delray Beach, FL

Jargiello, David Mark
Sunnyvale, CA

Jean-Baptiste, Ingrid
Tacoma, WA

Kane, Kathleen
Winthrop, MA

Kerry, Joseph Edwyn
Pennsauken, NJ

Killheffer, Theodore F.
Wilmington, DE

Kim, Haeun
Cherry Hill, NJ

Kimme, William Brian
New York, NY

Kittel, Robert N.
Arlington, VA

Leahey, Peter
Hector, NY

Lubin, David S.
Beachwood, NJ

Magargee, W. Scott, IV
Charlottesville, VA

Mallace, Anthony N.
Audubon, NJ

Markowitz, Steven Harvey
Windham, NH

McGivney, Charles Michael, Jr.
Florham Park, NJ

Mercury, Rosemarie D.
Canada

Miller, Daniel E.
Montville, NJ

Milner, C. George, III
New York, NY

Montgomery, John E., Jr.
Villas, NJ

Moore, Sharon Denise
Voorhees, NJ

Moreira-Smith, Zorayda J.
Silver Spring, MD

Morgan, Thomas Cory
Alexandria, VA

Munneke, Gary A.
White Plains, NY

Nadel, Ariella Esther
Southfield, MI

Neiburg, Michael Sean
Wilmington, DE

Oppenheimer, Alice Miriam
Marlton, NJ

Oxley, Joseph W.
Red Bank, NJ

Patchell, Jane Ramsey
Milton, DE

Pauley, Troy A.
Texas City, TX

Perry-Thompson, Michelle D.
Trenton, NJ

Ponzo, Jordan J.
Upper Marlboro, MD

Reistrup, James Andreas, III
Springfield, VA

Reynolds, Thomas Edward, Jr.
Atlanta, GA

Rocheleau, Lynne Ann
Dover, NH

Rosenberg, Karen Beth
Lyme, NH

Ryan, Marguerite L.
Napa, CA

Sabin, Miriam Lavanya
Mount Pleasant, SC

Santonastaso, Lauren Marie
Trenton, NJ

Sapla, Carolyn Cheryl Vines
Dumfries, VA

Sartorius, Peter S.
Quogue, NY

Saville, Stephen A.
Cherry Hill, NJ

Schaffer, Susan B.
Wilmington, DE

Schmits, Steven C.
Deepwater, NJ

Schoen, E. J.
Sewell, NJ

Scott, John Constante
Wintersville, OH

Scott, Larry Glenn
Hong Kong

Skrabut, Paul A.
Bethesda, MD

Solomon, Richard G.
North Potomac, MD

Stein, Arland T.
Columbus, OH

Strom, Elisabeth Ann
Woodbury, NJ

Tash, Nathan Alan
Hollywood, FL

Tesfatsion, Menna
New York, NY

Thompson, Josette Michelle
Clinton, MD

Thompson, Kerri Elaine
Ewing, NJ

Valla, Aaron Joel
Kenmore, WA

Vetro, Lisa Maria
Brooklyn, NY

Volkle, Arthur J., Jr.
Seattle, WA

Walsh, Rosemary Bates
Voorhees, NJ

Wesoski, Mark Coleman
East Boston, MA

Wessel, Mark David
New York, NY

Westfall, Laura R.
Jersey City, NJ

Williamson, James Phillip
Rochester, NY

Wright, Lynn
New York, NY

Zeto, Mark A.
Los Angeles, CA

Zhang, Danian
China

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

[Pa.B. Doc. No. 11-72. Filed for public inspection January 14, 2011, 9:00 a.m.]

Notice of Disbarment

Notice is hereby given that Hal Jonathan Shaffer, having been disbarred from the practice of law in the State of New Jersey by Order of the Supreme Court of the State of New Jersey dated May 4, 2010, the Supreme Court of Pennsylvania issued an Order on December 28, 2010, disbaring Hal Jonathan Shaffer, from the Bar of this Commonwealth, effective January 27, 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. 11-73. Filed for public inspection January 14, 2011, 9:00 a.m.]

Notice of Suspension

Notice is hereby given that James Matthew Kernan having been suspended from the practice of law in the State of New York for a period of five years or until the termination of his period of federal probation, whichever period is longer, by Order of the Supreme Court of the State of New York, Appellate Division, Fourth Judicial Department, entered April 30, 2010; the Supreme Court of Pennsylvania issued an Order dated December 28, 2010 suspending James Matthew Kernan from the practice of law in this Commonwealth consistent with the Order of the Supreme Court of the State of New York. In accordance with Rule 217(f), Pa.R.D.E., since this formerly admitted attorney resides outside the Commonwealth of Pennsylvania, this notice is published in the *Pennsylvania Bulletin*.

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

[Pa.B. Doc. No. 11-74. Filed for public inspection January 14, 2011, 9:00 a.m.]

Notice of Transfer to Inactive Status

Notice is hereby given that by Order of the Supreme Court of Pennsylvania dated December 28, 2010, David Eugene Alberts was transferred to inactive status, effective immediately, pursuant to Rule 301(c), Pa.R.D.E. (relating to disabled attorneys) for an indefinite period and until further Order of the Supreme Court. In accordance with Rule 217(f), Pa.R.D.E., since this formerly admitted attorney resides outside of the Commonwealth of Pennsylvania, this notice is published in the *Pennsylvania Bulletin*.

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

[Pa.B. Doc. No. 11-75. Filed for public inspection January 14, 2011, 9:00 a.m.]

SUPREME COURT

**Maryesther S. Merlo, Magisterial District Judge for
Magisterial District 31-1-02, Lehigh County; No.
361 Judicial Administration Doc.**

Order

Per Curiam

And Now, this 22nd day of December, 2010, this Court has received notice that the Judicial Conduct Board has found probable cause to file formal charges against the Honorable Maryesther S. Merlo, Magisterial District Judge for Magisterial District 31-1-02 of the Thirty-First Judicial District, Lehigh County, Pennsylvania, alleging that she has violated Article V, § 17(b) and § 18 (d)(1) of the Constitution of the Commonwealth of Pennsylvania and the Rules Governing Standards of Conduct of Magisterial District Judges. In view of the compelling and immediate need to protect and preserve the integrity of the Unified Judicial System and the administration of justice for citizens of this Commonwealth, Magisterial District Judge Maryesther S. Merlo is hereby relieved of any and all judicial and administrative responsibilities as a magisterial district judge and ordered not to take any further administrative or judicial action whatsoever in any case or proceeding now or hereinafter pending in Magisterial District 31-1-02 until further Order of this Court. The suspension shall be served with no diminution in salary or benefits.

This Order is without prejudice to the rights of the Honorable Maryesther S. Merlo to seek such relief in this Court for the purpose of vacating or modifying this interim Order. Pa.Const. Article V, § 10(a); *In Re: Avelino*, 690 A.2d 1138 (Pa. 1997); and *see In Re: McFalls*, 795 A.2d 367 (Pa. 2002).

[Pa.B. Doc. No. 11-76. Filed for public inspection January 14, 2011, 9:00 a.m.]

STATEMENTS OF POLICY

Title 7—AGRICULTURE

DEPARTMENT OF AGRICULTURE

[7 PA. CODE CH. 28c]

Commercial Kennel Ventilation Requirements for Areas where Puppies are Housed in Primary Enclosures with Their Dam or Foster Dam

The Department of Agriculture (Department), under the general authority in section 901 of the Dog Law (act) (3 P. S. § 459-901), adds Chapter 28c (relating to commercial kennel ventilations requirements for areas where puppies are housed in primary enclosures with a dam or foster dam—statement of policy) to read as set forth in Annex A.

Scope

This statement of policy applies to commercial kennels licensed by the Department's Bureau of Dog Law Enforcement, as defined in section 102 of the act (3 P. S. § 459-102).

Purpose

The purpose of this statement of policy is to provide direction to commercial kennel owners regarding ventilation requirements for areas where puppies are housed in primary enclosures with their dam or foster dam.

Background

The purpose of this statement of policy is to clarify the commercial kennel ventilation requirements in §§ 28a.2(f)(2) and 28a.3(b)(1) and (2) (relating to ventilation; and auxiliary ventilation) of the commercial kennel canine health regulations by providing direction to commercial kennel owners regarding calculation of the ventilation requirements for areas where puppies are housed in primary enclosures with their dam or foster dam.

Discussion

Section 28a.2(f)(2) requires areas of kennels where dogs are housed to maintain a total volumetric air flow of 100 cubic feet per minute (CFM) per dog. Section 28a.3(b)(1) and (2) provides for auxiliary ventilation when kennel temperatures rise above 85° Fahrenheit or there is a failure or malfunction of the primary ventilation system, and a specified method of auxiliary ventilation is to increase air flow from 100 to 200 CFM per dog.

Section 207(h)(4) of the act (3 P. S. § 459-207(h)(4)) requires separate primary enclosures for bitches with litters and for puppies under 12 weeks of age housed with dams or foster dams. Section 603(b) of the act (3 P. S. § 459-603(b)) allows puppies to be sold or transferred at 8 weeks of age. The act uses the term "puppy" as distinct from "dog," but does not specifically define "puppy."

Interpreting the total volumetric air flow requirements, expressed as CFM "per dog," to require 100 or 200 CFM additional air flow for each young puppy housed in a primary enclosure with a dam or foster dam would produce multiplied and excessive air flow in these situations and would not "provide for the health and well-being" of dogs as mandated under section 207(h) of the act, requiring ventilation ranges to be set by regulation. The number of puppies actually housed in primary enclosures with dams or foster dams is also subject to frequent

change, hindering the practical ability to perform these calculations for design purposes.

To clarify the proper calculation of volumetric air flow requirements for areas where puppies are housed in primary enclosures with dams or foster dams, the Department adds this statement of policy.

Summary of Major Features

The requirement established by this statement of policy is that calculation of volumetric air flow requirements per dog, for kennel areas where puppies are housed in primary enclosures with their dam or foster dam, shall be based only on the number of dogs 12 weeks of age and older in these primary enclosures, not on the total number of dogs of any age. The corollary is that dogs that are not housed in the same primary enclosure with their dam or foster dam shall be included in calculations of volumetric air flow requirements per dog.

Fiscal Impact

Commonwealth

This statement of policy will not have additional fiscal impact on the Department. The Department is already required to obtain compliance certifications of engineers from commercial kennel owners and to inspect kennels for compliance with the act and the regulations. Direction for calculating volumetric air flow in areas where puppies are housed in primary enclosures with their dam or foster dam will eliminate confusion and reduce inquiries about this situation.

Political subdivisions

This statement of policy will have no effect on political subdivisions and will not create additional enforcement or administrative costs.

Private sector

The act already requires that commercial kennel owners perform this air flow calculation. Therefore, this statement of policy, which merely clarifies how to perform the calculation in certain situations, does not create additional costs not already imposed by the act.

General public

No additional direct or indirect costs will be imposed on the general public by this statement of policy.

Paperwork Requirements

No additional paperwork will be required beyond publication and distribution of this statement of policy.

Effective Date

This statement of policy will be effective immediately upon publication in the *Pennsylvania Bulletin*.

Sunset Date

There is no sunset date for this statement of policy. The Department will review its efficacy on an ongoing basis.

Fiscal Note: 2-173. No fiscal impact; (8) recommends adoption.

RUSSELL C. REDDING,
Secretary

(Editor's Note: Title 7 of the Pennsylvania Code is amended by adding statements of policy in § 28c.1 to read as set forth in Annex A.)

Annex A

TITLE 7. AGRICULTURE

PART II. DOG LAW ENFORCEMENT BUREAU

**CHAPTER 28c. COMMERCIAL KENNEL
VENTILATION REQUIREMENTS FOR AREAS
WHERE PUPPIES ARE HOUSED IN PRIMARY
ENCLOSURES WITH A DAM OR FOSTER
DAM—STATEMENT OF POLICY**

Sec.

28c.1. Calculation of volumetric air flow requirements for areas of commercial kennels where puppies are housed in primary enclosures with their dam or foster dam.

§ 28c.1. Calculation of volumetric air flow requirements for areas of commercial kennels where puppies are housed in primary enclosures with their dam or foster dam.

Volumetric air flow per dog, as set forth in §§ 28a.2(f)(2) and 28a.3(b)(1) and (2) (relating to ventilation; and auxiliary ventilation) of the commercial kennel canine health regulations requiring volumetric air flow of 100 cubic feet per minute (CFM) per dog and 200 CFM per dog respectively, in kennel areas where dogs are housed in the same primary enclosure as their dam or foster dam, will be considered compliant with §§ 28a.2(f)(2) and 28a.3(b)(1) and (2) if based upon a calculation of the number of dogs 12 weeks of age and older housed in those primary enclosures.

[Pa.B. Doc. No. 11-77. Filed for public inspection January 14, 2011, 9:00 a.m.]

Title 55—PUBLIC WELFARE

DEPARTMENT OF PUBLIC WELFARE

[55 PA. CODE CH. 6000]

Procedures for Surrogate Health Care Decision Making

Scope

This statement of policy applies to the following: administrative entity administrators or directors; county mental health and mental retardation administrators; supports coordination organization directors; providers of community mental retardation residential services; State Center directors; and directors of non-State intermediate care facilities for the mentally retarded.

Purpose

The purpose of this statement of policy is to clarify surrogate health care decision making procedures applicable to individuals with mental retardation who are 18 years of age or older in light of the act of November 29, 2006 (P. L. 1484, No. 169) (Act 169), which added 20 Pa.C.S. Chapter 54 (relating to advance directive health care), and other applicable laws. The Department of Public Welfare (Department) recognizes that it does not have statutory authority to interpret Act 169 and the Department does not assume any liability that may arise from the application of these guidelines with respect to private providers. This statement of policy, therefore, is not binding on these entities and does not offer protection against claims that may arise with respect to those entities.

Agencies are encouraged to consult their legal counsel for advice on the implementation of the statutes discussed in this statement of policy.

Background

When situations arise when a health care decision is necessary and an adult individual is not able to make that decision, then a decision shall be made on that individual's behalf. Bulletin 00-98-08, "Procedures for Substitute Health Care Decision Making," issued on November 30, 1998, detailed the applicable standards for surrogate decision making for individuals with mental retardation over 18 years of age. Act 169 amended the law concerning advance health care directives and authorized a "health care representative" (HCR) to make health care decisions for individuals who are not competent and do not have valid and applicable advance health care directives or court-appointed guardians of the person.

This statement of policy updates the Department's interpretation of the laws and procedures for surrogate health care decision making for individuals receiving mental retardation services through the Department under Act 169 and other applicable law.

Discussion

Act 169

State law and general standards of practice establish health care standards to which all individuals are entitled without discrimination. Individuals with mental retardation have the right to receive the same health and life-sustaining treatment as offered to individuals without disabilities.

Generally, health care can be provided only with the consent of the patient. There are, however, exceptions in emergencies or if the patient is incompetent to make health care decisions. If a patient is incompetent, a surrogate health care decision maker is authorized by law to make health care decisions on behalf of the patient. Historically, there has been some uncertainty about who can serve as a surrogate health care decision maker and the extent of the surrogate health care decision maker's authority, particularly in doctors' offices, clinics and hospitals.

The autonomy of persons who have the capacity to make particular health care decisions as they arise should be respected. In the event that a health care decision becomes necessary, a reasonable effort should be made to explain the proposed course of action, any alternate options and the risks and benefits for each to the individual prior to instituting a course of action. However, situations may arise when a health care decision is necessary and the individual, whether incompetent as defined by Act 169, or adjudicated incapacitated, does not have the capacity to make that decision. In these cases, a decision shall then be made on that individual's behalf by a surrogate health care decision maker, as identified in several statutes.

Though Act 169 covers many aspects of health care, several other statutes also govern health care decision making and were not repealed by Act 169. Accordingly, they remain in effect. These statutes include the following: 18 Pa.C.S. § 2713 (relating to neglect of care-dependent person); 20 Pa.C.S. Chapter 55 (relating to incapacitated persons); the Medical Care Availability and Reduction of Error (MCARE) Act (MCARE Act) (40 P. S. §§ 1303.101—1303.910); and section 417(c) of the Mental Health and Mental Retardation Act of 1966 (MH/MR Act) (50 P. S. § 4417(c)), regarding powers and duties of directors.

Mental Health and Mental Retardation Act of 1966

For multiple reasons, section 417(c) of the MH/MR Act survives Act 169:

1. Section 5421(b) of 20 Pa.C.S. (relating to applicability) declares that “this chapter shall not impair or supersede any existing . . . responsibilities not addressed in this chapter.” In addition, Act 169 does not address the situation that section 417(c) of the MH/MR Act does—the identification of a surrogate health care decision maker for a resident of a mental health and mental retardation facility who has no other surrogate health care decision maker, not even an HCR.

2. The prohibition in 20 Pa.C.S. § 5461(f) (relating to decisions by health care representative) on a health care provider’s being an HCR is not applicable to the facility director under section 417(c) of the MH/MR Act because the facility director is made a guardian under section 417(c) of the MH/MR Act, not an HCR. While both guardians and HCRs are surrogate health care decision makers, the constraints specifically applicable to HCRs are applicable to them only. Act 169 does not affect the rules for the identification of guardians. There are policy justifications for the distinction. In ordinary nursing homes, the need for a facility director as an HCR is less because there will usually be others available and the facility may have had only days or weeks of contact with the patient; therefore, a facility director would not likely be a good HCR. In contrast, at an intermediate care facility for the mentally retarded (ICF/MR) or group home, some residents lack any involved family, thereby triggering the need for default surrogate health care decision makers. Facility staff in ICF/MRs and group homes have often known the residents for years or even decades, thereby becoming aware of the residents’ preferences, unlike the circumstance in the ordinary nursing home.

3. Section 417(c) of the MH/MR Act and Act 169 need to be read in *pari materia*. The plain purpose of both statutory provisions is to permit surrogate health care decision making for incompetent individuals without the need to obtain a court order. If Act 169 were construed to repeal section 417(c) of the MH/MR Act, court orders would be required when there was not an HCR, thereby defeating a principal purpose of Act 169 itself.

In addition, although section 417(c) of the MH/MR Act explicitly references only “elective surgery,” this section should be read as applicable to health-care decisions generally. There are several reasons for this:

1. Section 417(c) of the MH/MR Act was enacted at the dawn of the doctrine of informed consent, when only elective surgery was thought to require explicit informed consent. Consent to emergency surgery was (and still is) implied in law. Consent to routine medical procedures such as immunizations and x-rays was thought to be implied by the mere fact of the patient’s cooperation. See Fay Rozovsky, *Consent to Treatment*, § 1.10.1 (3rd ed., 2000). See also Paul Appelbaum, et al., *Informed Consent* (1987). Even today in this Commonwealth, only a limited number of procedures require “informed consent,” see section 504 of the MCARE Act (40 P.S. § 1303.504), regarding informed consent. Competent patients, or in the case of incompetent patients, their surrogate health care decision makers, are often expected in practice to

“sign for” a wide range of procedures, whether informed consent is required by law or not. Because statutes are to be construed liberally to effectuate their purposes (with certain exceptions not applicable here), see 1 Pa.C.S. § 1928(c) (relating to rule of strict and liberal construction), and because the obvious purpose of section 417(c) of the MH/MR Act is to provide for a surrogate decision maker for medical decisions when decision makers are needed; and to do so without petitioning a court, its scope must be read in light of its purpose.

2. Under the legal doctrine that “the greater power includes the lesser,” see, for example, *Griffin v. SEPTA*, 757 A.2d 448 (Pa. Commw. 2000), the power to consent to “elective surgery,” for example, amputation of a leg with a malignant tumor, necessarily includes the power to consent to diagnostic procedures to determine the appropriateness of an amputation. Similarly, the facility director’s authority under section 417(c) of the MH/MR Act should be construed to include authority to make decisions regarding palliative and life-sustaining care for persons in an end-stage (terminal) condition.

3. Section 417(c) of the MH/MR Act explicitly limits the facility director’s authority to decision making after receiving “the advice of two physicians not employed by the facility.” This requirement, however, will rarely create a practical problem. For necessary care and treatment provided in the mental retardation facility itself, consent from a surrogate is not needed because 18 Pa.C.S. § 2713 requires that necessary care and treatment be provided without consent. For care outside the mental retardation facility, such as in a doctor’s office or hospital, the primary care physician and the specialist performing the procedure can serve as the two physicians (except in the rare circumstance when a primary care physician is a payroll employee of the mental retardation facility) as required under section 417(c) of the MH/MR Act.

Guideline

The guideline is in Annex A.

Effective Date

This statement of policy is effective immediately upon publication in the *Pennsylvania Bulletin*.

Obsolete Bulletin

This bulletin replaces and supersedes Bulletin 00-98-08, “Procedures for Substitute Health Care Decision Making.”

Contact Person

The contact person for this statement of policy is Jill Morrow-Gorton, M.D., Medical Director, Office of Developmental Programs, (717) 783-5661, imorrowgor@state.pa.us.

MICHAEL P. NARDONE,
Acting Secretary

(Editor’s Note: Title 55 of the Pa. Code is amended by adding a statement of policy in §§ 6000.101—6000.103, 6000.111—6000.118, 6000.1021, 6000.1031 and 6000.1032 to read as set forth in Annex A.)

Fiscal Note: 14-BUL-94. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 55. PUBLIC WELFARE

PART VIII. MENTAL RETARDATION MANUAL

Subpart A. STATEMENTS OF POLICY

CHAPTER 6000. STATEMENTS OF POLICY

Subchapter R. PROCEDURES FOR SURROGATE
HEALTH CARE DECISION MAKING

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HEALTH CARE DECISION MAKING

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GENERAL PROVISIONS

§ 6000.1001. Scope.

Administrative entity administrators and directors, county MH/MR administrators, supports coordination organization directors and providers of MR services may consider this subchapter with respect to the decisions of surrogate health care decision makers identified under law of the Commonwealth.

§ 6000.1002. Purpose.

The purpose of this subchapter is to clarify surrogate health care decision making procedures applicable to individuals with MR who are 18 years of age or older in light of Act 169 and other applicable law.

§ 6000.1003. Definitions.

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

Act 169—Act 2006-169, which added 20 Pa.C.S. Chapter 54 (relating to health care).

Act 28 facility—A nursing home, personal care home, domiciliary care home, community residential facility, State-operated intermediate care facility for the mentally retarded, privately operated intermediate care facility for the mentally retarded, adult daily living center, home health agency or home health service provider whether licensed or not. See 18 Pa.C.S. § 2713 (relating to neglect of care-dependent person).

Advance health care directive—The term as defined in 20 Pa.C.S. § 5422 (relating to definitions). An advance health care directive is a signed and witnessed document

which directs health care in the event that the individual (the principal) is incompetent and has an end-stage medical condition or is permanently unconscious. It also may designate a person to carry out the individual's wishes regarding health care at the end of life.

CPR—Cardiopulmonary Resuscitation—The term as defined in 20 Pa.C.S. § 5422.

Competent—The term as defined in 20 Pa.C.S. § 5422. Under Act 169, the attending physician determines competency.

DNR Order—Do not resuscitate order—An order in the individual's medical record that CPR should not be provided to the individual.

End stage medical condition—The term as defined in 20 Pa.C.S. § 5422.

Facility director—

(i) For those facilities that are MR facilities as defined in the MH/MR Act, the facility director is the administrative head of a facility.

(ii) In facilities licensed under Chapter 6400 (relating to community homes for individuals with mental retardation), the term means the chief executive officer under § 6400.43 (relating to chief executive officer).

(iii) In facilities licensed under Chapter 6500 (relating to family living homes), the term means the chief executive officer under § 6500.42 (relating to chief executive officer).

(iv) In intermediate care facilities for persons with mental retardation, the term means the administrator appointed under 42 CFR 483.410(a)(3) (relating to condition of participation: governing body and management).

(v) In facilities licensed under Chapter 5310 (relating to community residential rehabilitation services for the mentally ill), the term means the director selected under § 5310.11 (relating to governing body).

(vi) In facilities licensed under Chapter 5320 (relating to requirements for long-term structured residence licensure), the term means the program director selected under § 5320.22 (relating to governing body).

Health care—The term as defined in 20 Pa.C.S. § 5422.

Health care agent—The term as defined in 20 Pa.C.S. § 5422.

Health care decision—The term as defined in 20 Pa.C.S. § 5422.

Health care power of attorney—The term as defined in 20 Pa.C.S. § 5422. A health care power of attorney is the actual document declaring an individual to make health care decisions for the principal. The person designated in a health care power of attorney is sometimes referred to as the "health care agent."

Health care provider—The term as defined in 20 Pa.C.S. § 5422.

Health care representative—The term as defined in 20 Pa.C.S. § 5422. In addition, Act 169 specifies the following limitation on designation of the health care representative: Unless related by blood, marriage or adoption, a health care representative may not be the principal's attending physician or other health care provider, not an owner, operator or employee of a health care provider in which the principal receives care.

Incompetent—The term as defined in 20 Pa.C.S. § 5422.

Living will—The term as defined in 20 Pa.C.S. § 5422.

MH/MR Act—The Mental Health and Mental Retardation Act of 1966 (50 P. S. §§ 4101—4704).

MH—Mental health.

MR—Mental retardation.

Mental health advance directive—A document that directs MH services and supports that an individual might want to receive during a crisis if the individual is unable to make decisions because of the individual's mental illness. This is a separate document from an advance health care directive. See 20 Pa.C.S. Chapter 58 (relating to mental health care).

Permanently unconscious—The term as defined in 20 Pa.C.S. § 5422.

Person—The term as defined in 1 Pa.C.S. § 1991 (relating to definitions).

Principal—The term as defined in 20 Pa.C.S. § 5422. The principal is at least 18 years of age, has graduated from high school, has married or is an emancipated minor.

Surrogate health care decision maker—A person that makes health care decisions for another individual.

HEALTH CARE DECISION MAKING

§ 6000.1011. Competent individuals.

(a) The health care or end of life decisions of an individual who is competent should be honored.

(b) Competent individuals may also execute advance health care directives in accordance with 20 Pa.C.S. Chapter 54 (relating to health care).

(c) Competent individuals should be encouraged to make advance health care directives which will become operative if they lose competency unless revoked in accordance with 20 Pa.C.S. Chapter 54.

(d) Advance health care directives should be reviewed and updated in writing periodically.

§ 6000.1012. Individuals who are not competent and need emergency treatment.

Consent is implied in law for emergencies and there is no need to seek a surrogate health care decision maker before providing emergency medical treatment. See the Medical Care Availability and Reduction of Error (MCARE) Act (40 P. S. §§ 1303.101—1303.1115); *In re Dorone*, 534 A.2d 452 (Pa. 1987).

§ 6000.1013. Individuals who are not competent and who do not have end-stage medical conditions or are not permanently unconscious.

(a) If an individual is not competent to make a particular nonemergent health care decision, another person must make that decision on the individual's behalf.

(b) Under Act 169, when a guardian, health care agent or health care representative will be making the decision, the attending physician determines whether an individual has an end stage medical condition or is permanently unconscious.

(c) When a surrogate health care decision maker is needed to make a nonemergent health care decision for an individual who neither has an end-stage medical condition nor is permanently unconscious, the health care decision maker should be chosen in the following order:

(1) *Health care agent*. If the individual, while competent, has executed a valid advance health care directive that designates a health care agent and the health care agent is available and willing to make the decision, the

health care agent should make the health care decision for the individual. See 20 Pa.C.S. Chapter 54, Subchapter C (relating to health care agents and representatives).

(2) *Guardian of the individual's person*.

(i) If, under Pennsylvania's guardianship statute (20 Pa.C.S. Chapter 55 (relating to incapacitated persons)), a court has already appointed a guardian to make health care decisions on the individual's behalf, the guardian should make those decisions for the individual.

(ii) If a person who executed a valid health care power of attorney is later adjudicated an incapacitated person and a guardian of the person is appointed by the court to make health care decisions, the health care agent named in the health care power of attorney is accountable to both the guardian and the individual.

(iii) The guardian has the same power to revoke or amend the appointment of a health care agent as the individual would have if he were not incapacitated, but may not revoke or amend the instructions in an advance health care directive absent judicial authorization. See 20 Pa.C.S. § 5460(a) (relating to relation of health care agent to court-appointed guardian and other agents).

(3) *Health care representative*.

(i) In the absence of a health care agent designated under a valid advance health care directive or a court-appointed guardian of the person with authority to make health decisions, an available and willing health care representative should make the health care decision.

(ii) In descending order of priority, the following persons can act as health care representatives for individuals:

(A) A person chosen by the individual (in a signed writing or by informing the individual's attending physician) while the individual was of sound mind.

(B) The individual's spouse (unless a divorce action is pending).

(C) The individual's adult child.

(D) The individual's parent.

(E) The individual's adult brother or sister.

(F) The individual's adult grandchild.

(G) An adult who has knowledge of the individual's preferences and values. See 20 Pa.C.S. Chapter 54, Subchapter C.

(4) *Facility director*.

(i) In the absence of any other appointed decision maker or willing next of kin, the facility director becomes the health care decision maker under the MH/MR Act.

(ii) Under the MH/MR Act, the director of a facility may by and with the advice of two physicians not employed by the facility, determine when elective surgery should be performed upon any mentally disabled person admitted or committed to the facility when the person does not have a living parent, spouse, issue, next of kin or legal guardian as fully and to the same effect as if the director had been appointed guardian and had applied to and received the approval of an appropriate court therefor.

(iii) Section 417(c) of the MH/MR Act (50 P. S. § 4417(c)) specifies that the facility director may authorize elective surgery, but the Department has consistently

interpreted that section to recognize that the facility director's authority also encompasses health care decisions generally.

(iv) The facility director may authorize elective surgery and other treatment only with the advice of two physicians not employed by the facility.

(v) When the facility director becomes the surrogate health care decision maker for an individual who does not have an end-stage medical condition or is not permanently unconscious, the director should first review the individual's support plan and relevant medical history and records to help identify the individual's medical status historically and immediately prior to making a surrogate health care decision.

(vi) The facility director should be informed of the decision to be made and gather information based on the direct knowledge of those familiar with the individual.

(vii) In this manner, the facility director will have sufficient information to make the decision that the individual would make if able to do so.

(viii) Even when another surrogate health care decision maker is identified, the facility director should continue to monitor the situation to ensure that decisions are made with the best interest of the individual as the paramount concern.

(ix) In the event of a short-term absence of the facility director, the director may assign a designee to perform these functions.

(x) The assigned designee may only be a person authorized to perform the facility director's functions in the director's absence.

(xi) The facility director may not authorize a DNR order for a person who is not competent and does not have an end stage medical condition.

§ 6000.1014. Individuals who are not competent and who have either end-stage medical conditions or are permanently unconscious.

(a) Under Act 169, when a guardian, health care agent or health care representative will be making the decision, the attending physician determines whether an individual has an end stage medical condition or is permanently unconscious.

(b) In contrast, the MH/MR Act, which applies to health care decisions by facility directors, requires the advice of two physicians for recommended treatment of health care conditions, including end stage medical conditions.

(c) When a surrogate health care decision maker is needed to make a nonemergent health care decision for an individual who has an end-stage medical condition or is permanently unconscious and who has not executed a valid living will that governs the decision, the surrogate health care decision maker should be chosen in the following order:

(1) *Health care agent.* If the individual, while competent, has executed a valid advance health care directive that designates a health care agent and the health care agent is available and willing to make the decision, the health care agent should make health care decisions for the individual.

(2) *Guardian of the individual's person.*

(i) If, under Pennsylvania's guardianship statute, a court has already appointed a guardian of the person to

make health care decisions on the individual's behalf, the guardian should make the decisions for the individual.

(ii) If a person who executed a valid health care power of attorney is later adjudicated an incapacitated person and a guardian of the person is appointed by the court to make medical decisions, the health care agent named in the health care power of attorney is accountable to both the guardian and the individual.

(iii) The guardian has the same power to revoke or amend the appointment of a health care agent as the individual would have if he were not incapacitated, but may not revoke or amend the instructions in an advance health care directive absent judicial authorization.

(3) *Health care representative.*

(i) In the absence of a health care agent designated under a valid advance health care directive or a court-appointed guardian of the person with authority to make health care decisions, an available and willing health care representative should make the health care decision.

(ii) In descending order of priority, the following individuals can act as health care representatives for individuals:

(A) A person chosen by the individual (in a signed writing or by informing the individual's attending physician) while the individual was of sound mind.

(B) The individual's spouse (unless a divorce action is pending).

(C) The individual's adult child.

(D) The individual's parent.

(E) The individual's adult brother or sister.

(F) The individual's adult grandchild.

(G) An adult who has knowledge of the individual's preferences and values.

(4) *Facility director.*

(i) In the absence of any other appointed decision maker or willing next of kin, the facility director in his discretion becomes the surrogate health care decision maker under section 417(c) of the MH/MR Act.

(ii) Section 417(c) of the MH/MR Act specifies that the facility director may authorize elective surgery, but the Department has consistently interpreted that section to recognize that the facility director's authority also encompasses health care decisions generally.

(iii) The facility director may authorize elective surgery and other treatment only with the advice of two physicians not employed by the facility.

(iv) When the facility director becomes the surrogate health care decision maker for an individual who has an end-stage medical condition or is permanently unconscious, the director shall first review the individual's support plan and relevant medical history and records to help identify the individual's medical status historically and immediately prior to making a surrogate health care decision.

(v) The facility director must be informed of the decision to be made and gather information based on the direct knowledge of those familiar with the individual.

(vi) In this manner, the facility director will have sufficient information to make the decision that the individual would make if able to do so.

(vii) For a decision to withdraw treatment or life-sustaining care for a person who is not competent who

has an end-stage medical condition or is permanently unconscious, the Department recommends a facility director seek judicial authorization prior to the withdrawal of treatment or life-sustaining care due to a risk of conflict of interest claims.

(viii) For a DNR order for a person who is not competent who has an end-stage medical condition or is permanently unconscious, the Department recommends a facility director seek judicial authorization prior to requesting the issuance of a DNR order due to a risk of conflict of interest claims.

(ix) Pending the judicial authorization under subparagraphs (vii) and (viii), the Department recommends a facility director direct that treatment or life-sustaining care be continued for a person who is not competent who has an end-stage medical condition or is permanently unconscious.

(x) Even when another surrogate health care decision maker is identified, the facility director should continue to monitor the situation to ensure that decisions are made with the best interest of the individual as the paramount concern.

(xi) In the event of a short-term absence of the facility director, the director may assign a designee to perform these functions.

(xii) The assigned designee may only be a person authorized to perform the facility director's functions in the director's absence.

(d) In the rare circumstance that the individual with an end-stage medical condition or who is permanently unconscious does not have a living will, health care agent, court-appointed guardian, available and willing health care representative or facility director, then a court should appoint a guardian with authority to act. Appropriate medical care should be provided pending the appointment of a guardian.

(e) In reaching decisions about appropriate care, the following may be helpful:

(1) Holding a team meeting including the health care provider, the family/health care representative, the mental retardation service provider and any other interested parties to clarify the issues and each party's understanding of the situation.

(2) Involving the palliative care team, the patient advocate, or both, at a hospital to act as an objective party and help communicate issues and assist each party in understanding the situation.

(3) Using hospital ethics committees to review situations.

(4) Having a second medical or surgical opinion, which can sometimes clarify the prognosis or possible treatments for a particular condition.

(5) As a last resort, pursuing resolution through the courts.

§ 6000.1015. Health care power of attorney.

(a) Unless otherwise specified in the health care power of attorney, a health care power of attorney becomes operative when the following occurs:

(1) A copy is provided to the attending physician.

(2) The attending physician has determined that the principal is incompetent. See 20 Pa.C.S. §§ 5422 and 5454(a) (relating to definitions; and when health care power of attorney operative).

(b) Unless otherwise specified in the health care power of attorney, a health care power of attorney becomes inoperative when, in the determination of the attending physician, the principal is competent.

§ 6000.1016. Limitations on authority of the surrogate health care decision maker.

(a) A surrogate health care decision maker may not execute an advance health care directive or name a health care agent on behalf of an incompetent individual.

(b) Under 20 Pa.C.S. Chapter 54 (relating to health care) and applicable case law (see *In re D.L.H.*, 2 A.2d. 505 (Pa. 2010)), neither a health care representative nor a guardian nor a facility director has authority to refuse life-preserving care for a person who has a life-threatening medical condition, but is neither in an end-stage medical condition nor permanently unconscious.

(c) Title 20 Pa.C.S. § 5462(c)(1) (relating to duties of attending physician and health care provider) provides:

"Health care necessary to preserve life shall be provided to an individual who has neither an end-stage medical condition nor is permanently unconscious, except if the individual is competent and objects to such care or a health care agent objects on behalf of the principal if authorized to do so by the health care power of attorney or living will."

(d) A residential facility must provide necessary treatment, care, goods or services to an individual except where otherwise permitted under 18 Pa.C.S. § 2713(e) (relating to neglect of care-dependent person) as follows:

(1) The caretaker's, individual's, or facility's lawful compliance with a care-dependent person's living will as provided in 20 Pa.C.S. Chapter 54.

(2) The caretaker's, individual's, or facility's lawful compliance with a care-dependent person's written, signed, and witnessed instructions, executed when the care-dependent person is competent as to the treatment he wishes to receive.

(3) The caretaker's, individual's or facility's lawful compliance with the direction of one of the following:

(i) An agent acting under a lawful durable power of attorney under 20 Pa.C.S. Chapter 56 (relating to powers of attorney), within the scope of that power.

(ii) A health care agent acting under a health care power of attorney under 20 Pa.C.S. Chapter 54, Subchapter C (relating to health care agents and representatives), within the scope of that power.

(4) The caretaker's, individual's, or facility's lawful compliance with a DNR order written and signed by the care-dependent person's attending physician. Generally, a DNR order is appropriate in the presence of an end-stage medical condition.

(5) The caretaker's, individual's, or facility's lawful compliance with the direction of a care-dependent person's health care representative under 20 Pa.C.S. § 5461 (relating to decisions by health care representative), provided the care dependent person has an end-stage medical condition or is permanently unconscious as these terms are defined in 20 Pa.C.S. § 5422 (relating to definitions) as determined and documented in the person's medical record by the person's attending physician.

§ 6000.1017. Guidance for individuals without family or an advocate.

(a) For individuals that may not have living family members or anyone that is currently advocating for them,

the county or administrative entity, supports coordination organization, or the provider agency working with the individual should help the individual identify someone who knows the individual and would be willing to act as the individual's health care representative.

(b) The health care representative may be a friend, a family friend, someone in the individual's church or neighborhood, or someone that has worked with the individual in the past, but is no longer actively providing their services.

§ 6000.1018. Intermediate Care Facility for the Mentally Retarded (ICF/MR) facility director as a guardian.

The prohibition in 20 Pa. C.S. § 5461(f) (relating to decisions by health care representative) on a health care provider's being a health care representative is not applicable to a facility director under section 417(c) of the MH/MR Act (50 P.S. § 4417(c)), regarding powers and duties of directors, because a facility director is made a guardian under that section, not a health care representative.

RECORDS

§ 6000.1021. Access to records.

Under the Health Insurance Portability and Accountability Act (HIPAA), guardians, agents or representatives as medical surrogates have the same access to medical records that the principal does. See 45 CFR 164.502(g) and 164.510(b)(3) (relating to uses and disclosures of protected health information: general rules; and uses and disclosures requiring an opportunity for the individual to agree or to object).

STATUTES

§ 6000.1031. Applicable statutes.

Several other statutes also govern health care decision

making, and were not repealed by Act 169. Accordingly, they remain in effect. These statutes include the following:

(1) Title 18 Pa.C.S. § 2713 (relating to neglect of care-dependent person).

(2) Title 20 Pa.C.S. Chapter 55 (relating to incapacitated persons).

(3) The Medical Care Availability and Reduction of Error (MCARE) Act (40 P.S. §§ 1303.101—1303.115).

(4) Section 417(c) of the MH/MR Act (50 P.S. § 4417(c)), regarding powers and duties of directors.

§ 6000.1032. Applicability of section 417(c) of the MH/MR Act to health-care decisions.

(a) Notwithstanding that section 417(c) of the MH/MR Act (50 P.S. § 4417(c)), regarding powers and duties of directors, explicitly references only "elective surgery," that section should be read as applicable to health care decisions generally.

(b) A facility director's authority under section 417(c) of the MH/MR Act should be construed to include authority to make decisions regarding palliative care for persons in an end-stage (terminal) condition.

(c) For care provided in the MR facility itself, no surrogate consent is needed because 18 Pa.C.S. § 2713 (relating to neglect of care-dependent person) requires that necessary care and treatment be provided without it.

(d) For care outside the mental retardation facility, such as a doctor's office or hospital, the primary care physician (PCP) and the specialist performing the procedure can serve as the two physicians (except in the rare circumstance where the PCP is a payroll employee of the MR facility) required under section 417(c) of the MH/MR Act.

[Pa.B. Doc. No. 11-78. Filed for public inspection January 14, 2011, 9:00 a.m.]

NOTICES

CAPITOL PRESERVATION COMMITTEE

Requests for Proposals

CPC 10.125: Bronze Conservation: Exterior Fixtures. This project involves the following: inspection, cleaning and conservation maintenance of bronze architectural exterior light fixtures located at the center main entry to the Capitol Building; removal of and offsite refinishing and reinstallation of existing bronze rail caps; yearly maintenance cleaning of miscellaneous building accessories; and rinsing of selected masonry walls, ceiling and façade areas. A \$100 deposit is required for issuance of project documents. Issue date of the proposal will be on January 26, 2011. A mandatory preproposal conference and walk through will be held on February 2, 2011, in Room 630, Main Capitol at 10 a.m. Proposal receipt date is February 23, 2011, 2 p.m. Project documents may be obtained in Room 630, Main Capitol Building, Harrisburg, PA or by contacting Tara Pyle, (717) 783-6484.

DAVID L. CRAIG,
Executive Director

[Pa.B. Doc. No. 11-79. Filed for public inspection January 14, 2011, 9:00 a.m.]

Requests for Proposals

CPC 10.126: Bronze Conservation: Statuary. This project involves the following: inspection, cleaning and conservation maintenance of exterior bronze sculptures located at the South Capitol Plaza (Hartranft Memorial) and South Capitol Park (Boise Penrose Monument). A \$100 deposit is required for issuance of project documents. Issue date of the proposal will be on January 26, 2011. A mandatory preproposal conference and walk

through will be held on February 2, 2011, in Room 630, Main Capitol at 10 a.m. Proposal receipt date is February 23, 2011, 2 p.m. Project documents may be obtained in Room 630, Main Capitol Building, Harrisburg, PA or by contacting Tara Pyle, (717) 783-6484.

DAVID L. CRAIG,
Executive Director

[Pa.B. Doc. No. 11-80. Filed for public inspection January 14, 2011, 9:00 a.m.]

Requests for Proposals

CPC 10.127: Bronze Conservation: Doors. This project involves the following: inspection, cleaning and conservation maintenance of West Main Entry Doors—North wing, Center wing and South wing, including north and south wing aluminum and glass interior vestibule enclosures of the Main Capitol Building; conservation maintenance cleaning and waxing of the east and west bronze entry doors of the Matthew J. Ryan Building; and cyclical maintenance of the Main Capitol's center wing revolving door hardware by removing, repairing, preparing, refinishing and reinstalling hardware. A \$100 deposit is required for issuance of project documents. Issue date of the proposal will be on January 26, 2011. A mandatory preproposal conference and walk through will be held on February 2, 2011, in Room 630, Main Capitol at 10 a.m. Proposal receipt date is February 23, 2011, 2 p.m. Project documents may be obtained in Room 630, Main Capitol Building, Harrisburg, PA or by contacting Tara Pyle, (717) 783-6484.

DAVID L. CRAIG,
Executive Director

[Pa.B. Doc. No. 11-81. Filed for public inspection January 14, 2011, 9:00 a.m.]

DEPARTMENT OF BANKING

Actions on Applications

The Department of Banking (Department), under the authority contained in the act of November 30, 1965 (P. L. 847, No. 356), known as the Banking Code of 1965; the act of December 14, 1967 (P. L. 746, No. 345), known as the Savings Association Code of 1967; the act of May 15, 1933 (P. L. 565, No. 111), known as the Department of Banking Code; and the act of December 19, 1990 (P. L. 834, No. 198), known as the Credit Union Code, has taken the following action on applications received for the week ending January 4, 2011.

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>
12-30-2010	Edward E. Shin and group of passive individual investors	Effective
	Acquisition of 100% of the common stock of Royal Asian Bank, Philadelphia.	
1-4-2011	PTC 450 Ltd.	Filed
	Application for approval to acquire 100% of the common stock of The Pennsylvania Trust Company, Radnor.	

Holding Company Acquisitions

<i>Date</i>	<i>Name and Location of Applicant</i>	<i>Action</i>
1-1-2011	F.N.B. Corporation Hermitage Mercer County	Effective
	Acquisition of 100% of Comm Bancorp, Inc., Clarks Summit, and indirect acquisition of 100% of Community Bank and Trust Company, Clarks Summit.	

Consolidations, Mergers, and Absorptions

<i>Date</i>	<i>Name and Location of Applicant</i>	<i>Action</i>
12-30-2010	Royal Bank America Narberth Rescinded Montgomery County	Approval Rescinded
	Application for approval to merge Royal Asian Bank, Philadelphia, with and into Royal Bank America, Narberth.	

Branch Applications

De Novo Branches

<i>Date</i>	<i>Name and Location of Applicant</i>	<i>Location of Branch</i>	<i>Action</i>
12-27-2010	Monument Bank Doylestown Bucks County	Newton Plaza 33 Swamp Road Newton #7419 Bucks County	Approved

Branch Relocations

<i>Date</i>	<i>Name and Location of Applicant</i>	<i>Location of Branch</i>	<i>Action</i>
1-3-2011	Northwest Savings Bank Warren Warren County	To: 2864 Earlstown Road Centre Hall #4967 Centre County From: 219 North Pennsylvania Avenue Centre Hall Centre County	Approved Closed

Branch Discontinuances

<i>Date</i>	<i>Name and Location of Applicant</i>	<i>Location of Branch</i>	<i>Action</i>
11-30-2010	S&T Bank Indiana Indiana County	20 North Pennsylvania Avenue Greensburg #6409 Westmoreland County	Closed
12-10-2010	S&T Bank Indiana Indiana County	225 Lucerne Road Lucerne Mines #1887 Indiana County	Closed
12-29-2010	New Century Bank Phoenixville Chester County	457 Haddonfield Road Suite 100 Cherry Hill #7323 Camden County, NJ	Filed
12-29-2010	VIST Bank Wyomissing Berks County	190 East DeKalb Pike King of Prussia #7364 Montgomery County	Filed

Articles of Amendment

<i>Date</i>	<i>Name and Location of Institution</i>	<i>Action</i>
12-30-2010	Royal Asian Bank Philadelphia Philadelphia County Amendment to the Fifth Article of the institution's Articles of Incorporation increases the number of authorized common shares to 20 million.	Approved and Effective
1-4-2011	Public Savings Bank Huntingdon Valley Montgomery County Amendment to Article III of the institution's Articles of Incorporation increases the total number of shares of all capital stock which the institution shall have the authority to issue from 4,000,000 shares to 12,000,000 shares of capital stock by (i) increasing the number of shares of voting common stock from 3,000,000 shares to 5,000,000 shares, having no par value per share; (ii) creating a new class of capital stock consisting of 5,000,000 shares of non-voting common stock with no par value; and (iii) increasing the shares of preferred stock from 1,000,000 shares to 2,000,000 shares of preferred stock, having such par value or no par value as may be determined by the Board of Trustees of the institution.	Approved and Effective

SAVINGS INSTITUTIONS

No activity.

CREDIT UNIONS

Consolidations, Mergers, and Absorptions

<i>Date</i>	<i>Name and Location of Applicant</i>	<i>Action</i>
1-1-2011	Viriva Community Credit Union Warminster Bucks County Merger of Defense Electronics Federal Credit Union, Lansdale, with and into Viriva Community Credit Union, Warminster. As a result of the merger, the sole office of Defense Electronics Federal Credit Union, located at the following address, became a branch office of Viriva Community Credit Union: 305 Richardson Road Lansdale Montgomery County	Effective

Branch Applications

Branch Discontinuances

<i>Date</i>	<i>Name and Location of Applicant</i>	<i>Location of Branch</i>	<i>Action</i>
12-31-2010	Riverset Credit Union Pittsburgh Allegheny County	500 Hospital Way McKeesport Allegheny County	Closed

The Department's web site at www.banking.state.pa.us includes public notices for more recently filed applications.

STEVEN KAPLAN,
Secretary

[Pa.B. Doc. No. 11-82. Filed for public inspection January 24, 2011, 9:00 a.m.]

Maximum Lawful Rate of Interest for Residential Mortgages for the Month of February 2011

The Department of Banking (Department), under the authority contained in section 301 of the act of January 30, 1974 (P. L. 13, No. 6) (41 P. S. § 301), determines that the maximum lawful rate of interest for residential mortgages for the month of February, 2011, is 6 1/4%.

The interest rate limitations under the State's usury statute were preempted to a great extent by Federal law, the Depository Institutions Deregulation and Monetary Control Act of 1980 (Pub. L. No. 96-221). Further preemption was instituted with the signing of Pub. L. No. 96-399, which overrode State interest rate limitations on any individual who finances the sale or exchange of residential real property which the individual owns and

which the individual occupies or has occupied as his principal residence.

Each month the Department is required by State law to compute and announce the ceiling rate on residential mortgages in this Commonwealth. This maximum rate is determined by adding 2.50 percentage points to the yield rate on long-term government bonds as published by the Federal Reserve Board and/or the United States Treasury. The latest yield rate on long-term government securities is 3.73 to which was added 2.50 percentage points for a total of 6.23 that by law is rounded off to the nearest quarter at 6 1/4%.

STEVEN KAPLAN,
Secretary

[Pa.B. Doc. No. 11-83. Filed for public inspection January 14, 2011, 9:00 a.m.]

DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES

Conservation and Natural Resources Advisory Council Meeting

The Conservation and Natural Resources Advisory Council to the Department of Conservation and Natural Resources (Department) will hold a meeting on Wednesday, January 26, 2011, at 10 a.m. in the Second Floor Training Room, Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA.

Questions concerning this meeting or agenda items can be directed to Kurt Leitholf at (717) 705-0031.

Persons in need of accommodations as provided for in the Americans with Disabilities Act of 1990 should contact Joan Dupes directly at (717) 705-0031 or through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

JOHN QUIGLEY,
Secretary

[Pa.B. Doc. No. 11-84. Filed for public inspection January 14, 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

Northeast Region: Water Management Program Manager, 2 Public Square, Wilkes Barre, PA 18711-0790.

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed No.)</i>	<i>EPA Waived Y/N?</i>
PA0060216 (Sewage)	Sterling Sewer & Water Co. P. O. Box 125 Lake Ariel, PA 18436	Wayne County Sterling Township	Uban Creek (1-C)	Y
PA0047198 (Sewage)	Empire Schuylkill, LP 830 Schuylkill Mall Frackville, PA 17931	Schuylkill County New Castle Township	Unnamed Tributary to Mud Run (03A)	Y
PA0062537 (Sewage)	East Union Township Sewer Authority P. O. Box 245 Shepton, PA 18248	Schuylkill County East Union Township	Little Tomhicken Creek (05E)	Y
PA0061301 (Sewage)	Litestar Inc. dba Inn at Starlight Lake 289 Starlight Lake Road PO Box 27 Starlight, PA 18461-0027	Wayne County Buckingham Township	Unnamed Tributary to Shehawken Creek (1-A)	Y
PAS702202 (Storm Water)	Houghton International, Inc. 6681 Snowdrift Road Allentown, PA 18106	Lehigh County Upper Macungie Township	Iron Run (2-C) HQ-CWF	Y
PA0008346 (Industrial Waste)	PA American Water Susquehanna WTP Harmony Township Susquehanna, PA 18847	Susquehanna County Harmony Township	East Branch Canawacta Creek (4-E)	Y
PA0061573 (Sewage)	Camp Moshava 245 Navajo Road Honesdale, PA 18431	Wayne County Berlin Township	Unnamed Tributary to Indian Orchard Brook (1-B)	Y
PA0061905 (Sewage)	HMSHost Hickory Run Turnpike Service Plaza HC 2 - Star Route Jim Thorpe, PA 18229	Carbon County Penn Forest Township	Stoney Creek (02B)	Y

Southcentral Region: Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110. Phone: 717-705-4707.

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0110931 (Sew)	Bernard J. George Shellbark Campground 166 Shellbark Road Manns Choice, PA 15550	Bedford County Napier Township	Raystown Branch Juniata River / 11-C	Y
PA0246956 (Sew)	Alsace Township 65 Woodside Avenue Temple, PA 19560-9530	Berks County Alsace Township	Little Manatawny / 3-C	Y
PA0070149 (Sew)	Leesport Borough Authority 10 East Wall Street PO Box 710 Leesport, PA 19533-0710	Berks County Leesport Borough Ontelaunee Township	Schuylkill River / 3-B	Y
PA0084328 (Sew)	Magnesita Refractories Company 425 South Salem Church Road PO Box 7700 York, PA 17048	York County West Manchester Township	UNT to Honey Run / 7-F	Y

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0010294 (IW)	Tyco Electronics Corporation PO Box 3608 Harrisburg, PA 17105-3608	Dauphin County Williamstown Borough	Wiconisco Creek / 6-C	Y
PA0021695 (Sew)	Orbisonia-Rockhill Joint Municipal Authority PO Box 346 Elliot Street Orbisonia, PA 17243	Huntingdon County Cromwell Township	Blacklog Creek / 12-C	Y

Northwest Region: Water Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed#)</i>	<i>EPA Waived Y/N ?</i>
PA0101907 (Sewage)	Emlenton Area Municipal Authority Mariasville STP SR 38/208 P. O. Box 448 Emlenton, PA 16373	Clarion County Salem Township	Richey Run 16-G	Y
PA0030686 (Sewage)	Cross Creek Resort 3815 State Route 8 Titusville, PA 16354	Venango County Cherrytree Township	Cherrytree Run 16-E	Y
PA0239615 (Sewage)	Hidden Acres, Walnut Square & Wilsons Ridge STP State Route 68 Spithaler School Road Evans City, PA 16033	Butler County Forward Township	Unnamed tributary of Connoquenessing Creek 20-C	Y
PA0034959 (Sewage)	Wolf's Camping Resort 308 Timberwolf Run Knox, PA 16232	Clarion County Beaver Township	Unnamed tributary to Canoe Creek 17-B	Y

II. Applications for New or Expanded Facility Permits, Renewal of Major Permits and EPA Non-Waived Permit Applications

Southeast Region: Water Management Program Manager, 2 East Main Street, Norristown, PA 19401

PA0244066, Sewage, SIC Code 4952, **Bedminster Municipal Authority**, 432 Elephant Road, Perkasio, PA 18944. Facility Name: Pennland Farms STP. This existing facility is located in Bedminster Township, **Bucks 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), Deep Run, is located in State Water Plan watershed 2-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 based on a design flow of 0.06 MGD.

<i>Parameters</i>	<i>Mass (lb/day)</i>			<i>Concentration (mg/l)</i>	
	<i>Average Monthly</i>	<i>Daily Maximum</i>	<i>Instant. Minimum</i>	<i>Average Monthly</i>	<i>Instant. Maximum</i>
Flow (MGD)	Report	Report			
pH (S.U.)			6.0		9.0
Dissolved Oxygen			6.0		
Total Residual Chlorine				0.01	0.025
CBOD ₅				10	20
Total Suspended Solids				10	20
Fecal Coliform (CFU/100 ml)				50	1000
				Geo Mean	
Total Nitrogen				10	20
Ammonia-Nitrogen					
May 1 - Oct 31				1.5	3.0
Ammonia-Nitrogen					
Nov 1 - Apr 30				3.0	6.0
Total Phosphorus				0.5	1.0

In addition, the permit contains the following major special conditions:

1. Notification of operator
2. Abandon of STP
3. Public Nuisance
4. No stormwater
5. Property Rights
6. Change of ownership
7. Sludge disposal
8. TRC limitations
9. Laboratory Certification
10. Twice a month monitoring
11. Fecal Coliform

You may make an appointment to review the DEP files on this case by calling the File Review Coordinator at 484-250-5910.

The EPA Waiver is in effect.

PA0244031, Sewage, SIC Code 4952, **Chadds Ford Township Sewer Authority**, 10 Ring Road, P. O. Box 816, Chadds Ford, PA 19317-0628. Facility Name: Turners Mill STP. This existing facility is located in Chadds Ford Township, **Delaware 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), Harvey Run, is located in State Water Plan watershed - and is classified for 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 0.140 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	6.0	XXX	XXX	XXX
Total Residual Chlorine	XXX	XXX	XXX	0.5	XXX	1.2
CBOD ₅	12.0	18.0	XXX	10.0	15.0	20.0
Total Suspended Solids	12.0	18.0	XXX	10.0	15.0	20
Fecal Coliform (CFU/100 ml)	XXX	XXX	XXX	50	XXX	1000
Nitrate-Nitrite as N	Report	XXX	XXX	Geo Mean Report	XXX	XXX
Total Nitrogen (lbs/year) (Interim)	Report	XXX	XXX	Report	XXX	XXX
Total Nitrogen (Final)	12.5	XXX	XXX	10	XXX	20
Ammonia-Nitrogen May 1 - Oct 31	1.8	XXX	XXX	1.5	XXX	3.0
Ammonia-Nitrogen Nov 1 - Apr 30	5.3	XXX	XXX	4.5	XXX	9.0
Total Kjeldahl Nitrogen	Report	XXX	XXX	Report	XXX	XXX
Total Phosphorus	1.2	XXX	XXX	1.0	XXX	2.0

In addition, the permit contains the following major special conditions:

1. Notification of Designation of Operator
2. Abandon STP When Municipal Sewers Available
3. Remedial Measures if Unsatisfactory Effluent
4. No Storm Water
5. Acquire Necessary Property Rights
6. Change in Ownership
7. Total Residual Chlorine Requirement
8. Sludge Disposal Requirement

9. I-max Requirements
10. Operation and Maintenance Plan
11. Laboratory Certification
12. Fecal Coliform
13. Total Nitrogen Compliance scheduling

You may make an appointment to review the DEP files on this case by calling the File Review Coordinator at 484-250-5910.

PA0244058, Sewage, SIC Code 4952, **Bedminster Municipal Authority**, 432 Elephant Road, Perkasio, PA 18944-4163. Facility Name: Deep Run STP. This existing facility is located in Bedminster Township, **Bucks 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 of Deep Run, is located in State Water Plan watershed 2-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 based on a design flow of 0.008 MGD.

<i>Parameters</i>	<i>Mass (lb/day)</i>			<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Daily Maximum</i>	<i>Instant. Minimum</i>	<i>Average Monthly</i>	<i>Average Weekly</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	6.0	XXX	XXX	XXX
Total Residual Chlorine	XXX	XXX	XXX	0.01	XXX	0.025
CBOD ₅	XXX	XXX	XXX	10	XXX	20
Total Suspended Solids	XXX	XXX	XXX	10	XXX	20
Fecal Coliform (CFU/100 ml)	XXX	XXX	XXX	50	XXX	1000
				Geo Mean		
Total Nitrogen	XXX	XXX	XXX	10	XXX	20
Ammonia-Nitrogen						
May 1 - Oct 31	XXX	XXX	XXX	1.5	XXX	3.0
Ammonia-Nitrogen						
Nov 1 - Apr 30	XXX	XXX	XXX	3.0	XXX	6.0
Total Phosphorus	XXX	XXX	XXX	0.5	XXX	1.0

In addition, the permit contains the following major special conditions:

1. Notification of operator
2. Abandon of STP
3. Public Nuisance
4. No stormwater
5. Property Rights
6. Change of ownership
7. Sludge disposal
8. TRC limitations
9. Laboratory Certification
10. Twice a month monitoring
11. Fecal Coliform

You may make an appointment to review the DEP files on this case by calling the File Review Coordinator at 484-250-5910.

The EPA Waiver is in effect.

PA0031771, Sewage, SIC Code 4952, **Westtown Township**, PO Box 79, Westtown, PA 19395-0079. Facility Name: Westtown-Chester Creek STP. This existing facility is located in Westtown Township, **Chester County**.

Description of Existing Activity: The application is for a renewal of an NPDES permit for an existing discharge of treated Sewage.

The receiving stream(s), East Branch Chester Creek, is located in State Water Plan watershed 3-G and is classified for Trout Stocking and Migratory Fishes, aquatic life, water supply and recreation. The discharge is not expected to affect public water supplies.

The proposed effluent limits for Outfall 001 are based on a design flow of 0.495 MGD.

<i>Parameters</i>	<i>Mass (lb/day)</i>			<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Weekly Average</i>	<i>Instant. Minimum</i>	<i>Average Monthly</i>	<i>Weekly Average</i>	<i>Instant. Maximum</i>
Flow (MGD)	Report	Report Daily Max	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0	XXX	XXX	9.0
Dissolved Oxygen	XXX	XXX	3.0	XXX	XXX	XXX
CBOD ₅						
May 1 - Oct 31	62	95	XXX	15	23	30
Nov 1 - Apr 30	103	165	XXX	25	40	50
Total Suspended Solids	124	186	XXX	30	45	60
Fecal Coliform (CFU/100 ml)	XXX	XXX	XXX	200 Geo Mean	XXX	1000
Ammonia-Nitrogen						
May 1 - Oct 31	10	XXX	XXX	2.5	XXX	5.0
Nov 1 - Apr 30	31	XXX	XXX	7.5	XXX	15.0
Total Phosphorus (Interim)	XXX	XXX	XXX	Report	XXX	Report
Total Phosphorus						
May 1 - Oct 31 (Final)	4.1	XXX	XXX	1.0	XXX	2.0
Nov 1 - Apr 30 (Final)	8.2	XXX	XXX	2.0	XXX	4.0
Total Copper	XXX	XXX	XXX	0.028	0.056 Daily Max	0.07

In addition, the permit contains the following major special conditions:

1. Operator Notification
2. Average Weekly Definition
3. Remedial Measures if Unsatisfactory Effluent
4. No Stormwater
5. Acquire Necessary Property Rights
6. Change in Ownership
7. Proper Sludge Disposal
8. TMDL/WLA Analysis
9. Laboratory Certification
10. Fecal Coliform Reporting

You may make an appointment to review the DEP files on this case by calling the File Review Coordinator at 484-250-5910.

The EPA Waiver is in effect.

PA0030970, Sewage, **Cheyney University of Pennsylvania**, P. O. Box 260, Cheyney, PA 19319-0200.

This existing facility is located in Thornbury Township, **Delaware County**.

Description of Proposed Activity: This application is for renewal of an NPDES permit for an existing discharge of treated sewage from the Cheyney University sewage treatment plant.

The receiving stream, East Branch Chester Creek, is in the State Water Plan watershed 3G and is classified for: TSF, MF.

The proposed effluent limits for Outfall 001 are based on a design flow of 0.27 mgd.

<i>Parameters</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		<i>Instantaneous Maximum (mg/l)</i>
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	
CBOD ₅	56.3		25		50
Total Suspended Solids	67.6		30		60
Ammonia as N					
Years 1 and 2					
(05-01 to 10-31)	14.6		6.5		13.0
(11-01 to 04-30)	43.9		19.5		39.0
Years 3, 4, and 5					
(05-01 to 10-31)	5.6		2.5		5.0
(11-01 to 04-30)	16.8		7.5		15.0

Parameters	Mass (lb/day)		Concentration (mg/l)		Instantaneous Maximum (mg/l)
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	
Total Phosphorus	Report		Report		
Years 1 and 2					
Years 3, 4, and 5					
(04-01 to 10-31)	2.3		1.0		2.0
(11-01 to 03-31)	4.5		2.0		4.0
Fecal Coliform			200/100 ml		1,000/100 ml
Dissolved Oxygen			5.0 (min)		
pH (Std. Units)			6.0 (min)		9.0
Total Residual Chlorine			0.5		1.2

In addition to the effluent limits, the permit contains the following major special conditions:

1. Notification of Designation of Operator
2. Abandon STP When Municipal Sewers Available
3. Remedial Measures if Unsatisfactory Effluent
4. No Stormwater
5. Acquire Necessary Property Rights
6. Change in Ownership
7. Total Residual Chlorine Requirement
8. Sludge Disposal Requirement
9. I-Max Requirements
10. Laboratory Certification
11. Fecal Coliform I-Max Reporting
12. Ammonia Nitrogen and Total Phosphorus Compliance Schedule

Southcentral Region: Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110. Phone: 717-705-4707.

PA0084603, Sewage, SIC Code 8361, **Fairmount Homes**, 333 Wheat Ridge Drive, Ephrata, PA 17522. Facility Name: Fairmount Homes. This existing facility is located in West Earl Township, **Lancaster 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, Conestoga River, is located in State Water Plan watershed 7-J 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 0.05 MGD.

Parameters	Mass (lb/day)			Concentration (mg/l)		Instant. Maximum
	Average Monthly	Daily Maximum	Minimum	Average Monthly		
Flow (MGD)	Report	Report	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0	XXX	XXX	9.0
Dissolved Oxygen	XXX	XXX	5.0	XXX	XXX	XXX
Total Residual Chlorine (Interim)	XXX	XXX	XXX	1.0	XXX	2.0
Total Residual Chlorine (Final)	XXX	XXX	XXX	0.5	1.6	XXX
CBOD ₅	XXX	XXX	XXX	25	XXX	50
Total Suspended Solids	XXX	XXX	XXX	30	XXX	60
Fecal Coliform (CFU/100 ml)						
May 1 - Sep 30	XXX	XXX	XXX	200	XXX	XXX
				Geo Mean		
Fecal Coliform (CFU/100 ml)						
Oct 1 - Apr 30	XXX	XXX	XXX	2000	XXX	XXX
				Geo Mean		
Nitrate-Nitrite as N	XXX	XXX	XXX	Report	XXX	XXX
Nitrate-Nitrite as N	Report	XXX	XXX	XXX	XXX	XXX
	Total Mo					
Total Nitrogen	XXX	XXX	XXX	Report	XXX	XXX
Total Nitrogen						
Effluent Net	Report	XXX	XXX	XXX	XXX	XXX
	Total Mo					
Total Nitrogen	Report	XXX	XXX	XXX	XXX	XXX
	Total Mo					

<i>Parameters</i>	<i>Mass (lb/day)</i>			<i>Concentration (mg/l)</i>		<i>Instant. Maximum</i>
	<i>Average Monthly</i>	<i>Daily Maximum</i>	<i>Minimum</i>	<i>Average Monthly</i>	<i>Instant. Maximum</i>	
Total Nitrogen	XXX	Report Total Annual	XXX	XXX	XXX	XXX
Total Nitrogen Effluent Net (Interim)	XXX	Report Total Annual	XXX	XXX	XXX	XXX
Total Nitrogen Effluent Net (Final)	XXX	1245 Total Annual	XXX	XXX	XXX	XXX
Ammonia-Nitrogen	XXX	XXX	XXX	Report	XXX	XXX
Ammonia-Nitrogen	Report Total Mo	XXX	XXX	XXX	XXX	XXX
Ammonia-Nitrogen	XXX	Report Total Annual	XXX	XXX	XXX	XXX
Total Kjeldahl Nitrogen	XXX	XXX	XXX	Report	XXX	XXX
Total Kjeldahl Nitrogen	Report Total Mo	XXX	XXX	XXX	XXX	XXX
Total Phosphorus	Report	XXX	XXX	Report	XXX	XXX
Total Phosphorus	XXX	Report Total Annual	XXX	XXX	XXX	XXX
Total Phosphorus	Report Total Mo	XXX	XXX	XXX	XXX	XXX
Total Phosphorus Effluent Net	Report Total Mo	XXX	XXX	XXX	XXX	XXX
Total Phosphorus Effluent Net (Interim)	XXX	Report Total Annual	XXX	XXX	XXX	XXX
Total Phosphorus Effluent Net (Final)	XXX	570 Total Annual	XXX	XXX	XXX	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 not in effect.

PA0087955, Sewage, SIC Code 4941, 4952, **Cassville Borough Water & Sewer Authority Huntingdon County**, PO Box 48, Cassville, PA 16623-48. Facility Name: Cassville STP. This existing facility is located in Cass Township, **Huntingdon 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 of Little Trough Creek, is located in State Water Plan watershed 11-D and is classified for Trout Stocking, aquatic life, water supply and recreation. The discharge is not expected to affect public water supplies.

The proposed effluent limits for Outfall 001 are based on a design flow of 0.03 MGD.

<i>Parameters</i>	<i>Mass (lb/day)</i>			<i>Concentration (mg/l)</i>		<i>Instant. Maximum</i>
	<i>Average Monthly</i>	<i>Daily Maximum</i>	<i>Minimum</i>	<i>Average Monthly</i>	<i>Weekly Average</i>	
Flow (MGD)	Report	Report	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0	XXX	XXX	9.0
Dissolved Oxygen	XXX	XXX	5.0	XXX	XXX	XXX
CBOD ₅	6.3	10.0 Wkly Avg	XXX	25	40	50
BOD ₅						
Raw Sewage Influent	Report	Report	XXX	Report	XXX	XXX
Total Suspended Solids						
Raw Sewage Influent	Report	Report	XXX	Report	XXX	XXX
Total Suspended Solids	7.5	11.3 Wkly Avg	XXX	30	45	60
Fecal Coliform (CFU/100 ml)						
May 1 - Sep 30	XXX	XXX	XXX	200 Geo Mean	XXX	XXX

Parameters	Mass (lb/day)			Concentration (mg/l)		
	Average Monthly	Daily Maximum	Minimum	Average Monthly	Weekly Average	Instant. Maximum
Fecal Coliform (CFU/100 ml) Oct 1 - Apr 30	XXX	XXX	XXX	2000 Geo Mean	XXX	XXX
Ammonia-Nitrogen May 1 - Oct 31	1.0	XXX	XXX	4.0	XXX	8.0
Ammonia-Nitrogen Nov 1 - Apr 30	3.0	XXX	XXX	12.0	XXX	24.0

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.

PA0233951, Industrial Waste, SIC Code 4953, **Keystone Clearwater Solutions LLC**, 1129 West Governor Road, Hershey, PA 17033. Facility Name: Keystone Clearwater LLC Rush Township Facility. This proposed facility is located in Rush Township, **Centre 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), Moshannon Creek and Unnamed Stream, is located in State Water Plan watershed 8-D and is classified for Trout Stocking, aquatic life, water supply and recreation. The discharge is not expected to affect public water supplies.

The proposed effluent limits for Outfall 001 are based on a design flow of 1.252 MGD.

Parameters	Mass (lb/day)			Concentration (mg/l)		
	Average Monthly	Daily Maximum	Minimum	Average Monthly	Daily Maximum	Instant. Maximum
Flow (MGD)	Report	Report	XXX	XXX	XXX	XXX
Ammonia-Nitrogen	XXX	XXX	XXX	Report	XXX	XXX
Total Phosphorus	XXX	XXX	XXX	Report	XXX	XXX
Total Aluminum	6.9	6.9	XXX	0.75	0.75	0.75
Total Antimony	0.80	1.2	XXX	0.086	0.13	0.22
Total Arsenic	1.4	2.2	XXX	0.15	0.23	0.38
Total Cadmium	0.038	0.059	XXX	0.0041	0.0064	0.010
Total Chromium (III)	12	19	XXX	1.3	2.0	3.3
Hexavalent Chromium	0.64	1.0	XXX	0.069	0.11	0.17
Total Cobalt	2.7	4.2	XXX	0.29	0.45	0.73
Total Copper	0.55	0.86	XXX	0.059	0.093	0.15
Dissolved Iron	3.1	3.1	XXX	0.3	0.3	0.3
Total Iron	14	28	XXX	1.5	3.0	3.8
Total Lead	0.45	0.70	XXX	0.049	0.076	0.12
Total Manganese	9.2	9.2	XXX	1.0	1.0	1.0
Total Mercury	0.007	0.011	XXX	0.00075	0.0012	0.0019
Total Nickel	7.4	12	XXX	0.80	1.2	2.0
Total Selenium	0.70	1.10	XXX	0.076	0.12	0.19
Total Silver	0.15	0.23	XXX	0.016	0.025	0.040
Total Thallium	0.034	0.053	XXX	0.0037	0.0057	0.0093
2,4,6-Trichlorophenol	0.92	1.43	XXX	0.10	0.155	0.27
Benzene	0.80	1.2	XXX	0.086	0.13	0.22
Bis(2-Ethylhexyl)Phthalate	0.80	1.2	XXX	0.086	0.13	0.22
Toluene	46	72	XXX	5.0	7.8	13

The proposed effluent limits for Outfall 101 are based on a design flow of 0.504 MGD.

Parameters	Mass (lb/day)			Concentration (mg/l)		
	Average Monthly	Daily Maximum	Minimum	Average Monthly	Daily Maximum	Instant. Maximum
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 ₅	223	685	XXX	53	163	204
Chemical Oxygen Demand	Report	Report	XXX	Report	Report	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>
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 ₃)	Report	Report	XXX	Report	Report	XXX
Alkalinity, Total (as CaCO ₃)	Report	Report	Report	Report	Report	XXX
Alkalinity, Total (as CaCO ₃) Effluent Net	XXX	XXX	1	XXX	XXX	XXX
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 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 Lithium	Report	Report	XXX	Report	Report	XXX
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
Total Silver	0.051	0.13	XXX	0.0122	0.0318	0.0398
Total Sodium	Report	Report	XXX	Report	Report	XXX
Total Strontium	42	84	XXX	10	20	25
Sulfate	Report	Report	XXX	Report	Report	XXX
Total Tin	0.15	0.40	XXX	0.0367	0.0955	0.119
Total Titanium	0.026	0.067	XXX	0.00612	0.0159	0.0119
Total Vanadium	0.22	0.26	XXX	0.0518	0.0628	0.13
Total Zinc	1.1	2.8	XXX	0.252	0.657	0.821
o-Cresol	2.4	8.1	XXX	0.561	1.92	2.4
Phenol	4.5	15	XXX	1.08	3.65	4.6
Acetone	34	127	XXX	7.97	30.2	37.8
Acetophenone	0.24	0.48	XXX	0.056	0.114	0.14
Ethylbenzene	Report	Report	XXX	Report	Report	XXX
Butyl Benzyl Phthalate	0.37	0.79	XXX	0.0887	0.188	0.222
Chloride	1051	2102	XXX	250	500	625
Bromide	Report	Report	XXX	Report	Report	XXX
2-Butanone	7.8	20	XXX	1.85	4.81	6.0
Ethylene Glycol	Report	Report	XXX	Report	Report	XXX
Fluoranthene	0.11	0.23	XXX	0.0268	0.0537	0.067
Carbazole	1.2	2.5	XXX	0.276	0.598	0.69
n-Decane	1.8	4.0	XXX	0.437	0.948	1.09
n-Octadecane	1.3	2.5	XXX	0.302	0.589	0.755
MBAS	Report	Report	XXX	Report	Report	XXX
p-Cresol	0.86	2.9	XXX	0.205	0.698	0.87
Pyridine	0.77	1.6	XXX	0.182	0.370	0.46
Toluene	Report	Report	XXX	Report	Report	XXX
Total Xylenes	Report	Report	XXX	Report	Report	XXX
Hardness, Total (as CaCO ₃)	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 effluent limits for Outfall 102 are based on a design flow of 0.605 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 ₅	187	706	XXX	37	140	175
Total Suspended Solids	136	144	XXX	27	88	110
Total Dissolved Solids	10091	20183	XXX	2000	4000	5000

NOTICES

<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>
Oil and Grease	75	XXX	XXX	15	XXX	30
Fecal Coliform (CFU/100 ml) May 1 - Sep 30	XXX	XXX	XXX	200 Geo Mean	XXX	1000
Fecal Coliform (CFU/100 ml) Oct 1 - Apr 30	XXX	XXX	XXX	2000 Geo Mean	XXX	10000
Ammonia-Nitrogen	25	50	XXX	4.9	10	12
Total Zinc	0.56	1.0	XXX	0.11	0.20	0.28
Phenol	0.076	0.13	XXX	0.015	0.026	0.038
a-Terpineol	0.081	0.17	XXX	0.016	0.033	0.04
Benzoic Acid	0.36	0.61	XXX	0.071	0.12	0.18
p-Cresol	0.071	0.13	XXX	0.014	0.025	0.035

The proposed effluent limits for Outfall 103 are based on a design flow of 0.143 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
Free Available Chlorine	XXX	XXX	XXX	0.2	XXX	0.5
Temperature (°F)	XXX	XXX	XXX	Report	110.0	XXX
Total Dissolved Solids	2385	4770	XXX	2000	4000	5000

The proposed monitoring requirements and, where appropriate, effluent limits for implementation of the Chesapeake Bay Tributary Strategy are as follows for Outfall 001.

<i>Parameters</i>	<i>Mass (lbs)</i>			<i>Concentration (mg/l)</i>	
	<i>Monthly</i>	<i>Annual**</i>	<i>Minimum</i>	<i>Monthly Average</i>	<i>Maximum</i>
Ammonia—N	Report	Report		Report	
Kjeldahl—N	Report			Report	
Nitrate-Nitrite as N	Report			Report	
Total Nitrogen	Report	Report		Report	
Total Phosphorus	Report	Report		Report	
Net Total Nitrogen*	Report	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. CHEMICAL ADDITIVES

V. 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.

Southwest Regional Office: Regional Manager, Water Management, 400 Waterfront Drive, Pittsburgh, PA 15222-4745; 412-442-4000

PA0253260, Sewage, **Henry Berdine**, 559 Zediker Station Road, Washington, PA 15301-3169. Facility Name: Berdine SR STP. This existing facility is located in South Strabane Township, **Washington 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 of Chartiers Creek, is located in State Water Plan watershed 20-F and is classified for High Quality Waters - Warm Water Fishes, aquatic life, water supply and recreation. The discharge is not expected to affect public water supplies.

The proposed effluent limits for Outfall 001 are based on a design flow of 0.0004 MGD.

Parameters	Mass (lb/day)			Concentration (mg/l)		
	Average Monthly	Daily Maximum	Minimum	Average Monthly	Daily Maximum	Instant. Maximum
Flow (MGD)	0.0004	XXX	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0	XXX	XXX	9.0
Total Residual Chlorine	XXX	XXX	XXX	Report	XXX	XXX
CBOD ₅						
May 1 - Oct 31	XXX	XXX	XXX	10	XXX	20
CBOD ₅						
Nov 1 - Apr 30	XXX	XXX	XXX	20	XXX	40
Total Suspended Solids	XXX	XXX	XXX	20	XXX	40
Fecal Coliform (CFU/100 ml)						
May 1 - Sep 30	XXX	XXX	XXX	200 Geo Mean	XXX	1000
Fecal Coliform (CFU/100 ml)						
Oct 1 - Apr 30	XXX	XXX	XXX	2000 Geo Mean	XXX	10000
Ammonia-Nitrogen						
May 1 - Oct 31	XXX	XXX	XXX	5.0	XXX	10.0
Ammonia-Nitrogen						
Nov 1 - Apr 30	XXX	XXX	XXX	15.0	XXX	30.0

The EPA Waiver is in effect.

PA0097535, Sewage, **Breeze Industrial Products Corp**, 3582 Tunnelton Road, Saltsburg, PA 15681. Facility Name: Breeze Industrial Clamp Division STP. This existing facility is located in Conemaugh Township, **Indiana 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 Elders Run, is located in State Water Plan watershed 18-C 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 0.002 MGD.

Parameters	Mass (lb/day)			Concentration (mg/l)		
	Average Monthly	Daily Maximum	Minimum	Average Monthly	Daily Maximum	Instant. Maximum
Flow (MGD)	0.002	XXX	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0	XXX	XXX	9.0
Dissolved Oxygen	XXX	XXX	3.0	XXX	XXX	XXX
Total Residual Chlorine	XXX	XXX	XXX	1.4	XXX	3.3
CBOD ₅	XXX	XXX	XXX	20	XXX	40
Total Suspended Solids	XXX	XXX	XXX	20	XXX	40
Fecal Coliform (CFU/100 ml)						
May 1 - Sep 30	XXX	XXX	XXX	200 Geo Mean	XXX	1000
Fecal Coliform (CFU/100 ml)						
Oct 1 - Apr 30	XXX	XXX	XXX	2000 Geo Mean	XXX	10000
Ammonia-Nitrogen						
May 1 - Oct 31	XXX	XXX	XXX	9.2	XXX	18.4
Ammonia-Nitrogen						
Nov 1 - Apr 30	XXX	XXX	XXX	27.6	XXX	55.2

The EPA Waiver is in effect.

PA0094111, Sewage, **Rimco Properties, Inc.**, 100 Sandune Drive, Pittsburgh, PA 15239. Facility Name: Wellington Estates Mobile Home Park STP. This existing facility is located in Washington Township, **Westmoreland 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 of Thorn Run, is located in State Water Plan Watershed 18-B and is classified for High Quality - 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 0.02812 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)	0.02812	Report	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0	XXX	XXX	9.0
Dissolved Oxygen	XXX	XXX	5.0	XXX	XXX	XXX
Total Residual Chlorine	XXX	XXX	XXX	1.4	XXX	3.3
CBOD ₅	XXX	XXX	XXX	10	XXX	20
Total Suspended Solids	XXX	XXX	XXX	10	XXX	20
Fecal Coliform (CFU/100 ml)						
May 1 - Sep 30	XXX	XXX	XXX	200	XXX	1000
				Geo Mean		
Fecal Coliform (CFU/100 ml)						
Oct 1 - Apr 30	XXX	XXX	XXX	2000	XXX	10000
				Geo Mean		
Nitrate-Nitrite as N	XXX	XXX	XXX	10	XXX	20
Ammonia-Nitrogen						
May 1 - Oct 31	XXX	XXX	XXX	3.0	XXX	6.0
Ammonia-Nitrogen						
Nov 1 - Apr 30	XXX	XXX	XXX	9.0	XXX	18.0
Total Phosphorus	XXX	XXX	XXX	2.0	XXX	4.0

The EPA Waiver is in effect.

PA0204714, Sewage, **New Horizons Foundation Inc.**, 145 New Horizons Drive, Clymer, PA 15728-7928. Facility Name: New Horizons Foundation Campground STP. This existing facility is located in Cherryhill Township, **Indiana 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 Penn Run, is located in State Water Plan watershed 18-D 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 0.0025 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)	0.0025	XXX	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0	XXX	XXX	9.0
Total Residual Chlorine	XXX	XXX	XXX	1.4	XXX	3.3
CBOD ₅	XXX	XXX	XXX	25	XXX	50
Total Suspended Solids	XXX	XXX	XXX	30	XXX	60
Fecal Coliform (CFU/100 ml)						
May 1 - Sep 30	XXX	XXX	XXX	200	XXX	1000
				Geo Mean		
Fecal Coliform (CFU/100 ml)						
Oct 1 - Apr 30	XXX	XXX	XXX	2000	XXX	10000
				Geo Mean		
Ammonia-Nitrogen						
May 1 - Oct 31	XXX	XXX	XXX	21	XXX	42

The EPA Waiver is in effect.

PA0254355, Sewage, **Robert D. Weitzel**, 435 Comanche Lane, Stoystown, PA 15563. Facility Name: Weitzel SR STP. This proposed facility is located in Indian Lake Borough, **Somerset County**.

Description of Proposed Activity: The application is for a new NPDES permit for a new discharge of treated Sewage.

The receiving stream(s), Clear Run, is located in State Water Plan watershed 18-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 Outfall 001 are based on a design flow of 0.0004 MGD.

<i>Parameters</i>	<i>Mass (lb/day)</i>			<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Daily Maximum</i>	<i>Minimum</i>	<i>Average Monthly</i>	<i>Daily Maximum</i>	<i>Instant. Maximum</i>
Flow (MGD)	0.0004	XXX	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0	XXX	XXX	9.0
Total Residual Chlorine	XXX	XXX	XXX	Report	XXX	XXX
CBOD ₅	XXX	XXX	XXX	25	XXX	50
Total Suspended Solids	XXX	XXX	XXX	30	XXX	60
Fecal Coliform (CFU/100 ml) May 1 - Sep 30	XXX	XXX	XXX	200 Geo Mean	XXX	1000
Fecal Coliform (CFU/100 ml) Oct 1 - Apr 30	XXX	XXX	XXX	2000 Geo Mean	XXX	10000

You may make an appointment to review the DEP files on this case by calling the File Review Coordinator at 412-442-4000.

The EPA Waiver is in effect.

PA0218561, Sewage, **Cambria County Commissioners**, 200 South Center Street, Ebensburg, PA 15931. Facility Name: Duman Lake Park STP. This existing facility is located in Barr Township, **Cambria County**.

Description of Existing Activity: The application is for a renewal of an NPDES permit for an existing discharge of treated sewage.

