

# PENNSYLVANIA BULLETIN

Volume 41  
Saturday, October 8, 2011 • Harrisburg, PA  
Number 41  
Pages 5335—5528

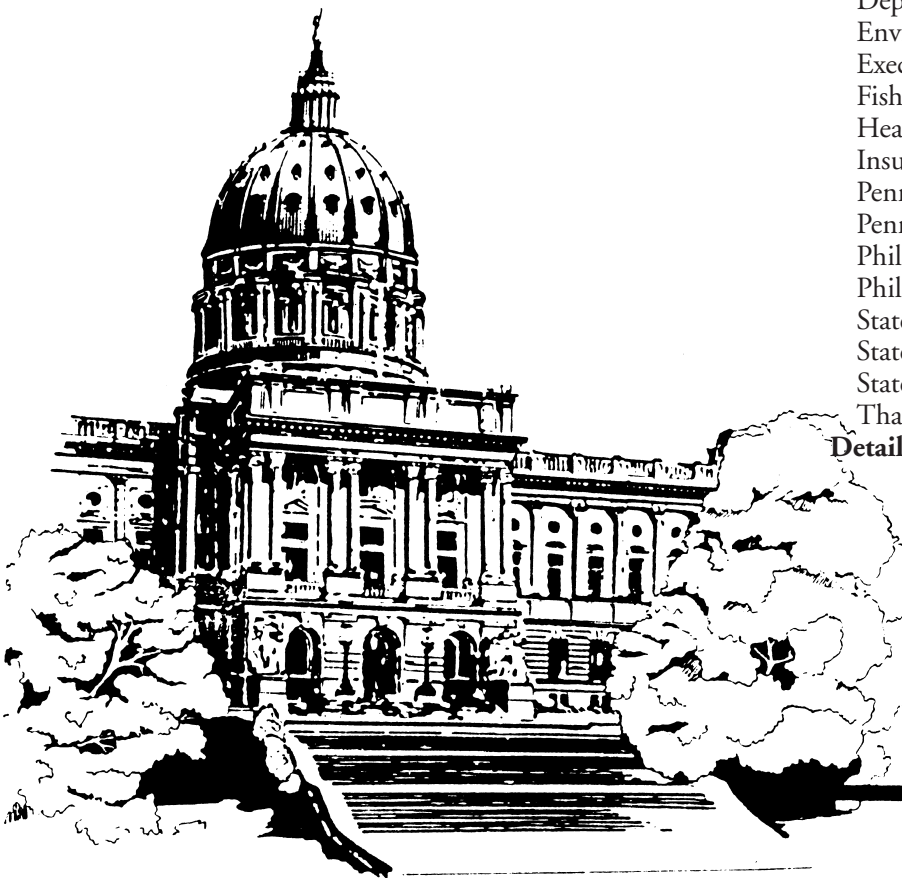
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(Master Transmittal Sheets):**

**No. 443, October 2011**

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**BULLETIN**

(ISSN 0162-2137)

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

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

## *Pennsylvania Bulletin*

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

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

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

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

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

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

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

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

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

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

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

### ***Pennsylvania Code***

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

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

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

### **How to Find Documents**

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

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

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

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

### Fiscal Notes

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

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

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# 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

## Title 4—ADMINISTRATION

### PART I. GOVERNOR'S OFFICE

[ 4 PA. CODE CHS. 6 AND 7a ]

[ EXECUTIVE ORDER NO. 2011-05 ]

### Enterprise Information Technology Governance

July 27, 2011

*Whereas*, commonwealth agencies under the governor's jurisdiction (enterprise) invest significant financial resources in obtaining, creating and supporting infrastructure and systems for the commonwealth's information technology (IT); and

*Whereas*, it is essential that the commonwealth utilize a central IT organization to govern, evaluate, coordinate and improve enterprise and agency IT planning, research, project prioritization, investment, and effectiveness; and

*Whereas*, The Administrative Code of 1929 requires administrative departments and several independent and departmental administrative boards to coordinate their work and activities with other departments, boards, and commissions; and

*Whereas*, IT investments and development efforts should be prioritized and coordinated across enterprise agencies to maximize efficiency and cost effectiveness, by enhancing information sharing and system compatibility through standardization, reducing expenditures for research and development, and enabling volume hardware and software purchases; and

*Whereas*, the Governor's Office of Administration (OA) and the Department of General Services have confirmed that an integrated IT strategy will improve organizational efficiency, streamline data collection and data sharing, and enhance the security of commonwealth IT infrastructure against the increasing risks posed by cyber attacks.

*Now, Therefore*, I, Tom Corbett, Governor of the Commonwealth of Pennsylvania, by virtue of the authority vested in me by the Constitution of the Commonwealth of Pennsylvania and other laws do hereby establish an enterprise IT governance structure within the Governor's Office of Administration, and order and direct as follows.



Governor

**Fiscal Note:** 2011-05. No fiscal impact; (8) recommends adoption.

#### Annex A

#### TITLE 4. ADMINISTRATION

#### PART I. GOVERNOR'S OFFICE

#### CHAPTER 6. ADDITIONAL COUNCILS AND COMMITTEES

#### Subchapter Q. (Reserved)

§§ 6.241—6.248. (Reserved).

#### CHAPTER 7a. ADDITIONAL MISCELLANEOUS PROVISIONS

#### Subchapter F. ENTERPRISE INFORMATION TECHNOLOGY GOVERNANCE

Sec.  
7a.71. Powers and duties.  
7a.72. Responsibilities.

- 7a.73. Effective date.  
 7a.74. Termination date.  
 7a.75. Rescission.

**§ 7a.71. Powers and duties.**

(a) With regard to information technology (IT) for agencies under the Governor's jurisdiction, the Governor's Office of Administration, Office for Information Technology (OA/OIT) will have responsibility for the following:

- (1) Developing and recommending to the Secretary of Administration priorities and strategic plans.
- (2) Consolidating infrastructure and support services.
- (3) Directing IT investments, procurement and policy.
- (4) Working to ensure that agencies comply with direction from OA/OIT regarding the provisions in this subsection.

(b) OA/OIT shall make recommendations to the Secretary of Administration regarding major changes to staffing and enterprise IT operational matters and otherwise has the authority to make enterprise decisions regarding the following:

- (1) Restructuring and operational matters related to IT consolidation.
- (2) Delivery of shared services.
- (3) Monitoring of project performance.
- (4) Other responsibilities within the scope of this subchapter.

**§ 7a.72. Responsibilities.**

The Office of Administration, through the Office for Information Technology (OA/OIT), will be responsible for the following:

- (1) *Governance and strategic planning.* OA/OIT shall create:

- (i) Annual enterprise information technology (IT) strategic plans including appropriate IT priorities, coordination and monitoring of resource use and expenditures, performance review measures, procurement and other governance and planning measures. OA/OIT shall review and approve individual agency IT strategic plans. OA/OIT shall consult with the Governor's Office of the Budget on budgetary matters relating to IT planning and procurement.

- (ii) An advisory structure, which may include agency Chief Information Officers (CIO), to advise OA/OIT regarding overall technology governance.

- (2) *Portfolio and project management, business process review.* OA/OIT shall:

- (i) Establish an IT portfolio management process for overall monitoring of IT program objectives, project alignment, budgets and expenditures.

- (ii) Identify common IT business functions within agencies, make recommendations for consolidation and integration and facilitate the use of common technology.

- (iii) Expand enterprise and agency use of project management methodologies and principles on IT projects, including measures to review project delivery and quality.

- (iv) Ensure agency compliance with the completion of required business process reviews as part of an agency or enterprise IT project.

- (3) *IT procurement and contract management.* A procurement organization within OA/OIT shall issue and support IT procurements for hardware, software and services. The procurement organization shall:

- (i) Negotiate, approve, issue and oversee IT solicitations, contracts contract amendments, renewals, work orders and change orders.

(ii) Determine appropriate technology and procurement methodology.

(4) *IT human resource management.*

(i) OA/OIT shall establish a direct reporting relationship of each executive agency CIO to the Commonwealth CIO.

(ii) The Commonwealth CIO will be responsible for final approval of agency IT senior management appointments. In consultation with each executive agency, the Commonwealth CIO will conduct performance reviews of executive agency CIOs.

(5) *IT enterprise standards.* OA/OIT shall:

(i) Establish an enterprise architecture framework and deploy enterprise-wide IT to do the following:

(A) Establish policies, processes and product standards.

(B) Perform technical reviews of agency systems.

(C) Review and make determinations of requests for exceptions to IT standards.

(ii) Develop and implement enterprise-wide efforts to standardize data elements and determine data ownership assignments.

(iii) Create and maintain a comprehensive enterprise IT inventory.

(iv) Monitor agency policy and standards compliance through an architectural review process and audits.

(6) *IT consolidation and services.* OA/OIT shall:

(i) Recommend and conduct the consolidation of agency IT services including infrastructure, personnel, operations and support services.

(ii) Establish and facilitate a process for the regular identification of IT shared services.

(iii) When consolidation occurs, develop and maintain service level agreements with client agencies to ensure that quality products and services are delivered.

(7) *Telecommunications and geospatial technologies governance.* To the extent that the following is not already incorporated in the enterprise annual strategic plan, OA/OIT shall establish a process for the development and implementation of:

(i) Enterprise telecommunications policy, services, infrastructure and also review and authorize requests for enhanced services.

(ii) IT services for geospatial technologies.

**§ 7a.73. Effective date.**

This subchapter takes effect immediately.

**§ 7a.74. Termination date.**

This subchapter will remain in effect unless revised or rescinded by the Governor.

**§ 7a.75. Rescission.**

Executive Order 2004-08 as Amended is rescinded.

[Pa.B. Doc. No. 11-1717. Filed for public inspection October 7, 2011, 9:00 a.m.]

**PART I. GOVERNOR'S OFFICE**  
**[ 4 PA. CODE CH. 6 ]**  
**[EXECUTIVE ORDER NO. 2011-04]**  
**Pennsylvania eHealth Collaborative**

July 27, 2011

*Whereas*, the privacy and security of all Pennsylvanians' health information is a priority of paramount importance to the government of this commonwealth; and

*Whereas*, patient safety and clinical and public health outcomes will be substantially improved by the ability to securely share health information electronically between healthcare providers; and

*Whereas*, the use of secure electronic health information sharing capabilities will significantly reduce preventable medical errors, lessen the likelihood of redundant tests and procedures, support healthcare delivery innovation, and diminish overall healthcare costs; and

*Whereas*, the Office of the National Coordinator for Health Information Technology (ONC), within the Office of the Secretary for the United States Department of Health and Human Services (HHS), is legislatively mandated, by the Health Information Technology for Economic and Clinical Health Act (HITECH Act) of 2009, to support the adoption of health information technology and the promotion of a nationwide health information network to improve healthcare; and

*Whereas*, the HITECH ACT provides funding through ONC for the development of statewide health information exchange (HIE) capabilities and to support other health information technology (HIT) related activities; and

*Whereas*, increased use of health information technology and electronic health records, to improve healthcare delivery, is in the best interests of the citizens, residents and healthcare consumers of Pennsylvania.

*Now, Therefore*, I, Tom Corbett, Governor of the Commonwealth of Pennsylvania, by virtue of the authority vested in me by the Constitution of the Commonwealth of Pennsylvania and other laws, do hereby establish the Pennsylvania eHealth Collaborative as hereinafter set forth.



Governor

**Fiscal Note:** 2011-04. No fiscal impact; (8) recommends adoption.

**Annex A**

**TITLE 4. ADMINISTRATION**  
**PART I. GOVERNOR'S OFFICE**

**CHAPTER 6. ADDITIONAL COUNCILS AND COMMITTEES**

**Subchapter AA. (Reserved)**

**§§ 6.341—6.347. (Reserved).**

**Subchapter JJ. PENNSYLVANIA eHEALTH COLLABORATIVE**

- |        |                                |
|--------|--------------------------------|
| Sec.   |                                |
| 6.451. | Purpose.                       |
| 6.452. | Composition.                   |
| 6.453. | Cooperation by State agencies. |
| 6.454. | Effective date.                |
| 6.455. | Termination date.              |
| 6.456. | Rescission.                    |

**§ 6.451. Purpose.**

The purpose of the Pennsylvania eHealth Collaborative is to improve healthcare delivery and healthcare outcomes in this Commonwealth by providing, as appropriate, leadership and strategic direction for public and

private, Federally-funded and State-funded investments in health information technology initiatives, including health information exchange capabilities and other related health information technology initiatives. This strategic direction shall take into consideration external stakeholder community needs, complement Commonwealth agency operations and ensure ongoing interagency cooperation.

**§ 6.452. Composition.**

The Pennsylvania eHealth Collaborative (Collaborative) will consist of an executive council, an advisory committee and the Pennsylvania eHealth Collaborative Office. Each entity will be responsible for fulfilling specific activities in this section necessary to support the Collaborative, as well as working cooperatively with the General Assembly for the benefit of the citizens, residents and healthcare consumers in this Commonwealth.

(1) *Pennsylvania eHealth Collaborative Executive Council.* The Pennsylvania eHealth Collaborative Executive Council (Executive Council) shall be responsible for establishing an overall policy and strategic direction for the Collaborative.

(i) *Composition.* The Executive Council will be comprised of the heads of the following Commonwealth agencies or designees:

- (A) Department of Health.
- (B) Department of Public Welfare.
- (C) Department of Aging.
- (D) Insurance Department.
- (E) Office of Administration.
- (F) Governor's Policy Office.

(ii) *Chairperson.* The Governor will designate a member of the Executive Council to serve as its Chairperson. The Chairperson shall be responsible for convening meetings and conducting business and shall be assisted in these duties by the State Health Information Technology (HIT) Coordinator.

(2) *Pennsylvania eHealth Collaborative Advisory Committee.* The Pennsylvania eHealth Collaborative Advisory Committee (Advisory Committee) will be established for the limited purpose of providing recommendations and input on strategies and issues to the Executive Council through the eHealth Collaborative Office. The Advisory Committee will not have authority to make binding recommendations.

(i) *Composition.* The Advisory Committee will consist of the following members:

- (A) The State HIT Coordinator.
- (B) A minimum of 25 and a maximum of 35 appointees, representing the interests of a broad spectrum of the healthcare stakeholder community, patients, providers and payers who shall be chosen by and serve at the pleasure of the State HIT Coordinator, in consultation with the Executive Council.

(ii) *Chairperson.* The State HIT Coordinator, in consultation with the Advisory Committee, will designate a Chairperson. The Chairperson shall be responsible for convening meetings and conducting business.

(iii) *Committees.* The Advisory Committee may establish standing and ad hoc committees as necessary to perform its duties. Chairpersons of the committees shall be members of the Advisory Committee and be appointed by the State HIT Coordinator in consultation with the full Advisory Committee. Standing and ad hoc committee members may be selected from the broad healthcare stakeholder community without regard to membership on the Advisory Committee.

(3) *Pennsylvania eHealth Collaborative Office.* The Pennsylvania eHealth Collaborative Office will be managed by the State HIT Coordinator, who will direct day-to-day management, development and implementation of recom-

mentations made by the Collaborative. This office will be located within the Office of Administration, Office for Information Technology and report to the Deputy Secretary for Information Technology.

**§ 6.453. Cooperation by State agencies.**

Agencies under the Governor's jurisdiction shall, to the extent possible, cooperate with and provide assistance and support as needed by the Pennsylvania eHealth Collaborative to carry out its functions effectively, as requested by the Secretary of Administration.

**§ 6.454. Effective date.**

This subchapter takes effect immediately.

**§ 6.455. Termination date.**

This subchapter will remain in effect unless revised or rescinded by the Governor.

**§ 6.456. Rescission.**

Executive Order 2008-03 is rescinded.

[Pa.B. Doc. No. 11-1718. Filed for public inspection October 7, 2011, 9:00 a.m.]

**PART I. GOVERNOR'S OFFICE**  
**[ 4 PA. CODE CHS. 7 AND 7a ]**  
**[ EXECUTIVE ORDER NO. 2011-06 ]**  
**Commonwealth Licensee Tax Responsibility Program**

September 15, 2011

*Whereas*, the public relies upon commonwealth licensing agencies for a level of assurance that license applicants and licensees will conduct business in a reputable manner, are in good standing within the commonwealth, and are in compliance with applicable laws and licensure requirements; and

*Whereas*, the commonwealth requires an efficient and dependable program to identify business licenses and/or applicants for business licenses who have not met their state tax obligations, in order to safeguard the public trust in commonwealth licensing and to ensure that the economic business privilege delivered through such licensing is appropriately granted; and

*Whereas*, establishing an effective program to encourage business licensees and applicants for business licenses to voluntarily and promptly comply with the tax laws of the commonwealth will minimize disruption to operations of state agencies and their respective licensees.

*Now, Therefore*, I, Tom Corbett, Governor of the Commonwealth of Pennsylvania, by virtue of the authority vested in me by the Constitution of the Commonwealth of Pennsylvania and other laws, do hereby order as follows.

*Governor*

**Fiscal Note:** 2011-06. No fiscal impact; (8) recommends adoption.

**Annex A**

**TITLE 4. ADMINISTRATION**

**PART I. GOVERNOR'S OFFICE**

**CHAPTER 7. MISCELLANEOUS PROVISIONS**

**Subchapter YY. (Reserved)**

**§§ 7.821—7.827. (Reserved).**

**CHAPTER 7a. ADDITIONAL MISCELLANEOUS PROVISIONS**

**Subchapter E. LICENSEE TAX RESPONSIBILITY PROGRAM**

Sec.

7a.51.

Establishment.

7a.52.

Licensee Tax Responsibility Committee.



- 7a.53. Cooperation with chief administrators.
- 7a.54. Notice to licensing agency.
- 7a.55. Confidentiality of records.
- 7a.56. Limitation on use of information.
- 7a.57. Participation by State agencies.
- 7a.58. Effective date.
- 7a.59. Termination date.
- 7a.60. Rescission.

**§ 7a.51. Establishment.**

The Secretary of Revenue shall develop and operate a Licensee Tax Responsibility Program to identify any applicants for the issuance or renewal of State-issued licenses who have not timely reported or paid State taxes due and owing to the Commonwealth.

**§ 7a.52. Licensee Tax Responsibility Committee.**

The Secretary of Revenue shall establish a Licensee Tax Responsibility Committee (Committee) to oversee the Licensee Tax Responsibility Program. The Committee will consist of representatives of the Department of Revenue, the Department of Labor and Industry, the Department of State and the Office of General Counsel and other agencies as the Governor may direct from time to time. The Committee shall make an annual report to the Governor.

**§ 7a.53. Cooperation with chief administrators.**

The chief administrators of all Commonwealth agencies under the Governor's jurisdiction shall cooperate with the Secretary of Revenue (Secretary) in implementing the Licensee Tax Responsibility Program (Program) by providing the Secretary with:

(1) The necessary information regarding business licensees and applicants for business licenses of the agency including the applicant's State Personal Income Tax identification number, State Sales Tax number, State Corporation Tax number, State Employer Withholding Tax number and Unemployment Compensation account number on not less than an annual basis.

(2) A statement signed by each licensee and applicant for license under penalty of perjury, indicating that all State tax reports have been filed and paid or, in the alternative, that a deferred payment plan is currently in effect. Commonwealth agencies under the Governor's jurisdiction are directed to utilize license application, renewal or transfer forms, or both, that include an express waiver by the applicant regarding confidentiality of the subject Commonwealth tax information, for the limited purpose of the Commonwealth executive agency providing information to the Department of Revenue and the Department of Labor and Industry, to be used solely in connection with the Program. This signed waiver is to shield Commonwealth agencies from legal actions arising from the utilization of otherwise confidential State tax information.

**§ 7a.54. Notice to licensing agency.**

The Secretary of Revenue shall issue a notice to the licensing agency indicating those licensees and applicants who have unresolved State tax obligations on not less than an annual basis.

**§ 7a.55. Confidentiality of records.**

Agencies, officers and employees shall treat records and files disclosed by the Department of Revenue as confidential and privileged to the extent provided by law and may disclose tax information only as authorized by law. The failure of any agency employee to implement standards safeguarding confidential State tax information will render the employee subject to sanctions as described in statutes dealing with the confidentiality of State tax information. See section 731 of The Fiscal Code (72 P.S. § 731), regarding confidential information.

**§ 7a.56. Limitation on use of information.**

Use of Commonwealth tax information that is compiled or created under this subchapter is limited to the following:

(1) Collection of Commonwealth tax delinquencies from existing licensees in relationship to the renewal or transfer of their existing State license or from applicants for these licensees.

(2) Notification to a Commonwealth executive agency of the identity of applicants or existing licensees who have not filed Commonwealth tax returns, which notification constitutes a permissible purpose to disclose that information between various Commonwealth executive and independent agencies and the Department of Revenue and the Department of Labor and Industry. Exchange of otherwise confidential information falls within the “official purposes” exception of section 731 of The Fiscal Code (72 P. S. § 731). See *Frontage, Inc. v. Allegheny County*, 162 A. 2d 1, 400 Pa. 249 (1960) and 1990 Op. Att. Gen. No. 90-1.

**§ 7a.57. Participation by State agencies.**

Agencies, officers and employees under the Governor’s jurisdiction shall fully and actively participate in the Licensee Tax Responsibility Program. Agencies outside of the purview of this subchapter are strongly encouraged to participate.

**§ 7a.58. Effective date.**

This subchapter takes effect immediately.

**§ 7a.59. Termination date.**

This subchapter will remain in effect unless revised or rescinded by the Governor.

**§ 7a.60. Rescission.**

Executive Order 2006-03 is rescinded.

[Pa.B. Doc. No. 11-1719. Filed for public inspection October 7, 2011, 9:00 a.m.]

# THE COURTS

## Title 210—APPELLATE PROCEDURE

### PART I. RULES OF APPELLATE PROCEDURE

[ 210 PA. CODE CH. 17 ]

Order Amending Rule 1736 of the Rules of Appellate Procedure; No. 214 Appellate Procedural Rules Doc.

#### Order

*Per Curiam*

*And Now*, this 20th day of September, 2011 upon the recommendation of the Appellate Court Procedural Rules Committee; the proposal having been published at 38 Pa.B. 1445 (March 29, 2008).

*It Is Ordered* pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Pa.R.A.P. 1736 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 210. APPELLATE PROCEDURE

#### PART I. RULES OF APPELLATE PROCEDURE

#### ARTICLE II. APPELLATE PROCEDURE

#### CHAPTER 17. EFFECT OF APPEALS; SUPERSEDEAS AND STAYS

#### STAY OR INJUNCTION IN CIVIL MATTERS

#### Rule 1736. Exemption from Security.

\* \* \* \* \*

(b) *Supersedeas automatic*.—Unless otherwise ordered pursuant to this chapter the taking of an appeal by any party specified in Subdivision (a) of this rule shall operate as a *supersedeas* in favor of such party, **which supersedeas shall continue through any proceedings in the United States Supreme Court.**

**Official Note:** This rule is self-executing, and a party entitled to its benefits is not required to bring the exemption to the attention of the court under Rule 1732 (application for stay or injunction pending appeal). However, the appellee may apply under Rule 1732 for elimination or other modification of the automatic *supersedeas* or under Rule 1737 (objections to security) for an order requiring security as a condition to the continuance of the stay, or for relief under any other applicable provision of this chapter.

The 1987 amendment eliminates the automatic *supersedeas* for political subdivisions on appeals from the common pleas court where that court has affirmed an arbitration award in a grievance or similar personnel matter.

The definition of “Appeal” in Pa.R.A.P. 102 does not reference proceedings in the United States Supreme Court. Rule 102 further defines “Determination” as “Action or inaction by a government unit which action or inaction is subject to judicial review by a court under Section 9 of Article V of the Constitution of Pennsylvania or otherwise...”

While the word “otherwise” could be read broadly to include the United States Supreme Court, the more specific reference to the Pennsylvania Constitution as limiting the scope of the term suggests that the Federal Courts are not part of the definition when “court” is used in the Rules. In light of this ambiguity, the Rule has been amended to make clear that the automatic *supersedeas* in subsection (b) continues through any proceedings in the United States Supreme Court.

[Pa.B. Doc. No. 11-1720. Filed for public inspection October 7, 2011, 9:00 a.m.]

## Title 234—RULES OF CRIMINAL PROCEDURE

[ 234 PA. CODE CH. 10 ]

Order Amending Rule 1010 of the Rules of Criminal Procedure; No. 403 Criminal Procedural Rules Doc.

#### Order

*Per Curiam*

*And Now*, this 21st day of September, 2011, upon the recommendation of the Criminal Procedural Rules Committee; the proposal having been published before adoption at 40 Pa.B. 4150 (July 24, 2010), and in the *Atlantic Reporter* (Second Series Advance Sheets, Vol. 995 No. 3 and 996 No. 1), 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 Pennsylvania Rule of Criminal Procedure 1010 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 November 1, 2011.

#### Annex A

### TITLE 234. RULES OF CRIMINAL PROCEDURE

#### CHAPTER 10. RULES OF CRIMINAL PROCEDURE FOR THE PHILADELPHIA MUNICIPAL COURT AND THE PHILADELPHIA TRAFFIC COURT

#### PART A. Philadelphia Municipal Court Procedures

Rule 1010. [ Procedure on Appeal ] Procedures for Trial *De Novo*.

(A) [ The attorney for the Commonwealth, upon receiving the notice of appeal, shall prepare an information and the matter shall thereafter be treated in the same manner as any other court case. ] When a defendant appeals after conviction by a Municipal Court judge,

(1) in a non-traffic summary case, upon the filing of the transcript and other papers, the case shall be heard *de novo* by the judge of the Court of Common Pleas sitting without a jury.

(2) In a Municipal Court case, the attorney for the Commonwealth, upon receiving the notice of appeal, shall prepare an information and the matter shall thereafter be treated in the same manner as any other court case.

(B) If the defendant fails to appear for the trial *de novo*, the Common Pleas Court judge may dismiss the appeal and thereafter shall enter judgment in the Court of Common Pleas on the judgment of the Municipal Court judge.

(C) *Withdrawals of Appeals*

(1) If the defendant withdraws the appeal, the Common Pleas Court judge shall enter judgment in the Court of Common Pleas on the judgment of the Municipal Court judge.

(2) In a Municipal Court case, the defendant may withdraw the appeal only with the written consent of the attorney for the Commonwealth.

(D) At the time of sentencing, the Common Pleas Court judge shall:

(1) if the defendant's sentence includes restitution, a fine, or costs, state the date on which payment is due. If the defendant is without the financial means to pay the amount in a single remittance, the Common Pleas Court judge may provide for installment payments and shall state the date on which each installment is due;

(2) advise the defendant of the right to appeal to the Superior Court within 30 days of the imposition of sentence, and that, if an appeal is filed, the execution of sentence will be stayed and the Common Pleas Court judge may set bail;

(3) if a sentence of imprisonment has been imposed, direct the defendant to appear for the execution of sentence on a date certain unless the defendant files a notice of appeal within the 30-day period; and

(4) issue a written order imposing sentence, signed by the Common Pleas Court judge. The order shall include the information specified in paragraphs (D)(1) through (D)(3), and a copy of the order shall be given to the defendant.

(E) After entry of judgment pursuant to paragraphs (B) or (C)(1), or after the trial *de novo* and imposition of sentence, the case shall remain in the Court of Common Pleas for the execution of sentence, including for the collection of any fines and restitution, for the collection of any costs, and for proceedings for violation of probation, intermediate punishment, or parole pursuant to Rule 708.

**Comment**

In any case in which there are summary offenses joined with the misdemeanor charges that are the subject of the appeal, the attorney for the Commonwealth must include the summary offenses in the information. See *Commonwealth v. Speller*, 311 Pa. Super. 569, 458 A.2d 198 (1983).

Paragraph (B) makes it clear that the Common Pleas Court judge may dismiss an appeal when the judge determines that the defendant is absent without cause from the trial *de novo*. If the appeal is dismissed, the Common Pleas Court judge must enter judgment and order execution of any sentence imposed by the Municipal Court judge. Noth-

ing in this rule is intended to preclude the judge from issuing a bench warrant when the defendant fails to appear.

Once a judgment is entered and sentence is imposed, paragraph (E) makes it clear that the case is to remain in the Court of Common Pleas for execution of the sentence and collection of any costs, and the case may not be returned to the Municipal Court judge. The execution of sentence includes the collection of any fines and restitution and any proceedings for violation of probation, intermediate punishment, or parole as provided by Rule 708.

**Official Note:** Rule 6010 adopted December 30, 1968, effective January 1, 1969; amended July 1, 1980, effective August 1, 1980; amended August 28, 1998, effective immediately; renumbered Rule 1010 March 1, 2000, effective April 1, 2001; Comment revised March 9, 2006, effective September 1, 2006; amended February 12, 2010, effective April 1, 2010; amended September 21, 2011, effective November 1, 2011.

*Committee Explanatory Reports:*

Final Report explaining the August 28, 1998 amendment published with the Court's Order at 28 Pa.B. [ 4625 ] 4627 (September 12, 1998).

Final Report explaining the March 1, 2000 reorganization and renumbering of the rules published with the Court's Order at 30 Pa.B. [ 1477 ] 1478 (March 18, 2000).

Final Report explaining the March [ 3 ] 9, 2006 Comment revision concerning joinder of summary offenses with misdemeanor charges published with the Court's Order at 36 Pa.B. 1385 (March 25, 2006).

Final Report explaining the February 12, 2010 amendments to paragraph (B) concerning the disposition of summary offenses at the court of common pleas published with the Court's Order at 40 Pa.B. 1068 (February 27, 2010).

Final Report explaining the September 21, 2011 amendments to paragraphs (A)—(C) and adding new paragraphs (D) and (E) concerning the procedures for trials *de novo* in the Court of Common Pleas published with the Court's Order at 41 Pa.B. 5353 (October 8, 2011).

**FINAL REPORT<sup>1</sup>**

**Amendments to Rule 1010 (Procedures for Trial *De Novo*)**

***Procedures for Trials *De Novo* in Philadelphia Court of Common Pleas***

On September 21, 2011, effective November 1, 2011, upon the recommendation of the Criminal Procedural Rules Committee, the Court amended Pa.R.Cim.P. 1010 to provide the procedures for appeals for trials *de novo* in non-traffic summary cases and in Municipal Court cases in Philadelphia, conforming these procedures with the statewide procedures for appeals for trials *de novo*.

The Municipal Court handles both non-traffic summary cases and Municipal Court cases ("misdemeanor cases").<sup>2</sup>

<sup>1</sup> The Committee's Final Reports should not be confused with the official Committee Comments to the rules. Also note that the Supreme Court does not adopt the Committee's Comments or the contents of the Committee's explanatory Final Reports.

<sup>2</sup> A "Municipal Court Case" is any case in which the only offense or offenses charged are misdemeanors under the Crimes Code or other statutory criminal offenses for which no prison term may be imposed or which is punishable by a term of imprisonment of not more than 5 years, including any offense under the Vehicle Code other than a summary offense. See Rule 1001(A).

Appeals for a trial *de novo* from the disposition of the non-traffic summary and misdemeanor cases in the Municipal Court are conducted in the Court of Common Pleas.<sup>3</sup> The amendments to Rule of Criminal Procedure 1010 (Procedures for Trial *De Novo*) provide the procedures for appeals from Philadelphia Municipal Court to Philadelphia Common Pleas Court for trials *de novo* in non-traffic summary cases and misdemeanor cases. These changes conform the procedures for appeals from Philadelphia Municipal Court for trials *de novo* to the statewide procedures for appeals for trials *de novo*.

### I. Background

The impetus for the Committee's proposal was communications from the legal department of the Administrative Office of Pennsylvania Courts (AOPC) in 2009 about appeals for trials *de novo* in Philadelphia suggesting that, because there are no rules setting forth the procedures for appealing for a trial *de novo* from Philadelphia Municipal Court to the Philadelphia Common Pleas Court, there is little uniformity in how these appeals for a trial *de novo* are handled.<sup>4</sup>

The Committee reviewed the statewide procedures for the trial *de novo* set forth in Rule 462 and the appeal procedures in Municipal Court set forth in Rule 1010.<sup>5</sup> The Rule 462 procedures for conducting appeals for trials *de novo* in the other judicial districts govern appeals from both traffic and non-traffic summary cases. Rule 1010 at that time provided only that an information is to be prepared after an appeal is filed.<sup>6</sup> The Committee agreed that this limited application of Rule 1010 was the cause of the confusion about the appeal procedures in Municipal Court<sup>7</sup>, and that Rule 1010 should be amended to clarify these procedures.

### II. Discussion of Proposed Rule 1010 Amendments<sup>8</sup>

Paragraph (A)(1) is identical to Rule 462(A) and provides that, in non-traffic summary cases, the case is to be heard *de novo* by a Common Pleas Court judge sitting without a jury. Paragraph (A)(2) addresses misdemeanor cases, and incorporates the current language from Rule 1010 requiring the preparation of the information by the attorney for the Commonwealth, and that, thereafter, the case is to be treated in the same manner as any other court case.

Paragraph (B) addresses failures to appear for the trial *de novo* in both non-traffic summary cases and in misdemeanor cases. The paragraph was amended by the addition of "thereafter shall" before "enter judgment." This change makes it clear in the rule that in cases in which an appeal is dismissed for failure to appear, the Common Pleas Court judge must enter judgment in the Court of Common Pleas on the judgment of the Municipal Court judge. The Comment elaborates on this provision. The Comment also explains that the rule does not preclude the Common Pleas Court judge from issuing a bench

warrant in these cases. The Committee recognized that, although paragraph (B) provides that the case may be disposed by the Common Pleas Court judge entering judgment on the judgment of the Municipal Court judge, there may be situations in which it is necessary to issue a bench warrant to bring the defendant before the court, such as when the Municipal Court judgment included a sentence of imprisonment.

Paragraph (C) addresses withdrawals of appeals in both non-traffic summary cases and in misdemeanor cases. Paragraph (C) was divided into two subparagraphs with current paragraph (C) becoming (C)(1). Paragraph (C)(2) is new and adds the requirement in misdemeanor cases that to withdraw an appeal in these cases, the defendant must obtain the written consent of the attorney for the Commonwealth. This requirement was added because in the misdemeanor cases the attorney for the Commonwealth, for example, will have to file a motion with the court for permission to *nolle prosequi* the informations.

Paragraph (D) is identical to Rule 462(G). The paragraph sets forth the Common Pleas Court judge's responsibilities at the time of sentencing, including issuing a written order imposing the sentence. The judge also must state the date on which payment of any fines, costs, and restitution must be paid, and that the judge may provide for payment in installments. Finally, the judge is required to advise the defendant of his or her appeal rights.

Paragraph (E) incorporates the provisions of Rule 462(H), and requires that any case in which the Common Pleas judge enters the Municipal Court judgment in Common Pleas court or imposes sentence following a trial *de novo* must remain in the Common Pleas Court for the execution of sentence and collection of any fines, restitution, and costs. In addition, to accommodate the misdemeanor cases, paragraph (E) provides that the case must remain in Common Pleas Court for any proceedings for violation of probation, intermediate punishment, or parole pursuant to Rule 708.

[Pa.B. Doc. No. 11-1721. Filed for public inspection October 7, 2011, 9:00 a.m.]

## Title 237—JUVENILE RULES

### PART I. RULES

#### [ 237 PA. CODE CH. 1 ]

### Order Amending Rules 120 and 140 of the Rules of Juvenile Court Procedure; No. 546 Supreme Court Rules Doc.

#### Order

#### *Per Curiam*

*And Now*, this 20th day of September, 2011, upon the recommendation of the Juvenile Court Procedural Rules Committee; the proposal having been published for public comment before adoption at 40 Pa.B. 5562 (October 2, 2010), in the *Atlantic Reporter* (Third Series Advance Sheets, Vol. 3, No. 1, October 15, 2010), and on the Supreme Court's web-page, and an Explanatory Report to be published with this *Order*:

*It Is Ordered* pursuant to Article V, Section 10 of the Constitution of Pennsylvania that the modifications to Rules 120 and 140 of the Rules of Juvenile Court Procedure are approved in the following form.

<sup>3</sup> Pursuant to Article V, Section 26 of the Constitution, the parties may petition for a writ of *certiorari* (only in misdemeanor cases) or may appeal for a trial *de novo*. See Rule 1008 (Contents of Notice of Appeal or Petition for *Certiorari*).

<sup>4</sup> The February 2010 amendments to Rule 1010 that were part of a package of rule amendments that addressed the issue of returning cases to Municipal Court are the same as the procedures in Rule 462(D) and (E) but govern Municipal Court cases. These changes however did not fully respond to the issues raised by the AOPC.

<sup>5</sup> In Philadelphia, the procedures for appeals in traffic summary cases are governed by Rule 1037.

<sup>6</sup> Paragraph (B), governing failures to appear for a trial *de novo*, and Paragraph (C), governing withdrawals of appeals, were added to Rule 1010 in 2010 as part of a larger package of amendments to the statewide rules. See 40 Pa.B. 1068.

<sup>7</sup> See Rule 1000(B) that provides "[a]ny procedure that is governed by a statewide Rule of Criminal Procedure that is not specifically covered in Chapter 10 or by a Philadelphia local rule authorized by these rules and adopted pursuant to Rule 105 shall be governed by the relevant statewide rule."

<sup>8</sup> Unless specifically provided otherwise in the amendments to Rule 1010, the procedures explained in the "discussion" section are the same for the non-traffic summary appeals and the appeals in misdemeanor cases.

This Order shall be processed in accordance with Pa.R.J.A. No. 103(b), and shall be effective November 1, 2011.

Annex A

TITLE 237. JUVENILE RULES

PART I. RULES

Subpart A. DELINQUENCY MATTERS

CHAPTER 1. GENERAL PROVISIONS

PART A. BUSINESS OF COURTS

Rule 120. Definitions.

\* \* \* \*

JUDGE is a judge of the Court of Common Pleas.

\* \* \* \*

Comment

\* \* \* \*

“Health care” includes, but is not limited to, routine physical check-ups and examinations; emergency health care; surgeries; exploratory testing; psychological exams, counseling, therapy and treatment programs; drug and alcohol treatment; support groups; routine eye examinations and procedures; teeth cleanings, fluoride treatments, fillings, preventative dental treatments, root canals, and other dental surgeries; and any other examination or treatment relating to any physical, mental, and dental needs of the juvenile.

The term “judge” refers to a judge of the Court of Common Pleas, including senior judges when they are properly certified. It does not include masters or magisterial district judges. Magisterial district judges, however, are included within the definition of “court” when they have the power to issue arrest warrants pursuant to Rule 210. See discussion supra under definition of “court.” Arrest warrants are distinguished from bench warrants pursuant to Rules 140 and 141. Only judges of the Court of Common Pleas may issue bench warrants if the juvenile: 1) fails to appear at a hearing; or 2) absconds from the court’s supervision.

\* \* \* \*

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

\* \* \* \*

Official Note: Rule 120 adopted April 1, 2005, effective October 1, 2005. Amended December 30, 2005, effective immediately. Amended March 23, 2007, effective August 1, 2007. Amended February 26, 2008, effective June 1, 2008. Amended July 28, 2009, effective immediately. Amended December 24, 2009, effective immediately. Amended April 21, 2011, effective July 1, 2011. Amended April 29, 2011, effective July 1, 2011. Amended May 20, 2011, effective July 1, 2011. Amended September 7, 2011, effective immediately. Amended September 20, 2011, effective November 1, 2011.

Committee Explanatory Reports:

\* \* \* \*

Final Report explaining the amendments to Rule 120 with the Court’s Order at 41 Pa.B. 5355 (October 8, 2011).

Rule 140. Bench Warrants for Failure to Appear At Hearings.

\* \* \* \*

C. Juvenile.

1) Where to take the juvenile.

a) When a juvenile is taken into custody pursuant to a bench warrant, the juvenile shall be taken without unnecessary delay to the judge who issued the warrant or a judge or master designated by the President Judge to hear bench warrants.

b) If the juvenile is not brought before a judge or master, the juvenile shall be released unless:

i) the warrant specifically orders detention of the juvenile; or

ii) there are circumstances learned at the time of the surrender or apprehension that warrant detention of the juvenile.

c) If a juvenile is detained, the juvenile shall be detained in a detention facility or other facility designated in the bench warrant by the judge pending a hearing.

2) Prompt hearing.

a) If a juvenile is detained [ pursuant to a specific order in the bench warrant ], the juvenile shall be brought before the judge who issued the warrant, a judge or master designated by the President Judge to hear bench warrants, or an out-of-county judge or master pursuant to paragraph (C)(4) within seventy-two hours.

b) If the juvenile is not brought before a judge or master within this time, the juvenile shall be released.

3) Notification of guardian. If a juvenile is taken into custody pursuant to a bench warrant, the arresting officer shall immediately notify the juvenile’s guardian of the juvenile’s whereabouts and the reasons for the issuance of the bench warrant.

4) Out-of-county custody.

a) If a juvenile is taken into custody pursuant to a bench warrant in a county other than the county of issuance, the county of issuance shall be notified immediately.

b) Arrangements to transport the juvenile shall be made immediately.

c) If transportation cannot be arranged immediately, then the juvenile shall be taken without unnecessary delay to a judge or master of the county where the juvenile is found.

d) The judge or master will identify the juvenile as the subject of the warrant, decide whether detention is warranted, and order or recommend that arrangements be made to transport the juvenile to the county of issuance.

5) Time requirements. The time requirements of Rules 240, 391, 404, 510, and 605 shall be followed.

D. Witnesses.

1) Where to take the witness.

a) When a witness is taken into custody pursuant to a bench warrant, the witness shall be taken without unnecessary delay to the judge who issued the warrant or a judge **or master** designated by the President Judge to hear bench warrants.

b) If the witness is not brought before a judge **or master**, the witness shall be released unless the warrant specifically orders detention of the witness.

c) A motion for detention as a witness may be filed anytime before or after the issuance of a bench warrant. The judge may order **or the master may recommend** detention of the witness pending a hearing.

1) *Minor*. If a detained witness is a minor, the witness shall be detained in a detention facility.

2) *Adult*. If a detained witness is an adult, the witness shall be detained at the county jail.

2) *Prompt hearing*.

a) If a witness is detained pursuant to paragraph (D)(1)(c) or brought back to the county of issuance pursuant to paragraph (D)(4)(f), the witness shall be brought before the judge **or master** by the next business day.

b) If the witness is not brought before a judge **or master** within this time, the witness shall be released.

3) *Notification of guardian*. If a witness who is taken into custody pursuant to a bench warrant is a minor, the arresting officer shall immediately notify the witness's guardian of the witness's whereabouts and the reasons for the issuance of the bench warrant.

4) *Out-of-county custody*.

a) If a witness is taken into custody pursuant to a bench warrant in a county other than the county of issuance, the county of issuance shall be notified immediately.

b) The witness shall be taken without unnecessary delay and within the next business day to a judge **or master** of the county where the witness is found.

c) The judge **or master** will identify the witness as the subject of the warrant, decide whether detention as a witness is warranted, and order **or recommend** that arrangements be made to transport the witness to the county of issuance.

\* \* \* \* \*

*F. Return and execution of the warrant for juveniles and witnesses.*

1) The bench warrant shall be executed without unnecessary delay.

2) The bench warrant shall be returned to the judge who issued the warrant or to the judge **or master** designated by the President Judge to hear bench warrants.

3) When the bench warrant is executed, the arresting officer shall immediately execute a return of the warrant with the judge.

4) Upon the return of the warrant, the judge shall vacate the bench warrant.

5) Once the warrant is vacated, the juvenile probation officer or other court designee shall remove or request that a law enforcement officer remove the bench warrant in all appropriate registries.

**Comment**

Pursuant to paragraph (A), the judge is to ensure that the person received sufficient notice of the hearing and failed to attend. The judge may order that the person be served in-person or by certified mail, return receipt. The judge may rely on first-class mail service if additional evidence of sufficient notice is presented. For example, testimony that the person was told in person about the hearing is sufficient notice. Before issuing a bench warrant, the judge should determine if the guardian was notified.

Under Rule 800, 42 Pa.C.S. § 6335(c) was suspended only to the extent that it is inconsistent with this rule. Under paragraph (A)(1), the judge is to find a subpoenaed or summoned person failed to appear and sufficient notice was given to issue a bench warrant. The fact that the juvenile or witness may abscond or may not attend or be brought to a hearing is not sufficient evidence for a bench warrant. This rule, however, does not prohibit probation from recommending detention for a juvenile. The normal rules of procedure in these rules are to be followed if a juvenile is detained. *See* Chapter Two, Part D.

Pursuant to paragraph (C), the "juvenile" is the subject of the delinquency proceedings. When a witness is a child, the witness is referred to as a "minor." This distinction is made to differentiate between children who are alleged delinquents and children who are witnesses. *See* paragraph (C) for alleged delinquents and paragraph (D) for witnesses. *See also* Rule 120 for definition of "juvenile" and "minor."

Pursuant to paragraph (C)(1)(a), the juvenile is to be taken immediately to the judge who issued the bench warrant or a judge **or master** designated by the President Judge of that county to hear bench warrants. **[ Pursuant ] This provision allows the judge or master the discretion to postpone a hearing, for example, the adjudicatory hearing, until later in the same day while the police officer, sheriff, or juvenile probation officer retrieves the juvenile. If taken into custody on the same day, the juvenile is to be brought immediately before the court for the hearing. However, pursuant to paragraph (C)(1)(b), if a bench warrant specifically provides that the juvenile may be detained in a detention facility, or there are circumstances apparent at the time of the surrender or apprehension that merit detention of the juvenile, the juvenile may be detained without having to be brought before the judge or master until a hearing within seventy-two hours under paragraph (C)(2)(a). The juvenile is not to languish in a detention facility. Pursuant to this paragraph, if a hearing is not held promptly, the juvenile is to be released. See paragraph (C)(2)(b).**

**At the seventy-two hour hearing, the judge or master may determine that the juvenile willfully failed to appear and may continue the detention of the juvenile until the rescheduled hearing. If the juvenile is detained, the rescheduled hearing is governed by the time requirements provided elsewhere in these rules. See Rules 240, 391, 404, 510 and 605.**

Under paragraphs (C)(2) and (C)(4), a juvenile taken into custody pursuant to a bench warrant is to have a hearing within seventy-two hours regardless of where the juvenile is found. *See* Rule 240(C).

Pursuant to paragraph (C)(4), the juvenile may be detained out-of-county until transportation arrangements can be made.

Pursuant to paragraph (C)(5), the time requirements of all other rules are to apply to juveniles who are detained. *See, e.g.*, Rules 240, 391, 404, 510, and 605.

Pursuant to paragraph (D)(1)(a), the witness is to be taken immediately to the judge who issued the bench warrant or a judge **or master** designated by the President Judge of that county to hear bench warrants. **[ Pursuant ] This provision allows the judge or master the discretion to postpone a hearing, for example, an adjudicatory hearing, until later in the same day while the police officer, sheriff, or juvenile probation officer retrieves the witness. The witness is to be brought immediately before the court for the hearing. However, pursuant to paragraph (D)(1)(b), if the judge or master is not available, the witness is to be released immediately unless the warrant specifically orders detention. Pursuant to paragraph (D)(1)(c), a motion for detention as a witness may be filed. If the witness is detained, a prompt hearing pursuant to paragraph (D)(2) is to be held by the next business day or the witness is to be released. See paragraph (D)(2)(b).**

**At the hearing pursuant to paragraph (D)(2)(a), the judge or master may determine that the witness willfully failed to appear and find or recommend that the witness is in contempt of court, or that the witness is in need of protective custody. If the judge or master has made one of these findings, the judge may continue the detention of the witness until the rescheduled hearing. The judge or master should schedule the hearing as soon as possible. In any event, if the witness is detained, the rescheduled hearing must be conducted by the specific time requirements provided elsewhere in these rules. See Rules 240, 391, 404, 510 and 605.**

Pursuant to paragraph (D)(4)(b), a witness is to be brought before an out-of-county judge **or master** by the next business day unless the witness can be brought before the judge who issued the bench warrant within this time. When the witness is transported back to the county of issuance within seventy-two hours of the execution of the bench warrant, the witness is to be brought before the **[ judge who issued the bench warrant ] court** by the next business day. *See* paragraph (D)(4)(f).

Pursuant to paragraph (F)(2), the bench warrant is to be returned to the judge who issued the warrant or to the judge **or master** designated by the President Judge to hear warrants by the arresting officer executing a return of warrant. *See* paragraph (F)(3).

Pursuant to paragraph (F)(4), the bench warrant is to be vacated after the return of the warrant is executed. "Vacated" is to denote that the bench warrant has been served, dissolved, executed, dismissed, canceled, returned, or any other similar language used by the judge to terminate the warrant. The bench warrant is no longer in effect once it has been vacated.

Pursuant to paragraph (F)(5), once the warrant is vacated, the juvenile probation officer, other court designee, or law enforcement officer is to remove the warrant from all appropriate registries so the juvenile is not taken into custody on the same warrant if the juvenile is released.

See 42 Pa.C.S. § 4132 for punishment of contempt for juveniles and witnesses.

**If there is a bench warrant issued, masters may hear cases in which the petition alleges only misde-**

**meanors. See Rule 187(A)(2) and (3). The purpose of the hearing for juveniles pursuant to paragraph (C)(2)(a) or the hearing for witnesses pursuant to paragraph (D)(2)(a) is to determine if the juvenile or witness willfully failed to appear and if continued detention is necessary.**

**Pursuant to Rule 191, the master is to submit his or her findings and recommendation to the court. In bench warrant cases, the master should immediately take his or her recommendation to the judge so the judge can make the final determination of whether the juvenile or witness should be released. See Rule 191(C).**

**If the findings and recommendation are not taken immediately to the judge, the master is to submit the recommendation within one business day. See Rule 191(B).**

**Official Note:** Rule 140 adopted February 26, 2008, effective June 1, 2008. Amended September 30, 2009, effective January 1, 2010. Amended April 21, 2011, effective July 1, 2011. **Amended September 20, 2011, effective November 1, 2011.**

*Committee Explanatory Reports:*

\* \* \* \* \*

**Final Report explaining the amendments to Rule 140 with the Court's Order at 41 Pa.B. 5355 (October 8, 2011).**

## EXPLANATORY REPORT

September 2011

The Supreme Court of Pennsylvania has adopted the modifications to Rules 120 and 140 with this Recommendation. These changes are effective November 1, 2011.

### *Rule 120—Definitions*

A new definition of "judge" has been added to clarify that when using that term throughout the Rules, it is referring to a judge of the Court of Common Pleas. The term includes Senior Judges when they are properly certified by the Administrative Office of Pennsylvania Courts. The term does NOT include masters or magisterial district judges.

### *Rule 140—Bench Warrants for Failure to Appear at Hearings*

The term "master" was added in several places in this rule to allow masters to hear cases if the President Judge has designated the master to hear bench warrant cases in his or her judicial district. *See* paragraphs (C), (D), and (E).

At the bench warrant hearing, the judge or master determines whether: 1) the juvenile willfully failed to attend the hearing for which the bench warrant was issued; and 2) the juvenile should continue to be detained until further court proceedings.

Only a judge has the authority to issue a bench warrant. However, once the juvenile is detained, the master may conduct the detention hearing when so designated by the President Judge.

Also, several provisions were added to the Comment to explain the intent of the rule. This rule was designed to not only allow a judge to issue a bench warrant to detain a juvenile or witness until a hearing in which the juvenile failed to show is rescheduled but to also allow the judge to postpone any hearing until later in the same day while a police officer, sheriff, or juvenile probation officer re-



trieves and transports the juvenile or witness to court for the hearing. For example, a juvenile is scheduled for an adjudicatory hearing at 9:00 a.m. but fails to show for the hearing. If all the witnesses are present, the judge may issue a bench warrant and order the juvenile to be brought directly to the courtroom for the adjudicatory hearing on the same day.

This provision represents the current practice in some judicial districts. If all court participants are present and ready to proceed except the juvenile or witness, the police officer, sheriff, or juvenile probation officer can retrieve and transport the juvenile or witness to court, thereby alleviating the need of a continuance.

In addition, the Committee firmly believes that juveniles and witnesses must be brought to court without unnecessary delay, and that warrants must specifically authorize detention. Witnesses are to appear before a judge or master by the next business day, whereas, the juvenile must appear within seventy-two hours. This time difference distinguishes witnesses from juveniles.

Witnesses should be treated with higher priority and should be released unless the judge or master finds that the witness willfully failed to appear or needs protective custody. Even if the judge or master finds that the witness willfully failed to appear, a witness may be released at the court's discretion.

[Pa.B. Doc. No. 11-1722. Filed for public inspection October 7, 2011, 9:00 a.m.]

## Title 25—LOCAL COURT RULES

### DAUPHIN COUNTY

Promulgation of Local Rules; No. 10-6-MD11; No. 2011-CV-00003-AO; No. AO-10-2011

#### Order

And Now, this 26th day of September, 2011, Dauphin County Local Rule of Criminal Procedure 115, Rule of Civil Procedure 227.3 and Rule of Civil Procedure 1930.2 are promulgated as follows:

#### **Rule 115. Transcripts (All Requests Not Associated with an Appeal).**

(a) Where the transcript request is not made pursuant to an appeal, transcription of Notes of Testimony shall occur only upon order of court following the filing of a motion.

(b) The motion shall designate which portion of the record is requested to be transcribed and the reasons for the transcript.

(c) The court shall by order designate which portion of the record shall be transcribed and direct the filing party to contact the Official Court Reporter to make arrangements for payment.

*Note:* Rule of Appellate Procedure 1911 should be followed for requests for transcripts when a notice of an appeal is filed.

#### **Rule 227.3. Transcripts (All Requests Not Associated with an Appeal).**

(a) Where the transcript request is not made pursuant to an appeal, transcription of Notes of Testimony shall occur only upon order of court following the filing of a motion.

(b) The motion shall designate which portion of the record is requested to be transcribed and the reasons for the transcript.

(c) The court shall by order designate which portion of the record shall be transcribed and direct the filing party to contact the Official Court Reporter to make arrangements for payment.

*Note:* Rule of Appellate Procedure 1911 should be followed for requests for transcripts when a notice of an appeal is filed.

#### **Rule 1930.2. Transcripts (All Requests Not Associated with an Appeal).**

(a) Where the transcript request is not made pursuant to an appeal, transcription of Notes of Testimony shall occur only upon order of court following the filing of a motion.

(b) The motion shall designate which portion of the record is requested to be transcribed and the reasons for the transcript.

(c) The court shall by order designate which portion of the record shall be transcribed and direct the filing party to contact the Official Court Reporter to make arrangements for payment.

*Note:* Rule of Appellate Procedure 1911 should be followed for requests for transcripts when a notice of an appeal is filed.

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

By the Court

TODD A. HOOVER,  
*President Judge*

[Pa.B. Doc. No. 11-1723. Filed for public inspection October 7, 2011, 9:00 a.m.]

# RULES AND REGULATIONS

## Title 25—ENVIRONMENTAL PROTECTION

### BOARD OF COAL MINE SAFETY

[ 25 PA. CODE CH. 208 ]

#### Underground Coal Mine Safety

The Board of Coal Mine Safety (Board) adds Chapter 208 (relating to underground coal mine safety). These regulations establish safety standards regarding the following: belt conveyor flammability; the design and installation of mine seals; escapeways; emergency response; and self-contained self-rescue devices. These regulations principally incorporate by reference safety standards adopted by the United States Department of Labor, Mine Safety and Health Administration (MSHA) in 30 CFR Part 75 (relating to mandatory safety standards—underground coal mines). The MSHA regulations/standards incorporated by reference implement the Mine Improvement and New Emergency Response Act of 2006 (Pub. L. No. 109-236) (MINER Act), which amended various provisions of the Federal Mine Safety and Health Act of 1977 (Mine Safety Act) (30 U.S.C.A. §§ 801—965).

This order was adopted by the Board at its meeting of June 14, 2011.

#### A. *Effective Date*

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

#### B. *Contact Persons*

For further information, contact Joseph Sbaffoni, Director, Bureau of Mine Safety, Fayette County Health Center, 100 New Salem Road, Room 167, Uniontown PA 15401, (724) 439-7469; or Richard S. Morrison, Assistant Director, Bureau of Regulatory Counsel, P. O. Box 8464, Rachel Carson State Office Building, Harrisburg, PA 17105-8464, (717) 787-7060. Persons with a disability may use the AT&T Relay Service, (800) 654-5984 (TDD users) or (800) 654-5988 (voice users). This final-form rulemaking is available through the Department of Environmental Protection (Department) web site at [www.depweb.state.pa.us](http://www.depweb.state.pa.us).

#### C. *Statutory Authority*

These regulations are being promulgated under the authority of sections 106, 106.1 and 106.2 of the Bituminous Coal Mine Safety Act (BCMSA) (52 P. S. §§ 690-106, 690-106.1 and 690-106.2) and section 1920-A of The Administrative Code of 1929 (71 P. S. § 510-20).

#### D. *Background and Purpose*

At the National level, the MSHA regulates mine safety under the authority of the Mine Safety Act. In 2006, the United States Congress amended the Mine Safety Act by enacting the MINER Act. The MINER Act addresses safety issues that were raised by fatal mine accidents at the Sago and Alma Mines in West Virginia, and the Darby Mine in Kentucky. The Mine Safety Act directed the MSHA to develop regulations implementing its provisions. In addition, when adopting the Consolidated Appropriations Act of 2008 (Pub. L. No. 110-161), Congress included a provision directing the MSHA to adopt new flame-resistance standards for belt conveyors. In accordance with these statutory mandates, the MSHA promul-

gated regulations addressing the flammability of belt conveyors, the strength of seals, escapeways, refuge alternatives, post-accident breathable air, communications, tracking and mine rescue teams. The MSHA regulations are in 30 CFR Parts 1—199 and the operating requirements for underground coal mines are in 30 CFR Part 75.

Section 506 of the Mine Safety Act (30 U.S.C.A. § 955) preempts state laws or regulations that are less stringent than or conflict with MSHA standards. Unlike with some other Federal statutes, a state cannot obtain primary authority to enforce the Mine Safety Act within the state's jurisdiction. As a result, a number of states have maintained an independent underground coal mine safety program which implements the state's mine safety laws, particularly states like Pennsylvania with a long history of underground coal mining. The Commonwealth has been regulating safety at underground bituminous coal mines since 1889. See the act of May 9, 1889 (P. L. 154, No. 171), regarding the recovery of the bodies of workmen. In 2008, the General Assembly enacted the BCMSA, which constitutes the first significant update of the Commonwealth's underground bituminous coal mine safety laws since 1961. A fundamental purpose of the BCMSA is to establish and promulgate improved mandatory health and safety standards to protect the health and safety of miners and others in and about underground coal mines located in this Commonwealth. See section 103 of the BCMSA (52 P. S. § 690-103).

One of the significant changes made by the BCMSA is to establish a rulemaking process that will enable the expeditious updating of the interim mandatory health and safety standards in the BCMSA and otherwise help to protect the health, safety and welfare of miners and others in and about mines going forward. The General Assembly established the Board to promulgate regulations implementing the BCMSA. The seven-member Board consists of the Secretary of the Department, who serves as the Chairperson, and six Board members—three representing the viewpoint of mine workers and three representing the viewpoint of underground bituminous coal mine operators. See section 106 of the BCMSA.

In adopting the BCMSA, the General Assembly recognized that the Pennsylvania Bituminous Coal Mine Act had become outdated and lacked an effective mechanism to modify existing standards or to adopt new safety standards to address changes in technology or recognized hazards. To rectify this problem, the BCMSA establishes broad authority in the Board (and the Department) to adopt regulations to either modernize safety standards in the BCMSA or adopt new safety standards not in the BCMSA. See section 106 of the BCMSA. The Board was directed by the General Assembly in the BCMSA to consider adopting Federal mine safety standards not included as interim mandatory safety standards in the BCMSA. See section 106.1 of the BCMSA. Of particular concern is the adoption of regulations implementing safety standards established by the MINER Act and the MSHA regulations implementing the MINER Act. The General Assembly expressly authorized the Board to promulgate regulations the Board deems appropriate to implement Federal standards adopted by the MINER Act. See section 106.1(h) of the BCMSA.

In accordance with section 106 of the BCMSA, this final-form rulemaking promulgates as regulations Federal mine safety standards not included as interim mandatory

safety standards in the BCMSA. The final-form rule-making also addresses safety standards established by the MINER Act. To a great extent, this final-form rule-making incorporates by reference applicable MSHA regulations. However, there are a few instances when the MINER Act regulations needed to be strengthened or clarified and this final-form rulemaking promulgates regulations accordingly to assure the safety of miners in this Commonwealth. Adopting the MSHA regulations by reference when applicable will enhance safety at underground coal mines because the potential for confusion by operators as to the appropriate safety standard is minimized. Moreover, future changes in an MSHA regulation that has been fully incorporated by reference will take immediate effect in this Commonwealth. As a result, these regulations will remain current with the MSHA regulations.

The proposed rulemaking was published at 40 Pa.B. 3836 (July 10, 2010) with a 60-day public comment period. The Board received 24 comments from 4 commentators.

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

##### *§ 208.1. Definitions*

The final-form rulemaking makes a minor edit to the definition of “overpressure” to delete a superfluous reference to a section of the Federal regulations and to delete the adjective “highest” for purposes of clarity.

##### *§ 208.3. Access to material*

Some minor editorial changes were made to this section for purposes of textual clarity.

##### *§ 208.11. Seals*

The final-form rulemaking is revised to limit its scope to the incorporation of the MSHA standards in 30 CFR 75.335(c) (relating to seal strengths, design applications, and installation).

##### *§ 208.13. Construction and repair of seals*

This section was revised to provide that welding, cutting or soldering within 150 feet of a seal shall be performed in accordance with the MSHA approval.

##### *§ 208.41. Emergency evacuation*

Subsection (b) is revised to make clear that an individual designated by the mine operator who is adequately trained and is capable of initiating the emergency response plan shall be located on the surface in the event that the designated responsible person is not available. The proposed regulation required that a designated individual with the same training in emergency procedures as the responsible person had to be located on the surface during all shifts. Comments pointed out that this requirement would lead to unnecessary redundancy and potential confusion. The revision clarifies the intent of the regulation, which is to assure that a person capable of initiating the emergency response plan is located on the surface in the event the designated responsible person is not available to conduct the emergency response procedures.

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

##### *Access to material*

Section 208.3 (relating to access to material) authorizes the Department to obtain copies of the material an operator submits to the MSHA under the regulations incorporated by reference in this chapter. One commenter questioned the need for this regulation since the BCMSA

contains provisions regarding materials that shall be provided to the Department and to miner representatives. For the most part, the Department will be accepting the MSHA’s approval of seals and equipment. There are instances when the Department will need copies of this information to approve a plan or to raise concerns to the MSHA for its consideration as part of its review of the requested approval. The Department will provide this information to an official representative of the miners as requested, unless specified otherwise in the chapter.

##### *Seal strength*

The Board received several comments concerning the elimination in the proposed rulemaking of the MSHA option of a 50 psi seal standard if the operator monitors the atmosphere in the abandoned area and the atmosphere remains inert. The proposed regulations would have required mine operators to design, construct and maintain seals to withstand an overpressure of at least 120 psi.

In response to comments, the Board determined to limit the scope of the final-form rulemaking to the incorporation of MSHA standards in 30 CFR 75.335(c) concerning the design and installation of seals.

##### *Construction and repair of seals*

Section 208.13 (relating to construction and repair of seals) incorporates by reference 30 CFR 75.337 (relating to construction and repair of seals), the MSHA’s standards for approving the installation and repair of seals. One commenter questioned the need for this section.

The incorporation by reference ensures that the Department and the MSHA will be enforcing the same standards to ensure the safe installation and repair of seals. The only difference between this regulation and the MSHA regulation is that a copy of the information to justify welding, cutting or soldering within 150 feet of a seal is to be submitted to the representative of the miners. This enables the persons who could be placed at risk by the welding, cutting or soldering activity to have an opportunity to comment on the adequacy of the operator’s proposal.

##### *Training*

Section 208.14 (relating to training) establishes the training requirements for persons involved in the installation or repair of seals. It incorporates by reference 30 CFR 75.338 (relating to training). A commenter noted that the MSHA rule concerning the training of senior management is ambiguous and is not clear as to who shall be trained and when the individual shall be trained. The commenter suggested that some consideration be given to clarifying this aspect of the regulation.

To eliminate confusion, the Department will use the MSHA guidance policy on who shall be trained and when they shall be trained.

##### *Escapeways*

The Board received several comments pertaining to escapeways which disagreed with the distinction made in proposed § 208.21(a) (relating to escapeways) and the MSHA regulation. The proposed regulation did not incorporate the language in 30 CFR 75.380(c) (relating to escapeways; bituminous and lignite mines) allowing the two escapeways to end in one multiple compartment shaft or slope separated by walls.

Section 274 of the BCMSA (52 P. S. § 690-274) directly addresses mine openings or outlets. The BCMSA specifically requires that the two intake openings or outlets to

the surface may not be at a common shaft, slope or drift opening. The BCMSA also states that the openings or outlets must have a distinct means of egress available for use by the employees. For this reason, § 208.21(a) does not incorporate by reference the language in 30 CFR 75.380(c) that allows two escapeways to end in one multiple compartment shaft or slope separated by walls. The regulations adhere to the statutory requirement in the BCMSA. Both State law and the Federal regulations require at least two intake openings or outlets to the surface from every seam of coal being worked. The Department will apply escapeway requirements in accordance with MSHA regulations to primary and secondary escapeways designated by mine operators.

#### *Belts*

Section 208.32(a) (relating to maintenance of belt conveyors and belt conveyor entries) incorporates by reference 30 CFR 75.1731 (relating to maintenance of belt conveyors and belt conveyor entries) so that the Department will be using the MSHA belt and belt entry maintenance requirements. Subsection (b) makes it clear that the belt conveyor preshift and fixed interval inspections address compliance with these maintenance requirements. One commentator does not believe this provision is necessary. However, these requirements are common sense actions that will minimize the risk of a conveyor belt fire.

#### *Emergencies*

Section 208.41(a) (relating to emergency evacuation) incorporates by reference 30 CFR 75.1501 (relating to emergency evacuations). The proposed regulation required that a designated individual with the same training in emergency procedures as the responsible person had to be located on the surface during all shifts. The Board received several comments on this section which pointed out that this requirement would lead to unnecessary redundancy and potential confusion.

The Board agrees with the commentators that this section should be revised to express the intent more clearly. Subsection (b) of this section has been revised to make clear that an individual designated by the mine operator who is adequately trained and is capable of initiating the emergency response plan shall be located on the surface in the event that the designated responsible person is not available. The change clarifies the intent of the regulation, which is to assure that a person capable of initiating the emergency response plan is located on the surface in the event the designated responsible person is not available to conduct the emergency response procedures.

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

##### *Benefits*

The final-form rulemaking enhances mine safety by ensuring that abandoned areas are isolated from the working mine, by reducing the possibility of belt conveyor fires and by enhancing the miners' ability to survive a mine fire, cave-in or the inundation of a mine by gas or water. The Department will be enforcing the MSHA requirements concerning emergency response and emergency response training, escapeways, self-contained self-rescue devices and refuge alternative requirements.

##### *Compliance Costs*

This final-form rulemaking does not impose new compliance costs. For the most part, this final-form rulemaking imposes standards already imposed by the MSHA.

#### *Compliance Assistance Plan*

The Department will work with the Pennsylvania Coal Association to assist coal mine operators in complying with these regulations. In addition, compliance assistance will be provided by the mine inspectors as part of their inspections of mines.

#### *Paperwork Requirements*

The only new paperwork requirement imposed by this final-form rulemaking is that operators will be required to submit to the Department applications to conduct welding, cutting or soldering within 150 feet of a seal.

#### *H. Pollution Prevention*

The final-form rulemaking will not modify the pollution prevention approach by the regulated community and maintains the multimedia pollution prevention approach of existing requirements in 25 Pa. Code (relating to environmental protection).

#### *I. Sunset Review*

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

#### *J. Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on June 30, 2010, the Department submitted a copy of the notice of proposed rulemaking, published at 40 Pa.B. 3836, to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the House and Senate Environmental Resources and Energy Committees for review and comment.

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

Under section 5.1(j.2) of the Regulatory Review Act (71 P. S. § 745.5a(j.2)), on August 24, 2011, the final-form rulemaking was deemed approved by the House and Senate Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC met on August 25, 2011, and approved the final-form rulemaking.

#### *K. Findings*

The Board finds that:

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

(2) A public comment period was provided, notice was submitted to the operator of each mine and, when applicable, the representative of the miners at the mine as required by law. All comments were considered.

(3) These regulations do not enlarge the purpose of the proposed rulemaking published at 40 Pa.B. 3836.

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

#### *L. Order*

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

(a) The regulations of the Department, 25 Pa. Code, are amended by adding §§ 208.1—208.3, 208.11—208.15, 208.21, 208.31, 208.32, 208.41—208.48, 208.51 and 208.61—208.69 to read as set forth in Annex A.

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

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

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

(e) This order takes effect immediately.

MICHAEL L. KRANCER,  
Chairperson

*(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 41 Pa.B. 4923 (September 10, 2011).)*

**Fiscal Note:** Fiscal Note 7-455 remains valid for the final adoption of the subject regulations.

**Annex A**

**TITLE 25. ENVIRONMENTAL PROTECTION**

**PART I. DEPARTMENT OF ENVIRONMENTAL PROTECTION**

**Subpart D. ENVIRONMENTAL HEALTH AND SAFETY**

**ARTICLE IV. OCCUPATIONAL HEALTH AND SAFETY**

**CHAPTER 208. UNDERGROUND COAL MINE SAFETY**

**GENERAL PROVISIONS**

- Sec. 208.1. Definitions.
- 208.2. Scope.
- 208.3. Access to material.

**SEALS**

- 208.11. Seals.
- 208.12. Sampling and monitoring requirements.
- 208.13. Construction and repair of seals.
- 208.14. Training.
- 208.15. Seals records.

**ESCAPEWAYS**

- 208.21. Escapeways.

**BELTS**

- 208.31. Approval of conveyor belts.
- 208.32. Maintenance of belt conveyors and belt conveyor entries.

**EMERGENCIES**

- 208.41. Emergency evacuation.
- 208.42. Emergency evacuation and firefighting program of instruction.
- 208.43. Use of fire suppression equipment.
- 208.44. Mine emergency evacuation training and drills.
- 208.45. Escapeway maps.
- 208.46. Refuge alternatives.
- 208.47. Emergency response plan; refuge alternatives.
- 208.48. Training and records for examination, maintenance and repair of refuge alternatives and components.

**COMMUNICATIONS**

- 208.51. Communications facilities for refuge alternatives.

**SELF-CONTAINED SELF-RESCUE DEVICES**

- 208.61. Availability of approved self-contained self-rescue devices; instruction in use and location.
- 208.62. Approved self-contained self-rescue devices.
- 208.63. Self-contained self-rescue devices; use and location requirements.
- 208.64. Self-contained self-rescue devices; inspection, testing, maintenance, repair, and recordkeeping.
- 208.65. Additional self-contained self-rescue devices.
- 208.66. Map locations.
- 208.67. Emergency tethers.
- 208.68. Multi-gas detectors.
- 208.69. Reporting SCSR inventory, malfunctions and retention.

**GENERAL PROVISIONS**

**§ 208.1. Definitions.**

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

*Act*—The Bituminous Coal Mine Safety Act (52 P. S. §§ 690-101—690-708).

*Approval or approved*—The term as defined in section 104 of the act (52 P. S. § 690-104).

*MSHA*—The term as defined in section 104 of the act.

*Miner*—The term as defined in section 104 of the act.

*NIOSH*—The term as defined in section 104 of the act.

*Operator*—The term as defined in section 104 of the act.

*Overpressure*—The pressure over the background atmospheric pressure that could result from an explosion, which includes the impact of the pressure wave on an object.

*psi*—Pounds per square inch.

*Representative of the miners*—The term as defined in section 104 of the act.

*SCSR—Self-contained self-rescue device*—A type of closed-circuit, self-contained breathing apparatus approved by MSHA and NIOSH under 42 CFR Part 84 (relating to approval of respiratory protective devices) for escape only from underground mines.

*Underground bituminous coal mine or mine*—The term as defined in section 104 of the act.

**§ 208.2. Scope.**

The safety standards and procedures in this chapter apply to all underground bituminous coal mines, operators and miners subject to the act.

**§ 208.3. Access to material.**

Upon request from the Department, or as required under this chapter, an operator shall submit to the Department a copy of any application, report, plan or other material submitted to MSHA pursuant to a regulation adopted by reference in this chapter. Upon request from the authorized representative of the miners, the Department will provide to the representative of the miners copies of an application, report, plan or other material submitted by an operator to MSHA pursuant to a regulation adopted by reference in this chapter.

**SEALS**

**§ 208.11. Seals.**

(a) *Seal installation.* The provisions of 30 CFR 75.335(c) (relating to seal strengths, design applications, and installation) are incorporated by reference.

(b) *Seal Strength greater than 120 psi.* The provisions of 30 CFR 75.335(a)(3) shall be used for determining when the strength of a seal shall exceed 120 psi.

(c) *Seal installation approval.* The operator shall submit an application to install the MSHA-approved seal design to the Department for its review and approval concerning seal installation. An approved application to install the seal shall be made part of the abandoned area ventilation plan required under section 235 of the act (52 P. S. § 690-235) regarding unused and abandoned parts of mines and follow 30 CFR 75.335(c).

(1) The operator shall provide the representative of the miners, if applicable, the approved seal design installation application at the same time the operator submits the application to the Department.

(2) Any individual installing the seal shall do so in accordance with the approved abandoned area ventilation plan.

**§ 208.12. Sampling and monitoring requirements.**

The provisions of 30 CFR 75.336 (relating to sampling and monitoring requirements) are incorporated by reference.

**§ 208.13. Construction and repair of seals.**

(a) *General.* The provisions of 30 CFR 75.337 (relating to construction and repair of seals) are incorporated by reference.

(b) *Welding, cutting and soldering.* The operator shall submit to the Department and the representative of the miners the same information submitted to MSHA under 30 CFR 75.337(f). Any welding, cutting or soldering within 150 feet of a seal shall be performed in accordance with the MSHA approval.

**§ 208.14. Training.**

The provisions of 30 CFR 75.338 (relating to training) are incorporated by reference.

**§ 208.15. Seals records.**

(a) *General.* The provisions of 30 CFR 75.339 (relating to seals records) are incorporated by reference.

(b) *Access to records.* Upon request from the Department, or from the authorized representative of the miners, mine operators shall provide access to any record required by this section.

**ESCAPEWAYS**

**§ 208.21. Escapeways.**

(a) *Bituminous and lignite mines.* The provisions of 30 CFR 75.380 (relating to escapeways; bituminous and lignite mines) are incorporated by reference except that the language in 30 CFR 75.380(c) allowing the two escapeways to end in one multiple compartment shaft or slope separated by walls is not incorporated by reference.

(b) *Mechanical and escape facilities.* The provisions of 30 CFR 75.382 (relating to mechanical escape facilities) are incorporated by reference.

(c) *Longwall and shortwall travelways.* The provisions of 30 CFR 75.384 (relating to longwall and shortwall travelways) are incorporated by reference. If a roof fall or other blockage occurs that prevents travel in the travelway, the mine operator shall notify the Department.

**BELTS**

**§ 208.31. Approval of conveyor belts.**

The provisions of 30 CFR 75.1108(b) and (c) (relating to approved conveyor belts) are incorporated by reference.

**§ 208.32. Maintenance of belt conveyors and belt conveyor entries.**

(a) *Maintenance standards.* The provisions of 30 CFR 75.1731 (relating to maintenance of belt conveyors and belt conveyor entries) are incorporated by reference.

(b) *Inspections.* Individuals conducting inspections of belt conveyors required under sections 218 and 218.1 of the act (52 P. S. §§ 690-218 and 690-218.1) regarding preshift examination at fixed intervals and supplemental inspection shall address compliance with this section's maintenance requirements.

**EMERGENCIES**

**§ 208.41. Emergency evacuation.**

(a) *Emergency evacuation.* The provisions of 30 CFR 75.1501 (relating to emergency evacuations) are incorporated by reference.

(b) *Individual located on the surface.* An individual designated by the mine operator who is adequately trained and is capable of initiating the emergency response plan shall be located on the surface in the event the designated responsible person is not available.

**§ 208.42. Emergency evacuation and firefighting program of instruction.**

The provisions of 30 CFR 75.1502 (relating to mine emergency evacuation and firefighting program of instruction) are incorporated by reference.

**§ 208.43. Use of fire suppression equipment.**

The provisions of 30 CFR 75.1503 (relating to use of fire suppression equipment) are incorporated by reference.

**§ 208.44. Mine emergency evacuation training and drills.**

The provisions of 30 CFR 75.1504 (relating to mine emergency evacuation training and drills) are incorporated by reference.

**§ 208.45. Escapeway maps.**

The provisions of 30 CFR 75.1505 (relating to escapeway maps) are incorporated by reference.

**§ 208.46. Refuge alternatives.**

The provisions of 30 CFR 75.1506 (relating to refuge alternatives) are incorporated by reference.

**§ 208.47. Emergency response plan; refuge alternatives.**

The provisions of 30 CFR 75.1507 (relating to Emergency Response Plan; refuge alternatives) are incorporated by reference.

**§ 208.48. Training and records for examination, maintenance and repair of refuge alternatives and components.**

The provisions of 30 CFR 75.1508 (relating to training and records for examination, maintenance and repair of refuge alternatives and components) are incorporated by reference.

**COMMUNICATIONS**

**§ 208.51. Communications facilities for refuge alternatives.**

The provisions of 30 CFR 75.1600-3 (relating to communications facilities; refuge alternatives) are incorporated by reference.

**SELF-CONTAINED SELF-RESCUE DEVICES**

**§ 208.61. Availability of approved self-contained self-rescue devices; instruction in use and location.**

The provisions of 30 CFR 75.1714 (relating to availability of approved self-rescue devices; instruction in use and location) are incorporated by reference.

**§ 208.62. Approved self-contained self-rescue devices.**

The provisions of 30 CFR 75.1714-1 (relating to approved self-rescue devices) are incorporated by reference.

**§ 208.63. Self-contained self-rescue devices; use and location requirements.**

The provisions of 30 CFR 75.1714-2 (relating to self-rescue devices; use and location requirements) are incorporated by reference.

**§ 208.64. Self-contained self-rescue devices; inspection, testing, maintenance, repair, and record-keeping.**

The provisions of 30 CFR 75.1714-3 (relating to self-rescue devices; inspection, testing, maintenance, repair, and recordkeeping) are incorporated by reference.

**§ 208.65. Additional self-contained self-rescue devices.**

The provisions of 30 CFR 75.1714-4 (relating to additional self-contained self-rescuers (SCSRs)) are incorporated by reference.

**§ 208.66. Map locations.**

The provisions of 30 CFR 75.1714-5 (relating to map locations of self-contained self-rescuers (SCSR)) are incorporated by reference.

**§ 208.67. Emergency tethers.**

The provisions of 30 CFR 75.1714-6 (relating to emergency tethers) are incorporated by reference.

**§ 208.68. Multi-gas detectors.**

The provisions of 30 CFR 75.1714-7 (relating to multi-gas detectors) are incorporated by reference.

**§ 208.69. Reporting SCSR inventory, malfunctions and retention.**

The provisions of 30 CFR 75.1714-8 (relating to reporting SCSR inventory and malfunctions; retention of SCSR) are incorporated by reference.

[Pa.B. Doc. No. 11-1724. Filed for public inspection October 7, 2011, 9:00 a.m.]

**Title 49—PROFESSIONAL AND VOCATIONAL STANDARDS**

**STATE BOARD OF PHARMACY**

**[ 49 PA. CODE CH. 27 ]**

**Corrective Amendment to 49 Pa. Code § 27.1**

The State Board of Pharmacy has discovered a discrepancy between the agency text of 49 Pa. Code § 27.1, as deposited with the Legislative Reference Bureau, and

published at 36 Pa.B. 2518 (May 27, 2006) and the official text as currently appearing in the *Pennsylvania Code*. The word “electronic” was omitted from the definition of “prescription.”

Therefore, under 45 Pa.C.S. § 901: The State Board of Pharmacy has deposited with the Legislative Reference Bureau a corrective amendment to 49 Pa. Code § 27.1. The corrective amendment to 49 Pa. Code § 27.1 is effective as of August 5, 2006, the date the defective official text was announced in the *Pennsylvania Bulletin*.

The correct version of 49 Pa. Code § 27.1 appears in Annex A, with ellipses referring to the existing text.

**Annex A**

**TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS**

**PART I. DEPARTMENT OF STATE**

**Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS**

**CHAPTER 27. STATE BOARD OF PHARMACY**

**GENERAL PROVISIONS**

**§ 27.1. Definitions.**

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

\* \* \* \* \*

*Prescription*—A written, electronic or oral order issued by a licensed medical practitioner in the course of professional practice for a controlled substance, other drug or device or medication which is dispensed for use by a consumer.

\* \* \* \* \*

[Pa.B. Doc. No. 11-1725. Filed for public inspection October 7, 2011, 9:00 a.m.]

**Title 58—RECREATION**

**FISH AND BOAT COMMISSION**

**[ 58 PA. CODE CHS. 61 AND 63 ]**

**Fishing**

The Fish and Boat Commission (Commission) amends Chapters 61 and 63 (relating to seasons, sizes and creel limits; and general fishing regulations). The Commission is publishing this final-form rulemaking under the authority of 30 Pa.C.S. (relating to the Fish and Boat Code) (code). The amendments modify and update the Commission’s fishing regulations.

*A. Effective Date*

The final-form rulemaking will go into effect on January 1, 2012.

*B. Contact Person*

For further information on the final-form rulemaking, contact Wayne Melnick, Esq., P. O. Box 67000, Harrisburg, PA 17106-7000, (717) 705-7810. This final-form rulemaking is available on the Commission’s web site at [www.fish.state.pa.us](http://www.fish.state.pa.us).

### C. Statutory Authority

The amendments to §§ 61.1, 61.2, 61.4, 61.7 and 61.8 and the addition of § 63.55 (relating to saltwater angler registration) are published under the statutory authority of section 2102 of the code (relating to rules and regulations).

### D. Purpose and Background

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

### E. Summary of Changes

(1) Since the mid-1980s, the daily creel limit for river herring, a term applied collectively to blueback herring and alewife, in the Delaware River and Estuary was a total of 35 fish. There was no minimum size limit and the season was open year-round. Beginning in 2010, the Commission adopted an amendment in coordination with New Jersey and later coordinated with New York reducing the daily creel limit from the historic limit to a limit of ten river herring from the confluence of the East and West Branches downriver to the Commodore Barry Bridge. The remaining 2.9 river miles below the Commodore Barry Bridge remained at the historic daily limit of 35 herring, in cooperation with New Jersey's Marine Council. The State of Delaware was already managing the fishery with a ten herring creel limit.

River herring are popular with striped bass anglers who use them either as live or cut bait. Principally, this fishery exists during the spring when river herring and striped bass are migrating into the Delaware River and estuarine waters. Traditionally, anglers jig for river herring at the onset of a trip but are often seen jigging with one rod while another is being passively fished for striped bass.

Amendment 2 to the Atlantic States Marine Fisheries Commission (ASMFC) Interstate Fishery Management Plan for Shad and River Herring states that river herring abundance has declined since the mid-1990s and currently remains at a depressed level along the Atlantic Coast. Amendment 2 calls for closure of river herring fisheries that cannot be demonstrated to be sustainable. Considering the coastwide declines in river herring and the lack of data to support that the fishery is sustainable, the Commonwealth has been coordinating a proposed total closure for the Delaware River river herring fishery with the other three basin states (that is, New Jersey, New York and Delaware) through the Delaware River Fish and Wildlife Management Cooperative. This amendment will apply to the entire Delaware River and Delaware Estuary inclusive of both tidal and nontidal reaches to the Pennsylvania/Delaware state line.

In light of this amendment, changes were also necessary in the Lehigh River, the Schuylkill River and their tributaries in § 61.8 (relating to Lehigh River, Schuylkill River and tributaries) and in the Conowingo Reservoir in § 61.4 (relating to Conowingo Reservoir). The Lehigh and Schuylkill Rivers flow into the Delaware River and are thus inhabited by a portion of the anadromous river herring populations that enter the Delaware River. The Conowingo Reservoir is the first portion of the Susquehanna River inhabitable by anadromous river herring that migrate up the Susquehanna River. Harvest of the anadromous populations of river herring is already prohibited in the portions of the Susquehanna River and its tributaries upstream of Conowingo Reservoir under § 61.7 (relating to Susquehanna River and tributaries).

The more liberal regulations in the other inland waters of the Commonwealth in § 61.1 (relating to Commonwealth inland waters) are acceptable in that these populations are landlocked and thus distinct from the anadromous populations addressed by the ASMFC and intended to be addressed by the final-form rulemaking.

Finally, in addition to the changes previously mentioned, some housekeeping changes were needed to make the terminology for river herring consistent throughout Chapter 61.

The Commission therefore amended §§ 61.1, 61.2, 61.4, 61.7 and 61.8 to read as set forth in the proposed rulemaking.

(2) Under 50 CFR Part 600, Subpart P (relating to marine recreational fisheries of the United States), anglers who target or catch shad, striped bass and river herring from the Delaware River below Trenton Falls or in the Delaware Estuary are required to register with the National Saltwater Angler Registry Program administered by the National Oceanic and Atmospheric Administration (NOAA). In 2010, the registration was free and a \$15 fee has been instituted for 2011. See [www.countmyfish.noaa.gov](http://www.countmyfish.noaa.gov).

Anglers are not required to register with NOAA if they hold a valid fishing license issued by an "exempted state." For NOAA to designate a state as an "exempted state," the state must agree to provide certain data to NOAA that can be used to assist in completing marine recreational fisheries statistical surveys or evaluating the effects of proposed conservation and management measures for marine recreational fisheries. To that end, the Commission already has entered into a Memorandum of Agreement (MOA) with NOAA that obligates the Commission to create a system for collecting and annually sharing angler data with NOAA. The MOA further exempts anglers in this Commonwealth from the National registration requirement and the associated fee. To meet the terms of the MOA, the Commission proposed a new regulation that requires all applicable anglers to register either with the Commission or NOAA.

Upon review of the proposed regulation, the Commission determined that it is appropriate to add language to clarify that an angler is also in compliance if he meets the saltwater angler registration requirements of another state. This will allow compliance by anglers who otherwise meet NOAA's requirements through the purchase of a marine license or registration in another state. The Commission adopts the regulation as set forth in Annex A.

The Commission will create a free online registration tool through which anglers may register and receive a registration number rather than registering with NOAA and incurring the Federal fee. The Commission has been awarded a grant from the ASMFC to fund the development of the online tool. Registered anglers must still possess a valid State fishing license.

### F. Paperwork

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

### G. Fiscal Impact

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



H. *Public Involvement*

Notice of proposed rulemaking was published at 41 Pa.B. 2444 (May 14, 2011). The Commission did not receive public comments.

*Findings*

The Commission finds that:

(1) Public notice of intention to adopt the amendments adopted by this order has been given under sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202) and the regulations promulgated thereunder, 1 Pa. Code §§ 7.1 and 7.2.

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

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

*Order*

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

(a) The regulations of the Commission, 58 Pa. Code Chapters 61 and 63, are amended by amending §§ 61.1, 61.2, 61.4, 61.7 and 61.8 to read as set forth at 41 Pa.B. 2444 and by adding § 63.55 to read as set forth in Annex A.

(b) The Executive Director will submit this order, 41 Pa.B. 2444 and Annex A to the Office of Attorney General for approval as to legality and form as required by law.

(c) The Executive Director shall certify this order, 41 Pa.B. 2444 and Annex A and deposit them with the Legislative Reference Bureau as required by law.

(d) This order takes effect on January 1, 2012.

JOHN A. ARWAY,  
*Executive Director*

**Fiscal Note:** Fiscal Note 48A-225 remains valid for the final adoption of the subject regulations.

**Annex A**

**TITLE 58. RECREATION**

**PART II. FISH AND BOAT COMMISSION**

**Subpart B. FISHING**

**CHAPTER 63. GENERAL FISHING REGULATIONS**

**§ 63.55. Saltwater angler registration.**

It is unlawful for a person required under 30 Pa.C.S. Chapter 27 (relating to fishing licenses) to procure a resident fishing license, a nonresident fishing license, a senior resident lifetime fishing license or an annual senior resident fishing license to fish for shad, striped bass or river herring in the Delaware River below Trenton Falls or in the Delaware Estuary unless that person has obtained a saltwater angler registration from the Commission, has registered with the National Saltwater Angler Registry Program administered by the National Oceanic and Atmospheric Administration or has met the saltwater angler registration requirements of another state.

[Pa.B. Doc. No. 11-1726. Filed for public inspection October 7, 2011, 9:00 a.m.]

**FISH AND BOAT COMMISSION**

**[ 58 PA. CODE CH. 65 ]**

**Fishing; Special Fishing Regulations**

The Fish and Boat Commission (Commission) amends Chapter 65 (relating to special fishing regulations). The Commission is publishing this final-form rulemaking under the authority of 30 Pa.C.S. (relating to the Fish and Boat Code) (code).

**A. Effective Date**

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

**B. Contact Person**

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

**C. Statutory Authority**

The amendment to § 65.24 (relating to miscellaneous special regulations) is published under the statutory authority of section 2307 of the code (relating to waters limited to specific purposes).

**D. Purpose and Background**

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

**E. Summary of Change**

Leaser Lake is a 117-acre Commission-owned impoundment in the rural northwestern corner of Lehigh County in the Ontelaunee/Maiden Creek drainage basin situated approximately 20 miles directly northwest of center city Allentown. Leaser Lake was subjected to a complete drawdown in fall 2008 following a partial drawdown to a safe level of 40 acres that was maintained for a number of years. The final drawdown was necessary to carry out extensive repairs to the leaking dam. Leaser Lake provided fishing for resident warm/coolwater fish populations as well as a seasonal catchable trout fishery with many individuals traveling from the Lehigh Valley metropolitan area (Allentown-Bethlehem-Easton) to fish in Leaser Lake's scenic setting.

The Commission proposed a 5-year moratorium on fishing at Leaser Lake to enable the development of a high quality warm and coolwater fishery through the stocking of fingerling of select fish species. Specifically, the Commission proposed that Leaser Lake be closed to all fishing until June 18, 2016.

On final-form rulemaking, the Commission determined that it should not institute a complete moratorium on fishing but instead delay the stocking of adult trout until 2014. This approach is necessary to facilitate development of a self sustaining shiner population required to maintain the desired high quality warm/coolwater fishery. The Commission will allow for the harvest of trout under the Commonwealth's inland seasons, sizes and creel limits and has imposed catch and release fishing for other fish species. The Commission believes that this approach will allow the fishery to develop under protective regulations while offering acceptable levels of recreational angling opportunities. The special regulation will remain in effect

until the opening day of bass season on June 18, 2016. The Commission amended § 65.24 to read as set forth in Annex A.

