

PENNSYLVANIA BULLETIN

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See Part II Page 6743
for the Environmental Quality
Board's Final-Form Rulemakings

Part I

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**Latest Pennsylvania Code Reporter
(Master Transmittal Sheet):**

No. 503, October 2016

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READER'S GUIDE TO THE *PENNSYLVANIA BULLETIN* AND THE *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 Pennsylvania 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 when the agency may omit the proposal step; it 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, it must repropose.

Citation to the *Pennsylvania Bulletin*

Cite material in the *Pennsylvania Bulletin* by volume number, a page number and date. Example: Volume 1, *Pennsylvania Bulletin*, page 801, January 9, 1971 (short form: 1 Pa.B. 801 (January 9, 1971)).

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* is available at www.pacode.com.

Source Notes give the history of regulations. 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*.

A chronological table of the history of *Pennsylvania Code* sections may be found at www.legis.state.pa.us/cfdocs/legis/CH/Public/pcde_index.cfm.

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. The *Pennsylvania Bulletin* is available at www.pabulletin.com.

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Printing Format

Material proposed to be added to an existing rule or regulation is printed in **bold face** and material proposed to be deleted from 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. A fiscal note provides 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 5 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 5 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 2016.

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THE COURTS

Title 201—RULES OF JUDICIAL ADMINISTRATION

[201 PA. CODE CH. 6]

Amendment of Rule 601 of the Rules of Judicial Administration; No. 469 Judicial Administration

Order

Per Curiam

And Now, this 4th day of October, 2016, it is *Ordered* pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Rule 601 of the Pennsylvania Rules of Judicial Administration is amended in the following form.

To the extent that notice of proposed rulemaking would otherwise be required by Pa.R.J.A. No. 103, the immediate promulgation of the amendments is found to be in the interests of justice and efficient administration.

This Order shall be processed in accordance with Pa.R.J.A. No. 103(b) and shall be effective in 30 days.

Annex A

TITLE 201. RULES OF JUDICIAL ADMINISTRATION

CHAPTER 6. MAGISTERIAL DISTRICT JUDGES

Rule 601. Certification requirements of interested persons.

(a) Magisterial district judges and arraignment court magistrates who are not members of the bar of this Commonwealth must complete a course of training and instruction in the duties of their respective offices and pass an examination and be certified by the Administrative Office of Pennsylvania Courts prior to assuming office.

(b)(1) Any interested individual may apply to the Minor Judiciary Education Board to be enrolled in the course of training and instruction and take the examination to be certified.

(2) Any individual who has successfully completed the course of training and instruction and passed the examination, but who has not served as a magisterial district judge or arraignment court magistrate shall be certified for only a [**two-year**] **twenty-five-month** period, and must complete the continuing education course every year in order to maintain his or her certification.

(c) Any individual certified under paragraph (b) who has not served as a magisterial district judge or arraignment court magistrate within [**two years**] **twenty-five months** will be required to take a review course as defined by the Minor Judiciary Education Board and pass an examination in order to maintain his or her certification by the Administrative Office of Pennsylvania Courts.

Official Note: The text of this rule is taken from Rule 19 of the Rules Governing Standards of Conduct of Magisterial District Judges, rescinded March 26, 2015, effective immediately. Rule 19 [**was amended in 2006 to limit to two years**] **limits to twenty-five months** the period of certification for individuals who have successfully completed the certification course and examination but have not served as judges or arraignment court

magistrates. The rule permits individuals who are certified to serve as judges or arraignment court magistrates but who have not done so within [**two years**] **twenty-five months** of certification to take a review course and pass an examination to maintain their certification for an additional [**two-year**] **twenty-five-month** period. Admission to the review course and recertification examination under paragraph (c) may be limited by the availability of space. In addition, the rule requires that all certified individuals must attend the annual continuing education course to maintain certification.

Act 17 of 2013, signed by the Governor and immediately effective on June 19, 2013, effectively abolished the Traffic Court of Philadelphia and transferred most of its duties to a new Traffic Division of the Philadelphia Municipal Court. See 42 Pa.C.S. § 1121. Under Act 17, the Traffic Court of Philadelphia is composed of two judges serving on the court on the effective date of the Act and whose terms expire on December 31, 2017. See 42 Pa.C.S. § 1321. Because this Rule concerns the certification and recertification of persons not yet elected to judicial office, all references to the Traffic Court of Philadelphia have been removed.

[Pa.B. Doc. No. 16-1801. Filed for public inspection October 21, 2016, 9:00 a.m.]

Title 231—RULES OF CIVIL PROCEDURE

PART I. GENERAL

[231 PA. CODE CH. 200]

Order Amending Rule 237.3 of the Rules of Civil Procedure; No. 648 Civil Procedural Rules Doc.

Order

Per Curiam

And Now, this 4th day of October, 2016, upon the recommendation of the Civil Procedural Rules Committee; the proposal having been published for public comment at 46 Pa.B. 982 (February 27, 2016):

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

This *Order* shall be processed in accordance with Pa.R.J.A. No. 103(b), and shall be effective January 1, 2017.

Annex A

TITLE 231. RULES OF CIVIL PROCEDURE

PART I. GENERAL

CHAPTER 200. BUSINESS OF COURTS

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

(a) A petition for relief from a judgment of *non pros* or of default entered pursuant to Rule 237.1 shall have attached thereto a [**verified**] copy of the complaint, **preliminary objections**, or answer which the petitioner seeks leave to file.

[(b)] (b)(1) If the petition is filed within ten days after the entry of [**the judgment**] a judgment of *non pros* on the docket, the court shall open the judgment if the proposed complaint [**or answer**] states a meritorious cause of action [**or defense**].

(2) If the petition is filed within ten days after the entry of a default judgment on the docket, the court shall open the judgment if one or more of the proposed preliminary objections has merit or the proposed answer states a meritorious defense.

Official Note: Rule 236 requires the prothonotary to give notice of the entry of any judgment and to note in the docket the giving of the notice.

The petitioner must act with reasonable diligence to see that the petition is promptly presented to the court if required by local practice.

See *Schultz v. Erie Insurance Exchange*, [505 Pa. 90,] 477 A.2d 471 (Pa. 1984) for the requirements for opening a judgment by default and [Pa.R.C.P.] Rule 3051 as to a judgment of *non pros*. Rule 237.3 does not change the law of opening judgments. Rather, the rule supplies two of the three requisites for opening such judgments by presupposing that a petition filed as provided by the rule is timely and with reasonable explanation or legitimate excuse for the inactivity or delay resulting in the entry of the judgment. The requirement of this rule for proceeding within ten days is not intended to set a standard for timeliness in circumstances outside this rule.

[A defendant who seeks to file a pleading other than an answer is not entitled to the benefit of this rule but must comply with the requirements of *Schultz v. Erie Insurance Exchange*, supra.]

See Rules 206.1 through 206.7 governing petition practice.

Explanatory Comment—1994

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

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

Subdivision (b) eases the burden of a party against whom judgment has been entered and who moves promptly for relief from that judgment. If the petitioner files a petition for relief from [**the judgment**] a judgment of *non pros* within ten days after entry of the judgment on the docket, the rule requires the court to open the judgment if the proposed complaint [**or answer**] states a meritorious cause of action [**or defense**]. **If the petitioner files a petition for relief from a default judgment within ten days after entry of the judgment on the docket, the rule requires the court to open the judgment if one or more of the proposed preliminary objections has merit or the proposed answer states a meritorious defense.** The rule provides a date certain from which to measure the

ten-day period and the language establishing the beginning of that period is derived from Rule 1308 governing appeals in compulsory arbitration.

Case law has imposed three requirements for opening a judgment by default: a petition timely filed, a reasonable explanation or legitimate excuse for the inactivity or delay and a showing of a meritorious defense. Rule of Civil Procedure 3051 similarly states these three requisites for opening a judgment of *non pros*, substituting the showing of a meritorious cause of action rather than a meritorious defense. Rule 237.3(b) presumes that a petition filed within the required ten-day period is both timely and with reasonable explanation or legitimate excuse for the inactivity or delay. In this context, subdivision (b) requires that the judgment be opened if the petitioner attaches to the petition a [**verified complaint or**] **complaint which states a meritorious cause of action, one or more preliminary objections which has merit, or an answer which states a meritorious cause of action or** defense. A note to the rule cautions that the rule is not intended to change the law relating to the opening of judgments in any way or to impose a new standard of timeliness in cases outside the limited circumstances set forth in the rule.

Illustrations

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

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

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

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

In illustrations 4 [**through 6**] and 5, the plaintiff has entered a valid judgment by default against the defendant and the prothonotary has entered the judgment in the docket and noted the date thereof. Thereafter, the defendant files a petition to open the judgment.

4. The defendant files the petition to open the judgment within ten days of the date on which the prothonotary entered the judgment on the docket and seeks leave to file the answer attached to the petition. The defendant

is entitled to the benefit of Rule [237.3(b)] 237.3(b)(2) by timely filing the petition and attaching an answer. Rule [237.3(b)] 237.3(b)(2) requires the court to open the judgment upon the defendant demonstrating to the court that the filing of the petition was within the ten-day period and that the answer attached to the petition states a meritorious defense.

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

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

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

[Explanatory Comment—2001

The amendment to the Note clarifies the procedure when a defendant, upon the opening of a default judgment, intends to file preliminary objections, a pleading not encompassed by this rule. Contrary to the holding of the Commonwealth Court in *Peters Township Sanitary Auth. v. American Home and Land Dev. Co.*, 696 A.2d 899 (Cmwlth Ct. 1997), preliminary objections are not an appropriate attachment to a petition to open a default judgment under Rule 237.3.

Clarifying amendments have been made to the 1994 Explanatory Comment.]

Explanatory Comment—2010

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

Explanatory Comment

Rule 237.3 governing relief from judgment of non pros or by default has been amended in two respects. Current Rule 237.3(a) requires a verified copy of a complaint or answer, which the petitioner seeks leave to file, be attached to the petition for relief. The amendment removes the requirement that the copy be verified. It was reported to the Committee that both *pro se* litigants and attorneys often fail to attach a verified copy. The purpose of Rule 237.3 is to give a litigant who promptly responds to the entry of a judgment under this rule the ability to prosecute or defend a case. The rule does not achieve its purpose if a litigant is barred from doing so by a technical requirement.

The current rule was amended in 2001 to allow a party to attach a complaint or answer only to the petition for relief; the use of preliminary objections was prohibited notwithstanding the decision in *Peters Township Sanitary Auth. v. American Home and Land Dev. Co.*, 696 A.2d 899 (Pa. Cmwlth. 1997) (holding preliminary objections are an appropriate attachment to a petition to open a default judgment under Rule 237.3). Rule 237.3 has been amended to permit the use of preliminary objections as a pleading that may be attached to a petition for relief from default judgment. By allowing the use of preliminary objections, the amendment is intended to give a defendant the same opportunity to file a responsive pleading after the entry of a default judgment that is afforded to him or her prior to the entry of a default judgment.

Clarifying amendments have been made to the 1994 Explanatory Comment and the 2001 Explanatory Comment has been deleted.

By the Civil Procedural
Rules Committee

WILLIAM SHAW STICKMAN, IV,
Chair

[Pa.B. Doc. No. 16-1802. Filed for public inspection October 21, 2016, 9:00 a.m.]

PART I. GENERAL

[231 PA. CODE CH. 1930]

Order Amending Rules 1930.2, 1930.4 and 1930.5 of the Rules of Civil Procedure; No. 649 Civil Procedural Rules Doc.

Order

Per Curiam

And Now, this 6th day of October, 2016, upon the recommendation of the Domestic Relations Procedural Rules Committee; the proposal having been published for public comment in the *Pennsylvania Bulletin*, 45 Pa.B. 6977 (December 12, 2015):

It Is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Rules 1930.2, 1930.4, and 1930.5 of the Pennsylvania Rules of Civil Procedure are amended in the following form.

This *Order* shall be processed in accordance with Pa.R.J.A. No. 103(b), and shall be effective on January 1, 2017.

Annex A

TITLE 231. RULES OF CIVIL PROCEDURE

PART I. GENERAL

CHAPTER 1930. RULES RELATING TO DOMESTIC RELATIONS MATTERS GENERALLY

Rule 1930.2. No Post-trial Practice. Motions for Reconsideration.

(a) There shall be no motions for post-trial relief in any domestic relations matter, **including Protection of Victims of Sexual Violence or Intimidation matters.**

Official Note: See Pa.R.C.P. No. 1957.

(b) A party aggrieved by the decision of the court may file a motion for reconsideration in accordance with [**Rule of Appellate Procedure**] Pa.R.A.P. 1701(b)(3). If the court does not grant the motion for reconsideration within the time permitted, the time for filing a notice of appeal will run as if the motion for reconsideration had never been [**filed**] **presented to the court.**

Official Note: Pennsylvania Rule of Appellate Procedure 903 states that[, **except as otherwise set forth by that rule,**] the Notice of Appeal shall be filed within [**thirty**] 30 days after the entry of the order from which the appeal is taken, **except as otherwise set forth in that rule.**

(c) [**The reconsidered decision, except as set forth in subdivision (e), shall be rendered within 120 days of the date the motion for reconsideration is granted.**] **The court shall render its reconsidered decision within 120 days of the date the motion for reconsideration is granted, except as set forth in subdivision (e).** If [**it**] the court's decision is not rendered within 120 days, the motion shall be deemed denied.

(d) [**The**] **If the court does not enter a reconsidered decision within 120 days, the time for filing a notice of appeal will begin to run anew from the date of entry of the reconsidered decision[, or, if the court does not enter a reconsidered decision within 120 days, from the 121st day] or from the 121st day after the motion for reconsideration was granted.**

(e) If the court grants the motion for reconsideration[, and files same,] and files its order within the [**30 day**] 30-day appeal period, [**it may, at any time within the applicable 120 day period thereafter,**] the court may issue an order **during the applicable 120-day period** directing that additional testimony be taken. If [**it does**] the court issues an order for **additional testimony**, the reconsidered decision need not be rendered within 120 days, and the time for filing a notice of appeal will run from the date the reconsidered decision is rendered.

Rule 1930.4. Service of Original Process in Domestic Relations Matters.

(a) *Persons Who May Serve.* Original process in all domestic relations matters, **including Protection of Victims of Sexual Violence or Intimidation matters**, may be served by the sheriff or a competent adult:

- (1) by handing a copy to the defendant; [**or**]
- (2) by handing a copy:

(i) at the residence of the defendant to an adult member of the family with whom the defendant resides; but if no adult member of the family is found, then to an adult person in charge of such residence; [**or**]

(ii) at the residence of the defendant to the clerk or manager of the hotel, inn, apartment house, boarding house or other place of lodging at which the defendant resides; [**or**]

(iii) at any office or usual place of business of the defendant to the defendant's agent or to the person for the time being in charge [**thereof**]; **or**

- (3) [**or**] pursuant to special order of court.

Official Note: See [**Rule**] Pa.R.C.P. No. 76 for the definition of "competent adult." [**Service upon**] **Original process served on** an incarcerated person in a domestic relations action must also include notice of any hearing in such action[,] and specific notice of the incarcerated individual's right to apply to the court for a writ of *habeas corpus ad testificandum* to enable him or her to participate in the hearing. The writ is available [**where**] if an incarcerated individual wishes to testify as provided by statute or rule, [**as well as where the**] **or if the incarcerated** individual's testimony is sought by another. *Vanaman v. Cowgill*, 526 A.2d 1226 (Pa. Super. 1987). See 23 Pa.C.S. § 4342(j) and [**Rule**] Pa.R.C.P. No. 1930.3. In determining whether a writ of *habeas corpus ad testificandum* should be issued, a court must weigh the factors set forth in *Salemo v. Salemo*, 554 A.2d 563 (Pa. Super. 1989).

(b) *Service in Protection From Abuse and Protection of Victims of Sexual Violence or Intimidation Matters.* [**In Protection from Abuse matters only, original process may also be served by an adult using any means set forth in subdivision (a) above.**] If personal service cannot be completed within [**forty-eight (48)**] 48 hours after a Protection From Abuse or a Protection of Victims of Sexual Violence or Intimidation petition is filed, the court may[, by special order as set forth in subdivision (a)(3) above, authorize service by another means] authorize alternative service by special order as set forth in subdivision (a)(3), including, but not limited to, service by mail pursuant to subdivision (c) of this rule.

[(c) *Service by Mail.* Except in Protection from Abuse matters unless authorized by special order of court pursuant to subdivision (b) above, original process may also be served by mailing the complaint and order to appear, if required, to the defendant's last known address by both regular and certified mail. Delivery of the certified mail must be restricted to addressee only, and a return receipt must be requested.

(1) If the certified mail is refused by defendant, but the regular mail is not returned within fifteen days, service may be deemed complete.

(2) If the mail is returned with notation by the postal authorities that it was unclaimed, service shall be made by another means pursuant to these rules.]

- (c) *Service by Mail.*

(1) Except in Protection from Abuse and Protection of Victims of Sexual Violence or Intimidation

matters, original process in all domestic relations matters may be served by mailing the original process, a notice or order to appear, if required, and other orders or documents, as necessary, to the defendant's last known address by both regular and certified mail.

(a) Delivery of the certified mail shall be restricted to the addressee only and a return receipt shall be requested.

(b) If the certified mail is refused by the defendant, but the regular mail is not returned within 15 days, service may be deemed complete.

(c) If the mail is returned with notation by the postal authorities that it was unclaimed, service shall be made by another means pursuant to these rules.

(2) In Protection from Abuse and Protection of Victims of Sexual Violence or Intimidation matters, original process may be served by mail pursuant to this rule, if authorized by the court under subdivision (a)(3).

Official Note: Nothing in this rule is intended to preclude a judicial district from utilizing the United States Postal Service's return receipt electronic option, or any similar service that electronically provides a return receipt, when using certified mail, return receipt requested.

(d) *Acceptance of Service.* In lieu of service pursuant to this rule, the defendant or the defendant's authorized agent may accept service of original process [**by filing with the prothonotary a separate document which shall be substantially in the following form:**] as set forth in Pa.R.C.P. No. 402(b).

[(Caption)

ACCEPTANCE OF SERVICE

I accept service of the _____
NAME OF DOCUMENT

I certify that I am authorized to accept service on behalf of the defendant.

DATE DEFENDANT OR AUTHORIZED AGENT

MAILING ADDRESS

Official Note: If defendant accepts service personally, the second sentence should be deleted.]

(e) [**Time for**] *Service Within the Commonwealth.* Original process shall be served **on a defendant located** within the Commonwealth within [**thirty**] 30 days of the filing of the [**petition or complaint**] original process.

(f) *Service Outside of the Commonwealth.* Original process shall be served **on a defendant located** outside the Commonwealth within [**ninety**] 90 days of the filing of the [**compliant**] original process:

- (1) by any means authorized by this rule; [**or**]
- (2) in the manner provided by the law of the jurisdiction in which defendant will be served; [**or**]
- (3) in the manner provided by treaty; or
- (4) as directed by the foreign authority in response to a letter rogatory or request.

In Protection from Abuse matters, [**the defendant**] a **defendant outside of the Commonwealth** must be personally served with original process [**outside of the Commonwealth**]. [**Such service**] Service may be made either in accordance with subdivisions (a) and (b) [**of this Rule**] governing personal service or as provided for by the law in the jurisdiction where the defendant resides **or is located**. If personal service cannot be completed within 48 hours after [**entry of the protection order**] the **filing of the original process**, service outside of the Commonwealth may be made by [**any**] other means authorized by this rule.

Official Note: Sections 5323 and 5329(2) of the Judicial Code, 42 Pa.C.S. §§ 5323 and 5329(2), provide additional alternative procedures for service outside the Commonwealth. For Protection from Abuse matters, personal service outside of the Commonwealth must [**first**] be attempted **first** before service can be made by certified and regular mail or by [**any of the**] other means prescribed in subsection (f) [**of this Rule**] for out-of-state service.

(g) *Reinstatement of [Complaint] Original Process.* If service is not made as required by subdivision (e) or (f) [**of this rule**], the prothonotary **shall reinstate the original process** upon praecipe accompanied by the original process, or praecipe indicating that the original [**complaint**] process has been lost or destroyed accompanied by a substituted [**complaint, shall reinstate the complaint**] original process.

(1) [**A complaint**] Original process may be reinstated at any time and any number of times. A new party defendant may be named in a reinstated [**complaint**] original process.

(2) [**A reinstated complaint**] Reinstated original process shall be served as required by subdivision (e) or (f) [**of this rule**].

(h) *Proof of Service.* Proof of service shall be made as follows:

(1) The person [**making service of**] serving the original process shall [**make**] complete a return of service [**forthwith**] without delay. If service has not been [**made**] completed within the time allowed in subdivision (e) or (f), a return of no service shall be [**made upon the expiration of the period allowed for service**] completed.

(2) Proof of service shall set forth the date, time, place [**and**], manner of service, the identity of the person served, and any other facts necessary for the court to determine whether proper service has been made.

(3) Proof of service by a person other than the sheriff shall be by affidavit. If a person other than the sheriff [**makes**] completes a return of no service, the affidavit shall set forth with particularity the efforts made to effect service.

(4) Proof of service by mail shall include a return receipt signed by the defendant or, if the defendant has refused to accept mail service, the returned letter with the notation that the defendant refused to accept delivery[,] and an affidavit that the regular mail was not returned within [**fifteen**] 15 days after mailing.

(5) Proof of service or of no service shall be filed with the prothonotary.

(6) An executed Acceptance of Service shall be filed in lieu of a Proof of Service [**where defendant**] if the **defendant or defendant's agent** accepts service of the original process.

(i) *Appearance at Hearing or Conference.* [**Regardless of the method of service, a party who appears**] **A party appearing** for the hearing or conference will be deemed to have been served.

Rule 1930.5. Discovery in Domestic Relations Matters.

(a) There shall be no discovery in a simple support, custody [**or**], Protection from Abuse [**proceeding**], **or Protection of Victims of Sexual Violence or Intimidation proceedings** unless authorized by order of court.

(b) Discovery shall be available without leave of court in accordance with [**R.C.P. 4001 et seq.**] **Pa.R.C.P. Nos. 4001—4025** in alimony, equitable distribution, counsel fee and expense, and complex support proceedings.

[Pa.B. Doc. No. 16-1803. Filed for public inspection October 21, 2016, 9:00 a.m.]

Title 25—LOCAL COURT RULES

CLARION COUNTY

Order Creating Local Rules of Criminal Procedure 524, 527 and 530; No. 1148 CD 2016

Order

And Now, October 5, 2016, It Is Hereby Ordered:

1. Local Rules of Criminal Procedure 524 Types of Release on Bail—Supervised Bail, 527 Nonmonetary Conditions of Release on Bail, and 530 Bail Agency, of the Court of Common Pleas of Clarion County, are established to be effective as of December 1, 2016.

2. The Clarion County Court Administrator is directed to:

A. File one certified copy of these newly created Local Rules with the Administrative Office of Pennsylvania Courts.

B. Publish a copy of the newly created local rule on Clarion County Court website at <http://www.co.clarion.pa.us/government/courts.html>.

C. Electronically submit a Word file of the newly created Local Rules and this Order to the Legislative Reference Bureau by email to bulletin@palrb.us and submit by regular mail two (2) certified copies of the newly created Local Rules and this Order to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

D. Provide the Clarion County Clerk of Courts with the newly created Local Rules, which shall be available for public inspection and copying. The Clarion County Clerk of Courts shall maintain a complete up to date set of the Clarion County Local Criminal Rules of Court effective May 1, 2010 and all amendments to those Rules.

E. Update the Local Criminal Rules of Court published on the County of Clarion website within thirty days of publication of the new rules in the *Pennsylvania Bulletin*.

F. Provide information to each member of the local bar regarding where the updated Local Rules can be found.

By the Court

JAMES G. ARNER,
President Judge

L.R.Crim.P. 524. Types of Release on Bail—Supervised Bail.

(C)(6) Pursuant to local rules and Pa.R.Crim.P. 524, 527 and 530, a magisterial district judge may, in addition to setting regular bail, authorize supervised bail and impose conditions in accordance with L.R.Crim.P. 527 and 530. Supervised bail shall be an alternative to regular bail and shall continue until revoked, rescinded or modified.

The following terms and conditions shall apply to supervised bail:

(a.) The magisterial district judge shall set regular bail.

(b.) Supervised bail shall have the effect of suspending the need for posting regular bail so long as the defendant complies with the conditions of supervised bail and so long as supervised bail remains in effect.

(c.) Unless regular bail has also been revoked, the defendant shall have the right to post it when supervised bail has been revoked or rescinded.

(d.) In order to be eligible for supervised bail, the defendant must complete and sign an Application for Bail Supervision, which includes an acknowledgment that he or she understands and consents to the conditions of supervised bail, including conditions relating to rescission, revocation and modification of such bail.

(e.) A representative of the Adult Probation Office has authority to approve or deny the Application and to recommend certain conditions of supervised bail. If it is approved, the District Attorney will have authority to approve or disapprove the Application and to recommend certain additional conditions. The Defendant is required to accept all the conditions in order to be considered for the program.

(f.) The District Attorney will present the completed Application to a magisterial district judge at the time scheduled for a preliminary hearing, and the judge will issue an Order either approving or disapproving the Application. If the Adult Probation Office or the District Attorney has denied the defendant's application, a magisterial district judge shall not grant supervised bail.

(g.) Any Clarion County Probation officer who has reasonable cause to believe that a defendant has violated or is violating any condition of supervised bail shall have authority to declare supervised bail rescinded and to arrest the defendant with or without a warrant.

(h.) Upon rescission and arrest, the defendant shall be committed to jail, subject to the right to post regular bail.

(i.) The Application for Bail Supervision form and any other required forms required will be approved and adopted by order of the Court of Common Pleas of Clarion County in accordance with L.R.Crim.P. 527 and 530.

L.R.Crim.P. 527. Nonmonetary Conditions of Release on Bail.

(C) A supervised bail program is established. The supervised bail program shall be administered on the following terms and conditions, with the criteria for participation as follows:

(1.) The Defendant must submit an Application For Bail Supervision

(2.) If the Adult Probation Office has rejected a defendant's Application for supervised bail, a magisterial district judge shall not grant supervised bail.

(3.) In entertaining an Application for supervised bail, a magisterial district judge shall consider the recommendation of the District Attorney.

(4.) The defendant must complete an acceptable drug and alcohol Assessment.

(D.) A defendant is ineligible for supervised bail if:

(1.) The committal offense is one of the felony offenses or Vehicle Code offenses listed specifically in an order of this court or is an attempt, solicitation or conspiracy to commit such offense,

(2.) He or she has a prior conviction of any of the felony offenses of the Vehicle Code offenses listed specifically in the order of this court, or a prior conviction of an attempt, solicitation or conspiracy to commit such offense, or of an out of state equivalent offense.

(3.) The defendant has a pending detainer, bench warrant, or notice of violation of probation or parole for which a detainer has been issued.

(4.) The defendant is not a resident of Clarion County.

(5.) Consideration may be given to other factors, including:

a. Any aggravating or mitigating circumstances regarding the committal offense which may bear upon the likelihood of conviction and possible penalty.

b. Prior criminal history involving crimes of violence, escape or flight, or false identification.

c. The defendant's ties to the community, his or her family, employment status and history, and current residence and history of residence.

d. The defendant's reputation and character, mental health and drug or alcohol abuse issues.

e. Any other factors relevant to whether the defendant will appear as required and comply with the conditions of bail.

f. The defendant's history regarding appearance when required in connection with previous bail opportunities.

(E.) *Process of Application and Approval or Denial.*

(1.) Defendant shall complete and sign an Application for Supervised Bail.

(2.) Adult Probation Officer shall interview a defendant at the jail and assist the defendant in completing the Application. If an attorney who has entered an appearance on behalf of a defendant does not want the Adult Probation Office to interview his or her client for the supervised bail program, the attorney shall notify the Adult Probation Office immediately.

(3.) Prior to a preliminary hearing, a defendant or an attorney who has entered his or her appearance on behalf of the defendant may submit an Application for Bail Supervision to the Adult Probation Office for processing.

(4.) The representative of the Adult Probation Office who obtains information from a defendant shall advise the defendant, both orally and in writing, that anything said to the representative may be used against the defendant. Information obtained from or concerning the defendant by the Adult Probation Office shall be disclosed only to the defendant, counsel for the defendant, the issuing authority or judge setting bail, the attorney for

the Commonwealth, and the department preparing a presentence report regarding the defendant. This information shall not be disclosed or used except for purposes relating to the defendant's bail, a presentence report, in a prosecution based on the falsity of the information, or for impeachment purposes as permitted by law.

(5.) The Adult Probation Office may summarily reject an Application:

a. if it is incomplete,

b. if the defendant fails to cooperate fully in the application process, or

c. if the defendant provides false information during the application process.

(6.) To ensure that no disqualifying factors are present, the Adult Probation Office shall review:

a. the Application,

b. the current charges, and

c. the defendant's prior criminal record.

(7.) If a disqualifying factor is present, the Adult Probation Office shall discontinue processing and deny the Application.

(8.) If no disqualifying factors are present, the Adult Probation Office shall either:

a. Reject the Application and if the Application is rejected by the Adult Probation Office, a magisterial district judge shall not enter the defendant into the supervised bail program.

OR

b. Approve the Application and:

i. complete the Adult Probation part of the form and list all appropriate conditions of supervised bail program which the defendant will be required to meet,

ii. forward the completed Application to the District Attorney for consideration,

iii. refer the defendant to the Armstrong, Indiana, Clarion Drug and Alcohol Commission or its designee for evaluation,

iv. conduct a urine drug screen at the Clarion County Jail and report the results to the defendant's attorney, or to the defendant if self-represented, to the District Attorney, and to the magisterial district judge who will be presiding at Central Court when the defendant's preliminary hearing is scheduled.

(9.) A defendant may not petition the Court of Common Pleas for bail modification regarding rejection of an Application, but a defendant may petition the Court for modification of regular bail after the preliminary hearing.

(10.) *District Attorney.*

a. Upon receipt of an Application for Supervised Bail, the District Attorney shall complete the District Attorney's Recommendation part of the form.

b. At the time of the preliminary hearing, the District Attorney shall deliver the Application to a representative of the Adult Probation Office to obtain the signed consent of the defendant to all of the conditions recommended by the Probation Office and District Attorney.

c. The completed and signed Application and a proposed Order shall be presented at Central Court to the presiding magisterial district judge.

(11.) *Central Court.*

a. A magisterial district judge who presides at Central Court at the time of the defendant's preliminary hearing

may issue an Order, granting admission to the supervised bail program at the time the defendant appears for a preliminary hearing. A magisterial district judge shall not grant entry to the program prior to that time.

b. A magisterial district judge shall not specially schedule a defendant's preliminary hearing to accelerate a defendant's entry into the supervised bail program.

c. Upon receipt of an Application for Supervised Bail, that has been approved by the Adult Probation Office and a completed drug and alcohol assessment, the magisterial district judge shall conduct a hearing at Central Court to consider the Application.

d. The waiver or non-waiver of a preliminary hearing by the defendant shall not be considered by the magisterial district judge in deciding the Application.

e. The magisterial district judge shall not grant entry to the supervised bail program unless the defendant has produced a clean drug screen, except for marijuana¹, prior to the preliminary hearing.

f. At the hearing, the magisterial district judge shall:

- i. review the completed Application for Supervised Bail,
- ii. consider the recommendation of the District Attorney, and
- iii. permit the defendant, his or her attorney, the District Attorney, and the Adult Probation representative to be heard.

g. At the conclusion of the hearing, the magisterial district judge shall either grant or deny the Application. If the magisterial district judge grants the Application, he or she shall issue an Order which provides that,

i. The defendant shall comply with all the conditions requested by the Adult Probation Office and the District Attorney,

ii. regular bail set by the issuing authority shall be suspended while the defendant participates in the supervised bail program, but shall be reinstated should the defendant be expelled from the program,

iii. the defendant shall cooperate with Armstrong, Indiana, Clarion Drug and Alcohol Commission or their designee and comply with all treatment recommendations and case management requirements, and

iv. when inpatient treatment is recommended, the jail shall release the defendant directly to the recommended treatment facility when a bed is available.

h. If a defendant is an otherwise acceptable candidate for supervised bail, the magisterial district judge may grant continuances of the preliminary hearing to allow the defendant time to produce an acceptable drug screen.

¹ Marijuana will not be a disqualifying factor as marijuana will test positive in a urine screen for up to thirty days, and would disqualify a large number of applicants. APO will be obligated to conduct continuing drug screens and Defendants who continue to test positive to marijuana more than 30 days after entry may be expelled from the Supervised Bail Program.

L.R.Crim.P. 530. Bail Agency.

(D) For purposes of administering the supervised bail program, the Clarion County Adult Probation Office is designated as the bail agency for this court.

[Pa.B. Doc. No. 16-1804. Filed for public inspection October 21, 2016, 9:00 a.m.]

WESTMORELAND COUNTY

Rules of Civil Procedure; No. 3 of 2016

Administrative Order

And Now, this 30th day of September 2016, *It Is Hereby Ordered* that the current Westmoreland County Rules of Civil Procedure are amended as follows:

- Rule W1915.4-4: Renumbered as New Rule 1940.1
- Rule W1915.17: Renumbered as New Rule 1915.4-4
- Rule W1915.19: Renumbered as New Rule 1915.17
- Rule W1940.1: Current Rule is rescinded.

By the Court

RICHARD E. McCORMICK, Jr.,
President Judge

[Pa.B. Doc. No. 16-1805. Filed for public inspection October 21, 2016, 9:00 a.m.]

DISCIPLINARY BOARD OF THE SUPREME COURT

Notice of Suspension

Notice is hereby given that by Order of the Supreme Court of Pennsylvania dated October 6, 2016, Michael D. Bartko (# 40760) whose registered address is 37807 Quail Hollow, Avon, OH, is placed on Administrative Suspension from the Bar of this Commonwealth pursuant to Pa.R.D.E. 219(1). In accordance with Rule 217(f), Pa.R.D.E., since this formerly admitted attorney resides outside the Commonwealth of Pennsylvania, this notice is published in the *Pennsylvania Bulletin*.

JULIA M. FRANKSTON-MORRIS, Esq.,
Secretary
*The Disciplinary Board of the
Supreme Court of Pennsylvania*

[Pa.B. Doc. No. 16-1806. Filed for public inspection October 21, 2016, 9:00 a.m.]

RULES AND REGULATIONS

Title 49—PROFESSIONAL AND VOCATIONAL STANDARDS

STATE BOARD OF MEDICINE

[49 PA. CODE CHS. 16 AND 18]

Prosthetists, Orthotists, Pedorthists and Orthotic Fitters

The State Board of Medicine (Board) amends §§ 16.11 and 16.13 (relating to licenses, certificates and registrations; and licensure, certification, examination and registration fees) and adds Chapter 18, Subchapter L (relating to prosthetists, orthotists, pedorthists and orthotic fitters) to read as set forth in Annex A.

Effective Date

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

Statutory Authority

The act of July 5, 2012 (P.L. 873, No. 90) (Act 90) amended the Medical Practice Act of 1985 (act) (63 P.S. §§ 422.1—422.51a) to require the Board to issue licenses to prosthetists, orthotists, pedorthists and orthotic fitters, to regulate the practice of these professions and to discipline licensees. Following the delivery of proposed rulemaking on June 30, 2014, published at 44 Pa.B. 4364 (July 12, 2014), the General Assembly amended Act 90 by way of the act of July 2, 2014 (P.L. 941, No. 104) (Act 104). The Act 104 amendments altered the qualifications for licensure without examination and extended the date for individuals to obtain licensure without examination to March 31, 2015.

This final-form rulemaking is authorized under section 3 of Act 90 and under section 2 of Act 104, as well as under section 8 of the act (63 P.S. § 422.8), which authorizes the Board to adopt regulations as are reasonably necessary to carry out the purposes of the act.

Summary of Comments and Responses to Proposed Rulemaking

Notice of the proposed rulemaking was published at 44 Pa.B. 4364, with a 30-day public comment period. The Board received comments from members of the regulated community and the public, the House Professional Licensure Committee (HPLC) and the Independent Regulatory Review Commission (IRRC). Several commentators submitted comments stating that some of the provisions of the proposed rulemaking were not consistent with Act 104. Because the Board's adoption of the proposed rulemaking predated the passage of Act 104, the Board was aware that, at the time of publication, some of the provisions conflicted with Act 104. The provisions of Act 104 which related to the alternate pathway for licensure expired on March 31, 2015. Accordingly, those sections of the proposed rulemaking related to the alternate pathway have been withdrawn. As of early May 2016, the Board issued the following licenses:

	<i>Alternate Pathway</i>	<i>Traditional Licensure</i>
Prosthetist	168	52
Orthotist	256	58
Pedorthist	79	38
Orthotic Fitter	120	70

Comments from the Pennsylvania Orthotic and Prosthetic Society

Eileen Levis, President of the Pennsylvania Orthotic and Prosthetic Society (POPS), submitted comments on behalf of POPS on July 25, 2014. Several of the POPS comments related to the Board's references to the Commission on Accreditation of Allied Health Education Programs (CAAHEP), the National Commission for Certifying Agencies (NCCA) and the National Commission on Orthotic and Prosthetic Education (NCOPE). POPS asserted that the Board should delete references in the final-form rulemaking to CAAHEP and NCOPE because these organizations are not listed in Act 90. Act 90 includes a definition for only two organizations—the Institute for Credentialing Excellence (ICE) and NCCA. Conversely, POPS asserted that the Board should reference the Board of Certification/Accreditation International, Inc. (BOC) and the American Board for Certification in Orthotics, Prosthetics and Pedorthics, Inc. (ABC) and further asserted that the Board should list the Accrediting Bureau of Health Education Schools (ABHES) in the regulations. Neither Act 90 nor Act 104 mentions BOC, ABC or ABHES, just as neither mentions CAAHEP or NCOPE.

The Board believes it is important to refer to both CAAHEP and NCOPE. Section 13.5 of the act (63 P.S. § 422.13e) requires that applicants for licensure as a prosthetist, orthotist, pedorthist or orthotic fitter have received certification by a prosthetic, orthotic, pedorthic or orthotic fitter credentialing organization accredited by NCCA. The two NCCA-accredited organizations that currently certify individuals in orthotics, prosthetics and pedorthics are ABC and BOC. To meet the qualifications for certification by ABC or BOC as a prosthetist or orthotist, an individual shall complete a CAAHEP-accredited education program and an NCOPE-approved residency program. To meet the qualifications for certification by ABC or BOC as a pedorthist, an individual shall complete an NCOPE-approved pedorthic precertification education program. The Board's reference to CAAHEP and NCOPE in the regulations alerts the public that approved education is required for licensure in orthotics and prosthetics in this Commonwealth. All 12 United States institutions that offer prosthetics/orthotics education at the bachelor's degree or higher degree level are accredited by CAAHEP. (The accredited programs are at Alabama State University, California State University, Loma Linda University, University of Hartford, St. Petersburg College, Georgia Institute of Technology, Northwestern University, Eastern Michigan University, Century College, University of Pittsburgh, University of Texas Southwest Medical Center and the University of Washington.) Moreover, 10 of the other 13 states that license orthotists and prosthetists specifically reference CAAHEP as the accrediting body for orthotic and prosthetic education. (CAAHEP does not accredit pedorthic or orthotic fitter education programs.) Accordingly, the Board believes the regulations correctly reference CAAHEP.

POPS suggested that the Board should refer to ABHES in its regulations. ABHES accredits diploma technology programs and some associate degree programs. ABHES does not currently accredit prosthetic, orthotic, pedorthic or orthotic fitter education programs. Because ABHES does not accredit programs in the professions addressed by Acts 90 and 104, the Board declines to specifically reference it in the regulations.

POPS objected to the Board's references to NCOPE in §§ 18.802, 18.811, 18.812, 18.822, 18.823, 18.831, 18.833, 18.841 and 18.843. In response, the Board notes that certification (by ABC or BOC) is a prerequisite to licensure; completion of an NCOPE-approved residency program is a prerequisite to certification. Accordingly, the regulations regarding licensure should reference NCOPE so that everyone reading the regulations has notice that an NCOPE-approved residency is required for licensure. Moreover, every other state which licenses orthotists and prosthetists explicitly requires completion of an NCOPE-approved residency program as a qualification for licensure.