The receiving stream(s), Crooked Run, is located in State Water Plan Watershed 18-D 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 0.00315 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)	0.00315	Report	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0	XXX	XXX	9.0
Dissolved Oxygen	XXX	XXX	6.0	XXX	XXX	XXX
Total Residual Chlorine	XXX	XXX	XXX	0.33	XXX	0.78
CBOD ₅	XXX	XXX	XXX	25	XXX	50
Total Suspended Solids	XXX	XXX	XXX	30	XXX	60
Fecal Coliform (CFU/100 ml) May 1 - Sep 30	XXX	XXX	XXX	200 Geo Mean	XXX	1000
Fecal Coliform (CFU/100 ml) Oct 1 - Apr 30	XXX	XXX	XXX	2000 Geo Mean	XXX	10000
Ammonia-Nitrogen May 1 - Oct 31	XXX	XXX	XXX	3.4	XXX	6.8
Ammonia-Nitrogen Nov 1 - Apr 30	XXX	XXX	XXX	10.2	XXX	20.4

The EPA Waiver is in effect.

Northwest Region: Water Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481

PA0031640, Sewage, SIC Code 8211, **General McLane School District**, 11771 Edinboro Road, Edinboro, PA 16412-1025. Facility Name: General McLane High School Sewage Treatment Plant. This existing facility is located in Washington Township, **Erie County**.

Description of Existing Activity: The application is for a renewal of an NPDES permit for an existing discharge of treated Sewage.

The receiving stream, Unnamed Tributary of Conneauttee Creek, is located in State Water Plan watershed 16-A and is classified for Warm Water Fishes, aquatic life, water supply and recreation. The discharge is not expected to affect public water supplies.

The proposed effluent limits for Outfall 001 are based on a design flow of 0.025 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	3.0	XXX	XXX	XXX
Total Residual Chlorine	XXX	XXX	XXX	0.5	XXX	1.2
CBOD ₅	XXX	XXX	XXX	25	XXX	50
Total Suspended Solids	XXX	XXX	XXX	30	XXX	60
Fecal Coliform (CFU/100 ml)						
May 1 - Sep 30	XXX	XXX	XXX	200 Geo Mean	XXX	XXX
Fecal Coliform (CFU/100 ml)						
Oct 1 - Apr 30	XXX	XXX	XXX	2000 Geo Mean	XXX	XXX
Ammonia-Nitrogen						
May 1 - Oct 31	XXX	XXX	XXX	2.0	XXX	4.0
Ammonia-Nitrogen						
Nov 1 - Apr 30	XXX	XXX	XXX	6.0	XXX	12.0
Total Phosphorus	XXX	XXX	XXX	1	XXX	XXX

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.

PA0003247, Industrial Waste, SIC Code 3241, **Essroc Cement Corp**, PO Box 779, Bessemer, PA 16112-779. Facility Name: Essroc Cement Bessemer Plant. This existing facility is located in Bessemer Borough, **Lawrence County**.

Description of Existing Activity: The application is for a renewal of an NPDES permit for an existing discharge of truck wash water, non-contact cooling water and stormwater.

The receiving stream, Hickory Run, is located in State Water Plan watershed 20-B and is classified for trout stocking, aquatic life, water supply and recreation. The discharge is not expected to affect public water supplies.

The proposed effluent limits for Outfall 001 are based on a design flow of N/A MGD.

<i>Parameters</i>	<i>Mass (lb/day)</i>			<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Daily Maximum</i>	<i>Minimum</i>	<i>Daily Maximum</i>	<i>Daily Maximum</i>	<i>Instant. Maximum</i>
Flow (MGD)	XXX	Report	XXX	XXX	XXX	XXX
Total Suspended Solids	XXX	XXX	XXX	Report	XXX	XXX

The proposed effluent limits for Outfall 021 are based on a design flow of N/A MGD.

<i>Parameters</i>	<i>Mass (lb/day)</i>			<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Daily Maximum</i>	<i>Minimum</i>	<i>Daily Maximum</i>	<i>Daily Maximum</i>	<i>Instant. Maximum</i>
Flow (MGD)	XXX	Report	XXX	XXX	XXX	XXX
Total Suspended Solids	XXX	XXX	XXX	Report	XXX	XXX

The proposed effluent limits for Outfall 023 are based on a design flow of 0.0287 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>Daily Maximum</i>	<i>Daily Maximum</i>	<i>Instant. Maximum</i>
Flow (MGD)	XXX	Report	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0	XXX	XXX	9.0
Total Suspended Solids	XXX	XXX	XXX	Report	XXX	XXX

The proposed effluent limits for Outfall 025 are based on a design flow of N/A MGD.

<i>Parameters</i>	<i>Mass (lb/day)</i>			<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Daily Maximum</i>	<i>Minimum</i>	<i>Daily Maximum</i>	<i>Daily Maximum</i>	<i>Instant. Maximum</i>
Flow (MGD)	XXX	Report	XXX	XXX	XXX	XXX
Total Suspended Solids	XXX	XXX	XXX	Report	XXX	XXX

The proposed effluent limits for Outfall 027 are based on a design flow of 0.432 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	6.0	XXX	XXX	9.0
Total Suspended Solids	XXX	XXX	XXX	45	XXX	90
Oil and Grease	XXX	XXX	XXX	15	XXX	30

In addition, the permit contains the following major special conditions:

Stormwater Best Management Practices

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

Northeast Region: Water Management Program Manager, 2 Public Square, Wilkes Barre, PA 18711-0790

WQM Permit No.5410409, Sewerage, **Little Washington Wastewater Co.**, 762 West Lancaster Ave., Bryn Mawr, PA 19010

This proposed facility is located in East Union Twp., **Schuylkill County**, PA.

Description of Proposed Action/Activity: The proposed project involves sewers extensions in four sections of the Eagle Rock development; namely, Western Summit South Phases V, VI, and VII, and Algonquin Valley. The sewer extensions consist of low pressure sewers with individual grinder pumps and the sewage will be conveyed to Little Washington Wastewater Company's existing treatment plant via connection to the Tomhicken Creek Interceptor.

WQM Permit No.5210402, Sewerage, **Lake Adventure Community Association**, 500 Lake Adventure, Milford, PA 18337

This proposed facility is located in Dingman Twp., **Pike County**, PA.

Description of Proposed Action/Activity: The proposed project involves converting two existing 80,000 gallons per day sewage treatment plants into Sequencing Batch Reactor sewage treatment systems capable of treating 160,000 gallons per day.

Southcentral Region: Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110. Phone: 717-705-4707.

WQM Permit No. 3687420 Amendment 10-1, Sewerage, **Borough of Adamstown**, 3000 North Reading Road, PO Box 546, Adamstown, PA 19501-0546.

This proposed facility is located in East Cocalico Township, **Lancaster County**.

Description of Proposed Action/Activity: Application of rerate for the influent organic loading to the existing treatment facility from a current organic loading of 1000 pounds per day to 1,500 ppd.

Northwest Region: Water Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481

WQM Permit No. 1605402, Sewerage, **Amendment No. 1, ABECO Inc.**, P. O. Box 265, Clarion, PA 16214

This proposed facility is located in Paint Township, **Clarion County**.

Description of Proposed Action/Activity: Proposed amendment to reduce the size of the aeration tank in order to improve the ability of the plant to create and maintain a healthy biomass for wastewater treatment and to minimize freezing issues.

WQM Permit No. 368S037, Sewerage, **Amendment No. 1, Lake View Country Club**, 8351 Route 89, North East, PA 16428

This proposed facility is located in North East Township, **Erie County**.

Description of Proposed Action/Activity: The permit application is for two (2) sludge holding tanks, installation of a tablet dechlorination system and replacement of the table chlorination unit.

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

Northeast Region: Watershed Management Program Manager, 2 Public Square, Wilkes Barre, PA 18711-0790.

Monroe County Conservation District: 8050 Running Valley Road, Stroudsburg, PA 18360, 570-629-3060.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI024505010R	Maria Dumitru 1232 Pine Ridge Bushkill, PA 18324	Monroe	Smithfield Twp.	Marshalls Creek, HQ-CWF,MF
PAI024510013	MC Village Partners, LP 490 N. Main St. Pittston, PA 18640	Monroe	Smithfield Twp.	Marshalls Creek, HQ-CWF,MF

Wayne County Conservation District: 648 Park Street, Honesdale, PA 18431, 570-253-0930.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI026410006	The Hideout Property Owners Association 640 The Hideout Lake Ariel, PA 18436 - and - Roamingwood Sewer and Water Association P. O. Box 6 Lake Ariel, PA 18436	Wayne	Lake Twp.	UNT to Ariel Creek, HQ-CWF,MF

Lehigh County Conservation District: Lehigh Ag. Ctr., Ste.102, 4184 Dorney Park Rd., Allentown, PA 18104, 610-391-9583.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI023910017	Mark Goldsmith Wal-Mart Stores East, LP 2001 S.E. 10th St. Mail Stop 5570 Bentonville, AR 72716-5570	Lehigh	North Whitehall Twp.	Unnamed Tributary to Jordan Creek, HQ-CWF,MF Unnamed Tributary to Coplay Creek, CWF,MF

Northcentral Region: Watershed Management Program Manager, 208 West Third Street, Williamsport, PA 17701

Clinton County Conservation District: 45 Cooperation Lane, Mill Hall, PA 17751, (570) 726-3798

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI041810004	Trout Unlimited 18 E Main St, Ste 3 Lock Haven, PA 17745	Clinton	Noyes Township	Two Mile Run HQ-CWF

Lycoming County Conservation District: 542 County Farm Road Suite 202, Montoursville, PA 17754, (570) 433-3003

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI044110004	Utility Line Services, Inc. 604 W. Baumstown Rd. Birdsboro, PA 19508	Lycoming	Cogan House Township	Larry's Creek EV-CWF, MF

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>
Elvin Nolt 11 Seth Erb Rd Richland Pa 17087	Lebanon	8.6	638	Swine	NA	Renewal
Marvin & Wendy Carpenter, RD#3, Box 471 Shunk, PA 17768	Sullivan	714	630.19	Swine, Beef, Heifer	HQ	Renewal

**PUBLIC WATER SUPPLY (PWS)
PERMITS**

Under the Pennsylvania Safe Drinking Water Act (35 P. S. §§ 721.1—721.17), the following parties have applied for PWS permits to construct or substantially modify public water systems.

Persons wishing to comment on permit applications are invited to submit statements to the office listed before the application within 30 days of this public notice. Comments received within this 30-day comment period will be considered in the formulation of the final determinations regarding an application. A comment should include the name, address and telephone number of the writer and a concise statement to inform the Department of the exact basis of a comment and the relevant facts upon which it is based. A public hearing may be held after consideration of comments received during the 30-day public comment period.

Following the comment period, the Department will make a final determination regarding the proposed permit. Notice of this final determination will be published in the *Pennsylvania Bulletin* at which time this determination may be appealed to the Environmental Hearing Board.

The permit application and related documents are on file at the office listed before the application and available for public review. Arrangements for inspection and copying information should be made with the office listed before the application.

Persons with a disability that require an auxiliary aid, service or other accommodations to participate during the 30-day public comment period should contact the office listed before the application. TDD users may contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

SAFE DRINKING WATER

Applications Received under the Pennsylvania Safe Drinking Water Act

*Southeast Region: Water Supply Management Program
Manager, 2 East Main Street, Norristown, PA 19401*

Application No. 1510521 Public Water Supply

Applicant	Aqua Pennsylvania, Inc.
Township	HoneyBrook
County	Chester
Responsible Official	Joseph Thurwanger 762 West Lancaster Avenue Bryn Mawr, PA 19010
Type of Facility	PWS
Consulting Engineer	Gannett Fleming, Inc. P. O. Box 80791 Valley Forge, PA 19494
Application Received Date	October 18, 2010

Description of Action Construction of a 180,000 gallon welded steel storage tank.

Application No. 1510520 Public Water Supply

Applicant **West Grove Borough**
 Borough West Grove
 County **Chester**
 Responsible Official Richard Turkington
 P. O. Box 61
 117 Rosehill Road
 West Grove, PA 19390-0061

Type of Facility PWS
 Consulting Engineer Hanover Engineering Associates
 Application Received Date October 8, 2010

Description of Action Installation of contact main to achieve 4-log treatment of viruses for the GWR.

Application No. 0910532 Public Water Supply

Applicant **Doylestown Borough**
 Borough Doylestown
 County **Bucks**
 Responsible Official John H. Davis
 57 W. Court Street
 Doylestown, PA 18901

Type of Facility PWS
 Consulting Engineer C.K.S. Engineering, Inc.
 88 S. Main Street
 Doylestown, PA 18901

Application Received Date October 12, 2010

Description of Action Installation of a chlorine contact tank at Well 10 to meet GWR requirements.

Application No. 0910531 Public Water Supply

Applicant **Buckingham Township**
 Township Buckingham
 County **Bucks**
 Responsible Official Dana Cozza
 P. O. Box 413
 Buckingham, PA 18912

Type of Facility PWS
 Consulting Engineer Castle Valley Consultants, Inc.
 10 Beulah Road
 New Britain, PA 18901

Application Received Date October 12, 2010

Description of Action Installation of a chlorine contact tank at Well 10 to meet GWR requirements.

Application No. 4610538 Public Water Supply

Applicant **North Wales Water Authority**
 Township Montgomery
 County **Montgomery**

Responsible Official Robert C. Bender
 200 W. Walnut Street
 North Wales, PA 19454-0339

Type of Facility PWS
 Consulting Engineer Carroll Engineering
 949 Easton Road
 Warrington, PA 18976

Application Received Date October 25, 2010

Description of Action Installation of yard piping at well #17 to provide added contact time necessary to meet GWR requirements.

Application No. 2310515 Public Water Supply

Applicant **Aqua Pennsylvania, Inc.**
 Township Middletown
 County **Delaware**
 Responsible Official Marc Lucca
 762 West Lancaster Avenue
 Bryn, Mawr, PA 19010

Type of Facility PWS
 Consulting Engineer CET Engineering Services
 1240 N. Mountain Road
 Harrisburg, PA 17112

Application Received Date November 4, 2010

Description of Action Improvements to the Ridley Creek Water Treatment Plant which will include modifications to the existing sedimentation basins and construction of a new filter building and 540,000 gallon clearwell and high lift pumping facilities.

Southwest Region: Water Supply Management Program Manager, 400 Waterfront Drive, Pittsburgh, Pa 15222-4745

Permit No. 3210502, Public Water Supply.

Applicant **Glen Campbell Borough**
 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. 3010502MA, Minor Amendment.

Applicant	Southwestern Pennsylvania Water Authority PO Box 187 1442 Jefferson Road Jefferson, PA 15344
[Township or Borough]	Richhill Township
Responsible Official	Joseph Simatic, Manager Southwestern Pennsylvania Water Authority PO Box 187 1442 Jefferson Road Jefferson, PA 15344
Type of Facility	Water system
Consulting Engineer	Bankson Engineers, Inc. 267 Blue Run Road PO Box 200 Indianola, PA 15051
Application Received Date	December 27, 2010
Description of Action	Installation of 12-inch waterline from Wind Ridge to the West Virginia state line.

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 ap-

proved 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:

Northeast Region: Eric Supey, Environmental Cleanup Program Manager, 2 Public Square, Wilkes-Barre, PA 18701-1915.

Timber Falls Apartments—Building P, 1200 Timberfalls Drive, Blakely Borough, **Lackawanna County**. Benjamin G. Myers, GTA Environmental Services, Inc., 3445-A Box Hill Corporate Center Drive, Abingdon, MD 21009 has submitted a Notice of Intent to Remediate (on behalf of his client, McKinley, Inc., 320 North Main Street, Ann Arbor, MI 48104), concerning the remediation of soil found to have been impacted by No. 2 fuel oil as a result of a release from a leaking 1,000-gallon underground storage tank. The applicant proposes to remediate the site to meet the Statewide Health Standard for soil. The property use will remain residential. A summary of the Notice of Intent to Remediate was published in *The Scranton Times* on December 12 and 19, 2010.

Southcentral Region: Environmental Cleanup Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

Edward Weiler Property, Lancaster City, **Lancaster County**. Trimpi Associates, Inc., 1635 Old Plains Road, Pennsburg, PA 18073, on behalf of Edward Weiler, 603 Rockland Street, Lancaster, PA 17602, submitted a Notice of Intent to Remediate site soils contaminated with No. 2 fuel oil. The site will be remediated to the Residential Statewide Health standard, and will remain residential.

Northcentral Region: Environmental Cleanup Program Manager, 208 West Third Street, Williamsport, PA 17701

Earl Page Property Fuel Release, Castanea Township, **Clinton County**. Pennsylvania Tectonics, Inc., 328 Main St., Peckville, PA 198452 on behalf of Earl Page, Castanea Manor, 200 East Keller St., Lot #51, Castanea,

PA 17726 has submitted a Notice of Intent to Remediate soil contaminated with No. 2 fuel oil at Castenea Manor Lot #51. The applicant proposes to remediate the site to meet the Statewide Health Standard. The property will remain a residential trailer site.

Northwest Region: Environmental Cleanup Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481

Former GAF Materials Corporation (Erie County Convention Center Authority Bayfront Site), City of Erie, Erie County. MacDonald, Illig, Jones, & Britton, LLP, 100 State Street, Suite 700, Erie, PA 16507-1459 on behalf of the Erie County Convention Center Authority, 809 French Street, Erie, PA 16501 has submitted a Notice of Intent to Remediate. Aboveground and underground tanks containing petroleum-based products (fuel oil, gasoline, flux oil, tar, and asphalt) were historically used in conjunction with the manufacturing operations and to support site operations (e.g. heating oil). All underground storage tanks have been removed and/or closed-in-place. The primary regulated substances identified in soil are anthracene, benzo[a]anthracene, benzo[a]pyrene, benzo[b]fluoranthene, benzo[g,h,i]perylene, carbazole, chrysene, 4-methylphenol[p-cresol], naphthalene), 1,3,5-trimethylbenzene, and benzene. The primary regulated substances identified in ground water are benzo[a]anthracene, benzo[a]pyrene, benzo[g,h,i]perylene, 2,4-dichlorophenol, hexachlorobenzene, 4-methylphenol[p-cresol], naphthalene, and benzene. The future use of the site will be for both residential and non-residential use. The proposed cleanup standard for the site is the Site-Specific Standard. The Notice of Intent to Remediate was published in *The Erie-Times News* on December 15, 2010.

RESIDUAL WASTE GENERAL PERMITS

Application(s) received Under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003); the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904); and Residual Waste Regulations for a General Permit to Operate Residual Waste Processing Facilities and the Beneficial Use of Residual Waste other than Coal Ash.

Southwest Region: Regional Solid Waste Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745

General Permit Application No. WMGR123SW002. Integrated Water Technologies, Inc., 150 Clove Road, Suite 1101, Little Falls, NJ 07424-2138. Champion Site, 2702-2800 Robinson Highway, Bulger, PA 15019. An application for a residual waste permit for an industrial wastewater treatment facility for processing of drilling fluids, raw gas well flow back and produced water generated during hydraulic fracturing and extraction of natural gas from Marcellus Shale geologic formations, for beneficial reuse at the well site. The application was received by the Regional Office on December 30, 2010.

Comments concerning the application should be directed to Diane McDaniel, Environmental Engineering Manager, Department of Environmental Protection, 400 Waterfront Drive, Pittsburgh, PA 15222-4745. Persons interested in obtaining more information about the general permit application may contact the DEP Southwest Regional Office at 412-442-4000. TDD users may contact the Department through the Pennsylvania Relay service, (800) 654-5984. Public comments must be submitted within 60 days of this notice and may recommend revisions to, and approval or denial of the application.

AIR QUALITY

PLAN APPROVAL AND OPERATING PERMIT APPLICATIONS NEW SOURCES AND MODIFICATIONS

The Department has developed an "integrated" plan approval, State Operating Permit and Title V Operating Permit program. This integrated approach is designed to make the permitting process more efficient for the Department, the regulated community and the public. This approach allows the owner or operator of a facility to complete and submit permitting documents relevant to its application one time, affords an opportunity for public input and provides for sequential issuance of the necessary permits.

The Department received applications for Plan Approvals or Operating Permits from the following facilities.

Copies of these applications, subsequently prepared draft permits, review summaries and other support materials are available for review in the regional office listed before the applications. Persons interested in reviewing the application files should contact the appropriate regional office to schedule appointments.

Persons wishing to receive a copy of a proposed Plan Approval or Operating Permit shall indicate interests to the Department regional office within 30 days of the date of this notice and shall file protests or comments on a proposed Plan Approval or Operating Permit within 30 days of the Department providing a copy of the proposed documents to persons or within 30 days of its publication in the *Pennsylvania Bulletin*, whichever comes first. Interested persons may also request that hearings be held concerning a proposed Plan Approval or Operating Permit. A comment or protest filed with the Department regional office shall include a concise statement of the objections to the issuance of the Plan Approval or Operating Permit and relevant facts which serve as the basis for the objections. If the Department schedules a hearing, a notice will be published in the *Pennsylvania Bulletin* at least 30 days prior the date of the hearing.

Persons with a disability who wish to comment and require an auxiliary aid, service or other accommodation to participate should contact the regional office listed before the application. TDD users may contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

Final Plan Approvals and Operating Permits will contain terms and conditions to ensure that the source is constructed and operating in compliance with applicable requirements in 25 Pa. Code Chapters 121—143, the Federal Clean Air Act (42 U.S.C.A. §§ 7401—7671q) and regulations adopted under the Federal Clean Air Act.

PLAN APPROVALS

Plan Approval Applications Received under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter B that may have special public interest. These applications are in review and no decision on disposition has been reached.

Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401

Contact: Sachin Shankar, New Source Review Chief—Telephone: 484-250-5920

15-0002G: World Color (USA) LLC - formerly Quebecor World Atglen, Inc. (4581 Lower Valley Road, Atglen, PA 19310) for installation of a new unenclosed 10-unit rotogravure publication printing press and an associated solvent recovery system and the removal of an older solvent recovery system and two (2) unenclosed rotogravure publication printing presses at their facility in West Sadsbury Township, **Chester County**. As a result of potential emissions of VOC, the facility is a Title V facility. The Plan Approval will contain recordkeeping requirements and operating restrictions designed to keep the facility operating within all applicable air quality requirements.

Intent to Issue Plan Approvals and Intent to Issue or Amend Operating Permits under the Air Pollution Control Act and 25 Pa. Code Chapter 127, Subchapter B. These actions may include the administrative amendments of an associated operating permit.

Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401

Contact: Sachin Shankar, New Source Review Chief—Telephone: 484-250-5920

23-0108C: Barry Callebaut USA, LLC (903 Industrial Highway, Eddystone, PA 19022) for 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 modification of the Baghouse pressure drop range at their Asphalt Plant 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 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 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.

Northeast Region: Air Quality Program, 2 Public Square, Wilkes Barre, PA 18711-0790

Contact: Ray Kempa, New Source Review Chief—Telephone: 570-826-2507

39-309-078: Lafarge North America, Inc. (5160 Main Street, Whitehall, PA 18052) for revision of Chlorine (Cl₂) and Hydrogen Cyanide (HCN) emission limits for the Nos. 2 & 3 Kilns at their plant in Whitehall Township, **Lehigh County**.

In accordance with 25 Pa. Code §§ 127.44(b) and 127.424(b), the Department of Environmental Protection (DEP) intends to issue a Plan Approval No. 39-309-078 to Lafarge North America, Inc., 5160 Main Street, Whitehall, PA 18052, for their plant located in Whitehall Township, Lehigh County. The facility currently operates under Title V Operating Permit No. 39-00011. This plan approval will be incorporated into the Title V Operating Permit through an administrative amendment at a later date, and the action will be published as a notice in the *Pennsylvania Bulletin*.

Plan Approval No. 39-309-078 is for the revision of Chlorine (Cl₂) and Hydrogen Cyanide (HCN) emission limits for the Nos. 2 & 3 Kilns at the facility. The company has proposed following Cl₂ and HCN emission limits for Kilns Nos. 2 and 3.

1. Chlorine (Cl₂)—shall not exceed **0.3 lb per hour**
2. Hydrogen Cyanide (HCN)—shall not exceed **1.7 lb per hour**.

The revised risk assessment performed by the company with the proposed emission limits. The chlorine and hydrogen cyanide are non carcinogenic compounds; therefore, the proposed emission limits will not affect the cancer risks posed by these sources. The resulting cumulative no-cancer risks with the proposed emission limits for chlorine and hydrogen cyanide aggregated with the non-cancer risks associated with other pollutants considered in the risk assessment were found to not pose unacceptable health risks. The proposed changes do not physically alter the facility in any way, do not impact facility's production capacity, and do not result in an increase in facility's production or emissions. 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 DEP Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18701.

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. 39-309-078

A concise statement regarding the relevancy of the information or objections to the issuance of the permit is required.

A public hearing may be held, if the DEP, 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 Raymond Kempa, P.E., Environmental Group Manager, Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18701, Phone 570-826-2511 within 30 days after publication date.

Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701

Contact: Muhammad Q. Zaman, Environmental Program Manager—Telephone: 570-327-3648

59-00008A: Tennessee Gas Pipeline Co. (1001 Louisiana Street, PO Box 2511, Houston TX 77252-2511) for construction of a turbine-compressor and emergency engine-generator that will replace those respective sources currently at their site in Charleston Township, **Bradford County**. The respective facility is a major facility for which a Title V operating permit 59-00008 has been issued.

The Department's review of the information contained in the application indicates that the construction of turbine and engine meets all applicable air quality regulatory requirements pertaining to air contamination sources and the emission of air contaminants including the best available technology requirements of 25 Pa. Code Section 127.1 and 127.12. Based on these findings, the Department intends to issue a plan approval for the proposed construction. Additionally, if the Department determines that the respective sources are operating in compliance with all plan approval conditions, the conditions established in the plan approval will be incorporated into an operating permit 59-00008 via an administrative amendment pursuant to 25 Pa. Code Sections 127.450.

All applicable regulatory requirements relating to fugitive, visible, and malodorous emissions standards and additional requirements regarding malfunctions, testing, monitoring, recordkeeping, and reporting have been included in the proposed plan approval. In addition to the above requirements, the following is a list of conditions that the Department proposes to place in the plan approval to ensure compliance with all applicable regulatory requirements:

1. Pursuant to best available technology requirements of 25 Pa. Code Sections 127.1 and 127.12, the total, combined emissions from the turbine-compressor associated with Source P101A shall not exceed any of the following limitations: 34.3 tons of nitrogen oxides in any 12 consecutive month period; 21.2 tons of carbon monoxide in any 12 consecutive month period; 2.0 tons of sulfur dioxide in any 12 consecutive month period; 3.9 tons of total particulate matter (condensable and filterable), including particulate matter having an aerodynamic diameter equal to or less than 2.5 micrometers (PM-2.5) in any 12 consecutive month period; 2.2 tons of volatile organic compounds in any 12 consecutive month period; 1.7 tons of formaldehyde in any 12 consecutive month period.

2. Pursuant to best available technology requirements of 25 Pa. Code Sections 127.1 and 127.12, the emissions from sub-zero operation in non-SoLoNOx mode of the turbine-compressor associated with Source P101A shall not exceed any of the following limitations: 1.4 tons of nitrogen oxides in any 12 consecutive month period; 0.2 ton of carbon monoxide in any 12 consecutive month period; 0.1 ton of volatile organic compounds in any 12 consecutive month period.

3. Pursuant to best available technology requirements of 25 Pa. Code Sections 127.1 and 127.12, the emissions from start-ups and shutdowns of the turbine-compressor associated with Source P101A shall not exceed any of the following limitations: 0.4 ton of nitrogen oxides in any 12 consecutive month period; 17.5 tons of carbon monoxide in any 12 consecutive month period; 0.3 ton of volatile organic compounds in any 12 consecutive month period.

4. [Compliance with the requirement specified in this streamlined permit condition assures compliance with the provision specified in 40 CFR Section 60.4320] Pursuant to best available technology requirements of 25 Pa. Code Sections 127.1 and 127.12, the permittee shall not permit the emission into the outdoor atmosphere of nitrogen oxides from the turbine-compressor associated with Source P101A in a manner that the concentration of nitrogen oxides in the exhaust gas exceeds the following: 15 parts per million, by volume, dry basis, corrected to 15% oxygen at any time the turbine-compressor associated with Source P101A is operating in SoLoNOx mode. 22.81 pounds per hour (42 ppm) at any time the turbine-compressor associated with Source P101A is operating during sub-zero ambient temperatures in non-SoLoNOx mode.

5. Pursuant to best available technology requirements of 25 Pa. Code Sections 127.1 and 127.12, the permittee shall not permit the emission into the outdoor atmosphere of carbon monoxide (CO) from the turbine-compressor associated with Source P101A in a manner that the concentration of CO in the exhaust gas exceeds the following: 2 parts per million (ppm), by volume, dry basis, corrected to 15% oxygen at any time the turbine-compressor associated with Source P101A is operating in SoLoNOx mode. 3.3 pounds per hour at any time the turbine-compressor associated with Source P101A is operating during sub-zero ambient temperatures in non-SoLoNOx mode.

6. Pursuant to best available technology requirements of 25 Pa. Code Sections 127.1 and 127.12, the permittee shall not permit the emission into the outdoor atmosphere of volatile organic compounds (VOC) from the turbine-compressor associated with Source P101A in a manner that the concentration of VOC, expressed as propane, in the exhaust gas exceeds the following: 12 parts per million, by volume, dry basis, corrected to 15% oxygen at any time the turbine-compressor associated with Source P101A is operating in SoLoNOx mode. 1.89 pounds per hour at any time the turbine-compressor associated with Source P101A is operating during sub-zero ambient temperatures in non-SoLoNOx mode.

7. [Compliance with the requirement specified in this streamlined permit condition assures compliance with the provisions in 25 Pa. Code Section 123.13] Pursuant to best available technology requirements of 25 Pa. Code Sections 127.1 and 127.12, the permittee shall not permit the emission into the outdoor atmosphere of total particulate matter (condensable and filterable) including particulate matter having a nominal aerodynamic diameter less

than 2.5 microns (PM-2.5) from the turbine-compressor associated with Source P101A in excess of 0.0066 pound per million Btu.

8. Pursuant to best available technology requirements of 25 Pa. Code Sections 127.1 and 127.12 the permittee shall not permit the emission into the outdoor atmosphere of formaldehyde emissions from Source P101A in excess of 0.00288 pound per million Btu.

9. [Compliance with the requirement specified in this streamlined permit condition assures compliance with the provisions in 40 CFR Sections 60.4360 and 60.4365] Pursuant to best available technology requirements of 25 Pa. Code Sections 127.1 and 127.12, the permittee shall only use natural gas which has maximum sulfur content equal to 20 grains per 100 standard cubic foot as fuel for Source P101A.

10. [Additional authority for this permit condition is also derived from the voluntary restrictions specified in Plan Approval 59-00008A application (including supplementary information)] Pursuant to best available technology requirements of 25 Pa. Code Sections 127.1 and 127.12, the permittee shall limit the amount of turbine-compressor start-up and shutdown to no more than 250 events in any 12 consecutive month period and the emissions from each event shall not exceed 140.1 pounds of CO, 2.43 pounds of VOC, and 3.2 pounds of nitrogen oxides.

11. [Additional authority for this permit condition is also derived from the voluntary restrictions specified in Plan Approval 59-00008A application (including supplementary information)] The permittee shall operate the turbine-compressor associated with Source P101A in non-SoLoNOx mode for no more than 125 hours in any 12 consecutive month period.

12. Additional authority for this permit condition is also derived from the best available technology provisions of Within 180 days of commencement of operation of the turbine-compressor associated with Source P101A, the permittee shall conduct stack testing to determine the nitrogen oxides, carbon monoxide, volatile organic compounds, formaldehyde and particulate matter (filterable and condensable) emission rates while operating in SoLoNOx mode as well as the nitrogen oxide and carbon monoxide emission rates while operating in non-SoLoNOx mode. All testing shall be performed using test methods and procedures which are acceptable to the Department and in accordance with 40 CFR Section 60.4400. The testing shall be performed while the turbine-compressor associated with Source P101A is operating at peak load (gas producer speed - %NGP).

During the initial performance stack testing, the permittee shall record, at least every 15 minutes, the appropriate operational parameters (i.e. %NGP, and other manufacturer suggested parameters) which will indicate the turbine-compressor associated with Source P101A is operating in low-NOx (SoLoNOx) mode and inlet/outlet exhaust temperatures of the oxidation catalyst (ID C101A) which will verify the oxidation catalyst is properly functioning. The Department may establish a requirement that includes operational parameter range(s) based on stack test data, manufacturer's suggested ranges and the initial test report.

13. [Compliance with the requirement specified in this streamlined permit condition assures compliance with the provisions in 40 CFR Section 60.4340] Subsequent stack tests shall be conducted on the turbine-compressor associated with Source P101A to determine the nitrogen oxides

and carbon monoxide emission rates while operating at peak load on an approximate annual basis, but in each case, no less than 10 months and no more than 14 months following the previous test. Additionally, subsequent stack tests shall be conducted on the turbine-compressor associated with Source P101A to determine the volatile organic compounds and formaldehyde emission rates while operating at peak load on an approximate triennial basis, but in each case, no less than 32 months and no more than 36 months following the previous test.

All subsequent testing shall be performed using test methods and procedures which are acceptable to the Department and in accordance with 40 CFR Section 60.4400. The permittee may request a change in the required frequency of testing once enough data has been generated to determine the consistency of the results.

14. The permittee shall keep accurate and comprehensive records of current, up-to-date, valid purchase contract, tariff sheet or transportation contract for the natural gas fuel used to operate the turbine compressor associated with Source P101A which specifies that the maximum total sulfur content of the natural gas fuel is below 20 grains per 100 standard cubic feet of natural gas.

All information generated to meet the recordkeeping requirements of this plan approval shall be kept for a minimum of five (5) years and shall be made available to the Department upon request.

15. The permittee shall keep accurate and comprehensive records of the following information on specified bases for the turbine-compressor associated with Source P101A:

The monthly air contaminant emissions (including emissions calculations during SoLoNOx mode, start-up/shutdown events, and sub-zero ambient temperatures operation in non-SoLoNOx mode) from the turbine-compressor associated with Source P101A used to verify compliance with the 12 consecutive month emissions limitations specified herein.

The amount of fuel used in the turbine-compressor on a daily basis.

The number of hours the turbine-compressor operated on a daily basis.

The number of start-ups and shutdowns performed each month on the turbine-compressor.

The number of hours in each month the turbine-compressor operated during sub-zero ambient temperatures in non-SoLoNOx mode.

A copy of the stack test reports/data for all testing performed on the turbine-compressor associated with Source P101A

16. The permittee shall keep accurate and comprehensive records of the calibrations performed on the instrumentation to measure the catalyst temperatures and pressure differential of ID C101A. These records include but are not limited to the manufacturers' manuals for the instrumentation, the date and time of each calibration, the personnel performing each calibration, the data obtained during calibrations, corrective actions needed during calibrations, etc.

17. The permittee shall keep records (1-hour averages) of the appropriate operational parameters (%NGP, etc.) for the turbine-compressor associated with Source P101A which will indicate low-NOx (SoLoNOx) mode operation.

18. The permittee shall keep records (4-hour averages) of accurate inlet and outlet exhaust temperature readings for the oxidation catalyst associated with ID C101A and equipped on the turbine-compressor.

19. The permittee shall keep records (on a weekly basis) of accurate pressure differential measurements across the oxidation catalyst associated with ID C101A during turbine-compressor operation.

Annual reports required herein shall be submitted to the Department (and EPA as noted) by March 1 (for the January 1 through December 31 reporting period of the preceding year).

20. The permittee shall submit the following information for turbine-compressor associated with Source P101A on an annual basis; the monthly emissions of nitrogen oxides, carbon monoxide, sulfur oxides, and particulate matter including particulate matter with an aerodynamic diameter less than 2.5 microns emissions with the supporting calculations/documentation (this includes emission figures of the total emissions (tpy) based on 12-month rolling total for each month in a the reporting period).

21. The permittee shall submit the following information for Source P101A on an annual basis; any recorded operational parameter which exceeds the respective range(s) established; and any period of monitor downtime as defined in 40 CFR Section 60.4380(c)(2).

22. The permittee shall report any start-up or shutdown events for Source P101A that did not occur in a manner consistent with the manufacturer's recommendations and timeframe within five (5) days of the event.

23. The permittee shall submit annual reports that include the number of hours the turbine-compressor associated with Source P101A was operated in a non-SoLoNOx mode each month other than operation in a non-SoLoNOx mode for the purpose of performing stack tests.

24. The permittee shall comply with the applicable reporting requirement specified in 40 CFR Sections 60.4375(b) and 60.4395.

25. The submission of all requests, reports, applications, submittals and other communications required by 40 CFR Sections 60.4300—60.4420 must be made to both the Department of Environmental Protection and the Environmental Protection Agency.

26. Pursuant to best available technology requirements of 25 Pa. Code Sections 127.1 and 127.12, the permittee shall operate the turbine-compressor associated with Source P101A in low-NOx (SoLoNOx) mode at all times of engine operation except for the period of time when sub-zero ambient temperatures require non-SoLoNOx mode operation and for periods of engine start-ups and shutdowns, as limited herein.

27. Pursuant to best available technology requirements of 25 Pa. Code Sections 127.1 and 127.12, the permittee shall follow the manufacturer's recommendations for procedures of start-up and shut-down.

28. Pursuant to 25 Pa. Code Sections 127.1 and 127.12, and 40 CFR Sections 60.4333, the permittee shall operate and maintain the turbine-compressor associated with Source ID P101A in a manner consistent with good air pollution control practices for minimizing emissions at all times including during startup, shutdown, and malfunction.

29. Pursuant to 25 Pa. Code Sections 127.1 and 127.12, the permittee shall operate and maintain the oxidation catalyst associated with ID C101A in a manner consistent with good air pollution control practices for minimizing emissions at all times of turbine-compressor operation including during engine startup, shutdown, and malfunction events.

30. Pursuant to 25 Pa. Code Section 127.1 and 127.12, the permittee shall perform all calibrations on the instrumentation that measures the inlet and outlet catalyst temperatures and the instrumentation that measures pressure differential in accordance with the manufacturers' suggested calibration frequency and technique.

31. Source ID P101A consists of a natural gas-fired, two-shaft combustion turbine-compressor (Solar Model Mars 100-16000S) with a nominal capacity to produce 14721 hp and a nominal heat input at peak load not exceeding 123.65 MMBtu/hr. The heat input of the turbine-compressor shall not, at any time, exceed 135.88 MMBtu/hr.

32. ID C101A consists of an oxidation catalyst (ATCO) with a design capacity equal to 78,904 scfm. IDC101A shall control CO, VOC, and formaldehyde emissions from the turbine-compressor associated with Source P101A at all times of engine operation.

33. Source ID P101A is subject to Subpart KKKK of the federal Standards of Performance for New Stationary Sources, 40 CFR Sections 60.4300—60.4420. The permittee shall comply with all applicable requirements specified in 40 CFR Sections 60.4300—60.4420.

34. [Additional authority for this permit condition is also derived from 40 CFR Section 60.4233(e)]

The permittee shall operate the engine-generator associated with Source P102A in manner that the rate of emissions from Source P102A does not exceed the following limitations:

Nitrogen Oxide—2.0 grams per horsepower-hour

Carbon Monoxide—4.0 grams per horsepower-hour

Volatile Organic Compound—1.0 gram per horsepower-hour

35. [Additional authority for this permit condition is also derived from 40 CFR Section 60.4243(d) and 40 CFR Section 63.6645(f)]

The permittee shall limit the operation of the engine-generator associated with Source P102A to the requirements of 40 CFR Sections 60.4243(d) and 63.6645(f).

36. [Additional authority for this permit condition is derived from the permittee electing this voluntary limitation]]

The permittee shall operate the engine-generator associated with Source P102A no more than 500 hours in any 12 consecutive month period.

37. [Additional authority for this permit condition is also derived from 40 CFR Section 60.4243(b)(2) and by the permittee electing to construct a non-certified stationary spark-ignited internal combustion engine]

The permittee shall perform nitrogen oxides (NOx), carbon monoxide (CO), and volatile organic compound (VOC) emissions stack tests on Source P102A within 60 days after Source ID P102A operates at maximum capacity or no later than 180 days of initial engine start-up. The testing shall be in accordance with the requirements of 40 CFR Section 60.4244 and 25 Pa. Code Section 139.1

38. Prior to initial engine start-up, the permittee shall equip the engine-generator associated with Source P102A with a non-resettable hour meter which accurately measures the total engine run-time at all times.

39. [Additional authority for this permit condition is also derived from 40 CFR Section 60.4245]

The permittee shall keep records of all information specified in 40 CFR Section 60.4245(a)(1) through (4).

40. The permittee shall keep records of the following information relating to Source P102A (engine-generator operation):

The total hours of operation on a monthly basis

For each instance of operation, a statement that describes the reason for engine operation

All test reports and supporting calculations used to verify compliance with the nitrogen oxides, carbon monoxide, and volatile organic compounds emissions limitations of Source P102A.

The initial notifications below shall be submitted to the Department's Northcentral Regional Office and EPA.

41. [Additional authority for this permit condition is also derived from 40 CFR Section 60.4245(c)]

The permittee shall submit the initial notification as required in 40 CFR Section 60.7(a)(1). The notification must include all the information specified in 40 CFR Sections 60.4245(c)(1) through (5).

42. [Additional authority for this permit condition is also derived from 40 CFR Section 63.6645(f)]

The permittee shall submit the initial notification that includes the information in 25 Pa. Code Section 63.9(b)(2)(i) through (v), and the statement for exclusion for the RICE.

43. [Additional authority for this permit condition is also derived from 40 CFR Section 60.4243(b)(2)(ii)]

The permittee shall maintain and operate the engine-generator associated with Source P102A in a manner consistent with good air pollution control practice for minimizing emissions.

44. [Additional authority for this permit condition is also derived from 40 CFR Section 60.4230]

The engine-generator associated with Source P102A is subject to the Standards of Performance for Stationary Spark Ignition Internal Combustion Engines (40 CFR Part 60 Subpart JJJJ). The permittee shall comply with all applicable requirements of 40 CFR Sections 60.4230 through 60.4248.

45. [Additional authority for this permit condition is also derived from 40 CFR Section 63.6585]

The engine-generator associated with Source P102A is subject to the National Emissions Standards for Hazardous Air Pollutants for Stationary Reciprocating Internal Combustion Engines (40 CFR Part 63 Subpart ZZZZ). The permittee shall comply with all applicable requirements of 40 CFR Sections 63.6580 through 63.6675.

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. 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 Protec-

tion, Air Quality Program, Northcentral Regional Office, 208 West Third Street, Suite 101, Williamsport, PA 17701, 570-327-3648.

49-00033E: Watsontown Brick Co. (PO Box 68, Watsontown, PA 17777-0068) to increase the nitrogen oxides (NO_x) emission limitation associated with their brick kiln No. 3 (Source ID P301). The 9.36 ton per year increase in nitrogen oxides emissions is a result of stack testing conducted on Source ID P301. This facility is a major facility for which a Title V operating permit has been issued.

The Department's review of the information submitted by Watsontown Brick indicates that the Source ID P301 will meet all applicable air quality regulatory requirements pertaining to air contamination sources and the emission of air contaminants, including the fugitive particulate matter emission limitation of 25 Pa. Code Section 123.1, the particulate matter emission limitation of 25 Pa. Code Section 123.13, the sulfur oxide emissions limitation of 25 Pa. Code Section 123.21 and the Best Available Technology requirements of 25 Pa. Code Sections 127.1 and 127.12. Based on these findings, the Department intends to approve the application and issue a plan approval for the increase of nitrogen oxides emissions. Additionally, if the Department determines that the sources are operating in compliance with all plan approval conditions, the conditions established in the plan approval will be incorporated into Title V operating permit 49-00033 via an administrative amendment pursuant to 25 Pa. Code Sections 127.450.

The following is a summary of the conditions the Department proposes to place in the plan approval to ensure compliance with all applicable regulatory requirements:

1. Source ID P301 in plan approval 49-00033D is identified as a 5.5 tons per hour natural gas fired Lingl tunnel kiln rated at 31 MMBTU/hr. The air contaminant emissions from Source ID P301 shall be controlled by an ENCERTEC, Inc. model C-5138-DIFF-07 sorbent injection system, a dry lime and sodium bicarbonate system (ID C301A) in series with two (2) C. P. E. Filters, Inc. 6,500 CFM fabric collectors (IDs C301B and C301C) operating in parallel to control the particulate matter emissions.

2. This condition supersedes condition #001 of Section D Source ID P301 of plan approval 49-00033D. Pursuant to the best available technology requirements of 25 Pa. Code Sections 127.1 and 127.12, Source ID P301 shall not emit air contaminants in excess of the following rates:

Particulate Matter (PM) 0.68 lbs/hr & 2.97 Tons in any 12 CMP

VOCs 0.14 lbs/hr & 0.61 Tons in any 12 CMP

Hydrogen Fluoride (HF) 0.46 lbs/hr & 2.03 Tons in any 12 CMP

Hydrogen Chloride (HCl) 0.09 lbs/hr & 0.37 Tons in any 12 CMP

Total HAPs 0.57 lbs/hr & 2.62 Tons in any 12 CMP

SO_x 1.62 lbs/hr & 7.10 Tons in any 12 CMP

NO_x 3.26 lbs/hr & 14.3 Tons in any 12 CMP

CO 6.71 lbs/hr & 29.4 Tons in any 12 CMP

3. All conditions contained in Title V operating permit 49-00033 and plan approval 49-00033D remain in effect unless superseded or amended by conditions contained in this plan approval. If there is a conflict between a condition or requirement contained in this plan approval

and a condition or requirement contained in Title V operating permit 49-00033 or plan approval 49-00033D, the permittee shall comply with the condition or requirement contained in this plan approval rather than the conflicting condition or requirement contained in Title V operating permit 49-00033 or plan approval 49-00033D.

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.

19-00023B: Impress USA (6670 Low Street, Bloomsburg, PA 17815) for modification to the existing EZO End Line #1, 2, 3 and 4 incorporated in Source ID P201 and the side strip lines incorporated in Source ID P203 for an increase in the volatile organic compound (VOC)-containing material utilized in these lines and the installation of a natural gas-fired, regenerative thermal oxidizer (RTO) to control the VOC and volatile hazardous air pollutant (HVAP) emissions at their Bloomsburg facility located in South Centre Township, **Columbia County**.

The Department of Environmental Protection's (Department) review of the information submitted by Impress USA indicates that the air contamination source to be modified and installation of the RTO will comply with all regulatory requirements pertaining to air contamination sources and the emission of air contaminants including the best available technology requirements (BAT) of 25 Pa. Code Sections 127.1 and 127.12. Based on these findings, the Department proposes to issue a plan approval for the proposed modification to the existing production lines and installation of a control device. Additionally, if the Department determines that the sources are operating in compliance with the plan approval conditions, the conditions established in the plan approval will be incorporated into the State Only operating permit 19-00023 via an administrative amendment pursuant to 25 Pa. Code Sections 127.450.

Source ID P201 consists of four (4) EZO End lines (EZO Line #1, 2, 3 and 4) which applies a VOC/VHAP-containing material to prevent corrosion in the pull tab ends. Source ID P203 consists of the three (3) side stripe lines, which utilizes an airless spray system to apply a VOC-containing lacquer to seal the can. The air contaminant emissions from the four (4) EZO End lines incorporated in Source ID P201 and the three (3) side stripe lines incorporated in Source ID P203 shall be controlled by natural gas-fired regenerative thermal oxidizer (Control Device C001). The air contaminant emissions from the exhaust of ID C001 associated with Source IDs P201 and P203 shall not exceed the following: carbon monoxide—1.16 tons in any 12 consecutive month period; nitrogen oxides—1.38 tons in any 12 consecutive month period; total volatile organic compounds—0.15 pounds per hour and 0.67 tons in any 12 consecutive month period; particulate matter—0.07 tons in any 12 consecutive month period; sulfur oxides—0.01 tons in any 12 consecutive month period; the total combined fugitive volatile organic compounds from Source ID P203 shall not exceed 3.45 tons in any 12 consecutive month period and the total combined fugitive volatile hazardous air pollutants from Source ID P203 shall not exceed 0.90 tons in any 12 consecutive month period.

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 Sections 127.1 and 127.12.

Testing requirements to verify compliance with the VOC emission limitation.

Work practices requirements to ensure operation of the sources with good air pollution control practices.

Monitoring of material usage to enable tracking of compliance with limits on a monthly basis.

Recordkeeping and reporting conditions to verify compliance with emission limitations and all applicable requirements.

A copy of the plan approval application and the Department's review is available for public review between 8 a.m. and 4 p.m. at the Department's Northcentral Regional Office. 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

24-131N: SGL Carbon LLC (900 Theresia Street, Saint Marys, PA 15857) for installation of a new reactor in the City of Saint Marys, **Elk County**.

Pursuant to 25 Pa. Code Sections 127.44(b) and 127.424(b), the Pennsylvania Department of Environmental Protection (DEP) intends to issue Plan Approval 24-131N to SGL Carbon LLC for a new reactor, for the facility located 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 Section 127.450.

Plan Approval No. 24-131N is for the installation of a new reactor. Based on the information provided by the applicant and DEP's own analysis, the combined subject sources will have the potential to emit approximately 5.86 tons per year of hazardous air pollutants.

The Plan Approval will contain monitoring, recordkeeping, reporting, work practice and additional 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 and 25 Pa. Code Chapter 127, Subchapter G.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745

Contact: Barbara Hatch, Facilities Permitting Chief—Telephone: 412-442-4174

65-00053: Dura-Bond Industries, Inc. (2658 Puckety Drive, Export, PA 15632) for operation of the Dura-bond custom fabrication and coating facility, producing large

carbon steel shapes such as pipe, sheet piling, H-beams, and structural steel. This application does not involve the creation of new air emission sources located in the Borough of Export, **Westmoreland County**. This is a Title V Operating Permit Renewal submittal.

Intent to Issue Operating Permits under the Air Pollution Control Act and 25 Pa. Code Chapter 127, Subchapter F.

Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19428

Contact: Janine Tulloch-Reid, Facilities Permitting Chief—Telephone: 484-250-5920

09-00188: Gamesa Wind PA, LLC (400 Gamesa Drive, Fairless Hill, PA 19030) to operate a nacelle assembly process in Falls Township, **Bucks County**. Volatile organic compound (VOC) and nitrogen oxides (NO_x) emissions from the facility are limited to 24.9 tons per year respectively. This facility is a State-only synthetic minor facility. The Operating Permit will contain monitoring and recordkeeping requirements and operating restrictions designed to keep the facility operating within all applicable air quality requirements.

15-00052: Allan A. Myers, L.P.—d/b/a Independence Construction Materials Asphalt Plant (Rte. 82 South, Coatesville, PA 19320) for a non-Title V, State Only, Synthetic Minor Operating Permit in East Fallowfield, Township, **Chester County**. This action is a renewal of the State Only Operating Permit. The initial permit was issued on 6-30-2006. The permit is for the operation of their 4-ton batch asphalt consisting of a hot oil heater, cyclone, baghouse, and stack. The permit will include monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481

Contact: Matthew Williams, New Source Review Chief—Telephone: 814-332-6940

10-00273: Superior Adsorbents—Emlenton Plant (3539 Oneida Valley Road, P. O. Box 566, Emlenton, PA 16373) to re-issue a Natural Minor Permit to operate this activated carbon processing in the Allegheny Township, **Butler County**.

43-00319: John Maneely Co.—Wheatland Tube Division—Church Street Plant (20 Church Street, P. O. Box 608, Wheatland, PA 16161) to re-issue a Natural Minor Permit to operate a Steel Pipe and Tubing Manufacturing Plant in the Borough of Wheatland, **Mercer County**.

Department of Public Health, Air Management Services: 321 University Avenue, Philadelphia, PA 19104

Contact: Edward Brawn, Chief—Telephone: 215-685-9476

N10-008: Jerith Manufacturing Co., Inc. (1440 McNulty Road, Philadelphia, PA 19154) for operation of an aluminum fencing manufacturing facility in the City of Philadelphia, **Philadelphia County**. The facility's air emission sources include three (3) part washers with burners each less than 5 MMBTU/hr burning natural gas, six (6) drying/curing ovens each less than 5.5 MMBTU/hr burning natural gas, and three (3) heat cleaning furnace with afterburner each 1.2 MMBTU/hr or less burning natural gas.

The operating permit will be issued under the Pennsylvania Code Title 25, Philadelphia Code Title 3 and Air Management Regulation XIII. Permit copies and other supporting information are available for public inspection at AMS, 321 University Avenue, Philadelphia, PA 19104. For further information, contact Edward Wiener at (215) 685-9426.

Persons wishing to file protest or comments on the above operating permit must submit the protest or comments within 30 days from the date of this notice. Any protests or comments filed with AMS must include a concise statement of the objections to the permit issuance and the relevant facts upon which the objections are based. Based upon the information received during the public comment period, AMS may modify the operating permit or schedule a public hearing. The hearing notice will be published in the *Pennsylvania Bulletin* and a local newspaper at least thirty days before the hearing.

Pearl Pressman Liberty (7625 Suffolk Avenue, Philadelphia, PA 19153) for the operation of a printing facility in the City of Philadelphia, **Philadelphia County**. The facility's air emission sources include five printing presses and three hot space heaters fired natural gas each 360,000 BTU/hr.

The operating permit will be issued under the Pennsylvania Code Title 25, Philadelphia Code Title 3 and Air Management Regulation XIII. Permit copies and other supporting information are available for public inspection at AMS, 321 University Avenue, Philadelphia, PA 19104.

Persons wishing to file protest or comments on the above operating permit must submit the protest or comments within 30 days from the date of this notice. Any protests or comments filed with AMS must include a concise statement of the objections to the permit issuance and the relevant facts upon which the objections are based. Based upon the information received during the public comment period, AMS may modify the operating permit or schedule a public hearing. The hearing notice will be published in the *Pennsylvania Bulletin* and a local newspaper at least thirty days before the hearing.

SEPTA-Allegheny Garage (2700 Allegheny Avenue, Philadelphia, PA 19129) for the operation of an air pollution sources in the City of Philadelphia, **Philadelphia County**. The facility's air emission sources include one hot water boiler fired natural gas capacity 2.1 MMBtu/hr, two hot water boilers fired number 2 fuel oil and natural gas each 8.37 MMBtu/hr, two pressure washers fired natural gas each 657,000 btu/hr, two space heaters fired natural gas each 600,000 btu/hr, and one emergency generator fired natural gas capacity 175 KW.

The operating permit will be issued under the Pennsylvania Code Title 25, Philadelphia Code Title 3 and Air Management Regulation XIII. Permit copies and other supporting information are available for public inspection at AMS, 321 University Avenue, Philadelphia, PA 19104.

Persons wishing to file protest or comments on the above operating permit must submit the protest or comments within 30 days from the date of this notice. Any protests or comments filed with AMS must include a concise statement of the objections to the permit issuance and the relevant facts upon which the objections are based. Based upon the information received during the public comment period, AMS may modify the operating permit or schedule a public hearing. The hearing notice will be published in the *Pennsylvania Bulletin* and a local newspaper at least thirty days before the hearing.

PLAN APPROVALS

Receipt of Plan Approval Applications and Intent to Issue Plan Approvals, and Intent to Issue Amended Operating Permits under the Air Pollution Control Act and 25 Pa. Code Chapter 127, Subchapter B And Subchapter F. These actions may include the administrative amendments of an associated operating permit.

Northeast Region: Air Quality Program, 2 Public Square, Wilkes Barre, PA 18711-0790

Contact: Ray Kempa, New Source Review Chief—Telephone: 570-826-2507

58-329-029: Williams Field Services Co., LLC (1550 Coraopolis Heights Road, Moon Township, PA 15108) for construction of a natural gas compressor station at their Lathrop Compressor Station in Springville Township, **Susquehanna County**.

In accordance with 25 Pa. Code §§ 127.44(a) and 127.45(a), the Department of Environmental Protection (DEP) has received and intends to issue a Plan Approval to Williams Field Services Company LLC (1550 Coraopolis Heights Road, Moon Township, 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_x emissions from the facility will not equal or exceed 100 TPY, based on a 12-month rolling sum. Total PM, SO_x, 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.

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 ¹		greater than 6.0; less than 9.0	
Alkalinity greater than acidity ¹			

¹The parameter is applicable at all times.

A settleable solids instantaneous maximum limit of 0.5 ml/l applied to: surface runoff (resulting from a precipitation event of less than or equal to a 10-year 24-hour event) from active mining areas; active areas disturbed by coal refuse disposal activities; and mined areas backfilled and revegetated; and drainage (resulting from a precipitation event of less than or equal to a 1-year 24-hour event) from coal refuse disposal piles.

California District Office: 25 Technology Drive, Coal Center, PA 15423, 724-769-1100

11733701 and GP12-11733701-R14, Robindale Energy Services, Inc., (224 Grange Hall Road, P. O. Box 228, Armagh, PA 15920), to renew the coal refuse disposal permit for the Cambria Slope Mine No. 33 in Cambria Township, **Cambria County**. Includes renewal of Bureau of Air Quality GPA/GP-12 authorization under GP12-11733701-R14. No additional discharges. Application received: May 20, 2010.

32101601 and NPDES No. PA0235997, Britt Energies, Inc., (2450 Philadelphia Street, Indiana, PA 15701), to operate the Appalachia Coal Yard in White Township, **Indiana County** and related NPDES permit. Surface

Acres Proposed 24.3. Receiving stream: Yellow Creek, classified for the following use: TSF. The first downstream potable water supply intake from the point of discharge is Edison Mission Energy and intake Two Lick Creek, Application received: May 20, 2010.

Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, 814-472-1900

11000104 and NPDES Permit No. PA0248851, Hoffman Mining, Inc., P. O. Box 130, 118 Runway Road, Friedens, PA 15541, renewal of NPDES Permit, Adams Township, **Cambria County**. Receiving stream(s): Paint Creek classified for the following use(s): cold water fishery. There are no potable water supply intakes within 10 miles downstream. Application received: December 20, 2010.

56950108 and NPDES Permit No. PA0213195, Fieg Brothers, 3070 Stoystown Road, Stoystown, PA 15563, renewal of NPDES Permit, Brothersvalley Township, **Somerset County**. Receiving stream(s): unnamed tributaries to Buffalo Creek classified for the following use(s):

cold water fishery. There are no potable water supply intakes within 10 miles downstream. NPDES renewal application received: December 17, 2010.

Greensburg District Mining Office: Armbrust Professional Center, 8205 Route 819, Greensburg, PA 15601, 724-925-5500

26050107 and NPDES Permit No. PA0250741. Amerikohl Mining, Inc. (1384 State Route 711, Stahlstown, PA 15687-1301). Renewal application for reclamation only of a bituminous surface mine, located in Stewart Township, **Fayette County**, affecting 162.6 acres. Receiving streams: unnamed tributaries to Cucumber Run, classified for the following use: CWF. The potable water supplies intakes within 10 miles downstream from the point of discharge: North Fayette County Municipal Authority and Municipal Authority of Westmoreland County. Renewal application received: December 9, 2010.

Knox District Mining Office: P. O. Box 669, 310 Best Avenue, Knox, PA 16232-0669, 814-797-1191

16060101 and NPDES Permit No. PA0258105. Ancient Sun, Inc. (P. O. Box 129, Shippenville, PA 16254) Renewal of an existing bituminous strip operation in Ashland Township, **Clarion County** affecting 23.0 acres. Receiving streams: Two unnamed tributaries to Little East Sandy Creek, classified for the following state-wide uses: CWF. There are no potable surface water supply intakes within 10 miles downstream. This renewal is for reclamation only. Application received: December 22, 2010.

16900113 and NPDES Permit No. PA0208132. Ancient Sun, Inc. (P. O. Box 129, Shippenville, PA 16254) Renewal of an existing bituminous strip and auger operation in Redbank Township, **Clarion County** affecting 214.6 acres. Receiving streams: Unnamed tributaries to Pine Creek, classified for the following state-wide uses: CWF. The first downstream potable water supply intake from the point of discharge is Redbank Valley Municipal Authority. This renewal is for reclamation only. Application received: December 22, 2010.

33100106 and NPDES Permit No. PA0259004. Strishock, LLC (220 Hillcrest Drive, DuBois, PA 15801)

Commencement, operation and restoration of a bituminous strip operation in Washington Township, **Jefferson County** affecting 252.5 acres. Receiving streams: Unnamed tributaries to Horm Run and unnamed tributaries to Five Mile Run, both classified for the following state-wide uses: CWF. There are no potable surface water supply intakes within 10 miles downstream. Application received: December 23, 2010.

33930101 and NPDES Permit No. PA0211486. P. and N. Coal Co., Inc. (P. O. Box 332, Punxsutawney, PA 15767) Renewal of an existing bituminous strip and auger operation in Gaskill & Henderson Townships, **Jefferson County** affecting 151.1 acres. Receiving streams: Unnamed tributaries to East Branch Mahoning Creek and unnamed tributaries to Laurel Run, both classified for the following state-wide uses: HQ-CWF. The first downstream potable water supply intake from the point of discharge is the Pa. American Water Supply. This renewal is for reclamation only. Application received: January 3, 2011.

Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, 814-342-8200

17800124 and NPDES No. PA0128023. Sky Haven Coal, Inc. (5510 State Park Road, Penfield, PA 18549). Renewal of an existing bituminous surface mine located in Decatur Township, **Clearfield County** affecting 106.0 acres. Receiving stream: Upper Morgan Run classified for cold water fishery. There are no potable water supply intakes within 10 miles downstream. Application received: December 6, 2010.

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, 570-621-3118

40663013R5. Jeddo-Highland Coal Company, (46 Public Square, Suite 600, Wilkes-Barre PA 18701), renewal of an existing anthracite coal refuse reprocessing, refuse disposal and processing operation in Hazle Township, **Luzerne County** affecting 304.0 acres, receiving stream: none. Application received: December 20, 2010.

Noncoal Applications Received

Effluent Limits—The following effluent limits will apply to NPDES permits issued in conjunction with a noncoal mining permit:

<i>Parameter</i>	<i>Table 2</i>		
	<i>30-Day Average</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>
Suspended solids	10to35mg/l	20to70mg/l	25to90mg/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

11000104 and NPDES Permit No. PA0248851, Hoffman Mining, Inc., P. O. Box 130, 118 Runway Road, Friedens, PA 15541, renewal of NPDES Permit, Adams Township, **Cambria County**. Receiving stream(s): Paint

Creek classified for the following use(s): cold water fishery. There are no potable water supply intakes within 10 miles downstream. Application received: December 20, 2010.

56950108 and NPDES Permit No. PA0213195, Fieg Brothers, 3070 Stoystown Road, Stoystown, PA 15563, renewal of NPDES Permit, Brothersvalley Township, **Somerset County**. Receiving stream(s): unnamed tributaries to Buffalo Creek classified for the following use(s): cold water fishery. There are no potable water supply intakes within 10 miles downstream. NPDES renewal application received: December 17, 2010.

Greensburg District Mining Office: Armbrust Professional Center, 8205 Route 819, Greensburg, PA 15601, 724-925-5500

65100401 and NPDES Permit No. PA0252051. Amerikohl Aggregates, Inc. (1384 State Route 711, Stahlstown, PA 15687). Application for commencement, operation and reclamation of large noncoal surface mine, located in Fairfield Township, **Fayette County**, affecting 302.8 acres. Receiving streams: unnamed tributaries of Freeman Run to Freeman Run, classified for the following use: CWF and TSF. There is no potable water supply intake within 10 miles downstream from the point of discharge. Application received: December 7, 2010.

3378NC17 and NPDES Permit No. PA0592579. Hanson Aggregates BMC, Inc. (2200 Springfield Pike, Connellsville, PA 15425). NPDES renewal application for continued operation and reclamation of large noncoal surface mine, located in Connellsville Township, **Fayette County**, affecting 73.5 acres. Receiving streams: unnamed tributaries to Connell Run and Connell Run, classified for the following use: WWF. There is no potable water supply intake within 10 miles downstream from the point of discharge. Application received: December 22, 2010.

65900402 and NPDES Permit No. PA0591777. Hanson Aggregates BMC, Inc. (2200 Springfield Pike, Connellsville, PA 15425). NPDES renewal application for continued operation and reclamation of large noncoal surface mine, located in Derry Township, **Westmoreland County**, affecting 1,303 acres. Receiving streams: unnamed tributaries to Conemaugh River, Harbridge Run and Tannery Hollow, classified for the following use: WWF. The potable water supply intake within 10 miles downstream from the point of discharge: Torrance and Bolivar Reservoirs. Application received: December 27, 2010.

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, 570-621-3118

64030812. Johnston & Rhodes Bluestone Co., (P. O. Box 130, East Branch, NY 13756), Stage I & II bond release of a quarry operation in Scott Township, **Wayne County** affecting 3.0 acres on property owned by Gerald Delaurentis. Application received: December 15, 2010.

64032802. ER Linde Construction Corp., (9 Collan Park, Honesdale, PA 18431), Stage I & II bond release of a quarry operation in Palmyra Township, **Wayne County** affecting 4.58 acres on property owned by Middle Creek Quarry, Inc. Application received: December 15, 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

Northwest Region: Watershed Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481

E25-737, Edinboro University of Pennsylvania, Construction Office, Mc Nerney Hall, Suite 207, Edinboro, PA 16444, Ross Hall Pedestrian Bridge in Edinboro Borough, **Erie County**, ACOE Pittsburgh District (Cambridge Springs, PA Quadrangle N: 41°, 52', 13"; W: -80°, 07', 23").

To construct and maintain an enclosed pedestrian bridge between Ross Hall and Baron Forness Library roughly 700' long by 12' wide, supported by nine concrete support columns and crossing Darrows Creek (WWF).

E25-738, PA DOT, District 1-0, 255 Elm Street, Oil City, PA. S.R. 0426, Seg 0170, Offset 0000 Channel Realignment, in Wayne Township, **Erie County**, ACOE Pittsburgh District (Corry, PA-NY, PA Quadrangle N: 41°, 59', 4"; W: 79°, 40', 33").

To realign approximately 150 feet of the channel of a tributary to Hare Creek (CWF) extending upstream from the existing bridge on S.R. 0426, Segment 0170, Offset 0000 approximately 1 mile south of the PA-NY state line.

Northeast Region: Oil and Gas Management Program Manager, Northcentral Regional Office, 208 West Third Street, Suite 101, Williamsport, PA 17701

E5929-004: East Resources Management, L.L.C., 190 Thorn Hill Road, Warrendale, PA 15086, Union and Liberty Township, **Tioga County**, ACOE Baltimore District.

To construct and maintain:

1) a 20 inch diameter and an 8 inch diameter natural gas gathering line crossing Sugar Works Run (HQ-CWF) impacting 2,015 square feet (Ralston, PA Quadrangle 41° 36' 5.94"N 76° 56' 11.81"W);

2) a temporary road crossing using a 20 foot long, 18 inch diameter corrugated metal pipe, a 20 inch diameter and an 8 inch diameter natural gas gathering line crossing an unnamed tributary (UNT) to Sugar Works

Run (HQ-CWF) impacting 337 square feet (Ralston, PA Quadrangle 41° 36' 3.99"N 76° 56' 37.68"W);

3) a temporary road crossing using a 20 foot long, 39 inch diameter corrugated metal pipes, a 20 inch diameter and an 8 inch diameter natural gas gathering line crossing Mill Creek (HQ-CWF) impacting 1,193 square feet (Ralston, PA Quadrangle 41° 36' 6.19"N 76° 57' 26.92"W);

4) a temporary road crossing using two 20 foot long, 24 inch diameter corrugated metal pipes, a 20 inch diameter and an 8 inch diameter natural gas gathering lines crossing an unnamed tributary (UNT) to West Mill Creek (HQ-CWF) impacting 1,411 square feet (Ralston, PA Quadrangle 41° 36' 1.59"N 76° 58' 18.05"W);

5) a temporary road crossing using a 20 foot long, 18 inch diameter corrugated metal pipe, a 20 inch diameter and an 8 inch diameter natural gas gathering line crossing an unnamed tributary (UNT) to West Mill Creek (HQ-CWF) impacting 352 square feet (Ralston, PA Quadrangle 41° 35' 35"N 76° 58' 48.07"W);

6) a 20 inch diameter and an 8 inch diameter natural gas gathering line crossing West Mill Creek (HQ-CWF) impacting 2,391 square feet (Ralston, PA Quadrangle 41° 35' 33.73"N 76° 58' 50.16"W);

7) a temporary road crossing using a 20 foot long, 18 inch diameter corrugated metal pipe, a 20 inch diameter and an 8 inch diameter natural gas gathering line crossing an unnamed tributary (UNT) to French Lick Run (HQ-CWF) impacting 1,384 square feet (Ralston, PA Quadrangle 41° 35' 29.70"N 76° 58' 54.37"W);

8) a temporary road crossing using a 20 foot long, 24 inch diameter corrugated metal pipes, a 20 inch diameter and an 8 inch diameter natural gas gathering line crossing French Lick Run (HQ-CWF) impacting 1,416 square feet (Ralston, PA Quadrangle 41° 35' 00.14"N 76° 59' 25.89"W);

9) a temporary road crossing using a 20 foot long, 24 inch diameter corrugated metal pipe, a 20 inch diameter and an 8 inch diameter natural gas gathering line crossing an unnamed tributary (UNT) to French Lick Run (HQ-CWF) impacting 422 square feet (Ralston, PA Quadrangle 41° 34' 49.44"N 76° 59' 37.71"W);

10) a temporary road crossing using two 20 foot long, 24 inch diameter corrugated metal pipe, a 20 inch diameter and an 8 inch diameter natural gas gathering line crossing an unnamed tributary (UNT) to Salt Spring Run (HQ-CWF) impacting 766 square feet (Liberty, PA Quadrangle 41° 34' 21.88"N 77° 0' 21.88"W);

11) a 20 inch diameter and an 8 inch diameter natural gas gathering line crossing Salt Spring Run (HQ-CWF) impacting 2,403 square feet (Liberty, PA Quadrangle 41° 34' 21.33"N 77° 0' 45.19"W);

12) a temporary road crossing using a 20 foot long, 24 inch diameter corrugated metal pipe, a 20 inch diameter and an 8 inch diameter natural gas gathering line crossing an unnamed tributary (UNT) to Salt Spring Run (HQ-CWF) impacting 92 square feet (Liberty, PA Quadrangle 41° 34' 9.03"N 77° 1' 26.30"W);

13) a temporary road crossing using a 20 foot long, 18 inch diameter corrugated metal pipe, a 20 inch diameter and an 8 inch diameter natural gas gathering line crossing an unnamed tributary (UNT) to Brion Creek (HQ-CWF) impacting 93 square feet (Liberty, PA Quadrangle 41° 33' 44.7"N 77° 1' 15.7"W);

14) a temporary road crossing using a 20 foot long, 24 inch diameter corrugated metal pipes, a 20 inch diameter and an 8 inch diameter natural gas gathering line crossing an unnamed tributary (UNT) to Brion Creek (HQ-CWF) impacting 796 square feet (Liberty, PA Quadrangle 41° 33' 32.33"N 77° 1' 26.2"W);

15) a temporary road crossing using a 20 foot long, 18 inch diameter corrugated metal pipes, a 20 inch diameter and an 8 inch diameter natural gas gathering line crossing an unnamed tributary (UNT) to Brion Creek (HQ-CWF) impacting 979 square feet (Liberty, PA Quadrangle 41° 33' 9.98"N 77° 2' 13.29"W);

16) a temporary road crossing using a 20 foot long, 18 inch diameter corrugated metal pipe, a 20 inch diameter and an 8 inch diameter natural gas gathering line crossing an unnamed tributary (UNT) to Brion Creek (HQ-CWF) impacting 264 square feet (Liberty, PA Quadrangle 41° 33' 8.08"N 77° 2' 11.20"W);

17) a 20 inch diameter and an 8 inch diameter natural gas gathering line crossing an exceptional value palustrine emergent (EV-PEM) wetland impacting 821 square feet (Ralston, PA Quadrangle 41° 36' 2.25"N 76° 56' 12.80"W);

18) a temporary road crossing using a wood mat bridge, a 20 inch diameter and an 8 inch diameter natural gas gathering line crossing a palustrine emergent (PEM) wetland impacting 268 square feet (Ralston, PA Quadrangle 41° 36' 2.61"N 76° 56' 21.39"W);

19) a temporary road crossing using a wood mat bridge crossing a palustrine emergent and palustrine scrub-shrub (PEM/PSS) wetland impacting 2,226 square feet (Ralston, PA Quadrangle 41° 36' 1.89"N 76° 56' 20.98"W);

20) a temporary road crossing using a wood mat bridge, a 20 inch diameter and an 8 inch diameter natural gas gathering line crossing a palustrine emergent (PEM) wetland impacting 4,957 square feet (Ralston, PA Quadrangle 41° 36' 2.43"N 76° 56' 25.89"W);

21) a temporary road crossing using a wood mat bridge, a 20 inch diameter and an 8 inch diameter natural gas gathering line crossing an exceptional value palustrine emergent (EV-PEM) wetland impacting 4,020 square feet (Ralston, PA Quadrangle 41° 36' 2.58"N 76° 56' 30.27"W);

22) a temporary road crossing using a wood mat bridge, a 20 inch diameter and an 8 inch diameter natural gas gathering line crossing an exceptional value palustrine emergent (EV-PEM) wetland impacting 1,068 square feet (Ralston, PA Quadrangle 41° 36' 3.22"N 76° 56' 33.57"W);

23) a 20 inch diameter and an 8 inch diameter natural gas gathering line crossing a palustrine emergent (PEM) wetland impacting 174 square feet (Ralston, PA Quadrangle 41° 36' 5.16"N 76° 57' 21.25"W);

24) a 20 inch diameter and an 8 inch diameter natural gas gathering line crossing a palustrine emergent (PEM) wetland impacting 122 square feet (Ralston, PA Quadrangle 41° 36' 5.86"N 76° 57' 22.41"W);

25) a temporary road crossing using a wood mat bridge, a 20 inch diameter and an 8 inch diameter natural gas gathering line crossing an exceptional value palustrine emergent/palustrine forested (EV-PEM/PFO) wetland impacting 10,305 square feet (Ralston, PA Quadrangle 41° 36' 6.65"N 76° 57' 25.48"W);

26) a 20 inch diameter and an 8 inch diameter natural gas gathering line crossing an exceptional value

palustrine emergent/palustrine scrub-shrub (EV-PEM/PSS) wetland impacting 1,109 square feet (Ralston, PA Quadrangle 41° 36' 5.59"N 76° 57' 28.38"W);

27) a temporary road crossing using a wood mat bridge, a 20 inch diameter and an 8 inch diameter natural gas gathering line crossing an exceptional value palustrine emergent/palustrine scrub-shrub (EV-PEM/PSS) wetland impacting 2,109 square feet (Ralston, PA Quadrangle 41° 36' 8.55"N 76° 57' 30.15"W);

28) a temporary road crossing using a wood mat bridge crossing a palustrine emergent (PEM) wetland impacting 434 square feet (Ralston, PA Quadrangle 41° 36' 14.12"N 76° 57' 33.99"W);

29) a temporary road crossing using a wood mat bridge, a 20 inch diameter and an 8 inch diameter natural gas gathering line crossing a palustrine emergent (PEM) wetland impacting 2,680 square feet (Ralston, PA Quadrangle 41° 36' 5.03"N 76° 58' 7.86"W);

30) a temporary road crossing using a wood mat bridge, a 20 inch diameter and an 8 inch diameter natural gas gathering line crossing an exceptional value palustrine emergent (EV-PEM) wetland impacting 2,273 square feet (Ralston, PA Quadrangle 41° 35' 00.95"N 76° 59' 23.87"W);

31) a temporary road crossing using a wood mat bridge, a 20 inch diameter and an 8 inch diameter natural gas gathering line crossing a palustrine emergent (PEM) wetland impacting 527 square feet (Ralston, PA Quadrangle 41° 34' 59.40"N 76° 59' 28.59"W);

32) a temporary road crossing using a wood mat bridge, a 20 inch diameter and an 8 inch diameter natural gas gathering line crossing an exceptional value palustrine emergent (EV-PEM) wetland impacting 4,998 square feet (Ralston, PA Quadrangle 41° 34' 32.69"N 76° 59' 59.71"W);

33) a temporary road crossing using a wood mat bridge, a 20 inch diameter and an 8 inch diameter natural gas gathering line crossing an exceptional value palustrine emergent (EV-PEM) wetland impacting 10,565 square feet (Liberty, PA Quadrangle 41° 34' 32.65"N 77° 0' 3.06"W);

34) a temporary road crossing using a wood mat bridge, a 20 inch diameter and an 8 inch diameter natural gas gathering line crossing an exceptional value palustrine emergent/palustrine scrub-shrub (EV-PEM/PSS) wetland impacting 4,604 square feet (Liberty, PA Quadrangle 41° 34' 22.18"N 77° 0' 35.69"W);

35) a 20 inch diameter and an 8 inch diameter natural gas gathering line crossing an exceptional value palustrine emergent (EV-PEM) wetland impacting 531 square feet (Liberty, PA Quadrangle 41° 34' 21.29"N 77° 0' 46.66"W);

36) a temporary road crossing using a wood mat bridge, a 20 inch diameter and an 8 inch diameter natural gas gathering line crossing an exceptional value palustrine emergent (EV-PEM) wetland impacting 167 square feet (Liberty, PA Quadrangle 41° 34' 20.45"N 77° 0' 49.95"W);

37) a temporary road crossing using a wood mat bridge, a 20 inch diameter and an 8 inch diameter natural gas gathering line crossing a palustrine scrub-shrub (PSS) wetland impacting 4,696 square feet (Liberty, PA Quadrangle 41° 34' 16.32"N 77° 1' 15.24"W);

38) a temporary road crossing using a wood mat bridge, a 20 inch diameter and an 8 inch diameter

natural gas gathering line crossing an exceptional value palustrine emergent (EV-PEM) wetland impacting 1,814 square feet (Liberty, PA Quadrangle 41° 34' 10.49"N 77° 1' 26.65"W);

39) a temporary road crossing using a wood mat bridge, a 20 inch diameter and an 8 inch diameter natural gas gathering line crossing an exceptional value palustrine emergent (EV-PEM) wetland impacting 294 square feet (Liberty, PA Quadrangle 41° 34' 8.96"N 77° 1' 27.15"W);

40) a temporary road crossing using a wood mat bridge, a 20 inch diameter and an 8 inch diameter natural gas gathering line crossing a palustrine emergent (PEM) wetland impacting 1,795 square feet (Liberty, PA Quadrangle 41° 33' 12.36"N 77° 2' 15.96"W);

41) a temporary road crossing using a wood mat bridge, a 20 inch diameter and an 8 inch diameter natural gas gathering line crossing a palustrine emergent (PEM) wetland impacting 2,293 square feet (Liberty, PA Quadrangle 41° 33' 6.06"N 77° 2' 8.89"W);

42) a 20 inch diameter and an 8 inch diameter natural gas gathering line crossing a palustrine emergent (PEM) wetland impacting 54 square feet (Liberty, PA Quadrangle 41° 33' 3.28"N 77° 2' 6.79"W);

43) a temporary road crossing using a wood mat bridge crossing a palustrine emergent (PEM) wetland impacting 1,412 square feet (Liberty, PA Quadrangle 41° 33' 6.41"N 77° 2' 2.56"W);

44) a temporary road crossing using a wood mat bridge, a 20 inch diameter and an 8 inch diameter natural gas gathering line crossing a palustrine emergent/palustrine scrub-shrub (PEM/PSS) wetland impacting 1,243 square feet (Liberty, PA Quadrangle 41° 32' 59.45"N 77° 2' 1.29"W);

The project will result in 407.68 linear feet of temporary stream impacts, a total of 63,276 square feet (1.45 acres) of temporary wetland impacts, and a total of 4,283 square feet (0.098 acres) of permanent wetland impacts all for the purpose of installing a natural gas gathering line with associated access roadways.

E4129-005: East Resources Management, L.L.C., 190 Thorn Hill Road, Warrendale, PA 15086, Jackson and McIntyre Townships, **Lycoming County,** ACOE Baltimore District. To construct and maintain:

1) a temporary road crossing using a 20 foot long, 18 inch diameter corrugated metal pipe, a 20 inch diameter and an 8 inch diameter natural gas gathering line crossing an unnamed tributary (UNT) of Brion Creek (HQ-CWF) impacting 539 square feet (Liberty, PA Quadrangle 41° 32' 48.75"N 77° 1' 55.75"W);

2) a temporary road crossing using a 20 foot long, 60 inch diameter corrugated metal pipes, a 20 inch diameter and an 8 inch diameter natural gas gathering line crossing Roaring Branch (HQ-CWF) impacting 3,054 square feet (Liberty, PA Quadrangle 41° 32' 36.48"N 77° 1' 29.26"W);

3) a temporary road crossing using a 20 foot long, 24 inch diameter corrugated metal pipe, a 20 inch diameter and an 8 inch diameter natural gas gathering line crossing an unnamed tributary (UNT) to Red Run (CWF) impacting 544 square feet (Liberty, PA Quadrangle 41° 31' 57.99"N 77° 0' 26.77"W);

4) a temporary road crossing using a 20 foot long, 24 inch diameter corrugated metal pipe, a 20 inch diameter and an 8 inch diameter natural gas gathering line

crossing an unnamed tributary (UNT) to Red Run (CWF) impacting 399 square feet (Liberty, PA Quadrangle 41° 31' 57.72"N 77° 0' 25.99"W);

5) a 20 inch diameter and an 8 inch diameter natural gas gathering line crossing an unnamed tributary (UNT) to Red Run (CWF) impacting 55 square feet (Ralston, PA Quadrangle 41° 32' 4.41"N 76° 59' 42.33"W)

6) a temporary road crossing using a 20 foot long, 24 inch diameter corrugated metal pipe, a 20 inch diameter and an 8 inch diameter natural gas gathering line crossing an unnamed tributary (UNT) to Red Run (CWF) impacting 825 square feet (Ralston, PA Quadrangle 41° 32' 8.22"N 76° 59' 39.27"W);

7) a temporary road crossing a wood mat bridge, a 20 inch diameter and an 8 inch diameter natural gas gathering line crossing an exceptional value palustrine emergent (EV-PEM) wetland impacting 490 square feet (Liberty, PA Quadrangle 41° 32' 50.60"N 77° 1' 57.42"W);

8) a temporary road crossing using a wood mat bridge, a 20 inch diameter and an 8 inch diameter natural gas gathering line crossing an exceptional value palustrine emergent/palustrine forested (EV-PEM/PFO) wetland impacting 1,851 square feet (Liberty, PA Quadrangle 41° 32' 37.89"N 77° 1' 30.93"W);

9) a 20 inch diameter and an 8 inch diameter natural gas gathering line crossing a palustrine emergent (PEM) wetland impacting 1,046 square feet (Liberty, PA Quadrangle 41° 32' 11.59"N 77° 1' 3.33"W);

10) a temporary road crossing using a wood mat bridge, a 20 inch diameter and an 8 inch diameter natural gas gathering line crossing a palustrine emergent (PEM) wetland impacting 1,676 square feet (Liberty, PA Quadrangle 41° 32' 9.99"N 77° 1' 1.92"W);

11) a temporary road crossing using a wood mat bridge, a 20 inch diameter and an 8 inch diameter natural gas gathering line crossing a palustrine emergent/palustrine scrub-shrub (PEM/PSS) wetland impacting 2,206 square feet (Liberty, PA Quadrangle 41° 31' 58.61"N 77° 0' 28.81"W);

12) a temporary road crossing using a wood mat bridge, a 20 inch diameter and an 8 inch diameter natural gas gathering line crossing an exceptional value palustrine emergent/palustrine forested (EV-PEM/PFO) wetland impacting 1,335 square feet (Liberty, PA Quadrangle 41° 31' 57.62"N 77° 0' 25.84"W);

13) a temporary road crossing using a wood mat bridge, a 20 inch diameter and an 8 inch diameter natural gas gathering line crossing an exceptional value palustrine emergent (EV-PEM) wetland impacting 1,029 square feet (Ralston, PA Quadrangle 41° 32' 7.63"N 76° 59' 43.78"W);

14) a 20 inch diameter and an 8 inch diameter natural gas gathering line crossing an exceptional value palustrine emergent/palustrine scrub-shrub (EV-PEM/PSS) wetland impacting 86 square feet (Ralston, PA Quadrangle 41° 32' 7.72"N 76° 59' 43.05"W).

The project will result in 190.77 linear feet of temporary stream impacts, a total of 6,533 square feet (0.150 acres) of temporary wetland impacts, and a total of 3,186 square feet (0.073 acres) of permanent wetland impacts all for the purpose of installing a natural gas gathering line with associated access roadways.

E0829-007: Chesapeake Appalachia, LLC, 101 North Main Street, Athens, PA 18810, Overton and Albany Township, **Bradford County**, ACOE Baltimore District.

To construct, operate and maintain:

1. Two 16 inch diameter temporary waterlines and a 16ft wide equipment mat across a Palustrine Emergent Wetland (EV). Impacted Area: 744 square feet; (Dushore, PA Quadrangle N: 15.5 inches, W: 15.15 inches, Latitude: 41° 34'33.45", Longitude: -76° 29'28.86") in Overton Township, Bradford County.

2. Two 16 inch diameter temporary waterlines and a 16ft wide equipment mat across a Palustrine Emergent Wetland (EV). Impacted Area: 414 square feet; (Dushore, PA Quadrangle N: 15.5 inches, W: 15.15 inches, Latitude: 41° 34'34.74", Longitude: -76° 29'30.00") in Overton Township, Bradford County.