The positive aspect of this amendment is that it will provide anglers the opportunity to fish for adult trout beginning 2 years following refilling and immediate angling opportunities for warm and cool water fish populations as they grow and reach acceptable lengths for angling. The 2-year loss of recreational angling opportunities for adult stocked trout is a negative aspect of this restoration plan. However, the Commission believes that the benefits outweigh the short-term loss of recreation.

Commission staff will monitor the fish populations and recommend appropriate special regulations prior to 2016 if the fish populations develop quicker than anticipated. Leaser Lake was formerly in the Panfish Enhancement Program regulated under § 65.11 (relating to panfish enhancement special regulation).

With respect to the catchable trout program, there are numerous alternative stream fishing opportunities throughout the Lehigh Valley, northwestern Lehigh County and nearby northeastern Berks County. These locations include 14 miles of nearby Ontelaunee and Maiden Creeks.

*F. Paperwork*

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

*G. Fiscal Impact*

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

*H. Public Involvement*

Notice of proposed rulemaking was published at 41 Pa.B. 2447 (May 14, 2011). The Commission did not receive public comments regarding the proposed rulemaking.

*Findings*

The Commission finds that:

(1) Public notice of intention to adopt the amendment adopted by this order has been given under sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202) and the regulations promulgated thereunder, 1 Pa. Code §§ 7.1 and 7.2.

(2) A public comment period was provided and all public comments received were considered.

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

*Order*

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

(a) The regulations of the Commission, 58 Pa. Code Chapter 65, are amended by amending § 65.24 to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.

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

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

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

JOHN A. ARWAY,  
*Executive Director*

**Fiscal Note:** Fiscal Note 48A-226 remains valid for the final adoption of the subject regulation.

**Annex A**

**TITLE 58. RECREATION**

**PART II. FISH AND BOAT COMMISSION**

**Subpart B. FISHING**

**CHAPTER 65. SPECIAL FISHING REGULATIONS**

**§ 65.24. Miscellaneous special regulations.**

The following waters are subject to the following miscellaneous special regulations:

<i>County</i>	<i>Name of Water</i>	<i>Special Regulations</i>
		* * * * *
Lehigh	Leaser Lake	All species except trout—Catch and release/no harvest; it is unlawful to take, kill or possess any fish except trout. All fish caught other than trout shall be immediately returned unharmed. Trout—Inland regulations apply. See § 61.1 (relating to Commonwealth inland waters). This miscellaneous special regulation will remain in effect until June 18, 2016.
		* * * * *

[Pa.B. Doc. No. 11-1727. Filed for public inspection October 7, 2011, 9:00 a.m.]

**PENNSYLVANIA GAMING CONTROL BOARD**

**[ 58 PA. CODE CHS. 401a AND 405a ]**

**Preliminary Provisions; Bureau of Investigations and Enforcement**

The Pennsylvania Gaming Control Board (Board), under the general authority in 4 Pa.C.S. § 1202(b)(25) (relating to general and specific powers) and the specific authority in 4 Pa.C.S. §§ 1202.1 and 1516.1 (relating to code of conduct; and prosecutorial and adjudicatory functions) amends Chapters 401a and 405a (relating to preliminary provisions; and Bureau of Investigations and Enforcement) to read as set forth in Annex A.

*Purpose of the Final-Form Rulemaking*

In accordance with revisions made to 4 Pa.C.S. Part II (relating to gaming) as part of the act of January 7, 2010 (P. L. 1, No. 1) (Act 1), the Board amends Chapters 401a and 405a regarding ex parte communications and the separation of the adjudicatory functions of the Board or a presiding officer of the Board from the investigatory and prosecutorial functions of the Office of Enforcement Counsel (OEC) and the Bureau of Investigations and Enforcement (Bureau).

*Explanation of Chapter 401a*

Section 401a.3 (relating to definitions) amends the definition of “ex parte communication” for consistency with 4 Pa.C.S. Part II.

Section 401a.5 (relating to adjudicatory function of the Board; ex parte communications) was added to specify that the adjudicatory capacity of the Board or presiding officer may not be commingled with the prosecutorial or investigatory functions of the Bureau or the OEC.

This section also addresses the prohibition on a Board member, presiding officer or an attorney from the Office of Chief Counsel who is advising the Board from engaging in ex parte communications with any person including an applicant, licensee, the Bureau or an attorney for the OEC. If a Board member, presiding officer or attorney from the Office of Chief Counsel does engage in an ex parte communication, the communication shall be documented and notification of the communication and an opportunity to respond shall be given to all parties. In addition to documenting the ex parte communication in a log, a member or presiding officer may be required to recuse himself. Section 401a.5(e) addresses the procedure for recusal of a presiding officer or Board member who engages in an ex parte communication that creates substantial reasonable doubt as to the individual’s ability to act objectively, independently or impartially.

*Explanation of Chapter 405a*

Section 405a.1 (relating to general duties and powers) is amended to reiterate that the Bureau is independent of the Board, the Office of Hearings and Appeals and the Office of Chief Counsel and that the Bureau alone will dictate the scope and course of a background investigation without direction or limitation by the Executive Director or the Chief Counsel of the Board.

Section 405a.3(a)(7) (relating to Office of Enforcement Counsel) is added to reflect the additional authority given to the OEC to petition the Board for the appointment of a trustee in accordance with 4 Pa.C.S. § 1332 (relating to appointment of trustee).

*Comment and Response Summary*

Notice of proposed rulemaking was published at 41 Pa.B. 1018 (February 26, 2011).

During the comment period, the Board received a joint letter from Downs Racing, L.P. d/b/a Mohegan Sun at Pocono Downs (Downs) and Greenwood Gaming and Entertainment, Inc. d/b/a Parx Casino (Greenwood) and a letter from the Independent Regulatory Review Commission (IRRC) providing comment on the proposed rulemaking.

In § 401a.5(a), Greenwood, Downs and IRRC commented that on-the-record proceedings are not the only context in which an agency acts in an adjudicatory capacity. IRRC suggests distinguishing between on-the-record and off-the-record proceedings. The Board does agree that the language could be clearer by specifying that the Board acts in an adjudicatory capacity not only during an on-the-record proceeding but also in matters relating to the on-the-record proceeding. The Board has therefore added a definition of “on-the-record proceeding” in § 401a.3 to include matters that come to the Board by way of application, complaint, motion, petition, exception, appeal of staff decision regarding a licensing, disciplinary or other matter. Additional language was also added in § 401a.5(a) stating that the Board acts in an adjudicatory capacity when considering matters presented for a decision by the Board in relation to the on-the-record proceeding.

Greenwood, Downs and IRRC also commented that the language in § 401a.5(d) requiring that notice and an opportunity to respond to an ex parte communication be provided to all parties directly affected by the anticipated vote of the Board should be amended to provide parties with notice and an opportunity to respond without the need for the qualitative assessment of participation.

In response to the suggestion, the Board has amended this section so that parties to a hearing or other proceeding which is the subject of the ex parte communication will be provided with notice and an opportunity to respond.

IRRC pointed out a grammatical error in § 405a.1(a) which has been corrected in the final-form rulemaking.

IRRC also requested clarity on what was meant by the “exerting influence” language in § 405a.4(b) (relating to conduct). The Board amended this provision for consistency with the provisions which separate the adjudicatory functions of the Board from the prosecutorial and investigatory functions of the Bureau and the OEC. The provision now mandates that the Board, presiding officer, an attorney advising the Board and the Chief Counsel may not direct, restrict or influence any employee of the Bureau or the Board with respect to the conduct and scope of an enforcement proceeding or hearing with which the employee is involved.

*Additional Revisions*

Language was added in §§ 405a.3 and 405a.4 for consistency with the revisions made to 4 Pa.C.S. Part II with the passage of Act 1. Specifically, in 4 Pa.C.S. § 1517 (relating to investigations and enforcement), the OEC was tasked with preparing the final background investigation report (BIR) for inclusion in an applicant’s suitability report to the Board and a portion of a background investigation may not be disclosed until the OEC prepares the final BIR. The content and scope of the information included in the BIR is solely within the OEC’s discretion in accordance with law. The language in §§ 405a.3(a)(8) and (9) and 405a.4(d) was added to reflect these changes.

*Affected Parties*

This final-form rulemaking affects presiding officers and members of the Board, the Office of Chief Counsel advising the Board as well as employees of the Bureau or the OEC.

*Fiscal Impact*

*Commonwealth.* It is not anticipated that this final-form rulemaking will have a fiscal impact on the Board.

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

*Private sector.* This final-form rulemaking will not have fiscal impact on the private sector.

*General public.* This final-form rulemaking will not have fiscal impact on the general public.

*Paperwork Requirements*

There are no paperwork requirements associated with this final-form rulemaking.

*Effective Date*

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

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on July 21, 2011, the Board submitted a copy of the notice of proposed rulemaking, published at 41 Pa.B. 1018, to IRRC and the Chairpersons of the House Gaming Oversight Committee and the Senate Community, Economic and Recreational Development Committee for review and comment.

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

Under section 5.1(j.2) of the Regulatory Review Act (71 P. S. § 745.5a(j.2)), on August 24, 2011, the final-form rulemaking was deemed approved by the House and Senate Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC met on August 25, 2011, and approved the final-form rulemaking.

Findings

The Board finds that:

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

(2) The final-form rulemaking is necessary and appropriate for the administration and enforcement of 4 Pa.C.S. Part II.

Order

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

(a) The regulations of the Board, 58 Pa. Code Chapters 401a and 405a, are amended by adding § 401a.5 and by amending §§ 401a.3, 405a.1, 405a.3 and 405a.4 to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.

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

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

GREGORY C. FAJT,
Chairperson

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 41 Pa.B. 4923 (September 10, 2011).)

Fiscal Note: Fiscal Note 125-141 remains valid for the final adoption of the subject regulations.

Annex A

TITLE 58. RECREATION

PART VII. GAMING CONTROL BOARD

Subpart A. GENERAL PROVISIONS

CHAPTER 401a. PRELIMINARY PROVISIONS

§ 401a.3. Definitions.

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

\* \* \* \* \*

Ex parte communication—

(i) Any off-the-record communication engaged in or received by a member or presiding officer of the Board regarding the merits of or any fact in issue relating to a pending matter before the Board or presiding officer or which may reasonably be expected to come before the Board or presiding officer in a contested on-the-record proceeding.

(ii) The term does not include the following:

(A) Off-the-record communications by or between a member or presiding officer of the Board, the Department, the Pennsylvania State Police, the Attorney General or other law enforcement official prior to the beginning of the proceeding solely for the purpose of seeking clarification or correction to evidentiary materials intended for use in the proceedings.

(B) Communications between the Board or a member and the Office of Chief Counsel.

\* \* \* \* \*

On-the-record proceeding—A matter that comes before the Board or a presiding officer by way of application, complaint, petition, exception, appeal of staff decision, consent agreement or other motion relating to a licensing, disciplinary or other proceeding for which a formal record is maintained and upon which the Board bases its order and adjudication.

\* \* \* \* \*

§ 401a.5. Adjudicatory function of the Board; ex parte communications.

(a) The Board or a presiding officer acts in an adjudicatory capacity when considering any matter presented for a decision by the Board or presiding officer in relation to an on-the-record proceeding. To ensure the integrity and impartiality of the Board or presiding officer acting in an adjudicatory capacity, there will be no commingling of the adjudicatory functions of the Board or presiding officer and the investigatory or prosecutorial functions of the Bureau or Office of Enforcement Counsel.

(b) When acting in an adjudicatory capacity regarding the facts at issue or merits of a matter pending before the Board or presiding officer, or which may reasonably be expected to come before the Board or presiding officer in a contested on-the-record proceeding, a member or presiding officer of the Board or an attorney from the Office of Chief Counsel who is advising the Board on the matter may not engage in an ex parte communication with any person including the Bureau or the Office of Enforcement Counsel.

(c) An ex parte communication received or engaged in by a member or presiding officer of the Board will be recorded in a log which will be available for public inspection at the Board's office during normal business hours and will be posted on the Board's web site. The log must include:

- (1) The name of the individual documenting the ex parte communication.
(2) The date and time of the ex parte communication.
(3) The names of all individuals involved in the ex parte communication.
(4) The subject discussed.

(d) In addition to documenting an ex parte communication in accordance with subsection (c), notification of the substance of the communication and an opportunity to

respond will be provided to all parties to the hearing or other proceeding that is the subject of the ex parte communication.

(e) A member or presiding officer of the Board may be required to recuse himself if substantial reasonable doubt exists as to the individual's ability to act objectively, independently or impartially in a hearing or proceeding as follows:

(1) A member or presiding officer of the Board who engaged in or received an ex parte communication will recuse himself from any hearing or other proceeding related to the ex parte communication if the context and substance of the ex parte communication creates substantial reasonable doubt as to the individual's ability to act objectively, independently or impartially.

(2) A member or presiding officer of the Board who engaged in or received an ex parte communication who elects not to recuse himself from a hearing or other proceeding will state his reasons for not recusing himself on the record prior to the commencement of the hearing or proceeding.

(3) A member or presiding officer of the Board who has identified any other reason which creates substantial reasonable doubt as to the individual's ability to act objectively, independently or impartially will recuse himself from any hearing or other proceeding related thereto.

(4) If a legislative appointee recuses himself from any hearing or other proceeding under this section, any qualified majority vote required under this part will consist of all of the remaining legislative appointees and at least two gubernatorial appointees.

(5) Failure of a presiding officer, for whom substantial reasonable doubt as to the individual's ability to act objectively, independently or impartially exists, to recuse himself from a hearing or other proceeding when required under paragraph (1) shall be grounds for appeal to the Board.

(6) Failure of a member, for whom substantial reasonable doubt as to the individual's ability to act objectively, independently or impartially exists, to recuse himself from a hearing or other proceeding when required shall be grounds for appeal to a court of competent jurisdiction if the Board action being appealed could not have occurred without the participation of the member.

(f) Nothing in this subsection will preclude a member of the Board from consulting with other members individually if the consultation complies with 65 Pa.C.S. §§ 701—716 (relating to Sunshine Act) or with employees or independent contractors whose functions are to assist the Board in carrying out its adjudicative functions.

**CHAPTER 405a. BUREAU OF INVESTIGATIONS AND ENFORCEMENT**

**§ 405a.1. General duties and powers.**

(a) Except for administrative purposes, the Bureau is a distinct entity, independent of the Board, the Office of Chief Counsel and the Office of Hearings and Appeals.

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

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

(2) The investigation of licensees, permittees, registrants, certified gaming service providers and other per-

sons for potential violations of the act, including potential violations referred to the Bureau by the Board or other persons.

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

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

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

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

(ii) Internal control procedures and management control procedures.

(iii) Security and surveillance departments.

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

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

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

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

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

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

(c) The Bureau will determine the scope of a background investigation, which may not be directed or limited by the Executive Director or Chief Counsel of the Board.

**§ 405a.3. Office of Enforcement Counsel.**

(a) The Office of Enforcement Counsel within the Bureau has the following powers and duties:

(1) Advise the Bureau on all matters, including the granting of licenses, permits, certifications or registrations, the conduct of background investigations, audits and inspections and the investigation of potential violations of the act or this part.

(2) Make recommendations and objections relating to the issuance of licenses, permits, certifications and registrations.

(3) Initiate, in its sole discretion, proceedings for violations of the act or this part by filing a complaint or other pleading with the Board seeking civil fines or penalties, the imposition of conditions on a license, permit, certification or registration, or the suspension or revocation of a license, permit, certification or registration.

(4) Act as the prosecutor in enforcement actions under the act.

(5) Seek a settlement that may include fines, penalties or other actions subject to approval by the Board.

(6) Appear at administrative hearings and other proceedings before the Board.

(7) Petition the Board for the appointment of a trustee under section 1332 of the act (relating to appointment of trustee).

(8) Review all information discovered during an investigation relating to an applicant's suitability and eligibility for a license, permit, certification or registration and, in accordance with law, independently determine the content and scope of that information to be included in the final background investigation report.

(9) Prepare a final background investigation report for inclusion in the applicant's suitability report to the Board relating to an applicant's suitability and eligibility for a license, permit, certification or registration.

(b) The Chief Enforcement Counsel will report to the Executive Director of the Board on administrative matters.

(c) The Chief Enforcement Counsel may be removed by the Board only for good cause shown.

**§ 405a.4. Conduct.**

(a) As provided in section 1202.1(c.1) of the act (relating to code of conduct), an attorney representing the Bureau or Office of Enforcement Counsel, or an employee

involved in the hearing process, may not engage in an ex parte communication with a member or presiding officer of the Board, the Chief Counsel or an attorney from the Office of Chief Counsel who is advising the Board in relation to that matter.

(b) A member or presiding officer of the Board, the Chief Counsel or an attorney from the Office of Chief Counsel who advises the Board may not direct, restrict or influence any employee of the Board or Bureau with respect to the conduct and scope of an enforcement proceeding or hearing with which the employee is involved.

(c) If it becomes necessary for the Chief Counsel or an attorney from the Office of Chief Counsel or a Board member to become involved on behalf of the Board in any enforcement proceeding, the Chief Counsel or the attorney from the Office of Chief Counsel or the Board member involved shall be prohibited from participating in the adjudication of that matter.

(d) The Bureau may not disclose any portion of a background investigation report to a member of the Board, the Chief Counsel or an attorney from the Office of Chief Counsel who is advising the Board, prior to the Office of Enforcement Counsel's submission to the Board of the final background investigation report relating to an applicant's suitability and eligibility for a license, permit, certification or registration.

[Pa.B. Doc. No. 11-1728. Filed for public inspection October 7, 2011, 9:00 a.m.]

# PROPOSED RULEMAKINGS

## PENNSYLVANIA GAMING CONTROL BOARD

[ 58 PA. CODE CH. 401a, 403a, 405a, 407a, 437a, 461a, 471a, 491a, 493a, 494a, 495a, 499a, 501a AND 511a ]

### Practice and Procedure; Server Supported Slot Systems; Compulsive and Problem Gambling

The Pennsylvania Gaming Control Board (Board), under the general authority in 4 Pa.C.S. § 1202(b)(30) (relating to general and specific powers) and specific authority in 4 Pa.C.S. § 1207(2) and (9) (relating to regulatory authority of board), proposes to amend Chapters 401a, 403a, 405a, 407a, 437a, 461a, 471a, 491a, 493a, 494a, 495a, 499a, 501a and 511a to read as set forth in Annex A.

#### *Purpose of the Proposed Rulemaking*

This proposed rulemaking amends the Board's practices and procedures to improve the clarity and effectiveness of the Board's regulations. This proposed rulemaking also updates the requirements for server supported slot systems, a new gaming technology to the Commonwealth.

#### *Explanation of Amendments*

Throughout this proposed rulemaking, "resolution" is proposed to be deleted as the Board issues orders and adjudications and only in rare instances issues resolutions. Also, several of the references to the Board were changed as the functions described are functions of Board staff.

In Chapter 401a (relating to preliminary provisions), the definition of "nongaming employee" is proposed to be amended to reflect that both registered and certified gaming service providers may have nongaming employees.

In Chapter 403a (relating to Board operations and organization), the 72-hour requirement for an informal hearing in § 403a.7 (relating to temporary emergency orders) is proposed to be amended to 3 business days. A 72-hour requirement is impractical as it does not account for holidays or weekends. Also, the requirement that an informal hearing be held at the Board's Harrisburg office was amended allowing the Executive Director or designee to hold the hearing at other locations.

Section 403a.7(c)(2) is proposed to be deleted. If a licensee fails to pay a required assessment or tax obligation, the Office of Enforcement Counsel files an enforcement action, which would be heard by the Board or hearing officer, not a request for a temporary emergency order.

Section 403a.7(j)(4) previously allowed only licensees to make a concluding argument, which was inconsistent with Board practice which allowed any licensee, permittee, registrant or certificate holder to make a concluding argument. Temporary emergency orders are always presented to the Board at scheduled Board meetings. Therefore, the 10 business day language in subsection (k) is proposed to be deleted.

Section 403a.7(l) is duplicative and is proposed to be deleted as hearing procedures are covered in Chapter 494a (relating to hearing procedure). Language in pro-

posed subsection (o) is proposed to be deleted since the forms of service are addressed in § 491a.5 (relating to service).

Section 403a.7(p)(1) is proposed to be deleted since hearing procedures are covered in Chapter 494a. The time period to have the hearing in proposed subsection (p)(1) was extended from 10 to 15 business days to allow for sufficient notice to the person who is the subject of the temporary order. Lastly, the types of service are proposed to be deleted from proposed paragraph (p)(2) since service is covered in § 491a.5.

Section 405a.6 (relating to enforcement action) is proposed to be amended to allow a person 30 days instead of 20 days to file an answer to an enforcement action. A response to an enforcement action is considered an answer. Answers to petitions are covered in § 493a.7(c) (relating to amendments and withdrawal of pleadings) and may include a notice of defense. Therefore, the reference to notice of defense is proposed to be deleted from subsection (c).

In § 405.6(d) and (e), if a person fails to file an answer, the allegations in the enforcement action are deemed admitted. The Office of Enforcement Counsel then files a Notice of Default Judgment with the Board's Clerk which is served on the person in accordance with the Board's procedures on service in § 491a.5.

Proposed amendments to Chapter 407a (relating to public access to Board files) reflect that the Clerk maintains a single file for formal records which contains both confidential and nonconfidential information within the file. If a person files a request with the Office of Hearings and Appeals (OHA) to access confidential information, the OHA, not the Board or Bureau, reviews the request. If a person disputes the designation of a document as confidential, the person may file a notice of dispute which will be heard by the Board. The procedure for the marking of documents as confidential is addressed in § 493a.10a (relating to motions to protect confidential information) and therefore is proposed to be deleted from subsection (c).

In Chapter 437a (relating to gaming service provider certification and registration), the provisions on reimbursement for the costs of investigation is proposed to be amended in § 437a.2(e) (relating to gaming service provider registration applications) and are proposed to be added to § 437a.3(c) (relating to gaming service provider certification applications) to reflect current practice and for consistency with other sections of the Board's regulations.

Chapter 461a (relating to slot machine testing and control) is proposed to be amended to add information on server supported slot systems, which is a new gaming technology to the Commonwealth. In summary, a server supported slot machine is connected to a computer which can download different games or features directly to the slot machine. The definitions applicable to server supported slot systems are proposed to be added in § 461a.1 (relating to definitions) and are therefore proposed to be deleted from § 461a.20(a) (relating to server supported slot systems). The existing provisions in subsections (b)—(e) are proposed to be deleted and replaced. Proposed subsections (a)—(p) address the requirements for server supported slot systems, administrator access to that system and the requirements for downloading new games or features from the server to the slot machine.

Section 471a.1(a) (relating to fees generally) is proposed to be amended to reflect that the Board previously eliminated fees for the filing of pleadings.

The general rules of practice in Chapter 491a (relating to general rules of practice) are proposed to be amended for clarity and to more accurately reflect Board practice. In § 491a.7(f) (relating to presiding officers), a procedure for appealing a ruling of a presiding officer, while a matter is still pending before the presiding officer, is proposed to be added. If a party appealing a ruling believes that extraordinary circumstances exist to warrant an appeal to the Board, the appealing party may file a written request with the Director of the OHA. If the Director of the OHA determines that extraordinary circumstances exist, the Director, not the presiding officer, will refer the matter to the Board for its determination.

Section 491a.8(d) (relating to hearings generally) is proposed to be amended to reiterate the prohibition on engaging in ex parte communications, consistent with 4 Pa.C.S. Part II (relating to gaming) and amendments made in the Board's final-form rulemaking 125-141 published at 41 Pa.B. 5368 (October 8, 2011).

Throughout Chapter 493a (relating to pleadings), language is proposed to be added requiring a petitioner to include the Board-issued credential number, if applicable, of the person that is the subject of the filing. Section 493a.4(a) (relating to petitions generally) is proposed to be amended to reflect that the Office of Enforcement Counsel, acting as counsel to the Bureau of Investigations and Enforcement, files petitions.

Proposed language in § 493a.8 (relating to motions generally) provides guidelines regarding when and how motions for procedural relief are to be made after the initiation of a proceeding.

In § 493a.10a, petitioners that submit a filing that contains confidential information shall be required to submit a motion to protect the confidential information, which contains the specific legal grounds to justify why the information should be deemed confidential, as well as a redacted version of the filing which will be available for immediate public release. This will ensure that confidential information is not inadvertently disclosed and will provide transparency in all filings with the Board.

The provisions on discovery in § 493a.11 (relating to discovery) are proposed to be amended to clarify, streamline and more accurately define expectations regarding discovery consistent with administrative practices throughout this Commonwealth.

Section § 494a.3 (relating to documentary hearings) is proposed to be rescinded as documentary hearings are covered under hearings generally. Section 494a.10 (relating to reports of compliance) is also proposed to be rescinded. Board staff verifies that Board orders are carried out. A licensee, permittee, registrant or certificate holder that does not comply with a Board order will be subject to an enforcement action filed by the Office of Enforcement Counsel. The Board, acting on an enforcement action, may then revoke, suspend or levy fines against any licensee, permittee, registrant or certificate holder.

To conserve resources, § 495a.6(b) (relating to number of copies) is proposed to be added to allow for the electronic filing of pleadings and documents. If filed electronically, a paper submission is not required.

Section 501a.4 (relating to reports) previously required slot machine licensees to submit a summary of its

compulsive and problem gambling program with the licensee's annual renewal application. When 4 Pa.C.S. Part II was amended, however, the renewal period was changed to once every 3 years. The proposed language would require the slot machine licensee to submit a summary of its compulsive and problem gambling program no later than the last business day of July. Proposed subsection (b) details the information that must be in the annual summary.

Chapter 511a (relating to persons required to be excluded) is proposed to be amended for consistency with amendments to 4 Pa.C.S. Part II by the act of January 7, 2010 (P. L. 1, No. 1). Also, in § 511a.3 (relating to criteria for exclusion), a provision is proposed to be added to allow persons to be added to the exclusion list if the person poses a threat to the safety of people who are in close proximity to, but not actually in, the licensed facility, such as persons located in the licensee's parking lot.

Proposed amendments to § 511a.6(a) (relating to demand for hearing on the placement of a person on the exclusion list) reflect that the Office of Enforcement Counsel files a petition to be placed on the exclusion list, which is served on the individual. Proposed subsection (e) allows for an individual who was not served, despite the Bureau's best efforts, to be placed on the excluded persons list if a copy of the petition is provided to Board staff (casino compliance representatives who are in the licensed facility at all times) to perfect service should the individual revisit any licensed facility in this Commonwealth in the future.

Section 511a.7 (relating to Board review) is proposed to be rescinded and § 511a.9(c) and (f) (relating to petition to remove name from the exclusion list) is proposed to be deleted as the conduct of hearings is covered in Chapter 491a.

#### *Affected Parties*

This proposed rulemaking will affect licensees, permittees, registrants and certificate holders as well as individuals who may be placed on the Board's exclusion list.

#### *Fiscal Impact*

*Commonwealth.* This proposed rulemaking will streamline Board practice and procedure but should not have a fiscal impact on the Board or other Commonwealth agencies.

*Political subdivisions.* This proposed rulemaking will not have direct fiscal impact on political subdivisions of this Commonwealth.

*Private sector.* Because this proposed rulemaking deals primarily with internal Board practice and procedure, it is not anticipated that this proposed rulemaking will have a fiscal impact on the private sector. However, those that submit information with the Clerk may now do so electronically, which should provide minor cost savings.

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

#### *Paperwork Requirements*

This proposed rulemaking will eliminate the need for paper submissions of filings with the Board. Filings submitted electronically will be deemed originals. This proposed rulemaking will also require petitioners that submit information of a confidential nature to provide redacted versions of the submission.

#### *Effective Date*

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



Public Comments

Interested persons are invited to submit written comments, suggestions or objections regarding the proposed rulemaking, within 30 days after the date of publication in the Pennsylvania Bulletin, to Susan Yocum, Assistant Chief Counsel, Pennsylvania Gaming Control Board, P. O. Box 69060, Harrisburg, PA 17106-9060, Attention: Public Comment on Regulation #125-156.

Contact Person

The contact person for questions about this proposed rulemaking is Susan Yocum, Assistant Chief Counsel, (717) 346-8300.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on September 15, 2011, the Department submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Gaming Oversight Committee and the Senate Community, Economic and Recreational Development Committee. A copy of this material is available to the public upon request and is available on the Board's web site at www.pgcb.state.pa.us.

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

GREGORY C. FAJT,
Chairperson

Fiscal Note: 125-156. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART VII. GAMING CONTROL BOARD

Subpart A. GENERAL PROVISIONS

CHAPTER 401a. PRELIMINARY PROVISIONS

§ 401a.3. Definitions.

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

\* \* \* \* \*

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

\* \* \* \* \*

CHAPTER 403a. BOARD OPERATIONS AND ORGANIZATION

§ 403a.7. Temporary emergency orders.

(a) Upon request of the Office of Enforcement Counsel in accordance with subsection (d), a temporary emergency order may be issued by, or on behalf of, the Executive Director of the Board. A temporary emergency order may be issued without a hearing and without advanced notice and will notify the person to whom the temporary

emergency order is issued that he may request a hearing to be held by the Executive Director or a designee within [ 72 hours ] 3 business days of the request being filed with the [ Board ] Clerk.

(b) A temporary emergency order may be issued to suspend a license, certification, permit or registration or to direct that a person refrain from engaging in, or cease and desist engaging in, specific conduct.

(c) A temporary emergency order may be issued if there is insufficient time to provide notice and hearing prior to the issuance of the order; the order is necessary to preserve the public health, welfare, or safety or the integrity of gaming in the Commonwealth; and determination of one of the following has occurred:

(1) A person holding a license, certification, permit or registration issued by the Board has been charged with or convicted of a felony, a criminal gaming offense, or crime of dishonesty or false statement or other offense that would make the person ineligible or unsuitable to hold a license, permit, certification or registration.

(2) [ A licensee has failed to pay required assessments or to satisfy its tax obligations under the act.

(3) ] The action is necessary to prevent or cure a violation of any provision of the act, this part or other Federal or State laws or regulations.

\* \* \* \* \*

(f) A temporary emergency order will specify that the person subject to the temporary emergency order may request an informal hearing before the Executive Director or a designee within [ 72 hours ] 3 business days of filing the request with the Clerk.

(g) The Bureau will cause the temporary emergency order and the request for a temporary emergency order required by subsection (d) to be served upon the person named in the temporary emergency order. Service required by this subsection will be made as expeditiously as practicable following the issuance of the order and the request. Service will be made in the manner prescribed by § 491a.5 (relating to service [ by the Board ]).

(h) Within [ 72 hours ] 3 business days of the filing a request for an informal hearing with the Board, an informal hearing before the Executive Director or a designee will be held at [ the Board headquarters ] a location determined by the Executive Director or a designee.

(i) The Executive Director or a designee may sign subpoenas to secure the attendance of witnesses and the production of documents.

(j) The procedure for the informal hearing will be as follows:

(1) The Executive Director or a designee will call the hearing to order and present the request for a temporary emergency order filed by the Office of Enforcement Counsel under subsection (d).

(2) The person named in the temporary emergency order may respond by submitting evidence and witnesses supporting the position that the temporary emergency order should be dissolved or modified.

(3) The Executive Director or a designee may require that witnesses testify under oath. All relevant evidence is admissible. The Executive Director or a designee may question witnesses.

(4) The licensee, **permittee, registrant or certificate holder** may make a concluding argument as to why the temporary emergency order should be dissolved or modified.

(5) Upon receiving all evidence presented by the person named in the order and hearing the person's final argument, the Executive Director or a designee will render a decision **within 3 business days** as to whether or not the temporary emergency order will continue, be modified or dissolved [ **within 72 hours** ]. Service of the decision will be made in the manner prescribed by § 491a.5. Unless the Executive Director dissolves the temporary emergency order, the matter will be scheduled for a hearing before the Board as provided in subsection (k).

(k) Once a temporary emergency order has been issued under this section, unless it has been subsequently dissolved by the Executive Director **or a designee**, the temporary emergency order will be presented to the Board at its next meeting [ **or within 10 business days, whichever is longer** ] at which time the Board may do one of the following:

(1) Conduct a hearing to determine the validity of the issuance of the order.

(2) Refer the matter to the Office of Hearings and Appeals under § 491a.8 (relating to hearings generally) and direct that a hearing be conducted by a presiding officer and a report **and recommendation be** submitted to the Board.

(1) [ **In all hearings relating to the disposition of a temporary emergency order, whether the hearing is conducted by the Board or by a presiding officer, the following procedure will occur:**

(1) **The temporary emergency order, the request for the temporary order and any modifications to the temporary order will be made a part of the evidentiary record of the proceeding.**

(2) **The Office of Enforcement Counsel will present evidence to the Board or the presiding officer in support of the temporary emergency order.**

(3) **The person named in the order shall have the burden of rebutting the evidence presented by the Office of Enforcement Counsel.**

(m) ] If the hearing is conducted by the Board, the Board may take one of the following actions upon conclusion of oral arguments and evidentiary presentations:

(1) If the Board finds that the un rebutted facts and circumstances presented are sufficient to support the issuance of the temporary emergency order, that dissolution of the temporary emergency order would pose an immediate threat to the public health, safety or welfare, or the public's interest in the effective regulation of gaming demands the action, it may adopt [ **a resolution** ] **an order** ratifying or modifying the temporary emergency order. This order may be appealed under § 494a.11 (relating to appeals).

(2) If the Board finds that there is insufficient cause to continue the temporary emergency order, it may adopt [ **a resolution** ] **an order** dissolving the emergency order and the privileges of the person named in the order will be reinstated.

(3) If the Board finds that further hearing is necessary, it may refer the matter to the Office of Hearings and Appeals for additional presentation of evidence and testimony of witnesses. If the matter is referred to the Office of Hearings and Appeals, the temporary emergency order will remain in effect, with or without modification as the Board deems appropriate.

[ (n) ] (m) If the Board adopts [ **a resolution, the resolution** ] **an order, the order** may establish the length of term for the order by establishing an expiration date, dependent on the completion of specified remedial actions or dependent on the filing of, or final resolution of, a complaint alleging the person violated a provision of the act or this part. If the expiration date is dependent upon specific remedial actions, the Board will provide a detailed description of the remedies in the [ **resolution** ] **order** and will establish procedures whereby the person can demonstrate that it has complied with the required remedies.

[ (o) **Any resolution adopted is a final order of the Board for purposes of appeal.**

(p) **Resolutions** ] (n) **Orders** ratifying or dissolving temporary emergency orders adopted by the Board under this section will have no effect upon the power and duty of the Office of Enforcement Counsel to initiate, in its sole discretion, proceedings for violations of the act or this part or upon the outcome of any proceeding so initiated.

[ (q) ] (o) Copies of the Board's final order will be served on the person named in the order [ **by certified or overnight express mail, postage prepaid; or by personal delivery** ] in accordance with § 491a.5 (relating to service [ **by the Board** ]).

[ (r) ] (p) If the Board refers the matter to the Office of Hearings and Appeals, the hearing will be subject to the following requirements:

(1) [ **The Chairperson will designate a presiding officer to direct the hearing and rule on evidentiary matters.**

(2) ] The hearing before the presiding officer will occur no more than [ **10** ] **15** business days after the Board refers the matter to the Office of Hearings and Appeals, unless a delay is requested by the person named in the temporary emergency order.

[ (3) ] (2) Within 10 **business** days following the conclusion of hearing, the presiding officer will forward a recommendation for action on the temporary emergency order to the Board. A copy of the recommendation will be served on the person named in the temporary order [ **by certified or overnight express mail or by personal delivery** ] in accordance with § 491a.5.

#### CHAPTER 405a. BUREAU OF INVESTIGATIONS AND ENFORCEMENT

##### § 405a.6. Enforcement action.

(a) Upon a determination by the Office of Enforcement Counsel that sufficient facts exist to support enforcement action against a person holding a license, permit, certification or registration issued by the Board, the Office of Enforcement Counsel will initiate a complaint in accordance with § 493a.2 (relating to complaints), including a proposed order for an enforcement action and serve the complaint in accordance with § 491a.5 (relating to service [ **by the Board** ]).

(b) The complaint for an enforcement action will include a statement of the facts, the statute, regulation or statement of conditions that the person is being charged with violating and the remedy sought. The proposed order will be accompanied by a certificate of service demonstrating the date of service.

(c) Within [ 20 ] 30 days from the date of service of complaint for an enforcement action, the person may file [ a notice of defense ] an answer in accordance with § 493a.5 (relating to answers to complaints, petitions, motions and other filings requiring a response) and serve a copy of the [ notice of defense on ] answer to the Office of Enforcement Counsel. Failure to file [ a notice of defense ] an answer for an enforcement action complaint within [ 20 ] 30 days will be deemed:

(1) A waiver by the person of any right to an administrative hearing before the Board.

(2) An admission by the person of all matters and facts alleged in the proposed order for enforcement action.

(3) Consent by the person to the entry of a final order by the Board disposing of the enforcement matter.

(d) Upon the person's failure to [ request a hearing ] file an answer within the prescribed [ 20 ] 30 days, the Office of Enforcement Counsel will file with the Clerk a Request for Default Judgment and present the proposed enforcement order to the Board. The Board may, by [ resolution ] order, adopt the proposed enforcement order.

(e) The Clerk will [ send ] serve a copy of the Board's final order to the person [ by first class mail ] in accordance with § 491a.5.

**CHAPTER 407a. PUBLIC ACCESS TO BOARD FILES**

**§ 407a.1. Case files.**

(a) *Formal records.* The [ Board ] Clerk will maintain a [ nonconfidential file and a confidential ] file for all formal records.

(b) *Access.* Access to formal records will be governed by the following:

(1) Nonconfidential [ files ] information in formal records will be available for inspection during normal Board business hours.

(2) Upon receipt of a request for access to confidential [ files ] information, the [ Board or the Bureau ] Office of Hearings and Appeals will review the request and provide its determination as to whether the material may be released for inspection within 30 days of the request.

(3) For good cause, the [ Board ] Office of Hearings and Appeals may extend the time limits applicable to requests for access to confidential [ files ] information.

(c) The Board or its designee may issue protective orders *sua sponte or by request of a party* or may establish standards governing the protection of proprietary or confidential [ documents ] information for a given proceeding [ or a given type of proceeding ]. All parties to a proceeding shall [ submit, classify and ] mark documents in accordance with the directives of the Board or its designee and § 493a.10a (relating to motions to protect confidential information). [ In

**the absence of any protective order or standard, parties shall clearly mark documents that are deemed to be proprietary or confidential. The documents will be treated as marked by the Board. ]**

(d) Any party or member of the public may dispute the designation of a document as submitted by filing a notice of dispute with the Board. The Board will determine the proper classification of documents subject to a notice of dispute as soon as administratively possible.

**Subpart B. LICENSING, PERMITTING, CERTIFICATION AND REGISTRATION**

**CHAPTER 437a. GAMING SERVICE PROVIDER CERTIFICATION AND REGISTRATION**

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

\* \* \* \* \*

(e) An applicant for a gaming service provider registration will be required to reimburse the Board for **additional costs, based on the actual expenses** incurred by the Board, in conducting the [ review of the application ] background investigation.

\* \* \* \* \*

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

\* \* \* \* \*

(c) **An applicant for a gaming service provider certification shall be required to reimburse the Board for additional costs, based on the actual expenses incurred by the Board, in conducting the background investigation.**

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

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

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

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

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

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

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

Subpart E. SLOT MACHINES AND ASSOCIATED EQUIPMENT

CHAPTER 461a. SLOT MACHINE TESTING AND CONTROL

§ 461a.1. Definitions.

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

\* \* \* \* \*

**Server supported slot machine**—A slot machine connected to, and administered by, a server supported slot system.

**Server supported slot system**—A system comprised of one or more server supported slot machines connected to a slot machine server and an associated computer network for the purpose of downloading approved game themes and other related software.

**Slot machine server**—A computer configured to receive, store, authenticate and download to server supported slot machines Board-approved slot machine games and other approved software.

\* \* \* \* \*

§ 461a.20. Server supported slot systems.

[ (a) The following terms, when used in this section, have the following meanings, unless the context clearly indicates otherwise:

**Server supported slot machine**—A slot machine connected to, and administered by, a server supported slot system.

**Slot machine server**—A computer configured to:

(i) Receive, store, authenticate and download to server supported slot machines Board-approved slot machine games and other approved software. A slot machine server may also be used to effect changes in a server supported slot machine's configuration.

(ii) Receive, store and authenticate Board-approved slot machine games and other approved software for use on server based slot machines.

**Server supported slot system**—A system comprised of one or more server supported slot machines connected to a slot machine server and its ancillary computer network for the ultimate purpose of downloading Board-approved slot machine games and other approved software to server supported slot machines.

(b) A slot machine licensee may utilize a server supported slot system that has been tested and approved by the Board under § 461a.4 (relating to submission for testing and approval).

(c) A server supported slot system must comply with the act, this subpart and technical standards on server supported slot systems adopted by the Board and published in the *Pennsylvania Bulletin* and posted on the Board's web site.

(d) Results from the play or operation of a server supported slot machine connected to a server supported slot system must be determined solely by the individual server supported slot machine and not by the server supported slot machine server or any other ancillary computer network.

(e) Prior to utilizing a server supported slot system, a slot machine licensee shall establish a system of internal controls applicable to the server supported slot system. The internal controls shall be submitted to and approved by the Board under § 465a.2 (relating to internal control systems and audit protocols). The internal control procedures submitted by the slot machine licensee must address the integrity, security and control of the server supported slot system. ]

(a) A slot machine licensee may utilize a server supported slot system that complies with the minimum design standards in § 461a.7 (relating to slot machine minimum design standards) and the general requirements in this chapter.

(b) A server supported slot system must:

(1) Be capable of verifying that all component programs on the slot machine server are authentic copies of Bureau of Gaming Laboratory Operations approved component programs.

(2) Automatically verify the authenticity of the copies every 24 hours and as directed by the Board. A program used to verify the authenticity must reside on the slot machine server and be securely loaded from nonalterable media.

(3) Provide a visual notification identifying the invalid program if an error is detected.

(c) The slot machine licensee shall generate and make available to the Board a report detailing the outcome of each automated verification including notifications identifying any invalid programs.

(d) Administrator access to server supported slot systems require the presence and participation of at least two individuals. Dual access may be achieved using split passwords, dual keys or other suitable method approved by the Board. The slot machine licensee shall specify in its internal controls under § 465a.2 the two individuals who have administrator access to the system and the method by which access will be achieved.

(e) A technical field representative shall be present for the instillation and loading of software on an approved slot machine server.

(f) Downloads of slot machine programs or computer files on a server supported slot system and activations, deactivations or changes thereto shall be controlled and implemented using scheduling software approved by the Bureau of Gaming Laboratory Operations. Except as otherwise authorized by the Board, written notice of downloads, schedules and changes shall be provided to the Bureau of Gaming Laboratory Operations, the Bureau of Casino Compliance Representatives and the Department at least 72 hours prior to implementation.

(g) Access to slot machine programs or computer files on a server supported slot system may be provided at terminals in secure, restricted locations within the licensed facility as approved by the Bureau of Gaming Laboratory Operations. The slot machine licensee shall provide read-only access to the Bureau of Gaming Laboratory Operations and the Bureau of Casino Compliance.

(h) Prior to implementing a change to a feature or reconfiguring the server supported slot machine, the slot machine must be in idle mode for at least 2 minutes without errors or tilt conditions and with no play or credits on the machine.

(i) During the implementation of a change to a feature or the reconfiguration of the server supported slot machine, the slot machine must be disabled and rendered unplayable for at least 1 minute. During that time, a conspicuous message stating that a game configuration is being changed must be continuously displayed either on the slot machine's video screen or in another manner as approved by the Bureau of Gaming Laboratory Operations.

(j) A slot machine server shall, at a minimum, comply with § 461a.19 (relating to remote system access) and the technical standards in § 461b.5 (relating to remote computer access).

(k) A slot machine server:

(1) Shall be maintained in the slot machine server room in a locked computer rack or other secure area approved by the Bureau of Gaming Laboratory Operations.

(2) Must be dual key controlled with one key controlled by the slot operations department and the other key controlled by the information technology department.

(3) May not be accessed unless an employee from the slot operations department, the information technology department and a Board representative are present.

(1) All changes made to the slot machine server shall be stored in an unalterable log which must include, at a minimum:

(1) Time and date of access.

(2) Name and Board-issued credential number of the person logging in.

(3) Identification numbers of the games added, deleted or changed.

(4) The history of changes to programs on each player terminal.

(5) Changes to the configuration of player terminal settings.

(m) Prior to adding or removing software from a server supported slot machine, changing any configuration or activating or deactivating a slot machine game on a server supported slot machine, a complete set of meter information for the slot machine shall be accurately communicated to a slot machine server, a slot monitoring system or other Board approved slot accounting system.

(n) Communication between the server, slot machine and any interface elements must utilize a protocol that includes proper error detection and recovery mechanisms designed to prevent unauthorized access or tampering, employing Data Encryption Standards or equivalent encryption with secure seeds or algorithms as approved by the Bureau of Gaming Laboratory Operations.

(o) With prior Board approval, a slot machine server may be connected to:

(1) Other slot operating systems of the licensee, including a slot monitoring system, accounting system or gaming voucher system, located in a secure location within the licensed facility where the slot machine server is located.

(2) A computer or other equipment operated by the Board or the Department to monitor activity.

(p) Any approved connection utilized under subsection (o) shall include, at a minimum:

(1) A secure, hard-wired, dedicated, exclusive network that is limited to "read-only" access to the slot machine server.

(2) A hardware firewall located between the slot machine server and the slot operating systems utilized by the licensee.

Subpart F. FEES

CHAPTER 471a. FILING FEES

§ 471a.1. Fees generally.

(a) A [ **pleading or other** ] document for which a filing fee is required will be received, but will not be deemed filed, until the filing fee, bond, letter of credit or other cost has been paid.

\* \* \* \* \*

Subpart H. PRACTICE AND PROCEDURE

CHAPTER 491a. GENERAL RULES OF PRACTICE

§ 491a.1. Generally.

This subpart governs practice and procedure before the Board and the OHA 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).

§ 491a.2. Definitions.

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

\* \* \* \* \*

*Consent agreement*—A voluntary agreement or proposal to an act [ or proposal ] based on specific terms which are entered into by all parties to a proceeding to resolve a disputed matter.

\* \* \* \* \*

[ *Hearing*—A proceeding, documentary or oral, initiated by the filing of a complaint, answer, petition, motion, exceptions or by order of the Board. ]

\* \* \* \* \*

*Respondent*—A person [ subject to the jurisdiction of the Board ] to whom an order or notice is issued by the Board or the Bureau instituting a proceeding or investigation.

§ 491a.4. Filing generally.

(a) Pleadings and other documents [ required to be ] filed with the [ Board ] Clerk must clearly designate the docket number [ or similar identifying symbols, if any, employed by the Board, and set forth ], if one has been assigned, and a short title identifying the pleading or other document. The identity of the individual making the submission, including name, mail-

ing address [ **and** ], status (for example, party or attorney for a party) and **Board-issued credential number, if applicable**, must appear on the document.

(b) Pleadings, including documents filed under this chapter, must also comply with Chapter 495a (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 [ **Board** ] Clerk may decline to accept it for filing and may return it without filing, or the [ **Board** ] Clerk may accept it for filing and advise the person tendering it of the deficiency and require that the deficiency be corrected.

(d) The [ **Board** ] Clerk may require redundant, immaterial, obscene or otherwise inappropriate comments stricken from documents filed with it.

§ 491a.5. Service [ **by the Board** ].

(a) *Applicability.* This section applies to service of an order, notice or other document [ **originating with the Board and other documents designated by the Board, except when the Board specifically requires a different form of service** ] from the OHA or the Office of Enforcement Counsel.

(b) *Service of a document initiating a proceeding.*

(1) *Registered or certified mail.* Service may be made by both **first class and** registered or certified mail, return receipt requested[ , **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 [ **anyone authorized by the Board. Service will be made by personally** ] delivering a copy:

\* \* \* \* \*

(c) *Proof of service.* Proof of service shall be evidenced by a return of service filed with the [ **Office of the** ] Clerk.

(d) *Subsequent service.* Service of any document made subsequent to the initial filing in a proceeding may be made by first class mail at the last known address of record of the person named in the notice, pleading or order.

(e) *Change of address.* It is the duty of a party to apprise the [ **Board** ] Clerk of changes to the party's current address.

(f) *Supersession.* Subsections (a)—(c) supersede 1 Pa. Code § 33.31 (relating to service by the agency).

§ 491a.7. Presiding officers.

\* \* \* \* \*

(f) Rulings of presiding officers may not be appealed [ **during the course of a hearing or conference** ] to the Board while the matter is pending before the presiding officer except in extraordinary circumstances [ **when a prompt decision by the Board is necessary** ]. [ **In this instance, the matter will be immediately referred by the presiding officer to the Board for determination.**

(1) **An offer of proof made in connection with an objection to a ruling of the presiding officer rejecting or excluding oral testimony must be a statement of the substance of the evidence which counsel contends would be adduced by the testimony. If the rejected or excluded evidence is in documentary or written form, a copy of the evidence shall be marked for identification and shall constitute the offer of proof.**

(2) **Unless the Board acts upon a question referred by a presiding officer for determination within 30 days, the referral will be deemed to have been denied. ]**

(1) **If a party believes extraordinary circumstances exist, a written request for referral shall be made to the Director of the OHA and include:**

(i) **A description of the presiding officer's ruling that the party wishes to be reviewed.**

(ii) **A clear, concise statement of the factual and legal reasons why the party believes that the ruling of the presiding officer is incorrect.**

(iii) **Any documents that provide the basis for the request for referral to the Board.**

(2) **If the Director of the OHA determines extraordinary circumstances exist, the matter will be referred to the Board for determination.**

(3) **Referrals not acted upon by the Board within 30 days will be deemed denied.**

(g) This section supersedes 1 Pa. Code §§ 35.185—35.190 (relating to presiding officers).

§ 491a.8. Hearings generally.

(a) Unless the Board hears the matter directly, all matters, except for hearings under § 441a.7 (relating to licensing hearings for slot machine licenses), will be assigned to the OHA. The Board may designate a member of the Board or other qualified person to serve as presiding officer in a particular matter.

(b) Hearings will be public[ , **except as provided in ] unless a party invokes protection afforded to the party under section 1206 of the act (relating to Board minutes and records) or § 407a.3(a) (relating to confidential information).**

(c) Hearings will be documentary unless otherwise designated by the Board or presiding officer and may provide for:

- (1) Receipt of sworn testimony.
- (2) Receipt of all relevant documentary evidence.
- (3) Opportunity for parties to be heard.
- (4) A complete evidentiary record.
- (5) Submission **by the presiding officer** of a report or recommendations to the Board.

(d) Unless required by this part or authorized by law, a party may not [ **communicate directly or indirectly, in connection with any issue of law or any matter of fact which is disputed,** ] engage in an **ex parte communication** with the Board or presiding officer, unless notice and opportunity for all parties to participate has been given.

(e) Hearings will be conducted in Harrisburg, Pennsylvania [ **or** ], by video conference, [ **unless otherwise** ] or by **telephone as directed by the Board or presiding officer.**

(f) Written notice of hearings will be provided to all parties, and served by [ the Office of ] the Clerk [ (Clerk) ] by first class mail.

(g) Motions shall be filed with the Clerk and will be docketed and referred to the Board or presiding officer for disposition.

(h) Hearings will be scheduled by the OHA, except for hearings under § 441a.7 which will be scheduled as directed by the Board [ may direct ]. [ Hearings for violations of the act or this part will be scheduled within 90 days of the initiation of action by the Bureau. ]

(i) [ Parties ] A party may waive the right to a hearing [ in which case the Board or presiding officer may dispose of the matter without a hearing on the basis of submittals, consent agreements and proposed orders ] before the Board or presiding officer by filing with the Clerk a Notice of Waiver of Hearing. The matter will then be forwarded to the appropriate bureau for action or to the Board for disposition on the documents.

(j) This section supersedes 1 Pa. Code § 35.101 (relating to waiver of hearing).

CHAPTER 493a. PLEADINGS

§ 493a.1. Generally.

(a) Pleadings permitted are as follows:

\* \* \* \* \*

(6) Appeals of staff decisions under 1 Pa. Code § 35.20 (relating to appeals from action of the staff). Appeals under § 491a.7(f) (relating to presiding officers) are not included.

(7) [ Formal notices ] Notices.

(b) [ Filing fees for pleadings, ] Fees for copies and other administrative requests will be in accordance with a fee schedule published by the Board in the Pennsylvania Bulletin, available on the Board's [ website, ] web site and in the Office of the Clerk.

(c) Pleadings shall be filed with the Clerk and contain a docket number and Board-issued credential number, if applicable. The Clerk will assign a docket number if one has not been assigned.

(d) This section supplements 1 Pa. Code §§ 35.1 and 35.2 and 35.9—35.11 (relating to applications; and formal complaints).

§ 493a.2. Complaints.

(a) A proceeding against a licensee, [ permittee ] permittee, persons registered or certified by the Board or an employee of a licensee or persons registered or certified by the Board shall be initiated by written complaint filed by the complainant, which must include a statement, in ordinary and concise language, setting forth [ in ordinary and concise language ] the matter complained of and the facts supporting the complaint.

(b) Complaints may be filed by the Bureau and other persons authorized by the Board.

(c) Complaints will be served in accordance with § 491a.5 (relating to service [ by the Board ]).

(d) This section supplements 1 Pa. Code §§ 35.9—35.11 and 35.14 (relating to formal complaints; and orders to show cause).

§ 493a.4. Petitions generally.

(a) Petitions may be filed by [ BIE ] the Office of Enforcement Counsel, parties, applicants, licensees, permittees, persons registered or certified by the Board[ , ] and other persons authorized by the Board.

\* \* \* \* \*

§ 493a.5. Answers to complaints, petitions, motions and other filings requiring a response.

(a) Answers to complaints, petitions, motions, appeals of staff decisions and other filings requiring a response shall be filed with the Clerk and served on all other parties within 30 days after the date of service of the complaint, petition, motion or other pleading, unless a different time is prescribed by the Board [ or ], presiding officer or elsewhere in the Board's regulations.

\* \* \* \* \*

(d) Answers shall be in writing and shall specifically and in detail admit or deny each allegation in the pleading.

(e) This section [ supplements ] supersedes 1 Pa. Code §§ 35.35—35.40 (relating to answers).

§ 493a.7. Amendments and withdrawal of pleadings.

(a) Amendments and withdrawal of pleadings shall be in accordance with 1 Pa. Code §§ 35.48—35.51 (relating to amendment and withdrawal of pleadings).

(b) Answers to amended pleadings, if required, shall be filed within 30 days after the date of service of the amended pleadings. This section supersedes 1 Pa. Code § 35.40 (relating to answers to amendments of pleadings).

§ 493a.8. Motions generally.

[ The procedures for motions shall be in accordance with 1 Pa. Code §§ 35.177—35.180 (relating to motions). ]

(a) A motion may be made at any time after the initiation of a proceeding for procedural relief including a request for an extension of time, a continuance of a hearing or other scheduled proceeding, or a request for a prehearing conference.

(b) Motions may be made in writing or orally on the record. A presiding officer may require that a motion made orally also be made in writing.

(c) Answers or objections to written motions shall be made within 30 days after the date of service of the motion unless otherwise directed by the Board or presiding officer.

(d) Written motions and answers or objections to written motions shall be served upon all parties in accordance with § 491a.5 (relating to service).

(e) Motions to the Board seeking interlocutory determinations on rulings of a presiding officer are not permitted. A party may file a written request for referral with the Director of the OHA in accordance with § 491a.7(f) (relating to presiding officers).

(f) The presiding officer may rule upon any motion filed prior to the submission of a report or report and recommendation to the Board. If a ruling on a motion would constitute a final determination of the proceedings, the ruling on the

**motion shall be made part of the report or report and recommendation to the Board.**

**(g) This section supersedes 1 Pa. Code §§ 35.177—35.180 (relating to motions).**

**§ 493a.9. Preliminary motions.**

\* \* \* \* \*

**(f) This section [ supplements ] supersedes 1 Pa. Code §§ 35.177—35.180 (relating to motions).**

**§ 493a.10. Motions for summary judgment and judgment on the pleadings.**

\* \* \* \* \*

**(c) Answers to motions.** An answer to a motion for summary judgment or a motion for judgment on the pleadings, including an opposing affidavit to a motion for summary judgment, may be filed with the Clerk and served on all other parties within [ 15 ] 30 days of the date of service of the motion. An answer to a motion for summary judgment may be supplemented by pleadings and depositions, answers to interrogatories or further affidavits and admissions.

**(d) Decisions on motions.** If a motion is granted in whole or in part by a presiding officer, it will be in the form of a report or report and recommendation. The Board will make a final ruling on a motion for judgment on the pleadings or a motion for summary judgment.

**(e) [ Supplementation ] Supersession.** This section [ supplements ] supersedes 1 Pa. Code Chapter 35, Subchapter D (relating to motions).

**§ 493a.10a. Motions to protect confidential information.**

**(a)** A party or individual may designate information as confidential under § 407a.3 (relating to confidential information) in any papers filed with the Clerk by filing a Motion to Protect Confidential Information.

**(b)** A Motion to Protect Confidential Information must:

**(1)** Set forth the specific [ reasons ] legal grounds to justify why the information should be deemed [ to be ] confidential [ information ] and, therefore, protected.

**(2)** [ Label as confidential all documents or portions of documents in the filing containing the confidential information that the party or individual is seeking to protect. ] Include a redacted version of the entire filing which will be available for immediate release to the public.

**(c)** Upon the filing of the Motion to Protect Confidential Information, the Director of Hearings and Appeals will review the motion and accompanying filings and, upon determining that a substantial basis exists, shall issue an interim order to protect the information, whether in the motion or the accompanying filings, from disclosure until the Board considers the matter in accordance with 65 Pa.C.S. §§ 701—716 (relating to open meetings). At all times during the pendency of the motion, the information in the motion and the accompanying filings shall be treated as confidential except the redacted version filed in accordance with subsection (b)(2).

**§ 493a.11. Discovery.**

**(a)** [ A party may, upon written motion to the Board or a presiding officer, request a prehearing conference solely for the purpose of discussing discovery procedures as the nature of the matter

and facts of the proceedings require. ] The ability to obtain discovery in an administrative proceeding before the Board or presiding officer is committed to the discretion of the Board or presiding officer and will generally be limited to the information, documents and list of witnesses that any party will present during a hearing.

[ (1) At the prehearing conference, the ] (b) The presiding officer may grant [ any requests ] a request for discovery [ which serve ] if the request serves to facilitate an efficient and expeditious hearing process, [ do ] will not unduly prejudice and burden the responding party and as may be required in the interests of justice.

[ (2) A party may request discovery by one or more of the following methods: ]

**(c) At the discretion of the presiding officer, discovery may be granted and limited to the following:**

(i) Written interrogatories.

(ii) Depositions.

(iii) [ Affidavits.

(iv) ] Production of documents or things.

[ (v) Requests for admissions.

**(3) With the approval of the presiding officer, the parties may enter into a binding discovery plan at the prehearing conference.**

**(b) Upon written request from a party in a proceeding served upon another party in the proceeding, the requesting party ] (d) Each party to a proceeding shall be entitled to the name and address of any witness who may be called to testify on behalf of the [ responding ] opposing party and all documents or other material in the possession or control of the [ responding ] opposing party which the [ responding ] opposing party reasonably expects will be introduced into evidence. The [ responding ] opposing party shall be under a continuing duty to update its response to this request.**

[ (c) ] (e) The presiding officer may, upon request of a party, permit the testimony of a witness or the introduction of other evidence not disclosed pursuant to a request made under subsection [ (b) ] (d), if following a proffer by the party seeking to present the evidence, the presiding officer determines that justice so requires.

[ (d) ] (f) Confidential information furnished to or obtained by the Board or the Bureau from any source will not be discoverable under this subsection. If a request for discovery involves confidential information, a party may file a motion for a protective order and the presiding officer will make a determination as to what is deemed confidential.

[ (e) ] (g) If a party fails to respond to a discovery request [ or fails to adhere to the time limits set forth in the discovery plan ], which was granted by the presiding officer, the opposing party may file a motion to compel discovery with the Clerk. The presiding officer may grant or deny the motion[, as the circumstances of the proceeding require ] in accordance with § 493a.8(e) (relating to motions generally).



[ (f) ] (h) Depositions will be conducted in accordance with 1 Pa. Code §§ 35.145—35.152 (relating to depositions).

§ 493a.12. Intervention.

\* \* \* \* \*

(h) Notwithstanding the provisions of this section, petitions to intervene in licensing hearings for slot machine licenses shall be governed by [ § 441a.7(y) ] § 441a.7(z) (relating to licensing hearings for slot machine licenses).

\* \* \* \* \*

CHAPTER 494a. HEARING PROCEDURE

§ 494a.1. Generally.

(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 ] conducted from Harrisburg, in person, by means of video conference or by telephone, unless a different site is designated by the Board or the presiding officer. The Board 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 Board 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 Board participating, including accountants, and other experts who are assisting in the investigation of the matter. This section supersedes 1 Pa. Code §§ 35.123 and 35.124 (relating to conduct of hearings; and order of procedure).

(c) In [ oral and documentary ] hearings, neither the Board 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) Subsection (a) supersedes 1 Pa. Code §§ 35.102 (relating to hearing calendar).

§ 494a.3. [ Documentary hearings ] (Reserved).

[ (a) Documentary hearings will be held before the Board or a presiding officer.

(b) The parties will be notified at least 15 days prior to the date set for a hearing, and the evidentiary record will be closed 5 days prior to the date set for the hearing.

(c) Parties may introduce documents and other evidence, except that witnesses may not testify. Depositions and interrogatories may be taken at any time prior to the close of the evidentiary record, and may be introduced for consideration by the Board or presiding officer. ]

§ 494a.4. Report or report and recommendation of the presiding officer.

\* \* \* \* \*

(b) The presiding officer will [ file with the Clerk and ], through the Clerk, certify to the Board a verbatim record of any oral hearing, all documents sub-

mitted for consideration, and a report or report and recommendation, when required, as soon as practicable after the conclusion of the hearing and expiration of the time for filing of briefs.

\* \* \* \* \*

(e) This section [ supplements ] supersedes 1 Pa. Code §§ 35.201—35.206 (relating to proposed reports generally).

§ 494a.6. Reopening of record.

(a) After the conclusion of the hearing, a party in a proceeding may file with the [ presiding officer ] Clerk, prior to the issuance of an order of the Board or a report or report and recommendation, a [ petition ] motion to reopen the [ proceeding ] record for the purpose of taking additional evidence. The [ petition ] motion must set forth clearly the facts claimed to constitute grounds requiring reopening of the [ proceeding ] record, including material changes of fact or law alleged to have occurred since the [ hearing ] record was concluded.

(b) After the issuance of a report or report and recommendation by a presiding officer and before the Board issues its final order, a party in a proceeding may file with the [ Board ] Clerk, a [ petition ] motion to reopen the [ proceeding ] record for the purpose of taking additional evidence. The [ petition ] motion must set forth clearly the facts claimed to constitute grounds requiring reopening of the [ proceeding ] record, including material changes of fact or law alleged to have occurred since the issuance of a report or report and recommendation.

(c) Answers may be filed within 10 days of service of the [ petition ] motion. If no answers are filed, objections to the granting of the [ petition ] motion are waived.

(d) After the filing of the [ petition ] motion and answer, the Board or presiding officer will grant or deny the [ petition ] motion.

(e) Prior to filing a report or report and recommendation, the presiding officer, after notice to the parties, may reopen the [ proceedings ] record for the receipt of further evidence on his own motion, if the presiding officer has reason to believe that the facts or law have changed as to require, or that the public interest requires, the reopening of the [ proceedings ] record.

(f) Prior to the issuance of a final order, the Board, after notice to the parties, may reopen the [ proceeding ] record for the receipt of further evidence, if the Board has reason to believe that the facts or law have changed as to require, or that the public interest requires, the reopening of the [ proceeding ] record.

(g) This section supersedes 1 Pa. Code §§ 35.231—35.233 (relating to reopening of record).

§ 494a.7. Exceptions.

(a) A party may file exceptions to the report or report and recommendation of the presiding officer within 15

days of the date of the report or report and recommendation, unless the time is extended upon good cause shown.

(b) Exceptions must be in writing, filed with the Clerk, and state with particularity the matter objected to, including the portion of the record where the basis of the objection may be found, and any supporting legal argument.

(c) Failure to file exceptions within the time allowed shall constitute a waiver of all objections to the report or report and recommendation. Exceptions to any part of the report or recommendations may not thereafter be raised before the Board in oral argument, if an oral argument is permitted, or in an application for rehearing or reconsideration, and shall be deemed to be waived. The Board or presiding officer may refuse to consider exceptions to a ruling admitting or excluding evidence unless there was an objection at the time the ruling was made or within an extension of time prescribed by the presiding officer.

**(d) Response to exceptions shall be filed within 15 days of the date of service of the exceptions.**

(e) Exceptions will be considered by the [ Board ] presiding officer and will be limited to the record established during the hearing. The Board or presiding officer may reopen the record and permit evidence not already established in the record if compelling reasons are shown for its submission, the party requesting its admission did not previously know of its existence and its existence could not have been discovered with the exercise of reasonable diligence.

**[ (e) The Board will conduct a documentary hearing on the exceptions within 30 days of receipt of the exceptions, unless exigent circumstances require a longer period of time. The Board may grant or deny the exceptions in whole or in part.**

**(f) The Board will issue its final order in consideration of the presiding officer's report or report and recommendation and any filed exceptions, and notify all parties by regular mail. ]**

**(f) The presiding officer will issue a supplemental report and recommendation for the Board's consideration addressing the exceptions and any response within 20 days of receipt of exceptions unless exigent circumstances require a longer period of time.**

**(g) A party may not file exceptions to a supplemental report and recommendation.**

(h) This section [ supplements ] supersedes 1 Pa. Code §§ 35.211—35.214 (relating to exceptions to proposed reports).

**§ 494a.8. Rehearing or reconsideration.**

(a) A party to a proceeding may file an application for rehearing or reconsideration by filing a [ petition ] motion within 15 days after the final order of the Board.

(b) Filing a [ petition ] motion for rehearing or reconsideration does not toll or stay the 30-day appeal period.

(c) The [ petition ] motion must state concisely the alleged errors in the adjudication or other order of the Board. If a final order or other order of the Board is sought to be vacated, reversed or modified by reason of matters that have arisen since the hearing and decision or order, or by reason of a consequence that would result

from compliance therewith, the matters relied upon by the petitioner must be set forth in the [ petition ] motion.

(d) Answers to [ petitions ] motions for rehearing or reconsideration will not be entertained by the Board. If the Board grants the rehearing or reconsideration, an answer may be filed by a participant within 15 days after the issuance of the order granting rehearing or reconsideration. The response will be confined to the issues upon which rehearing or reconsideration has been granted.

(e) If the Board does not act upon the [ petition ] motion for rehearing or reconsideration within 30 days after it is filed, the [ petition ] motion will be deemed to have been denied.

(f) This section does not apply to proceedings resulting in any final order, determination or decision of the Board involving the approval, issuance, denial or conditioning of licensed entity applications which are subject to the appellate requirements of 4 Pa.C.S. § 1204 (relating to licensed gaming entity application appeals from board).

(g) This section supersedes 1 Pa. Code § 35.241 (relating to application for rehearing or reconsideration).

**§ 494a.9. Briefs and oral argument.**

(a) All parties shall be afforded an opportunity to submit briefs prior to a final order of the Board. Briefs shall be filed with the Clerk. [ If a matter has previously been assigned to a presiding officer, a copy of the brief shall be submitted to the presiding officer. ]

(b) Oral argument may be heard at the discretion of the Board or presiding officer.

**§ 494a.10. [ Reports of compliance ] (Reserved).**

**[ (a) When a person subject to the jurisdiction of the Board is required to do or perform an act by a Board order, permit or license provision, the person shall file, with the Clerk within 30 days following the date when the requirement becomes effective, a notice stating that the requirement has or has not been met or complied with, unless the Board specifies an alternate means to demonstrate compliance or proof of compliance.**

**(b) This section supersedes 1 Pa. Code § 35.251 (relating to reports of compliance). ]**

**CHAPTER 495a. DOCUMENTARY FILINGS**

**§ 495a.1. Form of documentary filings generally.**

\* \* \* \* \*

(c) Pleadings or other documents filed with the [ Board ] Clerk in a proceeding must clearly [ show ] designate the docket number [ or similar identifying symbols, if any, and title of the proceeding before the Board ] if one has been assigned, and a short title identifying the pleading or document. [ They must also show, in the title of a particular pleading or other document filed, the name of the person on whose behalf the filing is made. If more than one person is involved, a single name only need be included in the title. ] The identity of the individual making the submission, including name, mailing

address, status (for example, party or attorney for a party) and Board-issued credential number, if applicable, must appear on the document.

\* \* \* \* \*

§ 495a.2. Form of documents.

(a) The [ method of receipt and transmission of information will be under a policy published by the ] Board may establish the paper, printing and binding requirements for pleadings filed with the Clerk.

(b) Subsection (a) supersedes 1 Pa. Code § 33.2 (relating to form).

§ 495a.6. Number of copies.

(a) An original copy of pleadings or documents other than correspondence shall be furnished to the [ Board ] Clerk at the time of filing, except as may be otherwise ordered or requested by the Board or the presiding officer.

(b) Pleadings and documents filed electronically, in accordance with § 497a.1(a)(4) (relating to date of filing), will be considered the original for purposes of this section. If filed electronically, a paper submission will not be required.

(c) Subsection (a) supersedes 1 Pa. Code § 33.15 (relating to number of copies).

CHAPTER 499a. REPRESENTATION BEFORE THE BOARD

§ 499a.1. Appearance in person.

(a) An individual who is a party in a proceeding before the Board may represent himself before the Board.

(b) A party, other than an individual appearing on his own behalf, in an [ adversary ] adversarial proceeding before the Board shall be represented by an attorney authorized to appear before the Board in accordance with § 499a.2 (relating to appearance by attorney).

(c) This section supersedes 1 Pa. Code § 31.21 (relating to appearance in person).

§ 499a.2. Appearance by attorney.

(a) A party in a proceeding before the Board who elects to be represented by an attorney in the proceeding, or who is required by § 499a.1 (relating to appearance in person) to be represented by an attorney in the proceeding, shall be represented by:

(1) An attorney at law admitted to practice before the Pennsylvania Supreme Court.

(2) An attorney admitted to practice before the highest court of a jurisdiction other than this Commonwealth which permits attorneys licensed in this Commonwealth to practice before its courts and agencies without benefit of licensure in that state.

\* \* \* \* \*

Subpart I. COMPULSIVE AND PROBLEM GAMBLING

CHAPTER 501a. COMPULSIVE AND PROBLEM GAMBLING REQUIREMENTS

§ 501a.4. Reports.

(a) A slot machine licensee shall submit to the Director of the OCPG an annual summary of its compulsive

and problem gambling program [ with its application for renewal of the slot machine license ] by the last business day in July.

(b) The annual summary shall contain, at a minimum, detailed information regarding:

(1) Employee training, including:

(i) The dates of live new hire and annual reinforcement compulsive gambling training.

(ii) The individual or group who conducted the training.

(iii) The number of employees who completed the new hire compulsive gambling training.

(iv) The number of employees who completed the annual reinforcement compulsive gambling training.

(v) The dates of responsible alcohol training.

(vi) The individual or group who conducted the responsible alcohol training.

(vii) The number of employees who completed the responsible alcohol training.

(2) An estimated amount of printed materials provided to patrons regarding:

(i) Compulsive and problem gambling.

(ii) The self-exclusion program.

(iii) Responsible gaming.

(iv) Available treatment services.

(3) The amount spent on the Compulsive and Problem Gambling Plan for:

(i) Employee training.

(ii) Printed materials.

(iii) Outreach including community training and sponsorships.

(4) Additional information including:

(i) The number of underage individuals who were denied access to the gaming floor.

(ii) The number of self-excluded individuals who were discovered on the gaming floor at the licensed facility.

(iii) The number of signs within the licensed facility that contain the approved problem gambling statement and helpline number.

(iv) A summary of any community outreach conducted by the licensee.

(v) Other information as requested by the Director of the OCPG.

Subpart J. EXCLUSION OF PERSONS

CHAPTER 511a. PERSONS REQUIRED TO BE EXCLUDED

§ 511a.1. Definitions.

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

\* \* \* \* \*

Cheat—

(i) To defraud or steal from any player or slot machine licensee in this Commonwealth while operating or playing a slot machine or table game,

**including causing, aiding, abetting or conspiring with another person to do so.**

**(ii) To alter or causing, aiding, abetting or conspiring with another person,** without authorization, to alter the elements of chance, method of selection or criteria which determine:

- (A) The result of a slot machine game **or table game.**
- (B) The amount or frequency of payment in a slot machine game **or table game.**
- (C) The value of a wagering instrument.
- (D) The value of a wagering credit.

**[ (ii) ] (iii)** The term does not include altering for required maintenance and repair.

**[ (iii) ] (iv)** The term includes an act in any jurisdiction that would constitute an offense under 4 Pa.C.S. § 1518(a)(6) and (7).

\* \* \* \* \*

**§ 511a.3. Criteria for exclusion.**

(a) The exclusion list may include a person who meets one or more of the following criteria:

\* \* \* \* \*

(4) A person whose presence in a licensed facility would be inimical to the interest of the Commonwealth or of licensed gaming therein, or both, including:

- (i) Cheats.
- (ii) Persons whose gaming privileges have been suspended by the Board.
- (iii) Persons whose Board permits, licenses or other approvals have been revoked.
- (iv) Persons who pose a threat to the safety of the patrons or employees of a slot machine licensee **or persons in close proximity to the licensed facility.**

\* \* \* \* \*

**§ 511a.5. Placement on the exclusion list.**

(a) A person may be placed on the exclusion list for either of the following:

- (1) Upon the filing of a petition for exclusion by the Bureau in accordance with the procedures under § 511a.4 (relating to duties of the Bureau) **when circumstances warrant expeditious placement.**
- (2) Upon receipt of an order from **the Board** or a court of competent jurisdiction within this Commonwealth, excluding the person from licensed facilities **in this Commonwealth.**

\* \* \* \* \*

**§ 511a.6. Demand for hearing on the placement of a person on the exclusion list.**

(a) Upon **[ placement of a person on the exclusion list, the Clerk will serve notice of the placement to ]** the filing of a petition for exclusion, the Bureau will serve the petition upon the person by personal service or certified mail at the last known address of the person. **[ When the placement is a result of a petition for exclusion filed by the Bureau, a copy of the petition will be included with the notice. ]**

(b) Upon service of the **[ notice by the Clerk, an excluded person ]** petition, the person subject to the petition shall have 30 days to demand a hearing

before the Board. Failure to demand a hearing within 30 days after service shall be deemed an admission of all matters and facts alleged in the Bureau's petition for exclusion.

**(c) If the person is immediately placed on the exclusion list upon the filing of a petition in accordance with § 511a.5(a)(1) (relating to placement on the exclusion list), the person will also be served with a notice of the placement on the exclusion list and the ability to nevertheless request a hearing as provided in subsection (b).**

**(d)** If a hearing is demanded by the excluded person, a hearing will be scheduled as provided in § 491a.8 (relating to hearings generally). At the hearing, the Bureau will have the affirmative obligation to demonstrate that the excluded person satisfies the criteria for exclusion in 4 Pa.C.S. § 1514 (relating to regulation requiring exclusion or ejection of certain persons) or § 511a.3 (relating to criteria for exclusion). Unless the matter is heard directly by the Board, the presiding officer will prepare a report and recommendation as provided in § 494a.4 (relating to report or report and recommendation of the presiding officer) for consideration by the Board.

**(e) If service pursuant to the Board's regulations is not made despite the Bureau's best efforts, a copy of the petition and notice required under subsection (c), if required, shall be provided to the Bureau of Casino Compliance to effectuate personal service should the person who is the subject of the petition appear at a licensed facility in this Commonwealth.**

**§ 511a.7. [ Board review ] (Reserved).**

**[ After a hearing or consideration of a petition for exclusion filed by the Bureau when no hearing was requested, the Board will:**

- (1) Issue a final order affirming the placement of the person on the exclusion list.**
- (2) Issue a final order removing the person from the exclusion list.**
- (3) Refer the matter to the presiding officer for further hearing. ]**

**§ 511a.9. Petition to remove name from the exclusion list.**

(a) An excluded person may file a petition with the Clerk to request a hearing for removal of his name from the exclusion list at any time after 5 years from the placement of his name on the exclusion list.

(b) The petition must be signed by the excluded person, contain supporting affidavits, and state the specific grounds believed by the petitioner to constitute good cause for removal from the exclusion list. Upon receipt of the petition, the Bureau may file an answer in accordance with § 493a.5 (relating to answers to complaints, petitions, motions and other filings requiring a response).

(c) **[ The Board may decide the petition on the basis of the documents submitted by the excluded person and the Bureau. The Board may summarily deny the petition, may grant the petition, or direct that a hearing be held in accordance with § 511a.6 (relating to demand for hearing on the placement of a person on the exclusion list). The Board will grant the petition or direct that a hearing be held only upon a finding that there is new evidence, which is material and necessary, or that circum-**

stances have changed since the placement of the excluded person on the exclusion list, and that there would be a reasonable likelihood that the Board would alter its previous decision.

**(d)** ] An excluded person who is barred from requesting a hearing concerning his removal from the exclusion list by the 5-year period of exclusion in subsection (a) may petition the Board for early consideration at any time. However, an excluded person may not, within the 5-year period of exclusion, file more than one petition for early consideration.

**(e)** **(d)** A petition for early consideration must contain the information required by subsection (b). Upon receipt of the petition, the Bureau may file an answer in accordance with § 493a.5.

**(f)** **The Board may decide the petition for early consideration on the basis of the documents sub-**

**mitted by the excluded person and the Bureau. The Board may summarily deny the petition or may grant the petition and direct that a hearing be held in accordance with § 511a.6.**

**(g)** **(e)** The Board will consider the following criteria when making its decision on a petition for early consideration:

(1) Whether there are extraordinary facts and circumstances warranting early consideration of the excluded person's request for removal from the exclusion list.

(2) If exclusion was ordered under § 511a.5(a)(2) (relating to placement on the exclusion list), whether the excluded person has completed the period of probation or otherwise satisfied the terms of the court-ordered exclusion.

[Pa.B. Doc. No. 11-1729. Filed for public inspection October 7, 2011, 9:00 a.m.]

# STATEMENTS OF POLICY

## Title 4—ADMINISTRATION

### PART II. EXECUTIVE BOARD

#### [ 4 PA. CODE CH. 9 ]

#### Reorganization of the Board of Probation and Parole

The Executive Board approved a reorganization of the Board of Probation and Parole effective September 23, 2011.

The organization chart at 41 Pa.B. 5389 (October 8, 2011) is published at the request of the Joint Committee on Documents under 1 Pa. Code § 3.1(a)(9) (relating to contents of *Code*).

*(Editor's Note: The Joint Committee on Documents has found organization charts to be general and permanent in nature. This document meets the criteria of 45 Pa.C.S. § 702(7) (relating to contents of Pennsylvania Code) as a document general and permanent in nature which shall be codified in the Pennsylvania Code.)*

[Pa.B. Doc. No. 11-1730. Filed for public inspection October 7, 2011, 9:00 a.m.]

### PART II. EXECUTIVE BOARD

#### [ 4 PA. CODE CH. 9 ]

#### Reorganization of the Department of Environmental Protection

The Executive Board approved a reorganization of the Department of Environmental Protection effective September 20, 2011.

The organization chart at 41 Pa.B. 5390 (October 8, 2011) is published at the request of the Joint Committee on Documents under 1 Pa. Code § 3.1(a)(9) (relating to contents of *Code*).

*(Editor's Note: The Joint Committee on Documents has found organization charts to be general and permanent in nature. This document meets the criteria of 45 Pa.C.S. § 702(7) (relating to contents of Pennsylvania Code) as a document general and permanent in nature which shall be codified in the Pennsylvania Code.)*

[Pa.B. Doc. No. 11-1731. Filed for public inspection October 7, 2011, 9:00 a.m.]

### PART II. EXECUTIVE BOARD

#### [ 4 PA. CODE CH. 9 ]

#### Reorganization of the State Civil Service Commission

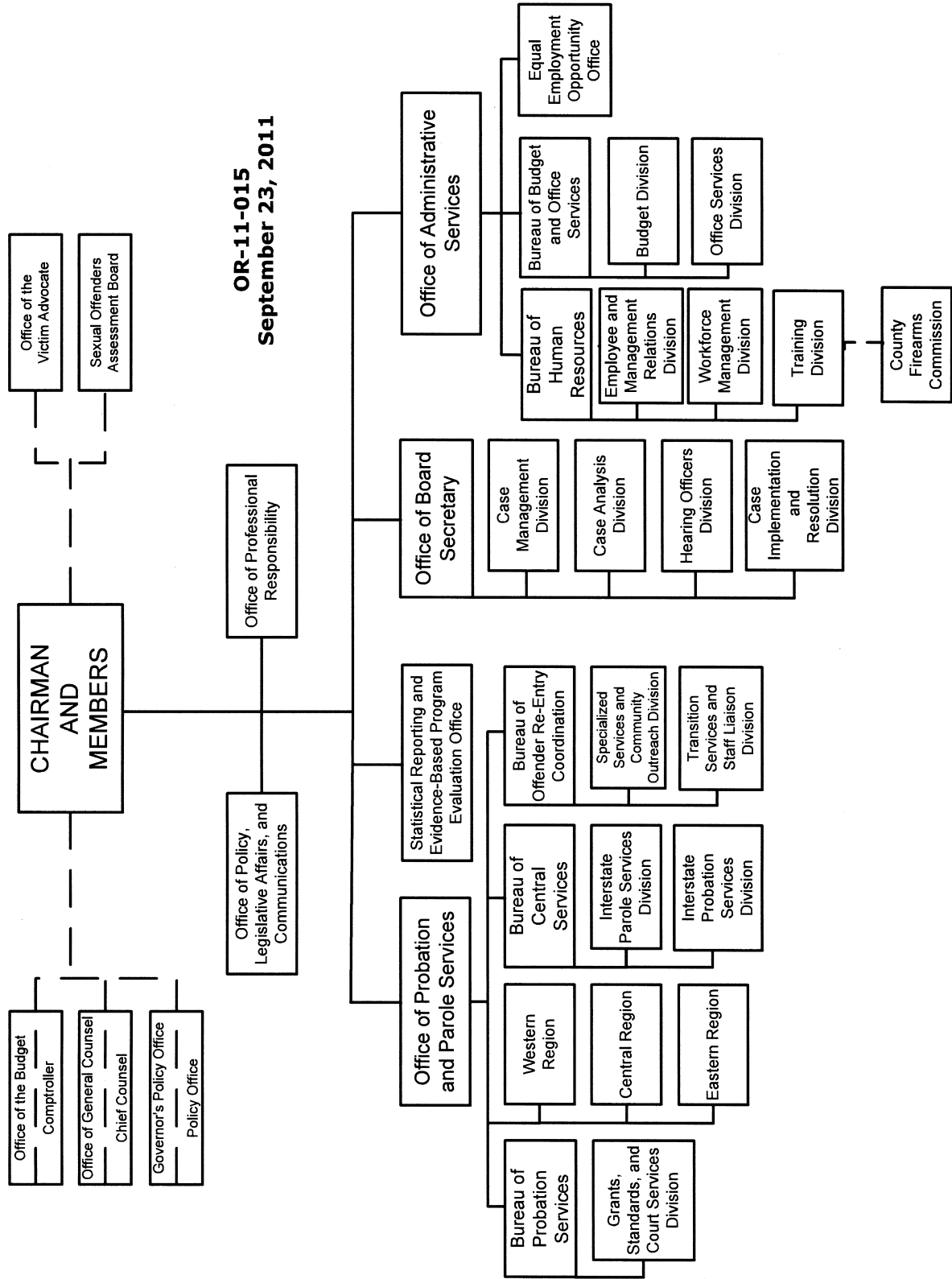
The Executive Board approved a reorganization of the State Civil Service Commission effective September 23, 2011.

The organization chart at 41 Pa.B. 5391 (October 8, 2011) is published at the request of the Joint Committee on Documents under 1 Pa. Code § 3.1(a)(9) (relating to contents of *Code*).

*(Editor's Note: The Joint Committee on Documents has found organization charts to be general and permanent in nature. This document meets the criteria of 45 Pa.C.S. § 702(7) (relating to contents of Pennsylvania Code) as a document general and permanent in nature which shall be codified in the Pennsylvania Code.)*

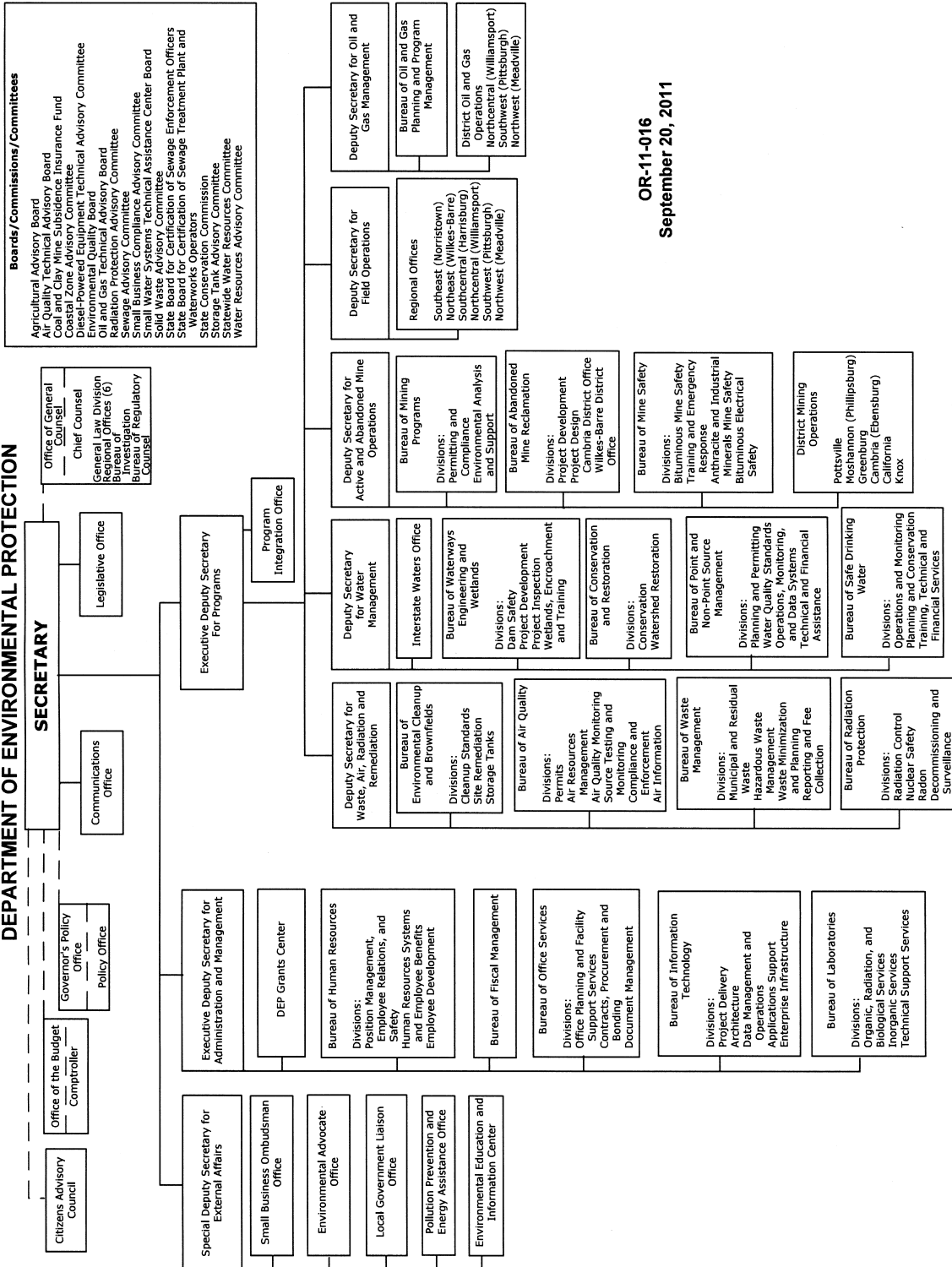
[Pa.B. Doc. No. 11-1732. Filed for public inspection October 7, 2011, 9:00 a.m.]