Similarly, regulations regarding a graduate permit should reference NCOPE. In §§ 18.811(b)(3) and 18.821(b)(3) (relating to graduate permit), the Board requires an applicants for a graduate permit as a prosthetist or orthotist to register with NCOPE for residency. The graduate permit authorizes the holder to practice the profession only within the approved residency program, where appropriate clinical education and supervision/monitoring of the new graduate's skills may occur. POPS asserted that requiring clinical residencies to be NCOPE-approved would be inconsistent "with the language or intent of the statute" and "would also restrict individuals certified prior to the creation date of 1999, from qualifying for a license." However, no one who was certified prior to 1999 would now be applying to the Board for a graduate permit to participate in a clinical residency program. Individuals that were certified prior to 1999 would have already qualified for licensure under the alternate pathway for existing practitioners.

If POPS is suggesting that the Board should issue graduate permits to authorize individuals to practice the profession in some way other than within an NCOPE-approved residency prior to meeting the qualifications for licensure, the Board disagrees. The Board is charged with regulating the professions in the interest of public health and safety; in its regulation of all the professions that it licenses, the Board requires individuals seeking licensure to be enrolled in or to have completed an education or experiential learning program that the Board finds to be of sufficiently high quality to ensure public health and safety. Moreover, the requirement that individuals complete an NCOPE-accredited residency is consistent with the requirements for certification by both ABC and BOC, and with the requirements for licensure in other states. Permitting graduates to practice without the educational structure and supervision of an approved residency program would endanger the public health and safety and would be a disservice to the graduates who would not be able to meet qualifications for certification or licensure through a work experience that is not an NCOPE-approved residency. Accordingly, the Board declines to delete its references to NCOPE.

Also related to residency, POPS suggested that the provisions regarding clinical residency for prosthetists and orthotists in §§ 18.812 and 18.822 (relating to clinical residency) should permit graduate permit holders to practice only under the supervision of a licensee of the

Board. Upon review, the Board agrees that only individuals who plan to complete a clinical residency within this Commonwealth would need to apply for a graduate permit. That is, individuals completing a clinical residency in another state would not need to apply for or obtain a graduate permit from the Board. Therefore, the Board amended these provisions to require that the supervisor be a licensee of the Board as suggested by POPS.

Regarding §§ 18.814 and 18.824 (relating to prosthetist license; and orthotist license), POPS asserted that the Board's requirement that an applicant has earned a bachelor's degree, post-baccalaureate certificate or higher degree from a CAAHEP-accredited education program is inconsistent with the act and that the Board should only require that an applicant be certified by a certification program accredited by NCCA. The Board disagrees that certification by a certification program accredited by NCCA is the only requirement for licensure. Certification is a requirement for licensure in section 13.5(a)(3) of the act. The licensure qualification of meeting particular educational minimums is in section 13.5(a)(2) of the act. Moreover, CAAHEP is the only National accrediting body for orthotic and prosthetic education programs and is required in all states that license these professionals.

POPS suggested that the Board delete the definition of "custom-designed device" proposed in § 18.802 (relating to definitions) stating that this is not a term recognized by the Center for Medicare & Medicaid Services (CMS) or the industry. The term is used in section 2 of the act (63 P.S. § 422.2) in the definition of "prosthesis." The definition begins with "a custom-designed, custom-fabricated, custom-fitted or custom-modified device." However, the act further defines only two of the terms: "custom-fabricated device" and "custom-fitted device." Accordingly, the Board defined the other two terms used in the act, custom-designed device and custom-modified device, basing the definitions on input from industry stakeholders.

POPS suggested that the Board's definition of "pedorthic device" is contrary to the act because subparagraph (ii) is not, according to POPS, in the act. The Board respectfully disagrees. The definition of "pedorthic device" included in § 18.802 is virtually identical to that in section 2 of the act, which specifically excludes "nontherapeutic, accommodative inlays and nontherapeutic accommodative footwear, regardless of method of manufacture; unmodified, nontherapeutic over-the-counter shoes; or prefabricated unmodified or unmodifiable foot care and footwear products." The only difference is in the formatting.

POPS commented that proposed §§ 18.816, 18.826, 18.835 and 18.845 only pertain to licensure under the alternate pathway and should be deleted or amended to conform to Act 104. These sections were intended to provide guidance to applicants with regard to how to demonstrate that they meet the various requirements for licensure, whether by the traditional pathway or by the alternate pathway. Now that the alternate pathway to licensure is no longer available, the Board withdrew these sections from this final-form rulemaking. The Board revised all other relevant sections to clarify the documentation necessary to demonstrate the qualifications required for licensure as a prosthetist, orthotist, pedorthist or orthotic fitter.

POPS suggested that the Board should not have separated the educational and experiential qualifications for prosthetist and orthotist licensure in §§ 18.814(b)(2) and (3) and 18.824(b)(2) and (3). The Board finds that the

provisions are separated by “and” in section 13.5(a)(2)(i) and (ii) of the act, and that the list of qualifications is easier to read separated into paragraphs. Therefore, the Board declines to place the two qualifications into a single sentence as recommended by POPS.

Regarding § 18.832 (relating to patient fitting experience) for graduate pedorthists, POPS suggested that a graduate pedorthist should be permitted to obtain the patient fitting experience under the direct supervision of a prosthetist or orthotist as well as a pedorthist. The Board was not aware that prosthetists’ work was sufficiently similar to pedorthists’ work, but defers to POPS’ knowledge in this area and made the change.

Regarding maintenance of certification, POPS commented that Act 90 does not require licensees to maintain their certification and POPS does not believe that it should be a requirement for license renewal. The proposed rulemaking also did not require licensees to maintain their ABC or BOC certifications. Nowhere in § 18.861 (relating to biennial renewal of license) is there mention of the maintenance of certification as a condition of renewal. However, the Board strongly recommends that a professional who holds a certification from ABC or BOC maintain that certification, which may be needed should the licensee seek to relocate to another state. In addition, certification provides a professional community to licensees and a source for keeping up to date on practice issues. Finally, certification may be required by employers as a condition of employment or by insurers as a condition of payment.

Finally, POPS stated that “application for licensure appears to extend to anyone in any state. POPS believes the regulations should require the individual to be working for a company located within the Commonwealth.” The Board declines to adopt this requirement because it believes the restriction would violate the United States and Pennsylvania Constitutions and would be a barrier to individuals who are considering relocating to this Commonwealth to practice their profession but who wish to secure licensure before finalizing a decision to relocate to this Commonwealth.

Comments related to practice by unlicensed individuals

Regarding proposed § 18.852 (relating to supervision and assistance), POPS commented that Act 90 “clearly prohibits the delegation of patient care to non-licensed individuals.” While the Board agrees that prosthetics, orthotics, pedorthics or orthotic fitting as defined in the act may be exclusively performed by licensed individuals, several stakeholders indicated to the Board that orthotic and prosthetic assistants and orthotic and prosthetic technicians were standard types of employees in the industry, as is the case in many other health care fields. The Board defines “orthotic and prosthetic assistant” in § 18.802 as an individual who assists with patient care tasks, not an individual who provides that care. In addition, in proposed § 18.852(b), the Board specifically provided that a task may not be delegated to an unlicensed assistant “if the performance of the task is restricted by law to performance by” a licensed individual, or if the performance of the task requires knowledge or skill not ordinarily possessed by assistive personnel. However, upon review of this comment, and with significant input from the regulated community, the Board revised and renamed § 18.852 as pertaining to “supervision and assistance” by unlicensed assistive personnel. As revised, orthotic and prosthetic assistants and pedorthic support personnel shall be subject to direct supervision, defined so that the prosthetist, orthotist or pedorthist is

on the premises, periodically observes and is continuously available to provide guidance to the assistant.

Sofya Tamarkin, a certified pedorthist, submitted comments suggesting that the Board adopt a definition for “indirect supervision” as used in Iowa, which would “imply that a licensed certified professional would be liable and responsible for any non-licensed Orthotic Fitters.” According to this commentator, the proposal would also make the licensed professional accountable for training and formal education of nonlicensed individuals. Licensed professionals would not be present during the delivery of care. However, the licensee would be required to sign medical records produced by nonlicensed professionals. In addition, the licensee would be required to be available for direct consultation within 15 minutes during the patient’s visit in case direct supervision would be required.

In response, the Board notes that in Iowa Nationally-certified orthotic fitters are not licensed and the definition of “indirect supervision” refers to delegation of orthotic fitting tasks to these individuals. The Iowa provision does not permit delegation to noncertified orthotic fitters. In this Commonwealth, the act does provide for licensure of Nationally-certified orthotic fitters. The Board believes that the proposed rulemaking was actually more inclusive of supportive personnel because it allowed assignment of tasks to these individuals so long as assignment of the task is consistent with the standards of acceptable practice embraced by the prosthetic, orthotic or pedorthic community in this Commonwealth. This revised final-form rulemaking also provides that only a prosthetist, orthotist or pedorthist may perform an initial patient evaluation and the final provision of a prosthetic, orthotic or pedorthic device to a patient, and that the licensee assigning and supervising the tasks shall bear ultimate responsibility for the completed tasks.

Senator Mike Stack made a similar comment on behalf of his constituents, suggesting the Board permit indirect supervision of nonlicensed orthotic fitters. He suggested the following language:

Indirect supervision—non-licensed Orthotic Fitters are qualified to provide patient care independent of a licensee; however, the licensed supervisor must review and countersign all entries in the patient’s clinical record within 15 working days following the delivery of care. The supervisor must be physically available for consultation within 60 minutes during the delivery of care.

Irina Rabovetski, Esq., made an identical suggestion.

Ashley Nicoletti, Esq., provided a similar comment, suggesting that a definition of “indirect supervision” similar to the ABC and BOC guidelines be included. The commentator suggested the following language:

Indirect Supervision does not require the supervising credentialed individual to be on-site however they must be available for consultation throughout the patient care process. The supervisor must review the results of care and the documentation of the services rendered by the supervised individual and is responsible for countersigning within 15 days all entries in the patient’s clinical record.

This commentator explained that this addition was suggested because the regulation:

...does not allow for individuals who have been working for less than 2 years to occupy the role of Orthotic Fitter without passing a required board

exam. This means that individuals wanting to work in this field have to pass an extremely difficult test that requires intricate medical knowledge. This makes it difficult for existing businesses to hire new employees due to the on-site supervision requirement currently required for new employees.

This commentator opined that access to care would be diminished if the Board did not adopt indirect supervision for unlicensed individuals.

The Board believes that the intent of the General Assembly was to ensure public protection by requiring licensure for orthotic and prosthetic, pedorthic and orthotic fitting caregivers. To adopt a regulation that permits unlicensed individuals to provide orthotic and prosthetic, pedorthic and orthotic fitting care to patients would be inconsistent with statute. The Board declines to add this provision.

POPS suggested that the Board delete the definition of "orthotic and prosthetic assistant" in § 18.802 because CMS does not recognize these "classes" and because the purpose of the act was to clarify that only licensed individuals are permitted to provide orthotic, prosthetic and pedorthic care. First, the Board notes that CMS rules relate to insurance reimbursement, not to the practice of the professions. The act provides that only licensed individuals may practice prosthetics, orthotics, pedorthics or orthotic fitting within the scope of practice of their license; it does not prohibit unlicensed assistants from providing assistance to licensees so long as the assistant is not practicing the licensed profession. Assistants are common in all health care fields; there are nurse aides, medication aides, medical assistants and medical technicians, for example. POPS suggested that licensees should only be permitted to be assisted by orthotic fitters, occupational therapists, physical therapists and athletic trainers. Nothing in the act suggests that occupational therapists, physical therapists or athletic trainers may take orders from orthotic and prosthetic professionals. Indeed, the practice acts which regulate the practice of occupational therapists, physical therapists and athletic trainers do not authorize these licensees to take orders from orthotists, prosthetists or pedorthists. Moreover, both assistants and technicians are recognized in all but one of the other states which license the prosthetic, orthotic and pedorthic professions.

Regarding orthotic and prosthetic technicians, the Board shares POPS' understanding that these are individual engaged in manufacturing and repairing devices and are not directly involved in patient care. The Board believes that these individuals should be recognized so that, for example, a licensed prosthetist would not be required to perform every discrete task in the manufacture of a prosthetic device, such as painting details on an artificial hand. Technicians appear to be recognized in the industry, as well as being recognized in every other state that licenses orthotic and prosthetic professionals. Accordingly, the Board declines to delete the definition of "orthotic and prosthetic technician" in § 18.202. However, the Board revised this final-form rulemaking to provide that a prosthetist or orthotist may assign tasks related to the fabrication, assembly, modification and servicing of prosthetic and orthotic devices to technicians working to the specifications provided by the prosthetist or orthotist. This final-form rulemaking also makes it clear that the prosthetist, orthotist or pedorthist bears the ultimate responsibility for the tasks performed by assistants and technicians.

Comments from BOC

Claudia Zacharias, President and CEO of BOC, noted that the Board's references to National certification were stated inconsistently throughout the proposed rulemaking, and suggested, as a solution, that the Board amend the definitions of "ABC" and "BOC" to provide that these organizations are National certification organizations "approved and recognized by the Board." The Board agrees that the act requires applicants to "have received certification by a prosthetic, orthotic, pedorthic and orthotic fitting credentialing organization...approved by the board" and, amended the definitions of "ABC" and "BOC" to clarify that they are Board-approved organizations. In addition to amending these definitions, the Board amended the sections noted by BOC as not referring to certification consistently so that the references are internally consistent.

BOC commented that § 18.832(a) authorizes a graduate pedorthist with a temporary practice permit to practice only under the direct supervision of a pedorthist, and suggested that a graduate pedorthist should be permitted to practice under the direct supervision of a licensed orthotist or prosthetist as well. The Board amended § 18.832(a) accordingly.

BOC noted that proposed § 18.835(4), regarding demonstration of qualifications, which referred to the experiential component of pedorthic education should state "direct patient care in pedorthics" rather than "patient fitting experience." In response, the Board notes that section 13.5(a)(2)(iii) of act requires pedorthists to complete "a minimum of 1,000 hours of supervised patient fitting experience." The Board prefers to retain the statutory term. In this final-form rulemaking, the text of proposed § 18.835(4) has been moved to § 18.833(b)(3) (relating to pedorthist license). In response to BOC's comment, the Board added qualifying language to clarify that the patient fitting experience consists of providing direct patient care in pedorthics.

Comments from R.J. Hedges & Associates

R.J. Hedges & Associates (RJH) stated that its comments were coordinated with the pharmacy, durable medical equipment and mastectomy organizations in this Commonwealth. RJH suggested that the Board add a definition of "facility" to clarify that the licensed individual is a legally operating business within this Commonwealth. The definition would provide that "facility" means the business location where care is provided and has appropriate equipment to provide comprehensive orthotic, prosthetic and pedorthic care; and that licensees shall be available to provide the care or supervise the provision of care by orthotic fitters or nonlicensed staff. The Board notes first that the act does not require orthotic fitters to practice under the supervision of orthotists, prosthetists or pedorthists. In addition, definitions are added for terms used in the regulations; "facility" is not used in the regulations and the Board does not see a need to define the term. Finally, it is the Board's understanding that practice may take place in a variety of settings, including a hospital, rehabilitation center or private office. The Board is not aware that all care shall take place in a facility that has the equipment to provide comprehensive care; some follow-up care, for example, may take place in an office that is separate from the comprehensive care facility.

RJH suggested that the Board include a definition of "level of competence" which would be defined as "a hierarchical position that an individual occupies within a

field or profession relative to other practitioners in the profession.” Because neither the act nor the regulations use “level of competence,” there is no need to define the term.

Like the BOC comment, RJH commented regarding the different terms used by the Board when discussing the type of certification required. The Board made amendments as previously discussed to standardize the terminology used in this final-form rulemaking. Similarly, RJH noted that a pedorthist trainee should be able to practice under the supervision of a prosthetist or orthotist as well as a pedorthist. The Board amended § 18.832(a) accordingly. Finally, RJH commented that the term for the experience obtained by a pedorthist should properly be called “direct patient care” rather than “patient fitting.” As previously noted, the Board addressed this comment by qualifying the statutory term “supervised patient fitting experience” as providing direct patient care in pedorthics.

Comments from C-Fab 1, Inc.

C-Fab 1, Inc. submitted comments on May 25, 2015. The comments were written by a self-identified “prosthetic and orthotic technician” practicing for 35 years who owns a fabrication lab and provides devices to orthotists, prosthetists and pedorthists in this Commonwealth. The comment pointed out that technicians are not support personnel; rather, technicians fabricate and assemble devices based on a work order and specific instructions and measurements from a licensed professional. Once manufactured, the device is returned to the licensee for final fitting. The commentator also noted that individuals in fabrication businesses are not supervised by licensees. The commentator suggested that the definition of “orthotic and prosthetic technician” in § 18.202 should state that technicians manufacture, fabricate, modify, adjust, repair or maintain devices using a mold or specifications provided to them by a licensed orthotist, prosthetist or pedorthist. The Board adopted a substantially similar definition, eliminating “adjust” as it believes an adjustment would be made in the patient care process. The definition has also been amended to eliminate the requirement of direct supervision. The Board also amended § 18.852 to clarify that the prosthetist or orthotist shall provide all of the necessary measurements and instructions to the technician for the fabrication, assembly, modification and servicing of the device.

Comments from the HPLC

The HPLC submitted comments on August 28, 2014, asking the Board to explain its statutory authority pertaining to graduate permits, clinical residency and provisional licensure for prosthetists and orthotists. The Board has broad authority to promulgate regulations to effectuate the act. The act aims to promote the health and welfare of the citizens of this Commonwealth by ensuring they have access to properly trained orthotic and prosthetic professionals. The training of prosthetists and orthotists needed for licensure includes both didactic education and clinical education/experience. That is, to obtain certification by ABC or BOC a prosthetist or orthotist is required to complete a 1-year clinical residency, and the act provides the requirement of a minimum of 2 years (3,800 hours) of experience in providing direct patient care services. At the same time, the act prohibits the practice of these professions without licensure. Therefore, neither of these licensee classes could obtain the required clinical education or experience without actually practicing the profession as defined in the act. Accordingly, the Board had to develop some

system which would allow these professionals to complete their clinical education and experience requirements without otherwise violating the act.

Without the graduate permits and provisional licenses devised by the Board, graduates of a prosthetist and orthotist education program would be required to complete the clinical residency and supervised experience required for full licensure in another state. Similarly, graduates of a pedorthist and orthotic fitter education program would be required to leave this Commonwealth to complete the 1,000 hours of experience required for full licensure, which is why the Board created a temporary practice permit for those license classes. The Board believes that it cannot effectuate the statutory intent of ensuring access to quality orthotic and prosthetic professional services without allowing completion of the clinical portion of professional education (clinical residency) and the experience required by the act to take place within this Commonwealth. The Board believes that the creation of these permits and provisional licenses was necessary to effectuate the intent of the act.

The HPLC commented that the Board should be more specific pertaining to §§ 18.814(b)(6) and 18.824(b)(6), suggesting that the Board make reference to the act for licensees who need more clarification. Sections 18.814(b)(6) and 18.824(b)(6) provided that an applicant for licensure shall “otherwise satisfy” the requirements for licensure and not be barred from licensure. The Board determined that the provision is superfluous and deleted it from this final-form rulemaking.

Finally, the HPLC commented that it understood the Board would be making amendments to the proposed rulemaking to conform to Act 104, and that it looked forward to seeing the advance notice of final rulemaking (ANFR). Because the provisions of Act 104 expired as of March 31, 2015, the Board deleted the sections regarding alternative pathways to licensure.

Comments from IRRC

IRRC submitted comments on September 10, 2014. IRRC noted that “[a] commentator, the Pennsylvania Orthotic Prosthetic Society, states that it was not included as a stakeholder, and therefore, there was not an equitable exchange among stakeholders.” Upon passage of Act 90, the Board was contacted by only one stakeholder, ABC, offering assistance with drafting of the rulemaking. The Board attempted to identify stakeholders by: finding the prosthetist, orthotist and pedorthist educational programs in this Commonwealth; researching certification and identifying the relevant certification bodies; identifying the State professional association; and speaking with legislative staff regarding who might be an interested party.

For the first public meeting with stakeholders, the Board invited 33 individuals, including: Claudia Zacharias, President, BOC; Stephen Fletcher, Director of Clinical Resources, and Catherine Carter, Executive Director, ABC; the Pennsylvania Orthopedic Society, the Amputee Coalition of America, the Pennsylvania Occupational Therapy Association, the Pennsylvania Orthopedic Society, the Pennsylvania Physical Therapy Association and the Pennsylvania Medical Society; Randy Stevens and Eileen Levis, POPS; representatives from the University of Pittsburgh’s graduate program in orthotics and prosthetics; representatives from the Temple University School of Podiatry, which had run a pedorthics educational program; Brian Lagana, Executive Director, Pedorthic Footcare Association; industry representatives

from Carter Orthopedics and the National Orthotics Manufacturers Association; Anjali Weber, Director of Accreditation, ICE; and Marlene Tremmel and Sharon Engdahl, HPLC staff.

The first public meeting with stakeholders held in September 2012 was attended by 17 individuals, including 4 who identified themselves to the Board as being from POPS—Randy Stevens, Kristen Ortiz, Eileen Levis and Joe Carter. In attendance also were representatives from BOC, ABC, the National Orthotics Manufacturers Association, the Pennsylvania Orthopaedic Society, the Pennsylvania Medical Society, the University of Pittsburgh, the Occupational Therapy Association, ICE and several other individuals representing licensees of the Board. The representatives from POPS also attended the Board's second public meeting with stakeholders in November 2012.

In addition, the Board requested that the stakeholders that it had identified communicate with their colleagues and inform them of the November 2012 public meeting should anyone else wish to attend. During the drafting of the proposed rulemaking, the Board also received and considered comments from individuals who wrote to the Board, including: Caryn Plessinger, President, Hub's Home Oxygen & Medical Supplies/CressCare Medical; Michael J. Gartland, Compliance Analyst, Klingensmith Health Care; Dana Finn, Facility Accreditation Coordinator, BOC; Zack Chait, BOC; Anjali Weber, ICE; Steve Fletcher, ABC; Claudia Zacharias, BOC; Eileen Levis, POPS; Randy Stevens, POPS; and Sofya Tamarkin. In addition to multiple meetings with stakeholders, the Board's Allied Health Committee met with Sofya Tamarkin to discuss her concerns. Finally, the Board met with stakeholders and legislative staff to discuss the Act 104 amendments.

IRRC asked the Board to work with the regulated community to resolve as many concerns as possible prior to submitting this final-form rulemaking. The Board worked with the regulated community since passage of Acts 90 and 104 and has continued to do so. The Board is not aware of any particular concern from the regulated community that was not addressed by the amendatory act or that has not been addressed by the amendments to this final-form rulemaking. The Board believes this final-form rulemaking has brought consensus among the stakeholders to the greatest extent possible.

IRRC acknowledged the HPLC comments regarding the Board's statutory authority for graduate permits, clinical residency and provisional licenses for prosthetist and orthotist and the need for clarification of certain sections. IRRC stated that it would review the Board's response as part of its determination of whether this final-form rulemaking is in the public interest.

IRRC noted that the Board provided fee reports for all of the fees regarding specific license applications but did not provide a breakdown of "Fee-related Activities and Costs" in the fee report form for the biennial renewal fee. Fee report forms for application fees set forth very specific activities regarding discrete functions performed by Board staff regarding the processing of each application. These "Fee-related Activities and Costs" are applicable only to the fees associated with processing applications of various types. The cost of processing applications, which is offset by the application fee, is based on the amount of time a staff member will need to perform the tasks regarding processing and issuing a particular license type, and the salary level of the classification of the staff member that will be required to perform the tasks. Some tasks are performed by lower or higher employee

classifications, depending on the complexity of the task. Fees for discrete services provided to an individual, such as processing an application, are set by having the Bureau's revenue office prepare a fee report form after meeting with the Board's administrative staff to determine the tasks related to providing that service. See section 6(d) of the act (63 P.S. § 422.6(d)), which provides that the "board may charge a reasonable fee...for all examinations, registrations, certificates, licensures or applications permitted by this act or the regulations thereunder."

Biennial renewal fees, on the other hand, are not based on specific tasks or services performed for individual licensees/applicants. Biennial renewal fees are required to be set to meet the overall operating expenses of the Board, as set forth in section 6(a) of the act. Revenues raised by fees, fines and civil penalties must be sufficient to meet expenditures over a 2-year period. The Board must increase fees by regulation so that projected revenues will meet or exceed projected expenditures. In other words, the biennial renewal fees are designed to cover all the operating expenses of the Board that are not covered by any other fee, including building-related costs, personnel costs, hearing officer costs, investigations based on public complaints, attorney costs and administrative officer costs. The biennial renewal fee is not based on an estimate of particular tasks performed by each type of employee and the classification of the employee, so the fee report form for biennial renewal fees does not include this type of calculation. The types of work for which the revenue generated from biennial fees is allocated includes the intake and processing of complaints filed with the Bureau relevant to the licensees of the Board, the investigation of complaints by the Bureau of Enforcement and Investigation, review of complaints by legal assistants/paralegals, payment for experts to review information and to provide written reports and testimony, costs of prosecution, costs to hold hearings and pay for transcripts and witness fees, cost for legal support to the Board, cost for regulatory support for the Board, cost for administrative support/staff of the Board, and overhead costs including building and power, books, subscriptions, memberships, and the like. Biennial renewal fees are not calculated in the way that application fees are and a fee report form cannot capture information relevant to reviewing a biennial fee. In determining biennial renewal fees, the Board reviews its financial reports and recommendations prepared by the Bureau of Finance and Operations.

The most recent fiscal report of the Board was delivered by the Bureau of Finance and Operations at the Board's April 19, 2016, meeting. The following is the Fiscal Year 2015-2016 budget for the Board:

<i>Administrative costs</i>	
Board administration	\$2,445,000
Commissioner's Office	\$51,000
Revenue Office	\$40,000
Departmental services	\$362,000
Board member expenses	\$48,000
<i>Legal costs</i>	
Legal Office	\$2,471,000
Hearing expenses	\$16,000
Professional Compliance Office	\$536,000
Enforcement and investigation	\$1,617,000
Professional Health Monitoring Programs	\$298,000
<i>Total Board Costs</i>	\$8,184,000

Regarding § 18.802, IRRC asked the Board to explain how designating CAAHEP and NCOPE as “additional accreditation and certification programs is necessary and reasonable as relates to qualification for licensure.” As more fully discussed in response to comments from POPS, referencing CAAHEP and NCOPE does not impose additional qualification for licensure. The act requires certification by an organization that is recognized by ICE and accredited by NCCA. Both ICE-recognized, NCCA-accredited organizations that offer certification as a prosthetist or orthotist require completion of a CAAHEP-approved educational program and an NCOPE-approved residency program. IRRC also questioned the need for a definition of “custom-designed device.” The Board also discussed its rationale for including a definition of “custom-designed device” in its response to comments from POPS. The Board believes that providing a definition of the term, which is used in the definition of “prosthesis,” will aid clarity, as opposed to creating ambiguity.

IRRC pointed out that the Board used several phrases, including “licensed by the Board” and “licensed under the act,” to describe licensees in § 18.802. The Board amended these definitions to make them consistent. IRRC commented on the Board’s definition of “prefabricated orthotic devices” and asked why the Board deviated from the term provided for in Act 90, which was “prefabricated orthosis.” The deviation was unintentional and the Board amended § 18.802 accordingly.

IRRC asked the Board to consider including provisions regarding the titles that the holders of graduate permits, provisional licenses and temporary permits may use. The Board added provisions regarding the titles that may be used in §§ 18.811(e), 18.813(e), 18.821(e), 18.823(e), 18.831(e) and 18.841(e) as well as defining the titles in § 18.802. In addition, the Board added provisions requiring permit holders and provisional licensees to inform patients of the status of their licensure. The Board determined that the appropriate title for a prosthetist or orthotist during the period of the residency is “prosthetist/orthotist resident.” The Board determined that the appropriate title for a prosthetist or orthotist during the period after the residency is completed but before all examinations have been completed and full licensure granted is “provisionally-licensed prosthetist/orthotist.” The Board proposed to call pedorthists and orthotic fitters in training “graduate pedorthist/orthotic fitter.” The Board determined that these providers are more commonly known as trainees or “in training.” The Board settled upon “pedorthist/orthotic fitter trainee” because it is shorter and easier for employers to fit on an identification badge.

IRRC noted a misplaced provision in § 18.814(b)(3) pertaining to the method to demonstrate completion of 3,800 hours of experience in providing direct patient care. IRRC questioned whether this provision was necessary in that proposed § 18.816, regarding demonstration of qualifications, contained the necessary information concerning how to demonstrate the experience requirements. Instead of removing the provision from § 18.814, the Board revised this final-rulemaking to delete the separate sections pertaining to demonstration of qualifications (including § 18.816) and instead amended the final-form rulemaking to include in each relevant section information relating to how an applicant may demonstrate meeting each qualification. In this way, an applicant has only one section to review to obtain the information necessary to apply for a specific credential.

IRRC commented that proposed § 18.815, regarding alternate pathway for prosthetist license, expired on July 7, 2014, and asked the Board to withdraw this section. Act 104 replaced provisions in Act 90 regarding licensure without examination and provided a new expiration date of March 31, 2015. As that date has also passed, the Board withdrew § 18.815 and §§ 18.825, 18.834 and 18.844, the coordinate sections for the other profession.

Regarding proposed §§ 18.816, 18.826, 18.835 and 18.845, IRRC asked the Board to make amendments to ensure that the requirements are clear for each type of permit or license. The Board withdrew these sections and instead revised each of the relevant licensure sections to clarify the documentation necessary to demonstrate the qualifications corresponding to each type of credential. In addition, the Board has stricken those provisions which have now expired as a result of the elimination of the alternate pathways to licensure.

Regarding § 18.823 (relating to provisional orthotist license), IRRC questioned whether the “supervision” referenced should be called “direct supervision” as it is in § 18.813(a) (relating to provisional prosthetist license). The omission in § 18.823 was inadvertent and the Board added “direct” to § 18.823(a).

Regarding proposed §§ 18.831 and 18.841 (relating to temporary practice permit), which provide that a temporary practice permit will expire immediately if the permit holder fails the examination, IRRC questioned what examination was being referenced and how the provision would be enforced. Upon review, the Board notes that it did not provide a restriction regarding the provisional prosthetist license or provisional orthotist license, and also determined that the certification exam providers (ABC and BOC) are under no obligation to report failures to the Board. Therefore, the proposed final sentence of these sections has been deleted. IRRC also inquired as to whether an individual could apply for another temporary practice permit, and whether the provision was necessary given that the permit is valid for only 1 year and nonrenewable. Finally, IRRC asked the Board to clarify the intent of subsection (d) and explain why it is necessary. Regarding whether subsection (d) is necessary, the remaining provision (a temporary practice permit is valid for a maximum of 1 year and is nonrenewable) is necessary because without the subsection the graduate of a pedorthic or orthotic fitter education program could practice forever without ever taking the certification examination. The act contemplates that licensure is required to provide services to the public; accordingly, the Board cannot create a permit that would allow individuals to indefinitely circumvent the licensure requirement. The Board’s intent is that an individual may obtain one temporary practice permit which is valid for a maximum period of 1 year.

Regarding §§ 18.842 and 18.843 (relating to orthotic fitting care experience; and orthotic fitter license), IRRC asked the Board to explain why it required that the orthotic fitting care experience of an applicant for licensure have been completed “under direct supervision” whereas Act 90 required that the orthotic fitting care experience of an applicant be “documented.” IRRC asked the Board to explain how its regulatory provisions conform to the intent of the General Assembly and why it is reasonable and necessary for the experience to have been supervised. First, § 18.842 pertains to an individual with a temporary practice permit who is authorized to practice only under direct supervision as an exception to the general requirement that a person be fully licensed to

provide patient care as an orthotic fitter. The Board determined that to protect the public health and safety, direct supervision should be required. However, as § 18.843 pertains to the qualifications necessary for full licensure, the Board acknowledges that some applicants may apply to the Board with experience gained in other states, many of which do not require licensure. Others may apply based on education and experience that was obtained prior to the passage of Act 90. Therefore, the Board deleted “supervised” from § 18.843(b)(3). The Board clarified that the requirement that the orthotic fitting experience be “documented” requires more than the applicant’s assertion that the applicant completed 1,000 hours of fitting experience. Verification of the 1,000-hour requirement by an applicant’s employer, supervisor or referral source is consistent with the verification source for the other licensees under Act 90.

Regarding § 18.851 (relating to scope and standards of practice), IRRC questioned the clarity and reasonableness of the requirement that a licensee may not accept a prescription or referral for care when the licensee “knows, or has good cause to believe, that the device cannot be furnished within a reasonable period of time.” IRRC asked what would be a reasonable period of time and opined that the Board’s language does not set a binding norm. IRRC suggested that the Board revise the subsection to set clear compliance standards.

Health care professions refer to accepted standards of care or practice because it is impossible to precisely define a set numerical standard for all circumstances and situations due to the variability of a patient’s condition. Thus, no time certain can be provided. Despite the inability of the Board to set a time certain that would apply for all patients in all circumstances and situations, the Board believes its regulation sets a binding norm just as does the statutory language that provides that a practitioner can be disciplined for providing a service at a level beneath the standard of care for a practitioner which would be normally exercised by the average professional in this Commonwealth. See section 41(8)(ii) of the act (63 P.S. § 422.41(8)(ii)). The Board amended § 18.851 by adding language similar to that in section 41(8) of the act, specifically, by adding “as would be consistent with the standard of care of the average professional providing the service in this Commonwealth.”

Regarding § 18.852, IRRC correctly noted that the regulated community is divided on this section. IRRC asked the Board to explain how § 18.852 implements Act 90, particularly as it relates to section 13.5(j) of the act (which provides, in pertinent part, that any person who is not licensed as a prosthetist, orthotist, pedorthist or orthotic fitter may not practice prosthetics, orthotics, pedorthics or orthotic fitting) and how this section conforms to the intent of the General Assembly. One segment of the regulated community asserted that Act 90 does not provide for assistants, technicians or support personnel. The opposing segment of the regulated community asserted not only that Act 90 allows licensees to delegate simple tasks within their scope of practice, including basic orthotic fittings, diabetic shoes and diabetic inserts. These commentators further asserted that the licensees should be allowed to provide only indirect supervision to unlicensed persons performing these tasks.

The Board believes that neither side in the debate is entirely correct. In health care, there are both licensed and unlicensed individuals providing a range of services to patients. Examples of unlicensed individuals include certified nursing aides, medication aides, medical assis-

tants and laboratory technicians. The Board agrees that the act prohibits the unlicensed practice of prosthetics, orthotics, pedorthics or orthotic fitting. However, members of the regulated community informed the Board that there are two types of unlicensed assistive personnel that have routinely been used in the orthotic and prosthetic profession. For this reason, the Board named and defined these types of unlicensed individuals.

The first type is the orthotic and prosthetic assistant, which is an unlicensed individual who, under direct supervision, assists an orthotist or prosthetist with patient care tasks. These assistants may not engage in unsupervised patient care; rather, they assist the orthotist or prosthetist by performing tasks assigned by the orthotist or prosthetist. An example of a task that might be performed by an orthotic assistant would be performing a follow-up check to see if there is any dermal disturbance at the site of an orthosis. The second type is the orthotic and prosthetic technician, an unlicensed individual who provides technical support to an orthotist or prosthetist and who may fabricate, assemble, modify and service devices to the specifications of the orthotist or prosthetist. These individuals do not provide patient care; rather, they provide technical support. An example of a task that might be performed by a prosthetic technician would be painting an artificial hand to match the patient’s skin or pouring plastic into a mold provided by the orthotist or prosthetist. Because both of these types of unlicensed assistive personnel are commonplace in the orthotic and prosthetic profession (ABC provides certification programs for “O&P assistants” and “O&P technicians”) and are recognized in nearly every other state that licenses orthotists and prosthetists, and because their duties are not so expansive as to constitute the practice of orthotics and prosthetics, the Board determined that the regulation should address these individuals.

In its regulation, the Board also recognizes pedorthic support personnel, who are unlicensed individuals who, under the direct supervision of a pedorthist, assist a pedorthist in the provision of pedorthic care. The Board includes these individuals at the request of members of the regulated community who indicated that they utilized support personnel in their pedorthic practices, but who understood that these individuals could not perform the tasks of any licensee, including an orthotic fitter. Just as orthotic and prosthetic assistants and technicians cannot practice prosthetics or orthotics, pedorthic support personnel may not practice prosthetics, orthotics, pedorthics or orthotic fitting. Pedorthics is defined in the act to include measuring patients for a pedorthic device and also to include fitting and adjusting a pedorthic device. Because the use of a “crush box” is for the purpose of measuring patients for a pedorthic device, only a pedorthist may perform this task. Pedorthic support personnel could be involved in teaching patients how to maintain pedorthic devices, cleaning pedorthic devices for patients, and the like.

As to the commentators who suggested that unlicensed individuals should be permitted to do orthotic fittings including diabetic shoes and inserts, the amendment in Act 104 conclusively established that fitting all therapeutic shoes requires, at a minimum, licensure as an orthotic fitter. The amendment added “therapeutic shoes” to the list of devices within the scope of practice of an orthotic fitter. Because even simple diabetic shoes and inserts are therapeutic and are pedorthic devices that are fitted or adjusted for the individual patient, pedorthic support personnel would be prohibited from fitting or adjusting

diabetic shoes. Accordingly, unlicensed individuals may not fit diabetic shoes and inserts, no matter how simple they appear. Because pedorthic support personnel cannot perform orthotic fittings, including diabetic shoes and inserts, the Board believes that the second group of commentators may no longer have an interest in the level of supervision that shall be provided to these individuals. The Board believes that direct supervision is the most appropriate level of supervision for assistants and pedorthic support personnel.

IRRC asked if the Board considered the economic or fiscal impacts on those in the regulated community who would not desire or qualify for licensure. If IRRC is asking whether individuals who might have been interested in practicing one of the newly-regulated professions would be deterred by the costs of licensure, the Board finds the inquiry too speculative as the Board would have no way to determine how many individuals in this Commonwealth might have thought of entering one of these professions, but changed their minds because of the costs associated with licensure. The Board believes that the General Assembly would have considered this generalized cost of licensure before determining that it was in the public interest to require licensure.

IRRC also asked if the Board had considered the economic or fiscal impacts on entities which would be required to have a licensed prosthetist, orthotist or pedorthist present to provide direct supervision, and asked the Board to address these costs in the Regulatory Analysis Form. Because only a licensee may actually practice these professions, and because the work done by an orthotic and prosthetic assistant, orthotic and prosthetic technician, and pedorthic support personnel is solely in a supporting role to a licensee, there would be no additional cost to supervising support personnel. On the contrary, to the extent that support personnel free up the time of licensees to provide direct patient care, there would be an economic benefit to support personnel, not a deficit.

IRRC questioned whether references to “the practitioner” in § 18.852(a)(6) were references to the same individual called “the practitioner delegating the task.” That was the Board’s intent. However, this section has been completely rewritten to address supervision and assistance by the various types of unlicensed assistive personnel, rather than delegation to clarify the Board’s understanding of the role of assistants, technicians and support personnel.

IRRC asked the Board to clarify the relationship between the misconduct provisions in § 18.853 (relating to unprofessional and immoral conduct) and those in § 16.61 (relating to unprofessional and immoral conduct). The Board addressed this by amendments made to § 18.853(b)(1) and (c). Section 16.61 is a general section applying to all Board-regulated practitioners and is cross-referenced in this final-form rulemaking. Section 18.853 is intended to apply specifically to prosthetists, orthotists, pedorthists and orthotic fitters. IRRC was also concerned that § 18.853(b)(13) was confusing as written. The Board has rewritten the paragraph to aid clarity.