3. Two 16 inch diameter temporary waterlines and a 16ft wide equipment mat across a Palustrine Emergent Wetland (EV). Impacted Area: 210 square feet; (Dushore, PA Quadrangle N: 15.5 inches, W: 15.15 inches, Latitude: 41° 35'7.89", Longitude: -76° 29'28.98") in Overton Township, Bradford County.

4. Two 16 inch diameter temporary waterlines and a 16ft wide equipment mat across unnamed tributary to Black Creek (EV, MF). Impacted Area: 50 square feet; (Dushore, PA Quadrangle N: 15.5 inches, W: 15.15 inches, Latitude: 41° 35'7.89", Longitude: -76° 29'28.98") in Overton Township, Bradford County.

5. Two 16 inch diameter temporary waterlines and a 16ft wide equipment mat across a Palustrine Emergent Wetland (EV). Impacted Area: 977 square feet; (Dushore, PA Quadrangle N: 15.5 inches, W: 15.15 inches, Latitude: 41° 35'10.44", Longitude: -76° 29'26.12") in Overton Township, Bradford County.

The project will result in 16 linear feet of temporary stream impacts and 2,345 square feet of wetland impact from waterlines and temporary mat crossings. These crossings will accumulate a total of 0.05 acres of PEM wetland impacts all for the purpose of installing temporary water lines with associated access roadways.

E0829-006: Chesapeake Appalachia, LLC, 101 North Main Street, Athens, PA 18810, Albany Township, **Bradford County**, ACOE Baltimore District.

To construct, operate and maintain:

1. Two 16 inch diameter temporary waterlines and a 16ft wide equipment mat across an unnamed tributary to Ladds Creek (CWF, MF). Impacted Area: 52 square feet; (Dushore, PA Quadrangle N: 19.5 inches, W: 12.75 inches, Latitude: 41° 36'10.31", Longitude: -76° 28'3.88") in Albany Township, Bradford County.

2. Two 16 inch diameter temporary waterlines across Ladds Creek (CWF, MF). Impacted Area: 284 square feet; (Dushore, PA Quadrangle N: 19.5 inches, W: 12.75 inches, Latitude: 41° 35'50.51", Longitude: -76° 28'1.86") in Albany Township, Bradford County.

3. Two 16 inch diameter temporary waterlines and a 16ft wide equipment mat across a Palustrine Emergent Wetland (EV). Impacted Area: 199 square feet; (Dushore, PA Quadrangle N: 19.5 inches, W: 12.75 inches, Latitude: 41° 35'33.89", Longitude: -76° 27'28.74") in Albany Township, Bradford County.

4. Two 16 inch diameter temporary waterlines across unnamed tributary to Ladds Creek (CWF, MF). Impacted Area: 143 square feet; (Dushore, PA Quadrangle N: 19.5 inches, W: 12.75 inches, Latitude: 41° 35'32.94", Longitude: -76° 27'27.67") in Albany Township, Bradford County.

5. Two 16 inch diameter temporary waterlines and a 16ft wide equipment mat across a Palustrine Emergent Wetland (EV). Impacted Area: 3,722 square feet; (Dushore, PA Quadrangle N: 19.5 inches, W: 12.75 inches, Latitude: 41° 35'30.95", Longitude: -76° 27'26.89") in Albany Township, Bradford County.

6. Two 16 inch diameter temporary waterlines and a 16ft wide equipment mat across a Palustrine Emergent Wetland. Impacted Area: 886 square feet; (Dushore, PA Quadrangle N: 19.5 inches, W: 12.75 inches, Latitude: 41° 35'15.79", Longitude: -76° 26'51.17") in Albany Township, Bradford County.

7. Two 16 inch diameter temporary waterlines across Beaver Run (CWF, MF). Impacted Area: 195 square feet; (Dushore, PA Quadrangle N: 19.5 inches, W: 12.75 inches, Latitude: 41° 35'50.51", Longitude: -76° 28'1.86") in Albany Township, Bradford County.

8. Two 16 inch diameter temporary waterlines and a 16ft wide equipment mat across a Palustrine Emergent Wetland. Impacted Area: 235 square feet; (Dushore, PA Quadrangle N: 19.5 inches, W: 12.75 inches, Latitude: 41° 35'16.52", Longitude: -76° 26'7.41") in Albany Township, Bradford County.

9. Two 16 inch diameter temporary waterlines and a 16ft wide equipment mat across a Palustrine Emergent Wetland. Impacted Area: 183 square feet; (Dushore, PA Quadrangle N: 19.5 inches, W: 12.75 inches, Latitude: 41° 35'17.10", Longitude: -76° 26'1.35") in Albany Township, Bradford County.

10. Two 16 inch diameter temporary waterlines across South Branch Towanda Creek (CWF, MF). Impacted Area: 0 square feet; (Dushore, PA Quadrangle N: 19.5 inches, W: 12.75 inches, Latitude: 41° 35'17.73", Longitude: -76° 25'56.12") in Albany Township, Bradford County.

11. Two 16 inch diameter temporary waterlines and a 16ft wide equipment mat across a Palustrine Emergent Wetland. Impacted Area: 1,015 square feet; (Dushore, PA Quadrangle N: 19.5 inches, W: 12.75 inches, Latitude: 41° 35'17.26", Longitude: -76° 25'50.23") in Albany Township, Bradford County.

12. Two 16 inch diameter temporary waterlines and a 16ft wide equipment mat across a Palustrine Emergent Wetland. Impacted Area: 661 square feet; (Dushore, PA Quadrangle N: 19.5 inches, W: 12.75 inches, Latitude: 41° 35'20.35", Longitude: -76° 24'44.80") in Albany Township, Bradford County.

13. Two 16 inch diameter temporary waterlines and a 16ft wide equipment mat across a Palustrine Emergent Wetland and Palustrine Scrub Shrub Wetland. Impacted Area: 723 square feet; (Dushore, PA Quadrangle N: 19.5 inches, W: 12.75 inches, Latitude: 41° 35'19.89", Longitude: -76° 25'38.75") in Albany Township, Bradford County.

14. Two 16 inch diameter temporary waterlines and a 16ft wide equipment mat across a Palustrine Emergent Wetland. Impacted Area: 256 square feet; (Dushore, PA Quadrangle N: 19.5 inches, W: 12.75 inches, Latitude: 41° 35'18.29", Longitude: -76° 25'35.34") in Albany Township, Bradford County.

15. Two 16 inch diameter temporary waterlines and a 16ft wide equipment mat across a Palustrine Emergent Wetland. Impacted Area: 1,735 square feet; (Dushore, PA Quadrangle N: 19.5 inches, W: 12.75 inches, Latitude: 41° 35'18.63", Longitude: -76° 25'32.37") in Albany Township, Bradford County.

16. Two 16 inch diameter temporary waterlines across French Creek (CWF, MF). Impacted Area: 412 square feet; (Dushore, PA Quadrangle N: 19.5 inches, W: 12.75 inches, Latitude: 41° 35'20.31", Longitude: -76° 25'32.37") in Albany Township, Bradford County.

17. Two 16 inch diameter temporary waterlines and a 16ft wide equipment mat across a Palustrine Emergent Wetland and Palustrine Scrub Shrub Wetland. Impacted Area: 723 square feet; (Dushore, PA Quadrangle N: 19.5 inches, W: 12.75 inches, Latitude: 41° 35'22.59", Longitude: -76° 25'33.54") in Albany Township, Bradford County.

18. Two 16 inch diameter temporary waterlines across unnamed tributary to French Creek (CWF, MF). Impacted Area: 0 square feet; (Dushore, PA Quadrangle N: 19.5 inches, W: 12.75 inches, Latitude: 41° 35'29.43", Longitude: -76° 25'29.65") in Albany Township, Bradford County.

The project will result in 71 linear feet of temporary stream impacts and 13,240 square feet (0.30 Acres) of wetland impact from waterlines and temporary mat crossings. These crossings will accumulate a total of 0.33 acres of PEM wetland impacts all for the purpose of installing temporary water lines with associated access roadways.

E5329-004. Allegheny Enterprises, Inc., 3885 Roller Coaster Road, Corsica, PA, 15829-3833. Gary Hamilton/Thompson, 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 260.0 lineal feet of EV wetland (PEM) and 3.0 lineal feet of an Unnamed Tributary to Genesee River (CWF) via boring, (Ulysses, PA Quadrangle, Latitude: 41°55'32.2", Longitude: 77°45'24.7");

(2) Crossing 24.0 lineal feet of EV wetland (PEM) and 8.0 lineal feet of the Genesee River (CWF) via boring, (Ulysses, PA Quadrangle, Latitude: 41°55'26.5", Longitude: 77°46'00.3");

(3) Crossing 54.0 lineal feet of an Unnamed Tributary to Genesee River (CWF) and 6.0 lineal feet of an Unnamed Tributary to Genesee River (CWF) via boring, (Ulysses, PA Quadrangle, Latitude: 41°55'29.9", Longitude: 77°46'00.9"); The project will result in 338.0 lineal feet of temporary EV wetland impacts via boring and 17.0 lineal feet of temporary channel impacts via boring.

ENVIRONMENTAL ASSESSMENTS

Cambria District: Environmental Program Manager, 286 Industrial Park Rd., Ebensburg, PA 15931-4119.

EA37-002. Pennsylvania Department of Environmental Protection, Bureau of Abandoned Mine Reclamation, Cambria Office, 286 Industrial Park Rd., Ebensburg, PA 15931. Abandoned Mine Land Reclamation Project, in Little Beaver Township, **Lawrence County**, Pittsburgh ACOE District.

The applicant proposes to backfill an abandoned surface mine, which includes a total of 1,500 linear feet of dangerous highwall. The project will include the backfilling of 0.44 acres of PEM/SS wetland and 0.33 acres of open water that have developed within the open surface mine pits. Proposed mitigation includes 0.44 acres of wetland and 0.75 acres of open water. (Bessemer Quadrangle N: 3.8 inches, W: 10.7 inches).

ACTIONS

THE CLEAN STREAMS LAW AND THE FEDERAL CLEAN WATER ACT
FINAL ACTIONS TAKEN FOR NATIONAL POLLUTION DISCHARGE
ELIMINATION SYSTEM (NPDES) PERMITS AND WATER QUALITY
MANAGEMENT (WQM) PERMITS

The Department has taken the following actions on previously received applications for new, amended and renewed NPDES and WQM permits, applications for permit waivers and NOIs for coverage under General Permits. This notice of final action is provided in accordance with 25 Pa. Code Chapters 91 and 92a and 40 CFR Part 122, implementing provisions of The Clean Streams Law (35 P. S. §§ 691.1—691.101) and the Federal Clean Water Act (33 U.S.C.A. §§ 1251—1376).

<i>Location</i>	<i>Permit Authority</i>	<i>Application Type or Category</i>
Section I	NPDES	Renewals
Section II	NPDES	New or Amendment
Section III	WQM	Industrial, Sewage or Animal Wastes; Discharges to Groundwater
Section IV	NPDES	MS4 Individual Permit
Section V	NPDES	MS4 Permit Waiver
Section VI	NPDES	Individual Permit Stormwater Construction
Section VII	NPDES	NOI for Coverage under NPDES General Permits

Sections I—VI contain actions regarding industrial, animal or sewage wastes discharges, discharges to groundwater, and discharges associated with MS4, stormwater associated with construction activities and CAFOs. Section VII contains notices for parties who have submitted NOIs for Coverage under General NPDES Permits. The approval for coverage under these General NPDES Permits is subject to applicable effluent limitations, monitoring, reporting requirements and other conditions in each General Permit. The approval of coverage for land application of sewage sludge or residential septage under applicable general permit is subject to pollutant limitations, pathogen and vector attraction reduction requirements, operational standards, general requirements, management practices and other conditions in the respective permit. The permits and related documents, effluent limitations, permitting requirements and other information are on file and may be inspected and arrangements made for copying at the contact office noted before the action.

Persons aggrieved by an action may appeal that action to the Environmental Hearing Board (Board) under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to Administrative Agency Law). The appeal should be sent to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, PO Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users may contact the Board through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin* unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary to the Board at (717) 787-3483. This paragraph does not, in and of itself, create a right of appeal beyond that permitted by applicable statutes and decisional law.

For individuals who wish to challenge an action, the appeal must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should contact a lawyer at once. Persons who cannot afford a lawyer may qualify for free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

I. NPDES Renewal Permit Actions

Northeast Region: Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed No.)</i>	<i>EPA Waived Y/N?</i>
PA0013552 (Industrial Waste)	Hercules Cement Stockertown Plant Quarry 501 Center Street Stockertown, PA 18083	Northampton County Stockertown Borough	Bushkill Creek, Shoeneck Creek and Unnamed Tributary to Bushkill Creek (1-F) High Quality Cold water Fishes	Y

Southwest Region: Water Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N</i>
PA0204811 Industrial Waste	Royal Window & Door Profiles One Contact Place Delmont, PA 15626-1402	Westmoreland County Salem Township	Tributary To Beaver Run	Y

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N</i>
PA0021822 Sewage	Municipal Authority Borough of Berlin 700 North Street PO Box 115 Berlin, PA 15530-0115	Somerset County Berlin Borough	Buffalo Creek	Y
PA0091634 Sewage	T.M. Nicholas, Inc. PO Box 2031 Uniontown, PA 15401	Fayette County North Union Township	UNT of Redstone Creek	Y
PA0096211 Sewage	Hempfield Township Municipal Authority 1146 Woodward Drive Greensburg, PA 15601	Westmoreland County Hempfield Township	Little Sewickley Creek	N
PA0217867 Sewage	Residential Resources Southwest, Inc. 650 Smithfield Street 18th Floor Suite 1870 Pittsburgh, PA 15222	Beaver County Ohioville Borough	Drainage Swale Tributary to UNT of Upper Dry Run	Y
PA0110469 Sewage	Patton Borough 72 Dike Road Patton, PA 16668	Cambria County Patton Borough	Chest Creek & Little Chest Creek	N
PA0002275 Sewage	Keystone Cleaning Plant PO Box 219 Shelocta, PA 15774	Armstrong County Plumcreek Township	UNT of Crooked Creek	Y
PA0216666 Sewage	Cumberland Coal Resources, LP 855 Kirby Road Waynesburg, PA 15370	Greene County Whiteley Township	Whiteley Creek	Y
PA0219428 Sewage	David R. VanKirk 7669 Big Beaver Boulevard Wampum, PA 16157	Beaver County Big Beaver Borough	UNT of Beaver River	Y
PA0097691 Sewage	Richard D. LeClair Washington KOA Campground Washington, PA 15301	Washington County South Strabane Township	UNT of Chartiers Creek	N
PA0203891 Sewage	Western Area Vocational Tech School 688 Western Avenue Canonsburg, PA 15317	Washington County Chartiers Township	Chartiers Run	Y
PA0216879 Sewage	Calandrellas, Inc. Road 2 Box 320 Avonmore, PA 15618	Westmoreland County Bell Township	UNT to Wolford Run	Y
PA0026336 Sewage	Hopewell Township 1700 Clark Boulevard Aliquippa, PA 15001	Beaver County Hopewell Township	UNT of Boggs Run	Y

Northwest Region: Water Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0034916 (Industrial Waste)	IISCO Extrusions Inc. 93 Werner Road Greenville, PA 16125-9434	Mercer County Sugar Grove Township	Unnamed Tributary to Little Shenango River 20-A	Y

II. New or Expanded Facility Permits, Renewal of Major Permits and EPA Nonwaived Permit Actions

Northcentral Regional Office: Regional Water Management Program Manager, 208 W Third Street Suite 101, Williamsport, PA 17701-6448. Phone: 570.327.0532.

NPDES Permit No. PA0037966, Sewage, SIC Code 4952, **Moshannon Valley Joint Sewer Authority**, 829 North 9th Street, Philipsburg, PA 16866.

This existing facility is located in Rush Township, **Centre County**.

Description of Existing Action/Activity: Issuance of an NPDES Permit for an existing discharge of treated Sewage.

Northwest Region: Oil and Gas Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481

PA0102784, Industrial Waste. **Waste Treatment Corporation**, P. O. Box 1550, Warren, PA 16365.

This existing facility is located in the City of Warren, **Warren County**.

Description of Proposed Activity: permit renewal for an existing discharge of treated industrial waste.

The receiving water is the Allegheny River. The receiving stream is in State Water Plan 16-B and is classified for the following uses: warm water fishes, aquatic life, water supply and recreation.

The proposed effluent limits for Outfall 001 are based on a maximum flow of 0.213 MGD.

Parameters	Loadings		Concentrations		
	Average Monthly (lb/day)	Maximum Daily (lb/day)	Average Monthly (mg/l)	Maximum Daily (mg/l)	Instantaneous Maximum (mg/l)
Flow (MGD)		0.213			
Oil and Grease			15		30
Total Suspended Solids			30		60
BOD5			53	163	163
Iron (total)			3	6	7.5
Manganese			2	4	5
Copper			0.757	0.865	1.893
Zinc			0.420	0.497	1.05
Acetone			7.97	30.2	30.2
Acetophenone			0.0562	0.114	0.141
2-Butanone			1.85	4.81	4.81
o-Cresol			0.561	1.92	1.92
p-Cresol			0.205	0.698	0.698
Phenol			1.08	3.65	3.65
Pyridine			0.182	0.37	0.455
2,4,6 -Trichlorophenol			0.106	0.155	0.265
Cadmium			0.049	0.098	0.123
Acrylamide			0.022	0.044	0.0055
Aluminum			4.0		8.0
TDS	176,508	315,624	XX	XX	
Acidity				Less than Alkalinity	
Alkalinity			XX	XX	
Barium			XX	XX	
Osmotic Pressure (mOs/Kg)			XX	XX	
Strontium			XX	XX	
Ammonia - N			XX	XX	
Silver			XX	XX	
Lead			XX	XX	
Benzene			XX	XX	
Selenium			XX	XX	
Sulfate			XX	XX	
Chloride			XX	XX	
Bromide			XX	XX	
Radium 226/228 (pCi/L)			XX	XX	
Gross Alpha (pCi/L)			XX	XX	
pH			Within limits of 6.0 to 9.0 standard units at all times.		

XX — Monitor and report on monthly DMRs.

The EPA Waiver is not in effect.

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. 6795415, Sewage, **Eastern York County Sewer Authority**, PO Box 6206, Hellam, PA 17406.

This proposed facility is located in Clay Township, **Huntingdon County**.

Description of Proposed Action/Activity: Permit approval for the construction / operation of sewerage facilities consisting of an upgrade of the existing treatment plant to meet proposed nutrient limits specified in PART 1 of the NPDES permit issued on October 15, 2010.

Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701

WQM Permit No. 5510402, Sewerage [SIC 4952], **Middleburg Municipal Authority**, 13 North Main Street, Middleburg, PA 17842.

This proposed facility is located in Middleburg Borough, **Snyder County**.

Description of Proposed Action/Activity: The WWTP will be modified to achieve biological nutrient removal (BNR) of total nitrogen (TN) and total phosphorous (TP) from influent wastewater. Modifications will include; overhauling the Biolac treatment method to perform denitrification along with existing nitrification processes, the addition of chemical

precipitation to remove TP from the wastewater, artificial alkalinity and organic carbon enhancement via chemical additions, installation of a precast concrete chemical feed equipment storage building, and flocculator rake maintenance.

WQM Permit No. 01081001, SIC Code 4952, **John McMann**, PO Box 6, Almond, NY 14804.

This proposed facility is located in Ridgebury Township, **Bradford County**.

Description of Proposed Action/Activity: Construction of a new small flow treatment system as a repair for failed residential on-lot septic system for existing single family residence.

Southwest Region: Water Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745

WQM Permit No. WQG016181, Sewerage, **Louise Loncar**, 3 School Street, Apartment #1, Tilton, NH 03276

This proposed facility is located in Center Township, **Beaver County**

Description of Proposed Action/Activity: Permit issuance for the construction and operation of a single residence sewage treatment facility.

WQM Permit No. 5610401-A1, Sewerage, **Lincoln Township Municipal Authority**, PO Box 162, Sipesville, PA 15561-0162

This existing facility is located in Lincoln Township, **Somerset County**

Description of Proposed Action/Activity: Permit amendment issuance.

WQM Permit No. 6569426-T3-A1, Sewerage, **Bruno Family Trust**, 71 East Pine Avenue, Washington, PA 15301

This existing facility is located in Donegal Township, **Westmoreland County**

Description of Proposed Action/Activity: Permit amendment issuance.

WQM Permit No. 0205411-A1, Sewerage, **Bethel Park Municipal Authority**, 5100 West Library Road, Bethel Park, PA 15102

This existing facility is located in South Park Township, **Allegheny County**

Description of Proposed Action/Activity: Permit amendment issuance.

WQM Permit No. 6372404-A2, Sewerage, **Carroll Township Sewer Authority**, PO Box 661, Donora, PA 15033

This existing facility is located in Carroll Township, **Washington County**

Description of Proposed Action/Activity: Permit amendment issuance.

WQM Permit No. 6306407-A1, Sewerage, **Hanover Township Sewer Authority**, 116 Steubenville Pike, Paris, PA 15021

This existing facility is located in Hanover Township, **Washington County**

Description of Proposed Action/Activity: Permit amendment issuance.

WQM Permit No. 6510408, Sewerage, **Vandergrift Borough**, 109 Grant Avenue, Vandergrift, PA 15690

This proposed facility is located in Vandergrift Borough, **Westmoreland County**

Description of Proposed Action/Activity: Permit issuance for the construction and operation of sanitary sewers.

Northwest Region: Water Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481

WQM Permit No. 3796401, Sewerage, **Amendment No. 2, New Castle Sanitation Authority**, 110 East Washington Street, New Castle, PA 16101. This existing facility is located in City of New Castle, **Lawrence County**.

Description of Proposed Action/Activity: Amendment to the existing The New Castle Sanitation Authority (NCSA) permit to install a sludge de-watering Rotary Press. The project activities include the addition of one de-watering unit, associated polymer feed system and sludge and wash water piping. The project activities include the addition of one de-watering unit, associated polymer feed system and sludge and wash water piping.

Northwest Region: Oil and Gas Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481. Phone (814) 332-6860

WQM Permit No. 1010601, Industrial Waste, **Vavco LLC**, 101 Mahood Road, Suite 1, Butler, PA 16001.

This proposed facility is located in Connoquenessing Township, **Butler County**.

Description of Proposed Action/Activity: Construction and operation of a proposed passive treatment plant to treat wastewater from stripper oil wells.

IV. NPDES Stormwater Discharges from MS4 Permit Actions**V. NPDES Waiver Stormwater Discharges from MS4 Actions****VI. NPDES Discharges of Stormwater Associated with Construction Activities Individual Permit Actions**

Northeast Region: Watershed Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI025203017R	Kalian at Poconos, LLC 225 Highway 35 Red Bank, NJ 07701	Pike County & Monroe County	Lehman Township & Middle Smithfield Twp.	Saw Creek, HQ-CWF,MF
PAI024810003	F&M Farms, LLC 41 Crane Road Montain Lakes, NJ 07046	Northampton	Bushkill Township	Unnamed Tributary to Bushkill Creek HQ-CWF,MF

Southwest Region: Watershed Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

Washington County Conservation District, 602 Courthouse Square, Washington, PA 15301 (724-228-6774).

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI056310010	Chris Sidick 104 Wilson Avenue Cecil, PA 15321	Washington	North Strabane Township	UNT to Little Chartiers Creek (HQ-EWWF)

Northwest Region: Watershed Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481

Butler Conservation District, 122 McCune Drive, Butler PA 16001-6501

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI 0610 09 001(1)	PADOT Engineering District 10-0 2550 Oakland Avenue Indiana PA 15701	Butler	Jackson Township	Little Connoquenessing Creek CWF
PAI 0610 09 001(2)	PADOT Engineering District 10-0 2550 Oakland Avenue Indiana PA 15701	Butler	Harmony Borough	Connoquenessing Creek WWF

VII. Approvals to Use NPDES and/or Other General Permits

The EPA Region III Administrator has waived the right to review or object to this permit action under the waiver provision in 40 CFR 123.23(d).

List of NPDES and/or Other General Permit Types

PAG-1	General Permit for Discharges from Stripper Oil Well Facilities
PAG-2	General Permit for Discharges of Stormwater Associated with Construction Activities (PAR)
PAG-3	General Permit for Discharges of Stormwater from Industrial Activities
PAG-4	General Permit for Discharges from Small Flow Treatment Facilities
PAG-5	General Permit for Discharges from Gasoline Contaminated Ground Water Remediation Systems
PAG-6	General Permit for Wet Weather Overflow Discharges from Combined Sewer Systems
PAG-7	General Permit for Beneficial Use of Exceptional Quality Sewage Sludge by Land Application
PAG-8	General Permit for Beneficial Use of Nonexceptional Quality Sewage Sludge by Land Application to Agricultural Land, Forest, a Public Contact Site or a Land Reclamation Site
PAG-8 (SSN)	Site Suitability Notice for Land Application under Approved PAG-8 General Permit Coverage
PAG-9	General Permit for Beneficial Use of Residential Septage by Land Application to Agricultural Land, Forest or a Land Reclamation Site
PAG-9 (SSN)	Site Suitability Notice for Land Application under Approved PAG-9 General Permit Coverage
PAG-10	General Permit for Discharge Resulting from Hydrostatic Testing of Tanks and Pipelines
PAG-11	(To Be Announced)
PAG-12	CAFOs

PAG-13 Stormwater Discharges from MS4

*General Permit Type—PAG-02**Facility Location:*

<i>Municipality & County</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water / Use</i>	<i>Contact Office & Phone No.</i>
Bethlehem Twp., Northampton Co.	PAG02004810009(1)	Santino Calantoni Nancy Run Estates Family Limited Partnership 6065 William Penn Hwy. Easton, PA 18042	Lehigh River, WWF, MF	Northampton Co. Cons. Dist. 610-746-1971
Bethlehem Twp., Northampton Co.	PAG02004810016	Anita Kingsbauer St. Luke's Hospital & Health Network 801 Ostrum Street P. O. Box 5345 Bethlehem, Pa 18018	Lehigh River, WWF, MF; Unnamed Tributary to Lehigh River, CWF,MF	Northampton Co. Cons. Dist. 610-746-1971
Salem Twp., Luzerne Co.	PAG02004010013	Berwick Area School Dist. 500 Line St. Berwick, Pa 18603	Susquehanna River, WWF,MF	Luzerne Co. Cons. Dist. 570-674-7991
Orwigsburg Bor., Schuylkill Co.	PAG02005410009	Orwigsburg Borough ATTN Mr. Michael Lonergan P. O. Box 128 Orwigsburg, PA 17961	Unnamed Tributary to Mahannon Creek, CWF,MF	Schuylkill Co. Cons. Dist. 570-622-3742
South Centre Township Columbia County	PAG2001910007	New Enterprise Stone & Lime Co., Inc. PO Box 77 New Enterprise, PA 16664	UNT Susquehanna River CWF/MF	Columbia County Conservation District 702 Sawmill Road Suite 204 Bloomsburg, PA 17815 (570) 784-1310, X 102
Muncy Creek Township Lycoming County	PAG2004110019	Nathan Yoder 5960 Susquehanna Trail Turbotville, PA 17772	Muncy Creek TSF	Lycoming County Conservation District 542 County Farm Rd Suite 202, Montoursville, PA 17754, (570) 433-3003
Loyalsock Township Lycoming County	PAG2004110021	Kevin Young 136 Wright Rd. Cogan Station, PA 17728	Lycoming Creek WWF,MF	Lycoming County Conservation District 542 County Farm Rd Suite 202, Montoursville, PA 17754, (570) 433-3003
Loyalsock Township Lycoming County	PAG2004110022	Larry Allison 1706 Liberty Dr. Williamsport, PA 17701	Lycoming Creek WWF,MF	Lycoming County Conservation District 542 County Farm Rd Suite 202, Montoursville, PA 17754, (570) 433-3003
City of St. Mary's Elk County	PAG02 0024 10 003	Rick Werneth First United Methodist Church 140 N. St. Mary's Street St. Mary's PA 15857	UNT Iron Run	Elk Conservation District 814-776-5373

*General Permit Type—PAG-3**Facility Location:*

<i>Municipality & County</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Palmer Twp Northampton County	PAR802264	Rolling Frito- Lay Sales, LP 408 Inverhaddon Trail Bel Air MD 21014	Shoeneck Creek Basin (WWF)	PA DEP Northeast Regional Office 2 Public Square Wilkes-Barre, PA 18701-1915 570-826-2511
Berks County Reading City	PAR323513	American Rock Salt Company, LLC 5520 Rt 63 PO Box 190 Mt. Morris, NY 14510-0190	Schuylkill River / WWF	DEP—SCRO—WQ 909 Elmerton Ave. Harrisburgm PA 17110 717-705-4707
Lancaster County East Cocalico Township	PAR233539	Sylvin Technologies, Inc. 84 Denver Road PO Box 308 Denver, PA 17517-0308	Stony Run / WWF	DEP—SCRO—WQ 909 Elmerton Ave. Harrisburgm PA 17110 717-705-4707
York County East Manchester Township	PAR233552	Pretium Packaging LLC 15450 South Outer Forty Drive, Suite 120 Chesterfield, MO 63017-2066	Hartman Run / WWF	DEP—SCRO—WQ 909 Elmerton Ave. Harrisburgm PA 17110 717-705-4707
Delaware Township Northumberland County	PAR204808	Hoeganaes Corporation 1001 Taylors Lane Cinnaminson, NJ 08077-2034	Unnamed Tributary to Muddy Run—10-D	DEP Northcentral Regional Office Water Management 208 W Third Street Suite 101, Williamsport, PA 17701-6448 570.327.3664
South Waverly Borough Bradford County	PAR314806	Crescent Service LLC 3226 North Elmira Street Sayre, PA 18840	Chemung River—4-B	DEP Northcentral Regional Office Water Management 208 W Third Street Suite 101, Williamsport, PA 17701-6448 570.327.3664
Curwensville Borough lClearfield County	PAR134804	Clearfield Leather Inc. 120 Cooper Road Curwensville, PA 16833-1542	West Branch Susquehanna River—8-B	DEP Northcentral Regional Office Water Management 208 W Third Street Suite 101, Williamsport, PA 17701-6448 570.327.3664
Cumberland Township Greene County	PAR316105	Halliburton Energy Services, Inc. PO Box 42810 Houston, TX 77242-2810	Muddy Creek	Southwest Regional Office: Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 412-442-4000
Springdale Borough Allegheny County	PAR806208	United Refining Company PO Box 780 15 Bradley Street Warren, PA 16365	Allegheny River	Southwest Regional Office: Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 412-442-4000

General Permit Type—PAG-4

<i>Facility Location Municipality & County</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water / Use</i>	<i>Contact Office & Phone No.</i>
Ridgebury Township Bradford County	PAG045272	John McMann PO Box 6 Almond, NY 14804	Justice Run (WWF)—4-B	DEP Northcentral Regional Office Water Management 208 W Third Street Suite 101, Williamsport, PA 17701-6448 570.327.3664
Center Township Beaver County	PAG046416	Louise Loncar 3 School Street Apartment #1 Tilton, NH 03276	Poorhouse Run	Southwest Regional Office: Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000

STATE CONSERVATION COMMISSION

**NUTRIENT MANAGEMENT PLANS RELATED TO APPLICATIONS FOR
NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES)
PERMITS FOR CONCENTRATED ANIMAL FEEDING OPERATIONS (CAFO)**

The State Conservation Commission has taken the following actions on previously received applications for nutrient management plans under 3 Pa.C.S. Chapter 5, for agricultural operations that have or anticipate submitting applications for new, amended or renewed NPDES permits or NOIs for coverage under a general permit for CAFOs under 25 Pa. Code Chapter 92a. This notice is provided in accordance with 25 Pa. Code Chapter 92a and 40 CFR Part 122, implementing The Clean Streams Law and the Federal Clean Water Act.

Persons aggrieved by an action may appeal under 3 Pa.C.S. § 517, section 4 of the Environmental Hearing Board Act and 2 Pa.C.S. §§ 501—508 and 701—704 to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania AT&T Relay Service at (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create a right of appeal beyond that permitted by applicable statutes and decision law.

For individuals who wish to challenge actions, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for pro bono representation. Call the Secretary of the Board at (717) 787-3483 for more information.

CAFO Nutrient Management Plans Approved

Southeast Region: Water Management Program Manager, 2 East Main Street, Norristown, PA 19401

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>Approved or Disapproved</i>
Arthur Astle Astle Farm 560 Lancaster Pike Oxford, PA 19363	Chester	8.0	1116.0	Swine	NA	Approved

PUBLIC WATER SUPPLY (PWS) PERMITS

The Department has taken the following actions on applications received under the Pennsylvania Safe Drinking Water Act (35 P. S. §§ 721.1—721.17) for the construction, substantial modification or operation of a public water system.

Persons aggrieved by an action may appeal that action to the Environmental Hearing Board (Board) under section 4 of the Environmental Hearing Board Act and 2 Pa.C.S. §§ 501—508 and 701—704. The appeal should be sent to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, PO Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users may contact the Board through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin* unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary to the Board at (717) 787-3483. This paragraph does not, in and of itself, create a right of appeal beyond that permitted by applicable statutes and decisional law.

For individuals who wish to challenge an action, the appeal must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this document to a lawyer at once. Persons who cannot afford a lawyer may qualify for free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

SAFE DRINKING WATER

Actions taken under the Pennsylvania Safe Drinking Water Act

Southeast Region: Water Supply Program Manager, 2 East Main Street, Norristown, PA 19401

Operations Permit 4610548 issued to: **Audubon Water Company**, 2650 Eisenhower Drive, Norristown, PA 19403

(PWSID# 1460055) Lower Providence Township, **Montgomery County** on December 7, 2010, for operation of Facilities approved under construction permit # 4610517 for Manganese Treatment at Wells 6, 9, and VFCC No. 2 located at Lower Providence Township, Montgomery County.

Operations Permit 1510524 issued to: **Avon Grove Charter School**, 110 East State Road, West Grove, PA 19390.

(PWSID# 1150688) Franklin Township, **Chester County** on December 3, 2010 for operations Facilities approved under construction permit # 1509513 for operations to Avon Grove Charter School Nitrate Treatment at located at Franklin Township, Chester County.

Southcentral Region: Water Supply Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110

Permit No. 3610542, Public Water Supply.

Applicant **Bird in Hand Bake Shop**
Municipality Upper Leacock Township

County	Lancaster
Responsible Official	Erwin J. Miller, Owner 542 Gibbons Road Bird in Hand, PA 17505
Type of Facility	Installation of nitrate treatment
Consulting Engineer	Charles A Kehew II, P.E. James A Holley & Associates Inc 18 South George Street York, PA 17401
Permit to Construct Issued:	12/30/2010
Permit No. 0610523 MA, Minor Amendment , Public Water Supply.	
Applicant	Berks Properties, Inc.
Municipality	Hereford Township
County	Berks
Responsible Official	Joseph R. Wood, Director of Facilities PO Box 185 Route 29 & 10 Hereford, PA 18056
Type of Facility	Demonstration of 4-Log Treatment of Viruses for GWR. Installation of approximately 25' of 24" contact pipe at Entry Point 101.
Consulting Engineer	Frederick E. Ebert, P.E. Ebert Engineering, Inc. 4092 Skippack Pike Route 29 & 10 Skippack, PA 19474
Permit to Construct Issued:	12/20/2010
Permit No. 0610524 MA, Minor Amendment , Public Water Supply.	
Applicant	Berks Properties, Inc.
Municipality	Hereford Township
County	Berks
Responsible Official	Joseph R. Wood, Director of Facilities PO Box 185 Route 29 & 10 Hereford, PA 18056
Type of Facility	Demonstration of 4-Log Treatment of Viruses for GWR. Installation of approximately 120' of 24" contact pipe at Entry Point 101.
Consulting Engineer	Frederick E. Ebert, P.E. Ebert Engineering, Inc. 4092 Skippack Pike Route 29 & 10 Skippack, PA 19474
Permit to Construct Issued:	12/20/2010
Permit No. 0610525 MA, Minor Amendment , Public Water Supply.	
Applicant	Berks Properties, Inc.
Municipality	Longswamp Township

County **Berks**
 Responsible Official Joseph R. Wood,
 Director of Facilities
 PO Box 185
 Route 29 & 10
 Hereford, PA 18056

Type of Facility Demonstration of 4-Log
 Treatment of Viruses for GWR.
 Installation of approximately 92'
 of 24" contact pipe at Entry
 Point 101.

Consulting Engineer Frederick E. Ebert, P.E.
 Ebert Engineering, Inc.
 4092 Skippack Pike
 Route 29 & 10
 Skippack, PA 19474

Permit to Construct 12/20/2010
 Issued:

Operations Permit issued to: **Oley Township Municipal Authority**, 3060053, Oley Township, **Berks County** on 12/28/2010 for the operation of facilities approved under Construction Permit No. 0601510.

Operations Permit issued to: **Mt. Hope Nazerene Community**, 7360077, Rapho Township, **Lancaster County** on 12/30/2010 for the operation of facilities approved under Construction Permit No. 3610502.

Operations Permit issued to: **Walnut Crème Stop**, 4340340, Beale Township, **Juniata County** on 12/22/2010 for the operation of facilities approved under Construction Permit No. 3410506 MA.

Operations Permit issued to: **Bartville Store & Locker**, 7360857, Bart Township, **Lancaster County** on 12/30/2010 for the operation of facilities approved under Construction Permit No. 3610504.

Operations Permit issued to: **Municipal Authority of the Township of East Hempfield**, 7360063, East Hempfield Township, **Lancaster County** on 12/28/2010 for the operation of facilities approved under Construction Permit No. 3610520 MA.

Operations Permit issued to: **Carlisle Borough**, 7210002, Carlisle Borough, **Cumberland County** on 12/28/2010 for the operation of facilities approved under Construction Permit No. 2110507 MA.

Operations Permit issued to: **Susquenita School District**, 7500312, Penn Township, **Perry County** on 12/30/2010 for the operation of facilities approved under Construction Permit No. 5010510 MA.

Operations Permit issued to: **P.C.S. Chadaga**, 7360004, Earl Township, **Lancaster County** on 1/3/2011 for the operation of facilities approved under Construction Permit No. 3610546 MA.

Operations Permit issued to: **McConnellsburg Borough Municipal Authority**, 4290005, Todd Township, **Fulton County** on 12/20/2010 for the operation of facilities approved under Construction Permit No. 2910502 MA.

Northcentral Region: Water Supply Management Program Manager, 208 West Third Street, Williamsport, PA 17701

Permit No. Minor Amendment—Operation Public Water Supply.

Applicant **Port Matilda Water Works**

[Township or Borough] Port Matilda Borough
 County **Centre**
 Responsible Official Mr. Vance Barndt
 Port Matilda Water Works
 400 South High Street
 P. O. Box 156
 Port Matilda, PA 16870

Type of Facility Public Water Supply
 Consulting Engineer N/A
 Permit Issued Date January 3, 2011
 Description of Action 4-log inactivation of viruses at
 Entry Point 101 (Well Nos. 3
 and 5).

Northwest Region: Water Supply Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

Operations Permit issued to **Greenville Water Authority**, PWSID #6430007, Hempfield Township, **Mercer County** on December 23, 2010, for operation of the new 1.0 Million Gallon finished water storage tank. This permit is issued in response to an operation inspection conducted by Department personnel on December 9, 2010, and in accordance with construction permit 4307503, issued January 13, 2009.

Operations Permit issued to **Volant Borough**, PWSID #6370042, Volant Borough, **Lawrence County** on December 23, 2010, for operation of the newly integrated Solar Bee Tank Mixer system at the Borough Water Treatment Plant. This permit is issued in response to an operation inspection conducted by Department personnel on December 9, 2010, and in accordance with construction permit 3279-MA2, issued June 24, 2010.

Operations Permit issued to **Volant Borough**, PWSID #6370042, Volant Borough, **Lawrence County** on December 23, 2010, for operation of the newly constructed Volant Borough Water Treatment Facility, verified by an inspection conducted by Department personnel on December 9. This permit is issued in accordance with construction permit 3709501, issued June 1, 2009 for the construction of the new 72,000 gallon water treatment plant and water lines servicing Volant Borough as well as approved 4-log virus treatment.

Permit No. 2509503, Public Water Supply
 Applicant **Albion Borough**
 Township or Borough Conneaut Township
 County **Erie County**
 Type of Facility Public Water Supply
 Consulting Engineer August E Maas, PE
 Permit to Construct 12/23/2010
 Issued

Permit No. 6207504-T1-MA1, Public Water Supply
 Applicant **Aqua PA Inc**
 Township or Borough Clarendon Borough
 County **Warren County**
 Type of Facility Public Water Supply
 Consulting Engineer William A LaDieu, PE
 Permit to Construct 12/30/2010
 Issued

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:

Northeast Region: Eric Supey, Environmental Cleanup Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.

Timber Falls Apartments - Building P, 1200 Timberfalls Drive, Blakely Borough, **Lackawanna County**. Benjamin G. Myers, GTA Environmental Services, Inc., 3445-A Box Hill Corporate Center Drive, Abingdon, MD 21009 has submitted a Final Report (on behalf of his client, McKinley, Inc., 320 North Main Street, Ann Arbor, MI 48104), concerning the remediation of soil found to have been impacted by No. 2 fuel oil as a result of a release from a leaking 1,000-gallon underground storage tank. The report was submitted to document attainment of the Statewide Health Standard for soil. A public notice regarding the submission of the Final Report was published in *The Scranton Times* on December 12 and 19, 2010.

Southcentral Region: Environmental Cleanup Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110

Northgate Car Park, Lancaster City Lancaster County. Reliance Environmental, Inc., 130 East Chestnut Street, Lancaster, PA 17602, on behalf of Berger Real Estate, 2452 Marietta Avenue, Lancaster, PA 17601, submitted a Final Report concerning remediation of site soils contaminated with petroleum hydrocarbons from unregulated underground storage tanks and hydraulic lifts. The report is intended to document remediation of the site to meet the Residential Statewide Health Standard.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

PREAMBLE 3

The Department has taken action on the following plans and reports under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.907).

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 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.

Easton Area School District Education Center, 1801 Bushkill Drive, Forks Township, **Northampton County**. Thomas J. Martinelli, JMT Environmental Technologies, Inc., P. O. Box 22044, Lehigh Valley, PA 18002-2044 submitted a Final Report (on behalf of his client, Easton Area School District, 1801 Bushkill Drive, Easton, PA 18040), concerning the remediation of soil found to have been impacted by No. 2 fuel oil as a result of a release from a leaking underground storage tank. The report documented attainment of the Statewide Health Standard for soil and was approved on December 28, 2010.

Paul Pilyar Residence, 2617 Jacksonville Road, Hanover Township, **Northampton County**. Thomas J. Martinelli, JMT Environmental Technologies, Inc., P. O. Box 22044, Lehigh Valley, PA 18002-2044 submitted a Final Report (on behalf of his client, Nancy Steyers, 2011 Rochester Court, Iowa City, IA 52240), concerning the remediation of soil found to have been impacted by No. 2 fuel oil as a result of a release from a leaking underground storage tank. The report documented attainment of the Statewide Health Standard for soil and was approved on December 30, 2010. The report was originally submitted within 90 days of the release.

Southcentral Region: Environmental Cleanup Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

Don Sternat Residence, Robeson Township, **Berks County**. Trimpi Associates, Inc., 1635 Old Plains Road, Pennsburg, PA 18073, on behalf of Jill and Don Sternat, 216 Watercrest 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.

Bedford Valley Petroleum Bulk Storage Facility, Snake Spring Township, **Bedford County**. Mountain Research, LLC, 825 25th Street, Altoona, PA 16601, on behalf of Bedford Valley Petroleum, 10228 Lincoln Highway, Everett, PA 15537, submitted a combined Remedial Investigation and Final Report concerning remediation of site soils and groundwater contaminated with diesel fuel released from a supply line. The combined report demonstrated attainment of the Site-Specific standard and was approved by the Department on December 29, 2010.

PSECU Elmerton Avenue Site, Susquehanna Township, **Dauphin County**. CMX Engineering, Inc., 910 Century Drive, Mechanicsburg, PA 17055, on behalf of PA State Employees Credit Union, PO Box 67013, Harrisburg, PA 17106-7013, submitted a Remedial Investigation Report concerning remediation of site soils and groundwater contaminated with arsenic and barium. The Report was approved by the Department on January 3, 2011. The site is being remediated to the Site-Specific standard.

Former Schmidt & Ault/Regis Paper Company, York City and Spring Garden Township, **York County**. Herbert, Rowland, & Grubic, Inc., 1820 Linglestown Road, Harrisburg, PA 17110, on behalf of Tyler Run, LLC, 11915 Park Heights Avenue, Owings Mills, MD 21117, submitted a Cleanup Plan concerning remediation of site

soils and groundwater contaminated with benzene, chlorinated solvents and PCBs. The applicant is seeking to remediate the site to a combination of Statewide Health and Site-Specific standards. The Cleanup Plan was approved by the Department on January 3, 2011.

Northcentral Region: Environmental Cleanup Program Manager, 208 West Third Street, Williamsport, PA 17701

Arco Logistics, Inc. Accident 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 Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department on December 28, 2010.

Northwest Region: Environmental Cleanup Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481

Former American Sterilizer Company (Erie Commerce Millcreek Facility), Millcreek Township, **Erie County**. MACTEC Engineering and Consulting, Inc., 800 North Bell Avenue, Suite 200, Pittsburgh, PA 15106 has submitted a Non-Use Aquifer Determination Request. The Non-Use Aquifer Determination Request was approved by the Department on December 16, 2010.

Southwest Region: Environmental Cleanup Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745

Westinghouse Air Brake Technology Company (WABTEC), Wilmerding Borough, **Allegheny County**. American Geosciences, Inc., 3925 Reed Boulevard, Suite 400, Murrysville, PA 15668-1848 on behalf of Westinghouse Air Brake Technology Company, 1001 Air Brake Avenue, Wilmerding, PA 15148 has submitted a Final Report concerning the remediation of site soil and groundwater contaminated with heavy metals, solvents, BTEX and PAHs. The Final report was approved on December 29, 2010. An environmental covenant will memorialized the activity and use limitations described within the final report.

Former Pittsburgh and Lake Erie Railroad, Castriota Property, Borough of McKees Rocks, **Allegheny County**. Tetra Tech Inc., 661 Andersen Drive, Pittsburgh, PA 15220 on behalf of Castriota Metals, 1000 Railroad Street, McKees Rocks, PA 15136 and the North Side Industrial Development Company, 700 River Avenue, Pittsburgh, PA has submitted a Baseline Environmental Report (BER) concerning the remediation of site soil and groundwater contaminated with heavy metals, VOC's, SVOC's and petroleum constituents. In order to obtain cleanup liability protection, the person undertaking the reuse of a Special Industrial Area shall enter into an agreement with the Department, based on the approved BER which outlines cleanup liability of the property. The BER was approved on January 3, 2011.

REGISTRATION FOR GENERAL PERMIT—RESIDUAL WASTE

Registration received Under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003); the Residual Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904); and Residual Waste Regulations for a General Permit to Operate Residual Waste Processing Facilities and/or the Beneficial Use of Residual Waste Other Than Coal Ash.

Northcentral Region: Regional Solid Waste Manager, 208 West Third Street, Williamsport, PA 17701

General Permit Registration No. WMGR119NC001. Clean Streams LLC, 212 Colvin Street, Williamsport, PA 17701. Registration to operate under General Permit No. WMGR119 for treatment and reuse of gas well frac water and production water. The registration was approved by NorthCentral Regional Office on January 3, 2011.

Persons interested in reviewing the general permit may contact Lisa D. Houser, P.E., Facilities Manager, Williamsport Regional Office, 208 West Third Street, Suite 101, Williamsport, PA 17701, (570) 327-3740. TDD users may contact the Department through the Pennsylvania Relay service, (800) 654-5984.

DETERMINATION FOR APPLICABILITY FOR MUNICIPAL WASTE GENERAL PERMITS

Applications for Determination of Applicability for General Permit Issued Under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003); the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904); and Municipal Waste Regulations for a General Permit to Operate Municipal Waste Processing Facilities and/or the Beneficial Use of Municipal Waste.

Southeast Region: Regional Solid Waste Manager, 2 East Main Street, Norristown, PA 19401

General Permit Application No. WMGM025SE002. NDV Scrap Metal Inc., 3630 North 2nd Street, Philadelphia PA 19140-4605. This Determination of Applicability for the processing by sorting and screening prior to beneficial use of unpainted and untreated wood waste, gypsum board, brick, block and concrete waste from new residential and commercial construction at NDV Recycling facility located in the City of Philadelphia, **Philadelphia County**. The application for determination of applicability was issued by the Southeast Regional Office on December 2, 2010.

AIR QUALITY

General Plan Approval and Operating Permit Usage Authorized under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127 to construct, modify, reactivate or operate air contamination sources and associated air cleaning devices.

Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790

Contact: Ray Kempa, New Source Review Chief—Telephone: 570-826-2507

58-399-014GP5: UGI Energy Services, Inc. (One Meridian Boulevard, Suite 2C01, Wyomissing, PA 19610) on December 21, 2010, to construct and operate three (3) CAT Natural Gas Compressor engines at their Auburn Compressor Station in Auburn Township, **Susquehanna County**.

Plan Approvals Issued under the Air Pollution Control Act and regulations in 25 Pa. Code Chapter 127, Subchapter B relating to construction, modification and reactivation of air contamination sources and associated air cleaning devices.

Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401

Contact: Sachin Shankar, New Source Review Chief—Telephone: 484-250-5920

09-0196E: Abington Reldan Metals, LLC (550 Old Bordertown Road, Fairless Hills, PA 19030) on December 30, 2010, for construction of four (4) thermal destructors at a new precious metal recovery facility in Falls Township, **Bucks County**. Each thermal destructor will be equipped with an afterburner, a dust collector and a packed tower scrubber to reduce Volatile Organic Compounds, Particulate Matter, Hydrogen Chloride and Mercury emissions before discharging into the atmosphere. This facility is a non-Title V facility, and this Plan Approval is a major modification to and upon issuance will supersede the Plan Approval, No. 09-0196C. This Plan Approval will contain record keeping requirements, monitoring requirements, operating conditions and performance testing requirements designed to keep the facility operating within the allowable emission limitations and all applicable air quality requirements.

46-0112E: Palmer International, Inc. (2036 Lucon Road, Skippack, PA 19474) on December 30, 2010, for modification of a reactor process and the reimplementation of two (2) "rocket" (mixing) vessels, at their facility in Skippack Township, **Montgomery County**. This facility is a non-Title V facility. A condenser and thermal oxidizer control emissions of VOC and HAP from the reactor process. The same thermal oxidizer will control emissions of VOC from the two (2) "rocket" (mixing) vessels. Total potential-to-emit (PTE) of VOC for sources reflected in the application is 6.95 tons per year. The PTE of HAP is 4.44 tons per year (just from the reactor). The Plan Approval will contain recordkeeping and operating restrictions designed to keep the facility operating within the allowable emissions and all applicable air quality requirements.

Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701

Contact: Muhammad Q. Zaman, Environmental Program Manager—Telephone: 570-327-3648

08-00031A: Appalachia Midstream Services, L.L.C. (P. O. Box 54368, Oklahoma City, OK 73154) on November 30, 2010, to construct eight (8) natural gas-fired reciprocating internal combustion engines rated at 1,775 brake horsepower and equipped with catalytic converters at their Granville No. 2 Compressor Station in Granville Township, **Bradford County**.

19-00028A: White Pines Corp. (2650 Audubon Road, Audubon PA 19403-2406) on December 13, 2010, to construct a leachate pre-treatment plant at their facility in Pine Township, **Columbia County**.

49-00047A: Furman Foods, Inc. (PO Box 500, 770 Cannery Road, Northumberland PA 17857-0500) on December 20, 2010, to construct an anaerobic digester with flare and including a biogas-fired engine-generator at their facility in Pine Township, **Columbia County**.

08-00010D: Global Tungsten & Powders, Corp. (Hawes Street, Towanda, PA 18848-0504) on December 21, 2010, to construct and operate two (2) new plasma spray systems used to coat fuel cell interconnectors (Source ID P229) and a grit blaster used to prepare the interconnector surfaces prior to coating (Source ID P230) at your facility in North Towanda Township, **Bradford County**. This is a state only facility.

Plan Approval Revisions Issued including Extensions, Minor Modifications and Transfers of Ownership under the Air Pollution Control Act 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

46-0162A: Hammond Lead Products (10 South Grosstown Road, Pottstown, PA 19464) on December 23, 2010, to operate two (2) exhaust points in West Pottsgrove Township, **Montgomery County**.

Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701

Contact: Muhammad Q. Zaman, Environmental Program Manager—Telephone: 570-327-3648

08-00003E: CraftMaster Manufacturing, Inc. (PO Box 311, Shiner Road, Towanda PA 18848) on December 13, 2010, to operate a regenerative thermal oxidizer on the Die Form Tempering Kiln on a temporary basis until June 30, 2011, at their facility in Wysox Township, **Bradford County**. The Plan Approval has been extended.

08-00003F: CraftMaster Manufacturing, Inc. (PO Box 311, Shiner Road, Towanda PA 18848) on December 13, 2010, to operate two (2) regenerative thermal oxidizers; one (1) on the Line 1 pressurized refiners and first stage dryers, and one (1) on the line 2 pressurized refiners and first stage dryers, each preceded by a water dropout box on a temporary basis until June 25, 2011, at their facility in Wysox Township, **Bradford County**. The Plan Approval has been extended.

08-00003G: CraftMaster Manufacturing, Inc. (PO Box 311, Shiner Road, Towanda PA 18848) on December 13, 2010, to exhaust the refiner reject emissions from Source IDs 141P and 142P to scrubbers (IDs D41 and E42) on a temporary basis until June 25, 2011, at the facility in Wysox Township, **Bradford County**. The Plan Approval has been extended.

49-00060A: Corson Asphalt, Inc. (26 Beaver Street, Cogan Station, PA 17728) on December 13, 2010, to operate a batch mix asphalt plant on a temporary basis until July 1, 2011 and to extend the required nitrogen oxides, carbon monoxide, particulate matter, and volatile organic compound stack testing until July 1, 2011, at their facility in Ralpho Township, **Northumberland County**. The Plan Approval has been extended.

41-00079A: Eureka Resources, LLC (301 Charles Street, South Williamsport, PA 17702-7428) on December 17, 2010, to operate a gas well water treatment operation on a temporary basis until June 3, 2011, at their facility in Williamsport, **Lycoming County**. The Plan Approval has been extended.

08-00030A: Angelina Gathering Co. (2350 North Sam Houston Parkway East, Houston, TX 77009) on December 20, 2010, to modify Plan Approval 08-00030A to install a BTEX eliminator system that includes a condenser, separator, and mist eliminator on each of the glycol dehydrators in Source ID P102 in Plan Approval 08-00030A at the Greenzweig Compressor Station in Herrick Township, **Bradford County**.

Title V Operating Permits Issued under the Air Pollution Control Act 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

53-00006: Dominion Transmission, Inc. (445 West Main Street, Clarksburg, WV 26301) on December 22, 2010, to issue a renewal of the Title V operating permit for their Ellisburg facility in Genesee Township, **Potter County**. The facility's sources include eleven (11) natural gas-fired heaters, eight (8) natural gas-fired gas transmission engines, six (6) natural gas-fired line heaters, two (2) natural gas-fired boilers, one (1) diesel-fired emergency generator, one (1) natural gas-fired air compressor, one (1) parts washer and several fugitive volatile organic compound (VOC) emission sources, which have the potential to emit major quantities of nitrogen oxides (NO_x), carbon monoxide (CO), volatile hazardous air pollutants (VHAPs) and VOCs. The facility has the potential to emit sulfur oxides (SO_x) and particulate matter (PM/PM₁₀) below the major emission thresholds. The Title V operating permit renewal contains all applicable regulatory requirements including monitoring, recordkeeping and reporting conditions.

41-00018: Springs Window Fashions, LLC (8601 State Route 405, Montgomery, PA 17750-9671) on December 29, 2010, to issue a renewal of the Title V Operating Permit for their facility in Clinton Township, **Lycoming County**. The facility's sources include seven (7) metal coil coating lines controlled by a catalytic oxidizer, thirty-one (31) natural gas combustion units, one (1) paint reservoir flushing operation and one (1) clean up operation, which have the potential to emit major quantities of volatile organic compounds (VOCs). The facility has the potential to emit nitrogen oxides (NO_x), carbon monoxide (CO), sulfur oxides (SO_x), volatile hazardous air pollutants (VHAPs) and particulate matter (PM/PM₁₀) below the major emission thresholds. The seven (7) metal coating lines are subject to Compliance Assurance Monitoring (CAM) requirements of 40 CFR Part 64. The facility is subject to the Reasonably Available Control Technology (RACT) requirements of 25 Pa. Code Sections 129.91 through 129.95 for VOC emissions. The Title V operating permit renewal contains all applicable regulatory requirements including monitoring, recordkeeping and reporting conditions.

Operating Permits for Non-Title V Facilities Issued under the Air Pollution Control Act and 25 Pa. Code Chapter 127, Subchapter F.

Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401

Contact: Janine Tulloch-Reid, Facilities Permitting Chief—Telephone: 484-250-5920

46-00250: Parker Hannifin Corp. (245 Township Line Road, Hatfield, PA 19440) on December 30, 2010, for operation of a precision dental, medical, and industrial application manufacturing facility in Upper Merion Township, **Montgomery County**. The permit is for a non-Title V (State only) facility. The major source of air emissions is one batch vapor degreaser that uses 1,1,2-Trichloroethylene as its solvent. The permit will include monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790

Contact: Ray Kempa, New Source Review Chief—Telephone: 570-826-2507

52-00003: GF Edwards, Inc. (P. O. Box 174, Elmhurst, PA 18416) on December 29, 2010, to issue a renewal State Only operating permit for operation of a stone crushing facility in Greene Township, **Pike County**.

Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701

Contact: Muhammad Q. Zaman, Environmental Program Manager—Telephone: 570-327-3648

18-00008: Woolrich, Inc. (2 Mill Street, Woolrich, PA 17779) on December 1, 2010, to issue a state only operating permit for their facility in Pine Creek Township, **Clinton County**. The facility's main sources include material dyeing and finishing operations, the pretreatment of industrial wastewater and parts cleaning. The facility has the potential to emit CO, NO_x, PM₁₀, HAPs, and VOC below the major emission thresholds. The facility has taken a synthetic minor restriction to limit the Sox emissions below the major thresholds. The operating permit contains applicable regulatory requirements including monitoring, recordkeeping, and reporting conditions.

08-00036: Talisman Energy USA, Inc. (50 Pennwood Place, Warrendale, PA 15086) on November 24, 2010, to issue an operating permit for their Putnam Compressor Station located in Armenia Township, **Bradford County**. This site's main air contaminant sources include twelve (12) engine-compressors and two (2) tri-ethylene glycol dehydrators. The State Only operating permit contains requirements including monitoring, recordkeeping and reporting conditions to ensure compliance with applicable Federal and State regulations.

49-00048: Blank Funeral Home (395 State Street, Sunbury, PA 17801) issued State Only operating permit on December 14, 2010, to issue a state only operating permit for their facility in Upper Augusta, **Northumberland County**. The facility's main sources include one (1) natural gas-fired cremator incinerator. The facility has the potential to emit SO_x, NO_x, CO, PM (PM₁₀), VOCs, and HAPs below the major emission thresholds. The operating permit contains applicable regulatory requirements including monitoring, recordkeeping, and reporting conditions.

59-00014: Wellsboro Small Animal Hospital (152 Tioga Street, Wellsboro, PA 16901) on December 15, 2010, to issue a state only operating permit for their facility in Richmond, **Tioga County**. The facility's main sources include one (1) natural gas-fired animal incinerator. The facility has the potential to emit SO_x, NO_x, CO, PM (PM₁₀), VOCs, and HAPs below the major emission thresholds. The operating permit contains applicable regulatory requirements including monitoring, recordkeeping, and reporting conditions.

18-00023: Hanson Aggregates (PA) Inc. (7660 Imperial Way, Suite 103, Allentown, PA 18195-1040) on December 16, 2010, to issue a state only operating permit for their Salona quarry in Lamar Township, **Clinton County**. The facility's main sources include a primary crusher, secondary crusher, tertiary crusher, and associated various material sizing and conveying equipment. These sources have the potential to emit particulate matter (PM₁₀) below the major emission thresholds. The

operating permit contains applicable regulatory requirements including monitoring, recordkeeping, and reporting conditions.

41-00061: Hanson Aggregates (PA) Inc. (7660 Imperial Way, Suite 103, Allentown, PA 18195-1040) on December 17, 2010, to issue a state only operating permit for their Montoursville plant in Fairfield Township, **Lycoming County**. The facility's main sources include various pieces of crushing, screening and conveying equipment. These sources have the potential to emit particulate matter (PM₁₀), VOCs, and HAPs below the major emission thresholds. The operating permit contains applicable regulatory requirements including monitoring, recordkeeping, and reporting conditions.

19-00027: Melick Aquafeeds, Inc. (75 Orchard Drive, Catawissa, PA 17820) on December 15, 2010, to issue a state operating permit 19-00027 for their fish food processing plant in Catawissa Borough, **Columbia County**. This site's main air contaminant sources include a fish food pellet dryer and extruder. The State Only operating permit contains requirements including monitoring, recordkeeping and reporting conditions to ensure compliance with applicable Federal and State regulations.

14-00038: Valley Enterprise, LLC. (P. O. Box 230, Blanchard, PA 16826) on December 17, 2010, to operate their facility in Liberty Township, **Centre County**. The state only operating permit contains requirements including monitoring, recordkeeping and reporting conditions to ensure compliance with applicable Federal and State regulations.

41-00017: Gulf Oil, L.P. (100 Crossing Boulevard, Framingham, MA 01702-5401) on December 17, 2010, to operate their South Williamsport Terminal facility in Armstrong Township, **Lycoming County**. The State Only (Synthetic Minor) operating permit contains requirements including monitoring, recordkeeping and reporting conditions to ensure compliance with applicable Federal and State regulations.

49-00015: International Paper Co (1008 Locust Gap Highway, Mt. Carmel, PA 17851) on December 20, 2010, to re-issue a state only operating permit for their facility in Mt. Carmel Township, **Northumberland County**. The facility's sources include two boilers, four flexographic printing presses and folder/glueers, three rotary die cutters, a paper hogger, an emergency generator, a starch silo and a batch filter press. The potential emission of all air contaminants are below their respective major emission thresholds. The state only operating permit contains all applicable regulatory requirements including monitoring, recordkeeping and reporting conditions.

18-00014: Jersey Shore Steel Co. (PO Box 5055, Jersey Shore, PA 17740) on December 20, 2010, to reissue a state only operating permit for their facility in Pine Creek Township, **Clinton County**. The facility's sources include a steel reheat furnace, three scarfing booths, four small parts washers, seven gasoline-fired welders and pumps and a blacksmith furnace. The potential emission of all air contaminants are below their respective major emission thresholds. The state only operating permit contains all applicable regulatory requirements including monitoring, recordkeeping and reporting conditions.

49-00063: Sensenig Milling Services, Inc. (10705 State Route 44, Watsontown, PA 17777) on December 20, 2010, to issue a state only operating permit for their facility in Lewis Township, **Northumberland County**. The facility's sources include a rotary bakery waste dryer. The potential emission of all air contaminants are below

their respective major emission thresholds. The state only operating permit contains all applicable regulatory requirements including monitoring, recordkeeping and reporting conditions.

17-00007: Sensus USA, Inc. (805 Liberty Boulevard, DuBois, PA 15801) on December 20, 2010, to reissue a state only operating permit for their facility in DuBois, **Clearfield County**. The facility's sources include two boilers, three manual spray booths, two automated spray booths and an associated steam convection dryer, a vinsol application operation, an ink marking operation, three diaphragm drying/curing ovens, an adhesive application operation, an adhesive cleanup operation, a shellac application operation, a burnoff oven, two parts cleaners and an emergency generator. The potential emission of all air contaminants are below their respective major emission thresholds. The state only operating permit contains all applicable regulatory requirements including monitoring, recordkeeping and reporting conditions.

14-00008: Bolton Metal Products Co. (2022 Axemann Road, Bellefonte, PA 16823) on December 20, 2010, to reissue a state only operating permit for their facility in Spring Township, **Centre County**. The facility's sources include a low melt alloy buzzer scrap furnace. The potential emission of all air contaminants are below their respective major emission thresholds. The state only operating permit contains all applicable regulatory requirements including monitoring, recordkeeping and reporting conditions.

17-00065: Clearfield Area School District (438 River Road, Clearfield, PA 16830) on December 21, 2010, to operate their Middle School in Lawrence Township, **Clearfield County**. The State Only operating permit contains requirements including monitoring, recordkeeping and reporting conditions to ensure compliance with applicable Federal and State regulations.

18-00027: Belles Springs Structures, LLC (PO Box 205, Mill Hall, PA 17751-0205) on December 21, 2010, to operate their facility in Lamar Township, **Clinton County**. The State Only operating permit contains requirements including monitoring, recordkeeping and reporting conditions to ensure compliance with applicable Federal and State regulations.

59-00024: Seneca Resources Corp. (2131 Mars Court, Bakersfield, CA 93308) on December 21, 2010, to issue a state only (synthetic minor) operating permit for their Cherry Flats Compressor Station in Covington Township, **Tioga County**. The facility's main air contaminant sources include six natural gas-fired compressor engines equipped with oxidation catalysts, and two glycol dehydration units. The State Only (Synthetic Minor) operating permit contains requirements including monitoring, recordkeeping and reporting conditions to ensure compliance with applicable Federal and State regulations.

60-00019: Playworld Systems, Inc. (1000 Buffalo Road, Lewisburg, PA 17837) on December 21, 2010, to issue a state only operating permit for their facility in Buffalo Township, **Union County**. The facility's main air contaminant sources include one (1) natural gas-fired boiler, ten (10) natural gas-fired combustion units, fourteen (14) natural gas-fired burners and ovens, and two (2) primer/paint booths. The State Only operating permit contains requirements including monitoring, recordkeeping and reporting conditions to ensure compliance with applicable Federal and State regulations.

17-00037: King Coal Sales, Inc. (PO Box 712, Philipsburg, PA 16866-0712) on December 21, 2010, to

operate their Cunard Tipple facility in Morris Township, **Clearfield County**. The State Only operating permit contains requirements including monitoring, recordkeeping and reporting conditions to ensure compliance with applicable Federal and State regulations.

19-00023: Impress USA, Inc. (6670 Low Street, Bloomsburg, PA 17815) on December 21, 2010, issued a State Only operating permit for their Bloomsburg facility in South Centre Township, **Columbia County**. The facilities sources includes five (5) parts washers, six (6) EZO End production lines, three (3) three-piece can assembly lines, one (1) can end sealing line, eleven (11) VideoJet printing systems, one (1) electro coating process, one (1) sterno line, and one (1) end score repair line. This facility has the potential to emit particulate matter (PM10), nitrogen oxides (NOx), sulfur oxides (SOx), carbon monoxide (CO), volatile organic compounds (VOCs) and volatile hazardous air pollutants (VHAPs) below the major emission thresholds. The operating permit renewal contains all 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

26-00488: Laurel Aggregates, Inc.—Lake Lynn Quarry (300 Dents Run Road, Morgantown, WV 26501) on January 03, 2011, for renewal of an Air Quality State Only Operating permit for the Wymps Gap Quarry/Lake Lynn Quarry located in Springhill Township, **Fayette County**. This is a State Only Submittal.

04-00707: Cologna Transfer, LP (PO Box 311, Portersville, PA 16051) on January 03, 2011, for renewal of its Monaca rail/barge and truck loading operation located in Monaca Borough, **Beaver County**. This is a State Only Submittal.

56-00299: Hoover Conveyor & Fabrication Corp. (262 Industrial Park Road, Meyersdale, PA 15552) on January 03, 2011, for renewal of its miscellaneous metal parts surface coating operations and a fuel burning (coal) source at Hoover's Meyersdale facility located in Summit Township, **Somerset County**. This is a State Only Submittal.

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

23-00082: Liberty Electric, LLC (1000 Industrial Highway, Eddystone, PA 19022) on December 23, 2010, the Operating Permit was amended for the major (Title V) facility located in Eddystone Borough, **Delaware County**. The Administrative Amendment corrects the Federal Tax Identification number.

46-00005: Merck & Company (770 Sumneytown Pike, West Point, PA 19486-0004) on December 29, 2010, located in Upper Gwynedd Township, **Montgomery County**. This amendment is to incorporate three (3) plan approvals (PA-46-0005AD for Building 66 emergency generator, PA-46-0005AE for VOC Vaccine disinfection operations, and 46-0005AF for Building 70A peak shaving

generator), to correct several typographical errors and clarification of conditions. Administrative Amendment and modification of Title V Operating Permit issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code § 127.450.

46-00025: Johnson Matthey Inc. (900 River Road, Conshohocken, PA 19428) on December 29, 2010, located in Upper Merion Township, **Montgomery County**. This action is a change of Ownership of the Title V Operating Permit. This title V Operating Permit was administratively amended due to a change of ownership.

09-00030: Brightsmith LLC. (120 Enterprise Avenue, Morrisville, PA 19067-3703) on December 29, 2010, located in Falls Township, **Bucks County**. The amendment addresses a typographical error under Section C, condition number 012. The condition has been amended in the permit to require the stack testing of the thermal oxidizers to be tested for VOC emissions and destruction efficiency. Administrative Amendment of Title V Operating Permit issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code § 127.450.

46-00035: Glaxosmithkline (709 Swedeland Road, Upper Merion Township, **Montgomery County**) on December 30, 2010, Title V Operating Permit (TVOP) was modified to clarify the use of source 47B (five (5) diesel fired Detroit generators). The source may be used for more purposes other than emergency use and will stay within the limits of their permit for that source with no emission increases. The modified TVOP includes monitoring, recordkeeping, reporting, and work practice requirements designed to keep the facility operating within all applicable air quality requirements.

De Minimis Emissions Increases Authorized under 25 Pa. Code § 127.449.

Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19404

Contact: Janine Tulloch-Reid, Facilities Permitting Chief—Telephone: 484-250-5920

46-00101: Ball Aerosol & Specialty Container, Inc. (431 Privet Road, Horsham, PA 19044-1220) on December 30, 2010, a facility in Horsham Township, **Montgomery County** submitted a minor modification to include De minimis increase for VOC's. Ball Aerosol & Specialty Container Inc is a metal can manufacturing facility. The sources of emissions include: side seam stripe lines (6), stripe cleaning, and parts washers.

The facility has applied to have the following emissions, which will be the result of the increased throughputs due to an increase in production:

VOC's less than 4.3 tons during the term of the permit.

These emission increases qualify as de minimis increases under 25 Pa. Code § 127.449. The facility will now have a VOC emission limit of 24.9 tons per year calculated on a 12-month rolling sum.

Monitoring, record keeping and reporting requirements have been added to the permit to address applicable limitations.

Operating Permits Denied, Terminated, Suspended or Revoked under the Air Pollution Control Act and 25 Pa. Code §§ 127.431 and 127.461.

Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401

Contact: Janine Tulloch-Reid, Facilities Permitting Chief—Telephone: 484-250-5920

09-0208: Fiberblade East, LLC. (400 Gamesa Drive, Fairless Hill, PA 19030-5010) on January 3, 2011, for revocation of a Plan Approval for fiberblade manufacturing facility in Falls Township, **Bucks County**. The source in the Plan Approval (fiberblade manufacturing) was removed from service. This Plan Approval was revoked because of a permanent shutdown of the source on February 6, 2009.

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

California District Office: 25 Technology Drive, Coal Center, PA 15423, 724-769-1100

03071301 and NPDES Permit # PA0235954. Rosebud Mining Company, (201 Market Street, Kittanning, PA 16201-9642), to operate the Long Run Mine in West Franklin, East Franklin and Worthington Borough, **Armstrong County** a new underground mine and related NPDES permit. IN conjunction with his approval, the Department is granting 401 Water Quality Certification certifying that the approved activities will comply with the applicable provisions of sections 301—303, 306, and 207 of the Federal Water Pollution Control Act (33 U.S.C.A. § 1431) and will not violate applicable Federal and State water quality standards. Surface Acres Proposed 84.2, Underground Acres Proposed 3730.6, Subsidence Control Plan Acres Proposed 3730.6. Receiving stream: Long Run and unnamed tributary to Long Run, classified for the following use: HQ-CWF. Application received: March 13, 2007. Permit issued: December 17, 2010.

32901602 and NPDES Permit # PA0214442, Rosebud Mining Company, (301 Market Street, Kittanning, PA 16201), to transfer the permit and related NPDES permit for the I-22 Tipple in Burrell Township, **Indiana County** to Rosebud Mining Company from AMFIRE Mining Company. No additional discharges. Application received: August 13, 2010. Permit issued: December 30, 2010.

Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, 814-472-1900

31000301 and NPDES No. PA0599174. New Enterprise Stone & Lime Company, Inc., P. O. Box 77, New Enterprise, PA 16664, permit renewal for the continued

operation and restoration of a bituminous surface mine in Cromwell Township, **Huntingdon County**, affecting 72.6 acres. Receiving stream(s): Shade Creek classified for the following use(s): trout stocked fishery. There are no potable water supply intakes within 10 miles downstream. Application received: October 29, 2010. Permit issued: December 23, 2010.

Greensburg District Mining Office: Armbrust Professional Center, 8205 Route 819, Greensburg, PA 15601, 724-925-5500

02880102 and NPDES Permit No. PA0591190. William J. Kisow (82 South Petrie Road, Coraopolis, PA 15108). Permit renewal issued for continued reclamation only of a bituminous surface mining site located in Kennedy and Robinson Townships, **Allegheny County**, affecting 15.7 acres. Receiving streams: unnamed tributary to Chartiers Creek to Chartiers Creek to Ohio River. Renewal application received: August 31, 2010. Reclamation-only renewal issued: December 23, 2010.

Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, 814-342-8200

17803045 and NPDES No. PA0176969. River Hill Coal Co., Inc. (P. O. Box 141, 48 Memorial Road, Kylertown, PA 16847). Revision to an existing bituminous surface mine located in Karthaus Township, **Clearfield County** affecting 150.8 acres. Revision is due to deviations from approximate original contour. Receiving streams: unnamed tributary of Upper Three Run, and Upper Three Runs, and unnamed tributary of Saltlick Run, and Saltlick Run to the West Branch Susquehanna River. Application received: February 5, 2010. Revision approved: December 23, 2010.

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, 570-621-3118

54763207R5. Gilberton Coal Company, (10 Gilberton Road, Gilberton, PA 17934), renewal of an existing anthracite surface mine, refuse reprocessing and refuse disposal operation in Mahanoy Township affecting 25.9 acres, receiving stream: none. Application received: May 20, 2010. Renewal issued: December 23, 2010.

Noncoal Permits Actions

Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, 814-472-1900

31000301 and NPDES No. PA0599174. New Enterprise Stone & Lime Company, Inc., P. O. Box 77, New Enterprise, PA 16664, permit renewal for the continued operation and restoration of a bituminous surface mine in Cromwell Township, **Huntingdon County**, affecting 72.6 acres. Receiving stream(s): Shade Creek classified for the following use(s): trout stocked fishery. There are no potable water supply intakes within 10 miles downstream. Application received: October 29, 2010. Permit issued: December 23, 2010.

Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, 814-342-8200

08090301T and NPDES No. PA257036. Keystone Rock & Excavating LLC (6100 N. Western Ave., P. O. Box 18496, Oklahoma City, OK 73154-0496). Transfer of an existing large industrial mineral surface mine (shale) located in West Burlington Township, **Bradford County** affecting 26.6 acres. Receiving streams: unnamed tributary And Sugar Creek to Tomjack Creek classified for Trout Stocked Fisheries. There are no Potable water supply intakes within 10 miles downstream. Application received: September 28, 2010. Permit issued: December 21, 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

Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, 814-342-8200

08104029. Doug Wathen, LLC (16208 State Highway 13, Suite 100, Branson West, MO 65616). Blasting for a well pad located in Wysox Township, **Bradford County**. Permit issued: December 22, 2010. Permit expires: November 30, 2011.

08104030. John Brainard (3978 SR-2023, Kingsley, PA 18826). Blasting for a well pad located in Wysox Township, **Bradford County**. Permit issued: December 22, 2010. Permit expires: April 30, 2011.

08104135. Meshoppen Blasting, Inc. (Frantz Road, P. O. Box 127, Meshoppen, PA 18630). Blasting for a well site and access road located in Athens Township, **Bradford County**. Permit issued: December 23, 2010. Permit expires: January 31, 2011.

08104136. Maurer & Scott Sales, Inc. (P. O. Box 20843, Lehigh Valley, PA 18002-0843). Blasting for a well pad located in Wyalusing Township, **Bradford County**. Permit issued: December 23, 2010. Permit expires: March 31, 2011.

17104014. Iion Integrated Seismic Solutions (2105 City West Blvd., Suite 900, Houston, TX 77042-2837). Seismic exploration blasting located in Gulich, Ramey, Bigler, Houtzdale, Brisbin, Woodward, Osceola Mills, Decatur, Morris, Chester Hill, Boggs, Wallaceton, Cooper, Graham, Bradford, Goshen, Covington and Girard Townships, **Clearfield County** and Rush, Philipsburg Townships, Centre County. Permit issued: December 21, 2010. Permit expires: December 31, 2011.

57104004. John Brainard (3978 SR-2023, Kingsley, PA 18826). Blasting for road construction located in Elkland Township, **Sullivan County**. Permit issued: December 22, 2010. Permit expires: May 30, 2011.

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, 570-621-3118

36104169. Brubacher Excavating, Inc., (P. O. Box 528, Bowmansville, PA 17507), construction blasting for Weatherburn Commons East Meadows in Manheim Township, **Lancaster County** with an expiration date of December 20, 2011. Permit issued: December 23, 2010.

36104170. Keystone Blasting Service, (15 Hopeland Road, Lititz, PA 17543), construction blasting for a water retention basin at 830 Martin Avenue, Ephrata Borough, **Lancaster County** with an expiration date of March 30, 2011. Permit issued: December 27, 2010.

46104121. Brubacher Excavating, Inc., (P. O. Box 528, Bowmansville, PA 17507), construction blasting for Corcoran Residence in Lower Merion Township, **Montgomery County** with an expiration date of December 31, 2011. Permit issued: December 29, 2010.

FEDERAL WATER POLLUTION CONTROL ACT SECTION 401

The Department has taken the following actions on previously received permit applications, requests for Envi-

ronmental 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

Eastern Region: Oil and Gas Management Program Manager, Northcentral Regional Office, 208 West Third Street, Suite 101, Williamsport, PA 17701

E41-614 PVR Marcellus Gas Gathering, LLC. Cummings/Watson/Mifflin Townships, **Lycoming County**, ACOE Baltimore District.

To construct and maintain:

(1) a 48.0 feet long 5.0 feet high x 8.5 feet wide box culvert for a proposed access road off of Fillman Road across an unnamed tributary of Tomb's Run (HQ-CWF) (Waterville Quadrangle 41° 15' 40.2"N 77° 17' 7.2"W).

(2) a 56.0 feet long 4.0 feet high x 7.5 feet wide box culvert for a proposed access road off of Fillman Road across an unnamed tributary of Tomb's Run (HQ-CWF) (Waterville Quadrangle 41° 15' 43.5"N 77° 17' 13"W).

(3) the replacement of a 29.0 feet long 12.0 inch diameter culvert for an existing access road across Tomb's Run, North Fork (HQ-CWF) (Waterville Quadrangle 41° 16' 40.8"N 77° 17' 29.3"W).

(4) the replacement of a 38.0 feet long 15.0 inch diameter culvert for an existing access road across an unnamed tributary to Larry's Creek, First Fork (HQ-CWF) (Waterville Quadrangle 41° 19' 13.4"N 77° 17' 48.5"W).

(5) the replacement of a 33.0 feet long 48.0 inch diameter culvert for an existing access road across Ritter Run (HQ-CWF) (Waterville Quadrangle 41° 17' 43.5"N 77° 18' 8.2"W).

(6) the replacement of a 19.0 feet long 12.0 inch diameter culvert for an existing access road across Tomb's Run, North Fork (HQ-CWF) (Waterville Quadrangle 41° 16' 43.2"N 77° 17' 33.6"W).

(7) a 12.0 inch and a 30.0 inch diameter natural gas gathering line across Hickory Swale (HQ-CWF) (Waterville Quadrangle 41° 18' 52.3"N 77° 17' 54.6"W).

(8) a 30.0 inch diameter natural gas gathering line across Ritter Run (HQ-CWF) (Waterville Quadrangle 41° 17' 15"N 77° 17' 40.5"W).

(9) a 12.0 inch and a 30.0 inch diameter natural gas gathering line across an unnamed tributary to First Fork Larry's Creek, (HQ-CWF) (Waterville Quadrangle 41° 19' 17"N 77° 17' 55.8"W).

(10) a 12.0 inch and a 30.0 inch diameter natural gas gathering line across an unnamed tributary to First Fork Larry's Creek (HQ-CWF) (Waterville Quadrangle 41° 19' 15.5"N 77° 17' 55.8"W).

(11) a 12.0 inch and a 30.0 inch diameter natural gas gathering line across an unnamed tributary to First Fork Larry's Creek (HQ-CWF) (Waterville Quadrangle 41° 19' 14.6"N 77° 17' 55.7"W).

(12) a 12.0 inch and a 30.0 inch diameter natural gas gathering line across an unnamed tributary to Hickory Swale (HQ-CWF) (Waterville Quadrangle 41° 19' 2"N 77° 17' 55.2"W).

(13) a 14.0 feet wide timber mat temporary road across Hickory Swale (HQ-CWF) (Waterville Quadrangle 41° 19' 1.8"N 77° 17' 55.2"W).

(14) a 30.0 inch diameter natural gas gathering line across Tarkiln Run (HQ-CWF) (Waterville Quadrangle 41° 18' 9.6"N 77° 17' 45.5"W).

(15) A 12.0 inch diameter natural gas gathering line across an unnamed tributary to Tarkiln Run (HQ-CWF) (Waterville Quadrangle 41° 18' 18"N 77° 17' 54.3"W).

(16) a 12.0 inch diameter natural gas gathering line across an unnamed tributary to Tarkiln Run (HQ-CWF) (Waterville Quadrangle 41° 18' 14.3"N 77° 18' 8.7"W).

The project will result in 111.0 linear feet of permanent channel impacts, 65 feet of temporary stream impacts, all for the purpose of installing a natural gas gathering line with associated access roadways.

E4129-001 Chief Oil & Gas LLC, 700 Fairfield Road, Montoursville, PA 17754, Mifflin Township, **Lycoming County**, ACOE Baltimore District.

To construct, operate, and maintain a surface water withdrawal along Larry's Creek (EV) adjacent to the intersection of Route 973 and Quenshukeny Road (Sal-ladasburg Quadrangle 41° 17' 54"N 77° 11' 53"W). The proposed withdrawal will include a submersible pump

with related materials placed on the stream bed. The project will result in 20 square feet of stream impact and 81 square feet of floodway impact all for the purpose of obtaining water for use to develop multiple Marcellus Shale wells.

Northeast Region: Watershed Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, Telephone 570-826-2511

E58-276A. Cabot Oil & Gas Corporation, Five Penn Center West Suite 401 Pittsburgh, PA 15276. Auburn, Springville & Dimock Townships, **Susquehanna County**, Army Corps of Engineers Baltimore District.

To amend Permit E58-276 to construct and maintain the following additional water obstructions and encroachments associated with the Susquehanna County Pipeline Project, Zone 1-2:

1. (Wetland Impact z01-w34) A 10" diameter steel natural gas transmission line crossing of approximately 116 linear feet of PEM wetland within the White Creek Watershed by means of open trench cut with temporary wetland impacts of 0.065 acre (Lat: 41° 41' 17.9"; Long: -75° 58' 10.0") in Springville Township.

2. (Wetland Impact z01-w36) A 10" diameter steel natural gas transmission line crossing of approximately 152 linear feet of PSS wetland within the White Creek Watershed by means of directional bore (Lat: 41° 42' 57.0"; Long: -75° 56' 11.2") in Dimock Township.

3. (Wetland Impact z01-w38) A 10" diameter steel natural gas transmission line crossing of approximately 255 linear feet of PFO wetland within the White Creek Watershed by means of directional bore (Lat: 41° 42' 58.0"; Long: -75° 56' 21.2") in Dimock Township.

4. (Wetland Impact z01-w304) A 10" diameter steel natural gas transmission line crossing of approximately 77 linear feet of PEM wetland within the White Creek Watershed by means of open trench cut with temporary wetland impacts of 0.091 acre (Lat: 41° 41' 32.4"; Long: -75° 57' 50.3") in Springville Township.

5. (Wetland Impact z01-w407) A 10" diameter steel natural gas transmission line crossing of approximately 36 linear feet of PFO wetland within the Thomas Creek Watershed by means of directional bore (Lat: 41° 42' 48.5"; Long: -75° 55' 18.0") in Springville Township.

6. (Wetland Impact z01-w408) A 10" diameter steel natural gas transmission line crossing of approximately 83 linear feet of PEM wetland within the West Creek Watershed by means of open trench cut with temporary wetland impacts of 0.059 acre (Lat: 41° 43' 2.8"; Long: -75° 57' 28.8") in Dimock Township.