BOARD OF PROBATION AND PAROLE



**OR-11-015**  
**September 23, 2011**

DEPARTMENT OF ENVIRONMENTAL PROTECTION

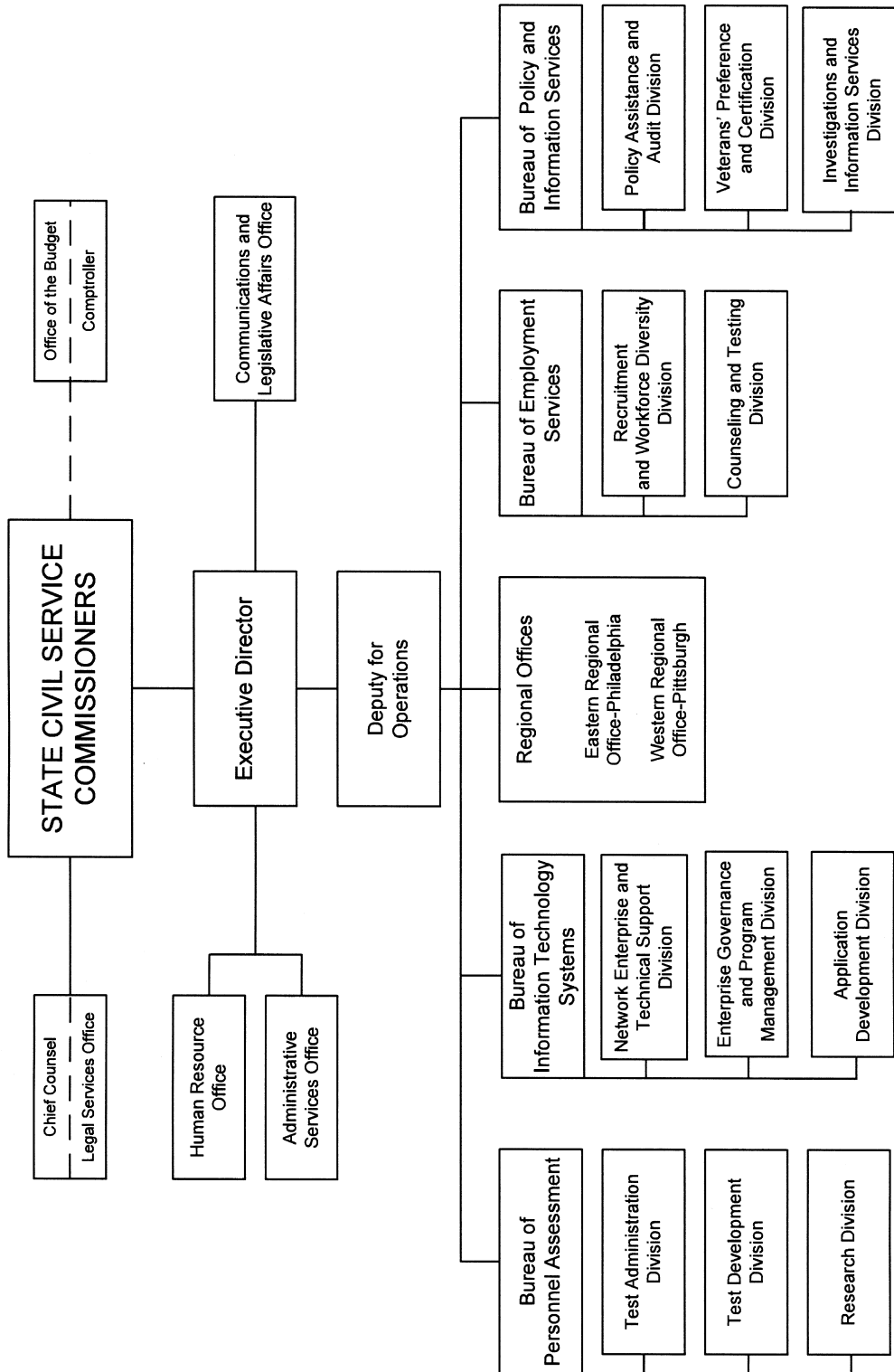


- Boards/Commissions/Committees**
- Agricultural Advisory Board
  - Air Quality Technical Advisory Board
  - Coal and Clay Mine Subsidence Insurance Fund
  - Coastal Zone Advisory Committee
  - Energy-Related Technical Advisory Committee
  - Environmental Quality Board
  - Oil and Gas Technical Advisory Board
  - Radiation Protection Advisory Committee
  - Sewage Advisory Committee
  - Small Business Compliance Advisory Committee
  - Statewide Planning Technical Assistance Center Board
  - State Board for Certification of Sewage Enforcement Officers
  - Waterworks Operators
  - State Conservation Commission
  - Storage and Transfer of Hazardous Waste Committee
  - Surface Water Resources Committee
  - Water Resources Advisory Committee

OR-11-016  
September 20, 2011



STATE CIVIL SERVICE COMMISSION



# NOTICES

## DEPARTMENT OF BANKING

### Actions on Applications

The Department of Banking (Department), under the authority contained in the act of November 30, 1965 (P. L. 847, No. 356), known as the Banking Code of 1965; the act of December 14, 1967 (P. L. 746, No. 345), known as the Savings Association Code of 1967; the act of May 15, 1933 (P. L. 565, No. 111), known as the Department of Banking Code; and the act of December 19, 1990 (P. L. 834, No. 198), known as the Credit Union Code, has taken the following action on applications received for the week ending September 20, 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

#### Conversions

<i>Date</i>	<i>Name and Location of Applicant</i>	<i>Action</i>
9-19-2011	<p><i>From:</i> Union Community Bank, FSB Mount Joy Lancaster County</p> <p><i>To:</i> Union Community Bank Mount Joy Lancaster County</p> <p>Application for approval to convert from a Federal savings bank to State-chartered stock savings bank</p>	Filed

#### Holding Company Acquisitions

<i>Date</i>	<i>Name and Location of Applicant</i>	<i>Action</i>
9-17-2011	<p>Customers Bancorp, Inc. Phoenixville Chester County</p> <p>Application for approval to acquire 100% of Berkshire Bancorp, Inc., Wyomissing and thereby indirectly acquire 100% of Berkshire Bank, Wyomissing.</p>	Effective

#### Consolidations, Mergers, and Absorptions

<i>Date</i>	<i>Name and Location of Applicant</i>	<i>Action</i>		
9-17-2011	<p>Customers Bank Phoenixville Chester County</p> <p>Merger of Customers Bank, Phoenixville, with and into New Century Interim Bank, Phoenixville, with a change in corporate title to Customers Bank. As a result of this transaction, Customers Bank, Phoenixville, has become the wholly-owned subsidiary of Customers Bancorp, Inc., Phoenixville, a newly-formed holding company.</p>	Effective		
9-17-2011	<p>Customers Bank Phoenixville Chester County</p> <p>Merger of Berkshire Bank, Wyomissing, with and into Customers Bank, Phoenixville.</p> <p>As a result of the merger, the following branch offices of Berkshire Bank became branch offices of Customers Bank:</p> <table border="0" style="width: 100%;"> <tr> <td style="width: 50%;">1101 Woodland Road Wyomissing Berks County (Former main office of Berkshire Bank)</td> <td style="width: 50%;">350 East Bellevue Avenue Reading Berks County</td> </tr> </table>	1101 Woodland Road Wyomissing Berks County (Former main office of Berkshire Bank)	350 East Bellevue Avenue Reading Berks County	Effective
1101 Woodland Road Wyomissing Berks County (Former main office of Berkshire Bank)	350 East Bellevue Avenue Reading Berks County			

<i>Date</i>	<i>Name and Location of Applicant</i>		<i>Action</i>
	1 Hearthstone Court Reading Berks County	555 Penn Avenue West Reading Berks County	
	2493 Bernville Road Reading Berks County		

**Branch Applications****Branch Relocations**

<i>Date</i>	<i>Name and Location of Applicant</i>	<i>Location of Branch</i>	<i>Action</i>
9-13-2011	Northwest Savings Bank Warren Warren County	<i>To:</i> 2200 South Atherton Drive State College Centre County  <i>From:</i> 611 University Drive State College Centre County	Filed
9-14-2011	Miners Bank Minersville Schuylkill County	<i>To:</i> 504 South Atherton Avenue Frackville Schuylkill County  <i>From:</i> 452 Lehigh Avenue Frackville Schuylkill County	Filed

**Branch Discontinuances**

<i>Date</i>	<i>Name and Location of Applicant</i>	<i>Location of Branch</i>	<i>Action</i>
8-26-2011	Elderton State Bank Elderton Armstrong County	121 North McKean Street Kittanning Armstrong County	Closed

**SAVINGS INSTITUTIONS**

No activity.

**CREDIT UNIONS**

No activity.

The Department's web site at [www.banking.state.pa.us](http://www.banking.state.pa.us) includes public notices for more recently filed applications.

GLENN E. MOYER,  
*Secretary*

[Pa.B. Doc. No. 11-1733. Filed for public inspection October 7, 2011, 9:00 a.m.]

## DEPARTMENT OF ENVIRONMENTAL PROTECTION

Applications, actions and special notices

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### APPLICATIONS

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#### THE CLEAN STREAMS LAW AND THE FEDERAL CLEAN WATER ACT APPLICATIONS FOR NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES) PERMITS AND WATER QUALITY MANAGEMENT (WQM) PERMITS

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**

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

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N?</i>
PA0084115 (Sew)	All American Properties PO Box 302 Bethel, PA 19507	Dauphin County Reed Township	Susquehanna River / 6-C	Y
PA0087165 (IW)	Bleyer Gift Packs, LLC 80 Voice Road Carle Place, NY 11514-1500	Huntingdon County Mount Union Borough	Juniata River / 12-C	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed No.)</i>	<i>EPA Waived Y/N?</i>
PA0228249 (Sewage)	Eagle Creek LLC South Eagle Valley Road Julian, PA 16844	Centre County Union Township	Bald Eagle Creek (9-C)	Y
PA0029831 (Sewage)	Sullivan County School District Wastewater Treatment Plant PO Box 346 Dushore, PA 18614-0346	Sullivan County Laporte Borough	Unnamed Tributary to Mill Creek (10-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*

**PA0058971**, Storm Water, SIC Code 3273, **Eureka Stone Quarry, Inc. d/b/a JDM Materials Company**, 851 County Line Road, Huntingdon Valley, PA 19006-1111. Facility Name: JDM Materials Langhorne Batch Plant. This existing facility is located in Middletown Township, **Bucks County**.

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

The receiving stream, Mill Creek, is located in State Water Plan watershed 2E and is classified for Warm Water Fishes, aquatic life, water supply and recreation. The discharge is not expected to affect public water supplies.

The proposed effluent limits for Outfall 001 are based on an average storm water flow.

<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>Annual Average</i>	<i>Daily Maximum</i>	<i>Instant. Maximum</i>
pH (S.U.)	XXX	XXX	6.0	XXX	XXX	9.0
Total Suspended Solids	XXX	XXX	XXX	50	100	100
Oil and Grease	XXX	XXX	XXX	Report	XXX	Report

The proposed effluent limits for Outfall 002 are based on an average storm water flow.

<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>Annual Average</i>	<i>Daily Maximum</i>	<i>Instant. Maximum</i>
pH (S.U.)	XXX	XXX	6.0	XXX	XXX	9.0
Total Suspended Solids	XXX	XXX	XXX	50	100	100
Oil and Grease	XXX	XXX	XXX	Report	XXX	Report

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

1. Remedial Measures
2. Small Stream Discharge
3. Change of Ownership
4. Proper Sludge Disposal
5. Laboratory Certification
6. Implement BMPs
7. Stormwater Outfall Requirements

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.

**PA0054151**, SIC Code 4952, **Joseph L. Kennedy**, 7 College View, Malvern, PA 19355. Facility Name: Kennedy SRSTP. This existing facility is located in East Whiteland 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, Unnamed tributary to Ridley Creek, is located in State Water Plan watershed 3-G and is classified for high quality trout stocking fishery, 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>Instant. Minimum</i>	<i>Average Monthly</i>	<i>Daily Maximum</i>	<i>Instant. Maximum</i>
Flow (GPD)	Report	XXX	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0	XXX	XXX	9.0
Total Residual Chlorine	XXX	XXX	XXX	0.5	XXX	1.2
CBOD <sub>5</sub>	XXX	XXX	XXX	10	XXX	20
Total Suspended Solids	XXX	XXX	XXX	20	XXX	40
Fecal Coliform (CFU/100 ml)	XXX	XXX	XXX	200	XXX	XXX
				Geo Mean		

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

1. AMR to DEP
2. Abandon STP when Municipal Sewers Available
3. Remedial Measures if Unsatisfactory Effluent
4. No Stormwater
5. Acquire Property Rights
6. Change of Ownership

7. Proper Sludge Disposal

8. Laboratory Certification

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.

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

**PA0021571**, Sewage, SIC Code 4952, **Marysville Borough**, 200 Overcrest Road, Marysville, PA 17053. Facility Name: Marysville STP. This existing facility is located in Marysville Borough, **Perry County**.

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

The receiving stream(s), Susquehanna River, is located in State Water Plan watershed 7-A and is classified for Warm Water Fishes, Migratory Fishes, aquatic life, water supply and recreation. The discharge is not expected to affect public water supplies.

The proposed effluent limits for Outfall 001 are based on a design flow of 1.25 MGD.

Parameters	Mass (lb/day)			Concentration (mg/l)		
	Average Monthly	Daily Maximum	Minimum	Average Monthly	Weekly Average	Instant. Maximum
Flow (MGD)	Report	Report	XXX	XXX	XXX	XXX
pH	XXX	XXX	6.0	XXX	XXX	9.0
Dissolved Oxygen	XXX	XXX	5.0	XXX	XXX	XXX
Total Residual Chlorine	XXX	XXX	XXX	0.5	XXX	1.6
CBOD <sub>5</sub>	260	417	XXX	25	40	50
		Wkly Avg				
BOD <sub>5</sub>						
Raw Sewage Influent	Report	Report	XXX	Report	XXX	XXX
Total Suspended Solids						
Raw Sewage Influent	Report	Report	XXX	Report	XXX	XXX
Total Suspended Solids	312	469	XXX	30	45	60
		Wkly Avg				
Fecal Coliform (CFU/100 ml)						
May 1 - Sep 30	XXX	XXX	XXX	200	XXX	1,000
				Geo Mean		
Oct 1 - Apr 30	XXX	XXX	XXX	2,000	XXX	10,000
				Geo Mean		
Ammonia-Nitrogen	XXX	XXX	XXX	Report	XXX	XXX
Total Phosphorus	20	XXX	XXX	2.0	XXX	4.0

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

Parameters	Mass (lbs)		Minimum	Concentration (mg/l)	
	Monthly	Annual		Monthly Average	Maximum
Ammonia—N	Report	Report		Report	
Kjeldahl—N	Report			Report	
Nitrate-Nitrite as N	Report			Report	
Total Nitrogen	Report	Report		Report	
Total Phosphorus	Report	Report		Report	
Net Total Nitrogen (Interim)	Report	Report			
Net Total Nitrogen (Final)	Report	22,831			
Net Total Phosphorus (Interim)	Report	Report			
Net Total Phosphorus (Final)	Report	3,044			

\* This permit contains conditions which authorize the permittee to apply nutrient reduction credits to meet the Net Total Nitrogen and the Net Total Phosphorus effluent mass limits, under the Department's Trading of Nutrients and Sediment Reduction Credits Policy and Guidelines (Document #392-0900-001, December 30, 2006). The condition includes the requirement to report the application of these credits in Supplemental Discharge Monitoring Reports (DMRs) submitted to the Department.

\* The compliance date for Net Total Nitrogen and Net Total Phosphorus will begin on October 1, 2012. Since these reporting requirements are annual loads, the reporting on compliance with the annual limitations will be required to be reported on the Supplemental DMR—Annual Nutrient Summary by November 28, November 28, 2013. This facility is required to monitor and report for Net Total Nitrogen and Net Total Phosphorus from the effective date of the permit until September 30, 2012.

\*\* Total Annual Ammonia Load will be required to be reported on the Supplemental DMR—Annual Nutrient Summary by November 28, 2011.

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

- Combined Sewer Overflows

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.

**PA0021636**, Sewage, SIC Code 4952, **Fleetwood Borough**, 110 W Arch Street, Fleetwood, PA 19522-1324. Facility Name: Fleetwood Borough STP. This existing facility is located in Richmond Township, **Berks County**.

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

The receiving stream(s), Willow Creek, is located in State Water Plan watershed 3-B and is classified for Cold Water Fishes, aquatic life, water supply and recreation. The discharge is not expected to affect public water supplies. The proposed effluent limits for Outfall 001 are based on a design flow of 0.7 MGD.

Parameters	Mass (lb/day)			Concentration (mg/l)		
	Weekly Monthly Report	Weekly Average Report Daily Max	Minimum	Average Monthly	Weekly Average	Instant. Maximum
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	0.17	XXX	0.55
Total Residual Chlorine (Final)	XXX	XXX	XXX	0.008	XXX	0.026
CBOD <sub>5</sub>						
May 1 - Oct 31	81	128	XXX	14	22	30
Nov 1 - Apr 30	146	233	XXX	25	40	50
BOD <sub>5</sub>						
Raw Sewage Influent	Report	XXX	XXX	Report	XXX	XXX
Total Suspended Solids						
Raw Sewage Influent	Report	XXX	XXX	Report	XXX	XXX
Total Suspended Solids	175	262	XXX	30	45	60
Total Dissolved Solids	Report	XXX	XXX	1,000	XXX	XXX
Fecal Coliform (CFU/100 ml)						
May 1 - Sep 30	XXX	XXX	XXX	200	XXX	XXX
Oct 1 - Apr 30	XXX	XXX	XXX	Geo Mean 2,000	XXX	XXX
Ammonia-Nitrogen						
May 1 - Oct 31	8	XXX	XXX	1.4	XXX	2.8
Nov 1 - Apr 30	24	XXX	XXX	4.2	XXX	8.4
Total Phosphorus	Report	XXX	XXX	Report	XXX	XXX
Total Copper (Interim)	Report	XXX	XXX	Report	XXX	XXX
Total Copper (Final)	0.14	XXX	XXX	0.024	XXX	0.048

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.

**PA0038415 A-3**, Sewage, SIC Code 4952, **East Pennsboro Township**, 98 South Enola Drive, Enola, PA 17025. Facility Name: East Pennsboro Township STP. This existing facility is located in East Pennsboro Township, **Cumberland County**.

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

The receiving stream(s), Conodoguinet Creek, is located in State Water Plan watershed 7-B and is classified for War Water Fishes, Migratory Fishes, aquatic life, water supply and recreation. The discharge is not expected to affect public water supplies.

The proposed effluent limits for Outfall 001 are based on design flows of 3.7 MGD (interim) or 4.4 MGD (final).

Parameters	Mass (lb/day)			Concentration (mg/l)		
	Average Monthly	Daily Maximum	Minimum	Average Monthly	Weekly Average	Instant. Maximum
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

<i>Parameters</i>	<i>Mass (lb/day)</i>			<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Daily Maximum</i>	<i>Minimum</i>	<i>Average Monthly</i>	<i>Weekly Average</i>	<i>Instant. Maximum</i>
Total Residual Chlorine (Interim)	XXX	XXX	XXX	0.5	XXX	1.6
Total Residual Chlorine (Final)	XXX	XXX	XXX	.45	XXX	1.48
CBOD <sub>5</sub> (Interim)	771	1,234	XXX	25	40	50
CBOD <sub>5</sub> (Final)	917	Wkly Avg 1,467	XXX	25	40	50
BOD <sub>5</sub>						
Raw Sewage Influent	Report	Report	XXX	Report	XXX	XXX
Total Suspended Solids						
Raw Sewage Influent	Report	Report	XXX	Report	XXX	XXX
Total Suspended Solids (Interim)	925	1,388	XXX	30	45	60
Total Suspended Solids (Final)	1,100	Wkly Avg 1,651	XXX	30	45	60
Fecal Coliform (CFU/100 ml)						
May 1 - Sep 30	XXX	XXX	XXX	200	XXX	1,000
Oct 1 - Apr 30	XXX	XXX	XXX	Geo Mean 2,000	XXX	10,000
Ammonia-Nitrogen						
May 1 - Oct 31 (Interim)	138	XXX	XXX	4.5	XXX	9.0
Nov 1 - Apr 30 (Interim)	370	XXX	XXX	12	XXX	24
May 1 - Oct 31 (Final)	165	XXX	XXX	4.5	XXX	9.0
Nov 1 - Apr 30 (Final)	440	XXX	XXX	12	XXX	24
Total Phosphorus	61	XXX	XXX	2.0	XXX	4.0

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

<i>Parameters</i>	<i>Mass (lbs)</i>		<i>Minimum</i>	<i>Concentration (mg/l)</i>	
	<i>Monthly</i>	<i>Annual</i>		<i>Monthly Average</i>	<i>Maximum</i>
Ammonia—N	Report	Report		Report	
Kjeldahl—N	Report			Report	
Nitrate-Nitrite as N	Report			Report	
Total Nitrogen	Report	Report		Report	
Total Phosphorus	Report	Report		Report	
Net Total Nitrogen (Interim)	Report	Report			
Net Total Nitrogen (Final)	Report	72,206			
Net Total Phosphorus (Interim)	Report	Report			
Net Total Phosphorus (Final)	Report	9,589			

\* This permit contains conditions which authorize the permittee to apply nutrient reduction credits to meet the Net Total Nitrogen and the Net Total Phosphorus effluent mass limits, under the Department's Trading of Nutrients and Sediment Reduction Credits Policy and Guidelines (Document #392-0900-001, December 30, 2006). The condition includes the requirement to report the application of these credits in Supplemental Discharge Monitoring Reports (DMRs) submitted to the Department.

\* The compliance date for Net Total Nitrogen and Net Total Phosphorus will begin on October 1, 2012. Since these reporting requirements are annual loads, the reporting on compliance with the annual limitations will be required to be reported on the Supplemental DMR—Annual Nutrient Summary by November 28, 2013. This facility is required to monitor and report for Net Total Nitrogen and Net Total Phosphorus from the effective date of the permit until September 30, 2012.

\*\* Total Annual Ammonia Load will be required to be reported on the Supplemental DMR—Annual Nutrient Summary by November 28, 2011.

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

- Requirements Applicable to Stormwater Outfalls

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.



Northcentral Regional Office: Regional Water Management Program Manager, 208 W Third Street Suite 101, Williamsport, PA 17701-6448, Telephone: 570.327.3664.

**PA0007455**, SIC Code 3724, **Lycoming Engines**, 652 Oliver Street, Williamsport, PA 17701-4410. Facility Name: Lycoming Engines. This existing facility is located in Williamsport City, **Lycoming County**.

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

The receiving stream(s), Lycoming Creek, is located in State Water Plan watershed 10-A and is classified for Exceptional Value, 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 0.009 MGD.

Parameters	Mass (lb/day)			Concentration (mg/l)		
	Average	Daily	Minimum	Average	Daily	Instant. Maximum
	Monthly	Maximum		Monthly	Maximum	
Flow (MGD)	Report	Report	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0	XXX	XXX	9.0
Total Suspended Solids	Report	Report	XXX	30	60	75
Total Dissolved Solids	Report	Report	XXX	Report	Report	XXX
Oil and Grease	Report	Report	XXX	15	XXX	30
Total Cadmium	0.01	0.02	XXX	0.17	0.34	0.42
Hexavalent Chromium	0.01	0.03	XXX	0.21	0.42	0.53
Total Chromium	Report	Report	XXX	1.71	2.77	4.28
Total Copper	0.07	0.15	XXX	1.0	2.0	2.5
Total Cyanide	Report	Report	XXX	0.65	1.20	1.63
Total Lead	0.01	0.02	XXX	0.15	0.30	0.38
Total Nickel	Report	Report	XXX	2.38	3.98	5.95
Total Silver	0.007	0.01	XXX	0.10	0.20	0.25
Total Zinc	Report	Report	XXX	1.48	2.61	3.70
Total Toxic Organics	XXX	XXX	XXX	XXX	2.13	XXX
Trichloroethylene	XXX	Report	XXX	XXX	0.20	0.30

The proposed effluent limits for Outfall 003 are based on a design flow of 0.041 MGD.

Parameters	Mass (lb/day)			Concentration (mg/l)		
	Average	Daily	Minimum	Average	Daily	Instant. Maximum
	Monthly	Maximum		Monthly	Maximum	
Flow (MGD)	Report	Report	XXX	XXX	XXX	XXX
pH	XXX	XXX	6.0	XXX	XXX	9.0
Trichloroethylene	XXX	0.02	XXX	XXX	0.06	0.09

The proposed effluent limits for Outfall 004 are based on a design flow of 0.808 MGD.

Parameters	Mass (lb/day)			Concentration (mg/l)		
	Average	Daily	Minimum	Average	Daily	Instant. Maximum
	Monthly	Maximum		Monthly	Maximum	
Flow (MGD)	Report	Report	XXX	XXX	XXX	XXX
pH	XXX	XXX	6.0	XXX	XXX	9.0
Trichloroethylene	XXX	Report	XXX	XXX	0.01	0.015

The proposed effluent limits for Outfall 005 are based on a design flow of 0.071 MGD.

Parameters	Mass (lb/day)			Concentration (mg/l)		
	Average	Daily	Minimum	Average	Daily	Instant. Maximum
	Monthly	Maximum		Monthly	Maximum	
Flow (MGD)	Report	Report	XXX	XXX	XXX	XXX
pH	XXX	XXX	6.0	XXX	XXX	9.0
Total Chromium	Report	Report	XXX	1.71	2.77	4.28
Total Zinc	0.59	1.18	XXX	1.0	2.0	2.5
Trichloroethylene	XXX	Report	XXX	XXX	0.20	0.30

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

Parameters	Mass (lbs)			Concentration (mg/l)	
	Monthly	Annual	Minimum	Monthly	Maximum
				Average	
Ammonia—N	Report	Report		Report	
Kjeldahl—N	Report			Report	
Nitrate-Nitrite as N	Report			Report	

<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>
Total Nitrogen	Report	Report		Report	
Total Phosphorus	Report	Report		Report	

You may make an appointment to review the DEP files on this case by calling the File Review Coordinator at 570-327-3693.

The EPA Waiver is in effect.

**PA0234095**, SIC Code 3341, **CMPC Transition LLC**, 181 West Madison Street, Chicago, IL 60602-4510. Facility Name: Cerro Metals—North Yard Groundwater Extraction and Treatment System. This proposed facility is located in Spring Township, **Centre County**.

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

The receiving stream(s), Logan Branch, is located in State Water Plan watershed 9-C 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 0.072 MGD.

<i>Parameters</i>	<i>Mass (lb/day)</i>			<i>Concentration</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	6.5	XXX	XXX	9.0
Total Suspended Solids (mg/L)	XXX	XXX	XXX	10	20	25
Oil and Grease (mg/L)	XXX	XXX	XXX	10	20	25
1,2,4-Trimethylbenzene (µg/L)	XXX	XXX	XXX	0.09	0.09	0.09
1,3,5-Trimethylbenzene (µg/L)	XXX	XXX	XXX	0.05	0.05	0.05
Benzo(a)Pyrene (µg/L)	XXX	XXX	XXX	10	10	10
3,4-Benzofluoranthene (µg/L)	XXX	XXX	XXX	10	10	10
Carbon Tetrachloride (µg/L)	XXX	XXX	XXX	0.02	0.02	0.02
1,1,1-Trichloroethane (µg/L)	XXX	XXX	XXX	0.04	0.04	0.04
Bis(2-Ethylhexyl)Phthalate (µg/L)	XXX	XXX	XXX	10	10	10
cis-1,2-Dichloroethylene (µg/L)	XXX	XXX	XXX	0.06	0.06	0.06
Tetrachloroethylene (µg/L)	XXX	XXX	XXX	0.05	0.05	0.05
Trichloroethylene (µg/L)	XXX	XXX	XXX	0.02	0.02	0.02

You may make an appointment to review the DEP files on this case by calling the File Review Coordinator at 570-327-3693.

The EPA Waiver is in effect.

**PA0009024**, Industrial Waste, SIC Code 3339, **Global Tungsten & Powders Corp.**, Hawes Street, Towanda, PA 18848. Facility Name: Global Tungsten & Powders Corp. This existing facility is located in North Towanda Township, **Bradford County**.

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

The receiving stream(s), Unnamed Tributary to Susquehanna River, is located in State Water Plan watershed 4-C and is classified for Warm Water Fishes, aquatic life, water supply and recreation. The discharge is not expected to affect public water supplies.

The proposed effluent limits for Outfall 001 are based on a design flow of 0.894 MGD and are as follows:

<i>Parameters</i>	<i>Mass (lb/day)</i>			<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Daily Maximum</i>	<i>Minimum</i>	<i>Average Monthly</i>	<i>Daily Maximum</i>	<i>Instant. Maximum</i>
Flow (MGD)	Report	Report	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0	XXX	XXX	9.0
Total Suspended Solids	285	582	XXX	Report	Report	99
Total Dissolved Solids	XXX	135,790	XXX	Report	Report	XXX
Oil and Grease	XXX	XXX	XXX	15	XXX	30
Ammonia-Nitrogen	3,097	1,363	XXX	Report	Report	469
Total Arsenic	5.7	14.3	XXX	Report	Report	2.5
Total Cadmium	0.72	1.1	XXX	0.10	0.15	0.25
Total Cobalt	12.5	28.4	XXX	Report	Report	4.3
Total Copper	5.0	12.9	XXX	Report	Report	2.2
Fluoride	183	332	XXX	Report	Report	63
Total Lead	1.1	2.6	XXX	Report	Report	0.38

<i>Parameters</i>	<i>Mass (lb/day)</i>			<i>Concentration (mg/l)</i>		
	<i>Average</i>	<i>Daily</i>	<i>Minimum</i>	<i>Average</i>	<i>Daily</i>	<i>Instant. Maximum</i>
	<i>Monthly</i>	<i>Maximum</i>		<i>Monthly</i>	<i>Maximum</i>	
Total Molybdenum	228	456	XXX	Report	Report	79
Total Nickel	15.8	35.5	XXX	Report	Report	5.5
Total Selenium	2.2	5.5	XXX	Report	Report	0.8
Total Tantalum	3.4	3.4	XXX	Report	Report	1.2
Total Tungsten	463	1,041	XXX	Report	Report	161
Total Zinc	4.4	11.1	XXX	Report	Report	1.9

The proposed effluent limits for Outfall 002 are as follows:

<i>Parameters</i>	<i>Mass (lb/day)</i>			<i>Concentration (mg/l)</i>		
	<i>Average</i>	<i>Daily</i>	<i>Minimum</i>	<i>Average</i>	<i>Daily</i>	<i>Instant. Maximum</i>
	<i>Monthly</i>	<i>Maximum</i>		<i>Monthly</i>	<i>Maximum</i>	
Flow (MGD)	Report	Report	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0	XXX	XXX	9.0
Total Dissolved Solids	XXX	12,195	XXX	Report	Report	XXX
Oil and Grease	XXX	XXX	XXX	15	XXX	30
Ammonia-Nitrogen	XXX	Report	XXX	XXX	Report	XXX
Total Copper	XXX	Report	XXX	XXX	Report	XXX
Dissolved Iron	XXX	XXX	XXX	XXX	XXX	7.0
Total Molybdenum	XXX	Report	XXX	XXX	Report	XXX
Total Nickel	XXX	Report	XXX	XXX	Report	XXX
Total Zinc	XXX	Report	XXX	XXX	Report	XXX

The proposed effluent limits for Outfall 003 are as follows:

<i>Parameters</i>	<i>Mass (lb/day)</i>			<i>Concentration (mg/l)</i>		
	<i>Average</i>	<i>Daily</i>	<i>Minimum</i>	<i>Average</i>	<i>Daily</i>	<i>Instant. Maximum</i>
	<i>Monthly</i>	<i>Maximum</i>		<i>Monthly</i>	<i>Maximum</i>	
Flow (MGD)	Report	Report	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0	XXX	XXX	9.0
Total Dissolved Solids	XXX	1,599	XXX	Report	Report	XXX
Oil and Grease	XXX	XXX	XXX	15	XXX	30
Ammonia-Nitrogen	XXX	Report	XXX	XXX	Report	XXX
Total Copper	XXX	Report	XXX	XXX	Report	XXX
Dissolved Iron	XXX	XXX	XXX	XXX	XXX	7.0
Total Molybdenum	XXX	Report	XXX	XXX	Report	XXX
Total Nickel	XXX	Report	XXX	XXX	Report	XXX
Total Zinc	XXX	Report	XXX	XXX	Report	XXX

The proposed effluent limits for Outfall 004 are as follows:

<i>Parameters</i>	<i>Mass (lb/day)</i>			<i>Concentration (mg/l)</i>		
	<i>Average</i>	<i>Daily</i>	<i>Minimum</i>	<i>Average</i>	<i>Daily</i>	<i>Instant. Maximum</i>
	<i>Monthly</i>	<i>Maximum</i>		<i>Monthly</i>	<i>Maximum</i>	
Flow (MGD)	Report	Report	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0	XXX	XXX	9.0
Total Dissolved Solids	XXX	1,921	XXX	Report	Report	XXX
Oil and Grease	XXX	XXX	XXX	15	XXX	30
Ammonia-Nitrogen	XXX	Report	XXX	XXX	Report	XXX
Total Copper	XXX	Report	XXX	XXX	Report	XXX
Dissolved Iron	XXX	XXX	XXX	XXX	XXX	7.0
Total Molybdenum	XXX	Report	XXX	XXX	Report	XXX
Total Nickel	XXX	Report	XXX	XXX	Report	XXX
Total Zinc	XXX	Report	XXX	XXX	Report	XXX

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

<i>Parameters</i>	<i>Mass (lbs)</i>			<i>Concentration (mg/l)</i>	
	<i>Monthly</i>	<i>Annual</i>	<i>Minimum</i>	<i>Monthly</i>	<i>Maximum</i>
				<i>Average</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	

<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>
Net Total Nitrogen (Interim)	Report	Report			
Net Total Nitrogen (Final)	Report	600,515			
Net Total Phosphorus (Interim)	Report	Report			
Net Total Phosphorus (Final)	Report	1,577			

The proposed monitoring requirements and, where appropriate, effluent limits for implementation of the Chesapeake Bay Tributary Strategy are as follows for Outfall 002.

<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	Report			
Net Total Phosphorus	Report	Report			

The proposed monitoring requirements and, where appropriate, effluent limits for implementation of the Chesapeake Bay Tributary Strategy are as follows for Outfall 003.

<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	Report			
Net Total Phosphorus	Report	Report			

The proposed monitoring requirements and, where appropriate, effluent limits for implementation of the Chesapeake Bay Tributary Strategy are as follows for Outfall 004.

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

\* This permit contains conditions which authorize the permittee to apply nutrient reduction credits to meet the Net Total Nitrogen and the Net Total Phosphorus effluent mass limits, under the Department's Trading of Nutrients and Sediment Reduction Credits Policy and Guidelines (Document #392-0900-001, December 30, 2006). The condition includes the requirement to report the application of these credits in Supplemental Discharge Monitoring Reports (DMRs) submitted to the Department.

\* The compliance date for Net Total Nitrogen and Net Total Phosphorus will begin on October 1, 2011. Since these reporting requirements are annual loads, the reporting on compliance with the annual limitations will be required to be reported on the Supplemental DMR—Annual Nutrient Summary by November 28, 2012. This facility is required to monitor and report for Net Total Nitrogen and Net Total Phosphorus from the effective date of the permit until September 30, 2011.

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.

**PA0228443, CAFO (SIC #0241), Paul Dotterer & Sons, Inc.,** 408 Kryder Road, Mill Hall, PA 17751.

This proposed facility is located in Porter Township, **Clinton County**.

Description of Proposed Activity: This is an existing dairy operation in multiple barns at three locations; the main facility (south of Kryder Road) houses the milking and dry cows in 6 barns; the heifer facility (north of main facility and Kryder Road) houses heifers in 4 barns; the calf facility (on Heltman Road) houses all calves in one barn. Manure is

handled primarily as a liquid. The system reuses wash water to flush alleys. Solids and sand are separated out of the slurry and stacked separately. Calf manure is handled as a solid. All manure is spread on farms associated with Dotterer. No exporting of manure. This is for an increase from 1,378 AEU's to 2,155 AEU's on this operation.

The receiving stream, UNT to Cedar Run is in the State Water Plan watershed #9C and is classified for: HQ-CWF.

The proposed effluent limits for the operation/activity include: Except for the chronic or catastrophic rainfall events defined as over the 25-year/24-hour rain storms, the CAFO permit is a non-discharge NPDES permit. Where applicable, compliance with 40 CFR federal effluent limitation guidelines is required. The permit requires no other numeric effluent limitations and compliance with the Pennsylvania Nutrient Management Act and the Clean Stream Law constitutes compliance with the state narrative water quality standards.

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

**PA0013820**, Industrial Waste, SIC Code 3312, **Allegheny Ludlum Steel Corp**, 100 River Road, Brackenridge, PA 15014-1537. Facility Name: Allegheny Ludlum Brackenridge Plant. This existing facility is located in Harrison Township, **Allegheny County**.

Description of Existing Activity: The application is for a renewal of an NPDES permit for existing discharges of treated industrial waste, a proposed addition of a hot rolling processing facility wastewater discharge, non-contact cooling water discharges, and storm water runoff.

The receiving stream(s), the Allegheny River is located in State Water Plan watershed 18-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 variable storm water runoff volume.

Parameters	Mass (lb/day)			Concentration (mg/l)		
	Average Monthly	Daily Maximum	Minimum	Average Monthly	Daily Maximum	Instant. Maximum
Flow (MGD)	XXX	Monitor & Report	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0	XXX	XXX	9.0
Total Suspended Solids	XXX	XXX	XXX	XXX	Monitor & Report	XXX
Total Dissolved Solids	XXX	XXX	XXX	XXX	Monitor & Report	XXX
Total Aluminum	XXX	XXX	XXX	XXX	Monitor & Report	XXX
Total Iron	XXX	XXX	XXX	XXX	Monitor & Report	XXX
Total Manganese	XXX	XXX	XXX	XXX	Monitor & Report	XXX

The proposed effluent limits for Outfall 002 are based on a design flow of 3.85 MGD.

Parameters	Mass (lb/day)			Concentration (mg/l)		
	Average Monthly	Daily Maximum	Minimum	Average Monthly	Daily Maximum	Instant. Maximum
Flow (MGD)	Monitor & Report	Report	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0	XXX	XXX	9.0
Temperature (°F)	XXX	XXX	XXX	Monitor & Report	110	XXX
Total Suspended Solids	XXX	XXX	XXX	30	60	XXX
Total Dissolved Solids	XXX	XXX	XXX	XXX	Monitor & Report	XXX
Total Iron	XXX	XXX	XXX	XXX	Monitor & Report	XXX
Total Aluminum	XXX	XXX	XXX	XXX	Monitor & Report	XXX
Total Manganese	XXX	XXX	XXX	XXX	Monitor & Report	XXX

The proposed effluent limits for Outfall 003 are based on a design flow of 12.6 MGD.

Parameters	Mass (lb/day)			Concentration (mg/l)		
	Average Monthly	Daily Maximum	Minimum	Average Monthly	Daily Maximum	Instant. Maximum
Flow (MGD)	Monitor & Report	Report	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0	XXX	XXX	9.0
Temperature (°F)	XXX	XXX	XXX	Monitor & Report	110	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	XXX	XXX	XXX	Monitor & Report	Report	XXX
Total Dissolved Solids	XXX	XXX	XXX	XXX	Monitor & Report	XXX
Oil and Grease	XXX	XXX	XXX	Monitor & Report	Report	XXX
Total Aluminum	XXX	XXX	XXX	Monitor & Report	Report	XXX
Total Iron	XXX	XXX	XXX	Monitor & Report	Report	XXX
Total Manganese	XXX	XXX	XXX	Monitor & Report	Report	XXX

The proposed effluent limits for Outfall 004 are based on a design flow of 1.0 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)	Monitor & Report		XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0	XXX	9.0	XXX
Temperature (°F)	XXX	XXX	XXX	Monitor & Report	110	XXX
Total Dissolved Solids	XXX	XXX	XXX	Monitor & Report	Report	XXX
Nitrate-Nitrite as N	XXX	XXX	XXX	Monitor & Report	Report	XXX
Total Magnesium	XXX	XXX	XXX	Monitor & Report	Report	XXX
Total Aluminum	XXX	XXX	XXX	Monitor & Report	Report	XXX

The proposed effluent limits for Outfall 005 are based on a design flow of 13 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)	Monitor & Report		XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0	XXX	9.0	XXX
Temperature (°F)	XXX	XXX	XXX	Monitor & Report	110	XXX
Total Dissolved Solids	XXX	XXX	XXX	XXX	Monitor & Report	XXX
Total Iron	XXX	XXX	XXX	XXX	Monitor & Report	XXX
Total Aluminum	XXX	XXX	XXX	XXX	Monitor & Report	XXX

The proposed effluent limits for Outfall 007 are based on a variable storm water runoff volume.

<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 Dissolved Solids	XXX	XXX	XXX	XXX	Monitor & Report	XXX
Total Iron	XXX	XXX	XXX	XXX	Monitor & Report	XXX
Total Zinc	XXX	XXX	XXX	XXX	Monitor & Report	XXX

The proposed effluent limits for Outfall 008 are based on a variable storm water runoff volume.

<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 Dissolved Solids	XXX	XXX	XXX	XXX	Monitor & Report	XXX

The proposed effluent limits for Outfall 102 are based on a design flow of 2.85 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)	Monitor & Report		XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0	XXX	XXX	9.0
Total Residual Chlorine	XXX	XXX	XXX	0.5	1.0	XXX
Total Suspended Solids	1260	3142	XXX	15	40	50

<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	243	983	XXX	Monitor & Report	10	12.5
Ammonia-Nitrogen	1193	2702	XXX	58.6	133.3	167
Total Cyanide	2.55	5.99	XXX	0.12	0.29	0.36
Fluoride	552	1225	XXX	26.4	59.5	74.4
Total Iron	XXX	XXX	XXX	0.61	1.20	1.5
Total Lead (MGD)	4.1	8.54	XXX	0.20	0.42	0.53
Total Titanium	XXX	XXX	XXX	0.41	0.94	1.18
Total Zinc	12.48	29.6	XXX	0.61	1.46	1.83

The proposed effluent limits for Outfall 103 are based on a design flow of 27.5 MGD.

<i>Parameters</i>	<i>Mass (lb/day)</i>			<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Daily Maximum</i>	<i>Minimum</i>	<i>Average Monthly</i>	<i>Daily Maximum</i>	<i>Instant. Maximum</i>
Flow (MGD)	Monitor & Report		XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0	XXX	XXX	9.0
Total Residual Chlorine	XXX	XXX	XXX	0.5	1.0	XXX
Total Suspended Solids	2723	7268	XXX	15	40	50
Oil and Grease	Monitor & Report	1820	XXX	Monitor & Report	10	12.5

The proposed effluent limits for Outfall 104 are based on a design flow of 0.9 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)	Monitor & Report		XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0	XXX	XXX	9.5
Total Residual Chlorine	XXX	XXX	XXX	0.5	1.0	XXX
Total Suspended Solids	698	1627	XXX	30	70	87.5
Oil and Grease	221	664	XXX	10	30	30
Total Chromium	9.29	23.2	XXX	0.4	1.0	1.25
Total Iron	XXX	XXX	XXX	7.3	14.6	18.3
Total Nickel	6.98	19.9	XXX	0.3	0.9	1.13
Temperature (°F)	XXX	XXX	XXX	XXX	110	XXX

The proposed effluent limits for Outfall 901 are based on a variable storm water runoff volume.

<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 Dissolved Solids	XXX	XXX	XXX	XXX	Monitor & Report	XXX

The proposed effluent limits for Outfall 904 are based on a variable storm water runoff volume.

<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 Dissolved Solids	XXX	XXX	XXX	XXX	Monitor & Report	XXX

The proposed effluent limits for Outfall 908 are based on a variable storm water runoff volume.

<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 Dissolved Solids	XXX	XXX	XXX	XXX	Monitor & Report	XXX

Outfalls 906 and 907 shall consist solely of river water intake strainer overflow. Debris collected on the strainer shall not be returned to the waterway.

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

- Discharge monitoring submission, controls of discharges of floating materials, oil, grease, scum and other substances, sludge disposal conditions, chemical additive conditions, storm water runoff conditions,

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 not in effect.

**PA0027570**, Sewage, **Western Westmoreland Municipal Authority**, 12441 Route 993, N Huntingdon, PA 15642-0366. Facility Name: Brush Creek STP. This existing facility is located in North Huntingdon 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), Brush Creek, is located in State Water Plan watershed 19-A and is classified for Trout Stocking, aquatic life, water supply and recreation.

The discharge is not expected to affect public water supplies.

The proposed effluent limits for Outfall 001 are based on a design flow of 4.4MGD.

Parameters	Mass (lb/day)			Concentration (mg/l)		
	Average Monthly	Weekly Average	Minimum	Average Monthly	Weekly Average	Instant. Maximum
Flow (MGD)	Report	Report Daily	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	Max XXX	6.0	XXX	XXX	9.0
Total Residual Chlorine	XXX	XXX	XXX	1.0	XXX	3.3
CBOD <sub>5</sub>	917	1376	XXX	25	37.5	50
Total Suspended Solids	1101	1651	XXX	30	45	60
Fecal Coliform (CFU/100 ml)						
May 1 - Sep 30	XXX	XXX	XXX	200 Geo Mean	XXX	1000
Oct 1 - Apr 30	XXX	XXX	XXX	2000 Geo Mean	XXX	10000

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

The Authority will be allowed to discharge uncontaminated storm water from the STP site through Outfalls 101 and 102.

The Authority will be allowed to discharge combined sewage through CSO Outfall 005 until such time as the sewer system tributary to CSO 005 is separated.

The EPA Waiver is not in effect.

**PA0252727**, Sewage, **George Tharp**, 18 Cherry Valley Lane, McDonald, PA 15057. Facility Name: Tharp SR STP. This existing facility is located in Mount Pleasant Township, **Washington County**.

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

The receiving stream, an unnamed tributary of Cherry Run, is located in State Water Plan watershed 20-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 0.0004 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	Report
CBOD <sub>5</sub>	XXX	XXX	XXX	25	XXX	50
Total Suspended Solids	XXX	XXX	XXX	30	XXX	60
Fecal Coliform (CFU/100 ml)						
May 1 - Sep 30	XXX	XXX	XXX	200 Geo Mean	XXX	1000
Oct 1 - Apr 30	XXX	XXX	XXX	2000 Geo Mean	XXX	10000
Ammonia-Nitrogen						
May 1 - Oct 31	XXX	XXX	XXX	12	XXX	24
Nov 1 - Apr 30	XXX	XXX	XXX	25	XXX	50

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.



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**III. WQM Industrial Waste and Sewerage Applications under The Clean Streams Law**


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

**WQM Permit No. 5211403**, Sewerage, **Municipal Authority of the Township of Westfall**, 155 Westfall Town Drive, PO Box 235, Matamoras, PA 18336.

This proposed facility is located in Westfall Township., **Pike County**, PA.

Description of Proposed Action/Activity: This application is for construction and operation of the Rose Lane Sewer Extension and the River's Edge Pump Station Upgrade.

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

**WQM Permit No. 4111403**, Sewerage [SIC 4952], **Old Lycoming Area Authority**, 1951 Green Avenue, Williamsport, PA 17701.

This proposed facility is located in City of Williamsport, **Lycoming County**.

Description of Proposed Action/Activity: Construction and operation of a wet weather flow management system consisting of a wet weather pump station and storage facility.

*Southwest Region: Water Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745*

**WQM Permit No. 6570201-A1**, Industrial Waste, **Alcoa, Inc.**, Alcoa Tech Ctr, 100 Tech Dr, Alcoa Ctr, PA 15069-0001

This existing facility is located in Upper Burrell Twp, **Westmoreland County**.

Description of Proposed Action/Activity: Application for permit amendment.

**WQM Permit No. 5611403**, Sewerage, **Meyersdale Muni Auth**, PO Box 37, 215 Main St, Room 2B, Meyersdale, PA 15552

This proposed facility is located in Meyersdale Boro, **Somerset County**.

Description of Proposed Action/Activity: Application for the construction and operation of a sewer system.

**WQM Permit No. WQG026133**, Sewerage, **Central Indiana County Jt. Sani. Auth.**, 603 S. Main St. Ext., Homer City, PA 15748

This proposed facility is located in Center Twp., **Indiana County**.

Description of Proposed Action/Activity: Application for the construction and operation of a sewer system.

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**IV. NPDES Applications for Stormwater Discharges from MS4**


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**V. Applications for NPDES Waiver Stormwater Discharges from MS4**


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**VI. NPDES Individual Permit Applications for Discharges of Stormwater Associated with Construction Activities**


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

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI01091104	PA Department of Transportation District 6-0 7000 Geerdes Boulevard King of Prussia, PA 19406	Bucks	Bensalem, Bristol and Tullytown Boroughs	Otter Creek, Adams Hollow Creek, unnamed Tributary Delaware River, Silver Lake, Delaware Canal and Delaware River South Watershed (WWF-MF-EV)

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

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

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI023911010	City of Allentown Richard Young 641 S. 10th St., 3rd Floor Allentown, PA 18103	Lehigh	City of Allentown	Lehigh River, TSF, MF; UNT to Lehigh River, CWF, MF; Jordan Creek, TSF, MF

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI023911002	Mukesh Kadhiwala 2160 Golden Key Rd. Kutztown, PA 18104	Lehigh	Upper Macungie Township	Cedar Creek, HQ-CWF, MF; Tributary to the Little Lehigh 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 &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI026411003	Aqua Pennsylvania, Inc. 1775 North Main St. Honesdale, PA 18431	Wayne	Paupack and Lake Townships	Purdy Creek, HQ-CWF, MF

*Southcentral Region: Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110*

<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI032111008	RAYS Hospitality LLC 1 Foxfield Court Mechanicsburg, PA 17050	Cumberland	Middlesex Township	Letort Spring Run/HQ-CWF
PAI032106001R	Eastern Development and Planning, Inc. 7300 Derry Street Harrisburg, PA 17111	Cumberland	South Middleton Township	Letort Spring Run / EV
PAI034411001	Church of God in Christ Mennonite, Living Springs Congregation 602 River Road McVeytown, PA 17051	Mifflin	Bratton Township	Tributary #12669 to the Juniata River/HQ-CWF

## VII. List of NOIs for NPDES and/or Other General Permit Types

PAG-12	CAFOs
PAG-13	Stormwater Discharges from MS4

## 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. 1511522, Public Water Supply

Applicant	<b>Aqua Pennsylvania, Inc.</b>
Township	East Brandywine
County	<b>Chester</b>
Responsible Official	Mr. Brennan T. Kelly 762 West Lancaster Avenue Bryn Mawr, PA 19010
Type of Facility	PWS
Application Received Date	July 19, 2011
Description of Action	Replacement of an existing 125 gpm booster pump with a 350 gpm pump to meet the needs of the Aqua PA Friendship System.

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

**Application No. 4011507 (major amendment)**, Public Water Supply.

Applicant **Shirley Hanson dba Hansons Landing**  
 [Township or Borough] Harveys Lake Borough  
 Responsible Official Shirley Hanson  
 1577 Lakeside Drive  
 Harveys Lake, PA. 18618  
 Type of Facility Public Water Supply  
 Consulting Engineer Milnes Engineering Inc.  
 12 Frear Hill Road  
 Tunkhannock, PA. 1865  
 Application Received Date July 18, 2011  
 Description of Action This project provides for the extension of the Hansons Landing Mobile Home Park water system to service Phase 1 of the Villas. Additional treated water storage will be provided for the Villas. In addition a booster pump station is provided as well as additional chlorination contact time at the well to meet the requirements of the Ground Water Rule.

*Southcentral Region: Water Supply Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110*

**Permit No. 0611520**, Public Water Supply.

Applicant **Aqua Pennsylvania**  
 Municipality Robeson Township  
 County **Berks**  
 Responsible Official Marc A. Lucca, Vice President—Production  
 762 West Lancaster Avenue  
 Bryn Mawr, PA 19010  
 Type of Facility Public Water Supply  
 Consulting Engineer Jill L. Marie, P.E.  
 HDR  
 1016 W. 9th Avenue  
 King of Prussia, PA 19406  
 Application Received: 8/29/2011  
 Description of Action Application to increase the instantaneous pumping rate of existing Well No. 2 from 30 gpm to 45 gpm.

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

**Permit No. 0210504A1-republish**, Public Water Supply.

Applicant **Pittsburgh Water & Sewer Authority**,  
 1200 Penn Avenue, 2nd Floor,  
 Pittsburgh, PA 15222

[Township or Borough] City of Pittsburgh  
 Responsible Official Thomas Palmosina, Acting Executive Director  
 Pittsburgh Water & Sewer Authority,  
 1200 Penn Avenue, 2nd Floor,  
 Pittsburgh, PA 15222  
 Type of Facility Brashear water storage tank #2  
 Consulting Engineer US Engineering, LLC,  
 13742 Mary Lane,  
 Aviston, IL 62216  
 Application Received Date May 27, 2011  
 Description of Action Installation of a PAX mixing system and sprinkler aeration system at the Brashear #2 water storage tank.

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

**Permit No. 3311501**, Public Water Supply

Applicant **Summerville Borough Municipal Authority**  
 Borough Summerville Borough  
 County **Jefferson County**  
 Responsible Official Michael Flack  
 Type of Facility Public Water Supply  
 Consulting Engineer Daniel B. Slagle, P.E.  
 Nichols & Slagle Engineering, Inc.  
 333 Rouser Road  
 Building 4, Suite 600  
 Moon Township, PA 15108  
 Application Received Date September 22, 2011  
 Description of Action GWR 4-Log Treatment of Entry Point 122

*Central Office: Bureau Director, Water Standards and Facility Regulation, PO Box 8467, Harrisburg, PA 17105-8467*

**Permit No. [9996456]**, Public Water Supply.

Applicant **[Readington Farms, Inc.]**  
 [Township or Borough] [Whitehouse, New Jersey]  
 Responsible Official [Ms. Michelle West, Administrative Assistance]  
 Type of Facility [Out of State Bottled Water System]  
 Application Received Date [September 14, 2011]  
 Description of Action [Applicant requesting a permit amendment to use a new spring source (Valley Crest Farm) located in Clinton Township, New Jersey. Bottled water to be sold in Pennsylvania under the brand names: Shop Rite Spring Water and Price Rite Natural Spring Water.]

## LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

### PREAMBLE 1

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#### **Acknowledgment of Notices of Intent to Remediate Submitted under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.907)**

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Sections 302—305 of the Land Recycling and Environmental Remediation Standards Act (act) (35 P. S. §§ 6026.302—6026.305) require the Department to publish in the *Pennsylvania Bulletin* an acknowledgment noting receipt of Notices of Intent to Remediate. An acknowledgment of the receipt of a Notice of Intent to Remediate is used to identify a site where a person proposes to, or has been required to, respond to a release of a regulated substance at a site. A person intending to use the background standard, Statewide health standard, the site-specific standard or intend to remediate a site as a special industrial area shall file a Notice of Intent to Remediate with the Department. A Notice of Intent to Remediate filed with the Department provides a brief description of the location of the site, a list of known or suspected contaminants at the site, the proposed remediation measures for the site and a description of the intended future use of the site. A person who demonstrates attainment of one or a combination of cleanup standards or receives approval of a special industrial area remediation identified under the act will be relieved of further liability for the remediation of the site for contamination identified in reports submitted to and approved by the Department. Furthermore, the person shall not be subject to citizen suits or other contribution actions brought by responsible persons not participating in the remediation.

Under sections 304(n)(1)(ii) and 305(c)(2) of the act, there is a 30-day public and municipal comment period for sites proposed for remediation using a site-specific standard, in whole or in part, and for sites remediated as a special industrial area. This period begins when a summary of the Notice of Intent to Remediate is published in a newspaper of general circulation in the area of the site. For the following site, proposed for remediation to a site-specific standard or as a special industrial area, the municipality, within which the site is located, may request to be involved in the development of the remediation and reuse plans for the site if the request is made within 30 days of the date specified as follows. During this comment period, the municipality may request that the person identified as the remediator of the site develop and implement a public involvement plan. Requests to be involved and comments should be directed to the remediator of the site.

For further information concerning the content of a Notice of Intent to Remediate, contact the environmental cleanup program manager in the Department regional office listed before the notice. If information concerning this acknowledgment is required in an alternative form, contact the community relations coordinator at the appropriate regional office. TDD users may telephone the Department through the AT&T Relay Service at (800) 654-5984.

The Department has received the following Notices of Intent to Remediate:

*Southeast Region: Environmental Cleanup Program Manager, 2 East Main Street, Norristown, PA 19401*

**508 North Lewis Road Site**, Limerick Township, **Montgomery County**. Keith Green, WSP Environmental & Energy, 1190 Sunrise Valley Drive, Suite 300, Reston, VA 20191, Debi Geyer, Stanley Black & Decker, Inc., Route #2, Briggs Drive, East Greenwich, RI 02818 on behalf of Fred Gebert, Redgo Development LLP, 615 Willowbrook Lane, West Chester, PA 19382 has submitted a Notice of Intent to Remediate. Groundwater at the site has been impacted with the release of chlorinated solvents. The subject property is currently zoned of commercial or industrial use, and absent a change in zoning, the property can only be used for commercial or industrial operations. A summary of the Notice of Intent to Remediate was reported to have been published in *The Daily Local News* on March 10, 2011.

**Philabundance**, City of Philadelphia, **Philadelphia County**. Robert F. Murphy, Robert F. Murphy Environmental Consultants, LLC (dba FRM Environmental Consultants) 287 Peel Road, Langhorne, PA 19047 on behalf of Melanie Jumonville, COO, Philabundance, 3616 South Galloway Road Philadelphia, PA 19148 has submitted a Notice of Intent to Remediate. Soil at the site has been impacted with the release of diesel fuel. The intended future use of the site is as a warehouse. A summary of the Notice of Intent to Remediate was reported to have been published in the *Philadelphia Daily News* on August 22, 2011.

**Exelon Power Southwark Generation**, City of Philadelphia, **Philadelphia County**. David Kistner, URS Corporation, 335 Commerce Drive, Suite 300, Fort Washington, PA 19034, Dale Davis, Exelon Generation Company LLC, 3901 North Delaware Avenue, Philadelphia, PA 19137 on behalf of Michael Fluehr, Delaware Avenue Enterprises, 3301 South Columbus Boulevard, Philadelphia, PA 19148 has submitted a Notice of Intent to Remediate. Groundwater at the site has been impacted with the release of mtbe. The future use of the site will remain the same. A Summary of the Notice of Intent to Remediate was to have been published in the *Philadelphia Daily News* on August 31, 2011.

**BMW of the Main Line (37791)**, Lower Merion Township, **Montgomery County**. Richard S. Werner, Environmental Consulting, Inc., 500 East Washington Street, Suite 375, Norristown, PA 19401, Samuel W. Galenty, Environmental Consulting, Inc. 500 East Washington Street, Suite 375, Norristown, PA 19401 on behalf of Steve Holstad, Bala Properties South LLC, Mini of the Main Line, 130 Montgomery Avenue, Bala Cynwyd, PA 19004 has submitted a Notice of Intent to Remediate. Groundwater at the site has been impacted with the release of chlorinated solvents. The subject property will continue to be an automobile body shop.

**BMW of the Main Line (41238)**, Lower Merion Township, **Montgomery County**. Richard S. Werner, Environmental Consulting, Inc., 500 East Washington Street, Suite 375, Norristown, PA 19401, Samuel W. Galenty, Environmental Consulting, Inc. 500 East Washington Street, Suite 375, Norristown, PA 19401 on behalf of Steve Holstad, Bala Properties South LLC, Mini of the Main Line, 130 Montgomery Avenue, Bala Cynwyd, PA 19004 has submitted a Notice of Intent to Remediate. Groundwater at the site has been impacted with the release of chlorinated solvents. The subject property will continue to be an automobile dealership and services facility.

**Darcy Residence**, Towamencin Township and Worcester, **Montgomery County**. Richard D. Trimpi, Trimpi Associates, Inc., 1635 Old Plains Road, Pennsburg, PA

18073, Christine Dimming, State Farm Insurance Company, PO Box 8061, Ballston Spa, NY 12020-8061 on behalf of Joseph Darcy, 3415 Fry Road, Harleysville, PA 19438 has submitted a Notice of Intent to Remediate. Soil at the site has been impacted with the release of fuel oil no. 2. The future use of the site will remain the same. A summary of the Notice of Intent to Remediate was to have been published in *The Intelligencer* on June 29, 2011.

**Rhoda, Falls Township, Bucks County.** Ryan Fitzpatrick, ARCADIS, 10 Friends Lane, Suite 200, Newtown, PA 18940 on behalf of Mike Shatynski, Rhodia, Inc. 8 Cedar Brook, Drive Cranbury NJ 08512 has submitted a Notice of Intent to Remediate. Soil and groundwater at the site has been impacted with the release of inorganics. The site is currently inactive and the intended future use is to remain industrial. A summary of the Notice of Intent to Remediate was to have been published in *The Bucks County Courier Times* on May 16, 2011.

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

**LSI Corporation Allentown Union Boulevard Facility (aka Agere Systems, Lucent Technologies, AT&T), 555 Union Boulevard, Allentown City, Lehigh County.** Peter Beyer, ERM, Inc., 350 Eagleview Boulevard, Suite 200, Exton, PA 19341 has submitted a Notice of Intent to Remediate (on behalf of his client, LSI Corporation, 1110 American Parkway NE, Room 12K-305, Allentown, PA 18109), concerning the remediation of soil and groundwater found to have been impacted by TCE and breakdown products as a result of the discovery of a former waste solvent underground storage tank during the plant's decommissioning/demolition activities. The applicant proposes to remediate the site to meet the Site-Specific Standard for soil and groundwater. The anticipated future site usage has not been fully determined although the site will be deed restricted for non-residential uses only. A summary of the Notice of Intent to Remediate is expected to be published in a local newspaper serving the general area sometime in the near future.

**Ateco, Inc. (Former Mrs. T's Pierogies), 600 East Center Street, Shenandoah Borough, Schuylkill County.** Iain G. Barton, EMS Environmental, Inc., 4550 Bath Pike, Bethlehem, PA 18017 has submitted a Notice of Intent to Remediate (on behalf of his client, Ateco, Inc., P. O. Box 606, Shenandoah, PA 17976), concerning the remediation of soil found to have been impacted by mineral oil as a result of a release from an electrical transformer that was caused by a suspected act of vandalism. The applicant proposes to remediate the site to meet the Residential Statewide Health Standard for soil. The intended future use of the property is commercial. A summary of the Notice of Intent to Remediate is expected to be published in a local newspaper serving the general area sometime in the near future.

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

**Lebanon Veterans Administration Medical Center,** 1700 South Lincoln Avenue, Lebanon, PA 17042, South Lebanon Township, **Lebanon County.** Hafer Environmental Services, Inc., P. O. Box 4418, Reading, PA 19606, on behalf of Lebanon Veterans Administration Medical Center, 1700 South Lincoln Avenue, Lebanon, PA 17042, submitted a Notice of Intent to Remediate site soils contaminated with diesel fuel. The site will be remediated

to the residential Statewide Health Standard, and will continue as a Veterans Hospital and Medical Center.

*Southwest Region: Environmental Cleanup Program Manager, 400 Waterfront Drive, Pittsburgh, Pa 15222-4745*

**The Buncher Company, 14th—21st Property,** City of Pittsburgh, **Allegheny County.** KU Resources, 22 South Linden Street, Duquesne, PA 15110 on behalf of The Buncher Company, 1300 Penn Avenue, Suite 300, Pittsburgh, PA 15122 has submitted a Notice of Intent to Remediate. The Buncher Company has elected to reopen the previously approved Special Industrial Area approvals for the Site that runs along Smallman Street in the Strip District of the City of Pittsburgh. Metals, semi-volatile organics, and volatile organics in soil exceeded the state-wide health standard medium specific concentrations. The Site is expected to use a combination of Statewide Health and Site Specific Standards, along with an environmental covenant, to meet a residential end use.

**Beaver Valley Industrial Park Site, Former Teledyne Vasco Colonial Plant,** Monaca Borough, **Beaver County.** R.A.R. Engineering Group, Inc., 1135 Butler Avenue, New Castle, PA 16101 on behalf of Beaver Valley Industrial Park Corporation, 1 Industrial Park Road, Monaca, PA 15061 has submitted a Notice of Intent to Remediate. The site is in a Special Industrial Area. Previous investigations indicated that metals in site soil exceed non-residential medium specific concentrations. The Site will remain non-residential for commercial and industrial uses.

## 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.**

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

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

**18-00032A: Modern Material Services, LLC** (2605 Nicholson Road, Suite 110, Sewickley, PA 15143) to install a scrubber to control the air contaminant emissions from a hydrochloric acid transloading operation at their facility in Castanea Township, **Clinton County**.

**Intent to Issue Plan Approvals and Intent to Issue or Amend Operating Permits under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter B. These actions may include the administrative amendments of an associated operating permit.**

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

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

**13-302-025: Altadis, USA** (1000 Tresckow Road, McAdoo, PA 18237) to modify their existing boilers to use natural gas as a fuel at their facility in Banks Township, **Carbon County**.

In accordance with 25 Pa. Code §§ 127.44(b) and 127.424(b), the Department of Environmental Protection (DEP) intends to issue a plan approval to Altadis USA for modification to their existing boilers to use natural gas as a fuel at their facility located in Banks Twp., Carbon County. The facility currently has a Title V Operating Permit No. 13-00005. Plan approval 13-302-025 will subsequently be incorporated into the Title V Operating Permit through an administrative amendment in accordance with 25 Pa. Code § 127.450.

Plan Approval 13-302-025 is for the modification to the existing boilers to use natural gas as a fuel. There are no proposed emission increases related to this project. The company is proposing to take additional federally enforceable emission caps for NO<sub>x</sub> and VOCs. NO<sub>x</sub> emissions from the facility shall not exceed 100 TPY based on a 12 month rolling sum. VOC emissions from the facility shall not exceed 50 TPY based on a 12 month rolling sum. The

boilers are subject to 40 CFR Part 60, Subpart Da, New Source Performance Standards for Stationary Sources—Electric Utility Steam Generating Units, and shall comply with all applicable requirements of this Subpart. The plan approval will include all appropriate monitoring, record keeping, and reporting requirements designed to keep the boiler operating within all applicable air quality requirements. Further details on the conditions and the reasons for their inclusion are available upon request.

Copies of the applications, DEP's analysis and other documents used in the evaluation of the application are available for public review during normal business hours at the Northeast Regional Office, 2 Public Square, Wilkes-Barre, PA 18711.

Any person(s) wishing to provide DEP with additional information they believe should be considered prior to the issuance of this permit may submit the information to the address shown in the preceding paragraph. The submittal of written comment must contain the following:

Name, address and telephone number of the commentator.

Identification of the proposed Permit No. 13-302-025.

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

A public hearing may be held, if the Department of Environmental Protection, in its discretion, decides that such a hearing is warranted based on comments received. All persons submitting comments or requesting a hearing will be notified of the decision to hold a hearing by publication in the newspaper or the *Pennsylvania Bulletin* or by telephone, where DEP determines such notification is sufficient. Written comments or requests for a public hearing should be directed to Mr. Raymond Kempa, Chief, New Source Review Section, 2 Public Square, Wilkes-Barre, PA 18711, or 570-826-2511.

*Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745*

*Contact: B. Hatch, Environmental Engineer Managers—Telephone: 412-442-4163/5226*

**30-00182B: CNX Marine Terminals, Inc.** (1000 Consol Energy Drive, Canonsburg, PA 15317) for modification and temporary operation of their barge cleaning process at the Robena Barge Cleaning Facility in Monongahela Township, **Greene County**.

In accordance with 25 Pa. Code §§ 127.44—127.46 that the Department of Environmental Protection (DEP) intends to issue Air Quality Plan Approval: PA-30-00182B to allow modification and temporary operation of their barge cleaning process at the Robena Barge Cleaning Facility in Monongahela Township, Greene County. The modification will allow dry cleaning of barges containing both residual limestone and/or coal, and increase the throughput to 3,500 barges and 35,000 tons of coal and/or limestone annually.

Potential emissions from the facility are estimated to be 0.23 tons of total particulate matter (PM) and 0.112 tons of particulate matter less than 10 microns in diameter (PM<sub>10</sub>) per year. Best available technology (BAT) for the proposed sources is covering the storage barge as often as possible and through good operating practices. This will include manual loading of materials and minimizing the drop height during loading and unloading of the hoppers. The authorization is subject to appropriate regulatory standards including limitations on visible fugitive and malodors emissions as well as work practice, mainte-

nance, monitoring, record keeping, and reporting conditions. Once compliance with the Plan Approval is demonstrated, the applicant will subsequently apply for a State Only Operating Permit in accordance with 25 Pa. Code Subchapter F.

Those who wish to provide the Department with additional written information that they believe should be considered prior to the issuance of the Plan Approval may submit the information to Alexander Sandy, Pennsylvania Department of Environmental Protection, 400 Waterfront Drive, Pittsburgh, PA, 15222. Each written comment must contain the following:

Name, address and telephone number of the person submitting the comments.

Identification of the proposed Plan Approval (PA-30-00182B).

Concise statements regarding the relevancy of the information or objections to issuance of the Plan Approval.

All comments must be received prior to the close of business 30 days after the date of this publication.

For additional information you may contact Alexander Sandy at 412-442-4028.

*Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481*

*Contact: Edward Orris, New Source Review Chief—Telephone: 814-332-6636*

**16-124B: People's Natural Gas Company, LLC.** (1201 Pitt Street, Pittsburgh, PA 15221) to construct and operate a replacement natural gas fired compressor engine at their existing Truittsburg Compressor Station located in Redbank Township, **Clarion County**. The replacement engine's emissions will be reduced by means of nonselective catalytic reduction technology which is consistent with current best available technology (BAT). The replacement engine will emit significantly less air contaminants than the existing engine.

This is a Title V facility. Public notice is required for sources required to obtain a Plan Approval in accordance with 25 Pa. Code § 127.44. This plan approval will, in accordance with 25 Pa. Code § 127.450, be incorporated into the Title V operating permit through an administrative amendment at a later date.

The source shall comply with the following conditions, which will satisfy the requirements of 25 Pa. Code § 127.12b (pertaining to plan approval terms and conditions) and will demonstrate Best Available Technology for the source:

The engine and three way catalyst shall be operated and maintained as prescribed by the manufacturer. A copy of the engine and catalyst's operational and maintenance literature shall be maintained onsite with the unit at all times. A copy of the catalyst's warranty/guarantee literature shall be maintained onsite at all times.

All maintenance and testing performed on the three way catalyst and/or engine shall be recorded in a log. This record shall, at a minimum, include:

- a) Time and date of observation
- b) Name, title, and signature of the observer

c) A detailed description of the observation made

Any corrective action taken as result of the observation

The permittee shall maintain all logs on-site for a period of five years and furnish these records to the Department upon request.

Emissions from the facility will not increase as a result of this project. Estimated emissions in tons per year: less than 2.67 of VOC, NO<sub>x</sub>, and CO. The existing engine will be removed.

For additional information contact Jacob G. Chemsak at (814) 332-6638.

**25-090D: Zurn Industries, LLC** (1801 Pittsburgh Avenue, Erie, PA 16502-1916) for construction of a new electric induction furnace melting operation at 1301 Raspberry Street, Erie, PA 16502-1543 in the City of Erie, **Erie County**. New sources at the site will include four (4) electric induction melting furnaces and a baghouse to control particulate matter emissions.

Pursuant to 25 Pa. Code §§ 127.44(b) and 127.424(b), the Pennsylvania Department of Environmental Protection (DEP) intends to issue Plan Approval 25-090D to Zurn Industries, LLC for the construction of four (4) electric induction melting furnaces and a baghouse, for the 1301 Raspberry Street facility located in the City of Erie, Erie County. The Plan Approval will subsequently be incorporated into a facility Operating Permit through an administrative amendment in accordance with 25 Pa. Code § 127.450.

Plan Approval No. 25-090D is for the installation of four (4) electric induction furnaces and a baghouse. Based on the information provided by the applicant and DEP's own analysis, the combined subject sources will have the potential to emit approximately 218.9 tons per year of particulate matter. The post control emissions from this project are approximately 2.19 tons per year of particulate matter.

The Plan Approval will contain testing, monitoring, recordkeeping, reporting, work practice and additional requirements designed to keep the facility operating within all applicable air quality requirements. This plan approval is subject to the requirements of 40 CFR Part 63 Subpart ZZZZZ (National Emission Standards for Hazardous Air Pollutants for Iron and Steel Foundries Area Sources).

*Department of Public Health, Air Management Services: 321 University Avenue, Philadelphia, PA 19104*

*Contact: Edward Wiener, Chief—Telephone: 215-685-9426*

**AMS 11211: Kraft Foods Global, Inc.—Nabisco Biscuit Division** (12000 Roosevelt Boulevard, Philadelphia, PA 19116) to replace a Catalytic Oxidizer with a Regenerative Thermal Oxidizer as a control device for Ovens# 1A & 4. and modify the Volatile Organic Compound (VOC) control requirement from the Ovens #1A & 4 from 90 percent destruction efficiency to 90 percent destruction efficiency or to a concentration of 20 ppmdv whichever is less stringent in the City of Philadelphia, **Philadelphia County**. The plan approval will contain operating, testing, monitoring, recordkeeping, and reporting requirements to ensure operation within all applicable requirements.

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**OPERATING PERMITS**


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**Intent to Issue Title V Operating Permits under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter G. Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401**


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*Contact: Janine Tulloch-Reid, Facilities Permitting Chief—Telephone: 484-250-5920*

**09-00013: Wheelabrator Falls, Inc.** (1201 New Ford Mill Rd, Morrisville, PA 19067) for a permit renewal to their Title V Operating Permit in Falls Township, **Bucks County**. The renewal Title V Operating Permit contains monitoring, recordkeeping, reporting and work practice standards to keep the facility operating within all applicable air quality requirements. No changes have taken place at the facility since the previous permit was amended and issued on 319-2009. The facility is not subject to Compliance Assurance Monitoring (CAM) pursuant to 40 CFR Section 64.2 (b)(1)(i). The facility is subject to the limitations found in 40 CFR 53, Subpart ZZZZ, Table 2C, which become applicable on May 3, 2013.

*Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110*

*Contact: Thomas J. Hanlon, Chief, East Permitting Section—Telephone: 717-705-4862 or Daniel Husted, Chief, West Permitting Section—Telephone: 717-949-7935*

**28-05002: Letterkenny Army Depot** (One Overcash Avenue, Chambersburg, PA 17201) for their facility in Greene and Letterkenny Townships, **Franklin County**.

In accordance with 25 Pa. Code §§ 127.424 and 127.425 the Department of Environmental Protection (DEP) has received an application and intends to issue an Air Quality Operating Permit renewal for the abovementioned facility.

The subject facility has actual 2010 emissions of approximately 25.6 tons of CO, 10.2 tons of NO<sub>x</sub>, 105.9 tons of PM<sub>10</sub>, 15.1 tons of SO<sub>x</sub>, 45.5 tons of VOCs and 36.2 tons of HAPs. The Operating Permit will include emission limits and work practice standards along with monitoring, recordkeeping and reporting requirements to ensure the facility complies with the applicable air quality regulations. Among other items, the conditions include provisions derived from 40 CFR Part 60, Subpart Dc—Standards of Performance for Small Industrial-Commercial-Institutional Steam Generating Units.

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 the PA DEP Southcentral Regional Office, at 909 Elmerton Avenue, Harrisburg, PA 17110. An appointment to review the documents may be scheduled by contacting Ms. Jennifer Troutman at (717) 705-4732 between 8:00 A.M. and 3:30 P.M., Monday through Friday, except holidays.

A person may oppose the proposed operating permit, or may provide the Department with additional information to consider in its review, or may request a public hearing, by filing a written protest with the Department at the address listed above. Each written comment must contain the following:

- Name, address and telephone number of the person submitting the comments.
- Identification of the proposed permit by the permit number listed above.

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

A 30-day comment period, from the date of publication of this notice in the *PA Bulletin*, will exist for the submission of comments, protests, or for requests for a public hearing.

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. The Department will give notice of any scheduled public hearing at least thirty days in advance of the hearing as per 25 Pa. Code, Section 127.521. The hearing notice will be published in the *Pennsylvania Bulletin* and a newspaper of general circulation where the facility is located.

Mr. Daniel Husted, Chief, West Permitting Section may be contacted at 717-705-4863, or at PA DEP Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110, for additional information or for the submission of comments, protests, or requests for a public hearing.

Permits issued to sources identified in 25 Pa. Code Section 127.44(b)(1)—(4) or permits issued to sources with limitations on the potential to emit used to avoid otherwise applicable Federal requirements may become part of the SIP, and will be submitted to EPA for review and approval.

*Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481*

*Contact: Matthew Williams, Facilities Permitting Chief—Telephone: 814-332-6131*

**42-00158: TIN, Inc.—Temple Inland—Mt Jewett MDF** (149 Temple Drive, Kane, PA 16735) for a Title V Operating Permit to operate a Reconstituted Wood Products manufacturing facility, in Sergeant Township, **McKean County**.

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**Intent to Issue Operating Permits under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter F.**


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*Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19428*

*Contact: Janine Tulloch-Reid, Facilities Permitting Chief—Telephone: 484-250-5920*

**15-00038: Flint Ink Corp.** (210 Phillips Road, Lionville, PA 19341) for operation of a printing ink manufacturing facility in Uwchlan Township, **Chester County**. The permit is for a non-Title V (State only) facility. Sources of air emissions are various mixers and mills, and one baghouse for the control of particulate matter. 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*

**39-00086: We Are Pets, Inc.** (9923 Old Route 22, Breinigsville, PA 18031) for an animal crematory in the Weisenberg Township, **Lehigh County**. The proposed State-only Operating Permit contains applicable requirements for emissions limitations, monitoring, recordkeeping, reporting and work practice standards designed to ensure facility compliance with Federal and State air pollution regulations.



**66-00003: Deer Park Lumber, Inc.** (3042 SR 6, Tunkhannock, PA 18657) for a hardwood sawmill in Tunkhannock Township, **Wyoming County**. The proposed State-only Operating Permit contains applicable requirements for emissions limitations, monitoring, recordkeeping, reporting and work practice standards designed to ensure facility compliance with Federal and State air pollution regulations.

*Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110*

*Contact: Thomas J. Hanlon, Chief, East Permitting Section—Telephone: 717-705-4862 or Daniel Husted, Chief, West Permitting Section—Telephone: 717-949-7935*

**28-05022: Signature Companies** (5171 Innovation Way, Chambersburg, PA 17201) for operation of their wood cabinet, stair and railing manufacturing facility in Greene Township, **Franklin County**.

In accordance with 25 Pa. Code §§ 127.424 and 127.425 the Department of Environmental Protection (DEP) has received an application and intends to issue a renewal of an Air Quality Operating Permit for the abovementioned facility.

The subject facility has actual emissions of 6 TPY of VOC and 2 TPY of aggregate HAPs. The Operating Permit will include emission limits and work practice standards along with testing, monitoring, record keeping and reporting requirements to ensure the facility complies with all applicable air quality regulations. Among other items, the conditions include provisions derived from 25 Pa. Code Section 129.52 for wood furniture manufacturing surface coating processes.

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 the PA DEP Southcentral Regional Office at 909 Elmerton Avenue, Harrisburg, PA 17110.

A person may oppose the proposed operating permit, or may provide the Department with additional information to consider in its review, or may request a public hearing, by filing a written protest with the Department at the address listed above. Each written comment must contain the following:

- Name, address and telephone number of the person submitting the comments.
- Identification of the proposed permit by the permit number listed above.
- A concise statement regarding the relevancy of the information or objections to the issuance of the permit.

A 30-day comment period from the date of publication of this notice in the *PA Bulletin* will exist for the submission of comments or protests.

Daniel C. Husted, P.E., Chief, West Permitting Section, may be contacted at 717-705-4863, or at PA DEP Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110, for additional information or for the submission of comments or protests.

**22-03018: Millersburg Area School District—Lenkerville Elementary School** (520 South Market Street, Millersburg, PA 17061) for their elementary school in Upper Paxton Township, **Dauphin County**.

In accordance with 25 Pa. Code §§ 127.424 and 127.425 the Department of Environmental Protection (DEP) has received an application and intends to issue an Air Quality Operating Permit for the abovementioned facility.

The subject facility has actual emissions of 3.55 tpy of SO<sub>x</sub>, 0.41 tpy of NO<sub>x</sub> and 0.33 tpy of PM. The Operating Permit will include emission limits and work practice standards along with monitoring, recordkeeping and reporting requirements to ensure the facility complies with the applicable air quality regulations. Among other items, the conditions include provisions derived from 40 CFR Part 63 Subpart JJJJJJ—National Emission Standards for Hazardous Air Pollutants for Industrial, Commercial and Institutional Boilers Area Source.

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 the PA DEP Southcentral Regional Office, at 909 Elmerton Avenue, Harrisburg, PA 17110.

A person may oppose the proposed plan approval, or may provide the Department with additional information to consider in its review, or may request a public hearing, by filing a written protest with the Department at the address listed above. Each written comment must contain the following:

- Name, address and telephone number of the person submitting the comments.
- Identification of the proposed permit by the permit number listed above.
- A concise statement regarding the relevancy of the information or objections to the issuance of the permit.

A 30-day comment period, from the date of publication of this notice in the *PA Bulletin*, will exist for the submission of comments or protests.

Mr. Thomas Hanlon, Chief, East Permitting Section may be contacted at 717-705-4862, or at PA DEP Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110, for additional information or for the submission of comments or protests.

**01-05017: QG Printing II Corp** (100 North Miller Street, Fairfield, PA 17320) for their printing facility in Fairfield Borough, **Adams County**.

In accordance with 25 Pa. Code §§ 127.424 and 127.425 the Department of Environmental Protection (DEP) has received an application and intends to issue an Air Quality Operating Permit renewal for the abovementioned facility.

The subject facility has actual emissions of approximately 16.3 tons per year of volatile organic compounds; 2.6 tons per year of hazardous air pollutants; 2.7 tons per year of nitrogen oxides; 2.2 tons per year of carbon monoxide and 0.2 ton per year of PM<sub>10</sub>. The Operating Permit will include emission limits and work practice standards along with monitoring, recordkeeping and reporting requirements to ensure the facility complies with the applicable air quality regulations.

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 the PA DEP Southcentral Regional Office, at 909 Elmerton Avenue, Harrisburg, PA 17110.

A person may oppose the proposed operating permit, or may provide the Department with additional information to consider in its review, or may request a public hearing, by filing a written protest with the Department at the address listed above. Each written comment must contain the following:

- Name, address and telephone number of the person submitting the comments.

Identification of the proposed permit by the permit number listed above.

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

A 30-day comment period, from the date of publication of this notice in the *PA Bulletin*, will exist for the submission of comments or protests, or for requests for a public hearing. 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.

Daniel C. Husted, PE, Chief, West Permitting Section may be contacted at 717-705-4863, or at PA DEP Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110, for additional information or for the submission of comments, protests, or requests for a public hearing.

**05-05023: New Enterprise Stone & Lime Co., Inc.** (P. O. Box 77, New Enterprise PA 16664) for an asphalt plant at their Ashcom Blacktop Plant in Snake Spring Township, **Bedford County**.

In accordance with 25 Pa. Code §§ 127.424 and 127.425 the Department of Environmental Protection (DEP) has received an application and intends to issue an Air Quality Operating Permit renewal for the abovementioned facility.

The subject facility has actual emissions of 14.2 tons per year of nitrogen oxides, 47.3 tons per year of carbon monoxide, 0.97 tons per year of volatile organic compounds, 10.4 tons per year of sulfur oxides and 3.19 tons per year of particulate matter/PM-10. The Operating Permit will include emission limits and work practice standards along with monitoring, recordkeeping and reporting requirements to ensure the facility complies with the applicable air quality regulations. Among other items, the conditions include provisions derived from 40 CFR Part 60, Subpart I, New Source Performance Standards (NSPS) for Hot Mix Asphalt Facilities.

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 the PA DEP Southcentral Regional Office, at 909 Elmerton Avenue, Harrisburg, PA 17110.

A person may oppose the proposed operating permit renewal, or may provide the Department with additional information to consider in its review, or may request a public hearing, by filing a written protest with the Department at the address listed above. Each written comment must contain the following:

- Name, address and telephone number of the person submitting the comments.
- Identification of the proposed permit by the permit number listed above.
- A concise statement regarding the relevancy of the information or objections to the issuance of the permit.

A 30-day comment period, from the date of publication of this notice in the *PA Bulletin*, will exist for the submission of comments or protests.

Daniel C. Husted, PE, Chief, West Permitting Section may be contacted at 717-705-4863, or at PA DEP Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110, for additional information or for the submission of comments or protests.

*Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745*

*Contact: Barbara Hatch, Facilities Permitting Chief—Telephone: 412-442-4174*

**65-00131: Johnston The Florist** (14179 Lincoln Way, North Huntingdon, PA, 15642-2138) for an operating permit renewal for their Lincoln Way Greenhouse in North Huntingdon Township, **Westmoreland County**. Equipment at this facility includes a 10.4 mmbtu/hr coal-fired boiler, a 11.7 mmbtu/hr oil-fired backup boiler, and a diesel-fired 75 kW diesel-fired emergency generator. Potential emissions from the facility are based on a limit of burning 1,700 tons of coal and 737,000 gallons of No. 2 fuel oil per consecutive 12 month period and are estimated to be 18.2 tons NOx, 0.1 tons VOC, 6.1 tons CO, 17.5 tons particulate matter and 96.5 tons SOx. Actual emissions from the facility are much lower. The facility is subject to the applicable requirements of Pa Code Title 25 Chapters 121 through 145. The proposed Operating Permit contains applicable emission limits, as well as testing, monitoring, recordkeeping, reporting and work practice requirements.

**56-00149: Somerset Area School District** (645 S Columbia Ave, Somerset, PA 15501-2513) for an operating permit renewal for their Somerset Area Junior/Senior High School in Somerset Borough, **Somerset County**. Equipment at this facility includes two 14.9 mmbtu/hr tri-fuel boilers and a 55 kW natural gas-fired emergency generator. Potential emissions from the adjacent facilities are based on a limit of burning 2,150 tons of coal per consecutive 12 month period and are estimated to be 10.2 tons NOx, 1.4 tons VOCs, 11.8 tons CO, 16.1 tons particulate matter and 99.4 tons SOx. Actual emissions from the facility are much lower. The facility is subject to the applicable requirements of Pa Code Title 25 Chapters 121 through 145. The proposed Operating Permit contains applicable emission limits, as well as testing, monitoring, recordkeeping, reporting and work practice requirements.

**32-00397: Rosebud Mining Co.** (301 Market Street, Kittanning, PA 16201) for a Natural Minor Operating Permit for the operation of a coal preparation plant, known as the Heilwood Mine Prep Plant, in Pine Township, **Indiana County**.

The facility contains air contamination sources, consisting of screens, conveyers, storage piles, one 277-bhp emergency electrical generator engine, and one 1,490-bhp emergency electrical generator engine. Facility emissions are 21.12 tons per year of PM10, 7.09 tons per year of NOx, 1.25 tons per year of CO. The facility is limited to a maximum opacity from any processing equipment of 20 percent. The facility is subject to state requirements as well as 40 CFR 60, Subpart Y—Standards of Performance for Coal Preparation and Processing Plants and 40 CFR 60, Subpart IIII—Standards of Performance for Stationary Compression Ignition Internal Combustion Engines. The permit includes emission limitations, operational requirements, monitoring requirements, and recordkeeping requirements for the facility.

Those who wish to provide the Department with additional written information that they believe should be considered prior to the issuance of this State Only Operating Permit may submit the information to Martin L. Hochhauser, P.E., Pennsylvania Department of Environmental Protection, 400 Waterfront Drive, Pittsburgh, PA, 15222. Each written comment must contain the following:

Name, address and telephone number of the person submitting the comments,

Identification of the proposed Operating Permit (specify Operating Permit OP-32-00397), and

Concise statements regarding the relevancy of the information or objections to issuance of the Operating Permit.

All comments must be received prior to the close of business 30 days after the date of this publication. In accordance with PA Code Title 25 § 127.428, prior to issuing an operating permit, the Department may hold a fact-finding conference or hearing at which the petitioner, and a person who has properly filed a protest under § 127.426 (relating to filing protests) may appear and give testimony. The Department is not required to hold a conference or hearing. The applicant, the protestant and other participants will be notified of the time, place and purpose of a conference or hearing, in writing or by publication in a newspaper or the *Pennsylvania Bulletin*, unless the Department determines that notification by telephone will be sufficient.

*Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481*

*Contact: Edward Orris, New Source Review Chief—Telephone: 814-332-6131*

**25-00955: Foam Fabricators, Inc.** (6550 West 26th Street, Erie, PA 16506) for a renewal of a Synthetic Minor Operating Permit. The facility is located in Fairview Township, **Erie County** and engaged to manufacture the pre expanded polystyrene foam products. The emitting sources included boiler, miscellaneous natural gas usage, pre expander c, pre expander D, pre expander E, bag storage- pre puff, molding machines with central vacuum and degreaser unit. The facility has taken a restriction of VOC emission from the facility not more than 49.5 tons per year and become Synthetic Minor.

## COAL AND NONCOAL MINING ACTIVITY APPLICATIONS

Applications under the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.19a); the Noncoal Surface Mining Conservation and Reclamation Act (52 P. S. §§ 3301—3326); The Clean Streams Law (35 P. S. §§ 691.1—691.1001); the Coal Refuse Disposal 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 such applications will also address the applicable permitting requirements of the following statutes: the Air Pollution Control Act (35 P. S. §§ 4001—4015); the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003).

The following permit applications to conduct mining activities have been received by the Department. A copy of the 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 and request for Section 401 water quality certification application may be submitted by any person or any officer or head of any Federal, state or local government agency or authority to the Department at the address of the district mining office indicated

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 persons submitting comments or objections, application number and a statement of sufficient detail to inform the Department on the basis of comment or objection and relevant facts upon which it is based.

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. A separate notice will be provided after the draft NPDES permit is prepared.

### *Coal Applications Received*

*California District Office: 25 Technology Drive, Coal Center, PA 15423, 724-769-1100*

**56961301 and NPDES No. PA 0214736 and GP12-56961301, Rox COAL, Inc.**, (1576 Stoystown Road, P. O. Box 149, Friedens, PA 15541), to renew the permit for the Sarah Mine in Jenner Township, **Somerset County** and related NPDES permit. Includes renewal of Air Quality GPA/GP12 authorization. No additional discharges, The application was considered administratively complete on September 19, 2011. Application received: May 20, 2011.

*Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, 814-472-1900*

**32810135 and NPDES No. PA0607606. M. B. Energy, Inc.**, 175 McKnight Road, Blairsville, PA 15717, permit renewal for the continued operation and restoration of a bituminous surface mine in West Wheatfield Township, **Indiana County**, affecting 20.0 acres. Receiving stream(s): unnamed tributary to Blacklick Creek classified for the following use(s): cold water fishery. There are no potable water supply intakes within 10 miles downstream. Application received: September 12, 2011.

**56020105 and NPDES No. PA0249262. Fieg Brothers**, 3070 Stoystown Road, Stoystown, PA 15563, transfer of an existing surface and auger mine from Black Resources, Inc., 162 Cumberland Street, Berlin, PA 15530, located in Brothersvalley Township, **Somerset County**, affecting 87.7 acres. Receiving stream(s): UNTs of Millers Run and Sandy Hollow classified for the following use(s): cold water fishery; cold water fishery. There are no potable water supply intakes within 10 miles downstream. Application received: September 12, 2011.

*Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, 814-342-8200*

**17010102 and NPDES No. PA0243043. Compass Coal Co., Inc.** (P. O. Box 169, Punxsutawney, PA 15767). Renewal of an existing bituminous surface mining operation located in Chest Township, **Clearfield County** affecting 117.0 acres. Receiving streams: unnamed tributaries to North Camp Run and North Camp Run classi-

fied for cold water fisheries. There are no potable water supply intakes within 10 miles downstream. Application received: September 15, 2011.

**17110110 and NPDES No. PA0257834. Larry D. Baumgardner Coal Co., Inc.** (P. O. Box 186, Lanse, PA 16849). Commencement, operation and restoration of a bituminous surface mine located in Boggs Township, **Clearfield County** affecting 32.9 acres. Receiving streams: unnamed tributary to Laurel Run classified for cold water fishery and Simeling Run classified for cold water fishery, Class A wild trout stream. There are no potable water supply intakes within 10 miles downstream. Application received: September 16, 2011.

**17110111 and NPDES No. PA0257842. Sky Haven Coal, Inc.** (5510 State Park Road, Penfield, PA 15849). Commencement, operation and restoration of a bituminous surface mine located in Bradford Township, **Clearfield County** affecting 102.0 acres. Receiving stream: Valley Fork Run classified for cold water fishery, migratory fish. There are no potable water supply intakes within 10 miles downstream. Application received: September 21, 2011.

*Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, 570-621-3118*

**NPDES Permit No. PA0225070. Jeddo-Highland Coal Company**, (46 Public Square, Suite 600, Wilkes-Barre, PA 18701), addition of an NPDES Permit to control stormwater on SMP No. 40663031 in Foster Township, **Luzerne County** within the watersheds of Black Creek, classified for the following use: cold water fishes and Sandy Run Creek, classified for the following use: HQ cold water fishes. Application received: September 15, 2011.