IRRC asked the Board to add a reference in § 18.861 to section 13.5(g)(2) of the act, which provides for continuing education requirements for pedorthists and orthotic fitters. The Board added the reference. IRRC asked the Board to review the regulation for consistency in how it addressed licensees’ certification. The Board did so and more fully discusses this in its response to BOC’s comments. IRRC questioned whether it was necessary to

reference the disciplinary section of the act in each section of the regulations explaining each license or permit type. While technically not necessary, the Board wanted to clearly provide notice to applicants of the grounds for denial of a license. Therefore, the Board determined that it should maintain the reference in each section. IRRC noted some inconsistent wording among parallel sections. The Board revised this final-form rulemaking for consistency.

Comments following the ANFR

The Board sent a draft of the final rulemaking to stakeholders and published an ANFR at 45 Pa.B. 5682 (September 19, 2015). The Board received additional comments during the 30-day public comment period and months afterward, as late as February 2016. In late February 2016, a Board representative met with POPS’ counsel to address POPS’ concerns and to ensure that this final-form rulemaking protected the public and was consistent with current practices in the professions. POPS continued to object to the use of “assistant” and preferred “support personnel.” However, as “assistant” is used in 12 of the 13 states which license prosthetists and orthotists, the Board retains the term.

The Board also received identical comments from RJH and the Pennsylvania Pharmacists Association requesting that the Board include definitions of “health care practitioner” and “pharmacist” and add a regulation to repeat the exceptions provision in section 15.5 of the act (63 P.S. § 422.15e). According to these groups, CMS “may take this regulation at face value and restrict pharmacists. . . from dispensing diabetic shoes and certain orthotic products.” The Board declines to include the statutory exceptions in the regulations. First, the Board believes it is highly unlikely that CMS or any other Federal agency would ignore the plain provisions of the act. Second, regulations add clarification to procedures and policies regarding professions; regulations are not a substitute to the act and it would be improper for CMS to determine that issues not addressed in regulations are unregulated in light of clear statutory language. Finally, the Board regulates approximately a dozen health-related professions, has not included any statutory exceptions in the regulations of those professions and finds no compelling reason to deviate in this instance.

The Board received comments from Tom Sedlak, Executive Director, Pennsylvania Association of Medical Suppliers, asking if a prefabricated orthotic device includes “step in/impression box” or whether it means “prefabricated heat molded” devices. Act 104 amended the orthotic fitter scope of practice to specifically provide that orthotic fitting includes measuring, fitting, dispensing and adjusting prefabricated devices including therapeutic shoes. The act defines custom-fabricated and custom-fitted devices, and limits to only prosthetists, orthotists and pedorthists the provision of these devices. Custom-fabricated, by statutory definition, includes devices “fabricated to comprehensive measurements or a mold.”

BOC submitted additional comments on February 1, 2016, noting that §§ 18.814 and 18.824 needed minor adjustment to be parallel; the Board made the adjustment. BOC also noted that the Board had not copied all provisions of the act regarding exceptions. As previously discussed, statutory exception provisions do not appear in any of the Board’s regulations of health-related professionals and the Board declines to include them in these regulations. The statutory provisions are fully enforceable.

Description of amendments to this final-form rulemaking

The Board amended §§ 16.11 and 16.13 to delete the alternate pathway for licensure which has expired and to make the sections internally consistent.

In § 18.802, the Board amended the definitions of “ABC” and “BOC” to clarify that these organizations are approved by the Board. The Board combined the proposed definitions of “custom-designed device” and “custom-fabricated device” in recognition of the similarity between the two. In the definition of “ICE,” the Board clarified that the term includes a successor organization.

As IRRC requested the Board regulate the titles that may be used by individuals with a graduate permit, provisional license or temporary permit, the Board has added definitions for “orthotic fitter trainee,” “orthotist resident,” “pedorthist trainee,” “prosthetist resident,” “provisionally-licensed orthotist” and “provisionally-licensed prosthetist.” The Board also moved the qualifying language “pursuant to a written prescription of a licensed prescribing practitioner” from the definitions of “orthotist,” “pedorthist” and “prosthetist” to the definitions of “orthotics,” “pedorthics” and “prosthetics” as the phrase more properly defines the practice and not the individual licensee.

Additionally, the Board revised to the definitions of “orthotic and prosthetic assistant,” “orthotic and prosthetic technician” and “pedorthic support personnel” in response to public comments as previously discussed.

Amendments regarding qualifications for licensure as a prosthetist

The Board amended § 18.811 to incorporate the title “prosthetist resident” and to include clarifying language regarding how an applicant can demonstrate each qualification to obtain a graduate permit. The Board also added an example of other applicable law that could result in the denial of an application and has eliminated superfluous language. The Board amended § 18.812 to clarify that a prosthetist resident completing a clinical residency in this Commonwealth shall practice under the direct supervision of a licensed prosthetist.

The Board amended §§ 18.813 and 18.814 to incorporate the relevant titles and to include clarifying language regarding how an applicant can demonstrate each qualification to obtain a license. These sections are also amended to add an example of other applicable law that could result in the denial of an application and to eliminate superfluous language. Section 18.814(b)(4) was also amended to add “another prosthetic credentialing organization whose certification program is recognized by ICE, accredited by NCCA and approved by the Board” to the list of possible certifications. This amendment was made because the Board is aware that BOC announced its intent to discontinue issuing new certifications for prosthetists after July 2016 and another credentialing organization may choose to fill the void created by BOC’s departure from the field. Although no new certifications will be issued, BOC will continue to renew existing certifications for prosthetists.

Proposed § 18.815 was withdrawn as this pathway to licensure has expired. Additionally, § 18.816 was withdrawn and its provisions moved to more clearly define the documentation needed to demonstrate the qualifications for a graduate permit, a provisional prosthetist license or a prosthetist license.

Amendments regarding qualifications for licensure as an orthotist

The Board amended § 18.821 to incorporate the title “orthotist resident” and to include clarifying language regarding how an applicant can demonstrate each qualification to obtain a graduate permit. The Board also added an example of other applicable law that could result in the denial of an application and has eliminated superfluous language. The Board amended § 18.822 to clarify that an orthotist resident completing a clinical residency in this Commonwealth shall practice under the direct supervision of a licensed orthotist.

The Board amended §§ 18.823 and 18.824 to incorporate the relevant titles and to include clarifying language relating to how an applicant can demonstrate each qualification to obtain a license. These sections were also amended to add an example of other applicable law that could result in the denial of an application and to eliminate superfluous language. Section 18.824(b)(4) was amended to allow for certification by another orthotic credentialing organization approved by the Board. This amendment was made because BOC announced its intent to discontinue issuing new certifications for orthotists after July 2016 and another credentialing organization may choose to fill the void created by BOC’s departure from the field. Although no new certifications will be issued, BOC will continue to renew existing certifications for orthotists.

Proposed § 18.825 was withdrawn as this pathway to licensure has expired. Additionally, § 18.826 was withdrawn and its provisions moved to more clearly define the documentation needed to demonstrate the qualifications for a graduate permit, a provisional orthotist license or an orthotist license.

Amendments regarding qualifications for licensure as a pedorthist

The Board amended § 18.831 to make stylistic edits, to incorporate the title “pedorthist trainee” and to include clarifying language regarding how an applicant can demonstrate each qualification to obtain a temporary practice permit. The Board also amended this section to clarify that an NCOPE-approved pedorthic education program is required. The Board deleted the concept of “equivalence” because any equivalent training would not qualify an applicant for certification, which is a separate requirement for licensure. The Board believes it would be a disservice to applicants to accept other “equivalent” training for purposes of granting a temporary practice permit, knowing that the applicant would have to complete an NCOPE-approved education program to achieve certification and qualify for a license. The Board also added an example of other applicable law that could result in the denial of an application and has eliminated superfluous language.

Section 18.832 has been amended to incorporate the title “pedorthist trainee” and to provide for direct supervision by a licensed prosthetist, orthotist or pedorthist in response to public comments. Section 18.833 has been amended consistent with § 18.831 to eliminate the concept of “equivalent” education in recognition of the fact that completion of an NCOPE-approved pedorthic precertification education program is required to obtain certification, and certification is required to obtain licensure. It has also been amended to include clarifying language about how an applicant can demonstrate each qualification for licensure. Section 18.833(b)(4) has also been amended to include “another pedorthic credentialing

organization whose program is recognized by ICE, accredited by NCCA and approved by the Board.” BOC announced its intention to discontinue issuing new certifications for pedorthists after July 2016 and the Board wants to provide for the possibility of another organization entering the field. In addition, § 18.833 has been amended to add an example of other applicable law that could result in the denial of a license and to eliminate superfluous language. Proposed §§ 18.834 and 18.835 were withdrawn.

Amendments regarding qualifications for licensure as an orthotic fitter

Sections 18.841—18.843 have been amended to incorporate the title “orthotic fitter trainee” and to add clarifying language about how an applicant can demonstrate each qualification. Sections 18.841(b)(2) and 18.843(b)(2) have been amended to clarify that to qualify for a temporary permit or orthotic fitter license, an applicant shall have completed an ABC-approved or BOC-approved orthotic fitter precertification education program. NCOPE announced in 2015 that it would no longer approve orthotic fitter education programs. The Board is eliminating the “equivalent” education option because anything other than an ABC-approved or BOC-approved program would not lead to certification. While BOC announced its intent to discontinue issuing certifications for prosthetists, orthotists and pedorthists, it will continue to issue certifications to orthotic fitters. However, the Board amended § 18.843(b)(4) to allow certification from another orthotic fitter credentialing organization whose program is recognized by ICE, accredited by NCCA and approved by the Board to be internally consistent with the prior sections. Proposed §§ 18.844 and 18.845 were withdrawn as are no longer necessary.

Amendments regarding the regulation of practice

The Board amended § 18.851 to clarify that the standard for the provision of prosthetic, orthotic or pedorthic devices would be “within a reasonable period of time as would be consistent with the standard of care of the average professional providing the service in this Commonwealth” in response to IRRC’s comment about establishing a binding norm. With regard to § 18.852, the Board renamed this section “supervision and assistance” and significantly revised it in response to stakeholder comments. It now provides standards for assigning tasks to orthotic and prosthetic assistants, orthotic and prosthetic technicians and pedorthic support personnel, while the licensee remains ultimately responsible for the completed tasks.

Section 18.853 has been amended to cross-reference the more general provisions in § 16.61. Subsection (b)(11) has been revised to refer to supervision and assistance of unlicensed assistive personnel (orthotic and prosthetic assistants and technicians, and pedorthic support personnel). Subsection (b)(13) has been amended for clarity in response to a comment by IRRC.

Amendments regarding biennial renewal and reactivation

Section 18.861 has been amended to refer to the term of art “disposition in lieu of trial” which had been edited by the Legislative Reference Bureau according to the *Pennsylvania Code & Bulletin Style Manual*. This is a legal term of art used in criminal law that refers to a specific type of disposition of a criminal matter. See, for example, section 18 of The Controlled Substance, Drug, Device and Cosmetic Act (35 P.S. § 780-118). In addition, as requested by IRRC, subsection (b)(5) has been amended to include a cross-reference to section 13.5(g)(2) of the act.

Section 18.862 (relating to continuing education) has been amended to clarify that continuing education courses must be approved by ABC or BOC. The Board also amended subsection (a)(4) to delete the proviso “if licensure occurred within 3 years of completion of the approved educational program.” The Board made this change to be consistent with how all other licensure categories are handled.

Section 18.863 (relating to inactive and expired status of licenses; reactivation of inactive or expired license) has been amended to clarify that a licensee whose license has been inactive for more than 2 years and who has not been engaged in practice in another jurisdiction shall demonstrate continued competence by passing the initial certification examination offered by ABC, BOC or another credentialing organization whose certification program is recognized by ICE, accredited by NCCA and approved by the Board. In that BOC announced its intention to discontinue the initial examinations for certification as a prosthetist, orthotist and pedorthist after July 2016, the Board wanted to provide for the possibility of another certification organization entering the field.

Fiscal Impact and Paperwork Requirements

The statutory requirements that prosthetists, orthotists, pedorthists and orthotic fitters obtain and renew licenses to practice, obtain and maintain professional liability insurance and complete continuing education biennially will have a fiscal impact and impose paperwork requirements on the regulated community.

The new requirements will also have a fiscal impact and will impose additional paperwork requirements on the Commonwealth, specifically the Board, which is charged with administering the act. However, the costs to the Board will be recouped through application fees and biennial renewal fees.

Sunset Date

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

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on June 30, 2014, the Board submitted a copy of the notice of proposed rulemaking, published at 44 Pa.B. 4364, to IRRC and the Chairpersons of the HPLC and the Senate Consumer Protection and Professional Licensure Committee (SCP/PLC) for review and comment.

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

Under section 5.1(j.2) of the Regulatory Review Act (71 P.S. § 745.5a(j.2)), on September 14, 2016, the final-form rulemaking was deemed approved by the HPLC and the SCP/PLC. Under section 5.1(e) of the Regulatory Review Act, IRRC met on September 15, 2016, and approved the final-form rulemaking.

Contact Person

Interested persons may obtain information regarding the final-form rulemaking by writing to Suzanne Zerbe, Board Administrator, State Board of Medicine, P.O. Box 2649, Harrisburg, PA 17105-2649, ST-MEDICINE@pa.gov.

Findings

The Board finds that:

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

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

(3) The amendments to the final-form rulemaking do not enlarge the purpose of the proposed rulemaking published at 44 Pa.B. 4364.

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

Order

The Board orders that:

(a) The regulations of the Board, 49 Pa. Code Chapters 16 and 18, are amended by adding §§ 18.801, 18.802, 18.811—18.814, 18.821—18.824, 18.831—18.833, 18.841—18.843, 18.851—18.853 and 18.861—18.864 and amending §§ 16.11 and 16.13 to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.

(*Editor's Note:* Proposed §§ 18.815, 18.816, 18.825, 18.826, 18.834, 18.835, 18.844 and 18.845 included in the proposed rulemaking have been withdrawn by the Board.)

(b) The Board shall submit this order and Annex A to the Office of General Counsel and to the Office of Attorney General as required by law.

(c) The Board shall submit this order and Annex A to IRRIC, the HPLC and the SCP/PLC as required by law.

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

(e) This order shall take effect on publication in the *Pennsylvania Bulletin*.

MARILYN J. HEINE, MD, FACEP, FACP,
Chairperson

(*Editor's Note:* See 46 Pa.B. 6195 (October 1, 2016) for IRRIC's approval order.)

Fiscal Note: Fiscal Note 16A-4943 remains valid for the final adoption of the subject regulations.

Annex A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

CHAPTER 16. STATE BOARD OF MEDICINE—GENERAL PROVISIONS

Subchapter B. GENERAL LICENSE, CERTIFICATION AND REGISTRATION PROVISIONS

§ 16.11. Licenses, certificates and registrations.

(a) The following medical doctor licenses are issued by the Board:

- (1) License without restriction.
- (2) Institutional license.
- (3) Extraterritorial license.

- (4) Graduate license.
- (5) Temporary license.
- (6) Interim limited license.
- (b) The following nonmedical doctor licenses and certificates are issued by the Board:
 - (1) Nurse-midwife license.
 - (2) Nurse-midwife certificate of prescriptive authority.
 - (3) Physician assistant license.
 - (4) Acupuncturist license.
 - (5) Practitioner of Oriental medicine license.
 - (6) Behavior specialist license.
 - (7) Athletic trainer license.
 - (8) Perfusionist license.
 - (9) Respiratory therapist license.
 - (10) Genetic counselor license.
 - (11) Prosthetist license.
 - (12) Orthotist license.
 - (13) Pedorthist license.
 - (14) Orthotic fitter license.
 - (15) Graduate prosthetist permit.
 - (16) Provisional prosthetist license.
 - (17) Graduate orthotist permit.
 - (18) Provisional orthotist license.
 - (19) Temporary practice permit—pedorthist.
 - (20) Temporary practice permit—orthotic fitter.
- (c) The following registrations are issued by the Board:
 - (1) Registration as a supervising physician of a physician assistant.
 - (2) Biennial registration of a license without restriction.
 - (3) Biennial registration of an extraterritorial license.
 - (4) Biennial registration of a midwife license.
 - (5) Biennial registration of a physician assistant license.
 - (6) Biennial registration of a drugless therapist license.
 - (7) Biennial registration of a limited license—permanent.
 - (8) Biennial registration of an acupuncturist license.
 - (9) Biennial registration of a practitioner of Oriental medicine license.
 - (10) Biennial registration of a behavior specialist license.
 - (11) Biennial registration of athletic trainer license.
 - (12) Biennial registration of a perfusionist license.
 - (13) Biennial registration of a respiratory therapy license.
 - (14) Biennial registration of a genetic counselor license.
 - (15) Biennial registration of a prosthetist license.
 - (16) Biennial registration of an orthotist license.
 - (17) Biennial registration of a pedorthist license.
 - (18) Biennial registration of an orthotic fitter license.

§ 16.13. Licensure, certification, examination and registration fees.

* * * * *

(m) *Genetic Counselor License:*

- Application for genetic counselor license \$50
- Application for uncertified genetic counselor license \$100
- Biennial renewal of genetic counselor license \$75
- Application for reactivation of genetic counselor license \$50
- Application for temporary provisional genetic counselor license \$50

(n) *Prosthetists:*

- Application for prosthetist license \$50
- Biennial renewal of prosthetist license \$75
- Application for reactivation of prosthetist license .. \$50
- Application for graduate prosthetist permit \$50
- Application for provisional prosthetist license \$50

(o) *Orthotists:*

- Application for orthotist license \$50
- Biennial renewal of orthotist license \$75
- Application for reactivation of orthotist license \$50
- Application for graduate orthotist permit \$50
- Application for provisional orthotist license \$50

(p) *Pedorthists:*

- Application for pedorthist license \$25
- Biennial renewal of pedorthist license \$75
- Application for reactivation of pedorthist license .. \$25
- Application for pedorthist temporary permit \$25

(q) *Orthotic Fitters:*

- Application for orthotic fitter license \$25
- Biennial renewal of orthotic fitter license \$75
- Application for reactivation of orthotic fitter license \$25
- Application for orthotic fitter temporary permit ... \$25

CHAPTER 18. STATE BOARD OF MEDICINE—PRACTITIONERS OTHER THAN MEDICAL DOCTORS

Subchapter L. PROSTHETISTS, ORTHOTISTS, PEDORTHISTS AND ORTHOTIC FITTERS

GENERAL PROVISIONS

- Sec. 18.801. Purpose.
- 18.802. Definitions.

QUALIFICATIONS FOR LICENSURE AS A PROSTHETIST

- 18.811. Graduate permit.
- 18.812. Clinical residency.
- 18.813. Provisional prosthetist license.
- 18.814. Prosthetist license.

QUALIFICATIONS FOR LICENSURE AS AN ORTHOTIST

- 18.821. Graduate permit.
- 18.822. Clinical residency.
- 18.823. Provisional orthotist license.
- 18.824. Orthotist license.

QUALIFICATIONS FOR LICENSURE AS A PEDORTHIST

- 18.831. Temporary practice permit.
- 18.832. Patient fitting experience.
- 18.833. Pedorthist license.

QUALIFICATIONS FOR LICENSURE AS AN ORTHOTIC FITTER

- 18.841. Temporary practice permit.
- 18.842. Orthotic fitting care experience.
- 18.843. Orthotic fitter license.

REGULATION OF PRACTICE

- 18.851. Scope and standards of practice.
- 18.852. Supervision and assistance.
- 18.853. Unprofessional and immoral conduct.

BIENNIAL RENEWAL AND REACTIVATION

- 18.861. Biennial renewal of license.
- 18.862. Continuing education.
- 18.863. Inactive and expired status of licenses; reactivation of inactive or expired license.
- 18.864. Professional liability insurance coverage for licensed prosthetist, orthotist, pedorthist or orthotic fitter.

GENERAL PROVISIONS

§ 18.801. Purpose.

This subchapter implements section 13.5 of the act (63 P.S. § 422.13e), regarding prosthetists, orthotists, pedorthists and orthotic fitters.

§ 18.802. Definitions.

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

ABC—American Board for Certification in Orthotics, Prosthetics & Pedorthics, Inc., a Board-approved organization with certification programs accredited by NCCA. The term includes a successor organization.

Accommodative—Designed with a primary goal of conforming to an individual’s anatomy.

BOC—Board of Certification/Accreditation International, Inc., a Board-approved organization with certification programs accredited by NCCA. The term includes a successor organization.

CAAHEP—Commission on Accreditation of Allied Health Education Programs, recognized by the Council for Higher Education Accreditation to accredit prosthetic and orthotic education programs.

Custom-designed or custom-fabricated device—A prosthesis, orthosis or pedorthic device that is designed or fabricated to comprehensive measurements or a patient model or mold for use by a patient in accordance with a prescription and which requires substantial clinical and technical judgment in its design, fabrication and fitting.

Custom-fitted or custom-modified device—A prefabricated prosthesis, orthosis or pedorthic device to accommodate the patient’s measurement that is sized or modified for use by the patient in accordance with a prescription and which requires substantial clinical judgment and substantive alteration in its design for appropriate use.

Hour of continuing education—At least 50 minutes of instruction, including relevant question and answer sessions, in an approved course of continuing education or an equivalent time that an online or correspondence course would be presented live.

ICE—The Institute for Credentialing Excellence, previously known as the National Organization for Competency Assurance. The term includes a successor organization.

Licensed prescribing practitioner—A physician, podiatrist, certified registered nurse practitioner or physician assistant, licensed by the practitioner's respective licensing board, who may issue orders and prescriptions to a prosthetist, orthotist, pedorthist or orthotic fitter.

NCCA—National Commission for Certifying Agencies or its successor.

NCOPE—National Commission on Orthotic and Prosthetic Education, an organization that approves precertification education courses for pedorthists and accredits residency programs for prosthetists and orthotists.

Orthosis—A custom-designed, custom-fabricated, custom-fitted or custom-modified device designed to externally provide support, alignment or prevention to the body or a limb for the purposes of correcting or alleviating a neuromuscular or musculoskeletal disease, injury or deformity.

Orthotic fitter—An individual who is licensed by the Board to practice orthotic fitting.

Orthotic fitter trainee—An individual who holds an orthotic fitter temporary practice permit issued by the Board and who is authorized to practice in accordance with § 18.842 (relating to orthotic fitting care experience).

Orthotic fitting—The fitting, dispensing and adjusting of prefabricated orthotic devices pursuant to a written prescription of a licensed prescribing practitioner.

Orthotic and prosthetic assistant—An unlicensed individual who, under the direct supervision of the orthotist or prosthetist, assists with patient care tasks assigned by the orthotist or prosthetist.

Orthotic and prosthetic technician—An unlicensed individual who provides technical support to an orthotist or prosthetist and who may fabricate, assemble, modify and service devices to the specifications of a licensed orthotist or prosthetist.

Orthotics—The practice of evaluating, measuring, designing, fabricating, assembling, fitting, adjusting or servicing an orthosis for the correction or alleviation of neuromuscular or musculoskeletal dysfunction, disease, injury or deformity pursuant to a written prescription of a licensed prescribing practitioner.

Orthotist—An individual who is licensed by the Board to practice orthotics.

Orthotist resident—An individual who holds a graduate permit issued by the Board and who is authorized to practice in accordance with §§ 18.821 and 18.822 (relating to graduate permit; and clinical residency).

Over-the-counter orthoses and pedorthic devices—Prefabricated, mass-produced items that are prepackaged and do not require professional advice or judgment in either size selection or use, including fabric or elastic supports, corsets, generic arch supports and elastic hose.

Pedorthic device—

(i) Therapeutic shoes, shoe modifications made for therapeutic purposes, partial foot prostheses, foot orthoses and below-the-knee pedorthic modalities.

(ii) The term does not include the following:

(A) Nontherapeutic, accommodative inlays and nontherapeutic accommodative footwear, regardless of method of manufacture.

(B) Unmodified, nontherapeutic over-the-counter shoes.

(C) Prefabricated, unmodified or unmodifiable foot care and footwear products.

Pedorthic support personnel—An unlicensed individual who, under the direct onsite supervision of a pedorthist, assists a pedorthist in the provision of pedorthic care, or who provides technical support to a pedorthist, including fabricating, assembling, modifying and servicing pedorthic devices in accordance with the pedorthist's specifications. Pedorthic support personnel may not practice prosthetics, orthotics, pedorthics or orthotic fitting.

Pedorthics—The practice of evaluating, measuring, designing, fabricating, assembling, fitting, adjusting or servicing necessary to accomplish the application of a pedorthic device for the prevention or amelioration of painful or disabling conditions related to the lower extremities pursuant to a written prescription of a licensed prescribing practitioner.

Pedorthist—An individual who is licensed by the Board to practice pedorthics.

Pedorthist trainee—An individual who holds a temporary practice permit issued by the Board and who is authorized to practice in accordance with §§ 18.831 and 18.832 (relating to temporary practice permit; and patient fitting experience).

Podiatrist—An individual licensed under the Podiatry Practice Act (63 P.S. §§ 42.1—42.21c) to practice podiatry.

Prefabricated orthosis—

(i) A brace or support designed to provide for alignment, correction or prevention of neuromuscular or musculoskeletal dysfunction, disease, injury or deformity.

(ii) The term does not include fabric or elastic supports, corsets, arch supports, low-temperature plastic splints, trusses, elastic hose, canes, crutches, soft cervical collars, dental appliances or other similar devices carried in stock and sold as over-the-counter items.

Prosthesis—

(i) A custom-designed, custom-fabricated, custom-fitted or custom-modified device to replace an absent external limb for purposes of restoring physiological function that is not surgically implanted.

(ii) The term does not include the following:

(A) Artificial eyes, ears, fingers or toes.

(B) Dental appliances.

(C) Cosmetic devices such as breast prostheses, eyelashes or wigs.

(D) Other devices that do not have a significant impact on the musculoskeletal functions of the body.

Prosthetics—The practice of evaluating, measuring, designing, fabricating, assembling, fitting, adjusting or servicing a prosthesis pursuant to a written prescription of a licensed prescribing practitioner.

Prosthetist—An individual who is licensed by the Board to practice prosthetics.

Prosthetist resident—An individual who holds a graduate permit issued by the Board and who is authorized to practice in accordance with §§ 18.811 and 18.812 (relating to graduate permit; and clinical residency).

Provisionally-licensed orthotist—An individual who holds a provisional license issued by the Board and who is authorized to practice in accordance with § 18.823 (relating to provisional orthotist license).

Provisionally-licensed prosthetist—An individual who holds a provisional license issued by the Board and who is authorized to practice in accordance with § 18.813 (relating to provisional prosthetist license).

QUALIFICATIONS FOR LICENSURE AS A PROSTHETIST

§ 18.811. Graduate permit.

(a) Prior to providing direct patient care during a clinical residency, an individual shall submit an application, on forms made available by the Board, for a graduate permit that authorizes the individual to practice as a prosthetist resident. The Board may grant a graduate permit to an individual who submits a completed application including the necessary supporting documents, pays the application fee in § 16.13(n) (relating to licensure, certification, examination and registration fees) and meets the qualifications in subsection (b).

(b) The Board may issue a graduate permit to practice as a prosthetist resident to an applicant who:

- (1) Is of good moral character.
- (2) Has earned a bachelor's degree, post-baccalaureate certificate or higher degree from a CAAHEP-accredited education program with a major in prosthetics or prosthetics/orthotics. An applicant shall demonstrate this requirement by having the CAAHEP-accredited educational institution submit, directly to the Board, verification of completion of a bachelor's degree, post-baccalaureate certificate or higher degree in prosthetics or prosthetics/orthotics, along with an official copy of the applicant's transcript.
- (3) Has registered with NCOPE as a prosthetist or prosthetist/orthotist resident. An applicant shall demonstrate this requirement by having NCOPE submit, directly to the Board, proof that the applicant has registered for an NCOPE-accredited prosthetic or prosthetic/orthotic residency program.
- (4) Has complied with § 18.864 (relating to professional liability insurance coverage for licensed prosthetist, orthotist, pedorthist or orthotic fitter). An applicant shall demonstrate this requirement by submitting proof of professional liability insurance coverage through self-insurance, a personally purchased insurance policy or insurance provided by the applicant's employer in accordance with § 18.864.

(c) The Board may deny an application for a graduate permit upon the grounds for disciplinary action in section 41 of the act (63 P.S. § 422.41), § 16.61 or § 18.853 (relating to unprofessional and immoral conduct) or other applicable law, such as 18 Pa.C.S. § 9124 (relating to use of records by licensing agencies).

(d) A graduate permit is valid during the clinical residency and for up to 90 days after successful completion of the clinical residency or until a provisional license is issued, whichever occurs first. A graduate permit is nonrenewable.

(e) An individual holding a graduate permit may use the title "prosthetist resident" and shall inform patients that the individual is completing a residency training program and is not fully licensed.

§ 18.812. Clinical residency.

(a) A prosthetist resident shall practice only under the direct supervision of a licensed prosthetist within the clinical residency. For purposes of this section, "direct supervision" means the supervisor is available for consultation throughout the patient care process and is able to

visually assess the care being provided. The supervisor shall review the results of care and the documentation of the services rendered by the prosthetist resident and is responsible for countersigning within 15 days the entries in the patient's clinical record.

(b) The clinical residency shall be accredited by NCOPE.

(c) The clinical residency shall be obtained subsequent to education and be at all levels of prosthetic care.

§ 18.813. Provisional prosthetist license.

(a) An individual shall submit an application, on forms made available by the Board, for a provisional license which will authorize the individual to provide direct patient care, under direct supervision as defined in § 18.812(a) (relating to clinical residency), as a provisionally-licensed prosthetist following completion of a clinical residency. The Board may grant a provisional license to an individual who submits a completed application including the necessary supporting documents, pays the application fee in § 16.13(n) (relating to licensure, certification, examination and registration fees) and meets the qualifications in subsection (b).

(b) The Board may grant a provisional license to an individual who:

- (1) Is of good moral character.
- (2) Has earned a bachelor's degree, post-baccalaureate certificate or higher degree from a CAAHEP-accredited education program with a major in prosthetics or prosthetics/orthotics. Unless previously submitted under § 18.811(b)(2) (relating to graduate permit), an applicant shall demonstrate this requirement by having the CAAHEP-accredited educational institution submit, directly to the Board, verification of completion of a bachelor's degree, post-baccalaureate certificate or higher degree in prosthetics or prosthetics/orthotics, along with an official copy of the applicant's transcript.
- (3) Has completed an NCOPE-accredited clinical residency in prosthetics or prosthetics/orthotics. An applicant shall demonstrate this requirement by having the program director of the clinical residency program submit, directly to the Board, verification that the applicant completed an NCOPE-accredited clinical residency in prosthetics or prosthetics/orthotics.
- (4) Has complied with § 18.864 (relating to professional liability insurance coverage for licensed prosthetist, orthotist, pedorthist or orthotic fitter). An applicant shall demonstrate this requirement by submitting proof of professional liability insurance coverage through self-insurance, a personally purchased insurance policy or insurance provided by the applicant's employer in accordance with § 18.864.

(c) The Board may deny an application for a provisional license upon the grounds for disciplinary action in section 41 of the act (63 P.S. § 422.41), § 16.61 or § 18.853 (relating to unprofessional and immoral conduct) or other applicable law, such as 18 Pa.C.S. § 9124 (relating to use of records by licensing agencies).

(d) A provisional license is valid for a maximum of 2 years and is nonrenewable.

(e) An individual holding a provisional prosthetist license may use the title "provisionally-licensed prosthetist" and shall inform patients that the individual is not fully licensed.

§ 18.814. Prosthetist license.

(a) An applicant for a license to practice as a prosthetist shall submit, on forms made available by the Board, a completed application for licensure, including the necessary supporting documents and pay the application fee in § 16.13(n) (relating to licensure, certification, examination and registration fees).

(b) The Board may issue a license to practice as a prosthetist to an applicant who:

- (1) Is of good moral character.
- (2) Has earned a bachelor's degree, post-baccalaureate certificate or higher degree from a CAAHEP-accredited education program with a major in prosthetics or prosthetics/orthotics. Unless previously submitted under § 18.811(b)(2) or § 18.813(b)(2) (relating to graduate permit; and provisional prosthetist license), an applicant shall demonstrate this requirement by having the CAAHEP-accredited educational institution submit, directly to the Board, verification of completion of a bachelor's degree, post-baccalaureate certificate or higher degree in prosthetics or prosthetics/orthotics, along with an official copy of the applicant's transcript.

(3) Has completed a minimum of 3,800 hours of experience in providing direct patient care services in prosthetics or in prosthetics and orthotics over a 2-year period. An applicant shall demonstrate this requirement by having the applicant's employer or supervisor, the director of the applicant's clinical residency program or a referral source file a verification on a form provided by the Board. If verification is made by a referral source, it must include a copy of the applicant's Federal EIN and evidence of the date the applicant received the EIN.

(4) Holds current certification as a prosthetist, or as a prosthetist and orthotist, from ABC, BOC or another prosthetic credentialing organization whose certification program is recognized by ICE, accredited by NCCA and approved by the Board. An applicant shall demonstrate this requirement by having the organization send verification of certification directly to the Board.

(5) Has complied with § 18.864 (relating to professional liability insurance coverage for licensed prosthetist, orthotist, pedorthist or orthotic fitter). An applicant shall demonstrate this requirement by submitting proof of professional liability insurance coverage through self-insurance, a personally purchased insurance policy or insurance provided by the applicant's employer in accordance with § 18.864.

(c) The Board may deny an application for licensure as a prosthetist or upon the grounds for disciplinary action in section 41 of the act (63 P.S. § 422.41), § 16.61 or § 18.853 (relating to unprofessional and immoral conduct) or other applicable law, such as 18 Pa.C.S. § 9124 (relating to use of records by licensing agencies).

(d) An individual holding an active, unsuspended prosthetist license may use the title "prosthetist."

QUALIFICATIONS FOR LICENSURE AS AN ORTHOTIST

§ 18.821. Graduate permit.

(a) Prior to providing direct patient care during a clinical residency, an individual shall submit an application, on forms made available by the Board, for a graduate permit that authorizes the individual to practice as an orthotist resident. The Board may grant a graduate permit to an individual who submits a completed application including the necessary supporting documents, pays

the application fee in § 16.13(o) (relating to licensure, certification, examination and registration fees) and meets the qualifications in subsection (b).

(b) The Board may issue a graduate permit to practice as an orthotist to an applicant who:

- (1) Is of good moral character.
- (2) Has earned a bachelor's degree, post-baccalaureate certificate or higher degree from a CAAHEP-accredited education program with a major in orthotics or prosthetics/orthotics. An applicant shall demonstrate this requirement by having the CAAHEP-accredited educational institution submit, directly to the Board, verification of completion of a bachelor's degree, post-baccalaureate certificate or higher degree in orthotics or prosthetics/orthotics, along with an official copy of the applicant's transcript.

(3) Has registered with NCOPE as an orthotist or prosthetist/orthotist resident. An applicant shall demonstrate this requirement by having NCOPE submit, directly to the Board, proof that the applicant has registered for an NCOPE-accredited orthotic or prosthetic/orthotic residency program.

(4) Has complied with § 18.864 (relating to professional liability insurance coverage for licensed prosthetist, orthotist, pedorthist or orthotic fitter). An applicant shall demonstrate this requirement by submitting proof of professional liability insurance coverage through self-insurance, a personally purchased insurance policy or insurance provided by the applicant's employer in accordance with § 18.864.

(c) The Board may deny an application for a graduate permit upon the grounds for disciplinary action in section 41 of the act (63 P.S. § 422.41), § 16.61 or § 18.853 (relating to unprofessional and immoral conduct) or other applicable law, such as 18 Pa.C.S. § 9124 (relating to use of records by licensing agencies).

(d) A graduate permit is valid during the clinical residency and for up to 90 days after successful completion of the clinical residency or until a provisional license is issued, whichever occurs first. A graduate permit is nonrenewable.

(e) An individual holding a graduate permit may use the title "orthotist resident" and shall inform patients that the individual is completing a residency training program and is not fully licensed.

§ 18.822. Clinical residency.

(a) An orthotist resident shall practice only under the direct supervision of a licensed orthotist within the clinical residency. For purposes of this section, "direct supervision" means the supervisor is available for consultation throughout the patient care process and is able to visually assess the care being provided. The supervisor shall review the results of care and the documentation of the services rendered by the orthotist resident and is responsible for countersigning within 15 days the entries in the patient's clinical record.

(b) The clinical residency shall be accredited by NCOPE.

(c) The clinical residency shall be obtained subsequent to education and be at all levels of orthotic care.

§ 18.823. Provisional orthotist license.

(a) Following completion of the clinical residency, an individual may submit an application, on forms made available by the Board, for a provisional license which

will authorize the individual to provide direct patient care under direct supervision as defined in § 18.822(a) (relating to clinical residency). The Board may grant a provisional license to an individual who submits a completed application including the necessary supporting documents, pays the application fee in § 16.13(o) (relating to licensure, certification, examination and registration fees) and meets the qualifications in subsection (b).

(b) The Board may grant a provisional license to an individual who:

- (1) Is of good moral character.
- (2) Has earned a bachelor's degree, post-baccalaureate certificate or higher degree from a CAAHEP-accredited education program with a major in orthotics or prosthetics/orthotics. Unless previously submitted under § 18.821(b)(2) (relating to graduate permit), an applicant shall demonstrate this requirement by having the CAAHEP-accredited educational institution submit, directly to the Board, verification of completion of a bachelor's degree, post-baccalaureate certificate or higher degree in orthotics or prosthetics/orthotics, along with an official copy of the applicant's transcript.
- (3) Has completed an NCOPE-accredited clinical residency in orthotics or prosthetics/orthotics. An applicant shall demonstrate this requirement by having the program director of the clinical residency program submit, directly to the Board, verification that the applicant completed an NCOPE-accredited clinical residency in orthotics or prosthetics/orthotics.

(4) Has complied with § 18.864 (relating to professional liability insurance coverage for licensed prosthetist, orthotist, pedorthist or orthotic fitter). An applicant shall demonstrate this requirement by submitting proof of professional liability insurance coverage through self-insurance, a personally purchased insurance policy or insurance provided by the applicant's employer in accordance with § 18.864.

(c) The Board may deny an application for a provisional license upon the grounds for disciplinary action in section 41 of the act (63 P.S. § 422.41), § 16.61 or § 18.853 (relating to unprofessional and immoral conduct) or other applicable law, such as 18 Pa.C.S. § 9124 (relating to use of records by licensing agencies).

(d) A provisional license is valid for a maximum of 2 years and is nonrenewable.

(e) An individual holding a provisional orthotist license may use the title "provisionally-licensed orthotist" and shall inform patients that the individual is not fully licensed.

§ 18.824. Orthotist license.

(a) An applicant for a license to practice as an orthotist shall submit, on forms made available by the Board, a completed application for licensure, including the necessary supporting documents, and pay the application fee in § 16.13(o) (relating to licensure, certification, examination and registration fees).

(b) The Board may issue a license to practice as an orthotist to an applicant who:

- (1) Is of good moral character.
- (2) Has earned a bachelor's degree, post-baccalaureate certificate or higher degree from a CAAHEP-accredited education program with a major in orthotics or prosthetics/orthotics. Unless previously submitted under § 18.821(b)(2) or § 18.823(b)(2) (relating to graduate permit; and provisional orthotist license), an applicant shall

demonstrate this requirement by having the CAAHEP-accredited educational institution submit, directly to the Board, verification of completion of a bachelor's degree, post-baccalaureate certificate or higher degree in orthotics or prosthetics/orthotics, along with an official copy of the applicant's transcript.

(3) Has completed a minimum of 3,800 hours of experience in providing direct patient care services in orthotics or in prosthetics and orthotics over a 2-year period. An applicant shall demonstrate this requirement by having the applicant's employer or supervisor, the director of the applicant's clinical residency program or a referral source file a verification on a form provided by the Board. If verification is made by a referral source, it must include a copy of the applicant's Federal EIN and evidence of the date the applicant received the EIN.