7. (Wetland Impact z01-w501) A 10" diameter steel natural gas transmission line crossing of approximately 221 linear feet of PEM wetland within the Thomas Creek Watershed by means of directional bore (Lat: 41° 42' 48.3"; Long: -75° 55' 26.2") in Springville Township.

8. (Wetland Impact z01-w502) A 10" diameter steel natural gas transmission line crossing of approximately 22 linear feet of PEM/POW wetland within the Thomas Creek Watershed by means of directional bore (Lat: 41° 42' 48.4"; Long: -75° 55' 24.3") in Springville Township.

9. (Wetland Impact z01-w503) A 10" diameter steel natural gas transmission line crossing of approximately 20 linear feet of PEM wetland within the Thomas Creek Watershed by means of directional bore (Lat: 41° 42' 48.4"; Long: -75° 55' 22.5") in Springville Township.

10. (Wetland Impact z01-w706) A 10" diameter steel natural gas transmission line crossing of approximately 31 linear feet of PEM wetland within the Meshoppen Creek Watershed by means of open trench cut with temporary wetland impacts of 0.044 acre (Lat: 41° 42' 56.2"; Long: -75° 54' 9.4") in Dimock Township.

11. (Wetland Impact z01-w708) A 10" diameter steel natural gas transmission line crossing of approximately 22 linear feet of PEM wetland within the Meshoppen Creek Watershed by means of open trench cut with temporary wetland impacts of 0.024 acre (Lat: 41° 42' 54.8"; Long: -75° 54' 10.2") in Dimock Township.

12. (Wetland Impact z01-w806) A 10" diameter steel natural gas transmission line crossing of approximately 15 linear feet of PFO wetland within the West Creek Watershed by means of directional bore (Lat: 41° 43' 3.2"; Long: -75° 57' 12.9") in Dimock Township.

13. (Wetland Impact z01-w807) A 10" diameter steel natural gas transmission line crossing of approximately 17 linear feet of PEM wetland within the West Creek Watershed by means of directional bore (Lat: 41° 43' 2.7"; Long: -75° 57' 21.1") in Dimock Township.

14. (Wetland Impact z01-w904) A 10" diameter steel natural gas transmission line crossing of approximately 35 linear feet of PSS/PEM wetland within the West Creek Watershed by means of directional bore (Lat: 41° 42' 38.2"; Long: -75° 56' 55.1") in Springville Township.

15. (Crossing z01-s80) A 10" diameter steel natural gas transmission line across an unnamed tributary to White Creek (CWF) by means of directional bore (Lat: 41° 42' 57.0"; Long: -75° 56' 11.6") in Dimock Township.

16. (Crossing z01-s81) A 10" diameter steel natural gas transmission line across an unnamed tributary to White Creek (CWF) by means of directional bore (Lat: 41° 42' 56.8"; Long: -75° 56' 12.4") in Dimock Township.

17. (Crossing z01-s82) A 10" diameter steel natural gas transmission line across White Creek (CWF) by means of directional bore (Lat: 41° 42' 57.7"; Long: -75° 56' 20.4") in Dimock Township.

18. (Crossing z01-s83) A 10" diameter steel natural gas transmission line across White Creek (CWF) by means of directional bore (Lat: 41° 42' 58.5"; Long: -75° 56' 22.1") in Dimock Township.

19. (Crossing z01-s84) A 10" diameter steel natural gas transmission line across White Creek (CWF) by means of directional bore (Lat: 41° 42' 59.2"; Long: -75° 56' 23.6") in Dimock Township.

20. (Crossing z01-s231) A 10" diameter steel natural gas transmission line across West Creek (CWF) by means of directional bore (Lat: 41° 42' 35.2"; Long: -75° 56' 57.7") in Springville Township.

21. (Crossing z01-s237) A 10" diameter steel natural gas transmission line across an unnamed tributary to White Creek (CWF) by means of directional bore (Lat: 41° 41' 42.4"; Long: -75° 57' 40.7") in Springville Township.

22. (Crossing z01-s238) A 10" diameter steel natural gas transmission line across an unnamed tributary to White Creek (CWF) by means of directional bore (Lat: 41° 41' 28.7"; Long: -75° 57' 52.4") in Springville Township.

23. (Crossing z01-s407) A 10" diameter steel natural gas transmission line across an unnamed tributary to White Creek (CWF) by means of directional bore (Lat: 41° 42' 10.5"; Long: -75° 57' 10.2") in Springville Township.

24. (Crossing z01-s801) A 10" diameter steel natural gas transmission line across an unnamed tributary to Thomas Creek (CWF) by means of directional bore (Lat: 41° 42' 48.5"; Long: -75° 55' 25.5") in Dimock Township.

25. (Crossing z01-s802) A 10" diameter steel natural gas transmission line across an unnamed tributary to Thomas Creek (CWF) by means of directional bore (Lat: 41° 42' 48.8"; Long: -75° 55' 19.6") in Springville Township.

26. (Crossing z01-s803) A 10" diameter steel natural gas transmission line across an unnamed tributary to Thomas Creek (CWF) by means of directional bore (Lat: 41° 42' 48.6"; Long: -75° 55' 18.0") in Springville Township.

27. (Crossing z01-s807) A 10" diameter steel natural gas transmission line across an unnamed tributary to West Creek (CWF), impacting approximately 20 linear feet of channel, by means of open trench cut (Lat: 41° 42' 58.3"; Long: -75° 57' 52.9") in Dimock Township.

28. (Crossing z01-s812) A 10" diameter steel natural gas transmission line across an unnamed tributary to West Creek (CWF) by means of directional bore (Lat: 41° 43' 2.6"; Long: -75° 57' 35.4") in Dimock Township.

29. (Crossing z01-s813) A 10" diameter steel natural gas transmission line across an unnamed tributary to West Creek (CWF) by means of directional bore (Lat: 41° 43' 3.2"; Long: -75° 57' 13.1") in Dimock Township.

30. (Crossing z01-s814) A 10" diameter steel natural gas transmission line across West Creek (CWF) by means of directional bore (Lat: 41° 43' 2.9"; Long: -75° 57' 17.6") in Dimock Township.

31. (Crossing z01-s815) A 10" diameter steel natural gas transmission line across West Creek (CWF) by means of directional bore (Lat: 41° 43' 2.8"; Long: -75° 57' 18.6") in Dimock Township.

This part of the project will temporarily impact 0.28 acre of wetlands and 153 square feet of stream impacts. Disturbed streambanks will be permanently stabilized with riprap or jute matting and vegetation.

The project site is located within a two mile radius of the intersection of State Route 3021 and State Route 3004 (Springville, PA Quadrangle; Lat: 41° 42' 31.6"; Long: -75° 56' 38.3") in Auburn, Dimock and Springville Townships, Susquehanna County.

E39-506. Hanover Township, 2202 Grove Road, Allentown, PA 18103. Hanover Township, **Lehigh County**, Army Corps of Engineers Philadelphia District.

To authorize the following water obstructions and encroachments associated with the Irving Street Culvert Replacement Project:

1. To remove the existing structure and to construct and maintain a roadway crossing of a tributary to the Lehigh River consisting of an open-bottom concrete arch culvert with cable-concrete apron, having a 20-foot span and a 6.6-foot underclearance.

2. To construct and maintain a channel change along approximately 1,100 feet of the tributary with work consisting of widening, regrading, and reshaping the channel. The channel will be vegetated and have a 5-foot minimum depth, a 19-foot bottom width, and 3:1 side slopes.

3. To modify and maintain five stormwater outfall pipes in the tributary with work consisting of the replace-

ment of three of the headwalls and the construction/modification of rip-rap aprons.

The project is located approximately 0.12 miles north of the intersection of North Irving Street and Uoyd Street (Catasauqua, PA Quadrangle Latitude: 40°38'04"; Longitude: -75°26'49"). Subbasin: 2C.

E40-713. City of Pittston, 35 Broad Street, Pittston, PA 18640. City of Pittston, **Luzerne County**, Army Corps of Engineers Baltimore District.

To construct and maintain a channel change along 150 feet of a tributary to the Susquehanna River (CWF) at the entrance of an existing stream enclosure, with work consisting of removing sediment and debris, reshaping and lining the channel with R-6 riprap; and to construct and maintain a trash rack at the upstream entrance of the existing stream enclosure. The project is located approximately 350 feet south of the dead end of Tunnel Street (Pittston, PA Quadrangle Latitude: 41°19'08"; Longitude: -75°47'06"). Subbasin: 5B.

E45-556. Minsi Trails Council, Inc., P. O. Box 20624, Lehigh Valley, PA 18002. Tobyhanna Township, **Monroe County**, Army Corps of Engineers Philadelphia District.

To maintain a 240 square foot wooden plank seasonal floating boat dock with 2" diameter anchor poles extending approximately 66 feet from the shoreline of Stillwater Lake (HQ-CWF, MF) and to maintain a 636 square foot wooden plank seasonal floating boat dock with 2" diameter anchor poles extending approximately 40 feet from the shoreline of Stillwater Lake. The project is located along the southwest bank of Stillwater Lake, on the east side of Keipler's Lane, approximately 2.8 miles northwest of the intersection of S.R. 940 and I-380 (Pocono Pines, PA Quadrangle Latitude: 41°7'2.6"; Longitude: -75°25'28.2"). Subbasin: 2A.

E54-535. John Fry, 19 Dexter Drive North, Basking Ridge, NJ 07920. Tobyhanna Township, **Monroe County**, Army Corps of Engineers Philadelphia District.

To construct and maintain a driveway crossing and a utility crossing of a tributary to Tunkhannock Creek (HQ-CWF) consisting an open bottom 6.0-foot wide by 2.1-foot high CMP arch with concrete headwalls and to construct and maintain a house that will be set on piers maintaining the bottom of the structure 12-inches above the 100-year frequency flood flow in the floodway of the same. The project is located within the residential development at Lake Naomi, Lot 37, Unit 1, Section 12, 130 feet West of the intersection of Long View Lane and Laurel Lane in Tobyhanna Township, Monroe County (Pocono Pines Quadrangle Lat.: 41° 06' 49"; Long.: -75° 26' 21"). Subbasin: 1D.

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

dures 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.

11/9/10 Major Rev.

ESCGP-1 No.: ESX09-059-0059

Applicant Name: Atlas Energy Resources, LLC

CONTACT: Jeremy Hirtz

Address: 800 Mountain View Drive

City: Smithfield State: PA Zip Code: 15478

County: Greene Township(s): Jefferson

Receiving Stream(s) And Classifications: UNT to South Fork Tenmile Creek, Other

12/8/10

ESCGP-1 No.: ESX10-051-0050

Applicant Name: Laurel Mountain Midstream, LLC

Contact Person: Lisa Reaves'

Address: 1550 Coraopolis Heights Road

City: Moon Township State: PA Zip Code: 15108

County: Fayette Township(s): Menallen

Receiving Stream(s) and Classifications: UNT's to Fan Creek (WWF) & Fans Run (WWF)/Lower Youghiogheny River Watershed, Other

12/2/10

ESCGP-1 No.: ESX10-125-0101

Applicant Name: EQT Production Company

Contact Person: Todd Klaner

Address: 455 Racetrack Road

City: Washington State: PA Zip Code: 15301

County: Washington Township(s): Amwell

Receiving Stream(s) and Classifications: Montgomery Run, Home Run, UNT to Montgomery Run, UNT to Home Run / Tenmile Creek Watershed, Other

12/10/10

ESCGP-1 No.: ESX10-125-0103

Applicant Name: Atlas Energy Resources, LLC

Contact Person: Jeremy Hirtz

Address: 800 Mountain View Drive

City: Smithfield State: PA Zip Code: 15478

County: Washington

Township(s): West Bethlehem

Receiving Stream(s) and Classifications: UNT's to Daniels Run and Little Daniels Run, Other

11/24/10

ESCGP-1 No.: ESX10-051-0048

Applicant Name: Phillips Exploration, Inc.

Contact Person: Gary Clark

Address: 502 Keystone Drive

City: Warrendale State: PA Zip Code: 15086

COUNTY Fayette Township(s): Franklin

Receiving Stream(s) and Classifications: Allen Run—WWF, Other

12/7/10

ESCGP-1 No.: ESX10-125-0102

Applicant Name: Rice Energy, B LLC

Contact Person: David Miller

Address: 171 Hillpointe Drive, Suite 301

City: Canonsburg State: PA Zip Code: 15317

County: Washington Township(s): Amwell

Receiving Stream(s) and Classifications: UNT of Little Tenmile Creek, Other

Northwest Region: Oil and Gas Program Manager, 230 Chestnut St., Meadville, PA 16335

ESCGP-1 ESX10-047-0014

Applicant EQT Production—Brandy Project

Contact Mr. Todd Klaner

Address 455 Racetrack Road, Suite 101

City Washington State PA Zip Code 15301

County Elk Township(s) Fox and Horton

Receiving Stream(s) and Classification(s) Brandy Camp Creek—CWF, McCauley Run, Little Toby Creek

SPECIAL NOTICES

Water Obstruction and Encroachment Permit Application and Water Quality Certification Request

California District Office: 25 Technology Drive, Coal Center, PA 15423, 724-769-1100

CDO-002. Consol Pennsylvania Coal Company LLC, 1525 Pleasant Grove Road, P. O. Box J, Claysville, PA 15323. Enlow Fork Stream Restoration Project in East Finley Township, **Washington County** and Richhill Township, **Greene County** and the Rocky Run Stream Restoration and Wetland Mitigation Project in East Finley Township, Washington County, Pittsburgh ACOE District (Claysville, PA Quadrangle (Rocky Run) project area centroid N: 4.1 inches, W: 1.7 inches and Wind Ridge, PA Quadrangle (Enlow Fork) project area centroid N: 18.1 inches, W: 5.9 inches). The applicant proposes to (1) restore 3,050 linear feet of Enlow Fork and 2,700 linear feet of Rocky Run, and (2) construct a minimum of 0.82 acre of diverse wetland habitat of approximately 440 feet in the floodplain of Rocky Run. Enlow Fork and Rocky Run are both classified as a Trout Stocked Fishery.

This is a Chapter 105 Water Obstruction and Encroachment permit application and 401 Water Quality Certification request.

Written comments or objections on the request for Section 401 Water Quality Certification or to the issuance of the Water Obstruction and Encroachment Permit may be submitted to the Department within 30 days of the date of this notice to the California District Office, 25 Technology Park, Coal Center, PA 15423, Phone: 724.769.1100. Comments should contain the name, address, and telephone number of the person commenting. Identification of the request for 401 Water quality Certification and Chapter 105 permit application, to which the comments or objections are addressed and a concise statement of comments, objections or suggestions including relevant facts upon which they are based.

The Water Obstruction and Encroachment permit application is available for review at the California District Office, by appointment, at the address listed above.

Application Received: October 1, 2010

[Pa.B. Doc. No. 11-85. Filed for public inspection January 14, 2011, 9:00 a.m.]

Nutrient and Sediment Reduction Credit Trading Program; Notice of Registration

The Department of Environmental Protection (Department) provides notice of the following credit registration recorded under the Nutrient and Sediment Reduction Credit Trading Program (Trading Program). The request for registration was submitted under The Clean Streams Law (35 P. S. §§ 691.1—691.1001) and 25 Pa. Code § 96.8 (relating to use of offsets and tradable credits from pollution reduction activities in the Chesapeake Bay Watershed) (see 40 Pa.B. 5790 (October 9, 2010)).

Trading is a market-based program that provides incentives for entities to create nutrient reduction credits by

<i>Generator</i>	<i>Location of Use</i>	<i>Credits Registered</i>	<i>Credit Generating Activity</i>	<i>Compliance Year</i>
Red Barn Trading Company, LLC	Fairview Township Authority Fairview, PA	18,611 Nitrogen and 2,327 Phosphorous	Poultry manure export out of Chesapeake Bay Watershed	October 2010—September 2011
Red Barn Trading Company, LLC	Fairview Township Authority Fairview, PA	4,912 Nitrogen and 614 Phosphorous	Poultry manure export out of Chesapeake Bay Watershed	October 2010—September 2011

For further information about this registration or the Trading Program, contact Ann Roda, Water Planning Office, Department of Environmental Protection, P. O. Box 2063, Harrisburg, PA 17105-2063, (717) 787-4726, aroda@state.pa.us or visit the Department's web site at www.depweb.state.pa.us (DEP Keywords: "Nutrient Trading").

JOHN HANGER,
Secretary

[Pa.B. Doc. No. 11-86. Filed for public inspection January 14, 2011, 9:00 a.m.]

DEPARTMENT OF LABOR AND INDUSTRY

Current Prevailing Wage Act Debarments

The following contractors have been determined to have intentionally violated the Pennsylvania Prevailing Wage Act (act) (43 P. S. §§ 165-1—165-17). This notice is published for the information and convenience of public bodies subject to the act. Under section 11(e) of the act (43 P. S. § 165-11(e)), these contractors, or either one of them, or any firms, corporations or partnerships in which either one of these contractors has an interest, shall be awarded no contract for 3 years after the date listed.

<i>Contractor</i>	<i>Address</i>	<i>Date of Debarment</i>
G. Bass Company and Gary G. Bass, individually	P. O. Box 273 580 Old State Road Oley, PA 19547	12/28/2010

SANDI VITO,
Secretary

[Pa.B. Doc. No. 11-87. Filed for public inspection January 14, 2011, 9:00 a.m.]

going beyond statutory, regulatory or voluntary obligations and goals by removing nutrients from a watershed. The credits can be traded to help others more cost-effectively meet their obligations or goals. The primary purpose of the Trading Program is to provide for more efficient ways for National Pollutant Discharge Elimination System permittees to meet their effluent limits for nutrients and sediment. Currently, the focus of the program is on the Chesapeake Bay Watershed.

This notice relates to the registration of credits through December 20, 2010. For background information related to these credits, see the Department's certification published on at 38 Pa.B. 1887 (April 19, 2008).

The Department has registered the following credits:

Maximum Pennsylvania Workers' Compensation Payable

Based upon the Statewide Average Weekly Wage, as determined by the Department of Labor and Industry for the fiscal year ending June 30, 2010, the maximum compensation payable under sections 105.1 and 105.2 to the Workers' Compensation Act (77 P. S. §§ 25.1 and 25.2), shall be \$858 per week for injuries occurring on and after January 1, 2011. For purposes of calculating the update to payments for medical treatment rendered on and after January 1, 2011, the percentage increase in the Statewide Average Weekly Wage is 1.5%.

SANDI VITO,
Secretary

[Pa.B. Doc. No. 11-88. Filed for public inspection January 14, 2011, 9:00 a.m.]

HISTORICAL AND MUSEUM COMMISSION

National Register Nominations to be Reviewed by the Historic Preservation Board

The Historic Preservation Board (Board) will hold a meeting on February 1, 2011, at 9:45 a.m. at the Labor and Industry Building, Harrisburg, PA. Persons with a disability who wish to attend this meeting, and require an auxiliary aid, service or other accommodation to participate, should contact Cheri Garrett at (717) 783-9933 or through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Board can accommodate their needs. Persons with any questions or comments should contact the National Register office of the Bureau for Historic Preservation at (717) 783-8947.

1. Robb Farm, 11023 Hartslog Valley Road, Walker Township, Huntingdon County, No. 068544

2. Brashear, John A., House and Factory, 1954-2016 Perrysville Avenue, Pittsburgh City, Allegheny County, No. 009648

3. McCook Family Estate, 5105 Fifth Avenue and 925 Amberson Avenue, Pittsburgh City, Allegheny County, No. 141517

4. Montrose Historic District, roughly bounded by Wyalusing, Owego, Spruce and Chenango Streets, Lake Avenue, High and Turrell Streets, Grow Avenue, Jessup, Laurel, Cliff, Union, Wilson and Park Streets, Montrose, Susquehanna County, No. 087014

5. Quakertown Historic District, Roughly Bounded by Main and Broad Streets, Hellertown, Tohickon, and Park Avenues, Quakertown Borough, Bucks County, No. 127042

6. African American Churches in Philadelphia, 1787-1949 Multiple Property Documentation Form

7. Tindley Temple, 750-762 South Broad Street, Philadelphia, No. 052922

8. Marian Anderson House, 762 Martin Street, Philadelphia, No. 128869

9. Alden Villa, 1012 Alden Way, Cornwall, Lebanon County, No. 120917

10. Wilpen Hall, 889-895 Blackburn Road, Sewickley Heights, Allegheny County, No. 010003

BARBARA FRANCO,
Executive Director

[Pa.B. Doc. No. 11-89. Filed for public inspection January 14, 2011, 9:00 a.m.]

HOUSING FINANCE AGENCY

Neighborhood Stabilization Program 3 Plan

The Housing Finance Agency (Agency) intends to apply for funding under the United States Department of Housing and Urban Development's (HUD) Neighborhood Stabilization Program 3 (NSP3) to address the affects of abandoned and foreclosed properties throughout this Commonwealth. A copy of the guidelines and application can be found at www.phfa.org.

The Agency is seeking up to \$5 million in NSP3 funding. Funds received through NSP3 will be targeted to assisting income qualified homeowners in qualified census tracts with a HUD Risk Score of 11 or higher, as described in the HUD Notice of Fund Availability Neighborhood Stabilization Program 3 under the Wall Street Reform and Consumer Protection Act of 2010 (Dodd-Frank Act). Comments on this plan may be forwarded to Bob Bobincheck before January 31, 2011, at bbobincheck@phfa.org.

BRIAN A. HUDSON, Sr.,
Executive Director

[Pa.B. Doc. No. 11-90. Filed for public inspection January 14, 2011, 9:00 a.m.]

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>
7-462	Environmental Quality Board Commercial Fuel Oil Sulfur Limits for Combustion Units 40 Pa.B. 5456 (September 25, 2010)	11/29/10	12/29/10
14-524	Department of Public Welfare Participation Review Process for Medical Assistance Nursing Facilities 40 Pa.B. 6405 (November 6, 2010)	12/6/10	1/5/11

Environmental Quality Board
Regulation #7-462 (IRRC #2874)
Commercial Fuel Oil Sulfur Limits for
Combustion Units
December 29, 2010

We submit for your consideration the following comments on the proposed rulemaking published in the September 25, 2010 *Pennsylvania Bulletin*. Our comments are based on criteria in Section 5.2 of the Regulatory Review Act (RRA) (71 P. S. § 745.5b). Section 5.1(a) of the RRA (71 P. S. § 745.5a(a)) directs the Environmental Quality Board (EQB) to respond to all comments received from us or any other source.

1. General concerns relating to the Regulatory Review Act criteria of Economic impact or fiscal impacts of the regulation which include the following:

- Direct and indirect costs to the Commonwealth, to its political subdivisions and to the private sector;
- Adverse effects on goods and services, productivity or competition;
- Nature of required reports, forms or other paperwork;
- Feasibility;
- Need for the regulation;
- Reasonableness;
- Implementation procedures;
- Timetables for compliance; and

Policy decision of such a substantial nature that it requires legislative review.

Under Paragraphs (2) of Subsections (a) through (e), sulfur limits will be established for combustion units as of May 1, 2012, as follows:

- 15 ppm sulfur for No. 2 and lighter commercial fuel oil,
- 0.25% sulfur for No. 4 oil, and
- 0.5% sulfur for Nos. 5, 6, and heavier oil.

These requirements apply to the following subsections in Section 123.22:

- (a) Nonair basin areas.
- (b) Erie; Harrisburg; York; Lancaster; and Scranton, Wilkes-Barre air basins.
- (c) Allentown, Bethlehem, Easton, Reading, Upper Beaver Valley and Johnstown air basins.
- (d) Allegheny County, Lower Beaver Valley, and Monongahela Valley air basins.
- (e) Southeast Pennsylvania air basin.

The following comments apply to each provision in Subsections (a) through (e).

Compliance date of May 1, 2012

Senator Mary Jo White, Chairman of the Senate Environmental Resources and Energy Committee (Senate Committee Chairman White) commented that this rulemaking, at the earliest, would not be complete until the summer of 2011 which would allow less than a year to comply. Several refineries commented that compliance by May 1, 2012, will not allow sufficient lead time to allow them to meet the requirements. They cite concerns that the transition requires financing, capital planning, engineering design, environmental permits, construction and

startup of the upgraded refining process. Other commentators expressed concern that the compliance date could affect the overall supply of fuel oil, resulting in price increases of diesel truck fuel and home heating fuel. Commentators also cited what they consider to be more reasonable limits and timeframes used by New Jersey. These refineries, as well as other commentators, request at least a four year lead time to comply. The EQB should explain why the compliance date in the final-form regulation is reasonable and the effect on the supply and price of the fuels directly listed in the regulation, as well as other fuels derived from the same source.

Limit of 15 ppm sulfur for No. 2 and lighter commercial fuel

Some commentators support the 15 ppm limit, stating it will provide a better environmental benefit. However, several commentators suggest that 500 ppm is more realistic and would allow efficiency in fuel blending that 15 ppm would not allow. Senate Committee Chairman White commented that a more realistic approach is to consider 500 ppm, which would still amount to a nearly 90% sulfur content reduction. We recommend that the EQB review the 15 ppm limit, and in the final-form regulation explain how the limit used in the final-form regulation recognizes the efficient operation of refineries while addressing the need to protect the environment.

Limit to 0.5% sulfur for No. 5, No. 6 and heavier oil

Two refinery commentators (The National Petrochemical and Refiners Association and ConocoPhillips) state that sulfur removal from heavy fuel oils is technologically difficult, very costly and usually economically cost prohibitive. These commentators state that the market reality of the limit to 0.5% sulfur for these fuels is that they will export them rather than make the investments required to meet the 0.5% limit. We are concerned that the regulation may disrupt the supply of these fuels in Pennsylvania. The EQB should review the 0.5% limit and explain why the impact of the limit in the final-form regulation is needed, reasonable and cost-effective.

Limit to 0.25% sulfur for No. 4 oil

In regard to the 0.25% sulfur limit for No. 4 oil, we request the same evaluation of this limit in the final-form regulation as requested above relating to No. 5, No. 6 and heavier oil. The EQB should review the 0.25% limit and explain why the impact of the limit in the final-form regulation is needed, reasonable and cost-effective.

Supply and indirect costs

Senate Committee Chairman White is concerned that Pennsylvania homeowners who rely on home heating fuel could be impacted by the price and availability of fuel. Commentators believe the regulation could disrupt the overall supply of fuel. They cite concern that the timing and sulfur limits could translate into a higher price for on-road diesel fuel and price spikes for home heating oil. One commentator estimates the regulation could add 20 to 30 cents per gallon to the cost of fuels. The EQB should provide with the final-form regulation submittal an analysis of the impact of the regulation on both the fuels directly included in the regulation and other fuels derived from the same sources, including an analysis of the supply and demand for the fuels and the effect of the regulation on the availability and price of these fuels.

Temporary suspension mechanism

Subparagraphs (2)(iii) of Subsections (a) through (e) include the following:

(iii) The Department, with the written concurrence of the Administrator of the EPA [Environmental Protection Agency], may temporarily suspend or increase the applicable limit or percentage by weight of sulfur content of a commercial fuel oil set forth in the table in subparagraph (i) if both of the following occur:

(A) The Department determines that an insufficient quantity of compliant commercial fuel oil is reasonably available in a nonair basin area.

(B) The Department receives a written request for a suspension or increase on the basis that compliant commercial fuel oil is not reasonably available. The request must include both of the following:

(I) The reason compliant commercial fuel oil is not reasonably available.

(II) The duration of time for which the suspension or increase is requested and the justification for the requested duration.

We request an explanation of how the temporary suspension mechanism will be effective in addressing a shortage of compliant fuel. The regulation is not clear regarding what process will be followed, when the EPA would complete its review, the content required by the EPA to grant the request or whether the EPA is required to entertain the request. We question how an excessive price for compliant fuel would be considered in the determination of whether compliant fuel is "available." Also, what alternatives would the Department have if the EPA refuses to entertain the request or denies the request? The EQB should explain how this mechanism is feasible, reasonable and in the best interest of Pennsylvania.

Policy decision of such a substantial nature that it requires legislative review

It is clear that this regulation has direct and indirect effects on a broad range of citizens, businesses and industry. Several comments were received in support of the regulation, even by those who may oppose portions of the regulation. We also recognize from the concerns expressed in the public comments, Senate Committee Chairman White's comments and our concerns included above that this regulation involves the availability of fuel, the price of fuel, significant economic investment and approval of temporary suspensions by the EPA that may affect the economic interests of all of Pennsylvania. Therefore, the EQB should seek the advice of the legislature on whether this regulation represents a policy decision of such a substantial nature that it requires legislative review.

2. Subsection 123.22(f) Sampling and testing.—Reasonableness; Duplication of requirements.

Two commentators believe the requirements for sampling and testing are unwarranted and may require re-testing of fuels. The EQB should explain why the sampling and testing requirements are needed and would not result in excessive or repetitive sampling and testing of fuels.

**Department of Public Welfare
Regulation #14-524 (IRRC #2880)
Participation Review Process for Medical
Assistance Nursing Facilities
January 5, 2011**

We submit for your consideration the following comments on the proposed rulemaking published in the

November 6, 2010 *Pennsylvania Bulletin*. Our comments are based on criteria in section 5.2 of the Regulatory Review Act (RRA) (71 P. S. § 745.5b). Section 5.1(a) of the RRA (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. Economic or fiscal impact of the rulemaking.

In the Regulatory Analysis Form (RAF), the Department has stated that the costs/savings imposed by the rulemaking for the regulated community, local government and state government will be equivalent to the costs associated with a current Statement of Policy. What are the costs associated with the Statement of Policy?

In addition, we ask the Department to complete all parts of Section 20 of the RAF. This section asks for an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government and state government for the current year and five subsequent years.

2. Section 1187.162. Definitions.—Need; Clarity.

We have two concerns with the definition of "closed-campus CCRC." First, what is meant by the phrase "same campus"? Does the nursing facility component of the closed-campus CCRC have to be located within a specific distance of the independent living units?

Second, what is the need for Paragraph (iii) which states, "The CCRC does not market its nursing facility component directly to the general public"?

3. Section 1187.172. Contents and submission of bed requests.—Need; Reasonableness; Clarity.

Subsections (a)(4)(iii)(C) and (D) use the phrase "imposition of remedies." What is meant by this phrase? Why must an applicant provide information to the Department about the "imposition of remedies"? As suggested by a commentator, we believe it would be more reasonable if the provisions focused on violations that lead to the imposition of fines instead of the "imposition of remedies."

4. Section 1187.173. Review and public process relating to bed requests.—Implementation procedures; Clarity.

Subsection (a)

Subsections (a)(1) and (2) state that "the Department will use its best efforts" to issue decisions within a certain time frame. This language is non-regulatory because it does not establish a binding norm. We recommend that it be deleted from the final-form regulation.

Subsection (c)

This subsection allows for an expedited review for a bed request for "good cause" as determined by the Department. A commentator has asked what criteria will be used to determine if an expedited review is appropriate. We believe the regulated community would benefit from knowing what criteria will be used to determine "good cause" and ask the Department to include the criteria in the final-form regulation.

Subsection (d)

The publication of and public comment period for bed requests is addressed by this subsection. Subsections (d)(1), (d)(2) and (d)(3) state that certain information will be posted online by the Department. Will the information be posted to the Department's website or on a different website? This should be clarified in the final-form regulation.

In addition, a commentator has suggested that any comments submitted during the comment period be made available to the public. Has the Department considered posting comments it receives on its website?

5. Section 1187.174. Information and data relevant to bed requests.—Need.

This section lists other information the Department may consider when reviewing applications for bed requests. A commentator has questioned why the Department would consider data relating to the availability of home and community based services and data relating to admissions and discharges at Medical Assistance (MA) nursing facilities in the primary service area identified in the bed request. What is the need for this data in evaluating a bed request?

6. Section 1187.175. Criteria for the approval of bed transfer requests.—Policy decision of such a substantial nature that it requires legislative review; Need; Reasonableness; Clarity.

Subsection (a)

A commentator is concerned that the criteria included in this section would limit a provider's ability to make changes to a facility in response to consumer demand. Another commentator believes that the criterion found under Subsection (a)(7), which states, "Approval of the bed transfer request will not result in increased costs to the MA program" will benefit Pennsylvania's Medicaid budget, but no MA consumers. While we understand and appreciate the budgetary constraints facing the Department, we ask for further explanation of how this set of criteria benefits MA consumers.

Subsection (b)

This subsections lists two conditions that could lead to the denial of a bed transfer request even if the criteria specified in Subsection (a) are met. The condition found in Subsection (b)(1) states: "Approval of the request would negatively affect the Department's goal to rebalance the Commonwealth's publicly-funded long-term living system to create a fuller array of service options for MA recipients." We question if this goal is a policy decision of such a substantial nature that it requires legislative review and ask the Department to point to specific statutory language that would support this goal. We also ask the Department to explain what criteria will be used to make this determination. We note that similar language can be found in § 1187.176, pertaining to criteria for the approval of closed-campus CCRC bed requests and § 1187.177, pertaining to criteria for the approval of bed requests other than bed transfer requests for closed-campus CCRC bed requests.

7. Section 1187.176. Criteria for the approval of closed-campus CCRC bed requests.—Need; Reasonableness.

This section establishes criteria for the approval of closed-campus CCRC bed requests. We have two concerns. First, what is the need for separate criteria for CCRC bed requests compared to non-CCRC bed requests? This should be explained in the Preamble to the final-form regulation.

Second, Subsection (a)(4) requires the ratio of CCRC's independent living units to its nursing facility beds to be "equal to or less than 17 independent living units to 1 nursing facility bed." We ask the Department to explain the basis for this ratio.

8. Section 1187.177. Criteria for the approval of bed requests other than bed transfer requests or closed-campus CCRC bed requests.—Statutory authority; Need; Reasonableness; Implementation procedures.

We have concerns with three subsections. First, a commentator believes that Subsection (a)(3)(ii) places an unreasonable burden on nursing facilities because it will impose an artificial application of a mandated percentage of MA residents. What is the need for this criterion?

Second, Subsection (a)(3)(iv) states the following: "The legal entity will employ welfare or MA recipients in its subject facility." We have the following questions about this provision.

- What is the Department's specific statutory authority for this provision?
- How will it be implemented?
- Would part-time employment satisfy this requirement?
- What would happen if the legal entity cannot find a qualified candidate to employ?
- Can this provision be waived, and if so, under what circumstances?
- How will it be enforced and what are the penalties for not being in compliance?

Third, we ask the Department to explain how it determined that the numeric percentages relating to average annual occupancy rates found in Subsections (b)(1) and (2) are appropriate and reasonable.

SILVAN B. LUTKEWITTE, III,
Chairperson

[Pa.B. Doc. No. 11-91. Filed for public inspection January 14, 2011, 9:00 a.m.]

INSURANCE DEPARTMENT

Application for Approval to Acquire Control of Mercer Insurance Company and Franklin Insurance Company

United Fire & Casualty Company has filed an application for approval to acquire control of Mercer Insurance Company and Franklin Insurance Company, each a Pennsylvania domiciled stock property and casualty insurance company. The filing was made under Article XIV of The Insurance Company Law of 1921 (40 P. S. §§ 991.1401—991.1413).

Persons wishing to comment on the acquisition are invited to submit a written statement to the Insurance Department (Department) within 30 days from the date of this issue of the *Pennsylvania Bulletin*. Each written statement must include name, address and telephone number of the interested party; identification of the application to which the statement is addressed; and a concise statement with sufficient detail and relevant facts to inform the Department of the exact basis of the statement. Written statements should be directed to Robert Brackbill, Company Licensing Division, Insurance Department, 1345 Strawberry Square, Harrisburg, PA 17120, fax (717) 787-8557 or rbrackbill@state.pa.us.

ROBERT L. PRATTER,
Acting Insurance Commissioner

[Pa.B. Doc. No. 11-92. Filed for public inspection January 14, 2011, 9:00 a.m.]

Application for Domestic Certificate of Authority by Penn Reserve Insurance Company, Ltd.

Penn Reserve Insurance Company, Ltd. has applied for a Certificate of Authority to operate as a domestic stock casualty insurance company in this Commonwealth. The filing was made under the requirements set forth under The Insurance Company Law of 1921 (40 P. S. §§ 341—1003).

Persons wishing to comment on the application are invited to submit a written statement to the Insurance Department (Department) within 30 days from the date of this issue of the *Pennsylvania Bulletin*. Each written statement must include name, address and telephone number of the interested party; identification of the application to which the statement is addressed; and a concise statement with sufficient detail and relevant facts to inform the Department of the exact basis of the statement. Written statements should be directed to Robert Brackbill, Company Licensing Division, Insurance Department, 1345 Strawberry Square, Harrisburg, PA 17120, fax (717) 787-8557 or rbrackbill@state.pa.us.

ROBERT L. PRATTER,
Acting Insurance Commissioner

[Pa.B. Doc. No. 11-93. Filed for public inspection January 14, 2011, 9:00 a.m.]

Children's Health Insurance Program Advisory Council Meeting

The Insurance Department has scheduled a meeting of the Children's Health Insurance Program Advisory Council (Council) on Wednesday, February 2, 2011, at 10 a.m. at the Department of Education, Heritage Rooms A and B, Lobby Level, 333 Market Street, Harrisburg, PA 17120. The Children's Health Care Act (40 P. S. §§ 991.2301—991.2361) charges the Council with the responsibilities of reviewing outreach activities and evaluating the accessibility and availability of services delivered to children enrolled in Children's Health Insurance Program. The public is invited to attend. Persons who need accommodations due to a disability who wish to attend the meeting should contact Kirk Montrose, Insurance Department, 1300 Strawberry Square, Harrisburg, PA 17120 or (717) 214-4781, at least 24 hours in advance so that arrangements can be made.

ROBERT L. PRATTER,
Acting Insurance Commissioner

[Pa.B. Doc. No. 11-94. Filed for public inspection January 14, 2011, 9:00 a.m.]

Erie Insurance Exchange; Private Passenger Auto Insurance Rate and Rule Revision; Rate Filing

On December 20, 2010, the Insurance Department (Department) received from Erie Insurance Exchange a filing for a proposed rate level and rule change for Private Passenger Auto insurance.

The company requests an overall 0.0% change amounting to \$96,000 annually, to be effective April 1, 2011.

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. 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 Eric Zhou, Insurance Department, Insurance Product Regulation, 1311 Strawberry Square, Harrisburg, PA 17120, gzhou@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. 11-95. Filed for public inspection January 14, 2011, 9:00 a.m.]

Review Procedure Hearings; Cancellation or Re- fusal of Insurance

The following insureds have requested a hearing as authorized by the act of June 17, 1998 (P. L. 464, No. 68) (Act 68) in connection with the termination of the insureds' automobile insurance policies. The hearings will be held in accordance with the requirements of Act 68; 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 hearings will be held in the Insurance Department's regional office in Pittsburgh, PA. Failure by an appellant to appear at the scheduled hearing may result in dismissal with prejudice.

The following hearings will be held in the Piatt Building, Room 2019, 301 5th Avenue, Pittsburgh, PA 15222.

Appeal of Jill A. Devine; file no. 10-183-89226; State Farm Fire and Casualty Insurance Company; Doc. No. P10-07-001; February 11, 2011, 9 a.m.

Appeal of Emmanuel K. Obodai; file no. 10-181-96169; State Farm Mutual Automobile Insurance Company; Doc. No. P10-12-013; February 11, 2011, 11 a.m.

Appeal of Celeste Robinson; file no. 10-183-89912; State Farm Mutual Automobile Insurance Company; Doc. No. P10-07-003; February 11, 2011, 10 a.m.

Parties may appear with or without counsel and offer relevant testimony 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.

In some cases, the Insurance Commissioner (Commissioner) may order that the company reimburse an insured for the higher cost of replacement insurance coverage obtained while the appeal is pending. Reimbursement is available only when the insured is successful on appeal, and may not be ordered in all instances. If an insured wishes to seek reimbursement for the higher cost of replacement insurance, the insured must produce documentation at the hearing which will allow comparison of coverages and costs between the original policy and the replacement policy.

Following the hearing and receipt of the stenographic transcript, the 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,
Insurance Commissioner

[Pa.B. Doc. No. 11-96. Filed for public inspection January 14, 2011, 9:00 a.m.]

Review Procedure Hearings under the Unfair Insurance Practices Act

The following insureds have requested a hearing as authorized by section 8 of the Unfair Insurance Practices Act (40 P. S. § 1171.8) in connection with their companies' termination of the insureds' homeowners policies. The hearings 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 hearings will be held in the Insurance Department's regional office in Pittsburgh, PA. Failure by an appellant to appear at a scheduled hearing may result in dismissal with prejudice.

The following hearings will be held in the Piatt Building, Room 2019, 301 5th Avenue, Pittsburgh, PA 15222.

Appeal of Gary Richardson; file no. 10-130-96145; Insurance Placement Facility of PA; Doc. No. P10-12-014; February 11, 2011, 1 p.m.

Jonathan and Bambi Spavelko; file no. 10-130-91465; Motorists Mutual Insurance Company; Doc. No. P10-08-015; February 11, 2011, 3 p.m.

Robert F. Williams; file no. 10-169-95939; The Travelers Indemnity Company; Doc. No. P10-12-005; February 11, 2011, 2 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,
Insurance Commissioner

[Pa.B. Doc. No. 11-97. Filed for public inspection January 14, 2011, 9:00 a.m.]

LEGISLATIVE REFERENCE BUREAU

Documents Filed But Not Published

The Legislative Reference Bureau (Bureau) accepted the following documents during the preceding calendar month for filing without publication under 1 Pa. Code § 3.13(b) (relating to contents of *Bulletin*). The Bureau will continue to publish on a monthly basis either a summary table identifying the documents accepted during the preceding calendar month under this subsection or a statement that no documents have been received. For questions concerning or copies of documents filed, but not published, call (717) 783-1530.

Governor's Office

Management Directive No. 240.11—Commonwealth Wireless Communication Policy, Amended November 8, 2010.

Management Directive No. 305.4—Payments to Counties, Amended November 9, 2010.

Management Directive No. 315.20—Taxability of the Use of State-Provided Vehicles, Amended November 22, 2010.

Management Directive No. 505.7—Personnel Rules, Amended November 9, 2010.

Management Directive No. 505.32—Governor's Awards for Excellence, Amended November 17, 2010.

Administrative Circular No. 10-14—Holiday Trees and Decorations in Commonwealth Owned or Administered Buildings, Dated November 22, 2010.

Administrative Circular No. 10-15—Inauguration Day, Dated December 2, 2010.

MARY JANE PHELPS,
Director
Pennsylvania Code and Bulletin

[Pa.B. Doc. No. 11-98. Filed for public inspection January 14, 2011, 9:00 a.m.]

PATIENT SAFETY AUTHORITY

Public Meeting

The Patient Safety Authority (Authority), established by section 303 of the Medical Care Availability and Reduction of Error (MCARE) Act (40 P. S. § 1303.303), announces a meeting of the Authority's Board to be held

at the Harrisburg Area Community College, One HACC Drive, Harrisburg, PA at 10 a.m. on Tuesday, January 25, 2011.

Individuals with questions regarding this meeting, which is open to the public, should contact the Authority at (717) 346-0469.

MICHAEL C. DOERING,
Executive Director

[Pa.B. Doc. No. 11-99. Filed for public inspection January 14, 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 31, 2011. Documents filed in support of the applications are available for inspection and copying at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday, and at the business address of the respective applicant.

Application of the following for approval to begin operating as *common carriers* for transportation of persons as described under the application.

A-2011-2218369. Samir Ouaqerrouh (207 Russell Street, Apt. B, Ridley Park, Delaware County, PA 19078), begin right to transport, by motor vehicle, persons, upon call or demand in Tinicum Township, Delaware County; excluding service under the jurisdiction of the Philadelphia Parking Authority.

Applications of the following for the approval of the transfer of stock as described under each application.

A-2011-2218759. Veolia Environnement, a French company that owns and controls indirectly the Pittsburgh Transportation Group Charter Services, Inc., and La Caisse des Depots et Consignations, a French special public entity, for the approval to create a joint venture called Veolia Transdev, to which they will contribute their respective worldwide transportation businesses, including the Pittsburgh Transportation Group Charter Services, Inc. *Attorney:* David M. Desalle, 505 9th Street, North West, Suite 1000, Washington, D.C. 20004-2166.

A-2011-2218802. Veolia Environnement, a French company that owns and controls indirectly the Pittsburgh Cab Company, Inc., and La Caisse des Depots et Consignations, a French special public entity, for the approval to create a joint venture called Veolia Transdev, to which they will contribute their respective worldwide transportation businesses, including the Pittsburgh Cab Company,

Inc. *Attorney:* David M. Desalle, 505 9th Street, North West, Suite 1000, Washington, D.C. 20004-2166.

A-2011-2218805. Veolia Environnement, a French company that owns and controls indirectly the Yellow Cab Company of Pittsburgh, and La Caisse des Depots et Consignations, a French special public entity, for the approval to create a joint venture called Veolia Transdev, to which they will contribute their respective worldwide transportation businesses, including the Yellow Cab Company of Pittsburgh. *Attorney:* David M. Desalle, 505 9th Street, North West, Suite 1000, Washington, D.C. 20004-2166.

A-2011-2218806. Veolia Environnement, a French company that owns and controls indirectly the Airline Acquisition Company, Inc., and La Caisse des Depots et Consignations, a French special public entity, for the approval to create a joint venture called Veolia Transdev, to which they will contribute their respective worldwide transportation businesses, including the Airline Acquisition Company, Inc. *Attorney:* David M. Desalle, 505 9th Street, North West, Suite 1000, Washington, D.C. 20004-2166.

A-2011-2218815. Veolia Environnement, a French company that owns and controls indirectly the Ray Cab Company, LLC, and La Caisse des Depots et Consignations, a French special public entity, for the approval to create a joint venture called Veolia Transdev, to which they will contribute their respective worldwide transportation businesses, including the Ray Cab Company, LLC. *Attorney:* David M. Desalle, 505 9th Street, North West, Suite 1000, Washington, D.C. 20004-2166.

A-2011-2218830. Veolia Environnement, a French company that owns and controls indirectly the Airport Limousine Service, Inc., and La Caisse des Depots et Consignations, a French special public entity, for the approval to create a joint venture called Veolia Transdev, to which they will contribute their respective worldwide transportation businesses, including the Airport Limousine Service, Inc. *Attorney:* David M. Desalle, 505 9th Street, North West, Suite 1000, Washington, D.C. 20004-2166.

Pennsylvania Public Utility Commission, Bureau of Transportation and Safety v. Premium Taxi, LLC;
Doc. No. C-2010-2181602, A-00121698

COMPLAINT

The Pennsylvania Public Utility Commission (Commission) is a duly constituted agency of the Commonwealth of Pennsylvania empowered to regulate public utilities within the Commonwealth. The Commission has delegated its authority to initiate proceedings which are prosecutory in nature to the Bureau of Transportation and Safety and other bureaus with enforcement responsibilities. Pursuant to that delegated authority and Section 701 of the Public Utility Code, the Bureau of Transportation and Safety Prosecutory Staff hereby represents as follows:

1. That Premium Taxi, LLC, respondent, maintains its principal place of business at 1444 West Hamilton Street, Suite 102C, Allentown, PA 18102.
2. That respondent was issued a certificate of public convenience by this Commission on October 3, 2006 for taxi authority at Docket No. A-00121698.
3. That respondent, on May 18, 2010, at approximately 8:50 a.m., on Industrial Boulevard, Bethlehem, Lehigh County, Pennsylvania, presented a certain 2004 Ford taxi,

bearing Pennsylvania License No. TX46202, Vehicle Identification No. 1FAHP58S34A187967, for inspection.

4. That the vehicle described in Paragraph 3 of this Complaint was inspected by Enforcement Officer Ben Groves, a duly authorized officer of this Commission, on the date and at the place specified in Paragraph 3 and the following violation was disclosed:

(a) Dome light inoperable—not visible from 100 feet from front and rear of vehicle.

5. That respondent, on May 18, 2010, at approximately 9:30 a.m., on Industrial Boulevard, Bethlehem, Lehigh County, Pennsylvania, presented a certain 2002 Mercury taxi, bearing Pennsylvania License No. TX46061, Vehicle Identification No. 1MEFM50U32A628905, for inspection.

6. That the vehicle described in Paragraph 5 of this Complaint was inspected by Enforcement Officer Ben Groves, a duly authorized officer of this Commission, on the date and at the place specified in Paragraph 5 and the following violations were disclosed:

(a) Dome light inoperable—not visible from 100 feet from front and rear of vehicle.

(b) Left rear and right side front safety belt buckles do not operate properly.

(c) Right side front door has a dent larger than four inches in diameter. Left side front door has a gouge larger than four inches in diameter.

7. That respondent, on May 18, 2010, at approximately 10:15 a.m., on Industrial Boulevard, Bethlehem, Lehigh County, Pennsylvania, presented a certain 2000 Nissan taxi, bearing Pennsylvania License No. TX45352, Vehicle Identification No. 4N2XN11T5YD811390, for inspection.

8. That the vehicle described in Paragraph 7 of this Complaint was inspected by Enforcement Officer Ben Groves, a duly authorized officer of this Commission, on the date and at the place specified in Paragraph 7 and the following violations were disclosed:

(a) Dome light inoperable—not visible from 100 feet from front and rear of vehicle.

(b) Over-aged vehicle operated in taxi service.

(c) Meter improperly calibrated resulting in a fare which is higher than the tariff rate on file with the Commission.

9. That respondent, on May 18, 2010, at approximately 10:55 a.m., on Industrial Boulevard, Bethlehem, Lehigh County, Pennsylvania, presented a certain 2003 Ford taxi, bearing Pennsylvania License No. TX46562, Vehicle Identification No. 2FMDA58471BB57118, for inspection.

10. That the vehicle described in Paragraph 9 of this Complaint was inspected by Enforcement Officer Ben Groves, a duly authorized officer of this Commission, on the date and at the place specified in Paragraph 9 and the following violation was disclosed:

(a) Battery securement device missing.

11. That respondent, on May 18, 2010, at approximately 11:55 a.m., on Industrial Boulevard, Bethlehem, Lehigh County, Pennsylvania, presented a certain 2002 Mercury taxi, bearing Pennsylvania License No. TX45357, Vehicle Identification No. 2GVWH55K119170197, for inspection.

12. That the vehicle described in Paragraph 11 of this Complaint was inspected by Enforcement Officer Ben Groves, a duly authorized officer of this Commission, on

the date and at the place specified in Paragraph 11 and the following violation was disclosed:

(a) Dome light inoperable—not visible from 100 feet from front and rear of vehicle.

13. That respondent, on August 3, 2010, at approximately 9:00 a.m., on Industrial Boulevard, Bethlehem, Lehigh County, Pennsylvania, presented a certain 2000 Nissan taxi, bearing Pennsylvania License No. TX45352, Vehicle Identification No. 4N2XN11T5YD811390, for re-inspection.

14. That the vehicle described in Paragraph 13 of this Complaint was reinspected by Enforcement Officer Ben Groves, a duly authorized officer of this Commission, on the date and at the place specified in Paragraph 13 and the following violation was disclosed:

(a) Over-aged vehicle operated in taxi service.

15. That respondent, by permitting a vehicle to be operated in taxi service with an inoperable dome light (not visible from 100 feet from front and rear of vehicle), violated 52 Pa. Code § 29.314(e). The Bureau of Transportation and Safety Motor Carrier Services and Enforcement's Prosecutory staff's proposed civil penalty for this violation is \$100.00 per violation for a total of \$400.00.

16. That respondent, by permitting a vehicle to be operated in taxi service with left rear and right side front safety belt buckles that do not operate properly, violated 52 Pa. Code § 29.402(1) and 67 Pa. Code § 175.78(g)(2). The Bureau of Transportation and Safety Motor Carrier Services and Enforcement's Prosecutory staff's proposed civil penalty for this violation is \$100.00.

17. That respondent, by permitting a vehicle to be operated in taxi service with an exterior that has dents and gouges over 4 inches in diameter, violated 52 Pa. Code § 29.403(6). The Bureau of Transportation and Safety Motor Carrier Services and Enforcement's Prosecutory staff's proposed civil penalty for this violation is \$100.00.

18. That respondent, by permitting a vehicle to be operated in taxi service which is more than eight model years old, violated 52 Pa. Code § 29.314(d). The Bureau of Transportation and Safety Motor Carrier Services and Enforcement's Prosecutory staff's proposed civil penalty for this violation is \$500.00 for the first violation and \$500.00 for the second violation at the time of reinspection, for a total of \$1,000.00.

19. That respondent, by having its meter regulated so that a higher rate is charged than the current tariff rates on file with this Commission, violated 52 Pa. Code §§ 29.314(b)(6) and 29.316. The Bureau of Transportation and Safety Motor Carrier Services and Enforcement's Prosecutory Staff's proposed civil penalty for this violation is \$500.00.

20. That respondent, by failing to have a secured battery in its vehicle while in operation, violated 52 Pa. Code § 29.402(1) and 67 Pa. Code § 175.66(n) and, by failing to maintain safe and reasonable facilities for the proper safety of its patrons and public, violated 66 Pa.C.S. § 1501. The Bureau of Transportation and Safety Motor Carrier Services and Enforcement's Prosecutory Staff's proposed civil penalty for this violation is \$100.00.

Wherefore, the Bureau of Transportation and Safety Prosecutory Staff hereby requests that the Commission fine Premium Taxi, LLC, the sum of two thousand two hundred dollars (\$2,200.00) for the illegal activity de-

scribed in this complaint and such other remedy as the Commission may deem to be appropriate.

Respectfully submitted,

Michael E. Hoffman, Director
Bureau of Transportation and Safety
P. O. Box 3265
Harrisburg, PA 17105-3265

VERIFICATION

I, Michael E. Hoffman, Director of the Bureau of Transportation and Safety, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect the Bureau to be able to prove the same at any hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: _____

Michael E. Hoffman, Director
Bureau of Transportation and Safety

NOTICE

A. You must file an Answer within twenty (20) days of the date of service of this Complaint. The date of service is the mailing date as indicated at the top of the Secretarial Cover Letter for this Complaint and Notice, 52 Pa. Code § 1.56(a). An Answer is a written explanation of circumstances wished to be considered in determining the outcome. The Answer shall raise all factual and legal arguments that you wish to claim in your defense and must include the reference number of this complaint. Your Answer must be verified and the original and three (3) copies sent to:

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
P. O. Box 3265
Harrisburg, PA 17105-3265

B. If you fail to answer this complaint within twenty (20) days, the Bureau of Transportation and Safety will request that the Commission issue an Order imposing a penalty.

C. You may elect not to contest this complaint by paying the fine proposed in this Complaint by certified check or money order. Payment must be made to the Commonwealth of Pennsylvania and should be forwarded to:

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
P. O. Box 3265
Harrisburg, PA 17105-3265.

Your payment is an admission that you committed the alleged violation and an agreement to cease and desist from further violations. Upon receipt of your payment, the complaint proceeding shall be closed.

D. If you file an Answer which admits or fails to deny the allegations of the Complaint, the Bureau of Transportation and Safety will request that the Commission issue an Order imposing a penalty.

E. If you file an Answer which contests the Complaint, the matter will be assigned to an Administrative Law Judge for hearing and decision. The judge is not bound by the optional fine set forth above.

F. Alternative formats of this material are available, for persons with disabilities, by contacting the Compliance Office at (717) 787-1227.

[Pa.B. Doc. No. 11-100. Filed for public inspection January 14, 2011, 9:00 a.m.]

Telecommunications Services

A-2010-2217750; A-2010-2217751; A-2010-2217752; A-2010-2217755; A-2010-2217757; A-2010-2217759; A-2010-2217762; A-2010-2217765; A-2010-2217769; A-2010-2217772; A-2010-2217773; A-2010-2217776.
BullsEye Telecom, Inc. Application of BullsEye Telecom, Inc. for approval to offer, render, furnish or supply telecommunications services as a competitive local exchange carrier to the public in this Commonwealth in the service territories of: Citizens Telecommunications Company of New York, Inc., d/b/a Frontier Communications of New York; Citizens Telephone of Kecksburg; Frontier Communications of Breezewood, LLC; Frontier Communications of Canton, LLC; Commonwealth Telephone Company, d/b/a Frontier Communications Commonwealth Telephone Company; Frontier Communications of Pennsylvania, LLC; Frontier Communications of Lakewood, LLC; Frontier Communications of Oswayo River, LLC; Windstream Buffalo Valley Telephone, Inc.; Windstream Conestoga Inc.; Windstream D&E Inc.; and Windstream Pennsylvania, LLC.

Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). Filings must be made with the Secretary of the Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant, on or before January 31, 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, and at the applicant's business address.

Applicant: BullsEye Telecom, Inc.

Through and By Counsel: James F. Romzek, Warner Norcross & Judd, LLP, 12900 Hall Road, Suite 440, Sterling Heights, MI 48313

ROSEMARY CHIAVETTA,
Secretary

[Pa.B. Doc. No. 11-101. Filed for public inspection January 14, 2011, 9:00 a.m.]

Transfer of Indirect Control

A-2011-2218761; A-2011-2218763; A-2011-2218766; A-2011-2218768. **EarthLink, Inc., One Communications Corporation, CTC Communications Corp, Conversent Communications of PA, LLC, Lightship Telecom, LLC and Choice One Communications of PA, LLC.** Joint application of EarthLink, Inc., One Communications Corporation, CTC Communications Corp, Conversent Communications of PA, LLC, Lightship Telecom, LLC and Choice One Communications of PA, LLC for approval of the transfer of indirect control of CTC Communications Corp, Conversent Communications

of PA, Lightship Telecom, LLC and Choice One Communications of PA, LLC to EarthLink, Inc.

Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). Filings must be made with the Secretary of the Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant, on or before January 31, 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, and at the applicant's business address.

Applicants: One Communications Corporation, CTC Communications Corp, Conversent Communications of PA, LLC, Lightship Telecom, LLC, and Choice One Communications of PA, LLC

Through and By Counsel: Daniel P. Delaney, Esquire, K&L Gates, LLP, 17 North Second Street, 18th Floor, Harrisburg, PA 17101-1507

ROSEMARY CHIAVETTA,
Secretary

[Pa.B. Doc. No. 11-102. Filed for public inspection January 14, 2011, 9:00 a.m.]

STATE POLICE

Mobile Video Recording System Equipment Standards and Approved Mobile Video Recording Systems

The State Police, under 18 Pa.C.S. §§ 5704(16)(ii)(C) and 5706(b)(4) (relating to exceptions to prohibition of interception and disclosure of communications; and exceptions to prohibitions in possession, sale, distribution, manufacture or advertisement of electronic, mechanical or other devices), published at 34 Pa.B. 1304 (February 28, 2004) a notice of Mobile Video Recording System Equipment Standards and Approved Mobile Video Recording Systems for use until the next comprehensive list is published.

As an addendum to the listing of approved mobile video recording systems published at 34 Pa.B. 1304, the State Police, under the authority cited previously, has approved for use, until the next comprehensive list is published, subject to interim amendment, the following additional approved mobile video recording system, which meets the minimum equipment standards published at 34 Pa.B. 1304:

EDGE Mobile Video Recorder, Coban Technologies, Stafford, TX

Comments, suggestions or questions should be directed to State Police, Bureau of Patrol, Department Headquarters, 1800 Elmerton Avenue, Harrisburg, PA 17110.

LT. COL. JON D. KURTZ,
Acting Commissioner

[Pa.B. Doc. No. 11-103. Filed for public inspection January 14, 2011, 9:00 a.m.]

SUSQUEHANNA RIVER BASIN COMMISSION

Public Hearing and Meeting

The Susquehanna River Basin Commission (Commission) held a public hearing as part of its regular business meeting on December 16, 2010, in Aberdeen, MD. At the public hearing, the Commission: 1) approved settlements involving two water resources projects; 2) approved and tabled certain water resources projects; and 3) rescinded approval for one water resources project.

For further information contact Richard A. Cairo, General Counsel, (717) 238-0423, Ext. 306, fax (717) 238-2436, rcairo@srbc.net; or Stephanie L. Richardson, Secretary to the Commission, (717) 238-0423, Ext. 304, fax (717) 238-2436, srichardson@srbc.net. Regular mail inquiries may be sent to the Susquehanna River Basin Commission, 1721 North Front Street, Harrisburg, PA 17102-2391.

Supplementary Information

In addition to the public hearing and its related action items identified, the following items were also presented or acted on at the business meeting: 1) presentations on Climate Change Initiatives to Protect the Chesapeake Bay; 2) hydrologic conditions in the basin; 3) Fiscal Year (FY) 2012 funding of the Susquehanna Flood Forecast and Warning System; 4) ratification/approval of grants/contracts; 5) approval of proposed natural gas related research projects; 6) a Records Retention Policy; 7) the FY 2010 Audit Report; 8) a recommendation for new independent auditors; and 9) amendment of Commission By-Laws. The Commission heard counsel's report on legal matters affecting the Commission. The Commission also convened a public hearing and took the following actions:

Public Hearing—Compliance Matters

The Commission approved a settlement in lieu of civil penalties for the following projects:

1. Chesapeake Appalachia, LLC. Withdrawal ID: Susquehanna River—Hicks (Docket No. 20091201), Great Bend Township, Susquehanna County, PA—\$3,000
2. J-W Operating Company. Pad ID: Pardee & Curtin Lumber Co. C-12H, Shippen Township, Cameron County, PA—\$40,000

Public Hearing—Rescission of Project Approval

1. Project Sponsor and Facility: Anadarko E&P Company, LP (Pine Creek) (Docket No. 20090304), Cummings Township, Lycoming County, PA.

Public Hearing—Projects Approved

1. Project Sponsor and Facility: Anadarko E&P Company, LP (Pine Creek—3), Watson Township, Lycoming County, PA. Surface water withdrawal of up to 0.720 mgd.
2. Project Sponsor: Aqua Pennsylvania, Inc. Project Facility: Monroe Manor Water System, Monroe Township, Snyder County, PA. Groundwater withdrawal of up to 0.391 mgd from Well 6.
3. Project Sponsor and Facility: East Resources Management, LLC (Cowanesque River), Westfield Township, Tioga County, PA. Surface water withdrawal of up to 0.375 mgd.
4. Project Sponsor and Facility: EXCO Resources (PA), LLC (West Branch Susquehanna River), Curwensville Borough, Clearfield County, PA. Surface water withdrawal of up to 2.000 mgd.

5. Project Sponsor: Hughesville-Wolf Township Joint Municipal Authority. Project Facility: Wastewater Treatment Plant, Wolf Township, Lycoming County, PA. Withdrawal of treated wastewater effluent of up to 0.249 mgd.

6. Project Sponsor and Facility: Leonard & Jean Marie Azaravich (Meshoppen Creek), Springville Township, Susquehanna County, PA. Surface water withdrawal of up to 0.249 mgd.

7. Project Sponsor and Facility: LHP Management, LLC (Fishing Creek—Clinton Country Club), Bald Eagle Township, Clinton County, PA. Modification to increase surface water withdrawal up to 0.999 mgd (Docket No. 20090906).

8. Project Sponsor and Facility: Linde Corporation (Lackawanna River), Fell Township, Lackawanna County, PA. Surface water withdrawal of up to 0.905 mgd.

9. Project Sponsor and Facility: Ultra Resources, Inc. (Pine Creek), Pike Township, Potter County, PA. Modification to increase surface water withdrawal up to 0.936 mgd (Docket No. 20090332).

Public Hearing—Project Tabled

1. Project Sponsor and Facility: Peoples Financial Services Corp. (Tunkhannock Creek), Tunkhannock Township, Wyoming County, PA. Application for surface water withdrawal of up to 0.990 mgd.

Authority: Pub. L. No. 91-575, 84 Stat. 1509 et seq., 18 CFR Parts 806—808.

Dated: December 22, 2010.

PAUL O. SWARTZ,
Executive Director

[Pa.B. Doc. No. 11-104. Filed for public inspection January 14, 2011, 9:00 a.m.]

PROPOSED RULEMAKING

PHILADELPHIA PARKING AUTHORITY

[52 PA. CODE CHS. 1001, 1003, 1005, 1011, 1013, 1015, 1017, 1019, 1021, 1023, 1025, 1027, 1029, 1051, 1053, 1055, 1057, 1059, 1061, 1063 AND 1065]

[PRM-10-001]

Philadelphia Taxicab and Limousine Regulations

The Philadelphia Parking Authority (Authority), on November 22, 2010, adopted a proposed rulemaking order which establishes a body of regulations applicable to Philadelphia taxicabs and limousine service providers. This proposed rulemaking was necessitated by the Commonwealth Court's determination in *Germantown Cab Co. v. Philadelphia Parking Authority*, 993 A.2d 933 (2010), that the Authority's existing local regulations are invalid because they were not promulgated under the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1102 and 1201—1208), known as the Commonwealth Documents Law. The matter is on appeal to the Supreme Court, but the Authority will proceed with this proposed rulemaking in an abundance of caution.

Philadelphia Taxicab and Limousine Regulations;
Doc. No. PRM-10-001

Proposed Rulemaking Order

By the Authority:

In accordance with of the act of July 16, 2004 (P. L. 758, No. 94), as amended, 53 Pa.C.S. §§ 5701 et seq., (the "Act"),¹ the Authority formally commences its rulemaking process to promulgate the entire body of regulations for taxicab and limousine service providers in Philadelphia. The Authority seeks comments from all interested parties on these proposed regulations, which are found at Annex A to this Order.

A. Background and Procedural History

Pursuant to Section 23 of the Act, the Authority initiated regulatory oversight of taxicab and limousine service providers in Philadelphia on April 10, 2005. That regulatory oversight was guided by regulations promulgated by the Authority as a local agency. Because the Authority had been determined to be a local agency from the time of its inception through April 10, 2010, and beyond, the Authority's regulations were implemented without publication or review in the form required by the act of June 25, 1982 (P. L. 633, No. 181), known as the Regulatory Review Act, and Sections 201 through 208 of the act of July 31, 1968 (P. L. 769, No 240), referred to as the Commonwealth Documents Law, although the regulations were subject to public comment and Sunshine Act² review.

In February of 2009 the Pennsylvania Supreme Court overruled the Pennsylvania Commonwealth Court to determine that the Authority was a Commonwealth agency for purposes of judicial jurisdiction, but only when it acted in its capacity as a regulator of taxicab and limousine services in Philadelphia.³ In April 2010, the

Commonwealth Court determined that the Authority's taxicab and limousine regulations were invalid because they were not promulgated in accordance with the Commonwealth Documents Law.⁴ While the validity of the Authority's existing local agency regulations remains under appeal to the Pennsylvania Supreme Court,⁵ the Authority moves to promulgate the regulations found at Annex A in an abundance of caution.

Discussion

The proposed regulations found in Annex A have been drafted to be placed in Part II of Title 52 of the *Pennsylvania Code*. Part I of that title relates to the Pennsylvania Public Utility Commission (the "PUC"). Certain portions of the proposed regulations are modeled on the practices and procedures of the PUC, but few are identical due to the more narrow scope of the Authority's jurisdiction as a regulator of public utilities engaged in taxicab and limousine services in Philadelphia.

The proposed regulations are organized as follows:

Subpart A. General Provisions.
Subpart B. Taxicabs.
Subpart C. Limousines.

While there are many similarities in the services provided by taxicabs and limousines, the Authority has divided its proposed regulations as previously provided in order to assist regulated parties with their search for sections applicable to their specific area of service. The proposed regulations also incorporate many of the requirements of the Authority's current local regulations and previously issued orders. Standards, requirements and procedures have been modified to address concerns of regulated parties and the general public.

Conclusion

The Authority, therefore, formally commences its rulemaking process to promulgate regulations in 52 Pa. Code Part II consistent with Annex A to this Order. The Authority seeks comments from all interested parties on this proposed body of regulations, which are found at Annex A to this Order. The Authority hereby advises that all comments submitted in response to this Order will be posted, without redaction of name, address, or other personal information or comment provided, on the web site of the Independent Regulatory Review Commission, which may be reached at (717) 783-5417.

Accordingly, under 53 Pa.C.S. §§ 5505(d)(17), (23) and (24), 5722 and 5742, sections 201 and 202 of the act of July 31, 1968 (P.L. 769, No. 240) (45 P.S. §§ 1201 and 1202), known as the Commonwealth Documents Law, and the regulations promulgated thereunder in 1 Pa. Code §§ 7.1, 7.2 and 7.5, section 204(b) of the Commonwealth Attorneys Act (71 P. S. § 732.204(b)) and section 745.5 of the Regulatory Review Act (71 P. S. § 745.5), we are considering adopting the proposed regulations set forth in Annex A.⁶

Therefore,

It Is Ordered That:

1. A proposed rulemaking be opened to consider the regulations set forth in Annex A.

⁴ *Germantown Cab Co., v. Philadelphia Parking Authority*, 993 A.2d 933 (Pa. Commw Ct. 2010)

⁵ See, e.g., Pennsylvania Supreme Court Docket No. 213 EAL 2010.

⁶ The Authority does not receive money from the State Treasury and is, therefore, not subject to section 612 of The Administrative Code of 1929 (71 P. S. § 232).

¹ See Sections 13 and 17 of the Act.

² See 65 Pa.C.S. § 701 et seq.

³ *Blount, et al. v. Philadelphia Parking Authority*, 965 A.2d 226 (Pa. 2009)

2. The Executive Director shall submit this proposed rulemaking order and Annex A to the Office of Attorney General for review as to form and legality.

3. The Executive Director shall submit this proposed rulemaking order and Annex A for review and comments to the Independent Regulatory Review Commission and the legislative standing committees.

4. The Secretary shall certify this proposed rulemaking order and Annex A and that the Executive Director shall deposit them with the Legislative Reference Bureau to be published in the *Pennsylvania Bulletin*.

5. An original and 15 copies of any written comments referencing the docket number of the proposed regulations be submitted within 30 days of publication in the *Pennsylvania Bulletin* to the Philadelphia Parking Authority, Attn: General Counsel, 3101 Market Street, 2nd Floor, Philadelphia, PA 19104.

6. A copy of this proposed rulemaking order and Annex A shall be served on the City of the First Class Taxicab and Limousine Advisory Committee and a copy shall be posted on the Authority's web site at www.philapark.org/tld.

7. The contact persons for this proposed rulemaking are James R. Ney, Director, Taxicab and Limousine Division, (215) 683-9417; and Dennis G. Weldon, Jr., General Counsel, (215) 683-9630.

VINCENT J. FENERTY, Jr.,
Executive Director

Annex A

TITLE 52. PUBLIC UTILITIES

PART II. PHILADELPHIA PARKING AUTHORITY

Subpart

- A. GENERAL PROVISIONS
- B. TAXICABS
- C. LIMOUSINES

Subpart A. GENERAL PROVISIONS

Chap.

- 1001. RULES OF ADMINISTRATIVE PRACTICE AND PROCEDURE
- 1003. SPECIAL PROVISIONS
- 1005. FORMAL PROCEEDINGS

CHAPTER 1001. RULES OF ADMINISTRATIVE PRACTICE AND PROCEDURE

Subchap.

- A. GENERAL PROVISIONS
- B. TIME
- C. REPRESENTATION BEFORE THE AUTHORITY
- D. DOCUMENTARY FILINGS
- E. FEES
- F. SERVICE OF DOCUMENTS
- G. PENALTY
- H. MATTERS BEFORE OTHER TRIBUNALS
- I. AMENDMENTS OR WITHDRAWALS OF SUBMITTALS
- J. DOCKET
- K. WAIVER OF RULES
- L. UNOFFICIAL STATEMENTS, OPINIONS AND NOTICE

Subchapter A. GENERAL PROVISIONS

Sec.

- 1001.1. Purpose.
- 1001.2. Scope of subpart and severability.
- 1001.3. Liberal construction.
- 1001.4. Information and special instructions.
- 1001.5. Office of the Clerk.
- 1001.6. Filing generally.
- 1001.7. Amendment to rules.
- 1001.8. Authority office hours and address.
- 1001.9. Sessions of the Authority.
- 1001.10. Definitions.

§ 1001.1. Purpose.

(a) The purpose of this part is to facilitate the implementation of the act.

(b) Except as provided in subsection (c), certificate holders, brokers, taxicab drivers, limousine drivers, and other persons with current and valid rights issued by the Authority on _____, (*Editor's Note:* The blank refers to the effective date of adoption of this proposed rulemaking.) shall maintain those rights through the Authority consistent with this part and the act.

(c) Rights issued by the Authority through issuance of a waiver prior to _____, (*Editor's Note:* The blank refers to the effective date of adoption of this proposed rulemaking.) will expire _____ (*Editor's Note:* The blank refers to a date 1 year after the effective date of adoption of this proposed rulemaking.).

§ 1001.2. Scope of subpart and severability.

(a) This subpart governs practice and procedure before the Authority, and is intended to supplement 2 Pa.C.S. (relating to administrative law and procedure) and 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure).

(b) The provisions of every section, subsection or other division of this part are severable. If any provision of any section, subsection or other division of this part or the application thereof to any person or circumstance is held invalid, the remainder of the section, subsection or other division, and the application of that provision to other persons or circumstances, will not be affected thereby, unless a court finds that the valid provisions of the section, subsection or other division are so essentially and inseparably connected with, and so depend upon, the void provision or application, that it cannot be presumed the Authority would have promulgated the remaining valid provisions without the void one; or unless the court finds that the remaining valid provisions, standing alone, are incomplete and are incapable of being executed in accordance with the legislative intent.

§ 1001.3. Liberal construction.

(a) This subpart shall be liberally construed to secure the just, speedy and efficient determination of every action, proceeding or issue presented to which it is applicable. The Authority or presiding officer at any stage of an action or proceeding may disregard an error or defect of procedure which does not affect the substantive rights of the parties.

(b) The singular includes the plural, and the plural, the singular. Words used in the masculine gender include the feminine and neuter. Words used in the past or present tense include the future.

(c) The Authority or presiding officer at any stage of an action or proceeding may waive a requirement of this subpart when necessary or appropriate, if the waiver does not adversely affect a substantive right of a party.

(d) These liberal construction provisions apply with particularity in proceedings involving pro se litigants.

(e) Subsection (a) supersedes 1 Pa. Code § 31.2 (relating to liberal construction).

§ 1001.4. Information and special instructions.

(a) Information as to procedures under this subpart, and instructions supplementing this subpart in special instances can be obtained, upon application to:

Clerk
Office of the Clerk
Philadelphia Parking Authority
Taxicab and Limousine Division
2415 South Swanson Street
Philadelphia, PA 19148

(b) Subsection (a) is identical to 1 Pa. Code § 31.4 (relating to information and special instructions).

§ 1001.5. Office of the Clerk.

(a) The Clerk will have the following duties:

(1) Receive and docket pleadings and other documents required by this part to be filed with the Clerk.

(2) Receive and process any document to be filed with the Authority when a specific Authority office to receive the document has not otherwise been designated by the act, this part or an order of the Authority.

(b) Filings and requests for practice and procedure information should be directed to:

Clerk
Office of the Clerk
Philadelphia Parking Authority
Taxicab and Limousine Division
2415 South Swanson Street
Philadelphia, PA 19148

(c) The Clerk will maintain a docket of proceedings. Each proceeding as initiated will be assigned a docket number. The docket will be available for inspection and copying by the public during the Authority's office hours.

§ 1001.6. Filing generally.

(a) Pleadings and other documents required to be filed with the Authority must clearly designate the docket number or similar identifying symbols, if any, employed by the Authority, and set forth a short title. The identity of the individual making the submission, including name, mailing address and status (for example, party or attorney for a party) must appear on the document.

(b) Pleadings, including documents filed under this subpart, must also comply with Subchapter D (relating to documentary filings).

(c) If a pleading tendered for filing does not comply with this subpart, does not sufficiently set forth required material or is otherwise insufficient, the Authority may decline to accept it for filing and may return it without filing, or the Authority may accept it for filing and advise the person tendering it of the deficiency and require that the deficiency be corrected.

(d) The Authority may require redundant, immaterial, obscene or otherwise inappropriate comments stricken from documents filed with it.

(e) Subsections (a)—(d) supersede 1 Pa. Code § 31.5 (relating to communications and filings generally).

§ 1001.7. Amendment to rules.

(a) Persons may file a petition as provided in § 1005.23 (relating to petitions for issuance, amendment, repeal, or waiver of Authority regulations) requesting a general and permanent change in this subpart.

(b) Subsection (a) supersedes 1 Pa. Code § 31.6 (relating to amendments to rules).

§ 1001.8. Authority office hours and address.

Unless otherwise directed by the Executive Director of the Authority, the Authority offices will be open from 8:30 a.m. until 4:30 p.m. on business days except Saturdays,

Sundays and legal holidays. Certain offices of the Authority may be open on Saturdays by appointment. The appropriate address for service of any Authority employee or officer may be obtained on the Authority's web site at www.philapark.org/tld.

§ 1001.9. Sessions of the Authority.

Public meetings of the Authority ordinarily will be held in its offices at 3101 Market Street, 2nd Floor, Philadelphia, PA. Schedules for public meetings can be obtained from the General Counsel.

§ 1001.10. Definitions.

(a) Subject to additional definitions contained in subparts which are applicable to specific chapters or subchapters, the following words and terms, when used in this part, have the following meanings, unless the context clearly indicates otherwise:

Act—53 Pa.C.S. Chapters 55 and 57 (relating to parking authorities; and taxicabs and limousines in first class cities).

Adjudication—An order, decree, decision, determination or ruling by the Authority affecting personal or property rights, privileges, immunities, duties, liabilities or obligations of the parties to the proceeding in which the adjudication is made.

Applicant—A person, who on his own behalf or on behalf of another, is applying for permission to engage in an act or activity which is regulated under the act or this part. In cases in which the applicant is a person other than an individual, the Authority will determine the associated persons whose qualifications are necessary as a precondition to the approval of the application.

Adversarial proceeding—A proceeding initiated by a person to seek Authority approvals, tariff changes, enforcement, remedies, issuance of fines or other relief by order of the Authority which is contested by one or more other persons and which will be decided on the basis of a formal record.

Approved, approval or approve—The date that an application to the Authority is granted regardless of the pendency of administrative or judicial appeals or other legal action challenging the decision of the Authority.

Authority—The Philadelphia Parking Authority.

Authorized agent—A person with permission to legally act on behalf of the filing user.

Board—A quorum of the members of the Philadelphia Parking Authority appointed under 53 Pa.C.S. § 5508.1 (relating to special provisions in cities of the first class).

Broker—An individual authorized by the Authority as provided in § 1029.8 (relating to broker registration approval) to prepare application related documents, appear at settlements, and otherwise act on behalf of a party as to matters related to the sale or transfer of a certificate or medallion.

Certificate—A certificate of public convenience issued by the Authority under the act. The term does not include a driver's certificate or broker registration.

Certificate holder—The person to whom a certificate is issued.

City of Philadelphia or Philadelphia—A city of the first class in the Commonwealth.

Clerk—The Authority employee with whom pleadings and other documents are filed, and with whom official

records are kept under § 1001.5 (relating to office of the Clerk) and as otherwise provided for in this part.

Compensation—A thing of value, money or a financial benefit conferred on or received by a person in return for services rendered, or to be rendered, whether by that person or another.

Contested complaint—A formal complaint.

Criminal history report—The report issued by the State Police, or similar government entity in a jurisdiction outside this Commonwealth, which will identify any convictions associated with an individual.

Director—The Director of the Authority's Taxicab and Limousine Division as provided in § 1003.72 (relating to TLD staffing generally).

Electronic mail or email—A means of dispatching or receiving notice or a submittal in relation to an Authority matter through electronic means.

Enforcement proceeding—A proceeding initiated by the Authority through the issuance of a formal complaint averring any violation of the act, this part or an order of the Authority.

Executive Director—The Authority's chief operating officer.

Ex parte communication—

(i) Any off-the-record communications regarding a pending matter before the Authority or which may reasonably be expected to come before the Board in a contested on-the-record proceeding.

(ii) The term does not include off-the-record communications by and between members, staff and employees of the Authority, the PUC, the State Police, the Attorney General or other law enforcement officials necessary for their official duties under this part.

Fiscal year—The period which commences on July 1 and terminates the following June 30.

Formal complaint—A written document filed with the Clerk initiating an enforcement action as provided in Chapter 5 (relating to formal proceedings).

Formal investigation—A matter initiated by the Authority or Authority staff that results in a formal record.

Formal proceeding—A matter intended to produce a formal record.

Formal record—The pleadings and submittals in a matter or proceeding, a notice or Authority order initiating the matter or proceeding, and if a hearing is held, the following: the designation of the presiding officer, transcript of hearing, exhibits received in evidence, offers of proof, motions, stipulations, subpoenas, proofs of service, references to the Authority and determinations made by the Authority thereon, certifications to the Authority, and anything else upon which action of the presiding officer or the Authority may be based.

Friendly cross-examination—Cross-examination of a witness by a party who does not disagree with the witness' position on an issue.

General Counsel—The chief legal counsel to the Authority.

Hearing officer—A presiding officer.

Individual—A natural person.

Informal complaint—A document or communication to the Authority seeking action on a matter as provided in § 1003.41 (relating to form and content of informal complaints).

Informal investigation—A matter initiated by the Authority staff that may result in a formal complaint, a settlement or other resolution of the matter or termination by letter.

Informal proceeding—A matter not intended to produce a formal record.

Nonadversarial proceeding—A proceeding initiated by a person which is not contested or a proceeding initiated by the Authority or at the request of a person to develop regulations, policies, procedures, technical rules or interpretations of law.

Notarial officer—An officer authorized under 1 Pa. Code § 35.148 (relating to officer before whom deposition is taken) and a presiding officer.

PUC—The Pennsylvania Public Utility Commission.

Party—

(i) A person who appears in a proceeding before the Authority, including interveners, protestants, petitioners, respondents and certificate holders.

(ii) The term includes the interests of the Authority which may be represented by the Enforcement Department, the TLD, other Authority staff or Trial Counsel, or all of them.

Person—Except as otherwise provided in this part or in the act, a natural person, corporation, foundation, organization, business trust, estate, limited liability company, licensed corporation, trust, partnership, limited liability partnership, association, representatives, receivers, agencies, governmental entities, municipalities or other political subdivisions or other form of legal business entity.

Petitioners—Persons seeking relief, not otherwise designated in this section.

Pleading—An application, complaint, petition, answer, motion, preliminary objection, protest, reply, new matter and reply to new matter or other similar document filed in a formal proceeding.

Presiding officer—

(i) A member or members of the Authority's Board, or other person designated by the Authority or this part to conduct proceedings.

(ii) This definition supersedes 1 Pa. Code § 31.3 (relating to definitions).

Proof of service—A certificate of service which complies with §§ 1001.55 and 1001.56 (relating to proof of service; and form of certificate of service).

Protestants—Persons objecting on the ground of private or public interest to the approval of an application or other matter which the Authority may have under consideration.

Recommended decision—An opinion and order submitted for the approval of the Authority by the presiding officer.

Respondents—Persons subject to a statute or other delegated authority administered by the Authority, who are required to respond to an order or notice issued by the Authority instituting a proceeding or investigation on its own initiative or otherwise.

Staff—Employees or agents of the Authority assigned to implement the act, this part or an order of the Authority.

Submittal—An application, amendment, exhibit or similar document involving matters filed in an adversarial or nonadversarial proceeding.

TLD—Taxicab and Limousine Division—The division of the Authority comprised of staff assigned to implement the purposes of the act, this part and the orders of the Authority.

TLD Headquarters—The office of the TLD identified on the Authority’s web site at www.philapark.org/tld. Unless specifically provided otherwise, communications with any Authority staff member shall be directed to TLD Headquarters.

Trial counsel—An attorney admitted to practice law before the Supreme Court of Pennsylvania who is assigned to the Office of Trial Counsel to prosecute complaints on behalf of the Authority as provided in § 1003.75 (relating to Office of Trial Counsel).

Verification—When used in reference to a written statement of fact by the signer, the term means supported by one of the following:

(i) An oath or affirmation before an officer authorized by law to administer oaths, or before a particular officer or individual designated by law as one before whom it may be taken, and officially certified to in the case of an officer under seal of office.

(ii) An unsworn statement made subject to the penalties of 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities).

(b) Subsection (a) supersedes 1 Pa. Code § 31.3.

Subchapter B. TIME

- Sec.
- 1001.11. Date of filing.
- 1001.12. Computation of time.
- 1001.13. Issuance of Authority orders.
- 1001.14. Effective dates of Authority orders.
- 1001.15. Extensions of time and continuances.
- 1001.16. Issuance of decisions by presiding officers.

§ 1001.11. Date of filing.

(a) Whenever a pleading, submittal or other document is required or permitted to be filed under this part or by statute, it will be deemed to be filed on the date actually received with the Clerk, or other office as specifically designated by the Authority.

(b) Subsection (a) supersedes 1 Pa. Code § 31.11 (relating to timely filing required).

§ 1001.12. Computation of time.

(a) Except as otherwise provided by statute, in computing a period of time prescribed or allowed by this part or by statute, the day of the act, event or default after which the designated period of time begins to run is not included. The last day of the period is included, unless it is Saturday, Sunday or a legal holiday in this Commonwealth, in which event the period shall run until the end of the next day which is neither a Saturday, Sunday or holiday. A part-day holiday shall be considered as a holiday. Intermediate Saturdays, Sundays and legal holidays shall be included in the computation.