**54-305-020GP12. BET Associates IV, LLC**, (250 Gibraltar Road, Horsham, PA 19044), application to operate a coal preparation plant whose pollution control equipment is required to meet all applicable limitations, terms and conditions of General Permit, BAQ-GPA/GP-12 on Surface Mining Permit No. 54733020 in Tamaqua, Coaldale, Lansford, Nesquehoning & Summit Hill Boroughs, **Schuylkill and Carbon Counties**. Application received: September 21, 2011.

**49860102R4 and NPDES Permit No. PA0224413. Farragut Anthracite Company**, (122 Wilburton Road, Mt. Carmel, PA 17851), renewal of an existing anthracite surface mine, refuse reprocessing, refuse disposal and preparation plant operation in Coal and Zerbe Townships, **Northumberland County** affecting 814.6 acres, receiving stream: Shamokin Creek, classified for the following use: cold water fishes. Application received: September 22, 2011.

*Noncoal Applications Received*

*Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, 814-472-1900*

**28110801, Amos James Rowland**, 12019 Kemps Mill Road, Williamsport, MD 21795, commencement, operation and restoration of a small noncoal (industrial minerals) operation in Warren Township, **Franklin County**, affecting 7.0 acres, receiving stream: Little Cove Creek. Permit received: September 8, 2011.

*Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, 814-342-8200*

**08990301 and NPDES No. PA0242721. Glenn O. Hawbaker, Inc.** (1952 Waddle Road, State College, PA 16803). Renewal of the NPDES permit on an existing large industrial mineral mine located in Athens Township, **Bradford County** affecting 21.0 acres. Receiving

stream: Susquehanna River classified for warm water fishery. There are no potable water supply intakes within 10 miles downstream. Application received: September 19, 2011.

**17060301 and NPDES No. PA0256307. Kinkead Aggregates, LLC** (2311 Route 56 Highway East, Homer city, PA 15748). Transfer of an existing large industrial mineral mine located in Bell Township, **Clearfield County** affecting 137.4 acres. Receiving streams: unnamed tributary to Bear Run and Bear Run classified for cold water fisheries. There are no potable water supply intakes within 10 miles downstream. Application received: September 15, 2011.

**57000301 and NPDES No. PA0242811. Haines & Kibblehouse, Inc.** (2052 Lucon Road, P.O. Box 196, Skippack, PA 19474). Renewal of the NPDES permit on an existing large industrial mineral mine located in Cherry Township, **Sullivan County** affecting 156.2 acres. Receiving stream: unnamed tributary to Birch Creek classified for cold water fishery. There are no potable water supply intakes within 10 miles downstream. Application received: September 16, 2011.

*Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, 570-621-3118*

**22880302C6 and NPDES Permit No. PA0594211. Haines & Kibblehouse, Inc.**, (P. O. Box 196, Skippack, PA 19474), renewal of NPDES Permit for discharge of treated mine drainage from a quarry operation in Lower Swatara Township, **Dauphin County**, receiving stream: Swatara Creek, classified for the following use: warm water fishes. Application received: September 16, 2011.

**58060867. Robert W. Diehl, Jr.**, (1925 Oak Hill Road, Susquehanna, PA 18847), Stage I & II bond release of a quarry operation in Oakland Township, **Susquehanna County** affecting 2.0 acres on property owned by Robert W. Diehl, Jr. Application received: September 20, 2011.

**58070821. Robert W. Diehl, Jr.**, (1925 Oak Hill Road, Susquehanna, PA 18847), Stage I & II bond release of a quarry operation in Oakland Township, **Susquehanna County** affecting 2.0 acres on property owned by Robert W. Diehl, Jr. Application received: September 20, 2011.

## MINING ACTIVITY NPDES DRAFT PERMITS

This notice provides information about applications for a new, amended or renewed NPDES permits associated with mining activity (coal or noncoal) permits. The applications concern industrial waste (mining) discharges to surface water and discharges of stormwater associated with mining activities. This notice 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—691.1001) and the Federal Clean Water Act (33 U.S.C.A. §§ 1251—1376).

The Department of Environmental Protection (Department) has prepared a draft NPDES permit and made a tentative determination to issue the NPDES permit in conjunction with the associated mining activity permit.

### *Effluent Limits for Coal Mining Activities*

For coal mining activities, NPDES permits, when issued, will contain effluent limits that are the more stringent of technology-based (BAT) effluent limitations or Water Quality Based Effluent Limits (WQBEL).

The BAT limits for coal mining activities, as provided in 40 CFR Part 434 and 25 Pa. Code Chapters 87—90 are as follows:

<i>Parameter</i>	<i>30-Day Average</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>
Iron (Total)	3.0 mg/l	6.0 mg/l	7.0 mg/l
Manganese (Total)	2.0 mg/l	4.0 mg/l	5.0 mg/l
Suspended solids	35 mg/l	70 mg/l	90 mg/l
pH*		greater than 6.0; less than 9.0	
Alkalinity greater than acidity*			

\*The parameter is applicable at all times.

In addition, the Department imposes a technology-based aluminum limit of 2.0 mg/l (30 day average) to protect stream uses.

A settleable solids instantaneous maximum limit of 0.5 ml/l applies 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; mined areas backfilled and revegetated; and all other discharges and drainage (resulting from a precipitation event of greater than 1-year 24-hour to less than or equal to a 10-year 24-hour event) from coal refuse disposal piles. Similarly, modified BAT

limits apply to iron, manganese and suspended solids in surface runoff, discharges and drainage resulting from these precipitation events and those of greater magnitude in accordance with 25 Pa. Code §§ 87.102, 88.92, 88.187, 88.292, 89.52 and 90.102.

Exceptions to BAT effluent limits may be applicable in accordance with 25 Pa. Code §§ 87.102, 88.92, 88.187, 88.292, 89.52 and 90.102.

*Effluent Limits for Noncoal Mining Activities*

The BAT limits for noncoal mining activities as provided in 40 CFR Part 436 and 25 Pa. Code Chapter 77 are as follows:

<i>Parameter</i>	<i>30-day Average</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>
Suspended solids	35 mg/l	70 mg/l	90 mg/l
Alkalinity exceeding acidity*			
pH*		greater than 6.0; less than 9.0	

\* The parameter is applicable at all times.

Discharges from noncoal mines located in some geologic settings (for example, in the coal fields) may require additional water quality based 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.

In addition to BAT or WQBEL limits, coal and noncoal NPDES permits establish effluent limitations in the form of implemented Best Management Practices (BMPs) identified in the associated Erosion and Sedimentation Plan, the Reclamation Plan and the NPDES permit application. These BMPs restrict the rates and quantities of associated pollutants from being discharged into surface waters in this Commonwealth.

More restrictive effluent limitations, restrictions on discharge volume or restrictions on the extent of mining that may occur are incorporated into an NPDES permit when necessary for compliance with water quality standards and antidegradation requirements (in accordance with 25 Pa. Code Chapters 91—96).

The procedures for determining the final effluent limits, using a mass-balance equation or model, are found in Technical Guidance Document 362-0600-001, NPDES Program Implementation—Memorandum of Understanding (MOU) Concerning Water Quality Management, NPDES Program Implementation, and Related Matters. Other specific factors to be considered include public comments and Total Maximum Daily Load(s). Additional discharge limitations may apply in the event that unexpected discharges occur.

Discharge rates for surface mining activities are precipitation driven. Discharge rates for proposed discharges

associated with underground mining are noted in the permit description.

Persons wishing to comment on an NPDES draft permit should submit a written statement to the Department at the address of the district mining office indicated before each draft permit within 30 days of this public notice. Comments received within the comment period will be considered in the final determinations regarding the NPDES permit applications. Comments must include the name, address and telephone number of the writer and a concise statement to inform the Department of the exact basis of a comment and the relevant facts upon which it is based.

The Department will also accept requests or petitions for a public hearing on NPDES permit applications, as provided in 25 Pa. Code § 92a.82(d). 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 NPDES Draft Permits*

*California District Office: 25 Technology Drive, Coal Center, PA 15423, 724-769-1100*

**NPDES No. PA0214078 (Mining Permit No. 56900701), PBS Coals, Inc.,** (PO Box 260, Friedens, PA 15541). A renewal and revision to the NPDES and mining activity permit for Job 12 Expansion in Shade Township, **Somerset County** to add acreage and NPDES outfall. Surface Acres Affected 297.20. Unnamed tributary to Coal Run, classified for the following use(s): CWF. Stonycreek River, Dark Shade Creek, classified for the following use(s): CWF, Stonycreek River. The application was considered administratively complete on March 31, 2006. Application received February 3, 2006.

Unless otherwise noted for a specific outfall, the proposed effluent limits for all outfalls in this permit are the BAT limits described above for coal mining activities.

The proposed average daily discharge rate for Outfall 001 is 0.82 MGD

Outfall 001 discharges to: Dark Shade Creek

The proposed effluent limits for Outfall 001 Lat: 40° 05' 17" Long: 78° 47' 58" are:

<i>Parameter</i>	<i>Minimum</i>	<i>30-Day Average</i>	<i>Daily Maximum</i>	<i>Instant. Maximum</i>
pH <sup>1</sup> (S.U.)	6.0			9.0
Iron (mg/l)		1.50	2.34	
Manganese (mg/l)		0.64	1.00	
Aluminum (mg/l)		0.48	0.75	
Alkalinity greater than acidity <sup>1</sup>				
Total Suspended Solids (mg/l)		35	70	90
Flow		Monitor	and	Report
Osmotic Pressure (mOs/kg)			81	
Total Dissolved Solids (mg/l)		Monitor	and	Report
Sulfates (mg/l)		Monitor	and	Report
Chlorides (mg/l)		Monitor	and	Report
Specific Conductance (umho)		Monitor	and	Report

<sup>1</sup> The parameter is applicable at all times.

The proposed average daily discharge rate for Outfall 002 is 0.62 MGD

Outfall 002 discharges to: Dark Shade Creek

The proposed effluent limits for Outfall 002 Lat: 40° 05' 21" Long: 78° 48' 06" are:

<i>Parameter</i>	<i>Minimum</i>	<i>30-Day Average</i>	<i>Daily Maximum</i>	<i>Instant. Maximum</i>
pH <sup>1</sup> (S.U.)	6.0			9.0
Iron (mg/l)		1.50	2.34	
Manganese (mg/l)		0.64	1.00	
Aluminum (mg/l)		0.48	0.75	
Alkalinity greater than acidity <sup>1</sup>				
Total Suspended Solids (mg/l)		35	70	90
Flow		Monitor	and	Report
Osmotic Pressure (mOs/kg)			70	
Total Dissolved Solids (mg/l)		Monitor	and	Report
Sulfates (mg/l)		Monitor	and	Report
Chlorides (mg/l)		Monitor	and	Report
Specific Conductance (umho)		Monitor	and	Report

<sup>1</sup>The parameter is applicable at all times.

The proposed average daily discharge rate for Outfall 003 is 0.08 MGD

Outfall 003 discharges to: Dark Shade Creek

The proposed effluent limits for Outfall 003 Lat: 40° 05' 26" Long: 78° 48' 01" are:

<i>Parameter</i>	<i>Minimum</i>	<i>30-Day Average</i>	<i>Daily Maximum</i>	<i>Instant. Maximum</i>
pH <sup>1</sup> (S.U.)	6.0			9.0
Iron (mg/l)		1.50	2.34	
Manganese (mg/l)		0.64	1.00	
Aluminum (mg/l)		0.48	0.75	
Alkalinity greater than acidity <sup>1</sup>				
Total Suspended Solids (mg/l)		35	70	90
Flow		Monitor	and	Report
Osmotic Pressure (mOs/kg)		38	59	
Total Dissolved Solids (mg/l)		Monitor	and	Report
Sulfates (mg/l)		Monitor	and	Report

<i>Parameter</i>	<i>Minimum</i>	<i>30-Day Average</i>	<i>Daily Maximum</i>	<i>Instant. Maximum</i>
Chlorides (mg/l)		Monitor	and	Report
Specific Conductance (umho)		Monitor	and	Report

<sup>1</sup>The parameter is applicable at all times.

The proposed average daily discharge rate for Outfall 004 is 0.56 MGD Outfall 004 discharges to: Dark Shade Creek

The proposed effluent limits for Outfall 004 Lat: 40° 05' 26" Long: 78° 48' 10" are:

<i>Parameter</i>	<i>Minimum</i>	<i>30-Day Average</i>	<i>Daily Maximum</i>	<i>Instant. Maximum</i>
pH <sup>1</sup> (S.U.)	6.0			9.0
Iron (mg/l)		1.50	2.34	
Manganese (mg/l)		0.64	1.00	
Aluminum (mg/l)		0.48	0.75	
Alkalinity greater than acidity <sup>1</sup>				
Total Suspended Solids (mg/l)		35	70	90
Flow		Monitor	and	Report
Osmotic Pressure (mOs/kg)			119	
Total Dissolved Solids (mg/l)		Monitor	and	Report
Sulfates (mg/l)		Monitor	and	Report
Chlorides (mg/l)		Monitor	and	Report
Specific Conductance (umho)		Monitor	and	Report

<sup>1</sup>The parameter is applicable at all times.

The proposed average daily discharge rate for Outfall 005 is 0.16 MGD

Outfall 005 discharges to: Unnamed Tributary to Coal Run

The proposed effluent limits for Outfall 005 Lat: 40° 04' 37" Long: 78° 48' 13" are:

<i>Parameter</i>	<i>Minimum</i>	<i>30-Day Average</i>	<i>Daily Maximum</i>	<i>Instant. Maximum</i>
pH <sup>1</sup> (S.U.)	6.0			9.0
Iron (mg/l)		1.50	2.34	
Manganese (mg/l)		0.64	1.00	
Aluminum (mg/l)		0.48	0.75	
Alkalinity greater than acidity <sup>1</sup>				
Total Suspended Solids (mg/l)		35	70	90
Flow		Monitor	and	Report
Osmotic Pressure (mOs/kg)		Monitor	and	Report
Total Dissolved Solids (mg/l)		Monitor	and	Report
Sulfates (mg/l)		Monitor	and	Report
Chlorides (mg/l)		Monitor	and	Report

<sup>1</sup>The parameter is applicable at all times.

The proposed average daily discharge rate for Outfall 006 is 0.08 MGD

Outfall 006 discharges to: Unnamed Tributary to Coal Run

The proposed effluent limits for Outfall 006 Lat: 40° 04' 33" Long: 78° 41' 21" are:

<i>Parameter</i>	<i>Minimum</i>	<i>30-Day Average</i>	<i>Daily Maximum</i>	<i>Instant. Maximum</i>
pH <sup>1</sup> (S.U.)	6.0			9.0
Iron (mg/l)		1.50	2.34	
Manganese (mg/l)		0.64	1.00	
Aluminum (mg/l)		0.48	0.75	
Alkalinity greater than acidity <sup>1</sup>				
Total Suspended Solids (mg/l)		35	70	90
Flow		Monitor	and	Report
Osmotic Pressure (mOs/kg)		Monitor	and	Report
Total Dissolved Solids (mg/l)		Monitor	and	Report
Sulfates (mg/l)		Monitor	and	Report
Chlorides (mg/l)		Monitor	and	Report

<sup>1</sup>The parameter is applicable at all times.

**NPDES No. PA0033511 (Mining Permit No. 30743711), Cumberland Coal Resources, LP**, (158 Portal Road, PO Box 1020). A renewal to the NPDES and mining activity permit for the Cumberland Mine Coal Refuse Disposal Facility in Whiteley Township, **Greene County**. Surface Acres Affected 152.0. Receiving Streams: Whiteley Creek and Patterson Run, both classified for the following use: TSF. Whiteley Creek Watershed. The application was considered administratively complete on July 28, 2010. Application received June 9, 2010.

Unless otherwise noted for a specific outfall, the proposed effluent limits for all outfalls in this permit are the BAT limits described above for coal mining activities.

The proposed average daily discharge rate for Outfall 001 is 1.15 MGD

Outfall 001 discharges to: Whiteley Creek

The proposed effluent limits for Outfall 001 Lat: 39° 37' 45" Long: 80° 09' 30" are:

<i>Parameter</i>	<i>Minimum</i>	<i>30-Day Average</i>	<i>Daily Maximum</i>	<i>Instant. Maximum</i>
pH <sup>1</sup> (S.U.)	6.0			9.0
Iron (mg/l)		1.51	2.36	
Manganese (mg/l)		.64	1.0	
Aluminum (mg/l)		.48	.76	
Alkalinity greater than acidity <sup>1</sup>				
Total Suspended Solids (mg/l)		35	70	90
Flow		Monitor	and	Report
Osmotic Pressure (mOs/kg)		32	50	
Total Dissolved Solids (mg/l)		Monitor	and	Report
Sulfates (mg/l)			250	

<sup>1</sup>The parameter is applicable at all times.

The proposed average daily discharge rate for Outfall 014 is 4.7 MGD

Outfall 014 discharges to: Whiteley Creek

The proposed effluent limits for Outfall 014 Lat: 39° 37' 45" Long: 80° 09' 00" are:

<i>Parameter</i>	<i>Minimum</i>	<i>30-Day Average</i>	<i>Daily Maximum</i>	<i>Instant. Maximum</i>
pH <sup>1</sup> (S.U.)	6.0			9.0
Iron (mg/l)		1.5	2.34	
Manganese (mg/l)		.64	1.0	
Aluminum (mg/l)		.48	.75	
Alkalinity greater than acidity <sup>1</sup>				
Total Suspended Solids (mg/l)		35	70	90
Flow		Monitor	and	Report
Osmotic Pressure (mOs/kg)		32	50	
Total Dissolved Solids (mg/l)		1219	2011	
Sulfates (mg/l)			250	

<sup>1</sup>The parameter is applicable at all times.

The proposed average daily discharge rate for Outfall 016 is .13 MGD

Outfall 016 discharges to: Patterson Run

The proposed effluent limits for Outfall 016 Lat: 39° 47' 45" Long: 80° 09' 15" are:

<i>Parameter</i>	<i>Minimum</i>	<i>30-Day Average</i>	<i>Daily Maximum</i>	<i>Instant. Maximum</i>
pH <sup>1</sup> (S.U.)	6.0			9.0
Iron (mg/l)		3.0	6.0	7.0
Manganese (mg/l)		2.0	4.0	5.0
Aluminum (mg/l)		Monitor	and	Report
Alkalinity greater than acidity <sup>1</sup>				
Total Suspended Solids (mg/l)		35	70	90
Flow		Monitor	and	Report
Osmotic Pressure (mOs/kg)		Monitor	and	Report
Total Dissolved Solids (mg/l)		Monitor	and	Report
Sulfates (mg/l)		Monitor	and	Report

<sup>1</sup>The parameter is applicable at all times.

The following replaces previous publication of September 12, 2011:

**NPDES No. PA0235610 (Mining Permit No. 30031301), Dana Mining Company of Pennsylvania, LLC**, (308 Dents Run Road, Morgantown, WV 26501). A renewal to the NPDES and mining activity permit for the 4 West Mine in Dunkard and Perry Townships, **Greene County**. Surface Acres Affected 40.0, Underground Acres Affected 2278.0. Receiving Streams: Dunkard Creek, Unnamed Tributary to Meadow Run, and Unnamed Tributary to Glade Run, all classified for the following use: WWF. Dunkard Creek TMDL. The application was considered administratively complete on November 30, 2009. Application received October 23, 2009.

Unless otherwise noted for a specific outfall, the proposed effluent limits for all outfalls in this permit are the BAT limits described above for coal mining activities.



The proposed average daily discharge rate for Outfall 001 is .27 MGD

Outfall 001 discharges to: Dunkard Creek

The proposed effluent limits for Outfall 001 Lat: 39° 45' 21" Long: 80° 00' 31" are:

<i>Parameter</i>	<i>Minimum</i>	<i>30-Day Average</i>	<i>Daily Maximum</i>	<i>Instant. Maximum</i>
pH <sup>1</sup> (S.U.)	6.0			9.0
Iron (mg/l)		3.0	6.0	7.0
Manganese (mg/l)		2.0	4.0	5.0
Aluminum (mg/l)		0.5	0.75	
Alkalinity greater than acidity <sup>1</sup>				
Total Suspended Solids (mg/l)		35	70	90
Flow			Monitor & Report	
Osmotic Pressure (mOs/kg)			Monitor & Report	
Total Dissolved Solids (mg/l)			Monitor & Report	
Sulfates (mg/l)			Monitor & Report	
Chlorides (mg/l)			Monitor & Report	

<sup>1</sup>The parameter is applicable at all times.

The proposed average daily discharge rate for Outfall 002 is 2.0 MGD

Outfall 002 discharges to: Dunkard Creek

The proposed effluent limits for Outfall 002 Lat: 39° 45' 36" Long: 80° 00' 02" are:

<i>Parameter</i>	<i>Minimum</i>	<i>30-Day Average</i>	<i>Daily Maximum</i>	<i>Instant. Maximum</i>
pH <sup>1</sup> (S.U.)	6.0			9.0
Iron (mg/l)		1.5	3.0	3.75
Manganese (mg/l)		1.0	2.0	2.5
Aluminum (mg/l)		1.0	2.0	1.25
Alkalinity greater than acidity <sup>1</sup>				
Total Suspended Solids (mg/l)		35	70	90
Flow			Monitor & Report	
Osmotic Pressure (mOs/kg)		32	50	50
Total Dissolved Solids (mg/l)		2500	3800	6250
Sulfates (mg/l)			250	
Sulfates (mg/l) <sup>2</sup>		850	1700	2125
Chlorides (mg/l)			Monitor & Report	

<sup>1</sup> The parameter is applicable at all times.

<sup>2</sup> The implementation of the limit for sulfates is subject to a Compliance Schedule as described below in Part B. In the interim, the following limits for sulfates apply throughout the pendency of the compliance schedule.

The proposed average daily discharge rate for Outfall 003 is .07 MGD

Outfall 003 discharges to: Unnamed Tributary to Meadow Run

The proposed effluent limits for Outfall 003 Lat: 39° 45' 39" Long: 80° 01' 30" are:

<i>Parameter</i>	<i>Minimum</i>	<i>30-Day Average</i>	<i>Daily Maximum</i>	<i>Instant. Maximum</i>
pH <sup>1</sup> (S.U.)	6.0			9.0
Iron (mg/l)		3.0	6.0	7.0
Manganese (mg/l)		2.0	4.0	5.0
Aluminum (mg/l)			Monitor & Report	
Alkalinity greater than acidity <sup>1</sup>				
Total Suspended Solids (mg/l)		35	70	90
Flow			Monitor & Report	
Osmotic Pressure (mOs/kg)			Monitor & Report	
Total Dissolved Solids (mg/l)			Monitor & Report	
Chlorides (mg/l)			Monitor & Report	
Specific Conductance (umho)			Monitor & Report	

<sup>1</sup>The parameter is applicable at all times.

The proposed average daily discharge rate for Outfall 004 is .01 MGD

Outfall 004 discharges to: Unnamed Tributary to Glade Run

The proposed effluent limits for Outfall 004 Lat: 39° 45' 15" Long: 80° 02' 48" are:

<i>Parameter</i>	<i>Minimum</i>	<i>30-Day Average</i>	<i>Daily Maximum</i>	<i>Instant. Maximum</i>
pH <sup>1</sup> (S.U.)	6.0			9.0
Iron (mg/l)		3.0	6.0	7.0
Manganese (mg/l)		2.0	4.0	5.0
Aluminum (mg/l)		Monitor & Report		
Alkalinity greater than acidity <sup>1</sup>				
Total Suspended Solids (mg/l)		35	70	90
Flow		Monitor & Report		
Osmotic Pressure (mOs/kg)		Monitor & Report		
Total Dissolved Solids (mg/l)		Monitor & Report		
Sulfates (mg/l)		Monitor & Report		
Chlorides (mg/l)		Monitor & Report		

<sup>1</sup> The parameter is applicable at all times.

This NPDES Permit renewal contains the following compliance schedule language (Section 6—Compliance Schedule).

#### 6. Compliance Schedule

##### (a) Water Quality Based Effluent Limitations (WQBELs)

(1) Based on the discharge and stream data currently available to the Department, the WQBEL effluent limitations for sulfates and osmotic pressure set in part A for Outfall 002 are necessary to protect the receiving stream uses designated in the Department's Rules and Regulations.

(2) The permittee shall conduct an evaluation of the treatment technologies available to meet the WQBEL effluent limitations for sulfate and osmotic pressure set in part A for Outfall 002 within the first year following permit reissuance. By the end of the first year following permit reissuance, the permittee shall submit a report to the Department evaluating the treatment technologies and identifying the preferred technology which will meet the WQBEL effluent limitations for sulfate and osmotic pressure set in Part A for Outfall 002.

(3) As part of the report described in paragraph (2), the permittee shall also submit a Treatment Plan to the Department for approval including specifications of the treatment equipment, proposed schedule for construction and start-up, and demonstration that construction and start-up will be performed as soon as possible. In addition, the permittee shall submit complete applications for all permits or permit amendments necessary to install and operate the selected treatment equipment to the Department for review. Following approval of the Treatment Plan and issuance of all necessary permits for the selected treatment equipment, construction of the treatment technology shall commence no later than two years after reissuance of this NPDES permit. Construction and start-up of the selected treatment technology shall be completed, and attainment of the WQBEL effluent limitations for sulfates and osmotic pressure set in part A for Outfall 002 shall be achieved, by no later than three years after reissuance of this NPDES permit. These compliance schedule steps and the respective time periods for completing these steps are subject to paragraph 6(a)(5) below.

(4) The permittee shall conduct and implement the treatment for sulfates and osmotic pressure to meet the sulfates and osmotic pressure WQBEL according to the following compliance schedule:

(i)	Submit a report describing its evaluation of treatment technology options for treating sulfates and osmotic pressure in a manner which will assure compliance with the assigned effluent limitation	Within 1 year of permit reissuance
(ii)	Submit treatment plan and complete applications for all permits necessary for the treatment equipment to the Department for approval	Within 1 year of permit reissuance
(iii)	Commence construction and/or installation of treatment technology for meeting sulfates and osmotic pressure WQBEL	Within 2 years of permit reissuance
(iv)	Complete treatment plant modifications /additions. Compliance with final limits	Within 3 years of permit reissuance
(v)	Submit progress reports. Reports shall include updates, attainment, or any progress made toward milestones, summary of results of any supplemental sampling and a discussion of compliance or non-compliance with interim and final requirements.	Every 6 months after permit reissuance until completion of the compliance period

(5)(i) Pursuant to 40 CFR § 122.62, the permittee may request the Department for approval of a modification of the time period for completing step (iv) of the compliance schedule in the table above (completion of construction and start-up of the treatment plant modifications within three years of NPDES permit reissuance). The permittee's request for approval of a modification must demonstrate that the respective compliance schedule step cannot be completed within the prescribed time period. The permittee shall also provide an alternative time frame for completion of construction and start-up of the treatment technology; the alternative must be based on completing construction as soon as possible. The permittee's economic inability to comply with any of the obligations of this Compliance Schedule shall not be grounds for any extension of time.

(ii) The permittee shall submit a request for modification of the compliance schedule pursuant to this paragraph in writing to the Department within 10 working days of the date the permittee becomes aware or reasonably should have become aware of the event impeding performance. The written submission shall include all necessary documentation specifying the reasons for the delay, the expected duration of the delay, and the efforts which have been made and are being made by the permittee to mitigate the effects of the event and to minimize the length of the delay. The initial written submission may be supplemented within ten working days of its submission.

(iii) The Department will decide whether to grant all or part of the extension requested on the basis of all documentation submitted by the permittee and any other information available to the Department and will notify the permittee if writing of its decision. In any subsequent litigation, Dana Mining Company of Pennsylvania, LLC shall have the burden of proving that the Department's refusal to grant the requested extension was an abuse of discretion based upon the information then available.

*Greensburg District Mining Office: Armbrust Professional Center, 8205 Route 819, Greensburg, PA 15601, 724-925-5500*

**NPDES No. PA0251763 (Mining permit no. 26080106), Amerikohl Mining, Inc.**, 1384 State Route 711, Stahlstown, PA 15687, new NPDES permit for a coal surface mine in Dunbar Township, **Fayette County**, affecting 159.5 acres. Receiving stream(s): unnamed tributaries to the Youghiogheny River, classified for the following use(s): warm water fishery. Application received: September 29, 2009.

Unless otherwise noted for a specific outfall, the proposed effluent limits for all outfalls in this permit are the BAT limits described above for coal mining activities.

The outfall(s) listed below discharge to unnamed tributaries to Youghiogheny River.

The outfall(s) listed below require a non-discharge alternative.

<i>Outfall Nos.</i>	<i>New Outfall (Y/N)</i>
Treatment Pond A	(non-discharge alternative)
Treatment Pond B	(non-discharge alternative)
Treatment Pond C	(non-discharge alternative)
Treatment Pond D	(non-discharge alternative)
Treatment Pond E	(non-discharge alternative)
Treatment Pond F	(non-discharge alternative)

The proposed effluent limits for the above listed outfall(s) are as follows:

<i>Outfalls: Parameter</i>	<i>30-Day Average</i>	<i>Daily Maximum</i>	<i>Instant. Maximum</i>
Iron (mg/l)	xx	xx	xx
Manganese (mg/l)	xx	xx	xx
Aluminum (mg/l)	xx	xx	xx
Total Suspended Solids (mg/l)	xx	xx	xx
pH (S.U.): Must be between 6.0 and 9.0 standard units at all times			
Alkalinity must exceed acidity at all times			

<i>Outfall Nos.</i>	<i>New Outfall (Y/N)</i>
001-Sedimentation Pond A	Y
001-Sedimentation Pond B	Y
002-Sedimentation Pond C	Y
003-Sedimentation Pond D	Y
004-Sedimentation Pond E	Y
005-Sedimentation Pond F	Y

The proposed effluent limits for the above listed outfall(s) are as follows:

<i>Outfalls: Parameter</i>	<i>30-Day Average</i>	<i>Daily Maximum</i>	<i>Instant. Maximum</i>
Iron (mg/l)	N/A	N/A	7.0
Total Settleable Solids Manganese (mg/l)	N/A	N/A	0.5 (ml/l)
pH (S.U.): Must be between 6.0 and 9.0 standard units at all times			
Alkalinity must exceed acidity at all times			

*Knox District Mining Office: P. O. Box 669, 310 Best Avenue, Knox, PA 16232-0669, 814-797-1191*

**NPDES No. PA0259110 (Permit No. 33110103). Original Fuels, Inc.** (P. O. Box 343, Punxsutawney, PA 15727) New NPDES permit for a bituminous surface mine in Perry Township, **Jefferson County**, affecting 99.0 acres. Receiving streams: Unnamed tributary No. 1 to Mahoning Creek and Mahoning Creek, both classified for the following uses: WWF. There is no TMDL. Application received: May 25, 2011.

Unless otherwise noted for a specific outfall, the proposed effluent limits for all outfalls in this permit are the BAT limits described above for coal mining activities.

## NOTICES

The outfall(s) listed below discharge to unnamed tributary No. 1 to Mahoning Creek and Mahoning Creek:

<i>Outfall No.</i>	<i>New Outfall (Y/N)</i>
A	Y
A2	Y
B	Y
C	Y
D	Y

The proposed effluent limits for the above listed outfall(s) are as follows:

<i>Parameter</i>	<i>Minimum</i>	<i>30-Day Average</i>	<i>Daily Maximum</i>	<i>Instant. Maximum</i>
pH <sup>1</sup> (S.U.)	6.0			9.0
Iron (mg/l)		3	6	7
Manganese (mg/l)		2	4	5
Aluminum (mg/l)		2	4	5
Alkalinity greater than acidity <sup>1</sup>				
Total Suspended Solids (mg/l)		35	70	90
Osmotic Pressure (milliosmoles/kg)				50

<sup>1</sup> The parameter is applicable at all times.

The outfall(s) listed below discharge to Mahoning Creek:

<i>Outfall No.</i>	<i>New Outfall (Y/N)</i>
TA	Y
TB	Y
TC	Y
TD	Y

The proposed effluent limits for the above listed outfall(s) are as follows:

<i>Parameter</i>	<i>Minimum</i>	<i>30-Day Average</i>	<i>Daily Maximum</i>	<i>Instant. Maximum</i>
pH <sup>1</sup> (S.U.)	6.0			9.0
Iron (mg/l)				7.0
Alkalinity greater than acidity <sup>1</sup>				
Total Settleable Solids (ml/l)				0.5

**NPDES No. PA0259101 (Permit No. 33110102). Ben Hal Mining Company** (389 Irishtown Road, Grove City, PA 16127) New NPDES permit for a bituminous surface mine in Union Township and Corsica Borough, **Jefferson County**, affecting 33.5 acres. Receiving streams: Unnamed tributary No. 1 to Welch Run, classified for the following uses: CWF. TMDL: Welch Run. Application received: May 19, 2011.

Unless otherwise noted for a specific outfall, the proposed effluent limits for all outfalls in this permit are the BAT limits described above for coal mining activities.

The outfall(s) listed below discharge to Unnamed tributary No. 1 to Welch Run:

<i>Outfall No.</i>	<i>New Outfall (Y/N)</i>
A	Y

The proposed effluent limits for the above listed outfall(s) are as follows:

<i>Parameter</i>	<i>Minimum</i>	<i>30-Day Average</i>	<i>Daily Maximum</i>	<i>Instant. Maximum</i>
pH <sup>1</sup> (S.U.)	6.0			9.0
Iron (mg/l)				7.0
Alkalinity greater than acidity <sup>1</sup>				
Total Settleable Solids (ml/l)				0.5

*Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, 814-342-8200*

**NPDES No. PA-0257257 (Mining permit no. 17090107), RES Coal LLC**, 224 Grange Hall Road, P. O. Box 228, Armagh, PA 15920, new NPDES permit for coal surface mine in Goshen Township, **Clearfield County**, affecting 400.0 acres. Receiving stream(s): Chubb Run, Surveyor Run and Unnamed Tributary to West Branch Susquehanna River, classified for the following use(s): CWF. [Surveyor Run TMDL and West Branch Susquehanna River TMDL] Application received: November 28, 2009.

Unless otherwise noted for a specific outfall, the proposed effluent limits for all outfalls in this permit are the BAT limits described above for coal mining activities.

The outfall(s) listed below discharge to: Chubb Run, Surveyor Run and Unnamed Tributaries to West Branch Susquehanna.

<i>Outfall No.</i>	<i>New Outfall (Y/N)</i>
001	Yes
002	Yes
003	Yes
004	Yes
005	Yes
006	Yes
007	Yes
008	Yes
009	Yes
010	Yes
011	Yes

The outfall(s) listed below require a non-discharge alternative:

<i>Outfall No.</i>	<i>New Outfall (Y/N)</i>
012	Yes
013	Yes
014	Yes
015	Yes

There is no proposed surface discharge from the above listed facilities to the receiving stream due to the implementation of Best Management Practices.

#### *Noncoal NPDES Draft Permits*

*Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, 814-342-8200*

**NPDES No. PA-0257419 (Mining permit no. 08100303), Robert Johnson Flagstone, Inc.**, 3658 Old Stage Coach Road, Wyalusing, PA 18853 New NPDES permit for Noncoal Surface Mine in Herrick and Wyalusing Townships, **Bradford County**, affecting 47.2 acres. Receiving stream(s): Camp Creek and Wyalusing Creek, classified for the following use(s): WWF. Application received: August 4, 2010.

Unless otherwise noted for a specific outfall, the proposed effluent limits for all outfalls in this permit are the BAT limits described above for noncoal mining activities.

The outfall(s) listed below discharge to Camp Creek and Wyalusing Creek:

<i>Outfall No.</i>	<i>New Outfall (Y/N)</i>
001	Yes
002	Yes

**NPDES No. 08100306, Marcus Cole DBA Cole's Construction**, P. O. Box 158, Nichols, NY 13812, new NPDES permit for Noncoal mining in Windham Township, **Bradford County**, affecting 20.0 acres. Receiving stream(s): UNT to Wysox Creek and UNT to Trout Brook, classified for the following use(s): CWF and CWF. Application received: 09/13/10.

Unless otherwise noted for a specific outfall, the proposed effluent limits for all outfalls in this permit are the BAT limits described above for noncoal mining activities.

The outfall(s) listed below discharge to: Wysox Creek and UNT to Trout Brook

<i>Outfall No.</i>	<i>New Outfall (Y/N)</i>
001 TF1	Y
002 SPB	Y

## FEDERAL WATER POLLUTION CONTROL ACT, SECTION 401

The following permit applications, requests for Environmental Assessment approval and requests for 401 Water Quality Certification have been received by the Department. Section 401 of the Federal Water Pollution Control Act (FWPCA) (33 U.S.C.A. § 1341) requires the Commonwealth to certify that the involved projects will not violate the sections 301—303, 306 and 307 of the FWPCA (33 U.S.C.A. §§ 1311—1313, 1316 and 1317) as well as relevant State requirements. Persons objecting to approval of a request for certification under section 401 of the FWPCA, the issuance of a Dam Permit or Water Obstruction and Encroachment Permit or the approval of an Environmental Assessment shall submit comments, suggestions or objections within 30 days of the date of this notice as well as any questions to the office noted before an application. Comments should contain the

name, address and telephone number of the person commenting, identification of the certification request to which the comments or objections are addressed and a concise statement of comments, objections or suggestions including the relevant facts upon which they are based.

The Department may conduct a fact-finding hearing or an informal conference in response to comments if deemed necessary. Each individual will be notified, in writing, of the time and place of a scheduled hearing or conference concerning the certification request to which the comment, objection or suggestion relates. Maps, drawings and other data pertinent to the certification request are available for inspection between 8 a.m. and 4 p.m. on working days at the office noted before the application.

Persons with a disability who wish to attend the hearing and require an auxiliary aid, service or other accommodation to participate in the proceedings should

contact the specified program. TDD users may contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

**Applications Received under the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27) and section 302 of the Flood Plain Management Act (32 P. S. § 679.302) and Requests for Certification under section 401(a) of the FWPCA.**

**WATER OBSTRUCTIONS AND ENCROACHMENTS**

*Southcentral Region: Watershed Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110. Telephone: 717-705-4707.*

**E05-359: Pa. Department of Transportation, Engineering District 9-0**, 1620 North Juniata Street Hollidaysburg, PA 16648, in Harrison and Napier Townships, **Bedford County**, U.S. Army Corps of Engineers, Baltimore District

To: 1) remove the existing structure, 2) construct and maintained a two-span prestressed concrete spread box beam bridge skewed 45° having a total clear span of 97.8 feet, a width of 40.0 feet, and an minimum underclearance of 9.6 feet across Raystown Branch Juniata River (TSF, MF), and 3) construct and maintain a plastic pipe stormwater outfall having a diameter of 1.5 feet at the bridge location, all for the purpose of improving transportation safety and roadway standards. The project is located along SR 0096 (Bedford, PA Quadrangle, (N: 2.9 inches, W: 16.5 inches; Latitude: 40°00'59", Longitude: -76°37'4") in Harrison and Napier Townships, Bedford County.

**E06-669: Texas Eastern Transmission, LP.**, 890 Winter St., Suite 300, Waltham, MA 02451, Line 12/Line 19 Cathodic Protection Maintenance Project, in District and Pike Townships, **Berks County**, ACOE Philadelphia District

The applicant proposes to install and maintain 1.5 miles of 2.0 inch cathodic protection line along existing piping in Rolling Rock quarry in Pike Township to where it will terminate near Sassafras Drive in District Township. The project begins with the western most crossing of an unnamed tributary to Oysterville Creek (EV) (Manatawny, PA Quadrangle; N: 6.7 inches, W: 9.0 inches; Latitude: 40°24'41.3382", Longitude: -75°40'27.9624") and terminates at the eastern most crossing of an unnamed tributary to West Branch Perkiomen Creek (EV) (Manatawny, PA Quadrangle; N: 7.45 inches, W: 4.0 inches; Latitude: 40°24'56.72.16", Longitude: -75°38'48.516"). The project will cross wetlands associated with unnamed tributaries to Oysterville Creek and unnamed tributaries to West Branch Perkiomen Creek. The project will temporarily impact a total of 24.0 linear feet of stream and 0.255 acre of wetland for the purpose of protecting existing gas lines.

**E28-370: Pa. Department of Transportation, Engineering District 8-0**, 2140 Herr Street, Harrisburg, PA 17103, in Fannett Township, **Franklin County**, U.S. Army Corps of Engineers, Baltimore District

To 1) remove the existing structure and to construct and maintain a two-span pre-cast concrete arch bridge having a total clear span of 84.00 feet, a width of 31.54 feet, and a minimum underclearance of 10.00 feet across Narrows Branch Tuscarora Creek (CWF, MF), 2) permanently impact 0.02 acre of two separate PSS wetlands, 3) temporarily impact 0.02 acre of two separate PSS wetlands, 4) remove the existing pipe and install and

maintain a concrete pipe having a length of 33.00 feet and a diameter of 2.00 feet in an unnamed tributary to Narrows Branch Tuscarora Creek (CWF, MF), and 5) remove the existing pipe and install and maintain a concrete pipe having a length of 34.20 feet and a diameter of 1.50 feet in an unnamed tributary to Narrows Branch Tuscarora Creek (CWF, MF), all for the purpose of improving transportation safety and roadway standards. The project is located along SR 4007 (Back Road) in Washington Township, Franklin County (Doylesburg, PA Quadrangle; N: 22.4 inches, W: 11.1 inches; Latitude: 40°14'54", Longitude: -77°42'16"). The amount of wetland impact is considered a deminimus impact of 0.02 acre and wetland replacement is not required.

*Southwest Region: Watershed Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.*

**E65-944. PennDOT District 12-0**, 825 N. Gallatin Avenue Ext., P. O. Box 459, Uniontown, PA 15401-0459. The applicant proposes to construct and maintain:

1. a 2,335 ft. long relocation of Sherrick Run (WWF) with a drainage area of 4.6 square miles;
2. 26 ft., 82 ft., and 156 ft. extensions of existing culverts on unnamed tributaries to Sherrick Run;
3. replacement of the existing SR 819, 143 ft. long, dual cell, 16.5 ft. low cord by 18 ft. wide each box culvert on Sherrick Run with a drainage area of 4.3 square miles by a 170.5 ft. long single span 42 foot wide reinforced concrete arch culvert with a 16.5 ft. minimum underclearance;
4. a 42. ft. long, 48 ft. wide, single span pre-stressed concrete spread box beam bridge with a minimum 14.5 ft. underclearance on Sherrick Run for an access ramp located approximately 230 ft. downstream of item 2 above;
5. a 42. ft. long, 48 ft. wide single span pre-stressed concrete spread box beam bridge with a minimum 14.5 ft. underclearance on Sherrick Run for an access ramp located approximately 520 ft. downstream of Item 2 above;

In addition, construct and maintain associated stormwater outfalls and temporary crossings; a total of 1.94 acres of PEM/PSS/PFO wetland will be filled and maintained; replacement wetland will be credited and built at the Jacobs Creek mitigation site; and permanent stream impacts will be mitigated on site.

This project is associated with the SR 119 SR 819 interchange reconstruction and improvement work with these encroachments starting approximately at the interchange in East Huntingdon Township continuing approximately 2,500 ft. south (beginning from Connellsville, PA Quadrangle, N: 22.7 inches; W: 8.0 inches; Latitude: 40° 73' 5"; Longitude: 79° 33' 26"); and ending N: 15.0 inches; W: 7.7 inches; Latitude: 40° 13' 51"; Longitude: 79° 33' 18"), Westmoreland County.

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

**E10-472, PA DOT, District 10-0**, 2550 Oakland Ave., PO Box 429, Indiana, PA 15701. SR O228-270 Ramps at I-79 Interchange, in Cranberry Township, **Butler County**, ACOE Pittsburgh District (Mars, PA Quadrangle N: 40°, 41', 8.8"; W: 80°, 05', 6.3").

To conduct the following activities associated with the reconstruction of the northbound and southbound ramps

at the Interstate 79 / State Route 0228 (I-79/SR 0228) interchange in Cranberry Township, Butler County.

1. To fill a total of 0.507 acre of 8 wetland areas.
2. To install and maintain a 75 ft long, 24-inch CMP culvert extension within a Tributary to Brush Creek (WWF).
3. To relocate and create approximately 830 ft of open stream channel for a Tributary to Brush Creek (WWF).

4. To install and maintain a 95 ft long, 30-inch RCP culvert and a 98 ft long, 36-inch DIP culvert within and for a Tributary to Brush Creek (WWF).

5. Applicant will construct 1.5 acres of wetland mitigation area within the in-field area of proposed I-79 Southbound on ramp.

6. To install and maintain a manhole with a 41.75 ft outlet to a Tributary to Brush Creek (WWF) and a 104 ft long, 24" RCP outlet to a stormwater management pond.

**ACTIONS**

**THE PENNSYLVANIA CLEAN STREAMS LAW AND THE FEDERAL CLEAN WATER ACT**

**FINAL ACTIONS TAKEN FOR NPDES PERMITS AND WQM PERMITS**

The Department has taken the following actions on previously received applications for new, amended and renewed NPDES and WQM permits, applications for permit waivers and NOIs for coverage under General Permits. This notice of final action is provided in accordance with 25 Pa. Code Chapters 91 and 92a and 40 CFR Part 122, implementing provisions of The Clean Streams Law (35 P. S. §§ 691.1—691.101) and the Federal Clean Water Act (33 U.S.C.A. §§ 1251—1376).

<i>Location</i>	<i>Permit Authority</i>	<i>Application Type or Category</i>
Section I	NPDES	Renewals
Section II	NPDES	New or Amendment
Section III	WQM	Industrial, Sewage or Animal Wastes; Discharges to Groundwater
Section IV	NPDES	MS4 Individual Permit
Section V	NPDES	MS4 Permit Waiver
Section VI	NPDES	Individual Permit Stormwater Construction
Section VII	NPDES	NOI for Coverage under NPDES General Permits

Sections I—VI contain actions regarding industrial, animal or sewage wastes discharges, discharges to groundwater, and discharges associated with MS4, stormwater associated with construction activities and CAFOs. Section VII contains notices for parties who have submitted NOIs for Coverage under General NPDES Permits. The approval for coverage under these General NPDES Permits is subject to applicable effluent limitations, monitoring, reporting requirements and other conditions in each General Permit. The approval of coverage for land application of sewage sludge or residential septage under applicable general permit is subject to pollutant limitations, pathogen and vector attraction reduction requirements, operational standards, general requirements, management practices and other conditions in the respective permit. The permits and related documents, effluent limitations, permitting requirements and other information are on file and may be inspected and arrangements made for copying at the contact office noted before the action.

Persons aggrieved by an action may appeal that action to the Environmental Hearing Board (Board) under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to Administrative Agency Law). The appeal should be sent to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, PO Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users may contact the Board through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin* unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary to the Board at (717) 787-3483. This paragraph does not, in and of itself, create a right of appeal beyond that permitted by applicable statutes and decisional law.

For individuals who wish to challenge an action, the appeal must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should contact a lawyer at once. Persons who cannot afford a lawyer may qualify for free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

**I. NPDES Renewal Permit Actions**

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

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed No.)</i>	<i>EPA Waived Y/N?</i>
PA0064068 (Sewage)	Schuylkill County Municipal Authority - Branch Cass STP Railroad Avenue Llewellyn, PA 17944	Schuylkill County Branch Township	West Creek (3-A)	Y

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed No.)</i>	<i>EPA Waived Y/N?</i>
PA0062375 (Sewage)	Stone Hedge Sewer Company, Inc. 4 Hollowcrest Corners Tunkhannock, PA 18657	Wyoming County Tunkhannock Township	Unnamed Tributary to Osterhout Creek (Mill Run) (4-G)	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0009458 (IW)	Pittsburgh Glass Works, LLC PO Box 307 Tipton, PA 16684	Blair County / Antis Township	Little Juniata River / 11-A	Y
PA0083984 (Sew)	Mr. Thomas Stepp Ranch House Restaurant 133 Old Trail Road Duncannon, PA 17020	Perry County / Watts Township	Susquehanna River / 6-C	Y
PA0247227 (Sew)	Dublin Township Supervisors 1366 Cole Road Hustontown, PA 17229	Fulton County / Dublin Township	South Branch Aughwick Creek / 12-C	Y
PA0087149 (IW)	PA Emergency Management Agency (PA Fire Academy Lewistown) 1150 Riverside Drive Lewistown, PA 17044	Mifflin County / Lewistown Borough	Juniata River / 12-A	Y
PA0084581 (IW)	New Holland Borough Authority 436 East Main Street New Holland, PA 17557	Lancaster County / East Earl Township	UNT Mill Creek / 7-J	Y
PA0088439 (Sew)	Lee Mummau School House Village Wastewater Division 221 School House Road Harrisonville, PA 17228	Fulton County / Licking Creek Township	Sindeldecker Branch / 13-B	Y
PA0036790 (Sew)	Michelle Cooper Paradise MHP 101 Pfautz Road Duncannon, PA 17020	Perry County / Wheatfield Township	UNT Dark Run / 7-A	Y

*Northcentral Regional Office: Water Management Program Manager, 208 W Third Street Suite 101, Williamsport, PA 17701-6448. Phone: 570.327.3664.*

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed No.)</i>	<i>EPA Waived Y/N?</i>
PA0113069 (Sewage)	Greenwood Township Municipal Authority WWTP Rohrsburg Road Rohrsburg, PA 17859	Columbia County Greenwood Township	Rickard Hollow (5-C)	Y
PA0043583 (Sewage)	Hartley Township Municipal Authority 588 Pick Road Laurelton, PA 17835	Union County Hartley Township	Laurel Run (6-A)	Y
PA0113123 (Sewage)	Patrick J Witkowski P. O. Box 322 Laporte, PA 18626	Sullivan County LaPorte Township	Unnamed Tributary to Mill Creek (10-B)	Y

\*\*\*\*Renewal individuals

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

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0094299 (Sewage Renewal)	Bear Creek Watershed Authority Petrolia STP 259 Argyle Street Petrolia, PA 16050	Fairview Township Butler County	South Branch Bear Creek 17-C	Y



<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0035581 (Sewage Renewal)	PADOT Bureau of Design PO Box 3060 Harrisburg, PA 17105	Lafayette Township McKean County	Unnamed tributary Threemile Run 16-B	Y
PA0102792 (Sewage Renewal)	Bernard C. McKruit 347 Edgewood Drive Cabot, PA 16023	Winfield Township Butler County	Unnamed tributary to Little Buffalo Creek 18-F	Y
PA0036994 (Sewage Renewal)	Pleasantville Boro 114 West State Street Pleasantville, PA 16341	Pleasantville Borough Venango County	West Pithole Creek 16-E	Y
PA00003026 (Sewage Renewal)	US Bronze Foundry & Machine 18649 Brake Shoe Rd. Meadville, PA 16335	Woodcock Township Crawford County	French Creek & Unnamed tributary to French Creek	Y

## II. New or Expanded Facility Permits, Renewal of Major Permits and EPA Nonwaived Permit Actions

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

**NPDES Permit No. PA0244180**, Sewage, **Jennifer & Dirk Quan Holden**, 2559 Wayland Road, Berwyn, PA 19312.

This proposed facility is located in Easttown Township, **Chester County**.

Description of Proposed Action/Activity: Approval for the renewal of an NPDES permit to discharge 500 gpd of treated sewage from a facility known as Holden SRSTP to Unnamed Tributary to Crum Creek in Watershed 3-G.

**NPDES Permit No. PA0244163**, Industrial Waste, **QG, LLC**, 4581 Lower Valley Road, Atglen, PA 19310.

This proposed facility is located in West Sadsbury Township, **Chester County**.

Description of Proposed Action/Activity: Approval for the renewal and ownership change of an NPDES permit to discharge storm water from a facility known as Quad/Graphics Atglen to Unnamed Tributaries Valley Creek in Watershed 7-K.

**NPDES Permit No. PA0050393**, Sewage, **Worcester Township**, 1721 Valley Forge Road, P. O. Box 767, Worcester, PA 19490-0767.

This proposed facility is located in Worcester Township, **Montgomery County**.

Description of Proposed Action/Activity: Approval for the renewal of an NPDES permit to discharge 0.22 mgd of treated sewage from a facility known as Valley Green STP to Zacharias Creek in Watershed 3E.

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

**NPDES Permit No. PA0261696**, Sewage, **Jean V. Davis & James Skiles**, 1055 Celeste Drive, Shippensburg, PA 17257.

This proposed facility is located in Licking Creek Township, **Fulton County**.

Description of Proposed Action/Activity: Authorization to discharge to Watershed 13-B.

**NPDES Permit No. PA0083542**, Industrial Waste, **Flight Systems, Inc.**, Hempt Road Facility, 505 Fishing Creek Road, Lewisberry, PA 17339-9517.

This proposed facility is located in Silver Spring Township, **Cumberland County**.

Description of Proposed Action/Activity: Elimination of Discharge / Cancellation of Permit.

## III. WQM Industrial Waste and Sewerage Actions under The Clean Streams Law

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

**WQM Permit No. WQG02231107**, Sewage, **Springfield Township**, 50 Powell Road, Springfield, PA 19064.

This proposed facility is located in Springfield Township, **Delaware County**.

Description of Action/Activity: Construction and operation of a low pressure sewer extension.

**WQM Permit No. 1511401**, Sewage, **Municipal Authority of the Borough of Elverson**, 101 South Chestnut Street, P. O. Box 266, Elverson, PA 19520-0206.

This proposed facility is located in Elverson Borough, **Chester County**.

Description of Action/Activity: Approval to replace an existing 4 inch force main with a 6 inch force main. A magnetic flow meter will be installed at the pump station.

**WQM Permit No. WQG010012**, Sewage, **Renewal & Transfer Jennifer and Dirk Quan Holden**, 2559 Wayland Road, Berwyn, PA 19312.

This proposed facility is located in Easttown Township, **Chester County**.

Description of Action/Activity: Renewal and transfer of this small flow treatment facility. Formerly Deborah & Timothy D. Connor.

**WQM Permit No. 1504412**, Sewage, Renewal, **Oxford Area Sewer Authority**, 14 South Third Street, P. O. Box 379, Oxford, PA 19363.

This proposed facility is located in East Nottingham Township, **Chester County**.

Description of Action/Activity: Permit renewal of a WQM Part II permit to allow the continued operation of a sewage treatment plant and spray irrigation system.

**WQM Permit No. 1588442**, Sewage, **Amendment #4, East Vincent Township**, 262 Ridge Road, Spring City, PA 19475.

This proposed facility is located in East Vincent Township, **Chester County**.

Description of Action/Activity: Modifications to the sewage treatment plant to include converting an existing activated sludge wastewater treatment plant to a modified Ludzack Ettinger type process.

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

**WQM Permit No. 5080401**, Sewerage, **Michelle Cooper, Paradise Mobile Home Park**, 101 Pfautz Road, Duncannon, PA 17020-9626.

This proposed facility is located in Wheatfield Township, **Perry County**.

Description of Proposed Action/Activity: Permit approval for the construction/operation of new wastewater plant.

**WQM Permit No. 6707407**, Amendment 11-1, Sewerage, **Jennifer Gunnet**, Windsor Township, 1480 Windsor Road, Red Lion, PA 17356.

This proposed facility is located in Windsor Township, **York County**.

Description of Proposed Action/Activity: Permit approval for the construction of new Panorama Hills Pump Station & Force Main and Panorama Hills Interceptor & Bell Road Interceptor.

**WQM Permit No. 2202403 Transfer No. 1**, Sewerage, **Thor and Doreen Thorpe**, 4329 Highland Road, Elizabethtown, PA 17022-9096.

This proposed facility is located in East Hanover Township, **Dauphin County**.

Description of Proposed Action/Activity: Approving the transfer and operation of sewage facilities consisting of one 1,500 gallon septic tank, one 1,500-gpd aerobic treatment tank and a 750-gallon dosing tank equipped with a submersible dosing pump. Two parallel 60-foot<sup>2</sup> flood-dosed free access sand filters and a tablet chlorinator.

**WQM Permit No. 0774209**, Industrial Waste, former **Allegheny Industrial Gases** site located on former Norfolk Southern Railway Corporation (NSRC) property, NSRC, 1200 Peachtree Street, NE - Box 13, Atlanta, GA 30309.

This proposed facility is located in Hollidaysburg Borough, **Blair County**.

Description of Proposed Action/Activity: Issuance of Final Closure Certification and Cancellation of WQM Permit.

*Southwest Region: Water Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745*

**WQM Permit No. 2608201-A1**, Industrial Waste, **Shallenberger Construction, Inc.**, 195 Enterprise Lane, Connellsville, PA 15425

This existing facility is located in Masontown Borough, **Fayette County**

Description of Proposed Action/Activity: Permit amendment issuance for the installation of new sludge handling facilities and process tanks.

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

**WQM Permit No. WQG028327**, Sewage, **Pine Township**, 545 Barkeyville Road, Grove City, PA 16127.

This existing facility is located in Pine Township, **Mercer County**.

Description of Proposed Action/Activity: Issuance of a Water Quality Permit to upgrade an existing Sewage Treatment Facility to provide sewage extensions to North Liberty Road and Lake Drive Pressure Sewers.

**WQM Permit No. WQG018816**, Sewage, **William E. & Cean M. Schopf** 21910 Birchard Road, Cambridge Springs, PA 16403.

This existing facility is located in Cambridge Township, **Crawford County**.

Description of Proposed Action/Activity: Issuance of a new permit for a Single Residence Sewage Treatment Plant.

**WQM Permit No. 4286291** Industrial Waste, **American Refining Group, Inc.** 77 North Kendall Avenue, Bradford, PA 16701.

This existing facility is located in City of Bradford, **McKean County**.

Description of Proposed Action/Activity: Modification and operation of industrial wastewater treatment facilities.

**IV. NPDES Stormwater Discharges from MS4 Permit Actions****V. NPDES Waiver Stormwater Discharges from MS4 Actions****VI. NPDES Discharges of Stormwater Associated with Construction Activities Individual Permit Actions**

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

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI01 1505082	The Cutler Group, Inc. 5 Apollo Road Plymouth Meeting, PA 19462	Chester	West Vincent Township	Stony Run (HQ-TSF-MF)
PAI01 151111	Baxter Properties 1025 Andrew Drive, Ste 200 West Chester, PA 19380	Chester	Honey Brook Township	Unnamed Tributary West Branch Brandywine Creek (HQ-TSF)
PAI01 151041	Collin and Virginia McNeal 1701 Horseshoe Trail Chester Springs, PA 19425	Chester	West Pikeland Township	Pickering Creek (HQ-TSF-MF)

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

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI026608001(1)	Mehoopany Wind Energy, L.L.C 455 2nd Street SE Suite 400 Charlottesville, VA 22902	Wyoming County Eaton Township,	Forkston Township, Mehoopany Township, Noxen Township & Washington Township	Stone Run, HQ-CWF, MF; Kasson Brook, HQ-CWF, MF; South Branch Roaring Run, CWF, MF; Roaring Run, CWF, MF; Newton Run, HQ-CWF, MF; Sugar Hollow Creek, HQ-CWF, MF; Bowman's Creek, HQ-CWF, MF; unnamed tributaries to Bowman's Creek, HQ-CWF, MF; Hettesheimer Run, HQ-CWF, MF; York Run, HQ-CWF, MF; Bowman Hollow, HQ-CWF, MF; Susquehanna River, CWF, MF, and unnamed tributaries to Susquehanna River, CWF, MF
PAI023911011	PPL Electric Utilities 2 North 9th Street Allentown, PA 18101-1179	Lehigh	Upper Macungie Twp.	UNT to Little Lehigh Creek, HQ-CWF, MF
PAI026411001	PPL Electric Utilities Co. 2 North Ninth Street GENN4 Allentown, PA 18101	Wayne	Palmyra Township	Wallenpaupack Creek, HQ-WWF, MF

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

*Centre County Conservation District: 414 Holmes Avenue, Suite 4, Bellefonte, PA 16823, (814) 355-6817*

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI041410006	S&A Homes Fieldstone Subdivision 2121 Old Gatesburg Rd State College PA 16803	Centre	College Township Harris Township	Spring Creek HQ-CWF

Clearfield County Conservation District: 650 Leonard Street, Clearfield, PA 16830, (814) 765-2629

NPDES Permit No.	Applicant Name & Address	County	Municipality	Receiving Water/Use
PAI041711002	PA Dept of Conservation & Natural Resources Moshannon Forest District 3372 State Park Rd Penfield PA 18849	Clearfield	Lawrence Township Pine Township	Lick Run Fork Run Moose Creek Stony Run Anderson Creek Alex Branch Little Laurel Run Saunders Run All HQ

Southwest Region: Watershed Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

Somerset County Conservation District, 6024 Glades Pike, Suite 103, Somerset, PA 15501

NPDES Permit No.	Applicant Name & Address	County	Municipality	Receiving Water/Use
PAI055611003	CSX Transportation, Inc. (CSXT) 500 Water Street, J-275 Jacksonville, FL 32202	Somerset	Upper Turkeyfoot Township	Casselman River (WWF)
PAI055611005	GBT Realty Corporation 201 Summit view Drive, Suite 110 Brentwood, TN 37027	Somerset	Confluence Borough	Laurel Hill Creek (HQ- CWF)

## VII. Approvals to Use NPDES and/or Other General Permits

The EPA Region III Administrator has waived the right to review or object to this permit action under the waiver provision in 40 CFR 123.23(d).

### List of NPDES and/or Other General Permit Types

PAG-1	General Permit for Discharges from Stripper Oil Well Facilities
PAG-2	General Permit for Discharges of Stormwater Associated with Construction Activities (PAR)
PAG-3	General Permit for Discharges of Stormwater from Industrial Activities
PAG-4	General Permit for Discharges from Small Flow Treatment Facilities
PAG-5	General Permit for Discharges from Gasoline Contaminated Ground Water Remediation Systems
PAG-6	General Permit for Wet Weather Overflow Discharges from Combined Sewer Systems
PAG-7	General Permit for Beneficial Use of Exceptional Quality Sewage Sludge by Land Application
PAG-8	General Permit for Beneficial Use of Nonexceptional Quality Sewage Sludge by Land Application to Agricultural Land, Forest, a Public Contact Site or a Land Reclamation Site
PAG-8 (SSN)	Site Suitability Notice for Land Application under Approved PAG-8 General Permit Coverage
PAG-9	General Permit for Beneficial Use of Residential Septage by Land Application to Agricultural Land, Forest or a Land Reclamation Site
PAG-9 (SSN)	Site Suitability Notice for Land Application under Approved PAG-9 General Permit Coverage
PAG-10	General Permit for Discharge Resulting from Hydrostatic Testing of Tanks and Pipelines
PAG-11	(To Be Announced)
PAG-12	CAFOs
PAG-13	Stormwater Discharges from MS4

#### General Permit Type—PAG-02

#### Facility Location:

Municipality & County	Permit No.	Applicant Name & Address	Receiving Water/Use	Contact Office & Phone No.
Whitpain Township Montgomery County	PAG0200 4605100-2	Wings Field Preservation Associates 1501 Narcissa Road Blue Bell, PA 19422	Unnamed Tributary Wissahickon Creek (TSF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900

## NOTICES

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<i>Facility Location: Municipality &amp; County</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water / Use</i>	<i>Contact Office &amp; Phone No.</i>
Lower Merion Township Montgomery County	PAG0200 4611026	GlaxoSmithKline 709 Swedeland Road King of Prussia, PA 19406	Gulph Creek (WWF-MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
Lower Gwynedd Township Montgomery County	PAG0200 4611036	Johnson & Johnson Pharmaceuticals Welsh and McKean Roads PO Box 77 Spring House, PA 19477	Oak Terrace (WWF-MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
Aston Township Delaware County	PAG0200 2311019	Neuman University One Neuman Drive Aston, PA 19014	West Branch Chester Creek (WWF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
Lower Towamensing Twp., Carbon County	PAG02001311002	Barbara Green Blue Mtn. Water Park 1660 Blue Mtn. Dr. Palmerton, PA 18071	Aquashicola Creek, TSF, MF	Carbon Co. Cons. Dist. 610-377-4894
Taylor Borough, Lackawanna Co.	PAG02003506040R	Corey O'Brien Lackawanna County 200 Adams Ave. Scranton, PA 18503	Keyser Creek, CWF, MF	Lackawanna Co. Cons. Dist. 570-281-9495
North Manheim Twp., Schuylkill Co.	PAG02005411009	PA DOT Eng. Dist. 5-0 Attn: Michael Keiser 1002 W. Hamilton St. Allentown, PA 18101	Schuylkill River, CWF, MF	Schuylkill Co. Cons. Dist. 570-622-3742
Reading Township Adams County	PAG2000105014R	William Bashore Lexington Land Developers Corp. (Hampton Heights) 336 West King St Lancaster, PA 17603	UNT to Conewago Creek (WWF)	Adams Co. Conservation District 670 Old Harrisburg Rd Gettysburg, PA 17325-3404 717.334.0636
Broad Top Township Bedford County	PAG02000511007	Defiance Water Association PO Box 122 Defiance, PA 16633	Six Mile Run (WWF)	Bedford Co. Conservation District 702 W Pitt St. Bedford, PA 15522 814.623.7900
Bedford Township Bedford County	PAG02000511006	Bedford County Development Association 1 Corporate Dr, Suite 101 Bedford, PA 15522	UNT to Dunning Creek (WWF)	Bedford Co. Conservation District 702 W Pitt St. Bedford, PA 15522 814.623.7900
Broad Top Township Bedford County	PAG02000511007	Defiance Water Association PO Box 122 Defiance, PA 16633	Six Mile Run (WWF)	Bedford Co. Conservation District 702 W Pitt St. Bedford, PA 15522 814.623.7900
Snake Spring Township Bedford County	PAG02000511008	Gary Graham PA Turnpike Commission PO BOX 67676 Harrisburg, PA 17106	Raystown Branch of the Juniata River (TSF)	Bedford Co. Conservation District 702 W Pitt St. Bedford, PA 15522 814.623.7900
Douglass Township Berks County	PAG02000610038	Marco Folino Rodolpho Folino & Sons (Brookwood Estates) 68 S. Hampton Dr Wyomissing, PA 19610	UNT to Manatawny Creek (CWF; MF)	Berks Co. Conservation District 1238 County Welfare Rd, Suite 200 Leesport, PA 19533 610.372.4657

*Facility Location:  
Municipality &  
County**Permit No.**Applicant Name &  
Address**Receiving  
Water / Use**Contact Office &  
Phone No.*

Exeter Township Berks County	PAG02000611024	Terry Derr Lorimich III, LLC (Lords & Ladies Salon) 15 Old Swede Rd Douglassville, PA 19518	UNT to Schuylkill River (WWF)	Berks Co. Conservation District 1238 County Welfare Rd, Suite 200 Leesport, PA 19533 610.372.4657
Muhlenberg Township Berks County	PAG02000611033	David Wolf Carpenter Technology Corporation (Carpenter Building 118 Expansion) PO Box 14662 Reading, PA 19612	UNT Schuylkill River (WWF)	Berks Co. Conservation District 1238 County Welfare Rd, Suite 200 Leesport, PA 19533 610.372.4657
Snyder Township Blair County	PAG2000711012	Jeff S. Long Jeff S. Long Construction 1916 Hileman Rd Tyrone, PA 16686	Sink Run (TSF)	Blair Co Conservation District 1407 Blair St Hollidaysburg, PA 16648 814.696.0877
Antis Township Blair County	PAG2000711015	Martin Marasco ABDC Corporation 3900 Industrial Park Dr Altoona, PA 16602	UNT Little Juniata River (WWF)	Blair Co Conservation District 1407 Blair St Hollidaysburg, PA 16648 814.696.0877
Blair Township Blair County	PAG02000706005R	S&A Homes, Inc. (Harvest Glen Residential Development) 2121 Old Gettysburg Rd State College, PA 16803	Blair Gap Run (TSF) Beaverdam Branch Juniata River (TSF)	Blair Co. Conservation District 1407 Blair St Hollidaysburg, PA 16648 814.696.0877
Snyder Township Blair County	PAG2000711012	Jeff Long Construction— Tyrone Medical Center 1916 Hileman Rd Tyrone, PA 16686	Sink Run (TSF)	Blair Co. Conservation District 1407 Blair St Hollidaysburg, PA 16648 814.696.0877
Lower Allen Twp. Cumberland County	PAG02002111013	Gregory Hodecker CH&N Construction 1190 Dillerville Road Lancaster, PA 17601	Cedar Run/CWF	Cumberland Co Conservation District 310 Allen Road, Suite 301 Carlisle PA 17013 717-240-7812
Lower Swatara Township, Dauphin County	PAG02002211015	FedEx National LTL, Inc 2200 Forward Dr DC 2255 Harrison, AR 72601	Swatara Creek/WWF	Dauphin Co Conservation District 1451 Peters Mountain Rd Dauphin, PA 17018 717.921.8100
West Hanover Township, Dauphin County	PAG02002206058	Brent Stoltzfus Village Glen Associates 474 Mt Sidney Rd Lancaster, PA 17601	Manada Creek/WWF	Dauphin Co Conservation District 1451 Peters Mountain Rd Dauphin, PA 17018 717.921.8100
Lower Paxton Township Dauphin County	PAG02002211025	Eastern Development & Planning Inc. 7300 Derry St Harrisburg, PA 17111	Beaver Creek (WWF)	Dauphin Co Conservation District 1451 Peters Mountain Rd Dauphin, PA 17018 717.921.8100
Greene Township Franklin County	PAR10M214-R(2)	Edwin Martin Hartog Orchard Estates 4961 Cumberland Highway Chambersburg PA 17201	UNT to East Br Conococheague (CWF)	Franklin Co Conservation District 185 Franklin Farm Lane Chambersburg PA 17201 717-264-5499

<i>Facility Location: Municipality &amp; County</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water / Use</i>	<i>Contact Office &amp; Phone No.</i>
Antrim Township Franklin County	PAG02002811018	Tom Burke Augusta Partners 55 Meridian Parkway Suite 101 Martinsburg PA 25401	UNT to Conococheague (WWF)	Franklin Co Conservation District 185 Franklin Farm Lane Chambersburg PA 17201 717-264-5499
Hopewell Twp Huntingdon County	PAG02003111005	Martin P. Finklestein, Jr. Full Performance Marine Boat Storage PO Box 65 Gallitzin, PA 16641	UNT to Shy Beaver Creek	Huntingdon Co. Conservation District 10605 Raystown Rd., Suite A Huntingdon, PA 16652 814.627.6831
Delaware Twp Juniata County	PAG02003411002	Paul McClellan PADOT District 2-0 1924 Daisy St Ext. Clearfield, PA 16830	Cocolamus Creek (TSF-MF)	Juniata Co. Conservations District 146 Stoney Creek Drive, Suite 4 Mifflintown, PA 17059 717.436.8953
Delaware Twp Juniata County	PAG2003411002	Kevin Kline PennDOT District 2-0 1924 Daisy St Extension Clearfield, PA 16830	Cocolamus Creek (TSF-MF)	Juniata Co. Conservation District 146 Stoney Creek Dr Mifflintown, PA 17059 717.436.8953
West Hempfield Township Lancaster County	PAG02003611055	Adorers Of The Blood Of Christ 3950 Columbia Ave Columbia PA 17512	Strickler Run/WWF	Lancaster County Conservation District 1383 Arcadia Rd Rm 200 Lancaster PA 17601 717-299-5361 Ext. 5
Earl Township Lancaster County	PAG02003611056	John H Nolt 656 N Shirk Rd New Holland PA 17557	UNT Conestoga River/WWF; MF	Lancaster County Conservation District 1383 Arcadia Rd Rm 200 Lancaster PA 17601 717-299-5361 Ext. 5
East Hempfield Township Lancaster County	PAG02003611062	Lancaster General Health 555 N Duke St Lancaster PA 17604	UNT Little Conestoga Creek/WWF	Lancaster County Conservation District 1383 Arcadia Rd Rm 200 Lancaster PA 17601 717-299-5361 Ext. 5
Lancaster Twp Lancaster County	PAG02003611064	City Of Lancaster 120 N Duke St Lancaster PA 17602	Conestoga River/WWF	Lancaster County Conservation District 1383 Arcadia Rd Rm 200 Lancaster PA 17601 717-299-5361 Ext. 5
East Cocalico Twp Lancaster County	PAG02003611069	UGI Utilities Inc 1301 Aip Drive Middletown PA 17057	Little Muddy Creek & Muddy Creek/WWF; MF	Lancaster County Conservation District 1383 Arcadia Rd Rm 200 Lancaster PA 17601 717-299-5361 Ext. 5
Elizabethtown Borough Lancaster County	PAG02003611072	Elizabethtown College One Alpha Dr Elizabethtown PA 17022	UNT Conoy Creek/TSF	Lancaster County Conservation District 1383 Arcadia Rd Rm 200 Lancaster PA 17601 717-299-5361 Ext. 5
East Donegal Twp Lancaster County	PAG02003611073	Keystone Custom Homes 214-A Willow Valley Lakes Dr Willow Street PA 17584	Donegal Creek/TSF	Lancaster County Conservation District 1383 Arcadia Rd Rm 200 Lancaster PA 17601 717-299-5361 Ext. 5

<i>Facility Location: Municipality &amp; County</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water / Use</i>	<i>Contact Office &amp; Phone No.</i>
Ephrata Borough Lancaster County	PAG02003611074	Ephrata Borough 124 S State St Ephrata, PA 17522	Cocalico Creek/WWF	Lancaster County Conservation District 1383 Arcadia Rd Rm 200 Lancaster PA 17601 717-299-5361 Ext. 5
Paradise Twp Lancaster County	PAG02003611075	Keystone Evangelical Free Church 6 Pequea DR Paradise, PA 17562	Eshleman Run/CWF; MF	Lancaster County Conservation District 1383 Arcadia Rd Rm 200 Lancaster PA 17601 717-299-5361 Ext. 5
Carroll Township Perry County	PAG02035011004	Chad & Melissa McNaughton 8521 Middle Ridge Rd Newport, PA 17074	UNT to Shermans Creek (WWF)	Perry Co. Conservation District 31 West Main St. P. O. Box 36 New Bloomfield, PA 17068 717.582.8988
Penn Township Perry County	PAG02035011003	ACD Realty 29 Ashmar Dr Duncannon, PA 17020	Susquehanna River (WWF)	Perry Co. Conservation District 31 West Main St. P. O. Box 36 New Bloomfield, PA 17068 717.582.8988
Millerstown Borough Perry County	PAG02035011005	Millerstown Municipal Authority 44 N High St Millerstown, PA 17062	Juniata River (WWF)	Perry Co. Conservation District 31 West Main St. P. O. Box 36 New Bloomfield, PA 17068 717.582.8988
Jackson Township York County	PAG2006711029	Richard Krill Thompson Heights, LLC 130 Carlisle St Hanover, PA 17331	Tributary to Little Conewago (TSF)	York Co. Conservation District 118 Pleasant Acres Rd York, PA 17402-8984 717.840.7430
North Codorus Township York County	PAG2006711012	Dean Mitchell McGrew Equipment Co. 2191 Seven Valleys Rd Seven Valleys, PA 17360	South Branch Codorus Creek (WWF)	York Co. Conservation District 118 Pleasant Acres Rd York, PA 17402-8984 717.840.7430
Hanover Borough York County	PAG2006703054R1	Cherrytree Development LLC 2700 Philadelphia Rd Edgewood, MD 21040	Oil Creek (WWF)	York Co. Conservation District 118 Pleasant Acres Rd York, PA 17402-8984 717.840.7430
Springettsbury Township York County	PAG2006711037	Michael S. Gillespie PennDOT District 8-0 2140 Herr Street Harrisburg, PA 17103	Mill Creek (WWF)	York Co. Conservation District 118 Pleasant Acres Rd York, PA 17402-8984 717.840.7430
York Township York County	PAG2006711036	Todd Bowser Vanguard Development Group, Inc. 1801 Fruitille Pike, Ste 200 Lancaster, PA 17601	UNT to Mill Creek (WWF)	York Co. Conservation District 118 Pleasant Acres Rd York, PA 17402-8984 717.840.7430
Springfield Township York County	PAG2006710034	PennDOT Engineering District 8-0 2140 Herr St Harrisburg, PA 17103-1699	UNT to the East Branch Codorus Creek (CWF)	York Co. Conservation District 118 Pleasant Acres Rd York, PA 17402-8984 717.840.7430



<i>Facility Location: Municipality &amp; County</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water / Use</i>	<i>Contact Office &amp; Phone No.</i>
Fairview Township York County	PAG2006711032	Michael R Wilson Wilco Conservation Group 636 Sawmil Rd Mechanicsburg, PA 170551	UNT to Stony Run Creek (CWF)	York Co. Conservation District 118 Pleasant Acres Rd York, PA 17402-8984 717.840.7430
Spring Garden Township York County	PAG2006711015	Ken Martin York College of PA 441 Country Club Rd York, PA 17403-3651	Codorus Creek (WWF)	York Co. Conservation District 118 Pleasant Acres Rd York, PA 17402-8984 717.840.7430
Newberry Township York County	PAG2006704004	Craig Hasson Bottom Line Contractor 918 Rabbit Hill Rd Lititz, PA17543	UNT to Susquehanna River (WWF)	York Co. Conservation District 118 Pleasant Acres Rd York, PA 17402-8984 717.840.7430
Manchester Township York County	PAG2006711014	Kevin Hofer Christian School Association of York Inc. 907 Greenbriar Rd York, PA 17404	UNT to Little Conewago Creek (TSF)	York Co. Conservation District 118 Pleasant Acres Rd York, PA 17402-8984 717.840.7430
Springfield Township York County	PAG2006711023	Logan's Reserve Development, LLC 8601 Robert Fulton Drive Columbia, MD 21046	UNT to East Branch of Codorus Creek (CWF)	York Co. Conservation District 118 Pleasant Acres Rd York, PA 17402-8984 717.840.7430
Mt. Wolf Borough Township York County	PAG2006711026	Tom Bealker Northeastern York County Sewer Authority 175 Chestnut St PO Box 516 Mt. Wolf, PA 17347	Hartman Run (WWF)	York Co. Conservation District 118 Pleasant Acres Rd York, PA 17402-8984 717.840.7430
Penn Township York County	PAG2006706014R	Stoneridge Development 330 Dubs Church Rd Hanover, PA 17331	Oil Creek (WWF)	York Co. Conservation District 118 Pleasant Acres Rd York, PA 17402-8984 717.840.7430
Codorus Township York County	PAG2006711018	Wayne McCullough Southern York County School District 3280 Fissells Church Rd PO Box 128 Glen Rock, PA 17327	Senterville Creek (CWF) & Pierceville Creek (WWF)	York Co. Conservation District 118 Pleasant Acres Rd York, PA 17402-8984 717.840.7430
York Township York County	PAG20067110036	Todd Bowser Vanguard Development Group, Inc 1801 Fruitville Pike, Ste 200 Lancaster, PA 17601	UNT to Mill Creek (WWF)	York Co. Conservation District 118 Pleasant Acres Rd York, PA 17402-8984 717.840.7430
Carroll Township York County	PAG2006710044	Steven Ness US Home Corp DBA Lennar 10211 Wincopin Circle Ste 180 Columbia, MD 21044	Yellow Breeches Creek (CFW)	York Co. Conservation District 118 Pleasant Acres Rd York, PA 17402-8984 717.840.7430
Shrewsbury Township York County	PAG2006711028	Heathcote Glen LP 18147 Amanda Dr New Freedom, PA 17349	UNT to Trout Run (CWF)	York Co. Conservation District 118 Pleasant Acres Rd York, PA 17402-8984 717.840.7430

*Facility Location:  
Municipality &  
County*Wrightsville  
Borough  
York County*Permit No.*

PAG2006711039

*Applicant Name &  
Address*Royal Farms/  
Two Farms Inc.  
3611 Roland Avenue  
Baltimore, MD 21211*Receiving  
Water / Use*UNT of Kruetz Creek  
(WWF)*Contact Office &  
Phone No.*York Co.  
Conservation District  
118 Pleasant Acres Rd  
York, PA 17402-8984  
717.840.743*Northcentral Region: Watershed Management Program Manager, 208 W Third Street, Williamsport, Pa 17701**Facility Location:  
Municipality &  
County*Athens Township  
Bradford County*Permit No.*

PAG02000806008R

*Applicant Name &  
Address*John A. Desisti  
Desisti Properties  
PO Box R  
Sayre PA 18840*Receiving Water / Use*Susquehanna River  
WWF*Contact Office & Phone  
No.*Bradford County  
Conservation District  
Stoll Natural Resource  
Center 200 Lake Rd Ste E  
Towanda PA 18848  
(570) 265-5539 X 120Athens Township  
Bradford County

PAG02000811011

Tim Higley  
Five Star Equipment Inc  
711 Route 199  
PO Box 250  
Athens PA 18810

Chemung River WWF

Bradford County  
Conservation District  
Stoll Natural Resource  
Center 200 Lake Rd Ste E  
Towanda PA 18848  
(570) 265-5539 X 120Wysox Township  
Bradford County

PAG02000811012

Frank Neimiec  
Wysox Equifies LLC  
427 Main St  
Towanda PA 18848Susquehanna River  
WWFBradford County  
Conservation District  
Stoll Natural Resource  
Center 200 Lake Rd Ste E  
Towanda PA 18848  
(570) 265-5539 X 120Coal & Mount  
Carmel Townships  
Northumberland  
County

PAG02004911007

Aqua Pennsylvania Inc  
204 E Sunbury St  
Shamokin PA 17872

Coal Run CWF, MF

Northumberland Cnty  
Conservation Dist  
441 Plum Creek Rd  
Sunbury PA 17801  
(570) 286-7114 Ext. 4White Deer  
Township Union  
County

PAG02006011011

Brian Bolas  
Minuteman  
Environmental Services  
PO Box 10  
Mifflinville PA 18631West Branch  
Susquehanna River  
WWFUnion County  
Conservation District  
Union County  
Government Center  
155 N 15th St  
Lewisburg PA 17837  
(570) 524-3860*Southwest Region: Regional Watershed Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.**Facility Location:  
Municipality &  
County*Cambria County  
West Carroll  
Township*Permit No.*

PAG02001111004

*Applicant Name &  
Address*West Carroll  
Water Authority  
P. O. Box 328  
Elmora, PA 15737*Receiving  
Water / Use*UNT W. Branch  
Susquehanna River  
(CWF);  
UNT Fox Run (CWF)*Contact Office &  
Phone No.*Cambria County CD  
401 Candlelight Drive  
Suite 221  
Ebensburg, PA 15931Fayette County  
South Union Twp.

PAG02002611005

Robert Frisch  
Gustine Uniontown  
Associates, Ltd.  
2100 Wharton Street  
Suite 700  
Pittsburgh, PA 15203UNT to Coal Lick Run  
Creek (WWF)Fayette County CD  
10 Nickman Plaza  
Lemont Furnace, PA  
15456Cranberry  
Township  
Butler County

PAG02 0010 11 018

ECHO Cranberry  
Associates LP  
701 Alpha Drive  
Pittsburgh PA 15238

UNT Brush Creek WWF

Butler Conservation  
District  
724-284-5270

<i>Facility Location: Municipality &amp; County</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
Vernon Township Crawford County	PAG02 0020 11 001	French Creek Recreational Trails Inc PO Box 592 Meadville PA 16335	UNT Conneaut Outlet WWF	Crawford Conservation District 814-763-5269
City of Meadville Crawford County	PAG02 0020 10 005	PADOT Eng. District 1-0 255 Elm Street Oil City PA 16301	Mill Run WWF	Crawford Conservation District 814-763-5269
East Fallowfield Township Crawford County	PAG02 0020 11 006	Sperry Farms Inc Attn: John Sperry 11420 Sperry Road Atlantic PA 16111	Adsit Run WWF	Crawford Conservation District 814-763-5269

*General Permit Type—PAG-3*

<i>Facility Location: Municipality &amp; County</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
Upper Darby Township Delaware County	PAR800013	Waste Management of PA Inc. 444 Oxford Valley Road, Suite 220 Langhorne, PA 19047	Muckinipattis Creek— 3-G	Southeast Region Water Management 484.250.5970
West Goshen Township Chester County	PAR110059	Schramm Inc. 800 E. Virginia Avenue West Chester, PA 19380-4430	Goose Creek—3G	Southeast Region Water Management 484.250.5970
City of Philadelphia Philadelphia County	PAR700019	Allied Transport, Inc. 1801 W. Indiana Avenue Philadelphia, PA 19132	Unnamed Tributary to Schuylkill River—3-F	Southeast Region Water Management 484.250.5970
Hazle Twp. Luzerne County	PAR322204	POLYGLASS USA 555 Oak Ridge Road Hazleton PA 18201	Wetlands to Tomhicken Creek (CWF, MF)	PA DEP Northeast Regional Office 2 Public Square Wilkes-Barre, PA 18701-1915 570-826-2511
Hazle Twp. Luzerne County	PAR122210	The Hershey Company 6 Scotch Pine Drive Hazle Township PA 18202	Tomhicken Creek (CWF, MF)	PA DEP Northeast Regional Office 2 Public Square Wilkes-Barre, PA 18701-1915 570-826-2511

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

<i>Facility Location: Municipality &amp; County</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
Wesleyville Borough Erie County	PAR708303	Joseph McCormick Construction 3340 Pearl Avenue Erie, PA 16512	Fourmile Creek 15	DEP NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 814/332-6942
Summit Township Butler County	PAR208302	Bear Metallurgical Company 679 East Butler Road Butler, PA 16002	Bonnie Brook 20-C	DEP NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 814/332-6942

*Facility Location:  
Municipality &  
County*

Brookville Borough  
Jefferson County

*Permit No.*

PAR118330

*Applicant Name &  
Address*

Miller Welding &  
Machine Company  
110 Second Street  
Brookville, PA 15825

*Receiving  
Water/Use*

Sandy Lick Creek 17-C

*Contact Office &  
Phone No.*

DEP NWRO  
Water Management  
230 Chestnut Street  
Meadville, PA 16335-3481  
814/332-6942

*General Permit Type—PAG-4*

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

*Facility Location:  
Municipality &  
County*

Cambridge  
Township  
Crawford County

*Permit No.*

PAG041053

*Applicant Name &  
Address*

William Schopf  
21910 Birdhard Road  
Cambridge Springs, PA  
16403

*Receiving  
Water/Use*

Unnamed tributary of  
French Creek 16-A

*Contact Office &  
Phone No.*

DEP NWRO  
Water Management  
230 Chestnut Street  
Meadville, PA 16335-3481  
814/332-6942

*General Permit Type-PAG-12*

*Facility Location:  
Municipality &  
County*

Perry County /  
Howe Township

*Permit No.*

PAG123544

*Applicant Name &  
Address*

Hershey Ag  
(Shadewood Farms)  
123 Acker Road  
Newport, PA 17074

*Receiving  
Water/Use*

Howe Run / WWF / 12-B

*Contact Office &  
Phone No.*

DEP—SCRO—  
Watershed Management  
909 Elmerton Avenue  
Harrisburg, PA 17110  
717-705-4802

## PUBLIC WATER SUPPLY 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 Management Program Manager, 2 East Main Street, Norristown, PA 19401*

**Permit No. 0911546** Public Water Supply

Applicant

**Richland Township  
Water Authority**  
1328 California Road Suite D  
Quakertown, PA 18951

Township

Richland

County

**Bucks**

Type of Facility

PWS

Consulting Engineer

Van Cleef Engineering Associates  
501 N. Main Street  
Doylestown, PA 18901

Permit to Construct  
Issued

August 9, 2011

**Permit No.0911542** Public Water Supply

Applicant

**George E. Michael &  
Company, Inc.**  
P. O. Box 59  
New Hope, PA 18938  
Borough New Hope

County

**Bucks**

Type of Facility

PWS

Consulting Engineer

Ebert Engineering, Inc.  
4092 Skippack Pike  
P. O. Box 540  
Skippack, PA 19474

Permit to Construct Issued September 26, 2011

**Permit No. 2311503** Public Water Supply

Applicant **Aqua Pennsylvania, Inc.**  
762 West Lancaster Avenue  
Bryn Mawr, PA 19010

Township Newtown Township

County **Delaware**

Type of Facility PWS

Consulting Engineer Gannett Fleming, Inc.  
P. O. Box 67100  
Harrisburg, PA 17106-7100

Permit to Construct Issued September 9, 2011

**Operations Permit No. 1511524** issued to: **Aqua Pennsylvania, Inc.**, 762 West Lancaster Avenue, Bryn Mawr, PA 19010, (PWSID #1460073), Honey Brook Township, **Chester County** on September 13, 2011 for the operation of a Grandstaff Tank 180,000 gallons approved under construction permit #.1510521.

*Northeast Region: Water Supply Management Program Manager, 2 Public Square Wilkes-Barre PA 18701*

**Permit No. 6611502MA, Minor Amendment.** Public Water Supply.

Applicant **Eaton Sewer and Water Company, Inc.**  
RR #3, Box 3233  
PO Box 316  
Nicholson, PA. 18466

[Borough or Township] Eaton Township

County **Wyoming County**

Type of Facility Public Water Supply

Consulting Engineer Milnes Engineers Tunkhannock, PA.

Permit to Construct Issued September 20, 2011

**Permit No. 1311504, Major Amendment.** Public Water Supply.

Applicant **Tuthill Corporation Db a Blue Mountain Ski Area**  
PO Box 216  
Palmerton, PA. 18071-0216

[Borough or Township] Lower Towamensing Township

County **Carbon**

Type of Facility Public Water Supply

Consulting Engineer Keystone Consulting Engineers  
c/o Douglas P. Hunsinger, PE

Permit Issued September 16, 2011

*Southcentral Region: Water Supply Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110*

**Permit No. 3611521,** Public Water Supply.

Applicant **Columbia Water Company**

Municipality Columbia Borough

County **Lancaster**

Responsible Official David T Lewis, General Manager  
220 Locust Street  
Columbia, PA 17512

Type of Facility This project will upgrade the aging equipment at Columbia Water's Walnut Street Plant. The upgrades will include new pretreatment equipment, new filters, new pump stations, etc. which will increase the plant's capacity to 6.0 million gallons per day. The Pennsylvania Infrastructure Investment Authority, which administers the Commonwealth's State Revolving Fund, is intended to be the funding source for this project. The Department's review of the project and the information received in the Uniform Environmental Report for the project has not identified any significant, adverse environmental impact resulting from this proposal. The Department approved the Uniform Environmental Assessment on September 20, 2011.

Consulting Engineer Daniel Cargnel, P.E.  
Buchart Horn, Inc.  
445 West Philadelphia Street  
York, PA 17404

Permit to Construct Issued: 9/19/2011

**Permit No. 2211507,** Public Water Supply.

Applicant **Pillow Borough Authority**

Municipality Pillow Borough

County **Dauphin**

Responsible Official Mills Eure, Chairman  
PO Box 206  
Pillow, PA 17080

Type of Facility Installation of a new treatment building, clearwell and pump upgrades.

Consulting Engineer Raelene M Gabriel, P.E.  
Glace Associates, Inc.  
3705 Trindle Road  
Camp Hill, PA 17011

Permit to Construct Issued: 9/7/2011

**Operations Permit** issued to: **Loyalton Water Association**, 7220047, Washington Township, **Dauphin County** on 9/12/2011 for the operation of facilities approved under Construction Permit No. 2207509.