(4) Holds current certification as an orthotist, or as a prosthetist and orthotist, from ABC, BOC or another orthotic credentialing organization whose certification program is recognized by ICE, accredited by NCCA and approved by the Board. An applicant shall demonstrate this requirement by having the organization send verification of certification directly to the Board.

(5) Has complied with § 18.864 (relating to professional liability insurance coverage for licensed prosthetist, orthotist, pedorthotist or orthotic fitter). An applicant shall demonstrate this requirement by submitting proof of professional liability insurance coverage through self-insurance, a personally purchased insurance policy or insurance provided by the applicant's employer in accordance with § 18.864.

(c) The Board may deny an application for licensure as an orthotist upon the grounds for disciplinary action in section 41 of the act (63 P.S. § 422.41), § 16.61 or § 18.853 (relating to unprofessional and immoral conduct) or other applicable law, such as 18 Pa.C.S. § 9124 (relating to use of records by licensing agencies).

(d) An individual holding an active, unsuspended orthotist license may use the title "orthotist."

QUALIFICATIONS FOR LICENSURE AS A PEDORTHIST

§ 18.831. Temporary practice permit.

(a) After completion of an NCOPE-approved pedorthic education program and prior to providing pedorthic patient care in this Commonwealth, an individual shall submit an application for a temporary practice permit authorizing the individual to practice as a pedorthist trainee on forms made available by the Board. The Board may grant a temporary practice permit to an applicant who submits a completed application including the necessary supporting documents, pays the application fee in § 16.13(p) (relating to licensure, certification, examination and registration fees) and meets the qualifications in subsection (b).

(b) The Board may issue a temporary practice permit to an applicant who:

- (1) Is of good moral character.
- (2) Has successfully completed an NCOPE-approved pedorthic precertification education program. An applicant shall demonstrate completion of an NCOPE-approved pedorthic precertification education program by having the educational institution submit, directly to the Board, verification of completion.
- (c) The Board may deny an application for a temporary practice permit upon the grounds for disciplinary action

in section 41 of the act (63 P.S. § 422.41), § 16.61 or § 18.853 (relating to unprofessional and immoral conduct) or other applicable law, such as 18 Pa.C.S. § 9124 (relating to use of records by licensing agencies).

(d) A temporary practice permit is valid for a maximum of 1 year and is nonrenewable.

(e) An individual holding a temporary practice permit may use the title “pedorthist trainee” and shall inform patients that the individual is completing a training program and is not fully licensed.

§ 18.832. Patient fitting experience.

(a) A pedorthist trainee with a temporary practice permit shall practice only under the direct supervision of a licensed prosthetist, orthotist or pedorthist within the work experience. For purposes of this section, “direct supervision” means the supervisor is available for consultation throughout the patient care process and is able to visually assess the care being provided. The supervisor shall review the results of care and the documentation of the services rendered by the pedorthist trainee and is responsible for countersigning within 15 days the entries in the patient’s clinical record.

(b) The supervised patient fitting experience shall be obtained subsequent to education and encompass all aspects of pedorthic care.

§ 18.833. Pedorthist license.

(a) An applicant for a license to practice as a pedorthist shall submit, on forms made available by the Board, a completed application for licensure, including the necessary supporting documents, and pay the application fee in § 16.13(p) (relating to licensure, certification, examination and registration fees).

(b) The Board may issue a license to practice as a pedorthist to an applicant who:

- (1) Is of good moral character.
- (2) Has successfully completed an NCOPE-approved pedorthic precertification education program. Unless previously submitted under § 18.831 (relating to temporary practice permit), an applicant shall demonstrate completion of an NCOPE-approved pedorthic precertification education program by having the educational institution submit, directly to the Board, verification of completion.

(3) Has completed a minimum of 1,000 hours of supervised patient fitting experience providing direct patient care in pedorthics. An applicant shall demonstrate this requirement by having the applicant’s employer, supervisor or a referral source file a verification on a form provided by the Board. If verification is made by a referral source, it must include a copy of the applicant’s Federal EIN and evidence of the date the applicant received the EIN.

(4) Holds current certification as a pedorthist from ABC, BOC or another pedorthic credentialing organization whose program is recognized by ICE, accredited by NCCA and approved by the Board. An applicant shall demonstrate this requirement by having the organization send verification of certification directly to the Board.

(5) Has complied with § 18.864 (relating to professional liability insurance coverage for licensed prosthetist, orthotist, pedorthist or orthotic fitter). An applicant shall demonstrate this requirement by submitting proof of professional liability insurance coverage through self-insurance, a personally purchased insurance policy or insurance provided by the applicant’s employer in accordance with § 18.864.

(c) The Board may deny an application for licensure as a pedorthist upon the grounds for disciplinary action in section 41 of the act (63 P.S. § 422.41), § 16.61 or § 18.853 (relating to unprofessional and immoral conduct) or other applicable law, such as 18 Pa.C.S. § 9124 (relating to use of records by licensing agencies).

(d) An individual holding an active, unsuspended pedorthist license may use the title “pedorthist.”

QUALIFICATIONS FOR LICENSURE AS AN ORTHOTIC FITTER

§ 18.841. Temporary practice permit.

(a) Prior to providing orthotic fitting care, an individual shall obtain a temporary practice permit authorizing the individual to practice orthotic fitting as an orthotic fitter trainee. An individual shall submit an application for a temporary practice permit on forms made available by the Board. The Board may grant a temporary practice permit to an individual who submits a completed application including the necessary supporting documents, pays the application fee in § 16.13(q) (relating to licensure, certification, examination and registration fees) and meets the qualifications in subsection (b).

(b) The Board may grant a temporary practice permit to an individual who:

- (1) Is of good moral character.
- (2) Has successfully completed an ABC-approved or BOC-approved orthotic fitter precertification education program. An applicant shall demonstrate completion of an ABC-approved or BOC-approved orthotic fitter precertification education program by having the educational institution submit, directly to the Board, verification of completion.

(c) The Board may deny an application for a temporary practice permit upon the grounds for disciplinary action in section 41 of the act (63 P.S. § 422.41), § 16.61 or § 18.853 (relating to unprofessional and immoral conduct) or other applicable law, such as 18 Pa.C.S. § 9124 (relating to use of records by licensing agencies).

(d) A temporary practice permit is valid for a maximum of 1 year and is nonrenewable.

(e) An individual holding a temporary practice permit may use the title “orthotic fitter trainee” and shall inform patients that the individual is completing a training program and is not fully licensed.

§ 18.842. Orthotic fitting care experience.

(a) An orthotic fitter trainee with a temporary practice permit shall practice only under the direct supervision of an orthotist or orthotic fitter licensed by the Board. For purposes of this section, “direct supervision” means the supervisor is available for consultation throughout the patient care process and is able to visually assess the care being provided. The supervisor shall review the results of care and the documentation of the services rendered by the orthotic fitter trainee and is responsible for countersigning within 15 days the entries in the patient’s clinical record.

(b) The orthotic fitting care experience shall be obtained subsequent to education.

§ 18.843. Orthotic fitter license.

(a) An applicant for a license to practice as an orthotic fitter shall submit, on forms made available by the Board, a completed application for licensure, including the neces-

sary supporting documents, and pay the application fee in § 16.13(q) (relating to licensure, certification, examination and registration fees).

(b) The Board may issue a license to practice as an orthotic fitter to an applicant who:

(1) Is of good moral character.

(2) Has successfully completed an ABC-approved or BOC-approved orthotic fitter precertification education program. Unless previously submitted under § 18.841 (relating to temporary practice permit), an applicant shall demonstrate completion of an ABC-approved or BOC-approved orthotic fitter precertification education program by having the educational institution submit, directly to the Board, verification of completion.

(3) Has completed a minimum of 1,000 hours of documented orthotic fitting care experience. An applicant shall demonstrate this requirement by having the applicant's employer, supervisor or a referral source file a verification on a form provided by the Board. If verification is made by a referral source, it must include a copy of the applicant's Federal EIN and evidence of the date the applicant received the EIN.

(4) Holds current certification as an orthotic fitter from ABC, BOC or another orthotic fitter credentialing organization whose program is recognized by ICE, accredited by NCCA and approved by the Board. An applicant shall demonstrate this requirement by having the organization send verification of certification directly to the Board.

(5) Has complied with § 18.864 (relating to professional liability insurance coverage for licensed prosthetist, orthotist, pedorthist or orthotic fitter). An applicant shall demonstrate this requirement by submitting proof of professional liability insurance coverage through self-insurance, a personally purchased insurance policy or insurance provided by the applicant's employer in accordance with § 18.864.

(c) The Board may deny an application for licensure as an orthotic fitter upon the grounds for disciplinary action in section 41 of the act (63 P.S. § 422.41), § 16.61 or § 18.853 (relating to unprofessional and immoral conduct) or other applicable law, such as 18 Pa.C.S. § 9124 (relating to use of records by licensing agencies).

(d) An individual holding an active, unsuspended orthotic fitter license may use the title "orthotic fitter."

REGULATION OF PRACTICE

§ 18.851. Scope and standards of practice.

(a) Prior to providing services to a patient, a prosthetist, orthotist, pedorthist or orthotic fitter shall review the prescription and referral or valid order of the licensed prescribing practitioner and understand conditions or restrictions placed on the course of treatment by the licensed prescribing practitioner.

(b) Prior to providing services to a patient, a prosthetist, orthotist, pedorthist or orthotic fitter shall ensure the patient has undergone a medical diagnostic examination or has had the results of a recently performed medical diagnostic examination reviewed by a licensed prescribing practitioner by obtaining a copy of the prescription and relevant clinical notes.

(c) A prosthetist, orthotist, pedorthist or orthotic fitter shall retain a copy of the prescription and referral or valid order, clinical notes and results of the relevant medical diagnostic examination in the patient's file.

(d) A prosthetist, orthotist, pedorthist or orthotic fitter may not accept a prescription and referral or order when the prosthetist, orthotist, pedorthist or orthotic fitter knows, or has good cause to believe, that the device cannot be furnished within a reasonable period of time as would be consistent with the standard of care of the average professional providing the service in this Commonwealth. In these instances, the prosthetist, orthotist, pedorthist or orthotic fitter shall consult with the licensed prescribing practitioner who wrote the prescription and referral or order and disclose the issue to the patient.

(e) For purposes of this section, the results of the medical diagnostic examination must include, at a minimum, diagnosis, prognosis, medical necessity and duration of need relevant to the practice of the prosthetist, orthotist, pedorthist or orthotic fitter.

§ 18.852. Supervision and assistance.

(a) A prosthetist or orthotist may assign tasks related to the practice of prosthetics or orthotics to an orthotic and prosthetic assistant working under the prosthetist's or orthotist's direct supervision provided that assignment of the tasks is consistent with the standards of acceptable prosthetic and orthotic practice embraced by the prosthetic and orthotic community in this Commonwealth.

(b) A prosthetist or orthotist may assign tasks related to the fabrication, assembly, modification and servicing of prosthetic and orthotic devices to an orthotic and prosthetic technician working to the specifications provided by the prosthetist or orthotist.

(c) A pedorthist may assign to pedorthic support personnel tasks related to pedorthic care when direct supervision is provided, and may assign technical tasks to be completed to the specifications provided by the pedorthist if assignment of the tasks is consistent with the standards of acceptable pedorthic practice embraced by the pedorthic community in this Commonwealth.

(d) For purposes of this section, "direct supervision" means that the prosthetist, orthotist or pedorthist is on the premises, periodically observes and is continuously available to provide guidance to the assistant or pedorthic support personnel. For purposes of this section "to the specifications provided" means that the prosthetist, orthotist or pedorthist has provided all necessary measurements and instructions to the technician for the fabrication, assembly, modification and servicing of the device.

(e) Only a prosthetist, orthotist or pedorthist may perform an initial patient evaluation and the final provision of a prosthetic, orthotic or pedorthic device to determine the appropriateness of the device delivered to a patient.

(f) The prosthetist, orthotist or pedorthist assigning and supervising tasks shall bear ultimate responsibility for the completed tasks.

§ 18.853. Unprofessional and immoral conduct.

(a) A licensee under this subchapter is subject to refusal of license or permit or disciplinary action under sections 22 and 41 of the act (63 P.S. §§ 422.22 and 422.41). Following a final determination subject to the right of notice, hearing and adjudication, and the right of appeal therefrom in accordance with 2 Pa.C.S. §§ 501—508 and 701—704 (relating to Administrative Agency Law), this chapter and 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure), the Board may refuse licensure or impose any of the corrective actions in section 42 of the act (63 P.S. § 422.42).

(b) Unprofessional conduct includes:

(1) Engaging in conduct prohibited under § 16.61(a) or § 16.110 (relating to unprofessional and immoral conduct; and sexual misconduct).

(2) Performing an act in a health care profession in a fraudulent, incompetent or negligent manner.

(3) Violating a provision of the act or this chapter setting a standard of professional conduct.

(4) Engaging in health care practice beyond the licensee's authority to practice.

(5) Representing oneself to be a physician or other health care practitioner whose profession the licensee is not licensed to practice.

(6) Practicing while the licensee's ability to do so is impaired by alcohol, drugs, physical disability or mental instability.

(7) Revealing personally identifiable facts obtained as the result of a practitioner-patient relationship without the prior consent of the patient, except as authorized or required under statute or regulation.

(8) Misconduct in the practice of the licensee's profession or performing tasks fraudulently, incompetently or negligently, or by use of methods of treatment which are not in accordance with treatment processes accepted by a reasonable segment of the profession.

(9) The promotion of the sale of services and devices in a manner as to exploit the patient or client for the financial gain of the practitioner or a third party.

(10) Directly or indirectly offering, giving, soliciting or receiving, or agreeing to receive a fee or other consideration to or from a third party for the referral of a patient or client.

(11) Supervising or assigning tasks to assistants, technicians or support personnel contrary to § 18.852 (relating to supervision and assistance).

(12) Over-utilizing services by providing excessive evaluation or treatment procedures not warranted by the condition of the patient or by continuing treatment beyond the point of possible benefit.

(13) Making gross misrepresentations, deliberate misrepresentations or misleading claims as to:

- (i) The licensee's professional qualifications.
- (ii) The efficacy or value of:

(A) The treatments or remedies given to a patient by the licensee.

(B) The treatments or remedies recommended to a patient by the licensee.

(C) The treatments given to a patient by another practitioner.

(D) The recommendations made to a patient by another practitioner.

(14) Overcharging for professional services, including filing false statements for collection of fees for which services are not rendered.

(15) Failing to maintain a record for each patient that accurately reflects the evaluation and treatment of the patient.

(16) Advertising or soliciting for patronage in a manner that is fraudulent or misleading. Examples of advertising or soliciting which is considered fraudulent or misleading include:

(i) Advertising by means of testimonials, anecdotal reports of orthotics, prosthetics or pedorthics practice successes, or claims of superior quality of care to entice the public.

(ii) Advertising which contains false, fraudulent, deceptive or misleading materials, warranties or guarantees of success, statements which play upon vanities or fears of the public, or statements which promote or produce unfair competition.

(c) In addition to the conduct listed in § 16.61(b) or § 16.110, immoral conduct includes:

(1) Misrepresenting or concealing a material fact in obtaining a license issued by the Board or renewal, reactivation or reinstatement thereof.

(2) Being convicted of a crime involving moral turpitude, dishonesty or corruption in the courts of the Commonwealth, the United States, another state, the District of Columbia, a territory of the United States or another country.

(3) Committing an act involving moral turpitude, dishonesty or corruption.

BIENNIAL RENEWAL AND REACTIVATION

§ 18.861. Biennial renewal of license.

(a) The license of a prosthetist, orthotist, pedorthist or orthotic fitter will expire biennially on December 31 of each even-numbered year in accordance with § 16.15 (relating to biennial registration; inactive status and unregistered status). A prosthetist, orthotist, pedorthist or orthotic fitter may not practice after December 31 of an even-numbered year unless the prosthetist, orthotist, pedorthist or orthotic fitter has completed the biennial renewal process and the Board has issued a current license.

(b) As a condition of biennial registration, a prosthetist, orthotist, pedorthist or orthotic fitter shall:

(1) Submit a completed application, including payment of the biennial renewal fee in § 16.13 (relating to licensure, certification, examination and registration fees) for application for biennial renewal of prosthetist, orthotist, pedorthist or orthotic fitter license.

(2) Disclose on the application a license to practice as a prosthetist, orthotist, pedorthist or orthotic fitter in another state, territory, possession or country.

(3) Disclose on the application disciplinary action pending before or taken by an appropriate health care licensing authority in another jurisdiction or the licensee's credentialing body since the most recent application for biennial renewal, whether or not licensed to practice in that other jurisdiction.

(4) Disclose on the application any pending criminal charges and any finding or verdict of guilt, admission of guilt, plea of nolo contendere, probation without verdict, disposition in lieu of trial or accelerated rehabilitative disposition in any criminal matter since the most recent application for biennial renewal.

(5) Verify on the application that the licensed prosthetist, orthotist, pedorthist or orthotic fitter has completed the continuing education mandated by section 13.5(g)(1) or (2) of the act (63 P.S. § 422.13e(g)(1) and (2)) during the biennial period immediately preceding the period for which renewal is sought in accordance with § 18.862 (relating to continuing education).

(6) Verify on the application that the licensee maintains professional liability insurance coverage in accord-

ance with section 13.5(i) of the act and § 18.864 (relating to professional liability insurance coverage for licensed prosthetist, orthotist, pedorthist or orthotic fitter).

§ 18.862. Continuing education.

(a) *Credit hour requirements.* A licensed prosthetist, orthotist, pedorthist or orthotic fitter shall satisfy the following continuing education credit hour requirements:

(1) As a condition for biennial renewal, a prosthetist shall complete at least 24 hours of ABC-approved or BOC-approved continuing education applicable to the practice of prosthetics and an orthotist shall complete at least 24 hours of ABC-approved or BOC-approved continuing education applicable to the practice of orthotics.

(2) As a condition for biennial renewal, a pedorthist shall complete at least 13 hours of ABC-approved or BOC-approved continuing education applicable to the practice of pedorthics and an orthotic fitter shall complete at least 13 hours of ABC-approved or BOC-approved continuing education applicable to the practice of orthotic fitting.

(3) Credit for continuing education will not be given for courses in office management or practice building.

(4) A licensee is not required to complete continuing education during the biennium in which the licensee was first licensed.

(5) Except when reactivating an inactive license, when the Board has granted a waiver, or when ordered by the Board, continuing education credits may be used to satisfy the continuing education credit hour requirements only for the biennial period in which the credits were earned. An hour of continuing education may not be used to satisfy the requirements of paragraph (1) or (2) for more than one biennium.

(6) A licensee may request a waiver of the continuing education credit hour requirements because of serious illness, emergency, military service or other demonstrated hardship by submitting a request for waiver with supporting documentation to the Board at least 90 days prior to the end of the biennial renewal period for which the waiver is sought. The Board may grant the waiver request in whole or in part and may extend the deadline by which the credit hour requirements must be met.

(b) *Disciplinary action.* A licensee may be subject to disciplinary action if the licensee submits false information to the Board regarding completion of the continuing education credit hour requirements to complete biennial renewal or fails to complete the continuing education hour requirements and practices as a prosthetist, orthotist, pedorthist or orthotic fitter after the end of the biennial period.

(c) *Documentation of continuing education.* A licensee shall maintain documentation of completion of continuing education by maintaining the certificate of attendance or completion issued by the course provider. A licensee shall maintain the certificates for at least 5 years after the end of the biennial renewal period in which the continuing education was completed. A certificate must include the name of the course provider, the name and date of the course, the name of the licensee, the number of credit hours based on a 50-minute hour and the category of continuing education, if applicable.

§ 18.863. Inactive and expired status of licenses; reactivation of inactive or expired license.

(a) A prosthetist, orthotist, pedorthist or orthotic fitter license will become inactive if the licensee requests in writing that the Board place the license on inactive status. The Board will provide written confirmation of inactive status to the licensee at the licensee's last known address on file with the Board.

(b) A prosthetist, orthotist, pedorthist or orthotic fitter license will be classified as expired if the licensee fails to renew the license by the expiration of the biennial renewal period on December 31 of each even-numbered year. The Board will provide written notice to a licensee who fails to make biennial renewal by sending a notice to the licensee's last known address on file with the Board.

(c) A prosthetist, orthotist, pedorthist or orthotic fitter whose license has become inactive or expired may not practice in this Commonwealth until the license has been reactivated.

(d) To reactivate an inactive or expired license, the licensee shall apply on forms made available by the Board and fully answer the questions. The licensee shall:

(1) Include the documentation required under § 18.862(c) (relating to continuing education) for the immediately preceding biennium. Unless waived by the Board under section 13.5(g)(7) of the act (63 P.S. § 422.13e(g)(7)), the Board will not reactivate a license until the required continuing education for the preceding biennium has been successfully completed.

(2) Pay the current biennial renewal fee and the reactivation fee in § 16.13 (relating to licensure, certification, examination and registration fees).

(3) Verify that the licensee did not practice as a prosthetist, orthotist, pedorthist or orthotic fitter in this Commonwealth while the license was inactive or expired except as provided in subsection (e).

(e) A licensee who has practiced with an inactive or expired license and who cannot make the verification required under subsection (d)(3) shall also pay the fees required under section 225 of the Bureau of Professional and Occupational Affairs Fee Act (63 P.S. § 1401-225), as described in this subsection. Payment of a late fee does not preclude the Board from taking disciplinary action for practicing as a prosthetist, orthotist, pedorthist or orthotic fitter without a currently renewed license.

(1) A licensee whose license was active at the end of the immediately preceding biennial renewal period and who practiced after the license became inactive or expired shall pay a late fee of \$5 for each month or part of a month from the beginning of the current biennium until the date the reactivation application is filed.

(2) A licensee whose license has been inactive or expired since before the beginning of the current biennium shall pay the biennial renewal fee for each biennial renewal period during which the licensee practiced and shall pay a late fee of \$5 for each month or part of a month from the first date the licensee practiced as a prosthetist, orthotist, pedorthist or orthotic fitter in this Commonwealth after the license became inactive or expired until the date the reactivation application is filed.

(f) A licensee whose license has been inactive for more than 2 years and who has not been engaged in practice in another jurisdiction shall demonstrate continued competence by passing the initial certification examination offered by ABC, BOC or another credentialing organization whose certification program is recognized by ICE, accredited by NCCA and approved by the Board.

§ 18.864. Professional liability insurance coverage for licensed prosthetist, orthotist, pedorthist or orthotic fitter.

(a) A licensed prosthetist, orthotist, pedorthist or orthotic fitter shall maintain a level of professional liability insurance coverage in the minimum amount of \$1 million per occurrence or claims made as required under section 13.5(i) of the act (63 P.S. § 422.13e(i)) and provide proof of coverage upon request.

(b) Proof of professional liability insurance coverage includes:

(1) A certificate of insurance or copy of the declaration page from the insurance policy setting forth the effective date, expiration date and dollar amounts of coverage.

(2) Evidence of a plan of self-insurance approved by the Insurance Commissioner of the Commonwealth under regulations of the Insurance Department in 31 Pa. Code Chapter 243 (relating to medical malpractice and health-related self-insurance plans).

(c) A licensee who does not have professional liability insurance coverage as required under section 13.5(i) of the act may not practice as a prosthetist, orthotist, pedorthist or orthotic fitter in this Commonwealth.

[Pa.B. Doc. No. 16-1807. Filed for public inspection October 21, 2016, 9:00 a.m.]

**STATE BOARD OF PHYSICAL THERAPY
[49 PA. CODE CH. 40]
Continuing Education Enforcement**

The State Board of Physical Therapy (Board) amends §§ 40.67 and 40.192 (relating to continuing education for licensed physical therapist; and continuing education for certified physical therapist assistant) to read as set forth in Annex A.

Effective Date

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

Statutory Authority

This final-form rulemaking is authorized under section 3(a) of the Physical Therapy Practice Act (act) (63 P.S. § 1303(a)), which provides the Board's general authority to promulgate regulations not inconsistent with law as it may deem necessary for the performance of its duties and the proper administration of the act.

Description and Need for this Final-Form Rulemaking

Section 7.2 of the act (63 P.S. § 1307.2) requires each licensed physical therapist to complete at least 30 hours of continuing physical therapy education during each biennial renewal period. Section 9.1(j) of the act (63 P.S. § 1309.1(j)) requires each certified physical therapist assistant to complete at least 30 hours of continuing physical therapy education during each biennial renewal period. The Board has incorporated these requirements

into §§ 40.67(a) and 40.192(a), respectively. Under §§ 40.19(c)(5) and 40.191(c)(5) (relating to renewal of physical therapist license; and renewal of certification), to renew a license or certificate, a licensed physical therapist or certified physical therapist assistant is required to verify that the licensee or certificate holder has completed the required amount of continuing education. Moreover, the Board will not renew the license of a physical therapist or the certificate of a physical therapist assistant if the individual cannot verify that the continuing education required during the immediately preceding biennium has been completed. Although these requirements are conditions for renewal, a licensee or certificate holder may mistakenly verify satisfaction of the continuing education requirement. Upon audit, however, it is discovered that the licensee or certificate holder has not completed the requirements.

Under section 11(a)(6) of the act (63 P.S. § 1311(a)(6)), the Board may suspend or revoke a license or certificate for unprofessional conduct. Under section 12(c) of the act (63 P.S. § 1312(c)), the Board may levy a civil penalty against a licensee or certificate holder who has violated the act. Under § 40.52(11) (relating to unprofessional conduct; physical therapists), unprofessional conduct includes violating a provision of the act or the Board's regulations that establish a standard of conduct. Disciplinary actions for failing to complete the continuing education requirement in a timely manner invariably result in the licensee being required to pay a civil penalty proportionate to the amount of deficiency and to make up the deficiency promptly. Accordingly, the Board determined that it should utilize the more streamlined citation procedures under section 5(a) of the act of July 2, 1993 (P.L. 345, No. 48) (Act 48) (63 P.S. § 2205(a)), which provides that the Commissioner of Professional and Occupational Affairs (Commissioner), after consultation with licensing boards in the Bureau of Professional and Occupational Affairs (Bureau), may promulgate a schedule of civil penalties for violations of the acts or regulations of these licensing boards and agents of the Board may issue citations for violations covered by the schedule of civil penalties. Therefore, the Commissioner separately proposed a rulemaking using the Act 48 citation system to levy the civil penalty. However, the regulatory scheme must assure that, in addition to paying the civil penalty, the licensee has made up the deficient continuing education. This final-form rulemaking sets forth the procedures to address curing the deficiency.

This final-form rulemaking adds § 40.67(f). A licensed physical therapist who is determined through the post-renewal continuing education audit to be deficient will be issued an Act 48 citation for failing to complete the required amount of continuing education and will be required to make up the deficiency and provide proof to the Board within 6 months of the issuance of the citation. If the licensee does not do so, the licensee will be subject to disciplinary action, including the suspension of the license under section 11(a)(6) of the act for committing unprofessional conduct. Because mandatory continuing education is generally considered to be a condition of renewal, § 40.67(f) exempts for this disciplinary proceeding a licensee who permitted the license to expire at the conclusion of a renewal period during which the licensee did not complete the required amount of continuing education and did not practice the profession until reactivating the license under § 40.20(c) (relating to inactive status of physical therapist license) upon a demonstration that the licensee subsequently completed the required deficient continuing education.

Section 40.192(f) is added to provide similar provisions for certified physical therapist assistants. A certified physical therapist assistant who does not make up the deficiency will be subject to disciplinary action under § 40.181(a)(6) (relating to refusal, suspension or revocation of certification) for committing unprofessional conduct, as authorized under section 9.1(f) of the act. A physical therapist assistant who permitted the certificate to expire and did not provide services until reactivating under § 40.191(g) upon a demonstration that the certificate holder subsequently completed the required deficient continuing education would be exempted from this disciplinary process.

While the Commonwealth's prosecuting attorneys may utilize this "citation and make-up" system as one tool in addressing a licensee or certificate holder who has not completed the required continuing education, they retain the discretion to also file formal action under section 11(a)(2) of the act, which provides that the Board may suspend or revoke a license or certificate of an individual who has attempted to or obtained a license or certificate by fraud or misrepresentation, if the licensee/certificate holder, for example, knows that the required continuing education has not been completed, but verifies on the renewal application that the licensee/certificate holder has completed the required amount of continuing education.

Summary of Comments and Responses to Proposed Rulemaking

The Board published notice of proposed rulemaking at 44 Pa.B. 7178 (November 15, 2014) with a 30-day public comment period. The Board received no comments from the public. The Board received comments from the House Professional Licensure Committee (HPLC) and the Independent Regulatory Review Commission (IRRC) as part of their review of the proposed rulemaking under the Regulatory Review Act (71 P.S. §§ 745.1—745.14). The Board did not receive comments from the Senate Consumer Protection and Professional Licensure Committee (SCP/PLC).

The HPLC commented to note a typographical error in the proposed rulemaking as delivered. The Legislative Reference Bureau corrected this typographical error prior to publication of the proposed rulemaking in the *Pennsylvania Bulletin*.

IRRC pointed to the requirement of section 7.2 of the act that each licensed physical therapist shall complete the required amount of continuing education and "shall provide the board with evidence of the completion of the continuing education" and the similar requirement of section 9.1(j) of the act that each certified physical therapist assistant shall complete the required amount of continuing education and "shall provide the board with evidence of the completion of the continuing education." Because section 3(a) of the act requires that the Board's regulations be consistent with the act, IRRC asked for the Board's specific statutory authority for allowing a licensee or certificate holder who has not met the continuing education requirement to continue to practice or provide services for 6 more months.

The Board's use of a post-renewal audit process to identify those who have not completed the required continuing education is consistent with the act and comports with constitutional requirements of due process. Under §§ 40.19(c)(5) and 40.191(c)(5), an applicant for renewal is required to "verify that the [licensed physical therapist or certified physical therapist assistant, respec-

tively,] has complied with the continuing education requirements mandated by . . . the act . . . during the biennial period immediately preceding the period for which renewal is sought in accordance with [§§ 40.67 and 40.192, respectively]." This verification is the evidence upon which the Board may grant renewal. The Board simply could not possibly review documentation of continuing education for every licensed physical therapist and every certified physical therapist assistant during the window for renewal. Under §§ 40.19(c)(5) and 40.191(c)(5) "[t]he Board will not renew [a license or certificate] if the [licensed physical therapist or certified physical therapist assistant] has not completed the continuing education required under . . . the act during the biennial period immediately preceding the period for which renewal is sought." After the close of the biennial renewal process, the Board conducts a random audit of licensees and certificate holders to verify compliance with the continuing education requirements. This post-renewal audit system is standard for the boards and commissions under the Bureau. For an individual who have provided the verification, it is not until the audit that the Board would obtain information suggesting that the licensee has not completed all required continuing education. And even then, the Board cannot remove a licensee from practice without due process of law. Because the license has been renewed and the licensee retains a property interest in the license, the Board cannot rescind renewal and provide the licensee with only the opportunity for a post-deprivation hearing without specific authorization from the General Assembly.

By this final-form rulemaking, the Board is not granting licensees who failed to complete required continuing education an additional 6 months to practice. The Board's renewal of the license or certificate based on the certification statement verifying completion of the continuing education authorizes the continued practice for the next biennium. Because there has been no final determination that the licensee failed to complete the required continuing education, the Board cannot yet remove the licensee from practice at the time of audit or any other time prior to a final determination even if through formal disciplinary action rather than an Act 48 citation. Only after a licensee or certificate holder admits the violation or a final adjudication is issued finding a violation of the continuing education requirements after a hearing can the Board take disciplinary action. The Board could have chosen to suspend the license or certificate until the deficient continuing education is remedied, rather than permitting the opportunity to remedy the deficiency. However, the Board's goal in enforcing the continuing education requirements is two-fold—deterrence and compliance. The Board believes the monetary civil penalty is adequate to deter a licensee or certificate holder from future violations, and the threat of additional discipline for failure to cure the deficiency will result in compliance within the required 6 months. It is worth noting again that an applicant for renewal who verifies completion of the required amount of continuing education without a basis to do so is separately subject to disciplinary action, including a suspension of the license.

IRRC noted that the rulemaking would require the licensed physical therapist or certified physical therapy assistant to "make up the deficiency and provide proof of the entire required amount of continuing education in subsection (b)." Because subsection (a) sets the required amount of continuing education and subsection (b) describes the documentation that, in general, a licensee or certificate holder must have to establish completion of a

continuing education course or program, IRRC asked what would constitute the proof that a licensee or certificate holder would be required to submit and inquired if the Board meant to refer to subsection (a). Because this was not clear, the Board revised this sentence to require the licensee or certificate holder to “make up the deficiency and provide proof, in accordance with subsection (b), of completion of the entire amount of continuing education required under subsection (a).”

IRRC also pointed to the existing provisions in §§ 40.67(b)(3) and 40.192(b)(3) that note that the Board will audit licensed physical therapists and certified physical therapist assistants to verify compliance with the continuing education requirements. IRRC expressed concern that the Board will only audit those who have been cited and provided documentation of making up the deficiency rather than fully reviewing each person’s proof. The post-renewal audit process was developed for the licensing board office staff to determine that all licensees generally are in compliance with the continuing education requirements. Bureau statistics from the last 20 audits conducted Bureau-wide indicate that nearly 90% of licensees who are audited are found to be in compliance. The statistics from the Board’s last audit demonstrate that 98% of licensees and certificate holders that are subject to audit are found to be in compliance. Those for whom the audit does not show compliance are referred to the Professional Compliance Office for possible disciplinary action. At this point, and with possible additional investigation, the Department’s prosecuting arm now addresses that subset of licensees who did not establish compliance with the continuing education requirements. Under these regulations, when disciplinary action has begun by means of the issuance of an Act 48 citation (unless the matter is dismissed through appeal), the prosecution division will be expecting the later submission of proof of making up the deficient continuing education. The prosecution division will be expected to file formal action if the licensed physical therapist or certified physical therapist assistant has not provided adequate proof of completion of all required continuing education.

Finally, IRRC questioned how the Board determined that 6 months is a reasonable and feasible amount of time for the regulated community to make up continuing education deficiencies. The Board acknowledges that the General Assembly, in making completion of continuing education a condition precedent for renewal, determined that continuing education is necessary to maintain competence and therefore provides public protection. The Board determined that 6 months is long enough for the licensee to have had an opportunity to challenge a citation before a hearing examiner and possibly appeal to the Board. It is also long enough that the licensee has a reasonable opportunity to find and complete relevant continuing education courses. Additionally, it is short enough to minimize any additional notable deterioration in the licensee’s skills and knowledge. Finally, 6 months is a reasonable period of time for the prosecution division to track and is a relatively simple and straightforward date for licensees and certificate holders to measure and follow.

As the Board was preparing this final-form rulemaking, the Legislative Reference Bureau contacted staff to inform them that the section number for the related schedule of civil penalties being promulgated by the Commissioner would need to change to § 43b.26 because the schedule of civil penalties for the State Board of Optometry would be added as § 43b.25. Therefore, the Board made appropriate revisions to this final-form rule-

making to correct the cross-references to § 43b.26 (relating to schedule of civil penalties—physical therapists and physical therapist assistants).

Fiscal Impact and Paperwork Requirements

This final-form rulemaking will not have adverse fiscal impact on the Commonwealth or its political subdivisions and will not impose additional paperwork requirements upon the Commonwealth, political subdivisions or the private sector.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on October 31, 2014, the Board submitted a copy of the notice of proposed rulemaking, published at 44 Pa.B. 7178, to IRRC and the Chairpersons of the HPLC and the SCP/PLC for review and comment.

Under section 5(c) of the Regulatory Review Act, the Board shall submit to IRRC, the HPLC and the SCP/PLC copies of 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 and the HPLC.

Under section 5.1(j.2) of the Regulatory Review Act (71 P.S. § 745.5a(j.2)) on September 14, 2016, the final-form rulemaking was deemed approved by the HPLC and the SCP/PLC. Under section 5.1(e) of the Regulatory Review Act, IRRC met on September 15, 2016, and approved the final-form rulemaking.

Additional Information

Further information may be obtained by contacting Michelle Roberts, Board Administrator, State Board of Physical Therapy, P.O. Box 2649, Harrisburg, PA 17105-2649, ra-physical@pa.gov.

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) and regulations promulgated thereunder, 1 Pa. Code §§ 7.1 and 7.2.
- (2) A public comment period was provided as required by law and all comments were considered.
- (3) The amendments to this final-form rulemaking do not enlarge the scope of proposed rulemaking published at 44 Pa.B. 7178.
- (4) The final-form rulemaking adopted by this order is necessary and appropriate for the administration of the act.

Order

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

(a) The regulations of the Board, 49 Pa. Code Chapter 40, are amended by amending §§ 40.67 and 40.192 to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.

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

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

(d) The final-form rulemaking shall take effect upon publication in the *Pennsylvania Bulletin*.

NORMAN L. JOHNSON, PT, DPT, DEd,
Chairperson

(Editor's Note: See 46 Pa.B. 6643 (October 22, 2016) for a final-form rulemaking by the Bureau relating to this final-form rulemaking.)

(Editor's Note: See 46 Pa.B. 6195 (October 1, 2016) for IRRC's approval order.)

Fiscal Note: Fiscal Note 16A-6515 remains valid for the final adoption of the subject regulations.

Annex A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

CHAPTER 40. STATE BOARD OF PHYSICAL THERAPY

Subchapter A. PHYSICAL THERAPISTS

CONTINUING EDUCATION

§ 40.67. Continuing education for licensed physical therapist.

* * * * *

(e) *Authoring publications.* A licensed physical therapist may earn continuing education credit for authoring publications as provided in this subsection.

(1) Prior to the end of the biennial renewal period for which credit is sought, the licensed physical therapist shall apply to the Board on forms provided by the Board and submit the documentation necessary to establish entitlement to credit.

(2) Subject to the limitations of paragraph (3), 1 contact hour of continuing education credit will be awarded for each hour spent in research or writing. Credit will not be awarded if the total research and writing time was less than 1 hour.

(3) Within the subject matter limitations of subsection (c), a licensed physical therapist may earn credit for authoring a publication as follows:

(i) Authoring or editing a book, not to exceed 15 contact hours.

(ii) Authoring or editing a chapter of a book, not to exceed 10 contact hours.

(iii) Authoring or reviewing a published peer-reviewed article, not to exceed 10 contact hours.

(iv) Authoring a non-peer-reviewed article published in a physical therapy publication, not to exceed 5 contact hours.

(4) Credit for authoring a publication will be awarded only for the biennial renewal period in which it was published.

(f) *Disciplinary action authorized.* Unless otherwise excused by the act or this chapter, failure to complete the minimum required amount of continuing education during the applicable renewal period will subject the licensee to discipline under section 12(c) of the act (63 P.S. § 1312(c)) in accordance with the schedule of civil penalties in § 43b.26 (relating to schedule of civil penalties—physical therapists and physical therapist assistants). Within 6 months after the issuance of a citation under § 43b.26 for failure to complete the required amount of continuing education, the licensee shall make up the

deficiency and provide proof, in accordance with subsection (b), of completion of the entire amount of continuing education required under subsection (a). In addition to a civil penalty assessed under this subsection, failure to complete the required amount of continuing education and to provide the Board with proof of completion of the required amount of continuing education within 6 months after the issuance of a citation under § 43b.26 will subject the licensee to disciplinary action under section 11(a)(6) of the act for committing unprofessional conduct as defined in § 40.52(11). This subsection does not apply to a licensee who permitted the licensee's license to expire at the conclusion of a biennial renewal period for which the licensee did not complete the required amount of continuing education and did not practice the profession prior to reactivating that license under § 40.20(c) upon a demonstration that the licensee subsequently completed the required deficient continuing education.

Subchapter C. PHYSICAL THERAPIST ASSISTANTS

CONTINUING EDUCATION

§ 40.192. Continuing education for certified physical therapist assistant.

* * * * *

(e) *Authoring publications.* A certified physical therapist assistant may earn continuing education credit for authoring publications as provided in this subsection.