(b) Except as otherwise provided by statute, in computing a period of time prescribed or allowed by this part or by statute which is measured by counting a specified number of days backward from a scheduled future act, event or default, the day of the scheduled future act, event or default is not included. The day on which the prescribed or allowed action is to occur shall be included, unless it is a Saturday, Sunday or a legal holiday in this

Commonwealth, in which event the day of the prescribed or allowed action shall run until the next preceding day which is neither a Saturday, Sunday or holiday. A part-day holiday shall be considered as a holiday. Intermediate Saturdays, Sundays and legal holidays are included in the computation.

(c) Subsection (a) supersedes 1 Pa. Code § 31.12 (relating to computation of time).

§ 1001.13. Issuance of Authority orders.

(a) In computing a period of time involving the date of the issuance of an order by the Authority, the day of issuance of an order will be the date the Clerk enters the order. An order will not be made public prior to its entry except when, in the Authority’s judgment, the public interest so requires. The date of entry of an order may or may not be the day of its adoption by the Authority. The Clerk will clearly indicate on each order the date of its adoption by the Authority and the date of its entry.

(b) At the time a decision of a presiding officer becomes effective as an adjudication of the Authority, in the absence of Authority review as provided in § 1005.213 (relating to final orders and effect of failure to file exceptions), the Clerk will issue and serve upon the parties of record an appropriate notice of the date the adjudication became effective as an Authority order.

(c) The date of entry of an order which is subject to review by Commonwealth Court is governed by Pa.R.A.P. No. 108. The date of issuance of any other order shall be deemed to be the date of entry for the purposes of computing the time for appeal under an applicable statute relating to judicial review of Authority action.

(d) Subsections (a)—(c) supersede 1 Pa. Code § 31.13 (relating to issuance of agency orders).

§ 1001.14. Effective dates of Authority orders.

(a) An order of the Authority promulgating regulations shall be effective upon publication in the *Pennsylvania Bulletin* unless otherwise specially provided in the order.

(b) Except as provided in subsection (a), an order of the Authority shall be effective as of the date of entry unless otherwise specially provided in the order.

(c) Subsections (a) and (b) supersede 1 Pa. Code § 31.14 (relating to effective dates of agency orders).

§ 1001.15. Extensions of time and continuances.

(a) Extensions of time shall be governed by the following:

(1) Except as otherwise provided by statute, whenever under this part or by order of the Authority, or notice given thereunder, an act is required or allowed to be done at or within a specified time, the time fixed or the period of time prescribed may, by the Authority, the presiding officer or other authorized person, for good cause be extended upon motion made before expiration of the period originally prescribed or as previously extended. Upon motion made after the expiration of the specified period, the act may be permitted to be done where reasonable grounds are shown for the failure to act.

(2) Requests for the extension of time in which to file briefs shall be filed at least 5 days before the time fixed for filing the briefs unless the presiding officer, for good cause shown, allows a shorter time.

(b) Except as otherwise provided by statute, requests for continuance of hearings or for extension of time in which to perform an act required or allowed to be done at

or within a specified time by this part by order of the Authority or the presiding officer, shall be by motion in writing, timely filed with the Authority, stating the facts on which the application rests, except that during the course of a proceeding, the requests may be made by oral motion in the hearing before the Authority or the presiding officer. Only for good cause shown will requests for continuance be considered. The requests for a continuance should be filed at least 5 days prior to the hearing date.

(c) Subsections (a) and (b) supersede 1 Pa. Code § 31.15 (relating to extensions of time).

§ 1001.16. Issuance of decisions by presiding officers.

The date of the issuance of a decision by a presiding officer will be the date on which the decision is mailed to the parties. The decision will be deposited in the United States mail on the same date that the decision is docketed by the Clerk. The date of the issuance will be clearly indicated in a cover letter with the mailing to the parties.

Subchapter C. REPRESENTATION BEFORE THE AUTHORITY

Sec.

- 1001.21. Appearance.
- 1001.22. Appearance by attorney.
- 1001.23. Other representation prohibited at hearings.
- 1001.24. Notice of appearance or withdrawal.
- 1001.25. Form of notice of appearance.
- 1001.26. Contemptuous conduct.
- 1001.27. Suspension and disbarment.
- 1001.28. Power of attorney.

§ 1001.21. Appearance.

- (a) Individuals may represent themselves.
- (b) Subject to subsections (a) and (c), in a proceeding before the Authority or a presiding officer, persons may be represented in the following manner:
 - (1) A partner may represent the partnership.
 - (2) A bona fide officer of a corporation, trust or association may represent the corporation, trust or association.
 - (3) An officer or employee of an agency, political subdivision or government entity may represent the agency, political subdivision or government entity.
- (c) For an individual to represent an entity under subsection (b), the following information shall be presented along with any pleading or other document filed with the Clerk or to the presiding officer at the time of proceeding, whichever occurs first:
 - (1) For individuals appearing under subsection (b)(1) and (2):
 - (i) Confirmation of the individual's position with the represented entity.
 - (ii) A copy of a board resolution from the entity or a notarized letter from the entity's secretary confirming the individual's authorization to represent the entity.
 - (2) For individuals appearing under subsection (b)(3):
 - (i) A copy of the photographic identification card of the officer or employee issued by the agency, political subdivision or government entity.
 - (ii) An original letter executed by an authorized representative of the agency, political subdivision or government entity, other than the individual appearing in the proceeding before the Authority.

(3) The Authority or a presiding officer may review information submitted as provided in this subsection for

sufficiency and may require supplementation or otherwise refuse acceptance of the information and the deny the requested representational status of the individual.

(e) Subsections (a)—(c) supersede 1 Pa. Code § 31.21 (relating to appearance in person).

§ 1001.22. Appearance by attorney.

(a) Subject to § 1001.21(a) and (b) (relating to appearance), an attorney at law admitted to practice before the Supreme Court of Pennsylvania shall represent persons in Authority proceedings.

(b) An attorney not licensed in this Commonwealth may appear before the Authority in accordance with the Pennsylvania Bar Admission Rules.

(c) Subsection (a) supersedes 1 Pa. Code § 31.22 (relating to appearance by attorney).

§ 1001.23. Other representation prohibited at hearings.

(a) Persons may not be represented at a hearing before the Authority or a presiding officer except as stated in § 1001.21 or § 1001.22 (relating to appearance; and appearance by attorney).

(b) Subsection (a) supersedes 1 Pa. Code § 31.23 (relating to other representation prohibited at hearings).

§ 1001.24. Notice of appearance or withdrawal.

(a) *Individuals.* An individual appearing without legal representation before the Authority or a presiding officer shall file with the Clerk an address for service of a notice or other written communication. A change in address which occurs during the course of the proceeding shall be reported to the Clerk promptly.

(b) *Attorneys.*

(1) *Appearance by initial pleading.* An attorney who signs an initial pleading in a representative capacity shall be considered to have entered an appearance in that proceeding.

(2) *Appearance in all other instances.* An attorney shall file a written notice of appearance with the Clerk.

(i) *Content of notice.* Initial pleadings, entries of appearance and notices of withdrawal must include:

(A) The attorney's name, mailing address and electronic mailing address.

(B) A Pennsylvania attorney identification number or, if not licensed in this Commonwealth, identification of the jurisdictions in which the attorney is licensed to practice law.

(C) A telephone number and telefacsimile number.

(D) The name and address of the person represented.

(ii) *Filing.*

(A) *Appearance.* The notice of appearance shall be served on the parties to the proceeding, and a certificate of service shall be filed with the Clerk.

(B) *Change in address.* A change in address which occurs during the course of the proceeding shall be reported to the Clerk and the parties promptly.

(3) *Withdrawal.* An attorney may withdraw an appearance by filing a written notice of withdrawal with the Clerk. The notice shall be served on the parties and the presiding officer, if one has been designated.

(c) *Supersession.* Subsections (a) and (b) supersede 1 Pa. Code § 31.24 (relating to notice of appearance).

§ 1001.25. Form of notice of appearance.

(a) A form of notice of appearance to be used by attorneys appearing before the Authority is available at the Authority’s web site at www.philapark.org/tld, and must be substantially similar to the following:

**BEFORE THE
PHILADELPHIA PARKING AUTHORITY**

In the Matter of:

[File, Docket or other identifying No.:]

NOTICE OF APPEARANCE

Please enter my appearance in the above-designated matter on behalf of:

I am authorized to accept service on behalf of said party in this matter

[CHECK ONE]

On the basis of this notice, I request a copy of each document hereafter issued by the Authority in this matter.

I am already receiving or have access to a copy of each document issued by the Authority in this matter (alone, or in a consolidated proceeding) and do not on the basis of this notice require an additional copy.

Signature	Name (Printed)
P. O. address	City, state and zip code
Telephone Number (including area code)	Telefacsimile Number (including area code)
Pennsylvania Attorney I.D. No./ Other Jurisdiction(s) Admitted	Email Address

(b) *Supersession.* Subsection (a) supersedes 1 Pa. Code § 31.25 (relating to form of notice of appearance).

§ 1001.26. Contemptuous conduct.

(a) Contemptuous conduct at a hearing before the Authority or a presiding officer shall be grounds for exclusion from the hearing and for summary suspension without a hearing for the duration of the hearing.

(b) Subsection (a) is identical to 1 Pa. Code § 31.27 (relating to contemptuous conduct).

§ 1001.27. Suspension and disbarment.

(a) The Authority may deny, temporarily or permanently, the privilege of appearing or practicing before it in any way to a person who is found by the Authority, after notice and opportunity for hearing in the matter, to have done one or more of the following:

- (1) Lacked the requisite qualifications to represent others.
- (2) Lacked the requisite technical education, training or experience for a particular project or type of project submitted for Authority approval.
- (3) Engaged in unethical, contemptuous or improper conduct before the Authority.

(4) Repeatedly failed to follow Authority or presiding officer directives.

(b) For the purpose of subsection (a), practicing before the Authority includes:

- (1) Transacting business with the Authority.
- (2) The preparation of a statement, opinion or other paper by an attorney, accountant, broker, engineer or other expert, filed with the Authority in a pleading, application, submittal or other document with the consent of the attorney, accountant, broker, engineer or other expert.
- (3) Appearances at a hearing before the Authority or a presiding officer.
- (c) Subsections (a) and (b) are identical to 1 Pa. Code § 31.28 (relating to suspension and disbarment).

§ 1001.28. Power of attorney.

(a) A certificate holder may be represented by one individual attorney-in-fact at certain Authority appointments.

(b) One individual attorney-in-fact may execute certain documents approved by the Authority on behalf of a certificate holder.

(c) An attorney-in-fact shall be a competent adult individual fluent in the English language. An individual will be deemed ineligible to serve as an attorney-in-fact if he is unable to clearly respond to Authority investigations and comply with the reporting requirements of this part.

(d) The Authority will maintain a list of appointments at which a certificate holder may be represented by an attorney-in-fact and the list may be obtained on the Authority’s web site at www.philapark.org/tld.

(e) The power of attorney identifying an attorney-in-fact must be drafted in compliance with the laws of the Commonwealth and display the original notarized signature of a person authorized to so act on behalf of the certificate holder.

(f) A power of attorney may not identify an attorney-in-fact who illegible to own Authority issued rights as provided in § 1011.5 (relating to ineligibility due to conviction or arrest). The certificate holder shall confirm that the attorney-in-fact is eligible to serve under this part.

(g) The Authority may require as a condition of accepting a power of attorney that the designated attorney-in-fact file a certified criminal history report for the Commonwealth and any state or country in which that individual has lived during the last 5 years.

(h) The Authority will not accept a power of attorney executed 1 year or more from the date of the requested action by the attorney-in-fact.

Subchapter D. DOCUMENTARY FILINGS

Sec.	
1001.31.	Requirements for documentary filings.
1001.32.	Filing specifications.
1001.33.	Incorporation by reference.
1001.34.	Single pleading or submittal covering more than one matter.
1001.35.	Execution.
1001.36.	Verification and affidavit.
1001.37.	Number of copies to be filed.
1001.38.	Rejection of filings.

§ 1001.31. Requirements for documentary filings.

(a) *Form.* Pleadings must be divided into consecutively numbered paragraphs. Each paragraph must contain as far as practicable only one material allegation.

(b) *Specificity.* The material facts on which a pleading is based shall be stated in a concise and summary form. Averments of time, place and items of special damage shall be specifically stated.

(c) *Certain averments.* Averments of fraud or mistake shall be averred with particularity. Malice, intent, knowledge, and other conditions of mind may be averred generally.

(d) *Relief requested.* Any pleading demanding relief must specify the relief sought. Relief in the alternative or of several different types may be demanded.

(e) *Attachments.* Copies of documents relied upon in the pleadings shall be identified and attached. Copies of reported court decisions, writings or orders already of record with the Authority need not be attached to the pleading if reference by docket number is made to the proceeding in which they were filed in accordance with § 1001.33 (referring to incorporation by reference).

(f) *Identifying information.* Documents filed with the Authority in a proceeding must clearly contain the following information:

- (1) The docket number or similar identifying symbols, if any.
- (2) The title or caption of the proceeding before the Authority.
- (3) Within the title of the document, the name of the person on whose behalf the filing is made. If more than one person is involved, only a single name is necessary.

(g) *Caption.* Every pleading must contain a caption setting forth the "Philadelphia Parking Authority," the number of the action and the name of the pleading. The caption of an initial pleading must set forth the names of all the parties, but in subsequent pleadings it is sufficient to state the name of the first party on each side in the complaint with an appropriate indication of other parties. The caption must be substantially similar to the following:

**BEFORE THE
PHILADELPHIA PARKING AUTHORITY**

Complainant	:	
Complainant,	:	
	:	
v.	:	Docket No.
	:	
Respondent	:	
Respondent.	:	

COMPLAINT

(g) *Supersession.* Subsections (a)—(f) supersede 1 Pa. Code § 33.1 (relating to title).

§ 1001.32. Filing specifications.

(a) A filing made with the Authority must be:

(1) *Typewritten.* Pleadings, submittals or other documents filed in proceedings, if not printed, must be typewritten on paper cut or folded to letter size, 8 to 8 1/2 inches wide by 10 1/2 to 11 inches long, with left-hand margin at least 1 inch wide and other margins at least 1 inch. The impression must be on only one side of the paper, unless there are more than four pages, and be double spaced, except that quotations in excess of a few lines must be single spaced and indented. Reproduced copies will be accepted as typewritten, if copies are clearly legible.

(2) *Printed.* Printed documents must be at least 12-point type on unglazed paper, cut or folded so as not to exceed 8 1/2 inches wide by 11 inches long, with inside margin at least 1 inch wide, and with double-ledged text and single-ledged, indented quotations.

(3) *Bound.* Pleadings, submittals and other documents, other than correspondence, must be stapled, fastened or otherwise bound at the left side only.

(c) *Supersession.* Subsection (a) is identical to 1 Pa. Code § 33.2 (relating to form).

§ 1001.33. Incorporation by reference.

(a) Documents on file with the Authority may be incorporated by reference into a subsequent pleading, submittal or other document. A document may be so incorporated only by reference to the specific document and to the prior filing and docket number at which it was filed.

(b) Documents on file with the Authority for more than 5 years may not be incorporated by reference in a current document unless the person filing the current document first ascertains that the earlier document continues to be readily available in the active records of the Authority.

(c) Subsections (a) and (b) supersede 1 Pa. Code § 33.3 (relating to incorporation by reference).

§ 1001.34. Single pleading or submittal covering more than one matter.

(a) Except as otherwise provided under this chapter and Chapter 1005 (relating to formal proceedings), a single pleading may be accepted for filing with respect to a particular matter and one or more directly related matters and will be deemed to be a single filing for purposes of the computation of fees as provided in § 1001.43 (relating to Authority fee schedule).

(b) If, upon review, the Authority determines that the matters are not closely related or otherwise properly joined, the Authority will direct that the single pleading be refiled as two or more separate pleadings each subject to a separate filing fee.

(c) Subsection (a) supersedes 1 Pa. Code § 33.4 (relating to single pleading or submittal covering more than one matter).

§ 1001.35. Execution.

(a) *Signature.*

(1) *Filings.* A pleading, submittal or other document must be signed in permanent ink by the party in interest, or by the party's attorney, as required under subsection (b), and show the office and mailing address of the party or attorney. An original hard copy must be signed, and other copies filed must conform thereto unless otherwise ordered by the Authority.

(b) *Signatory.*

(1) A pleading, submittal or other document filed with the Authority must be signed by one of the following:

- (i) The person filing the documents, and severally if there is more than one person so filing.
- (ii) An officer if it is a corporation, trust, association or other organized group.
- (iii) An officer or employee thereof if it is another agency, a political subdivision, or other governmental authority, agency or instrumentality.
- (iv) An attorney having authority with respect thereto.

(2) A document filed by a corporation, trust, association or other organized group, may be required to be supplemented by appropriate evidence of the authority of the officer or attorney signing the documents.

(c) *Effect.*

(1) The signature of the individual signing a document filed with the Authority constitutes a certificate by the individual that:

(i) The individual has read the document being signed and filed, and knows the contents thereof.

(ii) The document has been signed and executed in the capacity specified upon the document with full power and authority to do so, if executed in a representative capacity.

(iii) The document is well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification or reversal of existing law, to the best of the individual's knowledge, information and belief formed after reasonable inquiry.

(iv) The document is not interposed for an improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation.

(2) If a document is signed in violation of this subsection, the presiding officer or the Authority, upon motion or upon its own initiative, may impose upon the individual who signed it, a represented party, or both, an appropriate sanction, which may include striking the document, dismissal of the proceeding or the imposition of penalties consistent with this part and the act.

(d) *Supersession.* Subsections (a)—(c) supersede 1 Pa. Code § 33.11 (relating to execution).

§ 1001.36. Verification and affidavit.

(a) *Verification required.* Applications, petitions, formal complaints, motions and answers thereto containing an averment or denial of fact not appearing of record in the action must be personally verified by a party thereto or by an authorized officer or other authorized employee of the party if a corporation, partnership, association or other business entity. Under subsections (b) and (c), verification may be made by using a verification or by using an affidavit.

(b) *Form verification.* When a verification is used, notarization is not necessary. The filing date for the verification will be determined in accordance with § 1001.11(a) (relating to date of filing). The docket number or other applicable assigned Authority identification number for the filing must be clearly indicated on the original verification. The verification form should comply substantially with the following:

VERIFICATION

I, _____, hereby state that the facts above set forth are true and correct (or are true and correct to the best of my knowledge, information and belief) and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities).

Date: _____ Signature: _____

(c) *Affidavit form.* When an affidavit is used, it must be notarized. The original affidavit shall be submitted to the Authority and may be an attachment to a filing. The filing date for the affidavit will be determined in accordance with § 1001.11(a). The docket number or other

applicable assigned Authority identification number for the filing must be clearly indicated on the original affidavit. The affidavit form should comply substantially with the following:

AFFIDAVIT

I, _____, (Affiant) being duly sworn (affirmed) according to law, depose and say that (I am authorized to make this affidavit on behalf of _____ corporation, being the holder of the office of _____ with that corporation, and that, I am an employee or agent of _____ and have been authorized to make this affidavit on its behalf and that) the facts above set forth are true and correct (or are true and correct to the best of my knowledge, information and belief) and (I or corporation) expect to be able to prove the same at any hearing hereof.

Signature _____

Sworn and subscribed before me this

_____ day of _____,

2_____.

Signature of official administering oath _____

My Authority Expires: _____

(d) *Certification process.* An applicant for a certificate shall include in the verification or affidavit the following statement:

Applicant is not now engaged in intrastate transportation of property or passengers for compensation in this Commonwealth except as authorized by the Pennsylvania Public Utility Commission certificate or permit or Philadelphia Parking Authority certificate, and will not engage in the transportation for which approval is herein sought, unless and until the transportation is authorized by the Authority.

(e) *Criminal penalty.* An individual who executes a pleading, application, submittal or other document knowing that it contains a false statement and who causes it to be filed in the Authority shall be subject to prosecution for the commission of a misdemeanor of the second degree in violation of 18 Pa.C.S. § 4904(a) (relating to unsworn falsification to authorities).

(f) *Supersession.* Subsections (a)—(e) supersede 1 Pa. Code § 33.12 (relating to verification).

§ 1001.37. Number of copies to be filed.

(a) Except as may be otherwise provided by this part or ordered or requested by the Authority, at the time pleadings, submittals or documents other than correspondence are filed with the Clerk, or other Authority office, there shall be furnished to the Authority an original and two conformed copies of the papers, including exhibits, if any.

(b) Subsections (a) supersede 1 Pa. Code § 33.15 (relating to number of copies).

§ 1001.38. Rejection of filings.

The Authority may reject a filing if it does not comply with any applicable statute, regulation or order of the Authority.

Subchapter E. FEES

- Sec.
- 1001.41. Filing fees.
- 1001.42. Mode of payment to the Authority.
- 1001.43. Authority fee schedule.

§ 1001.41. Filing fees.

(a) A pleading, submittal or other document for which a filing fee is required to be charged will be received, but will not be deemed to be filed, until the filing fee required by the act, this part or an order of the Authority has been paid.

(b) Subsection (a) supersedes 1 Pa. Code § 33.21 (relating to filing fees).

§ 1001.42. Mode of payment to the Authority.

(a) The Authority will accept payment for fees, penalties, assessments or other costs required by act, this part or an order of the Authority by money order or cashiers' check made payable to the "Philadelphia Parking Authority" at TLD Headquarters, in person or by mail.

(b) Subsection (a) supersedes 1 Pa. Code § 33.22 (relating to mode of payment of fees).

§ 1001.43. Authority fee schedule.

(a) The Authority will issue a new fee schedule for each fiscal year, subject to approval of the Legislature, under section 5707(b) of the act (relating to budget and fees).

(b) The Authority will provide notice of the new fee schedule by email to each certificate holder as required under section 5707(b) of the act. The current fee schedule may be obtained from the Authority's web site at www.philapark.org/tld.

(c) *Supersession.* Subsection (a) supersedes 1 Pa. Code §§ 33.21(b) and 33.23 (relating to filing fees; and copy fees).

Subchapter F. SERVICE OF DOCUMENTS

Sec.

- 1001.51. Service by the Authority.
- 1001.52. Service by a party.
- 1001.53. Service on attorneys.
- 1001.54. Date of service.
- 1001.55. Proof of service.
- 1001.56. Form of certificate of service.
- 1001.57. Number of copies to be served.

§ 1001.51. Service by the Authority.

(a) *Applicability.* This section applies to service of an order, notice, pleading or other document originating with the Authority and other documents designated by the Authority or a presiding officer, except when the Authority specifically requires a different form of service.

(b) *Forms of service.*

(1) *First class mail.* Service may be made by mailing a copy thereof to the person to be served, addressed to the person designated in the initial pleading, submittal or notice of appearance at the person's residence, principal office or place of business.

(2) *Personal.* Service may be made personally by Authority staff or anyone authorized by the Authority or a presiding officer.

(3) *Email.* Service may be made by email upon the following persons:

- (A) A certificate holder.
- (B) A broker.
- (C) A regulated person that has registered an email address with the Authority under subsection (c).
- (D) A person's attorney under § 1001.53(a) (relating to service on attorneys).

(E) A party to any Authority proceeding, including interveners and protestants for whom an email address is on file with the Clerk.

(F) A party to any Authority proceeding in which a presiding officer orders notification of parties by telephone, telefacsimile or other electronic means when time periods are short and delivery by mail or other methods may not prove adequate. The presiding officer will confirm the alternative form of service in writing and a filing will be made with the Clerk regarding confirmation.

(c) *Voluntary email registration.* Any person may file an email address with the Clerk for purposes of receiving service under this part. By filing an email address with the Clerk the filing person agrees to receipt of service originating with the Authority under this section.

(d) *Change of address.* It is the duty of a party to notify the Authority within 48 hours of changes to the party's current address, including any email address on file with the Clerk.

(e) *Alternative service.* If the Authority is unable to serve a party by email or by mail at the party's last known address, the Authority may make service by publication in a newspaper of general circulation in the same area as the party's last known address. In the alternative, service may also be accomplished by publication in the *Pennsylvania Bulletin* or by service on the Secretary of the Commonwealth, if appropriate.

(f) *Supersession.* Subsections (a)—(e) supersede 1 Pa. Code § 33.31 (relating to service by the agency).

§ 1001.52. Service by a party.

(a) Pleadings, submittals, briefs and other documents, filed by parties other than the Authority in proceedings pending before the Authority shall be served upon parties in the proceeding and upon the presiding officer, if one has been assigned, unless an alternative form of service is specifically provided by the act, this part or an order of the Authority.

(b) Service may be made by one of the following methods:

(1) *First class mail.* Service may be made by mailing the requisite number of copies to each party as provided in § 1001.57 (relating to number of copies to be served), properly addressed with postage prepaid.

(2) *Personal.* Service may be made personally by delivering the requisite number of copies to each party as provided in § 1001.57. Personal service may only be made by an individual 18 years of age or older who is neither a party to the proceeding nor an employee or relative of a party.

(3) *Telefacsimile or email.* Service may be made by telefacsimile or email to those parties who have agreed to accept service in that manner. Documents served electronically need not be followed by service of a hard copy if the parties have so agreed. This section is not intended to limit service by email available under any other section in this part.

(c) In a proceeding in which only some of the parties participate, the parties, with the authorization of the presiding officer, may limit the service of documents to parties and persons or individuals which state on the record or request in writing that they wish to be served.

(d) Subsections (a)—(c) supersede 1 Pa. Code § 33.32 (relating to service by a participant).

§ 1001.53. Service on attorneys.

(a) When an attorney enters an appearance under § 1001.24 (relating to notice of appearance or withdrawal), service shall be directed to the attorney in the same manner as prescribed for the attorney's client. An attorney's entry of appearance must include an email address at which all communications and notices from the Authority or other parties to the attorney's client may be served.

(b) When a party is represented by an attorney, service upon the attorney shall be deemed service upon the party. Separate service on the party may be omitted.

(c) Subsections (a) and (b) supersede 1 Pa. Code §§ 31.26 and 33.33 (relating to service on attorneys; and effect of service upon an attorney).

§ 1001.54. Date of service.

(a) The date of service shall be the day when the document served meets one of the following conditions:

- (1) The document is deposited in the United States mail.
- (2) The document is deposited with an overnight express package delivery service.
- (3) The document is delivered in person.

(4) The document is transmitted by telefacsimile or email as provided in §§ 1001.51(b) or 1001.52(b) (relating to service by the Authority; and service by a party) prior to 4:30 p.m. local prevailing time in the Eastern Time Zone (United States).

(b) Unless otherwise prescribed by the Authority or presiding officer, whenever a party is required or permitted to do an act within a prescribed period after service of a document upon the party and the document is served by first-class mail by the United States Postal Service, 3 days shall be added to the prescribed period.

(c) Subsection (a) supersedes 1 Pa. Code § 33.34 (relating to date of service).

§ 1001.55. Proof of service.

(a) A certificate of service in the form prescribed under § 1001.56 (relating to form of certificate of service) must accompany and be attached to the original and all copies of pleadings, submittals or other documents filed with the Authority when service is required to be made by the parties.

(b) Subsection (a) supersedes 1 Pa. Code § 33.35 (relating to proof of service).

§ 1001.56. Form of certificate of service.

(a) The form of certificate of service must be as follows:

I hereby certify that I have this day served a true copy of the foregoing document upon the parties, listed below, in accordance with the requirements of § 1001.52 (relating to service by a party).

(List names and addresses of parties served and manner in which each was served.)

Dated this _____ day of 2_____.

(Print Name)

Counsel for _____

(Signature)

(c) Subsection (a) supersedes 1 Pa. Code § 33.36 (relating to form of certificate of service).

§ 1001.57. Number of copies to be served.

(a) One copy of a document shall be served on the presiding officer if one has been designated, unless a larger number of copies are specifically required under one of the following:

- (1) An order issued by the Authority or presiding officer.
- (2) Another section of this part.

(b) One copy of each document shall be served on each party in a proceeding, unless a larger number of copies are specifically required under one of the following:

- (1) An order issued by the Authority or presiding officer.
- (2) Another section of this part.

(c) Subsections (a) and (b) supersede 1 Pa. Code § 33.37 (relating to number of copies).

Subchapter G. PENALTY

- Sec. 1001.61. Penalties.
- 1001.62. Continuing offenses.

§ 1001.61. Penalties.

(a) *Monetary penalty range.* If a penalty has not been otherwise assigned to a violation of any provision of the act, this part or an order of the Authority, the penalty applicable to the violation may be not less than \$50 and not greater than \$1,000.

(b) *Additional penalties.* The penalty requested in a formal complaint initiated as provided in Chapter 1005 (relating to formal proceedings), may include one or more of the following:

- (1) A monetary penalty payable to the Authority.
- (2) A suspension of rights.
- (3) A modification of rights.
- (4) A cancellation of rights.
- (5) Other penalties deemed necessary to protect the public interest.

§ 1001.62. Continuing offenses.

Each day's continuance in the violation of the act, this part or an order of the Authority, shall be a separate and distinct offense. If any interlocutory order of supersedeas or a preliminary injunction is granted, penalties will not be incurred or collected for or on account of any act, matter or thing done in violation of the final direction, requirement, determination, order or decree so superseded or enjoined for the period of time the order of supersedeas or injunction is in force.

Subchapter H. MATTERS BEFORE OTHER TRIBUNALS

- Sec. 1001.71. Notice and filing of copies of pleadings before other tribunals.

§ 1001.71. Notice and filing of copies of pleadings before other tribunals.

(a) When matters over which the Authority may have jurisdiction under the act are raised in proceedings filed with a court or other regulatory body by a person subject to the act, either an appropriate application or petition, or notice of the proceedings and copies of the material pleadings filed therein, shall be filed simultaneously with

the Director so that it may have sufficient notice and time for proper consideration of the matters within its jurisdiction.

(b) Upon filing of a petition for bankruptcy under the United States Bankruptcy Code (11 U.S.C.) by a certificate holder or broker a copy of the petition shall be simultaneously filed with the Director.

(c) An entity subject to the regulatory jurisdiction of the Authority, or its trustee in bankruptcy, shall file a copy of the reorganization plan for itself or for its bankrupt parent, subsidiary or affiliate with the Director for Authority review within 10 days after the debtor has filed the plan, its supplements and amendments, or has received notice that the plan has been filed with the court.

(d) If the reorganization plan submitted under subsection (c) contemplates the abandonment of taxicab, limousine or dispatcher service, the submittal must include an SA-1 "Sale Application as provided in § 1027.6 or § 1059.6 (relating to application for sale of transferable rights), as appropriate. If a reorganization plan of a certificate holder or broker includes the abandonment of the certificate or Authority issued right, the submittal must include specific notice to the Authority of the date of abandonment.

Subchapter I. AMENDMENTS OR WITHDRAWALS OF SUBMITTALS

Sec.

1001.81. Amendments.

1001.82. Withdrawal or termination of uncontested matter or proceeding.

§ 1001.81. Amendments.

(a) Except as specifically limited by another section of this part, an amendment to a submittal or pleading may be tendered for filing and will be deemed filed in accordance with § 1001.11 (relating to date of filing). The Authority may waive time restrictions as to filing dates in the interest of justice.

(b) Subsections (a) supersedes 1 Pa. Code § 33.41 (relating to amendments).

§ 1001.82. Withdrawal or termination of uncontested matter or proceeding.

(a) *Notice of withdrawal or termination.* A party that desires to terminate an uncontested matter or proceeding before final decision by the Authority or otherwise desires to withdraw a submittal or pleading, shall file written notice of withdrawal or termination as follows:

(1) In matters initiated through pleading, notice shall be filed with the Clerk and served upon all parties as provided under § 1001.52 (relating to service by a party).

(2) In matters related to applications or other filings, notice shall be filed with the reviewing TLD department designated in the application or other submittal.

(b) *Review of notice.* Unless otherwise provided by statute, contested through petition of another party or when the best interests of the public would be harmed, the matter will be considered withdrawn and terminated with prejudice 15 days after filing of the notice required under § 1001.82 (relating to withdrawal or termination of uncontested matter or proceeding). As a matter of discretion by the Authority or presiding officer, a withdrawal or termination may be denied.

(c) *Contested proceedings.* Withdrawal of a pleading in a contested proceeding is governed under § 1005.64 (relating to withdrawal of pleadings in a contested proceeding).

(d) Subsections (a)—(c) supersede 1 Pa. Code § 33.42 (relating to withdrawal or termination).

Subchapter J. DOCKET

Sec.

1001.91. Docket.

§ 1001.91. Docket.

(a) The Clerk will maintain a docket of all proceedings, and each proceeding as initiated will be assigned an appropriate designation. The docket will be available for inspection and copying by the public during the Authority's office hours.

(b) Subsection (a) is identical to 1 Pa. Code § 33.51 (relating to docket).

Subchapter K. WAIVER OF RULES

Sec.

1001.101. Applications for waiver of formal requirements.

§ 1001.101. Applications for waiver of formal requirements.

(a) Pleadings, submittals or other documents which are subject to rejection under any provision of this chapter or Chapter 1003 or 1005 (relating to special provisions; and formal proceedings) may be accompanied by a request, under § 1005.23 (relating to petitions for issuance, amendment, repeal, or waiver of Authority regulations) for waiver of any provisions with which the document tendered is in conflict or does not conform. The request must show the nature of the waiver or exception desired and set forth the reasons in support thereof. Unacceptable filings may be returned by the Clerk with an indication of the deficiencies thereof and the reasons for nonacceptance and return.

(b) Unless the Authority expressly so orders, the Clerk may not waive a failure to comply with the act, this part or an order of the Authority or another applicable requirement, and the failure may be cause for striking all or any part of the filings.

(c) Subsections (a) and (b) supersede 1 Pa. Code § 33.61 (relating to applications for waiver of formal requirements).

Subchapter L. UNOFFICIAL STATEMENTS, OPINIONS AND NOTICE

Sec.

1001.111. Unofficial statements and opinions by Authority personnel.

1001.112. Notice of rulemaking proceedings.

§ 1001.111. Unofficial statements and opinions by Authority personnel.

Statements contained in formal opinions of the Authority or in decisions of a presiding officer which are not necessary in resolving the case, and informal opinions, whether oral or written, expressed by Authority members, presiding officers, legal counsel, employees or representatives of the Authority and reports drafted by Authority departments are only considered as aids to the public, do not have the force and effect of law or legal determinations, and are not binding upon the Commonwealth or the Authority.

§ 1001.112. Notice of rulemaking proceedings.

(a) Before the adoption of a regulation, the Authority will publish a general notice as provided in 1 Pa. Code Chapter 7 (relating to procedure for adoption or change of regulations).

(b) The order or notice will recite the statutory or other authority under which the regulation is proposed to be adopted, and include either the terms of the proposed

regulation, or a description of the subjects and issues involved to inform interested persons of the nature of the proceeding, to permit interested persons to submit comments relative thereto within the time period required by the act.

(c) The Authority may, upon petition by a person having an interest in the proposed regulation, hold public hearings on the proposed regulation. The petition for hearing must be in the form set forth in § 1005.21 (relating to petitions generally), shall be filed concurrently with the comments and state the reasons for having a hearing and the person's interest in the proposed regulation.

(d) Subsections (a)—(c) supersede 1 Pa. Code § 35.104 (relating to notice of rulemaking proceedings).

CHAPTER 1003. SPECIAL PROVISIONS

Subchap.

- A. TEMPORARY EMERGENCY ORDERS**
- B. INFORMAL PROCEEDINGS GENERALLY**
- C. APPLICATIONS AND PROTESTS**
- D. FORMS AND GUIDANCE DOCUMENTS**
- E. TAXICAB AND LIMOUSINE DIVISION**

Subchapter A. TEMPORARY EMERGENCY ORDERS

EMERGENCY RELIEF

Sec.

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EX PARTE EMERGENCY ORDERS

- 1003.11. Petitions for issuance of emergency orders.
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OUT OF SERVICE

- 1003.31. Definitions.
- 1003.32. Out of service designation.

EMERGENCY RELIEF

§ 1003.1. Definitions.

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

Emergency—A situation which presents a clear and present danger to life or property or which is uncontested and is not subject to a pending proceeding and requires action prior to the next scheduled public meeting.

Emergency order—An ex parte order issued by the Authority's Chairman, the Executive Director, the Director, or a standing presiding officer in the Adjudication Department in response to an emergency.

Interim emergency order—An interlocutory order issued by a presiding officer which is immediately effective and grants or denies injunctive relief during the pendency of a proceeding.

EX PARTE EMERGENCY ORDERS

§ 1003.11. Petitions for issuance of emergency orders.

(a) To the extent practicable, a petition for emergency order must be in the form of a petition as set forth in § 1005.21 (relating to petitions generally) and shall be served on the persons directly affected by the application.

(b) A petition for emergency order must be supported by a verified statement of facts which establishes the existence of an emergency, including facts to support the following:

- (1) The petitioner's right to relief is clear.
- (2) The need for relief is immediate.
- (3) The injury would be irreparable if relief is not granted.
- (4) The relief requested is not injurious to the public interest.

§ 1003.12. Disposition of ex parte emergency orders.

(a) *Authorization.* The Authority's Chairperson, the Executive Director, the Director or a standing presiding officer in the Adjudication Department have the authority to issue an emergency order.

(b) *Form.* An emergency order will be issued in writing and filed with the Clerk with copies to the members of the Authority.

(c) *Ratification.* An emergency order or the denial of a petition for emergency order issued by Authority's Chairperson, the Executive Director, the Director, or a standing presiding officer in the Adjudication Department will be ratified, modified or rescinded by the Authority at the next scheduled public meeting after issuance of the order, provided that a case or controversy exists on the date of the meeting.

(d) *Service.* An emergency order or the denial of a petition for emergency order will be served by the Clerk upon the persons directly affected by the decision as provided in § 1001.51 (relating to service by the Authority) with copies to the members of the Authority.

§ 1003.13. Hearings following issuance of emergency orders.

(a) A person against whom an emergency order is issued may file a petition for an expedited hearing to determine whether the emergency order will remain in effect. The petition must conform to the form and service requirements in § 1005.21 (relating to petitions generally).

(b) The petition for expedited hearing shall be filed with the Clerk and a copy served upon the Adjudication Department's supervising presiding office.

(c) The hearing will be held before a presiding officer within 10 days of receipt of the petition by the Clerk.

(d) If the emergency order is issued by the Authority Chairperson, the Executive Director or the Director, a presiding officer will have the authority to stay the effect of the order until the next scheduled public meeting of the Authority.

(e) The decision of the presiding officer will constitute a recommended decision and will be reviewed by the Authority as provided in §§ 1005.211—1005.215 (relating to exceptions to recommended decisions).

INTERIM EMERGENCY RELIEF

§ 1003.21. Petitions for interim emergency orders.

(a) A party may submit a petition for an interim emergency order during the course of a proceeding. The petition shall be filed with the Clerk and served contemporaneously on the Adjudication Department's supervising presiding officer and on the parties.

(b) To the extent practicable, a petition for an interim emergency order must be in the form of a petition as set forth in § 1005.21 (relating to petitions generally). A petition for an interim emergency order must be supported by a verified statement of facts which establishes the existence of the need for interim emergency relief, including facts to support the following:

- (1) The petitioner's right to relief is clear.
- (2) The need for relief is immediate.
- (3) The injury would be irreparable if relief is not granted.
- (4) The relief requested is not injurious to the public interest.

(c) Allegations set forth in the petition shall be deemed to have been denied by the opposing parties, and an answer is not required. A party may file an answer in the form set forth in § 1005.41 (relating to answers to complaints, petitions, motions and other filings requiring a response) no later than 5 days after service of a copy of the petition.

(d) Other pleadings, memoranda or briefs related to a petition for interim emergency order are not permitted unless specifically requested by the presiding officer.

§ 1003.22. Hearing on petitions for interim emergency orders.

An interim emergency order may not be issued until the presiding officer holds a hearing on the merits of the petition. The hearing must be held within 20 days of the filing of the petition.

§ 1003.23. Issuance of interim emergency orders.

(a) A presiding officer will issue an order granting or denying interim emergency relief within 25 days of the filing of the petition.

(b) An order granting a petition for interim emergency relief will set forth the findings required under § 1003.21(b) (relating to petitions for interim emergency orders).

(c) An interim emergency order or an order denying interim emergency relief will be served as provided in § 1001.51 (relating to service by the Authority).

§ 1003.24. Form of interim emergency orders.

(a) An order following a hearing on a petition for interim emergency relief will include:

- (1) A brief description of the evidence presented.
- (2) A grant or denial of the petition.

(b) An order following a hearing on a petition for interim emergency relief may require a bond to be filed in a form satisfactory to the Director and will specify the amount of the bond.

§ 1003.25. Authority review of interim emergency orders.

(a) An order granting or denying interim emergency relief is immediately effective upon issuance by the presiding officer. A stay of the order will not be permitted while the matter is being reviewed by the Authority.

(b) The decision of the presiding officer will constitute a recommended decision and will be reviewed by the Authority as provided in §§ 1005.211—1005.215 (relating to exceptions to recommended decisions).

OUT OF SERVICE

§ 1003.31. Definitions.

The following words and terms, when used in § 1003.32 (relating to out of service designation), have the following meanings, unless the context indicates otherwise:

Out of service—Immediate and temporary prohibition from the exercise of rights granted by the Authority under the act due to a public safety concern. An out of service designation will be narrowly tailored to create the most limited reduction of rights necessary to protect the public interest.

Public safety concern—Behavior of an individual or condition of a vehicle or equipment which violate the act, this part or an order of the Authority and which have an immediate and direct adverse impact upon the orderly operation of taxicabs and limousines in Philadelphia or which present a direct threat to public safety. For example, a limousine with a broken windshield, a taxicab with inaccurate colors and markings or a taxicab driver subject to a police arrest warrant may each result in an out of service designation.

§ 1003.32. Out of service designation.

(a) *Vehicles.* Upon observation of a condition of a taxicab or limousine that creates a public safety concern, the Enforcement Department may immediately place the taxicab or limousine out of service. Public notice of a vehicle's out of service status will be conspicuously affixed to the vehicle and may only be removed by the Authority after inspection as provided in § 1017.36 (relating to reinspection) or by order as provided in subsection (g).

(b) *Drivers.* A driver's certificate issued by the Authority under section 5706 of the act (relating to driver certification program) may be placed out of service by the Enforcement Department upon determination that the driver's operation of a taxicab or limousine will create a public safety concern or if the driver fails to appear at TLD Headquarters upon direction of the Enforcement Department.

(c) *Certificates and other rights.* When a regulation or order of the Authority directs that a certificate or other right issued by the Authority be placed out of service, the condition necessary for that determination shall be deemed to involve a threat to public safety and the procedures of this section shall apply.

(d) *Notice to the Clerk.* The Enforcement Department will provide prompt notice of an out of service designation to the Clerk. The notice will include the date and time that the out of service designation was made, and the following information about the respondent, if available:

- (1) Name.
- (2) Address.
- (3) Email address.
- (4) Telephone number.

(5) The Authority number assigned to the out of service rights.

(e) *Hearing to be scheduled.* Upon notification of an out of service designation as provided in subsection (c), the Clerk will schedule a hearing before an Adjudication Department presiding officer within 3 days of the out of service designation.

(f) *Formal complaint.*

(1) The Enforcement Department will file a formal complaint with the Clerk against the out of service respondent for the violations forming the basis of the out of service designation within 2 days of the designation. The complaint will be served as set forth in § 1001.51 (relating to service by the Authority).

(2) The out of service designation will be terminated and the Clerk will notify the respondent and the presiding officer of the cancellation of the scheduled hearing in the event a complaint is not filed as provided in paragraph (1).

(3) The out of service respondent shall file an answer to the Enforcement Department's complaint as provided in § 1005.41 (relating to answers to complaints, petitions, motions and other filings requiring a response). The answer shall be filed with the Clerk and served as provided in § 1001.52 (relating to service by a party).

(g) *Scope of hearing.*

(1) The averments of the Enforcement Department's complaint filed as provided in subsection (f)(1) will be deemed denied by the respondent for purposes of the out of service hearing.

(2) At the out of service hearing, the Enforcement Department will bear the burden of proof by a preponderance of the evidence that the out of service designation remains appropriate under this section. The respondent may submit evidence, cross-examine Enforcement Department witnesses and otherwise participate in the hearing as provided by Chapter 1005 (relating to formal proceedings).

(h) *Order.* An order following an out of service hearing may rescind, modify or continue the out of service designation. When an order of the presiding officer modifies or continues an out of service designation, the order will include a prompt date for a hearing on the Enforcement Department's formal complaint.

(i) *Appeal.* The decision of the presiding officer will constitute a recommended decision and will be reviewed by the Authority as provided in §§ 1005.211—1005.215 (relating to exceptions to recommended decisions).

Subchapter B. INFORMAL PROCEEDINGS GENERALLY

- Sec. 1003.41. Form and content of informal complaints.
- 1003.42. Authority action on informal complaints.
- 1003.43. Other initiation of formal complaints.

§ 1003.41. Form and content of informal complaints.

(a) Informal complaints averring a violation of the act, this part or an order of the Authority may be by letter or other writing. No form of informal complaint is required, but in substance the report, letter or other writing must contain the essential elements of a formal complaint as specified in § 1005.12 (relating to content of formal complaints).

(b) Informal complaints shall be filed with the Clerk.

(c) Subsection (a) supersedes 1 Pa. Code § 35.5 (relating to form and content of informal complaints).

§ 1003.42. Authority action on informal complaints.

(a) *Filing.* The Clerk will place a copy of an informal complaint related to a docketed matter in the official document folder. Each informal complaint will be forwarded to the Enforcement Department for review, unless

the Enforcement Department is the subject of the complaint, in which case the matter will be referred to the Director.

(b) *Authority staff review.* The purpose of staff review will be to determine if the subject matter is within the Authority's jurisdiction and, if warranted, institute an informal investigation. Informal investigations are typically undertaken to gather data or to substantiate allegations of potential violations of the act, this part or order of the Authority and are conducted without hearing.

(c) *Authority staff action.* Upon the completion of the informal investigation of an informal complaint, staff will notify the informal complainant of the results. When staff determines that no violation or potential violation of the act, this part or an order of the Authority has occurred, the informal investigation will be terminated by letter.

(d) *Initiation of formal complaint.* In the event it is determined by staff, in conjunction with the Office of Trial Counsel, that a violation of the act, this part or an order of the Authority has occurred and when formal action is deemed to be warranted, the Authority will file a formal complaint as provided in Chapter 1005 (relating to formal proceedings).

(e) *Caveat.* The submission of an informal complaint does not entitle complainant to a formal hearing before the Authority.

(f) *Supersession.* Subsections (a)—(d) supersede 1 Pa. Code §§ 35.6 and 35.7 (relating to correspondence handling of informal complaints; and discontinuance of informal complaints without prejudice).

§ 1003.43. Other initiation of formal complaints.

The informal complainant may file and prosecute a formal complaint averring any violation of the act, this part or an order of the Authority by a regulated person under § 1005.11(a)(4) (relating to formal complaints generally) within 30 days of service of an informal complaint termination letter from the Enforcement Department.

Subchapter C. APPLICATIONS AND PROTESTS

- Sec. 1003.51. Applications generally.
- 1003.52. Contents of applications.
- 1003.53. Applications requiring notice.
- 1003.54. Protests.
- 1003.55. Applications for temporary certificate of public convenience.
- 1003.56. Registration of intrastate operating authority issued by the Interstate Commerce Authority.

§ 1003.51. Applications generally.

(a) *Form.* Applications for authorization or permission filed with the Authority must conform to the requirements of this part.

(b) *Review.* Applications in nonadversarial proceedings will be reviewed by the Director. Applications in adversarial proceedings will be referred by the Director to a presiding officer with instructions to conduct hearings to develop an evidentiary record.

(c) *Approval.* In nonadversarial proceedings, the Director will make recommendations related to the approval of an application to the Authority. In adversarial proceedings, the presiding officer will issue a recommended decision related to the approval of an application to the Authority.

(d) *Denial.* The Director or the presiding officer may deny an application. The denial will be in writing and clearly detail the reasons the application was denied. Applications denied by the Director may be appealed as provided in § 1005.24 (relating to appeals from actions of the staff). Applications denied by the presiding officer

shall be subject to exceptions as provided in § 1005.211 (relating to exceptions to recommended decisions).

(e) *Protest.* Applications subject to protest shall be deemed to be adversarial proceedings and shall proceed as provided in § 1003.54 (relating to protests).

(f) *Compliance: conditions for approval for certificate or registration.*

(1) When the Authority approves an application related to a certificate of public convenience for taxicab, limousine or dispatcher services or a broker registration, the applicant will be notified of the approval by email.

(2) The applicant shall file with the Authority within 30 days of receipt of the notice, a certificate of insurance or other security required by this part, relating to insurance and security for the protection of the public.

(3) The applicant shall file all required tariffs and lists of applicable rates and charges with the Director prior to exercising any rights granted by the Authority.

(4) The Authority will not issue a certificate or registration until the requirements of this subsection have been met.

(5) Failure of an applicant to comply with this section within the 30-day period referenced in paragraph (2) may result in the dismissal of the application and rescission of prior approval, unless the Authority has, upon written request demonstrating good cause, extended the time for compliance.

(6) This subsection is intended to supplement the application requirements related to each specific certificate or registration as provided in this part.

(g) Subsections (a)—(f) supersede 1 Pa. Code § 35.1 (relating to applications generally).

§ 1003.52. Contents of applications.

(a) Applications must conform to this section unless a form or other specific requirements are required in this part. Applications must include the information and be in a form the Authority requires, including the following:

- (1) The application must be in writing.
- (2) The application must state clearly and concisely the authorization or permission sought.
- (3) The application must cite by appropriate reference the statutory provisions, regulations or other authority under which the authorization or permission is sought.
- (4) The application must set forth, in the order indicated, the following:
 - (i) The exact legal name of the applicant.
 - (ii) The jurisdiction under the statutes of which the applicant was created or organized and the location of the principal place of business of the applicant, when the applicant is a corporation, trust, association or other entity.
 - (iii) The name, title, mailing address, telephone number and electronic mail address, if available, of the person to whom correspondence or communication in regard to the application is to be addressed. The Authority will serve, when required, notices, orders and other papers upon the person named, and service will be deemed to be service upon the applicant.

(b) Subsection (a) supersedes 1 Pa. Code § 35.2 (relating to contents of applications).

§ 1003.53. Applications requiring notice.

(a) Notice of applications to the Authority for rights under the act must be published in the *Pennsylvania Bulletin* and as may otherwise be required by the Authority.

(b) Subsection (a) supersedes 1 Pa. Code §§ 35.1 and 35.2 (applications generally; and content of applications).

§ 1003.54. Protests.

(a) A person may file a protest to an application for Authority rights in one of the following circumstances:

(1) The person will be directly affected by the granting of the application.

(2) The protestant can and will provide all or part of the proposed service.

(b) A person objecting to the approval of an application shall file with the Clerk and serve upon the applicant and the applicant's attorney, if any, a written protest which contains the following:

(1) The applicant's name and the docket number of the application.

(2) The name, business address and telephone number of the protestant.

(3) The name, business address and telephone number of the protestant's attorney or other representative.

(4) A statement of the protestant's interest in the application, including a statement of any adverse impact which approval of the application can be expected to have on the protestant.

(5) A list of all Authority and PUC certificate or registration numbers under which the protestant operates, accompanied by a copy of any portion of the protestant's authority upon which its protest is predicated.

(6) A statement of any restrictions to the application which would protect the protestant's interest, including a concise statement of any amendment which would result in a withdrawal of the protest.

(7) Other information required by the notice published as provided in § 1003.53 (relating to applications requiring notice).

(c) At the time a protest petition is filed the protest fee shall be paid as provided in §§ 1001.42 and 1001.43 (relating to mode of payment to the Authority; and Authority fee schedule).

(d) A protest shall be filed within the time specified in the notice appearing in the *Pennsylvania Bulletin*, which shall be at least 15 days from the date of publication. Failure to file a protest in accordance with this subsection shall bar subsequent participation in the proceeding, except when permitted by the Authority for good cause shown.

(e) Upon the filing of a timely protest the application will be referred to a presiding officer of the Adjudication Department for a recommended decision as provided in §§ 1005.201—1005.204 (relating to recommended decisions). TLD staff will participate in the protest proceeding.

(f) The protestant will be allowed to participate in the proceeding as a party intervenor.

(g) A protest shall be treated as a pleading and the applicant may, within 20 days after the closing date for the filing of protests, file an answer to the protest. The

failure of the applicant to answer a protest shall be deemed a denial of the averments made therein.

(h) Upon withdrawal of all protests prior to the initiation of the recommended decision proceeding, an application will be decided by the Director as provided in § 1003.51 (relating to applications generally).

(i) Subsections (a)—(h) supersede 1 Pa. Code §§ 35.23 and 35.24 (relating to protest generally; and effect of protest).

§ 1003.55. Applications for temporary certificate of public convenience.

(a) *Application.*

(1) An applicant for a certificate of public convenience may seek temporary use of the rights requested on an expedited basis.

(2) A request for temporary rights shall be made through the relevant application form which may be obtained on the Authority's web site at www.philapark.org/tld.

(3) Temporary rights issued by the Authority will expire automatically and without further notice in the following manner:

(i) On the expiration date provided at the time the temporary rights are granted, which may not exceed 6 months from the date the temporary rights are granted.

(ii) On the date the application for nontemporary rights is granted or denied.

(4) The Authority will include the applicant's request for temporary rights in the notice of application published in the *Pennsylvania Bulletin*.

(b) *Standard for granting temporary certificates.* Temporary certificates are disfavored. Temporary rights will only be issued to an applicant for a certificate in the following circumstances:

(1) The applicant clearly identifies that an emergency situation that necessitates the granting of emergency rights exists in Philadelphia.

(2) The Authority determines that an emergency condition does exist in Philadelphia and that the immediate granting of the temporary rights will assist in the amelioration of the emergency.

(3) The applicant appears from the initial review of the application to be capable of safely and adequately providing service, including the filing of compliant rates, tariffs and proof of insurance.

(c) *Revocation of temporary certificate.* A grant of temporary certificate may be later revoked by the Authority if it determines that the applicant is unfit under this subpart.

(d) *Continuation of temporary certificate.* Temporary certificates issued under this section may not be renewed or extended. A person may apply for new temporary rights upon the expiration of any previously granted temporary rights.

(e) *Filing of protests.* A person who can and will provide all or part of the proposed service may file a protest to the temporary certificate. Protests shall be consistent with § 1003.54 (relating to protests). The protest must indicate whether it protests the application for temporary rights or for permanent rights, or both.

§ 1003.56. Registration of intrastate operating authority issued by the Interstate Commerce Authority.

Certificate holders that are granted intrastate operating authority to provide transportation service within the City of Philadelphia by the Interstate Commerce Authority under 49 U.S.C.A. §§ 10922 and 10923, regarding certificates of motor and water common carriers and permits of motor carriers, shall, within 30 days after the date on which the carrier first begins providing the authorized service, file a copy of the authority granted by the Interstate Commerce Authority and, for common carriers, a copy of the tariff in force for the authority with the Director. Supplements to tariffs filed under this section shall be filed when changes occur in tariffs or supplements or both previously filed.

Subchapter D. FORMS AND GUIDANCE DOCUMENTS

Sec.

1003.61. Official forms and guidance documents.

§ 1003.61. Official forms and guidance documents.

Forms for certain applications, petitions, complaints and other documents may be obtained on the Authority's web site at www.philapark.org/tld or from TLD Headquarters.

Subchapter E. TAXICAB AND LIMOUSINE DIVISION

Sec.

1003.71. Definitions.

1003.72. TLD staffing generally.

1003.73. Adjudication Department.

1003.74. Enforcement Department.

1003.75. Office of Trial Counsel.

1003.76. Conduct.

§ 1003.71. Definitions.

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

TLD—Taxicab and Limousine Division—The division of the Authority comprised of staff assigned to implement the purposes of the act, this part and the orders of the Authority.

Trial counsel—An attorney admitted to practice law before the Supreme Court of Pennsylvania who is assigned to the Office of Trial Counsel to prosecute complaints on behalf of the Authority as provided in § 1003.75 (relating to Office of Trial Counsel).

§ 1003.72. TLD staffing generally.

(a) *Director.* The Authority's Executive Director will designate a Director of the TLD to administer the operations of TLD staff and to perform the specific functions provided in the act, this part and the orders of the Authority.

(b) *Manager of Administration.* The Executive Director will designate a Manager of Administration to complete the tasks directed by this part. The Manager of Administration will report to the Director.

(c) *Administration.* The Authority's Executive Director will designate additional staff and internal TLD departments not otherwise required under this subpart to assist the Director and Manager of Administration with the implementation of the act, this part and orders of the Authority.

§ 1003.73. Adjudication Department.

(a) *Designation.* The TLD will include an Adjudication Department to provide for the administration of hearings and appeals related to enforcement actions and as otherwise provided for in the act, this part or an order of the Authority.

(b) *Standing presiding officers.* The Authority will appoint at least one individual to the Adjudication Department as a standing presiding officer to facilitate the purposes of the act and this part related to hearings and appeals. The Authority may assign additional tasks to the Adjudication Department, including the obligation to produce a recommended decision under §§ 1005.201—1005.204 (related to recommended decisions).

(c) *Qualifications.* A presiding officer appointed to the Adjudication Department shall have been admitted to practice law before the Supreme Court of Pennsylvania for at least 7 years prior to the date of designation.

(d) *Additional staff.* The Executive Director may designate additional Adjudication Department staff necessary to provide for the orderly operation of the Department, including court reporters.

(e) Subsections (a)—(d) supersede 1 Pa. Code §§ 35.185—35.187 (relating to designation of presiding officers; a disqualification of a presiding officer; and authority delegated to presiding officers)

§ 1003.74. Enforcement Department.

(a) The TLD will include an Enforcement Department to be comprised of staff and inspectors necessary to conduct all functions necessary for the enforcement of the act, this part or an order of the Authority, including the following:

(1) To examine the condition and management of any entity providing taxicab service, limousine service or other products or services subject to the act.

(2) To provide technical support to trial counsel in all prosecutorial proceedings.

(3) To initiate certain formal complaints as provided in § 1005.13 (relating to citation complaints by the Authority).

(b) The Enforcement Department will be supervised by a manager appointed by the Executive Director, who will report to the Director for administrative purposes only.

§ 1003.75. Office of Trial Counsel.

(a) *Designation.* The TLD will include an Office of Trial Counsel to be comprised of at least one attorney admitted to practice law before the Supreme Court of Pennsylvania. Trial counsel will be appointed by the Executive Director and will provide legal counsel and representation to the following departments:

(1) The Enforcement Department.

(2) Other departments of the Authority permitted by the act, this part or order of the Authority.

(b) *Duties generally.* The Office of Trial Counsel has the following duties and powers:

(1) To advise the Enforcement Department on all matters, including the granting of rights, certificates or registrations, the conduct of background investigations, audits and inspections and the investigation of potential violations of the act, this part or an order of the Authority.

(2) Make recommendations and objections relating to the issuance of certificates, registrations or other rights.

(3) Initiate, in its sole discretion, proceedings for violations of the act, this part or an order of the Authority by filing a complaint or other pleading with the Authority seeking civil fines or penalties, the imposition of conditions on a certificate, registration, other right or the suspension or cancellation of a conditions on a certificate, registration or other right.

(4) Withdraw, amend or otherwise alter, in its sole discretion, a complaint or other pleading with the Authority in a manner consistent with this part.

(5) Act as the prosecutor in enforcement proceedings.

(6) Seek a settlement that may include fines, penalties or other actions or limitations on rights subject to approval by the presiding officer.

(7) Appear at administrative hearings and other proceedings before a presiding officer or the Authority.

(c) *Supervision.* The Office of Trial Counsel will be supervised by the then longest continually appointed Trial Counsel and will have no reporting obligations to the Director. The supervising Trial Counsel will report to the General Counsel on administrative matters and otherwise adhere to the requirements of this subchapter.

§ 1003.76. Conduct.

(a) Trial Counsel representing the Enforcement Department, or an employee involved in the hearing process, may not discuss the case *ex parte* with a presiding officer assigned to the case, the General Counsel or an attorney assigned to the case by the General Counsel.

(b) A presiding officer, the General Counsel or an attorney assigned to the case by the General Counsel or a member of the Authority may not discuss or exercise a direct supervisory responsibility over any employee with respect to an enforcement hearing with which the employee is involved.

(c) If it becomes necessary for the General Counsel or an attorney appointed by the General Counsel or a member of the Authority to become involved on behalf of the Authority in any formal proceeding, the General Counsel or an attorney appointed by the General Counsel or the member of the Authority involved shall be prohibited from participating in the adjudication of that matter.

CHAPTER 1005. FORMAL PROCEEDINGS**Subchap.**

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- B. HEARINGS**
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Subchapter A. PLEADINGS**GENERAL PROVISIONS**

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GENERAL PROVISIONS**§ 1005.1. Pleadings allowed.**

Except as limited by specific provisions of this part, the pleadings in an action before the Authority include the following:

- (1) Application and protest.
- (2) Formal complaint, answer, new matter and reply to new matter.
- (3) Petition and answer.
- (4) Motions and answers.

FORMAL COMPLAINTS**§ 1005.11. Formal complaints generally.**

(a) Formal complaints averring an act done or omitted to be done by a person subject to the jurisdiction of the Authority, in violation, or claimed violation of a statute which the Authority has jurisdiction to administer, or of this part or an order of the Authority, may be filed with the Authority by:

- (1) The Enforcement Department.
- (2) The Office of Trial Counsel.
- (2) The PUC.
- (3) Philadelphia law enforcement or licensing officials, as provided under section 5705(b) of the act (relating to contested complaints).

(4) An informal complainant within 30 days of service of a termination letter from the Authority declining further action as provided in §§ 1003.42(c) and 1003.43 (relating to Authority action on informal complaints; and other initiation of formal complaints).

(b) If the complaint relates to a provision in a tariff, regulation, report or other similar document on file with the Authority as a matter of public record, the document should be identified.

(c) A copy of the complaint will be served upon the respondent as follows:

(1) By the Authority in accordance with § 1001.51 (relating to service by the Authority).

(2) By a complainant other than the Authority in accordance with § 1001.52 (relating to service by a party).

(d) Subsections (a)—(c) supersede 1 Pa. Code § 35.9 (relating to formal complaints generally).

§ 1005.12. Content of formal complaints.

(a) Except as permitted under § 1005.13 (relating to citation complaints by the Authority), a formal complaint must set forth the following:

(1) The name, mailing address, telephone number, telefacsimile number and electronic mailing address, if applicable, of the complainant.

(2) If the complainant is represented by an attorney, the name, mailing address, telephone number, telefacsimile number and Pennsylvania Supreme Court identification number of the attorney and, if available, the electronic mailing address.

(3) The name, mailing address and certificate or license number of the respondent complained against, if known, and the nature and character of its business.

(4) The interest of the complainant in the subject matter—for example, customer, competitor, and the like.

(5) A clear and concise statement of the act or omission being complained of including the result of any informal complaint or informal investigation.

(6) A clear and concise statement of the relief sought, provided that penalties entered in a proceeding initiated as provided in § 1005.11(a)(4) (relating to formal complaints generally) will be consistent with § 1001.61 (relating to penalties).

(7) Except for a document referenced within § 1005.11 (b), a document or the material part thereof, or a copy must be attached when a claim is based upon the document, the material part thereof, or a copy. If the document, the material part thereof, or a copy is not accessible, the complaint must set forth that the document, the material part thereof, or the copy is not accessible and the reason, and set forth the substance of the document or material part thereof.

(b) A verification executed in accordance with § 1001.36 (relating to verification and affidavit) shall be attached to the formal complaint.

(c) The complaint must reference the act, the regulation or order and quote the pertinent portions thereof.

(d) Subsections (a)—(c) supersede 1 Pa. Code §§ 35.10 and 35.14 (relating to form and content of formal complaints; and orders to show cause).

§ 1005.13. Citation complaints by the Authority.

(a) *Citations.* The Enforcement Department or trial counsel may issue a formal complaint through a form citation for any violation of the act, this part or order of the Authority. The form citation will be filed with the Clerk and include the following relevant information, unless the circumstances of the violation render the information impracticable to obtain at the time of filing:

(1) A unique citation number.

(2) The Authority number issued to the certificate, driver's certificate, registration or other right of the respondent.

(3) If the operation of a motor vehicle is at issue, the following information will be provided, if practicable:

- (i) The driver's name.
- (ii) The driver's home address.
- (iii) The driver's gender.
- (iv) The driver's birth date.
- (v) The information required under paragraph (4).

(4) If the incident involves a motor vehicle, the following information shall be provided, if practicable:

- (i) The vehicle's make.
- (ii) The vehicle's model.
- (iii) The vehicle identification number.
- (iv) The vehicle's license plate number and state of issuance.
- (v) The vehicle's color.
- (vi) The vehicle's dispatcher.
- (vii) The vehicle's registered owner.
- (viii) Designation of the vehicle's impoundment, if applicable.
- (ix) The vehicle's insurer and the policy number.
- (5) The location of the incident.
- (6) The time and date of the incident.
- (7) The meter number and type, if applicable.
- (8) The section of the act, this part or an order of the Authority alleged to have been violated.
- (9) The penalty sought for the violation.
- (10) The date the citation was issued.
- (11) The issuing officer's name, signature and badge number.

(b) *Answer to citations.* No pleading response to a citation is necessary. Preliminary motions may not be filed regarding complaints instituted under this section. Upon receipt of a citation the respondent shall do one of the following:

(1) Pay the penalty amount identified on the citation within 15 days after the date of service. Payment shall be made as provided in §§ 1001.42 and 1001.43 (relating to mode of payment to the Authority; and Authority fee schedule).

(2) File a request with the Clerk for a hearing within 15 days after the date of service. A correctly filed request for hearing shall be deemed a denial of each averment made in the citation. Requests for hearings may be made by completing the applicable portion of the citation and serving it upon the Clerk or by appearing at TLD Headquarters and completing a hearing request form.

(c) *Default orders.*

(1) If payment of a citation is not made or a request for a hearing is not filed as provided in subsection (b), a default order will be issued by the Authority or a presiding officer sustaining the complaint and assessing the penalty, as proposed in the complaint, against the respondent.

(2) If a respondent fails to appear at a hearing requested under subsection (b), without good cause shown, the Authority or presiding officer, upon review of evidence of service of the Authority's hearing notice upon the respondent, will issue a default order sustaining the

complaint and assessing the fine, as proposed in the complaint, against the respondent.

(d) *Hearing.* Hearings conducted under this section will otherwise proceed under this subpart.

§ 1005.14. Joinder of formal complaints.

(a) Two or more complainants may join in one complaint if they are complaining against the same respondent, and if the subject matter and relief sought is substantially the same.

(b) Subsection (a) supersedes 1 Pa. Code § 35.11 (relating to joinder of formal complaints).

§ 1005.15. Satisfaction of formal complaints.

(a) If the respondent satisfies a complaint either before or after a hearing, a statement to that effect signed by the complainant shall be filed with the Clerk setting forth that the complaint has been satisfied and requesting dismissal or withdrawal of the complaint. Except when requested by the parties, the Authority or presiding officer will not be required to render a final order upon the satisfaction of a complaint.

(b) This section supersedes 1 Pa. Code § 35.41 (relating to satisfaction of complaints).

PETITIONS

§ 1005.21. Petitions generally.

(a) Petitions are pleadings that may be filed by the trial counsel, an Authority division, parties, applicants, certificate holders, registrants, drivers, and other persons authorized by the Authority. Petitions shall be filed with the Clerk.

(b) Petitions must be in writing, state clearly and concisely the grounds for the petition, the interest of the petitioner in the subject matter, the facts and any legal argument relied upon and the relief sought and otherwise comply with §§ 1001.31—1001.36.

(c) Petitions must conform to § 1001.6 (relating to filing generally) and be served on all persons directly affected.

(d) This section supplements 1 Pa. Code §§ 35.17 and 35.18 (relating to petitions generally; and petitions for issuance, amendment, waiver or deletion of regulations).

§ 1005.22. Petitions for declaratory orders.

(a) Petitions for the issuance of a declaratory order to terminate a controversy or remove uncertainty must:

(1) State clearly and concisely the controversy or uncertainty which is the subject of the petition.

(2) Cite the statutory provision or other authority involved.

(3) Include a complete statement of the facts and grounds prompting the petition.

(4) Include a full disclosure of the interest of the petitioner.

(b) The petitioner shall serve a copy of the petition on the Director, General Counsel, all persons directly affected and on other parties who petitioner believes will be affected by the petition. Service shall be evidenced with a certificate of service filed with the petition.

(c) Copies shall also be served in compliance with Authority direction.

(d) Subsections (a)—(c) supersede 1 Pa. Code § 35.19 (relating to petitions for declaratory orders).

§ 1005.23. Petitions for issuance, amendment, repeal, or waiver of Authority regulations.

(a) A petition to the Authority for the issuance, amendment, waiver or repeal of a regulation shall be filed with the Clerk and set forth clearly and concisely the interest of the petitioner in the subject matter, the specific regulation, amendment, waiver or repeal requested, and cite by appropriate reference the statutory provision or other authority involved.

(b) A petition under this section must set forth the purpose of, and the facts claimed to constitute the grounds requiring the regulation, amendment, waiver or repeal.

(c) In addition to other considerations, the relief sought in a petition under this section will not be granted if the Authority determines that the requested relief is inconsistent with the purposes of the act, will disrupt or harm taxicab or limousine operations in Philadelphia or will adversely affect the public interest.

(d) A copy of the petition shall be served on all persons directly affected by the petition, the Director, General Counsel, and as otherwise required by the Authority. Service shall be evidenced with a certificate of service filed with the petition.

(e) A petition for the issuance or amendment of a regulation must incorporate the proposed regulation or amendment.

(f) A petition for waiver of a regulation will initially be determined by the Director upon submission of documents. The Director's decision is subject to appeal as provided in § 1005.24 (relating to appeals from actions of the staff).

(g) Subsections (a)—(f) supersede 1 Pa. Code § 35.18 (relating to petitions for issuance, amendment, repeal, or waiver of regulations).

§ 1005.24. Appeals from actions of the staff.

(a) Actions taken by staff, other than a presiding officer, under the act, this part or an order of the Authority will be deemed to be the final action of the Authority unless appealed by petition to the Authority within 15 days after service of notice of the action, unless a different time period is specified in this subpart or in the act. This section does not apply to staff decisions related to informal complaints, which must be addressed as provided in § 1003.43 (relating to other initiation of formal complaints).

(b) An action taken by staff under delegated authority will note the parties' right to appeal the action under this section.

(c) Petitions for appeal from actions of staff must be filed with the Clerk, served as provided in § 1001.52 (relating to service by party) and will be assigned to a presiding officer for a recommended decision as provided in §§ 1005.201—1005.204 (relating to recommended decisions).

(d) Petitions for appeal from actions of the staff must aver any material factual disputes related to the staff action necessitating an on the record hearing and otherwise comply with § 1005.21 (relating to petitions generally).

(e) A party may file an answer to a petition for appeal with the Clerk within 20 days of service, and in default thereof, may be deemed to have waived objection to the granting of the petition. Answers shall be served upon all other parties as provide in § 1001.52.

(f) Subsections (a)—(e) supersede 1 Pa. Code § 35.20 (relating to appeals from actions of the staff).

INTERVENTION

§ 1005.31. Initiation of intervention.

(a) Participation in a proceeding as an intervenor may be initiated as follows:

(1) By the filing of a notice of intervention by another agency of the Commonwealth which is authorized by statute to participate in the proceeding.

(2) By order of the Authority or presiding officer upon grant of a petition to intervene.

(b) Subsection (a) supersedes 1 Pa. Code § 35.27 (relating to initiation of intervention).

§ 1005.32. Eligibility to intervene.

(a) *Persons.* A petition to intervene may be filed by a person claiming a right to intervene or an interest of a nature that intervention is necessary or appropriate to the administration of the statute under which the proceeding is brought. The right or interest may be one of the following:

(1) A right conferred by statute of the United States or of the Commonwealth.

(2) An interest which may be directly affected and which is not adequately represented by existing participants, and as to which the petitioner may be bound by the action of the Commission in the proceeding.

(3) Another interest of a nature so that participation of the petitioner may be in the public interest.

(b) *Commonwealth.* The Commonwealth or an officer or agency thereof may intervene as of right in a proceeding subject to subsection (a)(1)—(3).

(c) *Supersession.* Subsections (a) and (b) are identical to 1 Pa. Code § 35.28 (relating to eligibility to intervene).

§ 1005.33. Form and content of petitions to intervene.

(a) Petitions to intervene must set out clearly and concisely the following:

(1) The facts from which the alleged intervention right or interest of the petitioner can be determined.

(2) The grounds of the proposed intervention.

(3) The petitioner's position regarding the issues in the proceeding.

(b) When the circumstances warrant, petitions to intervene filed on behalf of more than one person may be required to list those persons and entities comprising the represented group.

(c) Subsections (a) and (b) supersede 1 Pa. Code § 35.29 (relating to form and contents of petitions to intervene).

§ 1005.34. Filing of petitions to intervene.

(a) Petitions to intervene and notices of intervention may be filed with the Clerk at any time following the filing of an application, petition, complaint, or other document seeking agency action, but in no event later than the date fixed for the filing of petitions to intervene or protests in any order or notice with respect to the proceedings published in the *Pennsylvania Bulletin*, unless, in extraordinary circumstances for good cause shown, the Authority or the presiding officer authorizes a late filing. When a person has been permitted to intervene notwithstanding his failure to file his petition within

the time prescribed in this section, the Authority or presiding officer may, when the circumstances warrant, permit the waiver under § 1005.149 (relating to copies and form of documentary evidence) with respect to copies of exhibits for the intervenor.

(b) Subsection (a) supersedes 1 Pa. Code § 35.30 (relating to filing of petitions to intervene).

§ 1005.35. Notice, service and action on petitions to intervene.

(a) *Notice and service.* Petitions to intervene, when filed with the Clerk, must show service thereof upon all parties to the proceeding in conformity with § 1001.52 (relating to service by a party).

(b) *Action on petitions.* As soon as practicable after the expiration of the time for filing answers to petitions as provided in § 1005.45 (relating to answers to petitions to intervene), the Authority or presiding officer will grant or deny the petition in whole or in part or may, if found to be appropriate, authorize limited participation.

(c) *Rights upon grant of petition.* Admission as an intervenor will not be construed as recognition by the Authority that the intervenor has a direct interest in the proceeding or might be aggrieved by an order of the Authority in the proceeding. Intervenors are granted no rights which survive discontinuance of a case.

(d) *Actions on petitions filed after a hearing has commenced.* Petitions to intervene may not be filed or will be acted upon during a hearing unless permitted by the Authority or presiding officer after opportunity for all parties to object thereto. Only to avoid detriment to the public interest will any presiding officer tentatively permit participation in a hearing in advance of, and then only subject to, the granting by the agency of a petition to intervene.

(e) *Supersession.* Subsections (a)—(d) supersede 1 Pa. Code § 35.31 (relating to notice and action on petitions to intervene).

§ 1005.36. Limitation of participation in hearings.

(a) When there are two or more intervenors having substantially like interests and positions, the Authority or presiding officer may, to expedite the hearing, arrange appropriate limitations on the number of attorneys who will be permitted to cross-examine and make and argue motions and objections on behalf of the intervenors.

(b) Subsection (a) is identical to 1 Pa. Code § 35.32 (relating to limitation of participation in hearings).

ANSWERS

§ 1005.41. Answers to complaints, petitions, motions and other filings requiring a response.

(a) *Time for filing.* Unless a different time is prescribed by statute, the Authority, or the presiding officer, answers to complaints, petitions, motions and other filings requiring a response shall be filed with the Clerk and served upon all other parties within 20 days after the date of service.

(b) *Form of answer.* Answers must be in writing, and so drawn as fully and completely to advise the parties and the agency as to the nature of the defense. Answers must admit or deny specifically and in detail each material allegation of the pleading answered, and state clearly and concisely the facts and matters of law relied upon. Answers must be set forth in paragraphs numbered to correspond with the pleading answered and otherwise comply with §§ 1001.31—1001.36.

(c) *Failure to file an answer.* A respondent failing to file an answer within the applicable period may be deemed in default, and relevant facts stated in the pleadings may be deemed admitted.

(d) *Supersession.* Subsections (b)—(c) supersede 1 Pa. Code §§ 35.35 and 35.37 (relating to answers to complaints and petitions; and answers to orders to show cause).

§ 1005.42. Answers seeking affirmative relief or raising new matter.

(a) *Answers seeking affirmative relief.* In its answer, a respondent may seek relief within the jurisdiction of the Authority against other parties in a proceeding if common questions of law or fact are present. The answer must conform to this chapter for answers generally and set forth:

- (1) The facts constituting the grounds of complaint.
- (2) The provisions of the statutes, rules, regulations or orders relied upon.
- (3) The injury complained of.
- (4) The relief sought.

(b) *Answers raising new matter.* An affirmative defense shall be pleaded in an answer or other responsive pleading under the heading of “New Matter.” A party may set forth as new matter another material fact which is not merely a denial of the averments of the preceding pleading.

(c) *Supersession.* Subsections (a) and (b) supersede 1 Pa. Code § 35.38 (relating to respondents seeking affirmative relief).

§ 1005.43. Replies to answers seeking affirmative relief or new matter.

(a) Unless otherwise ordered by the Authority, replies to answers seeking affirmative relief or to new matter shall be filed with the Clerk and served within 20 days after date of service of the answer, but not later than 5 days prior to the date set for the commencement of the hearing.

(b) Failure to file a timely reply to new matter may be deemed in default, and relevant facts stated in the new matter may be deemed to be admitted.

(c) Subsections (a) and (b) supersede 1 Pa. Code § 35.39 (relating to replies to respondents seeking affirmative relief).

§ 1005.44. Answers to amendments of pleadings.

(a) An answer to an amendment, modification or supplement to an application, complaint, petition or other pleading set forth under § 1005.61 (relating to amendments of pleadings generally) shall be filed with the Clerk within 20 days after the date of service of the amendment, modification or supplement, unless for cause the Authority or presiding officer with or without motion prescribes a different time.

(b) Subsection (a) supersedes 1 Pa. Code § 35.40 (relating to answers to amendments of pleadings).

§ 1005.45. Answers to petitions to intervene.

(a) A party may file an answer to a petition to intervene within 20 days of service, and in default thereof, may be deemed to have waived objection to the granting of the petition. Answers shall be served upon all other parties.

(b) Subsection (a) supersedes 1 Pa. Code § 35.36 (relating to answers to petitions to intervene).

CONSOLIDATION

§ 1005.51. Consolidation.

(a) The Authority or presiding officer, with or without motion, may order proceedings involving a common question of law or fact to be consolidated. The Authority or presiding officer may make orders concerning the conduct of the proceeding as may avoid unnecessary costs or delay.

(b) Subsection (a) is identical to 1 Pa. Code §§ 35.45 and 35.122 (relating to consolidation; and consolidation of formal proceedings).

AMENDMENT AND WITHDRAWAL OF PLEADINGS

§ 1005.61. Amendments of pleadings generally.

(a) *Generally.* A modification of or supplement to an application, complaint, petition or other pleading shall be deemed as an amendment to the pleading, and must comply with the requirements of this chapter relating to the pleading amended.

(b) *Limitation.* An amendment to a pleading may not be filed more than 20 days after the date an answer or other response to the original pleading was due to be filed with the Clerk, unless directed or permitted by the Authority or the presiding officer after opportunity for all parties to be heard thereon.

(c) Subsections (a) and (b) supersede 1 Pa. Code § 35.48 (relating to amendments of pleadings generally).

§ 1005.62. Amendments to conform to the evidence.

(a) *Amendment by consent.* When the parties introduce issues at a hearing not raised in the pleadings without objection of any party, the issues shall be treated in all respects as if they had been raised in the pleadings.

(b) *Amendment following objection.* If evidence upon new issues is objected to on the ground that it is not within the issues raised by the pleadings, the Authority or the presiding officer may allow the pleadings to be amended and the evidence to be received, when it appears that the presentation of the merits of the proceedings will be served thereby without prejudicing the public interest, the rights of a party and that the omission of the amended information was not calculated to delay the proceedings.

(c) *Continuance following objection.* A continuance may be granted by the Authority or the presiding officer under § 1001.15 (relating to extensions of time and continuances) when necessary to allow the objecting party to address new issues and evidence.

(d) *Notice of amendment.* If an amendment adopted under this section has the effect of broadening the issues in the proceeding, notice of the amendment shall be given in the same manner as notice was given at the commencement of the proceeding and to the same persons who received the notice.

(e) *Supersession.* Subsections (a)—(d) supersede 1 Pa. Code § 35.49 (relating to amendments to conform to the evidence).

§ 1005.63. Directed amendments.

(a) The Authority may at any time, or during a hearing, presiding officers may on their own motion or the motion of a party, direct parties to state their case more fully or in more detail by way of amendment. The

amendment shall be reduced to writing and filed within the time fixed by the Authority or the presiding officer.

(b) Subsection (a) is identical to 1 Pa. Code § 35.50 (relating to directed amendments).

§ 1005.64. Withdrawal of pleadings in a contested proceeding.

(a) Except as provided in subsections (b) and (c), a party desiring to withdraw a pleading in a contested proceeding may file a petition for leave to withdraw the appropriate document with the Authority or presiding officer and serve it upon the other parties. The petition must set forth the reasons for the withdrawal. A party may object to the petition within 20 days of service. After considering the petition, an objection thereto and the public interest, the Authority or presiding officer will determine whether the withdrawal will be permitted.

(b) In an enforcement proceeding initiated by the Authority, Trial Counsel may withdraw any pleading upon notice to the respondent to be provided under § 1001.51 (relating to service by the Authority).

(c) A protest to an application may be withdrawn by filing a notice of withdrawal directed to the Authority or the presiding officer. The notice must state that the protest is withdrawn and provide the reasons for the withdrawal.

(d) Withdrawal or termination of an uncontested proceeding is governed under § 1001.82 (relating to withdrawal or termination of uncontested matter or proceeding).

(e) Subsections (a)—(d) supersede 1 Pa. Code § 35.51 (relating to withdrawal of pleadings).

MOTIONS

§ 1005.71. Motions.

(a) *Scope and content.* A request may be made by motion for relief desired, except as may be otherwise expressly provided in this subpart. A motion must set forth the ruling or relief sought, and state the grounds therefore and the statutory or other authority upon which it relies.

(b) *Presentation of motions.* A motion may be made in writing at any time, and a motion made during a hearing may be stated orally upon the record, or the presiding officer may require that an oral motion be reduced to writing and filed separately. Written motions must contain a notice which states that a responsive pleading shall be filed within 20 days of the date of service of the motion.

(c) *Response to motions.* A party has 20 days from the date of service within which to answer or object to a motion, unless the period of time is otherwise fixed by the Authority or the presiding officer.

(d) *Rulings on motions.*

(1) The Authority or presiding officer will rule upon motions when an immediate ruling is essential to proceed with the hearing.

(2) A motion made during the course of hearing, which if granted would otherwise dispose of parties' rights, should be acted upon by the presiding officer prior to taking further testimony if, in the opinion of the presiding officer, the action is warranted.

(3) If a motion involves a question of jurisdiction, the establishment of a prima facie case or standing, the presiding officer may render a final determination with

regard to a motion prior to the termination of hearings by issuing an initial or recommended decision.

(e) *Preliminary motions.*

(1) Preliminary motions are available to parties and may be filed in response to a pleading, except the following:

(i) Citation complaints filed under §§ 1005.11(a)(1) and 1005.13 (relating to formal complaints generally; and citation complaints by the Authority).

(ii) Motions.

(iii) Answers to motions.

(2) Preliminary motions must state specifically the legal and factual grounds relied upon and be limited to the following:

(i) Lack of Authority jurisdiction or improper service of the pleading initiating the proceeding.

(ii) Failure of a pleading to conform to this chapter or the inclusion of scandalous or impertinent matter.

(iii) Insufficient specificity of a pleading.

(iv) Legal insufficiency of a pleading.

(v) Lack of capacity to sue or nonjoinder of a necessary party.

(vi) Pendency of a prior proceeding or agreement for alternative dispute resolution.

(f) *Supersession.* Subsection (a) is identical to 1 Pa. Code § 35.177 (relating to scope and contents of motions). Subsection (b) is identical to 1 Pa. Code § 35.178 (relating to presentation of motions). Subsection (c) supersedes 1 Pa. Code § 35.179 (relating to objections to motions). Subsection (d) supersedes 1 Pa. Code § 35.180 (relating to action on motions). Subsection (e) supersedes 1 Pa. Code §§ 35.54 and 35.55 (relating to motions as to complaints; and motions as to answer).

Subchapter B. HEARINGS

GENERAL

Sec.

1005.81. Notice of proceeding; hearing; waiver of hearing.

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GENERAL

§ 1005.81. Notice of proceeding; hearing; waiver of hearing.