**Operations Permit** issued to: **Oak Lane Mennonite School**, 7360795, Penn Township, **Lancaster County** on 9/20/2011 for the operation of facilities approved under Construction Permit No. 3611520.

**Wellhead Protection Program Approval** issued to **Oley Township Municipal Authority**, P. O. Box 19, Oley, PA 19547, PWSID 3060053, Oley Township, **Berks County** on September 27, 2011.

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

**Permit No., 2011501** Public Water Supply

Applicant	<b>VisionQuest National, Ltd.</b>
Township or Borough	East Mead Township
County	<b>Crawford</b>
Type of Facility	Public Water Supply
Consulting Engineer	Steven R. Halmi, P.E. Deiss & Halmi Engineering, Inc. 105 Meadville Street Edinboro, PA 16412
Permit to Construct Issued	September 21, 2011

## LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

### PREAMBLE 2

**The following plans and reports were submitted under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.907).**

Provisions of Sections 301—308 of the Land Recycling and Environmental Remediation Standards Act (act) (35 P. S. §§ 6026.301—6026.308) require the Department to publish in the *Pennsylvania Bulletin* a notice of submission of plans and reports. A final report is submitted to document cleanup of a release of a regulated substance at a site to one of the act's remediation standards. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis for selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed and summaries of sampling analytical results which demonstrate that remediation has attained the cleanup standard selected. Submission of plans and reports, other than the final report, will also be published in the *Pennsylvania Bulletin*. These include the remedial investigation report, risk assessment report and cleanup plan for a site-specific standard remediation. A remedial investigation report includes conclusions from the site investigation; concentration of regulated substances in environmental media; benefits of reuse of the property; and, in some circumstances, a fate and transport analysis. If required, a risk assessment report describes potential adverse effects caused by the presence of regulated substances. If required, a cleanup plan evaluates the abilities of potential remedies to achieve remedy requirements.

For further information concerning plans or reports, contact the environmental cleanup program manager in the Department regional office under which the notice of receipt of plans or reports appears. If information concerning plans or reports is required in an alternative form, contact the community relations coordinator at the appropriate regional office. TDD users may telephone the Department through the AT&T Relay Service at (800) 654-5984.

The Department has received the following plans and reports:

*Southeast Region: Environmental Cleanup Program Manager, 2 East Main Street, Norristown, PA 19401*

**Sunoco Inc.**, (R&M) (AO1) 11, City of Philadelphia, **Philadelphia County**. James Oppenheim, Sunoco, Inc. (R&M) 100 Green Street, Philadelphia, Scott Baker, Sunoco, Inc., (R&M), 3144 Passyunk Avenue, Philadelphia, PA 19145 on behalf of Colleen Costello, Langan Engineering and Environmental Services, 30 South 17th Street, Suite 1500, Philadelphia, PA 19103 has submitted a Remedial Investigation Report concerning remediation of site groundwater and soil contaminated with petroleum compounds. The report is intended to document remediation of the site to meet the Site Specific Standard.

**Sunoco Inc.**, (R&M) (AO1) 10, City of Philadelphia, **Philadelphia County**. James Oppenheim, Sunoco, Inc. (R&M) 100 Green Street, Philadelphia, Scott Baker, Sunoco, Inc., (R&M), 3144 Passyunk Avenue, Philadelphia, PA 19145 on behalf of Colleen Costello, Langan Engineering and Environmental Services, 30 South 17th Street, Suite 1500, Philadelphia, PA 19103 has submitted a Remedial Investigation Report concerning remediation of site groundwater and soil contaminated with petroleum compounds. The report is intended to document remediation of the site to meet the Site Specific Standard.

**Exelon Power Southwark Generation Station**, City of Philadelphia, **Philadelphia County**. David Kistner, URS Corporation, 335 Commerce Drive, Suite 300, Fort Washington, PA 19034, Dale Davis, Exelon Generation Company, LLC, 3901 North Delaware Avenue, Philadelphia, PA 19137 on behalf of Michael Flueher, Delaware Avenue Enterprises, 3301 South Columbus Blvd, Philadelphia, PA 19148 has submitted a Final Report concerning remediation of site groundwater contaminated with mtbe. The report is intended to document remediation of the site to meet the Statewide Health Standard.

**Miller Trailer Park**, Bristol Township, **Bucks County**. Lawrence W. Bily, RT Environmental Services, Inc. 215 West Church Road, King of Prussia, PA 19406, Gary R. Brown, P.E., RT Environmental Services Inc. 215 West Church Road, King of Prussia, PA 19406 on behalf of Nicholas J. Mink, Highlander Realty Management, LLC, 306 West Cuthbert Blvd. Haddon Township, NJ 08108 has submitted a Cleanup Plan and Remedial Investigation Report concerning remediation of site soil contaminated with chlorinated solvents. The report is intended to document remediation of the site to meet the Site Specific Standards.

**US Magnet Site**, Yardley Borough, **Bucks County**. Samuel J. Kucia, ECI, 500 East Washington Street, Suite 375, Norristown, PA 19401, Richard S. Werner, P.G., ECI, 500 East Washington Street, Suite 375, Norristown, PA 19401 on behalf of Robert White, the Redevelopment Authority of the County of Bucks, 1 North Wilson Avenue, Bristol, PA 19007 has submitted a Baseline Environmental Report concerning remediation of site soil contaminated with fuel oils no. 2, 4 and 6, other organics, benzo(a)pyrene, lead and arsenic. The report is intended to document remediation of the site to meet the Special Industrial Area.

**McDonald Restaurant**, City of Philadelphia, **Philadelphia County**. Keith T. D'Ambrosio, P.E, Whitestone Associates, Inc. New Britain Corporate Center, 1600 Manor Drive, Suite 220, Chalfont, PA 18914, Scott R. Lang, McDonald's USA, LLC., 3025 Chemical Road, Suite 100, Plymouth Meeting, PA 19462 on behalf of Jason Winig, 4240 Market Street, LLC, 3025 Chemical Road, Suite 100, Plymouth Meeting, PA 19462 has submitted a Final Report concerning remediation of site groundwater and soil contaminated with chlorinated solvents. The

report is intended to document remediation of the site to meet the Site Specific Standard.

**Coatesville Towers**, Coatesville Borough, **Chester County**. John Koch, GRS Group, 207 Cedar Street, Newport Beach, CA 92663, on behalf of Eric Zetner, California Commercial Investment, 4530 East Thousands, Blvd, Suite 100, Westlake, Village, CA 91362 has submitted a Final Report concerning remediation of site soil and groundwater contaminated with no. 2 fuel oil. The report is intended to document remediation of the site to meet the Site Specific Standard.

**PECO Norristown MGP Site**, Borough of Norristown, **Montgomery County**. Matthias Ohr, P.G., URS Corporation, 335 Commerce Drive, Suite 300, Fort Washington, PA 19034, Gary Riehle, URS Corporation, 335 Commerce Drive, Suite 300, Fort Washington, PA 19034, Keith Kowalski, PECO Energy Company, 2301 Market Street, S7-2, Philadelphia, PA 19103 on behalf of Richard LaMont, T Lowe Enterprises, L.P., PO Box 7304, Audubon, PA 19407 has submitted a Cleanup Plan concerning remediation of site groundwater and soil contaminated with pah's and other organics. The report is intended to document remediation of the site to meet the Site Specific Standards.

**Eaton Residence**, Pennsbury Township, **Delaware County**. Charles Burger, Mountain Research LLC., 825 25th Street, Altoona, PA 16601, Jim MacMahon, Allstate Insurance Company, 1200 Artwater Drive, Suite 110, Malvern, PA 19355 on behalf of Danielle Easton, 30 Stirling Way, Chadds Ford, PA 19317 has submitted a Final Report concerning remediation of site soil contaminated with no. 2 fuel oil. The report is intended to document remediation of the site to meet the Statewide Health Standard.

**US Steel Fairless Works 7.5-Acre**, Falls Township, **Bucks County**. Colleen Costello, Langan Engineering and Environmental Services, Inc., 2700 Kelly Road, Suite 200, Warrington, PA 18976 on behalf of Kathleen Mayher, United State Steel Corporation, 600 Grant Street, Pittsburg, PA 15219 has submitted a Final Report concerning remediation of site soil contaminated with chlorinated solvents. The report is intended to document remediation of the site to meet the Statewide Health Standard.

**Bristol Dry Cleaners**, Bristol Township, **Bucks County**. Steven F. Coe, Brown Environmental Service Corporation, 301 South State Street, Suite S201, Newtown, PA 18940, Roman Iwaskiw, Brown Environmental Service Corporation, 301 South State Street, Suite S201, Newtown, PA 18940 has submitted a Final Report concerning remediation of site groundwater contaminated with chlorinated solvents. The report is intended to document remediation of the site to meet the Statewide Health Standard.

**Conrail Morrisville Yard**, Falls Township, **Bucks County**. Jeffery Seier, ARCADIS US, 17-17 Route 208 North 2nd Floor, Fairlawn, NJ 07410 on behalf of Neil P. Ferone, Consolidated Rail Corporation, 100 Howard Blvd, Mount Laurel, NJ 08054 has submitted a 90 day Final Report concerning remediation of site soil contaminated with diesel fuel. The report is intended to document remediation of the site to meet the Statewide Health Standards.

**114 Leon Avenue**, Norwood Borough, **Delaware County**. Richard S. Werner, P.G., Environmental Consulting, Inc. 500 East Washington Street, Suite 375, Norristown, PA 19401, Johanna Johnson, 122 Leon Av-

enue, Norwood, PA 19074 on behalf of David Rogers, 114 Leon Avenue, Norwood, PA 19074 has submitted a Final Report concerning remediation of site soil contaminated with heating oil. The report is intended to document remediation of the site to meet the Statewide Health Standard.

**120 Leon Avenue**, Norwood Borough, **Delaware County**. Richard S. Werner, P.G., Environmental Consulting, Inc. 500 East Washington Street, Suite 375, Norristown, PA 19401, Johanna Johnson, 122 Leon Avenue, Norwood, PA 19074 on behalf of Kimberly Hurtado, 120 Leon Avenue, Norwood, PA 19074 has submitted a Final Report concerning remediation of site soil contaminated with heating oil. The report is intended to document remediation of the site to meet the Statewide Health Standard.

**Darcy Residence**, Towamencin Township, **Montgomery County**. Richard D. Trimpi, Trimpi Associates, Inc., 1635 Old Plains Road, Pennsburg, PA 18073, Christine Dimming, State Farm, PO Box 8061, Ballston Spa, NY 12020-8061 on behalf of Joseph Darcy, 3415 Fry Road, Harleysville, PA 19438 has submitted a Final Report concerning remediation of site soil contaminated with petroleum. The report is intended to document remediation of the site to meet the Statewide Health Standard.

**3101 West Girard Avenue**, City of Philadelphia, **Philadelphia County**. Angelo Waters, Urban Engineers, Inc., 530 Walnut Street, 14th floor, Philadelphia, PA 19106, Lawrence McKnight, PE, Westrum BT3 L.P., 370 Commerce Drive Fort Washington, PA 190934, on behalf of John Mershon, Westrum BT3 L.P., 370 Commerce Drive Fort Washington, PA 19034 has submitted a Cleanup Plan/Remedial Investigation Report concerning remediation of site groundwater and soil contaminated with pcb. The report is intended to document remediation of the site to meet the Site Specific Standard.

**David Property**, City of Philadelphia, **Philadelphia County**. Jeffery K. Walsh, PG, Penn E&R, Inc., 2755 Bergey Road, Hatfield, PA 19440 on behalf of Bryan Cullen, Westrum Park Place, L.P., 370 Commerce Drive, Suite 100, Fort Washington, PA 19034 has submitted a Final Report concerning remediation of site soil and groundwater contaminated with diesel fuel. The report is intended to document remediation of the site to meet the Statewide Health Standard and Site Specific Standard.

**5526-5548 Vine Street**, City of Philadelphia, **Philadelphia County**. Charlene Drake, REPSG, Inc., 6901 Kingsessing Avenue, 2nd Floor, Philadelphia, PA 19142, Suzanne Shourds, REPSG, Inc., 6901 Kingsessing Avenue, 2nd Floor, Philadelphia, PA 19142, Bruce Conus, Liberty Resources, Inc., 714 Market Street, Suite 100, Philadelphia, PA 19106 on behalf of Robert La Brum Redevelopment Authority of the City of Philadelphia, 1234 Market Street, 16th Floor Philadelphia, PA 19106 has submitted a Final Report concerning remediation of site soil contaminated with inorganics. The report is intended to document remediation of the site to meet the Site Specific Standard.

**Emico Property**, Borough of Perkasio, **Bucks County**. Andrew R. Fetterman, P.G., Synergy Environmental, Inc., 155 Railroad Plaza, 1st Floor, Royersford PA 19468, I Scott Renneisen, P.G., Synergy Environmental, Inc., 155 Railroad Plaza, 1st Floor, Royersford PA 19468 on behalf of Christopher B. French, Central Bucks Associates, PO Box 252, Bedminster, PA 18910-0252 has submitted a Cleanup Plan/Remedial Investigation Report concerning remediation of site soil and groundwater

contaminated with chlorinated solvents. The report is intended to document remediation of the site to meet the Site Specific Standard and Statewide Health/Background Standard.

**Philabundance**, City of Philadelphia, **Philadelphia County**. Robert F. Murphy, Robert F. Murphy Environmental Consultants, LLC, 287 Peel Road, Langhorne, PA 19047 on behalf of Melanie Jumonville COO, Philabundance, 3616 South Galloway Road, Philadelphia, PA 19148 has submitted a Final Report concerning remediation of site soil contaminated with diesel fuel. The report is intended to document remediation of the site to meet the Statewide Health Standard.

**Pathan Chemical Site**, City of Philadelphia, **Philadelphia County**. Bill Schmidt Pennoni Associates, Inc., 3001 Market Street, Philadelphia, PA 19104 on behalf of Sandy Salzman, New Kensington CDC, 2515 Frankford Avenue, Philadelphia, PA 19125 has submitted a Cleanup Plan/Remedial Investigation Report concerning remediation of site groundwater and groundwater contaminated with inorganics, lead, pahs and chlorinated solvents. The report is intended to document remediation of the site to meet the Site Specific Standard.

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

**Former PolyClean Dry Cleaners**, 276 Susquehanna Boulevard, West Hazleton Borough, **Luzerne County**. Michael A. Christie, Penn Environmental & Remediation, Inc., 2755 Bergey Road, Hatfield, PA 19440 has submitted a combined Remedial Investigation Report/Final Report (on behalf of his client, WP Valmont Associates, L.P., 940 E. Haverford Road, Bryn Mawr, PA 19010), concerning the remediation of soil and groundwater found to have been impacted by PCE, Toluene, 1,1,1-Trichloroethane, and cis-1,2-Dichloroethene as a result of historical operations at the site. The combined report was submitted to document attainment of both the Statewide Health Standard for soil and groundwater and the Site-Specific Standard for soil and groundwater. A public notice regarding the submission of the Remedial Investigation Report/Final Report was published in *The Standard Speaker* on March 14, 2011.

**Freeman Property**, Lot 5E-6E East Shore Drive, Crescent Lake, Auburn Township, **Susquehanna County**. Dawn Washo, Resource Environmental Management, Inc., 36 Taylor Lane, Montrose, PA 18801 has submitted a Final Report (on behalf of her client, William Freeman, 1256 Horsham Road, Ambler, PA 19002-1008), concerning the remediation of soil found to have been impacted by No. 2 fuel oil as a result of a release from an aboveground storage tank. The report was submitted to document attainment of the Residential Statewide Health Standard for soil. A public notice regarding the submission of the Final Report was published in the *Susquehanna County Transcript* on May 18, 2011.

## 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:

*Southeast Region: Environmental Cleanup Program Manager, 2 East Main Street, Norristown, PA 19401*

**FDR Park Recreation Maintenance Bldg**, City of Philadelphia, **Philadelphia County**. Leslie Thurman, BT Environmental Health & Safety Consultation, 3984 Penn Avenue, Sinking Spring, PA 19608 on behalf of Martin Libeman, City of Philadelphia Department of Public Property, 1515 Arch Street, Philadelphia, PA 19102 has submitted a Final Report concerning the remediation of site groundwater contaminated with no. fuel oil. The Final report demonstrated attainment of the Statewide Health Standard and was approved by the Department on July 27, 2011.

**201 South Caln Road Multi-Family Properties**, Caln Township **Chester County**. Michael S. Welsh, Applied Environmental Management, Inc. 16 Chester County Commons, Malvern, PA 19355 on behalf of Tim Townes, Southdown Properties Inc., 55 County Club Drive



Downingtown, PA 19335 has submitted a Remedial Investigation Report concerning the remediation of site soil contaminated with meals. The Remedial Investigation Report was approved by the Department on August 11, 2011.

**McGinty Nursery**, Easton Goshen Township **Chester County**. James Mulry, Mulry and Cresswell Environmental, Inc. 1679 Horseshoe Pike, Glenmoore, PA 19343 on behalf of Martia Hutchinson, Esq. Niagara Bank Building, 1197 Wilmington Pike, West Chester, PA 19382 has submitted a Final Report concerning the remediation of site soil contaminated with arsenic. The Final report demonstrated attainment of the Statewide Health Standard and was approved by the Department on July 27, 2011.

**Secane Dry Cleaners**, Upper Darby Township **Delaware County**. Douglass Schott, P.G., Brickhouse Environmental, 515 South Franklin Street, West Chester, PA 19382, Satterthwaite Associates, Inc., 720 Old Fern Hill Road, West Chester, PA 19380 on behalf of Avi Nechemia., Golden Gate Electronics, 1417 Callowhill Street, Philadelphia, PA 19123 has submitted a Final Report concerning the remediation of site soil contaminated with chlorinated solvents and mtbe. The Final report demonstrated attainment of the Statewide Health Standard and was approved by the Department on August 2, 2011.

**Amoroso Property**, Falls Township **Bucks County**. Richard D. Trimpi, Trimpi Associates, Inc., 1635 Old Plains Road, Pennsburg, PA 18703, Christine Dimmig, State Farm Insurance Company, PO Box 8061, Ballston, Spa, NY 12020 on behalf of Mr. Anthony and Mrs. Georgina Amoroso, 82 Blue Spruce Lane, Levittown, PA 19054 has submitted a Final Report concerning the remediation of site groundwater and soil contaminated with no. 2 fuel oil. The Final report demonstrated attainment of the Statewide Health Standard and was approved by the Department on August 19, 2011.

**Mac & Sam, Inc.**, Clifton Heights Borough **Delaware County**. Richard S. Werner, P.G., Environmental Consulting, Inc. 500 East Washington Street, Suite 375, Norristown, PA, 19401 on behalf of James Salmon, Clifton Heights Community and Economic Development Corporation, PO Box 83, Clifton Heights, PA 19018 has submitted a Final Report concerning the remediation of site groundwater contaminated with leaded gasoline. The Final report demonstrated attainment of the Site Specific Standard and was approved by the Department on July 28, 2011.

**Lansdale Medical Group Building**, Upper Gwynedd Township **Montgomery County**. Staci Cottone, J&J Spill Service and Supplies, Inc., PO Box 370, Blue Bell, PA 19422 on behalf of Carrie Johnson, Professional Realty Partnership c/o Halfpenny Management Company, PO Box 739, Ardmore, PA 19003 has submitted a 90 day Final Report concerning the remediation of site soil contaminated with unleaded gasoline. The 90 day Final report demonstrated attainment of the Statewide Health Standard and was approved by the Department on August 11, 2011.

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

**Chetan D. Khindri Residence**, 2734 Macungie Road, Lower Macungie Township, **Lehigh County**. Thomas Martinelli, JMT Environmental Technologies, Inc., P. O. Box 22044, Lehigh Valley, PA 18002-2044 submitted a Final Report (on behalf of his client, Dr. Chetan D.

Khindri, 2734 Macungie Road, Macungie, PA 18062), concerning the remediation of soil found to have been impacted by unleaded gasoline as a result of a release from a tipped over aboveground storage tank. The report documented attainment of the Residential Statewide Health Standard for soil and was approved on September 15, 2011. The report was originally submitted within 90 days of the release.

**Former New Jersey Zinc Company-West Plant**, 1120 Mauch Chunk Road, Palmerton Borough, **Carbon County**. Mr. J. Mark Nielsen, ENVIRON International Corporation, 1760 Market Street, Suite 1000, Philadelphia, PA 19103 submitted a Cleanup Plan (on behalf of his client, CBS Operations, Inc., 333 Wacker Drive, 27th Floor, Chicago, IL 60606), concerning the remediation of soil and groundwater found to have been impacted by VOCs, Semi-VOCs, and metals as a result of historical operations at this former zinc manufacturing plant. The plan met the requirements of the Site-Specific Standard for soil and groundwater and was approved on September 26, 2011.

*Southwest Region: Environmental Cleanup Program Manager, 400 Waterfront Drive, Pittsburgh, Pa 15222-4745*

**Kennedy Highlands Development**, Kennedy Township, **Allegheny County**. CP Environmental Group, 1092 Fifth Avenue, New Kensington, PA 15068 on behalf of Maronda Homes Inc., 1383 St. Route 30, Clinton, PA 15026 has submitted a Statewide Health Standard Final Report concerning the remediation of site soil contaminated by a former municipal landfill. The Final Report, approved on September 23, 2011, demonstrated attainment of the residential statewide health standard.

**Fyock Residence**, Bullsken Township, **Fayette County**. Brickhouse Environmental, 515 S. Franklin Street, West Chester, PA 19382 on behalf of Mr. and Mrs. David Fyock, 322 S. Locust Road, Acme, PA 15610 has submitted a Final Report for contaminated soil and groundwater. The Final Report, approved on September 19, 2011, demonstrated attainment of the residential statewide health standard.

**Robertshaw Controls Facility (Former)**, Youngwood Borough, **Westmoreland County**. American Geosciences, Inc., 3925 Reed Blvd, Suite 400, Murrysville PA 15668 on behalf of Robertshaw Controls company c/o Invensys Foxboro, 33 Commercial Street, C41-2#, Foxboro, MA 02035 has submitted a combined Risk Assessment and Cleanup Plan concerning the remediation of site soil and groundwater contaminated with TCE and its degradation products. The combined Risk Assessment and Cleanup Plan was approved on September 14, 2011.

#### HAZARDOUS WASTE TREATMENT, STORAGE AND DISPOSAL FACILITIES

**Permits issued under the Solid Waste Management Act of July 7, 1980 (P. L. 380, No. 97) (35 P. S. §§ 6018.101—6018.1003) and Regulations to Operate a Hazardous Waste Treatment, Storage, or Disposal Facility.**

*Northwest Region: Regional Solid Waste Manager, 230 Chestnut Street, Meadville, PA 16335-3481*

**Permit Application No. PAR000522326. Zambelli Fireworks Manufacturing Co.**, 782 Garner Road, Edinburg, PA 16116-5114, Mahoning Township, **Lawrence County**. A new RCRA Part B Hazardous Waste TSD permit for the thermal treatment (open burning) of

waste fireworks. A Draft permit was issued on July 1, 2011. No comments were received on the draft permit. Final permit was issued by the Northwest Regional Office on September 27, 2011.

## AIR QUALITY

**General Plan Approval and Operating Permit Usage Authorized under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127 to construct, modify, reactivate or operate air contamination sources and associated air cleaning devices.**

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

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

**GP14-46-0275: Schumacher & Benner Funeral Home & Crematory** (359 King Street, Pottstown, PA 19464) on September 15, 2011, to construct and operate a human crematory in Pottstown Borough, **Montgomery County**.

**GP1-46-0243: Main Line Hospitals, Inc.—Lankenau Hospital** (359 King Street, Pottstown, PA 19464) on September 22, 2011, to construct and operate (4) four dual-fired cleaver brooks fire tube boilers in Lower Merion Township, **Montgomery County**.

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

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

**58-399-025GP5: Laser Northeast Gathering Co. LLC** (1212 South Abington Road, Clarkes Summit, PA 18411) on September 23, 2011, for construction and operation of an IC Engine with dehydrator/reboiler at their Baker Compressor Station site in Forest Lake Township, **Susquehanna County**.

**58-399-026GP5: Laser Northeast Gathering Co. LLC** (1212 South Abington Road, Clarkes Summit, PA 18411) on September 23, 2011, for construction and operation of an IC Engine with dehydrator/reboiler at their Fraser Compressor Station site in Forest Lake Township, **Susquehanna County**.

**58-399-027GP5: Laser Northeast Gathering Co. LLC** (1212 South Abington Road, Clarkes Summit, PA 18411) on September 23, 2011, for construction and operation of an IC Engine with dehydrator/reboiler at their Shaskas Compressor Station site in Jessup Township, **Susquehanna County**.

**66-310-027GP3: Meshoppen Stone, Inc.** (PO BOX 127, Frantz Road, Meshoppen, PA 18630) on September 20, 2011, for construction and operation of a Portable Crushing Operation with watersprays at the Kuback Wind Farm in Eaton Township, **Wyoming County**.

**66-329-013GP9: Meshoppen Stone, Inc.** (PO BOX 127, Frantz Road, Meshoppen, PA 18630) on September 20, 2011, for installation and operation of a Diesel IC engine at the Kuback Wind Farm in Eaton Township, **Wyoming County**.

*Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110*

*Contact: Thomas J. Hanlon, Chief, East Permitting Section—Telephone: 717-705-4862 or Daniel Husted, Chief, West Permitting Section—Telephone: 717-949-7935*

**GP14-36-03187: Allied Veterinary Cremation, Ltd.**, (719 Lawn Road, Palmyra, PA 17078) on September 15, 2011, for installation and operation under GP14 of four (4) veterinary cremation units in South Londonderry Township, **Lebanon County**.

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

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

**GP3-09-354: Robert Johnson Flagstone, Inc.** (3658 Old Stage Coach Road, Wyalusing, PA 18853) on September 12, 2011, for construction and operation of a portable nonmetallic mineral processing plant pursuant to the General Plan Approval And/Or General Operating Permit For Portable Nonmetallic Mineral Processing Plants (BAQ-GPA/GP-3) at the Sandt Quarry in Herrick Township, **Bradford County**.

**GP9-09-354: Robert Johnson Flagstone, Inc.** (3658 Old Stage Coach Road, Wyalusing, PA 18853) on September 12, 2011, for construction and operation of a 350 brake horsepower, Caterpillar model C-9 CLJ04853 diesel-fired engine and three (3) 100 brake horsepower Deutz model TCD2012L04 2V diesel-fired engines pursuant to the General Plan Approval And/Or General Operating Permit for Diesel or #2 Fuel-fired Internal Combustion Engines (BAQ-GPA/GP9) at the Sandt Quarry in Herrick Township, **Bradford County**.

**GP5-53-115: Penn Virginia Oil & Gas Corp.** (1000 Town Center Way, Suite 210, Canonsburg, PA 15317) on September 14, 2011, for construction and operation of a 1,380 brake horsepower, Caterpillar model G3516B natural gas-fired engine to be equipped with an Emit Technologies, Inc. model ELS-3550Z-1616F-32CEE-241 oxidation catalyst and a 15 MMscf/day, Exterran, model SN1239 Tri-ethylene glycol dehydrator pursuant to the General Plan Approval And/Or General Operating Permit for Natural Gas, Coal Bed Methane or Gob Gas Production or Recovery Facilities (BAQ-GPA/GP5) at the Finley Run Compressor Station in Shippen Township, **Cameron County**.

**GP3-18-205: Glenn O. Hawbaker, Inc.** (711 East College Avenue, Bellefonte, PA 16823) on September 21, 2011, to construct and operate a portable nonmetallic mineral processing plant with associated water spray dust suppression system pursuant to the General Plan Approval And/Or General Operating Permit For Portable Nonmetallic Mineral Processing Plants (BAQ-GPA/GP-3) at the Dunkle Construction Site located in Lamar Township, **Clinton County**.

**GP11-18-205: Glenn O. Hawbaker, Inc.** (711 East College Avenue, Bellefonte, PA 16823) on September 21, 2011, to construct and operate one 300 brake horsepower, Caterpillar model C-9DITA diesel-fired engine pursuant to the General Plan Approval And/Or General Operating Permit (BAQ-GPA/GP-11): Nonroad engines at the Dunkle Construction Site located in Lamar Township, **Clinton 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

**46-0262D: Penn Color, Inc.** (2755 Bergey Road, Hatfield, PA 19440) on September 21, 2011, for installation of two (2) new pieces of equipment used to manufacture pigment including: two (2) extruders (pigment manufacturing equipment) at the Penn Color, Inc., pigment dispersion manufacturing facility at 2755 Bergey Road, Hatfield, PA 19440, Hatfield Township, **Montgomery County**. The installation of pigment manufacturing equipment will result in an increase in VOC and PM emissions. The permittee will take limitations to remain a synthetic minor facility for all pollutants. 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.

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

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

**40-313-048: First Quality Nonwovens, Inc.** (101 Green Mountain Road, Humboldt Industrial Park, Hazleton, PA 18202) on September 20, 2011, for installation of air pollution control equipment for their facility in Hazle Township, **Luzerne County**.

*Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110*

Contact: Thomas J. Hanlon, Chief, East Permitting Section—Telephone: 717-705-4862 or Daniel Husted, Chief, West Permitting Section—Telephone: 717-949-7935

**21-03055B: Fry Communications, Inc.** (101 Fry Drive, Mechanicsburg, PA 17050-2654) on September 21, 2011, for installation and temporary operation of a web offset printing press with VOC emissions controlled by an integral afterburner, at the printing facility located in Silver Spring Township, **Cumberland County**.

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

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

**19-00001B: Rieter Automotive North America, Inc.** (480 West 5th Street, Bloomsburg, PA 17815-1563) on September 26, 2011, for modification of Boiler No. 7 (Source ID 033) at their facility in Bloomsburg Borough, **Columbia County**. The modification is for converting the boiler from burning to fuel oil to burning natural gas.

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**Plan Approval Revisions Issued including Extensions, Minor Modifications and Transfers of Ownership under the Air Pollution Control Act and 25 Pa. Code §§ 127.13, 127.13a and 127.32.**

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

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

**09-0203: AE Polysilicon Corp.** (150 Roebing Road, Fairless Hills, PA 19030) on September 19, 2011, to operate a scrubber and vent filter in Falls Township, **Bucks County**.

**15-0060F: Southeastern Chester County Refuse Authority - SECCRA** (P. O. Box 221, Kennett Square,

PA 19348) on September 19, 2011, to operate an IC engine/generator in London Grove Township, **Chester County**.

**09-0196D: Abington Reldan Metals, LLC.** (550 Old Bordertown Road, Fairless Hills, PA 19030) on September 16, 2011, to operate a scrubber in Falls Township, **Bucks County**.

**09-0102D: Clean Earth of SE PA, Inc.** (7 Steel Road East, Morrisville, PA 19067) on September 16, 2011, to operate a high efficiency cyclone in Falls Township, **Bucks County**.

**09-0211: Pennridge School District** (1303 North 5th Street, Perkasio, PA 18944) on September 19, 2011, to operate a Boilers in Perkasio Borough, **Bucks County**.

*Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110*

Contact: Thomas J. Hanlon, Chief, East Permitting Section—Telephone: 717-705-4862 or Daniel Husted, Chief, West Permitting Section—Telephone: 717-949-7935

**36-05140C: Valley Proteins, Inc.** (693 Wide Hollow Road, East Earl, PA 17519) on September 21, 2011, for the temporary operation of a new 33.5 mmbtu/hr boiler fueled with #2 oil, #6 oil, and by-product animal fat, at the rendering plant in East Earl Township, **Lancaster County**. The plan approval was extended.

*Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745*

Contact: M. Gorog & B. Hatch, Environmental Engineer Manager—Telephone: 412-442-4163/5226

**65-00016H: Latrobe Specialty Steel Co.** (2626 Ligonier Street, Latrobe, PA, 15650) on September 21, 2011, the company has submitted a plan approval extension application to extend the plan approval until a renewal Title V operating permit can be issued to incorporate the plan approval requirements in Latrobe, **Westmoreland County**. Extension of the plan approval has been approved until March 30, 2012.

*Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481*

Contact: Edward Orris, New Source Review Chief—  
Telephone: 814-332-6636

**42-004E: American Refining Group** (77 North Kendall Avenue, Bradford, PA 16701) on September 30, 2011, for a minor plan approval amendment to waive the H2S performance testing and implement an H2S alternative monitoring plan associated with the Hydrotreater Unit and the flue gas Desulfurization Unit permitted in Plan Approval 42-004C in the Bradford facility in Bradford City, **McKean County**. This is a Title V facility, Permit No. 42-0004.

**42-178C Glenn O. Hawbaker, Inc.** (711 East College Avenue, Bellefonte, PA 16823) on September 30, 2011, for modification of a plan approval to add a R.A.P. mixing drum after the rotary dryer, RAP crusher, use waste asphalt shingles in the hot mix asphalt and permit three portable plants to crush and screen materials as needed at Glenn O. Hawbaker, Inc. Plant No. 7-Turtlepoint Asphalt in Annin Township, **McKean County**.

**62-017R: United Refining Company** (15 Bradley Street, Warren, PA 16365), issued on September 30, 2011, for the removal of the external cyclones and expansion of the electric static precipitator that controls the FCC in Warren City, **Warren County**. This is a Title V facility.

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**Title V Operating Permits Issued under the Air Pollution Control Act and 25 Pa. Code Chapter 127, Subchapter G.**

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*Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110*

*Contact: Thomas J. Hanlon, Chief, East Permitting Section—Telephone: 717-705-4862 or Daniel Husted, Chief, West Permitting Section - Telephone: 717-949-7935*

**06-05100: Ontelaunee Power Operating Co., Inc.** (5115 Pottsville Pike, Reading, PA 19605-9729) on September 16, 2011, for their electric generating facility in Ontelaunee Township, **Berks County**. The Title V permit was renewed.

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**Operating Permits for Non-Title V Facilities Issued under the Air Pollution Control Act and 25 Pa. Code Chapter 127, Subchapter F.**

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*Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19428*

*Contact: Janine Tulloch-Reid, Facilities Permitting Chief—Telephone: 484-250-5920*

**23-00101: Esschem, Inc.** (4000 Columbia Avenue, Linwood, PA 19061) on September 15, 2011, for a Non-Title V Facility, State-Only, Natural Minor Permit in Lower Chichester Township, **Delaware County** to manufacture acrylic polymers and monomers for medical devices and the cosmetic industry. The sources of emissions include boilers, the Methacrylate Polymerization process and a scrubber. The facility has a potential to emit less than 25 tons per year of Volatile Organic Compounds (VOCs) and less than 10 tons per year of Hazardous Air Pollutants, (Methyl Methacrylate). Monitoring, record keeping and reporting requirements have been added to the permit to address applicable limitations.

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

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

**64-00011: Wayco, Inc.** (P. O. Box Y, Waymart, PA 18472-0240) on September 26, 2011, for a sand and gravel processing plant in South Canaan Township, **Wayne County**. The issued State-only Operating Permit contains applicable requirements for emissions limitations, monitoring, recordkeeping, reporting and work practice standards designed to ensure facility compliance with Federal and State air pollution regulations. This is a renewal of a State-Only Operating Permit.

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**Operating Permit Revisions Issued including Administrative Amendments, Minor Modifications or Transfers of Ownership under the Air Pollution Control Act and 25 Pa. Code §§ 127.412, 127.450, 127.462 and 127.464.**

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

*Contact: Janine Tulloch-Reid, Facilities Permitting Chief—Telephone: 484-250-5920*

**46-00160: BASF Corp.** (300 Brookside Avenue, Ambler, PA 19002) on September 15, 2011, for an Administrative Amendment to State Only (Natural Minor) Operating Permit No. 46-00160 for its facility in Lower Gwynedd Township, **Montgomery County**. The Administrative

Amendment incorporates a change in ownership of the facility from Cognis Corporation into the State Only Operating Permit.

The Administrative Amendment is issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code § 127.450.

**46-00032: SPS Technologies, Inc.** (301 Highland Avenue, Jenkintown, PA 19046) on September 22, 2011, an aerospace parts manufacturing facility located at Highland Avenue Abington Township, **Montgomery County**. This Title V Operating Permit was administratively amended in accordance with 25 Pa. Code Section 127.450, to incorporate conditions of a plan approval number 46-0032D issued for the installation of a metal alloys planting line (Automatic Rack Plating Line 1, Source Id 101).

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**Operating Permits Denied, Terminated, Suspended or Revoked under the Air Pollution Control Act and 25 Pa. Code §§ 127.431 and 127.461.**

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

*Contact: Janine Tulloch-Reid, Facilities Permitting Chief—Telephone: 484-250-5920*

**15-00124: MacKissic, Inc.** (P. O. Box 111, Parker Ford, PA 19457) on September 23, 2011, for revocation of their Non-Title V operating permit for the operation of paint spray booth with particulate filtering system, Source Id 101, and infrared oven, Source Id 102, located at 1189 Old Schuylkill Rd, Parker Ford, in East Coventry Township, **Montgomery County**. This operating permit was revoked because of permanent shutdown of all the facility permitted sources and installation of the exempted sources at the facility.

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**ACTIONS ON COAL AND NONCOAL MINING ACTIVITY APPLICATIONS**

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**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).**

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*Coal Permits Actions*

*California District Office: 25 Technology Drive, Coal Center, PA 15423, 724-769-1100*

**63921301 and NPDES No. PA 021443, UMC O Energy, Inc.,** (279 Shannon Road, to renew the permit and related NPDES the High Quality Mine in Fallowfield Township, **Washington County** to delete 281.4 acres from the subsidence control plan permit area and revise the mining plan from longwall mining to room-and-pillar

mining, No additional discharges. The application was considered administratively complete on July 1, 2009. Application received: December 9, 2008. Permit issued: September 22, 2011.

*Greensburg District Mining Office: Armbrust Professional Center, 8205 Route 819, Greensburg, PA 15601, 724-925-5500*

**02100102 and NPDES Permit No. PA0252000. Neiswonger Construction, Inc.** (17592 Route 322, Strattanville, PA 16258). Permit issued for commencement, operation and reclamation of a bituminous surface mine, located in Jefferson Hills Borough, **Allegheny County**, affecting 35.3 acres. Receiving streams: unnamed tributary to Monongahela River. Application received: September 3, 2010. Permit issued: September 21, 2011.

*Knox District Mining Office: P. O. Box 669, 310 Best Avenue, Knox, PA 16232-0669, 814-797-1191*

**33070108. Ben Hal Mining Company** (389 Irishtown Road, Grove City, PA 16127) Revision to an existing bituminous surface mine to change the post-mining land use from forestland to unmanaged natural habitat on the Jacob H. & Marie J. Miller property in McCalmont Township, **Jefferson County**. Receiving streams: Six unnamed tributaries to Little Sandy Creek. Application received: July 21, 2011. Permit Issued: September 22, 2011.

**16060104. Ben Hal Mining Company** (389 Irishtown Road, Grove City, PA 16127) Renewal of an existing bituminous surface mine in Monroe Township, **Clarion County** affecting 16.0 acres. Receiving streams: Three unnamed tributaries to Piney Creek and Piney Creek. This renewal is issued for reclamation only. Application received: July 29, 2011. Permit Issued: September 21, 2011.

#### *Noncoal Permits Actions*

*Knox District Mining Office: P. O. Box 669, 310 Best Avenue, Knox, PA 16232-0669, 814-797-1191*

**37042801. Mayberry Sand & Gravel, Inc.** (4983 18 South, New Castle, PA 16102). Final bond release for a small industrial minerals surface mine in North Beaver Township, **Lawrence County**. Restoration of 3.6 acres completed. Receiving streams: Beaver River to Ohio River. Application Received: March 25, 2011. Final bond release approved: August 31, 2011.

**10960304 and NPDES Permit No. PA0227218. Quality Aggregates, Inc.** (4955 Steubenville Pike, Suite 255, Pittsburgh, PA 15205) Revision to an existing large industrial minerals operation to add 358.6 acres of underground mining in Washington Township, **Butler County**. Receiving streams: Unnamed tributary to Slippery Rock Creek. Application received: March 21, 2011. Permit Issued: September 22, 2011.

*Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, 814-342-8200*

**53112801. Glenn O. Hawbaker, Inc.** (1952 Waddle Road, State College, PA 16804), transfer of an existing small non coal (53950804) sandstone/bluestone operation from Robert H. Ostrom in Roulette Township, **Potter County** affecting 5.7 acres. This is an upgrade from 2,000 tons per year to 10,000 tons per year. Receiving streams: Trout Brook and Allegheny River. 14112801. New Enterprise Stone & Lime Company, Inc. (Box 77, Church Street, New Enterprise, PA 16664) Application received: February 10, 2011. Permit issued: September 15, 2011.

**53112801GP-104. Glenn O. Hawbaker, Inc.** (1952 Waddle Road, State College, PA 16804), hereby approves the Notice of Intent (NOI) submitted for coverage to discharge stormwater associated with the NPDES to the following surface waters in Roulette Township, **Potter County**. Receiving streams: Trout Brook and Allegheny River. Application received: February 10, 2011. Permit issued: September 15, 2011.

**14112801. New Enterprise Stone & Lime Company, Inc.** (Box 77, Church Street, New Enterprise, PA 16664), transfer of an existing small non coal (14060802) shale and sandstone operation from Thomas J., Robert B., & William C. Confer, Jr. in Burnside Township, **Centre County** affecting 6.8 acres. This is an upgrade from 2,000 tons per year to 10,000 tons per year. Receiving streams: Unnamed Tributary to Seven Mile Run, Moshannon Creek, West Branch Susquehanna River. Application received: July 8, 2011. Permit issued: September 15, 2011.

**14112801GP-104. New Enterprise Stone & Lime Company, Inc.** (Box 77, Church Street New Enterprise, PA 16664) hereby approves the Notice of Intent (NOI) submitted for coverage to discharge stormwater associated with NPDES permit to the following surface waters in Burnside Township, **Centre County**. Receiving streams: Unnamed Tributary to Seven Mile Run, Moshannon Creek, West Branch Susquehanna River. Application received: July 8, 2011. Permit issued: September 15, 2011.

*Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, 570-621-3118*

**58110804 and General NPDES Permit No. 58110804GP104. Lucas Mack,** (7476 South Weston Road, Kingsley, PA 18826), commencement, operation and restoration of a quarry operation in Brooklyn Township, **Susquehanna County** affecting 5.0 acres, receiving stream: unnamed ravine to Martins Creek, classified for the following use: cold water fishes. Application received: May 2, 2011. Permit issued: September 23, 2011.

#### **ACTIONS ON BLASTING ACTIVITY APPLICATIONS**

**Actions on applications under the Explosives Acts of 1937 and 1957 and 25 Pa. Code § 211.124. Blasting activity performed as part of a coal or noncoal mining activity will be regulated by the mining permit for that coal or noncoal mining activity.**

#### *Blasting Permits Actions*

*Greensburg District Mining Office: Armbrust Professional Center, 8205 Route 819, Greensburg, PA 15601, 724-925-5500*

**63114006. Del-Rick Corp.** (P. O. Box 693, Tazewell, VA 24651). Blasting activity permit for the construction of the CNXNV30 pond and pad for seismic activity located in Morris Township, **Washington County**. The duration of blasting is expected to last one year. Blasting permit issued: September 23, 2011.

*Knox District Mining Office: P. O. Box 669, 310 Best Avenue, Knox, PA 16232-0669, 814-797-1191*

**42114005. Force, Inc.** (1077 Route 119 Hwy North, Indiana, PA 15701) Blasting activity permit for construction blasting related to a gas well in Sergeant Township, **McKean County**. This blasting activity permit expires on August 31, 2012. Permit Issued: September 20, 2011.

**25114003. Controlled Demolition, Inc.** (2737 Meryman's Mill Road, Phoenix, MD 31131) Blasting activity

permit for construction blasting in the City of Erie, **Erie County**. This blasting activity permit will expire on October 6, 2011. Permit Issued: September 21, 2011.

**16114001. Mashuda Corporation** (21101 Route 19, Cranberry Township, PA 16066) Blasting activity permit for construction blasting related to a gas well in Porter Township, **Clarion County**. This blasting activity permit expires on March 15, 2012. Permit Issued: September 26, 2011.

*Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, 814-342-8200*

**08114132. Maurer & Scott Sales, Inc.** (122 Thomas St. Coopersburg, PA 18036). Blasting for a natural gas well pad located in Wilmot Township, **Bradford County**. Permit issued: September 23, 2011. Permit expires: May 31, 2012.

**57114005. T.A.W. Inc.** (RR 2, Box 14, Wysox, PA 18854). Blasting for a natural gas well pad located in Dushore Borough and Cherry Twp, **Sullivan County**. Permit issued: September 23, 2011. Permit expires: December 31, 2011.

*Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, 570-621-3118*

**54114002. Bernard J. Hasara Drilling and Blasting**, (1125 East Mahanoy Avenue, Mahanoy City, PA 17948), construction blasting at Eagle Rock Resorts in North Union & East Union Townships, **Schuylkill County** and Hazle & Black Creek Townships, Luzerne County with an expiration date of September 15, 2012. Permit issued: September 21, 2011.

**19114101. Rock Work, Inc.**, (1257 DeKalb Pike, Blue Bell, PA 19422), construction blasting for White Pines Landfill in Pine Township, **Columbia County** with an expiration date of September 30, 2012. Permit issued: September 21, 2011.

**54114106. Explosive Services, Inc.**, (7 Pine Street, Bethany, PA 18431), construction blasting for Eagle Rock Resorts in East and North Union Townships, Schuylkill County and Black Creek and Hazle Townships, **Luzerne County** with an expiration date of September 20, 2012. Permit issued: September 21, 2011.

**67114112. J Roy's, Inc.**, (P. O. Box 125, Bowmansville, PA 17507), construction blasting for Penn Township Sewer Interceptor in Penn Township, **York County** with an expiration date of September 18, 2011. Permit issued: September 21, 2011.

**15114110. Maine Drilling & Blasting**, (P. O. Box 1140, Gardiner, ME 04345), construction blasting for Route 29 Interchange in Charlestown and Tredyffrin Townships, **Chester County** with an expiration date of September 16, 2012. Permit issued: September 23, 2011.

**19114102. Rock Work, Inc.**, (1257 DeKalb Pike, Blue Bell, PA 19422), construction blasting for White Pines Landfill in Pine Township, **Columbia County** with an expiration date of September 30, 2012. Permit issued: September 23, 2011.

**46114002. Explo-Craft, Inc.**, (P. O. Box 1332, West Chester, PA 19380), construction blasting for the Zheng Foundation in Lower Merion Township, **Montgomery County** with an expiration date of December 31, 2011. Permit issued: September 26, 2011.

## 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.

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**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.**

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*Permits, Environmental Assessments and 401 Water Quality Certifications Issued:*

### WATER OBSTRUCTIONS AND ENCROACHMENTS

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

**E15-811. Brandywine Realty Trust**, 555 E. Lancaster Avenue, Suite 100, Berwyn, PA 19087, Tredyffrin Township, **Chester County**, ACOE Philadelphia District.

To stabilize and restore an existing eroded stream channel of an unnamed tributary of Little Valley Creek located within Berwyn Plaza by utilizing rocks cross vanes and retaining walls.

The site is located on the south side of S.R. 252 along Cassatt Road (Valley Forge, PA USGS, N: 11.11 inches; W: 11.7 inches).

The issuance of this permit also constitutes approval of a Water Quality Certification under Section 401 of the Federal Water Pollution Control Act [33 U.S.C.A. 1341 (a)].

*Northcentral Region: Watershed Management Program Manager, 208 West Third Street, Williamsport, PA 17701, 570-327-3636*

**E12-182. Cameron County Canoe & Kayak Classic**, 90 Church Street, Driftwood, PA 15832-5732. Cameron County Canoe & Kayak Classic Picnic and Parking Areas in Driftwood Branch—Sinnemahoning Creek Floodway, Lumber Township, Cameron County, ACOE Baltimore District (Cameron, PA Quadrangle Latitude: 41° 26' 14.2"; Longitude: 78° 11' 11.2").

The applicant proposes to construct, operate and maintain a parking and picnic area that is located in the 100-year floodway of Driftwood Branch, Sinnemahoning Creek. Construction of the picnic area (Area #1) shall be limited to light grading, seeding and mulching over a 30-foot wide x 110-foot wide area, a 10-foot x 12-foot open-sided pavilion and project signage. Construction of the parking area (Area #3) shall be limited to removal of existing fill from the southern right-of-way of SR 0120 and placement of aggregate wearing surface over a 30-foot x 90-foot area not to exceed a maximum elevation of 932-feet as shown on the project plans. Neither flood storage capacity nor flood water surface elevations shall be adversely affected by the project. The project is located southern right-of-way of SR 120 approximately 2500-feet north of SR 0120 and SR 0150 intersection. This permit was issued under Section 105.13(e) "Small Projects."

*Southwest Region: Watershed Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.*

**E02-1633. L. S. Fiore Partnership**, 5506 6th Avenue, Altoona, PA 16602. The applicant proposes to construct and maintain a 225' long, 54" diameter CMP stream enclosure and to relocate and enhance approximately 411' of stream channel, and to construct and maintain a 12' long 36" diameter CMP culvert all within an unnamed tributary to Kilbuck Run (CWF) for the purpose of developing a convenience store and drive-thru bank. The project is located at the intersection of Red Mud Hollow Road and Mt. Nebo Road in Ohio Township, Allegheny County. (Emsworth, PA Quadrangle N: 9.8"; W: 15.9" Latitude: 40° 33' 17.1"; Longitude: 80° 6' 54.3"). To compensate for the stream impacts the permittee shall construct and maintain two overbank wetland habitat areas located along the relocated stream channel.

**E26-356. Saltlick Township**, P. O. Box 403, 147 Municipal Road, Melcroft, PA 15462. The applicant proposes to remove the existing bridge structure on Keslar School Road (T-818), Station 174+78.5 and to construct and maintain a 20-foot wide by 6.4-foot high by approximately 26-foot long box culvert with baffles, wingwalls, outlet protection, and stream bank stabilization across an unnamed tributary to Little Chamption Creek (CWF). The project will impact approximately 80 linear feet of water-course and permanently impact a de minimus amount of wetland (0.01 ac). Approximately 0.033 ac of wetland will be temporarily impacted by equipment operating on wetland matting during construction. The structure is located in Saltlick Township, **Fayette County** (Donegal, PA Quadrangle N: 16.1 inches, W: 5.9 inches; Latitude: 40° 5' 21"; Longitude: 79° 25' 01").

**E65-941. Westmoreland Conservation District**, 218 Donohoe Road, Greensburg, PA 15601. The applicant proposes to construct and maintain a sediment collection facility, consisting of stream diverter built with 3' x 3' concrete pillars in Little Pucketa Creek (TSF), and an approximately 275' x 125' off-stream debris basin, for the

purpose of preventing sediment buildup downstream. The project is located approximately 2,000' northeast of Valley High School in the City of New Kensington, **Westmoreland County**. (New Kensington, PA West Quadrangle N: 12.81"; W: 0.01"; Latitude: 40° 34' 14"; Longitude: 79° 45' 00").

*Northwest Region: Oil and Gas Management Program Manager, 230 Chestnut Street, Meadville, PA 16335*

**E62-08-001, PAPCO, Inc.**, P. O. Box 627, Warren, PA 16365. Lot 49, in Mead Township, **Warren County**, United States Army Corps of Engineers Pittsburgh District (Clarendon, PA Quadrangle N: 9.6 inches; W: 12.7 inches).

The PAPCO Lot 49 project is located south of Browns Run in the Allegheny National Forest in Mead Township, Warren County. The applicant proposes to construct and maintain roadways, pads, and utility lines for the drilling of five (5) wells. The total acreage proposed to be disturbed is 2.37 acres. The water obstructions and encroachments associated with the project include the construction and maintenance of one permanent pipeline/road stream crossing of a UNT to Browns Run (EV), resulting in a permanent impact of 30 feet of stream, and two permanent pipeline/road wetland crossings of PEM EV wetlands, resulting in a permanent impact of 0.031 acre of wetland. Temporary impacts are proposed for the pipeline crossings and temporary road crossings of a UNT to Browns Run (EV) and three PEM EV wetlands. The resulting temporary impacts are 8 feet of stream and 0.02 acres of wetland. The water obstructions and encroachments for the purpose of installing the roadways and pipeline are described below:

(1) A 2 inch diameter plastic gathering line and a French mattress permanent road crossing of a palustrine emergent (PEM) EV wetland (Wetland F). Impacted wetland area: 1162 square feet; (41° 48' 13" N, 79° 00' 30" W).

(2) A 2 inch diameter plastic gathering line and a French mattress permanent road crossing of a palustrine emergent (PEM) EV wetland (Wetland G). Impacted wetland area: 196 square feet; (41° 48' 13" N, 79° 00' 26" W).

(3) A 2 inch diameter plastic gathering line and a 24" culvert permanent road crossing of a UNT to Browns Run (EV). Impacted stream length: 30 feet; (41° 48' 15" N, 79° 00' 22" W).

(4) A 2 inch diameter plastic gathering line and a temporary road crossing of a palustrine emergent (PEM) EV wetland (Wetland A). Impacted wetland area: 96 square feet; (41° 48' 15" N, 79° 00' 32" W).

(5) A 2 inch diameter plastic gathering line and a temporary road crossing of a palustrine emergent (PEM) EV wetland (Wetland B). Impacted wetland area: 224 square feet; (41° 48' 15" N, 79° 00' 30" W).

(6) A 2 inch diameter plastic gathering line and a temporary road crossing of a UNT to Browns Run (EV) and a palustrine emergent (PEM) EV wetland (Wetland C). Impacted stream length: 8 feet; Impacted wetland area: 440 square feet; (41° 48' 15" N, 79° 00' 28" W).

#### ENVIRONMENTAL ASSESSMENTS

*Southcentral Region: Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110*

**EA36-025: John Koser**, 523 Koser Road, Elizabethtown, PA 17022, in Conewago Township, Dauphin County

and Mount Joy Township, **Lancaster County**, U.S. Army Corps of Engineers, Baltimore District

To restore and maintain 981.0 feet of Conewago Creek (TSF, MF) including the installation of 7 rock vanes, 240.0 feet of R-7 rock toe protection, 52.0 feet of R-7 dumped rock streambank protection, 75.0 feet of R-5 riprap bank protection, and 375.0 feet of live stake/shrub/tree plantings. The project is located immediately upstream of Koser Road (Elizabethtown, PA Quadrangle; N: 11.95 inches, W: 12.1 inches; Latitude: 40°11'26.8", Longitude: -76°35'12") in Conewago Township, Dauphin County and Mount Joy Township, Lancaster County. No wetlands will be impacted by this project.

#### EROSION AND SEDIMENT CONTROL

The following Erosion and Sediment Control permits have been issued.

Persons aggrieved by an action may appeal that action to the Environmental Hearing Board (Board) under section 4 of the Environmental Hearing Board Act and 2 Pa.C.S. §§ 501—508 and 701—704. The appeal should be sent to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, PO Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users may contact the Board through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin* unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary to the Board at (717) 787-3483. This paragraph does not, in and of itself, create a right of appeal beyond that permitted by applicable statutes and decisional law.

For individuals who wish to challenge an action, the appeal must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

*Southwest Region: Oil & Gas Program Manager, 400 Waterfront Drive, Pittsburgh, PA*

6/23/2011

ESCGP-1 No.: ESX11-125-0055  
Applicant Name: CNX Gas Company, LLC  
CONTACT: Daniel Bitz  
Address: 200 Evergreene Drive  
City: Waynesburg State: PA Zip Code: 15370  
County: Washington Township(s): South Franklin  
Receiving Stream(s) And Classifications: UNT to Chartiers Creek & UNT to Tenmile Creek, Tenmile Creek

8/9/2011

ESCGP-1 No.: ESX09-059-0064 Major Revision  
Applicant Name: EQT Gathering  
Contact Person: Brian Clouto  
Address: 455 Racetrack Road  
City: Washington State: PA Zip Code: 15301  
County: Greene Township(s): Morgan  
Receiving Stream(s) and Classifications: UNT to Poverty Run, Ruff Creek; UNT to Hull, Ruff Creek HQ

7/18/2011

ESCGP-1 No.: ESX11-125-0062  
Applicant Name: Range Resources—Appalachia LLC  
Contact Person: Carla Suszkowski  
Address: 380 Southpointe Boulevard  
City: Canonsburg State: PA Zip Code: 15317  
County: Washington Township(s): Smith  
Receiving Stream(s) and Classifications: UNTs to Raccoon Creek, Raccoon Creek Watershed

6/21/2011

ESCGP-1 No.: ESX11-125-0053  
Applicant Name: MarkWest Liberty Midstream & Resources, LLC  
Contact Person: Robert McHale  
Address: 601 Technology Drive Suite 130  
City: Canonsburg State: PA Zip Code: 15137  
County: Washington Township(s): Amwell  
Receiving Stream(s) and Classifications: Horne Run TSF and UNT to Bane Creek TSF, Other

7/8/2011

ESCGP-1 No.: ESX11-125-0059  
Applicant Name: Chesapeake Appalachia LLC  
Contact Person: Eric Haskins  
Address: 101 North Main St  
City: Athens State: PA Zip Code: 18810  
COUNTY Washington Township(s): Carroll  
Receiving Stream(s) and Classifications: UNT WWF Monongahela River WWF Monongahela. Other

7/19/2011

ESCGP-1 No.: ESX11-129-0022  
Applicant Name: Chevron Appalachia LLC  
Contact Person: Jeremy Hirtz  
Address: 800 Mountain View Drive  
City: Smithfield State: PA Zip Code: 15478  
County: Westmoreland Township(s): South Huntingdon  
Receiving Stream(s) and Classifications: UNTs to Youghiogheny River and Painters Run/Lower Youghiogheny River, Other

4/18/11

ESCGP-1 No.: ESX11-005-0007  
Applicant Name: EXCO Resources (PA) LLC  
Contact Person: Larry Sanders  
Address: 3000 Ericsson Drive Suite 200  
City: Warrendale State: PA Zip Code 15086  
County: Armstrong Township(s): Rayburn  
Receiving Stream(s) and Classifications: UNT to Cowanshannock Creek, Other

7/12/2011

ESCGP-1 No.: ESX11-059-0044  
Applicant Name: Appalachia Midstream Services LLC  
Contact Person: Eric Stewart  
Address: 179 Chesapeake Drive  
City: Jane Lew State: WV Zip Code: 26378-8601  
County: Greene Township(s): Aleppo and Springhill  
Receiving Stream(s) and Classifications: Harts Run, Pennsylvania Fork Fish Creek, Other

7/8/11

ESCGP-1 No.: ESX11-007-0006  
Applicant Name: Chesapeake Appalachia LLC  
Contact Person: Eric Haskins  
Address: 101 North Main Street  
City: Athens State: PA Zip Code: 18810  
County: Beaver Township(s): Ohioville  
Receiving Stream(s) and Classifications: Wolf Run WWF, Ohio River Basin, Other



07/27/2011

ESCGP-1 NO.: ESX11-125-0066  
 Applicant Name: Rice Drilling B LLC  
 CONTACT PERSON: Toby Rice  
 ADDRESS: 171 Hillpointe Drive  
 City: Canonsburg State: PA Zip Code: 15317  
 County: Washington Township(s): North Bethlehem  
 Receiving Stream(s) and Classifications: UNT to South  
 Branch Pigeon Creek, Other

7/28/11

ESCGP-1 NO.: ESX11-059-0023  
 Applicant Name: Chief Oil & Gas LLC  
 CONTACT: Michael Hritz  
 ADDRESS: 6051 Wallace Road Ext. Suite 210  
 City: Wexford State: Pa Zip Code: 15090  
 County: Greene Township(s): Gilmore  
 Receiving Stream(s) and Classifications: Clawson Run  
 WWF, Pennsylvania Fork Dunkard Creek WWF

8/8/2011

ESCGP-1 NO.: ESX11-125-0017 Major Revision  
 Applicant Name: MarkWest Liberty Midstream &  
 Resources LLC  
 CONTACT: Robert McHale  
 ADDRESS: 601 Technology Drive Suite 130  
 City: Canonsburg State: PA Zip Code: 15137  
 County: Washington Township(s): Blaine, Buffalo,  
 Hopewell  
 Receiving Stream(s) and Classifications: UNTs to Brush  
 Run HQ-WWF, Brush Run HQ-WWF, UNTs to  
 Buffalo Creek HQ-WWF Brush Run and Buffalo  
 Creek Watersheds

8/17/11

ESCGP-1 NO.: ESX09-129-0007 Major Revision  
 Applicant Name: RW Gathering LLC  
 CONTACT: David Freudenrich  
 ADDRESS: 1000 Town Center Suite 130  
 City: Canonsburg State: PA Zip Code: 15317  
 County: Westmoreland Township(s): Derry  
 Receiving Stream(s) and Classifications: UNT to Stoney  
 Run/Conemaugh Watershed, Other CWF

8/19/2011

ESCGP-1 NO.: ESX09-059-0064 Major Revision  
 Applicant Name: EQT Gathering LLC  
 CONTACT: Brian Clauto  
 ADDRESS: 455 Racetrack Road  
 City: Washington State: PA Zip Code: 15301  
 County: Greene Township(s): Morgan  
 Receiving Stream(s) and Classifications: UNT to Poverty  
 Run/Ruff Creek; UNT to Hull Run/Ruff Creek, HQ

8/8/2011

ESCGP-1 NO.: ESX11-005-0015  
 Applicant Name: EXCO Resources (PA) LLC  
 CONTACT: Larry Sander  
 ADDRESS: 3000 Ericsson Drive, Suite 200  
 City: Warrendale State: PA Zip Code: 15086-6501  
 County: Armstrong Township(s): West Franklin  
 Receiving Stream(s) and Classifications: Little Buffalo  
 Run/Little Buffalo Creek, HQ, Other TNW

6/22/2011

ESCGP-1 NO.: ESX10-051-0042 Major Revision  
 Applicant Name: Atlas America LLC  
 CONTACT: Jeremy Hirtz  
 ADDRESS: 800 Mountain View Drive  
 City: Smithfield State: PA Zip Code: 15478  
 County: Fayette Township(s): Dunbar  
 Receiving Stream(s) and Classifications: UNTs to Rankin  
 Run WWF, Middle Monagahela River Watershed Other

5/4/2011

ESCGP-1 NO.: ESX11-059-0030  
 Applicant Name: Range Resources—Appalachia LLC  
 CONTACT: Carla Suszkowski  
 ADDRESS: 380 Southpointe Blvd  
 City: Canonsburg State: PA Zip Code: 15317  
 County: Greene Township(s): Richhill  
 Receiving Stream(s) and Classifications: UNT to Clay  
 Lick Run/ Tenmile Creek Watershed, HQ

7/29/2011

ESCGP-1 NO.: ESX11-005-0013  
 Applicant Name: EQT Production Company  
 CONTACT: Todd Klaner  
 ADDRESS: 455 Racetrack Road, Suite 101  
 City: Washington State: PA Zip Code: 15301  
 County: Armstrong Township(s): Kiskiminetas  
 Receiving Stream(s) and Classifications: Rattling Run,  
 Carnaham Run, Roaring Run, Other

08/08/11

ESCGP-1 No: ESX11-059-0050  
 Applicant Name: Chevron Appalachia LLC  
 Contact Person Jeremy Hirtz  
 Address: 800 Mountain View Drive  
 City: Smithfield State: PA Zip Code: 15478  
 County: Greene Township: Dunkard  
 Receiving Stream (s) And Classifications: UNTs to  
 Dunkard Creek WWF, Dunkard Creek, Other

8/15/2011

ESCGP-1 No.: ESX11-125-0072  
 Applicant Name: Range Resources—Appalachia LLC  
 Contact Person: Carla Suszkowski  
 Address: 380 Southpointe Boulevard  
 City: Canonsburg State: PA Zip Code: 15317  
 County: Washington Township(s): Cross Creek  
 Receiving Stream(s) and Classifications: UNT to Middle  
 Fork Cross Creek and UNT to South Fork Cross  
 Creek/Raccoon Creek Watershed, HQ

8/9/2011

ESCGP-1 No.: ESX11-059-0006 Major Revision  
 Applicant Name: EQT Production Co  
 Contact Person: Todd Klaner  
 Address: 455 Racetrack Road  
 City: Washington State: PA Zip Code: 15301  
 County: Greene Township(s): Center  
 Receiving Stream(s) and Classifications: UNT to  
 Patterson Creek HQ-WWF, South Fork Tenmile  
 Creek Watershed

06/14/2011

ESCGP-1 No.: ESX11-125-0002 Major Revision  
 Applicant Name: Laurel Mountain Midstream LLC  
 Contact Person: Michael Hopkins  
 Address: 1605 Coraopolis Heights Road  
 City: Moon Township State: PA Zip Code: 15108  
 County: Washington Township(s): West Bethlehem  
 Receiving Stream(s) and Classifications: Daniel's Run  
 TSF to UNTs to Daniel's Run TSF and Horn Run  
 TSF/Middle Monongahela River Watershed

8/18/2011

ESCGP-1 No.: ESX10-129-0040 Major Revision  
 Applicant Name: Chevron Appalachia LLC  
 Contact Person: Jeremy Hirtz  
 Address: Chevron Appalachia LLC  
 City: Smithfield State: PA Zip Code: 15478  
 COUNTY Westmoreland Township(s): Sewickley  
 Receiving Stream(s) and Classifications: UNTs to  
 Youghioghney River and Youghioghney River/  
 Lower Youghioghney River Watershed

08/08/2011  
 ESCGP-1 No.: ESX11-003-0003  
 Applicant Name: Superior Appalachian Pipeline LLC  
 Contact Person: Paul Corrigan  
 Address: 1000 Town Center Way, Suite 120  
 City: Canonsburg State: PA Zip Code: 15317  
 County: Allegheny Township(s): Frazer and Indiana  
 Receiving Stream(s) and Classifications: UNTs to Little Deer Creek, Other

9/22/2011  
 ESCGP-1 No.: ESX11-007-0008

Applicant Name: Chesapeake Appalachia LLC  
 Contact Person: Eric Haskins  
 Address: 101 N main Street  
 City: Athens State: PA Zip Code 18810  
 County: Beaver Township(s): South Beaver  
 Receiving Stream(s) and Classifications: UNT to Bruch Run, HQ

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

*County Conservation District: 10 Nickman Plaza, Lemont Furnace, PA 15456. (724.438.4497)*

<i>ESCGP-1 No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
26118002	Texas Eastern Transmission	Fayette	German & Luzerne Townships	UNT to Antram Run, Antram Run, UNTs to Lilly Run, UNTs to Middle Run & UNTs to Saltlick Run (WWF)

*Washington County Conservation District: 100 West Beau Street, Suite 105, Washington, PA 15301. (724.228.6774)*

<i>ESCGP-1 No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
63118002	MarkWest Liberty Midstream & Resources, LLC 601 Technology Drive, Suite 130 Canonsburg, PA 15317	Washington	Amwell Township	Redd Run (TSF)s

*Northwest Region:—Oil and Gas Program Manager, 230 Chestnut St., Meadville, PA 16335*

ESCGP-1 #ESX11-065-0033—Mitchell Pad  
 Applicant EXCO Resources (PA), LLC  
 Contact Larry M. Sanders  
 Address 3000 Ericsson Drive, Suite 200  
 City Warrendale State PA Zip Code 15086  
 County Jefferson Township(s) Washington(s)  
 Receiving Stream(s) and Classification(s) Horn Run—CWF, Mill Creek—CWF

ESCGP-1 #ESX11-031-0021—Radaker Pad B  
 Applicant Northeast Natural Energy LLC  
 Contact Brent Young  
 Address 707 Virginia Street East Suite 1400  
 City Charleston State WV Zip Code 25301  
 County Clarion Township(s) Porter and Toby(s)  
 Receiving Stream(s) and Classification(s) Trib 48103 to East Fork Wildcat Run (CWF), Wildcat Run East Fork (CWF)

ESCGP-1 #ESX11-047-0032—Central Facility to HM2 Pipeline  
 Applicant Hunt Marcellus Operating Company, LLC  
 Contact Diane Prier  
 Address 1900 N. Akard Street  
 City Dallas State TX Zip Code 75201  
 County Elk Township(s) Ridgway & Jones(s)  
 Receiving Stream(s) and Classification(s) Bear Creek, HQ-CWF, Silver Creek, HQ-CWF, Little Mill Creek, HQ-CWF

ESCGP-1 #ESX11-073-0004, Jean Kay Energy Unit 2000  
 Applicant Swepi LP  
 Contact Kenneth Interval  
 Address 190 Thorn Hill Road  
 City Warrendale State PA Zip Code 15086  
 County Lawrence Township(s) Little Beaver(s)  
 Receiving Stream(s) and Classification(s) UNT to North

Fork Little Beaver Creek/Ohio River Basin in PA—Ohio River(List W). North Fork Little Beaver Creek/Ohio River Basin in PA—Ohio River (List W)

ESCGP-1 #ESX11-065-0036—Minich-Lovelace Project  
 Applicant Mieka LLC  
 Contact Robert Botsford  
 Address 1660 S Stemmons Frwy  
 City Lewisville State TX Zip Code 75067  
 County Jefferson Township(s) Henderson(s)  
 Receiving Stream(s) and Classification(s) UNT to Stump Creek CWF, Stump Creek CWF/Mahoning Creek Watershed, WWF

ESCGP-1 #ESG11-053-0017  
 Applicant Sheffield Land & Timber Company  
 Contact David See  
 Address PO Box 54  
 City Sheffield State PA Zip Code 16347  
 County Forest Township(s) County(s)  
 Receiving Stream(s) and Classification(s) Coon Creek

## SPECIAL NOTICES

### Mine Drainage Treatment Projects

*Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, 814-472-1900*

**Act 181 Notification: Mine Drainage Treatment Projects in Somerset County.** The work will include the construction of both passive and active treatment ponds on two forfeited surface mine sites. This project issues on October 8, 2011; and proposals will be opened on October 28, 2011. A mandatory pre-proposal meeting will be conducted on October 19, 2011 at 9:30 a.m. at the

Cambria District Mine Office in Ebensburg, PA. For more information call, Malcolm Crittenden 814-472-1908 or [mcrittende@state.pa.us](mailto:mcrittende@state.pa.us).

[Pa.B. Doc. No. 11-1734. Filed for public inspection October 7, 2011, 9:00 a.m.]

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### Bid Opportunity

**DGS 181-27 / D19:023-101.1, Fishing Creek Channel Improvement Project, Hemlock, Mount Pleasant and Scott Townships, Columbia County.** The principal items of work and approximate quantities include stream diversion and dewatering; mobilization and demobilization; implementation of the Erosion and Sediment Control Plan; stream diversion and dewatering; clearing and grubbing; excavation 4,900 cubic yards; removal of concrete and masonry structure 1,450 cubic yards; R-8 riprap 2,600 square yards; rootwads 4 each; topsoil 420 square yards; erosion control blanket 900 square yards; maintain and protect traffic; and seeding. This bid issues October 7, 2011, and bids will be opened on November 3, 2011, at 2 p.m. Bid documents cost \$10 per set and will not be mailed until payment has been received. Contact the Construction Contracts Section at (717) 787-7820 or [joelmiller@state.pa.us](mailto:joelmiller@state.pa.us) for more information on this bid.

MICHAEL L. KRANCER,  
*Secretary*

[Pa.B. Doc. No. 11-1735. Filed for public inspection October 7, 2011, 9:00 a.m.]

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### Pennsylvania Energy Development Authority Board Meeting

A meeting of the Pennsylvania Energy Development Authority (Authority) Board is scheduled to be held on Wednesday, October 12, 2011, at 9 a.m. in the Susquehanna Room, 16th Floor, Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA 17101.

Questions concerning this schedule or agenda items can be directed to Thomas Bell at (717) 772-5942 or [tbell@pa.gov](mailto:tbell@pa.gov). This schedule, an agenda for the meeting and notices of meeting changes will be available through the Public Participation Center on the Department of Environmental Protection's (Department) web site at [www.depweb.state.pa.us](http://www.depweb.state.pa.us).

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

MICHAEL L. KRANCER,  
*Secretary*

[Pa.B. Doc. No. 11-1736. Filed for public inspection October 7, 2011, 9:00 a.m.]

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### Southwest Regional Roundtable 2011 and 2012 Meeting Dates

The Department of Environmental Protection (Department) Southwest Regional Roundtable meetings will be

held on Thursday, October 13, 2011, at 10:30 a.m. in the Computer Room, 500 Waterfront Drive, Pittsburgh, PA 15222; Thursday, November 10, 2011, at 10:30 a.m. in Waterfront A and B, 500 Waterfront Drive, Pittsburgh, PA 15222; and Thursday, January 12, 2012, at 10:30 a.m. in Waterfront A and B, 500 Waterfront Drive, Pittsburgh, PA 15222.

Questions concerning the meeting can be directed to Holly Cairns at (412) 442-4116 or [hcairns@pa.gov](mailto:hcairns@pa.gov). The agenda and meeting material will be available through the Public Participation Center on the Department's web site at <http://www.depweb.state.pa.us> (DEP Keywords: "Public Participation, Participate").

Persons in need of accommodations as provided for in the Americans with Disabilities Act of 1990 should contact Holly Cairns, or through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD users), or (800) 654-5988 (voice users) to discuss how the Department may accommodate their needs.

MICHAEL L. KRANCER,  
*Secretary*

[Pa.B. Doc. No. 11-1737. Filed for public inspection October 7, 2011, 9:00 a.m.]

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## DEPARTMENT OF HEALTH

### Application of DuBois Regional Medical Center—Ophthalmology for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that DuBois Regional Medical Center—Ophthalmology has requested an exception to the requirements of 28 Pa. Code § 153.1 (relating to minimum standards), which requires compliance with minimum standards contained in the following publication: *Guidelines for Design and Construction of Hospitals and Healthcare Facilities*. The facility specifically requests exception from the following standard contained in this publication: 3.1-3.2.4.3 (relating to hand washing stations).

This request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, [ra-paexcept@pa.gov](mailto:ra-paexcept@pa.gov).

Persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division at the address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so, should contact the Director, Division of Acute and Ambulatory Care at (717) 783-8980, for speech and/or

hearing impaired persons V/TT (717) 783-6154, or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

ELI N. AVILA, MD, JD, MPH, FCLM,  
*Secretary*

[Pa.B. Doc. No. 11-1738. Filed for public inspection October 7, 2011, 9:00 a.m.]

and require an auxiliary aid, service or other accommodation to do so, should contact V/TT (717) 783-6514 for speech and/or hearing impaired persons or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

ELI N. AVILA, MD, JD, MPH, FCLM,  
*Secretary*

[Pa.B. Doc. No. 11-1740. Filed for public inspection October 7, 2011, 9:00 a.m.]

### Chronic Renal Disease Advisory Committee Meeting

The Renal Disease Advisory Committee, established by section 4 of the act of June 23, 1970 (P. L. 419, No. 140) (35 P. S. § 6204), will hold a public meeting on Friday, October 21, 2011, from 10 a.m. to 2 p.m. The meeting will be held in Conference Room 327, Health and Welfare Building, 625 Forster Street, Harrisburg, PA 17120.

Questions regarding this notice, or for persons with a disability who wish to attend the meeting and require an auxiliary aid, service or other accommodation to do so should contact Carolyn S. Cass, Director, (717) 772-2762. For speech and/or hearing impaired persons call V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Services at (800) 654-5984.

This meeting is subject to cancellation without notice.

ELI N. AVILA, MD, JD, MPH, FCLM,  
*Secretary*

[Pa.B. Doc. No. 11-1739. Filed for public inspection October 7, 2011, 9:00 a.m.]

### Long-Term Care Nursing Facilities; Requests for Exception

The following long-term care nursing facility is seeking an exception to 28 Pa. Code § 205.36(h) (relating to bathing facilities):

Parkhouse, Providence Pointe  
1600 Black Rock Road  
Royersford, PA 19468  
FAC ID 133402

The following long-term care nursing facility is seeking an exception to 28 Pa. Code § 205.67(j) (relating to electric requirements for existing and new construction).

Washington County Health Center  
36 Old Hickory Ridge Road  
Washington, PA 15301

These requests are on file with the Department of Health (Department). Persons may receive a copy of a request for exception by requesting a copy from the Division of Nursing Care Facilities, Room 526, Health and Welfare Building, Harrisburg, PA 17120, (717) 787-1816, fax (717) 772-2163, ra-paexcept@pa.gov.

Persons who wish to comment on this exception request may do so by sending a letter by mail, e-mail or facsimile to the Division at the address listed previously.

Comments received by the Department within 15 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of the request and/or provide comments to the Department

### Special Supplemental Nutrition Program for Women, Infants and Children (WIC Program); Minimum Technology Standards 2011-2012

Under 28 Pa. Code § 1103.4(15) (relating to selection criteria for authorization and reauthorization), the WIC Program hereby publishes notice of minimum technology standards. A store applying to become a WIC Authorized store must have all of the following to be considered for authorization:

#### *Minimum Technology Standards*

An existing, active, hard wire telephone line on the store's premises.

An active e-mail account for the store owner or manager.

Upon authorization, a store must maintain an active WIC Vendor Assistant account.

Internet connection on store premises (one of the following):

- Dial-up through an Internet provider
- Broadband DSL
- Broadband cable

A personal computer on store premises:

- Internet browser capable of accessing the WIC Vendor Assistant web site
- Adobe Reader software
- If using CheckScan, the following minimum software and hardware is required. *Note:* These are Windows XP minimum requirements. Newer operating systems may require additional hardware.
  - PC with 300 megahertz or higher processor clock speed
  - Microsoft Windows XP, Vista or Windows 7 operating system
  - Microsoft .Net Framework 2.0 or higher (software)
  - 256 mb RAM
  - 1.5 gigabytes of available hard drive space
  - An available USB port (Version 1.1 or 2.0)

Persons with a disability who require an alternative format of this notice (for example, large print, audiotape, Braille) should contact Chris Harr, Department of Health, Division of WIC, 2150 Herr Street, Harrisburg, PA 17105, (717) 783-1289 for speech and/or hearing impaired per-

sons V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Services at (800) 654-5984.

ELI N. AVILA, MD, JD, MPH, FCLM,  
*Secretary*

[Pa.B. Doc. No. 11-1741. Filed for public inspection October 7, 2011, 9:00 a.m.]

### Special Supplemental Nutrition Program for Women, Infants and Children (WIC Program); WIC Minimum Inventory Requirements

Under 28 Pa. Code § 1103.5(a)(3) (relating to minimum inventory), the WIC Program publishes notice of the minimum inventory requirements. Effective October 1, 2011, a store shall have available on the premises, at the time of an onsite review and at all times thereafter while participating as a WIC authorized store, the following foods at shelf prices equal to or less than the competitive prices:

#### *Formula*

Sixteen 13 ounce cans or 12.1 ounce cartons of Gerber Good Start Gentle liquid concentrate.

Ten 12.7 ounce cans of Gerber Good Start Gentle powdered.

Sixteen 13 ounce cans or 12.1 ounce cartons of Gerber Good Start Soy liquid concentrate.

Nine 12.9 ounce cans of Gerber Good Start Soy powdered.

Other standard formulas specified on the WIC check are not minimum inventory requirements. The store must be able to provide these within 72 hours after a participant makes a request for this formula.

#### *Infant Foods*

Two varieties of Gerber infant cereal in 8 ounce boxes, totaling at least 24 ounces.

Two varieties 100% fruit, any brand, with a total of 32 4 ounce containers.

Two varieties 100% vegetable, any brand, with a total of 32 4 ounce containers.

Two varieties 100% meat, any brand, with a total of 31 2 1/2 ounce containers.

#### *Fruits and Vegetables*

Two varieties of fruits and two varieties of vegetables, fresh, frozen or canned, totaling at least \$15 worth.

#### *Whole Grains*

Two WIC allowable varieties with a total of two 16 ounce packages.

#### *Milk*

Fluid Whole, Vitamin D Fortified: Eight 1/2 gallons.

Fluid Skim, Fat Free, Low Fat or Reduced Fat: Eighteen 1/2 gallons.

#### *Eggs*

Grade "A" Eggs: Three 1 dozen containers large or smaller raw shell eggs.

#### *Cheese*

Three WIC allowable types prepackaged in 8 or 16 ounce containers, totaling at least 4 pounds of cheese.

#### *Juices*

Two WIC allowable single strength varieties with a total of five 48 ounce containers.

Two WIC allowable single strength varieties with a total of two 64 ounce containers.

Two WIC allowable varieties frozen concentrated or shelf stable concentrated, with a total of five 11 1/2 to 12 ounce containers.

#### *Cereal*

Adult, five WIC allowable varieties, at least one whole grain variety, in 12 ounce or larger packages totaling at least 60 ounces.

#### *Peanut Butter*

Two 18 ounce containers labeled "peanut butter."

#### *Dried Peas and Beans or Canned Beans*

Two varieties WIC allowable: 1 pound each dried or 15.5 to 16 ounce canned with a total of four cans.

#### *Canned Fish*

At least 45 ounces in 3.75, 5 or 6 ounce cans, chunk light tuna, pink salmon or sardines not packed in oil.

Persons with a disability who require an alternative format of this notice (for example, large print, audiotape, Braille) should contact Chris Harr, Department of Health, Division of WIC, 2150 Herr Street, Harrisburg, PA 17105, (717) 783-1289 for speech and/or hearing impaired persons V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Services at (800) 654-5984.

ELI N. AVILA, MD, JD, MPH, FCLM,  
*Secretary*

[Pa.B. Doc. No. 11-1742. Filed for public inspection October 7, 2011, 9:00 a.m.]

### Special Supplemental Nutrition Program for Women, Infants and Children (WIC Program); WIC 2011-2012 Food List

#### I. 2011-2012 WIC Food List

Under 28 Pa. Code § 1103.5(a) (relating to minimum inventory), the WIC Program publishes notice of the 2011-2012 WIC Food List which contains the required types of foods and, if applicable, names of the allowable brands of foods. Effective October 1, 2011, the 2011-2012 WIC Food List authorizes the following as allowable foods for the purpose of the WIC Program.

#### *Cheese*

Regular, reduced fat, low fat or fat free, low cholesterol, low sodium, lactose free, smoked or calcium fortified. Cheese must be marked with weight, type and cost. Cheese must be in the form of a block, sliced, shredded, stick or string cheese. Package size must be 8 or 16 ounces.

American (Pasteurized Process)	Cheddar
Cheddarella	Cojack
Colby (Longhorn)	Monterey Jack
Mozzarella	Muenster
Provolone	Swiss

Kosher cheese must be specified on the WIC check to be purchased using a WIC check.

*Not Allowed:* Individually wrapped slices, imported, deli service, cheese foods, imitation cheese, cheese products or spreads, cheese with added ingredients, organic cheese, cheese packed in water.

#### *Cow's Milk*

Fluid (pasteurized; quart, 1/2 gallons or gallons) Any fat level allowed as specified on the WIC check. Acidophilus allowed. Lactose free if specified on the WIC check. Evaporated (12 ounce cans) if specified on the WIC check. Dry if specified on the WIC check.

*Not Allowed:* Flavored milk, buttermilk, goat's milk, milk with added calcium, protein or plant sterols, vitamin C, omega 3s, organic milk, ultra high temperature (UHT) processed milk, milk in glass bottles.

#### *Soy Beverage*

32 or 64 ounce containers: Pacific Natural Foods—Ultra Soy (plain or vanilla flavored)  
8th Continent Soymilk original or vanilla flavor

*Not Allowed:* Any other brand or type of soy beverage.

#### *Tofu*

16 ounce containers: Azumaya—firm and extra firm house foods premium—regular, firm, extra firm  
Nasoya—silken, light silken

*Not Allowed:* Any other brand or type of tofu

#### *Chicken Eggs*

Grade A regular: large, medium or small raw shell brown or white chicken eggs in one dozen package.

*Not Allowed:* Specialty eggs such as, vegetarian fed, organic eggs, low cholesterol, fat modified, high in omega 3s, and the like.

#### *Legumes (Beans)*

Black beans, blackeye peas, garbanzo beans, great northern beans, kidney beans, lima beans, navy beans, pinto beans, soybeans, split peas and lentils.

1 pound dry or 15.5 to 16 ounce canned any brand (canned kidney beans may contain sugar)

*Not Allowed:* Green beans, green peas, snap beans, yellow beans, wax beans, pork-n-beans, beans with added seasonings, sugars, oils, sauces, meats, organic beans

#### *Fruits and Vegetables*

##### *Fruits Allowed:*

Fresh, whole or cut without added sugars. Frozen, without added sugars. Canned, jarred or multi pack without added sugars, fats, oils or sodium (salt).

##### *Vegetables Allowed:*

Fresh, whole or cut without added sugars, fats or oils. Frozen, without added sugars, fats or oils.

Canned or jarred, without added sugars, fats or oils (whole kernel corn and green peas can contain sugar).

Sweet potatoes and yams.

Organic fruits and vegetables can be purchased.

##### *Not allowed:*

- Party trays, fruit baskets, salad bar items
- *Ingredients other than fruit*—sugar, honey, high fructose corn syrup, heavy or light syrup, dextrose, sucrose, maple syrup, artificial sweeteners, fats, oils or sodium (salt)

- *Ingredients other than vegetables*—sugar, honey, high fructose corn syrup, cheese sauce, noodles, rice, nuts, spices, fats or oils

- *Any type of white potatoes* (including Red Bliss, Purple and Yukon Gold)

- Sauerkraut, pickled vegetables, olives

- Jarred salsa, pasta sauce

- Fresh herbs and spices, edible blossoms

- Dried fruit, trail mix

- Fruit leathers, fruit snacks, fruit roll-ups

- Fruit and nut mixtures

- Fruit cocktails, cranberry sauce, pie filling

- Baked goods

- Infant or toddler fruits and vegetables

#### *Juice*

*Single Strength (48 ounce container, 100% pure juice):*

Apple Apple & Eve, Food Club, Lucky Leaf, Musselman's, Nestle Juicy Juice, Red & White, Seneca, Shurfine

Cranberry Apple & Eve, Northland

100% Grape America's Choice, Nestle Juicy Juice, (purple or white) Red & White, Shurfine, White Rose

Juice Blends Apple & Eve: Cranberry Apple and Cranberry Raspberry  
Northland: Cranberry Grape  
Nestle Juicy Juice: All flavors

Pineapple Food Club, Shurfine

*Single Strength (64 ounce container, 100% pure juice):*

Apple Acme, America's Choice, Apple & Eve, Flavorite, Food Club, Giant, Giant Eagle, Great Value, Hannaford, Krasdale, Lucky Leaf, Mott's, Musselman's, Old Orchard, Red & White, Richfood, Safeway, Seneca, Shop-N-Save, Shop Rite, Shurfine, Tipton Grove, Weis Quality, White Rose

Cranberry Acme, Flavorite, Food Club, Giant, Giant Eagle, Great Value, Hannaford, Richfood, Safeway, Shop-N-Save, Shurfine, Weis Quality

Grape (purple, red or white) Acme, America's Choice, Apple & Eve, Flavorite, Food Club, Giant, Giant Eagle, Great Value, Hannaford, Lucky Leaf, Mott's, Musselman's, Old Orchard, Red & White, Richfood, Safeway, Seneca, Shop-N-Save, Shurfine, Tipton Grove, Valu Time, Weis Quality, White Rose

Orange Any Brand, calcium and vitamin D added allowed

Pineapple Acme, Flavorite, Giant, Giant Eagle, Great Value, Libby's, Our Family, Richfood, Safeway, Shop-N-Save, Shurfine, Wegmans, Weis Quality

Tomato Campbell's (regular or low sodium)

Vegetable Campbell's V8 (regular or low sodium)

Juice Blends Apple & Eve—all flavors (including Sesame Street) except “Cranberry Juice & More”  
Nestle Juicy Juice—all flavors  
Old Orchard—100% juice flavors, no premium flavors

*Frozen Concentrated (11.5 to 12 ounce container, 100% pure juice):*

Apple America’s Choice, Flavorite, Food Club, Giant, Hannaford, Great Value, Old Orchard, Richfood, Safeway, Seneca, Shop-N-Save, Shop Rite, Shurfine, Sunrise Valley, Value Time, Weis Quality

Apple Juice Blends Old Orchard (all flavors with green pull tab top)

Orange Any brand (including calcium and vitamin D added)

Grape Welch’s (all flavors with yellow pull tab top)

White Grape Juice Blends Welch’s (all flavors with yellow pull tab top)

*Shelf Stable Concentrated (11.5 to 12 ounce container, 100% pure juice):*

Juicy Juice any flavor, Welch’s any flavor with yellow trim

*Not Allowed:* Ciders, cocktails, artificial sweeteners, food colorings, added sugar, alcohol, carbonation, fiber, omega 3s, DHA, ARA, beta-carotene, vitamin A, vitamin E, organic juice.

*Cereal*

*Adult/Child Cereals:*

Minimum package size 12 ounces

*Better Oats:* Good ’n Hearty Oatmeal (classic or maple and brown sugar)

*General Mills:* Cheerios (regular, multigrain)  
Chex (wheat, corn, rice, multi bran)  
Kix (regular, honey or berry berry)  
Total (whole grain)  
Wheaties (regular flavor only)

*Kellogg Co.:* All Bran Complete Wheat Flakes  
Corn Flakes  
Crispix  
Frosted Mini Wheats (Little Bite, Bite Size, Big Bite or Unfrosted)  
Rice Krispies (regular or gluten free brown rice krispies)  
Special K (regular)

*Malto Meal, bag or box:* Crispy rice, Honey & Oat Blenders (regular or almond)

*Maypo:* Instant Maple Oatmeal

*Nabisco:* Cream of Wheat: Instant original, 1 minute, 2 1/2 minutes, 10 minutes, whole grain

*Post:* Banana Nut Crunch  
Grape-Nuts & Grape-Nut Flakes  
Bran Flakes  
Honey Bunches of Oats (Honey Roasted, with Almonds, Cinnamon Clusters, Vanilla Clusters)  
Shredded Wheat Vanilla Almond

*Quaker Co.:* Original Instant Grits  
Crunchy Corn Bran  
Oat Bran Essentials  
King Vitaman  
Life (regular flavor)  
Oatmeal Squares (cinnamon or brown sugar)

*Store Brand Cereal:* Corn Flakes, Toasted Oats, Corn Squares-Biscuits, Rice Squares-Biscuits: (America’s Choice, Flavorite, Food Club, Giant, Great Value, Hannaford, Ralston Foods, Richfood, Safeway, Shop-N-Save, Shop Rite, Shurfine, Weis Quality)

*Not Allowed:* Individual serving boxes, Organic cereal, any other brand or type of cereal.

*Peanut Butter*

18 ounce container, labeled “Peanut Butter” only

*Not Allowed:* Reduced fat peanut butter, peanut butter spread, peanut butter mixed with jelly, marshmallow, chocolate or honey, organic peanut butter, added omega 3s, DHA, ARA or artificial sweeteners.

*Infant Formula*

*Contract Brand*

*Milk Based:* Gerber GOOD START Gentle

*Soy Based:* Gerber GOOD START Soy

Other brands and types of formula must be specified on the WIC check.