(1) Prior to the end of the biennial renewal period for which credit is sought, the certified physical therapist assistant shall apply to the Board on forms provided by the Board and submit the documentation necessary to establish entitlement to credit.

(2) Subject to the limitations of paragraph (3), 1 contact hour of continuing education credit will be awarded for each hour spent in research or writing. Credit will not be awarded if the total research and writing time was less than 1 hour.

(3) Within the subject matter limitations of subsection (c), a certified physical therapist assistant may earn credit for authoring a publication as follows:

(i) Authoring or editing a book, not to exceed 15 contact hours.

(ii) Authoring or editing a chapter of a book, not to exceed 10 contact hours.

(iii) Authoring or reviewing a published peer-reviewed article, not to exceed 10 contact hours.

(iv) Authoring a non-peer-reviewed article published in a physical therapy publication, not to exceed 5 contact hours.

(4) Credit for authoring a publication will be awarded only for the biennial renewal period in which it was published.

(f) *Disciplinary action authorized.* Unless otherwise excused by the act or this chapter, failure to complete the minimum required amount of continuing education during the applicable renewal period will subject the certified physical therapist assistant to discipline under section 12(c) of the act (63 P.S. § 1312(c)) in accordance with the schedule of civil penalties in § 43b.26 (relating to schedule of civil penalties—physical therapists and physical therapist assistants). Within 6 months after the issuance of a citation under § 43b.26 for failure to complete the required amount of continuing education, the physical therapist assistant shall make up the deficiency and

provide proof, in accordance with subsection (b), of completion of the entire amount of continuing education required under subsection (a). In addition to a civil penalty assessed under this subsection, failure to complete the required amount of continuing education and to provide the Board with proof of completion of the required amount of continuing education within 6 months after the issuance of a citation under § 43b.26 will subject the certified physical therapist assistant to disciplinary action under section 9.1(f) of the act for committing unprofessional conduct as provided in § 40.181(a)(6). This subsection does not apply to a certified physical therapist assistant who permitted the physical therapist assistant's certificate to expire at the conclusion of a biennial renewal period for which the physical therapist assistant did not complete the required amount of continuing education and did not provide patient services prior to reactivating that certificate under § 40.191(g) upon a demonstration that the physical therapist assistant subsequently completed the required deficient continuing education.

[Pa.B. Doc. No. 16-1808. Filed for public inspection October 21, 2016, 9:00 a.m.]

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**BUREAU OF PROFESSIONAL AND
OCCUPATIONAL AFFAIRS**

[49 PA. CODE CH. 43b]

**Schedule of Civil Penalties—Physical Therapists
and Physical Therapist Assistants**

The Commissioner of Professional and Occupational Affairs (Commissioner) adds § 43b.26 (relating to schedule of civil penalties—physical therapists and physical therapist assistants) to read as set forth in Annex A.

Effective Date

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

Statutory Authority

This final rulemaking is authorized under section 5(a) of the act of July 2, 1993 (P.L. 345, No. 48) (Act 48) (63 P.S. § 2205(a)).

Background and Need for this Final-Form Rulemaking

Section 5(a) of Act 48 provides that the Commissioner, after consultation with licensing boards in the Bureau of Professional and Occupational Affairs (Bureau), may promulgate a schedule of civil penalties for violations of the acts or regulations of the licensing boards and agents of the Bureau may issue citations for violations covered by the schedule of civil penalties. Act 48 citations streamline the disciplinary process by eliminating the need for formal orders to show cause, answers, adjudications and orders, and consent agreements. At the same time, a licensee who receives an Act 48 citation retains the due process right of appeal prior to the imposition of discipline. The State Board of Physical Therapy (Board) has not previously had an Act 48 schedule of civil penalties.

As is being done for other licensing boards with continuing education requirements, the Commissioner proposed a civil penalty schedule for violation of the continuing education requirements for licensees of the Board, because the Commissioner and the Board believe the Act 48 citation process will be a much more efficient method of handling these violations, while still ensuring licensees

due process. Payment of the civil penalty will not relieve a licensee of the obligation to complete the required amount of mandatory continuing education. Because the primary objective of the disciplinary process is compliance, under a separate final-form rulemaking promulgated by the Board, a licensee who fails to complete the required amount of mandatory continuing education during the biennial renewal period will also be required to complete the required continuing education during the next 6 months. Failure to complete the required continuing education by that deadline will subject the licensee to formal disciplinary action. The final-form rulemaking is intended to apply to those licensees and certificate holders who mistakenly verified that they satisfied the continuing education requirement and timely renewed, but who later were determined not to have satisfied the requirements. In support of the additional disciplinary objective of deterrence, the Commonwealth's prosecuting attorneys have discretion to file formal action under section 11(a)(2) of the Physical Therapy Practice Act (63 P.S. § 1311(a)(2)) against those licensees and certificate holders who attempt to or obtain licensure or certification by fraud or misrepresentation. As provided in §§ 40.67(b)(3) and 40.192(b)(3) (relating to continuing education for licensed physical therapist; and continuing education for certified physical therapist assistant), the Board will audit physical therapists and physical therapist assistants to verify compliance with the continuing education requirements, and licensees and certificate holders are required to respond to audit notices timely. The Board believes that prompt issuance of a citation and subsequent audit notices will encourage compliance with the continuing education requirements.

The Commissioner, in consultation with the Board, therefore establishes a schedule of civil penalties to be enforced by citation under Act 48. For a first offense violation of failing to complete the required amount of mandatory continuing education during the biennial renewal period under § 40.67(a) or § 40.192(a), a civil penalty of \$25 for each credit hour that the licensee or certificate holder, respectively, is deficient, up to a maximum of \$1,000. For a second offense violation with a deficiency of 20 hours or less the civil penalty is \$50 per hour of deficiency, and for a third offense violation with a deficiency of 10 hours or less the civil penalty is \$100 per hour of deficiency. Offenses beyond these amounts of deficiency and all subsequent offenses will not be subject to an Act 48 citation, but rather will proceed through the formal disciplinary process. Additionally, the Commissioner, in consultation with the Board, establishes for a first offense of failing to respond timely to an audit notice under § 40.67(b)(3) or § 40.192(b)(3) by a licensee or certificate holder, respectively, a civil penalty of \$100, increasing to \$250 for a second offense and \$500 for a third offense, with subsequent offenses resulting in formal disciplinary action. However, a citation could only be issued if the underlying audit notice notified the licensee that failure to respond would result in issuance of a citation.

Additionally, § 40.20(b) (relating to inactive status of physical therapist license) prohibits a licensed physical therapist whose license has lapsed from practicing physical therapy in this Commonwealth, and § 40.191(j) (relating to renewal of certification) prohibits a certified physical therapist assistant whose certificate has lapsed from providing physical therapy services in this Commonwealth. As is being done for other licensing boards, the Commissioner also proposed a civil penalty schedule for practice on a lapsed or expired license or certificate,

because the Commissioner and the Board believe the Act 48 citation process will be a much more efficient method of handling these violations, while still ensuring licensees due process. Because failure to renew a license might be an attempt to avoid the continuing education requirements, use of an Act 48 citation for lapsed license practice will be limited to those first-time offenders who are in compliance with the continuing education requirements. A licensee who practiced on a lapsed license without having complied with the continuing education will instead be subject to formal disciplinary action where the Board has the authority to suspend or revoke a license.

The Commissioner, in consultation with the Board, establishes for practicing on a lapsed or expired license or certificate (while in compliance with continuing education requirements) in violation of § 40.20(b) or § 40.191(j), respectively, a civil penalty of \$50 per month, up to a maximum of \$1,000, for practicing less than one renewal cycle. Violations of practicing for more than one renewal cycle while expired will not be subject to an Act 48 citation, but rather would proceed through the formal disciplinary process.

Summary of Comments and Responses to Proposed Rulemaking

The Commissioner published the proposed rulemaking at 44 Pa.B. 7173 (November 15, 2014) with a 30-day public comment period. The Commissioner received no comments from the public. The Commissioner received no comments from the House Professional Licensure Committee (HPLC) or the Senate Consumer Protection and Professional Licensure Committee (SCP/PLC) as part of their review of proposed rulemaking under the Regulatory Review Act (71 P.S. §§ 745.1—745.14). The Independent Regulatory Review Commission (IRRC) notified the Commissioner that it had no objections, comments or recommendations and that, if the final-form rulemaking was delivered without revisions and the legislative committees do not take any action, the final-form rulemaking would be deemed approved.

As the Board was preparing this final-form rulemaking, the Legislative Reference Bureau contacted staff to inform the Commissioner and the Board that the section number would need to be changed because the schedule of civil penalties for the State Board of Optometry would be added as § 43b.25. Therefore, proposed § 43b.25 is renumbered and adopted in this final-form rulemaking as § 43b.26, and all cross-references in the Board's companion final-form rulemaking regarding continuing education enforcement have been corrected. No other changes have been made to this final-form rulemaking.

Fiscal Impact and Paperwork Requirements

This final-form rulemaking will not have adverse fiscal impact on the Commonwealth or its political subdivisions and will not impose additional paperwork requirements upon the Commonwealth, political subdivisions or the private sector.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on October 31, 2014, the Board submitted a copy of the notice of proposed rulemaking, published at 44 Pa.B. 7173, to IRRC and the Chairpersons of the HPLC and the SCP/PLC for review and comment.

Under section 5(c) of the Regulatory Review Act, the Board shall submit to IRRC, the HPLC and the SCP/PLC copies of comments received during the public comment period, as well as other documents when requested.

Under section 5.1(j.2) of the Regulatory Review Act (71 P.S. § 745.5a(j.2)), on September 14, 2016, the final-form rulemaking was deemed approved by the HPLC and the SCP/PLC. Under section 5(g) of the Regulatory Review Act, the final-form rulemaking was deemed approved by IRRC effective September 14, 2016.

Additional Information

Further information may be obtained by contacting Michelle Roberts, Board Administrator, State Board of Physical Therapy, P.O. Box 2649, Harrisburg, PA 17105-2649, ra-physical@pa.gov.

Findings

The Commissioner 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) and regulations promulgated thereunder, 1 Pa. Code §§ 7.1 and 7.2.

(2) A public comment period was provided as required by law.

(3) This final-form rulemaking does not include any amendments that would enlarge the scope of proposed rulemaking published at 44 Pa.B. 7173.

(4) The final-form rulemaking adopted by this order is necessary and appropriate for the administration of the Physical Therapy Practice Act.

Order

The Commissioner, acting under the authority of Act 48, orders that:

(a) The regulations of the Commissioner, 49 Pa. Code Chapter 43b, are amended by adding § 43b.26 to read as set forth in Annex A.

(Editor's Note: This section was proposed as § 43b.25 and is renumbered in this final-form rulemaking as § 43b.26 due to an intervening final-form rulemaking.)

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

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

(d) The final-form rulemaking shall take effect upon publication in the *Pennsylvania Bulletin*.

IAN J. HARLOW,
Commissioner

(Editor's Note: See 46 Pa.B. 6639 (October 22, 2016) for a final-form rulemaking by the Board relating to this final-form rulemaking.)

(Editor's Note: See 46 Pa.B. 6195 (October 1, 2016) for IRRC's approval order.)

Fiscal Note: Fiscal Note 16A-6516 remains valid for the final adoption of the subject regulation.

Annex A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

CHAPTER 43b. COMMISSIONER OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS

SCHEDULE OF CIVIL PENALTIES, GUIDELINES FOR IMPOSITION OF CIVIL PENALTIES AND PROCEDURES FOR APPEAL

§ 43b.26. Schedule of civil penalties—physical therapists and physical therapist assistants.

STATE BOARD OF PHYSICAL THERAPY

<i>Violation under 49 Pa. Code</i>	<i>Title/Description</i>	<i>Penalties</i>
Section 40.20(b)	Practicing physical therapy after failing to renew but before reactivation of license (in compliance with continuing education requirements)	One biennial renewal cycle or less— \$50 per month lapsed, not to exceed \$1,000 More than one biennial renewal cycle— formal action
Section 40.67(a)	Failure of licensed physical therapist to complete the required amount of continuing education	1st offense—\$25 per hour of deficiency, not to exceed \$1,000 2nd offense—deficient 20 hours or less— \$50 per hour of deficiency not to exceed \$1,000 2nd offense—deficient more than 20 hours— formal action 3rd offense—deficient 10 hours or less— \$100 per hour of deficiency not to exceed \$1,000 3rd offense—deficient more than 10 hours— formal action Subsequent offenses—formal action
Section 40.67(b)(3)	Failure of licensed physical therapist to respond to continuing education audit request within 30 days, or other time period set forth in audit request that notifies the licensee that failure to respond is subject to discipline	1st offense—\$100 2nd offense—\$250 3rd offense—\$500 Subsequent offenses—formal action
Section 40.191(j)	Providing services as a physical therapist assistant after failing to renew but before reactivation of certification (in compliance with continuing education requirements)	One biennial renewal cycle or less— \$50 per month lapsed, not to exceed \$1,000 More than one biennial renewal cycle—formal action
Section 40.192(a)	Failure of certified physical therapist assistant to complete the required amount of continuing education	1st offense—\$25 per hour of deficiency, not to exceed \$1,000 2nd offense—deficient 20 hours or less—\$50 per hour of deficiency, not to exceed \$1,000 2nd offense—deficient more than 20 hours— formal action 3rd offense—deficient 10 hours or less—\$100 per hour of deficiency, not to exceed \$1,000 3rd offense—deficient more than 10 hours— formal action Subsequent offenses—formal action
Section 40.192(b)(3)	Failure of certified physical therapist assistant to respond to continuing education audit request within 30 days, or other time period set forth in audit request that notifies the physical therapist assistant that failure to respond is subject to discipline	1st offense—\$100 2nd offense—\$250 3rd offense—\$500 Subsequent offenses—formal action

[Pa.B. Doc. No. 16-1809. Filed for public inspection October 21, 2016, 9:00 a.m.]

PROPOSED RULEMAKING

DEPARTMENT OF AGRICULTURE

[7 PA. CODE CH. 28a]

Commercial Kennel Canine Health Regulations; Intent to Rescind

The Department of Agriculture (Department) intends to rescind § 28a.8(5) (relating to flooring). This paragraph, promulgated under the authority of the Dog Law (act) (3 P.S. §§ 459-101—459-1205), states the following:

(5) *Nursing mothers.* Primary enclosures, including whelping boxes, housing bitches with nursing litters or housing dams or foster dams with puppies under 12 weeks of age must be constructed so that at least 50% of the flooring of the primary enclosure complies with the standards established under section 207(i)(3) of the act.

Commonwealth Court recently determined that § 28a.8(5) directly contradicts express statutory provisions of the act and violates the legislative intent. This determination was made on September 9, 2016, in *Barbara Keith et al. v. Commonwealth of Pennsylvania, Department of Agriculture* (394 M.D. 2014).

The act authorizes the Department to promulgate regulations as necessary to carry out the provisions and intent of the act, and section 902 of the act (3 P.S. § 459-902) requires this be done “after due notice and a public hearing.” In this instance, when Commonwealth Court has already determined that the regulatory provision the Department plans to rescind is contrary to the act and the legislative intent, the Department believes convening a public hearing on the proposed regulatory rescission would be unnecessary and contrary to the public interest.

The Department provides notice of its intention to rescind § 28a.8(5) without first convening a public hearing. The Department will consider any request for a public hearing that is made in writing and delivered by Friday, October 28, 2016, to the Department of Agriculture, Legal Office, 2301 North Cameron Street, Harrisburg, PA 17110.

RUSSELL C. REDDING,
Secretary

[Pa.B. Doc. No. 16-1810. Filed for public inspection October 21, 2016, 9:00 a.m.]

STATEMENTS OF POLICY

Title 4—ADMINISTRATION

PART II. EXECUTIVE BOARD

[4 PA. CODE CH. 9]

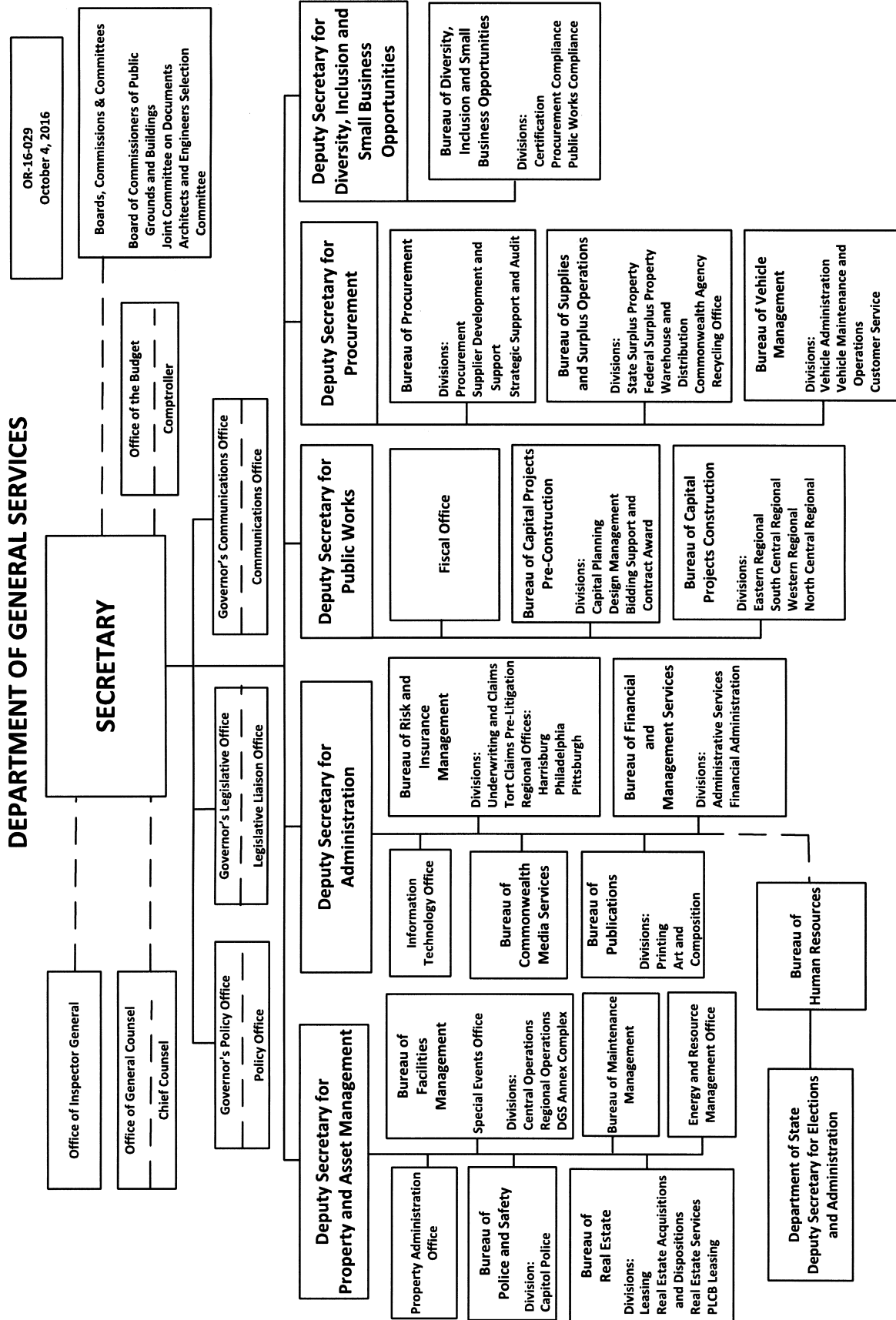
Reorganization of the Department of General Services

The Executive Board approved a reorganization of the Department of General Services effective October 4, 2016.

The organization chart at 46 Pa.B. 6648 (October 22, 2016) 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. 16-1811. Filed for public inspection October 21, 2016, 9:00 a.m.]



NOTICES

DEPARTMENT OF BANKING AND SECURITIES

Actions on Applications

The Department of Banking and Securities (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 May 15, 1933 (P.L. 565, No. 111), known as the Department of Banking Code; and the act of December 19, 1990 (P.L. 834, No. 198), known as the Credit Union Code, has taken the following action on applications received for the week ending October 11, 2016.

Under section 503.E of the Department of Banking and Securities 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 and Securities, 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

Holding Company Acquisitions

<i>Date</i>	<i>Name and Location of Applicant</i>	<i>Action</i>
10-11-2016	Standard Financial Corp. Murrysville Westmoreland County Application for approval to acquire 100% of Allegheny Valley Bancorp, Inc., Pittsburgh, and thereby indirectly acquire 100% of Allegheny Valley Bank of Pittsburgh, Pittsburgh.	Filed

Consolidations, Mergers and Absorptions

<i>Date</i>	<i>Name and Location of Applicant</i>	<i>Action</i>
10-11-2016	Standard Bank, PaSB Murrysville Westmoreland County Application for approval to merge Allegheny Valley Bank of Pittsburgh, Pittsburgh, with and into Standard Bank, PaSB, Murrysville.	Filed

Branch Applications

De Novo Branches

<i>Date</i>	<i>Name and Location of Applicant</i>	<i>Location of Branch</i>	<i>Action</i>
10-6-2016	Univest Bank and Trust Co. Souderton Montgomery County	3601 Market Street Philadelphia Philadelphia County	Filed
9-26-2016	Bank of Bird-In-Hand Bird-In-Hand Lancaster County	3540 Old Philadelphia Pike Intercourse Lancaster County	Opened
10-11-2016	Republic First Bank Philadelphia Philadelphia County	610 Crosskeys Road Sicklerville Camden County, NJ	Filed
10-11-2016	Republic First Bank Philadelphia Philadelphia County	2 Skeet Road Medford Burlington County, NJ	Filed
10-11-2016	Republic First Bank Philadelphia Philadelphia County	Queen Street and Oxford Valley Road Fairless Hills Bucks County	Filed
10-11-2016	Republic First Bank Philadelphia Philadelphia County	Central Avenue and East Street Road Feasterville-Treose Bucks County	Filed

Branch Relocations

<i>Date</i>	<i>Name and Location of Applicant</i>	<i>Location of Branch</i>	<i>Action</i>
10-6-2016	Citizens Bank of Pennsylvania Philadelphia Philadelphia County	<i>To:</i> 214 East College Avenue State College Centre County <i>From:</i> 122 West College Avenue State College Centre County	Filed

Branch Discontinuances

<i>Date</i>	<i>Name and Location of Applicant</i>	<i>Location of Branch</i>	<i>Action</i>
9-30-2016	Citizens Bank of PA Philadelphia Philadelphia County	28 Penn Square Lancaster Lancaster County	Closed

CREDIT UNIONS

No activity.

The Department's web site at www.dobs.pa.gov includes public notices for more recently filed applications.

ROBIN L. WIESSMANN,
Secretary

[Pa.B. Doc. No. 16-1812. Filed for public inspection October 21, 2016, 9:00 a.m.]

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Applications, Actions and Special Notices

APPLICATIONS

THE CLEAN STREAMS LAW AND THE FEDERAL CLEAN WATER ACT APPLICATIONS FOR NATIONAL POLLUTANT 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. In accordance with 25 Pa. Code § 92a.32(d), the proposed discharge of stormwater associated with construction activities will be managed in accordance with the requirements of 25 Pa. Code Chapter 102. 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

Southwest Regional Office: Regional Clean Water Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745. Phone: 412.442.4000.

NPDES No. (Type)	Facility Name & Address	County & Municipality	Stream Name (Watershed No.)	EPA Waived Y/N?
PA0254223 (Sewage)	Lincoln Township Municipal Authority—Southside STP PO Box 162 Sipesville, PA 15561-0162	Somerset County Lincoln Township	Unnamed Tributary to Quemahoning Creek (18-E)	Yes
PA0252654 (Sewage)	Yough Sanitary Authority WWTP 210 Front Street Dickerson Run, PA 15430	Fayette County Dunbar Township	Dickerson Run (19-D)	Y
PA0092355 (Sewage)	Belle Vernon Sewage Treatment Plant First Avenue Belle Vernon, PA 15012	Fayette County Belle Vernon Borough	Monongahela River (19-C)	Y

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

NPDES No. (Type)	Facility Name & Address	County & Municipality	Stream Name (Watershed #)	EPA Waived Y/N?
PA0011371—IW	Stanley Black & Decker (former Baldwin Hardware) 1000 Stanley Drive New Britain, CT 06053	Berks County/ Reading City	UNT Schuylkill River/6-C	Y

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

NPDES No. (Type)	Facility Name & Address	County & Municipality	Stream Name (Watershed #)	EPA Waived Y/N?
PA0104469 (Sewage)	Kasgro Rail Rundle Road Plant 121 Rundle Road New Castle, PA 16102-1913	Lawrence County Taylor Township	Shenango River (20-A)	No
PA0238562 (Sewage)	Ditrich Subdivision 8062 Harborgreen Road Erie, PA 16510	Erie County Harborcreek Township	Unnamed Tributary to Sixmile Creek (15-A)	Yes
PA0239593 (Sewage)	Matthew W Boyd SRSTP 7351 Williams Road North East, PA 16428-4861	Erie County North East Township	Drainage swale to Twelvemile Creek (15-A)	No

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

Southwest Regional Office: Regional Clean Water Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745. Phone: 412.442.4000.

PA0255165, Sewage, SIC Code 8811, **Bill J. Lilly**, 845 Barclay Hill Road, Beaver, PA 15009. Facility Name: Lilly SRSTP. This proposed facility is located in Brighton Township, **Beaver County**.

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

The receiving stream, Unnamed Tributary to Fourmile Run, is located in State Water Plan watershed 20-B and is classified for Warm Water Fishes, aquatic life, water supply and recreation. The discharge is not expected to affect public water supplies.

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

Parameters	Mass Units (lbs/day)			Concentrations (mg/L)		Instant. Maximum
	Average Monthly	Average Weekly	Average Monthly	Average Monthly	Maximum	
Flow (MGD)	Report	XXX	XXX	XXX	XXX	XXX
pH	XXX	XXX	6.0 Min	XXX	9.0	XXX
Carbonaceous Biochemical Oxygen Demand (CBOD ₅)	XXX	XXX	10.0	XXX	XXX	20.0
Total Suspended Solids	XXX	XXX	10.0	XXX	XXX	20.0
Fecal Coliform (No./100 ml)	XXX	XXX	XXX	200 Geo Mean	XXX	XXX

The EPA Waiver is in effect.

Southeast Region: Clean Water Program Manager, 2 East Main Street, Norristown, PA 19401. Telephone 484-250-5970.

PA0026794, Sewage, SIC Code 4952, **Borough of Conshohocken Authority**, 601 East Elm Street, Conshohocken, PA 19428. Facility Name: Conshohocken Borough STP. This existing facility is located in Conshohocken Borough, **Montgomery County**.

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

The receiving stream(s), Schuylkill River, is located in State Water Plan watershed 3-F and is classified for Migratory Fishes and 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 2.3 MGD.

Parameters	Mass Units (lbs/day)			Concentrations (mg/L)		
	Average Monthly	Weekly Average	Instant. Minimum	Average Monthly	Weekly Average	Instant. Maximum
Flow (MGD)	Report	Report Daily Max	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0	XXX	XXX	9.0
Dissolved Oxygen	XXX	XXX	5.0	XXX	XXX	XXX
Total Residual Chlorine (TRC)	XXX	XXX	XXX	0.5	XXX	1.6
Carbonaceous Biochemical Oxygen Demand (CBOD ₅)						
Nov 1 - Apr 30	480	767	XXX	25.0	40.0	50
May 1 - Oct 31	384	575	XXX	20.0	30.0	40
Biochemical Oxygen Demand (BOD ₅)						
Raw Sewage Influent	Report	XXX	XXX	Report	XXX	XXX
Total Suspended Solids	575	863	XXX	30.0	45.0	60
Total Suspended Solids						
Raw Sewage Influent	XXX	XXX	XXX	Report	XXX	XXX
Total Dissolved Solids	XXX	XXX	XXX	1,000.0 Qrtly. Avg.	XXX	2,500
Fecal Coliform (No./100 ml)	XXX	XXX	XXX	200 Geo Mean	XXX	1,000
Total Nitrogen	Report	XXX	Report Avg Mo	XXX	XXX	XXX
Ammonia-Nitrogen						
Nov 1 - Apr 30	384	XXX	XXX	20.0	XXX	40
May 1 - Oct 31	153	XXX	XXX	8.0	XXX	16
Total Phosphorus	Report	XXX	XXX	Report	XXX	XXX
Copper, Total	XXX	XXX	XXX	XXX	Report Daily Max	XXX
Lead, Total	XXX	XXX	XXX	XXX	Report Daily Max	XXX
Zinc, Total	XXX	XXX	XXX	XXX	Report Daily Max	XXX
PCBs Dry Weather Analysis (pg/L)	XXX	XXX	XXX	Report Daily Max	XXX	XXX
PCBs Wet Weather Analysis (pg/L)	XXX	XXX	XXX	Report Daily Max	XXX	XXX

<i>Parameters</i>	<i>Mass Units (lbs/day)</i>		<i>Instant. Minimum</i>	<i>Concentrations (mg/L)</i>		<i>Instant. Maximum</i>
	<i>Average Monthly</i>	<i>Weekly Average</i>		<i>Average Monthly</i>	<i>Weekly Average</i>	
Toxicity, Chronic—Ceriodaphnia Survival (TUc) Reproduction (TUc)	XXX	XXX	XXX	Report Daily Max	XXX	XXX
Toxicity, Chronic—Pimephales Survival (TUc) Growth (TUc)	XXX	XXX	XXX	Report Daily Max Report Daily Max	XXX	XXX

The proposed effluent limits for Outfalls 002 and 003 are based on an average storm event.

<i>Parameters</i>	<i>Mass Units (lbs/day)</i>		<i>Minimum</i>	<i>Concentrations (mg/L)</i>		<i>Instant. Maximum</i>
	<i>Average Monthly</i>	<i>Average Weekly</i>		<i>Average Monthly</i>	<i>Daily Maximum</i>	
pH (S.U.)	XXX	XXX	XXX	XXX	Report	XXX
Carbonaceous Biochemical Oxygen Demand (CBOD ₅)	XXX	XXX	XXX	XXX	Report	XXX
Chemical Oxygen Demand (COD)	XXX	XXX	XXX	XXX	Report	XXX
Total Suspended Solids	XXX	XXX	XXX	XXX	Report	XXX
Oil and Grease	XXX	XXX	XXX	XXX	Report	XXX
Fecal Coliform (No./100 ml)	XXX	XXX	XXX	XXX	Report	XXX
Total Kjeldahl Nitrogen	XXX	XXX	XXX	XXX	Report	XXX
Total Phosphorus	XXX	XXX	XXX	XXX	Report	XXX
Iron, Dissolved	XXX	XXX	XXX	XXX	Report	XXX

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

- No Stormwater to Sanitary Sewers
- Necessary Property Rights
- Proper Sludge Disposal
- Chlorine Minimization
- Notification of Designation of Responsible Operator
- Fecal Coliform Reporting
- Operations and Maintenance plan
- Pretreatment Program Implementation
- Whole Effluent Toxicity Testing
- Stormwater Requirements
- PCB Pollutant Minimization Plan and Monitoring

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

The EPA Waiver is not in effect.

Northeast Region: Clean Water Program Manager, 2 Public Square, Wilkes-Barre, PA 18701-1915. Phone: 570-826-2511.

PA0026000, Sewage, SIC Code 4952, **Allentown City Lehigh County**, Department Of Public Works, Allentown, PA 18103. Facility Name: Allentown City WWTP. This existing facility is located in Allentown City, **Lehigh 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), Jordan Creek and Lehigh River, is located in State Water Plan watershed 2-C and is classified for Warm Water Fishes, Migratory Fishes, High Quality Waters—Cold Water Fishes and, 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 40 MGD.

<i>Parameters</i>	<i>Mass (lb/day)</i>		<i>Minimum</i>	<i>Concentration (mg/l)</i>		<i>Instant. Maximum</i>
	<i>Average Monthly</i>	<i>Weekly Average</i>		<i>Average Monthly</i>	<i>Weekly Average</i>	
Flow (MGD)	Report	Report Daily Max	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0	XXX	XXX	9.0
Dissolved Oxygen	XXX	XXX	5.0	XXX	XXX	XXX
Total Residual Chlorine	XXX	XXX	XXX	0.44	XXX	1.02

<i>Parameters</i>	<i>Mass (lb/day)</i>		<i>Minimum</i>	<i>Concentration (mg/l)</i>		<i>Instant. Maximum</i>
	<i>Average Monthly</i>	<i>Weekly Average</i>		<i>Average Monthly</i>	<i>Weekly Average</i>	
CBOD ₅	6,672	10,008	XXX	20.0	30.0	40.0
BOD ₅						
Raw Sewage Influent	Report	XXX	XXX	Report	XXX	XXX
Total Suspended Solids						
Raw Sewage Influent	Report	XXX	XXX	Report	XXX	XXX
Total Suspended Solids	10,008	15,012	XXX	30.0	45.0	60.0
Total Dissolved Solids	XXX	XXX	XXX	Report	XXX	XXX
				Avg Qrtly		
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
Nitrate-Nitrite as N	Report	XXX	XXX	Report	XXX	XXX
Total Nitrogen	Report	XXX	XXX	Report	XXX	XXX
Ammonia-Nitrogen						
May 1 - Oct 31	1,668	XXX	XXX	5.0	XXX	10.0
Nov 1 - Apr 30	5,004	XXX	XXX	15.0	XXX	30.0
Total Kjeldahl Nitrogen	Report	XXX	XXX	Report	XXX	XXX
Total Phosphorus	Report	XXX	XXX	Report	XXX	XXX
Total Cadmium	XXX	XXX	XXX	Report	XXX	XXX
Total Cobalt	XXX	XXX	XXX	Report	XXX	XXX
Total Copper	XXX	XXX	XXX	Report	XXX	XXX
Dissolved Iron	XXX	XXX	XXX	Report	XXX	XXX

The proposed effluent limits for Outfall 002 are based on a design flow of 40 MGD.

<i>Parameters</i>	<i>Mass (lb/day)</i>		<i>Minimum</i>	<i>Concentration (mg/l)</i>		<i>Instant. Maximum</i>
	<i>Average Monthly</i>	<i>Weekly Average</i>		<i>Average Monthly</i>	<i>Weekly Average</i>	
Flow (MGD)	Report	Report	XXX	XXX	XXX	XXX
		Daily Max				
pH (S.U.)	XXX	XXX	6.0	XXX	XXX	9.0
Dissolved Oxygen	XXX	XXX	5.0	XXX	XXX	XXX
Total Residual Chlorine	XXX	XXX	XXX	0.44	XXX	1.02
CBOD ₅	6,672	10,008	XXX	20.0	30.0	40.0
BOD ₅						
Raw Sewage Influent	Report	XXX	XXX	Report	XXX	XXX
Total Suspended Solids	10,008	15,012	XXX	30.0	45.0	60.0
Total Suspended Solids						
Raw Sewage Influent	Report	XXX	XXX	Report	XXX	XXX
Total Dissolved Solids	XXX	XXX	XXX	Report	XXX	XXX
				Avg Qrtly		
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
Nitrate-Nitrite as N	Report	XXX	XXX	Report	XXX	XXX
Total Nitrogen	Report	XXX	XXX	Report	XXX	XXX
Ammonia-Nitrogen						
May 1 - Oct 31	1,668	XXX	XXX	5.0	XXX	10.0
Nov 1 - Apr 30	5,004	XXX	XXX	15.0	XXX	30.0
Total Kjeldahl Nitrogen	Report	XXX	XXX	Report	XXX	XXX
Total Phosphorus	Report	XXX	XXX	Report	XXX	XXX
Total Cadmium	XXX	XXX	XXX	Report	XXX	XXX
Total Cobalt	XXX	XXX	XXX	Report	XXX	XXX
Total Copper	XXX	XXX	XXX	Report	XXX	XXX
Dissolved Iron	XXX	XXX	XXX	Report	XXX	XXX

The proposed effluent limits for Outfall 004 are based on a design flow of 0.0 MGD (Stormwater).

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

The proposed effluent limits for Outfall 005 are based on a design flow of 0.0 MGD (Stormwater).

Parameters	Mass (lb/day)		Minimum	Concentration (mg/l)		Instant. Maximum
	Average Monthly	Average Weekly		Average Monthly	Daily Maximum	
Total Suspended Solids	XXX	XXX	XXX	XXX	Report	XXX
Total Kjeldahl Nitrogen	XXX	XXX	XXX	XXX	Report	XXX
Total Iron	XXX	XXX	XXX	XXX	Report	XXX

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

- Stormwater
- Pretreatment
- Whole Effluent Toxicity Testing

You may make an appointment to review the DEP files on this case by calling the File Review Coordinator at 570-826-5472.

The EPA Waiver is not in effect.

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

PA0261246, Sewage, SIC Code 6514, **Harland W. Miller**, 413 Pinewood Avenue, Hyndman, PA 15545. Facility Name: Miller Apartments STP. This existing facility is located in Londonderry Township, **Bedford County**.

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

The receiving stream(s), Gladdens Run, is located in State Water Plan watershed 13-A and is classified for High Quality—Cold Water and Migratory Fish, 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 0.0008 MGD.

Parameters	Mass Units (lbs/day)		Minimum	Concentrations (mg/L)		Instant. Maximum
	Average Monthly	Daily Maximum		Average Monthly	Maximum	
Flow (MGD)	Report	Report	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0	XXX	XXX	9.0
Carbonaceous Biochemical Oxygen Demand (CBOD ₅)						
Nov 1 - Apr 30	XXX	XXX	XXX	20.0	XXX	40.0
May 1 - Oct 31	XXX	XXX	XXX	10.0	XXX	20.0
Total Suspended Solids	XXX	XXX	XXX	20.0	XXX	40.0
Fecal Coliform (CFU/100 ml)	XXX	XXX	XXX	200	XXX	XXX
Ammonia-Nitrogen						
Nov 1 - Apr 30	XXX	XXX	XXX	15.0	XXX	30.0
May 1 - Oct 31	XXX	XXX	XXX	5.0	XXX	10.0

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

- Maintain the UV disinfection unit in proper working condition including cleaning of the UV contact surface and replacing the UV bulb according to manufacturer instructions.
- Submit a completed Annual Monitoring Report (AMR) by June 30th of every year.

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.

PA0026808, Sewage, SIC Code 4952, **Springettsbury Township**, 1501 Mt Zion Road, York, PA 17402. Facility Name: Springettsbury Township STP. This existing facility is located in Springettsbury Township, **York 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), Codorus Creek, is located in State Water Plan watershed 7-H 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 15 MGD:

Parameters	Mass Units (lbs/day)		Minimum	Concentrations (mg/L)		Instant. Maximum
	Average Monthly	Daily Maximum		Average Monthly	Weekly Average	
Flow (MGD)	Report	Report	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0	XXX	XXX	9.0
Dissolved Oxygen	XXX	XXX	Report	XXX	XXX	XXX

<i>Parameters</i>	<i>Mass Units (lbs/day)</i>		<i>Minimum</i>	<i>Concentrations (mg/L)</i>		<i>Instant. Maximum</i>
	<i>Average Monthly</i>	<i>Daily Maximum</i>		<i>Average Monthly</i>	<i>Weekly Average</i>	
UV transmittance (%)	XXX	XXX	Report	XXX	XXX	XXX
CBOD ₅	3,128	5,004	XXX	25	40	50
BOD ₅		Wkly Avg				
Raw Sewage Influent	Report	Report	XXX	Report	XXX	XXX
Total Suspended Solids	3,753	5,630	XXX	30	45	60
		Wkly Avg				
Total Suspended Solids						
Raw Sewage Influent	Report	Report	XXX	Report	XXX	XXX
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						
May 1 - Oct 31	250	XXX	XXX	2.0	XXX	4.0
Nov 1 - Apr 30	375	XXX	XXX	3.0	XXX	6.0
Total Phosphorus	250	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	XXX	Report	XXX
Kjeldahl—N	Report	XXX	XXX	Report	XXX
Nitrate-Nitrite as N	Report	XXX	XXX	Report	XXX
Total Nitrogen	Report	Report	XXX	Report	XXX
Total Phosphorus	Report	Report	XXX	Report	XXX
Net Total Nitrogen	Report	273,969	XXX	XXX	XXX
Net Total Phosphorus	Report	36,529	XXX	XXX	XXX

* This permit contains conditions which authorize the permittee to apply nutrient reduction credits to meet the Net Total Nitrogen and the Net Total Phosphorus effluent mass limits, under the Department's Chapter 96 regulations. The condition includes the requirement to report the application of these credits in Supplemental Discharge Monitoring Reports (DMRs) submitted to the Department.