(a) When notice and hearing are required under the act, publication in the *Pennsylvania Bulletin* of a notice of application or other initial pleading is sufficient to provide notice of the proceeding. Service on interested per-

sons is also sufficient to provide notice. Hearings will be held upon the filing of the pleading, unless waived by the parties.

(b) If the appropriate pleading is not filed within the set period of time, or when the parties have waived hearings, the Authority may dispose of the matter without a hearing upon the basis of the pleadings or submissions and the studies and recommendations of the staff.

(c) Subsections (a) and (b) supersede 1 Pa. Code §§ 35.101, 35.103 and 35.121 (relating to waiver of hearing; preliminary notice to Department of Justice; and initiation of hearings).

§ 1005.82. Scheduling of hearing.

(a) A hearing calendar of all matters set for hearing will be maintained by the Clerk and will be in order of assignment as far as practicable. All matters will be heard in at TLD Headquarters, unless a different site is designated by the Authority or the presiding officer. The Authority or the presiding officer, in its discretion with or without motion, for cause may at any time with due notice to the parties advance or postpone any proceeding on the hearing calendar.

(b) Hearings will be held before the Authority or presiding officer, and all appearances, including staff counsel participating, will be entered upon the record, with a notation on whose behalf each appearance is made. A notation will be made in the record of the names of the members of the staff of the Authority participating, including accountants, and other experts, who are assisting in the investigation of the matter. This subsection supersedes 1 Pa. Code §§ 35.123 and 35.125 (relating to conduct of hearings; and order of procedure).

(c) In oral and documentary hearings, neither the Authority nor the presiding officer will be bound by technical rules of evidence, and all relevant evidence of reasonably probative value may be received. Reasonable examination and cross-examination will be permitted at all oral hearings. If a party does not testify on his own behalf, the party may be called and examined as if under cross-examination.

(d) Subsections (a)—(c) supersede 1 Pa. Code § 35.102 (relating to hearing calendar).

§ 1005.83. Notice of nonrulemaking proceedings.

(a) The Authority or presiding officer is authorized to schedule prehearing conferences and hearings. Parties will be given reasonable notice of the time and place of the prehearing conference or hearing. In fixing the time and place of conferences and hearings, regard will be given to the convenience and necessity of the parties or their attorneys so far as time and the proper execution of the functions of the Authority permit.

(b) A protestant shall attend the initial hearing or prehearing conference, if one has been scheduled. Failure to attend may result in the dismissal of the protest by the Authority or presiding officer.

(c) Subsection (a) supersedes 1 Pa. Code §§ 35.105 and 35.106 (relating to notice of nonrulemaking proceedings; and contents of notice of nonrulemaking proceedings).

HEARING CONFERENCES

§ 1005.91. Conferences generally.

Conferences will be scheduled and conducted in accordance with 1 Pa. Code §§ 35.111—35.116 (relating to prehearing conferences).

STIPULATIONS**§ 1005.101. Presentation and effect of stipulations.**

(a) Parties may stipulate to relevant matters of fact or the authenticity of relevant documents. The stipulations may be received in evidence at a hearing, and when so received shall be binding on the parties to the stipulation with respect to the matters therein stipulated.

(b) The parties may make stipulations independently of orders or rulings issued under § 1005.91 (relating to conferences generally).

(c) The Authority or presiding officer may disregard in whole or in part a stipulation of facts under this section but may grant further hearing if requested by a party to the stipulation within 15 days after issuance of an Authority order disregarding the stipulation of fact.

(d) Subsections (a)—(b) supersede 1 Pa. Code § 35.155 (relating to presentation and effect of stipulations). Subsection (c) supplements 1 Pa. Code § 35.155.

§ 1005.102. Restrictive amendments to applications for rights issued by the Authority.

(a) Parties to an application for Authority rights may stipulate as to restrictions or modifications to the proposed rights. Stipulations in the form of restrictive amendments or modifications must:

- (1) Be in writing.
- (2) Explain why the stipulation is in the public interest.
- (3) Be signed by each party to the stipulation.
- (4) Be submitted to the Manager of Administration for insertion into the document folder.

(b) Restrictive amendments shall be binding on the parties but not on the Authority if it is determined they are not in the public interest. If a restrictive amendment is not accepted by the Authority, it may remand the matter for appropriate proceedings.

HEARINGS**§ 1005.111. Order of procedure.**

(a) In a proceeding, the party having the burden of proof, shall open and close unless otherwise directed by the presiding officer. In a hearing on investigations and in proceedings which have been consolidated for hearing, the presiding officer may direct who will open and close. Oral rejoinder, if proposed by the party with the burden of proof, shall be completed before any cross-examination of the witness is conducted.

(b) Except when the presiding officer determines that it is necessary to develop a comprehensive evidentiary record, the participation of a person granted the right to intervene in a proceeding will be limited to the presentation of evidence through the submission of testimony under § 1005.151 (relating to oral examination).

(c) In proceedings when the evidence is peculiarly within the knowledge or control of another party, the order of presentation set forth in subsections (a) and (b) may be varied by the presiding officer.

(d) The presiding officer may direct the order of parties for purposes of cross-examination, subject to § 1005.112(f) (relating to presentation by parties).

(e) Subsections (a)—(d) supersede 1 Pa. Code § 35.125 (relating to order of procedure).

§ 1005.112. Presentation by parties.

(a) A party has the right of presentation of evidence, cross-examination, objection, motion and argument subject to the limitations of this subpart. The taking of evidence and subsequent proceedings shall proceed with reasonable diligence and with the least practicable delay.

(b) When an objection to the admission or exclusion of evidence before the Authority or the presiding officer is made, the ground relied upon shall be stated briefly. A formal exception is unnecessary and may not be taken to rulings thereon.

(c) The Authority or presiding officer may require or allow a factual statement of the scope of a pleading or the position of a party in the proceeding. Facts admitted on the record by a party or by testimony, exhibits or in writing, need not be further proved.

(d) The Authority or the presiding officer may limit appropriately the number of witnesses who may be heard upon an issue.

(e) A party will not be permitted to introduce evidence during a rebuttal phase which:

- (1) Is repetitive.
- (2) Should have been included in the party's case-in-chief.
- (3) Substantially varies from the party's case-in-chief.

(f) If a party conducts friendly cross-examination of a witness, the presiding officer may permit the other parties a second opportunity to cross-examine after friendly cross-examination is completed. The recross-examination shall be limited to the issues on which there was friendly cross-examination.

(g) Subsections (a)—(f) supersede 1 Pa. Code § 35.126 (relating to presentation by the parties).

§ 1005.113. Failure to appear, proceed or maintain order in proceedings.

(a) Except as provided in § 1005.13(c) (relating to citation complaints by the Authority), after being notified, a party who fails to be represented at a scheduled conference or hearing in a proceeding will:

- (1) Be deemed to have waived the opportunity to participate in the conference or hearing.
- (2) Not be permitted thereafter to reopen the disposition of a matter accomplished at the conference or hearing.
- (3) Not be permitted to recall witnesses who were excused for further examination.

(b) Subsection (a)(1)—(3) does not apply if the presiding officer determines that the failure to be represented was unavoidable and that the interests of the other parties and of the public would not be prejudiced by permitting the reopening or further examination. Counsel shall be expected to go forward with the examination of witnesses at the hearing under § 1005.111 (relating to order of procedure), or as has been otherwise stipulated or has been directed by the presiding officer.

(c) If the Authority or the presiding officer finds, after notice and opportunity for hearing, that the actions of a party, including an intervenor, in a proceeding obstruct the orderly conduct of the proceeding and are inimical to the public interest, the Authority or the presiding officer may take appropriate action, including dismissal of the complaint, application or petition, if the action is that of complainant, applicant or petitioner.

TRANSCRIPT**§ 1005.121. Transcripts generally.**

(a) If required by law, hearings will be stenographically reported by the Authority's official reporter.

(b) Notwithstanding the review provisions of § 1005.122 (relating to review of testimony), the hearing transcript will be a part of the record and the sole official transcript of the proceeding.

(c) The transcripts will include a verbatim report of the hearings and nothing will be omitted therefrom except as is directed by the presiding officer. Changes in the transcript must be made as provided in § 1005.123 (relating to transcript corrections).

(d) Subsections (a)—(c) supersede 1 Pa. Code § 35.131 (relating to recording of proceedings).

§ 1005.122. Review of testimony.

(a) In proceedings when testimony was electronically recorded and subsequently transcribed, a party may review the recording to ensure it was transcribed accurately.

(b) Review will not be permitted except upon written request within 20 days after the transcript has been filed with the Authority.

(c) Upon request for review, the Authority or presiding officer will schedule a time and place for the review which shall be open to all parties. The court reporter shall submit the tapes and equipment necessary for the review and shall arrange for the court reporter responsible for transcribing the tapes to be present at the review.

(d) Actual costs associated with making the tapes available for review, including the time of the court reporter, shall be paid by the party requesting review.

(e) Nothing in this section requires the electronic recording of testimony.

§ 1005.123. Transcript corrections.

(a) A correction in the official transcript may be made only to make it accurately reflect the evidence presented at the hearing and to speak the truth.

(b) Proposed corrections of a transcript may be submitted by either of the following means:

(1) By written stipulation by the parties of record who were present when the transcription was taken.

(2) Upon written request of one or more parties of record present when the transcription was taken.

(c) Proposed corrections shall be filed as follows:

(1) Within 10 days after the transcript has been filed with the Clerk.

(2) Within 10 days after the electronically recorded testimony has been reviewed.

(3) Upon permission of the presiding officer granted prior to the closing of the record.

(d) Objections or other comments to the proposed corrections shall be filed within 10 days of service of the proposed corrections.

(e) Proposed corrections and objections or other comments shall be served upon the parties of record present when the original transcription was taken.

(f) The presiding officer will rule upon a proposed correction of a transcript within 20 days of its receipt. A request for corrections not acted upon within 20 days is deemed to be:

(1) Denied if opposed in a timely manner.

(2) Granted if unopposed.

(g) Subsections (a)—(f) supersede 1 Pa. Code § 35.132 (relating to transcript corrections).

§ 1005.124. Copies of transcripts.

(a) A party or other person desiring copies of the transcript may obtain copies from the official reporter upon payment of the fees fixed therefore.

(b) Subsection (a) supersedes 1 Pa. Code § 35.133 (relating to copies of transcripts).

Subchapter C. INTERLOCUTORY REVIEW

Sec.

1005.131. Interlocutory review generally.

1005.132. Petition for interlocutory Authority review and answer to a material question.

1005.133. Authority action on petition for interlocutory review and answer.

§ 1005.131. Interlocutory review generally.

(a) The Authority will not permit interlocutory review of rulings made by a presiding officer during the course of any proceedings, except as specifically provided under this subpart and in extraordinary circumstances when only the prompt decision by the Authority can prevent detriment to the public interest.

(b) Subsection (a) supersedes 1 Pa. Code § 35.190 (relating to appeals to agency head from rulings of presiding officers).

§ 1005.132. Petition for interlocutory Authority review and answer to a material question.

(a) During the course of a proceeding, a party may file a timely petition with the Clerk directed to the Authority requesting review and answer to a material question only as provided in § 1005.131 (relating to interlocutory review generally) with copies served on all parties and the presiding officer and state, in not more than three pages, the question to be answered and the detriment to the public interest that will occur without the relief requested.

(b) Within 10 days of service of the petition, each party may submit a brief directed to the Authority supporting or opposing the petition and addressing the merits of the question for which an answer is requested and whether a stay of proceedings is required to protect the substantial rights of a party. The brief may not exceed 15 pages.

(c) The petitioning party shall also provide with the brief rulings on its question and extracts from the record as will assist the Authority in reaching a decision.

(d) Additional briefs are not permitted unless directed by the Authority.

§ 1005.133. Authority action on petition for interlocutory review and answer.

Unless the Authority acts upon a question filed under § 1005.132 (relating to petition for interlocutory Authority review and answer to a material question) for determination within 30 days after filing of the appeal shall be deemed to have been denied.

Subchapter D. EVIDENCE AND WITNESSES

EVIDENCE

- Sec.
 1005.141. Admissibility of evidence.
 1005.142. Admission of evidence.
 1005.143. Control of receipt of evidence.
 1005.144. Additional evidence.
 1005.145. Effect of pleadings.
 1005.146. Public documents.
 1005.147. Records of other proceedings.
 1005.148. Official and judicial notice of fact.
 1005.149. Copies and form of documentary evidence.

WITNESSES

- 1005.151. Oral examination.
 1005.152. Written testimony.
 1005.153. Offers of proof.

SUBPOENAS

- 1005.161. Subpoenas.
 1005.162. Depositions.

CLOSE OF THE RECORD

- 1005.171. Close of the record.

EVIDENCE

§ 1005.141. Admissibility of evidence.

(a) In oral and documentary proceedings, neither the Authority nor the presiding officer will be bound by technical rules of evidence, and all relevant evidence of reasonably probative value may be received. Reasonable examination and cross-examination will be permitted at all oral hearings.

(b) In the discretion of the Authority or presiding officer, evidence may be excluded if:

- (1) It is repetitious or cumulative.
- (2) Its probative value is outweighed by:
 - (i) The danger of unfair prejudice.
 - (ii) Confusion of the issues.
 - (iii) Considerations of undue delay or waste of time.

(c) Subsections (a) and (b) supersede 1 Pa. Code § 35.161 (relating to form and admissibility of evidence).

§ 1005.142. Admission of evidence.

(a) The Authority or presiding officer will rule on the admissibility of evidence and otherwise control the reception of evidence so as to confine it to the issues in the proceeding.

(b) For an exhibit to be received into evidence, it will be marked for identification and moved into evidence.

(c) Subsections (a) and (b) supersede 1 Pa. Code § 35.162 (relating to reception and ruling on evidence).

§ 1005.143. Control of receipt of evidence.

(a) The Authority or presiding officer has all necessary authority to control the receipt of evidence, including the following:

- (1) Ruling on the admissibility of evidence.
- (2) Confining the evidence to the issues in the proceeding and impose, when appropriate:
 - (i) Limitations on the number of witnesses to be heard.
 - (ii) Limitations of time and scope for direct and cross-examinations.
 - (iii) Limitations on the production of further evidence.
 - (iv) Other necessary limitations.

(b) The Authority or presiding officer will actively employ these powers to direct and focus the proceedings consistent with due process.

(c) Subsections (a) and (b) supersede 1 Pa. Code §§ 35.127, 35.162 and 35.163 (relating to limiting number of witnesses; reception and ruling on evidence; and designation of relevant portions of documentary evidence).

§ 1005.144. Additional evidence.

(a) At any stage of the hearing or thereafter, the Authority or the presiding officer may call for further admissible evidence upon an issue and require that the evidence be presented by the parties concerned, either at the hearing or at the adjournment thereof.

(b) Subsection (a) supersedes 1 Pa. Code § 35.128 (relating to additional evidence).

§ 1005.145. Effect of pleadings.

(a) Pleadings listed in § 1005.1 (relating to pleadings allowed) will, without further action, be considered as part of the record as pleadings.

(b) Except as provided in subsection (c) and in the case of a noncontested proceeding, a pleading, or any part thereof may not be considered as evidence of a fact other than that of filing thereof unless offered and received into evidence.

(c) A fact admitted by a party in an answer, filed under oath, to a numbered allegation in a pleading may be considered as evidence of the fact without the pleading and answer being offered and received into evidence.

(d) Subsections (a) and (b) supersede 1 Pa. Code § 35.125(d) (relating to order of procedure). Subsection (c) supersedes 1 Pa. Code § 35.35 (relating to answers to complaints and petitions).

§ 1005.146. Public documents.

(a) A report, decision, opinion or other document or part thereof, need not be produced or marked for identification, but may be offered in evidence as a public document by specifying the document or part thereof and where it may be found, if the document is one of the following:

- (1) A report or other document on file with the Authority.
- (2) An official report, decision, opinion, published scientific or economic statistical data or similar public document which is issued by a governmental department, agency, committee, Authority or similar entity which is shown by the offeror to be reasonably available to the public.

(b) Upon the request of a party and at the direction of the Authority or presiding officer, a party who incorporates by reference a pleading shall provide a copy of the pleading to the party requesting one.

(c) Subsections (a) and (b) supersede 1 Pa. Code §§ 35.164, 35.165 and 35.166 (relating to documents on file with agency; public documents; and prepared expert testimony).

§ 1005.147. Records of other proceedings.

(a) When a portion of the record in another proceeding before the Authority is offered in evidence and shown to be relevant and material to the instant proceeding, a true copy of the record shall be presented in the form of an exhibit, together with additional copies as provided in § 1005.149 (relating to copies and form of documentary evidence), unless both of the following occur:

(1) The party offering the record agrees to supply, within a period of time specified by the Authority or the presiding officer, the copies at his own expense, if any, when so required.

(2) The portion is specified with particularity so as to be readily identified, and upon motion is admitted into evidence by reference to the records of the other proceedings.

(b) Subsection (a) is identical to 1 Pa. Code § 35.167 (relating to records in other proceedings).

§ 1005.148. Official and judicial notice of fact.

(a) Official notice or judicial notice of facts may be taken by the Authority or the presiding officer.

(b) When the decision of the Authority or the presiding officer rests on official notice or judicial notice of a material fact not appearing in the evidence in the record, the parties will be so notified.

(c) Upon notification that facts are about to be or have been noticed, a party adversely affected shall have the opportunity upon timely request to show that the facts are not properly noticed or that alternative facts should be noticed.

(d) The Authority or the presiding officer in its discretion will determine whether written presentations suffice, or whether oral argument, oral evidence or cross-examination is appropriate in the circumstances.

(e) Subsections (a)—(d) supersede 1 Pa. Code § 35.173 (relating to official notice of facts).

§ 1005.149. Copies and form of documentary evidence.

(a) Except as otherwise provided in this subpart, when exhibits of a documentary character are offered in evidence, copies shall be furnished to the presiding officer and to the parties present at the hearing, unless the presiding officer otherwise directs. Two copies of each exhibit of documentary character shall be furnished for the use of the Authority unless otherwise directed by the presiding officer.

(b) Whenever practicable, all exhibits of a documentary character received in evidence must be on paper of good quality and so prepared as to be plainly legible and durable, whether printed, typewritten or otherwise reproduced, and conform to Chapter 1001, Subchapter D (relating to documentary filings) whenever practicable.

(c) Subsection (a) is identical to 1 Pa. Code § 35.169 (relating to copies to parties and agency). Subsection (b) is identical to 1 Pa. Code § 35.168 (relating to form and size of documentary evidence).

WITNESSES

§ 1005.151. Oral examination.

(a) Witnesses shall be examined orally unless the testimony is taken by deposition as permitted by the Authority or presiding officer or the facts are stipulated in the manner provided in § 1005.91 or § 1005.101 (relating to conferences generally; and presentation and effect of stipulations) or the testimony of expert witnesses is submitted in prepared written form as permitted by the Authority or presiding officer. Witnesses whose testimony is to be taken shall be sworn, or shall affirm, before their testimony shall be deemed evidence in the proceeding or any questions are put to them.

(b) Subsection (a) supersedes 1 Pa. Code § 35.137 (relating to oral examination).

§ 1005.152. Written testimony.

(a) *General.* Use of written testimony in Authority proceedings is encouraged, especially in connection with the testimony of witnesses determined by the Authority or presiding officer to be experts. Written direct testimony is required of expert witnesses testifying in rate cases.

(b) *Use.* The Authority or presiding officer may direct that expert testimony to be given upon direct examination be submitted as prepared written testimony. A reasonable period of time will be allowed to prepare written testimony.

(c) *Rules regarding use.* Written testimony is subject to the same rules of admissibility and cross-examination of the sponsoring witness as if it were presented orally in the usual manner.

(d) *Cross-examination.* Cross-examination of the witness presenting written testimony shall proceed at the hearing at which testimony is authenticated if service of the written testimony is made upon each party of record at least 20 days prior to the hearing, unless the presiding officer for good cause otherwise directs. In a rate proceeding, the presiding officer or the Authority will establish the schedule for the filing and authentication of written testimony, and for cross-examination by other parties.

(e) *Form.* Written testimony must normally be prepared in question and answer form, include a statement of the qualifications of the witness and be accompanied by exhibits to which it relates. A party offering prepared written testimony shall insert line numbers in the left-hand margin on each page. A party should also use a logical and sequential numbering system to identify the written testimony of individual witnesses.

(f) *Service.* Written testimony shall be served upon the presiding officer and parties in the proceeding in accordance with the schedule established by this chapter. At the same time the testimony is served, a certificate of service for the testimony shall be filed with the Secretary.

(g) *Copies.* At the hearing at which the testimony is authenticated, counsel for the witness shall provide two copies of the testimony to the court reporter.

(h) *Supersession.* Subsections (a)—(g) supersede 1 Pa. Code §§ 35.138, 35.150 and 35.166 (relating to expert witnesses; scope and conduct of examination; and prepared expert testimony).

§ 1005.153. Offers of proof.

(a) An offer of proof may be requested when opposing counsel contends the witness is not competent to testify to the subject matter or that the evidence to be offered is inadmissible. An offer of proof also may be made when the presiding officer has sustained an objection to the admission of testimony or tangible evidence. If the proffered evidence is tangible, it shall be marked for identification and shall constitute the offer of proof. If the proffered evidence is oral testimony, the offer of proof must consist of a summary of the evidence which counsel contends would be adduced by the testimony. The presiding officer may also request a statement of the basis for admissibility of the evidence.

(b) Subsection (a) supersedes 1 Pa. Code § 35.190(b) (relating to appeals to agency head from rulings of presiding officers).

SUBPOENAS

§ 1005.161. Subpoenas.

Matters related to subpoenas shall be as provided in 1 Pa. Code § 35.142 (relating to subpoenas).

§ 1005.162. Depositions.

Matters related to depositions shall be as provided in 1 Pa. Code §§ 35.145—35.152 (relating to depositions).

CLOSE OF THE RECORD**§ 1005.171. Close of the record.**

(a) The record will be closed at the conclusion of the hearing unless otherwise directed by the Authority or presiding officer.

(b) After the record is closed, additional matter may not be relied upon or accepted into the record unless allowed for good cause shown by the Authority or presiding officer upon motion.

(c) Subsections (a) and (b) supersede 1 Pa. Code §§ 35.231 and 35.232 (relating to reopening on application of party; and reopening by presiding officer).

Subchapter E. PRESIDING OFFICERS

Sec.

1005.181. Designation of presiding officer.

1005.182. Qualifications.

1005.183. Disqualification of a presiding officer.

1005.184. Authority of presiding officer.

1005.185. Restrictions on duties and activities.

1005.186. Manner of conduct of hearings.

1005.187. Unavailability of presiding officer.

§ 1005.181. Designation of presiding officer.

(a) When evidence is to be taken in a proceeding, either the Authority, a standing presiding officer appointed under § 1003.73(b) (relating to Adjudication Department) or an Authority representative appointed according to law and qualified as provided in § 1005.182 (relating to qualifications), may preside at the hearing.

(b) Subsection (a) supersedes 1 Pa. Code § 35.185 (relating to designation of presiding officers).

§ 1005.182. Qualifications.

(a) An authority representative appointed as provided in § 1005.181 (relating to designation of presiding officer) will be one of the following:

- (1) A member of the Authority.
- (2) The Director.

(3) An attorney admitted to practice law before the Supreme Court of Pennsylvania for at least 7 years prior to the date of designation.

(b) A presiding officer appointed to preside over an enforcement proceeding must meet the qualifications of subsection (a)(3).

§ 1005.183. Disqualification of a presiding officer.

(a) A party may file a motion for disqualification of a presiding officer which shall be accompanied by affidavits alleging personal bias or other disqualification.

(b) A presiding officer may withdraw from a proceeding when deemed disqualified in accordance with law.

(c) A motion for disqualification shall be filed with the Clerk and served on the presiding officer and the parties to the proceeding.

(d) The presiding officer will rule upon a motion for disqualification within 30 days of receipt. Failure to rule upon a motion for disqualification within 30 days of its receipt will be deemed to be a denial of the motion.

(e) The ruling of the presiding officer on a motion for disqualification is subject to the interlocutory appeal procedure in § 1005.132 (relating to petition for interlocutory Authority review and answer to a material question).

(f) Subsections (a)—(e) supersede 1 Pa. Code § 35.186 (relating to disqualification of a presiding officer).

§ 1005.184. Authority of presiding officer.

(a) The presiding officer will have the authority, within the powers of the act, this part or an order of the Authority. This authority includes, but is not limited to, the power to exclude irrelevant, immaterial or unduly repetitive evidence, to prevent excessive examination of witnesses, to schedule and impose reasonable limitations on discovery and to otherwise regulate the course of the proceeding.

(b) Subsection (a) supersedes 1 Pa. Code § 35.187 (relating to authority delegated to presiding officers).

§ 1005.185. Restrictions on duties and activities.

(a) Presiding officers will perform no duties inconsistent with their duties and responsibilities as such.

(b) Except as required for the disposition of ex parte matters not prohibited by the act, this part or an order of the Authority, a presiding officer will not consult a person or party on a fact in issue unless upon notice and opportunity for all parties to participate.

(c) Subsections (a) and (b) are identical to 1 Pa. Code § 35.188 (relating to restrictions on duties and activities).

§ 1005.186. Manner of conduct of hearings.

(a) The presiding officer will conduct a fair and impartial hearing and maintain order.

(b) The presiding officer may note on the record a party's disregard of a ruling. When necessary, the presiding officer may submit a report to the Authority recommending suspension and disbarment of the offending person as provided by § 1001.27 (relating to suspension and disbarment).

(c) Subsections (a) and (b) supersede 1 Pa. Code § 35.189 (relating to manner of conduct of hearings).

§ 1005.187. Unavailability of presiding officer.

(a) If a presiding officer becomes unavailable, the Adjudication Department's supervising presiding officer may either designate another qualified standing presiding officer to prepare the initial or recommended decision or cause the record to be certified to the Authority for decision.

(b) Subsection (a) is identical to 1 Pa. Code § 35.203 (relating to unavailability of presiding officer).

Subchapter F. BRIEFS

Sec.

1005.191. Content and form of briefs.

1005.192. Filing and service of briefs.

§ 1005.191. Content and form of briefs.

(a) When briefs are required by this part or upon direction of the Authority or presiding officer in a proceeding, the brief must contain the following:

(1) A concise statement or counter-statement of the case.

(2) Reference to the pages of the record or exhibits where the evidence relied upon by the filing party appears.

(3) An argument preceded by a summary. The party with the burden of proof shall, in its main or initial brief, completely address, to the extent possible, every issue raised by the relief sought and the evidence adduced at hearing.

(4) A conclusion with requested relief.

(b) Briefs must also contain the following, if and as directed by the presiding officer:

(1) A statement of the questions involved.

(2) Proposed findings of fact with references to transcript pages or exhibits where evidence appears, together with proposed conclusions of law.

(3) Proposed ordering paragraphs specifically identifying the relief sought.

(c) Exhibits should not be reproduced in the brief, but may, if desired, be reproduced in an appendix to the brief.

(d) Briefs of more than 20 pages must contain on their front leaves a table of contents with page references and a table of citations, which may be prepared without pagination.

(e) Briefs must be as concise as possible and, except for briefs in rate cases, be limited to 60 pages in length, unless some other limitation is imposed or allowed by the presiding officer. The length of briefs in rate cases will be controlled by the presiding officer.

(f) Subsections (a)—(e) supersede 1 Pa. Code § 35.192 (relating to content and form of briefs).

§ 1005.192. Filing and service of briefs.

(a) *Service.* Copies shall be served on the parties in accordance with § 1001.57 (relating to number of copies to be served).

(b) *Number of copies.* An original and 12 copies of a brief shall be filed with the Clerk in proceedings before the Authority, with only three copies filed in proceedings before a presiding officer.

(c) *Filing of briefs in nonrate proceedings.*

(1) *Initial brief.* An initial brief shall be filed by the party with the burden of proof except as provided by agreement or by direction of the presiding officer.

(2) *Response brief.* A party may file a response brief to the initial brief.

(d) *Filing of briefs in rate proceedings.*

(1) *Main brief.* A main brief may be filed by a party except as provided by agreement or by direction of the presiding officer.

(2) *Reply brief.* A party may file a reply brief to a main brief regardless of whether the party filed a main brief.

(e) *Filing of amicus curiae briefs.* A person interested in the issues involved in an Authority proceeding, although not a party, may, without applying for leave to do so, file amicus curiae briefs with the Clerk in regard to those issues. Unless otherwise ordered, amicus curiae briefs shall be filed and served in the manner and number required and within the time allowed by this section, absent good cause.

(f) *Deadlines.* Initial briefs, main briefs, responsive briefs and reply briefs shall be filed and served within the time fixed by the presiding officer. If no specific times are fixed, initial briefs or main briefs shall be filed and served within 20 days after the date of service of notice of the filing of the transcript and responsive briefs or reply briefs shall be filed within 20 days after date of service of the notice of the filing of the transcript.

(g) *Late-filed briefs.* Briefs not filed and served on or before the dates fixed therefore will not be accepted, except by special permission of the Authority or the

presiding officer as permitted under § 1001.15 (relating to extensions of time and continuances).

(h) *Supersession.* Subsections (a)—(g) supersede 1 Pa. Code §§ 35.191 and 35.193 (relating to proceedings in which briefs are to be filed; and filing and service of briefs).

Subchapter G. RECOMMENDED DECISIONS AND APPEALS

RECOMMENDED DECISIONS

Sec.

1005.201. Recommended decisions generally.

1005.202. Certification of record without decision.

1005.203. Appeal hearings.

1005.204. Briefs and oral argument before presiding officer.

EXCEPTIONS TO RECOMMENDED DECISIONS

1005.211. Exceptions to recommended decisions.

1005.212. Replies.

1005.213. Final orders and effect of failure to file exceptions.

1005.214. Oral argument before the Authority.

1005.215. Withdrawal of appeals.

RECOMMENDED DECISIONS

§ 1005.201. Recommended decisions generally.

(a) This subchapter applies only to proceedings referred to a presiding officer for a recommended decision by a provision of this part or order of the Authority.

(b) The Authority will employ the use of recommended decisions in lieu of proposed reports.

§ 1005.202. Certification of record without decision.

(a) If a proceeding is referred to a presiding officer as provided in § 1005.201 (relating to recommended decisions generally), that officer will normally file a decision. The record will be certified to the Authority without a decision of the presiding officer only as required or allowed by the Authority.

(b) Subsection (a) supersedes 1 Pa. Code §§ 35.201—35.207 (relating to proposed reports generally).

§ 1005.203. Appeal hearings.

In the event a matter is referred to a presiding officer with instructions to conduct hearings to develop an evidentiary record or if the petition for appeal avers a material factual dispute which the presiding officer determines necessitates a hearing, the hearing will be conducted as provided in Subchapter B (relating to hearings).

§ 1005.204. Briefs and oral argument before presiding officer.

(a) In matters which do not require a hearing to develop an evidentiary record, the presiding officer may issue a recommended decision upon review of the petition and answer, if any.

(b) On the presiding officer's own motion or at the request of a party, the presiding officer may order the filing of briefs in a form consistent with Subchapter F (relating to briefs), on a schedule the presiding officer deems appropriate.

(c) In the event briefs are filed, on the presiding officer's own motion or at the request of a party the presiding officer may order the presentation of oral argument and impose limits on the argument that are deemed appropriate. When determining the propriety of oral argument the presiding officer shall consider the limitations of time, the nature of the proceedings, the complexity or importance of the issues of fact or law involved and the public interest.

(d) Subsections (a)—(c) supersede 1 Pa. Code § 35.204 (relating to oral argument before presiding officer).

EXCEPTIONS TO RECOMMENDED DECISIONS

§ 1005.211. Exceptions to recommended decisions.

(a) Subject to subsection (f), a party may file written exceptions to the recommended decision of a presiding officer with the Clerk within 15 days after the recommended decision is issued, unless some other exception period is provided. Exceptions may not be filed with respect to an interlocutory decision.

(b) Each exception must be numbered and identify the finding of fact or conclusion of law to which exception is taken and cite relevant pages of the decision. Supporting reasons for the exceptions must follow each specific exception.

(c) The exceptions must be concise. The exceptions and supporting reasons must be limited to 20 pages in length. Statements of reasons supporting exceptions must, insofar as practicable, incorporate by reference and citation, relevant portions of the record and passages in previously filed briefs. A separate brief in support of or in reply to exceptions may not be filed with the Clerk.

(d) An original and twelve copies of the exceptions shall be filed with the Clerk.

(e) Unless otherwise ordered by the Authority, §§ 1001.11 and 1001.54 (relating to date of filing; and date of service) will not be available to extend the time periods for filing exceptions.

(f) A presiding officer's decision related to an enforcement proceeding will not be subject to exception or administrative appeal, except as provided in section 5705(a) of the act (relating to contested complaints).

(g) Subsections (a)—(f) supersede 1 Pa. Code §§ 35.211 and 35.212 (relating to procedure to except to proposed report; and content and form of briefs on exceptions).

§ 1005.212. Replies.

(a) A party has the right to file a reply to an exception in proceedings before the Authority. Unless otherwise directed by the Authority or presiding officer, a reply shall be filed within 10 days of the date that an exception is filed and be limited to 20 pages in length and in paragraph form. A reply must be concise and incorporate by reference relevant passages in previously filed briefs. A reply may not raise new arguments or issues, but be limited to responding to the arguments or issues in the exception.

(b) Unless otherwise ordered by the Authority, §§ 1001.11 and 1001.54 (relating to date of filing; and date of service) will not be available to extend the time periods for filing replies to an exception.

(c) Subsections (a) and (b) supersede 1 Pa. Code § 35.211 (relating to procedure to except to proposed report).

§ 1005.213. Final orders and effect of failure to file exceptions.

(a) *Enforcement proceedings.* A presiding officer's decision related to an enforcement proceeding will become a final order or adjudication of the Authority as provided in section 5705(a) of the act (relating to contested complaints).

(b) *Other proceedings.* If no exceptions are filed in a proceeding included within § 1005.211(a) (relating to exceptions to recommended decisions), the decision of the

presiding officer will become a final order or adjudication of the Authority without further Authority action, unless, within 15 days after the decision is issued, two or more members of the Authority request that the General Counsel schedule the decision for Authority review. Authority action on exceptions will be a final order or adjudication.

(c) Subsections (a) and (b) supersede 1 Pa. Code §§ 35.213 and 35.226 (relating to effect of failure to except to proposed report; and final orders).

§ 1005.214. Oral argument before the Authority.

(a) In a case brought to the Authority by the filing of an exception or appeal, a request for oral argument before the Authority shall be filed in writing together with the appeal.

(b) In a case where exceptions are filed under § 1005.211 (relating to exceptions to recommended decisions), a request for oral argument before the Authority shall be filed in writing together with exceptions to recommended decision, or any reply.

(c) In a case where no recommended decision will be issued, a request for oral argument before the Authority shall be filed in writing together with the initial or responding brief.

(d) If oral argument is ordered, it shall be limited, unless otherwise specified, to matters properly raised by the briefs.

(e) Subsections (a)—(d) supersede 1 Pa. Code §§ 35.214 and 35.221 (relating to oral argument on exceptions; and briefs and oral argument in absence of proposed report).

§ 1005.215. Withdrawal of appeals.

(a) The filing of exceptions to a recommended decision will be deemed to be an appeal to the Authority of the recommended decision and is subject to review by the Authority.

(b) An appeal to the Authority may be withdrawn at any time. If the presiding officer's previous decision is not otherwise subject to Authority review, it becomes final and effective upon the filing of a notice of withdrawal.

Subchapter H. REOPENING, RECONSIDERATION AND REHEARING

Sec.

1005.221. Reopening prior to a final decision.

1005.222. Petitions for relief.

§ 1005.221. Reopening prior to a final decision.

(a) At any time after the record is closed but before a final decision is issued, a party may file a petition to reopen the proceeding for the purpose of taking additional evidence.

(b) A petition to reopen must set forth clearly the facts claimed to constitute grounds requiring reopening of the proceeding, including material changes of fact or of law alleged to have occurred since the conclusion of the hearing.

(c) Within 10 days following the service of the petition, another party may file an answer thereto.

(d) The record may be reopened upon notification to the parties in a proceeding for the reception of further evidence if there is reason to believe that conditions of fact or of law have so changed as to require, or that the public interest requires, the reopening of the proceeding.

(1) The presiding officer may reopen the record if the presiding officer has not issued a decision or has not certified the record to the Authority.

(2) The Authority may reopen the record after the presiding officer has issued a decision or certified the record to the Authority.

(e) Subsections (a)—(e) supersede 1 Pa. Code §§ 35.231 —35.233 (relating to reopening of record).

§ 1005.222. Petitions for relief.

(a) Petitions for rehearing, reargument, reconsideration, clarification, rescission, amendment, supersedeas or the like must be in writing and specify, in numbered paragraphs, the findings or orders involved, and the points relied upon by petitioner, with appropriate record references and specific requests for the findings or orders desired.

(b) A copy of every petition covered under subsection (a) shall be served upon each party to the proceeding.

(c) Petitions for reconsideration, rehearing, reargument, clarification, supersedeas or others shall be filed within 10 days after the Authority order involved is entered or otherwise becomes final.

(d) Answers to a petition covered under subsection (a) shall be filed and served within 10 days after service of a petition.

(e) The filing of a petition as provided in this section will not act to toll any period of appeal related to judicial review of an agency action. The expiration of a period of appeal without action by the Authority will be deemed a denial of the petition by the Authority.

(f) Subsections (a)—(e) supersede 1 Pa. Code § 35.241 (relating to application for rehearing or reconsideration).

Subchapter I. REPORTS OF COMPLIANCE

Sec.

1005.231. Reports of compliance.

1005.232. Compliance with orders prescribing rates.

§ 1005.231. Reports of compliance.

(a) A person subject to the jurisdiction of the Authority who is required to do or perform an act by an Authority order, certificate, registration, driver's certificate or other right shall file with the Director a notice stating that the requirement has or has not been met or complied with.

(b) The notice shall be filed within 30 days following the date when the requirement becomes effective, unless the Authority, by regulation, by order or by making specific provision thereof in the certificate, registration, driver's certificate or other right provides otherwise for compliance or proof of compliance. The notice shall be accompanied by a verification in accordance with § 1001.36 (relating to verification and affidavit).

(c) Subsections (a) and (b) supersede 1 Pa. Code § 35.251 (relating to reports of compliance).

§ 1005.232. Compliance with orders prescribing rates.

(a) When the Authority makes a final decision concerning a rate filing and permits or requires the adoption of rates other than the rates originally filed, the certificate holder affected shall file, within 20 days of entry of the final order, a tariff revision consistent with the Authority's decision together with a proof of revenues and supporting calculations. The certificate holder shall simultaneously serve copies of the tariff revision, along with the proof of revenues and supporting calculations, on

the parties in the proceeding. A utility may also be required to provide an electronic, red-lined copy of any filing made to assist the parties in promptly identifying and analyzing the filing.

(b) Unless otherwise specified in the order, the tariff revision shall be effective upon statutory notice to the Authority and to the public and, whether made effective on statutory notice or under authority granted in the order, shall bear under the effective date on the title page the following notation: "Filed in compliance with the order of Philadelphia Parking Authority, entered

_____ 2 _____ (date) at _____ : _____ (time)."

(c) Exceptions to a tariff revision under this section may be filed by a party to the proceeding within 10 days of the date of service of the compliance filing, and must be strictly limited in scope to the factual issue of alleged deviation from requirements of the Authority order. The utility making the compliance filing may respond to exceptions within 5 days. No further pleadings will be permitted.

(d) Rates contained in a tariff revision filed in compliance with an Authority order may not be imposed prior to entry of a subsequent order by the Authority approving the compliance filing. Notwithstanding the filing of an exception, the Authority may allow the compliance rates to become effective.

Subchapter J. APPEALS TO COURT

Sec.

1005.241. Notice of taking appeal.

1005.242. Preparation and certification of records.

1005.243. Certification of interlocutory orders.

§ 1005.241. Notice of taking appeal.

When an appeal is taken from an order of the Authority to the Commonwealth Court, the appellant shall immediately give notice of the appeal to all parties to the Authority proceeding, the Clerk and the General Counsel, as provided under § 1001.52 (relating to service by a party).

§ 1005.242. Preparation and certification of records.

A record will not be certified as complete until copies of exhibits or other papers have been furnished when necessary to complete the Authority file. Copies will be requested by the Authority.

§ 1005.243. Certification of interlocutory orders.

(a) When the Authority has made an order which is not a final order, a party may by motion request that the Authority find, and include the findings in the order by amendment, that the order involves a controlling question of law as to which there is a substantial ground for difference of opinion and that an immediate appeal to Commonwealth Court from the order may materially advance the ultimate termination of the matter. The motion shall be filed within 10 days after service of the order, and is procedurally governed under § 1005.71 (relating to motions). Unless the Authority acts within 30 days after the filing of the motion, the motion will be deemed denied.

(b) Neither the filing of a motion under subsection (a), nor the adoption of an amended order containing the requested finding, will stay a proceeding unless otherwise ordered by the Authority or Commonwealth Court.

(c) Subsections (a) and (b) supersede 1 Pa. Code § 35.225 (relating to interlocutory orders).

Subpart B. TAXICABS

Chap.
1011. GENERAL PROVISIONS
1013. MEDALLION TAXICABS
1015. PARTIAL RIGHTS TAXICABS
1017. VEHICLE AND EQUIPMENT REQUIREMENTS
1019. DISPATCHERS
1021. TAXICAB DRIVERS
1023. TAXICAB RATES
1025. INSURANCE REQUIRED
1027. SALE OF RIGHTS
1029. BROKERS

CHAPTER 1011. GENERAL PROVISIONS

Sec.
 1011.1. Purpose.
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 1011.3. Annual rights renewal process.
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 1011.5. Ineligibility due to conviction or arrest.
 1011.6. Fleet program.
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 1011.10. Discrimination in service.
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 1011.21. Service in unauthorized territory.

§ 1011.1. Purpose.

This subpart establishes and prescribes Authority regulations and procedures for taxicab service in Philadelphia.

§ 1011.2. Definitions.

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

Arrest—Detaining, holding, or taking into custody by police or other law enforcement authorities to answer for an alleged commission of an offense.

Call or demand service—Local common carrier service for passengers, rendered on either an exclusive or a nonexclusive basis, where the service is characterized by the fact that passengers normally hire the vehicle and its driver either by telephone call or by hail, or both.

Common carrier—A common carrier by motor vehicle, as defined in 66 Pa.C.S. § 102 (relating to definitions), transporting passengers.

Controlling interest—

(i) A controlling interest is an interest in a legal entity, applicant or certificate holder if a person’s voting rights under state law or corporate articles or bylaws entitle the person to elect or appoint one or more of the members of the board of directors or other governing board or the ownership or beneficial holding of 5% or more of the securities of the corporation, partnership, limited liability company or other form of legal entity, unless this presumption of control or ability to elect is rebutted by clear and convincing evidence. A member, partner, director, or officer of a corporation, partnership, limited liability company or other form of legal entity, is deemed to have a controlling interest.

(ii) A person who owns or beneficially holds less than 5% of the securities of a privately held domestic or foreign corporation, partnership, limited liability company or

other form of privately held legal entity shall be deemed as having rebutted the presumption of control by clear and convincing evidence.

Conviction—

(i) A finding of guilt or a plea of guilty or nolo contendere whether or not a judgment of sentence has been imposed as determined by the law of the jurisdiction in which the prosecution was held relating to any of the following:

(A) A felony.

(B) A crime involving moral turpitude.

(C) A crime requiring registration with the State Police as provided in 42 Pa.C.S. § 9795.1 (relating to registration) or similar statute in any other jurisdiction.

(D) A crime subject to prosecution pursuant to 18 Pa.C.S. Chapter 25 (relating to criminal homicide) or similar statute in any other jurisdiction.

(E) A crime subject to prosecution pursuant to 18 Pa.C.S. Chapter 27 (relating to assault) or similar statute in any other jurisdiction.

(F) A crime subject to prosecution pursuant to 18 Pa.C.S. Chapter 29 (relating to kidnapping) or similar statute in any other jurisdiction.

(G) A crime subject to prosecution pursuant to 18 Pa.C.S. Chapter 31 (relating to sexual offenses) or similar statute in any other jurisdiction.

(ii) A crime resulting in an order of Accelerated Rehabilitative Disposition, prior to successful completion of the terms of the order.

(iii) Except as provided in subparagraphs (i) and (ii), the term does not include a misdemeanor or summary conviction or any conviction that has been expunged or overturned or for which an individual has been pardoned.

Crime involving moral turpitude—A crime determined by the Authority to be consistent with 22 Pa. Code § 237.9 (relating to crimes of moral turpitude).

Criminal history report—The report issued by the State Police, or similar government entity in a jurisdiction outside this Commonwealth, which will identify any convictions associated with an individual.

Dispatcher—The owner of a certificate of public convenience to operate a dispatching service in Philadelphia issued by the Authority under section 5711(c)(6) of the act (relating to power of authority to issue certificates of public convenience) and Chapter 1019 (relating to dispatchers).

Dispatcher’s certificate—A certificate issued by the Authority to a dispatcher.

Driver history report—A driver’s license report containing details about a driver’s history including accidents and violations issued by a jurisdiction within the United States.

Driver’s license—A license or permit to operate a motor vehicle issued by the Department of Transportation or similarly authorized government entity in another jurisdiction of the United States.

Enforcement Department—The department of the TLD created under § 1003.74 (relating to Enforcement Department).

Exclusive service—Transportation on a given trip when the first or principal person, party or group hiring the vehicle has the exclusive right to determine where, when or if another passenger shall be carried on that trip.

Federal Tax Identification number—The Social Security number of an individual or the Employer Identification number of a business entity, fiduciary or other person.

Holding company—A person, other than an individual, which, directly or indirectly, owns, has the power or right to control or to vote 20% or more of the outstanding voting securities of a corporation or other form of business organization. A holding company indirectly has, holds or owns the power, right or security if it does so through an interest in a subsidiary or successive subsidiaries.

Inspector—Enforcement Department uniformed or nonuniformed staff assigned to investigate and enforce the act, this part and orders of the Authority who will be identifiable by an Authority issued badge number.

Key employee—An individual who is employed in a director or department head capacity and who is empowered to make discretionary decisions that affect the operations of an applicant, certificate holder, or other entity identified by the Authority.

Manager of Administration—The individual appointed to manage the Administration Department of the TLD as provided in § 1003.72 (relating to TLD Staffer generally). The Manager of Administration may be contacted at TLD Headquarters or by email at TLDAdmin@philpark.org.

Manager of Enforcement—The individual named appointed to manage the Enforcement Department of the TLD as provided in § 1003.74. The Manager of Enforcement may be contacted at TLD Headquarters or by email at TLDEnforcement@philpark.org.

Medallion—A piece of metal in a shape and with a color to be determined by the Authority which is to be affixed to a vehicle by Authority staff before that vehicle may provide citywide taxicab service.

Medallion number—The number assigned to and placed on a particular medallion by the Authority, under § 1017.14 (relating to taxicab numbering).

Medallion lienholder—A person holding a recorded lien against a medallion as provided under section 5713 of the act (relating to property and licensing rights) and § 1013.21 (relating to notice of medallion lien).

Medallion taxicab—A taxicab certified by the Authority to provide city-wide taxicab service and affixed with a medallion by the Authority as provided in § 1013.2 (relating to attachment of a medallion) and section 5714(a) of the act (relating to certificate and medallion required).

Moving violations—Any debt owed the Commonwealth or one of its political subdivisions for violations of 75 Pa.C.S. (relating to Vehicle Code), that is not under appeal.

Proposed buyer—The party seeking to acquire an ownership interest in a medallion or certificate, as the context provides.

Parking violations—Any debt owed to the City of Philadelphia related to a violation of the Philadelphia Traffic Code (12 Phila. Code §§ 100-3012), that is not under appeal.

Partial-rights taxicab—A taxicab authorized by the Authority to provide common carrier call or demand transportation of persons for compensation on a non-citywide basis, under Chapter 1015 (relating to partial rights taxicabs) and sections 5711(c)(2) and 5714(d)(2) of

the act (relating to power of Authority to issue certificates of public convenience; and certificate and medallion required).

Regulated person—A certificate holder, broker, taxicab driver, or other person subject to the act, this part or an order of the Authority.

Rights—A certificate of public convenience, driver's certificate, broker registration or other authorization issued to a regulated party by the Authority under the act.

Taxicab—

(i) A motor vehicle designed for carrying no more than eight passengers, exclusive of the driver, as defined in section 5701 of the act (relating to definitions) and certified by the Authority under the act, this part or an order of the Authority.

(ii) Unless the context indicates otherwise, the term includes partial-rights taxicabs, medallion taxicabs and wheelchair accessible taxicabs.

Taxicab certificate—

(i) A certificate issued by the Authority authorizing the holder to provide taxicab service under the act, this part or an order of the Authority.

(ii) Unless the context indicates otherwise, the term includes medallion taxicab certificates and partial-rights taxicab certificates.

Taxicab driver—The individual to whom a current and valid taxicab driver's certificate has been issued by the Authority under section 5706 of the act (relating to driver certification program).

Taxicab driver's certificate—The original photographic identification card issued by the Authority which confirms that an individual has complied with Chapter 1021 (relating to taxicab drivers) and is authorized to provide taxicab service under section 5706 of the act.

Taxicab service—

(i) The transportation of passengers or offering to transport passengers in a taxicab as a common carrier call or demand service in Philadelphia.

(ii) The term includes the stopping, standing or parking of a taxicab in a taxicab stand line or other location commonly used by the public to access taxicabs.

(iii) Unless the context indicates otherwise, the term includes both partial-rights taxicabs and medallion taxicabs.

Transfer fee—The fee paid to the Authority for its review of a sale application as provided in Chapter 1027 (relating to sale of rights).

Wheelchair accessible taxicab—A taxicab that can accommodate at least one person in a wheelchair without the person having to transfer from the wheelchair to another seat and that meets requirements established by the Americans with Disabilities Act of 1990 (42 U.S.C.A. §§ 12101—12213) or requirements that are a functional equivalent and approved by the Authority.

§ 1011.3. Annual rights renewal process.

(a) *Expiration of certificate.* All rights will expire annually, including the following:

(1) A certificate will expire on June 30 of each year.

(2) A taxicab driver's certificate will expired 1 year from its date of issuance or renewal.

(3) A broker registration will expire on June 30 of each year.

(4) All other rights, including waivers issued as provided in § 1005.23 (relating to petitions for issuance, amendment, repeal, or waiver of Authority regulations), will expire 1 year from the date of issuance or as otherwise provided by order at the time of issuance.

(b) *Expired rights.*

(1) Expired rights will be placed out of service and cancelled by the Authority as provided in § 1003.32 (relating to out of service designation).

(2) Taxicab driver certificates that have been expired for 1 year or more will be deemed cancelled.

(c) *Renewal forms.*

(1) Rights issued by the Authority must be renewed by completing and filing the required renewal form with the Director. Renewal forms may be obtained on the Authority's web site at www.philapark.org/tld or from TLD Headquarters.

(2) The renewal forms may require the submission of additional information or documents in order to confirm continuing eligibility under the act, this part or an order of the Authority.

(3) The renewal forms must be verified as provided in § 1001.36 (relating to verification and affidavit) and filed as follows:

(i) For medallion taxicab certificates, Form TX-1 "Medallion Renewal" shall be filed on or before February 15 of each year.

(ii) For partial-rights taxicab certificates, Form PR-1 "Partial Rights Renewal" shall be filed on or before February 15 of each year.

(iii) For dispatcher certificates, Form DSP-6 "Dispatcher Renewal" shall be filed on or before February 15 of each year.

(iv) For taxicab drivers' certificates, Form DR-3 "Driver Renewal" shall be filed 60 days before the expiration date printed on the taxicab driver's certificate.

(v) For broker registrations, a Form BR-4 "Broker Renewal" shall be filed on or before February 15 of each year.

(d) *Renewal denial.* The Authority will deny renewal of rights in the following circumstances:

(1) If the owner of the rights subject to renewal fails to complete the renewal process.

(2) The renewal process reveals information about the renewing person or those with a controlling interest in the renewing person that would have resulted in a denial of an initial application for the rights.

(3) The renewing person fails to comply with § 1011.4 (relating to annual assessments and renewal fees).

(e) *Suspended rights.* Rights subject to suspension for any reason must be renewed on the dates and in the manner provided by this section regardless of the suspended status.

§ 1011.4. Annual assessments and renewal fees.

(a) *Assessments and renewal fees.* The owners of rights issued by the Authority shall pay an annual assessment or renewal fee in an amount established each year under section 5707(b) of the act (relating to budget and fees) and as set forth in the Authority's annual fee schedule as provided in § 1001.43 (relating to Authority fee schedule).

(b) *Payment of assessments by certificate holders.* Except as provided in subsection (c), the annual assessment for certificate holders is due on or before June 15 of each year.

(c) *Installment payments.* Upon request by a taxicab certificate holder through the annual renewal form required under § 1011.3 (relating to annual rights renewal process), the Director may permit certificate holders to pay the assessment in two equal installments on or before June 15 and December 15 of each year, as limited under subsections (d) and (e).

(d) *Assessment payment by appointment.*

(1) In person appointments to pay annual assessments may be scheduled by the Director anytime after the renewal form is filed. If the certificate holder fails to appear at the scheduled appointment, the certificate holder will be charged a rescheduling fee as provided in § 1001.43, in addition to any penalty entered against the certificate holder.

(2) The scheduled appointment will become the new due date for the installment assessment payment.

(3) The Authority will provide notice of assessment payment appointments as provided in § 1001.51 (relating to service by Authority).

(e) *Eligibility.* A certificate will be ineligible for assessment installment payments if the certificate holder or any person having a controlling interest in the certificate holder has done any of the following in the previous 5 years:

(1) Failed to pay an assessment to the Authority on schedule.

(2) Failed to begin and complete the annual rights renewal process on schedule.

(3) Been subject to suspension or cancellation of any rights issued by the Authority under the act, this part or an order of the Authority.

(f) *Payment of renewal fees by taxicab drivers.* The annual renewal fee for taxicab drivers is due with the filing of the DR-3 as provided in § 1011.3(c)(3)(iv) (relating to annual rights renewal process).

(g) *Payment of renewal fees by brokers.* The annual renewal fee for brokers is due with the filing of the BR-4 as provide in § 1011.3 (c)(3)(v).

(h) *Late assessment or renewal fee payments.*

(1) A regular assessment or renewal fee payment will be considered late if not paid before 3 p.m. on the day it is due.

(2) An installment assessment payment will be considered late if not paid at the appointed time and date for payment.

(3) Rights issued by the Authority will expire at the time an assessment payment becomes late and will be immediately placed out of service by the Authority in as provided in § 1003.32 (relating to out of service designation).

§ 1011.5. Ineligibility due to conviction or arrest.

(a) Except as provided in subsection (e), a person is ineligible to own any interest in any right issued by the Authority if the person, or a person having a controlling interest in the person or a key employee, has been subject to a conviction as defined in § 1011.2 (relating to definitions) in the past 5 years and for 6 months from the date

the convicted person completes the sentence imposed, including incarceration, probation, parole and other forms of supervised release.

(b) In the event a regulated party owning a transferable right becomes ineligible to hold rights issued by the Authority due to a conviction, the regulated party shall immediately cease use of the rights and initiate the sale of the rights to an eligible person as provided in Chapter 1027 (relating to sale of rights) within 180 days of the conviction.

(c) A regulated party shall inform the Director within 72 hours of being subject to an arrest or conviction as defined under § 1011.2.

(d) In the event a criminal prosecution is initiated against a regulated party for a crime that may lead to a conviction as defined in § 1011.2, the Enforcement Department or Trial Counsel may initiate a formal complaint against the regulated party as provided in § 1005.11 (relating to formal complaints generally) and seek the immediate suspension of rights pending the conclusion of the criminal proceedings.

(e) A person subject to an order of Accelerated Rehabilitative Disposition shall be ineligible to own any interest in any right issued by the Authority until the terms of the order have been completed.

§ 1011.6. Fleet program.

(a) The Authority will maintain a fleet program to assist taxicab certificate holders with the process of accurately transferring liability for Philadelphia parking violations from the owner of the vehicle to the taxicab driver assigned to the vehicle when the parking violation was issued.

(b) Each taxicab certificate holder engaged in the leasing of a taxicab to a taxicab driver shall enroll in the Authority's fleet program. Information related to enrollment and an enrollment application may be obtained from the Authority at www.philapark.org/tld.

§ 1011.7. Payment of outstanding fines, fees, penalties and taxes.

(a) Regulated persons and applicants for any right issued by the Authority shall pay all assessments, fees, penalties, and other payments due to the Authority under the act, this part or an order of the Authority on schedule, unless the matter related to the payment is under appeal.

(b) Regulated persons and applicants for any right issued by the Authority shall remain current on the payment of parking violations and moving violations, unless the violation is under appeal.

(c) Regulated persons and applicants for any right issued by the Authority shall remain current on the payment of taxes due to the Commonwealth or City of Philadelphia, unless under appeal.

(d) Regulated persons and applicants for any right issued by the Authority shall hold and maintain a Business Privilege License issued by the City of Philadelphia and present a copy of the license to the Authority for inspection upon demand.

(e) For purposes of this section, regulated persons and applicants includes those with a controlling interest in the regulated person or applicant, or both, and key employees.

§ 1011.8. Facility inspections.

Certificate holders and brokers shall make their operating locations available for inspection by the Authority. A facility inspection may be made without prior notice.

§ 1011.9. Taxicab service limitations.

(a) Only the following individuals may provide taxicab service:

(1) The owner, if the owner is a taxicab driver.

(2) An employee of the certificate holder who is a taxicab driver.

(3) A taxicab driver who leases the taxicab directly from the certificate holder.

(b) A certificate holder shall supervise its taxicab to make certain that only those taxicab drivers authorized by this section provide taxicab service.

§ 1011.10. Discrimination in service.

A regulated person may not refuse service to a member of the public on the basis of gender, sexual orientation, race, religious preference, nationality, age, point of origin, point of destination or to a person with a disability.

§ 1011.11. Record retention.

(a) Certificate holders and brokers shall maintain for 5 years all records required under the act, this part or an order of the Authority, or otherwise kept in the ordinary course of business, in the English language and in a format capable of being easily produced to the Authority.

(b) Both paper and electronic records shall be maintained in chronological order by date and time of day.

(c) Paper records required under this section shall be stored in dry areas protected by a fire suppression system.

(d) Electronic records required under this section shall be routinely copied and stored at a location that is separate by at least 1 mile from the office where the record originated.

(e) A regulated party shall produce records maintained under subsection (a) to the Authority upon request. In the event the records require a special form of software to search or interpret, a regulated party shall make that software available to the Authority.

§ 1011.12. Aiding or abetting violations.

A person may not aid, abet, encourage or require a regulated party to violate the act, this part or an order of the Authority.

§ 1011.13. Interruptions of service.

(a) An interruption of service by a common carrier for more than 48 hours shall be reported to the Director in writing within 72 hours of the beginning of the service interruption. The written statement must include the cause of interruption and its probable duration.

(b) An interruption of service by a dispatcher for more than 30 minutes shall be reported to the Director in writing within 2 hours of the beginning of the service interruption. The written statement must include the cause of interruption and its probable duration.

(c) Suspension of service by a common carrier for 5 consecutive days without notice to the Authority will be deemed sufficient cause for cancellation of the rights of the common carrier, except if the suspension is caused by strike or labor difficulties, riot, insurrection, war, government decrees, an act of God or other good cause shown.

(d) Suspension of service by a dispatcher for 6 consecutive hours without notice to the Authority will be deemed sufficient cause for cancellation of the dispatcher's certificate, except if the suspension is caused by strike or labor

difficulties, riot, insurrection, war, government decrees, an act of God or other good cause shown.

(e) An order of cancellation entered under this section will not be issued until the certificate holder is given opportunity for a public hearing on a formal complaint as provided in § 1005.11 (relating to formal complaints generally) as to why the rights should not be cancelled.

§ 1011.14. Voluntary suspension of certificate.

(a) A certificate holder may place a certificate in a voluntary state of suspension to avoid penalties for violation of § 1011.13 (relating to interruptions of service) subject to the prior approval of the Director who may, in his sole or peculiar discretion as deemed appropriate, attach conditions as found to be necessary or proper.

(b) A certificate may be placed in voluntary suspended status after a report is issued as provided in § 1011.13.

(c) A certificate may not be placed in voluntary suspended status for more than 1 year.

(d) A medallion may only be placed in a voluntarily suspended status for 90 days.

(e) The Authority will not grant an application for voluntary suspension if the approval will result in a reduction of five percent or more of the aggregate number of authorized medallion taxicabs in Philadelphia.

(f) To request approval from the Authority for the voluntary suspension of a certificate, the certificate holder shall file a completed CPC-1 "Voluntary Suspension Application" with the Director and pay the application fee as provided in §§ 1001.42 and 1001.43 (relating to mode of payment to the Authority; and Authority fee schedule). The CPC-1 may be obtained at www.philapark.org/tld.

(g) Before a CPC-1 is granted, a certificate holder must be in compliance with § 1011.7 (relating to payment of outstanding fines, fees, penalties and taxes) and pay the entire Authority assessment that will come due during the proposed period of voluntary suspension.

§ 1011.15. Death or incapacitation of a certificate holder or certain persons with controlling interest.

(a) *Definitions.* The following words and terms, when used in this section, have the following meanings, unless the context indicates otherwise:

Incapacitation—A determination by a court that an individual is incapacitated as provided in 20 Pa.C.S. § 5511 (relating to petition and hearing; independent evaluation), or for non-Pennsylvania residents, a substantially similar order from a court of competent jurisdiction.

(b) *Death or incapacitation of an individual certificate holder.*

(1) Upon the death or incapacitation of an individual certificate holder, the rights conferred by the certificate shall continue with the legal representative of the deceased or incapacitated certificate holder for 6 months.

(2) The legal representative of the deceased or incapacitated certificate holder shall immediately begin the process of finding a qualified person to buy the certificate as provided in Chapter 1027 (relating to sale of rights), including the use of a broker or attorney. Nothing in this section prohibits the legal representative from buying the certificate.

(3) In the event an SA-1 for the certificate is not correctly filed, as provided in § 1027.6 (relating to applications for sale of transferable rights), within 90 days of

the date the certificate holder died or was declared incapacitated, the certificate will be placed out of service as provided in § 1003.32 (relating to out of service designation) and may be cancelled upon determination of a formal complaint filed by the Enforcement Department or Trial Counsel.

(4) In the event an SA-1 for the certificate is correctly filed within 90 days of the date the certificate holder died or was declared incapacitated, the rights conferred by the certificate shall continue with the legal representative of the deceased or incapacitated certificate holder for the duration of the SA-1 review period and through closing on the sale.

(c) *Death, incapacitation or dissolution of certain persons with controlling interest in a certificate.*

(1) Upon the death, incapacitation or dissolution of a person that owns 5% or more of the certificate holder's securities, the rights conferred by the certificate shall continue with the certificate holder for 3 months.

(2) The certificate holder shall immediately begin the process of finding a qualified person to buy the securities of the certificate holder referenced in paragraph (1) as provided in Chapter 1027, including the use of a broker or attorney. Nothing in this section will prohibit the certificate holder from acquiring the securities of the person referenced in paragraph (1).

(3) In the event an SA-1 for the sale of the securities referenced in paragraph (1) is not correctly filed as provided in § 1027.5 (relating to agreement of sale) within 6 months of the date of the person's death, incapacitation or dissolution, the certificate will be placed out of service as provided in § 1003.32 and may be cancelled upon determination of a formal complaint filed by the Enforcement Department or Trial Counsel.

(4) In the event an SA-1 for the sale of the securities referenced in paragraph (1) is correctly filed, as provided in § 1027.6, within 6 months of the date of the person's death, incapacitation or dissolution, the rights conferred by the certificate shall continue for the duration of the SA-1 review period and through closing on the sale.

(c) *Ineligibility of successor or legal representative.* This section may not be interpreted to permit the operation or use of Authority rights by a person otherwise prohibited from the ability to receive Authority rights. For example, the executor of the estate on a deceased individual certificate holder who would be ineligible to possess Authority rights as provided in § 1011.5 (relating to ineligibility due to conviction or arrest), may not operate or supervise the operation of the rights conferred by the certificate.

§ 1011.16. Power of successors by law.

(a) If a trustee, receiver, assignee, custodian or similar officer or officers is appointed by a court of competent jurisdiction, or is selected by creditors in accordance with provisions of law, with authority to take or retain possession and to operate the property and business of a certificate holder, the officer shall have authority to perform the service authorized in the certificate of the debtor certificate holder for a period of 90 days from his appointment or selection.

(b) The appointed officer may petition the Authority for authorization to exercise the rights conferred by the certificate for an additional period of time, and the Authority may, for good cause shown, grant authority.

(c) If the petition is filed within 60 days of the appointment or selection of the petitioner, the appointed officer shall have authority to exercise the rights conferred by the certificate pending a decision by the Authority on the petition. Pertinent orders or decrees of the court having jurisdiction may be deemed cause for the granting of petitions by the Authority.

§ 1011.17. Limitations.

Operations covered under §§ 1011.15 and 1011.16 (relating to death or incapacitation of a certificate holder or certain persons with controlling interest; and power of successors by law) are subject to the terms and conditions of the certificate of public convenience and may not be conducted without full compliance with the act, this part or an order of the Authority, including insurance coverage.

§ 1011.18. Application review generally.

Application for rights required by this subpart will be reviewed as provided in § 1003.51 (relating to applications generally).

§ 1011.19. Exclusive and nonexclusive service.

Taxicabs may transport persons on request, on an exclusive basis, or on a nonexclusive basis.

§ 1011.20. Noninterference with scheduled service.

When offering nonexclusive taxicab service, owners and drivers of vehicles shall be prohibited from permitting or causing the taxicab to be operated on a fixed time schedule over a route of a scheduled route carrier or a public transit system so as to pass specific points in a regular manner, at regular intervals, for the purpose of picking up passengers unless that route is not then in operation. The purpose of this section is to prohibit taxicab operations from interfering with scheduled service.

§ 1011.21. Service in unauthorized territory.

Taxicab service between points outside authorized territory may not be validated by the subterfuge of routing the taxicab through authorized territory. A certificate holder or taxicab driver may not attempt to evade operating rights restrictions by encouraging or causing the passengers to make a theoretical or actual fare-paying break in a trip by routing it through authorized territory.

CHAPTER 1013. MEDALLION TAXICABS.

Subchap.

- A. GENERAL REQUIREMENTS**
B. LIENS ON MEDALLIONS

Subchapter A. GENERAL REQUIREMENTS

Sec.

- 1013.1. Certificate and medallion required.
 1013.2. Attachment of a medallion.
 1013.3. Removal of a medallion.
 1013.4. Medallion renewal.

§ 1013.1. Certificate and medallion required.

A vehicle may not provide city-wide taxicab service unless a current and valid certificate is issued by the Authority to the owner of the vehicle and the medallion assigned to that certificate is attached to the vehicle.

§ 1013.2. Attachment of a medallion.

Only the Enforcement Department may attach a medallion to a vehicle. Prior to attaching the medallion, the Authority will inspect the vehicle, as provided in § 1017.2 (relating to preservice inspection).

§ 1013.3. Removal of a medallion.

(a) A medallion may only be removed from a vehicle by the Authority, or upon advance written approval from the Authority, by the medallion owner.

(b) Upon removal from a vehicle, the medallion will be held by the Authority for safe keeping until attachment of the medallion is scheduled with the Authority as provided in § 1013.2 (relating to attachment of a medallion). If removed by the medallion owner, the medallion shall be delivered to the Authority within 2 business days after removal.

§ 1013.4. Medallion renewal.

(a) A medallion will clearly display the calendar year or years in which it is valid.

(b) The Authority will schedule each medallion taxicab then in compliance with the act, this part and all orders of the Authority to have its expiring medallion removed and a new medallion attached before December 31 of the year preceding the earliest year displayed on the new medallion.

Subchapter B. LIENS ON MEDALLIONS

Sec.

- 1013.21. Notice of medallion lien.
 1013.22. Execution on and seizure of a medallion.
 1013.23. Invalidation upon execution or seizure.

§ 1013.21. Notice of medallion lien.

A person who accepts a medallion as security shall file its lien in accordance with 13 Pa.C.S. (relating to commercial code). No notice or filing with the Authority of medallion liens is required.

§ 1013.22. Execution on and seizure of a medallion.

(a) If a medallion lienholder executes on or seizes a medallion, it shall notify the Director of all particulars, in writing, within 5 days of taking the action. Any seized medallion shall be delivered to the Authority and will be held by the Authority pending further disposition.

(b) A medallion shall be sold within 1 year of seizure or execution as provided in sections 5713 and 5718 of the act (relating to property and licensing rights; and restrictions) and Chapter 1027 (relating to sale of rights).

(c) A medallion that is not sold under subsection (b) will be nontransferable and will become the property of the Authority.

§ 1013.23. Invalidation upon execution or seizure.

(a) The execution or seizure of a medallion invalidates the medallion for purposes of providing taxicab service.

(b) Upon reclaiming a medallion from execution or seizure, a certificate holder shall petition the Director for an order reversing the invalidation imposed by this section. The petition shall be filed with the Clerk and be in a form consistent with § 1005.21 (relating to petitions generally).

(c) The petition for validation of a medallion shall be granted by the Director upon determination that the certificate holder and the relevant medallion are in compliance with the act, this part and all orders of the Authority.

(d) Determinations of the Director may be appealed as provided in § 1005.24 (relating to appeals from actions of the staff).

CHAPTER 1015. PARTIAL RIGHTS TAXICABS

Sec.	
1015.1.	Purpose.
1015.2.	Certificate required.
1015.3.	New or additional rights restricted.
1015.4.	Partial-rights certificate holders.
1015.5.	Partial-rights taxicab numbers.

§ 1015.1. Purpose.

(a) This chapter establishes and prescribes certain Authority regulations and procedures for partial-rights taxicab service in Philadelphia.

(b) Due to the substantially similar nature of service provided within Philadelphia by partial-rights and medallion taxicabs, most regulations related to taxicab service in Philadelphia do not differentiate between medallion taxicabs and partial-rights taxicabs.

§ 1015.2. Certificate required.

(a) A person may not operate a vehicle as a partial-rights taxicab in Philadelphia unless a certificate of public convenience conferring the rights is issued by the Authority to that person.

(b) Each vehicle operated as a partial-rights taxicab shall be registered with the Department of Transportation in the name of the owner of the partial-rights certificate.

§ 1015.3. New or additional rights restricted.

(a) The Authority will not issue a new certificate of public convenience to provide partial-rights taxicab service in Philadelphia.

(b) The Authority will not issue additional or expanded rights to existing partial-rights taxicab certificate holders.

(c) Upon the cancellation, surrender, or other final termination of a partial rights taxicab certificate, the Authority will not issue a new certificate to continue the service provided under the terminated certificate.

(d) The number of taxicabs that may be operated by a partial-rights certificate holder may not exceed the number registered by the certificate holder with the Authority on November 1, 2010.

§ 1015.4. Partial-rights certificate holders.

(a) The partial-rights taxicab certificate holders certified by the Authority are as follows:

(1) Germantown Cab Company, Certificate No. 1011748-02.

(2) Bucks County Services, Inc., Certificate No. 1011752-02.

(3) Concord Limousine, Inc., Certificate No. 1016120-05.

(4) Concord Coach USA, Inc., Certificate No. 1015925-05.

(5) Dee Dee Cab, Inc., Certificate No. 1017611-02.

(6) MCT Transportation, Inc. d/b/a Montco Suburban Taxi, Certificate No. 1015570-05.

(b) The Philadelphia geographical boundaries within which each partial-rights certificate holder is permitted to provide taxicab service through the Authority were originally created by the PUC and continue through the Authority as follows:

(1) Germantown Cab Company: To transport, as a common carrier, by motor vehicle, persons upon call or demand between points in the city of Philadelphia, bounded by School House Lane, Church Lane, Wister Street, Stenton Avenue, Northwestern Avenue, Ridge Av-

enue, Manatawanna Avenue, Hagys Mill Road, Port Royal Avenue, Cross Street, Shawmont Avenue, Umbria Street, Parker Avenue, Ridge Avenue, Walnut Lane, Wissahickon Avenue to points of beginning; and that portion of Whitemarsh Township, Montgomery County, bounded as follows: beginning on Ridge Pike; at the Springfield Township Line, northwest on Ridge Pike to Butler Pike, northeast on Butler Pike to the Whitemarsh Township Line, southeast along the Whitemarsh Township Line to Bethlehem Pike, south on Bethlehem Pike to Valley Green Road, northeast on Valley Green Road to the Whitemarsh Township Line, southwest along the Whitemarsh Township Line to Ridge Pike; and that portion of Springfield Township, Montgomery County, bounded as follows: beginning at the Springfield Township Line and Mermaid Lane, southwest on Mermaid Lane to Stenton Avenue, northwest on Stenton Avenue to the Springfield Township Line, northeast, southeast, southwest and southeast along the Springfield Township Line to Mermaid Lane; and from points in the said area to points outside the area and vice versa.

(2) Bucks County Services, Inc.: To transport, as a common carrier: South and east along Pennypack Creek in the city and county of Philadelphia, to the Delaware River, thence north along the Delaware River to the Bucks County Line in Bensalem Township, Bucks County.

(3) Concord Limousine, Inc. t/d/b/a CONCORD COACH TAXI: To transport as a common carrier by motor vehicle, persons upon call or demand: In that part of the City of Philadelphia, Philadelphia County, beginning at the intersection of City Line Avenue and 52nd Street, thence continuing south along Wynnefield Avenue to Belmont Avenue. Thence south along Belmont Avenue to its intersection with Montgomery Avenue, thence continuing in an easterly direction along Montgomery Avenue until the same intersects with the Schuylkill River, thence continuing in a northerly direction to City Line Avenue and the place of beginning; all transportation to be upon call by telephone to the carrier's office.

(4) Concord Coach USA, Inc. t/d/b/a BENNETT CAB SERVICE: To transport as a common carrier, persons, upon call or demand: In that portion of the City and County of Philadelphia bounded by City Line, 57th Street, Columbia Avenue, Lebanon Avenue, Haverford Avenue, Lansdowne Avenue, and Cobbs Creek; and that portion of the Borough of Narberth and the township of Lower Merion, Montgomery County, as bounded by Montgomery Avenue, Merion Road (Merion Avenue), City Line Avenue and Wynnewood Road (Wynnewood Avenue), and on City Line Avenue between 52nd Street and Haverford Road.

(5) Dee Dee Cab, Inc. t/d/b/a PENN-DEL: To transport, as a common carrier, persons, upon call or demand: Within that area of the City of Philadelphia bounded on the north by Lancaster Avenue, on the east by 56th Street, on the south by Grays Avenue (Grays Ferry Avenue), and on the west by the city limits.

(6) MCT Transportation, Inc. d/b/a Montco Suburban Taxi: Between points in the part of Philadelphia bounded by the Philadelphia-Montgomery County line (Northwestern Avenue), Schuylkill River, School Lane, Church Lane, Wister Street, Stenton Avenue, Vernon Road, Cheltenham Avenue, Cresheim Street and Stenton Avenue and between points in the townships of Whitemarsh and Springfield, Montgomery County, all transportation to be in answer to call s made either in person or by telephone at the certificate holder's state located at the Chestnut Hill Station of the Pennsylvania Railroad. In that portion of

the counties of Philadelphia and Montgomery bounded on the west of Germantown Avenue and the Germantown and Perkiomen Turnpike; on the south by Mt. Airy Avenue and Easton Road; on the east by eastern township lines of Springfield and Whitemarsh Townships, Montgomery County; and on the north by Whitemarsh Township line; provided that all calls for said service must be received at a stand located at the Gulf Station situated at the northeast corner of Germantown Avenue and the Bethlehem Pike in the city of Philadelphia.

(c) Each taxicab owned by a partial-rights certificate holder must be associated with the same dispatcher.

§ 1015.5. Partial-rights taxicab numbers.

Each partial rights company shall submit a Form PR-1 "Partial-rights Taxicabs in Operation" to the Authority on the first business day of each month. A Form PR-1 may be obtained at www.philapark.org/tld. The Form PR-1 must include the information required by the Authority, including the following:

- (1) The taxicab number assigned to each taxicab under § 1017.14 (relating to taxicab numbering).
- (2) The Vehicle Identification Number assigned to the vehicle at the time it was manufactured.
- (3) A list of the taxicab drivers then permitted to operate the certificate holder's partial-rights taxicabs.

CHAPTER 1017. VEHICLE AND EQUIPMENT REQUIREMENTS

Subchap.

- A. GENERAL PROVISIONS
- B. COLORS AND MARKINGS
- C. METERS
- D. TAXICAB INSPECTIONS
- E. IMPOUNDMENT OF VEHICLES AND EQUIPMENT
- F. TAXICAB LEASES

Subchapter A. GENERAL PROVISIONS

Sec.

- 1017.1. Purpose.
- 1017.2. Preservice inspection.
- 1017.3. Taxicab age parameters.
- 1017.4. Taxicab mileage parameters.
- 1017.5. Basic vehicle standards.
- 1017.6. Required documents.
- 1017.7. Transportation of blind, deaf or physically disabled persons with service animals.

§ 1017.1. Purpose.

(a) This chapter establishes and prescribes Authority regulations and procedures related to the condition, type, and inspection of taxicabs and equipment used to provide taxicab service in Philadelphia.

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

Antique vehicle—A motor vehicle, but not a reproduction thereof, that is 25 years old or older as provided in § 1017.3 (a) (relating to taxicab age parameters), which has been maintained in or restored to a condition, which is substantially in conformance with manufacturer specifications.

Compliance inspection—The inspection of a taxicab or taxicab equipment, or both, by the Authority to assure compliance with the act, this part and orders of the Authority, which will include all of the components of a state inspection, except that emissions testing will not occur. Anytime the inspection of a taxicab, a meter, or other taxicab service related equipment is required by the act, this part or an order of the Authority it will be a compliance inspection.

Field inspection—The unscheduled inspection of a taxicab by an inspector for compliance with the act, this part and all orders of the Authority.

Hybrid vehicle—A motor vehicle that allows power to be delivered to the drive wheels by a nongasoline energy sources, but which also incorporates the use of a gasoline combustion engine and which meets the applicable Federal motor vehicle safety standards. The primary source of power for the motor must be the nongasoline energy source.

TLD inspection sticker—A certificate of inspection issued and affixed by the Enforcement Department to a vehicle subject to this part upon confirmation of compliance with the act, this part or orders of the Authority after a compliance inspection.

State inspection—The annual inspection required under 75 Pa.C.S. Chapter 47 (relating to inspection of vehicles).

§ 1017.2. Preservice inspection.

A vehicle may not perform taxicab service without a TLD inspection sticker as provided in § 1017.32 (relating to TLD inspection sticker required).

§ 1017.3. Taxicab age parameters.

(a) *Method of age computation.* The age of a taxicab will be determined by comparing its model year to the current model year. A model year begins on the first day of each October. For example, a taxicab with a model year of 2008 would be 4 years old on October 1, 2012.

(b) *Taxicabs generally.*

(1) Except as provided in paragraph (2) and subsection (c):

(i) A taxicab that is 5 years old or older is not eligible for inspection as provided in § 1017.31 (relating to biannual inspections by the Authority) and shall be removed from taxicab service prior to the date of the next scheduled biannual inspection.

(ii) A vehicle may not be introduced for service as a taxicab, or reenter service after having been removed from taxicab service by the certificate holder if the age of the vehicle is 1 year old or older.

(2) The Director may authorize the operation of antique vehicles as taxicabs upon review of a petition for waiver as provided in § 1005.23 (relating to petitions for issuance, amendment, repeal, or waiver of Authority regulations).

(c) *Wheelchair accessible taxicabs and hybrid vehicles.*

(1) A taxicab that is wheelchair accessible or a hybrid vehicle, or both, that is 8 years old or older is not eligible for inspection as provided in § 1017.31 and shall be removed from taxicab service prior to the date of the next scheduled biannual inspection.

(2) A taxicab that is wheelchair accessible or a hybrid vehicle, or both, may not be introduced for service as a taxicab, or reenter service after having been removed from taxicab service by the certificate holder, if it is 3 years old or older.

§ 1017.4. Taxicab mileage parameters.

(a) *Mileage at vehicle introduction.* A vehicle may not be first introduced for taxicab service with a cumulative mileage registered on the odometer as follows:

(1) For a taxicab, 15,000 miles or more.

(2) For a taxicab that is wheelchair accessible or a hybrid vehicle, or both, 35,000 miles or more.

(b) *Maximum mileage.* A taxicab is not eligible for inspection as provided in § 1017.31 (relating to biannual inspections by the Authority) and shall be removed from taxicab service prior to the date of the next scheduled inspection when the cumulative mileage registered on the odometer is as follows:

- (1) For a taxicab, 200,000 miles or more.
- (2) For a taxicab that is a wheelchair accessible or a hybrid vehicle, or both, 300,000 miles or more.

(c) *Imputed mileage.*

(1) A vehicle with an odometer reading that differs from the number of miles the vehicle has actually traveled or that has had a prior history involving the disconnection or malfunctioning of an odometer or which appears to the Authority to have an inaccurate odometer reading based on prior inspection records, will be assigned an imputed mileage equal to 3,333 miles per month from the last reliable odometer recording through the date of inspection. If a reliable baseline odometer reading cannot be ascertained, the vehicle may not be introduced for service or continue in service as a taxicab.

(2) Except for taxicabs that are wheelchair accessible or hybrid vehicles, or both, if a taxicab is presented for inspection as provided in § 1017.31 with a cumulative mileage registered on the odometer that will reach or exceed 200,000 during the 2 months immediately following the inspection date based on the imputed mileage calculations of paragraph (1), the taxicab will not be eligible for inspection and shall be removed from taxicab service.

(d) *Reporting of odometer malfunctions.* A certificate holder or taxicab driver who knows or suspects that the odometer reading of a taxicab differs from the number of miles the taxicab has actually traveled shall disclose that status to the Enforcement Department immediately.

(e) *Penalties.* A person determined to have intentionally manipulated or disconnected the odometer of a taxicab will be subject to a \$1,000 fine and a cancellation of rights issued by the Authority, or both.

§ 1017.5. Basic vehicle standards.

(a) *State vehicle standards.* In addition to standards required under the act, this part and orders of the Authority, a taxicab shall continually satisfy the applicable Department of Transportation equipment inspection standards stated in 67 Pa. Code Chapter 175 (relating to vehicle equipment and inspection) when providing taxicab service, except where those standards are exceeded or otherwise altered by this subpart.

(b) *Standard taxicab vehicle requirements.* Each taxicab is subject to the following requirements:

(1) A taxicab must have four functioning doors which comply with the standards provided in 67 Pa. Code Chapter 175, which must have the following properly aligned, installed and maintained components:

- (i) Hinges.
- (ii) Door gaskets and doorway padding.
- (iii) Latches.
- (iv) Doors that open without resistance and close securely.
- (v) Functioning door locks operable by the passenger.

(2) A taxicab must utilize the services of a dispatcher approved by the Authority under Chapter 1019 (relating to dispatchers) and dispatch-related equipment must function properly.

(3) A taxicab must be equipped with an operable two-way radio and a mobile data terminal connected to a dispatch radio system approved by the Authority.

(4) Except as provided in paragraph (5), the taxicab must have a functioning dome light firmly affixed to its roof. The dome light must be lit when the vehicle is available for service. The dome light must comply with the approved design submitted by the taxicab's certified dispatcher under § 1019.7 (relating to name, colors and markings review).

(5) A rooftop-advertising panel with ends that illuminate to indicate when the taxicab is available for service may be used in lieu of the dome light.

(6) A taxicab must display the Authority's uniform taxicab rates proscribed under Chapter 1023 (relating to taxicab rates).

(7) A taxicab must be equipped with handgrips in the passenger compartment for use while entering or exiting the vehicle.

(8) A taxicab must be equipped with working seatbelts for every passenger and the driver.

(9) A taxicab must have four full sized tires which continuously meet or exceed the applicable standards of 67 Pa. Code § 175.80 (relating to inspection procedure) and otherwise comply with the Authority's tire requirements, which include the following:

(i) Snow tires or all-weather tires on the drive wheels between October 1 and April 1.

(ii) A full sized and usable spare tire that complies with the standards of this section is properly stored in the taxicab.

(iii) Properly affixed and matching hubcaps or wheel covers for all four tires.

(10) A taxicab may not use retread tires.

(11) The taxicab must have a trunk or storage area large enough to accommodate a folded manual wheelchair.

(12) A taxicab must be equipped with a protective shield which separates the front seat from the back seat and bears the manufacturer's name, as provided in section 5714 (b) of the act (relating to certificate and medallion required). The protective shield must meet the following minimum requirements:

(i) The upper portion of the shield must extend from the top of the front seat to a point not more than 3 inches from the ceiling of the vehicle and must be constructed of a clear, see-through, bullet-resistant material.

(ii) The shield must have either a sliding window controlled by the vehicle operator and capable of being locked by the driver or a payment exchange cup or tray or similar device which allows the operator to receive payment from passengers in the back seat of the vehicle without unduly exposing the vehicle operator to danger.