*Infant Foods*

*Infant Cereal:* Gerber rice, oatmeal, barley, whole wheat or mixed grain in 8 or 16-ounce box.

*Not Allowed:* Organic varieties, variety pack, cereal with fruit, formula, yogurt, DHA, ARA or any other added ingredients.

*Infant Fruits and Vegetables:* 4 ounce containers of 100% fruits or vegetables.

*Not Allowed:* Desserts, organic varieties, mixed with salt, sugar, cereal, rice, noodles, meats, yogurt, DHA, ARA or any other ingredients.

*Infant Meats:* 2.5 ounce containers of single ingredient meats (with or without gravy or broth), brand listed on the WIC check.

*Not Allowed:* Organic varieties, mixed with salt, sugar, cereal, rice, noodles, vegetables, fruit, DHA, ARA or any other ingredients.

*Canned Fish*

Chunk Light Tuna, Pink Salmon or Sardines in 3.75, 5 or 6 ounce cans only

*Not Allowed:* Products packed in oil, albacore tuna, brisling sardines, red salmon, organic fish.

*Whole Grains**16 ounce packages:**Whole Wheat Bread and Rolls*

Store Brands 100% Whole Wheat Bread:

Acme, America's Choice, Giant, Great Value, Hannaford, Pathmark, Shop Rite

Arnold—100% Stoneground Whole Wheat Bread

Bimbo—100% Whole Wheat Bread

Hauswald 100% Whole Wheat Bread

Nickles—Country Style 100% Whole Wheat Bread

Pepperidge Farms—Stoneground 100% Whole Wheat

Bread, Very Thin Soft 100% Whole Wheat Bread

Roman Meal—Sungrain 100% Whole Wheat Bread

Sara Lee—Classic 100% Whole Wheat Bread

Schmidt—100% Whole Wheat Bread

Stern's—100% Whole Wheat Bread, Whole Wheat Rolls

Stroehmann—Small 100% Whole Wheat Bread

Windmill Farms—100% Stoneground Whole Wheat

Bread-Hamotzie, 100% Stoneground Whole Wheat

Bread-Mezonot, 6 pack Whole Wheat Rolls

Wonder—Soft 100% Whole Wheat Bread

*Tortillas**Store Brands:* Yellow or White Corn, or Whole Wheat; Food Club, Giant Eagle, Nature's Promise, Weis Quality

Hand Made Style Whole Wheat—Shop Rite, Shurfine

Whole Wheat Fajita Style—Hannaford

Carlita—Corn Tortilla

Celia's—Yellow or White Corn and Whole Wheat

Chi Chi's—White Corn Tortillas or Whole Wheat Tortilla Fajita Style

Don Pancho—Yellow or White Corn Tortillas or Whole Wheat Tortillas

La Banderita—Corn Tortillas and Fajita Whole Wheat

La Burrita—Yellow Corn Tortillas

MexAmerican—Whole Wheat with Honey

MiCasa—100% Whole Wheat Tortillas

Mission—Yellow Corn Extra Thin Tortillas and Whole Wheat Tortillas

Ortega—Whole Wheat

Pepito—Corn or Whole Wheat

*Whole Grain Brown Rice:* Uncle Ben's—Natural Whole Grain Brown Rice

Lundberg—Long or Short Grain Brown Rice (no other varieties)

*Store Brands:* Acme, America's Choice, Flavorite, Food Club, Giant, Great Value, Gulf Pacific, Richfood, Safeway, Shop-N-Save, Shurfine, Weis Quality, White Rose*Oats:* 16 ounce packages: Mom's Best Natural Quick Oats, Mother's Rolled Oats*24 ounce packages:**Whole Wheat Bread and Rolls*

Arnold—100% Whole Wheat Bread

Brownberry—100% Whole Wheat Bread

Freihofer—Hearty 100% Whole Wheat Bread

Gold Medal—Natural or Premium Whole Wheat Bread

Nickles—Country Style 100% Whole Wheat Bread

Pepperidge Farms—100% Natural Stone Ground, 100%

Whole Wheat Bread, Farmhouse soft 100% Whole Wheat Bread

Stroehmann—Dutch Country 100% Whole Wheat, Family Grains 100% Whole Wheat

Weis—From the Oven 100% Whole Wheat Bread

*Oats*—Quaker Steel Cut Oats*Not Allowed:* Any other package size, brand or type of whole grain products, organic whole grains, items with added omega-3s, dried fruits, seeds, nuts, extra calcium or vitamin D**II. Contract Brand of Formula**

Under 28 Pa. Code § 1103.5(c), the WIC Program publishes notice of the name of the contract brand of infant formula. The WIC Program has entered into a contract with NESTLÉ to be the primary provider of infant formula for the WIC Program. The contract brand of infant formula is Gerber GOOD START Gentle and Gerber GOOD START Soy. Other brands and types of formula must be specified on the WIC check to be authorized for purchase with a WIC check. The information contained herein is effective October 1, 2011.

Persons with a disability who require an alternative format of this notice (for example, large print, audiotape, Braille) should contact Chris Harr, Department of Health, Division of WIC, 2150 Herr Street, Harrisburg, PA 17105, (717) 783-1289. For speech and/or hearing impaired persons V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Services at (800) 654-5984.

ELI N. AVILA, MD, JD, MPH, FCLM,  
Secretary

[Pa.B. Doc. No. 11-1743. Filed for public inspection October 7, 2011, 9:00 a.m.]

## ENVIRONMENTAL HEARING BOARD

### **RRI Energy Mid-Atlantic Power Holdings, LLC v. DEP; EHB Doc. No. 2010-135-M; and Fish and Boat Commission v. DEP and RRI Energy Mid-Atlantic Power Holdings, LLC; EHB Doc. No. 2010-153-M**

The Commonwealth of Pennsylvania, Department of Environmental Protection (Department), the Fish and Boat Commission (Commission) and GenOn REMA, LLC, formerly known as RRI Energy Mid-Atlantic Power Holdings, LLC (GenOn), have agreed to a settlement of the previously referenced matter.

The parties have agreed to a settlement, the major provisions of which provide for a revision to National Pollutant Discharge Elimination System Permit (NPDES Permit) No. PA0010031. As set forth in the settlement, the Commission and GenOn have agreed not to appeal from the final issuance of the revised NPDES Permit.

GenOn operates a coal-fired steam electric generating plant known as the Shawville Generating Station, which is located in Bradford Township, Clearfield County (Shawville Facility). On or about August 9, 2010, the Department renewed NPDES Permit No. PA0010031, whereby the Department authorized and imposed certain effluent limitations, monitoring requirements and other conditions on discharges from the Shawville Facility to the West Branch Susquehanna River.

On September 2, 2010, GenOn filed a Notice of Appeal challenging the renewed NPDES Permit, docketed at



EHB Doc. No. 2010-135-M. On September 24, 2010, the Commission also filed a Notice of Appeal challenging the renewed NPDES Permit, docketed at EHB Doc. No. 2010-153-M.

The settlement provides that the NPDES Permit will be revised to incorporate more stringent thermal limitations and to provide GenOn with a compliance schedule to achieve those limitations. It also provides that GenOn will make certain payments to the Commission for use in a project or projects, and resolves potential claims regarding the thermal discharges from the Shawville Facility.

Copies of the full agreement are in the hands of the following individuals:

Dawn M. Herb, Esquire  
Assistant Counsel  
Northcentral Regional Office  
208 West Third Street  
Suite 101  
Williamsport, PA 17701-6448  
(570) 321-6568

Wayne Melnick, Esquire  
Fish and Boat Commission  
P. O. Box 67000  
Harrisburg, PA 17106-7000  
(717) 705-7827

and

Donald C. Bluedorn II, Esquire  
Babst, Calland, Clements and Zomnir, P.C.  
Two Gateway Center  
603 Stanwix Street  
Pittsburgh, PA 15222  
(412) 394-5400

Copies are also available at the offices of the Environmental Hearing Board (Board), and may be reviewed by any interested person on request during normal business hours.

Any person interested in providing comment to the Board on the proposed Consent Order and Adjudication must do so within 30 days of the date this notice is published in the *Pennsylvania Bulletin*. Copies of all comments shall also be submitted to the attorney for each party listed previously.

Any person believing himself aggrieved by the previous settlement has a right to appeal to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457. Appeals must be filed within 30 days of this publication.

If information concerning this notice is required in an alternative form, contact the Secretary to the Board at (717) 783-3483. TDD users may telephone the Board through the Pennsylvania Relay Service at (800) 654-5984.

The Board is empowered to approve this settlement if no objection is timely filed with the Board.

THOMAS W. RENWAND,  
*Chairperson*

[Pa.B. Doc. No. 11-1744. Filed for public inspection October 7, 2011, 9:00 a.m.]

# HEALTH CARE COST CONTAINMENT COUNCIL

## Data Submission and Collection

Under section 6(a)(2) of the Health Care Cost Containment Act (act) (35 P. S. § 449.6(a)(2)), the Health Care Cost Containment Council is required to publish a list of diseases, procedures and medical conditions, not to exceed 35, for which data under section 6(c)(21) and (d) of the act shall be required.

The list of 35 diseases, procedures and medical conditions follows:

1. Heart Attack
2. Heart Failure
3. Chest Pain
4. Abnormal Heartbeat
5. Coronary Bypass
6. Heart Valve Replacement
7. Percutaneous Transluminal Coronary Angioplasty
8. Pneumonia
9. Asthma
10. Respiratory Failure
11. Blood Clot in Lung
12. Lung Repair
13. Hypotension
14. Blood Clot in Extremities
15. Vascular Repair
16. Stroke
17. Removal of Blockage in Head and Neck Vessel
18. Craniotomy
19. Diabetes
20. Digestive Disease
21. Liver Disease
22. Colorectal Repair
23. Gallbladder Removal
24. Stomach and Small Intestine Repair
25. Kidney Failure
26. Kidney and Urinary Tract Infection
27. Prostatectomy
28. Medical Back
29. Major Joint Repair
30. Neck/Back Repair
31. Breast Cancer
32. Hysterectomy
33. Infectious Disease
34. Ventilation for Respiratory Disease
35. Tracheostomy

JOE MARTIN,  
*Executive Director*

[Pa.B. Doc. No. 11-1745. Filed for public inspection October 7, 2011, 9:00 a.m.]

## INSURANCE DEPARTMENT

### Application for Approval to Acquire Control of CBHNP Services, Inc.

Blue Cross and Blue Shield of Michigan has filed an application for approval to acquire control of CBHNP Services, Inc., a domestic risk assuming preferred provider organization that is not a licensed insurer. 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@pa.gov.

MICHAEL F. CONSEDINE,  
*Insurance Commissioner*

[Pa.B. Doc. No. 11-1746. Filed for public inspection October 7, 2011, 9:00 a.m.]

## PENNSYLVANIA PUBLIC UTILITY COMMISSION

### Gas Service

**A-2011-2264548. UGI Central Penn Gas, Inc.** Application of UGI Central Penn Gas, Inc. for approval to supply gas utility service to the public in the additional territories of Centerpointe Borough and Jefferson Township, Berks County; Silgo Borough, Clarion County; Wayne and Woodwood Townships, Clinton County; Jackson, Jefferson, Lykens, Rush and Williams Townships, Dauphin County; Milford Township, Juniata County; Cold Spring and East Hanover Townships, Lebanon County; Mount Jewett Borough, McKean County; Decatur Township, Mifflin County; Lehigh Township, Northampton County; and Cass Township, Schuylkill County.

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 October 24, 2011. The documents filed in support of the application are available for inspection and copying at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday, on the Pennsylvania Public Commission's web site at [www.puc.state.pa.us](http://www.puc.state.pa.us), and at the applicant's business address.

*Applicant:* UGI Central Penn Gas, Inc.

*Through and By Counsel:* Mark C. Morrow, Esquire, UGI Corporation, P. O. Box 858, Valley Forge, PA 19482

ROSEMARY CHIAVETTA,  
*Secretary*

[Pa.B. Doc. No. 11-1747. Filed for public inspection October 7, 2011, 9:00 a.m.]

### Gas Service

**A-2011-2264538. UGI Penn Natural Gas, Inc.** Application of UGI Penn Natural Gas, Inc. for approval to offer, render, furnish or supply gas utility service to the public in the additional territories of Crawford, Grugan and Wayne Townships, Clinton County; Jessup Borough, Lackawanna County; Limestone Township, Montour County; Dingman Township, Pike County; Lewis Township, Union County; and Clinton Township, Wayne County.

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 October 24, 2011. The documents filed in support of the application are available for inspection and copying at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday, on the Pennsylvania Public Utility Commission's web site at [www.puc.state.pa.us](http://www.puc.state.pa.us), and at the applicant's business address.

*Applicant:* UGI Penn Natural Gas, Inc.

*Through and By Counsel:* Mark C. Morrow, Esquire, UGI Corporation, P. O. Box 858, Valley Forge, PA 19482

ROSEMARY CHIAVETTA,  
*Secretary*

[Pa.B. Doc. No. 11-1748. Filed for public inspection October 7, 2011, 9:00 a.m.]

### Implementation of the Alternative Energy Portfolio Standards Act of 2004: Standards for the Participation of Demand Side Management Resources—Technical Reference Manual 2012 Update; Doc. No. M-00051865

#### Tentative Order

The Pennsylvania Public Utility Commission (Commission) seeks comments on the proposed 2012 update to the Technical Reference Manual. In a Tentative Order adopted at its September 22, 2011 public meeting, the Commission released, for comment, the proposed 2012 version of the Energy-Efficiency and DSM Rules for Pennsylvania's Alternative Energy Portfolio Standard, Technical Reference Manual (TRM). A copy of the Tentative Order can be found on the Commission's website at <http://www.puc.state.pa.us/pcdocs/1147084.docx>. A copy of the proposed 2012 version of the TRM and its appendices can be found on the Commission's website at <http://www.puc.state.pa.us/pcdocs/1147131.docx>, <http://www.puc.state.pa.us/pcdocs/1147128.xls> and <http://www.puc.state.pa.us/pcdocs/1147125.xls>.

In implementing the Alternative Energy Portfolio Standards Act, 73 P. S. §§ 1648.1—1648.8, the Commission had originally adopted the TRM, in an Order entered on October 3, 2005 at Docket No. M-00051865. Subsequently, in the Energy Efficiency and Conservation (EE&C) Program Implementation Order, entered on January 16, 2009 at Docket No. M-2008-2069887, the Commission adopted the TRM as a component of the EE&C Program evaluation process. In that Implementation Order, the Commis-

sion also noted that the TRM needed to be updated and expanded to fulfill the requirements of the EE&C Program.

In an Order entered June 1, 2009 at Docket No. M-00051865, the Commission directed that the TRM be updated on an annual basis. In furtherance of this directive, the Commission is seeking comments on the proposed 2012 update to the TRM. Interested parties have 20 days from the date of the publication of this Notice to file written comments and 30 days after publication of this Notice to file reply comments with the Secretary of the Commission, referencing Docket No. M-00051865.

ROSEMARY CHIAVETTA,  
*Secretary*

[Pa.B. Doc. No. 11-1749. Filed for public inspection October 7, 2011, 9:00 a.m.]

### Service of Notice of Motor Carrier Applications

The following temporary authority and/or permanent authority applications for the right to render service as a common carrier or contract carrier in this Commonwealth have been filed with the Pennsylvania Public Utility Commission. Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). A protest shall indicate whether it applies to the temporary authority application, the permanent authority application, or both. Filings must be made with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant by October 24, 2011. Documents filed in support of the applications are available for inspection and copying at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday, and at the business address of the respective applicant.

**Application of the following for approval of the beginning of the exercise of the right and privilege of operating motor vehicles as common carriers for the transportation of persons by transfer of rights as described under the application.**

**A-2011-2254403. County Limo, LLC** (2065 Kent Road, Folcroft, Delaware County, PA 19032)—persons in limousine service, from points in the Counties of Bucks, Chester, Delaware and Montgomery, to points in Pennsylvania and return, excluding service that is under the jurisdiction of the Philadelphia Parking Authority, which is to be a transfer of all the rights authorized under the certificate issued at A-00123697 to Platinum Touch Transportation, Inc., subject to the same limitations and conditions. (*Attorney:* Anthony Richardson, 1518 Walnut Street, Suite 1110, Philadelphia, PA 19102)

ROSEMARY CHIAVETTA,  
*Secretary*

[Pa.B. Doc. No. 11-1750. Filed for public inspection October 7, 2011, 9:00 a.m.]

### Telecommunications

**A-2011-2264797. Verizon North, LLC and Peerless Network of Pennsylvania, LLC.** Joint petition of Verizon North, LLC and Peerless Network of Pennsylvania,

LLC for approval of an interconnection agreement under section 252(e) of the Telecommunications Act of 1996.

Verizon North, LLC and Peerless Network of Pennsylvania, LLC, by its counsel, filed on September 22, 2011, at the Pennsylvania Public Utility Commission (Commission), a joint petition for the approval of the interconnection agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days after the date of publication of this notice. Copies of the Verizon North, LLC and Peerless Network of Pennsylvania, LLC joint petition are on file with the Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

ROSEMARY CHIAVETTA,  
*Secretary*

[Pa.B. Doc. No. 11-1751. Filed for public inspection October 7, 2011, 9:00 a.m.]

### Telecommunications

**A-2011-2264818. Verizon North, LLC and WiMacTel, Inc.** Joint petition of Verizon North, LLC and WiMacTel, Inc. for approval of an interconnection agreement under section 252(e) of the Telecommunications Act of 1996.

Verizon North, LLC and WiMacTel, Inc., by its counsel, filed on September 22, 2011, at the Pennsylvania Public Utility Commission (Commission), a joint petition for the approval of the interconnection agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days after the date of publication of this notice. Copies of the Verizon North, LLC and WiMacTel, Inc. joint petition are on file with the Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

ROSEMARY CHIAVETTA,  
*Secretary*

[Pa.B. Doc. No. 11-1752. Filed for public inspection October 7, 2011, 9:00 a.m.]

### Telecommunications

**A-2011-2264806. Verizon Pennsylvania, Inc. and WiMacTel, Inc.** Joint petition of Verizon Pennsylvania, Inc. and WiMacTel, Inc. for approval of an interconnection agreement under section 252(e) of the Telecommunications Act of 1996.

Verizon Pennsylvania, Inc. and WiMacTel, Inc., by its counsel, filed on September 22, 2011, at the Pennsylvania Public Utility Commission (Commission), a joint petition

for the approval of the interconnection agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days after the date of publication of this notice. Copies of the Verizon Pennsylvania, Inc. and WiMacTel, Inc. joint petition are on file with the Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

ROSEMARY CHIAVETTA,  
*Secretary*

[Pa.B. Doc. No. 11-1753. Filed for public inspection October 7, 2011, 9:00 a.m.]

### Tentative Order

Public Meeting held  
September 22, 2011

*Commissioners Present:* Robert F. Powelson, Chairperson; John F. Coleman, Jr., Vice Chairperson; Wayne E. Gardner; James H. Cawley; Pamela A. Witmer

*Closecall America, Inc. (2010 TRS Access Line Report); A-311365*

### Tentative Order

*By the Commission:*

Closecall America, Inc. (Closecall) has failed to file its 2010 Telecommunications Relay Service Annual Access Line Summary Report Assessment Report (TRS Report) pursuant to section 504 of the Public Utility Code. 66 Pa.C.S. § 504. Specifically, 66 Pa.C.S. § 504 provides that:

The commission may require any public utility to file periodical reports, at such times, and in such form, and of such content, as the commission may prescribe, and special reports concerning any matter whatsoever about which the commission is authorized to inquire, or to keep itself informed, or which it is required to enforce.

Closecall is a competitive local exchange carrier certificated at A-311365. Commission staff's several attempts to reach Closecall by mail, phone and e-mail to file the missing report have been unsuccessful. Moreover, in its investigation staff learned that Birch Communications Inc. acquired all of Closecall's Pennsylvania assets, including its customer base, which acquisition was approved by Secretarial Letter dated December 6, 2010, at Docket Nos. A-2010-2201664, A-2010-2201668, and A-2010-2201669. Staff was also advised by counsel for Birch Communications that Closecall has gone out of business and they do not have any current contact information for Closecall.

The Commission puts the industry on notice that we will not hesitate to invoke our authority under the Public Utility Code to ensure timely compliance with our regulations and orders including the ordering of such other remedy as the Commission may deem appropriate. 66

Pa.C.S. §§ 504, 505, 506, and 3301. Based on the above facts, we tentatively conclude that it is appropriate to revoke Closecall's certificate of public convenience without the necessity of a formal complaint as being in the public interest. Furthermore, the Commission may take other appropriate action, including the imposition of penalties under section 3301, in lieu of cancellation, if Closecall seeks relief from this Tentative Order; *Therefore,*

*It Is Ordered That:*

1. Revocation of Closecall America, Inc.'s certificate of public convenience is hereby tentatively approved as being in the public interest.

2. The Secretary serve a copy of this Tentative Order upon the Office of Consumer Advocate, the Office of Small Business Advocate, and the Bureau of Investigation and Enforcement, and also cause a copy of this Tentative Order to be published in the *Pennsylvania Bulletin* with a 30-day comment period.

3. Absent the filing of adverse public comment within 30 days after publication in the *Pennsylvania Bulletin*, this Tentative Order shall become final without further action by the Commission.

4. Upon this order becoming final, and without further action by the Commission, the certificate of public convenience held by Closecall America, Inc. at A-311365 shall be canceled, and Asia Talk Telecom, Inc.'s name stricken from all active utility lists maintained by the Commission's Bureau of Technical Utility Services and the Assessment Section of the Bureau of Administrative Services.

ROSEMARY CHIAVETTA,  
*Secretary*

[Pa.B. Doc. No. 11-1754. Filed for public inspection October 7, 2011, 9:00 a.m.]

## PHILADELPHIA PARKING AUTHORITY

### Motor Carrier Application for Dispatch Service in the City of Philadelphia

Authority to render services as a common carrier in Philadelphia has been filed with the Philadelphia Parking Authority (PPA) Taxicab and Limousine Division (TLD) by the following applicant. The company has applied to dispatch medallion taxicabs in the City of Philadelphia.

**A-1027325-03. EAGLES Taxi, LLC**, 2301 Church Street, Philadelphia, PA 19124 registered with the Commonwealth on September 14, 2011.

Formal protests must be filed in accordance with 9 PPA Regs. § c.v. (see [www.philapark.org](http://www.philapark.org)). Filings must be made to the PPA TLD, Attention: Charles Milstein, Esq., 2415 South Swanson Street, Philadelphia, PA 19148, with a copy served on the applicant by October 28, 2011. Documents filed in support of the applications are available for inspection at the TLD office between 9 a.m. and 4:30 p.m. Monday to Friday or may be inspected at the

business address of the applicant. The protest fee is \$2,500 (certified check or money order payable to PPA).

VINCENT J. FENERTY, Jr.,  
Executive Director

[Pa.B. Doc. No. 11-1755. Filed for public inspection October 7, 2011, 9:00 a.m.]

able Tuesday, October 11, 2011. PRPA is an equal opportunity employer. Firms must comply with all applicable equal employment opportunity laws and regulations.

JAMES T. MCDERMOTT, Jr.,  
Executive Director

[Pa.B. Doc. No. 11-1757. Filed for public inspection October 7, 2011, 9:00 a.m.]

**Motor Carrier Application for Exclusive Bus Service in the City of Philadelphia**

Authority to render services as a common carrier in the City of Philadelphia has been filed with the Philadelphia Parking Authority (PPA) Taxicab and Limousine Division (TLD) by the following applicant. The company has applied to transport persons in exclusive bus service between points within the City of Philadelphia and from points in the City of Philadelphia to points in Pennsylvania, and return.

**A-1020690-04. American Limousine, Inc.**, 81 Franklin Turnpike, Mahwah, NJ 07430, registered with the Commonwealth December 22, 2006.

Formal protests must be filed in accordance with 9 PPA Regs. § c.v. (see www.philapark.net). Filings must be made to the PPA TLD, Attention: Charles Milstein, Esq., 2415 South Swanson Street, Philadelphia, PA 19148, with a copy served on the applicant by October 28, 2011. Documents filed in support of the application are available for inspection at the TLD office between 9 a.m. and 4:30 p.m. Monday through Friday or may be inspected at the business address of the applicant. The protest fee is \$2,500 (payable by money order to the PPA).

VINCENT J. FENERTY, Jr.,  
Executive Director

[Pa.B. Doc. No. 11-1756. Filed for public inspection October 7, 2011, 9:00 a.m.]

**PHILADELPHIA REGIONAL PORT AUTHORITY**

**Request for Proposals**

The Philadelphia Regional Port Authority (PRPA) will accept requests for proposals for Advertising Opportunities at Various PRPA Sites No. 11-070.P until 2 p.m. on Thursday, November 10, 2011. Information concerning this project can be obtained from the PRPA web site at www.philaport.com under Procurement and will be avail-

**STATE CONSERVATION COMMISSION**

**Action on Odor Management Plans for Concentrated Animal Operations and Concentrated Animal Feeding Operations and Volunteers Complying with the Commonwealth's Facility Odor Management Program**

The State Conservation Commission has taken the following actions on previously received applications for Odor Management Plans under 3 Pa.C.S. §§ 501—522 (relating to nutrient management and odor management).

Persons aggrieved by any action may appeal under 3 Pa.C.S. § 517 (relating to appealable actions), section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to Administrative Agency Law) to the Environmental Hearing Board, Second Floor, Rachael Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania AT&T Relay Service at (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

For individuals who wish to challenge an action, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, so individuals interested in challenging this action should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for pro bono representation. Call the Secretary of the Board at (717) 787-3483 for more information.

**Odor Management Plan—Public Notice Spreadsheet—Actions**

<i>Ag Operation Name, Address</i>	<i>County/Township</i>	<i>Animal Equivalent Units</i>	<i>Animal Type</i>	<i>New or Amended</i>	<i>Action Taken</i>
Robert Martin Ridge Valley Farms— Farm 1 4227 Ridge Road Beaver Springs, PA 17812	Snyder County/Beaver Township	0—compost facility only	Turkey	New	Approved

<i>Ag Operation Name, Address</i>	<i>County/Township</i>	<i>Animal Equivalent Units</i>	<i>Animal Type</i>	<i>New or Amended</i>	<i>Action Taken</i>
Karlin Lynch 138 Mays Chapel Road Warfordsburg, PA 17627	Fulton County/Bethel Township	0—manure storage facility only	Cattle	New	Approved
Tyler Snider 22357 Mountain Foot Road Neelyton, PA 17239	Huntingdon County/Dublin Township	336.33	Swine	New	Approved
Lamar Haldeman 1553 Shamrock Road Paxinos, PA 17860	Northumberland County/Shamokin Township	48.84	Broiler	New	Approved
Joseph Sweeney Rocky Knoll Limited Partnership 1166 Gypsy Hill Road Lancaster, PA 17602	Lancaster County/West Lampeter Township	0—manure storage facility only	Swine	New	Approved
Lester Martin 415 East Old York Road Carlisle, PA 17015	Cumberland County/South Middletown Township	101.18	Duck	New	Approved
Robert L. Brubaker, Jr. 2205 Camp Road Manheim, PA 17545	Lancaster County/Mount Joy Township	213.00	Broiler	Amended	Approved
Bortnick Dairy, LLC 21820 Palmer Road Conneautville, PA 16406	Crawford County/Beaver Township	390.00	Cattle	New	Approved

GEORGE D. GREIG,  
*Chairperson*

[Pa.B. Doc. No. 11-1758. Filed for public inspection October 7, 2011, 9:00 a.m.]

## STATE EMPLOYEES' RETIREMENT BOARD

### Hearings Scheduled

The following hearings have been scheduled, as authorized by 71 Pa.C.S. Part XXV (relating to the State Employees' Retirement Code), in connection with the State Employees' Retirement System's denial of Claimants' requests concerning the indicated accounts.

The hearings will be held before a hearing officer at the State Employees' Retirement System, 30 North Third Street, Fifth Floor, Harrisburg, PA 17101:

November 3, 2011	Mark H. Pavlick Disability Retirement Benefits	9 a.m.
November 3, 2011	Jody S. Dobson Disability Retirement Benefits	1 p.m.
November 15, 2011	Christopher A. Drda Multiple Service Election	1 p.m.
November 16, 2011	Allan H. Heilbrunn Interest Rate on Frozen Present Value Debt	9:30 a.m.
November 18, 2011	Gwendolyn R. Thompson Disability Retirement Benefits	1 p.m.

Parties in each respective case may appear with or without counsel and offer relevant testimony or evidence to support their respective positions. The hearings will be held in accordance with the requirements of 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law). Under 4 Pa. Code § 250.1 (relating to applicability of general rules), procedural matters will be in conformance with 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure), unless specific exemption is granted.

LEONARD KNEPP,  
*Secretary*

[Pa.B. Doc. No. 11-1759. Filed for public inspection October 7, 2011, 9:00 a.m.]

# THADDEUS STEVENS COLLEGE OF TECHNOLOGY

## Request for Bids

Thaddeus Stevens College of Technology is soliciting bids for some welding equipment for gas tungsten arc/shielded metal arc welding training. Bid specifications for Project 11-0009 can be obtained by contacting Nancy Froeschle, Thaddeus Stevens College of Technology, 750 East King Street, Lancaster, PA 17602, (717) 299-7787, fax (717) 391-3557, froeschle@stevenscollege.edu.

DR. WILLIAM E. GRISCOM,  
*President*

[Pa.B. Doc. No. 11-1760. Filed for public inspection October 7, 2011, 9:00 a.m.]

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# RULES AND REGULATIONS

## Title 52—PUBLIC UTILITIES

### PENNSYLVANIA PUBLIC UTILITY COMMISSION

[ 52 PA. CODE CH. 56 ]

[ L-00060182 ]

#### Standards and Billing Practices for Residential Utility Services

The Pennsylvania Public Utility Commission (Commission) on June 9, 2011, adopted a revised final rulemaking order which amends Chapter 56 to comply with the provisions of 66 Pa.C.S. Chapter 14.

##### *Executive Summary*

By Order entered September 26, 2008, at Docket No. L-00060182, the Commission adopted a Proposed Rulemaking Order which amends Chapter 56 of the Commission regulations, 52 Pa. Code §§ 56.1, et seq. By Order entered March 22, 2011, at this docket, the Commission adopted the Final Rulemaking Order. By Order entered June 13, 2011, at this docket, the Commission adopted the Revised Final Rulemaking Order.

The purpose of this Revised Final Rulemaking Order is to promulgate regulations to implement Chapter 14 (66 Pa.C.S. §§ 1401—1418, Responsible Utility Customer Protection). In particular, Section 6 of Act 201 requires the Commission to amend Chapter 56 to comply with the provisions of Chapter 14 and, if necessary, promulgate other regulations to administer and enforce Chapter 14.

On November 30, 2004, the Governor signed into law SB 677, or Act 201. This law went into effect on December 14, 2004. Act 201 amended Title 66 by adding Chapter 14 (66 Pa.C.S. §§ 1401—1418, Responsible Utility Customer Protection). Complying with the Section 6 obligation imposed by the Act is the main purpose of this rulemaking. In addition, the Commission reviewed the entire Chapter 56 to revise when necessary given our experience and the technological advances in the industries.

Act 201 is intended to protect responsible bill paying customers from rate increases attributable to the uncollectible accounts of customers that can afford to pay their bills, but choose not to pay. The legislation is applicable to electric distribution companies, water distribution companies and larger natural gas distribution companies (those having an annual operating income in excess of \$6,000,000). Steam, wastewater utilities and victims under a protection from abuse (PFA) order are not covered by Chapter 14.

Public Meeting held  
June 9, 2011

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

*Rulemaking to Amend the Provisions of 52 Pa. Code, Chapter 56 to Comply with the Provisions of 66 Pa.C.S., Chapter 14; General Review of Regulations;*  
*Doc. No. L-00060182*

#### Revised Final Rulemaking Order

##### *By the Commission:*

On September 26, 2008, the Commission issued a Proposed Rulemaking Order to amend our Chapter 56

Standards and Billing Practices for Residential Utility Service to comply with Chapter 14 of Title 66 and to undertake a general review of the regulations. On November 30, 2004, the Governor signed into law SB 677, or Act 201. This law went into effect on December 14, 2004. Act 201 amended Title 66 by adding Chapter 14 (66 Pa.C.S. §§ 1401—1418), Responsible Utility Customer Protection. The purpose of the Proposed Rulemaking Order was to promulgate regulations to implement Chapter 14. In particular, Section 6 of the Act requires the Commission to amend Chapter 56 to comply with the provisions of Chapter 14 and, if necessary, promulgate other regulations to administer and enforce Chapter 14.<sup>1</sup> Complying with this obligation imposed by the Act is the main purpose of this rulemaking. In addition, we are taking this opportunity to review the entire Chapter 56 and make revisions when necessary given our experience and the technological advances in the industries.

Act 201 is intended to protect responsible bill paying customers from rate increases attributable to the uncollectible accounts of customers that can afford to pay their bills, but choose not to pay. The legislation is applicable to electric distribution companies, water distribution companies and larger natural gas distribution companies (those having an annual operating income in excess of \$6,000,000).<sup>2</sup> Steam, wastewater utilities and victims under a protection from abuse (PFA) order are not covered by Chapter 14.

In response to the disapproval order issued by the Independent Regulatory Review Commission (IRRC) of the Commission's Final Rulemaking Order adopted February 24, 2011, as well as the other comments to that order, the Commission is hereby adopting this Revised Final Rulemaking Order.

##### *Background*

Chapter 14 of the Public Utility Code seeks to eliminate opportunities for customers capable of paying to avoid paying their utility bills, and to provide utilities with the means to reduce their uncollectible accounts by modifying the procedures for delinquent account collections. The goal of these changes is to increase timely collections while ensuring that service is available to all customers based on equitable terms and conditions. 66 Pa.C.S. § 1402.

Chapter 14 supersedes certain Chapter 56 regulations, all ordinances of the City of Philadelphia and any other regulations that impose inconsistent requirements on the utilities. Chapter 14 expires on December 31, 2014, unless re-enacted. Two years after the effective date and every two years thereafter, the Commission must report to the General Assembly regarding the implementation and effectiveness of the Act.<sup>3</sup>

On January 28, 2005, the Commission issued a Secretarial Letter identifying general subject areas for discussion and encouraged interested parties to file written comments. In addition, on February 3, 2005, the Commission held a "Roundtable Forum" to address the implementation and application of Chapter 14.

<sup>1</sup> Section 6 further provides that "promulgation of any such regulation shall not act to delay the implementation or effectiveness of this chapter."

<sup>2</sup> Small natural gas companies may voluntarily "opt in" to Chapter 14. 66 Pa.C.S. § 1403.

<sup>3</sup> On December 14, 2006, the Commission issued the First Biennial Report to the General Assembly and the Governor pursuant to Section 1415. On December 14, 2008, the Commission issued the Second Biennial Report. On January 14, 2011, the Commission issued the Third Biennial Report.

Written comments were filed by the following interested parties: Energy Association of Pennsylvania (EAP), PECO Energy Company (PECO Energy), PPL Electric Utilities Corporation and PPL Gas Utilities Corporation (PPL), Philadelphia Gas Works (PGW), Aqua Pennsylvania, Inc. (Aqua), Pennsylvania-American Water Company (PAWC), Office of Consumer Advocate (OCA), Community Legal Services (CLS), Pennsylvania Utility Law Project (PULP), Pennsylvania Coalition Against Domestic Violence (PCADV), Pennsylvania Apartment Association, Housing Alliance of Pennsylvania, and American Association of Retired Persons (AARP).

Based upon our review of the comments filed by interested parties pursuant to our January 28, 2005 Secretarial Letter and the oral comments expressed at the Roundtable Forum, we issued an Implementation Order on March 4, 2005 that addressed seven threshold issues. Although we considered these issues to be the most fundamental, we understood that this was an ongoing process and that other implementation issues would need to be resolved in the future.

Therefore, by Secretarial Letter issued June 27, 2005, we informed interested parties of the next Chapter 14 Roundtable, July 1, 2005, and established agenda items for this meeting. At this second Chapter 14 Roundtable, we again sought to engage in a discussion that promoted an exchange of ideas and views so that all interested parties would better understand differing positions and the rationales underlying them. It was intended that the parties would benefit from this discussion of the issues and assist in the effective development of procedures, interim guidelines and subsequent regulations necessary to implement the new requirements of Chapter 14.

Written comments were again submitted by the EAP, PECO Energy, PGW, OCA, CLS, and PULP. The comments were also intended to supplement oral representations at the July 1, 2005 Roundtable. Another Roundtable discussion was held on July 21, 2005 to discuss PGW-Specific Chapter 14 issues, and written comments were filed by PGW, the OCA, CLS, and PULP. On September 12, 2005, we issued the Second Implementation Order addressing unresolved issues identified for review and disposition as follows:

- Section I—Termination/Reconnection
- Section II—Payment Arrangements (PARS)
- Section III—Applications—Deposits
- Section IV—Protection from Abuse (PFA)/Consumer Education
- Section V—PGW-Specific Issues

Thereafter, we continued to address issues at this docket number. On August 24, 2005, we issued a Section 703(g) Order Seeking Comments on one of these threshold issues—the interpretation of the payment agreement restrictions in Section 1405(d). On October 31, 2005, we issued the Reconsideration of Implementation Order (page 23) amending the Implementation Order by concluding “that § 1405(d) permits the Commission (in addition to instances where there has been a change of income) to establish one payment agreement that meets the terms of Chapter 14 before the prohibition against a second payment agreement in § 1405(d) applies.” Finally, on November 21, 2005, we issued a Declaratory Order pursuant to 66 Pa.C.S. § 331(f) that Chapter 14 does not authorize public utilities to require upfront payments greater than those amounts specified in § 1407(c)(2).

Up to this point in the implementation process, we had addressed and resolved numerous issues involving the

application of Chapter 14 provisions. However, as indicated previously, we are required by the legislation to open a rulemaking proceeding. In order to facilitate the completion of our responsibility under the Act, we issued an Advance Notice of Proposed Rulemaking Order (Advance Notice) on December 4, 2006. This Advance Notice enabled us to gather input from the industry, consumer groups, and advocates before drafting the proposed revisions and provided us the opportunity to conduct a general review of this Chapter to identify, modify, and/or rescind certain provisions of Chapter 56. See, e.g., General Review of Regulations; Advance Notice of Proposed Rulemaking, Docket No. L-00950103, adopted April 27, 1995, 25 Pa. B. 2188 (June 3, 1995). We have offered all parties the opportunity to address other issues as well.

For example, we explained in the December 4, 2006 Advance Notice that since the most recent revision of Chapter 56, there have been technological advances including electronic billing and payment, email, the internet, etc. Parties were invited to comment as to how these technological advances should be addressed in the regulations, especially the billing and payment sections. Furthermore, we asserted that the rulemaking proceeding will also review all of our outstanding ad hoc reporting requirements for the same purpose.

In the Advance Notice, we recognized that Chapter 14 will necessitate significant changes to the winter termination rules at § 56.100; this is an area of crucial importance and is central to the Commission’s obligation to protect the health and safety of all citizens of the Commonwealth.

Chapter 14 also changes the procedures utilities may use when screening applicants for service and credit worthiness. Related to this are provisions in Chapter 14 that expand a utility’s ability to assign liability for account balances that may have accrued under the name of someone other than the customer or applicant. The Commission requested comments on these procedures of winter terminations and screening and asked for the assistance of all parties in formulating regulations to address these important areas.

The Commission sought comments on the most controversial and complex provisions of Chapter 14 identified in questions set forth in Appendix A to the Advance Notice. Comments were received from the following 22 parties: EAP, PECO Energy, Allegheny Power, PPL, Duquesne Light Company (DLC), the FirstEnergy Companies (FirstEnergy), PGW, Columbia Gas of Pennsylvania, Inc. (Columbia), TW Phillips Gas Company (TWP), National Fuel Gas Distribution Corporation (NFG), Equitable Gas Company Division of Equitable Resources, Inc. (Equitable), The National Association of Water Companies (NAWC), PAWC, Aqua, OCA, PULP, Action Alliance of Senior Citizens, Tenant Union Representative Network and ACORN (Action Alliance), AARP, PCADV, Women’s Law Project (WLP), Women Against Abuse (WAA), and the Consumer Advisory Council (CAC). As indicated previously, we encouraged the commentators to raise any matters or issues that they feel we have overlooked or missed, including the need to revise Chapter 56 sections unrelated to Chapter 14.

#### *Proposed Rulemaking Order*

Upon consideration of the new requirements of Chapter 14 and all of the comments received to date, we proposed the adoption of the regulations set forth in Annex A to the September 26, 2008 Proposed Rulemaking Order. A summary of the comments along with discussion of such were

attached to this Order as Attachment One. The Order was published February 14, 2009 at 39 Pa.B. 925 and the public comment period concluded on April 20, 2009. This action continued the process of revising our Chapter 56 regulations. As provided for under law, the Commission next sought to finalize the proposed regulations.

Comments in response to the Order were submitted by Action Alliance, Allegheny Power, Aqua, Citizens' Electric Company (Citizens), Columbia, DLC, CAC, Dominion Peoples (Dominion), EAP, Equitable, FirstEnergy, MidPenn Legal Service (MidPenn), OCA, PULP, PECO Energy, PAWC, PGW, PPL, TWP, UGI Distribution Company (UGI), United Water (United), West Philadelphia Coalition of Neighborhoods and Businesses (WPCNB), York Water (York), as well as the Independent Regulatory Review Commission (IRRC). All comments are available at the Commission's public internet domain at [www.puc.state.pa.us](http://www.puc.state.pa.us), as well as IRRC's at [www.irrc.state.pa.us](http://www.irrc.state.pa.us).

The Commission reviewed all the comments and the issues that developed in this rulemaking and issued a Final Rulemaking Order. The interested parties have now filed or had an opportunity to file comments on five separate occasions, including the December 4, 2006 Advance Notice. The issues have narrowed and the Commission's final order attempted to resolve the remaining issues. Many of the issues had already been the subject of previous Commission actions and the interested parties, as I have indicated, had numerous opportunities to comment on these issues, as set forth below:

- definition of customer (First Implementation Order)
- user without contract (First Implementation Order)
- landlord winter termination (First Implementation Order)
- PUC payment agreements (Reconsideration of Implementation Order)
- curing a payment agreement to avoid termination (First Implementation Order)
- verification of households eligible for winter termination (Second Implementation Order)

#### *Final Rulemaking Order*

By Order adopted February 24, 2011, and entered March 22, 2011, the Commission adopted a Final Rulemaking Order.

Our Final Rulemaking Order reflected changes in areas such as income definitions and CAP eligibility, winter surveys, paper receipts for electronic payments, budget billing payment arrangements, tariffs and credit scoring, etc. In some aspects, our Final Rulemaking Order represented substantial changes to the originally proposed amendment. We made changes in response to the issues and resolutions raised in comments by IRRC, consumer advocates and industry participants. We found merit with many of the comments and made the necessary changes.

The Commission believes that our implementation of Chapter 14 by amending Chapter 56 regulations to comply and be consistent with the statute will allow utilities to reduce their uncollectible accounts and provide additional collection tools to PGW. However, we did not draft proposed regulations that provide utilities and PGW additional methods or practices that were not specifically set forth or contemplated by the legislation. Although this was advocated by a few commentators, that is not the agency's role. The General Assembly enacted this legislation that provided these tools and the regulations implement the statute.

As previously indicated, we reviewed IRRC's comments and the Final Rulemaking Order attempted to address the concerns raised by IRRC. In addition, IRRC also made recommendations with respect to additional matters to be included and discussed in the Order. First, IRRC suggested that the Commission provide a section by section explanation of what revisions are being made. We addressed that request in Attachment Two, which provided a summary of the significant revisions to the Proposed Rulemaking Order. In addition, Attachment Three provided a regulatory analysis of the savings and efficiencies that will result from the revisions established in the Final Rulemaking Order. Furthermore, the Commission anticipated minimal additional costs to utilities reflecting possible computer software changes and increased training for customer service representatives and the additional reporting requirement costs. In Section 1402, the General Assembly declared that revision of the Chapter 56 rules would be in the public interest. We believe that the following substantive changes are consistent with that declaration of policy:

- Chapter 14 expanded the ability of a utility to ask for a deposit and we implemented this change.
- Chapter 14 expanded the ability of a utility to assign liability for an account without first seeking permission from the Commission or a court.
- The Commission expanded the ability of utilities and PGW to terminate in the winter.
- The Commission made the termination notice requirements less stringent than existing Chapter 56 requirements.

IRRC also suggested a cross-reference of Chapter 14 provisions that have been incorporated into Chapter 56 regulations. We also cross-referenced where Chapter 56 provisions have been revised to incorporate Chapter 14. These cross-references were provided in Attachment Four and Five, respectively. Finally, Attachment Six cross-referenced the traditional Chapter 56 subchapters with the new subchapters covering excluded utilities and PFA holders.

The Commission made these and other changes described above and below based on its oversight authority, experience in consumer service standards for residential service, and the requirements of Chapter 14. Chapter 14 (Section 4) supersedes inconsistent Chapter 56 regulations. We believed that this Order and Annex A did not reflect inconsistencies with Chapter 56 provisions or language. Although we amended 24 sections listed in Section 4, Chapter 56 addresses a number of topics that are not touched by Chapter 14, e.g., third-party notice, 4-year statute of limitation period for outstanding bills, make-up bills, existing customer deposits, unauthorized termination of service, procedures immediately prior to termination, post-termination notices, the right to petition the Commission to terminate customers protected by the winter termination prohibitions, and all the medical emergency provisions that are consistent with Chapter 14. We do not believe that these provisions are inconsistent with Chapter 14. We also made additional changes in response to comments from IRRC and other commentators that were intended to clarify and otherwise improve the rulemaking.

On April 7, 2011, the final-form regulation was delivered to the standing Committees of the Pennsylvania Senate and House of Representatives and (IRRC).

The next stage for the regulation within the Regulatory Review Act (Act) was review and approval at an IRRC public meeting. The regulation was scheduled for consideration and action at the May 19, 2011 public meeting. However, on May 13, 2011, the Commission issued a Secretarial Letter requesting disapproval of the regulation. The Secretarial Letter was served on all the parties to the rulemaking giving these parties an opportunity to file comments with IRRC. Notice of the May 19, 2011 public meeting was posted on IRRC's web site and the parties had an opportunity to provide oral comments at the meeting.

According to Section 745.2(a) of the Regulatory Review Act, 71 P. S. § 745.2(a), the legislative intent of the Act is to encourage the resolution of objections to a regulation and the reaching of a consensus among IRRC, the standing committees, interested parties and the agency. At this final stage in the regulatory review process, we determined that it was necessary to revise the regulation. In order to accomplish this result, it was necessary to seek disapproval of the regulation.

The Commission submitted in its Secretarial Letter that the modifications will not improperly enlarge the scope of regulation. The Commission further submitted that the final-form regulation may be inconsistent with the intention of the General Assembly in the enactment of Chapter 14. Therefore, pursuant to Section 745.7(a), we requested that the IRRC disapprove the subject regulation which would allow this agency to revise the final-form rulemaking consistent with subsection (c). The response and recommendations contemplated by the agency shall be submitted in a report to the Committees and the IRRC, within 40 days of the agency's receipt of the IRRC's disapproval order. The matters to be addressed and identified in the Secretarial Letter are set forth below:

§ 56.2 Definition of Household Income  
 § 56.17 Advance Payments  
 § 56.111 General Provision  
 § 56.191 Payment and Timing  
 § 56.252 Definition of Household Income  
 § 56.267 Advance Payments  
 Appendix B

On May 26, 2011, IRRC issued its Disapproval Order. In addition to the matters identified above, IRRC requested further explanation of the Commission's statutory authority for Subchapters L through V and a more detailed cost-benefit and fiscal impact analysis of the regulation. IRRC also noted that commentators have expressed concern with additional sections. IRRC's final concern related to clarity and lack of ambiguity with two sections. The Commission's Report to Independent Regulatory Review Commission: Disapproved Regulation Submitted with Revisions contains the final-form regulation, the findings of IRRC, and our response and recommendations regarding the revised regulation, including responses to the concerns expressed by IRRC and the commentators. The Commission respectfully submits that it has addressed the concerns expressed by the Independent Regulatory Review Commission in its Disapproval Order. The Commission made substantive changes to the revised final-form regulation to address IRRC's concerns, and has explained the basis for the changes in this Report. Based on the attached revised final-form regulation, the findings of the Independent Regulatory Review

Commission and the Commission's response and recommendations regarding the regulation, the Commission submits that this Revised Final Rulemaking Order is in the public interest. This Order, Report, Attachments and Annex A will be published on the Commission's web site.

#### *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on February 4, 2009, the Commission submitted a copy of the notice of proposed rulemaking, published at 39 Pa.B. 925 (February 14, 2009), to IRRC and the Chairpersons of the House Committee on Consumer Affairs and the Senate Committee on Consumer Protection and Professional Licensure for review and comment.

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

Under section 5.1(j.2) of the Regulatory Review Act (71 P. S. § 745.5a(j.2)), on July 20, 2011, the final-form rulemaking was deemed approved by the House and Senate Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC met on May 19, 2011, and disapproved the final-form rulemaking. Under section 5.1(e) of the Regulatory Review Act, IRRC met on July 21, 2011, and approved the final-form rulemaking.

#### *Conclusion*

Accordingly, under Sections 501, 504, and 1401—1418 of the Public Utility Code, 66 Pa.C.S. §§ 501, 504 and 1401—1418; Sections 201 and 202 of the Act of July 31, 1968, P. L. 769 No. 240, 45 P. S. §§ 1201—1202, and the regulations promulgated thereunder at 1 Pa. Code §§ 7.1, 7.2, and 7.5; Section 204(b) of the Commonwealth Attorneys Act, 71 P. S. § 732.204(b); Sections 745.5 and 745.7 of the Regulatory Review Act, 71 P. S. §§ 745.5 and 745.7; and Section 612 of the Administrative Code of 1929, 71 P. S. § 232, and the regulations promulgated thereunder at 4 Pa. Code §§ 7.231—7.234, we are considering adopting the revised final regulations set forth in Annex A; *Therefore,*

#### *It Is Ordered That:*

1. The regulations of the Commission, 52 Pa. Code Chapter 56, are amended by adding §§ 56.25, 56.166, 56.251, 56.252, 56.261—56.267, 56.271—56.275, 56.281—56.288, 56.291, 56.292, 56.301—56.307, 56.311, 56.312, 56.321—56.323, 56.331—56.340, 56.351—56.358, 56.361, 56.371—56.374, 56.381, 56.382, 56.391—56.394, 56.401—56.404, 56.411, 56.421, 56.422, 56.431, 56.432, 56.441, 56.451, 56.452, 56.453 and 56.461, Appendix C, Appendix D and Appendix E; by deleting §§ 56.43, 56.54, 56.55, 56.101, 56.161 and 56.211; and by amending §§ 56.1, 56.2, 56.11—56.17, 56.21-56.24, 56.31—56.33, 56.35—56.38, 56.41, 56.42, 56.51, 56.53, 56.56—56.58, 56.71, 56.72, 56.81—56.83, 56.91—56.100, 56.111—56.118, 56.131, 56.140—56.143, 56.151, 56.152, 56.162—56.165, 56.172—56.174, 56.181, 56.191, 56.192, 56.201, 56.202, 56.221, 56.222 and 56.231, Appendix A and Appendix B to read as set forth in Annex A.

2. The Commission hereby adopts the Report to the Independent Regulatory Review Commission: Disapproved Regulation Submitted with Revisions (Report to IRRC).

3. The Secretary shall submit this order, Report to IRRC, Attachments One through Six and Annex A to the

Office of Attorney General for review as to form and legality and to the Governor's Budget Office for review for fiscal impact.

4. The Secretary shall submit this order, Report to IRRC, Attachments and Annex A for review by the Legislative Standing Committees and for review and approval by IRRC.

5. The Secretary shall certify this order, Report to IRRC and Annex A and deposit them with the Legislative Reference Bureau to be published in the *Pennsylvania Bulletin*.

6. The regulations in Annex A shall become effective upon publication in the *Pennsylvania Bulletin*.

7. The Secretary shall serve this order upon all jurisdictional electric utilities, natural gas utilities, steam, water and wastewater utilities, electric generation suppliers, natural gas suppliers, the Office of Consumer Advocate, the Office of Small Business Advocate and all parties that submitted comments at this Docket. The Report to IRRC, order, attachments and Annex A shall be posted and made available electronically on the Commission's web site.

8. The contact persons for this matter are Daniel Mumford, Manager, Field Review, Bureau of Consumer Services, (717) 783-1957, dmumford@state.pa.us; Terrence J. Buda, Assistant Counsel, Law Bureau, (717) 783-3459, tbuda@state.pa.us; and Patricia Wiedt, Assistant Counsel, Law Bureau, (717) 787-5755, pwiedt@state.pa.us. Alternate formats of this document are available to persons with disabilities and may be obtained by contacting Sherri Delbiondo, Regulatory Coordinator, Law Bureau, (717) 772-4597, sdelbiondo@state.pa.us.

ROSEMARY CHIAVETTA,  
*Secretary*

*(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 41 Pa.B. 4265 (August 6, 2011).)*

**Fiscal Note:** Fiscal Note 57-265 remains valid for the final adoption of the subject regulations.

**Report to the Independent Regulatory Review Commission: Disapproved Regulation Submitted with Revisions**

The Commission is submitting this Report to the Independent Regulatory Review Commission (IRRC) and the standing Committees of the Pennsylvania Senate and House of Representatives pursuant to Section 745.7(c) of the Regulatory Review Act, 71 P.S. § 745.7(c), and regulatory requirements at 1 Pa. Code Chapter 311 (relating to procedures for review of disapproved final regulations). The Commission has decided to revise this disapproved final-form regulation in order to respond to objections raised by IRRC and adopt this regulation with revisions. This Report contains the attached revised final-form regulation which includes the Revised Final Rulemaking Order, Annex A, and Attachments One through Six. In addition, this Report contains the findings of IRRC, and our response and recommendations regarding the final-form regulation. The regulation is identified by IRRC as Regulation No. 57-265 (#2743).

*Background*

By Order adopted February 24, 2011, and entered March 22, 2011, the Commission adopted the Final Rulemaking Order. On April 7, 2011, the final-form regulation was delivered to the standing Committees of the Pennsylvania Senate and House of Representatives and IRRC.

The next stage for the regulation with the Regulatory Review Act (ACT) was review and approval at an IRRC meeting. The regulation was scheduled for consideration and action at the May 19, 2011 public meeting. However, on May 13, 2011, the Commission issued a Secretarial Letter requesting disapproval of the regulation. The Secretarial Letter was served on all the parties to the rulemaking giving these parties an opportunity to file comments with IRRC. Notice of the May 19, 2011 public meeting was posted on IRRC's website and the parties had an opportunity to provide oral comments at the meeting.

According to Section 745.2(a) of the Regulatory Review Act, 71 P.S. § 745.2(a), the legislative intent of the Act is to encourage the resolution of objections to a regulation and the reaching of a consensus among IRRC, the standing committees, interested parties and the agency. At this final stage in the regulatory review process, we determined that it was necessary to revise the regulation. In order to accomplish this result, it was necessary to seek disapproval of the regulation.

The Commission submitted in the Secretarial Letter that the modifications will not improperly enlarge the scope of regulation. The Commission further submitted that the final-form regulation may be inconsistent with the intention of the General Assembly in the enactment of Chapter 14. Therefore, pursuant to Section 745.7(a), we requested that IRRC disapprove the subject regulation which will then allow this agency to revise the final-form rulemaking consistent with subsection (c). The response and recommendations contemplated by the agency shall be submitted in the report to the Committees and the IRRC, within 40 days of the agency's receipt of the IRRC's disapproval order. The matters to be addressed and identified in the Secretarial Letter are set forth below:

- § 56.2 Definition of Household Income
- § 56.17 Advance Payments
- § 56.111 General Provision
- § 56.191 Payment and Timing
- § 56.252 Definition of Household Income
- § 56.267 Advance Payments
- Appendix B

On May 26, 2011, IRRC issued its Disapproval Order. A true and correct copy of the subject Disapproval Order is appended to this report as "Exhibit A" and is incorporated herein.

*Disapproval Order and Findings*

In the Disapproval Order, IRRC first cites the Commission's acknowledgement that certain sections of the regulation may be inconsistent with Chapter 14. IRRC then cited the sections of the rulemaking identified in the Commission's May 13, 2011 Secretarial Letter. The basis of IRRC's disapproval is that without support from the promulgating agency, this regulation does not meet the reasonableness criterion set forth in the Regulatory Review Act and is not in the public interest. 71 P.S. § 745.5b(b)(3).

In addition to this conclusion, IRRC expressed other concerns with the rulemaking. First, IRRC requests further explanation of the Commission's statutory authority for promulgating Subchapters L through V. 71 P.S. § 745.5b(a).

Second, IRRC requests a more detailed fiscal impact analysis that includes actual dollar amounts to determine the true economic or fiscal impact the regulation will

have on the Commonwealth, political subdivisions and the private sector. 71 P. S. § 745.5b(b)(1).

Third, IRRC notes that commentators have expressed concern with sections of the rulemaking not included in the Commission's Secretarial Letter of May 13, 2011. These commentators share similar concerns pertaining to the manual reading of utility meters and a utility communicating with non-English and non-Spanish speaking customers. IRRC submits that the sections cited by the commentators are as follows:

- § 56.12, pertaining to meter reading, estimated billing and customer readings
- § 56.91, pertaining to general notice provisions and contents of termination notice
- §§ 56.93 and 56.333, pertaining to personal contact
- §§ 56.201 and 56.431, pertaining to public information
- § 56.331, pertaining to general notice provisions and contents of termination notice.

According to IRRC, the commentators believe that the language in these sections does not adequately protect the public health, safety and welfare of the citizens of the Commonwealth. In the report submitted with our revised final-form regulation, IRRC requests that the Commission analyze the sections noted above in conjunction with the comments and explain how the regulation adequately protects the public health, safety and welfare of the citizens of the Commonwealth. 71 P. S. § 745.5b(b)(2).

Finally, IRRC expresses a concern that relates to clarity and lack of ambiguity. 71 P. S. § 745.5b(b)(3)(ii). IRRC explains that under § 56.13, a cross-reference to § 56.83(3) would improve the clarity of the regulation. Also, under § 56.36, IRRC notes the comment and response document submitted with the final regulation states that references to "customer" in subsection (b)(1) were deleted. However, IRRC points out that the references are still in the regulation.

#### *Revised Final-form rulemaking*

A true and correct copy of the revised final-form regulation is attached in front of this report and is incorporated herein. The inclusion of the revised final-form regulation is in accordance with Section 745.7(c) of the Regulatory Review Act and IRRC's regulation at 1 Pa. Code § 311.4(1). Although the entire final-form regulation is attached, the only changes to the final-form regulation appear on the following pages:

- 5 (household income 56.2)
- 12 (inserted cross-reference in 56.13)
- 14-15 (advance payment 56.17)
- 22 (removed the word customer 56.36)
- 35 (term notice languages 56.91)
- 43 (med cert 56.111)
- 57 (med cert—restoration 56.191)
- 69 (household income 56.252)
- 75 (inserted cross reference in 56.263)
- 77-78 (advance payment 56.267)
- 83 (removed the word customer 56.286)
- 92 (term notice, changed reference to appendix B 56.331)
- 92-93 (term notice languages 56.331)
- 95 (post-term notice; changed reference to appendix B 56.336)
- 115 (appendix B)
- 122 (appendix F)

#### *Commission Response and Recommendations Regarding the Final Regulation*

Pursuant to Section 745.7(c), this Commission has decided to revise the final-form regulation in order to

respond to objections raised by IRRC in the Disapproval Order and adopt the regulation with revisions or modifications. In addition, pursuant to Section 7(c), the Commission is submitting this agency report to contain the revised final-form regulation, the findings of the IRRC and the agency's response and recommendations regarding the revised final-form. This response and recommendation is also offered in accordance with IRRC's regulation at 1 Pa. Code § 311.4(3).

First, the Commission submits that it has revised the final-form regulation to address the issues raised in the May 13, 2011 Secretarial Letter and the other objections raised by IRRC in its May 26, 2011 Disapproval Order. In summary, the definition of "Household income" will be revised to mirror the definition provided in 66 Pa.C.S. § 1403. Additional guidance as to what is not to be included in the definition will be deleted. The section on "Advanced payments" will be revised to restore the traditional prohibition on low-income customers participating in these programs. The section on medical certifications in the Emergency Provisions will be revised to restore the traditional language that allows a medical certificate to be used to restore a customer's service. In addition, the section on Payment and Timing will be revised to align it with the revisions to § 56.111, in that medical certificates may be used to restore a customer's service that has been terminated. Additionally, the section on Payment and Timing will be revised to set forth different provisions for customer and applicant. The revisions to the definition of "Household income" and the restoration of the traditional prohibition on low-income customers participating in advance payment programs will also be made in subchapters L-V that cover small gas companies, wastewater, steam heat and PFA customers. Finally, Appendix B, the Medical Emergency Notice, attached to Annex A, will be revised to align it with the revisions in § 56.111 and § 56.191 that allow a medical certificate to be used to restore a customer's service. Given that Appendix B will apply to all customers, Appendix F (applying to small gas companies, wastewater, steam heat and PFA customers) will be removed. We have made the necessary revisions to Annex A and Attachment One to implement these revisions.

In addition, to respond to IRRC's two other concerns, we have first revised the Discussion section in Attachment One, § 56.251 Statement of purpose and policy, to provide further explanation and justification that the Commission has statutory authority for promulgating Subchapters L through V. With respect to IRRC's request that we provide a detailed fiscal impact analysis that includes actual dollar amounts to determine the true economic or fiscal impact of the regulation, we shall address IRRC's concern in the Regulatory Analysis Form, under Section III: Cost and Impact Analysis.

As indicated previously, IRRC identified additional concerns that were raised by commentators. The comments of Action Alliance of Senior Citizens and Tenant Union Representative Network (Action Alliance) raised the issue of "Automatic meter readings" and its definition in Section 1411 that "[a]ll readings by an automatic reading device shall be deemed actual readings for purposes of this title." Action Alliance believes that this statutory language would supersede and override all existing statutory provisions and Commission regulations designed to ensure accurate billings. Citing Section 1922(1) of the Regulatory Construction Act, 1 Pa. C.S. § 1922(1), Action Alliance believes that interpreting Section 1411 to override long-settled consumer protections is an absurd result and would constitute an unwarranted repeal by implica-

tion. Action Alliance further believes that § 56.12(5) as modified in the Proposed Rulemaking Order now requires no manual, physical meter reading to ensure accuracy because, by definition, a remote reading obtained through an AMR is an actual meter reading. Action Alliance asserts that the General Assembly did not intend to relieve public utilities from their responsibility to ensure accurate billing. Finally, Action Alliance concludes that there appears to be no conflict or repugnancy between Chapter 14 and Section 1504 (Standards of service and facilities.) and Commission regulations designed to ensure accurate billing. Similarly, Representative W. Curtis Thomas believes it is absurd to not require a manual, physical meter reading to ensure accuracy.

We first want to clarify the definition of automatic meter reading (AMR). Per the definition we are providing at §§ 56.2 and 56.252, an AMR is “Metering using technologies that automatically read and collect data from metering devices and transfer the data to a central database for billing and other purposes.” Basically, the meter reads itself and automatically transmits the reading (using various technologies) to the utility. An AMR system allows a utility to obtain regular meter readings without sending a company employee to physically interrogate the meter for obtaining a meter read. The technology also eliminates the need for issuing customer bills based on an estimated meter reading when the utility is not able to obtain a meter reading (for example, when a meter read is not possible because of poor weather or the meter is not accessible because it is in a basement or behind a locked fence, etc.). The cost-saving benefits for the utility, in that they no longer have to deploy meter readers, are obvious. However, customers also benefit in that they no longer receive bills based on estimated meter readings.

The commentators identified by IRRC appear to have concerns with the accuracy of AMR meters. Of course an AMR meter, like any other meter, may malfunction, rare as this may be. As a result, there are Commission regulations that address the testing, accuracy and replacement of meters (electric, refer to 52 Pa. Code §§ 57.20—57.25; gas §§ 59.16—59.22; water §§ 65.7—65.9). We stress that nothing in this rulemaking impacts these meter testing, accuracy and replacement standards. Concerning the accuracy of AMR meters as opposed to conventional meters, we believe this question is well beyond the scope of this rulemaking. Any party with concerns along these lines should bring the matter to the Commission in a separate proceeding.

If these commentators want AMR metering to be treated the same as “remote metering devices” under § 56.12(5), again, we believe at this point, this is beyond the scope of this rulemaking. This would in effect require examination of every AMR meter every five years. This would be a dramatic and costly expansion of current meter inspection requirements found in the above mentioned regulations. For example, the electric meter inspection requirements at 52 Pa Code § 57.20 require meters manufactured after 1940 to be tested every 8—20 years (depending on the type of meter). Shortening these timeframes to five years, and using this rulemaking to do so, would be inappropriate, especially given the significant costs involved and the fact that this subject was not fully aired in this proceeding. Again, if a party wants to bring this matter to the attention of the Commission, they should do so in a separate proceeding.

We believe that the General Assembly’s intent in Section 1411 was clear. The General Assembly is clearly

convinced of the benefits of AMR metering for both utilities and consumers, and want the cost-saving benefits and billing accuracy benefits to be fully realized. That is why Section 1411 clearly states that “All readings by an automatic meter reader device shall be deemed actual readings for the purposes of this title.” We believe that any attempt by us to impose costly additional testing and inspection requirements on these metering systems would thwart the intention of the General Assembly, and would not be legally supportable.

IRRC also notes that commentators shared concerns about a utility communicating with non-English and non-Spanish speaking customers. Nationalities Service Center, SEAMAAC, Inc., Welcoming Center for New Pennsylvanians, and the Pennsylvania Immigration and Citizenship Coalition raised this issue. The commentators identified § 56.91(b)(17), § 56.331(b)(13), § 56.201, § 56.431, § 56.93 and § 56.333 for revision. In particular, it was commented that the Proposed Rulemaking Order under § 56.91(b)(17) and § 56.331(b)(13), included termination notice information directing customers to a number to call for information and translation assistance in Spanish and in non-Spanish “languages when census data indicates a significant population using that language resides in the public utility’s service territory.” The IRRC recommended that the Commission clarify what constitutes a “significant population.” Instead, the commentators submit that the Commission, in the final regulation, eliminated the entire non-Spanish language proposal, as follows:

**(17) Information in Spanish, directing Spanish-speaking customers to the numbers to call for information and translation assistance. ~~Similar information shall be included in other languages when census data indicates a significant population using that language resides in the public utility’s service territory.~~**

The commentators recommend the following amendments to the regulations at § 56.91(b)(17) and § 56.331(b)(13):

**Information in Spanish, directing Spanish-speaking customers to the numbers to call for information and translation assistance. Similar information shall be included in other languages when census data indicates a significant population using that language resides in the public utility’s service territory. A SIGNIFICANT POPULATION CONSTITUTES 5% OF PERSONS ELIGIBLE TO BE SERVED OR 1,000 MEMBERS OF THE LANGUAGE GROUP, WHICHEVER IS LESS.**

The commentators recommend the same amendment for billing information under § 56.201 and § 56.431 as follows:

... A **public utility** which serves a substantial number of Spanish-speaking [ **ratepayers** ] customers shall provide billing information in English, [ **and** ] in Spanish, **AND IN OTHER LANGUAGES WHEN CENSUS DATA INDICATES THAT A SIGNIFICANT POPULATION USING THE PARTICULAR LANGUAGE RESIDES IN THE PUBLIC UTILITY’S SERVICE TERRITORY. A SIGNIFICANT POPULATION CONSTITUTES 5% OF PERSONS ELIGIBLE TO BE SERVED OR 1,000 MEMBERS OF THE LANGUAGE GROUP, WHICHEVER IS LESS.**

Finally, the commentators believe that § 56.93 and § 56.333, which describe a utility employee’s personal

contact with customers, should be amended to require the personal contact, whether in person or by phone, be in the primary language of the customer.

IRRC asked us to consider the comments of various parties about the utilization of languages other than English in utility communications with consumers. We first want to note that IRRC and some other parties had concerns with what the Commission proposed in our September 2008 Proposed Rulemaking Order concerning the use of other languages on 10-day written termination notices (§§ 56.91 and 56.331). We had proposed that utilities should provide taglines in other languages “when census data indicates a significant population using that language resides in the public utility’s service territory.” IRRC and others suggested that the requirement was too “vague,” and we agreed.

We want to clarify by what the Commission intended in its original proposal. It was never intended or proposed that the entire termination notice be provided in different languages. The intent was to just include a line in the foreign language directing the reader to the phone number to call for assistance. As PPL and PGW pointed out in their comments, utilities retain foreign language translation services. The line on the termination notice would simply direct the reader to call this service for assistance. Regardless, we admitted that the original proposal was too vague, and we removed the proposed requirement in the February 2011 Final Order.

We must also note that the use of Spanish is not at issue. Current termination notices, and the proposed regulations, continue to require that termination notices contain taglines in Spanish that direct Spanish speakers where they can call for assistance. This has not been an issue of debate in this rulemaking and no change in this current practice was ever proposed. Instead, the issue has been providing similar information in languages other than English and Spanish.

Upon reconsideration, we now believe that we can revise this requirement while at the same time making it less vague. We will do this revising § 56.91 and § 56.331 by adding to the requirement a threshold of 5% of the population, based on census data, as advocated by parties such as Action Alliance. The requirement will now read “Information in Spanish, directing Spanish-speaking customers to the numbers to call for information and translation assistance. Similar information shall be included in other languages when census data indicates that 5 % or more of the residents of the utility’s service territory are using that language.”

However, we do not agree with the recommendations of various parties to also incorporate a minimum threshold of 1,000 customers (5 percent or 1,000 customers, whichever is less). We believe that a minimum threshold of 1,000 is too low. As PECO and PGW pointed out in their comments, the City of Philadelphia has a very diverse population with many different languages being spoken. A 1,000 threshold could have the effect of requiring several different taglines on the termination notices; further crowding an already crowded 2-page written notice. PPL points out that such a requirement could even lead to an additional notice page, significantly increasing costs. Expanding the notice to a 3-page document would also not serve consumers well from a plain-language perspective. The longer a document is, the less likely it is to be fully read and comprehended. We believe the five percent threshold (1 out of every 20), is a reasonable middle ground that will help protect significant vulnerable populations while not imposing additional burdensome costs on the utilities.

Some of the parties also want us to go further still and to require the provision of 3-day personal contact termination notices (§§ 56.93, 56.333) in the language of the customer. This would require a utility, when calling or visiting a customer’s residence to provide a notice of termination, to provide such in the customer’s language. We believe that this has serious practical concerns (such as necessitating the utility to somehow know and keep record of each customer’s language) and cost issues, none of which have been fully aired in this proceeding. As such, we believe it is inappropriate to expand the scope of this rulemaking in this direction at this time. Furthermore, we believe this requirement is unnecessary in that, as we have discussed above, we are revising § 56.91 and § 56.331 to direct that the 10-day written notice of termination include information in other languages if five percent or more of the customer base uses that language. We believe it is more important that the 10-day written notice (which every customer facing termination receives) contains this information, so that the customer has the information and phone number to call in writing, in their language, making it less likely they will forget. The 3-day personal contact notice is not nearly as critical, especially considering that a utility only has to attempt to deliver a 3-day notice; meaning that not every customer facing termination actually receives a 3-day notice. As such, we believe providing the information in other languages on the 10-day written notice is far more effective from a public health and safety perspective, and is also the more cost-conscious solution.

Concerning the request of some of the parties that the Commission require utilities to provide other customer communications in other languages (§§ 56.201 and 56.431), we note that the current regulation and the proposed regulations require this for Spanish. However, we believe that expanding this requirement to include other languages presents significant cost issues for both utilities and the Commission. Given the costs and the fact that this issue has not been fully aired in this proceeding, we believe it is inappropriate to expand the scope of this rulemaking in this direction at this time. Parties with concerns such as these can bring them to the attention of the Commission through other proceedings. We point to the Commission’s Policy Statement on Plain Language Guidelines (52 Pa Code § 69.251) as an example of possible other alternative methods of addressing concerns with utility communications.

IRRC’s last concern expressed in its Disapproval Order addressed clarity and a lack of ambiguity. We agree and will cross-reference § 56.83(3) in § 56.13 and delete the reference to “customer” in § 56.36(b)(1).

#### *Conclusion*

The Commission respectfully submits that it has addressed the concerns expressed by the Independent Regulatory Review Commission in its Disapproval Order. The Commission made substantive changes to the revised final-form regulation to address IRRC’s concerns, and has explained the basis for the changes in this Report. The Commission respectfully requests IRRC’s approval of this Report, in accordance with Section 7(c.1) of the Regulatory Review Act (71 P.S. § 745.7(c.1)). Based on the attached revised final-form regulation, the findings of the Independent Regulatory Review Commission and the Commission’s response and recommendations regarding the regulation, the Commission further requests that the Independent Regulatory Review Commission find that promulgation of the regulation is in the public interest.



“Exhibit A”

Independent Regulatory Review Commission  
Disapproval Order

INDEPENDENT REGULATORY REVIEW COMMISSION  
DISAPPROVAL ORDER

Commissioners Voting:

Public Meeting Held May 19, 2011

Silvan B. Lutkewitte, III, Chairman  
George D. Bedwick, Vice Chairman  
Arthur Coccodrilli  
John F. Mizner, Esq., by phone  
Lawrence J. Tabas, Esq.

Regulation No. 57-265 (#2743)  
Pennsylvania Public Utility Commission  
Standards and Billing Practices for Residential  
Utility Services

On February 4, 2009, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the Pennsylvania Public Utility Commission (PUC). This rulemaking amends 52 Pa. Code Chapter 56. The proposed regulation was published in the February 14, 2009 *Pennsylvania Bulletin* with a 65-day public comment period. The final-form regulation was submitted to the Commission on April 7, 2011.

This regulation implements that portion of the law commonly known as Chapter 14 or the Responsible Utility Customer Protection Act. It includes provisions necessary to administer and enforce Chapter 14, as well as language added as a result of the PUC’s review of Chapter 56 in its entirety.

On May 13, 2011, the PUC submitted a letter that asked this Commission to disapprove the rulemaking. The PUC stated that certain sections of the regulation may be inconsistent with Chapter 14. The sections of the rulemaking cited by the PUC are:

- §§ 56.2 and 56.252, pertaining to the definition of “household income”;
- §§ 56.17 and 56.267, pertaining to advance payments;
- § 56.111, pertaining to general provision;
- § 56.191, pertaining to payment and timing; and
- Appendix B, pertaining to medical emergency notice.

Without support from the promulgating agency, this regulation does not meet the reasonableness criterion set forth in the Regulatory Review Act and is not in the public interest. 71 P.S. § 745.5b(3).

In addition, we have other concerns with the rulemaking. First, in our comments on the proposed rulemaking, we asked the PUC to explain its statutory authority for promulgating Subchapters L through V. We have reviewed the PUC’s response to this comment and request further explanation of its statutory authority for Subchapters L through V. 71 P.S. §745.5b(a).

Second, our comments on the proposed rulemaking asked for a more detailed cost-benefit and fiscal impact analysis of the regulation. We appreciate the time and effort spent by the PUC in preparing Attachment Three of the final regulatory package, entitled “Revisions to Chapter 56 That Will Promote Greater Efficiencies and Cost-Savings.” However, an analysis that includes

actual dollar amounts is needed to determine the true economic or fiscal impact the regulation will have on the Commonwealth, political subdivisions and the private sector.  
71 P.S. § 745.5b(b)(1).

Third, commentators have expressed concern with sections of the rulemaking not included in the PUC's letter of May 13, 2011. These commentators share similar concerns pertaining to the manual reading of utility meters and a utility communicating with non-English and non-Spanish speaking customers. The sections cited by the commentators are:

- § 56.12, pertaining to meter reading, estimated billing and customer readings;
- § 56.91, pertaining to general notice provisions and contents of termination notice;
- §§ 56.93 and 56.333, pertaining to personal contact;
- §§ 56.201 and 56.431, pertaining to public information; and
- § 56.331, pertaining to general notice provisions and contents of termination notice.

The commentators believe that the language in these sections does not adequately protect the public health, safety and welfare of the citizens of the Commonwealth. In light of these comments, we question whether these sections could have a detrimental effect on the well-being of some citizens of the Commonwealth. In the report submitted with the revised final regulation, we ask the PUC to analyze the sections noted above in conjunction with the comments and explain how the regulation adequately protects the public health, safety and welfare of the citizens of the Commonwealth. 71 P.S. § 745.5b(b)(2).

Our fourth and final concern relates to clarity and lack of ambiguity. 71 P.S. § 745.5b(b)(3)(ii). Under § 56.13, a cross-reference to § 56.83(3) would improve the clarity of the regulation. Also, under § 56.36, the comment and response document submitted with the final regulation states that references to "customer" in Subsection (b)(1) were deleted. However, the references are still in the regulation.

Having considered the PUC's request for disapproval of the regulation and all of the criteria of the Regulatory Review Act, we find promulgation of this regulation is not in the public interest.

**BY ORDER OF THE COMMISSION:**

This regulation is disapproved.



Silvan B. Lutkewitte, III, Chairman

Regulation #57-265 (IRRC #2743)  
Pennsylvania Public Utility Commission  
Standards and Billing Practices for Residential  
Utility Services

Honorable Robert F. Powelson  
Chairman

Kim Bellmer  
DATE: 5-26-11

Regulation #57-265 (IRRC #2743)  
Pennsylvania Public Utility Commission  
Standards and Billing Practices for Residential  
Utility Services

Honorable Robert M. Tomlinson  
Majority Chairman

Mary Walmer  
DATE: 5/26/11


Regulation #57-265 (IRRC #2743)  
Pennsylvania Public Utility Commission  
Standards and Billing Practices for Residential  
Utility Services

Honorable Lisa M. Boscola  
Minority Chairman

Stephen Z. Smith  
DATE: 5/26/11

Regulation #57-265 (IRRC #2743)  
 Pennsylvania Public Utility Commission  
 Standards and Billing Practices for Residential  
 Utility Services

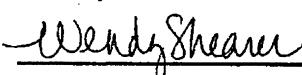
Honorable Robert W. Godshall  
 Majority Chairman

  
 \_\_\_\_\_

DATE: 5/26/11

Regulation #57-265 (IRRC #2743)  
 Pennsylvania Public Utility Commission  
 Standards and Billing Practices for Residential  
 Utility Services

Honorable Joseph Preston, Jr.  
 Minority Chairman

  
 \_\_\_\_\_

DATE: 5/26/11

**Annex A**  
**TITLE 52. PUBLIC UTILITIES**  
**PART I. PUBLIC UTILITY COMMISSION**  
**Subpart C. FIXED SERVICE UTILITIES**  
**CHAPTER 56. STANDARDS AND BILLING**  
**PRACTICES FOR RESIDENTIAL**  
**UTILITY SERVICE**

**Subchapter A. PRELIMINARY PROVISIONS FOR**  
**UTILITIES AND CUSTOMERS SUBJECT TO**  
**CHAPTER 14 OF THE PUBLIC UTILITY CODE**

**§ 56.1. Statement of purpose and policy.**

(a) This chapter establishes and enforces uniform, fair and equitable residential public utility service standards governing eligibility criteria, credit and deposit practices, and account billing, termination and customer complaint

procedures. This chapter assures adequate provision of residential public utility service, to restrict unreasonable termination of or refusal to provide that service and to provide functional alternatives to termination or refusal to provide that service while eliminating opportunities for customers capable of paying to avoid the timely payment of public utility bills and protecting against rate increases for timely paying customers resulting from other customers' delinquencies. Public utilities shall utilize the procedures in this chapter to effectively manage customer accounts to prevent the accumulation of large, unmanageable arrearages. Every privilege conferred or duty required under this chapter imposes an obligation of good faith, honesty and fair dealing in its performance and enforcement. This chapter will be liberally construed to fulfill its purpose and policy and to insure justice for all concerned.

(b) This subchapter and Subchapters B—K apply to electric distribution utilities, natural gas distribution utilities and water distribution utilities. Subchapters L—V apply to wastewater utilities, steam heat utilities, small natural gas utilities and to all customers who have been granted protection from abuse orders from courts of competent jurisdiction.

**§ 56.2. Definitions.**

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

*AMR—Automatic meter reading—*

(i) Metering using technologies that automatically read and collect data from metering devices and transfer that data to a central database for billing and other purposes.

(ii) The term does not include remote meter reading devices as defined by this section.

(iii) Meter readings by an AMR shall be deemed actual readings for the purposes of this chapter.

*Account balance—*The amount of current service which has been properly billed in addition to any accrued arrearages.

*Applicant—*

(i) A natural person at least 18 years of age not currently receiving service who applies for residential service provided by a public utility or any adult occupant whose name appears on the mortgage, deed or lease of the property for which the residential public utility service is requested.

(ii) The term does not include a person who seeks to transfer service within the service territory of the same public utility or to reinstate service at the same address provided that the final bill for service is not past due.

*Basic services—*

(i) Services necessary for the physical delivery of residential public utility service.

(ii) The term also includes default service as defined in this section.

*Billing month—*A period of not less than 26 days and not more than 35 days except in the following circumstances:

(i) An initial bill for a new customer may be less than 26 days or greater than 35 days. However, if an initial bill exceeds 60 days, the customer shall be given the opportunity to amortize the amount over a period equal to the period covered by the initial bill without penalty.

(ii) A final bill due to discontinuance may be less than 26 days or greater than 35 days but may never exceed 42 days. In cases involving termination, a final bill may be less than 26 days.

(iii) Bills for less than 26 days or more than 35 days shall be permitted if they result from a rebilling initiated by the company or customer dispute to correct a billing problem.

(iv) Bills for less than 26 days or more than 35 days shall be permitted if they result from a meter reading route change initiated by the public utility. The public utility shall informally contact the Director of the Bureau of Consumer Services at least 30 days prior to the rerouting and provide information as to when the billing will occur, the number of customers affected and a general description of the geographic area involved. If a

bill resulting from a meter rerouting exceeds 60 days, the customer shall be given the opportunity to amortize the amount over a period equal to the period covered by the bill without penalty.

*Billing period—*In the case of public utilities supplying gas, electric and steam heating service, the billing period must conform to the definition of “billing month.” In the case of water and wastewater service, a billing period may be monthly, bimonthly or quarterly as provided in the tariff of the public utility. Customers shall be permitted to receive bills monthly and be notified of their rights thereto.

*Class A water utility—*A water utility with annual revenues greater than \$ 1 million.

*Customer—*A natural person at least 18 years of age in whose name a residential service account is listed and who is primarily responsible for payment of bills rendered for the service or an adult occupant whose name appears on the mortgage, deed or lease of the property for which the residential public utility service is requested. A natural person remains a customer after discontinuance or termination until the final bill for service is past due.

*Customer assistance program—*A plan or program sponsored by a public utility for the purpose of providing universal service and energy conservation, as defined in 66 Pa.C.S. § 2202 or § 2803 (relating to definitions), in which customers make monthly payments based on household income and household size and under which customers shall comply with certain responsibilities and restrictions to remain eligible for the program.

*Cycle billing—*A system of billing employed by a public utility which results in the normal rendition of bills for public utility service to a group or portion of customers on different or specified days of one billing period.

*Default service—*Electric generation supply service provided under a default service program to a retail electric customer not receiving service from an electric generation supplier.

*Delinquent account—*Charges for public utility service which have not been paid in full by the due date stated on the bill or otherwise agreed upon; provided that an account may not be deemed delinquent if: prior to the due date, a payment agreement with the public utility has been entered into by the customer, a timely filed notice of dispute is pending before the public utility, or, under time limits provided in this chapter, an informal or formal complaint is timely filed with and is pending before the Commission.

*Discontinuance of service—*The cessation of service with the consent of the customer and otherwise in accordance with § 56.72 (relating to discontinuance of service).

*Dispute—*A grievance of an applicant, customer or occupant about a public utility’s application of a provision covered by this chapter, including, but not limited to, subjects such as credit determinations, deposit requirements, the accuracy of meter readings or bill amounts or the proper party to be charged. If, at the conclusion of an initial contact or, when applicable, a follow-up response, the applicant, customer or occupant indicates satisfaction with the resulting resolution or explanation of the subject of the grievance, the contact will not be considered a dispute.

*Dwelling—*A house, apartment, mobile home or single meter multiunit structure being supplied with residential service.

*Electric distribution utility*—An entity providing facilities for the jurisdictional transmission and distribution of electricity to retail customers, except building or facility owners or operators that manage the internal distribution system serving the building or facility and that supply electric power and other related electric power services to occupants of the building or facility.

*Electronic billing*—The electronic delivery and presentation of bills and related information sent by a public utility to its customers using a system administered by the public utility or a system the public utility is responsible for maintaining.

*Electronic notification of payment*—A notification generated by an electronic payment system upon receipt of a payment from a customer using an electronic billing and payment system administered by the utility or a system the utility is responsible for maintaining. The notification must inform the customer of successful receipt and amount of payment and the date and time the payment was received.

*Electronic remittance of payment*—The electronic receipt of payment from customers to a public utility using a system administered by the public utility or a system the public utility is responsible for maintaining.

*Emergency*—An unforeseen combination of circumstances requiring temporary discontinuance of service to effect repairs or maintenance or to eliminate an imminent threat to life, health, safety or property.

*Federal poverty level*—The poverty guidelines updated periodically in the *Federal Register* by the United States Department of Health and Human Services under the authority of section 673(2) of the Omnibus Budget Reconciliation Act (OBRA) of 1981 (42 U.S.C.A. § 9902(2)).

*Formal complaint*—A complaint filed before the Commission requesting a legal proceeding before a Commission administrative law judge or a mediation under the management of a Commission administrative law judge.

*Household income*—The combined gross income of all adults in a residential household who benefit from the public utility service.

*Informal complaint*—A complaint with the Commission submitted by a customer that does not involve a legal proceeding before a Commission administrative law judge or a mediation under the management of a Commission administrative law judge.

*Initial inquiry*—A concern or question of an applicant, customer or occupant about a public utility's application of a provision covered by this chapter, including, but not limited to, subjects such as credit determinations, deposit requirements, the accuracy of meter readings or bill amounts or the proper party to be charged. If a public utility, with the consent of the applicant, customer or occupant, offers to review pertinent records and call back the applicant, customer or occupant within 3 business days with a response, the contact will be considered an initial inquiry pending a determination of satisfaction by the applicant, customer or occupant with the company's response. If the company cannot reach the customer to convey the information obtained through a review of company records, a letter shall be sent which summarizes the information and informs the customer to contact the company within 5 business days if the customer disagrees with the company position, or has additional questions or concerns about the matter.

*Natural gas distribution service*—The delivery of natural gas to retail gas customers utilizing the jurisdictional facilities of a natural gas distribution utility.

*Natural gas distribution utility*—

(i) A city natural gas distribution operation or entity that provides natural gas distribution services and may provide natural gas supply services and other services.

(ii) The term does not include the following:

(A) A public utility providing natural gas distribution services subject to the jurisdiction of the Commission that has annual gas operating revenues of less than \$6 million per year, except when the public utility voluntarily petitions the Commission to be included within this definition or when the public utility seeks to provide natural gas supply services to retail gas customers outside its service territory.

(B) A public utility providing natural gas distribution services subject to the jurisdiction of the Commission that is not connected to an interstate gas pipeline by means of a direct connection or an indirect connection through the distribution system of another natural gas public utility or through a natural gas gathering system.

*Natural gas supply services*—

(i) The sale or arrangement of the sale of natural gas to retail gas customers and services that may be unbundled by the Commission under 66 Pa.C.S. § 2203(3) (relating to standards for restructuring of natural gas utility industry).

(ii) The term does not include natural gas distribution service.

*Nonbasic services*—Optional recurring services which are distinctly separate and clearly not required for the physical delivery of public utility service or default service.

*Nurse practitioner*—A registered nurse licensed in this Commonwealth who is certified by the State Board of Nursing in a particular clinical specialty area and who, while functioning in the expanded role as a professional nurse, performs acts of medical diagnosis or prescription of medical therapeutic or corrective measures in collaboration with and under the direction of a physician licensed to practice medicine in this Commonwealth.

*Occupant*—A natural person who resides in the premises to which public utility service is provided.

*Payment agreement*—An agreement in which a customer or applicant who admits liability for billed service is permitted to amortize or pay the unpaid balance of the account in one or more payments.

*Person*—An individual, partnership, corporation, association, including any lessee, assignee, trustee, receiver, executor, administrator and other successors in interest.

*Physician*—An individual licensed to engage in the practice of medicine and surgery in all of its branches, or in the practice of osteopathy or osteopathic surgery by a jurisdiction within the United States of America.

*Premises or affected premises*—Unless otherwise indicated, the residence of the occupant.

*Public utility*—An electric distribution utility, natural gas distribution utility or water distribution utility in this Commonwealth that is within the jurisdiction of the Commission.

*Remote reading device*—

(i) A device which by electrical impulse or otherwise transmits readings from a meter, usually located within a residence, to a more accessible location outside of a residence.

(ii) The term does not include the following:

(A) AMR devices as defined in this section.

(B) Devices that permit direct interrogation of the meter.

*Residential service—*

(i) Public utility service supplied to a dwelling, including service provided to a commercial establishment if concurrent service is provided to a residential dwelling attached thereto.

(ii) The term does not include public utility service provided to a hotel or motel.

*Termination of service—*Cessation of service, whether temporary or permanent, without the consent of the customer.

*Unauthorized use of utility service—*Unreasonable interference or diversion of service, including meter tampering (any act which affects the proper registration of service through a meter), by-passing unmetered service that flows through a device connected between a service line and customer-owned facilities and unauthorized service restoral.

*User without contract—*A person as defined in 66 Pa.C.S. § 102 (relating to definitions) that takes or accepts public utility service without the knowledge or approval of the public utility, other than the unauthorized use of utility service as defined in this section.

*Water distribution utility—*An entity owning or operating equipment or facilities for diverting, developing, pumping, impounding, distributing or furnishing water to or for the public for compensation.

**Subchapter B. BILLING AND PAYMENT STANDARDS**

**BILLING**

**§ 56.11. Billing frequency.**

(a) A public utility shall render a bill once every billing period to every residential customer in accordance with approved rate schedules.

(b) A public utility may utilize electronic billing in lieu of mailed paper bills. Electronic billing programs must include the following requirements:

(1) The electronic billing option is voluntary and only with the prior consent of the customer. The customer retains the right to revert to conventional paper billings upon request. The customer shall provide the public utility with a one billing cycle notice of a request to revert to paper billing.

(2) A customer shall receive the same information that is included with a paper bill issued by the public utility.

(3) The electronic bill must include the same disclosures and educational messages that are required for paper bills. The electronic transmission of termination notices may not be permitted unless the customer has affirmatively consented to this method of delivery. The electronic delivery of a termination notice does not relieve the public utility of the obligation to provide termination notices as required under §§ 56.91—56.98.