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

- Chesapeake Bay Nutrients Monitoring Requirements
- Whole Effluent Toxicity (WET) Testing Requirements
- EPA Pretreatment Implementation Requirements
- Stormwater Management Requirements

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.

PA0043273, Sewage, SIC Code 4952, **Hollidaysburg Borough Sewer Authority Blair County**, 401 Blair Street, Hollidaysburg, PA 16648-1805. Facility Name: Hollidaysburg STP. This existing facility is located in Frankstown Township, **Blair County**.

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

The receiving stream(s), Beaverdam Branch, Frankstown Branch Juniata River, Brush Run, and Unnamed Tributary to Beaverdam Branch, is located in State Water Plan watershed 11-A and is classified for Warm Water Fishes, aquatic life, water supply and recreation. The discharge is not expected to affect public water supplies.

The proposed effluent limits for Outfall 001 are based on a design flow of 6 MGD.

<i>Parameters</i>	<i>Mass Units (lbs/day)</i>		<i>Minimum</i>	<i>Concentrations (mg/L)</i>		<i>Instant. Maximum</i>
	<i>Average Monthly</i>	<i>Weekly Average</i>		<i>Average Monthly</i>	<i>Weekly Average</i>	
Flow (MGD)	Report	Report	XXX	XXX	XXX	XXX
		Daily Max				
pH (S.U.)	XXX	XXX	6.0	XXX	9.0	XXX
					Max	

<i>Parameters</i>	<i>Mass Units (lbs/day)</i>		<i>Minimum</i>	<i>Concentrations (mg/L)</i>		<i>Instant. Maximum</i>
	<i>Average Monthly</i>	<i>Weekly Average</i>		<i>Average Monthly</i>	<i>Weekly Average</i>	
Dissolved Oxygen	XXX	XXX	5.0	XXX	XXX	XXX
CBOD ₅						
Nov 1 - Apr 30	1,250	2,000	XXX	25	40	50
May 1 - Oct 31	750	1,125	XXX	15.0	22.5	30
Biochemical Oxygen Demand (BOD ₅)						
Raw Sewage Influent	Report	Report Daily Max	XXX	Report	XXX	XXX
Total Suspended Solids						
Raw Sewage Influent	Report	Report Daily Max	XXX	Report	XXX	XXX
Total Suspended Solids	1,500	2,250	XXX	30	45	60
Total Dissolved Solids	Report	XXX	XXX	Report	XXX	XXX
Fecal Coliform (CFU/100 ml)						
Oct 1 - Apr 30	XXX	XXX	XXX	2,000 Geo Mean	XXX	10,000
May 1 - Sep 30	XXX	XXX	XXX	200 Geo Mean	XXX	1,000
Ultraviolet light transmittance (%)	XXX	XXX	Report	XXX	XXX	XXX
Ammonia-Nitrogen						
Nov 1 - Apr 30	525	XXX	XXX	10.5	XXX	21
May 1 - Oct 31	175	XXX	XXX	3.5	XXX	7
Copper, Total	2.7	XXX	XXX	0.055	XXX	XXX
Sulfate, Total	Report	XXX	XXX	Report	XXX	XXX
Chloride	Report	XXX	XXX	Report	XXX	XXX
Bromide	Report	XXX	XXX	Report	XXX	XXX

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

<i>Parameters</i>	<i>Mass Units (lbs/day)</i>		<i>Monthly</i>	<i>Concentrations (mg/L)</i>		<i>Instant. Maximum</i>
	<i>Monthly</i>	<i>Annual</i>		<i>Monthly Average</i>	<i>Maximum</i>	
Ammonia—N	Report	Report	XXX	Report	XXX	XXX
Kjeldahl—N	Report	XXX	XXX	Report	XXX	XXX
Nitrate-Nitrite as N	Report	XXX	XXX	Report	XXX	XXX
Total Nitrogen	Report	Report	XXX	Report	XXX	XXX
Total Phosphorus	Report	Report	XXX	Report	XXX	XXX
Net Total Nitrogen	Report	109,588	XXX	XXX	XXX	XXX
Net Total Phosphorus	Report	14,612	XXX	XXX	XXX	XXX

* This permit contains conditions which authorize the permittee to apply nutrient reduction credits to meet the Net Total Nitrogen and the Net Total Phosphorus effluent mass limits, under the Department's Chapter 96 regulations. The condition includes the requirement to report the application of these credits in Supplemental Discharge Monitoring Reports (DMRs) submitted to the Department.

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

- The permittee is granted 1,925 lbs/year Total Nitrogen offsets to meet the Net Total Nitrogen cap load
- Stormwater Prohibition
- Approval Contingencies
- Proper Waste/solids Management
- Combined sewer overflow management requirements
- Pretreatment Program Implementation
- Restrictions on accenting hauled in waste under certain conditions
- WET test requirements

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.

PA0247243, Sewage, SIC Code 2452, **Buchanan Trail Owners' Association**, 128 S Main Street, Mercersburg, PA 17236-0029. Facility Name: Buchanan Trail Owners' Association STP. This existing facility is located in Montgomery and Peters Townships, **Franklin County**.

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

The receiving stream(s), Dry Swale to Unnamed Tributary to West Branch Conococheague Creek, is located in State Water Plan watershed 13-C and is classified for Migratory Fishes and Trout Stocking, aquatic life, water supply and recreation. The discharge is not expected to affect public water supplies.

The proposed effluent limits for Outfall 001 are based on a design flow of 0.005 MGD.—Limits.

Parameters	Mass Units (lbs/day)		Minimum	Concentrations (mg/L)		Instant. Maximum
	Average Monthly	Average Weekly		Average Monthly	Daily Maximum	
Flow (MGD)	Report	Report	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0	XXX	9.0	XXX
Dissolved Oxygen	XXX	XXX	5.0	XXX	XXX	XXX
Total Residual Chlorine (TRC)	XXX	XXX	XXX	0.5	1.6	XXX
Carbonaceous Biochemical Oxygen Demand (CBOD ₅)	XXX	XXX	XXX	10.0	20.0	XXX
Total Suspended Solids	XXX	XXX	XXX	10.0	20.0	XXX
Fecal Coliform (No./100 ml)						
Oct 1 - Apr 30	XXX	XXX	XXX	2,000	XXX	10,000
May 1 - Sep 30	XXX	XXX	XXX	Geo Mean 200	XXX	1,000
Nitrate-Nitrite as N	XXX	XXX	XXX	Report	XXX	XXX
Nitrate-Nitrite as N (Total Load, lbs)	Report	XXX	XXX	XXX	XXX	XXX
Total Nitrogen	XXX	XXX	XXX	Report	XXX	XXX
Total Nitrogen (Total Load, lbs)	Report	XXX	XXX	XXX	XXX	XXX
Ammonia-Nitrogen						
Nov 1 - Apr 30	XXX	XXX	XXX	9.0	18.0	XXX
May 1 - Oct 31	XXX	XXX	XXX	3.0	6.0	XXX
Ammonia-Nitrogen (Total Load, lbs)	Report	XXX	XXX	XXX	XXX	XXX
Total Kjeldahl Nitrogen	XXX	XXX	XXX	Report	XXX	XXX
Total Kjeldahl Nitrogen (Total Load, lbs)	Report	XXX	XXX	XXX	XXX	XXX
Total Phosphorus	XXX	XXX	XXX	Report	XXX	XXX
Total Phosphorus (Total Load, lbs)	Report	XXX	XXX	XXX	XXX	XXX

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

- Chlorine Minimization
- Solids Management
- Dry stream discharge
- Notification of responsible operator

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.

PA0026051, Sewage, SIC Code 4952, **Chambersburg Borough Franklin County**, 100 S 2nd Street, Chambersburg, PA 17201-2515. Facility Name: Chambersburg Borough STP. This existing facility is located in Chambersburg Borough, **Franklin 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), Conococheague Creek, is located in State Water Plan watershed 13-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 an interim design flow of 6.8 MGD and final design flow of 11.28 MGD.

Parameter	Mass Units (lbs/day)		Effluent Limitations			Instant. Maximum
	Average Monthly	Weekly Average	Minimum	Average Monthly	Weekly Average	
Flow (MGD)	Report	Report	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0	XXX	XXX	9.0
Dissolved Oxygen	XXX	XXX	5.0	XXX	XXX	XXX
CBOD ₅		Daily Max				
May 1 - Oct 31 (interim)	850	1,361	XXX	15	24	40
Nov 1 - Apr 30 (interim)	1,417	2,268	XXX	25	40	50
May 1 - Oct 31 (final)	1,411	2,257	XXX	15	24	30
Nov 1 - Apr 30 (final)	2,351	3,763	XXX	25	40	50
BOD ₅						
Raw Sewage Influent	Report	Report	XXX	Report	XXX	XXX
		Daily Max				
Total Suspended Solids						
Raw Sewage Influent	Report	Report	XXX	Report	XXX	XXX
		Daily Max				
(interim)	1,701	2,552	XXX	30	45	60
(final)	2,822	4,233	XXX	30	45	60
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		
UV Intensity (mw/cm ²)	XXX	XXX	Report	XXX	XXX	XXX
Ammonia-Nitrogen						
May 1 - Oct 31 (interim)	198	XXX	XXX	3.5	XXX	7.0
Nov 1 - Apr 30 (interim)	567	XXX	XXX	10	XXX	20
May 1 - Oct 31 (final)	282	XXX	XXX	3.0	XXX	6.0
Nov 1 - Apr 30 (final)	846	XXX	XXX	9.0	XXX	18

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

Parameters	Mass Units (lbs)		Concentrations (mg/L)		
	Monthly	Annual	Monthly	Monthly Average	Maximum
Ammonia—N	Report	Report	XXX	Report	XXX
Kjeldahl—N	Report	XXX	XXX	Report	XXX
Nitrate-Nitrite as N	Report	XXX	XXX	Report	XXX
Total Nitrogen	Report	Report	XXX	Report	XXX
Total Phosphorus	Report	Report	XXX	Report	XXX
Net Total Nitrogen	Report	124,199	XXX	XXX	XXX
Net Total Phosphorus	Report	16,560	XXX	XXX	XXX

* This permit contains conditions which authorize the permittee to apply nutrient reduction credits to meet the Net Total Nitrogen and the Net Total Phosphorus effluent mass limits, under the Department's Chapter 96 regulations. The condition includes the requirement to report the application of these credits in Supplemental Discharge Monitoring Reports (DMRs) submitted to the Department.

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

- Authorizes use 5,950 lbs/year of Total Nitrogen Offsets toward compliance with the Annual Net TN mass load limitations based on connection of on-lot sewage disposal systems to the public sewer
- Schedule of compliance
- Pretreatment Program Implementation
- Whole Effluent Toxicity Testing
- Solids Management
- Stormwater Requirements

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.

PA0030597, Sewage, SIC Code 4952, **Franklin County Gen Authority**, 5540 Coffey Avenue, Chambersburg, PA 17201. Facility Name: Franklin County General Authority WTP. This existing facility is located in Letterkenny Township, **Franklin 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), Rocky Spring Branch, is located in State Water Plan watershed 13-C and is classified for Trout Stocking, aquatic life, water supply and recreation. The discharge is not expected to affect public water supplies.

The proposed effluent limits for Outfall 001 are based on a design flow of 0.25 MGD.—Limits.

Parameters	Mass Units (lbs/day)		Minimum	Concentrations (mg/L)		Instant. Maximum
	Average Monthly	Weekly Average		Average Monthly	Weekly Average	
Flow (MGD)	Report	Report	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX Daily Max	6.0	XXX	9.0 Max	XXX
Dissolved Oxygen	XXX	XXX	5.0	XXX	XXX	XXX
Carbonaceous Biochemical Oxygen Demand (CBOD ₅)	52.0	83.0	XXX	25.0	40.0	50
Biochemical Oxygen Demand (BOD ₅)						
Raw Sewage Influent	Report	Report Daily Max	XXX	Report	XXX	XXX
Total Suspended Solids						
Raw Sewage Influent	Report	Report Daily Max	XXX	Report	XXX	XXX
Total Suspended Solids	62.0	93.0	XXX	30.0	45.0	60
Fecal Coliform (CFU/100 ml)						
Oct 1 - Apr 30	XXX	XXX	XXX	2,000 Geo Mean	XXX	10,000
May 1 - Sep 30	XXX	XXX	XXX	200 Geo Mean	XXX	1,000
Ultraviolet light intensity (mW/cm ²)	XXX	XXX	Report	XXX	XXX	XXX
Ammonia-Nitrogen						
Nov 1 - Apr 30	18.0	XXX	XXX	9.0	XXX	18
May 1 - Oct 31	6.0	XXX	XXX	3.0	XXX	6
Total Phosphorus	4.0	XXX	XXX	2.0	XXX	4

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

Parameters	Mass Units (lbs)		Concentrations (mg/L)		
	Monthly	Annual	Monthly	Monthly Average	Maximum
Ammonia—N	Report	Report	XXX	Report	XXX
Kjeldahl—N	Report	XXX	XXX	Report	XXX
Nitrate-Nitrite as N	Report	XXX	XXX	Report	XXX
Total Nitrogen	Report	Report	XXX	Report	XXX
Total Phosphorus	Report	Report	XXX	Report	XXX
Net Total Nitrogen	Report	9,132	XXX	XXX	XXX
Net Total Phosphorus	Report	1,218	XXX	XXX	XXX

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

- Chesapeake Bay nutrient requirements
- eDMR reporting requirement
- Solids Management
- Stormwater prohibition
- Notification of responsible operator
- Hauled-in waste restriction

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 Region: Clean Water Program Manager, 208 West Third Street, Williamsport, PA 17701.

Application No. PA0232769, Concentrated Animal Feeding Operation (CAFO), **Mahosky Farms LLC**, 210 Back Road, Canton, PA 17724-8932.

Mahosky Farms LLC has submitted an application for an Individual NPDES permit for a new CAFO known as Mahosky Farms LLC, located in Union Township, **Tioga County**.

The CAFO is situated near Unnamed Tributary to Mill Creek in Watershed 10-A, which is classified for High Quality—Cold Water and Migratory Fish. The CAFO will be designed to maintain an animal population of approximately 713.42 animal equivalent units (AEUs) consisting of 4,800 finishing swine. Manure will be collected through slotted floors into the underbarn storage. The underbarn storage (80.16' × 499.66' × 6') will have a total capacity of 1,647,770 gallons. Prior to operation of the manure storage facilities, the design engineer will be required to submit certification that the facilities were constructed in accordance with appropriate PA Technical Guide Standards. A release or discharge to waters of the Commonwealth under normal operating conditions is not expected. Normal operating conditions are defined as conditions below a 25-year, 24-hour storm event.

The Department has conducted administrative and technical reviews of the application. Based on the preliminary review and application of lawful standards and regulations, the Department has made a tentative determination to issue an NPDES permit for the operation subject to the terms and conditions and monitoring and reporting requirements specified in the permit.

You may make an appointment to review the DEP files on this case by calling the File Review Coordinator at 570-327-3693.

The Environmental Protection Agency (EPA) permit waiver provision under 40 CFR 123.24(e) does not apply to this NPDES permit.

Application No. PA0232777, Concentrated Animal Feeding Operation (CAFO), **Roaring Creek Egg Farms LLC (Roaring Creek Egg Farms)**, 190 Tyson School Road, Catawissa, PA 17820-8212.

Roaring Creek Egg Farms LLC has submitted an application for an Individual NPDES permit for a new CAFO known as Roaring Creek Egg Farms, located in Cleveland Township, **Columbia County**.

The CAFO is situated near Unnamed Tributary to Mugser Run in Watershed 5-E, which is classified for High Quality—Cold Water and Migratory Fish. The CAFO will be designed to maintain an animal population of approximately 1,833.3 animal equivalent units (AEUs) consisting of 582,000 layers. Manure will be handled dry in two houses and conveyed to a manure storage facility. A release or discharge to waters of the Commonwealth under normal operating conditions is not expected. Normal operating conditions are defined as conditions below a 25-year, 24-hour storm event.

The Department has conducted administrative and technical reviews of the application. Based on the preliminary review and application of lawful standards and regulations, the Department has made a tentative determination to issue an NPDES permit for the operation subject to the terms and conditions and monitoring and reporting requirements specified in the permit.

You may make an appointment to review the DEP files on this case by calling the File Review Coordinator at 570-327-3693.

The Environmental Protection Agency (EPA) permit waiver provision under 40 CFR 123.24(e) does not apply to this NPDES permit.

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

PA0264644, Sewage, SIC Code 8800, **Libby Lauffenburger**, 2867 Cobham Park Road, Warren, PA 16365. Facility Name: Libby Lauffenburger SRSTP. This proposed facility is located in Glade Township, **Warren County**.

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

The receiving stream(s), unnamed tributary to Glade Run, is located in State Water Plan watershed 16-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 0.0004 MGD.

Parameters	Mass Units (lbs/day)		Minimum	Concentrations (mg/L)		Instant. Maximum
	Average Monthly	Average Weekly		Average Monthly	Maximum	
Flow (MGD)	Report	XXX	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0	XXX	9.0	XXX
Total Residual Chlorine (TRC)	XXX	XXX	XXX	Report	XXX	XXX
Biochemical Oxygen Demand (BOD ₅)	XXX	XXX	XXX	10.0	XXX	20
Total Suspended Solids	XXX	XXX	XXX	10.0	XXX	20
Fecal Coliform (CFU/100 ml)	XXX	XXX	XXX	200 Geo Mean	XXX	1,000

You may make an appointment to review the DEP files on this case by calling the File Review Coordinator at 814-332-6340.

The EPA Waiver is in effect.

PA0264695, Sewage, SIC Code 4952, 8800, **Susan First**, 1090 Linn Tyro Road, Hadley, PA 16130-2832. Facility Name: Susan First SFTF. This proposed facility is located in Perry Township, **Mercer County**.

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

The receiving stream is an unnamed tributary to the Little Shenango River, located in State Water Plan watershed 20-A and classified for Trout Stocking, aquatic life, water supply and recreation. The discharge is not expected to affect public water supplies.

The proposed effluent limits for Outfall 001 are based on a design flow of 0.0008 MGD.

Parameters	Mass Units (lbs/day)			Concentrations (mg/L)		Instant. Maximum
	Average Monthly	Average Weekly	Minimum	Average Monthly	Maximum	
Flow (MGD)	Report	XXX	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0	XXX	9.0	XXX
Total Residual Chlorine (TRC)	XXX	XXX	XXX	Report	XXX	XXX
Biochemical Oxygen Demand (BOD ₅)	XXX	XXX	XXX	10.0	XXX	20
Total Suspended Solids	XXX	XXX	XXX	10.0	XXX	20
Fecal Coliform (CFU/100 ml)	XXX	XXX	XXX	200 Geo Mean	XXX	1,000

You may make an appointment to review the DEP files on this case by calling the File Review Coordinator at 814-332-6340.

The EPA Waiver is in effect.

PA0264610, Sewage, SIC Code 8800, **Dale L Hess**, 9625 Tileyard Road, Waterford, PA 16441. Facility Name: Dale Hess SRSTP. This proposed facility is located in McKean Township, **Erie County**.

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

The receiving stream, an Unnamed Tributary to Elk Creek, is located in State Water Plan watershed 15 and is classified for cold water fishes and migratory fishes, aquatic life, water supply and recreation. The discharge is not expected to affect public water supplies.

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

Parameters	Mass Units (lbs/day)			Concentrations (mg/L)		Instant. Maximum
	Average Monthly	Average Weekly	Minimum	Average Monthly	Maximum	
Flow (GPD)	Report	XXX	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0	XXX	9.0	XXX
Biochemical Oxygen Demand (BOD ₅)	XXX	XXX	XXX	10.0	XXX	20
Total Suspended Solids	XXX	XXX	XXX	10.0	XXX	20
Fecal Coliform (No./100 ml)	XXX	XXX	XXX	200 Geo Mean	XXX	XXX

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

- Prohibition of Stormwater Discharges
- Right of Way
- Aerobic Tank Pumping Requirement
- Abandonment of the Treatment System
- Requirement to Submit Annual Maintenance & Discharge Monitoring Reports
- Solids Handling

You may make an appointment to review the DEP files on this case by calling the File Review Coordinator at 814-332-6340.

The EPA Waiver is in effect.

III. WQM Industrial Waste and Sewerage Applications under The Clean Streams Law

Southeast Region: Clean Water Program Manager, 2 East Main Street, Norristown, PA 19401, 484.250.5900.

WQM Permit No. 4616404, Sewage, **Aqua Pennsylvania Wastewater Inc.**, 762 W. Lancaster Avenue, Bryn Mawr, PA 19010.

This proposed facility is located in Upper Merion Township, **Montgomery County**.

Description of Action/Activity: Gravity sewer extensions 8" PVC & modifications to the one existing sewage pump station.

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

WQM Permit No. 2816201, Industrial Waste, **Nitterhouse Concrete Products, Inc.**, PO Box 2013, Chambersburg, PA 17201.

This proposed facility is located in Guilford Township, **Franklin County**.

Description of Proposed Action/Activity: Seeking permit approval for the construction/operation of an industrial wastewater treatment plant.

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

WQM Permit No. 6216408, Sewage, **Ruth McClellan**, 585 College Street, Youngsville, PA 16371.

This proposed facility is located in Pittsfield Township, **Warren County**.

Description of Proposed Action/Activity: Single Residence Sewage Treatment Plant.

VI. NPDES Individual Permit Applications for Discharges of Stormwater Associated with Construction Activities

Southeast Region: Waterways & Wetlands Program Manager, 2 East Main Street, Norristown, PA 19401. Telephone 484-250-5160.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAD510002	ALTERRA MIS BW GP, LLC 1500 Walnut Street, Suite 2000 Philadelphia, PA 19102	Philadelphia	City of Philadelphia	Delaware River WWF

Northeast Region: Waterways and Wetlands Program Manager, 2 Public Square, Wilkes-Barre, PA 18701-1915.

Lehigh County Conservation District, Lehigh Ag Center, Suite 102, 4184 Dorney Park Rd., Allentown PA 18104.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI023916014	George Reeves Triple Net Investments X, LP 171 Route 173 Suite 201 Asbury, NJ 08802	Lehigh	Upper Macungie Township	Iron Run (HQ-CWF, MF)

Northampton County Conservation District, 14 Gracedale Avenue Greystone Bldg., Nazareth, PA 18064-9211.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAS10U131R	Charles Chrin 400 South Greenwood Avenue Easton, PA 18045	Northampton	Palmer Township	Bushkill Creek (HQ-CWF, MF)

Schuylkill County Conservation District, 1206 Ag Center Dr., Pottsville, PA 17901.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI025416001	Future Power PA, LLC Attn: Mr. Garrick Venteicher 7500 College Boulevard Suite 400 Overland Park, KS 66210	Schuylkill	Butler Township Foster Township Frailey Township Hegins Township Porter Township	Crystal Run (CWF, MF) Deep Creek (CWF, MF) Good Spring Creek (CWF, MF) Hans Yost Creek (CWF, MF) Lower Rausch Creek (CWF, MF) Pine Creek (CWF, MF) Rattling Run (CWF, MF) Swatara Creek (CWF, MF) West Branch Schuylkill River (CWF, MF)

Northcentral Region: Waterways & Wetlands Program Manager, 208 West Third Street, Williamsport, PA 17701, 570.327.3574.

Centre County Conservation District: 414 Holmes Avenue, Suite 4, Bellefonte, PA 16823, (814) 355-6817.

NPDES Permit No.	Applicant Name & Address	County	Municipality	Receiving Water/Use
PAD140002	Penn State University 139 Physical Plant Building University Park, PA 16802	Centre	College Twp	Thompson Run HQ-CWF

Southwest Region: Waterways & Wetlands Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745. (412) 442.4315.

Permit No.	Applicant & Address	County	Municipality	Stream Name
PAD020002	Morgan Management 1080 Pittsford Victor Road Pittsford, NY 14534	Allegheny County	O'Hara Township	Squaw Run (HQ-WWF)
PAD260002	Deer Lake Improvement Association P.O. Box 112 Chalkhill, PA 15421	Fayette County	Wharton Township	Meadow Run (HQ-CWF)
PAI056316004	Peters Township Sanitary Authority 111 Bell Drive McMurray, PA 15317	Washington County	Peters Township	Little Chartiers Creek (HQWF)

STATE CONSERVATION COMMISSION PROPOSED NUTRIENT MANAGEMENT PLANS RELATED TO APPLICATIONS FOR NPDES PERMITS FOR CAFOs

This notice provides information about agricultural operations that have submitted nutrient management plans (NMPs) for approval under 3 Pa.C.S. Chapter 5 and that have or anticipate submitting applications for new, amended or renewed NPDES permits, or Notices of Intent (NOIs) for coverage under a general permit, for CAFOs, under 25 Pa. Code Chapter 92a. This notice is provided in accordance with 25 Pa. Code Chapter 92a and 40 CFR Part 122, implementing The Clean Streams Law and the Federal Clean Water Act.

Based upon preliminary reviews, the State Conservation Commission (SCC) or County Conservation Districts (CCD) working under a delegation agreement with the SCC have completed an administrative review of NMPs described. These NMPs are published as proposed plans for comment prior to taking final actions. The NMPs are available for review at the CCD office for the county where the agricultural operation is located. A list of CCD office locations is available at <http://www.nacdnet.org/about/districts/directory/pa.phtml> or can be obtained from the SCC at the office address listed or by calling (717) 787-8821.

Persons wishing to comment on an NMP are invited to submit a statement outlining their comments on the plan to the CCD, with a copy to the SCC for each NMP, within 30 days from the date of this public notice. Comments received within the respective comment periods will be considered in the final determinations regarding the NMPs. Comments should include the name, address and telephone number of the writer and a concise statement to inform the SCC of the exact basis of the comments and the relevant facts upon which they are based. Comments should be sent to the SCC, Agriculture Building, Room 310, 2301 North Cameron Street, Harrisburg, PA 17110.

Persons with a disability who require an auxiliary aid, service, including TDD users or other accommodations to seek additional information should contact the SCC through the Pennsylvania AT&T Relay Service at (800) 654-5984.

APPLICATIONS NUTRIENT MANAGEMENT PLAN—PUBLIC NOTICE SPREADSHEET

Agricultural Operation Name and Address	County	Total Acres	Animal Equivalent Units	Animal Type	Special Protection Waters (HQ or EV or NA)	Renewal/New
Blue Berry Hill Farm 2950 Centennial Road Hanover, PA 17331	Adams	465.4	556.73	Swine	NA	Renewal
David Kauffman 12050 Greenwood Road Huntingdon, PA 16652	Huntingdon	116	743.13	Swine & Beef	Standing Stone Creek—HQ	New
Hillside Poultry 1849 Letterkenny Road Chambersburg, PA 17205 & 3016 Letterkenny Road Chambersburg, PA 17202	Franklin	456; 413.1 acres available for manure application	1,117.81	Poultry	NA	Renewal

<i>Agricultural Operation Name and Address</i>	<i>County</i>	<i>Total Acres</i>	<i>Animal Equivalent Units</i>	<i>Animal Type</i>	<i>Special Protection Waters (HQ or EV or NA)</i>	<i>Renewal/New</i>
Clair Burkholder 1050 Oregon Hollow Road Drumore, PA 17518	Lancaster	323.8	792.69	Beef/ Swine/Layer	HQ	N
Drew Johson 20522 Hammond Road Spring Run, PA 17262	Franklin	86.1; 0 acre available for manure application	682.85	Swine	NA	New

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

Northwest Region: Safe Drinking Water Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

Permit No. 4216501, Public Water Supply

Applicant	Aqua Pennsylvania, Inc.
Township or Borough	Mount Jewett Borough
County	McKean
Responsible Official	James S. Willard, P.E. Western Area Manager Aqua Pennsylvania, Inc. 665 South Dock Street Sharon, PA 16146

Type of Facility	Public Water Supply
Consulting Engineer	Robert Horvat, P.E. Entech Engineering, Inc. 400 Rouser Road Building 2, Suite 200 Coraopolis, PA 15108
Application Received Date	September 20, 2016
Description of Action	Install mixing systems and booster station.

WATER ALLOCATIONS

Applications received under the act of June 24, 1939 (P.L. 842, No. 365) (35 P.S. §§ 631—641) relating to the Acquisition of Rights to Divert Waters of the Commonwealth

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

WA63-1008, Water Allocations. **Ellsworth Borough**, 23 Main Street, Ellsworth, PA 15331, **Washington County**. The applicant is requesting the right to purchase 283,700 gallons of water per day, peak month, from the Authority of the Borough of Charleroi.

WA4-1018, Water Allocations. **Beaver Borough Municipal Authority**, 469 Third Street, Beaver, PA 15009, **Beaver County**. The applicant is requesting the right to withdraw 3,700,000 gallons of water per day, peak day, from their wells located along the Ohio River.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

**UNDER ACT 2, 1995
PREAMBLE 1**

Acknowledgment of Notices of Intent to Remediate Submitted under the Land Recycling and Environmental Remediation Standards Act (35 P.S. §§ 6026.101—6026.907)

Sections 302—305 of the Land Recycling and Environmental Remediation Standards Act (act) (35 P.S. §§ 6026.302—6026.305) require the Department to publish in the *Pennsylvania Bulletin* an acknowledgment noting receipt of Notices of Intent to Remediate. An acknowledgment of the receipt of a Notice of Intent to Remediate is used to identify a site where a person proposes to, or has been required to, respond to a release of a regulated substance at a site. A person intending to use the background standard, Statewide health standard, the site-specific standard or intend to remediate a site as a special industrial area shall file a Notice of Intent to

Remediate with the Department. A Notice of Intent to Remediate filed with the Department provides a brief description of the location of the site, a list of known or suspected contaminants at the site, the proposed remediation measures for the site and a description of the intended future use of the site. A person who demonstrates attainment of one or a combination of cleanup standards or receives approval of a special industrial area remediation identified under the act will be relieved of further liability for the remediation of the site for contamination identified in reports submitted to and approved by the Department. Furthermore, the person shall not be subject to citizen suits or other contribution actions brought by responsible persons not participating in the remediation.

Under sections 304(n)(1)(ii) and 305(c)(2) of the act, there is a 30-day public and municipal comment period for sites proposed for remediation using a site-specific standard, in whole or in part, and for sites remediated as a special industrial area. This period begins when a summary of the Notice of Intent to Remediate is published in a newspaper of general circulation in the area of the site. For the following site, proposed for remediation to a site-specific standard or as a special industrial area, the municipality, within which the site is located, may request to be involved in the development of the remediation and reuse plans for the site if the request is made within 30 days of the date specified as follows. During this comment period, the municipality may request that the person identified as the remediator of the site develop and implement a public involvement plan. Requests to be involved and comments should be directed to the remediator of the site.

For further information concerning the content of a Notice of Intent to Remediate, contact the environmental cleanup program manager in the Department regional office listed before the notice. If information concerning this acknowledgment is required in an alternative form, contact the community relations coordinator at the appropriate regional office. TDD users may telephone the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

The Department has received the following Notices of Intent to Remediate:

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

Saadzoi Property, 730 N. Fountain Street, Allentown City, **Lehigh County**. Taylor GeoServices, 38 Bishop Hollow Road, Newtown Square, PA 19073, on behalf of Yah Saadzoi, 1041 Hawthorn Road, Allentown, PA 18103, submitted a Notice of Intent to Remediate. An aboveground residential heating oil tank malfunctioned during a refilling event contaminating soils at this site. The proposed future use of the property will be residential. The Notice of Intent to Remediate was published in *The Express Times* on August 17, 2016.

Bohlen Property, 333 Franklin Street, Alburtis Borough, **Lehigh County**. Crawford Environmental Services, LLC, 20 Cardinal Drive, Birdsboro, PA 19508, on behalf of Pipeline Petroleum Inc., PO Box 159, Macungie, PA 18062, submitted a Notice of Intent to Remediate. A release of No. 2 fuel oil contaminated soils at this site. The proposed future use of the property will be residential. The Notice of Intent to Remediate was published in *The Press Group Newspapers* on August 24, 2016.

Ridgeview Healthcare & Rehabilitation Center, 200 Pennsylvania Avenue, West Mahanoy Township,

Schuylkill County. Lender Consulting Services, Inc. 40 LaRiviere Drive, Suite 120, Buffalo, NY 14202 and Environmental Products & Services of Vermont, Inc. 1539 Bobali Drive, Harrisburg, PA 17104, on behalf of Ridgeview Propco LLC, 600 Broadway Street, East Lynbrook, NY 11563, submitted a Notice of Intent to Remediate. A release of gasoline was discovered at this site during the removal of an underground storage tank. The proposed future use of the property will be commercial. The Notice of Intent to Remediate was published in *The Republican-Herald* on August 17, 2016.

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

PennDOT Lewisburg Maint Garage Cleanup, East Buffalo Township, **Union County**. Dewberry Engineers, Inc., 600 Parsippany Road, Suite 301, Parsippany, NJ 07054 on behalf of Department of Transportation, 715 Jordan Avenue, Montoursville, PA 17754 has submitted a Notice of Intent to Remediate concerning the remediation of site soil and groundwater contaminated with hydraulic fluid. The applicant proposes to remediate the site to meet the Statewide Health Standard. A summary of the Notice of Intent to Remediate was published in *The Daily Item* on September 9, 2016.

Southeast Regional Office: Regional Manager, Environmental Cleanup and Brownfields, 2 East Main Street, Norristown, PA 19401, Telephone 484.250.5960. Charline Bass.

200 Welsh Road, 200 Welsh Road, Horsham Township, **Montgomery County**. Paul Martino, PG Pennoni Associates, Inc., 3001 Market Street, Philadelphia, PA 19104, William F. Schmidt, PE, Pennoni Associates, 3001 Market Street, Philadelphia, PA 19104 on behalf of Peter Calatozzo, 200 Welsh LP, 825 Third Avenue, 36th Floor, New York, New York, 10022 has submitted a Notice of Intent to Remediate. Soil and groundwater at the site has been impacted with the release of chlorinated compounds. The site will continue to be used for commercial/industrial purposes. The Notice of Intent to Remediate was published in the *Intelligencer* on August 26, 2016. PF812603.

Bill Marsh Ford, 10 North Sycamore Street, Newtown Township, **Bucks County**. Bridget Shadler, August Mack Environmental, Inc., 941 Wheatland Avenue, Suite 202, Lancaster, PA 17603 on behalf of Fred Beans, Newtown Family Partnership, LP, 3960 Airport Boulevard, Doylestown, PA 18902 has submitted a Notice of Intent to Remediate. Soil and groundwater at the site has been impacted with the release of pah's. The intended future use of the property is to continue its use as an automobile dealership sales and service facility. The Notice of Intent to Remediate as published in the *Bucks County Courier Times* on July 31, 2016. PF812152.

Devon BMW, 20 Lancaster Avenue, Tredyffrin Township, **Chester County**. Kevin Brien, JK Environmental Services, LLC, P.O. Box 509, Lafayette Hill, PA 19444, Tom Kelly, JK Environmental Services, LLC, P.O. Box 509, Lafayette Hill, PA 19444 on behalf of DHM Realty, 20 Lancaster Avenue, Devon, PA 19333 has submitted a Notice of Intent to Remediate. Soil and groundwater at the site has been impacted with the release of no. 2 fuel oil. The proposed future use of the property will be non-residential as a car dealership and automotive repair facility. The Notice of Intent to Remediate as published in the *Daily Local News* on August 17, 2016. PF812170.

Saint Matthew Roman Catholic Church, 219 Fayette Street, Conshohocken Borough, **Montgomery**

County. Staci Cottone, J&J Environmental, P.O. Box 370, Blue Bell, PA 19422 on behalf of Mike Kubiak, Saint Matthews Roman Catholic Church, 219 Fayette Street, Conshohocken, PA 19428 has submitted a Notice of Intent to Remediate. Soil at the site has been impacted with the release of no. 2 fuel oil. The proposed future use of the property will be commercial. The Notice of Intent to Remediate as published in the *Times Herald* on August 04, 2016. PF810292.

Mill Run Personal Care Facility, 1201 Wilson Avenue, Bristol Borough, **Bucks County.** Richard S. Werner, Environmental Consulting, Inc., 2002 Renaissance Blvd, Suite 110, King of Prussia, PA 19406 on behalf of Robert White, Redevelopment Authority of Bucks County, 216 Pond Street, Bristol, PA 19007 has submitted a Notice of Intent to Remediate. Soil at the site has been impacted with the release of no. 2 heating oil. The future use of the property will be a senior services facility. The Notice of Intent to Remediate as published in the *Bucks County Courier Times* on August 30, 2016. PF619945.

Academy of the New Church, 2775 Buck Road, Borough of Bryn Athyn **Montgomery County.** Michael D. Lattanze, Penn Environmental & Remediation, Inc., 2755 Bergey Road, Hatfield, PA 19440, Thomas A. Petrecz, Penn Environmental & Remediation, Inc., 2755 Bergey Road, Hatfield, PA 19440 on behalf of Brian Llewellyn, Academy of the New Church, 2775 Buck Road, Bryn Athyn, PA 19009 has submitted a Notice of Intent to Remediate. Soil at the site has been impacted with the release of no. 2 fuel oil. The intended future use of the site will continue to be for institutional purpose. The Notice of Intent to Remediate as published in the *Time Chronicle* on August 28, 2016. PF812026.

22 South 22nd Street, 22 South 22nd Street, City of Philadelphia, **Philadelphia County.** Aaron Epstein, Partner Engineering and Science, Inc., 100 Deerfield Lane, Suite 200, Malvern, PA 19355, James Duba, Partner Engineering and Science Inc., 100 Deerfield Lane, Suite 200, Malvern, PA 19355, Craig Ratchford, Vitus Development, LLC, 1700 Seventh Avenue, Seattle, Washington, PA 198101 on behalf of Mark Hildebrandt, Esquire, Sidney Hillman Medical Center Philadelphia Apartment 300 Seventy First Street, Suite 302, Miami Beach, FL 33141 has submitted a Notice of Intent to Remediate. Soil at the site has been impacted with the release of inorganics. The proposed future use of the property will be a mix of residential and non-residential for use as apartments and offices. The Notice of Intent to Remediate as published in the *Philadelphia Metro Intelligence* on August 17, 2016. PF812155.

383 West Cedarville Road, North Coventry Township, **Chester County.** Staci Cottone, J&J Environmental, P.O. Box 370, Blue Bell, PA 19422 on behalf of Joyce Geyer, 5433 Leary Avenue, NW, Unite 310, Seattle, WA 98107 has submitted a Notice of Intent to Remediate. Soil at the site has been impacted with the release of no. 2 fuel oil. The proposed future use of the property will be residential. The Notice of Intent to Remediate as published in the *Philadelphia Mercury* on August 29, 2016. PF811068.

Pfizer Great Valley Office & Information System Technical Office, 31-43 Morehall Road, East Whiteland Township, **Chester County.** William F. Schmidt, PE, Pennoni Associates, 3001 Market Street, Philadelphia, PA 19104, Paul Martino, PG, Pennoni Associates, 3001 Market Street, Philadelphia, PA 19104 on behalf of Michael Bray, Horatio Realty Trust, c/o The Vanguard Group, Inc., P.O. Box 2600 Valley Forge, PA 19482-2600 has submitted

a Notice of Intent to Remediate. Soil at the site has been impacted with the release of arsenic. The proposed future use of the property will remain the same. The Notice of Intent to Remediate as published in the *Daily Local News* on August 16, 2016. PF748303.

RESIDUAL WASTE GENERAL PERMITS

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

Central Office: Division of Municipal and Residual Waste, Rachel Carson State Office Building, 14th Floor, 400 Market Street, Harrisburg, PA 17105-8472.