(iii) The upper portion of the shield may not obstruct the vehicle operator's view of the road to the rear of the vehicle.

(iv) The lower portion of the shield must extend the full length of the front seat and be constructed of a bullet-resistant material.

(v) Both the upper and lower portions of the shield must extend from a point flush with the left-hand side of the vehicle across the vehicle to a point flush with the right-hand side of the vehicle.

(vi) The shield may not have an edge or projection protruding into the area where a passenger or driver will sit or move.

(vii) The lower portion of the shield must be installed in a manner which complies with the legroom requirements of paragraph (2).

(viii) The shield must be installed in a manner which does not prevent voice communication between the vehicle operator and passengers in the vehicle.

(ix) The shield must be installed in a manner which allows heat and air conditioning to maintain the taxicab's temperature at levels required under paragraph (19).

(x) The shield must be sufficiently transparent to allow a passenger to easily read the meter and the taxicab driver's certificate.

(13) A taxicab must be equipped with a meter approved for use as provided in § 1017.23 (relating to approved meters) and may not be equipped with a device that has the capability of allowing the meter to register a nonapproved rate.

(14) A taxicab may not be equipped with a push bumper.

(15) The interior, exterior and trunk compartment of a taxicab must be clean so as to present a positive appearance and to prevent possible transfer of dirt, dust, grease, paint or other markings to a passenger's clothing or luggage.

(16) Spare tires in the trunk must be covered.

(17) A taxicab's passenger seats may not be torn have protruding springs or other material capable of tearing a passenger's skin or clothing. Passenger seat tears must be properly repaired and may not be mended with tape.

(18) A taxicab's interior must consist of matching features, including door panels.

(19) Except upon a passenger's request to the contrary, the passenger area of a taxicab must remain a constant temperature between 60° and 78° Fahrenheit. While in a taxi-stand line, a taxicab is exempt from this temperature requirement until it reaches the position of first, second or third vehicle from the front of the line.

(20) A taxicab must be free of objectionable odors. For example, a taxicab may not smell like urine, feces, animals, insects, decomposing organisms, poor human hygiene or garbage.

(21) A taxicab's passenger compartment must contain at least two seats with space that measures 28 inches or more from the back of the passenger's seats to any barrier in front of it.

(22) A taxicab must contain a legible commercially produced map of the City of Philadelphia for use by the taxicab driver.

(23) A taxicab's exterior paint must be in good repair and consistent with the colors and markings of the taxicab's dispatcher and the exterior of the vehicle shall be free of damage.

(24) In addition to other postings required by this subpart, a taxicab must have posted in the passenger compartment in a place easily observed by passengers, the following information:

(i) A prohibition against smoking, eating, and drinking while in the taxicab.

(ii) The rates for service, in a format prescribed by the Authority.

(iii) The availability of noncash payment options.

(iv) The list of Passengers' Rights issued by the Authority.

(v) Information on how to submit a taxicab service related complaint to the Authority in both written English and Braille.

(vi) The taxicab's dispatcher and the number assigned to the taxicab under § 1017.14 (relating to taxicab numbering).

(25) The Authority may require the installation of a separate heating and air conditioning system in a taxicab if necessary to comply with paragraph (19).

(c) *Interstate drivers.* No requirement of this subpart, or any Authority regulation, may be interpreted to disrupt or interfere with interstate commerce exclusively regulated by or preempted by the government of the United States, including commerce addressed by the Real Interstate Drivers Equity Act of 2002 (49 U.S.C.A. §§ 13102 and 14501.)

(d) *Smoking prohibited.* Persons may not smoke in a taxicab.

(e) *Advertising prohibited.*

(1) Except as provided in subsection (b)(5), the display of advertisements on the exterior or interior of a taxicab is prohibited, except for the colors and markings and postings required by the act, this part or an order of the Authority.

(2) Advertisements, colors, markings and other displays required by this part must be securely fastened to the taxicab and may not obscure the driver's view in any direction.

(f) *Inspection by certificate holder.* A certificate holder shall inspect each of its taxicabs on a daily basis to confirm that the taxicab complies with this subpart.

§ 1017.6. Required documents.

A taxicab must contain the following documents for review by an inspector upon request:

(1) Proof of current and valid financial responsibility as required under Chapter 1025 (relating to insurance required) and section 5704 of the act (relating to power of authority to require insurance).

(2) Proof of vehicle ownership and a copy of the vehicle or medallion lease, if applicable.

§ 1017.7. Transportation of blind, deaf or physically disabled persons with service animals.

Taxicabs must transport dogs trained for the purpose of assisting blind, deaf or physically disabled persons when accompanying blind, deaf or physically disabled persons paying a regular fare. The guide dogs must be properly leashed and may not occupy a seat.

Subchapter B. COLORS AND MARKINGS

Sec.

1017.11. Distinctive colors and markings.

1017.12. Required markings and information.

1017.13. Removal of name, colors and markings.

1017.14. Taxicab numbering.

§ 1017.11. Distinctive colors and markings.

(a) *Taxicabs generally.*

(1) A taxicab must display the colors and markings of its dispatcher as approved by the Authority as provided in § 1019.7 (relating to name, colors and markings review).

(2) The doors and the rear quarter panels of the taxicab must be dedicated to information about the dispatcher, including its name and phone number.

(3) A taxicab may not use the services of more than one dispatcher.

(b) *Partial-rights taxicabs.*

(1) Taxicabs operated through a partial-rights certificate must have the same colors and markings.

(2) Taxicabs operated through a partial-rights certificate must have colors and markings that are different and distinguishable from every other partial-rights taxicab and each medallion taxicab.

(3) Taxicabs operated through a partial-rights certificate must be associated with the same dispatcher.

(c) *Simulation of colors and markings.* A person may not mark, paint or design the exterior appearance of a taxicab to display inaccurate information, including an association with a dispatcher to which the vehicle is not associated.

§ 1017.12. Required markings and information.

(a) In addition to the name, colors and markings required under § 1019.7 (relating to name, colors and markings review), a taxicab must continually display the following markings and information:

(1) The identification number required under § 1017.14 (relating to taxicab numbering) shall be posted on the front fenders of the taxicab and on the rear of the taxicab in print 5 inches high or larger.

(2) The name of the certificate holder must appear on the front fenders of the taxicab in print 5 inches high or larger.

(3) Current inspection stickers required under § 1017.32 (relating to TLD inspection sticker required) shall be attached to the lower passenger side windshield.

(4) If the vehicle is a medallion taxicab, the current medallion shall be attached to the hood of the vehicle.

(5) A taxicab must be registered with the Department of Transportation and obtain commercial registration plates identifying the vehicle as a taxicab bearing the letters "TX."

(b) The Authority will produce the standardized postings required by this part for taxicabs and may permit certificate holders to produce substantially similar postings. The Authority will specify the location of each posting. A list of the required postings and the locations of the posting will be made available at www.philapark.org/tld.

§ 1017.13. Removal of name, colors and markings.

(a) A vehicle may not be operated with the name, colors and markings of a taxicab unless the vehicle is authorized for taxicab service as provided in this part.

(b) The name, colors and markings identifying a vehicle as a taxicab shall be removed by the certificate holder within 72 hours of the removal of a medallion or other event which prohibits a vehicle from providing taxicab service. For example, a vehicle's dispatcher name, taxicab colors and markings must be removed when the

vehicle is sold, the vehicle is removed from service due to mileage or age restrictions, or is otherwise not intended to immediately reinitiate taxicab service under this part.

§ 1017.14. Taxicab numbering.

(a) *Medallion taxicabs.* The identification number of a medallion taxicab will be the number on the medallion attached to the taxicab.

(b) *Partial-rights taxicabs.*

(1) Each partial-rights certificate holder shall notify the Director by filing Form PRT-2 "Vehicle Numbering" of its intention to use a new identification number for a taxicab or to reassign an existing number to a different taxicab. The PRT-2 may be obtained on the Authority's web site at www.philapark.org/tld.

(2) The Director may deny the requested partial-rights taxicab number assignment if it determines that the requested number may lead to regulatory or public confusion.

(c) Partial-rights taxicabs must be identified by a unique sequential number, as follows:

(1) Taxicabs with rights through Germantown Cab Company (Pennsylvania Public Utility Commission A-00110733) shall be numbered "G-1" for the first vehicle, "G-2" for the second vehicle, and continue according to that sequence until each taxicab is issued a unique number.

(2) Taxicabs with rights through Bucks County Services, Inc. (Pennsylvania Public Utility Commission A-00111913) shall be numbered "B-1" for the first vehicle, "B-2" for the second vehicle, and continue according to that sequence until each taxicab is issued a unique number.

(3) Taxicabs with rights through Concord Limousine, Inc. (Pennsylvania Public Utility Commission A-00113582) shall be numbered "CL-1" for the first vehicle, "CL-2" for the second vehicle, and continue according to that sequence until each taxicab is issued a unique number.

(4) Taxicabs with rights through Concord Coach USA, Inc. (Pennsylvania Public Utility Commission A-00115589) shall be numbered "CC-1" for the first vehicle, "CC-2" for the second vehicle, and continue according to that sequence until each taxicab is issued a unique number.

(5) Taxicabs with rights through Dee Dee Cab, Inc. Company (Pennsylvania Public Utility Commission A-00116499) shall be numbered "D-1" for the first vehicle, "D-2" for the second vehicle, and continue according to that sequence until each taxicab is issued a unique number.

(6) MCT Transportation, Inc. d/b/a Montco Suburban Taxi: (Pennsylvania Public Utility Commission A-00119955) shall be numbered "MCT-1" for the first vehicle, "MCT-2" for the second vehicle, and continue according to that sequence until each taxicab is issued a unique number.

Subchapter C. METERS

- Sec. 1017.21. Taxicab meters.
- 1017.22. Meter calibration and testing.
- 1017.23. Approved meters.
- 1017.24. Meter activation and display.
- 1017.25. One meter.
- 1017.26. Certificate holder responsible.

§ 1017.21. Taxicab meters.

(a) *Generally.* Each taxicab shall be equipped with one sealed meter that satisfies the requirements of this subchapter.

(b) Inspection and seals.

(1) A taxicab meter must be inspected by the Authority prior to use.

(2) The Authority will conduct meter accuracy testing to assure the meter is calibrated as provided in § 1017.22 (relating to meter calibration and testing).

(3) Upon determining that a meter functions properly, the Enforcement Department will attach a numbered seal to the meter.

(4) A meter may not be used in a taxicab unless it is sealed as provided in paragraph (3). If the seal becomes broken or damaged, the certificate holder shall remove the taxicab from service immediately and schedule a new meter inspection by the Enforcement Department.

(c) *Location of meter.* The meter shall be installed in the center of the driver portion of the taxicab in a position that permits the passenger to view the current fare.

§ 1017.22. Meter calibration and testing.

(a) A taxicab meter must be calibrated in accordance with the certificate holder's approved tariff or standard rates set by the Authority and meters must otherwise properly calculate fares, including the assigned monetary rates, calculations of time and calculations of distance traveled.

(b) Meter testing may include the road operation of the taxicab with an inspector while the meter is engaged.

(c) A meter must be able to pass an accuracy test conducted by an inspector at any time.

§ 1017.23. Approved meters.

The Authority will maintain a list of meters approved for use in taxicabs. The list of approved taxicab meters may be obtained from the Authority's web site at www.philapark.org/tld.

§ 1017.24. Meter activation and display.

(a) A taxicab meter must be activated for fare calculation by the driver when the passenger and the passenger's belongings are securely in the taxicab and the trip begins.

(b) The meter must be deactivated for fare calculation by the driver when the taxicab has arrived at the destination designated by the passenger and the taxicab is able to safely and legally stop.

(c) The meter must continuously display the current rate charged for an active fare and the display must be visible to the passenger.

(d) The meters in every taxicab must have properly attached and approved receipt printers specified by the Authority in § 1017.23 (relating to approved meters), including the following:

(1) The ability to issue a receipt containing information required by the Authority, including:

(i) The mileage of the trip and amount paid, expressed in United States Dollars.

(ii) The vehicle's taxicab number.

(iii) The taxicab's dispatcher.

(iv) The driver's certificate number.

(v) The Authority's phone number or email address to be used to report complaints.

(vi) The time and date of the fare.

(2) The ability to provide drivers with driving directions through a global positioning system.

(3) Global positioning system tracking to monitor the location of each taxicab and provide driving directions to the taxicab driver.

(4) The ability to pay fares through the use of credit card and debit card processing hardware mounted in the passenger compartment. A transaction, processing or other fees associated with the acceptance of a credit card or debit card fare payment and delivery of the fare payment to the taxicab driver may not exceed 5% of the total fare amount.

(5) A driver recognition function to permit only Authority certified drivers in possession of a taxicab driver's certificate to activate and then use the meter to provide taxicab service.

(6) The ability to be remotely disabled by the Authority.

(7) The ability to communicate voice and text messages between the driver, dispatcher and the Authority.

(8) A distress button that can be easily activated by a driver to silently communicate to the dispatcher the need for emergency assistance.

(e) Partial-rights certificate holders may seek one waiver from this provision until _____ (*Editor's Note:* The blank refers to a date 1 year after the effective date of adoption of this proposed rulemaking). The purpose of the waiver is to permit additional time for the certificate holder to acquire and install the required meter system. The certificate holder's waiver petition shall be filed as provided in § 1005.23 (relating to petitions for issuance, amendment, repeal, or waiver of Authority regulations).

§ 1017.25. One meter.

A taxicab is prohibited from containing a taxicab meter other than the approved meter inspected and sealed by the Authority.

§ 1017.26. Certificate holder responsible.

The certificate holder shall inspect each taxicab meter prior to service each day to assure it has been approved for use by the Authority, is sealed as provided in § 1017.21(b)(3) (relating to taxicab meters) and is in proper working order. Unsealed or improperly sealed meters and malfunctioning meters shall be reported to the Enforcement Department immediately.

Subchapter D. TAXICAB INSPECTIONS

Sec.

- 1017.31. Biannual inspections by Authority.
- 1017.32. TLD inspection sticker required.
- 1017.33. Failure to appear for scheduled inspection.
- 1017.34. Field inspections.
- 1017.35. Failure to submit to field inspection.
- 1017.36. Reinspection.
- 1017.37. Inspection subsequent to vehicular accident or damage.
- 1017.38. Change of vehicle.
- 1017.39. License plate change.
- 1017.40. Transfer inspection.
- 1017.41. Attendance at scheduled inspection.
- 1017.42. Prerequisites to inspection.
- 1017.43. Approved models and conditions.
- 1017.44. Reconstructed vehicles prohibited.

§ 1017.31. Biannual inspections by Authority.

In addition to other inspections required or permitted by the act, this part or an order of the Authority, every taxicab must submit to at least two scheduled inspections by the Authority on an annual basis at a time and location designated by the Authority. Each scheduled inspection will consist of one of the following:

- (1) A compliance inspection.
- (2) A compliance inspection combined with a full state inspection.

§ 1017.32. TLD inspection sticker required.

(a) The Authority will affix a TLD inspection sticker to the lower right hand side of the taxicab's windshield upon successful completion of the following inspections:

(1) Each biannual compliance inspection as provided in § 1017.31 (relating to biannual inspections by Authority).

(2) A reinspection as provided in § 1017.36 (relating to reinspection), but only if the existing TLD Inspection Sticker has already expired or will expire before the next biannual inspection as provided in § 1017.31.

(3) A compliance inspection as provided in § 1017.2 (relating to preservice inspection).

(b) A taxicab may not provide service unless a current TLD Inspection Sticker is properly affixed to the taxicab.

(c) Each TLD Inspection Sticker will expire 6 months from the date it is affixed to the taxicab.

(d) Only the Authority may conduct State inspections of taxicabs and affix certificates of inspection as provided in 75 Pa.C.S. § 4728 (relating to display of certificate of inspection).

§ 1017.33. Failure to appear for scheduled inspection.

If a taxicab fails to appear for an inspection as provided in § 1017.31 (relating to biannual inspections by the Authority), the certificate holder will be charged a re-scheduling fee as provided in § 1001.43 (relating to Authority fee schedule), in addition to any penalty entered against the certificate holder.

§ 1017.34. Field inspections.

(a) Inspectors may stop and inspect taxicabs in operation, or appearing to be in operation, to ensure continued compliance with the act, this part or any order of the Authority.

(b) Upon field inspection, an inspector may instruct a taxicab driver to drive the taxicab directly to TLD Headquarters for a compliance inspection if the inspector believes that the taxicab is not in compliance with this chapter and represents a public safety concern.

§ 1017.35. Failure to submit to field inspection.

(a) Upon instruction by an inspector, a taxicab driver shall stop the taxicab and permit the inspector to conduct a field inspection of the taxicab.

(b) If a taxicab driver fails to permit a full field inspection, the taxicab will be placed out of service immediately, as provided in § 1003.32 (relating to out of service designation).

(c) A person determined to have refused the direction of an inspector to submit a taxicab to a field inspection will be subject to a \$1,000 fine and a cancellation of rights issued by the Authority, or both.

§ 1017.36. Reinspection.

If a taxicab fails any Authority inspection or is removed from taxicab service for any reason, the taxicab may not resume taxicab service until a compliance inspection is successfully completed by the Authority.

§ 1017.37. Inspection subsequent to vehicular accident or damage.

(a) A taxicab is prohibited from providing service after it is involved in one or more of the following:

(1) An incident that must be reported to the police under 75 Pa.C.S. § 3746 (relating to immediate notice of accident to police department).

(2) An incident involving contact with a vehicle owned or operated by any government entity.

(3) An incident resulting in damage to the taxicab which requires more than \$500 to repair.

(4) An incident involving any contact with a taxicab which renders it incapable of being legally operated on a highway.

(5) A motor vehicle accident resulting in injury or death to any person.

(b) The certificate holder and driver shall contact the Manager of the Enforcement Department immediately upon the occurrence of any incident set forth in subsection (a) and the certificate holder shall remove the taxicab from service.

(c) For a vehicle to reenter service after the occurrence of a condition referenced in subsection (b), the certificate holder shall schedule a compliance inspection with the Authority.

(d) On or before the scheduled time for the Authority compliance inspection required under subsection (c), the certificate holder shall provide the Authority with a written list of the repairs made to the taxicab subsequent to the incident which caused it to be removed from service. The list of repairs required by this subsection shall be provided on the letterhead of the repair facility and executed by the repairman.

§ 1017.38. Change of vehicle.

(a) In addition to the requirements of §§ 1013.2 and 1013.3 (relating to attachment of a medallion; and removal of a medallion), a medallion may not be attached to a different vehicle unless the vehicle has completed a compliance inspection.

(b) A partial-rights taxicab may not be replaced with another vehicle nor may an additional vehicle be added to a partial-rights certificate, unless the vehicle has completed a compliance inspection.

§ 1017.39. License plate change.

(a) A taxicab may not be operated with a license plate other than that which was assigned and attached to the taxicab at the time of its last compliance inspection.

(b) A license plate other than the one referenced in subsection (a) may be attached to a taxicab only upon completion of a compliance inspection.

§ 1017.40. Transfer inspection.

A taxicab subject to the transfer of a certificate or medallion or from one certificate holder to another must have completed a compliance inspection before it provides taxicab service.

§ 1017.41. Attendance at scheduled inspection.

(a) The certificate holder or its attorney-in-fact shall attend each taxicab inspection conducted by the Authority, except field inspections as provided in § 1017.34 (relating to field inspections).

(b) The attorney-in-fact shall appear with the original power of attorney, which must be in compliance with § 1001.28 (relating to power of attorney).

§ 1017.42. Prerequisites to inspection.

(a) The Authority will not initiate an inspection of a taxicab, except as provided in § 1017.34 (relating to field inspections), if the taxicab is out of compliance with the act, this part or an order of the Authority.

(b) The Authority will not initiate an inspection of a taxicab, except as provided in § 1017.34, if the certificate holder is out of compliance with the act, this part or an order of the Authority, including the following sections of this subpart:

(1) Section 1011.3 (relating to annual rights renewal process).

(2) Section 1011.5 (relating to ineligibility due to conviction or arrest).

(3) Section 1011.7 (relating to payment of outstanding fines, fees, penalties and taxes).

§ 1017.43. Approved models and conditions.

The Authority will publish a list of approved makes and models of vehicles permitted for use as taxicabs, which will be available at www.philapark.org/tld.

§ 1017.44. Reconstructed vehicles prohibited.

Salvaged or reconstructed vehicles may not provide taxicab service.

Subchapter E. IMPOUNDMENT OF VEHICLES AND EQUIPMENT

Sec.

1017.51. General.

1017.52. Impoundment of vehicles and equipment.

§ 1017.51. General.

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

Vehicle—The term includes the vehicle and equipment used or capable of being used to provide taxicab service.

Registered owner—The owner of the vehicle as registered with the Department of Transportation, or the similarly authorized registering agency of the jurisdiction identified on the license plate of the vehicle, if any, on the date the vehicle was impounded.

Registered lienholder—A person having a vehicle lien interest that is registered with the Department of Transportation or the similarly authorized registering agency of the jurisdiction identified on the license plate of the vehicle, if any, on the date the vehicle was impounded.

§ 1017.52. Impoundment of vehicles and equipment.

(a) *Impoundments generally.* The Authority may impound vehicles, medallions, and equipment used to provide call or demand service as provided in section 5714 (g) of the act (relating to confiscation and impoundment of vehicles).

(b) *Enforcement proceedings.* The Enforcement Department or trial counsel will initiate an enforcement proceeding as provided in § 1005.11 (relating to formal com-

plaints generally) against the regulated party or owner or the impounded property, if other than a regulated party, related to an impoundment made under this section and the act.

(c) *Notice of impoundment.* The Authority will issue a notice of impoundment to the registered owner of the vehicle and registered lienholder of the vehicle or medallion, or both, if any, as provided in section 5714 (g)(2)(ii) of the act.

(d) *Recovery of impounded property.* Except as provided in subsection (g), the owner or lienholder of the property impounded as provided in this section may recover the impounded property by paying all penalties, fines and costs required under section 5714 (g)(1) of the act.

(e) *Public auction.* If the owner or lienholder fails to recover the impounded property within 45 days as provided in section 5714 (g)(1) of the act, that property may be sold at public auction as provided in section 5714(g)(2)(i) of the act.

(f) *Return of funds.* If the enforcement proceeding initiated as provided in subsection (b) results in a determination that the respondent was not liable for the violations referenced in the complaint and that the grounds for the impoundment were unsubstantiated, the costs of towing and impoundment paid by the respondent as provided in subsection (d) will be refunded.

(g) *Stay of auction.* Upon motion of the respondent or a registered owner or a registered lienholder as an intervening party as permitted under § 1005.31 (relating to initiation of intervention), the presiding officer may enter an order staying the public auction of the impounded property for such period as the presiding officer deems just. Costs of impoundment will continue to accrue during the period of any stay imposed through this subsection.

(h) *Emergency hold on impounded property.*

(1) To advance the interests of the act or to protect the public good, the Enforcement Department or trial counsel may motion the presiding officer to stay the return of property impounded as provided in this section through the conclusion of the enforcement proceeding, although requirements for recovery as provided in subsection (d) have been met.

(2) The presiding officer will issue a decision in support of the determination required under this section.

(3) The decision of the presiding officer issued as provided in paragraph (2) will constitute a recommended decision and will be reviewed by the Authority as provided in §§ 1005.211—1005.215 (relating to exceptions to recommended decisions).

(4) If the release of impounded property is stayed, the enforcement proceedings will be conducted on an expedited basis.

Subchapter F. TAXICAB LEASES

Sec.

1017.61. Control of vehicle.

1017.62. Taxicab leases.

1017.63. Wages, maximum lease amounts and uniform rates.

1017.64. Receipts.

§ 1017.61. Control of vehicle.

Each certificate holder shall supervise the use of its taxicabs to assure that each taxicab is operated in compliance with the act, this part or an order of the Authority.

§ 1017.62. Taxicab leases.

- (a) *Lessees.*
- (1) A taxicab may be leased to a taxicab driver.
- (2) A taxicab may not be subject to a sublease agreement.
- (b) *Transfer of obligations.* A certificate holder may not transfer or assign any obligation related to the condition or operation of a taxicab to any other party, including a taxicab driver, except as provided for in § 1011.6 (relating to fleet program).
- (c) *Basic components of a lease.* A taxicab lease must be in writing and contain information required by the Authority, including the following:
 - (1) The name, address, and telephone contact information for each party.
 - (2) The certificate number or medallion number, or both, subject to the lease.
 - (3) The term of the lease.
 - (4) The monetary consideration for the lease, in United States Dollars, in an amount consistent with § 1017.63 (relating to wages, maximum lease amounts and uniform rates.)
 - (5) Other consideration to be paid by a taxicab driver if different from that set forth in paragraph (4).

- (6) Specification of any service limitation of the taxicab in a city of the first class, including those related to partial-rights taxicabs.
- (7) Written confirmation that a lease may be ended by either party only upon 10 days notice.
- (8) The original dated and witnessed signature of the certificate holder and the taxicab driver.

(9) The following provisions:

“The parties to this lease agree to adhere to the taxicab and limousine regulations of the Philadelphia Parking Authority found at 52 Pa. Code Part II.”

“The parties to this lease agree that the obligations of the certificate holder to maintain the taxicab and its taxicab service related equipment may not be assigned through this lease.”

“Either party to this lease may report violations of the taxicab and limousine regulations of the Philadelphia Parking Authority to the TLD’s Enforcement Department by calling 215-683-9471 or appearing personally at TLD Headquarters.”

- (10) The driver’s certificate number and the expiration date then appearing on the driver’s certificate.
- (d) *Copies of lease.* A copy of a taxicab lease agreement shall be provided to the taxicab driver and a second copy must be in the taxicab for review by the Authority, the PUC or law enforcement upon demand.

(e) *Retention of lease.* The certificate holder shall retain copies of each taxicab lease as provided in § 1011.11 (relating to record retention).

§ 1017.63. Wages, maximum lease amounts and uniform rates.

(a) Upon investigation, the Authority will establish, by order, a uniform rate for taxicab service within Philadelphia.

(b) Upon investigation, the Authority will establish, by order, a prevailing minimum wage rate for taxicab drivers and a maximum taxicab lease amount.

(c) Upon investigation, the Authority may establish, by order, prevailing employee benefits for taxicab drivers, in addition to a minimum wage.

(d) Orders issued under this section will be served upon certificate holders as provided in § 1001.51 (relating to service by Authority) and will be available on the Authority’s web site at www.philapark.org/tld.

§ 1017.64. Receipts.

(a) A taxicab certificate holder shall provide to each of its taxicab drivers a three part form receipt book to note any payment received for taxicab service in the event the meter does not provide a receipt as provided in § 1017.24 (relating to meter activation and display). Each receipt must provide information substantially similar to that required by § 1017.24 and identify the taxicab certificate holder’s name and contact information, including address and telephone number.

(b) The form receipts are for use only if the taxicab meter fails to provide legible receipts.

(c) The taxicab driver shall provide a copy of each receipt to the taxicab certificate holder.

(d) The Authority may design and require the use of standardized receipts.

CHAPTER 1019. DISPATCHERS

- Sec.
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§ 1019.1. Purpose and prohibition.

(a) This chapter establishes and prescribes Authority regulations and procedures for the certification and operation of dispatching services in Philadelphia under sections 5711(c)(6) and 5721 of the act (relating to power of the authority to issue certificates of public convenience; and centralized dispatcher).

(b) A person may not provide dispatching services in Philadelphia without a certificate issued by the Authority as provided in this chapter.

§ 1019.2. Ineligible persons for dispatcher service.

An applicant is ineligible to be a dispatcher under the following circumstances:

(1) If the applicant, a person with a controlling interest in the applicant or a key employee is ineligible to own Authority issued rights as provided in § 1011.5 (relating to ineligibility due to conviction or arrest).

(2) The applicant is incapable of providing dispatching services through persons or communication devices that speak, read and write the English language sufficiently to clearly communicate with the public and respond to Authority investigations and comply with reporting requirements of the Authority’s regulations.

(3) The applicant, a person with a controlling interest in the applicant or a key employee knowingly makes a false statement on a dispatcher application.

(4) The applicant, a person with a controlling interest in the applicant or a key employee is in violation of § 1011.7 (relating to payment of outstanding fines, fees, penalties and taxes).

(5) The applicant or any person having a controlling interest over the applicant is 20 years of age or younger.

§ 1019.3. Dispatcher application.

(a) *General.* To obtain a dispatcher's certificate a person shall complete and file a Form No. DSP-1 "Dispatcher Application," along with the application fee as provided in §§ 1001.42 and 1001.43 (relating to mode of payment to the Authority; and Authority fee schedule). The DSP-1 may be obtained on the Authority's web site at www.philapark.org/tld.

(b) *DSP-1 application.* The completed DSP-1 must be verified as provided in § 1001.36 (relating to verification and affidavit) and be filed with the Director in person by the owner of the applicant and include all of the information required by the Authority, including the following:

(1) The name of the applicant and contact information, including a mailing address, a Philadelphia business address, a telephone number, an email address and a facsimile number.

(2) An identification of the applicant as an individual or a person as provided in § 1001.10 (relating to definitions).

(3) If the applicant is not an individual, the following must be included:

(i) The articles of incorporation, operating agreement, formation documents or other applicable organizing documents for the applicant.

(ii) A certificate of good standing for the applicant from the Corporation Bureau.

(iii) A copy of the Department of State's entity page for the applicant.

(iv) The trade name, if any, of the applicant and a copy of the trade name registration certificate, if applicable.

(4) The mailing address and physical address of the applicant, if different.

(5) A list of all Authority or PUC certificates or other rights in which the applicant or any person with a controlling influence in the applicant has any controlling interest, including taxicab medallions.

(6) The name, address, telephone number, facsimile number, and email address of any attorney or broker, or both, assisting the applicant through the Authority's dispatcher certification process.

(7) A complete certified criminal history report as provided in § 1001.10, including any jurisdiction in which the following individuals have lived during the last 5 years:

(i) An individual applicant.

(ii) Any person with a controlling interest in the applicant.

(iii) Each key employee.

(8) A written statement verified as provided in § 1001.36 (relating to verification and affidavit), which provides that:

(i) The applicant, each person with a controlling interest in the applicant and each key employee have not been subject to a conviction as provided in § 1011.2 (relating to definitions).

(ii) The applicant, each person with a controlling interest in the applicant and each key employee are in compliance with § 1011.7 (relating to payment of outstanding fines, fees, penalties and taxes).

(iii) The applicant, each person with a controlling interest in the applicant and each key employee are current on all reports due in relation to other rights issued by the Authority.

(iv) The applicant can comply with the requirements of § 1019.8 (relating to dispatcher requirements).

(9) A copy of the applicant's business plan.

(10) A completed original of Form No. DSP-3 "Business Experience Questionnaire." A copy of the DSP-3 may be obtained on the Authority's web site at www.philapark.org/tld.

(11) The Federal Tax Identification number of the applicant.

(12) The Philadelphia Business Privilege License numbers issued to the applicant.

(c) At the time a DSP-1 is filed, an applicant for a dispatcher's certificate shall also file a DSP-2 "Dispatcher Colors and Markings Change/Application" as provided in § 1019.7 (relating to names, colors and markings review).

§ 1019.4. Application changes.

An applicant for a dispatcher certificate shall immediately notify the Authority in writing of any changes that affect the accuracy of the information in the application while the application is under review by the Authority.

§ 1019.5. Facility inspection.

(a) An applicant for a dispatcher's certificate shall make its proposed operating locations available for inspection by the Enforcement Department as part of the application process and throughout the term of its status as a dispatcher. A facility inspection may be conducted without prior notice.

(b) Dispatchers shall provide all dispatching services from facilities located in Philadelphia.

§ 1019.6. Review of dispatcher application.

(a) An application for a dispatcher's certificate will be denied by the Authority if the dispatcher is unable to meet the requirements of this chapter, including § 1019.8 (relating to dispatcher requirements).

(b) An application for a dispatcher's certificate will be granted if the applicant complies with this subchapter and the Authority finds that the applicant is capable of providing dependable service according to the act, this part and orders of the Authority.

§ 1019.7. Name, colors and markings review.

(a) To change or establish any name, colors or markings, a dispatcher shall file a DSP-2 "Dispatcher Colors and Markings Change/Application" along with the application fee as provided in §§ 1001.42 and 1001.43 (relating to mode of payment to the Authority; and Authority fee schedule). The DSP-2 may be obtained on the Authority's web site at www.philapark.org/tld.

(b) The Authority will not approve a DSP-2 application if it determines that the requested name or colors and markings are similar to those of an existing dispatcher.

(c) Upon approval of a DSP-2 application, the dispatcher shall have the exclusive right to use the approved name, colors and markings, provided the certificate has not expired or been cancelled.

(d) Each dispatcher shall use only a single name, colors and marking scheme for all the medallion taxicabs it dispatches.

(e) Each dispatcher shall use a distinctive name, colors and marking scheme for partial-rights taxicabs it dispatches as provided in § 1017.11(b) (relating to distinctive colors and markings).

(f) A dispatcher may not change an approved name, colors and markings scheme without advance approval of the Authority as provided in this section.

(g) The colors and markings of a dispatcher must be consistent with the requirements of Chapter 1017 (relating to vehicle and equipment requirements).

§ 1019.8. Dispatcher requirements.

A dispatcher shall continually maintain standards and equipment capable of providing prompt and adequate service to the public, including the following:

(1) Control a radio frequency signal of sufficient strength to transmit and receive real time verbal communication and data throughout Philadelphia.

(2) Respond to customer calls 24 hours a day.

(3) Have taxicabs available for dispatch 24-hour, 7 days-a-week.

(4) Dispatch taxicabs with current Authority rights to provide the service requested.

(5) Obtain the Authority's confirmation, which may be provided by the Authority through email, of a taxicab's good standing before commencing to provide it with dispatching service.

(6) Have at least one display advertisement in a telephone book with citywide circulation in Philadelphia and a web site which displays all of the information necessary to order a taxicab through the dispatcher.

(7) Have a minimum of four coordinated telephone lines to receive incoming calls for service from the public.

(8) Operate and maintain a taxicab meter system approved by the Authority as provided in § 1017.23 (relating to approved meters), including computer hardware and software, means of communication between the dispatcher and each taxicab meter and the Authority.

(9) Answer customer questions about rates and services provided within 12 hours.

(10) Answer customer questions or complaints about service in writing and within 5 days of receipt of the complaint.

(11) Maintain records as provided in § 1019.15 (relating to dispatcher records).

(12) A dispatcher may not discriminate against nor allow its affiliated drivers to discriminate against any member of the public and may not refuse service to any section of Philadelphia. Partial-rights taxicabs may only be dispatched to provide service consistent with the certificate holder's rights.

(13) A dispatcher must be able to receive and respond to emergency or distress alerts received from taxicab drivers 24-hour, 7 days-a-week.

(14) In addition to the requirements of the act, this part or an order of the Authority, a dispatcher may

institute rules of conduct for drivers and certificate holders associated with the dispatcher.

(15) A dispatcher shall report violations of the act, this part or an order of the Authority committed by a driver or certificate holder associated with the dispatcher to the Authority immediately.

§ 1019.9. List of affiliated taxicabs.

A dispatcher shall file a complete Form No. DSP-4 "Dispatcher Affiliated Taxicabs" with the Authority on the first business day of each week noting the taxicab numbers and certificate holders associated with the dispatcher at that time. A Form No. DSP-4 may be obtained at www.philapark.org/tld. If a taxicab is added or removed from a dispatcher's customer list, the dispatcher shall report the change within 24 hours to the Authority by email.

§ 1019.10. Dispatcher rates.

(a) A dispatcher may not provide service to taxicabs unless it has filed a Form No. DSP-5 "Dispatcher Rates" with the Authority establishing the rates schedule charged for the dispatcher's services. Only the rates identified in DSP-5 filing may be charged by the dispatcher, or any agent or employee of a dispatcher. The DSP-5 may be obtained at www.philapark.org/tld.

(b) A dispatcher may amend its DSP-5 filing at any time, with an effective date 30 days from the date of filing.

(c) A dispatcher shall provide a copy of its DSP-5 to each of its associated drivers and certificate holders.

(d) Under section 5721 of the act (relating to centralized dispatcher), the Authority may deny the filing of a DSP-5 if it determines that the suggested rates are unreasonable.

§ 1019.11. Disclosure of conflicts.

(a) A dispatcher shall disclose, through the filing of the DSP-4, any dispatching services that may be provided to taxicabs owned or operated by the dispatcher, a person with a controlling interest in the dispatcher, key employee or immediate family members of the dispatcher.

(b) For the purposes of this section, "immediate family members" means the spouse or domestic partner, parent, grandparent, great-grandparent, great-great grandparent, children, siblings (including "half" and step-siblings), uncles/aunts, grand uncles/aunts, grandchildren, nephews/nieces, first cousins, great-grandchildren and grand nephews/nieces of the dispatcher.

§ 1019.12. Bond required.

(a) Within 30 days of receipt of the Authority's email notification of its intention to grant an applicant's DSP-1 application, the applicant shall file a bond or irrevocable letter of credit consistent with this section with the Authority.

(b) A dispatcher may not provide dispatching services unless the bond or irrevocable letter of credit required by this section has been filed and accepted by the Authority and the requirements of § 1003.51(e) (relating to applications generally) have been satisfied.

(c) A dispatcher's bond or irrevocable letter of credit shall be issued in an amount of at least \$50,000 and upon terms and in a form as will insure the dispatcher's adherence to the law, the Authority's regulations and orders and the interests of the dispatcher's clients, including payment of all fines, fees and penalties incurred by the dispatcher.

§ 1019.13. Maximum number of dispatcher certificates.

The number of dispatcher certificates in Philadelphia may not exceed 12.

§ 1019.14. Minimum number of taxicab affiliations.

(a) A dispatcher shall remain affiliated with at least 20 active taxicabs for dispatching services with each taxicab displaying the name, colors and markings of the dispatcher approved as provided in this subchapter.

(b) If a dispatcher fails to maintain the minimum number of affiliated taxicabs the Enforcement Department or trial counsel will provide 30 days notice of its intention to initiate an enforcement proceeding through a formal complaint as provided in § 1005.11 (relating to formal complaints generally) to cancel the dispatching certificate.

(c) Upon notice of planned enforcement proceedings as provided in subsection (b), the dispatcher will be permitted to initiate a certificate transfer as provided in Chapter 1027 (relating to sale of rights) or come into compliance with subsection (a).

(d) If a dispatcher and proposed buyer of the certificate initiate a certificate transfer within 30 days of the notice provided under subsection (b), the enforcement proceedings may be stayed unless the Enforcement Department or trial counsel determine that a transfer of the certificate is not likely to occur within 6 months of the date the transfer application was filed.

(e) If a dispatcher comes into compliance with subsection (a) within 30 days of the notice provided under subsection (b), the dispatcher shall provide notice of that status to the Enforcement Department or trial counsel, and if proven the matter will be closed.

§ 1019.15. Dispatcher records.

A dispatcher shall maintain records related to its affiliated certificate holders, its customers, the calls or scheduling for service it receives and the dispatches it makes as provided in § 1011.11 (relating to record retention).

CHAPTER 1021. TAXICAB DRIVERS

Sec.	
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1021.17.	Partial-rights taxicab driver log.

§ 1021.1. Purpose and scope.

(a) This chapter establishes minimum qualifications for taxicab drivers.

(b) A certificate holder may impose more stringent standards in the selection of its taxicab drivers.

§ 1021.2. Certification required.

(a) Only a taxicab driver may provide taxicab service.

(b) A taxicab driver shall carry and display an original taxicab driver's certificate on the protective shield of the

taxicab on the driver's side with the front of the certificate (picture) facing the rear seat at all times.

(c) A taxicab driver may not drive a taxicab with a mutilated, damaged or illegible taxicab driver's certificate.

(d) Only one taxicab driver's certificate at a time may be displayed in a taxicab.

(e) A taxicab driver's certificate is not transferable.

§ 1021.3. Maximum number of taxicab driver's certificates.

(a) *Maximum number established.* Except as provided in subsection (c) or when necessary in the public interest, the Authority will issue no more than 3,000 taxicab driver's certificates.

(b) *Taxicab driver certification suspended.*

(1) The Authority will not issue new taxicab driver's certificates, except as provided in paragraph (2).

(2) Upon the conclusion of the driver designation period as provided in subsection (c), the Authority will accept applications for new taxicab driver's certificates as provided in § 1021.5 (relating to standards for obtaining a taxicab driver's certificate) only when the number of taxicab drivers is below 3,000.

(c) *Driver designation.*

(1) Beginning on _____, (*Editor's Note:* The blank refers to the effective date of adoption of this proposed rulemaking.) driver certification rights previously issued by the Authority under section 5706 of the act (relating to driver certification program) shall be designated by the driver as either a taxicab driver's certificate or limousine driver's certificate at the time those rights are scheduled for renewal as provided in § 1011.3 (relating to annual rights renewal process).

(2) Provided that all other terms of renewal are met, the TLD will renew the driver's certificate only for the rights selected by the renewing driver as provided in paragraph (1), without consideration of the limitations of subsection (a).

(d) *Dual driver authority.*

(1) This section does not prohibit a taxicab driver from obtaining a limousine driver certificate as provided in Subpart C (relating to limousines).

(2) This section does not prohibit a limousine driver from obtaining a taxicab driver certificate as provided in this chapter within the limitations of subsection (a).

§ 1021.4. Ineligible persons for taxicab driver certificate.

In addition to other prohibitions provided in this part, an applicant for a taxicab driver's certificate shall be automatically ineligible under the following circumstances:

(1) The applicant does not hold a current driver's license.

(2) The applicant does not speak the English language sufficiently to communicate with the general public, to understand highway traffic signs and signals in the English language, to respond to official inquiries and to make verifiable entries on reports and records.

(3) The applicant has failed to satisfactorily complete taxicab driver training and testing as prescribed by this chapter.

(4) The applicant is unable to provide information required by this subpart.

(5) The applicant is 20 years of age or younger.

(6) The applicant does not have a driving history in the United States of at least 1 continuous year prior to the date of application.

§ 1021.5. Standards for obtaining a taxicab driver's certificate.

(a) *General.* Except as limited under § 1021.3 (relating to maximum number of taxicab driver's certificates), to obtain a taxicab driver's certificate an individual shall complete and file with the Director a Form DR-1 "Driver Application," along with the application fee as provided in §§ 1001.42 and 1001.43 (relating to mode of payment to the Authority; and Authority fee schedule). The DR-1 may be obtained on the Authority's web site at www.philapark.org/tld, and be completed in person before TLD staff.

(b) *DR-1 application.* The completed DR-1 must be verified as provided in § 1001.36 (relating to verification and affidavit) and include the information required by the Authority, including the following:

- (1) The full and legal name of the individual applicant.
- (2) The applicant's residential address and telephone number. Applicants may submit an email address to become eligible for service of notice as provided in § 1001.51 (relating to service by Authority).
- (3) The applicant's driver's license.
- (4) The applicant's Social Security card or documents confirming a legal permanent resident status or an alien authorized to work status, if applicable.
- (5) Authorization for release of the applicant's criminal history report from the State Police to the Authority.
- (6) A certified copy of the applicant's criminal history report for each jurisdiction other than this Commonwealth in which the applicant resided during the 5 years immediately preceding the filing of the application. Each criminal history record shall be certified within 30 days of the filing of the application.
- (7) Authorization for the release of the applicant's driver history report from the Department of Transportation to the Authority.

(8) A certified copy of the driver history report from each jurisdiction, other than this Commonwealth, in which the applicant was licensed during the 5 years immediately preceding the filing of the application. Each driver history report shall be certified within 30 days of the filing of the application.

(9) Submit a Form DR-2 "Driver Medical History," which is available on the Authority's web site at www.philapark.org/tld. The requirement to complete the DR-2 will be waived for applicants who possess a current physical exam card issued under the requirements of a commercial driver's license in Pennsylvania. See 49 CFR 391.41—391.49 (relating to physical qualifications and examinations).

(10) A list of all Authority or PUC certificates or other rights in which the applicant has any controlling interest, including taxicab medallions.

(11) A written statement verified as provided in § 1001.36, which provides that:

(i) The applicant has not been subject to a conviction as provided in § 1011.2 (relating to definitions).

(ii) The applicant is in compliance with § 1011.7 (relating to payment of outstanding fines, fees, penalties and taxes).

(iii) The applicant is current on all reports due in relation to other rights issued by the Authority.

(iv) The applicant can comply with the requirements of this chapter.

§ 1021.6. Application changes.

(a) An applicant for a taxicab driver's certificate shall immediately notify the Authority in writing of any changes that affect the accuracy of the information in the application while the application is under review by the Authority.

(b) False information provided by an applicant for a taxicab driver's certificate will result in the denial of the application or cancellation of the driver's certificate if issued prior to discovery of the false information.

§ 1021.7. Taxicab driver training scheduled.

(a) Upon submission of a DR-1 application as provided in this chapter, the applicant will be scheduled by the Authority to attend an in-class training program.

(b) An applicant will not be scheduled for training as provided in subsection (a) if the application documents present information that clearly renders the applicant illegible to be a taxicab driver. For example, an applicant who does not possess a valid driver's license will not be scheduled for training.

(c) The Authority, or its authorized agent, will conduct the training.

§ 1021.8. Certain training subjects.

(a) *Continued training subjects.* The Authority will continually monitor issues related to taxicab drivers, including safety and customer service, and maintain a current list of taxicab driver training subjects on its web site at www.philapark.org/tld.

(b) *Basic training issues.* Taxicab driver training will consist of a minimum of 18 hours of in-class instruction and will be developed to address all areas of the act, this part and orders of the Authority. The dress code applicable to taxicab drivers applies to applicants during training. Training will address issues provided for in subsection (a), including the following subjects:

- (1) Authority regulations governing taxicab drivers.
- (2) Authority regulations governing taxicab certificate holders.
- (3) Authority regulations governing equipment.
- (4) Penalties for violation of Authority regulations.
- (5) An overview of the administrative process related to violations.
- (6) The identification and address of the Authority offices responsible for administering the act.
- (7) Customer service issues, including the following:
 - (i) Personal appearance of drivers.
 - (ii) Driver courtesy and hygiene.
 - (iii) Assistance to elderly and people with disabilities.
- (8) Driving and customer safety issues, including the following:
 - (i) Defensive driving techniques.
 - (ii) Emergency aid.

- (iii) Vehicle and equipment inspections.
 - (iv) Crime prevention.
 - (v) Accident reporting procedures.
- (9) Issues related to the geography of Philadelphia, including the following:
- (i) Map reading.
 - (ii) Overview of major street and traffic patterns.
 - (iii) Identification and location of popular landmarks and locations.

(c) The applicant will be tested under § 1021.9 (relating to taxicab driver test) on the final day of training.

§ 1021.9. Taxicab driver test.

(a) The Authority will develop a test to assure that applicants for taxicab driver's certificates understand the information presented during training as provided in § 1021.8 (relating to certain training subjects).

(b) The test will be administered in the English language. The assistance of interpreters will not be permitted.

(c) Except as limited by this chapter, the test may be administered in a manner and in a form deemed appropriate by the Authority. The test may include:

- (1) Questions requiring a written response.
- (2) Multiple choice questions.
- (3) Oral questions.
- (4) The demonstration of an ability to operate a motor vehicle and use taxicab related equipment.
- (5) The demonstration of an ability to read, write and speak the English language as required by this part.
- (d) Failure to pass the test required by this section after three attempts will render the application void.

(e) Failure to pass the test required by this section within 90 days of filing the DR-1 application as provided in § 1021.5 (relating to standards for obtaining a taxicab driver's certificate) will render the application void.

(f) Upon the denial or voiding of a DR-1 as provided in this chapter an applicant may not reapply for registration for 6 months.

§ 1021.10. Expiration and renewal of certificate.

(a) A taxicab driver's certificate expires 1 year from the date of issuance and shall be renewed annually as provided in § 1011.3 (relating to annual rights renewal process).

(b) A taxicab driver in good standing is not required to repeat driver training at the time of certificate renewal.

(c) A suspended taxicab driver's certificate shall be renewed on schedule as provided in § 1011.3 and the suspended taxicab driver must submit to retraining and testing if required in the suspension order.

(d) The Authority will not renew a taxicab driver's certificate that fails to meet the minimum service requirements of § 1021.12 (relating to additional requirements).

(e) An individual with a taxicab driver's certificate that has been expired for more than 1 year shall attend taxicab driver training and pass the taxicab driver test provided in this chapter before providing service.

§ 1021.11. Driver requirements.

(a) *Preservice inspection.* Prior to driving a taxicab before each shift, a taxicab driver shall perform a vehicle

inspection to confirm that the taxicab complies with this subpart. The inspection must include the following:

(1) At least one full walk around the taxicab to assure the exterior of the vehicle is in compliance with this subpart, including the following:

(i) The exterior of the taxicab is not damaged, no sharp edges are present and no parts of the vehicle have been removed. For example, the hood and doors of the taxicab are present and in the proper location.

(ii) The appropriate name, colors and markings scheme is affixed to the taxicab.

(iii) The taxicab's tires are full size and the treads are not worn below the level permitted under § 1017.5(b)(9) (relating to basic vehicle standards).

(2) The opening and closing of all doors, the hood, and the trunk to assure proper functionality and the absence of any sharp edges that may injure a passenger or damage clothing, luggage or other property.

(3) An inspection of the interior of the taxicab to make certain that the vehicle is clean and otherwise in compliance with this subpart.

(4) Operation of the heater and air conditioner to confirm the taxicab's ability to maintain the air temperature required under § 1017.5(b)(19).

(5) An inspection of the taxicab meter to assure it has been approved for use by the Authority, is sealed as provided in § 1017.21(b)(3) (relating to taxicab meters) and is in proper working order at all times. Unsealed or improperly sealed meters and malfunctioning meters shall be reported to the Enforcement Department immediately.

(b) *Presentation and appearance.* A taxicab driver is responsible for providing clean, safe and courteous taxicab service, including the following:

(1) Presenting a neat and clean appearance while providing taxicab service.

(2) Dressing in clean clothing which will be composed of a shirt with collar, ankle-length trousers, slacks/dress, skirts (if gender appropriate), socks or stockings, and shoes or clean sneakers. For example, shorts, bathing trunks or bathing suits, undershirts, "muscle shirts" or tank-tops are prohibited unless concealed as undergarments beneath the attire described in this paragraph.

(3) Wearing open toed shoes; sandals or bare feet are prohibited while operating a taxicab.

(4) Ceasing operation of a vehicle known by the driver to be in an unsafe condition.

(5) Being courteous toward passengers, the public, law enforcement officials and representatives of the Authority. A driver may not use obscene, vulgar or offensive language while providing taxicab service.

(6) Maintaining the volume of a radio at a low level and upon the request of a passenger, lowering the volume or switching off any music or electronic noise such as a radio, except that the communications radio required under § 1017.5(b)(3) must remain on and at a reasonable volume at all times.

(7) Ceasing use of a mobile telephone and remove ear phones or blue tooth devices from ears when a passenger is in the vehicle.

(8) Making certain that the taxicab complies with the temperature requirements of § 1017.5(b)(19).

(9) Assisting the elderly or persons with disabilities in entering and exiting the taxicab.

(10) Maintaining cash capable of providing change for a \$20 bill.

(11) Immediately reporting any possessions of passengers left behind in a taxicab after service to the Manger of Enforcement and the taxicab's dispatcher and then deliver the possessions to TLD Headquarters.

(c) *Permitted fares.* A taxicab driver may not charge fares other than those approved by the Authority as provided in § 1017.63 (relating to wages, maximum lease amounts and uniform rates).

(d) *Gratuities or payment method.*

(1) A taxicab driver may not insist upon the payment of a gratuity by a passenger.

(2) A taxicab driver may not insist upon or express a preference for fare payment method. For example, a taxicab driver may not demand payment in cash as opposed to credit card, nor may a taxicab driver suggest that the passenger be driven to a bank or automatic teller machine to secure cash to pay the fare as opposed to use of a credit card or other cashless payment option.

(3) A taxicab driver may not ask a potential customer for fare payment method information in advance of providing taxicab service.

(4) A taxicab driver shall accept payment by credit card and debit card and other cashless payment options identified by the Authority.

(e) *Lease or employment documents.* A taxicab driver is responsible for maintaining a copy of the lease agreement, employment contract and employee identification card in the taxicab at all times.

(f) *Direct route.* Unless directed otherwise by a fare-paying customer, a taxicab driver shall select and use the most direct route consistent with prevailing road and traffic conditions from the point of pick-up to the passenger's point of destination.

(g) *Rules of the road.* A taxicab driver shall continually provide taxicab service in a manner consistent with 75 Pa.C.S. (relating to Vehicle Code) and the Philadelphia Traffic Code (12 Phila. Code §§ 100—3012).

(h) *Driver history report.* A driver history report that evidences a violation or series of violations which relate to dangerous driving activities may form the basis for a denial of a taxicab driver's certificate application, a denial of the annual renewal as provided by § 1011.3 (relating to annual rights renewal process), or a formal complaint to suspend or cancel the taxicab driver's certificate.

(i) *Meter operation.* The meter must be in operation during the entire time the taxicab is engaged by a passenger, and the passenger shall be required to pay only the amount recorded by the meter, except that, when back-mileage or surcharge provisions of the tariff of the certificate holder apply, the back-mileage charge or surcharge shall be added to the amount recorded by the meter. Each meter charge shall be collected only once regardless of whether the taxicab is being used in exclusive service or in nonexclusive service.

§ 1021.12. Additional requirements.

(a) Each taxicab driver shall know the rights and limitations of any taxicab used to provide taxicab service, including the geographical limitation of partial-rights taxicabs, if applicable.

(b) Each taxicab driver shall provide a weekly average of at least 24 hours of taxicab service for each year the taxicab driver's certificate is issued and a minimum aggregate number of 1,248 hours of taxicab service each year.

(c) A taxicab driver may not provide taxicab service with an expired taxicab driver's certificate.

(d) A taxicab driver may not provide taxicab service without a valid driver's license.

(e) Whenever a taxicab is occupied by a fare-paying passenger or by members of a party of fare-paying passengers who have engaged the taxicab on an exclusive basis, the taxicab driver may not permit another person to occupy or ride in the taxicab, unless the consent of the party then occupying the taxicab is obtained.

(f) No requirement of this subpart, or any Authority regulation, may be interpreted to disrupt or interfere with interstate commerce exclusively regulated by or pre-empted by the government of the United States, including commerce addressed by the Real Interstate Drivers Equity Act of 2002 (49 U.S.C.A. §§ 13102 and 14501).

§ 1021.13. Taxicab driver's certificate upon cancellation.

(a) A cancelled taxicab driver's certificate may not be reinstated.

(b) An individual subject to cancellation of a taxicab driver's certificate may not apply to the Authority for a new driver's certificate, including a limousine driver's certificate as provided in § 1057.14 (relating to limousine driver's certificate upon cancellation), for 2 years from the date the cancellation was entered. If the individual subject to cancellation also holds a limousine driver's certificate, that driver's certificate will be cancelled with the taxicab driver's certificate.

(c) The circumstances related to the cancellation of a taxicab driver's certificate will be considered by the Authority when reviewing any subsequent application submitted by that individual.

§ 1021.14. General taxicab driver reports.

A taxicab driver shall make timely written reports to the Authority as required by the act, this part or an order of the Authority, including the following reports which must be made to the Manager of Administration:

(1) Invalidation of a driver's license for any reason must be reported with 48 hours.

(2) A change of address must be reported within 15 days.

(3) A change of name must be reported to the Authority within 15 days of occurrence or if a court proceeding is required, within 15 days of the court filing.

§ 1021.15. Taxicab driver reports after accident.

A taxicab driver who is involved in an accident while driving a taxicab that results in property damage, personal injury or death shall do the following:

(1) Stop immediately.

(2) Take necessary precautions to prevent further accidents at the scene.

(3) Render reasonable assistance to injured persons. Movement of injured persons by a taxicab driver should not be undertaken if likely to cause further injury.

(4) Provide driver's license, registration, insurance, and other information required by law of the Commonwealth, and the name of the taxicab's certificate holder.

(5) Report the details of the accident as soon as practicable as follows to:

(i) The police if required under 75 Pa.C.S. § 3746 (relating to immediate notice of accident to police department).

(ii) The certificate holder.

(iii) The Manager of Enforcement if required under § 1017.37 (relating to inspection subsequent to vehicular accident or damage).

§ 1021.16. Service issues regarding people with disabilities.

If on-duty and not already transporting a passenger, a taxicab driver shall stop the taxicab when hailed by a person with a disability. The driver shall determine if the services requested by the person can be reasonably accommodated by the vehicle and adhere to the following procedure:

(1) If the service request can be reasonably accommodated, the driver shall provide the service.

(2) If the service request cannot be reasonably accommodated, the driver shall call a dispatcher immediately to arrange for service by the closest taxicab available that can accommodate the person's request.

§ 1021.17. Partial-rights taxicab driver log.

(a) A taxicab driver providing service in a partial-rights taxicab shall maintain a service log identifying all taxicab service provided during each shift.

(b) The partial-rights taxicab service log must identify the following information:

(1) The date of service.

(2) The taxicab driver's name and driver's certificate number.

(3) The taxicab number, the certificate holder and the dispatcher.

(4) The times and places of origin and destination of each trip including the odometer or meter mileage at the origin and destination of each passenger trip. Origin and destination places shall contain a street name and address or, if unavailable, an identifiable landmark.

(5) A designation indicating whether a trip resulted from a hail or through the dispatcher.

(6) The fare paid for the trip.

(7) The amount of any gratuity paid to the taxicab driver.

(8) The number of passengers on each trip, indicating separately each fare collected from each passenger or party of passengers sharing the ride.

(9) Each trip on which packages were delivered and the charge for the trip.

(10) The signature of the driver attesting to the accuracy of the data recorded.

(11) Other information as may be required by this subpart.

(c) A partial-rights taxicab driver shall completely enter the information required by the log immediately upon the conclusion of each taxicab service trip.

(d) The taxicab log required under this section shall be maintained in the taxicab until the driver's shift has ended and be presented to an inspector at anytime upon demand.

(e) Upon the conclusion of a partial-rights taxicab driver's shift, the taxicab log shall be delivered to the certificate holder and maintained by the certificate holder as provided in § 1011.11 (relating to record retention).

(f) The Authority may require the use of a specific trip sheet form and will make the required form available on its web site at www.philapark.org/tld.

CHAPTER 1023. TAXICAB RATES

Sec.

1023.1. Uniform taxicab rate.

1023.2. Taxicab fare refunds.

1023.3. Rates for parcels, packages and property.

§ 1023.1. Uniform taxicab rate.

(a) All taxicabs shall charge a uniform rate to passengers as determined by the Authority upon investigation. The Authority's taxicab rates are available at www.philapark.org/tld.

(b) The taxicab rates approved by the Authority will include provisions for the payment of tolls, airport exit or entry fees, waiting periods and applicable flat rates by passengers.

§ 1023.2. Taxicab fare refunds.

(a) A certificate holder or taxicab driver found to have charged a taxicab rate in violation of the act, this part or an order of the Authority may be required to refund the excess amount of the fare to the fare payer by order of the Authority.

(b) A refund required under this section may be in addition to penalties imposed as provided in § 1001.61 (relating to penalties).

§ 1023.3. Rates for parcels, packages and property.

(a) As provided in section 5714(c) of the act (relating to certificate and medallion required), the rates for taxicab service involving the transportation of parcels, packages and property, shall be at the same basic meter rates established by the Authority as provided in § 1023.1 (relating to uniform taxicab rates), regardless of the presence of a passenger.

(b) In the event taxicab service involves the transportation of parcels, packages or property without a passenger, the estimated fare must be paid in advance with adjustments made upon delivery.

(c) The taxicab driver may leave the parcels, packages or property unattended at the designated destination if no one is waiting to receive the items.

(d) A taxicab driver may refuse to transport a parcel, package or property if it appears to be any of the following:

(1) Unsanitary.

(2) Likely to damage the vehicle or injure the driver.

(3) Dangerous or illegal to possess or transfer.

(e) A charge may not be made by a certificate holder or taxicab driver for a hand baggage or hand luggage carried by a fare-paying passenger.

CHAPTER 1025. INSURANCE REQUIRED

Sec.	
1025.1.	Definitions.
1025.2.	Insurance forms and procedures.
1025.3.	Insurance required.
1025.4.	Applications to self-insure.
1025.5.	Standards for adjustment and payment of claims.
1025.6.	Additional requirements.

§ 1025.1. Definitions.

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

Form E—The standard form filed by a regulated party's insurer evidencing the existence of a current and valid insurance policy or surety bond in the name of the insured and for lines of coverage and with limits required by the Authority.

Form K—The standard form filed by a regulated party's insurer providing notice of cancellation of an insurance policy or surety bond previously maintained to be in compliance with the act, this part or an order of the Authority.

Self-insurer—A certificate holder that adjusts and is ultimately liable for payment of all or part of its bodily injury, property or cargo damage claims resulting from the operation, maintenance or use of a motor vehicle as a taxicab.

§ 1025.2. Insurance forms and procedures.**(a) Forms of notice.**

(1) Endorsements for policies of insurance and surety bonds, certificates of insurance, or for approval of other securities or agreements shall be made through Form E.

(2) Notices of cancellation for policies of insurance, surety bonds, certificates of insurance and self-insurer status, shall be made through Form K.

(3) Each provider of insurance and surety bonds shall complete and file the Authority's Form INS-1 "Contact Information" upon the first filing of a Form E in each calendar year and at anytime during the year when the contact information provided will change. A copy of the Form INS-1 is available on the Authority's web site at www.philapark.org/tld.

(b) Surety bonds and certificates in effect continuously. Surety bonds and certificates of insurance must specify that coverage will remain in effect continuously until terminated, except under one of the following conditions:

(1) When filed expressly to fill prior gaps or lapses in coverage or to cover grants of emergency temporary authority of unusually short duration and the filing clearly so indicates.

(2) Urgent circumstances, when special permission is obtained from the Authority.

(c) Filing and copies.

(1) Certificates of insurance, surety bonds and notices of cancellation required by subsection (a) must be filed with the Director by email at eksubmission@philapark.org.

(2) The Authority may prescribe additional information and content necessary for endorsements and notices required by this section.

(3) The Authority will provide prompt notice of acceptance of filings required by this section by return email message.

(d) *Name of insured.* Certificates of insurance and surety bonds shall be issued in the full and correct name of the regulated party to whom the certificate, registration, or license or other right is, or is to be issued. In the case of a partnership, all partners shall be named.

(e) *Cancellation notice.* Except as provided in subsection (f), surety bonds, certificates of insurance and other securities or agreements may not be cancelled or withdrawn until after 30 days notice in writing has been issued by the insurance company, surety, motor carrier, broker or other party, to the Director. The period of 30 days begins from the date the Director provides notice of acceptance as provided in subsection (c)(3).

(f) *Termination by replacement.* Certificates of insurance and surety bonds which have been accepted by the Authority under this chapter may be replaced by other certificates of insurance, surety bonds or other security, and the liability of the retiring insurer or surety under the certificates of insurance or surety bonds shall be considered as having terminated as of the effective date of the replacement certificate of insurance, surety bond or other security, if the replacement certificate, bond or other security is acceptable to the Authority under this chapter.

(g) *Refusal to accept, or revocation by the Authority of surety bonds.* The Authority may refuse to accept or may revoke its acceptance of a surety bond, certificate of insurance or other securities or agreements if, in its judgment, the security does not comply with this subchapter or fails to provide satisfactory or adequate protection for the public. Revocation of acceptance of a certificate of insurance, surety bond or other security does not relieve the regulated party from compliance with this subchapter.

(h) *Compliance.* Failure to maintain evidence of insurance on file with the Authority in accordance with this chapter shall cause the rights and privileges issued to the regulated party to be placed out of service immediately as provided in § 1003.32 (relating to out of service designation). The Authority may establish rules under which suspended rights and privileges may be temporarily reinstated pending compliance with this subpart.

§ 1025.3. Insurance required.

(a) A regulated party may not engage in taxicab service and the certificate of public convenience will not be issued or remain in force, except as provided in § 1025.4 (relating to applications to self-insure) until there has been filed with and approved by the Authority a certificate of insurance by an insurer authorized to do business in this Commonwealth, to provide for the payment of valid accident claims against the insured for bodily injury to or the death of a person, or the loss of or damage to property of others resulting from the operation, maintenance or use of a taxicab in the insured authorized service.

(b) The liability insurance maintained by a taxicab certificate holder shall be in an amount of at least \$50,000 to cover liability for bodily injury, death or property damage incurred in an accident arising from authorized service. The \$50,000 minimum coverage is split coverage in the amounts of \$20,000 bodily injury per person, \$40,000 bodily injury per accident and \$10,000 property damage per accident. This coverage must include first party medical benefits in the amount of \$25,000 and first party wage loss benefits in the amount of \$25,000 for passengers and pedestrians. Except as to the required amount of coverage, these benefits must conform to 75

Pa.C.S. §§ 1701—1799.7 (relating to Motor Vehicle Financial Responsibility Law). First party coverage of the taxicab driver of taxicabs must meet the requirements of 75 Pa.C.S. § 1711 (relating to required benefits).

(c) The certificate holder's loss history with a current or former insurer shall be released to the Authority within 2 business days of a request by the Authority. The certificate holder shall authorize any release required by the insurer to facilitate the timely delivery of the loss history to the Authority.

(d) The Authority may direct insurers to file proof of insurance both electronically and in hard copy.

(e) The limits in subsection (b) do not include the insurance of cargo.

§ 1025.4. Applications to self-insure.

(a) A taxicab or limousine certificate holder may file an application with the Authority to act as self-insurer of all or part of its bodily injury, property damage or cargo damage claims. In support of its application, the applicant shall submit a true and accurate statement of its financial condition which establishes its capability to satisfy its insurance obligations as they become due, a self-insurance plan which includes adequate security to protect the public and a description of its safety program including its past accident record. A self-insurance applicant shall agree in the application to grant the Authority power to rescind approval of self-insurer status, without hearing, if the Authority determines that the public interest demands it.

(b) In reviewing self-insurance applications, the Authority will examine the following factors in determining whether approval will be granted:

(1) The net worth of the certificate holder in relationship to the size of its operation and the nature and extent of its request for self-insurer status. The evidence must demonstrate the certificate holder's financial capability to adjust and pay insurance obligations as they become due before approval will be granted.

(2) The organization of the certificate holder's proposed self-insurance program including the adequacy of security to protect the public. Security may be in the form, but is not limited to, one or more of the following:

- (i) Reserves.
- (ii) Sinking funds.
- (iii) Third party financial guarantees.
- (iv) Parent company or affiliate sureties.
- (v) Excess insurance coverage.
- (vi) Other similar arrangements.

(3) The effectiveness of the certificate holder's safety program. The Authority will look closely at the average number and average cost of accident losses over the past three years in determining whether self-insurance is feasible.

(c) Authority approval of a self-insurance application may be made conditional on revisions in the applicant's proposed self-insurance plan, safety program or standards for adjustment and payment of claims, as well as requirements of periodic financial filings with the Authority.

(d) Authority approval of self-insurance status is subject to the issuance of a self-insurance certificate to the motor carrier by the Department of Transportation as required under 67 Pa. Code § 223.5 (relating to certificate) for vehicles registered in this Commonwealth.

§ 1025.5. Standards for adjustment and payment of claims.

Common carriers by motor vehicle, who are responsible to the public for adjustment or payment of bodily injury, property damage or cargo damage claims, or both, shall comply with fair claims settlement and compromise practices. The following practices are prohibited:

(1) Misrepresenting pertinent facts relating to claims at issue.

(2) Failing to acknowledge and act promptly upon written or oral communications with respect to insurance claims.

(3) Failing to adopt and implement reasonable standards for the prompt investigation of claims.

(4) Refusing to pay claims without conducting a reasonable investigation based upon available information.

(5) Failing to affirm or deny responsibility for claims within a reasonable time after proof of loss statements have been completed and communicated to the carrier or its representative.

(6) Not attempting in good faith to effectuate prompt, fair and equitable settlements of claims in which the carrier's liability has become reasonably clear.

(7) Compelling persons to institute litigation to recover amounts due by offering substantially less than the amounts due and ultimately recovered in actions brought by those persons.

(8) Making claim payments to claimants not accompanied by a statement defining which payments are being made.

(9) Making known to claimants a policy of appealing from arbitration awards in favor of claimants to induce or compel them to accept settlements or compromises less than the amount awarded in arbitration.

(10) Delaying the investigation or payment of claims by requiring a physician to submit a preliminary claim report and then requiring the subsequent submission of formal proof of loss forms, both of which submissions contain substantially the same information.

(11) Failing to promptly provide a reasonable explanation in relation to the facts or applicable law for denial of a claim or for the offer of a compromise settlement.

§ 1025.6. Additional requirements.

(a) Providers of policies of insurance and surety bonds shall summarize as a separate attachment from its policy any and all deviations of the policy from the standard ISO form. The insurer shall have the insured sign the attachment to the policy.

(b) If a provider of a policy of insurance or surety bond is a surplus lines carrier, a Form 1609-PR of the Insurance Department shall be submitted along with the Form E. The Authority reserves the right to have surplus line carriers demonstrate denial of coverage from insurance carriers that the Authority may be aware is providing admitted coverage, if any.

CHAPTER 1027. SALE OF RIGHTS

Sec.	Purpose.
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1027.2.	Definitions.
1027.3.	Authority approval of sale of rights.
1027.4.	Certificate required for medallion sales.
1027.5.	Agreement of sale.
1027.6.	Application for sale of transferable rights.
1027.7.	Required application information.
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- 1027.9. Financial fitness generally.
- 1027.10. Regulatory compliance review.
- 1027.11. Authority review.
- 1027.12. Approval process and closing on sale.
- 1027.13. Settlement sheet.
- 1027.14. Attachment of medallion.
- 1027.15. Commencement of service.

§ 1027.1. Purpose.

This chapter establishes and prescribes Authority regulations and procedures for the sale of certain rights issued by the Authority.

§ 1027.2. Definitions.

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

Medallion taxicab certificate—A certificate granting the owner the right to operate one or more medallion taxicabs under this part.

Partial-rights taxicab certificate—A certificate granting the owner the right to operate one or more partial-rights taxicabs under this part.

Transferable rights—Only the following rights are transferable:

- (i) A certificate of public convenience to provide partial-rights taxicab service.
- (ii) A certificate of public convenience to provide dispatching services.
- (iii) A medallion.
- (iv) A limousine certificate of public convenience under Subpart C (relating to limousines)

Sale—Any change in ownership of a transferable right, including a change in ownership of securities or other ownership interests in an entity that owns transferable rights.

Transfer fee—The nonrefundable fee charged by the Authority to review an application to sell transferable rights.

§ 1027.3. Authority approval of sale of rights.

(a) *Sale of transferable rights.* The sale of transferable rights without advance approval of the Authority is void by operation of law.

(b) *Sale of securities in transferable rights.* The sale of any number of securities or other ownership interest in an entity that owns transferable rights will be considered a sale under this chapter.

(c) *New certificate number.* The Authority may assign a new certificate number to the rights sold to an approved buyer.

§ 1027.4. Certificate required for medallion sales.

(a) The proposed buyer of a medallion must own a medallion taxicab certificate on or before the date of transfer.

(b) A proposed buyer that does not own a medallion taxicab certificate on the date the sale application is filed shall request a new medallion taxicab certificate through the sale application as provided in § 1027.6 (relating to application for sale transferable rights).

§ 1027.5. Agreement of sale.

(a) The parties to a proposed sale of transferable rights shall complete an agreement of sale detailing the terms of the transaction, including provisions required by this chapter, and file the agreement with the Director.

(b) An agreement of sale for transferable rights is void by operation of law if not executed by all parties in the presence of the Director or a designee.

§ 1027.6. Application for sale of transferable rights.

(a) *Application documents.*

(1) To initiate a sale, the owner and proposed buyer shall file an original and two copies of Form No. SA-1 "Sale Application," the agreement of sale or transfer and other documents required by this chapter. The proposed buyer will be considered the applicant. The SA-1 is available at www.philapark.org/tld.

(2) The SA-1 shall be filed in person with the Director.

(3) The Director will refuse to accept an application which is incomplete for any reason.

(4) Upon acceptance, the Director will submit a copy of the application documents to the Clerk and an application docket number will be assigned.

(b) *Application signatures.*

(1) Both parties to the sale shall execute the SA-1 in the presence of the Director or a designee.

(2) Except for individuals, an original executed and notarized resolution from the buyer and seller authorizing the execution of the sale documents must be included with the filing of the SA-1.

(3) The Authority may permit an SA-1 to be executed by an attorney-in-fact if the owner or proposed buyer are unable to appear and as provided in § 1001.28 (relating to power of attorney), in which case the owner will be required to attend the closing on the sale.

(c) *Verification and payment.* The SA-1 must be verified under § 1001.36 (relating to verification and affidavit) and be accompanied by payment of the transfer fee as provided in §§ 1001.42 and 1001.43 (relating to mode of payment to the Authority; and Authority fee schedule).

(d) *Multiple rights.* The SA-1 may be used to sell an unlimited number of transferable rights from one owner to one proposed buyer. The transfer fee required under subsection (c) will be based on the higher of the aggregate value of the sale or the transfer fee for each right as provided in the Authority's fee schedule.

(e) *Broker.* Documents intended for submission to the Director as part of the sale process must be prepared by a broker registered with the Authority as provided in Chapter 1029 (relating to brokers) or an attorney admitted to practice law by the Supreme Court of Pennsylvania.

§ 1027.7. Required application information.

(a) *The Form SA-1.* The SA-1 is a multipurpose form intended for use in the sale of different transferable rights and shall be completed by the broker or attorney, or both, in a manner consistent with the intentions of the sale. For example, an SA-1 used only for the sale of a partial-rights certificate need not complete the portion of the application which seeks medallion numbers.

(b) *Required information.* Except as provided in subsection (a), the completed SA-1 must include the information required by the Authority, including the following:

(1) The medallion numbers.

(2) The certificate numbers.

(3) The name of the proposed buyer and contact information, including a telephone number, an email address and a facsimile number.

(4) If the proposed buyer is a nonindividual person, a contemporaneous certificate of good standing for the proposed buyer issued by the Corporation Bureau within 30 days of filing the SA-1.

(5) The name of any holding company as defined in § 1011.2 (relating to definitions) having an interest in the proposed buyer and a contemporaneous certificate of good standing for the holding company from the Corporation Bureau, or similarly authorized entity in another jurisdiction in the United States.

(6) The trade name, if any, of the proposed buyer and a copy of the trade name registration certificate, if applicable.

(7) The mailing address and physical address of the proposed buyer.

(8) A statement of the proposed buyer's corporate purpose, if applicable.

(9) A list, including name, home address and telephone numbers for current corporate officers, directors, stockholders, key employees and persons with controlling interests as defined in § 1011.2, if applicable.

(10) A list of all Authority, PUC and Federal common carrier rights held by the proposed buyer and any of the persons listed in response to paragraph (9), including taxicab medallions.

(11) The name, address, telephone number, facsimile number and email address of any attorney assisting the proposed buyer with the application process, together with an acknowledgement that § 1029.3 (relating to use of attorney) has been reviewed by the proposed buyer.

(12) A certified criminal history report from any jurisdiction in which the following persons have lived, including part-time residences, in the preceding 5 years through the date of application:

- (i) An individual proposed buyer.
- (ii) An individual with a controlling interest in the proposed buyer.
- (iii) An individual with a controlling interest in the holding company of a proposed buyer.
- (iv) A key employee.

(13) A verified statement indicating that the persons identified in paragraph (11) have not been subject to a conviction as defined in § 1011.2 and that the proposed buyer has read and understands the prohibitions of ownership as provided in § 1011.5 (relating to ineligibility due to conviction or arrest).

(14) Verified statements from the owner and proposed buyer confirming that each are in compliance with § 1011.7 (relating to payment of outstanding fines, fees, penalties and taxes).

(15) The Federal Tax Identification number for the following persons:

- (i) The owner of the rights.
- (ii) The proposed buyer.
- (iii) Persons with a controlling interest in the owner or a proposed buyer.
- (iv) Key employees of an owner or proposed buyer.

(16) The Philadelphia Business Privilege License numbers issued to the owner and proposed buyer.

(c) *Proof of ownership.* The Authority may require the owner to prove ownership of the right or rights subject to sale.

§ 1027.8. Additional application requirements.

(a) *Agreement of sale.* The agreement of sale required under this chapter must include the information required by the Authority, including the following:

- (1) The parties to the transaction.
- (2) A description of the transaction.
- (3) The identification number of each right subject to sale.
- (4) The total consideration for the sale and for each right transferred if the sale involves multiple rights in United States dollars, and any payment terms required by the Authority, including the following:

- (i) The assumption of any loan or debt.
- (ii) Contingencies and nonmonetary consideration.
- (iii) Monetary consideration.

(5) An acknowledgement initialed by all parties that the agreement is subject to the laws and jurisdiction of the Commonwealth, the act, this part and orders of the Authority.

(b) *Execution of agreement of sale.*

(1) The proposed agreement of sale must be signed at one time by all parties before the Director or a designee on or before the date the SA-1 is filed.

(2) In emergency situations, the Authority may permit an agreement of sale to be executed by an attorney-in-fact if the owner or proposed buyer are unable to appear and as provided in § 1001.28 (relating to power of attorney). The emergency must present an unexpected and complete impediment to the signor's ability to adhere to paragraph (1). For example, a party will not be permitted to use a power of attorney because the necessary signor lives a great distance from Philadelphia or is out of the country or on vacation.

(c) *Removal of liens.* If a notice of lien relating to a medallion which is the subject of a proposed sale was filed under 13 Pa.C.S. (relating to commercial code), the Authority will not approve a medallion sale until evidence of a lien's removal is submitted, unless the Authority is notified by the lienholder that the lien will be satisfied from the proceeds of the sale.

(d) *Continuing service.* The owner of the rights subject to sale shall confirm that the rights will remain in active service pending review of the application, unless prohibited or authorized for suspension by a provision of this part or an order of the Authority.

(e) *Notice.*

(1) A notice of applications will be published in the Pennsylvania Bulletin as provided in § 1003.53 (relating to applications requiring notice).

(2) The parties to the sale will receive notices related to the SA-1 as provided in § 1001.51 (relating to service by the Authority).

(f) *Loan documents.*

(1) Any consideration identified in subsection (a)(4) that is provided to a proposed buyer must be evidenced in the form of written agreements. For example, the loaning of cash money to a proposed buyer by a bank must be confirmed through loan documents executed by the borrowing party.

(2) The documents required under paragraph (1) shall be submitted to the Director at the time the SA-1 is filed, except that specific financial information that cannot be known until on or about the closing date for the sale may be left blank. The final loan documents must be executed at the closing on the sale.

§ 1027.9. Financial fitness generally.

(a) The Authority will review the financial fitness of the proposed buyer, including a review of the following:

(1) For proposed buyers of medallions or partial-rights certificates, bank statements of the proposed buyer or the bank statements of the holder of the stock or membership certificate evidencing ownership of a bank account holding not less than the greater of \$5,000 or 2% of the sale price in unencumbered and available funds. The funds under review must have been in the bank account for at least 6 months.

(2) For proposed buyers of dispatcher certificates, bank statements of the proposed buyer or the bank statements of the holder of the stock or membership certificate evidencing ownership of a bank account holding not less than the greater of \$25,000 or 2% of the sale price in unencumbered and available funds. The funds under review must have been in the bank account for at least 6 months.

(3) The credit report of each of the persons identified in § 1027.7(b)(11) (relating to required application information) evidencing a credit score of at least 600 for each person.

(4) The absence of any outstanding and unappealed civil judgments against each of the parties required to submit a criminal history report under § 1027.7(b)(11).

(5) The Authority may require the submission of additional financial information necessary to determine the financial fitness of a proposed buyer.

§ 1027.10. Regulatory compliance review.

(a) An SA-1 will be denied if the proposed buyer has a regulatory compliance record with the Authority or the PUC which evidences a disregard for the public interest.

(b) The SA-1 will be denied if the proposed buyer or any person with a controlling interest in the proposed buyer or a key employee of the proposed buyer has been subject to the suspension, revocation or cancellation of rights issued by the Authority or common carrier rights issued by the PUC during the 1-year period immediately preceding the date the SA-1 was filed with the Authority.

§ 1027.11. Authority review.

(a) Notice of sale will be published in the *Pennsylvania Bulletin*.

(b) The SA-1 will be reviewed as provided in § 1003.51 (relating to applications generally).

(c) The SA-1 will be denied if the proposed buyer or any person with a controlling interest in the proposed buyer or a key employee of the proposed buyer is in violation of any provision of this part or if the Authority determines that the sale is not in the public interest. The SA-1 may be denied if the owner is in violation of any provision of this part.

(d) The Authority will review the terms of any loan associated with an SA-1 and deny the application in the circumstances set forth in this subsection. The terms of any loan associated with a SA-1 are likely to lead to a condition of default by the proposed buyer. The Authority

will specifically review the following provisions of any loan agreement to assure it does not conflict with the public interest:

(1) The term.

(2) The interest rate or rates, including any adjustable rate or balloon provisions.

(3) Late payment grace periods.

(4) Conditions of default.

(5) Periods in which defaults may be cured.

(6) The qualifications, experience and history of the lender related to commercial loans and loans to public utilities.

§ 1027.12. Approval process and closing on sale.

(a) If the Director determines that a proposed buyer of rights is qualified as provided in the act, this part or an order of the Authority, a recommendation to approve the sale will be presented to the Authority for approval at its next regularly scheduled meeting. The Authority may require that proposals from the Director as provided in this section first be presented to a committee of the Board at a public meeting.

(b) Upon approval of the sale by the Authority, the Director will schedule the parties to meet at a time and location where an Authority staff member will witness the closing of the transaction.

(c) An Authority staff member shall witness the execution of each document by the owner and proposed buyer, or their designated agents. Any closing not witnessed by Authority staff is void as provided in sections 5711 (c)(5) and 5718 of the act (relating to power of authority to issue certificates of public convenience; and restrictions).

(d) If the subject of the sale is a medallion that is the only medallion issued to the owner's medallion taxicab certificate, that certificate will be cancelled upon completion of the closing on the sale of the medallion. For example, if the owner of only one medallion seeks to sell the medallion through the process provided in this chapter, the owner's medallion taxicab certificate will be cancelled upon closing on the sale of the medallion.

(e) The Authority will issue a new medallion taxicab certificate to the new medallion owner as part of the closing process if requested by the proposed buyer as provided in § 1027.4(b) (relating to certificate required for medallion sales).

(f) A medallion subject to a completed closing may not be transferred or sold for 1 year from the date of closing.

§ 1027.13. Settlement sheet.

(a) The owner and proposed buyer shall use the Form SA-2 "Standard Settlement Sheet" at any closing on the sale of rights. The SA-2 is available on the Authority's web site at www.philapark.org/tld.

(b) The SA-2 must include the information required by the Authority, including the following:

(1) The names and addresses of the owner and proposed buyer.

(2) The names and address of the brokers or attorneys used in the transaction.

(3) The name and address of the lender and a designated contact person employed by the lender, if any.

(4) A copy of all certificates or other documents authorizing the lender to make commercial loans in this Commonwealth.

(5) The amount, term and interest rate of any loan used to purchase the rights.

(6) The medallion numbers.

(7) The certificate numbers.

(8) The total consideration for the rights to be sold and any payment terms, including loan contingencies and nonmonetary consideration.

(9) An allocation of funds expended in the transaction.

(10) The fees and costs associated with the sale, including those payable to any broker or attorney, or both.

(11) Signatures of the owner and proposed buyer, or their designated agents, and the brokers.

§ 1027.14. Attachment of medallion.

Upon the completion of the closing on the sale of a medallion, the Enforcement Department will schedule a date and time to attach the medallion to the taxicab designated by the owner in a manner consistent with § 1013.2 (relating to attachment of a medallion).

§ 1027.15. Commencement of service.

A regulated party shall, within 30 days from the date of receipt of a certificate, begin operating and furnishing service. If it has not commenced operating and furnishing the authorized service within 30 days, appropriate proceedings shall be initiated to terminate the certificate unless, upon advanced written permission as provided in § 1011.14 (relating to voluntary suspension of certificate), the time for commencement of service is extended.

CHAPTER 1029. BROKERS

Sec.	
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1029.22.	Broker in possession of medallion.

§ 1029.1. Purpose and definitions.

(a) This chapter establishes and prescribes Authority regulations and procedures for the registration of individuals as brokers for the sale and transfer of medallions and certificates. Unless the context indicates otherwise, the provisions of this chapter apply to the sale of certificates of public convenience or medallions as provided by this subpart and Subpart C (relating to limousines).

(b) An individual authorized to act as a broker by the Authority on _____, (*Editor's Note:* The blank refers to the effective date of adoption of this proposed rulemaking.) shall immediately comply with this chapter

and complete the training required under § 1029.6 (relating to broker training) before the first registration renewal required under § 1011.3 (relating to annual rights renewal process).

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

Broker—An individual authorized by the Authority through current registration to prepare application related documents, appear at settlement and otherwise act on behalf of a party as to matters related to the sale of transferable rights.

§ 1029.2. Use of broker.