(4) The electronic bill must include required bill inserts in an easily accessed and easily readable format.

(5) The electronic bill must include the option for the customer to contribute to the public utility's hardship fund if the utility is able to accept hardship fund contributions by this method.

(6) A customer may not be required to pay an additional fee to receive an electronic bill.

(7) The public utility shall maintain a system to deliver electronic bills if the bill is emailed to a customer.

(8) The public utility shall employ all reasonable measures to protect customer information from unauthorized disclosure and to prevent access to customer account records by persons who are not properly authorized to have access.

**§ 56.12. Meter reading; estimated billing; customer readings.**

Except as provided in this section, a public utility shall render bills based on actual meter readings by public utility company personnel.

(1) *Inapplicability to seasonally billed customers.* This section does not apply to customers billed on a seasonal basis under terms included in the tariff of the public utility.

(2) *Estimates for bills rendered on a monthly basis.* If a public utility bills on a monthly basis, it may estimate usage of service every other billing month, so long as the public utility provides a customer with the opportunity to read the meter and report the quantity of usage in lieu of the estimated bill. The resulting bills must be based on the information provided, except for an account when it is apparent that the information is erroneous.

(i) Upon the request of the customer, the public utility shall, at least annually, provide preaddressed postcards on which the customer may report the reading. The public utility shall provide additional preaddressed postcards on request. The public utility may choose to make available electronic and telephonic methods for customers to report meter reading information.

(ii) The public utility may establish due dates by which the customer supplied reading shall be received for a bill to be based upon the meter reading of the customer or occupant. If the reading of a customer or occupant is not received by that due date, the public utility may estimate the quantity of usage. The public utility may establish due dates for submitting a meter reading when the customer or occupant utilizes an electronic method for reporting meter readings.

(3) *Estimates permitted under exigent circumstances.* A public utility may estimate the bill of a customer if extreme weather conditions, emergencies, equipment failure, work stoppages or other circumstances prevent actual meter reading.

(4) *Estimates when public utility personnel are unable to gain access.* A public utility may estimate the bill of a customer if public utility personnel are unable to gain access to obtain an actual meter reading, as long as the following apply:

(i) The public utility has undertaken reasonable alternative measures to obtain a meter reading, including, but not limited to, the provision of preaddressed postcards upon which the customer may report the reading or the telephone reporting of the reading.

(ii) The public utility, at least every 6 months, or every four billing periods for public utilities permitted to bill for periods in excess of 1 month, obtains an actual meter reading or customer supplied reading to verify the accuracy of the estimated readings.

(iii) The public utility, at least once every 12 months, obtains an actual meter reading to verify the accuracy of the readings, either estimated or customer read.

(5) *Remote reading devices for water, gas and electric public utilities.* A public utility may render a bill on the basis of readings from a remote reading device under the following conditions:

(i) When a gas, electric or water public utility uses readings from a remote reading device to render bills, the public utility shall obtain an actual meter reading at least once every 5 years to verify the accuracy of the remote reading device. If the customer of record at the dwelling changes during the 5-year period between actual meter readings, the public utility shall make a bona fide attempt to schedule an appointment with the departing customer and, if necessary, the new occupant, to secure an actual meter reading.

(ii) When the actual meter reading establishes that the customer was underbilled due to an error in the registration of the remote reading device, the public utility may render a bill for the uncollected amount. If the rebilling exceeds the otherwise normal estimated bill for the billing period during which the bill is issued by at least 50% or at least \$50, the public utility shall comply with § 56.14 (relating to previously unbilled public utility service).

(iii) When the actual meter reading establishes that the customer was overbilled due to an error in the readings of the remote reading device, the public utility shall credit or refund to the customer the amount overbilled plus interest calculated under § 56.181(3) (relating to duties of parties; disputing party's duty to pay undisputed portion of bills; public utility's duty to pay interest whenever overpayment found).

(iv) Nothing in this section may be construed to limit the authority of electric, gas or water utilities to gain access to a residence for the purpose of checking or reading a meter.

(6) *Limitation of liability.* If a water public utility has estimated bills and if the customer or occupant during that period has consumed an amount of water in excess of normal seasonal usage because of a verified leak that could not reasonably have been detected or other unknown loss of water, the customer is not liable for more than 150% of the average amount of water consumed for the corresponding period during the previous year. This section does not apply when the water public utility was unable to gain access and has complied with paragraph (4).

(7) *Budget billing.* A gas, electric and steam heating public utility shall provide its residential customers, on a year-round rolling enrollment basis, with an optional billing procedure which averages estimated public utility service costs over a 10-month, 11-month or 12-month period to eliminate, to the extent possible, seasonal fluctuations in utility bills. The public utility shall review accounts at least three times during the optional billing period. At the conclusion of the budget billing year, a resulting reconciliation amount exceeding \$100 but less than \$300 shall be, at the request of the customer, amortized over a 6-month period. Reconciliation amounts exceeding \$300 shall be amortized over at least a 12-month period at the request of the customer. Shorter amortization periods are permissible at the request of the customer.

(8) *Notice.* The public utility shall inform existing customers of their rights under this section and 66 Pa.C.S. § 1509 (relating to billing procedures).

### § 56.13. Billings for merchandise, appliances and nonrecurring and recurring services.

Charges for other than basic service—that is, merchandise, appliances and special services, including merchandise and appliance installation, sales, rental and repair costs; meter testing fees; line extension costs; special construction charges and other nonrecurring charges, except as provided in this chapter—must appear after charges for basic services and appear distinctly separate. This includes charges for optional recurring services which are distinctly separate and clearly not required for the physical delivery of service. Examples include line repair programs and appliance warranty programs. See § 56.83(3) (relating to unauthorized termination of service).

### § 56.14. Previously unbilled public utility service.

When a public utility renders a make-up bill for previously unbilled public utility service which accrued within the past 4 years resulting from public utility billing error, meter failure, leakage that could not reasonably have been detected or loss of service, or four or more consecutive estimated bills and the make-up bill exceeds the otherwise normal estimated bill for the billing period during which the make-up bill is issued by at least 50% or at least \$50, whichever is greater:

(1) The public utility shall explain the bill to the customer and make a reasonable attempt to amortize the bill.

(2) The period of the amortization may, at the option of the customer, extend at least as long as:

(i) The period during which the excess amount accrued.

(ii) Necessary so that the quantity of service billed in any one billing period is not greater than the normal estimated quantity for that period plus 50%.

### § 56.15. Billing information.

A bill rendered by a public utility for metered residential public utility service must state clearly the following information:

(1) The beginning and ending dates of the billing period.

(2) If applicable, the beginning and ending meter readings for the billing period. If a bill is estimated, it shall contain a clear and conspicuous marking of the word "Estimated."

(3) The due date on or before which payment shall be made or the account will be delinquent.

(4) The amount due for service rendered during the current billing period, specifying the charge for basic service, the energy or fuel adjustment charge, State tax adjustment surcharge if other than zero, State sales tax if applicable and other similar charges. The bills should also indicate that a State gross receipts tax is being charged and a reasonable estimate of the charge. A Class A utility shall include a statement of the dollar amount of total State taxes included in the current billing period charge. For the purpose of this paragraph, a Class A utility shall also include a Class A telephone utility as defined under § 63.31 (relating to classification of public utilities).

(5) Amounts due for reconnection charges.

(6) Amounts due for security deposits.

(7) The total amount of payments and other credits made to the account during the current billing period.



(8) The amount of late payment charges, designated as such, which have accrued to the account of the customer for failure to pay bills by the due date of the bill and which are authorized under § 56.22 (relating to accrual of late payment charges).

(9) The total amount due.

(10) A clear and conspicuous marking of estimates.

(11) A statement directing the customer to “register any question or complaint about the bill prior to the due date,” with the address and telephone number where the customer may initiate the inquiry or complaint with the public utility.

(12) A statement that a rate schedule, an explanation of how to verify the accuracy of a bill and an explanation, in plain language of the various charges, if applicable, is available for inspection in the local business office of the public utility and on the public utility’s web site.

(13) A designation of the applicable rate schedule as denoted in the officially filed tariff of the public utility.

(14) Electric distribution utilities and natural gas distribution utilities shall incorporate the requirements in §§ 54.4 and 62.74 (relating to bill format for residential and small business customers).

**§ 56.16. Transfer of accounts.**

(a) A customer who is about to vacate premises supplied with public utility service or who wishes to have service discontinued shall give at least 7 days notice to the public utility and a noncustomer occupant, specifying the date on which it is desired that service be discontinued. In the absence of a notice, the customer shall be responsible for services rendered. After a reasonable attempt to obtain meter access, if the public utility is not able to access the meter for discontinuance, service shall be discontinued with an estimated meter reading upon which the final bill will be based. The resulting final bill is subject to adjustment once the public utility has obtained an actual meter reading.

(b) In the event of discontinuance or termination of service at a residence or dwelling in accordance with this chapter, a public utility may transfer an unpaid balance to a new residential service account of the same customer.

(c) If a termination notice has been issued in accordance with § 56.91 (relating to general notice provisions and contents of termination notice) and subsequent to the mailing or delivery of that notice, the customer requests a transfer of service to a new location, the termination process in §§ 56.91—56.99 may continue at the new location.

(1) When notifications set forth under § 56.91 and § 56.95 (relating to deferred termination when no prior contact) have been rendered and service has not been terminated due to a denial of access to the premises, the public utility may deny service at a new location when a service transfer is requested.

(2) Nothing in this section shall be construed to limit the right of a customer to dispute a bill within the meaning of §§ 56.141—56.143 (relating to dispute procedures; time for filing an informal complaint; and effect of failure to timely file an informal complaint).

**§ 56.17. Advance payments.**

Payments may be required in advance of furnishing any of the following services:

(1) Seasonal service.

(2) The construction of facilities and furnishing of special equipment.

(3) Gas and electric rendered through prepayment meters provided:

(i) The customer is nonlow income. For purposes of this section, “nonlow income” is defined as an individual who has an annual household gross income greater than 150% of the Federal poverty income guidelines and has a delinquency for which the individual is requesting a payment agreement but offering terms that the public utility, after consideration of the factors in § 56.97(b) (relating to procedures upon customer or occupant contact prior to termination), finds unacceptable.

(ii) The service is being rendered to an individually-metered residential dwelling, and the customer and occupants are the only individuals affected by the installation of a prepayment meter.

(iii) The customer and public utility enter into a payment agreement which includes, but is not limited to, the following terms:

(A) The customer voluntarily agrees to the installation of a prepayment meter.

(B) The customer agrees to purchase prepayment credits to maintain service until the total balance is retired and the public utility agrees to make new credits available to the customer within 5 days of receipt of prepayment.

(C) The public utility agrees to furnish the customer with emergency backup credits for additional usage of at least 5 days.

(D) The customer agrees that failure to renew the credits by making prepayment for additional service constitutes a request for discontinuance under § 56.72(1) (relating to discontinuance of service), except during a medical emergency, and that discontinuance will occur when the additional usage on the emergency backup credits runs out.

(iv) The public utility develops a written plan for a prepayment meter program, consistent with the criteria established in this section, and submits the plan to the Commission at least 30 days in advance of the effective date of the program.

(v) During the first 2 years of use of prepayment meters, the public utility thoroughly and objectively evaluates the use of prepayment meters in accordance with the following:

(A) *Content.* The evaluation should include both process and impact components. Process evaluation should focus on whether the use of prepayment meters conforms to the program design and should assess the degree to which the program operates efficiently. The impact evaluation should focus on the degree to which the program achieves the continuation of utility service to participants at reasonable cost levels. The evaluation should include an analysis of the costs and benefits of traditional collections or alternative collections versus the costs and benefits of handling nonlow income positive ability to pay customers through prepayment metering. This analysis should include comparisons of customer payment behavior, energy consumption, administrative costs and actual collection costs.

(B) *Time frame.* The process evaluation should be undertaken during the middle of the first year; the impact evaluation at least by the end of the second year.

(4) Temporary service for short-term use, including installation and removal, with credit for reasonable salvage.

### PAYMENTS

#### § 56.21. Payment.

The due date for payment of a bill may not be no less than 20 days from the date of transmittal; that is, the date of mailing, electronic transmission or physical delivery of the bill by the public utility to the customer.

(1) *Extension of due date to next business day.* If the last day for payment falls on a Saturday, Sunday, bank holiday or other day when the offices of the public utility which regularly receive payments are not open to the general public, the due date shall be extended to the next business day.

(2) *Date of payment by mail.* For a remittance by mail, one or more of the following applies:

(i) Payment shall be deemed to have been made on the date of the postmark.

(ii) The public utility may not impose a late payment charge unless payment is received more than 5 days after the due date.

(3) *Branch offices or authorized payment agents.* The effective date of payment to a branch office or authorized payment agent, unless payment is made by mail under paragraph (2), is the date of actual receipt of payment at that location.

(4) *Electronic transmission.* The effective date of a payment electronically transmitted to a public utility is the date of actual receipt of payment.

(5) *Fees.* Fees or charges assessed and collected by the public utility for utilizing a payment option must be included in the public utility's tariff on file at the Commission.

(6) *Multiple notifications.* When a public utility advises a customer of a balance owed by multiple notices or contacts which contain different due dates, the date on or before which payment is due shall be the latest due date contained in any of the notices.

#### § 56.22. Accrual of late payment charges.

(a) Every public utility subject to this chapter is prohibited from levying or assessing a late charge or penalty on any overdue public utility bill, as defined in § 56.21 (relating to payment), in an amount which exceeds 1.5% interest per month on the overdue balance of the bill. These charges are to be calculated on the overdue portions of the bill only. The interest rate, when annualized, may not exceed 18% simple interest per annum.

(b) An additional charge or fixed fee designed to recover the cost of a subsequent rebilling may not be charged by a regulated public utility.

(c) Late payment charges may not be imposed on disputed estimated bills, unless the estimated bill was required because public utility personnel were willfully denied access to the affected premises to obtain an actual meter reading.

(d) A public utility may waive late payment charges on any customer accounts. The Commission may only order a waiver of late payment charges levied by a public utility as a result of a delinquent account for customers with a gross monthly household income not exceeding 150% of the Federal poverty level. See 66 Pa.C.S. § 1409 (relating to late payment charge waiver).

#### § 56.23. Application of partial payments between public utility and other service.

Payments received by a public utility without written instructions that they be applied to merchandise, appliances, special services, meter testing fees or other nonbasic charges and which are insufficient to pay the balance due for the items plus amounts billed for basic utility service shall first be applied to the basic charges for residential public utility service.

#### § 56.24. Application of partial payments among several bills for public utility service.

In the absence of written instructions, a disputed bill or a payment agreement, payments received by a public utility which are insufficient to pay a balance due both for prior service and for service billed during the current billing period shall first be applied to the balance due for prior service.

#### § 56.25. Electronic bill payment.

A public utility may offer electronic payment options. Electronic payment programs must include the following requirements:

(1) Electronic bill payment shall be voluntary. A public utility may not require a customer to enroll in electronic bill payment as a condition for enrolling in electronic billing.

(2) For electronic bill payment through a charge to a customer's credit card or automatic withdrawal from a customer's financial account, the program must set forth the date (or number of days after issuance of the bill) when the automatic payment shall be made.

(3) The terms of the payment procedures shall be fully disclosed to the customer in writing, either by mail or electronically, before the customer enters the program. Program changes shall be conveyed to the customer in writing, either by mail or electronically, and the customer shall be given an opportunity to withdraw from the program if the customer does not wish to continue under the new terms.

(4) The public utility shall provide a receipt, or a confirmation, transaction or reference number, either electronically or on paper, to the customer upon payment through the electronic method. This requirement does not apply if the payment method is through a preauthorized automated debit from a customer's financial account.

(5) The public utility shall employ all reasonable measures to protect customer information from unauthorized disclosure and to prevent access to customer account records by persons who are not properly authorized to have access.

### Subchapter C. CREDIT AND DEPOSITS STANDARDS POLICY

#### PROCEDURES FOR APPLICANTS

#### § 56.31. Policy statement.

An essential ingredient of the credit and deposit policies of each public utility shall be the equitable and nondiscriminatory application of those precepts to potential and actual customers throughout the service area without regard to the economic character of the area or any part thereof. Deposit policies must be based upon the credit risk of the individual applicant or customer rather than the credit history of the affected premises or the collective credit reputation or experience in the area in which the applicant or customer lives and without regard to race, sex, age over 18 years of age, national origin or marital status.

**§ 56.32. Security and cash deposits.**

(a) A public utility may require a cash deposit in an amount that is equal to 1/6 of an applicant's estimated annual bill at the time the public utility determines a deposit is required, based upon the following:

(1) An applicant who previously received utility distribution services and was a customer of the public utility and whose service was terminated for any of the following reasons:

- (i) Nonpayment of an undisputed delinquent account.
- (ii) Failure to complete payment of a deposit, provide a guarantee or establish credit.
- (iii) Failure to permit access to meters, service connections or other property of the public utility for the purpose of replacement, maintenance, repair or meter reading.
- (iv) Unauthorized use of the public utility service delivered on or about the affected dwelling.
- (v) Failure to comply with the material terms of a payment agreement.
- (vi) Fraud or material misrepresentation of identity for the purpose of obtaining public utility service.
- (vii) Tampering with meters, including bypassing a meter or removal of an AMR device or other public utility equipment.
- (viii) Violating tariff provisions on file with the Commission so as to endanger the safety of a person or the integrity of the delivery system of the public utility.

(2) An applicant who is unable to establish creditworthiness to the satisfaction of the public utility through the use of a generally accepted credit scoring methodology which employs standards for using the methodology that fall within the range of general industry practice. The credit scoring methodology utilized for this purpose must specifically assess the risk of utility bill payment.

(b) Except for applicants who are subject to a deposit under subsection (a), a city natural gas distribution operation may require a deposit from the applicant as follows:

(1) When an applicant has household income above 300% of the Federal poverty level, a deposit of 1/6 of the applicant's estimated annual bill shall be paid in full at the time the city natural gas distribution operation determines a deposit is required.

(2) When an applicant has household income no greater than 300% of the Federal poverty level, 1/12 of the applicant's estimated annual bill shall be paid in full at the time the city natural gas distribution operation determines a deposit is required. Applicants who enroll into the customer assistance program made available by the city natural gas distribution operation are not subject to this paragraph.

(3) The Commission will permit a city natural gas distribution operation to refuse to provide service to an applicant when the applicant has a pending lien or civil judgment by the city natural gas distribution operation outstanding against the applicant or against property owned in whole or in part by the applicant unless the applicant enters into a payment arrangement for the payment of the amount associated with the lien or judgment that remains outstanding at the time of the application.

(c) Prior to providing public utility service, a public utility may require the applicant to provide the names of each adult occupant residing at the location and proof of their identity. For purposes of this section, valid identification consists of one government issued photo identification. If one government issued photo identification is not available, the public utility may require the applicant to present two alternative forms of identification, as long as one of the identifications includes a photo of the individual. In lieu of requiring identification, the public utility may ask, but may not require, the individual to provide the individual's Social Security Number. Public utilities shall take all appropriate actions needed to ensure the privacy and confidentiality of identification information provided by their applicants and customers.

**§ 56.33. Third-party guarantors.**

If an applicant does not establish credit under § 56.32 (relating to security and cash deposits), the public utility shall provide residential service when one of the following requirements is satisfied:

(1) *Cash deposit.* The applicant posts a cash deposit.

(2) *Third-party guarantor.* This section does not preclude an applicant from furnishing a third-party guarantor in lieu of a cash deposit. The guaranty must be in writing and state the terms of the guaranty. The guarantor shall be responsible for all missed payments owed to the public utility. For the purposes of this section, the term "guarantor" means a third-party who has or can establish credit under § 56.32.

**§ 56.35. Payment of outstanding balance.**

(a) A public utility may require, as a condition of the furnishing of residential service to an applicant, the payment of any outstanding residential account with the public utility which accrued within the past 4 years for which the applicant is legally responsible and for which the applicant was billed properly.

(b) A public utility may not require, as a condition of the furnishing of residential service, payment for residential service previously furnished under an account in the name of a person other than the applicant, except as provided for in paragraphs (1) and (2).

(1) A public utility may require the payment of an outstanding balance or portion of an outstanding balance if the applicant resided at the property for which service is requested during the time the outstanding balance accrued and for the time the applicant resided there, not exceeding 4 years from the date of the service request. The 4-year limit does not apply if the balance includes amounts that the utility was not aware of because of fraud or theft on the part of the applicant.

(2) A public utility may establish that an applicant previously resided at a property for which residential service is requested through the use of mortgage, deed or lease information, a commercially available consumer credit reporting service or other methods approved as valid by the Commission. Public utilities shall include in their tariffs filed with the Commission the methods, other than those specifically mentioned in this paragraph, used to determine the applicant's liability for any outstanding balance.

(3) Any outstanding residential account with the public utility may be amortized in accordance with § 56.191 (relating to payment and timing).

(c) This section does not affect the creditor rights and remedies of a public utility otherwise permitted by law.

**§ 56.36. Written procedures.**

(a) Public utilities shall include in their tariffs filed with the Commission their credit and application procedures along with a general description of their credit scoring methodology and standards.

(b) A public utility shall establish written procedures for determining the credit status of an applicant and for determining responsibility for unpaid balances in accordance with § 56.35 (relating to payment of outstanding balance). The written procedures must specify that there are separate procedures and standards for victims with a protection from abuse order. A public utility employee processing applications or determining the credit status of applicants shall be supplied with or have ready access to a copy of the written procedures of the public utility. A copy of these procedures shall be maintained on file in each of the business offices of the public utility and made available, upon request, for inspection by members of the public and the Commission and be included on the public utility's web site.

(1) *Reasons for denial of credit.* If credit is denied, the public utility shall inform the applicant in writing of the reasons for the denial within 3 business days of the denial. This information may be provided electronically to the applicant with the applicant's consent. The written denial statement must include the provider of the credit score, information on the applicant's ability to challenge the accuracy of the credit score and how to contact the credit score provider. If the public utility is requiring payment of an unpaid balance in accordance with § 56.35, the public utility shall specify in writing the amount of the unpaid balance, the dates during which the balance accrued and the location and customer name at which the balance accrued. The statement must inform the applicant of the right to furnish a third-party guarantor in accordance with § 56.33 (relating to third-party guarantors) and the right to contact the Commission. The statement must include information informing victims of domestic violence with a protection from abuse order that more lenient credit and liability standards may be available.

(2) *Informing applicants of procedures.* Public utility personnel shall fully explain the credit and deposit procedures of the public utility to each customer or applicant for service.

(3) *Third-party requests for service.* Requests from third parties to establish public utility service on behalf of an applicant will not be honored until the public utility has verified the legitimacy of the request. Verification may be accomplished by any means appropriate to confirm that the applicant consents to service being established or that the third party is authorized to act on the applicant's behalf.

**§ 56.37. General rule.**

Once an applicant's application for service is accepted by the public utility, the public utility shall make a bona fide attempt to provide service within 3 business days, provided that the applicant has met all regulatory requirements. A bona fide attempt to provide service within 7 business days is permissible if street or sidewalk digging is required. A longer time frame is permissible with the consent of the applicant. If the investigation and determination of credit status is expected to take or in fact takes longer than 3 business days commencing the date after the application is made, the public utility shall provide service pending completion of the investigation. If the public utility cannot provide service by the time

frames specified in this section, the public utility shall inform the customer of this fact and provide a reasonable estimate of when service will be provided. These requirements do not apply to new service installations and service extensions that require the construction of facilities to provide the public utility service.

**§ 56.38. Payment period for deposits by applicants.**

(a) An applicant required to pay a deposit under § 56.32 (relating to security and cash deposits) may be required by the public utility to pay the deposit in full prior to the provision of public utility service.

(b) An applicant paying a deposit for the reconnection of service under § 56.41(2) (relating to general rule) may be required to pay 50% prior to, and as a condition of, the reconnection of service with 25% billed 30 days after the reconnection of service and 25% billed 60 days after the reconnection of service. The public utility shall inform the applicant of the option to pay the deposit in the installments described in this subsection. The applicant retains the option to pay the deposit amount in full before the due date.

**PROCEDURES FOR EXISTING CUSTOMERS**

**§ 56.41. General rule.**

A public utility may require an existing customer to post a deposit to reestablish credit under the following circumstances:

(1) *Delinquent accounts.* Whenever a customer has been delinquent in the payment of any two consecutive bills or three or more bills within the preceding 12 months.

(i) Prior to requesting a deposit under this section, the public utility shall give the customer written notification of its intent to request a cash deposit if current and future bills continue to be paid after the due date.

(A) Notification must clearly indicate that a deposit is not required at this time but that if bills continue to be paid after the due date a deposit will be required.

(B) Notification may be mailed or delivered to the customer together with a bill for public utility service.

(C) Notification must set forth the address and phone number of the public utility office where complaints or questions may be registered.

(D) A subsequent request for deposit must clearly indicate that a customer should register any question or complaint about that matter prior to the date the deposit is due to avoid having service terminated pending resolution of a dispute. The request must also include the address and telephone number of the public utility office where questions or complaints may be registered.

(ii) Except in the case of adjustments to budget billing plans, a public utility may issue a notification or subsequent request for a deposit based, in whole or in part, on a delinquent account arising out of a make-up bill as defined in § 56.14 (relating to previously unbilled public utility service) under the following conditions:

(A) The public utility has complied with § 56.14. Compliance with a payment agreement by the customer discharges the delinquency and a notification or request for deposit may not thereafter be issued based on the make-up bill.

(B) If a make-up bill exceeds the otherwise normal estimated bill by at least 50% and if the customer makes payment in full after the bill is delinquent but before a notification of intent to request a deposit is given to the

customer, a notification or request for deposit may not thereafter be issued based on the make-up bill.

(2) *Condition to the reconnection of service.* A public utility may require a deposit as a condition to reconnection of service following a termination in accordance with § 56.191 (relating to payment and timing).

(3) *Failure to comply with payment agreement.* A public utility may require a deposit, whether or not service has been terminated, when a customer fails to comply with a material term or condition of a payment agreement.

**§ 56.42. Payment period for deposits by customers.**

(a) *Initial due date.* The due date for payment of a deposit other than a deposit required as a condition for the reconnection of service under § 56.41(2) (relating to general rule) may not be less than 21 days from the date of mailing or service on the customer of notification of the amount due.

(b) *Delinquent account.* A customer paying a deposit under § 56.41(1) may elect to pay a required deposit in three installments: 50% billed upon the determination by the public utility that the deposit is required, 25% billed 30 days after the determination and 25% billed 60 days after the determination. The public utility shall inform the customer of the option to pay the deposit in the installments described in this subsection. The customer retains the option to pay the deposit amount in full before the due date.

(c) *Reconnection of service.* A customer paying a deposit for the reconnection of service under § 56.41(2) may be required to pay 50% prior to, and as a condition of, the reconnection of service with 25% billed 30 days after reconnection of service and 25% billed 60 days after the reconnection of service. The public utility shall inform the customer of the option to pay the deposit in the installments described in this subsection. The customer retains the option to pay the deposit amount in full before the due date.

(d) *Failure to comply with a payment agreement.* A customer paying a deposit under § 56.41(3) may be required to pay the deposit in full upon the determination of the utility that a deposit is required.

**§ 56.43. (Reserved).**

**CASH DEPOSITS**

**§ 56.51. Amount of cash deposit.**

(a) *Applicants.* A public utility may require a cash deposit equal to 1/6 of the applicant's estimated annual bill calculated on the basis of the annual bill to the dwelling at which service is being requested for the prior 12 months or, if unavailable, a similar dwelling in close proximity.

(b) *City natural gas operation.* A city natural gas distribution operation may require a cash deposit from an applicant with a household income no greater than 300% of the Federal poverty level in an amount not in excess of 1/12 of the applicant's estimated annual bill. A city natural gas operation may require a cash deposit from an applicant with a household income level above 300% of the Federal poverty level in the amount of 1/6 of the applicant's estimated annual bill. An estimated annual bill shall be calculated on the basis of the annual bill to the dwelling at which service is being requested for the prior 12 months or, if unavailable, a similar dwelling in close proximity.

(c) *Existing customers.* For an existing customer, the cash deposit may not exceed the estimated charges for

service based on the prior consumption of that customer for the class of service involved for a period equal to one average billing period plus 1 average month, not to exceed 4 months in the case of water utilities and 2 months in the case of gas and electric utilities.

(d) *Adjustment of deposits.* The amount of a cash deposit may be adjusted at the request of the customer or the public utility whenever the character or degree of the usage of the customer has materially changed or when it is clearly established that the character or degree of service will materially change in the immediate future.

**§ 56.53. Deposit hold period and refund.**

(a) A public utility may hold a deposit until a timely payment history is established or for a maximum period of 24 months.

(b) A timely payment history is established when a customer has paid in full and on time for 12 consecutive months.

(c) At the end of the deposit holding period as established in subsection (a), the public utility shall deduct the outstanding balance from the deposit and return or credit any positive difference to the customer. At the option of the utility, a cash deposit, including accrued interest, may be refunded in whole or in part, at any time earlier than the time stated in this section.

(d) If service is terminated before the end of the deposit holding period as established in subsection (a), the public utility shall deduct the outstanding balance from the deposit and return any positive difference to the customer within 60 days of the termination.

(e) If a customer becomes delinquent before the end of the deposit holding period as established in subsection (a), the public utility may deduct the outstanding balance from the deposit.

**§ 56.54. (Reserved).**

**§ 56.55. (Reserved).**

**§ 56.56. Refund statement.**

If a cash deposit is applied or refunded, the public utility shall mail or deliver to the customer a written statement showing the amount of the original deposit plus accrued interest, the application of the deposit to a bill which had previously accrued, the amount of unpaid bills liquidated by the deposit and the remaining balance.

**§ 56.57. Interest rate.**

The public utility shall accrue interest on the deposit until it is returned or credited the legal rate of interest under section 202 of the act of January 30, 1974 (P. L. 13, No. 6) (41 P. S. § 202), known as the Loan Interest and Protection Law, and return the interest with the deposit.

**§ 56.58. Application of interest.**

Interest shall be paid to the customer or, at the option of either the public utility or the customer, shall be applied to service bills.

**Subchapter D. INTERRUPTION AND DISCONTINUANCE OF SERVICE**

**§ 56.71. Interruption of service.**

A public utility may temporarily interrupt service when necessary to effect repairs or maintenance; to eliminate an imminent threat to life, health, safety or substantial property damage; or for reasons of local, State or National emergency.

(1) *Interruption with prior notice.* When the public utility knows in advance of the circumstances requiring the service interruption, prior notice of the cause and expected duration of the interruption shall be given to customers and occupants who may be affected.

(2) *Interruption without prior notice.* When service is interrupted due to unforeseen circumstances, notice of the cause and expected duration of the interruption shall be given as soon as possible to customers and occupants who may be affected.

(3) *Notification procedures.* When customers and occupants are to be notified under this section, the public utility shall take reasonable steps, such as personal contact, phone contact and use of the mass media, to notify affected customers and occupants of the cause and expected duration of the interruption.

(4) *Permissible duration.* Service may be interrupted for only the periods of time as are necessary to protect the health and safety of the public, to protect property or to remedy the situation which necessitated the interruption. Service shall be resumed as soon as possible thereafter.

#### § 56.72. Discontinuance of service.

A public utility may discontinue service without prior written notice under the following circumstances:

(1) *Customer's residence.* When a customer requests a discontinuance at the customer's residence, when the customer and members of the customer's household are the only occupants.

(2) *Other premises or dwellings.* Other premises or dwellings as follows:

(i) When a customer requests discontinuance at a dwelling other than the customer's residence or at a single meter multifamily residence, whether or not the customer's residence but, in either case, only under either of the following conditions:

(A) The customer states in writing that the premises are unoccupied. The statement must be on a form conspicuously bearing notice that information provided by the customer will be relied upon by the Commission in administering a system of uniform service standards for public utilities and that any false statements are punishable criminally. When the customer fails to provide a notice, or when the customer has falsely stated the premises are unoccupied, the customer shall be responsible for payment of utility bills until the public utility discontinues service.

(B) The occupants affected by the proposed cessation inform the public utility orally or in writing of their consent to the discontinuance.

(ii) When the conditions set forth in subparagraph (i) have not been met, the public utility, at least 10 days prior to the proposed discontinuance, shall conspicuously post notice of termination at the affected premises.

(A) When the premises is a multifamily residence, notice shall also be posted in common areas.

(B) Notices must, at a minimum, state: the date on or after which discontinuance will occur; the name and address of the public utility; and the requirements necessary for the occupant to obtain public utility service in the occupant's name. Further termination provisions of this chapter, except § 56.97 (relating to procedures upon customer or occupant contact prior to termination), do not apply in these circumstances.

(C) This section does not apply when the customer is a landlord ratepayer. See 66 Pa.C.S. §§ 1521—1533 (relating to discontinuance of service to leased premises).

### Subchapter E. TERMINATION OF SERVICE

#### GROUNDINGS FOR TERMINATION

##### § 56.81. Authorized termination of service.

A public utility may notify a customer and terminate service provided to a customer after notice as provided in §§ 56.91—56.100 (relating to notice procedures prior to termination) for any of the following actions by the customer:

(1) Nonpayment of an undisputed delinquent account.

(2) Failure to complete payment of a deposit, provide a guarantee of payment or establish credit.

(3) Failure to permit access to meters, service connections or other property of the public utility for the purpose of replacement, maintenance, repair or meter reading.

(4) Failure to comply with the material terms of a payment agreement.

##### § 56.82. Timing of termination.

A public utility may terminate service for the reasons in § 56.81 (relating to authorized termination of service) from Monday through Friday as long as the public utility is able to accept payment to restore service on the day of termination and on the following day and can restore service consistent with § 56.191 (relating to payment and timing).

##### § 56.83. Unauthorized termination of service.

Unless expressly and specifically authorized by the Commission, service may not be terminated nor will a termination notice be sent for any of the following reasons:

(1) Nonpayment for concurrent service of the same class received at a separate dwelling. This does not include concurrent service periods of 90 days or less accrued during the transfer of service from one location to another.

(2) Nonpayment for a different class of service received at the same or a different location. Service may be terminated, however, when, under the tariff of the public utility, a change in classification is necessitated upon the completion of construction work previously billed at a different rate applicable during construction.

(3) Nonpayment, in whole or in part, of nonbasic charges for leased or purchased merchandise, appliances or special services including, but not limited to, merchandise and appliance installation fees, rental and repair costs; meter testing fees; special construction charges; and other nonrecurring or recurring charges that are not essential to delivery or metering of service, except as provided in this chapter.

(4) Nonpayment of bills for delinquent accounts of the prior customer at the same address unless the public utility has, under § 56.35 (relating to payment of outstanding balance), established that the applicant or customer was an adult occupant at the same address during the time period the delinquent amount accrued.

(5) Nonpayment of a deposit which is based, in whole or in part, on a delinquent account arising out of a make-up bill as defined in § 56.14 (relating to previously

unbilled public utility service) and the customer has complied with § 56.41(1)(ii)(A) or (B) (relating to general rule).

(6) Noncompliance with a payment agreement prior to the due date of the bill which forms the basis of the agreement.

(7) Nonpayment of charges for public utility service for which the utility ceased billing more than 4 years prior to the date the bill is rendered.

(8) Nonpayment for residential service already furnished in the names of persons other than the customer unless a court, district justice or administrative agency has determined that the customer is legally obligated to pay for the service previously furnished or unless the public utility has, under § 56.35, established that the applicant or customer was an occupant at the same address during the time period the delinquent amount accrued. This paragraph does not affect the creditor rights and remedies of a public utility otherwise permitted by law.

(9) Nonpayment of charges calculated on the basis of estimated billings, unless the estimated bill was required because public utility personnel were unable to gain access to the affected premises to obtain an actual meter reading on two occasions and have made a reasonable effort to schedule a meter reading at a time convenient to the customer or occupant, or a subsequent actual reading has been obtained as a verification of the estimate prior to the initiation of termination procedures.

(10) Nonpayment of delinquent accounts which accrued over two billing periods or more, which remain unpaid in whole or in part for 6 months or less, and which amount to a total delinquency of less than \$25.

**NOTICE PROCEDURES PRIOR TO TERMINATION**

**§ 56.91. General notice provisions and contents of termination notice.**

(a) Prior to terminating service for grounds authorized by § 56.81 (relating to authorized termination of service), a public utility shall provide written notice of the termination to the customer at least 10 days prior to the date of the proposed termination. The termination notice shall remain effective for 60 days. In the event of a user without contract as defined in § 56.2 (relating to definitions), the public utility shall comply with §§ 56.93—56.97, but need not provide notice 10 days prior to termination.

(b) A notice of termination must include, in conspicuous print, clearly and fully the following information when applicable:

- (1) The reason for the proposed termination.
- (2) An itemized statement of amounts currently due, including any required deposit.
- (3) A statement that a reconnection fee will be required to have service restored after it has been terminated if a reconnection fee is a part of the tariff of the public utility on file with the Commission. The statement must include the maximum possible dollar amount of the reconnection fee that may apply.
- (4) The date on or after which service will be terminated unless one of the following occurs:
  - (i) Payment in full is received.
  - (ii) The grounds for termination are otherwise eliminated.

(iii) A payment agreement is established.

(iv) Enrollment is made in a customer assistance program or its equivalent, if the customer is eligible for the program.

(v) A dispute is filed with the public utility or the Commission.

(vi) Payment in full of amounts past due on the most recent payment agreement is received.

(5) A statement that specifies that the notice is valid for 60 days.

(6) A statement that the customer should immediately contact the public utility to attempt to resolve the matter. The statement must include the address and telephone number where questions may be asked, how payment agreements may be negotiated and entered into with the public utility, and where applications can be found and submitted for enrollment into the public utility's universal service programs, if these programs are offered by the public utility.

(7) The following statement: "If you have questions or need more information, contact us as soon as possible at (utility phone number). After you talk to us, if you are not satisfied, you may file a complaint with the Public Utility Commission. The Public Utility Commission may delay the shut off if you file the complaint before the shut off date. To contact them, call 1 (800) 692-7380 or write to the Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, Pennsylvania 17105-3265."

(8) A serious illness notice in compliance with the form in Appendix A (relating to medical emergency notice) except that, for the purpose of § 56.96 (relating to post-termination notice), the notice must comply with the form in Appendix B (relating to medical emergency notice).

(9) If the public utility has universal service programs, information indicating that special assistance programs may be available and how to contact the public utility for information and enrollment, and that enrollment in the program may be a method of avoiding the termination of service.

(10) Notices sent by electric and gas utilities threatening termination in the months of December, January, February and March must include information on the Federal poverty guidelines by household size, the protections available to customers at or below 250% of the Federal poverty level and the required documentation or information the customer shall supply to avoid termination.

(11) Information indicating that special protections are available for victims under a protection from abuse order and how to contact the public utility to obtain more information on these protections.

(12) Information indicating that special protections are available for tenants if the landlord is responsible for paying the public utility bill and how to contact the public utility to obtain more information on these protections.

(13) Information indicating that all adult occupants of the premise whose names appear on the mortgage, deed or lease are considered "customers" and are responsible for payment of the bill.

(14) Information indicating that if service is shut off, an adult occupant who has been living at the premise may have to pay all or portions of the bill that accrued while the adult occupant lived there to have service turned back on.

(15) Information indicating that if service is shut off, the customer may be required to pay more than the amount listed on the notice to have service turned back on.

(16) Information indicating that if service is shut off, the customer shall contact the public utility after payment has been made to arrange reconnection of the service and that it may take up to 7 days to have the service turned back on.

(17) Information in Spanish directing Spanish-speaking customers to the numbers to call for information and translation assistance. Similar information shall be included in other languages when census data indicates that 5% or more of the residents of the utility's service territory are using that language.

(18) Contact information for customers with disabilities that need assistance.

**§ 56.92. Notice when dispute pending.**

A public utility may not mail or deliver a notice of termination if a notice of initial inquiry, dispute, informal or formal complaint has been filed and is unresolved and if the subject matter of the dispute forms the grounds for the proposed termination. A notice mailed or delivered in contravention of this section is void.

**§ 56.93. Personal contact.**

(a) Except when authorized under § 56.71, § 56.72 or § 56.98 (relating to interruption of service; discontinuance of service; and immediate termination for unauthorized use, fraud, tampering or tariff violations), a public utility may not interrupt, discontinue or terminate service without attempting to contact the customer or responsible adult occupant, either in person or by telephone, to provide notice of the proposed termination at least 3 days prior to the scheduled termination. If personal contact by one method is not possible, the public utility is obligated to attempt the other method.

(b) Phone contact shall be deemed complete upon attempted calls on 2 separate days to the residence between the hours of 8 a.m. and 9 p.m. if the calls were made at various times each day, with the various times of the day being daytime before 5 p.m. and evening after 5 p.m. and at least 2 hours apart. Calls made to contact telephone numbers provided by the customer shall be deemed to be calls to the residence.

(c) If contact is attempted in person by a home visit, only one attempt is required. The public utility shall conspicuously post a written termination notice at the residence if it is unsuccessful in attempting to personally contact a responsible adult occupant during the home visit.

(d) The content of the 3-day personal contact notice must include the earliest date at which termination may occur and the following information:

- (1) The date and grounds of the termination.
- (2) What is needed to avoid the termination of service.
- (3) How to contact the public utility and the Commission.
- (4) The availability of the emergency medical procedures.
- (e) The public utility shall ask the customer or occupant if he has questions about the 10-day written notice the public utility previously sent.

**§ 56.94. Procedures immediately prior to termination.**

Immediately preceding the termination of service, a public utility employee, who may be the public utility employee designated to perform the termination, shall attempt to make personal contact with a responsible adult occupant at the residence of the customer.

(1) *Termination prohibited in certain cases.* If evidence is presented which indicates that payment has been made, a serious illness or medical condition exists, or a dispute or complaint is properly pending or if the employee is authorized to receive payment and payment in full is tendered in any reasonable manner, then termination may not occur. However, if the disputing party does not pay all undisputed portions of the bill, termination may occur.

(2) *Methods of payment.* Payment in any reasonable manner includes payment by personal check unless the customer within the past year has tendered a check which has been returned for insufficient funds or for which payment has been stopped.

(3) *Dishonorable tender of payment after receiving termination notice.* After a public utility has provided a written termination notice under § 56.91 (relating to general notice provisions and contents of termination notice) and attempted telephone contact as provided in § 56.93 (relating to personal contact), termination of service may proceed without additional notice when:

(i) A customer tenders payment which is subsequently dishonored under 13 Pa.C.S. § 3502 (relating to dishonor).

(ii) A customer tenders payment with an access device, as defined in 18 Pa.C.S. § 4106(d) (relating to access device fraud), which is unauthorized, revoked or canceled.

**§ 56.95. Deferred termination when no prior contact.**

During the months of December through March, unless personal contact has been made with the customer or responsible adult by personally visiting the customer's residence, a public utility shall, 48 hours prior to the scheduled date of termination, post a notice of the proposed termination at the service location.

**§ 56.96. Post-termination notice.**

When service is actually terminated, notice that reflects the requirements in § 56.91 (relating to general notice provisions and contents of termination notice) as well as a medical emergency notice in the form which appears in Appendix B (relating to medical emergency notice) shall be conspicuously posted or delivered to a responsible adult person or occupant at the residence of the customer and at the affected premises.

**§ 56.97. Procedures upon customer or occupant contact prior to termination.**

(a) If, after the issuance of the initial termination notice and prior to the actual termination of service, a customer or occupant contacts the public utility concerning a proposed termination, an authorized public utility employee shall fully explain:

- (1) The reasons for the proposed termination.
- (2) All available methods for avoiding a termination, including the following:
  - (i) Tendering payment in full or otherwise eliminating the grounds for termination.



(ii) Entering a payment agreement.

(iii) Paying what is past-due on the most recent previous company negotiated or Commission payment agreement.

(iv) Enrolling in the public utility's customer assistance program or its equivalent, if the public utility has these programs and the customer is eligible for the program.

(3) The medical emergency procedures.

(b) The public utility, through its employees, shall exercise good faith and fair judgment in attempting to enter a reasonable payment agreement or otherwise equitably resolve the matter. Factors to be taken into account when attempting to enter into a reasonable payment agreement include the size of the unpaid balance, the ability of the customer to pay, the payment history of the customer and the length of time over which the bill accumulated. Payment agreements for heating customers shall be based upon budget billing as determined under § 56.12(7) (relating to meter reading; estimated billing; customer readings). If a payment agreement is not established, the company shall further explain the following:

(1) The right of the customer to file a dispute with the public utility and, thereafter, an informal complaint with the Commission.

(2) The procedures for resolving disputes and informal complaints, including the address and telephone number of the Commission: Public Utility Commission, Box 3265, Harrisburg, Pennsylvania 17105-3265, (800) 692-7380.

(3) The duty of the customer to pay any portion of a bill which the customer does not dispute.

**§ 56.98. Immediate termination for unauthorized use, fraud, tampering or tariff violations.**

(a) A public utility may immediately terminate service for any of the following actions by the customer:

(1) Unauthorized use of the service delivered on or about the affected dwelling.

(2) Fraud or material misrepresentation of the customer's identity for the purpose of obtaining service.

(3) Tampering with meters or other public utility equipment.

(4) Violating tariff provisions on file with the Commission which endanger the safety of a person or the integrity of the public utility's delivery system.

(b) Upon termination, the public utility shall make a good faith attempt to provide a post-termination notice to the customer or a responsible adult person or occupant at the affected premises. If providing a post-termination notice to the customer or responsible person at the affected premises is not possible, the public utility shall conspicuously post the notice at the affected premises. In the case of a single meter, multiunit dwelling, the public utility shall conspicuously post the notice at the dwelling, including in common areas when possible.

**§ 56.99. Use of termination notice solely as collection device prohibited.**

A public utility may not threaten to terminate service when it has no present intent to terminate service or when actual termination is prohibited under this chapter. Notice of the intent to terminate shall be used only as a warning that service will in fact be terminated in accordance with the procedures under this chapter, unless the

customer or occupant remedies the situation which gave rise to the enforcement efforts of the public utility.

**§ 56.100. Winter termination procedures.**

(a) *Water distribution utilities.* Notwithstanding any provision of this chapter, during the period of December 1 through March 31, water distribution utilities subject to this subchapter may not terminate heat related service between December 1 and March 31 except as provided in this section or § 56.98 (relating to immediate termination for unauthorized use, fraud, tampering or tariff violations).

(b) *Electric distribution and natural gas distribution utilities.* Unless otherwise authorized by the Commission, during the period of December 1 through March 31, an electric distribution utility or natural gas distribution utility may not terminate service to customers with household incomes at or below 250% of the Federal poverty level except as provided in this section or in § 56.98. The Commission will not prohibit an electric distribution utility or natural gas distribution utility from terminating service in accordance with this section to customers with household incomes exceeding 250% of the Federal poverty level.

(c) *City natural gas distribution utility.* In addition to the winter termination authority in subsection (b), a city natural gas distribution operation may terminate service after January 1 and before April 1 to a customer whose household income exceeds 150% of the Federal poverty level but does not exceed 250% of the Federal poverty level, and starting January 1, has not paid at least 50% of charges for each of the prior 2 months unless the customer has done one of the following:

(1) Proven in accordance with Commission rules, that the household contains one or more persons who are 65 years of age or older.

(2) Proven in accordance with Commission rules, that the household contains one or more persons 12 years of age or younger.

(3) Obtained a medical certification, in accordance with Commission rules.

(4) Paid to the city natural gas distribution operation an amount representing at least 15% of the customer's monthly household income for each of the last 2 months.

(d) *City natural gas distribution utility notice to the Commission.* At the time that the notice of termination required under § 56.91 (relating to general notice provisions and contents of termination notice) is provided to the customer, the city natural gas distribution operation shall provide notice to the Commission. The Commission will not stay the termination of service unless the Commission finds that the customer meets the criteria in subsection (c)(1), (2), (3) or (4).

(e) *Identification of accounts protected during the winter.* Public utilities shall determine the eligibility of an account for termination during the period of December 1 through March 31 under the criteria in subsections (b) and (c) before terminating service. Public utilities are to use household income and size information they have on record provided by customers to identify accounts that are not to be terminated during the period of December 1 through March 31. Public utilities are expected to solicit from customers, who contact the utility in response to notices of termination, household size and income information and to use this information to determine eligibility for termination. Public utilities who intend to require verification of household income information submitted by

consumers relating to this subsection shall include, in their tariffs filed with the Commission, the procedures they intend to implement to obtain verification. The procedures should specify the proof or evidence the utility will accept as verification of household income.

(f) *Landlord ratepayer accounts.* During the period of December 1 through March 31, a public utility may not terminate service to a premises when the account is in the name of a landlord ratepayer as defined in 66 Pa.C.S. § 1521 (relating to definitions) except for the grounds in § 56.98.

(g) *Right of public utility to petition the Commission for permission to terminate service to a customer protected by the prohibitions in this section.*

(1) The public utility shall comply with §§ 56.91—56.95 including personal contact, as defined in § 56.93 (relating to personal contact), at the premises if occupied.

(2) If at the conclusion of the notification process defined in §§ 56.91—56.95, a reasonable agreement cannot be reached between the public utility and the customer, the public utility shall register with the Commission, in writing, a request for permission to terminate service, accompanied by a utility report as defined in § 56.152 (relating to contents of the public utility company report). At the same time, the public utility shall serve the customer a copy of the written request registered with the Commission.

(3) If the customer has filed an informal complaint or if the Commission has acted upon the public utility's written request, the matter shall proceed under §§ 56.161—56.165. Nothing in this section may be construed to limit the right of a public utility or customer to appeal a decision by the Bureau of Consumer Services under 66 Pa.C.S. § 701 (relating to complaints) and §§ 56.171—56.173 and 56.211.

(h) *Survey of terminated heat related accounts.* For premises where heat related service has been terminated within the past year for any of the grounds in § 56.81 (relating to authorized termination of service) or § 56.98, electric distribution utilities, natural gas distribution utilities and Class A water distribution utilities shall, within 90 days prior to December 1, survey and attempt to make post-termination personal contact with the occupant or a responsible adult at the premises and in good faith attempt to reach an agreement regarding payment of any arrearages and restoration of service.

(i) *Reporting of survey results.* Electric distribution utilities, natural gas distribution utilities and Class A water distribution utilities shall file a brief report outlining their pre-December 1 survey and personal contact results with the Bureau of Consumer Services on or before December 15 of each year. Each utility shall update the survey and report the results to the Bureau of Consumer Services on February 1 of each year to reflect any change in the status of the accounts subsequent to the December 15 filing. For the purposes of the February 1 update of survey results, the public utility shall attempt to contact by telephone, if available, a responsible adult person or occupant at each residence in a good faith attempt to reach an agreement regarding payment of any arrearages and restoration of service.

(j) *Reporting of deaths at locations where public utility service was previously terminated.* Throughout the year, public utilities shall report to the Commission when, in the normal course of business, they become aware of a household fire, incident of hypothermia or carbon monoxide poisoning or other event that resulted in a death and

that the utility service was off at the time of the incident. Within 1 business day of becoming aware of an incident, the public utility shall submit a telephone or electronic report to the Director of the Bureau of Consumer Services including, if available, the name, address and account number of the last customer of record, the date of the incident, a brief statement of the circumstances involved and, if available from an official source or the media, the initial findings as to the cause of the incident and the source of that information. The Bureau or Commission may request additional information on the incident and the customer's account. Information submitted to the Commission in accordance with this subsection will be treated in accordance with 66 Pa.C.S. § 1508 (relating to reports of accidents) and may not be open for public inspection except by order of the Commission, and may not be admitted into evidence for any purpose in any suit or action for damages growing out of any matter or thing mentioned in the report.

§ 56.101. (Reserved).

### EMERGENCY PROVISIONS

§ 56.111. **General provision.**

A public utility may not terminate service, or refuse to restore service, to a premises when a licensed physician or nurse practitioner has certified that the customer or an applicant seeking restoration of service under § 56.191 (relating to payment and timing) or a member of the customer's or applicant's household is seriously ill or afflicted with a medical condition that will be aggravated by cessation of service. The customer shall obtain a letter from a licensed physician verifying the condition and promptly forward it to the public utility. The determination of whether a medical condition qualifies for the purposes of this section resides entirely with the physician or nurse practitioner and not with the public utility. A public utility may not impose any qualification standards for medical certificates other than those specified in this section.

§ 56.112. **Postponement of termination pending receipt of certificate.**

If, prior to termination of service, the public utility employee is informed that an occupant is seriously ill or is affected with a medical condition which will be aggravated by a cessation of service and that a medical certification will be procured, termination may not occur for at least 3 days. If a certification is not produced within that 3-day period, the public utility may resume the termination process at the point where it was suspended.

§ 56.113. **Medical certifications.**

Certifications initially may be written or oral, subject to the right of the public utility to verify the certification by calling the physician or nurse practitioner or to require written verification within 7 days. Certifications, whether written or oral, must include the following:

- (1) The name and address of the customer (or applicant in whose name the account is registered).
- (2) The name and address of the afflicted person and relationship to the customer or applicant.
- (3) The nature and anticipated length of the affliction.
- (4) The specific reason for which the service is required.
- (5) The name, office address and telephone number of the certifying physician or nurse practitioner.

**§ 56.114. Length of postponement; renewals.**

Service may not be terminated for the time period specified in a medical certification; the maximum length of the certification shall be 30 days.

(1) *Time period not specified.* If no length of time is specified or if the time period is not readily ascertainable, service may not be terminated for at least 30 days.

(2) *Renewals.* Certifications may be renewed in the same manner and for the same time period as provided in §§ 56.112 and 56.113 (relating to postponement of termination pending receipt of certificate; and medical certifications) and this section if the customer has met the obligation under § 56.116 (relating to duty of customer to pay bills). In instances when a customer has not met the obligation in § 56.116 to equitably make payments on all bills, the number of renewals for the customer's household is limited to two 30-day certifications filed for the same set of arrearages. In these instances the public utility is not required to honor a third renewal of a medical certificate and is not required to follow § 56.118(3) (relating to right of public utility to petition the Commission). The public utility shall apply the dispute procedures in §§ 56.151 and 56.152 (relating to public utility company dispute procedures). When the customer eliminates these arrearages, the customer is eligible to file new medical certificates.

**§ 56.115. Restoration of service.**

When service is required to be restored under this section and §§ 56.114, 56.116—56.118 and 56.191, the public utility shall make a diligent effort to have service restored on the day of receipt of the medical certification. In any case, service shall be reconnected within 24 hours. Each public utility shall have employees available or on call to restore service in emergencies.

**§ 56.116. Duty of customer to pay bills.**

Whenever service is restored or termination postponed under the medical emergency procedures, the customer shall retain a duty to make payment on all current undisputed bills or budget billing amount as determined under § 56.12(7) (relating to meter reading; estimated billing; customer readings).

**§ 56.117. Termination upon expiration of medical certification.**

When the initial and renewal certifications have expired, the original ground for termination shall be revived and the public utility may terminate service without additional written notice, if notice previously has been mailed or delivered within the past 60 days under § 56.91 (relating to general notice provisions and contents of termination notice). The public utility shall comply with §§ 56.93—56.96.

**§ 56.118. Right of public utility to petition the Commission.**

(a) A public utility may petition the Commission for waiver from the medical certification procedures for the following purposes:

(1) *Contest the validity of a certification.* To request an investigation and hearing by the Commission or its designee when the public utility wishes to contest the validity of the certification.

(2) *Terminate service prior to expiration of certification.* To request permission to terminate service for the failure of the customer to make payments on current undisputed bills.

(3) *Contest the renewal of a certification.* To request permission to terminate service, under this section and §§ 56.81—56.83 and 56.91—56.99 when the customer has not met the duty under § 56.116 (relating to duty of customer to pay bills), provided that the public utility has informed the customer of that duty under § 56.116.

(b) A public utility shall continue to provide service while a final Commission adjudication on the petition is pending. A petition under this section shall be accompanied by a utility report described in § 56.152 (relating to contents of the public utility company report) and shall be filed with the Secretary of the Commission with a copy served to the customer.

(c) Upon the filing of a petition for waiver of medical certification, Commission staff will review the facts and issue an informal written decision.

(d) A party to the proceeding may, within 20 days of mailing of the informal decision, and not thereafter except for good cause shown, appeal by filing with the Secretary of the Commission a letter stating the basis for appeal. An appeal from the informal decision will be assigned to the Office of Administrative Law Judge for hearing and decision.

**THIRD-PARTY NOTIFICATION**

**§ 56.131. Third-party notification.**

Each public utility shall permit its customers to designate a consenting individual or agency which is to be sent, by the public utility, a duplicate copy of reminder notices, past due notices, delinquent account notices or termination notices of whatever kind issued by that public utility. When contact with a third party is made, the public utility shall advise the third party of the pending action and the efforts which shall be taken to avoid termination. A public utility shall institute and maintain a program:

(1) To allow customers to designate third parties to receive copies of a customer's or group of customers' notices of termination of service.

(2) To advise customers at least annually of the availability of a third-party notification program and to encourage its use thereof. The public utility shall emphasize that the third party is not responsible for the payment of the customer's bills.

(3) To solicit community groups to accept third-party notices to assist in preventing unnecessary terminations and protecting the public health and safety.

(4) To make available a standard enrollment form in compliance with the form in Appendix E (relating to third-party notification).

**Subchapter F. DISPUTES; TERMINATION DISPUTES; INFORMAL AND FORMAL COMPLAINTS**

**GENERAL PROVISIONS**

**§ 56.140. Follow-up response to inquiry.**

When a customer is waiting for a follow-up response to an initial inquiry under § 56.2 (relating to definitions), termination or threatening termination of service for the subject matter relating to the inquiry in question shall be prohibited until the follow-up response and, when applicable, subsequent dispute resolution is completed by the public utility.

**§ 56.141. Dispute procedures.**

A notice of dispute, including termination disputes, must proceed, according to this section:

(1) *Attempted resolution.* If, at any time prior to the actual termination of service, a customer advises the public utility that the customer disputes any matter covered by this chapter, including, but not limited to, credit determinations, deposit requirements, the accuracy of public utility metering or billing or the proper party to be charged, the public utility shall attempt to resolve the dispute in accordance with § 56.151 (relating to general rule).

(2) *Termination stayed.* Except as otherwise provided in this chapter, when a termination dispute or complaint has been properly filed in accordance with this subchapter, termination shall be prohibited until resolution of the dispute or complaint. However, the disputing party shall pay undisputed portions of the bill.

**§ 56.142. Time for filing an informal complaint.**

To be timely filed, an informal complaint—which may not include disputes under §§ 56.35 and 56.191 (relating to payment of outstanding balance; and payment and timing)—shall be filed prior to the day on which the public utility arrives to terminate service. If the public utility arrives to terminate service and posts a deferred termination notice in lieu of termination or otherwise fails to terminate service, the time for filing an informal complaint shall be extended until the end of the business day prior to the public utility again arriving to terminate service.

**§ 56.143. Effect of failure to timely file an informal complaint.**

Failure to timely file an informal complaint, except for good cause, shall constitute a waiver of applicable rights to retain service without complying with the termination notice or conference report of the public utility.

**PUBLIC UTILITY COMPANY DISPUTE  
PROCEDURES**

**§ 56.151. General rule.**

Upon initiation of a dispute covered by this section, the public utility shall:

(1) Not issue a termination notice based on the disputed subject matter.

(2) Investigate the matter using methods reasonable under the circumstances, which may include telephone or personal conferences, or both, with the customer or occupant.

(3) Make a diligent attempt to negotiate a reasonable payment agreement if the customer or occupant is eligible for a payment agreement and claims a temporary inability to pay an undisputed bill. Factors which shall be considered in the negotiation of a payment agreement include, but are not limited to:

- (i) The size of the unpaid balance.
- (ii) The ability of the customer to pay.
- (iii) The payment history of the customer.
- (iv) The length of time over which the bill accumulated.

(4) Provide the customer or occupant with the information necessary for an informed judgment, including, but not limited to, relevant portions of tariffs, statements of account and results of meter tests.

(5) Within 30 days of the initiation of the dispute, issue its report to the complaining party. The public utility shall inform the complaining party that the report is available upon request.

(i) If the complainant is not satisfied with the dispute resolution, the utility company report must be in writing and conform to § 56.152 (relating to contents of the public utility company report). Further, in these instances, the written report shall be sent to the complaining party if requested or if the public utility deems it necessary.

(ii) If the complaining party is satisfied with the orally conveyed dispute resolution, the written utility company report may be limited to the information in § 56.152(1), (2) and, when applicable, § 56.152(7)(ii) or (8)(ii).

(iii) The information and documents required under this subsection may be electronically provided to the complaining party as long as the complaining party has the ability to accept electronic documents and consents to receiving them electronically.

**§ 56.152. Contents of the public utility company report.**

A utility company report must include the following:

(1) A statement of the claim or dispute of the customer and a copy thereof if the claim or notice of dispute was made in writing.

(2) The position of the public utility regarding that claim.

(3) A statement that service will not be terminated pending completion of the dispute process, including both informal and formal complaints, so long as there is compliance with all requirements of the Commission.

(4) A statement that if the complaining party does not agree with the utility company report, an informal complaint shall be filed with the Commission to ensure the preservation of all of the complaining party's rights.

(5) The office where payment may be made or information obtained listing the appropriate telephone number and address of the public utility.

(6) A full and complete explanation of procedures for filing an informal complaint with the Commission (see § 56.162 (relating to informal complaint filing procedures)). If a written report is not requested by the complaining party or is not deemed necessary by the public utility, the public utility shall provide the information in § 56.162(1), (2) and (5). In addition, the public utility shall always provide the telephone number and address of the office of the Commission where an informal complaint may be filed.

(7) If the matter in dispute involves a billing dispute, the utility company report must include the following:

(i) An itemized statement of the account of the complaining customer specifying the amount of credit, if any, and the proper amount due.

(ii) The date on or after which the account will become delinquent unless a payment agreement is entered into or an informal complaint is filed with the Commission. This date may not be earlier than the due date of the bill or 15 days after the issuance of a utility company report, whichever is later.

(8) If the matter involves a dispute other than a billing dispute, the utility company report must also state the following:

(i) The action required to be taken to avoid the termination of service.

(ii) The date on or after which service will be terminated in accordance with the applicable requirements unless the report is complied with, or a payment agree-

ment entered into or an informal complaint filed. This date may not be earlier than the original date for compliance with the matter which gave rise to the dispute or 10 days from the date of issuance of the utility company report, whichever is later. If the utility company report is in writing, the information in this paragraph must be prominently displayed.

**INFORMAL COMPLAINT PROCEDURES**

§ 56.161. (Reserved).

§ 56.162. Informal complaint filing procedures.

An informal complaint may be filed orally or in writing and must include the following information:

- (1) The name and address of the complainant and, if different, the address at which service is provided.
- (2) The telephone number of the complainant.
- (3) The account number of the complainant, if applicable.
- (4) The name of the public utility.
- (5) A brief statement of the dispute.
- (6) Whether the dispute formerly has been the subject of a public utility company investigation and report. The complainant shall affirm having first contacted the public utility for the purpose of resolving the problem about which the complainant wishes to file a complaint. If the complainant has not contacted the public utility, the Commission shall direct the complainant to the public utility.
- (7) Whether the dispute formerly has been the subject of a Commission informal or formal complaint.
- (8) The date, if any, of proposed termination.
- (9) The relief sought.

§ 56.163. Commission informal complaint procedure.

Upon the filing of an informal complaint, which shall be captioned as “(Complainant) v. (public utility),” Commission staff will immediately notify the public utility; review the dispute; and, within a reasonable period of time, issue to the public utility and the complaining party an informal report with findings and a decision. Parties may represent themselves or be represented by counsel or other person of their choice, and may bring witnesses to appear on their behalf. The reports will be in writing and a summary will be sent to the parties if a party requests it or if the Commission staff finds that a summary is necessary.

(1) *Review techniques.* Review will be by an appropriate means, including, but not limited to, utility company reports, telephone calls, conferences, written statements, research, inquiry and investigation. Procedures will be designed to ensure a fair and reasonable opportunity to present pertinent evidence and to challenge evidence submitted by the other party to the dispute, to examine a list of witnesses who will testify and documents, records, files, account data, records of meter tests and other material that the Commission staff will determine may be relevant to the issues, and to question witnesses appearing on behalf of other parties. Information and documents requested by Commission staff as part of the review process shall be provided by the public utility within 30 days of the request. If the complainant is without public utility service, or in other emergency situations as identified by Commission staff, the information requested by

Commission staff shall be provided by the public utility within 5 business days of the request.

(2) *Settlement.* Prior to the issuance of an informal decision, Commission staff may facilitate discussions between the parties in an effort to settle the dispute. If a settlement is reached, Commission staff will confirm that all parties understand the terms of the settlement and document the informal complaint as closed.

(3) *Resolution.* Commission staff resolution of informal complaints is binding upon the parties unless formal proceedings are initiated under §§ 56.171—56.174 (relating to formal complaints).

§ 56.164. Termination pending resolution of the dispute.

In any case alleging unauthorized use of public utility service, as defined in § 56.2 (relating to definitions), or the customer’s failure to pay undisputed bills as required under § 56.181 (relating to duties of parties; disputing party’s duty to pay undisputed portion of bills; public utility’s duty to pay interest whenever overpayment found), a public utility may terminate service after giving proper notice in accordance with §§ 56.91—56.98, whether or not a dispute is pending.

§ 56.165. Conference procedures.

Conferences held under §§ 56.161—56.164 and this section will be informal and may be held by conference telephone call, when appropriate. If the parties are to be present, the conferences will take place within reasonable proximity to the situs of the complaint.

§ 56.166. Informal complaints.

The Commission delegates to the Bureau of Consumer Services (BCS) the primary authority to resolve customer, applicant or occupant informal complaints arising under this chapter. The BCS, through its Director and with the concurrence of the Commission, will establish appropriate internal procedures to implement this chapter.

(1) The Commission will accept complaints only from complainants who affirm that they have first contacted the public utility for the purpose of resolving the problem about which the complainant wishes to file a complaint. If the complainant has not contacted the public utility, the Commission will direct the complainant to the public utility.

(2) Only after the complainant and the public utility have failed to resolve the dispute will BCS initiate an investigation.

**FORMAL COMPLAINTS**

§ 56.172. Filing.

(a) A request for review of the decision of the Bureau of Consumer Services (BCS) shall be initiated in writing within 20 days of issuance.

(b) Upon receipt of a request for review of the decision of the BCS, the Secretary of the Commission will mail a formal complaint form to the requesting person.

(c) Within 30 days of the mailing of the formal complaint form, the party requesting review of the decision of the BCS shall file the completed complaint form with the Secretary.

(d) Upon the filing of a formal complaint within the 30-day period and not thereafter except for good cause shown, there will be an automatic stay of the informal complaint decision.

(e) The failure to request review of the BCS decision by filing a formal complaint within the 30-day period does not foreclose a party from filing a formal complaint at a later time except as otherwise may be provided in 66 Pa.C.S. (relating to Public Utility Code).

**§ 56.173. Review from informal complaint decisions of the Bureau of Consumer Services.**

(a) *Assignment.* Review of informal complaint decisions will be heard de novo by a law judge or special agent.

(b) *Filing and docketing.* A complaint will be filed and docketed as a formal Commission complaint, under §§ 1.31—1.38 (relating to documentary filings).

(c) *Captions.* The parties to a review will be stated in the caption as they stood upon the record of the informal complaint proceeding. If the party requesting review is a public utility, the phrase “Complaint Appellant” will be added after its name.

(d) *Hearings.* Hearings conducted by an administrative law judge or special agent will be held within a reasonable period of time after the filing of the answer. The parties may incorporate portions of the conference report or informal decision that they shall agree upon.

(e) *Formal complaint decision.* The administrative law judge or special agent assigned to the formal complaint will issue a decision within a reasonable period of time after the receipt of the transcribed testimony. The following will be included in the decision:

- (1) A description of the matter.
- (2) A findings of fact.
- (3) The conclusions of law.
- (4) Other discussion and opinion as appropriate.

(f) *Commission review.* The Commission will review the decision of the assigned administrative law judge or special agent, commit it to advisory staff for further analysis, remand it to an administrative law judge or special agent for further development of the record or issue a final order. The burden of proof remains with the party who filed the formal complaint.

**§ 56.174. Ability to pay proceedings.**

(a) *Assignments.* Requests for review of decisions of the Bureau of Consumer Services (BCS) and any other case in which the issue is solely ability to pay may be assigned to a special agent.

(b) *Stay of informal complaint decision.* Upon the filing of a formal complaint in a case seeking review from the decision of the BCS, there shall be an automatic stay of payment arrangements ordered in that decision, other than current bills not at issue. The public utility may request that the presiding officer remove the stay and order payment of amounts in the informal complaint decision. When current bills are not at issue, the customer shall be responsible for payment of current, undisputed bills pending issuance of a final Commission order.

(c) *Hearings.* The presiding officer will conduct hearings within a reasonable period after filing of the review and answer. If the presiding officer is a special agent, the special agent will have all powers of an administrative law judge.

(1) The presiding officer will attempt to hold hearings by telephone, unless one or more parties object. Hearings will be held after the filing of an answer.

(2) The presiding officer will hear the case de novo, but may request a stipulation of the parties as to undisputed facts.

(3) Hearings will be tape recorded and will not be transcribed, unless the parties request the use of a stenographer or a transcription of the tape or other circumstances warranting transcription exist. Unless objected to, parties may make their own tape recording of the proceedings, but the only official record shall be that made by the presiding officer.

(d) *Proposed findings of fact and conclusions of law or briefs.* The parties shall have the opportunity of submitting proposed findings of fact and conclusions of law or briefs to the presiding officer. Notice of intent to submit findings of fact and conclusions of law or briefs shall be given at the hearing and they shall be submitted within 10 days of the hearing.

(e) *Initial decision.* The presiding officer will render a written decision after the hearings or after the receipt of proposed findings of fact and conclusions of law or briefs, if they are filed. The initial decision will be in writing and contain a brief description of the matter, findings of fact and conclusions of law. The initial decision shall be subject to the filing of exceptions under the procedures in Chapters 1 and 5 (relating to rules of administrative practice and procedure; and formal proceedings).

**PAYMENT OF BILLS PENDING RESOLUTION OF DISPUTES AND COMPLAINTS**

**§ 56.181. Duties of parties; disputing party's duty to pay undisputed portion of bills; public utility's duty to pay interest whenever overpayment found.**

Pending resolution of a dispute, including a termination dispute, the disputing party shall be required to pay the undisputed portion of bills, as described in this section.

(1) *Pending informal complaint.* Pending the outcome of an informal complaint, the disputing party shall be obligated to pay that portion of a bill which is not honestly disputed. An amount ultimately determined, by the parties or the Commission, to have been validly due but not paid may be paid with interest at the tariff rate filed under § 56.22 (relating to accrual of late payment charges) except when interest charges have been reduced or eliminated by the parties or the Commission to facilitate payment by the disputing party.

(2) *Pending formal complaint.* Prior to the hearing on a formal complaint or prior to the issuance of a Commission order when no hearing is to be held in a formal complaint proceeding, the customer shall be required to pay that amount which the consumer services representative determines is not disputed.

(3) *Overpayments reimbursed with interest.* An amount ultimately determined to have been overpaid by the disputing party shall be reimbursed with interest at the tariff rate filed under § 56.22.

(4) *Effect of offer of payment.* An offer by a customer to pay all or any portion of a bill may not be deemed a waiver of a right to reimbursement for amounts subsequently deemed, by the parties or the Commission, to have been overpaid.

(5) *Effect of acceptance of partial payment.* The acceptance by a public utility of a partial payment for a bill pending final outcome of a dispute may not be deemed an accord and satisfaction or waiver of the right of the public

utility to payment in full as subsequently agreed to by the parties or decided by the Commission.

**Subchapter G. RESTORATION OF SERVICE**

**§ 56.191. Payment and timing.**

(a) *Fee.* A public utility may require a reconnection fee based upon the public utility's cost as approved by the Commission prior to reconnection of service following lawful termination of the service. The amount of this fee must be specified in the public utility's tariff on file with the Commission.

(b) *Timing.* When service to a dwelling has been terminated, the public utility shall reconnect service as follows:

(1) *Customers.*

(i) Within 24 hours for erroneous terminations or upon receipt by the public utility of a valid medical certification. Erroneous terminations include instances when the grounds for termination were removed by the customer paying the amount needed to avoid termination prior to the termination of the service.

(ii) Within 24 hours for terminations and reconnections occurring after November 30 and before April 1.

(iii) Within 3 calendar days for erroneous terminations requiring street or sidewalk digging.

(iv) Within 3 calendar days from April 1 to November 30 for proper terminations.

(v) Within 7 calendar days for proper terminations requiring street or sidewalk digging.

(2) *Applicants.* When the applicant has met all applicable conditions:

(i) Within 24 hours for erroneous terminations or upon receipt by the public utility of a valid medical certification. The public utility is not required to modify or eliminate the payment required to restore service if a medical certificate is presented. Erroneous terminations include instances when the grounds for termination were removed by the customer paying the amount needed to avoid termination prior to the termination of the service.

(ii) Within 24 hours for terminations and reconnections occurring after November 30 and before April 1.

(iii) Within 3 calendar days for erroneous terminations requiring street or sidewalk digging.

(iv) Within 3 calendar days from April 1 to November 30 for proper terminations.

(v) Within 7 calendar days for proper terminations requiring street or sidewalk digging.

(c) *Payment to restore service.*

(1) A public utility shall provide for and inform the applicant or customer of a location where the customer can make payment to restore service. A public utility shall inform the applicant or customer that conditions for restoration of service may differ if someone in the household is a victim of domestic violence with a protection from abuse order. A public utility shall also inform the applicant or customer that the timing and conditions for restoration of service may differ if someone in the household is seriously ill or affected by a medical condition which will be aggravated without utility service.

(2) A public utility may require:

(i) Full payment of any outstanding balance incurred together with any reconnection fees by the customer or applicant prior to reconnection of service if the customer or applicant has an income exceeding 300% of the Federal

poverty level or has defaulted on two or more payment agreements. For purposes of this section, neither a payment agreement intended to amortize a make-up bill under § 56.14 (relating to previously unbilled public utility service) or the definition of "billing month" in § 56.2 (relating to definitions), nor a payment agreement that has been paid in full by the customer, are to be considered a default. Budget billing plans and amortization of budget plan reconciliation amounts under § 56.12(7) (relating to meter reading; estimated billing; customer readings) may not be considered a default for the purposes of this section.

(ii) If a customer or applicant with household income exceeding 300% of the Federal poverty level experiences a life event, the customer shall be permitted a period of not more than 3 months to pay the outstanding balance required for reconnection. For purposes of this subparagraph, a life event is:

(A) A job loss that extends beyond 9 months.

(B) A serious illness that extends beyond 9 months.

(C) Death of the primary wage earner.

(iii) Full payment of any reconnection fees together with repayment over 12 months of any outstanding balance incurred by the customer or applicant, if the customer or applicant has an income exceeding 150% of the Federal poverty level but not greater than 300% of the Federal poverty level. The initial payment required toward the outstanding balance as a condition of restoration cannot exceed 1/12 of the outstanding balance.

(iv) Full payment of any reconnection fees together with payment over 24 months of any outstanding balance incurred by the customer or applicant if the customer or applicant has an income not exceeding 150% of the Federal poverty level. The initial payment required toward the outstanding balance as a condition of restoration cannot exceed 1/24 of the outstanding balance. A customer or applicant of a city natural gas distribution operation whose household income does not exceed 135% of the Federal poverty level shall be reinstated under this subsection only if the customer or applicant enrolls in the customer assistance program of the city natural gas distribution operation. This requirement may not apply if the financial benefits to the customer or applicant are greater if served outside of that assistance program.

(d) *Payment of outstanding balance at premises as a condition to restore service.* A public utility may require the payment of any outstanding balance or portion of an outstanding balance if the applicant or customer resided at the property for which service is requested during the time the outstanding balance accrued and for the time the applicant or customer resided there, not exceeding 4 years prior to the date of requesting that service be restored. The 4-year limit does not apply in instances of fraud and theft.

(e) *Approval.* A public utility may establish that an applicant or customer previously resided at a property for which residential service is requested through the use of mortgage, deed or lease information, a commercially available consumer credit reporting service or other methods approved as valid by the Commission. Public utilities shall include in their tariffs filed with the Commission the methods, other than those specifically mentioned in this subsection, used to determine liability for outstanding balances.

**§ 56.192. Personnel available to restore service.**

A public utility shall have adequate personnel available between 9 a.m. and 5 p.m. on each working day or for a

commensurate period of 8 consecutive hours to restore service when required under this chapter, specifically in §§ 56.82 and 56.191 (relating to timing of termination; and payment and timing).

### **Subchapter H. PUBLIC INFORMATION PROCEDURES; RECORD MAINTENANCE**

#### **§ 56.201. Public information.**

(a) In addition to the notice requirements in this chapter, the Commission will, within 6 months of the effective date of a change to a regulation in this chapter, prepare a summary of the rights and responsibilities of the public utility and its customers affected by the change. Summaries will be mailed by the public utility to each customer of the public utility affected by the change. These summaries, as well as a summary of the rights and responsibilities of the public utility and its customers in accordance with this chapter, shall be in writing, reproduced by the public utility, displayed prominently, available on the public utility's web site if the utility has one and available at all public utility office locations open to the general public. The public utility shall inform new customers of the availability of this information and direct where to locate it on the public utility's web site. The public utility shall deliver or mail a copy upon the request of a customer or applicant.

(b) A public utility which serves a substantial number of Spanish-speaking customers shall provide billing information in English and in Spanish. The written information must indicate conspicuously that it is being provided in accordance with this title and contain information concerning, but not limited to, the following:

- (1) Billing and estimated billing procedures.
- (2) Methods for customer verification of billing accuracy.
- (3) Explanation of operation of purchased gas adjustment clauses.
- (4) Payment requirements and procedures.
- (5) Security deposit and guarantee requirements.
- (6) Procedures for discontinuance and reconnection of service.
- (7) Dispute, informal complaint and formal complaint procedures.
- (8) Explanation of meter reading procedures which would enable a customer or occupant to read his own meter.
- (9) Procedure whereby customers or occupants may avoid discontinuance of service during extended periods of absence.
- (10) Third-party notification procedures.
- (11) Telephone numbers and addresses of the public utility and of the nearest regional office of the Commission where further inquiries may be made.
- (12) Definitions of terms or abbreviations used by the public utility on its bills.
- (13) Information indicating that additional consumer protections may be available for victims of domestic violence, people with serious illnesses and low income households.

#### **§ 56.202. Record maintenance.**

A public utility shall preserve for a minimum of 4 years written or recorded disputes and complaints, keep the records accessible within this Commonwealth at an office

located in the territory served by it and make the records available for examination by the Commission or its staff. Information to be maintained includes the following:

- (1) The payment performance of each of its customers.
- (2) The number of payment agreements made by the public utility company and a synopsis of the terms, conditions and standards upon which agreements were made.
- (3) The number of service terminations and reconnections.
- (4) Communications to or from individual customers regarding interruptions, discontinuances, terminations and reconnections of service, including the name and address of the customer, the date and character of the dispute or complaint and the adjustment or disposal made of the matter.

### **Subchapter I. (RESERVED)**

#### **§ 56.211. (Reserved).**

### **Subchapter J. GENERAL PROVISIONS**

#### **§ 56.221. Availability of normal Commission procedures.**

Nothing in this chapter prevents a person or a public utility from pursuing other Commission procedures in a case not described in this chapter.

#### **§ 56.222. Applications for modification or exception.**

(a) If unreasonable hardship to a person or to a public utility results from compliance with a section in this chapter, or a technological advance permits an enhanced level of customer service, application may be made to the Commission for modification of the section or for temporary exemption from its requirements. The adoption of this chapter by the Commission will in no way preclude it from altering or amending it under the applicable statutory procedures, nor will the adoption of this chapter preclude the Commission from granting temporary exemptions in exceptional cases.

(b) A person or public utility that files an application under this section shall provide notice to persons who may be affected by the modification or temporary exemption. Notice may be made by a bill insert or in another reasonable manner.

### **Subchapter K. PUBLIC UTILITY REPORTING REQUIREMENTS**

#### **§ 56.231. Reporting requirements.**

(a) Within 15 days after the end of each month, each electric distribution utility, natural gas distribution utility and class A water distribution utility shall file with the Commission a report containing the following information concerning residential accounts for that month:

- (1) The total number of residential heating customers.
- (2) The total number of residential nonheating customers.
- (3) The total number of active residential accounts in arrears not on a payment agreement.
- (4) The total dollar amount in arrears for active residential accounts in arrears and not on a payment agreement.
- (5) The total number of active residential accounts in arrears and on a payment agreement.



(6) The total dollar amount in arrears for active residential accounts in arrears and on a payment agreement.

(7) The total number of inactive residential accounts in arrears.

(8) The total dollar amount of inactive residential accounts in arrears.

(9) The total number of 10-day termination notices sent out by company.

(10) The total number of dwellings receiving termination notices sent to occupants other than the customer.

(11) The total number of 3-day termination notices completed by contact in person.

(12) The total number of 3-day termination notices completed by telephone.

(13) The total number of 48-hour termination notices posted.

(14) The total number of terminations for nonpayment.

(15) The total number of terminations for reasons other than nonpayment.

(16) The total number of terminations for nonpayment and for reasons other than nonpayment categorized by the first three digits of each account's postal code.

(17) The total number of reconnections for full customer payment, partial payment or payment agreement.

(18) The total number of reconnections for customer submission of medical certification.

(19) The total number of reconnections for reasons other than customer payment or medical certification.

(20) The total number of applicants that are requested to pay or are billed a security deposit.

(21) The total dollar amount in security deposits that are requested of or billed to applicants.

(22) The total number of customers that are requested to pay or are billed a security deposit.

(23) The total dollar amount in security deposits that are requested of or billed to customers.

(b) Within 90 days after the end of each year, each electric distribution utility, natural gas distribution utility and class A water distribution utility shall file with the Commission a report containing the following information concerning residential accounts for the previous year:

(1) The total number of security deposits on hand.

(2) The total dollar amount in security deposits on hand.

(3) The total dollar amount of annual collection operating expenses.

(4) The total dollar amount of annual residential billings.

(5) The total dollar amount of annual gross residential write-offs.

(6) The total dollar amount of annual net residential write-offs.

(7) The average monthly bill for the previous year for a heating customer.

(8) The average monthly bill for the previous year for a nonheating customer.

(9) The average monthly usage for a heating customer.

(10) The average monthly usage for a nonheating customer.

(c) Public utilities shall refer to the data dictionary in Appendix C (relating to definitions (§ 56.231)) for additional guidance as to the terms used in this section.

**Subchapter L. PROVISIONS FOR WASTEWATER, STEAM HEAT AND SMALL NATURAL GAS DISTRIBUTION UTILITIES AND VICTIMS OF DOMESTIC VIOLENCE WITH A PROTECTION FROM ABUSE ORDER**

Sec.  
56.251. Statement of purpose and policy.  
56.252. Definitions.

**§ 56.251. Statement of purpose and policy.**

Subchapters L—V apply to victims under a protection from abuse order as provided by 23 Pa.C.S. Chapter 61 (relating to Protection from Abuse Act) and 66 Pa.C.S. § 1417 (relating to nonapplicability). These subchapters also apply to wastewater, steam heating and natural gas distribution utilities with annual gas operating revenues of less than \$6 million per year, except when the utility seeks to provide natural gas supply services to retail gas customers outside its service territory as provided by 66 Pa.C.S. § 1403 (relating to definitions). These subchapters establish and enforce uniform, fair and equitable residential utility service standards governing eligibility criteria, credit and deposit practices, and account billing, termination and customer complaint procedures. This chapter assures adequate provision of residential utility service, to restrict unreasonable termination of or refusal to provide that service and to provide functional alternatives to termination or refusal to provide that service. Every privilege conferred or duty required under this chapter imposes an obligation of good faith, honesty and fair dealing in its performance and enforcement. This chapter will be liberally construed to fulfill its purpose and policy and to insure justice for all concerned.

**§ 56.252. Definitions.**

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

*AMR—Automatic meter reading—*

(i) Metering using technologies that automatically read and collect data from metering devices and transfer that data to a central database for billing and other purposes.

(ii) The term does not include remote meter reading devices as defined by this section.

(iii) Meter readings by an AMR shall be deemed actual readings for the purposes of this chapter.

*Applicant—*

(i) A person at least 18 years of age who applies for residential utility service.

(ii) The term does not include a person who, within 60 days after termination or discontinuance of service, seeks to transfer service within the service territory of the same utility or to reinstate service at the same address.

*Basic services—*

(i) Services necessary for the physical delivery of residential utility service.

(ii) The term also includes default service as defined in this section.

*Billing month*—A period of not less than 26 days and not more than 35 days except in the following circumstances:

(i) An initial bill for a new customer may be less than 26 days or greater than 35 days. However, if an initial bill exceeds 60 days, the customer shall be given the opportunity to amortize the amount over a period equal to the period covered by the initial bill without penalty.

(ii) A final bill due to discontinuance may be less than 26 days or greater than 35 days but may never exceed 42 days. In cases involving termination, a final bill may be less than 26 days.

(iii) Bills for less than 26 days or more than 35 days shall be permitted if they result from a rebilling initiated by the company or customer dispute to correct a billing problem.

(iv) Bills for less than 26 days or more than 35 days shall be permitted if they result from a meter reading route change initiated by the utility. The utility shall informally contact the Director of the Bureau of Consumer Services at least 30 days prior to the rerouting and provide information as to when the billing will occur, the number of customers affected and a general description of the geographic area involved. If a bill resulting from a meter rerouting exceeds 60 days, the customer shall be given the opportunity to amortize the amount over a period equal to the period covered by the bill without penalty.

*Billing period*—In the case of utilities supplying gas, electric and steam heating service, the billing period must conform to the definition of “billing month.” In the case of water and wastewater service, a billing period may be monthly, bimonthly or quarterly as provided in the tariff of the utility. Customers shall be permitted to receive bills monthly and be notified of their rights thereto.

*Customer*—A person at least 18 years of age in whose name a residential service account is listed and who is primarily responsible for payment of bills rendered for the service.

*Customer assistance program*—A plan or program sponsored by a utility for the purpose of providing universal service and energy conservation, as defined in 66 Pa.C.S. § 2202 or § 2803 (relating to definitions), in which customers make monthly payments based on household income and household size and under which customers shall comply with certain responsibilities and restrictions to remain eligible for the program.

*Cycle billing*—A system of billing employed by a utility which results in the normal rendition of bills for utility service to a group or portion of customers on different or specified days of one billing period.

*Default service*—Electric generation supply service provided under a default service program to a retail electric customer not receiving service from an electric generation supplier.

*Delinquent account*—Charges for utility service which have not been paid in full by the due date stated on the bill or otherwise agreed upon; provided that an account may not be deemed delinquent if: prior to the due date, a payment agreement with the utility has been entered into by the customer, a timely filed notice of dispute is pending before the utility or, under time limits provided in this chapter, an informal or formal complaint is timely filed with and is pending before the Commission.

*Discontinuance of service*—The cessation of service with the consent of the customer and otherwise in accordance with § 56.312 (relating to discontinuance of service).

*Dispute*—A grievance of an applicant, customer or occupant about a utility’s application of a provision covered by this chapter, including, but not limited to, subjects such as credit determinations, deposit requirements, the accuracy of meter readings or bill amounts or the proper party to be charged. If, at the conclusion of an initial contact or, when applicable, a follow-up response, the applicant, customer or occupant indicates satisfaction with the resulting resolution or explanation of the subject of the grievance, the contact will not be considered a dispute.

*Dwelling*—A house, apartment, mobile home or single meter multiunit structure being supplied with residential service.

*Electronic billing*—The electronic delivery and presentation of bills and related information sent by a utility to its customers using a system administered by the utility or a system the utility is responsible for maintaining.

*Electronic notification of payment*—A notification generated by an electronic payment system upon receipt of a payment from a customer using an electronic billing and payment system administered by the utility or a system the utility is responsible for maintaining. The notification must inform the customer of successful receipt and amount of payment and the date and time the payment was received.

*Electronic remittance of payment*—The electronic receipt of payment from customers to a utility using a system administered by a utility or a system the utility is responsible for maintaining.

*Emergency*—An unforeseen combination of circumstances requiring temporary discontinuance of service to effect repairs or maintenance or to eliminate an imminent threat to life, health, safety or property.

*Federal poverty level*—The poverty guidelines updated periodically in the *Federal Register* by the United States Department of Health and Human Services under the authority of section 673(2) of the Omnibus Budget Reconciliation Act (OBRA) of 1981 (42 U.S.C.A. § 9902(2)).

*Formal complaint*—A complaint filed before the Commission requesting a legal proceeding before a Commission administrative law judge or a mediation under the management of a Commission administrative law judge.

*Household income*—The combined gross income of all adults in a residential household who benefit from the public utility service.

*Informal complaint*—A complaint with the Commission submitted by a customer that does not involve a legal proceeding before a Commission administrative law judge or a mediation under the management of a Commission administrative law judge.

*Initial inquiry*—A concern or question of an applicant, customer or occupant about a utility’s application of a provision covered by this chapter, including, but not limited to, subjects such as credit determinations, deposit requirements, the accuracy of meter readings or bill amounts or the proper party to be charged. If a utility, with the consent of the applicant, customer or occupant, offers to review pertinent records and call back the applicant, customer or occupant within 3 business days with a response, the contact will be considered an initial inquiry pending a determination of satisfaction by the applicant, customer or occupant with the company’s response. If the company cannot reach the customer to convey the information obtained through a review of company records, a letter shall be sent which summarizes

the information and informs the customer to contact the company within 5 business days if the customer disagrees with the company position, or has additional questions or concerns about the matter.

*Natural gas distribution service*—The delivery of natural gas to retail gas customers utilizing the jurisdictional facilities of a natural gas distribution utility.

*Natural gas distribution utility*—A city natural gas distribution operation or entity that provides natural gas distribution services and may provide natural gas supply services and other services.

*Natural gas supply services*—

(i) The sale or arrangement of the sale of natural gas to retail gas customers and services that may be unbundled by the Commission under 66 Pa.C.S. § 2203(3) (relating to standards for restructuring of natural gas utility industry).

(ii) The term does not include natural gas distribution service.

*Nonbasic services*—Optional recurring services which are distinctly separate and clearly not required for the physical delivery of utility service or default service.

*Nurse practitioner*—A registered nurse licensed in this Commonwealth who is certified by the State Board of Nursing in a particular clinical specialty area and who, while functioning in the expanded role as a professional nurse, performs acts of medical diagnosis or prescription of medical therapeutic or corrective measures in collaboration with and under the direction of a physician licensed to practice medicine in this Commonwealth.

*Occupant*—A natural person who resides in the premises to which utility service is provided.

*Payment agreement*—A mutually satisfactory written agreement whereby a customer or applicant who admits liability for billed service is permitted to amortize or pay the unpaid balance of the account in one or more payments over a reasonable period of time.

*Person*—An individual, partnership, corporation, association, including any lessee, assignee, trustee, receiver, executor, administrator and other successors in interest.