General Permit Application Number WMGR139. Roaring Spring Biofuel, 740 Spang Street, Roaring Spring, PA 16673. General Permit Application Number WMGR139 authorizes processing prior to beneficial use of raw materials from pre-consumer manufacturing operations to produce fuel cubes. The pre-consumer raw materials are residual wastes, as the term is defined by 25 Pa. Code § 287.1, and limited to paper products (paper, laminated paper, cardboard), waste grain (animal feed, feed supplements), textiles, non-halogenated plastics (polyethylene, polyurethane, other non-halogenated plastics), wood (scrap lumber, pallets, particle board, sawdust, wood shavings), paper mill sludge, and packaging materials. The permittee requested modification of General Permit Application Number WMGR139 to include processing of the same limited materials that are classified as municipal waste due to their source. The proposed modification does not include materials from municipal recycling facilities. The application was determined to be administratively complete by Central Office on August 29, 2016.

Written comments concerning the application should be directed to Scott E. Walters, Chief, Permits Section, Division of Municipal and Residual Waste, Bureau of Waste Management, P.O. Box 69170, Harrisburg, PA 17106-9170. TDD users may contact the Department through the Pennsylvania AT&T Relay Service, (800) 654-5984. Comments may also be submitted via e-mail at ra-epbenuseall@pa.gov. When submitting comment via e-mail, place "Comments on WMGR139" in the subject line. Faxed comments will not be accepted. Public comments must be submitted within 60 days of this notice and may recommend revisions to, and approval or denial of the application. For more information, contact the Division of Municipal and Residual Waste at 717-787-7381.

AIR QUALITY

PLAN APPROVAL AND OPERATING PERMIT APPLICATIONS

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 De-

partment, the regulated community and the general public. This approach allows the owner or operator of a facility to submit permitting documents relevant to its application for all sources related to a facility or a proposed project, affords an opportunity for public input, and provides for a decision on the issuance of the necessary permits.

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

Copies of the application, the Department's analysis, all pertinent documents used in the evaluation of the application and subsequently prepared proposed plan approvals/operating permits are available for public review during normal business hours at the appropriate Department Regional Office. Appointments for scheduling a review must be made by calling the appropriate Department Regional Office. The address and phone number of the Regional Office is listed before the application notices.

Persons wishing to file a written protest or provide comments or additional information, which they believe should be considered prior to the issuance of a permit, may submit the information to the Department's Regional Office. A 30-day comment period from the date of this publication will exist for the submission of comments, protests and information. Each submission must contain the name, address and telephone number of the person submitting the comments, identification of the proposed Plan Approval/Operating Permit including the permit number and a concise statement regarding the relevancy of the information or objections to issuance of the permit.

A person wishing to request a hearing may do so during the 30-day comment period. A public hearing may be held, if the Department, in its discretion, decides that a hearing is warranted based on the information received. Persons submitting comments or requesting a hearing will be notified of the decision to hold a hearing by publication in the newspaper, the *Pennsylvania Bulletin* or by telephone, when the Department determines this type of notification is sufficient. Requests for a public hearing and any relevant information should be directed to the appropriate Department Regional Office.

Permits issued to the owners or operators of sources subject to 25 Pa. Code Chapter 127, Subchapter D or E, or located within a Title V facility or subject to 25 Pa. Code § 129.51(a) or permits issued for sources with limitations on their potential to emit used to avoid otherwise applicable Federal requirements may be submitted to the United States Environmental Protection Agency for review and approval as a revision to the State Implementation Plan. Final Plan Approvals and Operating Permits will contain terms and conditions to ensure that the sources are constructed and operating in compliance with applicable requirements in the Air Pollution Control Act (35 P.S. §§ 4001—4015), 25 Pa. Code Chapters 121—145, the Federal Clean Air Act (42 U.S.C.A. §§ 7401—7671q) and regulations adopted under the Federal Clean Air Act.

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.

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.

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

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

66-00001I: Proctor and Gamble Paper Products Co. (P.O. Box 32, State Route 87 South, Mehoopany, PA 18629) for the operation of six cold cleaning parts washer at their facility in Washington Township, **Wyoming County**.

OPERATING PERMITS

Intent to Issue Title V Operating Permits under the Air Pollution Control Act and 25 Pa. Code Chapter 127, Subchapter G.

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

Contact: Janine Tulloch-Reid, Facilities Permitting Chief—Telephone: 484-250-5920.

09-00124: Fairless Energy, LLC (50 Energy Drive, Fairless Hills, PA 19030) for significant modification of a Title V Operating Permit in Falls Township, **Bucks County**. The operating permit is being modified to incorporate all applicable requirements of 40 CFR Part 60, Subpart KKKK, Standards of Performance for Stationary Combustion Turbines, as a result of upgrades made to the stationary combustion units. This modification will incorporate requirements of the Cross-State Air Pollution Rule (CSAPR), which has replaced the 2005 Clean Air Interstate Rule (CAIR). This modification will also incorporate the provisions Pennsylvania's Reasonably Achievable Control Technology (RACT II) rules. Fairless Energy, LLC is a major facility for NO_x, VOC, CO, and PM pollutants. The modification of this operating permit does not authorize any increase in air emissions of any regulated pollutants above previously approved levels. The permit includes monitoring, recordkeeping, and reporting requirements designed to address all applicable air quality requirements.

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

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

41-00006 High Steel Structures, Inc. (1853 William Penn Way, Lancaster, PA 17605-0008) for the Williamsport facility located in Williamsport, **Lycoming 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 Title V operating permit for the abovementioned facility. The facility is currently operating under a State Only (Synthetic Minor) operating permit 41-00006. The facility's sources include a surface coating operation, several natural gas-fired heater, welding operation, three (3) diesel-fired emergency generators and two (2) parts washers. The subject facility has the following potential emissions: 15.45 TPY of CO; 12.86 TPY of NO_x; 0.09 TPY of SO_x; 0.83 TPY of PM/PM₁₀; less than 50 TPY of VOC; 16.28

TPY of toluene; 25.02 TPY of total combined volatile hazardous air pollutants and 14,644 TPY of CO₂e. The emission limits, throughput limitations and work practice standards along with testing, monitoring, record keeping and reporting requirements have been included in the operating permit to ensure the facility complies with all applicable Federal and State air quality regulations. These operating permit conditions have been derived from the applicable requirements of 40 CFR Part 63 Subpart ZZZZ, 40 CFR Part 63 Subpart MMMM, 40 CFR Part 60 Subpart JJJJ and 25 Pa. Code Chapters 121—145. All pertinent documents used in the evaluation of the application are available for public review during normal business hours at the Department's Northcentral Regional Office, 208 West Third Street, Suite 101, Williamsport, PA 17701. Appointments for scheduling a review must be made by calling 570-327-0550.

Intent to Issue Operating Permits under the Air Pollution Control Act and 25 Pa. Code Chapter 127, Subchapter F.

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

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

48-00037: Chrin Sanitary Landfill, Inc., Chrin Landfill (1225 Industrial Drive, Easton, PA 18042). The Department intends to issue a renewal Title V Operating Permit for landfill operations in Williams Township, **Northampton County**. As a major source, the facility is subject to the Title V permitting requirements of the Clean Air Act Amendments as adopted by the Commonwealth under 25 Pa. Code Chapter 127, Subchapter G.

The main sources at this facility consist of landfill and gas collection systems and diesel generators. The sources are controlled by flares. These sources have the potential to emit major quantities of regulated pollutants above Title V emission thresholds. The proposed Title V Operating Permit shall include emission restrictions, work practice standards and testing, monitoring, recordkeeping, and reporting requirements to ensure compliance with all applicable Federal and State air quality regulations.

39-00074: Sumimoto (Shi) Cryogenics of America, Inc. (1833 Vultee St., Allentown, PA 18103-4742) The Department intends to issue a Synthetic Minor Operating Permit renewal for operation of a surgical and medical instrument manufacturing operation in Allentown City, **Lehigh County**. The source includes three (3) batch vapor degreasers, two (2) cold cleaning degreasers, and one (1) emergency engine. The proposed operating permit includes requirements designed to keep the facility operating within applicable air quality requirements.

40-00018: Coveris Flexibles US, LLC (3 Maplewood Dr., Hazleton, PA 18202-9790) The Department intends to issue a Synthetic Minor Operating Permit renewal for operation of an uncoated paper and multiwall bag manufacturing operation in Hazle Township, **Luzerne County**. The source includes multicolor flexographic printing presses, patch printers, and an emergency generator. The proposed operating permit includes requirements designed to keep the facility operating within applicable air quality requirements.

Southcentral Region: Air Quality Program, 909 Elmerston Avenue, Harrisburg, PA 17110.

Contact: Thomas Hanlon, Facilities Permitting Chief, 717-705-4862, Virendra Trivedi, New Source Review Chief, 717-705-4863, or William Weaver, Regional Air Quality Manager, 717-705-4702.

36-03098: Steel Fab Enterprises, LLC (625 Baumgardner Road, Lancaster, PA 17603) to issue a State Only Operating Permit for the structural steel manufacturing facility located in Pequea Township, **Lancaster County**. The potential emissions from the facility are estimated at 2.1 tpy of PM, 4.3 tpy of NO_x, 13.6 tpy of VOC and 2.1 tpy 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 25 Pa. Code § 129.52 Surface coating process.

28-03013: Grove Bowersox Funeral Home, Inc. (50 S Broad Street, Waynesboro, PA 17268) for operation of a human crematory facility in Waynesboro Borough, **Franklin County**. The estimated potential emissions are 1.73 tons of CO, 2.1 tons of NO_x, 1.60 tons of PM, 0.72 ton of SO₂, and 0.15 ton of VOC. 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.

67-03172: Panebaker Funeral Home & Cremation Care Center, Inc. (311 Broadway, Hanover, PA 17331) for operation of a human crematory controlled by afterburners at the funeral home in Heidelberg Township, **York County**. The facility has the following potential air emissions: 2.05 tons of CO, 2.46 tons of NO_x, 1.63 ton of PM, 0.72 ton of SO₂, & 0.17 ton of VOC. 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.

06-05084: Electro Space Fabricators, Inc. (300 W. High Street, Topton, PA 19562) to issue a State Only Operating Permit for the steel and aluminum enclosure manufacturing facility located in Topton Borough, **Berks County**. The actual emissions from the facility in 2015 year are estimated at 0.02 tpy of NO_x and 1.33 tpy of VOCs. 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 25 Pa. Code § 129.52 Surface coating processes, 40 CFR Part 63, Subpart WWWW—National Emission Standards for Hazardous Air Pollutants: Area Source Standards for Plating and Polishing Operations and 40 CFR Part 63, Subpart ZZZZ—National Emissions Standards for Hazardous Air Pollutants for Stationary Reciprocating Internal Combustion Engines.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481.

Contact: David Balog, New Source Review Chief—Telephone: 814-332-6328.

61-00185: Heath Oil, Inc. (PO Box 1128, Oil City, PA 16301-0628) for a renewal of the Natural Minor Operating Permit to operate a petroleum product storage and distribution facility located in Clinton Township, **Venango County**. The emitting sources include: 1) Large and small oil heaters, 2) Internal floating roof tanks, 3) Fugitives from equipment leaks, 4) Two distillation col-

umns, 5) Petroleum recovery system, 6) Tank wagon loading rack and 7) CNG Public Access Fueling System. The emission of pollutants from the facility is less than the Title V threshold-limits. Thus, the facility is natural minor. The facility is Subject to 40 CFR Part 63, Subpart BBBBBB. The facility is also subject to 40 CFR Part 60 Subpart Kb. The permit contains the previous plan approval requirements, applicable Federal requirements, emission restrictions, testing, monitoring, recordkeeping, reporting, work practice, and additional requirements.

**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

Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, 814-472-1900.

Permit No. 32120101. NPDES No. PA0268976 and General Permit GP-12-32120101, Amerikohl Mining, Inc., 202 Sunset Drive, Butler, PA 16001, revision of an existing bituminous coal surface mining site to obtain coverage for coal processing under air quality general permit GP-12 in East Wheatfield Township, **Indiana County**, affecting 210.2 acres. Receiving streams: unnamed tributary to/and Mardis Run to Blacklick Creek, classified for the following uses: cold water fishes and trout stocked fishes. There are no potable water supply intakes within 10 miles downstream. Application received: October 4, 2016.

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, 570-621-3118.

Permit No. 19950101C14. Blaschak Coal Corp., (PO Box 12, Mahanoy City, PA 17948), correction to an existing anthracite surface mine and coal refuse disposal operation to add 483.35 acres to the permit for a total of 1375.0 acres, receiving streams: Shamokin and Mahanoy Creeks, classified for the following uses: cold water and migratory fishes. Application received: September 26, 2016.

Noncoal Applications Received

Effluent Limits—The following effluent limits will apply to NPDES permits issued in conjunction with a noncoal mining permit:

Parameter	Table 2		
	30-day Average	Daily Maximum	Instantaneous Maximum
Suspended solids	10 to 35 mg/l	20 to 70 mg/l	25 to 90 mg/l
Alkalinity exceeding acidity* pH*		greater than 6.0; less than 9.0	

* The parameter is applicable at all times.

A settleable solids instantaneous maximum limit of 0.5 ml/l applied to surface runoff resulting from a precipitation event of less than or equal to a 10-year 24-hour event. If coal will be extracted incidental to the extraction of noncoal minerals, at a minimum, the technology-based effluent limitations identified under coal applications will apply to discharges of wastewater to streams.

Knox District Mining Office: P.O. Box 669, 310 Best Avenue, Knox, PA 16232-0669, 814-797-1191.

Permit No. 10000305. Three Rivers Aggregates, LLC (1807 Shenango Road, New Galilee, PA 16141) Revision to add 14.0 acres to an existing large industrial minerals mine in Worth Township, **Butler County**, affecting a total of 125.0 acres. Receiving streams: Black Run and unnamed tributaries to Black Run, classified for the following uses: CWF. There are no potable surface water supply intakes within 10 miles downstream. Application received: September 29, 2016.

Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, 814-342-8200.

Permit No. 4774SM4 and NPDES PA0115789. Hanson Aggregates Pennsylvania LLC (7660 Imperial Way, Allenton, PA 18195). Renewal of the NPDES permit on an existing industrial mineral mine located in Fairfield Township and Montoursville Borough, **Lycoming County** affecting 939.3 acres. Receiving stream: Bennett's Run classified use WWF. There are no potable water supply intakes within 10 miles downstream. Application received: September 16, 2016.

Permit No. 4777SM1. P Stone, Inc. (P.O. Box 254, 1430 Route 880, Jersey Shore, PA 17740). Permit revision to modify the Erosion and Sedimentation Controls and revise the reclamation plan on an existing industrial mineral mine located in Limestone Township, **Lycoming County** affecting 89.17 acres. Receiving stream: Antes Creek classified use CWF, existing use EV. There are no potable water supply intakes within 10 miles downstream. Application received: September 26, 2016.

Permit No. 41910301. P Stone, Inc. (P.O. Box 254, 1430 Route 880, Jersey Shore, PA 17740). Permit revision to modify the Erosion and Sedimentation Controls and revise the reclamation plan on an existing industrial mineral mine located in Limestone Township, **Lycoming County** affecting 108.0 acres. Receiving stream: Antes Creek classified use CWF, existing use EV. There are no potable water supply intakes within 10 miles downstream. Application received: September 26, 2016.

Permit No. 55100301 and NPDES PA0257401. National Limestone Quarry, Inc. (P.O. Box 397, Middleburg, PA 17842). Renewal of the NPDES permit on an existing industrial mineral mine located in Franklin and Beaver Townships, **Snyder County** affecting 12.8 acres. Receiving stream(s): Unnamed Tributary to Middle Creek classified use CWF and MF. There are no potable water supply intakes within 10 miles downstream. Application received: September 28, 2016.

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, 570-621-3118.

Permit No. 58050811. Richard Luce, (23675 SR 29, Hallstead, PA 18822), Stage I & II bond release of a quarry operation in Liberty Township, **Susquehanna County** affecting 1.5 acre on property owned by Edwin Lawrence. Application received: September 23, 2016.

Permit No. 38870301C20 and NPDES No. PA0595543. Pennsy Supply, Inc., (P.O. Box 3331, Harrisburg, PA 17105), renewal of NPDES Permit for discharge of treated mine drainage from a quarry operation in North & South Annville, Annville, & North Londonderry Townships, **Lebanon County** affecting 1,039.90 acres, receiving stream: Killinger & Quittapahilla Creeks, classified for the following use: trout stocked fisheries. Application received: September 23, 2016.

Permit No. 8074SM3C3. Harleysville Materials, LLC, (PO Box 587, Berlin, NJ 08009), correction of an existing quarry operation for a depth correction and change the post-mining land use from water impoundment to clean fill in Lower Salford Township, **Montgomery County** affecting 43.4 acres, receiving stream: East Branch Perkiomen Creek, classified for the following uses: trout stocking and migratory fishes. Application received: September 23, 2016.

Permit No. 58130802. Dean M. Mack, (7338 S. Weston Road, Kingsley, PA 18826), Stage I & II bond release of a quarry operation in Lenox Township,

Susquehanna County affecting 1.0 acre on property owned by Center Street Rentals. Application received: October 6, 2016.

Noncoal Applications Withdrawn

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, 570-621-3118.

Permit No. 7775SM2A1C12 and NPDES Permit No. PA0594520 and PA0594521. Berks Products Corp., (167 Berks Products Drive, Leesport, PA 19533), withdrawal of NPDES Permit Renewals for discharge of treated mine drainage from a quarry operation as the permits have been replaced in Ontelaunee Township, **Berks County** affecting 350.7 acres, receiving stream: Maiden Creek and Schuylkill River. Application received: December 5, 2014. Application withdrawn: October 5, 2016.

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

Northcentral Region: Waterways & Wetlands Program Manager, 208 West Third Street, Williamsport, PA 17701, 570-327-3636.

E14-573. Ferguson Township, 3147 Research Drive, State College, PA 16801-2752, Fairbrook Park Parking Lot Improvement, in Ferguson Township, **Centre County**, ACOE Baltimore District (Pine Grove Mills, PA Quadrangle N: 40.723777; W: 77.932475).

To place 275 cubic yards of fill in the mapped FEMA 100-year flood plain of an unnamed tributary of Beaver Branch to create a easier to maintain a 181 foot long by 135-foot wide parking lot at the Fairbrook Park located immediately south of the intersection of Tadpole Road and Oak Glen Road. This project proposes to the stream channel or wetlands associated with the unnamed tributary to Beaver Branch, which are classified as a High Quality—Cold Water Fishery.

E41-678. Pennsylvania Department of Transportation, Engineering District 3-0, PO Box 218 Montoursville, PA 17754-0218. S.R. 2014 Section 83A, Storm Sewer and Drainage Improvements City of Williamsport, **Lycoming County**, Baltimore ACOE (Williamsport, PA Quadrangle N: 41° 14' 05"; W: -77° 04' 20").

PA DOT Engineering District 3-0 proposes to upgrade the storm sewer system along SR 2014 in the City of Williamsport. The storm sewer system includes several existing stream enclosures, which will have partial repair or replacement as a maintenance activity.

At the intersection near Fourth St and Ridge Ave, there is an existing stream enclosure that conveys Fox Hollow Run. DOT proposes to replace a portion of the stream enclosure. The stream enclosure replacement includes replacing 26 L.F of 44 inch concrete arch with 26 L.F. of 38 × 60 inch elliptical pipe. Included will be the replacement of two outfalls. The 29 × 45 inch outfalls will be located in inlet boxes at each end of the elliptical pipe. The total impact to the Fox Hollow stream enclosure is 46 L.F. The hydraulic conditions are controlled by a 48 inch pipe at the inlet and outlet.

At the intersection near Fourth St and Arch St, there is an existing stream enclosure that conveys Spring Run. There are two existing storm water outfalls that discharge into the stream enclosure. The existing 36 inch concrete outfall will be replaced with a 48 inch concrete outfall. The existing 15 inch concrete outfall will be replaced with a 42 inch concrete outfall. A new 18 inch concrete outfall will discharge into the stream enclosure. The total impact to the Spring Run stream enclosure is 20 L.F.

Along Trenton Ave a new open channel storm sewer will be constructed. The system will include an outfall into Fox Hollow Run utilizing an 18 inch smooth lined plastic pipe from the east and west side of Fox Hollow Run.

Fox Hollow Run ultimately flows to the West Branch of the Susquehanna River. Spring Run ultimately flows to Lycoming Creek. The project will not impact any jurisdictional wetlands. Fox Hollow Run and Spring Run are classified as a Warm Water Fishery by Title 25, Chapter 93 Water Quality Standards.

Southwest Region: Waterways & Wetlands Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

E02-1725, Three Rivers Marine & Rail Terminals, LLC, Vista One Professional Center, 17 Arentzen Blvd, Suite 206, Charleroi, PA 15022, Glassport Borough and Lincoln Borough, **Allegheny County**, Pittsburgh ACOE District.

The applicant is proposing to:

1. Remove an existing 26' × 175' grounded barge from along the right descending bank of the Monongahela River (WWF, N) and four (4) existing dolphin structures from the river;

2. Operate and maintain the existing Glassport Barge Handling Area, consisting of three (3) 26' × 175', double-stacked, grounded barges (after removal of the aforementioned, grounded barge), six (6) dolphin structures (after removal of the aforementioned dolphin structures), in and along approximately 2,480' of the right descending bank of the Monongahela River;

3. Construct and maintain eighteen (18) new, 4-pipe dolphins within the Monongahela River, within the aforementioned 2,480' long Glassport Barge Handling Area;

For the purpose of repairing and upgrading the existing barge handling area, to provide a safe, efficient barge handling area, to service the industries and barge clients in the area with the delivery of raw materials and the removal of product and wastes. The project is located approximately from River Mile 19 to 19.5, at 1060 Ohio Avenue, Glassport, PA 15045 (Glassport, PA USGS topographic quadrangle; Latitude: 40° 18' 47.46"; Longitude: -79° 53' 6.95"; Sub-basin 19C; Pittsburgh Corps District), in Glassport and Lincoln Boroughs, Allegheny County. If DEP is able to act favorably upon this application, the new permit will replace Permit Nos. E02-181T-1, E02-181, 0274791, 0276702 and 0276780. Permit Nos. E02-181T-1, E02-181, 0274791, 0276702 and 0276780, will be terminated by DEP.

E02-1730, FC Aiken, LLC, Three Gateway Center, Pittsburgh, PA 15222, Robinson Township, **Allegheny County**, Pittsburgh ACOE District.

The applicant is proposing to:

Construct and maintain a road crossing (aka Magnolia Drive) in Moon Run (WWF), consisting of a 120" diameter, corrugated metal pipe, to provide access to the Arbor Trail Phase 2 residential development, located approximately 800' southwest of the intersection of Aiken Road and Arbor Trail Drive (Pittsburgh, West, PA USGS topographic quadrangle; Latitude: 40° 27' 23"; Longitude: -80° 6' 52"; Sub-basin: 20G; US Army Corps of Engineers, Pittsburgh District), in Robinson Township, Allegheny County.

E63-691, Dominion Transmission, Inc., 5000 Dominion Blvd., Glen Allen, VA 23060-3308, West Bethlehem Township, **Washington County**, Pittsburgh ACOE District.

The applicant is proposing to:

Remove an existing concrete grade control structure, place and maintain two 8' × 20' articulated concrete mattresses, 94 feet of rip-rap bank paving, and a rock cross-vane in Horn Run (TSF) for the purpose of protecting an existing 6" natural gas pipeline (G-136 pipeline) that has been exposed. This project is located near the intersection of Wherry School Road and Oak Spring Road (Ellsworth, PA Quadrangle; Latitude 40° 1' 44"; Longitude -80° 6' 41") in West Bethlehem Township, Washington County.

Northwest Region: Oil and Gas Program Manager, 230 Chestnut Street, Meadville, PA 16335; 814-332-6860.

E10-08-011, Mountain Gathering LLC, 810 Houston Street, Fort Worth, TX 76102. Stein to Cratty B Pipeline in Franklin Townships, **Butler County**, Army Corps of Engineers Pittsburgh District (Mount Chestnut and Prospect, PA Quadrangles 40.917458N; 80.003436W).

The applicant proposes to construct and maintain approximately 4,371 feet of one ten inch steel natural gas gathering pipeline located in Franklin Townships Butler County. The pipeline would convey gas from the Stein Well Pad to the Cratty B Well Pad.

The water obstructions and encroachments are described below:

To construct and maintain:

<i>Impact No.</i>	<i>Description of Impact</i>	<i>Latitude/Longitude</i>
1	One (1) 10" steel gathering line with associated right-of-way and a temporary road crossing through PEM Wetland (Wetland 2) having 0.065 acre of temporary wetland impact and 0.0010 acre of permanent wetland impact.	40.917458 N 80.003436 W
2	One (1) 10" steel gathering line with associated right-of-way and temporary road crossing to cross UNT to Mulligan Run (CWF) (Stream 1) and PEM Wetland (Wetland 9) 110 linear feet of temporary stream impacts, 30 linear feet of permanent stream impacts, 8,775.2 square feet of temporary floodway impact, 88.8 square feet of permanent floodway impacts, 0.007 acre of temporary wetland impacts and 0.0002 acre of permanent wetland impacts.	40.916253 N 80.004375 W
3	One (1) 10" steel gathering line with associated right-of-way and a temporary road crossing to cross UNT to Mulligan Run (CWF) (Stream 2) and PEM Wetland (Wetland 10) having 87 linear feet of temporary stream impacts, 9 linear feet of permanent stream impacts, 8,170.2 square feet of temporary floodway impact, 103.8 square feet of permanent floodway impacts, 0.007 acre of temporary wetland impact and 0.0004 acre of permanent wetland impact.	40.916308 N 80.00475 W
4	One (1) 10" steel gathering line with associated right-of-way and a temporary road crossing through PEM Wetland (Wetland 13A &B) and PSS Wetland (Wetland 13) having a total of 0.24 acre of temporary wetland impact and 0.006 acre of permanent wetland impact (no permanent PEM to PSS conversion).	40.91545 N 80.009714 W

In Butler County, the project will result in stream impacts of 197 linear feet of temporary stream impacts and 39 linear feet of permanent stream impacts. Total floodway impacts are 16,945.4 square feet of temporary and 192.6 square feet of permanent. Total wetland impacts include 0.382 acre of temporary and 0.013 acre of permanent.

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 AT&T Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin* unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary 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

Southwest Regional Office: Regional Clean Water Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745. Phone: 412.442.4000.

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed No.)</i>	<i>EPA Waived Y/N?</i>
PA0033456 (Sewage)	Sunny Acres MHP STP 3499 Route 9 Suite 3C Freehold, NJ 07728-3277	Somerset County Somerset Township	Unnamed Tributary to East Branch Coxes Creek (19-F)	Yes
PA0218103 (Sewage)	Worthington-West Franklin Joint Municipal Authority STP 102 West Main Street Worthington, PA 16262	Armstrong County West Franklin Township	Buffalo Creek (18-F)	Yes

Southeast Region: Clean Water Program Manager, 2 East Main Street, Norristown, PA 19401. Phone: 484.250.5970.

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N?</i>
PA0053384 (Sewage)	Buckingham Assembly Hall of Jehovahs Witnesses 4414 New Hope Road Furlong, PA 18925-1306	Bucks County Buckingham Township	Unnamed Tributary to Mill Creek 2-F	Y
PA0055671 (Sewage)	Worcester Township PO Box 767 Worcester, PA 19490-0767	Montgomery County Worcester Township	Unnamed Tributary to Skippack Creek 3-E	Y
PA0244180 (Sewage)	Jennifer & Dirk Quan Holden 2559 Wayland Road Berwyn, PA 19312	Chester County Easttown Township	Unnamed Tributary to Crum Creek 3-G	Y
PA0024058 (Sewage)	Kennett Square Borough 120 Marshall Street Kennett Square, PA 19348-3108	Chester County Kennett Square Borough	Unnamed Tributary to West Branch Red Clay Creek 3-I	N
PA0011436 (Industrial)	Handy & Harman Tube Co. Inc. 1133 Westchester Avenue Suite N-222 White Plains, NY 10604	Montgomery County East Norriton Township	Unnamed Tributary to Stony Creek 3-F	Y

Northcentral Regional Office: Clean Water Program Manager, 208 W Third Street, Suite 101, Williamsport, PA 17701-6448. Phone: 570.327.3636.

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed No.)</i>	<i>EPA Waived Y/N?</i>
PA0228176 (Sewage)	Harrison Township WW Treatment Plant 205 E Main Street Harrison Valley, PA 16927-1203	Potter County Harrison Township	Cowanisque River (4-A)	Yes

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

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N?</i>
PA0210510 (Sewage)	Jim N I Park STP PO Box 69 11678 Main Street East Springfield, PA 16411-0069	Erie County Springfield Township	Unnamed Tributary to Turkey Creek (15-A)	Yes

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. PA0244848, Storm Water, **USSC Group, Inc.**, 150 Gordon Drive, Exton, PA 19341.

This proposed facility is located in Uwchlan Township, **Chester County**.

Description of Action/Activity: Issuance of an NPDES Permit for a new discharge of treated Storm Water.

Northcentral Regional Office: Regional Clean Water Program Manager, 208 W Third Street, Suite 101, Williamsport, PA 17701-6448. Phone: 570.327.3636.

NPDES Permit No. PA0028681, Sewage, SIC Code 4952, **Kelly Township Municipal Authority Union County**, 405 Winter Farm Lane, Lewisburg, PA 17837-6358.

This existing facility is located in Kelly Township, **Union County**.

Description of Existing Action/Activity: Issuance of an NPDES Permit for an existing discharge of treated Sewage.

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

NPDES Permit No. PA0264636, Sewage, SIC Code 4952, 8800, **Diana & George Mastovich**, 1132 Lilly Vue Court, Mars, PA 16046.

This proposed facility is located in Middlesex Township, **Butler County**.

Description of Proposed Action/Activity: Issuance of an NPDES Permit for a new discharge of treated Sewage.

III. WQM Industrial Waste and Sewerage Actions under The Clean Streams Law

Southeast Region: Clean Water Program Manager, 2 East Main Street, Norristown, PA 19401, 484.250.5900.

WQM Permit No. WQG010055, Sewage, **Gregory Gerhardt**, 1272 Lodi Hill Road, Upper Black Eddy, PA 18972.

This proposed facility is located in Bridgeton Township, **Bucks County**.

Description of Action/Activity: Construction and operation of a small flow treatment facility.

WQM Permit No. 0990413, Sewage, Transfer, **Stephen M & Jane E Highsmith**, 6125 Swamp Road, Fountainville, PA 18923.

This proposed facility is located in Plumstead Township, **Bucks County**.

Description of Action/Activity: Permit transfer from Teasha & Fabian Terzier to Stephen & Jane Highsmith. There are no proposed changes to the system. System consists of septic tank with aeration, chlorination and effluent discharge thru spray irrigation.

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

WQM Permit No. 0616403, Sewerage, **Bethel Township Municipal Authority (Frystown STP)**, 81 Klahr Road, Bethel, PA 19507-9657.

This proposed facility is located in Bethel Township, **Berks County**.

Description of Proposed Action/Activity: Permit approval for the extension of proposed sewers located in Bethel Township, Berks County.

WQM Permit No. 3816401, Sewerage, **South Annville Township Authority**, 811 Church Road, Lebanon, PA 17042.

This proposed facility is located in South Lebanon Township, **Lebanon County**.

Description of Proposed Action/Activity: Permit approval for the construction/operation of a sewage pump station to serve their mixed use development on the south side of SR 0422.

WQM Permit No. 2816401, Sewerage, **Guilford Township Authority**, 115 Spring Valley Road, Chambersburg, PA 17202.

This proposed facility is located in Guilford Township, **Franklin County**.

Description of Proposed Action/Activity: Permit approval for the construction/operation of interceptor and force main.

WQM Permit No. 6715201, Amendment A-1, Industrial Waste, **Hanover Foods Corporation**, 1486 York Street, PO Box 334, Hanover, PA 17331-0334.

This proposed facility is located in Penn Township, **York County**.

Description of Proposed Action/Activity: Permit approval for construction of modifications to an existing industrial wastewater treatment facility.

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

WQM Permit No. 1016406, Sewage, **Diana & George Mastovich**, 1132 Lilly Vue Court, Mars, PA 16046.

This proposed facility is located in Middlesex Township, **Butler County**.

Description of Proposed Action/Activity: Single Residence Sewage Treatment Plant.

VI. NPDES Discharges of Stormwater Associated with Construction Activities Individual Permit Actions

Southeast Region: Waterways & Wetlands Program Manager, 2 East Main Street, Norristown, PA 19401. Telephone 484-250-5160.

NPDES Permit No.	Applicant Name & Address	County	Municipality	Receiving Water/Use
PAD230001-2	Everest EB5 Capital, LLC 2010 West Chester Pike, No. 448 Havertown, PA 19083	Delaware	Ridley Township	Unnamed Tributary to Crum Creek WWF-MF
PAI011516015	United Sports Training Center 1426 Marshallton Thorndale Road Downingtown, PA 19335	Chester	West Bradford Township	Unnamed Tributary to Beaver Creek CWF Unnamed Tributary to Broad Run HQ

Northeast Region: Waterways and Wetlands Program Manager, 2 Public Square, Wilkes-Barre, PA 18701-1915.

NPDES Permit No.	Applicant Name & Address	County	Municipality	Receiving Water/Use
PAI024816010	Mr. Joseph Tavianini 2375 Benders Drive Bath, PA 18014	Northampton	Moore Township	Monocacy Creek (HQ-CWF, MF)
PAI026416004	Lakeville DPP, LLC 9010 Overlook Boulevard Brentwood, TN 37027	Wayne County	Paupack Township	UNT to Spinner Brook (HQ-CWF, MF)
PAI023916015	PPL Electric Utilities Corporation Two North Ninth Street GENN4 Allentown, PA 18101	Lehigh	City of Allentown Salisbury Township	Trout Creek (HQ-CWF, MF) UNT to Trout Creek (HQ-CWF, MF)
PAI023916002	Tilghman Square Associates, L.P. 1250 Route 28 Suite 101 Branchburg, NJ 08876	Lehigh	South Whitehall Township	Cedar Creek (HQ-CWF, MF) UNT to Little Lehigh Creek (HQ-CWF, MF)

Northcentral Region: Waterways & Wetlands Program Manager, 208 West Third Street, Williamsport, PA 17701, 570.327.3574.

Centre County Conservation District: 414 Holmes Avenue, Suite 4, Bellefonte, PA 16823, (814) 355-6817.

NPDES Permit No.	Applicant Name & Address	County	Municipality	Receiving Water/Use
PAI041416003	Benner Township 1224 Buffalo Run Road Bellefonte, PA 16823	Centre	Benner Twp	Spring Creek HQ-CWF

Southwest Region: Waterways and Wetlands Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

NPDES Permit No.	Applicant Name & Address	County	Municipality	Receiving Water/Use
PAI055615006	Jenner Area Joint Sewer Authority 102 Saylor Street Jennerstown, PA 15547	Somerset County	Jenner Township	Spruce Run (HQ-CWF)

VII. Approvals to Use NPDES and/or Other General Permits

The EPA Region III Administrator has waived the right to review or object to this permit action under the waiver provision 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
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 Petroleum Product Contaminated Groundwater Remediation Systems
PAG-6	General Permit for Wet Weather Overflow Discharges from Combined Sewer Systems (CSO)
PAG-7	General Permit for Beneficial Use of Exceptional Quality Sewage Sludge by Land Application
PAG-8	General Permit for Beneficial Use of Non-Exceptional Quality Sewage Sludge by Land Application to Agricultural Land, Forest, a Public Contact Site or a Land Reclamation Site
PAG-8 (SSN)	Site Suitability Notice for Land Application Under Approved PAG-8 General Permit Coverage
PAG-9	General Permit for Beneficial Use of Residential Septage by Land Application to Agricultural Land, Forest, or a Land Reclamation Site
PAG-9 (SSN)	Site Suitability Notice for Land Application Under Approved PAG-9 General Permit Coverage
PAG-10	General Permit for Discharges from Hydrostatic Testing of Tanks and Pipelines
PAG-11	General Permit for Discharges from Aquatic Animal Production Facilities
PAG-12	Concentrated Animal Feeding Operations (CAFOs)
PAG-13	Stormwater Discharges from Municipal Separate Storm Sewer Systems (MS4)
PAG-14	(To Be Announced)
PAG-15	General Permit for Discharges from the Application of Pesticides

General Permit Type—PAG-02

Waterways & Wetlands Program Manager, 2 East Main Street, Norristown, PA 19401. Telephone 484-250-5160.

<i>Facility Location & Municipality</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Upper Pottsgrove Township Montgomery County	PAG02004616035	Upper Pottsgrove Township 1409 Farmington Avenue Pottstown, PA 19465	Unnamed Tributary to Manatawny Creek TSF-MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
Limerick Township Montgomery County	PAG02004616054	Matteo Properties LLC 1939 Route 70 East Suite 210 Cherry Hill, PA 08003	Unnamed Tributary to Schuylkill River WWF-MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
City of Philadelphia Philadelphia County	PAG0201511611	Woodmere Gallery, Inc. 9201 Germantown Avenue Philadelphia, PA 19118	Unnamed Tributary to Wissahickon Creek TSF-MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
City of Philadelphia Philadelphia County	PAG0201511600-2	City of Philadelphia Parks & Recreation Department One Parkway 1515 Arch Street 10th Floor Philadelphia, PA 19105	Schuylkill River WWF-MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900

Northeast Region: Waterways and Wetlands Program Manager, 2 Public Square, Wilkes-Barre, PA 18701-1915.