(a) A broker shall be used by the parties to the sale of rights, except as provided in § 1029.3 (relating to use of attorney). A single broker may represent both parties in a transaction. The Authority will maintain a list of brokers, which may be obtained at www.philapark.org/tld.

(b) A person may not act as a broker without having been registered by the Authority under this chapter.

§ 1029.3. Use of attorney.

A party may use an attorney admitted to practice law before the Supreme Court of Pennsylvania, in lieu of a broker.

§ 1029.4. Ineligible persons for broker certification.

An applicant is ineligible to be a broker if in violation of the act, this part or an order of the Authority, including the following:

(1) Upon conviction or arrest as provided in § 1011.5 (relating to ineligibility due to conviction or arrest).

(2) The applicant does not speak, read and write the English language sufficiently to draft and review transactional documents as required by the act, this part or an order of the Authority.

(3) The applicant provides false information in any document submitted to the Authority.

(4) The applicant is in violation of § 1011.7 (relating to payment of outstanding fines, fees, penalties and taxes).

(5) The applicant is 20 years of age or younger.

(6) The applicant has failed to satisfactorily complete broker training and testing as provided in this chapter.

§ 1029.5. Broker registration.

(a) *General.* To obtain a broker registration, an individual shall complete and file a Form BR-1 "Broker Application," along with the application fee as provided in §§ 1001.42 and 1001.43 (relating to mode of payment to the Authority; and Authority fee schedule). The BR-1 may be obtained on the Authority's web site at www.philapark.org/tld.

(b) *BR-1 application.* The completed BR-1 must be verified as provided in § 1001.36 (relating to verification and affidavit) and be filed with the Director in person and include the information required by the Authority, including the following:

(1) The name of the applicant and contact information, including a mailing address, a telephone number, an email address and a facsimile number.

(2) A list of all Authority rights, common carrier rights issued by the PUC, and other transportation rights issued by any jurisdiction outside of this Commonwealth in which the applicant has any controlling interest.

(3) The name, address, telephone number, facsimile number and email address of any attorney or broker, or both, assisting the applicant through the Authority's broker registration process.

(4) A complete certified criminal history report as provided in § 1011.2 (relating to definitions), including any jurisdiction in which the following individuals have lived during the last 5 years:

- (i) The applicant.
- (ii) Each key employee of the applicant.

(5) A written statement verified as provided in § 1001.36 (relating to verification and affidavit), which provides that:

(i) The applicant and each key employee have not been subject to a conviction as provided in § 1011.2.

(ii) The applicant and each key employee are in compliance with § 1011.7 (relating to payment of outstanding fines, fees, penalties and taxes).

(iii) The applicant and each key employee are current on all reports due in relation to other rights issued by the Authority.

(iv) The applicant can comply with the requirements of this chapter.

(6) A completed original of Form No. BR-5 "Business Experience Questionnaire." A copy of the DSP-3 may be obtained on the Authority's web site at www.philapark.org/tld.

(7) The applicant's Social Security number.

(8) The Philadelphia Business Privilege License numbers issued to the applicant.

(9) A copy of the applicant's Social Security card or documents confirming a legal permanent resident status or an alien authorized to work status, if applicable.

(10) The applicant's driver's license or other government issued photographic identification.

(11) A resume detailing the applicant's work history for the 5 years preceding the filing of the BR-1 and qualifications to be brokers.

§ 1029.6. Broker training.

(a) Upon submission of a BR-1 application under § 1029.5 (relating to broker registration), an applicant will be scheduled by the Authority to attend an in-class training program. The Authority, or its authorized agent, will conduct the training.

(b) Broker training will consist of a minimum of 2 hours of instruction developed to address all areas of the Authority's regulations with emphasis on the following subjects:

(1) Eligibility to be a certificate owner, dispatcher and medallion owner.

(2) The forms and records required to complete a sale of rights.

(3) An overview of frequently encountered subjects in the Authority's regulations, including the following:

- (i) Authority regulations governing certificate owners.
- (ii) Authority regulations governing equipment.
- (iii) Penalties for violation of Authority regulations.

(iv) An overview of the administrative process related to the sale of rights.

(v) The identification and address of the Authority office responsible for administering the act.

§ 1029.7. Broker testing.

(a) Upon written notification from the Authority confirming the applicant's completion of broker training under § 1029.6 (relating to broker training), the applicant will be scheduled by the Authority for broker testing.

(b) The broker test will focus on the subjects addressed during broker training.

(c) The Authority will develop a test to assure that applicants for broker registration understand the information presented during training as provided in § 1029.6.

(d) The test will be administered in the English language. The assistance of interpreters will not be permitted.

(e) Except as limited under this chapter, the test may be administered in a manner and in a form deemed appropriate by the Authority. The test may include:

- (1) Questions requiring a written response.
- (2) Multiple choice questions.
- (3) Oral questions.

(4) The demonstration of an ability to complete all of the documents necessary to sell transferable rights.

(5) The demonstration of an ability to read, write and speak the English language as required by this part.

(f) An applicant may take the test required by this chapter more than three times.

(g) Failure to pass the test required under this section within 90 days of the filing of the BR-1 application as provided in § 1029.5 (relating to broker registration) will render the application void.

(h) Upon the denial or voiding of a BR-1 as provided in this chapter, an applicant may not reapply for registration for 6 months.

§ 1029.8. Broker registration approval.

(a) If the BR-1 and related broker application documents demonstrate that the applicant is in compliance with the Authority's regulations and the applicant has passed the broker testing under § 1029.7 (relating to broker testing), the Authority will issue a broker registration letter to the applicant and place the applicant's name on the list of brokers maintained by the Authority.

(b) The broker registration letter will confirm the individual's broker status with the Authority and list an expiration date, which will be 1 year from the date of issuance, and contain other information and guidance as the Authority deems appropriate.

(c) The broker registration letter shall be displayed prominently in the broker's office.

(d) The broker registration letter may be served upon the broker by email.

§ 1029.9. Broker representation letter.

A broker retained by a party to a sale of rights subject to the act shall file Form BR-2 "Broker Representation Letter" with the Authority on or before the date a sale application is filed with the Authority. The BR-2 may be obtained on the Authority's web site at www.philapark.org/tld.

§ 1029.10. Broker agreements required.

(a) A broker shall have a written agreement with each client that clearly identifies the broker's client or clients, the scope of services to be performed and the consideration to be paid by each client upon completion of the closing on the sale as provide § 1027.12 (relating to approval process and closing on sale).

(b) A broker shall confirm that a power of attorney signed by a client complies with § 1001.28 (relating to power of attorney).

(c) A broker may not offer an Authority issued right for sale unless authorized in advance and in writing by the owner of the right.

(d) A broker agreement that creates an exclusive listing relationship must include as a signed and notarized addendum Form BR-3 "Broker Exclusive Listing" to confirm the understanding of a broker's client or clients that an exclusive relationship exists and its term. The BR-3 may be obtained at www.philapark.org/tld. An exclusive listing may not be extended beyond the termination date in the BR-3 unless a new BR-3 is signed and dated by the client as provided in this section.

(e) If a broker intends on participating in a sale of rights as an insurance broker, automobile dealer or in some other capacity in addition to that of a broker, the exact nature of the nonbroker roll, and the consideration associated with that roll, shall be disclosed in writing to the broker's client and filed with the Authority along with the BR-2. If the nonbroker roll is developed after the filing of the BR-2, the disclosure shall be made to the client and filed with the Authority immediately.

§ 1029.11. Professional liability insurance.

(a) A broker shall continuously maintain professional liability insurance in the amount of \$3,000,000 including coverage for errors and omissions caused by the broker's negligence in the performance of duties with limits of liability of \$1,000,000 per incident and \$3,000,000 aggregate from an insurer authorized to do business in this Commonwealth.

(b) A broker registration will not be issued or renewed unless confirmation of required insurance has been filed with the Authority as provided in § 1025.2 (relating to insurance forms and procedures).

§ 1029.12. Broker duties.

The following duties are owed by a broker to a client in the sale of rights subject to the act and may not be waived:

- (1) Exercising reasonable professional skill and care.
- (2) Dealing honestly and in good faith and maintain confidentiality.
- (3) Presenting, in a reasonably practicable period of time, all offers, counteroffers, notices and communications to and from the parties in writing, unless the rights at issue are subject to an existing SA-1 and the seller has agreed in a written waiver.
- (4) Providing advanced written disclosure in a reasonably practicable period of time of all conflicts of interest and financial interests required by this chapter.
- (5) Advising the client to seek expert advice on matters about the sale that are beyond the broker's expertise.
- (6) Ensuring that all services are provided in a reasonable, professional and competent manner.

(7) Keeping the client informed about offers to purchase rights, the sale and tasks to be completed.

(8) Providing assistance with document preparation.

(9) Advising the client about compliance with laws and regulations pertaining to the rights at issue without rendering legal advice.

(10) Providing a copy of all documents prepared or maintained by the broker on behalf of the client to the client at or before the date the sale closes or otherwise immediately upon request.

§ 1029.13. Disclosure of interest.

(a) A broker may only participate in a transaction involving rights subject to the act in which the broker has an interest after first disclosing that interest in writing to all parties concerned.

(b) A broker may not represent, or purport to represent, more than one party to a sale of rights subject to the act without the written consent of all parties concerned.

(c) A broker who provides financial services, insurance or mechanical repair services may not require a client to use any of these services.

(d) If the client chooses to use any of the services referenced in subsection (c), the broker shall provide the client with a written disclosure of any financial interest, including a referral fee or commission that the broker may earn. The disclosure required under this paragraph shall be made at the time the broker first advises the client that an ancillary service is available or when the broker first learns that the client will be using the service.

(e) A broker has a continuing obligation to disclose to a client, any conflict of interest in a reasonably practicable period of time after the broker learns or should have learned of the conflict of interest.

§ 1029.14. Broker conduct and obligations.

(a) A broker may not give assurances or advice concerning an aspect of rights subject to sale that the broker knows, or reasonably should be expected to know, is incorrect, inaccurate or improbable.

(b) A broker is not required to independently verify the accuracy or completeness of any representation made by the clients to a sale which the broker reasonably believes to be accurate and reliable.

(c) A broker is not liable for the acts of a client unless the client is acting at the express direction of the broker or as a result of a representation by a broker reasonably relied on by the client.

(d) A broker shall keep and maintain records related to its clients and each sale in which it participates in any manner as provided in § 1011.11 (relating to record retention), including the following records:

- (1) The names and addresses of buyers, sellers, lenders or lienholders, if any.
- (2) The purchase price.
- (3) The amount of deposit paid on contract.
- (4) The amount of commission paid to broker.
- (5) The expenses of procuring financing, if any.
- (6) Closing statements.

(e) Upon suspension or cancellation of a broker's registration with the Authority, no other broker may use the

services of the former broker, as an employee or otherwise, to perform broker related services.

(f) An advertisement placed by a broker related to the sale of rights subject to the act must indicate that the advertiser is a registered broker. A broker may not use deceptive or misleading advertising.

§ 1029.15. Duty to deposit money belonging to another into escrow account.

A broker shall deposit money that the broker receives belonging to another into an escrow account in a Federally or State-insured bank or depository to be held pending consummation of the sale of rights subject to the act or a prior termination thereof that does not involve a dispute between the parties to the sale, at which time the broker shall pay over the full amount to the party entitled to receive it.

§ 1029.16. Nonwaiver of escrow duty.

A broker's escrow duty may not be waived or altered by an agreement between the parties to the sale, between the broker and the parties, or between the broker and other brokers who may be involved in the sale.

§ 1029.17. Deadline for depositing money into escrow account.

(a) Except as provided in subsection (b), a broker shall deposit money belonging to another into one escrow account by the end of the next business day following its receipt in the broker's office.

(b) If the money of another has been tendered to the broker in the form of a check under an offer to purchase or lease a right subject to the act, the broker may, with the written permission of both the buyer and the seller or the lessee and the lessor, refrain from depositing the money into an escrow account by the deadline in subsection (a) pending the seller's or lessor's acceptance of the offer. In those cases, the broker shall deposit the check into an escrow account within 1 business day of the seller's or lessor's acceptance of the offer.

(c) A broker shall notify each client of the bank's name, address and the account number of each account holding escrowed funds related to the sale.

(d) Upon request, a broker shall notify the owner of the escrowed funds of the name, address and account number of the account holding in escrow. For purposes of this subsection, the owner of the escrowed funds is the party that provided the funds to the broker for placement in escrow.

§ 1029.18. Escrow account.

- (a) A broker escrow account shall:
 - (1) Be maintained in a Federally- or State-insured bank or recognized depository.
 - (2) Designate the broker as trustee.
 - (3) Provide for the withdrawal of funds without prior notice.
 - (4) Be used exclusively for escrow purposes.

(b) If money is expected to be held in escrow for more than 6 months, the broker is encouraged to deposit the money into an interest-bearing escrow account. Interest earned on an escrow account shall be held and disbursed, pro rata, in the same manner as the principal amount, unless the parties to the transaction direct otherwise by agreement. A broker may not claim the interest earned on an escrow account.

(c) Upon request, a broker shall provide the Authority with its records related to any escrow accounts maintained during the past 5 years or authorize the release of the records by each bank or recognized depository.

§ 1029.19. Prohibition against commingling or misappropriation.

(a) Except as provided in subsection (b), a broker may not commingle money that is required to be held in escrow or interest earned on an escrow account, with business, personal or other funds.

(b) A broker may deposit business or personal funds into an escrow account to cover service charges assessed to the account by the bank or depository where the account is located or to maintain a minimum balance in the account as required by the regulations of the bank or depository.

(c) A broker may not misappropriate money that is required to be held in escrow or interest earned on an escrow account, for business, personal or other purposes.

§ 1029.20. Procedure when entitlement to money held in escrow is disputed.

If a dispute arises between the parties to a sale over entitlement to money that is being held in escrow by a broker, the broker shall retain the money in escrow until the dispute is resolved. If resolution of the dispute appears remote without legal action, the broker may, following 30 days' notice to the parties, petition the Philadelphia Court of Common Pleas to interplead the rival claimants.

§ 1029.21. Escrow records.

A broker shall keep records of monies received by him that are required to be held in escrow and shall produce the records for examination by the Authority or its authorized representatives upon written request. The records must contain the following information:

- (1) The name of the party from whom the broker received the money.
- (2) The name of the party to whom the money belongs.
- (3) The name of the party for whose account the money is deposited.
- (4) The date the broker received the money.
- (5) The date the broker deposited the money into the escrow account.
- (6) The date the broker withdrew the money from the escrow account.

§ 1029.22. Broker in possession of medallion.

If a medallion has been deposited with a broker, the broker shall deliver the medallion to the Authority for placement into storage within 48 hours of receipt.

Subpart C. LIMOUSINES

Chap.	
1051.	GENERAL PROVISIONS
1053.	STANDARD CLASSIFICATIONS OF LIMOUSINE SERVICE
1055.	VEHICLES AND EQUIPMENT REQUIREMENTS
1057.	LIMOUSINE DRIVERS
1059.	APPLICATIONS AND SALE OF RIGHTS
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CHAPTER 1051. GENERAL PROVISIONS

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1051.4.	Annual assessments and renewal fees.
1051.5.	Ineligibility due to conviction or arrest.
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1051.9.	Discrimination in service.
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1051.16.	Limitations.
1051.17.	Application review generally.
1051.18.	Method of operation.

§ 1051.1. Purpose.

This subpart establishes and prescribes Authority regulations and procedures for limousine service in Philadelphia.

§ 1051.2. Definitions.

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

Arrest—Detaining, holding, or taking into custody by police or other law enforcement authorities to answer for an alleged commission of an offense.

Broker—An individual authorized by the Authority through current registration to prepare application related documents, appear at settlement, and otherwise act on behalf of a party as to matters related to the sale of transferable rights.

Common carrier—A common carrier by motor vehicle, as defined in 66 Pa.C.S. § 102 (relating to definitions), transporting passengers through a certificate issued by the Authority.

Controlling interest—

(i) A controlling interest is an interest in a legal entity, applicant or certificate holder if a person's voting rights under state law or corporate articles or bylaws entitle the person to elect or appoint one or more of the members of the board of directors or other governing board or the ownership or beneficial holding of 5% or more of the securities of the corporation, partnership, limited liability company or other form of legal entity, unless this presumption of control or ability to elect is rebutted by clear and convincing evidence. A member, partner, director, or officer of a corporation, partnership, limited liability company or other form of legal entity, is deemed to have a controlling interest.

(ii) A person who owns or beneficially holds less than 5% of the securities of a privately held domestic or foreign corporation, partnership, limited liability company or other form of privately held legal entity shall be deemed as having rebutted the presumption of control by clear and convincing evidence.

Conviction—

(i) A finding of guilt or a plea of guilty or nolo contendere whether or not a judgment of sentence has been imposed as determined by the law of the jurisdiction in which the prosecution was held relating to any of the following:

(A) A felony.

(B) A crime involving moral turpitude.

(C) A crime requiring registration with the State Police as provided in 42 Pa.C.S. § 9795.1 (relating to registration) or similar statute in any other jurisdiction.

(D) A crime subject to prosecution under 18 Pa.C.S. Chapter 25 (relating to criminal homicide) or similar statute in any other jurisdiction.

(E) A crime subject to prosecution under 18 Pa.C.S. Chapter 27 (relating to assault) or similar statute in any other jurisdiction.

(F) A crime subject to prosecution under 18 Pa.C.S. Chapter 29 (relating to kidnapping) or similar statute in any other jurisdiction.

(G) A crime subject to prosecution under 18 Pa.C.S. Chapter 31 (relating to sexual offenses) or similar statute in any other jurisdiction.

(ii) A crime resulting in an order of Accelerated Rehabilitative Disposition, prior to successful completion of the terms of the order.

(iii) Except as provided in subparagraph (i) and (ii), the term does not include a misdemeanor or summary conviction or any conviction that has been expunged or overturned or for which an individual has been pardoned.

Crime involving moral turpitude—A crime determined by the Authority to be consistent with the provisions of 22 Pa. Code 237.9 (relating to crimes of moral turpitude).

Driver history report—A driver's license report containing details about a driver's history including accidents and violations issued by a jurisdiction within the United States.

Driver's license—A license or permit to operate a motor vehicle issued by the Department of Transportation or similarly authorized government entity in another jurisdiction of the United States.

Enforcement Department—The department of the TLD created under § 1003.74 (relating to Enforcement Department).

Exclusive service—Transportation on a given trip when the first or principal person, party or group hiring the vehicle has the exclusive right to determine where, when or if another passenger shall be carried on that trip.

Federal tax identification number—The Social Security number of an individual or the Employer Identification number of a business entity, fiduciary or other person.

Holding company—A person, other than an individual, which, directly or indirectly, owns, has the power or right to control or to vote 20% or more of the outstanding voting securities of a corporation or other form of business organization. A holding company indirectly has, holds or owns any such power, right or security if it does so through an interest in a subsidiary or successive subsidiaries.

Inspector—Enforcement Department uniformed or non-uniformed staff assigned to investigate and enforce the act, this part and orders of the Authority who will be identifiable by an Authority issued badge number.

Key employee—An individual who is employed in a director or department head capacity and who is empowered to make discretionary decisions that affect the operations of an applicant, certificate holder, or other entity identified by the Authority.

Limousine—A vehicle meeting the definition provided in section 5701 of the act (relating to definitions).

Limousine driver—The individual to whom a current and valid limousine driver's certificate has been issued by the Authority under section 5706 of the act (relating to driver certification program).

Limousine driver's certificate—The original photographic identification card issued by the Authority which confirms that an individual has complied with Chapter 1057 (relating to limousine drivers) and is authorized to provide limousine service under section 5706 of the act.

Limousine service—The transportation of passengers or offering to transport passengers in a limousine through a certificate or registration issued by the Authority.

Manager of Administration—The individual appointed to manage the Administration Department of the TLD as provided in § 1003.72 (relating to TLD staffing generally). The Manager of Administration may be contacted at TLD Headquarters or by email at TLDAdmin@philpark.org.

Manager of Enforcement—The individual appointed to manage the Enforcement Department of the TLD as provided in § 1003.74. The Manager of Enforcement may be contacted at TLD Headquarters or by email at TLDEnforcement@philpark.org.

Moving violations—Any debt owed the Commonwealth or one its political subdivisions for violations of 75 Pa.C.S. (relating to Vehicle Code), that is not under appeal.

Proposed buyer—The party seeking to acquire an ownership interest in a certificate.

Parking violations—Any debt owed to the City of Philadelphia related to a violation of the Philadelphia Traffic Code (12 Phila. Code §§ 100-3012), that is not under appeal.

Regulated person—A certificate holder, broker, limousine driver, or other person subject to the act, this part or an order of the Authority.

Rights—A certificate of public convenience, driver's certificate, broker registration or other authorization issued to a regulated party by the Authority under the act.

Stretched vehicle—A vehicle altered from its originally manufactured condition to expand passenger capacity to 16 passengers or more, including the driver.

Transfer fee—The fee paid to the Authority for its review of a sale application as provided in Chapter 1059 (relating to applications and sale of rights).

§ 1051.3. Annual rights renewal process.

(a) *Expiration of certificate.* All rights will expire annually, including the following:

- (1) A certificate will expire on July 1 of each year.
- (2) A limousine driver's certificate will expire 1 year from its date of issuance or renewal.

(b) *Expired rights.*

(1) Expired rights will be placed out of service and cancelled by the Authority as provided in § 1003.32 (relating to out of service designation).

(2) Limousine driver certificates that have been expired for 60 days or more will be deemed cancelled.

(c) *Renewal forms.*

(1) Rights issued by the Authority shall be renewed by completing and filing the required renewal form with the Director. Renewal forms may be obtained on the Authority's web site at www.philapark.org/tld or from TLD Headquarters.

(2) The renewal forms may require the submission of additional information or documents to confirm continuing eligibility under the act, this part or an order of the Authority.

(3) The renewal forms must be verified as provided in § 1001.36 (relating to verification and affidavit) and filed as follows:

(i) For limousine certificates, Form LM-1 "Limousine Renewal" shall be filed on or before May 15 of each year.

(ii) For limousine drivers' certificates, Form DR-3 "Driver Renewal" shall be filed 60 days before the expiration date printed on the limousine driver's certificate.

(d) *Renewal denial.* The Authority will deny renewal of rights in the following circumstances:

(1) If the owner of the rights subject to renewal fails to complete the renewal process.

(2) The renewal process reveals information about the renewing person or those with a controlling interest in the renewing person that would result in a denial of an initial application for the rights.

(3) The renewing person fails to comply with § 1051.4 (relating to annual assessments and renewal fees).

§ 1051.4. Annual assessments and renewal fees.

(a) *Assessments and renewal fees.* The owners of rights issued by the Authority shall pay an annual assessment or renewal fee in an amount established each year under section 5707(b) of the act (relating to budget and fees) and as set forth in the Authority's annual fee schedule as provided in § 1001.43 (relating to Authority fees schedule).

(b) *Payment of assessments by certificate holders.* The annual assessment for certificate holders is due on or before June 30 of each year.

(c) *Payment of renewal fees by limousine drivers.* The annual renewal fee for limousine drivers is due with the filing of the DR-3 as provided in § 1051.3(c)(3)(ii) (relating to annual rights renewal process).

(d) *Late assessment or renewal fee payments.*

(1) An assessment or renewal fee payment will be considered late if not paid before 3 p.m. on the day it is due.

(2) Rights issued by the Authority will expire at the time an assessment payment becomes late and will be immediately placed out of service by the Authority as provided in § 1003.32 (relating to out of service designation).

§ 1051.5. Ineligibility due to conviction or arrest.

(a) Except as provided in subsection (e), a person is ineligible to own any interest in any right issued by the Authority if the person, or a person having a controlling interest over the person or a key employee, has been subject to a conviction as defined in § 1051.2 (relating to definitions), in the past 5 years and for 6 months from the date the convicted person completes the sentence imposed, including incarceration, probation, parole and other forms of supervised release.

(b) If a regulated party owning a transferable right becomes ineligible to hold rights issued by the Authority due to a conviction, the regulated party shall immediately cease use of the rights and initiate the sale of the rights to an eligible person as provided in Chapter 1059 (relating to applications and sale of rights) within 180 days of the conviction.

(c) A regulated party shall inform the Director within 72 hours of being subject to an arrest or conviction as defined under § 1051.2.

(d) If a criminal prosecution is initiated against a regulated party for a crime that may lead to a conviction as defined in § 1051.2, the Enforcement Department or trial counsel may initiate a formal complaint against the regulated party as provided in § 1005.11 (relating to formal complaints generally) and seek the immediate suspension of rights pending the conclusion of the criminal proceedings.

(e) A person subject to an order of Accelerated Rehabilitative Disposition shall be ineligible to own any interest in any right issued by the Authority until the terms of the order have been completed.

§ 1051.6. Payment of outstanding fines, fees, penalties and taxes.

(a) Regulated persons and applicants for any right issued by the Authority shall pay all assessments, fees, penalties, and other payments due to the Authority under the act, this part or an order of the Authority on schedule, unless the matter related to the payment is under appeal.

(b) Regulated persons and applicants for any right issued by the Authority shall remain current on the payment of parking violations and moving violations, unless the violation is under appeal.

(c) Regulated persons and applicants for any right issued by the Authority shall remain current on the payment of taxes due to the Commonwealth or City of Philadelphia, unless under appeal.

(d) Regulated persons and applicants for any right issued by the Authority shall hold and maintain a Business Privilege License issued by the City of Philadelphia and present a copy of the license to the Authority for inspection upon demand.

(e) For purposes of this section, regulated persons and applicants include those with a controlling interest in the regulated person or applicant, or both, and key employees.

§ 1051.7. Facility inspections.

Certificate holders and brokers shall make their operating locations available for inspection by the Authority. A facility inspection may be without prior notice.

§ 1051.8. Limousine service limitations.

(a) Except as provided in subsection (c), only the following individuals may provide limousine service:

- (1) The owner, if the owner is a limousine driver.
- (2) An employee of the certificate holder who is a limousine driver.
- (3) A limousine driver who leases the limousine directly from the certificate holder.
- (b) A certificate holder shall supervise its limousine to make certain that only those limousine drivers authorized by this section provide limousine service.

(c) This section does not apply to an individual hired by a funeral home to drive an Authority-certified limousine for funeral related services. The funeral service drivers may not be in violation of § 1051.5 (relating to ineligibility due to conviction or arrest), shall submit to a criminal background check by the TLD and evidence possession of a valid State-issued driver's license.

§ 1051.9. Discrimination in service.

A regulated person may not refuse service to a member of the public on the basis of gender, sexual orientation, race, religious preference, nationality, age, point of origin, point of destination or to a person with a disability.

§ 1051.10. Record retention.

(a) Certificate holders and brokers shall maintain for 5 years all records required under the act, this part or an order of the Authority, or otherwise kept in the ordinary course of business, in the English language and in a format capable of being easily produced to the Authority.

(b) Both paper and electronic records shall be maintained in chronological order by date and time of day.

(c) Paper records required by this section shall be stored in dry areas protected by a fire suppression system.

(d) Electronic records required by this section shall be routinely copied and stored at a location that is separate by at least 1 mile from the office where the record originated.

(e) A regulated party shall produce records maintained under subsection (a) to the Authority upon request. If the records require a special form of software to search or interpret, a regulated party shall make that software available to the Authority.

§ 1051.11. Aiding or abetting violations.

A person may not aid, abet, encourage or require a regulated party to violate the act, this part or an order of the Authority.

§ 1051.12. Interruptions of service.

(a) An interruption of limousine service for more than 48 hours shall be reported to the Director in writing within 72 hours of the beginning of the service interruption. The written statement must include the cause of interruption and its probable duration.

(b) Suspension of limousine service for 30 consecutive days without notice to the Authority will be deemed sufficient cause for cancellation of the rights of the limousine service, except if the suspension is caused by strike or labor difficulties, riot, insurrection, war, government decrees, an act of God or other good cause.

(c) An order of cancellation entered under this section will not be issued until the certificate holder is given opportunity for a public hearing on a formal complaint as provided in § 1005.11 (relating to formal complaints generally) as to why the rights should not be revoked and cancelled.

§ 1051.13. Voluntary suspension of certificate.

(a) A certificate holder may place a certificate in a voluntary state of suspension to avoid penalties for violation of § 1051.12 (relating to interruptions of service) subject to the prior approval of the Director who may, in his sole or peculiar discretion as deemed appropriate, attach conditions as may be found necessary or proper.

(b) A certificate may be placed in voluntary suspended status after a report is issued as provided in § 1051.12.

(c) A certificate may not be placed in voluntary suspended status for more than 1 year.

(d) To request approval from the Authority for the voluntary suspension of a certificate, the certificate holder shall file a completed a CPC-1 "Voluntary Suspension Application" with the Director and pay the application fee as provided in §§ 1001.42 and 1001.43 (relating to mode of payment to the Authority; and Authority fee schedule). The CPC-1 may be obtained at www.philapark.org/tld.

(e) Before a CPC-1 is granted, a certificate holder shall be in compliance with § 1051.6 (relating to payment of outstanding fines, fees, penalties and taxes) and pay the entire Authority assessment that will come due during the proposed period of voluntary suspension.

§ 1051.14. Death or incapacitation of a certificate holder or certain persons with controlling interest.

(a) *Definitions.* The following words and terms, when used in this section, have the following meanings, unless the context indicates otherwise:

Incapacitation—A determination by a court that an individual is incapacitated as provided in 20 Pa.C.S. § 5511 (relating to petition and hearing; independent evaluation), or for non-Pennsylvania residents, a substantially similar order from a court of competent jurisdiction.

(b) *Death or incapacitation of an individual certificate holder.*

(1) Upon the death or incapacitation of an individual certificate holder, the rights conferred by the certificate shall continue with the legal representative of the deceased or incapacitated certificate holder for 6 months.

(2) The legal representative of the deceased or incapacitated certificate holder shall immediately begin the process of finding a qualified person to buy the certificate as provided in Chapter 1059 (relating to applications and sale of rights), including the use of a broker or attorney. Nothing in this section prohibits the legal representative from buying the certificate.

(3) If an SA-1 for the certificate is not correctly filed, as provided in Chapter 1059 within 90 days of the date the certificate holder died or was declared incapacitated, the certificate will be placed out of service as provided in § 1003.32 (relating to out of service designation) and may be cancelled upon determination of a formal complaint filed by the Enforcement Department or trial counsel.

(4) If an SA-1 for the certificate is correctly filed within 90 days of the date the certificate holder died or was declared incapacitated, the rights conferred by the certificate shall continue with the legal representative of the deceased or incapacitated certificate holder for the duration of the SA-1 review period and through closing on the sale.

(c) *Death, incapacitation or dissolution of certain persons with controlling interest in a certificate.*

(1) Upon the death, incapacitation or dissolution of a person that owns 5% or more of the certificate holder's securities, the rights conferred by the certificate shall continue with the certificate holder for 3 months.

(2) The certificate holder shall immediately begin the process of finding a qualified person to buy the securities of the certificate holder referenced in paragraph (1) as provided in Chapter 1059 including the use of a broker or attorney. Nothing in this section prohibits the certificate holder from reacquiring the securities of the person referenced in paragraph (1).

(3) If an SA-1 for the sale of the securities referenced in paragraph (1) is not correctly filed as provided in Chapter 1059 within 90 days of the date of that person's or persons' death, incapacitation or dissolution, the certificate will be placed out of service as provided in § 1003.32 and may be cancelled upon determination of a formal complaint filed by the Enforcement Department or trial counsel.

(4) If an SA-1 for the sale of the securities referenced in paragraph (1) is correctly filed, as provided in Chapter 1059, within 90 days of the date of the person's death, incapacitation or dissolution, the rights conferred by the certificate shall continue for the duration of the SA-1 review period and through closing on the sale.

(d) *Ineligibility of successor or legal representative.* This section may not be interpreted to permit the operation or use of Authority rights by a person otherwise prohibited from the ability to receive Authority rights. For example, the executor of the estate on a deceased individual certificate holder who would be ineligible to own Authority rights as provided in § 1051.5 (relating to ineligibility due to conviction or arrest), may not operate or supervise the operation of the rights conferred by the certificate.

§ 1051.15. Power of successors by law.

(a) If a trustee, receiver, assignee, custodian or similar officer or officers is appointed by a court of competent jurisdiction, or is selected by creditors in accordance with provisions of law, with authority to take or retain possession and to operate the property and business of a certificate holder, the officer shall have authority to perform the service authorized in the certificate of the debtor certificate holder for 90 days from his appointment or selection.

(b) The appointed officer may petition the Authority for authorization to exercise the rights conferred by the certificate for an additional period of time, and the Authority may, for good cause shown, grant authority.

(c) If the petition is filed within 60 days of the appointment or selection of the petitioner, the appointed officer shall have authority to exercise the rights conferred by the certificate pending a decision by the Authority on the petition. Pertinent orders or decrees of the court having jurisdiction may be deemed cause for the granting of petitions by the Authority.

§ 1051.16. Limitations.

Operations covered under §§ 1011.15 and 1011.16 (relating to death or incapacitation of a certificate holder or certain persons with controlling interest; and power of successors by law) are subject to the terms and conditions of the certificate of public convenience and may not be conducted without full compliance with the act, this part or an order of the Authority, including insurance coverage.

§ 1051.17. Application review generally.

Applications for rights required under this subpart will be reviewed as provided in § 1003.51 (relating to applications generally).

§ 1051.18. Method of operation.

(a) Unless otherwise specifically provided in the certificate of public convenience, a limousine has the rights and is subject to the following conditions:

(1) To transport persons on an exclusive basis between points as authorized by the certificate, if the order for

service is received in advance of the actual rendering of service and not by street hail.

(2) To charge for service based upon use of a limousine with payment made by a single person or organization and not by passengers as individuals.

(b) Direct, in-person solicitation of a passenger by the driver or a representative of the driver or certificate holder is prohibited.

CHAPTER 1053. STANDARD CLASSIFICATIONS OF LIMOUSINE SERVICE

Subchap.

- A. CLASSIFICATIONS
- B. LUXURY LIMOUSINE SERVICE
- C. AIRPORT TRANSFER SERVICE
- D. LARGE VEHICLES AND REMOTE CARRIERS

Subchapter A. CLASSIFICATIONS

Sec.

1053.1. Standard classifications of limousine service.

§ 1053.1. Standard classifications of limousine service.

(a) The Authority will issue limousine certificates for the several standard classifications of service identified in this chapter. One limousine certificate will permit only one classification of limousine service.

(b) The following standard classification of types of limousine service is adopted, and the following is hereby recognized as a standard class of limousine service. A certificated service which does not completely correspond to a standard class may be governed, where practicable, by the regulations for the standard class to which it most nearly corresponds:

(1) *Luxury limousine service.* Local, nonscheduled common carrier by motor vehicle service for passengers rendered in luxury-type vehicles on an exclusive basis which is arranged for in advance. If the classification of limousine service does not strictly meet the classifications provided in paragraph (2) or (3), the service will be deemed luxury limousine service.

(2) *Airport transfer service.* Common carrier service for passengers rendered on a nonexclusive basis which originates or terminates at an airport, railroad station or bus station located in whole or in part in Philadelphia.

(3) *Remote carriers.* A limousine operated by the holder of a certificate of public convenience from the PUC that engages in limousine service from any airport, railroad station and hotel located in whole or in part in Philadelphia to a location outside Philadelphia and which is without rights issued by the Authority as provided in section 5741(a)(3) of the act (relating to certificate of public convenience required). For example, a limousine certified by the PUC to provide limousine service in areas outside of Philadelphia may provide that service from the Philadelphia International Airport without a certificate issued by the Authority, provided the to the requirements of this chapter are followed.

Subchapter B. LUXURY LIMOUSINE SERVICE

Sec.

- 1053.21. Purpose.
- 1053.22. Method of operation.
- 1053.23. Vehicle and equipment requirements.
- 1053.24. Consumer information.

§ 1053.21. Purpose.

This subchapter applies to luxury limousine service.

§ 1053.22. Method of operation.

(a) Unless otherwise specifically provided in this subpart or the certificate of public convenience, a common carrier operating luxury limousine service shall have the rights and be subject to the following conditions:

(1) To transport persons on an exclusive basis between points as authorized by the certificate, if the order for service is received in advance of the actual rendering of service and not by street hail.

(2) To charge for service based upon use of a limousine with payment made by a single person or organization and not by passengers as individuals.

(b) Direct, in-person solicitation of a passenger by the driver or a representative of the driver or certificate holder, is prohibited.

§ 1053.23. Vehicle and equipment requirements.

(a) Luxury limousine service may be operated only in luxury type vehicles.

(b) Luxury type vehicles are vehicles manufactured or subsequently modified so that they have physical configurations and accessory features that are not considered as being ordinary, standard or commonplace in lower to moderately priced vehicles. Luxury type vehicles are intended to afford patrons a higher level of service and comfort than are ordinarily available in call or demand, paratransit and airport transfer services. To qualify as a luxury type vehicle, a vehicle must have at a minimum: air conditioning, AM/FM stereo radio, deluxe leather or deluxe fabric upholstery, deluxe wheels or wheel covers, four doors and a wheelbase of at least 109 inches. Other amenities which limousine service might afford are CD changer, internet access, reading lights, work desk or table, cellular phone, refrigerator, television, VCR, DVD player, extended wheelbase and privacy dividers.

§ 1053.24. Consumer information.

(a) To provide passengers with the necessary information to file a complaint, luxury limousine certificate holders shall post an Authority-issued complaint decal in a conspicuous location inside the vehicle which lists the telephone number and web site to be used to lodge a complaint or provide the following notice on the receipt for service:

(b) For complaints and information, contact the Philadelphia Parking Authority's Taxicab and Limousine Division at (215) 683-9471 or TLDEnforcement@philapark.org. Include the company name and CPC# for all complaints.

Subchapter C. AIRPORT TRANSFER SERVICE

Sec.

- 1053.31. Purpose.
- 1053.32. Method of operation.
- 1053.33. Tariff and schedule requirements.
- 1053.34. Consumer information.

§ 1053.31. Purpose.

This subchapter applies to airport transfer service.

§ 1053.32. Method of operation.

Unless otherwise specifically provided in the certificate of public convenience, a common carrier operating airport transfer service shall have rights and be subject to the following conditions:

(1) To transport persons on a nonexclusive, individual charge basis from points authorized by the certificate to the airport specified by the certificate, and vice versa.

(2) Airport transfer service may be offered on a scheduled basis serving specified points according to a published time schedule or on a request basis with the origin or destination of the transportation to or from the airport arranged between the individual and the certificate holder, or on both bases. A material change in a time schedule shall be posted at terminals and in vehicles engaged in service affected by the change for not less than 7 days prior to the effective date of the change.

§ 1053.33. Tariff and schedule requirements.

An airport transfer carrier operating on a scheduled basis shall file with its tariff a copy of the schedule indicating the points served. Rates must be based on provisions contained in tariffs filed, posted and published under statute and this title.

§ 1053.34. Consumer information.

To provide passengers with the necessary information to file a complaint, airport transfer service certificate holders shall post an Authority-issued complaint decal in a conspicuous location inside the vehicle which lists the telephone number and web site to be used to lodge a complaint or provide the following notice on the receipt for service:

For complaints and information, contact the Philadelphia Parking Authority's Taxicab and Limousine Division at (215) 683-9471 or TLDEnforcement@philapark.org. Include the company name and CPC# for all complaints.

Subchapter D. LARGE VEHICLES AND REMOTE CARRIERS

- Sec.
- 1053.41. Large vehicles.
- 1053.42. Remote carriers.
- 1053.43. Certain limousine requirements.

§ 1053.41. Large vehicles.

(a) A limousine, regardless of the classification provided by this chapter, having a seating capacity of 16 or more passengers, including the driver, must hold a valid PUC certificate to provide the same or a substantially similar classification of common carrier by motor vehicle service to hold Authority limousine rights.

(b) Except for stretched vehicles operating under an Authority luxury limousine certificate, limousines with a seating capacity of 16 or more passengers are exempt from this chapter, except for the registration and regulation requirements of § 1053.43 (c)—(f) (relating to certain limousine requirements).

§ 1053.42. Remote carriers.

(a) A certificate holder providing service as a remote carrier, regardless of seating capacity, shall adhere to the requirements of § 1053.43 (relating to relating to certain limousine requirements).

(b) A remote carrier limousine may not provide limousine service from any airport, railroad station and hotel located in whole or in part in Philadelphia without first registering with the Authority and otherwise complying with this chapter.

(c) A remote carrier may not provide service to points within Philadelphia or otherwise beyond the scope of its PUC certificate without first obtaining an Authority certificate of public convenience as provided in Chapter 1059 (relating to application and sale of rights).

§ 1053.43. Certain limousine requirements.

(a) *Purpose.* This section is intended to address limousine service in Philadelphia that is within the jurisdiction of the Authority as provided by the act, but is not commonly considered either Philadelphia service or limousine service by the public or other regulating agencies.

(b) *Certain limousines covered.* This section applies to remote carriers.

(c) *Registration.*

(1) The certificate holder shall register each limousine subject to subsection (b) with the Authority by completing and filing with the Director a Form AR-1 "Alternative Registration" along with the registration fee as provided in § 1001.42 (relating to mode of payment to the Authority). The AR-1 may be obtained on the Authority's web site at www.philapark.org/tld.

(2) The Authority registration process will require submission of copies of all relevant PUC certificates or registration documents.

(3) The registration fee shall be \$15 for each limousine registered for _____, (*Editor's Note:* The blank refers to the fiscal year in which this proposed rulemaking is adopted.) and, thereafter, as provided in the Authority's fee schedule as provided in § 1001.43 (relating to Authority fee schedule).

(4) The registration of each limousine subject to this section expires on June 30 of each year. A certificate holder that seeks continued registration under this section shall comply with paragraph (1) on or before February 15 of each year.

(d) *Regulation.*

(1) Limousines subject to this section will be subject to regulation and enforcement by the Authority for violations of Department of Transportation equipment inspection standards stated in 67 Pa. Code Chapter 175 (relating to vehicle equipment and inspection). For example, a limousine registered as provided in this section that is determined by the Authority to be in the course of providing service with a broken windshield will be subject to the standard enforcement procedures of this part.

(2) Limousines registered as provided in this section must comply with the instructions of Authority staff, including inspectors, and submit to field inspections as provided in § 1055.14 (relating to field inspections). Authority field inspections of limousines may include an investigation of compliance with PUC regulations and orders.

(3) Except as provided in this chapter, limousines subject to this section must adhere to the regulations and orders of the PUC and are not required to adhere to regulations of the Authority while providing limousine service in Philadelphia. The Authority may pursue enforcement of PUC regulations before the PUC, as appropriate.

(e) *Insurance.* A certificate holder that seeks registration of a limousine as provided in this section or as provided in § 1053.41 (relating to large vehicles) shall comply with § 1065.1 (relating to limousine insurance), except that the limits of insurance coverage need not exceed those required by the PUC.

(f) *Alternative carrier sticker.*

(1) Upon compliance with this section, the Authority will mail an alternative carrier sticker to the certificate holder for each registered limousine.

(2) Each alternative carrier sticker will display the year in which it is valid.

(3) A limousine registered with the Authority as provided in this section may not provide limousine service in Philadelphia or from any airport, railroad station and hotel located in whole or in part in Philadelphia, unless a valid alternative carrier sticker is attached to the lower passenger side interior portion of the limousine's windshield. Alternate carrier stickers must be attached using the adhesive backing supplied with the sticker and may not be taped to the windshield or transferred between vehicles.

CHAPTER 1055. VEHICLES AND EQUIPMENT REQUIREMENTS

Subchap.

- A. GENERAL PROVISIONS
- B. LIMOUSINE INSPECTIONS
- C. IMPOUNDMENT OF VEHICLES AND EQUIPMENT

Subchapter A. GENERAL PROVISIONS

Sec.

- 1055.1. Purpose.
- 1055.2. Limousine rights sticker.
- 1055.3. Limousine age and mileage parameters.
- 1055.4. Basic vehicle standards.
- 1055.5. Required documents.
- 1055.6. Transportation of blind or deaf persons with dog guides.

§ 1055.1. Purpose.

(a) This chapter establishes and prescribes Authority regulations and procedures related to the condition, type, and inspection of limousines and equipment used to provide limousine service in Philadelphia.

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

Antique vehicle—A motor vehicle, but not a reproduction thereof, that is 25 years old or older as provided in § 1055.3(a) (relating to limousine age and mileage parameters), which has been maintained in or restored to a condition, which is substantially in conformance with manufacturer specifications.

Compliance inspection—The inspection of a limousine and limousine equipment by the Authority to assure compliance with the act, this part and orders of the Authority, which will include all of the components of a state inspection, except that emissions testing will not occur. Anytime the inspection of a limousine or limousine service related equipment is required by the act, this part or an order of the Authority it will be a compliance inspection.

Field inspection—The unscheduled inspection of a limousine by an inspector for compliance with the act, this part and all orders of the Authority.

Limousine rights sticker—An adhesive certification issued annually for each limousine by the TLD to a certificate holder upon the sale or issuance of a certificate of public convenience as provided in Chapter 1059 (relating to applications and sale of rights) or upon annual renewal as provided in § 1051.3 (relating to annual rights renewal process) and attached to the lower passenger side interior portion of the limousine's windshield.

State inspection—The annual inspection required under 75 Pa.C.S. Chapter 47 (relating to inspection of vehicles).

§ 1055.2. Limousine rights sticker.

(a) A vehicle may not perform limousine service without a valid limousine rights sticker as provided in § 1055.1 (relating to purpose). Limousine rights stickers shall be attached using the adhesive backing supplied with the sticker and may not be taped to the windshield or transferred between vehicles.

(b) The Authority may design limousine rights stickers to identify the class of limousine service authorized under Chapter 1053 (relating to standard classifications of limousine service).

§ 1055.3. Limousine age and mileage parameters.

(a) *Method of age computation.* The age of a limousine will be determined by comparing its model year to the current model year. A model year begins on the first day of each October. For example, a limousine with a model year of 2008 would be 4 years old on October 1, 2012.

(b) *Age.* A vehicle may not provide limousine service if it is more than 8 years old, except that the Director may authorize the operation of antique vehicles as limousines upon review of a petition for waiver as provided in § 1005.23 (relating to petitions for issuance, amendment, repeal, or waiver of Authority regulations) and completion of a compliance inspection.

(c) *Mileage.*

(1) A vehicle may not be first introduced for limousine service with a cumulative mileage registered on the odometer of 51,000 miles or more, except that a limousine with a model year age of 5 or less and a cumulative mileage registered on the odometer of less than 75,000 miles may qualify for certification by the Authority contingent upon completion of a compliance inspection.

(2) Except as provided in paragraph (3), a vehicle shall be removed from limousine service prior to the date the cumulative mileage registered on the vehicle's odometer reaches 350,000 miles.

(3) The owner of a vehicle with a model year of 5 or less that is otherwise precluded from continued Philadelphia limousine service under paragraph (2) may continue in service for 1 year upon the successful filing of a waiver petition as provided in § 1005.23 and completion of a compliance inspection. The 1 additional year of service shall run from the date the vehicle reached 350,000 miles or the date the Authority granted the waiver petition, whichever occurred first. The expiration date will be noted in the waiver decision.

(d) *Imputed mileage.*

(1) A vehicle with an odometer reading that differs from the number of miles the vehicle has actually traveled or that has had a prior history involving the disconnection or malfunctioning of an odometer or which appears to the Authority to have an inaccurate odometer reading based on prior inspection records, will be assigned an imputed mileage equal to 3,333 miles per month from the last reliable odometer recording through the date of inspection. If a reliable baseline odometer reading cannot be ascertained, the vehicle may not be introduced for service or continue in service as a limousine.

(e) *Reporting of odometer malfunctions.* A certificate holder or limousine driver who knows or suspects that the odometer reading of a limousine differs from the number of miles the limousine has actually traveled shall disclose that status to the Enforcement Department immediately.

(f) *Penalties.* A person determined to have intentionally manipulated or disconnected the odometer of a limousine with the intent of reducing or limiting the cumulative mileage registered on the odometer will be subject to a \$1,000 fine and a cancellation of rights issued by the Authority, or both.

§ 1055.4. Basic vehicle standards.

(a) *State vehicle standards.* In addition to standards required under the act, this part and orders of the Authority, a limousine must continually satisfy the applicable Department of Transportation equipment inspection standards stated in 67 Pa. Code Chapter 175 (relating to vehicle equipment and inspection) when providing limousine service, except where those standards are exceeded or otherwise altered by this subpart.

(b) *Standard limousine vehicle requirements.* Each limousine is subject to the following requirements:

(1) A limousine must be registered with the Department of Transportation and obtain commercial registration plates identifying the limousine's class of service. Regular license plates cannot be used on vehicles operating under Authority jurisdiction.

(2) A limousine must be equipped with handgrips in the passenger compartment for use while entering or exiting the vehicle.

(3) A limousine must be equipped with working seatbelts for every passenger and the driver.

(4) A limousine must have four full sized tires which continuously meet or exceed the applicable standards of 67 Pa. Code § 175.80 (relating to vehicle inspection) and otherwise comply with the Authority's tire requirements, which include the following:

(i) Snow tires or all-weather tires on the drive wheels between October 1 and April 1.

(ii) A full sized and usable spare tire that complies with the standards of this section properly stored in the limousine.

(iii) Properly affixed and matching hubcaps or wheel covers for all four tires.

(5) A limousine may not use retread tires.

(6) A limousine must have a trunk or storage area large enough to accommodate a folded manual wheelchair.

(7) A limousine may not be equipped with a push bumper.

(8) The interior, exterior and trunk compartment of a limousine must be clean so as to present a positive appearance and to prevent possible transfer of dirt, dust, grease, paint or other markings to a passenger's clothing or luggage.

(9) Spare tires in the trunk must be covered.

(10) A limousine's passenger seats may not be torn, have protruding springs or other material capable of tearing a passenger's skin or clothing. Passenger seat tears must be properly repaired and may not be mended with tape.

(11) A limousine's interior must consist of matching features, including door panels.

(12) Except upon a passenger's request to the contrary, the passenger area of a limousine must remain a constant temperature between 60° and 78° Fahrenheit.

(13) A limousine must be free of objectionable odors. For example, a limousine may not smell like urine, feces, animals, insects, decomposing organisms, poor human hygiene or garbage.

(14) A limousine's exterior paint must be in good repair and free of damage.

(15) In additions to other posting required by this subpart, a limousine must have posted in the passenger compartment in a place easily observed by passengers information on how to submit a limousine service related complaint to the Authority in both written English and Braille.

(16) The Authority may require the installation of a separate heating and air conditioning system in a large or stretched limousine if necessary to comply with paragraph (12).

(c) *Interstate drivers.* No requirement of this subpart, or any Authority regulation, may be interpreted to disrupt or interfere with interstate commerce exclusively regulated by or preempted by the government of the United States, including such commerce addressed by the Real Interstate Drivers Equity Act of 2002 (49 U.S.C.A. §§ 13102 and 14501.)

(d) *Smoking prohibited.* Persons may not smoke in a limousine.

(e) *Advertising prohibited.* The display of advertisements on the exterior or interior of a limousine is prohibited.

(f) *Inspection by certificate holder.* A certificate holder shall inspect each of its limousines on a daily basis to confirm that the limousine complies with this subpart.

§ 1055.5. Required documents.

A limousine must contain the following documents for review by an inspector upon request:

(1) Proof of current and valid financial responsibility. .

(2) Proof of vehicle registration.

(3) A current trip sheet as provided in § 1057.17 (relating to trip sheet requirements).

§ 1055.6. Transportation of blind or deaf persons with dog guides.

Limousines must transport dogs trained for the purpose of guiding blind or deaf persons when accompanying blind or deaf persons paying a regular fare. The guide dogs must be properly leashed and may not occupy a seat.

Subchapter B. LIMOUSINE INSPECTIONS

- Sec.
- 1055.11. Scheduled compliance inspections.
- 1055.12. Offsite inspections.
- 1055.13. Failure to appear for scheduled inspection.
- 1055.14. Field inspections.
- 1055.15. Failure to submit to field inspection.
- 1055.16. Reinspection.
- 1055.17. Removal of vehicle and change of license plate.
- 1055.18. Attendance at scheduled inspection.
- 1055.19. Prerequisites to inspection.
- 1055.20. Approved models and conditions.
- 1055.21. Reconstructed vehicles prohibited.

§ 1055.11. Scheduled compliance inspections.

In addition to any other inspections required or permitted under the act, this part or an order of the Authority, up to 25% of each certificate holder's limousines registered with the Authority may be required to submit to a scheduled compliance inspection on an annual basis and at a time and location designated by the Authority. The

Enforcement Department will designate each limousine for compliance inspection as provided in this section.

§ 1055.12. Offsite inspections.

With the consent of the certificate holder, inspections scheduled under this subsection may be conducted by the Enforcement Department at the certificate holder's facility provided the following conditions are met:

(1) The certificate holder owns and operates at least 50 Authority-certified limousines.

(2) The certificate holder's facility is a licensed Pennsylvania inspection station certified as provided in 75 Pa.C.S. § 4721 (relating to appointment of official inspection stations).

(3) The facility is within 30 miles of the TLD's Headquarters.

(4) The inspection fee for each limousine scheduled for inspection will be double the standard TLD inspection fee as provided in § 1001.43 (relating to Authority fee schedule).

(5) Each vehicle that fails an inspection for a cause that cannot be fully remedied before the end of the Enforcement Department's offsite inspection shall be presented for reinspection at the Authority facility designated by the TLD.

§ 1055.13. Failure to appear for scheduled inspection.

If a limousine fails to appear for an inspection as provided in § 1055.11 (relating to scheduled compliance inspections) or another inspection scheduled by the Authority as provided in the act, this part or an order of the Authority, the certificate holder will be charged a rescheduling fee as provided in § 1001.43 (relating to Authority fee schedule), in addition to any penalty entered against the certificate holder.

§ 1055.14. Field inspections.

(a) Inspectors may stop and inspect limousines in operation, or appearing to be in operation, to ensure continued compliance with the act, this part or any order of the Authority.

(b) Upon field inspection, an inspector may instruct a limousine driver to drive the limousine directly to TLD Headquarters for a compliance inspection if the inspector believes that the limousine is not in compliance with this subpart and represents a public safety concern.

§ 1055.15. Failure to submit to field inspection.

(a) Upon instruction by an inspector, a limousine driver shall stop the limousine and permit the inspector to conduct a field inspection of the limousine as provided in § 1055.14 (relating to field inspections).

(b) If a limousine driver fails to permit a full field inspection, the limousine will be placed out of service immediately, as provided in § 1003.32 (relating to out of service designation) or impounded as provided in § 1055.31 (relating to impoundment of vehicles and equipment).

(c) A person determined to have refused the direction of an inspector to submit a limousine to a field inspection will be subject to a \$1,000 fine and a cancellation of rights issued by the Authority, or both.

§ 1055.16. Reinspection.

In the event a limousine fails any Authority inspection or is removed from limousine service by the Authority for

any reason, the limousine may not resume limousine service until a compliance inspection is successfully completed by the Authority.

§ 1055.17. Removal of vehicle and change of license plate.

(a) A certificate holder shall report the removal of a vehicle from Philadelphia limousine service to the Manager of Administration at TLDAdmin@philapark.org within 48 hours of removal.

(b) A certificate holder shall report the change of the Department of Transportation license plate issued to a limousine to the Manager of Administration at TLDAdmin@philapark.org within 48 hours of the license plate change.

§ 1055.18. Attendance at scheduled inspection.

(a) The certificate holder or its attorney-in-fact shall attend each limousine inspection conducted by the Authority, except field inspections as provided in § 1055.14 (relating to field inspections).

(b) The attorney-in-fact shall appear with the original power of attorney, which is in compliance with § 1001.28 (relating to power of attorney).

§ 1055.19. Prerequisites to inspection.

(a) The Authority will not initiate an inspection of a limousine, except as provided in § 1055.14 (relating to field inspections), if the limousine is out of compliance with the act, this part or an order of the Authority.

(b) The Authority will not initiate an inspection of a limousine, except as provided in § 1055.14, if the certificate holder is out of compliance with the act, this part or an order of the Authority, including the following sections of this subpart:

(1) Section 1051.3 (relating to annual rights renewal process).

(2) Section 1051.5 (relating to ineligibility due to conviction or arrest).

(3) Section 1051.6 (relating to payment of outstanding fines, fees, penalties and taxes).

(c) A limousine determined to be unfit for inspection due to a violation of this section shall be placed out of service as provided in § 1003.32 (relating to out of service designation).

§ 1055.20. Approved models and conditions.

The Authority will publish a list of approved makes and models of vehicles by classification permitted for use as limousines, which will be available at www.philapark.org/tld.

§ 1055.21. Reconstructed vehicles prohibited.

Salvaged or reconstructed vehicles may not provide limousine service.

Subchapter C. IMPOUNDMENT OF VEHICLES AND EQUIPMENT

Sec.

1055.31. Impoundment of vehicles and equipment.

§ 1055.31. Impoundment of vehicles and equipment.

Applicable provisions of §§ 1017.51 and 1017.52 (relating to impoundment of vehicles and equipment) apply to limousines and limousine related equipment determined to be in violation of the act, this part or an order of the Authority.

CHAPTER 1057. LIMOUSINE DRIVERS

Sec.

- 1057.1. Purpose and scope.
- 1057.2. Certification required.
- 1057.3. Continuing certificates.
- 1057.4. Ineligible persons for limousine driver certificate.
- 1057.5. Standards for obtaining a limousine driver's certificate.
- 1057.6. Application changes.
- 1057.7. Limousine driver training.
- 1057.8. Certain training subjects.
- 1057.9. Limousine driver test.
- 1057.10. Expiration and renewal of certificate.
- 1057.11. Driver requirements.
- 1057.12. Additional requirements.
- 1057.13. Interstate commerce regulation.
- 1057.14. Limousine driver's certificate upon cancellation.
- 1057.15. General limousine driver reports.
- 1057.16. Limousine driver reports after accident.
- 1057.17. Trip sheet requirements.

§ 1057.1. Purpose and scope.

(a) This chapter establishes minimum qualifications for limousine drivers.

(b) A certificate holder may impose more stringent standards in the selection of its limousine drivers.

§ 1057.2. Certification required.

(a) Only a limousine driver may provide limousine service.

(b) A limousine driver shall carry and display an original limousine driver's certificate on the sun visor of the limousine on the driver's side with the front of the certificate (picture) facing the rear seat at all times.

(c) A limousine driver may not drive a limousine with a mutilated, damaged or illegible limousine driver's certificate.

(d) Only one limousine driver's certificate at a time may be displayed in a limousine.

(e) A limousine driver's certificate is not transferable.

§ 1057.3. Continuing certificates.

(a) Beginning on _____, (*Editor's Note:* The blank refers to the effective date of adoption of this proposed rulemaking.), driver certification rights previously issued by the Authority under section 5706 of the act (relating to driver certification program) shall be designated by the certified driver as either a taxicab driver's certificate or limousine driver's certificate at the time those rights are scheduled for renewal as provided in § 1051.3 (relating to annual rights renewal process).

(b) If all other terms of renewal are met, the TLD will renew the driver's certificate only for the rights selected by the renewing driver as provided in subsection (a).

(c) This section will not prohibit a limousine driver from obtaining a separate taxicab driver certificate as provided in Subpart B (relating to taxicab drivers).

§ 1057.4. Ineligible persons for limousine driver certificate.

In addition to other prohibitions provided in this part, an applicant for a limousine driver's certificate shall be automatically ineligible under the following circumstances:

(1) The applicant does not hold a current driver's license.

(2) The applicant does not speak the English language sufficiently to communicate with the general public, to understand highway traffic signs and signals in the English language, to respond to official inquiries and to make verifiable entries on reports and records.

(3) The applicant has failed to complete limousine driver testing as prescribed by this chapter.

(4) The applicant is unable to provide information required under this subpart.

(5) The applicant is 20 years of age or younger.

(6) The applicant does not have a driving history in the United States of at least one continuous year prior to the date of application.

§ 1057.5. Standards for obtaining a limousine driver's certificate.

(a) *General.* Except as provided in § 1057.3 (relating to continuing certificates), to obtain a limousine driver's certificate an individual shall complete and file with the Director a Form DR-1 "Driver Application," along with the application fee as provided in §§ 1001.42 and 1001.43 (relating to mode of payment to the Authority and; Authority fee schedule). The DR-1 may be obtained on the Authority's web site at www.philapark.org/tld.

(b) *DR-1 application.* The completed DR-1 must be verified as provided in § 1001.36 (relating to verification and affidavit) and include the information required by the Authority, including the following:

(1) The full and legal name of the individual applicant.

(2) The applicant's residential address and telephone number. Applicants may submit an email address to become eligible for service of notice as provided in § 1001.51 (relating to service by Authority).

(3) The applicant's driver's license.

(4) The applicant's Social Security card or documents confirming a legal permanent resident status or an alien authorized to work status, if applicable.

(5) An authorization to release the applicant's criminal history report from the State Police to the Authority.

(6) A certified copy of the applicant's criminal history report for each jurisdiction other than this Commonwealth in which the applicant resided during the 5 years immediately preceding the filing of the application. Each criminal history record shall be certified within 30 days of the filing of the application.

(7) An authorization to release the applicant's driver history report from the Department of Transportation to the Authority.

(8) A certified copy of the driver history report from each jurisdiction, other than this Commonwealth, in which the applicant was licensed during the 5 years immediately preceding the filing of the application. Each driver history report shall be certified within 30 days of the filing of the application.

(9) Submit a Form DR-2 "Driver Medical History," which is available on the Authority's web site at www.philapark.org/tld. The requirement to complete the DR-2 will be waived for applicants who possess a current physical exam card issued under the requirements of a commercial driver's license in this Commonwealth. See 49 CFR 391.41—391.49 (relating to physical qualifications and examinations).

(10) A list of all Authority or PUC certificates or other rights in which the applicant has any controlling interest.

(11) A written statement verified as provided in § 1001.36, which provides that:

(i) The applicant has not been subject to a conviction as provided in § 1051.2 (relating to definitions).

(ii) The applicant is in compliance with § 1051.6 (relating to payment of outstanding fines, fees, penalties and taxes).

(iii) The applicant is current on all reports due in relation to other rights issued by the Authority.

(iv) The applicant can comply with the requirements of this chapter.

§ 1057.6. Application changes.

(a) An applicant for a limousine driver's certificate shall immediately notify the Authority in writing of any changes that affect the accuracy of the information in the application while the application is under review by the Authority.

(b) False information provided by an applicant for a limousine driver's certificate will result in the denial of the application or cancellation of the driver's certificate if issued prior to discovery of the false information.

§ 1057.7. Limousine driver training.

Limousine driver applicants will be provided with training information for review.

§ 1057.8. Certain training subjects.

(a) *Continued training subjects.* The Authority will continually monitor issues related to limousine drivers, including safety and customer service, and maintain a current list of limousine driver training subjects on its web site at www.philapark.org/tld including the following subjects:

- (1) Authority regulations governing limousine drivers.
- (2) Authority regulations governing limousine certificate holders.
- (3) Authority regulations governing equipment.
- (4) Penalties for violation of Authority regulations.
- (5) Overview of the administrative process related to violations.
- (6) Identification and address of the Authority offices responsible for administering the act.
- (7) Driving and customer safety issues, including the following:
 - (i) Defensive driving techniques.
 - (ii) Emergency aid.
 - (iii) Vehicle and equipment inspections.
 - (iv) Crime prevention.
 - (v) Accident reporting procedures.
- (8) Issues related to the geography of Philadelphia, including the following:
 - (i) Map reading.
 - (ii) Overview of major street and traffic patterns.
 - (iii) Identification and location of popular landmarks and locations.

(b) The applicant shall schedule a time and date for testing under § 1057.9 (relating to limousine driver test) with the Manager of Administration.

§ 1057.9. Limousine driver test.

(a) The Authority will develop a test to assure applicants for a limousine driver's certificate understand the information identified in § 1057.8 (relating to certain training subjects).

(b) The test will be administered in the English language. The assistance of interpreters will not be permitted.

(c) Except as limited by this chapter, the test may be administered in a manner and in a form deemed appropriate by the Authority. The test may include:

- (1) Questions requiring a written response.
- (2) Multiple choice questions.
- (3) Oral questions.
- (4) Demonstration of an ability to operate a motor vehicle and use limousine related equipment.
- (5) Demonstration of an ability to read, write and speak the English language as required by this part.

(d) Failure to pass the test required by this section after three attempts will render the application void.

(e) Failure to pass the test required by this section within 90 days of the filing of the DR-1 application as provided in § 1057.5 (relating to standards for obtaining a limousine driver's certificate) will render the application void.

(f) Upon the denial or voiding of a DR-1 as provided in this chapter, an applicant may not reapply for registration for 6 months.

§ 1057.10. Expiration and renewal of certificate.

(a) A limousine driver's certificate will expire 1 year from the date of issuance and shall be renewed annually as provided in § 1051.3 (relating to annual rights renewal process).

(b) A limousine driver in good standing is not required to repeat driver training at the time of certificate renewal.

(c) A suspended limousine driver's certificate must be renewed on schedule as provided in § 1051.3 and the suspended limousine driver must submit to retraining and testing if required in the suspension order.

(d) The Authority will not renew a limousine driver's certificate that fails to meet the minimum service requirements in § 1057.12 (relating to additional requirements).

§ 1057.11. Driver requirements.

(a) *Preservice inspection.* Prior to driving a limousine before each shift, a limousine driver shall perform a vehicle inspection to confirm that the limousine complies with this subpart. The inspection must include the following:

(1) At least one full walk around the limousine to assure the exterior of the vehicle is in compliance with this subpart, including the following:

(i) The exterior of the limousine is not damaged and no parts of the vehicle have been removed. For example, the hood and doors of the limousine are present and in the proper location.

(ii) The limousine's tires are full size and the treads are not worn below the level permitted under § 1055.4(b)(4) (relating to basic vehicle standards).

(2) The opening and closing of all doors, the hood, and the trunk to assure proper functionality and the absence of any sharp edges that may injure a passenger or damage clothing, luggage or other property.

(3) An inspection of the interior of the limousine to make certain that the vehicle is clean and otherwise in compliance with this subpart.

(4) Use of the heater and air conditioner to confirm the limousine's ability to maintain the air temperature required under § 1055.4(b)(12).

(b) *Permitted fares.* A limousine driver may not charge fares or rates for service other than those provided in the certificate holder's tariff as provided in Chapter 1063 (relating to tariffs).

(c) *Rules of the road.* A limousine driver shall continually provide limousine service in a manner consistent with 75 Pa.C.S. (relating to Vehicle Code) and the Philadelphia Traffic Code (12 Phila. Code §§ 100-3012).

(d) *Driver history report.* A driver history report that evidences a violation or series of violations which relate to dangerous driving activities may form the basis of a denial of a limousine driver's certificate application, a denial of the annual renewal as provided § 1051.3 (relating to annual rights renewal process), or a formal complaint to suspend or cancel the limousine driver's certificate.

§ 1057.12. Additional requirements.

(a) Each limousine driver shall know the rights and limitations of any limousine used to provide limousine service, including applicable geographical limitations.

(b) A limousine driver may not provide limousine service with an expired limousine driver's certificate.

(c) A limousine driver may not provide limousine service without a valid driver's license.

§ 1057.13. Interstate commerce regulation.

No requirement of this subpart, or any Authority regulation, may be interpreted to disrupt or interfere with interstate commerce exclusively regulated by or preempted by the government of the United States, including commerce addressed by the Real Interstate Drivers Equity Act of 2002 (49 U.S.C.A. §§ 13102 and 14501.)

§ 1057.14. Limousine driver's certificate upon cancellation.

(a) A cancelled limousine driver's certificate may not be reinstated.

(b) An individual subject to cancellation of a limousine driver's certificate may not apply to the Authority for a new driver's certificate, including a taxicab driver's certificate as provided under § 1021.5 (relating to standards for obtaining a taxicab driver's certificate), for 2 years from the date the cancellation was entered. If the individual subject to cancellation also holds a taxicab driver's certificate, that driver's certificate will be cancelled with the taxicab driver's certificate.

(c) The circumstances related to the cancellation of a limousine driver's certificate will be considered by the Authority when reviewing any subsequent application submitted by that individual.

§ 1057.15. General limousine driver reports.

A limousine driver shall make timely written reports to the Manager of Administration as required under the act, this part or an order of the Authority, including the following:

(1) Invalidation of a driver's license for any reason shall be reported with 48 hours.

(2) A change of address shall be reported within 15 days.

(3) A change of name shall be reported to the Authority within 15 days of occurrence or if a court proceeding is required, within 15 days of the court filing.

§ 1057.16. Limousine driver reports after accident.

A limousine driver is involved in an accident while driving a limousine that results in property damage, personal injury or death shall do the following:

(1) Stop immediately.

(2) Take necessary precautions to prevent further accidents at the scene.

(3) Render reasonable assistance to injured persons. Moving of injured persons by a limousine driver should not be undertaken if likely to cause further injury.

(4) Provide driver's license, registration, insurance, other information required by Pennsylvania law and the name of the limousine's certificate holder.

(5) Report the details of the accident as soon as practicable as follows:

(i) To the police if required under 75 Pa.C.S. § 3746 (relating immediate notice of accident to police department).

(ii) To the certificate holder.

§ 1057.17. Trip sheet requirements.

(a) A driver of a luxury type vehicle engaged in providing limousine service shall have a trip sheet in the vehicle evidencing that the vehicle is in service. The trip sheet must contain the following information:

(1) The limousine driver's name, the limousine number, the certificate holder and the dispatcher.

(2) The starting location and time of each trip.

(3) The ending location and time of each trip.

(4) A designation indicating whether a trip resulted through the dispatcher or direct call from the passenger.

(5) The fare paid for the trip.

(6) The amount of any gratuity paid to the limousine driver.

(b) At the conclusion of the trip, the driver shall record the ending time on the trip sheet.

(c) The trip sheet shall be retained by the certificate holder as provided in § 1051.10 (related record retention).

CHAPTER 1059. APPLICATIONS AND SALE OF RIGHTS

Sec.	
1059.1.	Purpose.
1059.2.	Definitions.
1059.3.	Applications for limousine rights.
1059.4.	Authority approval of sale of rights.
1059.5.	Agreement of sale.
1059.6.	Application for sale of transferable rights.
1059.7.	Required application information.
1059.8.	Additional application requirements.
1059.9.	Financial fitness generally.
1059.10.	Regulatory compliance review.
1059.11.	Authority review.
1059.12.	Approval process and closing on sale.
1059.13.	Settlement sheet.
1059.14.	Commencement of service.

§ 1059.1. Purpose.

This chapter establishes and prescribes Authority regulations and procedures for applications for limousine certificates and sale of certain rights issued by the Authority.

§ 1059.2. Definitions.

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

Limousine certificate—A certificate granting the owner the right to operate a class of limousine service under this subpart.

Transferable rights—A limousine certificate.

Sale—Any change in ownership of a transferable right, including a change in ownership of securities or other ownership interests in an entity that owns transferable rights.

Transfer fee—The nonrefundable fee charged by the Authority to review an application to sell transferable rights.

§ 1059.3. Applications for limousine rights.

(a) To obtain a certificate to operate a class of limousine service as provided in Chapter 1053 (relating to standard classifications of limousine service), a person shall complete and file with the Director a Form LM-2 “Limousine Certificate Application,” along with the application fee as provided in §§ 1001.42 and 1001.43 (relating to mode of payment to the Authority; and Authority fee schedule). The LM-2 may be obtained on the Authority’s web site at www.philapark.org/tld.

(b) The standards of review applicable to LM-2 applications will be the same as those applicable to a proposed buyer of rights as provided in this chapter.

§ 1059.4. Authority approval of sale of rights.

(a) *Sale of transferable rights*. The sale of transferable rights without advance approval of the Authority is void by operation of law.

(b) *Sale of securities in transferable rights*. The sale of any number of securities or other ownership interest in an entity that owns transferable rights will be considered a sale under this chapter.

§ 1059.5. Agreement of sale.

(a) The parties to a proposed sale of transferable rights shall complete an agreement of sale detailing the terms of the transaction, including provisions required by this chapter, and file the agreement with the Director.

(b) An agreement of sale for transferable rights is void by operation of law if not executed by all parties in the presence of the Director or a designee.

§ 1059.6. Application for sale of transferable rights.

(a) *Application documents*.

(1) To initiate a sale, the owner and proposed buyer shall file an original and one copy of Form No. SA-1 “Sale Application,” the agreement of sale or transfer and other documents required by this chapter. The proposed buyer will be considered the applicant. The SA-1 is available at www.philapark.org/tld.

(2) The SA-1 shall be filed in person with the Director.

(3) The Director will refuse to accept an application which is incomplete for any reason.

(4) Upon acceptance, the Director will submit a copy of the application documents to the Clerk and an application docket number will be assigned.

(b) *Application signatures*.

(1) Both parties to the sale shall execute the SA-1 in the presence of the Director or a designee.

(2) Except for individuals, an original executed and notarized resolution from the buyer and seller authorizing the execution of the sale documents must be included with the filing of the SA-1.

(3) The Authority may permit an SA-1 to be executed by an attorney-in-fact if the owner or proposed buyer are unable to appear and as provided in § 1001.28 (relating to power of attorney), in which case the owner will be required to attend the closing on the sale.

(c) *Verification and payment*. The SA-1 must be verified under § 1001.36 (relating to verification and affidavit) and be accompanied by payment of the transfer fee as provided in §§ 1001.42 and 1001.43 (relating to mode of payment to the Authority; and Authority fee schedule).

(d) *Multiple rights*. The SA-1 may be used to sell an unlimited number of transferable rights from one owner to one proposed buyer. The transfer fee required under subsection (c) will be based on the higher of the aggregate value of the sale or the transfer fee per right as provided in the Authority’s fee schedule.

(e) *Broker*. Documents intended for submission to the Director as part of the sale process must be prepared by a broker registered with the Authority as provided in Chapter 1061 (relating to brokers) or an attorney admitted to practice law by the Supreme Court of Pennsylvania.

§ 1059.7. Required application information.

(a) *The Form SA-1*. The SA-1 is a multipurpose form intended for use in the sale of different transferable rights and must be completed by the broker or attorneys, or both, in a manner consistent with the intentions of the sale.

(b) *Required information*. The completed SA-1 must include the information required by the Authority, including the following:

(1) The certificate numbers.

(2) The name of the proposed buyer and contact information, including a telephone number, an email address and a facsimile number.

(3) If the proposed buyer is a non-individual person, a contemporaneous certificate of good standing for the proposed buyer issued by the Corporation Bureau within 30 days of filing the SA-1.

(4) The name of any holding company as defined in § 1051.2 (relating to definitions) having an interest in the proposed buyer and a contemporaneous certificate of good standing for the holding company from the Corporation Bureau, or similarly authorized entity in another jurisdiction in the United States.

(5) The trade name, if any, of the proposed buyer and a copy of the trade name registration certificate, if applicable.

(6) The mailing address and physical address of the proposed buyer.

(7) A statement of the proposed buyer’s corporate purpose, if applicable.

(8) A list of current corporate officers, directors, stockholders, key employees and persons with controlling interests as defined in § 1051.2, if applicable with an indication of each individual’s title.

(9) A list of all Authority, PUC and Federal common carrier rights held by the proposed buyer and any of the persons listed in response to paragraph (8), including taxicab medallions.

(10) The name, address, telephone number, facsimile number, and email address of any attorney assisting the proposed buyer with the application process, together with an acknowledgement that § 1061.1(b) (relating to broker registration) has been reviewed by the proposed buyer.

(11) A certified criminal history report from any jurisdiction in which the following persons have lived, including part-time residences, in the preceding 5 years through the date of application:

- (i) An individual proposed buyer.
- (ii) Any individual with a controlling interest in the proposed buyer.
- (iii) Any individual with a controlling interest in the holding company of a proposed buyer.
- (iv) A key employee.

(12) A verified statement indicating that the persons identified in paragraph (11) have not been subject to a conviction as defined in § 1051.2 and that the proposed buyer has read and understands the prohibitions of ownership as provided in § 1051.5 (relating to ineligibility due to conviction or arrest).

(13) Verified statements from the owner and proposed buyer confirming that each are in compliance with section § 1051.6 (relating payment of outstanding fines, fees, penalties and taxes).

(14) The Federal Tax Identification Number for the owner and proposed buyer.

(15) The Philadelphia Business Privilege License numbers issued to the owner and proposed buyer.

§ 1059.8. Additional application requirements.

(a) *The agreement of sale.* The agreement of sale required under this chapter must include the information required by the Authority, including the following:

- (1) All parties to the transaction.
- (2) A description of the transaction.
- (3) The identification number of each right subject to sale.
- (4) The total consideration for the sale and for each right transferred if the sale involves multiple rights in United States dollars, and any payment terms required by the Authority, including the following:

- (i) The assumption of any loan or debt.
- (ii) Contingencies and nonmonetary consideration.
- (iii) Monetary consideration.

(5) An acknowledgement initialed by all parties that the agreement is subject to the laws and jurisdiction of the Commonwealth, the act, this part and orders of the Authority.

(b) *Execution of agreement of sale.*

(1) The proposed agreement of sale must be signed by all parties before the Director or a designee on or before the date the SA-1 is filed.

(2) The Authority may permit an agreement of sale to be executed by an attorney-in-fact if the owner or proposed buyer are unable to appear and as provided in § 1001.28 (relating to power of attorney).

(c) *Loan documents.*

(1) Any consideration identified in subsection (a)(4) that is provided to a proposed buyer must be evidenced in

the form of written agreements. For example, the loaning of cash money to a proposed buyer by a bank must be confirmed through loan documents executed by the borrowing party.

(2) Documents required by paragraph (1) shall be submitted to the Director at the time the SA-1 is filed, except that specific financial information that cannot be known until on or about the closing date for the sale may be left blank. The final loan documents must be executed at the closing on the sale.

(d) *Continuing service.* The owner of the rights subject to sale shall confirm that the rights will remain in active service pending review of the application, unless prohibited or authorized for suspension by a provision of this part or an order of the Authority.

(e) *Notice.*

(1) Notice of applications will be published in the *Pennsylvania Bulletin* as provided in § 1003.53 (relating to applications requiring notice).

(2) The parties to the sale will receive notices related to the SA-1 as provided in § 1001.51 (relating to service by the Authority).

§ 1059.9. Financial fitness generally.

The Authority will review the financial fitness of the proposed buyer, including a review of the following:

(1) Bank statements of the proposed buyer evidencing ownership of a bank account holding not less than the greater of \$25,000 or 2% of the medallion sale price in unencumbered and available funds. The funds under review must have been in the bank account for at least 3 months.

(3) The credit report of each of the persons identified in § 1059.7(b)(8) (relating to required application information) evidencing a credit score of at least 600 for each person.

(4) The absence of any outstanding and unappealed civil judgments against each of the parties required to submit a criminal history report under § 1059.7(b)(8).

§ 1059.10. Regulatory compliance review.

(a) An SA-1 will be denied if the proposed buyer has a regulatory compliance record with the Authority or the PUC which evidences a disregard for the public interest.

(b) A proposed buyer that has been subject to the suspension, revocation or cancellation of common carrier rights by the Authority or the PUC during the 1-year period immediately preceding the date the SA-1 was filed with the Authority will be ineligible to purchase rights.

§ 1059.11. Authority review.

(a) Notice of the granting of an application for a limousine certificate or approval of a sale will be published in the *Pennsylvania Bulletin*.

(b) The SA-1 will be reviewed as provided in § 1003.51 (relating to applications generally).

(c) The SA-1 will be denied if the proposed buyer or any person with a controlling interest in the proposed buyer or a key employee of the proposed buyer is in violation of any provision of this part or if the Authority determines that the sale is not in the public interest. The SA-1 may be denied if the owner is in violation of any provision of this part.

§ 1059.12. Approval process and closing on sale.

(a) If the Director determines that an applicant for a limousine certificate or a proposed buyer of rights is qualified as provided in the act, this part or an order of the Authority, a recommendation to approve the application or sale will be presented to the Authority for approval at its next regularly scheduled meeting. The Authority may require that proposals from the Director as provided in this section first be presented to a committee of the Board at a public meeting.

(b) Upon approval of the sale by the Authority, the Director will schedule the parties to meet at a time and location where an Authority staff member will witness the closing of the transaction.

(c) An Authority staff member must witness the execution of each document by the owner and proposed buyer, or their designated agents. Any closing not witnessed by Authority staff is void as provided in sections 5711 (c)(5) and 5718 of the act (relating to power of Authority to issue certificates of public convenience; and restrictions).

§ 1059.13. Settlement sheet.

(a) The owner and proposed buyer shall use the Form SA-2 "Standard Settlement Sheet" at any closing on the sale of rights. The SA-2 is available on the Authority's web site at www.philapark.org/tld.

(b) The SA-2 must include the information required by the Authority, including the following:

(1) The names and addresses of the owner and proposed buyer.

(2) The names and address of the brokers or attorneys used in the transaction.

(3) The name and address of the lender and a designated contact person employed by the lender, if any.

(4) A copy of all certificates or other documents authorizing the lender to make commercial loans in this Commonwealth.

(5) The amount, term and interest rate of any loan used to purchase the rights.

(6) The certificate numbers.

(7) The total consideration for the rights to be sold and any payment terms, including loan contingencies and nonmonetary consideration.

(8) An allocation of funds expended in the transaction.

(9) Fees and costs associated with the sale, including those payable to any broker or attorney, or both.

(10) Signatures of the owner and proposed buyer, or their designated agents, and the brokers.

§ 1059.14. Commencement of service.

A regulated party shall, within 30 days from the date of receipt of a certificate, begin operating and furnishing service. If it has not commenced operating and furnishing the authorized service within 30 days, appropriate proceedings shall be initiated to terminate the certificate unless, upon specific permission as provided in § 1051.13 (relating to voluntary suspension of certificate), the time for commencement of service is extended.

CHAPTER 1061. BROKERS

Sec.
1061.1. Broker registration.

§ 1061.1. Broker registration.

(a) An individual seeking registration as a broker shall apply to the Director as provided in Chapter 1029 (relating to taxicabs).

(b) Any party may use an attorney admitted to practice law before the Supreme Court of Pennsylvania, in lieu of a broker.

CHAPTER 1063. TARIFFS

Sec.
1063.1. Definition.
1063.2. Limousine rates and tariffs.

§ 1063.1. Definition.

The following word, when used in this subchapter, has the following meaning, unless the context clearly indicates otherwise:

Tariff—Schedules of rates, rules, regulations, practices or contracts involving any rate and schedules showing the method of distribution of the facilities of the certificate.

§ 1063.2. Limousine rates and tariffs.

(a) Certificate holders shall comply with section 5703 of the act (relating to rates) and this chapter as to rates and tariffs.

(b) Limousine rates shall be based solely on time, and shall be contained in a tariff filed, posted and published as provided in the act and this part. The use of meters is prohibited. The initial time period and each subsequent increment must be at least 30 minutes.

(c) Except when inconsistent with the act, this part or an order of the Authority, limousine certificate holders shall charge rates and maintain and file tariffs with the Director in a manner consistent with relevant portions of 52 Pa. Code Chapter 23 (relating to tariffs for common carriers).

CHAPTER 1065. INSURANCE REQUIRED

Sec.
1065.1. Limousine insurance.

§ 1065.1. Limousine insurance.

(a) *Insurance requirements generally.* Except as provided in subsection (b), a limousine certificate holder shall comply with the relevant portions of Chapter 1025 (relating to taxicabs), including the filing of Form E and Form K documents.

(b) *Limousine insurance required.*

(1) A regulated party may not engage in limousine service and the certificate of public convenience will not be issued, or remain in force, except as provided in § 1025.4 (relating to applications to self-insure) until there has been filed with and approved by the Authority a certificate of insurance by an insurer authorized to do business in this Commonwealth, to provide for the payment of valid accident claims against the insured for bodily injury to or the death of a person, or the loss of or damage to property of others resulting from the operation, maintenance or use of a limousine in the insured authorized service.

(2) The liability insurance maintained by a limousine certificate holder shall be in an amount at least \$1,500,000 to cover liability for bodily injury, death or property damage incurred in an accident arising from authorized service. The \$1,500,000 minimum coverage is

split coverage in the amounts of \$500,000 bodily injury per person, \$900,000 bodily injury per accident and \$100,000 property damage per accident. This coverage must include first party medical benefits in the amount of \$100,000 and first party wage loss benefits in the amount of \$100,000 for passengers and pedestrians. Except as to the required amount of coverage, these benefits must conform to 75 Pa.C.S. §§ 1701—1799.7 (relating to Motor Vehicle Financial Responsibility Law). First party coverage of the limousine driver of limousines must meet the requirements of 75 Pa.C.S. § 1711 (relating to required benefits).

(3) The certificate holder's loss history with a current or former insurer shall be released to the Authority

within 2 business days of a request by the Authority. The certificate holder shall authorize any release required by the insurer to facilitate the timely delivery of the loss history to the Authority.

(4) The Authority may direct insurers to file proof of insurance both electronically and in hard copy.

(5) The limits in paragraph (2) do not include the insurance of cargo.

(6) The requirements of § 1025.3 (relating to insurance required) do not apply to limousines.

[Pa.B. Doc. No. 11-105. Filed for public inspection January 14, 2011, 9:00 a.m.]