*Physician*—An individual licensed to engage in the practice of medicine and surgery in all of its branches or in the practice of osteopathy or osteopathic surgery by a jurisdiction within the United States of America.

*Premises or affected premises*—Unless otherwise indicated, the residence of the occupant.

*Remote reading device*—

(i) A device which by electrical impulse or otherwise transmits readings from a meter, usually located within a residence, to a more accessible location outside of a residence.

(ii) The term does not include the following:

(A) AMR devices as defined in this section.

(B) Devices that permit direct interrogation of the meter.

*Residential service*—

(i) Utility service supplied to a dwelling, including service provided to a commercial establishment if concurrent service is provided to a residential dwelling attached thereto.

(ii) The term does not include utility service provided to a hotel or motel.

*Termination of service*—Cessation of service, whether temporary or permanent, without the consent of the ratepayer.

*Unauthorized use of utility service*—Unreasonable interference or diversion of service, including meter tampering (any act which affects the proper registration of service through a meter), by-passing (unmetered service that flows through a device connected between a service line and customer-owned facilities) and unauthorized service restoral.

*User without contract*—A person as defined in 66 Pa.C.S. § 102 (relating to definitions) that takes or accepts utility service without the knowledge or approval of the utility, other than the unauthorized use of utility service as defined in this section.

*Utility*—

(i) A public utility or a municipality, subject to Commission jurisdiction, which provides wastewater services or steam heating services.

(ii) The term also includes natural gas distribution utilities with annual gas operating revenues of less than \$6 million per year, except when the public utility seeks to provide natural gas supply services to retail gas customers outside its service territory as provided under 66 Pa.C.S. § 1403 (relating to definitions).

**Subchapter M. BILLING AND PAYMENT STANDARDS**

**GENERAL**

- Sec.
- 56.261. Billing frequency.
- 56.262. Meter reading; estimated billing; customer readings.
- 56.263. Billings for merchandise, appliances and nonrecurring and recurring services.
- 56.264. Previously unbilled utility service.
- 56.265. Billing information.
- 56.266. Transfer of accounts.
- 56.267. Advance payments.

**PAYMENTS**

- 56.271. Payment.
- 56.272. Accrual of late payment charges.
- 56.273. Application of partial payments between utility and other service.
- 56.274. Application of partial payments among several bills for utility service.
- 56.275. Electronic bill payment.

**GENERAL**

**§ 56.261. Billing frequency.**

(a) A utility shall render a bill once every billing period to every residential customer in accordance with approved rate schedules.

(b) A utility may utilize electronic billing in lieu of mailed paper bills. Electronic billing programs must include the following:

(1) The electronic billing option is voluntary and only with the prior consent of the customer. The customer retains the right to revert to conventional paper billings upon request. The customer shall provide the utility with a one billing cycle notice of a request to revert to paper billing.

(2) A customer shall receive the same information that is included with a paper bill issued by the utility.

(3) The electronic bill must include the same disclosures and educational messages that are required for paper bills. The electronic transmission of termination notices may not be permitted unless the customer has affirmatively consented to this method of delivery. The

electronic delivery of a termination notice does not relieve the public utility of the obligation to provide termination notices as required under §§ 56.331—56.338.

(4) The electronic bill must include all required bill inserts in an easily accessed and easily readable format.

(5) The electronic bill must include the option for the customer to contribute to the utility's hardship fund if the utility is able to accept hardship fund contributions by this method.

(6) A customer may not be required to pay an additional fee to receive an electronic bill.

(7) The utility shall maintain a system to deliver electronic bills if the bill is emailed to a customer.

(8) The utility shall employ all reasonable measures to protect customer information from unauthorized disclosure and prevent access to customer account records by persons who are not properly authorized to have access.

**§ 56.262. Meter reading; estimated billing; customer readings.**

Except as provided in this section, a utility shall render bills based on actual meter readings by utility company personnel.

(1) *Inapplicability to seasonally billed customers.* This section does not apply to customers billed on a seasonal basis under terms included in the tariff of the utility.

(2) *Estimates for bills rendered on a monthly basis.* If a utility bills on a monthly basis, it may estimate usage of service every other billing month, so long as the utility provides a customer with the opportunity to read the meter and report the quantity of usage in lieu of the estimated bill. The resulting bills must be based on the information provided, except for an account when it is apparent that the information is erroneous.

(i) Upon the request of the customer, the utility shall, at least annually, provide preaddressed postcards on which the customer may report the reading. The utility shall provide additional preaddressed postcards on request. The utility may choose to make available electronic and telephonic methods for customers to report meter reading information.

(ii) The utility may establish due dates by which the customer supplied reading shall be received for a bill to be based upon the meter reading of the customer or occupant. If the reading of a customer or occupant is not received by that due date, the utility may estimate the quantity of usage. The utility may establish due dates for submitting a meter reading when the customer or occupant utilizes an electronic method for reporting meter readings.

(3) *Estimates permitted under exigent circumstances.* A utility may estimate the bill of a customer if extreme weather conditions, emergencies, equipment failure, work stoppages or other circumstances prevent actual meter reading.

(4) *Estimates when utility personnel are unable to gain access.* A utility may estimate the bill of a customer if utility personnel are unable to gain access to obtain an actual meter reading, as long as the following apply:

(i) The utility has undertaken reasonable alternative measures to obtain a meter reading, including, but not limited to, the provision of preaddressed postcards upon which the customer may report the reading or the telephone reporting of the reading.

(ii) The utility, at least every 6 months, or every four billing periods for utilities permitted to bill for periods in excess of 1 month, obtains an actual meter reading or customer supplied reading to verify the accuracy of the estimated readings.

(iii) The utility, at least once every 12 months, obtains an actual meter reading to verify the accuracy of the readings, either estimated or customer read.

(5) *Remote reading devices for water, gas and electric utilities.* A utility may render a bill on the basis of readings from a remote reading device under the following conditions:

(i) When a gas, electric or water utility uses readings from a remote reading device to render bills, the utility shall obtain an actual meter reading at least once every 5 years to verify the accuracy of the remote reading device. If the customer of record at the dwelling changes during the 5-year period between actual meter readings, the utility shall make a bona fide attempt to schedule an appointment with the departing customer and, if necessary, the new occupant, to secure an actual meter reading.

(ii) When the actual meter reading establishes that the customer was underbilled due to an error in the registration of the remote reading device, the utility may render a bill for the uncollected amount. If the rebilling exceeds the otherwise normal estimated bill for the billing period during which the bill is issued by at least 50% or at least \$50, whichever is greater, the utility shall comply with § 56.264 (relating to previously unbilled utility service).

(iii) When the actual meter reading establishes that the customer was overbilled due to an error in the readings of the remote reading device, the utility shall credit or refund to the customer the amount overbilled plus interest calculated under § 56.411(3) (relating to duties of parties: disputing party's duty to pay undisputed portion of bills; utility's duty to pay interest whenever overpayment found).

(iv) Nothing in this section may be construed to limit the authority of electric, gas or water utilities to gain access to a residence for the purpose of checking or reading a meter.

(6) *Limitation of liability.* If a water utility has estimated bills and if the customer or occupant during that period has consumed an amount of water in excess of normal seasonal usage because of a verified leak that could not reasonably have been detected or other unknown loss of water, the customer is not liable for more than 150% of the average amount of water consumed for the corresponding period during the previous year. This section does not apply when the water utility was unable to gain access and has complied with paragraph (4).

(7) *Budget billing.* A gas, electric and steam heating utility shall provide its residential customers, on a year-round rolling enrollment basis, with an optional billing procedure which averages estimated utility service costs over a 10-month, 11-month or 12-month period to eliminate, to the extent possible, seasonal fluctuations in utility bills. The utility shall review accounts at least three times during the optional billing period. At the conclusion of the budget billing year, a resulting reconciliation amount exceeding \$100 but less than \$300 shall be, at the request of the customer, amortized over a 6-month period. Reconciliation amounts exceeding \$300 shall be amortized over at least a 12-month period at the request of the customer. Shorter amortization periods are permissible at the request of the customer.

(8) *Notice.* The utility shall inform existing customers of their rights under this section and under 66 Pa.C.S. § 1509 (relating to billing procedures).

**§ 56.263. Billings for merchandise, appliances and nonrecurring and recurring services.**

Charges for other than basic service—that is, merchandise, appliances and special services, including merchandise and appliance installation, sales, rental and repair costs; meter testing fees; line extension costs; special construction charges and other nonrecurring charges, except as provided in this chapter—must appear after charges for basic services and appear distinctly separate. This includes charges for optional recurring services which are distinctly separate and clearly not required for the physical delivery of service. Examples include line repair programs and appliance warranty programs. See § 56.323(3) (relating to unauthorized termination of service).

**§ 56.264. Previously unbilled utility service.**

When a utility renders a make-up bill for previously unbilled utility service which accrued within the past 4 years resulting from utility billing error, meter failure, leakage that could not reasonably have been detected or loss of service, or four or more consecutive estimated bills and the make-up bill exceeds the otherwise normal estimated bill for the billing period during which the make-up bill is issued by at least 50% or at least \$50, whichever is greater:

- (1) The utility shall explain the bill to the customer and make a reasonable attempt to amortize the bill.
- (2) The period of the amortization may, at the option of the customer, extend at least as long as:
  - (i) The period during which the excess amount accrued.
  - (ii) Necessary so that the quantity of service billed in any one billing period is not greater than the normal estimated quantity for that period plus 50%.

**§ 56.265. Billing information.**

A bill rendered by a utility for metered residential utility service must state clearly the following information:

- (1) The beginning and ending dates of the billing period.
- (2) If applicable, the beginning and ending meter readings for the billing period. If a bill is estimated, it must contain a clear and conspicuous marking of the word “Estimated.”
- (3) The due date on or before which payment shall be made or the account will be delinquent.
- (4) The amount due for service rendered during the current billing period, specifying the charge for basic service, the energy or fuel adjustment charge, State tax adjustment surcharge if other than zero, State Sales Tax if applicable and other similar charges. The bills should also indicate that a State Gross Receipts Tax is being charged and a reasonable estimate of the charge. A Class A utility shall include a statement of the dollar amount of total State taxes included in the current billing period charge. For the purpose of this paragraph, a Class A utility shall also include a Class A telephone utility as defined under § 63.31 (relating to classification of public utilities).
- (5) Amounts due for reconnection charges.
- (6) Amounts due for security deposits.

(7) The total amount of payments and other credits made to the account during the current billing period.

(8) The amount of late payment charges, designated as such, which have accrued to the account of the customer for failure to pay bills by the due date of the bill and which are authorized under § 56.272 (relating to accrual of late payment charges).

(9) The total amount due.

(10) A clear and conspicuous marking of estimates.

(11) A statement directing the customer to “register any question or complaint about the bill prior to the due date,” with the address and telephone number where the customer may initiate the inquiry or complaint with the utility.

(12) A statement that a rate schedule, an explanation of how to verify the accuracy of a bill and an explanation, in plain language, of the various charges, if applicable, is available for inspection in the local business office of the utility and on the utility’s web site.

(13) A designation of the applicable rate schedule as denoted in the officially filed tariff of the utility.

(14) Utilities shall incorporate the requirements in §§ 54.4 and 62.74 (relating to bill format for residential and small business customers).

**§ 56.266. Transfer of accounts.**

(a) A customer who is about to vacate premises supplied with utility service or who wishes to have service discontinued shall give at least 7 days notice to the utility and a noncustomer occupant, specifying the date on which it is desired that service be discontinued. In the absence of a notice, the customer shall be responsible for services rendered. If the utility is not, after a reasonable attempt to obtain meter access, able to access the meter for discontinuance, service shall be discontinued with an estimated meter reading upon which the final bill will be based. The resulting final bill is subject to adjustment once the utility has obtained an actual meter reading.

(b) In the event of discontinuance or termination of service at a residence or dwelling in accordance with this chapter, a utility may transfer an unpaid balance to a new residential service account of the same customer.

(c) If a termination notice has been issued in accordance with § 56.331 (relating to general notice provisions and contents of termination notice) and subsequent to the mailing or delivery of that notice, the customer requests a transfer of service to a new location, the termination process in §§ 56.331—56.339 may continue at the new location.

(1) When notifications set forth under § 56.331 and § 56.335 (relating to deferred termination when no prior contact) have been rendered and service has not been terminated due to a denial of access to the premises, the utility may deny service at a new location when a service transfer is requested.

(2) Nothing in this section shall be construed to limit the right of a customer to dispute a bill within the meaning of §§ 56.372—56.374 (relating to dispute procedures; time for filing an informal complaint; and effect of failure to timely file an informal complaint).

**§ 56.267. Advance payments.**

Payments may be required in advance of furnishing any of the following services:

- (1) Seasonal service.
- (2) The construction of facilities and furnishing of special equipment.
- (3) Gas and electric rendered through prepayment meters provided:

(i) The customer is nonlow income. For purposes of this section, "nonlow income" is defined as an individual who has an annual household gross income greater than 150% of the Federal poverty income guidelines and has a delinquency for which the individual is requesting a payment agreement but offering terms that the utility, after consideration of the factors in § 56.337(b) (relating to procedures upon customer or occupant contact prior to termination), finds unacceptable.

(ii) The service is being rendered to an individually-metered residential dwelling, and the customer and occupants are the only individuals affected by the installation of a prepayment meter.

(iii) The customer and utility enter into a payment agreement which includes, but is not limited to, the following terms:

(A) The customer voluntarily agrees to the installation of a prepayment meter.

(B) The customer agrees to purchase prepayment credits to maintain service until the total balance is retired and the utility agrees to make new credits available to the customer within 5 days of receipt of prepayment.

(C) The utility agrees to furnish the customer with emergency backup credits for additional usage of at least 5 days.

(D) The customer agrees that failure to renew the credits by making prepayment for additional service constitutes a request for discontinuance under § 56.312(1) (relating to discontinuance of service), except during a medical emergency, and that discontinuance will occur when the additional usage on the emergency backup credits runs out.

(iv) The utility develops a written plan for a prepayment meter program, consistent with the criteria established in this section, and submits the plan to the Commission at least 30 days in advance of the effective date of the program.

(v) During the first 2 years of use of prepayment meters, the utility thoroughly and objectively evaluates the use of prepayment meters in accordance with the following:

(A) *Content.* The evaluation should include both process and impact components. Process evaluation should focus on whether the use of prepayment meters conforms to the program design and should assess the degree to which the program operates efficiently. The impact evaluation should focus on the degree to which the program achieves the continuation of utility service to participants at reasonable cost levels. The evaluation should include an analysis of the costs and benefits of traditional collections or alternative collections versus the costs and benefits of handling nonlow income positive ability to pay customers through prepayment metering. This analysis should include comparisons of customer payment behavior, energy consumption, administrative costs and actual collection costs.

(B) *Time frame.* The process evaluation should be undertaken during the middle of the first year; the impact evaluation at least by the end of the second year.

(4) Temporary service for short-term use, including installation and removal, with credit for reasonable salvage.

## PAYMENTS

### § 56.271. Payment.

The due date for payment of a bill may not be less than 20 days from the date of transmittal; that is, the date of mailing, electronic transmission or physical delivery of the bill by the utility to the customer.

(1) *Extension of due date to next business day.* If the last day for payment falls on a Saturday, Sunday, bank holiday or other day when the offices of the utility which regularly receive payments are not open to the general public, the due date shall be extended to the next business day.

(2) *Date of payment by mail.* For a remittance by mail, one or more of the following applies:

(i) Payment shall be deemed to have been made on the date of the postmark.

(ii) The utility may not impose a late payment charge unless payment is received more than 5 days after the due date.

(3) *Branch offices or authorized payment agents.* The effective date of payment to a branch office or authorized payment agent, unless payment is made by mail under paragraph (2), is the date of actual receipt of payment at that location.

(4) *Electronic transmission.* The effective date of a payment electronically transmitted to a utility is the date of actual receipt of payment.

(5) *Fees.* Fees or charges assessed and collected by the utility for utilizing a payment option must be included in the utility's tariff on file at the Commission.

(6) *Multiple notifications.* When a utility advises a customer of a balance owed by multiple notices or contacts which contain different due dates, the date on or before which payment is due shall be the latest due date contained in any of the notices.

### § 56.272. Accrual of late payment charges.

(a) Every utility subject to this chapter is prohibited from levying or assessing a late charge or penalty on any overdue utility bill, as defined in § 56.271 (relating to payment), in an amount which exceeds 1.5% interest per month on the overdue balance of the bill. These charges are to be calculated on the overdue portions of the bill only. The interest rate, when annualized, may not exceed 18% simple interest per annum.

(b) An additional charge or fixed fee designed to recover the cost of a subsequent rebilling may not be charged by a regulated utility.

(c) Late payment charges may not be imposed on disputed estimated bills, unless the estimated bill was required because utility personnel were willfully denied access to the affected premises to obtain an actual meter reading.

(d) A utility may waive late payment charges on any customer accounts.

### § 56.273. Application of partial payments between utility and other service.

Payments received by a utility without written instructions that they be applied to merchandise, appliances, special services, meter testing fees or other nonbasic

charges and which are insufficient to pay the balance due for the items plus amounts billed for basic utility service shall first be applied to the basic charges for residential utility service.

**§ 56.274. Application of partial payments among several bills for utility service.**

In the absence of written instructions, a disputed bill or a payment agreement, payments received by a utility which are insufficient to pay a balance due both for prior service and for service billed during the current billing period shall first be applied to the balance due for prior service.

**§ 56.275. Electronic bill payment.**

A utility may offer electronic payment options. Electronic payment programs must include the following requirements:

(1) Electronic bill payment shall be voluntary. A utility may not require a customer to enroll in electronic bill payment as a condition for enrolling in electronic billing.

(2) For electronic bill payment through a charge to a customer's credit card or automatic withdrawal from a customer's financial account, the program must set forth the date (or number of days after issuance of the bill) when the automatic payment shall be made.

(3) The terms of the payment procedures shall be fully disclosed to the customer in writing, either by mail or electronically, before the customer enters the program. Program changes shall be conveyed to the customer in writing, either by mail or electronically, and the customer shall be given an opportunity to withdraw from the program if the customer does not wish to continue under the new terms.

(4) The utility shall provide a receipt, or a confirmation, transaction or reference number, either electronically or on paper, to the customer upon payment through the electronic method. This requirement does not apply if the payment method is through a preauthorized automated debit from a customer's financial account.

(5) The utility shall employ all reasonable measures to protect customer information from unauthorized disclosure and prevent access to customer account records by persons who are not properly authorized to have access.

**Subchapter N. CREDIT AND DEPOSITS STANDARDS POLICY**

**PROCEDURES FOR APPLICANTS**

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56.281.	Policy statement.
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**CASH DEPOSITS**

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**PROCEDURES FOR APPLICANTS**

**§ 56.281. Policy statement.**

An essential ingredient of the credit and deposit policies of each utility shall be the equitable and nondiscriminatory application of those precepts to potential and actual customers throughout the service area without regard to the economic character of the area or any part thereof. Deposit policies must be based upon the credit risk of the individual applicant or customer rather than the credit history of the affected premises or the collective credit reputation or experience in the area in which the applicant or customer lives and without regard to race, sex, age over 18 years of age, National origin or marital status.

**§ 56.282. Credit standards.**

A utility shall provide residential service without requiring a deposit when the applicant satisfies one of the following requirements:

(1) *Prior utility payment history.* The applicant has been a recipient of utility service of a similar type within a period of 24 consecutive months preceding the date of the application and was primarily responsible for payment for the service, so long as:

(i) The average periodic bill for the service was equal to at least 50% of that estimated for new service.

(ii) The service of the applicant was not terminated for nonpayment during the last 12 consecutive months of that prior service.

(iii) The applicant does not have an unpaid balance from that prior service.

(2) *Ownership of real property.* The applicant owns or has entered into an agreement to purchase real property located in the area served by the utility or is renting the applicant's place of residence under a lease of 1 year or longer in duration, unless the applicant has an otherwise unsatisfactory credit history as a utility customer within 2 years prior to the application for service.

(3) *Credit information.* The applicant provides information demonstrating that the applicant is not an unsatisfactory credit risk.

(i) The absence of prior credit history does not, of itself, indicate an unsatisfactory risk.

(ii) The utility may request and consider information including:

(A) The name of the employer of the applicant.

(B) The place and length of employment.

(C) Residences during the previous 5 years.

(D) Letters of reference.

(E) Credit cards.

(F) Significant source of income other than from employment.

**§ 56.283. Cash deposits; third-party guarantors.**

If an applicant does not establish credit under § 56.282 (relating to credit standards), the utility shall provide residential service when one of the following requirements is satisfied:

(1) *Cash deposit.* The applicant posts a cash deposit.

(2) *Third-party guarantor.* The applicant furnishes a written guarantee from a responsible customer which, for the purposes of this section, means a customer who has

or can establish credit, under § 56.282, to secure payment in an amount equal to that required for cash deposits.

(i) A guarantee must be in writing and state the terms of the guarantee.

(ii) The guarantor shall be discharged when the applicant has met the terms and conditions which apply under §§ 56.302 and 56.303 (relating to deposit hold period and refund; and application of deposit to bills).

**§ 56.284. Deposits for temporary service.**

Deposits for applicants for temporary service may be required in accordance with § 53.82 (relating to deposits).

**§ 56.285. Payment of outstanding balance.**

A utility may require, as a condition of the furnishing of residential service to an applicant, the payment of any outstanding residential account with the utility which accrued within the past 4 years from the date of the service request for which the applicant is legally responsible and for which the applicant was billed properly. The 4-year limit does not apply if the balance includes amounts that the utility was not aware of because of fraud or theft on the part of the applicant. An outstanding residential account with the utility may be amortized over a reasonable period of time. Factors to be taken into account include the size of the unpaid balance, the ability of the applicant to pay, the payment history of the applicant and the length of time over which the bill accumulated. A utility may not require, as a condition of the furnishing of residential service, payment for residential service previously furnished under an account in the name of a person other than the applicant unless a court, district justice or administrative agency has determined that the applicant is legally obligated to pay for the service previously furnished. Examples of situations include a separated spouse or a cotenant. This section does not affect the creditor rights and remedies of a utility otherwise permitted by law.

**§ 56.286. Written procedures.**

A utility shall establish written procedures for determining the credit status of an applicant. A utility employee processing applications or determining the credit status of applicants shall be supplied with or have ready access to a copy of the written procedures of the utility. A copy of these procedures shall be maintained on file in each of the business offices of the utility and made available, upon request, for inspection by members of the public and the Commission and be included on the utility's web site.

(1) *Reasons for denial of credit.* If credit is denied, the utility shall inform the applicant in writing of the reasons for the denial within 3 business days of the denial. This information may be provided electronically to the applicant with the applicant's consent. If the utility is requiring payment of an unpaid balance in accordance with § 56.285 (relating to payment of outstanding balance), the utility shall specify in writing the amount of the unpaid balance, the dates during which the balance accrued, and the location and customer name at which the balance accrued. The statement must inform the applicant of the right to furnish a third-party guarantor in accordance with § 56.283 (relating to cash deposits; third-party guarantors) and the right to contact the Commission. The statement must include information informing victims of domestic violence with a protection from abuse order that more lenient credit and liability standards may be available.

(2) *Informing applicants of procedures.* Utility personnel shall fully explain the credit and deposit procedures of the utility to each customer or applicant for service.

(3) *Third-party requests for service.* Requests from third parties to establish utility service on behalf of an applicant will not be honored until the utility has verified the legitimacy of the request. Verification may be accomplished by any means appropriate to confirm that the applicant consents to service being established or that the third-party is authorized to act on the applicant's behalf.

**§ 56.287. General rule.**

Once an applicant's application for service is accepted by the utility, the utility shall make a bona fide attempt to provide service within 3 business days, provided that the applicant has met all regulatory requirements. A longer time frame is permissible with the consent of the applicant. If the investigation and determination of credit status is expected to take or in fact takes longer than 3 business days commencing the date after the application is made, the utility shall provide service pending completion of the investigation. If the utility cannot provide service by the time frames specified in this section, the utility shall inform the customer of this fact and provide a reasonable estimate of when service will be provided. These requirements do not apply to new service installations and service extensions that require construction of facilities to provide the utility service.

**§ 56.288. Payment period for deposits by applicants.**

An applicant may elect to pay any required deposits in three installments: 50% payable upon the determination by the utility that the deposit is required, 25% payable 30 days after the determination and 25% payable 60 days after the determination.

**PROCEDURES FOR EXISTING CUSTOMERS**

**§ 56.291. General rule.**

A utility may require an existing customer to post a deposit to reestablish credit under the following circumstances:

(1) *Delinquent accounts.* Whenever a customer has been delinquent in the payment of any two consecutive bills or three or more bills within the preceding 12 months.

(i) Prior to requesting a deposit under this section, the utility shall give the customer written notification of its intent to request a cash deposit if current and future bills continue to be paid after the due date.

(A) Notification must clearly indicate that a deposit is not required at this time but that if bills continue to be paid after the due date a deposit will be required.

(B) Notification may be mailed or delivered to the customer together with a bill for utility service.

(C) Notification must set forth the address and phone number of the utility office where complaints or questions may be registered.

(D) A subsequent request for deposit must clearly indicate that a customer should register any question or complaint about that matter prior to the date the deposit is due to avoid having service terminated pending resolution of a dispute. The request must also include the address and telephone number of the utility office where questions or complaints may be registered.

(ii) Except in the case of adjustments to budget billing plans, a utility may issue a notification or subsequent



request for a deposit based, in whole or in part, on a delinquent account arising out of a make-up bill as defined in § 56.264 (relating to previously unbilled utility service), under the following conditions:

(A) The utility has complied with § 56.264. Compliance with a payment agreement by the customer discharges the delinquency and a notification or request for deposit may not thereafter be issued based on the make-up bill.

(B) If a make-up bill exceeds the otherwise normal estimated bill by at least 50% and if the customer makes payment in full after the bill is delinquent but before a notification of intent to request a deposit is given to the customer, a notification or request for deposit may not thereafter be issued based on the make-up bill.

(2) *Condition to the reconnection of service.* A utility may require a deposit as a condition to reconnection of service following a termination.

(3) *Failure to comply with payment agreement.* A utility may require a deposit, whether or not service has been terminated, when a customer fails to comply with a material term or condition of a payment agreement.

**§ 56.292. Payment period for deposits by customers.**

The due date for payment of a deposit other than a deposit required as a condition for the reconnection of service under § 56.291(2) (relating to general rule) may not be less than 21 days from the date of mailing or service on the customer of notification of the amount due. A customer may elect to pay a required deposit in three installments: 50% payable upon the determination by the utility that the deposit is required, 25% payable 30 days after the determination and 25% payable 60 days after the determination. A utility shall advise an applicant of the option to pay the requested security deposit in installments at the time the deposit is requested.

**CASH DEPOSITS**

**§ 56.301. Amount of cash deposit.**

(a) *Applicants.* A utility may not require a cash deposit from an applicant in excess of the average estimated bill of the applicant for a period equal to one billing period plus 1 additional month's service, not to exceed 4 months in the case of water and wastewater utilities and 2 months in the case of gas, electric and steam heat utilities, with a minimum deposit of \$5.

(b) *Existing customer.* For an existing customer, the cash deposit may not exceed the estimated charges for service based on the prior consumption of that customer for the class of service involved for a period equal to one average billing period plus 1 average month, not to exceed 4 months in the case of wastewater utilities and 2 months in the case of gas and steam heat utilities, with a minimum of \$5.

(c) *Adjustment of deposits.* The amount of a cash deposit may be adjusted at the request of the customer or the utility whenever the character or degree of the usage of the customer has materially changed or when it is clearly established that the character or degree of service will materially change in the immediate future.

**§ 56.302. Deposit hold period and refund.**

A cash deposit shall be refunded under the following conditions:

(1) *Termination or discontinuance of service.* Upon termination or discontinuance of service, the utility shall promptly apply the deposit of the customer, including accrued interest, to any outstanding balance for utility

service and refund or apply the remainder to the customer's account. A transfer of service from one location to another within a service area may not be deemed discontinuance within the meaning of this chapter.

(2) *Credit established.* When a customer establishes credit under § 56.282 (relating to credit standards), the utility shall refund or apply to the customer's account, any cash deposit plus accrued interest.

(3) *Third-party guarantor.* When a customer substitutes a third-party guarantor in accordance with § 56.283(2) (relating to cash deposits; third-party guarantors), the utility shall refund any cash deposit, plus accrued interest, up to the limits of the guarantee.

(4) *Prompt payment of bills.* After a customer has paid bills for service for 12 consecutive months without having service terminated and without having paid a bill subsequent to the due date or other permissible period as stated in this chapter on more than two occasions or for a maximum period of 24 months, the utility shall refund any cash deposit, plus accrued interest.

(5) *Optional refund.* At the option of the utility, a cash deposit, including accrued interest, may be refunded in whole or in part, at any time earlier than the time stated in this section.

**§ 56.303. Application of deposit to bills.**

The customer may elect to have a deposit applied to reduce bills for utility service or to receive a cash refund.

**§ 56.304. Periodic review.**

If a customer is not entitled to refund under § 56.302 (relating to deposit hold period and refund), the utility shall review the account of the customer each succeeding billing period and make appropriate disposition of the deposit in accordance with § 56.302 and § 56.303 (relating to application of deposit to bills).

**§ 56.305. Refund statement.**

If a cash deposit is applied or refunded, the utility shall mail or deliver to the customer a written statement showing the amount of the original deposit plus accrued interest, the application of the deposit to a bill which had previously accrued, the amount of unpaid bills liquidated by the deposit and the remaining balance.

**§ 56.306. Interest rate.**

The utility shall accrue interest on the deposit until it is returned or credited the legal rate of interest under section 202 of the act of January 30, 1974 (P. L. 13, No. 6) (41 P. S. § 202), known as the Loan Interest and Protection Law, and return the interest with the deposit.

**§ 56.307. Application of interest.**

Interest shall be paid annually to the customer, or, at the option of either the utility or the customer, shall be applied to service bills.

**Subchapter O. INTERRUPTION AND DISCONTINUANCE OF SERVICE**

- Sec.
- 56.311. Interruption of service.
- 56.312. Discontinuance of service.

**§ 56.311. Interruption of service.**

A utility may temporarily interrupt service when necessary to effect repairs or maintenance; to eliminate an imminent threat to life, health, safety or substantial property damage; or for reasons of local, State or National emergency.

(1) *Interruption with prior notice.* When the utility knows in advance of the circumstances requiring the service interruption, prior notice of the cause and expected duration of the interruption shall be given to customers and occupants who may be affected.

(2) *Interruption without prior notice.* When service is interrupted due to unforeseen circumstances, notice of the cause and expected duration of the interruption shall be given as soon as possible to customers and occupants who may be affected.

(3) *Notification procedures.* When customers and occupants are to be notified under this section, the utility shall take reasonable steps, such as personal contact, phone contact and use of the mass media, to notify affected customers and occupants of the cause and expected duration of the interruption.

(4) *Permissible duration.* Service may be interrupted for only the periods of time necessary to protect the health and safety of the public, to protect property or to remedy the situation which necessitated the interruption. Service shall be resumed as soon as possible thereafter.

#### § 56.312. Discontinuance of service.

A utility may discontinue service without prior written notice under the following circumstances:

(1) *Customer's residence.* When a customer requests a discontinuance at the customer's residence, when the customer and members of the customer's household are the only occupants.

(2) *Other premises or dwellings.* Other premises or dwellings as follows:

(i) When a customer requests discontinuance at a dwelling other than the customer's residence or at a single meter multifamily residence, whether or not the customer's residence but, in either case, only under either of the following conditions:

(A) The customer states in writing that the premises are unoccupied. The statement must be on a form conspicuously bearing notice that information provided by the customer will be relied upon by the Commission in administering a system of uniform service standards for utilities and that any false statements are punishable criminally. When the customer fails to provide a notice, or when the customer has falsely stated the premises are unoccupied, the customer shall be responsible for payment of utility bills until the utility discontinues service.

(B) The occupants affected by the proposed cessation inform the utility orally or in writing of their consent to the discontinuance.

(ii) When the conditions in subparagraph (i) have not been met, the utility, at least 10 days prior to the proposed discontinuance, shall conspicuously post notice of termination at the affected premises.

(A) When the premises is a multifamily residence, notice shall also be posted in common areas.

(B) Notices must, at a minimum, state: the date on or after which discontinuance will occur; the name and address of the utility; and the requirements necessary for the occupant to obtain utility service in the occupant's name. Further termination provisions of this chapter, except § 56.337 (relating to procedures upon customer or occupant contact prior to termination), do not apply in these circumstances.

(C) This section does not apply when the customer is a landlord ratepayer. See 66 Pa.C.S. §§ 1521—1533 (relating to discontinuance of service to leased premises).

## Subchapter P. TERMINATION OF SERVICE

### GROUND FOR TERMINATION

- Sec.  
56.321. Authorized termination of service.  
56.322. Timing of termination.  
56.323. Unauthorized termination of service.

### NOTICE PROCEDURES PRIOR TO TERMINATION

- 56.331. General notice provisions and contents of termination notice.  
56.332. Notice when dispute pending.  
56.333. Personal contact.  
56.334. Procedures immediately prior to termination.  
56.335. Deferred termination when no prior contact.  
56.336. Post-termination notice.  
56.337. Procedures upon customer or occupant contact prior to termination.  
56.338. Exception for terminations based on occurrences harmful to person or property.  
56.339. Use of termination notice solely as collection device prohibited.  
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### EMERGENCY PROVISIONS

- 56.351. General provision.  
56.352. Postponement of termination pending receipt of certificate.  
56.353. Medical certifications.  
56.354. Length of postponement; renewals.  
56.355. Restoration of service.  
56.356. Duty of customer to pay bills.  
56.357. Termination upon expiration of medical certification.  
56.358. Right of utility to petition the Commission.

### THIRD-PARTY NOTIFICATION

- 56.361. Third-party notification.

### GROUND FOR TERMINATION

#### § 56.321. Authorized termination of service.

Utility service to a dwelling may be terminated for one or more of the following reasons:

- (1) Nonpayment of an undisputed delinquent account.
- (2) Failure to post a deposit, provide a guarantee or establish credit.
- (3) Unreasonable refusal to permit access to meters, service connections and other property of the utility for the purpose of maintenance, repair or meter reading.
- (4) Unauthorized use of the utility service delivered on or about the affected dwelling.
- (5) Failure to comply with the material terms of a payment agreement.
- (6) Fraud or material misrepresentation of identity for the purpose of obtaining utility service.
- (7) Tampering with meters or other utility equipment.
- (8) Violating tariff provisions on file with the Commission so as to endanger the safety of a person or the integrity of the energy delivery system of the utility.

#### § 56.322. Timing of termination.

Except in emergencies—which include unauthorized use of utility service—service may not be terminated, for nonpayment of charges or for any other reason, during the following periods:

- (1) On Friday, Saturday or Sunday.
- (2) On a bank holiday or on the day preceding a bank holiday.
- (3) On a holiday observed by the utility or on the day preceding the holiday. A holiday observed by a utility means any day on which the business office of the utility

is closed to observe a legal holiday, to attend utility meetings or functions or for any other reason.

(4) On a holiday observed by the Commission or on the day preceding the holiday.

**§ 56.323. Unauthorized termination of service.**

Unless expressly and specifically authorized by the Commission, service may not be terminated nor will a termination notice be sent for any of the following reasons:

(1) Nonpayment for concurrent service of the same class received at a separate dwelling. This does not include concurrent service periods of 90 days or less accrued during the transfer of service from one location to another.

(2) Nonpayment for a different class of service received at the same or a different location. Service may be terminated, however, when, under the tariff of the utility, a change in classification is necessitated upon the completion of construction work previously billed at a different rate applicable during construction.

(3) Nonpayment, in whole or in part of nonbasic charges for leased or purchased merchandise, appliances or special services including, but not limited to, merchandise and appliance installation fees, rental and repair costs; meter testing fees; special construction charges; and other nonrecurring or recurring charges that are not essential to delivery or metering of service, except as provided in this chapter.

(4) Nonpayment of bills for delinquent accounts of the prior customer at the same address.

(5) Nonpayment of a deposit which is based, in whole or in part, on a delinquent account arising out of a make-up bill as defined in § 56.264 (relating to previously unbilled utility service) and the customer has complied with § 56.291(1)(ii)(A) or (B) (relating to general rule).

(6) Noncompliance with a payment agreement prior to the due date of the bill which forms the basis of the agreement.

(7) Nonpayment of charges for utility service for which the utility ceased billing more than 4 years prior to the date the bill is rendered.

(8) Nonpayment for residential service already furnished in the names of persons other than the customer unless a court, district justice or administrative agency has determined that the customer is legally obligated to pay for the service previously furnished. This paragraph does not affect the creditor rights and remedies of a utility otherwise permitted by law.

(9) Nonpayment of charges calculated on the basis of estimated billings, unless the estimated bill was required because utility personnel were unable to gain access to the affected premises to obtain an actual meter reading on two occasions and have made a reasonable effort to schedule a meter reading at a time convenient to the customer or occupant, or a subsequent actual reading has been obtained as a verification of the estimate prior to the initiation of termination procedures.

(10) Nonpayment of delinquent accounts which accrued over two billing periods or more, which remain unpaid in whole or in part for 6 months or less, and which amount to a total delinquency of less than \$25.

(11) Nonpayment of delinquent accounts when the amount of the deposit presently held by the utility is within \$25 of account balance.

**NOTICE PROCEDURES PRIOR TO TERMINATION**

**§ 56.331. General notice provisions and contents of termination notice.**

(a) Prior to a termination of service, the utility shall mail or deliver written notice to the customer at least 10 days prior to the date of the proposed termination. In the event of a user without contract as defined in § 56.252 (relating to definitions), the utility shall comply with §§ 56.333—56.337, but does not need to provide notice 10 days prior to termination.

(b) A notice of termination must include, in conspicuous print, clearly and fully the following information when applicable:

(1) The reason for the proposed termination.

(2) An itemized statement of amounts currently due, including any required deposit.

(3) A statement that a reconnection fee will be required to have service restored after it has been terminated if a reconnection fee is a part of the tariff of the utility on file with the Commission. The statement must include the maximum possible dollar amount of the reconnection fee that may apply.

(4) The date on or after which service will be terminated unless one of the following occurs:

(i) Payment in full is received.

(ii) The grounds for termination are otherwise eliminated.

(iii) A payment agreement is established.

(iv) Enrollment is made in a customer assistance program or its equivalent, if the customer is eligible for the program.

(v) A dispute is filed with the utility or the Commission.

(vi) Payment in full of amounts past due on the most recent payment agreement is received.

(5) A statement that the customer should immediately contact the utility to attempt to resolve the matter. The statement must include the address and telephone number where questions may be asked, how payment agreements may be negotiated and entered into with the utility, and where applications can be found and submitted for enrollment into the utility's universal service programs, if these programs are offered by the utility.

(6) The following statement: "If you have questions or need more information, contact us as soon as possible at (utility phone number). After you talk to us, if you are not satisfied, you may file a complaint with the Public Utility Commission. The Public Utility Commission may delay the shut off if you file the complaint before the shut off date. To contact them, call (800) 692-7380 or write to the Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, Pennsylvania 17105-3265."

(7) A serious illness notice in compliance with the form in Appendix A (relating to medical emergency notice) except that, for the purpose of § 56.336 (relating to post-termination notice), the notice must comply with the form in Appendix B (relating to medical emergency notice).

(8) If the utility has universal service programs, information indicating that special assistance programs may be available and how to contact the utility for information and enrollment, and that enrollment in the program may be a method of avoiding the termination of service.

(9) Information indicating that special protections are available for victims under a protection from abuse order and how to contact the utility to obtain more information on these protections.

(10) Information indicating that special protections are available for tenants if the landlord is responsible for paying the utility bill and how to contact the utility to obtain more information on these protections.

(11) Information indicating that if service is shut off, the customer may be required to pay more than the amount listed on the notice to have service turned back on.

(12) Information indicating that if service is shut off, the customer shall contact the utility after payment has been made to arrange reconnection of the service.

(13) Information in Spanish directing Spanish-speaking customers to the numbers to call for information and translation assistance. Similar information shall be included in other languages when census data indicates that 5% or more of the residents of the utility's service territory are using that language.

(14) Contact information for customers with disabilities that need assistance.

**§ 56.332. Notice when dispute pending.**

A utility may not mail or deliver a notice of termination if a notice of initial inquiry, dispute, informal or formal complaint has been filed and is unresolved and if the subject matter of the dispute forms the grounds for the proposed termination. A notice mailed or delivered in contravention of this section is void.

**§ 56.333. Personal contact.**

(a) Except when authorized under § 56.311, § 56.312 or § 56.338 (relating to interruption of service; discontinuance of service; and exception for terminations based on occurrences harmful to person or property), a utility may not interrupt, discontinue or terminate service without personally contacting the customer or a responsible adult occupant at least 3 days prior to the interruption, discontinuance or termination, in addition to providing other notice as specified by the properly filed tariff of the utility or as required under this chapter or other Commission directive.

(b) For purposes of this section, "personal contact" means:

(1) Contacting the customer or responsible adult occupant in person or by telephone. Phone contact shall be deemed complete upon attempted calls on 2 separate days to the residence between 8 a.m. and 9 p.m. if the calls were made at various times each day, with the various times of the day being daytime before 5 p.m. and evening after 5 p.m. and at least 2 hours apart. Calls made to contact telephone numbers provided by the customer shall be deemed to be calls to the residence.

(2) If contact is attempted in person by a home visit, only one attempt is required. The utility shall conspicuously post a written termination notice at the residence if it is unsuccessful in attempting to personally contact a responsible adult occupant during the home visit.

(3) Contacting another person whom the customer has designated to receive a copy of a notice of termination, other than a member or employee of the Commission.

(4) If the customer has not made the designation noted in paragraph (3), contacting a community interest group or other entity, including a local police department, which

previously shall have agreed to receive a copy of the notice of termination and to attempt to contact the customer.

(5) If the utility is not successful in establishing personal contact as noted in paragraphs (1) and (2) and the customer has not made the designation noted in paragraph (3) and if there is no community interest group or other entity which previously has agreed to receive a copy of the notice of termination, contacting the Commission in writing.

(c) The content of the 3-day personal contact notice must include the earliest date at which termination may occur and the following information:

(1) The date and grounds of the termination.

(2) What is needed to avoid the termination of service.

(3) How to contact the utility and the Commission.

(4) The availability of the emergency medical procedures.

(d) The utility shall ask if the customer or occupant has questions about the 10-day written notice the utility previously sent.

**§ 56.334. Procedures immediately prior to termination.**

Immediately preceding the termination of service, a utility employee, who may be the utility employee designated to perform the termination, shall attempt to make personal contact with a responsible adult occupant at the residence of the customer.

(1) *Termination prohibited in certain cases.* If evidence is presented which indicates that payment has been made, a serious illness or medical condition exists, or a dispute or complaint is properly pending or if the employee is authorized to receive payment and payment in full is tendered in any reasonable manner, then termination may not occur. However, if the disputing party does not pay all undisputed portions of the bill, termination may occur.

(2) *Methods of payment.* Payment in any reasonable manner includes payment by personal check unless the customer within the past year has tendered a check which has been returned for insufficient funds or for which payment has been stopped.

**§ 56.335. Deferred termination when no prior contact.**

If a prior contact has not been made with a responsible adult occupant either at the residence of the customer, as required under § 56.334 (relating to procedures immediately prior to termination) or at the affected dwelling, the employee may not terminate service but shall conspicuously post a termination notice at the residence of the customer and the affected dwelling, advising that service will be disconnected not less than 48 hours from the time and date of posting.

**§ 56.336. Post-termination notice.**

When service is actually terminated, notice that reflects the requirements in § 56.331 (relating to general notice provisions and contents of termination notice) as well as a medical emergency notice in the form which appears in Appendix B (relating to medical emergency notice) shall be delivered to a responsible adult occupant at the residence of the customer or conspicuously posted at the affected premises.

**§ 56.337. Procedures upon customer or occupant contact prior to termination.**

(a) If, after the issuance of the initial termination notice and prior to the actual termination of service, a customer or occupant contacts the utility concerning a proposed termination, an authorized utility employee shall fully explain the following:

- (1) The reasons for the proposed termination.
- (2) The available methods for avoiding a termination, including the following:
  - (i) Tendering payment in full or otherwise eliminating the grounds for termination.
  - (ii) Entering a payment agreement.
  - (iii) Paying what is past-due on the most recent previous company negotiated or Commission payment agreement.
  - (iv) Enrolling in the utility's customer assistance program or its equivalent, if the utility has a program and the customer is eligible for the program.
- (3) The medical emergency procedures.

(b) The utility, through its employees, shall exercise good faith and fair judgment in attempting to enter a reasonable payment agreement or otherwise equitably resolve the matter. Factors to be taken into account when attempting to enter into a reasonable informal dispute settlement agreement or payment agreement include the size of the unpaid balance, the ability of the customer to pay, the payment history of the customer and the length of time over which the bill accumulated. Payment agreements for heating customers shall be based upon budget billing as determined under § 56.262(7) (relating to meter reading; estimated billing; customer readings). If a payment agreement is not established, the company shall further explain the following:

- (1) The right of the customer to file a dispute with the utility and, thereafter, an informal complaint with the Commission.
- (2) The procedures for resolving disputes and informal complaints, including the address and telephone number of the Commission: Public Utility Commission, Box 3265, Harrisburg, Pennsylvania 17105-3265, (800) 692-7380.
- (3) The duty of the customer to pay any portion of a bill which the customer does not dispute.

**§ 56.338. Exception for terminations based on occurrences harmful to person or property.**

Notwithstanding any other provision of this chapter, when a service termination is based on an occurrence which endangers the safety of any person or may prove harmful to the energy delivery system of the utility, the utility may terminate service without written notice so long as the utility reasonably believes grounds to exist. At the time of termination, the utility shall make a bona fide attempt to deliver a notice of termination to a responsible adult occupant at the affected premises and, in the case of a single meter, multiunit dwelling, shall conspicuously post the notice at the dwelling, including common areas when permissible.

**§ 56.339. Use of termination notice solely as collection device prohibited.**

A utility may not threaten to terminate service when it has no present intent to terminate service or when actual termination is prohibited under this chapter. Notice of the intent to terminate shall be used only as a warning that

service will in fact be terminated in accordance with the procedures under this chapter, unless the customer or occupant remedies the situation which gave rise to the enforcement efforts of the utility.

**§ 56.340. Winter termination procedures.**

Notwithstanding any provision of this chapter, during the period of December 1 through March 31, utilities subject to this subchapter shall conform to the provisions of this section. The covered utilities may not terminate service between December 1 and March 31 except as provided in this section or § 56.338 (relating to exception for terminations based on occurrences harmful to person or property).

(1) *Termination notices.* The utility shall comply with §§ 56.331—56.335 including personal contact, as defined in § 56.333 (relating to personal contact), at the premises if occupied.

(2) *Request for permission to terminate service.* If at the conclusion of the notification process defined in §§ 56.331—56.335, a reasonable agreement cannot be reached between the utility and the customer, the utility shall register with the Commission, in writing, a request for permission to terminate service, accompanied by a utility report as defined in § 56.382 (relating to contents of the utility company report). At the same time, the utility shall serve the customer a copy of the written request registered with the Commission.

(3) *Informal complaints.* If the customer has filed an informal complaint or if the Commission has acted upon the utility's written request, the matter shall proceed under §§ 56.391—56.394 (relating to informal complaint procedures). Nothing in this section may be construed to limit the right of a utility or customer to appeal a decision by the Bureau of Consumer Services (BCS) under 66 Pa.C.S. § 701 (relating to complaints) and §§ 56.401—56.403 and 56.441.

(4) *Survey of premises previously terminated.* For premises where heat related service has been terminated prior to December 1 of each year, covered utilities shall, within 90 days prior to December 1, survey and attempt to make post-termination personal contact with the occupant or a responsible adult at the premises and in good faith attempt to reach an agreement regarding payment of any arrearages and restoration of service.

(5) *Reporting of survey results.* Utilities subject to this subchapter shall file a brief report outlining their pre-December 1 survey and personal contact results with the BCS on or before December 15 of each year. Each utility shall update the survey and report the results to the BCS on February 1 of each year to reflect any change in the status of the accounts subsequent to the December 15 filing. For the purposes of the February 1 update of survey results, the utility shall attempt to contact by telephone, if available, a responsible adult person or occupant at each residence in a good faith attempt to reach an agreement regarding payment of any arrearages and restoration of service.

(6) *Landlord ratepayer accounts.* During the period of December 1 through March 31, a utility subject to this subchapter may not terminate service to a premises when the account is in the name of a landlord ratepayer as defined at 66 Pa.C.S. § 1521 (related to definitions) except for the grounds in § 56.338.

(7) *Reporting of deaths at locations where utility service was previously terminated.* Throughout the year, utilities subject to this subchapter shall report to the Commission

when, in the normal course of business, they become aware of a household fire, incident of hypothermia or carbon monoxide poisoning or another event that resulted in a death and that the utility service was off at the time of the incident. Within 1 working day of becoming aware of an incident, the utility shall submit a telephone or electronic report to the Director of the BCS including, if available, the name, address and account number of the last customer of record, the date of the incident, a brief statement of the circumstances involved and, if available from an official source or the media, the initial findings as to the cause of the incident and the source of that information. The BCS or Commission may request additional information on the incident and the customer's account. Information submitted to the Commission in accordance with this paragraph shall be treated in accordance with 66 Pa.C.S. § 1508 (relating to reports of accidents) and may not be open for public inspection except by order of the Commission, and may not be admitted into evidence for any purpose in any suit or action for damages growing out of any matter or thing mentioned in the report.

### EMERGENCY PROVISIONS

#### § 56.351. General provision.

A utility may not terminate service, or refuse to restore service, to a premises when a licensed physician or nurse practitioner has certified that the customer or an applicant seeking reconnection of previously terminated service under § 56.421 (relating to payment and timing) or a member of the customer's or applicant's household is seriously ill or afflicted with a medical condition that will be aggravated by cessation of service. The customer or applicant shall obtain a letter from a licensed physician or nurse practitioner verifying the condition and promptly forward it to the utility. The determination of whether a medical condition qualifies for the purposes of this section resides entirely with the physician or nurse practitioner and not with the utility. A utility may not impose any qualification standards for medical certificates other than those listed in this section.

#### § 56.352. Postponement of termination pending receipt of certificate.

If, prior to termination of service, the utility employee is informed that an occupant is seriously ill or is affected with a medical condition which will be aggravated by a cessation of service and that a medical certification will be procured, termination may not occur for at least 3 days. If a certification is not produced within that 3-day period, the utility may resume the termination process at the point when it was suspended.

#### § 56.353. Medical certifications.

Certifications initially may be written or oral, subject to the right of the utility to verify the certification by calling the physician or nurse practitioner or to require written verification within 7 days. Certifications, whether written or oral, must include the following:

- (1) The name and address of the customer or applicant in whose name the account is registered.
- (2) The name and address of the afflicted person and the relationship to the customer or applicant.
- (3) The nature and anticipated length of the affliction.
- (4) The specific reason for which the service is required.
- (5) The name, office address and telephone number of the certifying physician or nurse practitioner.

#### § 56.354. Length of postponement; renewals.

Service may not be terminated for the time period specified in a medical certification. The maximum length of the certification shall be 30 days.

(1) *Time period not specified.* If no length of time is specified or if the time period is not readily ascertainable, service may not be terminated for at least 30 days.

(2) *Renewals.* Certifications may be renewed in the same manner and for the same time period as provided in §§ 56.352 and 56.353 (relating to postponement of termination pending receipt of certificate; and medical certifications) and this section if the customer has met the obligation under § 56.356 (relating to duty of customer to pay bills). In instances when a customer has not met the obligation in § 56.356 to equitably make payments on all bills, the number of renewals for the customer's household is limited to two 30-day certifications filed for the same set of arrearages. In these instances, the utility is not required to honor a third renewal of a medical certificate and is not required to follow § 56.358(3) (relating to right of utility to petition the Commission). The utility shall apply the dispute procedures in §§ 56.381 and 56.382 (relating to utility company dispute procedures). When the customer eliminates these arrearages, the customer is eligible to file new medical certificates.

#### § 56.355. Restoration of service.

When service is required to be restored under this section and §§ 56.351, 56.354, 56.356—56.358 and 56.421, the utility shall make a diligent effort to have service restored on the day of receipt of the medical certification. In any case, service shall be reconnected within 24 hours. Each utility shall have employees available or on call to restore service in emergencies.

#### § 56.356. Duty of customer to pay bills.

Whenever service is restored or termination postponed under the medical emergency procedures, the customer shall retain a duty to make payment on all current undisputed bills or budget billing amount as determined when § 56.262(7) (relating to meter reading; estimated billing; customer readings).

#### § 56.357. Termination upon expiration of medical certification.

When the initial and renewal certifications have expired, the original ground for termination shall be revived and the utility may terminate service without additional written notice, if notice previously has been mailed or delivered within the past 60 days under § 56.331 (relating to general notice provisions and contents of termination notice). The utility shall comply with §§ 56.333—56.336.

#### § 56.358. Right of utility to petition the Commission.

(a) A utility may petition the Commission for waiver from the medical certification procedures for the following purposes:

(1) *Contest the validity of a certification.* To request an investigation and hearing by the Commission or its designee when the utility wishes to contest the validity of the certification.

(2) *Terminate service prior to expiration of certification.* To request permission to terminate service for the failure of the customer to make payments on current undisputed bills.

(3) *Contest the renewal of a certification.* To request permission to terminate service, under this section and §§ 56.321—56.323 and 56.331—56.339 when customer has not met the duty under § 56.356 (relating to duty of customer to pay bills), provided that the utility has informed the customer of that duty under § 56.356.

(b) A utility shall continue to provide service while a final Commission adjudication on the petition is pending. A petition under this section shall be accompanied by a utility report described in § 56.382 (relating to contents of the utility company report) and shall be filed with the Secretary of the Commission with a copy served to the customer.

(c) Upon the filing of a petition for waiver of medical certification, Commission staff will review the facts and issue an informal written decision.

(d) A party to the proceeding may, within 20 days of mailing of the informal decision, and not thereafter except for good cause shown, appeal by filing with the Secretary of the Commission a letter stating the basis for appeal. An appeal from the informal decision will be assigned to the Office of Administrative Law Judge for hearing and decision.

**THIRD-PARTY NOTIFICATION**

**§ 56.361. Third-party notification.**

Each utility shall permit its customers to designate a consenting individual or agency which is to be sent, by the utility, a duplicate copy of reminder notices, past due notices, delinquent account notices or termination notices of whatever kind issued by that utility. When contact with a third party is made, the utility shall advise the third party of the pending action and the efforts which shall be taken to avoid termination. A utility shall institute and maintain a program:

(1) To allow customers to designate third parties to receive copies of a customer's or group of customers' notices of termination of service.

(2) To advise customers at least annually of the availability of a third-party notification program and to encourage its use thereof. The utility shall emphasize that the third party is not responsible for the payment of the customer's bills.

(3) To solicit community groups to accept third-party notices to assist in preventing unnecessary terminations and protecting the public health and safety.

(4) To make available a standard enrollment form in compliance with the form as set forth in Appendix E (relating to third-party notification).

**Subchapter Q. DISPUTES; TERMINATION DISPUTES; INFORMAL AND FORMAL COMPLAINTS**

**GENERAL PROVISIONS**

- Sec. 56.371. Follow-up response to inquiry.
- 56.372. Dispute procedures.
- 56.373. Time for filing an informal complaint.
- 56.374. Effect of failure to timely file an informal complaint.

**UTILITY COMPANY DISPUTE PROCEDURES**

- 56.381. General rule.
- 56.382. Contents of the utility company report.

**INFORMAL COMPLAINT PROCEDURES**

- 56.391. Informal complaint filing procedures.
- 56.392. Commission informal complaint procedure.
- 56.393. Termination pending resolution of the dispute.
- 56.394. Conference procedures.

**FORMAL COMPLAINTS**

- 56.401. General rule.
- 56.402. Filing.
- 56.403. Review from informal complaint decisions of the Bureau of Consumer Services.
- 56.404. Ability to pay proceedings.

**PAYMENT OF BILLS PENDING RESOLUTION OF DISPUTES AND COMPLAINTS**

- 56.411. Duties of parties: disputing party's duty to pay undisputed portion of bills; utility's duty to pay interest whenever overpayment found.

**GENERAL PROVISIONS**

**§ 56.371. Follow-up response to inquiry.**

When a customer is waiting for a follow-up response to an initial inquiry under § 56.252 (relating to definitions), termination or threatening termination of service, for the subject matter relating to the inquiry in question, shall be prohibited until the follow-up response and, when applicable, subsequent dispute resolution is completed by the utility.

**§ 56.372. Dispute procedures.**

A notice of dispute, including termination disputes, must proceed, according to this section:

(1) *Attempted resolution.* If, at any time prior to the actual termination of service, a customer advises the utility that the customer disputes any matter covered by this chapter, including, but not limited to, credit determinations, deposit requirements, the accuracy of utility metering or billing or the proper party to be charged, the utility shall attempt to resolve the dispute in accordance with § 56.381 (relating to general rule).

(2) *Termination stayed.* Except as otherwise provided in this chapter, when a termination dispute or complaint has been properly filed in accordance with this subchapter, termination shall be prohibited until resolution of the dispute or complaint. However, the disputing party shall pay undisputed portions of the bill.

**§ 56.373. Time for filing an informal complaint.**

To be timely filed, an informal complaint—which may not include disputes under §§ 56.285 and 56.421 (relating to payment of outstanding balance; and payment and timing)—shall be filed prior to the day on which the utility arrives to terminate service. If the utility arrives to terminate service and posts a deferred termination notice in lieu of termination or otherwise fails to terminate service, the time for filing an informal complaint shall be extended until the end of the business day prior to the utility again arriving to terminate service.

**§ 56.374. Effect of failure to timely file an informal complaint.**

Failure to timely file an informal complaint, except for good cause, shall constitute a waiver of applicable rights to retain service without complying with the termination notice or conference report of the utility.

**UTILITY COMPANY DISPUTE PROCEDURES**

**§ 56.381. General rule.**

Upon initiation of a dispute covered by this section, the utility shall:

(1) Not issue a termination notice based on the disputed subject matter.

(2) Investigate the matter using methods reasonable under the circumstances, which may include telephone or personal conferences, or both, with the customer or occupant.

(3) Make a diligent attempt to negotiate a reasonable payment agreement if the customer or occupant claims a temporary inability to pay an undisputed bill. Factors which shall be considered in the negotiation of a payment agreement include, but are not limited to:

- (i) The size of the unpaid balance.
- (ii) The ability of the customer to pay.
- (iii) The payment history of the customer.
- (iv) The length of time over which the bill accumulated.

(4) Provide the customer or occupant with the information necessary for an informed judgment, including, but not limited to, relevant portions of tariffs, statements of account and results of meter tests.

(5) Within 30 days of the initiation of the dispute, issue its report to the complaining party. The utility shall inform the complaining party that the report is available upon request.

(i) If the complainant is not satisfied with the dispute resolution, the utility company report must be in writing and conform to § 56.382 (relating to contents of the utility company report). Further, in these instances, the written report shall be sent to the complaining party if requested or if the utility deems it necessary.

(ii) If the complaining party is satisfied with the orally conveyed dispute resolution, the written utility company report may be limited to the information in § 56.382(1) and (2) and, when applicable, § 56.382(7)(ii) or (8)(ii).

(iii) The information and documents required under this subsection may be electronically provided to the complaining party as long as the complaining party has the ability to accept electronic documents and consents to receiving them electronically.

**§ 56.382. Contents of the utility company report.**

A utility company report must include the following:

(a) A statement of the claim or dispute of the customer and a copy thereof if the claim or notice of dispute was made in writing.

(b) The position of the utility regarding that claim.

(c) A statement that service will not be terminated pending completion of the dispute process, including both informal and formal complaints, so long as there is compliance with all requirements of the Commission.

(d) A statement that if the complaining party does not agree with the utility company report, an informal complaint shall be filed with the Commission to ensure the preservation of all of the complaining party's rights.

(e) The office where payment may be made or information obtained listing the appropriate telephone number and address of the utility.

(f) A full and complete explanation of procedures for filing an informal complaint with the Commission (see § 56.391 (relating to informal complaint filing procedures)). If a written report is not requested by the complaining party or is not deemed necessary by the utility, the utility shall provide the information in § 56.391(1), (2) and (5). In addition, the utility shall always provide the telephone number and address of the office of the Commission where an informal complaint may be filed.

(g) If the matter in dispute involves a billing dispute, the report must include the following:

(1) An itemized statement of the account of the complaining customer specifying the amount of credit, if any, and the proper amount due.

(2) The date on or after which the account will become delinquent unless a payment agreement is entered into or an informal complaint is filed with the Commission. This date may not be earlier than the due date of the bill or 15 days after the issuance of a utility company report, whichever is later.

(h) If the matter involves a dispute other than a billing dispute, the report must also state the following:

(1) The action required to be taken to avoid the termination of service.

(2) The date on or after which service shall be terminated in accordance with the applicable requirements unless the report is complied with or a payment agreement entered into or an informal complaint filed. This date may not be earlier than the original date for compliance with the matter which gave rise to the dispute or 10 days from the date of issuance of the utility company report, whichever is later. If the utility company report is in writing, the information in this paragraph shall be prominently displayed.

**INFORMAL COMPLAINT PROCEDURES**

**§ 56.391. Informal complaint filing procedures.**

An informal complaint may be filed orally or in writing and must include the following information:

(1) The name and address of the complainant and, if different, the address at which service is provided.

(2) The telephone number of the complainant.

(3) The account number of the complainant, if applicable.

(4) The name of the utility.

(5) A brief statement of the dispute.

(6) Whether the dispute formerly has been the subject of a utility company investigation and report.

(7) Whether the dispute formerly has been the subject of a Commission informal or formal complaint.

(8) The date, if any, of proposed termination.

(9) The relief sought.

**§ 56.392. Commission informal complaint procedure.**

Upon the filing of an informal complaint, which shall be captioned as "(Complainant) v. (utility)," Commission staff will immediately notify the utility; review the dispute; and, within a reasonable period of time, issue to the utility and the complaining party an informal report with findings and a decision. Parties may represent themselves or be represented by counsel or other person of their choice, and may bring witnesses to appear on their behalf. The reports will be in writing and a summary will be sent to the parties if a party requests it or if the Commission staff finds that a summary is necessary.

(1) *Review techniques.* Review will be by an appropriate means, including, but not limited to, utility company reports, telephone calls, conferences, written statements, research, inquiry and investigation. Procedures will be designed to insure a fair and reasonable opportunity to present pertinent evidence and to challenge evidence submitted by the other party to the dispute, to examine a list of witnesses who will testify and documents, records, files, account data, records of meter tests and other



material that the Commission staff will determine may be relevant to the issues, and to question witnesses appearing on behalf of other parties. Information and documents requested by Commission staff as part of the review process shall be provided by the utility within 30 days of the request. If the complainant is without utility service, or in other emergency situations as identified by Commission staff, the information requested by Commission staff shall be provided by the utility within 5 business days of the request.

(2) *Settlement.* Prior to the issuance of an informal decision, Commission staff may facilitate discussions between the parties in an effort to settle the dispute. If a settlement is reached, Commission staff will confirm that all parties understand the terms of the settlement and document the informal complaint as closed.

(3) *Resolution.* Commission staff resolution of informal complaints is binding upon the parties unless formal proceedings are initiated under §§ 56.401—56.404 (relating to formal complaints).

**§ 56.393. Termination pending resolution of the dispute.**

In any case alleging unauthorized use of utility service, as defined in § 56.252 (relating to definitions), or the customer's failure to pay undisputed bills as required under § 56.411 (relating to duties of parties; disputing party's duty to pay undisputed portion of bills; utility's duty to pay interest whenever overpayment found), a utility may terminate service after giving proper notice in accordance with §§ 56.331—56.338, whether or not a dispute is pending.

**§ 56.394. Conference procedures.**

Conferences held under §§ 56.391—56.393 (relating to informal complaint filing procedures; Commission informal complaint procedure; and termination pending resolution of the dispute) and this section will be informal and may be held by conference telephone call, when appropriate. If the parties are to be present, the conferences will take place within reasonable proximity to the situs of the complaint.

**FORMAL COMPLAINTS**

**§ 56.401. General rule.**

Except as otherwise provided in this chapter, formal complaint proceedings will proceed according to the rules and regulations of the Commission governing complaint proceedings.

**§ 56.402. Filing.**

(a) A request for review of the decision of the Bureau of Consumer Services (BCS) shall be initiated in writing within 20 days of issuance.

(b) Upon receipt of a request for review of the decision of the BCS, the Secretary of the Commission will mail a formal complaint form to the requesting person.

(c) Within 30 days of the mailing of the formal complaint form, the party requesting review of the decision of the BCS shall file the completed complaint form with the Secretary.

(d) Upon the filing of a formal complaint within the 30-day period and not thereafter except for good cause shown, there will be an automatic stay of the informal complaint decision.

(e) The failure to request review of the BCS decision by filing a formal complaint within the 30-day period does not foreclose a party from filing a formal complaint at a

later time except as otherwise may be provided in 66 Pa.C.S. (relating to Public Utility Code).

**§ 56.403. Review from informal complaint decisions of the Bureau of Consumer Services.**

(a) *Assignment.* Review of informal complaint decisions will be heard de novo by an administrative law judge or special agent.

(b) *Filing and docketing.* A complaint will be filed and docketed as a formal Commission complaint, under §§ 1.31—1.38 (relating to documentary filings).

(c) *Captions.* The parties to a review will be stated in the caption as they stood upon the record of the informal complaint proceeding. If the party requesting review is a utility, the phrase "Complaint Appellant" will be added after its name.

(d) *Hearings.* Hearings conducted by an administrative law judge or a special agent will be held within a reasonable period of time after the filing of the answer. The parties may incorporate portions of the conference report or informal complaint decision that they shall agree upon.

(e) *Formal complaint decision.* The administrative law judge or special agent assigned to the formal complaint will issue a decision with the Commission within a reasonable period of time after the receipt of the transcribed testimony. Included in the decision will be a description of the matter, findings of fact, conclusions of law and other discussion and opinion as is appropriate.

(f) *Commission review.* The Commission will review the decision of the assigned administrative law judge or special agent, commit it to advisory staff for further analysis, remand it to an administrative law judge or special agent for further development of the record or issue a final order. The burden of proof remains with the party who filed the formal complaint.

**§ 56.404. Ability to pay proceedings.**

(a) *Assignments.* Requests for review of decisions of the Bureau of Consumer Services (BCS) and any other case in which the issue is solely ability to pay may be assigned to a special agent.

(b) *Stay of informal complaint decision.* Upon the filing of a formal complaint in a case seeking review from the decision of the BCS, there shall be an automatic stay of payment arrangements ordered in that decision, other than current bills not at issue. The utility may request that the presiding officer remove the stay and order payment of amounts in the informal complaint decision. When current bills are not at issue, the customer shall be responsible for payment of current, undisputed bills pending issuance of a final Commission order.

(c) *Hearings.* The presiding officer will conduct hearings within a reasonable period after filing of the review and answer. If the presiding officer is a special agent, the special agent will have all powers of an administrative law judge.

(1) The presiding officer will attempt to hold hearings by telephone, unless one or more parties object. Hearings will be held after the filing of an answer.

(2) The presiding officer will hear the case de novo, but may request a stipulation of the parties as to undisputed facts.

(3) Hearings will be tape recorded and will not be transcribed, unless the parties request the use of a stenographer or a transcription of the tape or other

circumstances warranting transcription exist. Unless objected to, parties may make their own tape recording of the proceedings, but the only official record shall be that made by the presiding officer.

(d) *Proposed findings of fact and conclusions of law or briefs.* The parties shall have the opportunity of submitting proposed findings of fact and conclusions of law or briefs to the presiding officer. Notice of intent to submit findings of fact and conclusions of law or briefs shall be given at the hearing and they shall be submitted within 10 days of the hearing.

(e) *Initial decision.* The presiding officer will render a written decision after the hearings or after the receipt of proposed findings of fact and conclusions of law or briefs, if they are filed. The initial decision will be in writing and contain a brief description of the matter, findings of fact and conclusions of law. The initial decision will be subject to the filing of exceptions under the procedures in Chapters 1 and 5 (relating to rules of administrative practice and procedure; and formal proceedings).

#### **PAYMENT OF BILLS PENDING RESOLUTION OF DISPUTES AND COMPLAINTS**

##### **§ 56.411. Duties of parties: disputing party's duty to pay undisputed portion of bills; utility's duty to pay interest whenever overpayment found.**

Pending resolution of a dispute, including a termination dispute, the disputing party shall be required to pay the undisputed portion of bills, as described in this section.

(1) *Pending informal complaint.* Pending the outcome of an informal complaint, the disputing party shall be obligated to pay that portion of a bill which is not honestly disputed. An amount ultimately determined, by the parties or the Commission, to have been validly due but not paid may be paid with interest at the tariff rate filed under § 56.272 (relating to accrual of late payment charges) except when interest charges have been reduced or eliminated by the parties or the Commission to facilitate payment by the disputing party.

(2) *Pending formal complaint.* Prior to the hearing on a formal complaint or prior to the issuance of a Commission order when no hearing is to be held in a formal complaint proceeding, the customer shall be required to pay that amount which the consumer services representative determines is not disputed.

(3) *Overpayments reimbursed with interest.* An amount ultimately determined to have been overpaid by the disputing party shall be reimbursed with interest at the tariff rate filed under § 56.272.

(4) *Effect of offer of payment.* An offer by a customer to pay all or any portion of a bill may not be deemed a waiver of a right to reimbursement for amounts subsequently deemed, by the parties or the Commission, to have been overpaid.

(5) *Effect of acceptance of partial payment.* The acceptance by a utility of a partial payment for a bill pending final outcome of a dispute may not be deemed an accord and satisfaction or waiver of the right of the utility to payment in full as subsequently agreed to by the parties or decided by the Commission.

#### **Subchapter R. RESTORATION OF SERVICE**

Sec.

56.421. Payment and timing.

56.422. Personnel available to restore service.

##### **§ 56.421. Payment and timing.**

When service to a dwelling has been terminated, the utility shall reconnect service within 24 hours after receiving one of the following:

(1) Full payment of an outstanding charge plus the reconnection fee specified in the utility's tariff on file with the Commission. Outstanding charges and the reconnection fee may be amortized over a reasonable period of time. Factors to be taken into account include, but are not limited to:

- (i) The size of the unpaid balance.
- (ii) The ability of the customer to pay.
- (iii) The payment history of the customer.
- (iv) The length of time over which the bill accumulated.

(2) Payment of amounts currently due according to a payment agreement, plus a reasonable reconnection fee, which may be a part of the payment agreement. The utility may apply the procedure in paragraph (1), if the payment history indicates that the customer has defaulted on at least two payment agreements, an informal complaint decision or a formal complaint order. For purposes of this section, neither an amortization of a make-up bill under § 56.264 (relating to previously unbilled utility service) or the definition of "billing month" in § 56.252 (relating to definitions) nor a payment agreement that has been paid in full by the customer, are to be considered defaults. Budget billing plans and amortization of budget plan reconciliation amounts under § 56.262(7) (relating to meter reading; estimated billing; customer readings) may not be considered defaults for the purposes of this section.

(3) Adequate assurances that any unauthorized use or practice will cease, plus full payment of the reasonable reconnection fee of the utility, which may be subject to a payment agreement and compliance or adequate assurance of compliance with an applicable provision for the establishment of credit or the posting of deposits or guarantees.

(4) Service shall be restored within 24 hours for erroneous terminations or upon receipt by the utility of a valid medical certification. Erroneous terminations include instances when the grounds for termination were removed by the customer paying the amount needed to avoid termination prior to the termination of the service.

(5) Service shall be restored within 24 hours for terminations and reconnections occurring after November 30 and before April 1.

(6) A customer or applicant of a city natural gas distribution operation whose household income does not exceed 135% of the Federal poverty level shall be reinstated under this section only if the customer or applicant enrolls in the customer assistance program of the city natural gas distribution operation. This requirement may not apply if the financial benefits to the customer or applicant are greater if served outside of that assistance program.

(7) A utility shall provide for and inform the applicant or customer of a location where the customer may make payment to restore service. A utility shall inform the applicant or customer that conditions for restoration of service may differ if someone in the household is a victim of domestic violence with a protection from abuse order or is seriously ill or affected by a medical condition which will be aggravated without utility service.

**§ 56.422. Personnel available to restore service.**

A utility shall have adequate personnel available between 9 a.m. and 5 p.m. on each working day or for a commensurate period of 8 consecutive hours to restore service when required under this chapter, specifically §§ 56.322 and 56.421 (relating to timing of termination; and payment and timing).

**Subchapter S. PUBLIC INFORMATION PROCEDURES; RECORD MAINTENANCE**

Sec.

- 56.431. Public information.
- 56.432. Record maintenance.

**§ 56.431. Public information.**

(a) In addition to the notice requirements in this chapter, the Commission will, within 6 months of the effective date of a change to a regulation in this chapter, prepare a summary of the rights and responsibilities of the utility and its customers affected by the change. Summaries will be mailed by the utility to each customer of the utility affected by the change. These summaries, as well as a summary of the rights and responsibilities of the utility and its customers in accordance with this chapter, shall be in writing, reproduced by the utility, displayed prominently, available on the utility's web site, if the company has one, and available at all utility office locations open to the general public. The public utility shall inform new customers of the availability of this information and direct where to locate it on the utility's web site. The utility shall deliver or mail a copy upon the request of a customer or applicant.

(b) A utility which serves a substantial number of Spanish-speaking customers shall provide billing information in English and in Spanish. The written information must indicate conspicuously that it is being provided in accordance with this title and contain information concerning, but not limited to, the following:

- (1) Billing and estimated billing procedures.
- (2) Methods for customer verification of billing accuracy.
- (3) Explanation of operation of purchased gas adjustment clauses.
- (4) Payment requirements and procedures.
- (5) Security deposit and guarantee requirements.
- (6) Procedures for discontinuance and reconnection of service.
- (7) Dispute, informal complaint and formal complaint procedures.
- (8) Explanation of meter reading procedures which would enable a customer or occupant to read their own meter.
- (9) Procedure whereby customers or occupants may avoid discontinuance of service during extended periods of absence.
- (10) Third-party notification procedures.
- (11) Telephone numbers and addresses of the utility and of the nearest regional office of the Commission where further inquiries may be made.
- (12) Definitions of terms or abbreviations used by the utility on its bills.

(13) Information indicating that additional consumer protections may be available for victims of domestic violence, people with serious illnesses and low income households.

**§ 56.432. Record maintenance.**

A utility shall preserve for a minimum of 4 years written or recorded disputes and complaints, keep the records accessible within this Commonwealth at an office located in the territory served by it, and make the records available for examination by the Commission or its staff. Information to be maintained includes the following:

- (1) The payment performance of each of its customers.
- (2) The number of payment agreements made by the utility company and a synopsis of the terms, conditions and standards upon which agreements were made.
- (3) The number of service terminations and reconnections.
- (4) Communications to or from individual customers regarding interruptions, discontinuances, terminations and reconnections of service, including the name and address of the customer, the date and character of the dispute or complaint and the adjustment or disposal made of the matter.

**Subchapter T. INFORMAL COMPLAINTS**

Sec.

- 56.441. Informal complaints.

**§ 56.441. Informal complaints.**

The Commission delegates to the Bureau of Consumer Services (BCS) the primary authority to resolve customer, applicant or occupant complaints arising under this chapter. The BCS, through its Director and with the concurrence of the Commission, will establish appropriate internal procedures to implement the provisions of this chapter.

- (1) Absent good cause, the BCS will handle only Chapter 56 informal complaints in which the customer first attempted to resolve the matter with the utility.
- (2) Only after the customer and the utility have failed to resolve the dispute will BCS initiate an investigation.

**Subchapter U. GENERAL PROVISIONS**

Sec.

- 56.451. Availability of normal Commission procedures.
- 56.452. Applications for modification or exception.
- 56.453. Inconsistent tariff provisions.

**§ 56.451. Availability of normal Commission procedures.**

Nothing in this chapter prevents a person or a utility from pursuing other Commission procedures in a case not described in this chapter.

**§ 56.452. Applications for modification or exception.**

(a) If unreasonable hardship to a person or to a utility results from compliance with a section in this chapter or a technological advance permits an enhanced level of customer service, application may be made to the Commission for modification of the section or for temporary exemption from its requirements. The adoption of this chapter by the Commission will in no way preclude it from altering or amending it under the applicable statutory procedures, nor will the adoption of this chapter preclude the Commission from granting temporary exemptions in exceptional cases.

(b) A person or utility that files an application under this section shall provide notice to persons who may be affected by the modification or temporary exemption. Notice may be made by a bill insert or in another reasonable manner.

**§ 56.453. Inconsistent tariff provisions.**

A tariff provision inconsistent with this chapter is deemed nonoperative and superseded by this chapter.

**Subchapter V. UTILITY REPORTING REQUIREMENTS**

Sec.

56.461. Reporting requirements.

**§ 56.461. Reporting requirements.**

(a) Within 90 days after the end of each calendar year, each natural gas distribution utility with annual gas operating revenues of less than \$6 million per year, and each steam heat utility shall file with the Commission a report containing the following information concerning residential accounts for the previous year:

(1) The total number of residential customers as of the end of each month for the calendar year.

(2) The total number of terminations for nonpayment for each month of the calendar year.

(3) The total number of terminations for reasons other than nonpayment for each month of the calendar year.

(4) The total number of reconnections for customer payment for each month of the calendar year.

(5) The total number of reconnections for customer submission of medical certification for each month of the calendar year.

(6) The total number of reconnections for reasons other than customer payment or medical certification for each month of the calendar year.

(7) The total dollar amount of annual residential billings.

(8) The total dollar amount of annual gross residential write-offs.

(b) Utilities shall refer to the data dictionary in Appendix D (relating to definitions (§ 56.461)) for additional guidance as to the terms used in this section.

**APPENDIX A. MEDICAL EMERGENCY NOTICE**

Let us know if someone living in your home is seriously ill or has a medical condition that will be aggravated by the cessation of service. We will not shut off your service during such illness provided you:

(a) Have a licensed physician or nurse practitioner certify by phone or in writing that such illness exists and that it may be aggravated if your service is stopped; and

(b) Make some equitable arrangement to pay the company your current bills for service.

(c) Contact us by calling the following number: (Utility) Phone Number: (Utility) Address:

(d) Have your licensed physician send a letter to the utility within 7 days verifying the medical condition.

**APPENDIX B. MEDICAL EMERGENCY NOTICE**

Let us know if someone living in your home is seriously ill or has a medical condition that will be aggravated by the cessation of service. We will restore your utility service within 24 hours during such illness provided you:

(a) Have a licensed physician or nurse practitioner certify by phone or in writing that such illness exists and that it may be aggravated if your service is not restored; and

(b) Make some equitable arrangement to pay the company your current bills for service.

(c) Contact us by calling the following number: (Utility) Phone Number: (Utility) Address:

(d) Have your licensed physician send a letter to the utility within 7 days verifying the medical condition.

**APPENDIX C. DEFINITIONS (§ 56.231)**

This data dictionary and the following definitions are to be used in relation to the reporting requirements in § 56.231 (relating to reporting requirements).

*Annual collections operating expenses*—Use the definition in § 54.72 or § 62.2, “include administrative expenses associated with termination activity, field visits, negotiating payment arrangements, budget counseling, investigation and resolving informal and formal complaints associated with payment arrangements, securing and maintaining deposits, tracking delinquent accounts, collection agencies’ expenses, litigation expenses other than already included, dunning expenses and winter survey expenses.” Report the cumulative total as of the end of the reporting period/year. Exclude customer assistance program expenses.

*Annual residential billings*—Report the cumulative total dollar amount in residential billings during the reporting period/year. This includes “normal tariff billings” and “miscellaneous billings.” The latter category includes billings for late payment fees.

*Average monthly bill for the previous year for a heating customer*—Report the aggregate average monthly bill by calculating the average of the 12 monthly average bills for heating customers. Report the average as of the end of the reporting period/year.

*Average monthly bill for the previous year for a nonheating customer*—Report the aggregate average monthly bill by calculating the average of the 12 monthly average bills for nonheating customers. Report the average as of the end of the reporting period/year.

*Average monthly usage for a heating customer*—Report the aggregate average monthly usage by calculating the average of the 12 monthly average usages for heating customers. Report the average as of the end of the reporting period/year.

*Average monthly usage for a nonheating customer*—Report the aggregate average monthly usage by calculating the average of the twelve monthly average usages for nonheating customers. Report the average as of the end of the reporting period/year.

*Total dollar amount of active residential accounts in arrears and not on a payment agreement*—Report the total dollar amount as of the end of the reporting period/month. The due date should be considered to be day zero (0) in the determination of when account is overdue. Exclude customer assistance program recipients.

*Total dollar amount of active residential accounts in arrears and on a payment agreement*—Report the total dollar amount as of the end of the reporting period/month. The due date should be considered to be day zero (0) in the determination of when account is overdue. Exclude customer assistance program recipients.

*Total dollar amount of gross residential write-offs*—Report the cumulative total dollar amount as of the end of the reporting period/year. Do not include customer assistance program credits (revenue shortfall) or customer assistance program arrearage forgiveness in this category.

*Total dollar amount of inactive residential accounts in arrears*—An account that has been terminated or discontinued, the final bill due date has passed, and the amount owed has not yet been written off. Report the total dollar amount as of the end of the reporting period/month. The due date should be considered to be day zero (0) in the determination of when an account is overdue. A terminated or final-billed account becomes inactive on the day after the final bill is due and payable.

*Total dollar amount of net residential write-offs*—Net write-offs are calculated by subtracting recoveries from gross write-offs. Report the cumulative total dollar amount as of the end of the reporting period/year.

*Total dollar amount in security deposits on-hand*—Report the dollar amount as of the end of the reporting period/year. Exclude accrued interest.

*Total dollar amount in security deposits that are requested or billed to applicants*—Report the cumulative total dollar amount as of the end of the reporting period/month.

*Total dollar amount in security deposits that are requested or billed to customers*—Report the cumulative total dollar amount as of the end of the reporting period/month.

*Total number of active residential accounts in arrears and not on a payment agreement*—Report the total as of the end of the reporting period/month. The due date should be considered to be day zero (0) in the determination of when account is overdue. Exclude customer assistance program recipients.

*Total number of active residential accounts in arrears and on a payment agreement*—Report the total as of the end of the reporting period/month. The due date should be considered to be day zero (0) in the determination of when account is overdue. Exclude customer assistance program recipients.

*Total number of applicants that are requested or billed a security deposit*—Report the cumulative number as of the end of the reporting period/month.

*Total number of customers that are requested or billed a security deposit*—Report the cumulative number as of the end of the reporting period/month.

*Total number of dwellings receiving termination notices sent to occupants other than the customer*—The grounds for termination are customer nonpayment of usage-based billings or nonpayment of a security deposit. Use this category when the termination notice was delivered to someone other than the customer, for example, a termination notice to a tenant because of nonpayment of a

landlord-ratepayer. This does not include copies of termination notices sent in accordance with the third-party notification procedures in § 56.131. Report the cumulative number as of the end of the reporting period/month. Include customer assistance program recipients.

*Total number of 48-hour termination notices posted*—The grounds for termination are customer nonpayment of usage-based billings or nonpayment of a security deposit. Report the cumulative number as of the end of the reporting period/month. Include customer assistance program recipients. The termination notice was posted at the customer's residence in accordance with § 56.95.

*Total number of inactive residential accounts in arrears*—An account that has been terminated or discontinued, the final bill due date has passed, and the amount owed has not yet been written off. Report the total as of the end of the reporting period/month. The due date should be considered to be day zero (0) in the determination of when an account is overdue. A terminated or final-billed account becomes inactive on the day after the final bill is due and payable.

*Total number of reconnections for customer submission of medical certification*—Includes only reconnections because the customer has supplied the company with a valid medical certificate as the condition of reconnection. Report the cumulative number as of the end of the reporting period/month. Include customer assistance program recipients.

*Total number of reconnections for full customer payment, partial payment or payment agreement*—A reconnection is any residential account that was terminated for any reason covered under § 56.81 or § 56.98 and subsequently restored after the customer paid in full the outstanding balance of the account, made a partial payment or entered into a payment agreement regardless of whether the customer's current status is that of applicant or customer per the definitions in § 56.2. Four criteria must be met: the reconnection is for the same customer/applicant that was terminated; the location of the reconnection is the same location as the location of the termination; the dollars in debt that are the subject of the customer payment and/or customer payment agreement are for the same customer/applicant while at the same location; and the time that has passed since the final bill due date does not exceed 4 years. Report the cumulative number as of the end of the reporting period/month. Include customer assistance program recipients.

*Total number of reconnections for reasons other than customer payment or medical certification*—Report the cumulative number as of the end of the reporting period/month. Include customer assistance program recipients.

*Total number of residential heating customers*—Report the number as of the end of the reporting period/month. Report each individually billed account under a unique residential account number and residential tariff rate (Count the number of residential bills that you issue). Include customer assistance program recipients.

*Total number of residential nonheating customers*—Report the number as of the end of the reporting period/month. Report each individually billed account under a unique residential account number and residential tariff rate (Count the number of residential bills that you issue). Include customer assistance program recipients.

*Total number of security deposits on-hand*—Report the number as of the end of the reporting period/year.

*Total number of 10-day termination notices issued by the utility*—The grounds for termination are customer nonpayment of usage-based billings or nonpayment of a security deposit. Report the cumulative number as of the end of the reporting period/month. Include customer assistance program recipients.

*Total number of terminations for nonpayment*—The grounds for termination are customer nonpayment of usage-based billings or nonpayment of a security deposit. Report the cumulative number as of the end of the reporting period/month. Include customer assistance program recipients.

*Total number of terminations for nonpayment and reasons other than nonpayment categorized by the first three digits of each account's postal code*—The grounds for termination are customer nonpayment of usage-based billings or nonpayment of a security deposit, failure to permit access, unauthorized use of service, fraud, meter tampering, and safety. Report the cumulative number as of the end of the reporting period/month. Include customer assistance program recipients. Categorize by the first three digits of the postal code of the customer's service address.

*Total number of terminations for reasons other than nonpayment*—The reasons for termination include failure to permit access, unauthorized use of service, fraud, meter tampering, and safety. Report the cumulative number as of the end of the reporting period/month. Include customer assistance program recipients.

*Total number of 3-day termination notices completed by personal contact in person*—The grounds for termination are customer nonpayment of usage-based billings or nonpayment of a security deposit. Report the cumulative number as of the end of the reporting period/month. Include customer assistance program recipients. The customer was contacted in person in accordance with § 56.93.

*Total number of 3-day termination notices completed by telephone*—The grounds for termination are customer nonpayment of usage-based billings or nonpayment of a security deposit. Report the cumulative number as of the end of the reporting period/month. Include customer assistance program recipients. The customer was contacted using the telephone in accordance with § 56.93.

#### APPENDIX D. DEFINITIONS (§ 56.461)

This data dictionary and the following definitions are to be used in relation to the reporting requirements in § 56.461 (relating to reporting requirements).

*Annual residential billings*—Report the cumulative total dollar amount in residential billings during the reporting period/year. This includes “normal tariff billings” and “miscellaneous billings.” The latter category includes billings for late payment fees.

*Total dollar amount of gross residential write-offs*—Report the cumulative total dollar amount as of the end of the reporting period/year. Do not include customer assistance program credits (revenue shortfall) or customer assistance program arrearage forgiveness in this category.

*Total number of reconnections for customer payment*—A reconnection is any residential account that was terminated for any reason covered under § 56.321 or § 56.338

and subsequently restored after the customer paid in full the outstanding balance of the account, or made a partial payment or entered into a payment agreement regardless of whether the customer's current status is that of applicant or customer per the definitions in § 56.252. Four criteria must be met: the reconnection is for the same customer/applicant that was terminated; the location of the reconnection is the same location as the location of the termination; the dollars in debt that are the subject of the customer payment or customer payment agreement, or both, are for the same customer/applicant while at the same location; and the time that has passed since the final bill due date does not exceed 4 years. Report the cumulative number as of the end of the reporting period/month. Include customer assistance program recipients.

*Total number of reconnections for customer submission of medical certification*—Includes only reconnections because the customer has supplied the company with a valid medical certificate as the condition of reconnection. Report the cumulative number as of the end of the reporting period/month. Include customer assistance program recipients.

*Total number of reconnections for reasons other than customer payment or medical certification*—Report the cumulative number as of the end of the reporting period/month. Include customer assistance program recipients.

*Total number of residential customers*—Report the number as of the end of the reporting period/month. Report each individually billed account under a unique residential account number and residential tariff rate (Count the number of residential bills that you issue). Include customer assistance program recipients.

*Total number of terminations for nonpayment*—The grounds for termination are customer nonpayment of usage-based billings or nonpayment of a security deposit. Report the cumulative number as of the end of the reporting period/month. Include customer assistance program recipients.

*Total number of terminations for reasons other than nonpayment*—The reasons for termination include failure to permit access, unauthorized use of service, fraud, meter tampering, and safety. Report the cumulative number as of the end of the reporting period/month. Include customer assistance program recipients.

#### APPENDIX E. THIRD-PARTY NOTIFICATION

Once in a while, for one reason or another, a customer fails to pay his or her <UTILITY> bill. Under the Third-Party Notification program, <UTILITY> will notify you and another person you choose to receive copies of shut-off notices. The third-party can be a trusted relative, friend, clergy member, or social service agency. The Third-Party Notification program is voluntary and can help you if you are hospitalized, away from home for extended periods of time or homebound. The third-party is not responsible for paying your bills and this program will not stop <UTILITY> from shutting off your <UTILITY> service if you do not pay your bills. When a third-party contacts <UTILITY> about the shut off notice, we will tell them what you can do to stop the shut off. The third-party does not have the right to make a payment agreement for you.

To sign up, both you and the third-party must complete and sign the form below. Do not return this with your bill, return it to:

<UTILITY NAME>

<UTILITY ADDRESS>

<CITY, STATE, POSTAL CODE>

**IMPORTANT THINGS TO REMEMBER:**

\* Notify us immediately if you want to change or drop your third-party.

\* Notify us if your third-party moves.

\* Notify us if you move and you want the third-party transferred to your new address.

Please sign me up for the third-party Notification program. By completing this form and returning it to <UTILITY>, I request that a copy of any shut off notice be given to the person or agency named below.

CUSTOMER NAME:

<UTILITY> ACCOUNT/CUSTOMER NUMBER:

CUSTOMER ADDRESS:

CUSTOMER SIGNATURE:

DATE:

Receipt of a copy of a shut off notice by the third-party does not place any obligation on that party to pay the <UTILITY> bill for the customer named above nor will it necessarily stop shut off if payment is not made. The notice simply reminds the third-party of a chance to help the customer solve the problem.

THIRD-PARTY NAME:

THIRD-PARTY ADDRESS:

THIRD-PARTY SIGNATURE:

DATE:

[Pa.B. Doc. No. 11-1761. Filed for public inspection October 7, 2011, 9:00 a.m.]

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