<i>Facility Location: Municipality & County</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Archbald Borough Lackawanna County	PAG02003516012	Cardinal LG Company 14 Alberigi Drive Jessup, PA 18434	UNT to Lackawanna River (CWF, MF)	Lackawanna County Conservation District 570-392-3086
Hazle Township Luzerne County	PAG02004016012	Aqua Pennsylvania, Inc. Patrick Burke 1 Aqua Way White Haven, PA 18661	UNT to Stony Creek (CWF, MF)	Luzerne Conservation District 570-674-7991

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

<i>Facility Location & Municipality</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Sandy Twp Clearfield Cnty	PAG02001716004	Agracel, Inc. c/o Mark Keller 2201 North Willenbrog St. Effingham, IL 62401	Sandy Lick Cr: CWF	Clearfield County Conservation District 511 Spruce St Ste 6 Clearfield, PA 16830 (814) 765-2629
Hemlock Twp Columbia Cnty	PAG02001916003	Harbor Freight Buckhorn Road Bloomsburg, PA 17815	Hemlock Creek	Columbia County Conservation District 702 Sawmill Rd Ste 204 Bloomsburg, PA 17815 (570) 784-1310 X 102
Shippen Twp Tioga Cnty	PAG02005916007	David Metzler 207 Snyder Point Road Wellsboro, PA 16901	WB Stony Fork, CWF	Tioga County Conservation District 50 Plaza Ln Wellsboro, PA 16901 (570) 724-1801 X 5

Southwest Region: Regional Waterways & Wetlands Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

<i>Facility Location and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office and Phone No.</i>
New Sewickley Township	PAG02000416018	Castlebrook Development Group 428 Boulevard of the Allies Suite 100 Pittsburgh, PA 15219	UNT to Crows Run (WWF)	Beaver County Conservation District 156 Cowpath Road Aliquippa, PA 15001 (724) 378-1701
Cambria Township	PAG02001116018	Peoples TWP, LLC 1201 Pitt Street Pittsburgh, PA 15221	Elk Creek (CWF) UNTs to Elk Creek (CWF) UNTs to California Run (CWF)	Cambria County Conservation District 401 Candlelight Drive Suite 221 Ebensburg, PA 15931 (814) 472-2120
White Township	PAG02003216012	The Fountains at Indiana, LLC P.O. Box 607 Indiana, PA 15701	McCarthy Run (CWF)	Indiana County Conservation District 625 Kolter Drive Suite 8 Indiana, PA 15701-3571 (724) 471-4751
Cranberry Township Butler County	PAG02001015010(1)	KH9018 LLC 102 Lakeland Drive Mars, PA 16046	UNT Brush Creek WWF	Butler County Conservation District 724-284-5270
Brady Township Butler County	PAG02001016022	Moraine Camplands Associations Inc. 281 Staff Road Slippery Rock PA 16057	UNT Big Run CWF	Butler County Conservation District 724-284-5270
Cherry Township Butler County	PAC100002	Iron Mountain c/o Mr. James Wendelschaefer 1137 Branchton Road Boyers, PA 16020	South Branch Slippery Rock Creek CWF	Butler County Conservation District 724-284-5270
Brady Township Madison Township Clarion County	PAC160001	Armstrong Conservation District 124 Armsdale Road Kittanning, PA 16201	Allegheny River and Catfish Run WWF	Clarion County Conservation District 814-297-7813
Summit Townshp Erie County	PAG02002516007	South Shore Construction Managemetn 2500 Palermo Drive Erie, PA 16506	UNT Walnut Creek CWF; MF	Erie County Conservation District 814-825-6403

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<i>Facility Location and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office and Phone No.</i>
City of New Castle Lawrence County	PAG02003716005	Columbia Gas of Pa 2021 West State Street New Castle, PA 16101	Shenango River WWF	Lawrence County Conservation District 724-652-4512
Cranberry Township Venango County	PAC610001	National Fuel Gas Distribution Corp 1100 State Street Erie, PA 16501	Seneca Run CWF	Venango County Conservation District 814-676-2832

General Permit Type—PAG-3

<i>Facility Location: Municipality & County</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Brookhaven Borough Delaware County	PAG030052	Durham School Services LP 4300 Weaver Parkway Warrenville, IL 60555-3919	Chester Creek 3-G	DEP Southeast Regional Office Clean Water Program 2 E. Main Street Norristown, PA 19401 484.250.5970
Falls Township Bucks County	PAG030039	Morton Salt, Inc. 12 Solar Drive Fairless Hills, PA 19030	Delaware River 2-E	DEP Southeast Regional Office Clean Water Program 2 E. Main Street Norristown, PA 19401 484.250.5970
Newtown Borough Bucks County	PAG030048	Harris Fuels, Inc. 206 Otter Street Bristol, PA 19007	Newtown Creek 2-F	DEP Southeast Regional Office Clean Water Program 2 E. Main Street Norristown, PA 19401 484.250.5970
East Caln Township Chester County	PAG030041	Champion Tranfer Station LLC 1184 McClellandtown Rd P.O. Box 266 McClellandtown, PA 15458	East Branch Brandywine Creek 3-H	DEP Southeast Regional Office Clean Water Program 2 E. Main Street Norristown, PA 19401 484.250.5970
Downingtown Borough Chester County	PAG030055	Viewing Brewing Co. LLC 420 Acorn Lane Dowingtown, PA 19335-3040	Unnamed Tributary To East Branch Brandywine Creek 3-H	DEP Southeast Regional Office Clean Water Program 2 E. Main Street Norristown, PA 19401 484.250.5970
Wright Township Luzerne County	PAR122216	Gruma Corp dba Mission Foods 15 Elmwood Avenue Mountaintop, PA 18707	Bow Creek—5-B	DEP North East Regional Office Clean Water Program 2 Public Square Wilkes-Barre, PA 18701-1915 570.826.2511
Lehigh Township Northampton County	PAG032217	Advanced Disposal Services Eastern PA, Inc. d/b/a McAuliffe Transfer Station 1184 McClellandtown Road PO Box 266 McClellandtown, PA 15458	CWF/Lehigh River—2-C	DEP North East Regional Office Clean Water Program 2 Public Square Wilkes-Barre, PA 18701-1915 570.826.2511

<i>Facility Location: Municipality & County</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Beech Creek Township Clinton County	PAR144802 A-1	Armstrong Flooring P.O. Box 405 Beech Creek, 16822-0405	Unnamed Tributary to Beech Creek/CWF	DEP Northcentral Regional Office Clean Water Program 208 W Third Street Suite 101 Williamsport, PA 17701-6448 570.327.3636
Athens Township Bradford County	PAG034838	Sutty's Inc. 5224 Mile Lane Road Sayre, PA 18840-9459	Tutelow Creek—4-B	DEP Northcentral Regional Office Clean Water Program 208 W Third Street Suite 101 Williamsport, PA 17701-6448 570.327.3636
Fairfield Township Lycoming County	PAG034832	D A Stryker Truck & Excav LLC 1560 Burns Road Muncy, PA 17756-7963	Loyalsock Creek—10-B	DEP Northcentral Regional Office Clean Water Program 208 W Third Street Suite 101 Williamsport, PA 17701-6448 570.327.3636
Henderson Township Jefferson County	PAG038339	David J Miller & Freeman Miller d/b/a D&F Logging 677 Starr Road Punxutawney, PA 15767	Stump Creek—17-D	DEP Northwest Regional Office Clean Water Program 230 Chestnut Street Meadville, PA 16335-3481 814.332.6942
Carnegie Borough Allegheny County	PAR126112	Mallet & Co. Inc. 51 Arch Street Extension Box 474 Carnegie, PA 15106	Chartiers Creek— 20-F	DEP Southwest Regional Office Clean Water Program 400 Waterfront Drive Pittsburgh, PA 15222-4745 412.442.4000
Bentleyville Borough Washington County	PAG036167	Golden Triangle Construction 8555 Old Steubenville Pike Imperial, PA 15126	Pigeon Creek—19-C	DEP Southwest Regional Office Clean Water Program 400 Waterfront Drive Pittsburgh, PA 15222-4745 412.442.4000

General Permit Type—PAG-4

<i>Facility Location Municipality & County</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Hilltown Township Bucks County	PAG040210	Mr. Travis Lock PENSCO Trust Company 2 Fiaba Court Doylestown, PA 18901	Unnamed Tributary to West Branch Neshaminy Creek 2-F	DEP Southeast Regional Office Clean Water Program 2 E Main Street Norristown, PA 19401 484.250.5970
Bridgeton Township Bucks County	PAG040209	Mr. Gregory R. Gerhart 1272 Lodi Hill Road Upper Black Eddy, PA 18972	Unnamed Tributary to Swamp Creek 2-D	DEP Southeast Regional Office Clean Water Program 2 E Main Street Norristown, PA 19401 484.250.5970

<i>Facility Location Municipality & County</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Lafayette Township McKean County	PAG048608	David & Shelley Sandor 1505 Countryside Drive Mogadore, OH 44260-8625	Kinzua Creek—16-B	DEP Northwest Regional Office Clean Water Program 230 Chestnut Street Meadville, PA 16335-3481 814.332.6942

General Permit Type—PAG-12

<i>Facility Location Municipality & County</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Brothersvalley Township Somerset County	PAG126102	Beachdale Farms Inc. 126 Bronco Drive Berlin, PA 15530	Unnamed Tributary to Swamp Creek and Unnamed Tributary to Buffalo Creek—19-F	DEP Southwest Regional Office Clean Water Program 400 Waterfront Drive Pittsburgh, PA 15222-4745 412.442.4000

STATE CONSERVATION COMMISSION

NUTRIENT MANAGEMENT PLANS RELATED TO APPLICATIONS FOR NPDES PERMITS FOR CAFOs

The State Conservation Commission has taken the following actions on previously received applications for nutrient management plans under 3 Pa.C.S. Chapter 5, for agricultural operations that have or anticipate submitting applications for new, amended or renewed NPDES permits or NOIs for coverage under a general permit for CAFOs under 25 Pa. Code Chapter 92a. This notice is provided in accordance with 25 Pa. Code Chapter 92a and 40 CFR Part 122, implementing The Clean Streams Law and the Federal Clean Water Act.

Persons aggrieved by an action may appeal under 3 Pa.C.S. § 517, section 4 of the Environmental Hearing Board Act and 2 Pa.C.S. §§ 501—508 and 701—704 to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P.O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania AT&T Relay Service at (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create a right of appeal beyond that permitted by applicable statutes and decision law.

For individuals who wish to challenge actions, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for pro bono representation. Call the Secretary of the Board at (717) 787-3483 for more information.

**NUTRIENT MANAGEMENT PLAN
PUBLIC NOTICE SPREADSHEET—ACTIONS**

<i>Agricultural Operation (Name and Address)</i>	<i>County</i>	<i>Total Acres</i>	<i>Animal Equivalent Units (AEUs)</i>	<i>Animal Type</i>	<i>Special Protection Waters (HQ or EV or NA)</i>	<i>Approved or Disapproval</i>
Embrovac, LLC 616 Dairy Rd Tamaqua, PA 18252	Schuylkill	102.3 total 0 available	443.75	Poultry (Layers)	HQ	Approved
Doug Wetzel Mailing address: PO Box 55 Aspers, PA 17304	Adams	115	415.22	Turkeys and Beef	NA	Approved
Operation address: 2450 Mummasburg Road Gettysburg, PA 17325						
Mason Dixon Farms 1800 Mason Dixon Road Gettysburg, PA 17325	Adams	3,137.2	4,738.35	Dairy	NA	Approved

<i>Agricultural Operation (Name and Address)</i>	<i>County</i>	<i>Total Acres</i>	<i>Animal Equivalent Units (AEUs)</i>	<i>Animal Type</i>	<i>Special Protection Waters (HQ or EV or NA)</i>	<i>Approved or Disapproval</i>
Earl & Joann Ebling 761 Airport Road Bethel, PA 19507	Berks	112.2	140.05	Poultry (Pullets)	NA	Approved
Edward Horst 251 Bunkerhill Road Womelsdorf, PA 19567	Berks	113.9	353.75	Dairy Heifers/ Swine	NA	Approved
We Kings Farm 6028 Guitner Road Greencastle, PA 17225	Franklin	212.3	470.47	Poultry	NA	Approved
Oscar Manbeck 10 Fort Henry Road Bethel, PA 19507	Berks	677.1	898.68	Swine	NA	Approved
Acorn Farms Inc./ Franklin Family Farms Inc. 14627 Lurgan Road Orrstown, PA 17224	Franklin	2; 0 acre available for manure	1,336.45	Swine	NA	Approved
Michael Hege 11437 Gehr Road Waynesboro, PA 17268	Franklin	14.1	309.15	Poultry	NA	Approved
Michael & Corey Wilt 1408 Pointer Road Everett, PA 15537	Bedford	589.5	890.39	Swine & Dairy	None	Approved
Clifford Zimmerman 2993 Mill Road Elizabethtown, PA 17022	Dauphin	119.2	335.98	Poultry	NA	Approved

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 AT&T Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin* unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary 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.

Operations Permit # 4612531 Aqua Pennsylvania, Inc., 762 West Lancaster Avenue, Bryn Mawr, PA 19010, [(PWSID)] Borough of Hatboro, **Montgomery County** on September 28, 2016 for the operation of inhibitor feed systems at Hatboro Wells 6, 8, 9, 15, 17, and 21 facilities approved under construction permit # 4612531.

Permit No.0916514, Minor Amendment. Public Water Supply.

Applicant	Northampton Bucks County Municipal Authority 111 Township Road Richboro, PA 18954
Township	Northampton
County	Bucks
Type of Facility	PWS
Consulting Engineer	Pennoni Associates, Inc. 62 Rockford Road Suite 201 Wilmington, Delaware 19806
Permit to Construct Issued	September 30, 2016

Permit No.4616513, Public Water Supply.
 Applicant **Audubon Water Company**
 2650 Eisenhower Drive
 Suite 104-A
 Norristown, PA 19403
 Township Lower Providence
 County **Montgomery**
 Type of Facility PWS
 Consulting Engineer Evans Mill Environmental, LLC
 P.O. Box 735
 Uwchland, PA 19480
 Permit to Construct Issued October 5, 2016

Operations Permit # 0914503 issued to: **Hilltown Township Water & Sewer Authority**, P.O. Box 365, Sellersville, PA 18960, [(PWSID)] Hilltown Township, **Bucks County** on October 4, 2016 for the operation of Arsenic Removal at Well No. 5, facilities approved under construction permit # 0914503.

Operations Permit # 0916507 issued to: **Bucks County Water and Sewer Authority**, 1275 Almshouse Road, Warrington, PA 18976, [(PWSID)] Solebury Township, **Bucks County** on September 21, 2016 for Construction and Operation of Bag Filters for Manganese Removal at Entry Point 101.

Northeast Region: Safe Drinking Water Program Manager, 2 Public Square, Wilkes-Barre, PA 18701-1915.

Application No. 3916504, Public Water Supply.
 Applicant **South Whitehall Township Authority**
 444 Walbert Avenue
 Allentown, PA 18104
 [Township or Borough] South Whitehall Township
Lehigh County
 Responsible Official Pineda Peter, Authority Manager
 444 Walbert Avenue
 Allentown, PA 18104
 Type of Facility PWS
 Consulting Engineer Steve R. Henning, PE
 The Pidcock Company
 2451 Parkwood Drive
 Allentown, PA 18103-9608
 Construction Permit issued 09/30/2016

Application No. 2400091, Public Water Supply.
 Applicant **United Water Pennsylvania, Inc.**
 4211 East Park Circle
 Harrisburg, PA 17111
 [Township or Borough] Dallas Township
Luzerne County
 Responsible Official John D. Hollenbach
 Vice President
 4211 East Park Circle
 Harrisburg, PA 17111
 Type of Facility PWS
 Consulting Engineer Peter Lusardi, PE
 GHD
 1240 North Mountain Road
 Harrisburg, PA 17112
 (717) 541-0622

Operation Permit issued Date 10/05/2016
Permit No. 2359001, Public Water Supply.
 Applicant **PA American Water**
 (Lower Rushbrook Pump Station)
 800 W. Hershey Park Drive
 Hershey, PA 17033
 [Township or Borough] Mayfield Borough
Lackawanna County
 Responsible Official Mr. David Kaufman
 Vice President-Engineering
 Type of Facility Public Water Supply
 Consulting Engineer Mr. Jeremy A. Nelson, PE
 PA American Water Company
 2699 Stafford Avenue
 Scranton PA 18505

Operation Permit issued 09/19/2016
Southcentral Region: Safe Drinking Water Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

Permit No. 2116510 MA, Minor Amendment, Public Water Supply.
 Applicant **Pennsylvania-American Water Company**
 Municipality Silver Spring Township
 County **Cumberland**
 Responsible Official Jon Prawdzik, Operations Superintendent
 852 Wesley Drive
 Mechanicsburg, PA 17055
 Type of Facility Replacement of existing diaphragm chemical feed pumps with peristaltic chemical feed pumps at the Silver Spring Water Treatment Plant.
 Consulting Engineer Scott M. Thomas, P.E.
 Pennsylvania American Water
 852 Wesley Drive
 Mechanicsburg, PA 17055
 Permit to Construct Issued 10/6/2016

Permit No. 0114509, Public Water Supply.
 Applicant **New Oxford Municipal Authority**
 Municipality Oxford Township
 County **Adams**
 Responsible Official Thomas R. Beamer, Manager,
 NOMA
 409 Water Works Road
 New Oxford, PA 17530
 Type of Facility Replacement of the existing high service pumps at the water treatment plant with higher capacity pumps equipped with VFDs.
 Consulting Engineer Randolph S. Bailey, P.E.
 Wm. F. Hill & Assoc., Inc.
 207 Baltimore Street
 Getysburg, PA 17325

Permit to Construct Issued 10/7/2016
Permit No. 2816501 MA, Minor Amendment, Public Water Supply.

Applicant **Quincy Township**
 Municipality Quincy Township
 County **Franklin**
 Responsible Official Robert Gunder, Chairman, Board of Supervisors
 7575 Mentzer Gap Road
 Waynesboro, PA 17268
 Type of Facility Raw water transmission main for the proposed new groundwater source known as Well No. 7.

Consulting Engineer John M. High, P.E.
 William A. Brindle Associates Inc.
 336 Lincoln Way East
 Chambersburg, PA 17201

Permit to Construct Issued 10/6/2016
Permit No. 0616510 MA, Public Water Supply.

Applicant **Muhlenberg Township Authority**
 Municipality Muhlenberg Township
 County **Berks**
 Responsible Official Jeffrey A. Calpino,
 Administrative Manager
 2840 Kutztown Road
 Reading, PA 19605-2655
 Type of Facility 1.0 MG Tuckerton Road Finished Water Storage Tank Refurbishment.

Consulting Engineer Christina Crawford MBA, P.E.
 Spotts, Stevens & McCoy, Inc.
 1047 North Park Road
 Reading, PA 19610-0307

Permit to Construct Issued 9/29/2016

Operation Permit No. 3614518 issued to: **Warwick Township Municipal Authority (PWS ID No. 7360120)**, Warwick Township, **Lancaster County** on 10/7/2016 for facilities approved under Construction Permit No. 3614518.

Denial of Construction Permit No. 0614509 issued to: **Western Berks Water Authority (PWS ID No. 3060066)**, Lower Heidelberg Township, **Berks County** on 8/31/2016 for facilities submitted under Application No. 0614509.

Northcentral Region: Safe Drinking Water Program Manager, 208 West Third Street, Suite 101, Williamsport, PA 17701-6448.

Permit No. 1414502—Operation—Public Water Supply.

Applicant **Upper Halfmoon Water Company**
 Township/Borough Halfmoon Township
 County **Centre**

Responsible Official Mr. Ben Pisoni
 Upper Halfmoon Water Company
 1952 Halfmoon Valley Road
 Port Matilda, PA 16854

Type of Facility Public Water Supply

Consulting Engineer N/A

Permit Issued October 4, 2016

Description of Action Authorizes use of Well # 6 as an additional source of supply, including a sodium hypochlorite disinfection system and detention piping for 4-log inactivation of viruses.

Permit No. 4915503MA—Operation—Public Water Supply.

Applicant **Sunbury Municipal Authority**
 Township/Borough City of Sunbury
 County **Northumberland**
 Responsible Official Scott Debo, Water Manager
 Municipal Authority of the City of Sunbury
 1600 Market Street
 Sunbury, PA 17801

Type of Facility Public Water Supply

Consulting Engineer John R. Segursky Jr.
 Uni-Tec Consulting Engineers, Inc.
 2007 Cato Avenue
 State College, PA 16801

Permit Issued October 5, 2016

Description of Action Operation of the 0.42 million gallon (MG) treatment plant backwash tank, the 2 MG Hill Tank North and the 2 MG Hill Tank South, and supercedes the partial operation permits that authorized operation of the 2 MG Hill Tank North and the 2 MG Hill Tank South before the backwash tank was repaired and repainted.

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

Operations Permit issued to: **Pittsburgh Water & Sewer Authority**, Penn Liberty Plaza I, 1200 Penn Avenue, Pittsburgh, PA 15222, (**PWSID # 5020038**) City of Pittsburgh, **Allegheny County** on September 29, 2016 for the operation of facilities approved under Construction Permit # 0216531MA.

Operations Permit issued to: **Pittsburgh Water & Sewer Authority**, Penn Liberty Plaza I, 1200 Penn Avenue, Pittsburgh, PA 15222, (**PWSID # 5020038**) City of Pittsburgh, **Allegheny County** on September 29, 2016 for the operation of facilities approved under Construction Permit # 0216530MA.

Operations Permit issued to: **Pittsburgh Water & Sewer Authority**, Penn Liberty Plaza I, 1200 Penn Avenue, Pittsburgh, PA 15222, (**PWSID # 5020038**) City of Pittsburgh, **Allegheny County** on September 29, 2016 for the operation of facilities approved under Construction Permit # 0216528MA.

Northwest Region: Safe Drinking Water Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

Permit No. 266W2-MA2, Public Water Supply

Applicant **Rixford Waterworks Association**
 Township or Borough Otto Township
 County **McKean**
 Type of Facility Public Water Supply
 Consulting Engineer Eric S. Lundy, P.E.
 2836 Earlstown Road
 Suite 1
 Centre Hall, PA 16828
 Permit to Construct Issued October 5, 2016

Application No. 2595501-MA3, Public Water Supply.

Applicant **Erie City Water Works**
 Township or Borough City of Erie
 County **Erie**
 Type of Facility Public Water Supply
 Consulting Engineer Chad Ellsworth, P.E.
 Erie Water Works
 240 West 12th Street
 Erie, PA 16501
 Permit to Construct Issued October 5, 2016

WATER ALLOCATIONS

Actions taken on applications received under the act of June 24, 1939 (P.L. 842, No.365) (35 P.S. §§ 631—641) relating to the acquisition of rights to divert waters of the Commonwealth.

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

WA-51-165C Water Allocations. Philadelphia Water Department, The Aramark Tower, 1101 Market Street, Philadelphia, PA 19107-2994, City of Philadelphia, **Philadelphia County**, granting the right to withdraw 423 million gallons per day from the Delaware River and 258 million gallons per day from the Schuylkill River in the City of Philadelphia.

SEWAGE FACILITIES ACT PLAN APPROVAL

Plan Approvals Granted Under the Pennsylvania Sewage Facilities Act (35 P.S. § 750.5)

Southcentral Region: Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

Plan Location:

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Lower Paxton Township	425 Prince Street Harrisburg, PA 17109	Dauphin

Plan Description: Approval is granted for a Special Study to the Official Plan of Lower Paxton Township, Dauphin County. The project is known as the Act 537 Special Study for Gateway Corporate Center Pump Station Elimination and Flow Transfer from Paxton Creek Basin to Beaver Creek Basin (DEP Code No. H1-22921-ACT). The plan provides for the elimination of the Gateway Corporate Center pump station in mini-basin

PC-4F in the Paxton Creek Basin and transfers the wastewater, to flow by gravity, to manhole 518 in mini-basin BC-4A in the Beaver Creek Basin, all within Lower Paxton Township. Also, the Township is proposing the abandonment of the pump station's force main as it is located within a major State road right-of-way. Total flow from this project is 27,550 gpd or 110 EDUs, including 12,800 gpd of existing flow and 14,750 gpd of potential flow for change of use and/or expansion of existing buildings. The Department's review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal. Any required NPDES Permits or WQM Permits must be obtained in the name of the municipality or authority, as appropriate.

Plan Location:

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Amity Township	2004 Weavertown Rd. Douglassville, PA 19518	Berks

Plan Description: Approval of a revision to the official plan of Amity Township, Berks County. The project is known as the Prime Home Investments proposal. The plan revision consists of the use of a new small flow treatment facility to serve a single family residence with a malfunctioning onlot sewage disposal system. Proposed sewage flows are 400 gallons per day to be discharged to a dry swale that is tributary to an unnamed tributary of Monocacy Creek. The proposed development is located on the north side of East Baumstown Road, east of the junction with Monocacy Hill Road. The Department's review of the plan revision has not identified any significant impacts resulting from this proposal. The DEP Code Number for this planning module is A3-06917-197-3S and the APS Id is 918477. Any permits must be obtained in the name of the property owner.

Southeast Region: Clean Water Program Manager, 2 E. Main Street, Norristown, PA 19401. Telephone 484-250-5970.

Plan Location:

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Newtown Township,	209 Bishop Hollow Road Newtown Square, PA 19073	Delaware

On October 6, 2016, the Southeast Regional office approved the Act 537 Official Plan revision for the Ellis Preserve Town Center Multifamily Development in Newtown Township, Delaware County (APS ID # 918619, AUTH ID No. 1143335). The Official Plan revision consists of 256 apartment units in 3 buildings, 66 stacked townhouse units in 33 buildings, a clubhouse and a pool house on 13.1 acres. The proposed development is located at the intersection of Newtown and Goshen Roads in Newtown Township, Delaware County.

This project will be connected to the Newtown Township Delaware County Municipal Authority (NTDCMA) conveyance system and will generate 73,125 gallons of sewage per day to be treated at the DELCORA Wastewater Treatment Facility or the City of Philadelphia South-west Water Pollution Control Plant.

This development will connect to the proposed Ellis Preserve Pumping Station, which was approved under DEP Code No. 1-23943-202-3J.

The proposed sewer layout has been revised and is approved as depicted on the site plan titled Ellis Preserve Town Center Multifamily, dated October 22, 2015 and last revised September 16, 2016.

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 Pennsylvania AT&T Relay Service at (800) 654-5984.

The Department has received the following plans and reports:

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

Saadzoi Property, 730 N. Fountain Street, Allentown City, **Lehigh County**. Taylor GeoServices, 38 Bishop Hollow Road, Newtown Square, PA 19073, on behalf of Yah Yah Saadzoi, 1041 Hawthorn Road, Allentown, PA 18103, submitted a Final Report concerning remediation of site soils contaminated with Benzene, Toluene, Ethylbenzene, MTBE, Naphthalene, 1,3,5-Trimethylbenzene, 1,2,4-Trimethylbenzene, and Cumene. The report is intended to document remediation of the site to meet the Statewide Health Standard.

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

PennDOT Lewisburg Maint Garage Cleanup, East Buffalo Township, **Union County**. Dewberry Engineers, Inc., 600 Parsippany Road, Suite 301, Parsippany, NJ 07054 on behalf of Pennsylvania Department of Transportation, 715 Jordan Avenue, Montoursville, PA 17754 has submitted a Final report concerning remediation of site soil and groundwater contaminated with hydraulic fluid. The report is intended to document remediation of the site to meet the Statewide Health Standard.

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

Interstate Chemical Company, 2797 Freedland Road, City of Hermitage, **Mercer County**. AMEC Foster Wheeler Environment & Infrastructure, Inc., 800 N. Bell Avenue, Suite 200, Pittsburgh, PA 15106, on behalf of Interstate Chemical Company, Inc., 2797 Freedland Road, Hermitage, PA 16148 submitted a Remedial Investigation Report concerning the remediation of site soil and groundwater contaminated with furfural, 2-propanol, methanol, n-butyl alcohol, 1,1,1-trichloroethane, 1,1-dichloroethane, 1,1-dichloroethene, 1,2-dichloroethane, 2-butanone (MEK), 2-hexanone, 2-propanol, 4-methyl-2-pentanone (MIBK), chlorobenzene, chloroform, cis-1,2-dichloroethene, ethylbenzene, methyl tert-butyl ether, methylene chloride, tetrachloroethene, toluene, trans-1,2-dichloroethene, trichloroethene, xylenes, naphthalene, and vinyl chloride. The report is intended to document remediation of the site to meet a combination of Site-Specific and Statewide Health Standards.

Southeast Regional Office: Regional Manager, Environmental Cleanup and Brownfields, 2 East Main Street, Norristown, PA 19401, Telephone 484.250.5960.

22 South 22nd Street, 22 South 22nd Street, City of Philadelphia, **Philadelphia County**. Aaron Epstein, Partner Engineering and Science, Inc., 100 Deerfield Lane, Suite 200, Malvern, PA 19355, Craig Ratchford, Vitus Development, LLC, 1700 Seventh Avenue, Seattle, Washington, 98101 on behalf of Mark Hildebrandt, Esquire, Sidney Hillman Medical Center Philadelphia Apartments, 300 Seventy Frist Street, Suite 302, Miami Beach, FL 33141 has submitted a Final Report concerning remediation of site soil contaminated with benzo(a)pyrene. The report is intended to document remediation of the site to meet the Statewide Health Standard. PF812155.

Harvard Seven LLC Lot 3, Harvard and Columbia Roads, Haverford Township, **Delaware County**. Thomas A. Petrecz Jr. Penn E&R, Inc., 2755 Bergey Road, Hatfield, PA 19440 on behalf of Kevin Hillsinger, Harvard Seven, LLC, 1305 Catfish Lane, Audubon, PA 19403 has submitted a Remedial Investigation and Final Report concerning remediation of site soil contaminated with no. 1, 2, 4, 5, 6 fuel oil. The report is intended to document remediation of the site to meet the Site Specific Standard. PF811569.

Village Resident 3(VR3), 101 Bryce Lane, Upper Merion Township, **Montgomery County**. Scott Bisbort, Ransom Environmental, 2127 Hamilton Avenue, Hamilton, NJ 08619, Peter Sikora Bozzuto Development Company, 480 East Swedesford Road, Suite 110, Wayne, PA 19087 on behalf of CRP/BA VR3, LLC, 101 Bryce Lane, King of Prussia, PA 19406 has submitted a Final Report concerning remediation of site soil contaminated with

arsenic. The report is intended to document remediation of the site to meet the Statewide Health Standard. PF811157.

383 West Cedarville Road, 383 West Cedarville Road, North Coventry Township, **Chester County**. Staci Cottone, J&J Environmental, P.O. Box 370, Blue Bell, PA 19422 on behalf of Joyce Geyer, 5433 Leary Avenue NW, Seattle, WA 98107 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. PF811068.

Zipperien Residence, 13 Washington Lane, City of Coatesville, **Chester County**. Amanda Michelone, B.S., Mountain Research, LLC, 825 25th Street, Altoona, PA 16601 on behalf of Carole Zipperlen, 13 Washington Lane, Coatesville, PA 19320 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 Statewide Health Standard. PF769625.

Chester Valley Tail Phase 2, Tredyffrin Township, Tredyffrin Township, **Chester County**. Michael Gill, Esquire, Buckley Brion, McGuire & Morris, LLP, 118 West Market Street, Suite 300, West Chester, PA 19362 on behalf of Brian Lawn, Allan A. Myers, Inc. P.O. Box 98, Worcester, PA 19490 has submitted a Remedial Investigation; Cleanup Plan and Final Report concerning remediation of site soil contaminated with arsenic. The report is intended to document remediation of the site to meet the Site Specific Standard. 760483PF.

Saint Matthews Roman Catholic Church, 219 Fayette Street, Conshohocken Borough, **Montgomery County**. Staci Cottone, J&J Environmental, P.O. Box 370, Blue Bell, PA 19422 on behalf of Mike Kubiak, Saint Matthews Roman Catholic Church, 219 Fayette Street Conshohocken, PA 19428 has submitted a Final Report concerning remediation of site soil contaminated with no. 2 heating oil. The report is intended to document remediation of the site to meet the Statewide Health Standard. PF 810292.

Pfizer Great Valley Office & Information System Technical Center, 31-42 Moreland Road East Whiteland Township, **Chester County**. William Schmidt, PE, Pennoni Associates, Inc., 3001 Market Street, Suite 200, Philadelphia, PA 19104 on behalf of Michael Bray, Horiatio Realty Trust, c/o The Vanguard Group, Inc., P.O. Box 2600, Valley Forge, PA 19482-2600 has submitted a Background Final Report concerning remediation of site soil contaminated with arsenic. The report is intended to document remediation of the site to meet the Background Standard. PF748303.

Keystone Discount Tire Center, 1224 Street Road, Bensalem Township, **Bucks County**. Daniel Forrest, Bristol Environmental & Services Company, 3109 State Road, Croydon, PA 19021 on behalf of Chuck Smith, Keystone Discount Tire Center, 1224 Street Road, Bensalem, PA 19020 has submitted a Final Report concerning remediation of site soil contaminated with no. 2 heating oil. The report is intended to document remediation of the site to meet the Statewide Health Standard. PF811597.

Society Hill Shopping Center, 3140326 South 5th Street, City of Philadelphia, **Philadelphia, County**. Darryl D. Borrelli, Manko, Gold, Katcher Fox LLP, 401 City Avenue, Suite 901, Bala Cynwyd, PA 19004, Michael Christie, Penn E&R, Inc., 2755 Bergey Road, Hatfield, PA 19440 on behalf of Harry Feinberg, Esquire, Law Offices

of Harry Feinberg, 21 South 12th Street, Philadelphia, PA 19107 has submitted a Remedial Investigation/Cleanup Plan/Risk Assessment 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. PF785578.

200 Welsh Road, 200 Welsh Road, Horsham Township, **Montgomery County**. Paul Martino, PG, Pennoni Associates, Inc., 3001 Market Street, Philadelphia, PA 19104, William F. Schmidt, PE, Pennoni Associates 3001 Market Street, Philadelphia, PA 19104 on behalf of Peter Calatizzo, 200 Welsh LP, 825 Third Avenue, 36th Floor, New York, New York, 10022 has submitted a Remedial Investigation/Cleanup Plan 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. PF812603.

Georgia Pacific/Philadelphia Container Facility, 610 Righter/Ferry Road, Lower Merion Township, **Montgomery County**. Michael Christie, Penn E&R, Inc., 2755 Bergey Road, Hatfield, PA 19440 on behalf of Kevin S. Kyle, Righters Ferry Associates, LP, 2701 Renaissance Boulevard, 4th Floor, King of Prussia, PA 19406 has submitted a Final Report concerning remediation of site soil contaminated with pah and inorganics. The report is intended to document remediation of the site to meet the Site Specific Standard. PF669339.

Marios Complete Auto Repair, 2709 East Westmoreland Street, City of Philadelphia, **Philadelphia County**. John Krinis, JK Environmental Services, LLC, P.O. Box 509, Lafayette Hill, PA 19444 on behalf of Mario Dworniczak, Mario's Complete Auto Repair, 2709 East Westmoreland Street, Philadelphia, PA 19134 has submitted a Final Report concerning remediation of site soil contaminated with leaded gasoline. The report is intended to document remediation of the site to meet the Statewide Health Standard. PF812037.

Academy of the New Church, 2755 Buck Road, Borough of Bryn Athyn, **Montgomery County**. Thomas A. Petrecz, Penn E&R, Inc. 2755 Bergey Road, Hatfield, PA 19440 on behalf of Brian Llewellyn, Academy of the New Church, 2775 Buck Road, Bryn Athyn, PA 19009 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. PF812026.

Sitewide BP Trainer Refinery, 4101 Post Road, Trainer Borough, **Delaware County**. Iain Bryant, Sovereign Consulting, 11A North Gold Drive, Robbinsville, NJ 08691, Sasa Jazic, Atlantic Richfield Company, 28100 Torch Parkway, Mail Code 2-S, Warrenville, Illinois 60555 on behalf of Matthew Torell, Monroe Energy, LLC, 4101 Post Road, Trainer, PA 19061 has submitted a Risk Assessment Report concerning remediation of site soil and groundwater contaminated with inorganics. The report is intended to document remediation of the site to meet the Site Specific Standard. PF747691.

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 Pennsylvania AT&T Relay Service at (800) 654-5984.

The Department has received the following plans and reports:

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

Stella Jones, Inc.—Dubois, Pennsylvania Facility, Sandy Township, **Clearfield County.** KU Resources, Inc., 22 South Linden Street, Duquesne, PA 15110, on behalf of Stella Jones, Inc., 2 Gateway Center, Suite 1000, 603 Stanwix Street, Pittsburgh, PA 15222, has submitted a Combined Remedial Investigation Report and Final Report concerning remediation of site groundwater contaminated with Polycyclic Aromatic Hydrocarbons (PAHS) and Carbazole. The combined report demonstrated attainment of the Site-Specific Standard requirements and was approved by the Department on October 4, 2016.

A Duie Pyle I-180 E MM 6.4 Diesel Fuel Cleanup, Delaware Township, **Northumberland County.** Northridge Group, Inc., P.O. Box 231, Northumberland, PA 17857, on behalf of A Duie Pyle, 650 Westtown Road, West Chester, PA 19381, has submitted a Final Report

concerning remediation of site soils contaminated with diesel fuel. The report demonstrated attainment of the Statewide Health Standard requirements and was approved by the Department on October 11, 2016.

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

Interstate Chemical Company, 2797 Freedland Road, City of Hermitage, **Mercer County.** AMEC Foster Wheeler Environment & Infrastructure, Inc., 800 N. Bell Avenue, Suite 200, Pittsburgh, PA 15106, on behalf of Interstate Chemical Company, Inc., 2797 Freedland Road, Hermitage, PA 16148 submitted a Remedial Investigation Report concerning the remediation of site soil and groundwater contaminated with furfural, 2-propanol, methanol, n-butyl alcohol, 1,1,1-trichloroethane, 1,1-dichloroethane, 1,1-dichloroethene, 1,2-dichloroethane, 2-butanone (MEK), 2-hexanone, 2-propanol, 4-methyl-2-pentanone (MIBK), chlorobenzene, chloroform, cis-1,2-dichloroethene, ethylbenzene, methyl tert-butyl ether, methylene chloride, tetrachloroethene, toluene, trans-1,2-dichloroethene, trichloroethene, xylenes, naphthalene, and vinyl chloride. The Report was disapproved by the Department on September 30, 2016.

Southwest Region: Environmental Cleanup & Brownfield Development Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

Chevron Facility # 206640—Neville Island (former refinery/petroleum storage facility), 500 Grand Avenue, Neville Township, **Allegheny County.** Arcadis U.S. Inc., 6041 Wallace Road Extension, Wexford, PA 15090 on behalf of Chevron Environmental Management Company, 4800 Fournace Place, E536D, Bellaire, TX 77401 submitted a Final Report concerning the remediation of site soils and groundwater contaminated with arsenic, manganese, copper, methyl tert-butyl ether (MTBE), polynuclear aromatic hydrocarbons, volatile & semi-volatile organic compounds. The Final report demonstrated attainment of non-residential Statewide Health and Site Specific standard for soil and groundwater. The standard attained for metals was constituent dependent. The Final Report was approved by the Department on September 30, 2016.

HAZARDOUS WASTE TRANSPORTER LICENSE

Actions on applications for Hazardous Waste Transporter License received under the Solid Waste Management Act (35 P.S. §§ 6018.101—6018.1003) and regulations to transport hazardous waste.

Central Office: Bureau of Land Recycling and Waste Management, Division of Hazardous Waste Management, PO Box 69170, Harrisburg, PA 17106-9170.

Hazardous Waste Transporter License Reissued

Tonawanda Tank Transport Service, Inc., 1140 Military Road, Buffalo, NY 14217. License No. PA-AH 0429. Effective Sep 30, 2016.

Transport Rollex Ltee, 910 Boulevard Lionel-Boulet, Varennes, QC J3X 1P7. License No. PA-AH 0544. Effective Oct 04, 2016.

New Applications Received

Castelli Development Corporation LLC DBA Castelli Oil & Gas, 1868 Lions Club Road, New Alexandria, PA 15670. License No. PA-AH 0851. Effective Sep 27, 2016.

Renewal Applications Received

Bed Rock, Inc. DBA TSMTCO, 8141 East 7th Street, Joplin, MO 64801. License No. PA-AH 0697. Effective Sep 27, 2016.

Cousins Waste Control, LLC, 1701 East Matzinger Road, Toledo, OH 43612. License No. PA-AH 0344. Effective Sep 26, 2016.

Envirite Of Pennsylvania, Inc. dba EQ Pennsylvania, 730 Vogelsong Road, York, PA 17404. License No. PA-AH 0549. Effective Oct 05, 2016.

The Pennsylvania State University, 6 Eisenhower Parking Deck, University Park, PA 16802. License No. PA-HC 0153. Effective Oct 03, 2016.

RESIDUAL WASTE GENERAL PERMITS

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

Central Office: Division of Municipal and Residual Waste, Rachel Carson State Office Building, 14th Floor, 400 Market Street, Harrisburg, PA 17105-8472.

General Permit Application Number WMGR097R017. Clean Earth of Williamsport, LLC, 212 Colvin Rd, Williamsport PA, 17701. On March 31, 2016, the Department of Environmental Protection, Bureau of Waste Management received a request to add a new beneficial use site to Clean Earth of Williamsport, LLC's previously approved registration for coverage under WMGR097R017. Clean Earth of Williamsport, LLC. proposed beneficially using processed drill cuttings to evaluate the efficacy of using processed drill cuttings for road improvements on private roads at the Bobst Mountain Hunting Club, Strip Mine (Little Gap Run North), Cogan House Township, **Lycoming County**. This project was approved by the Department of Environmental Protection's Central Office on July 6, 2016.

Persons interested in reviewing this proposal may contact Scott E. Walters, Chief, Permits Section, Division of Municipal and Residual Waste, Bureau of Waste Management, P.O. Box 69170, Harrisburg, PA 17106-9170, 717-787-7381. TDD users may contact the Department through the Pennsylvania AT&T Relay Service, (800) 654-5984.

Permit Revoked Under the Solid Waste Management Act; the Municipal Waste Planning, Recycling and Waste Reduction Act; and Residual Waste Regulations for a General Permit to Operate Residual Waste Processing Facilities and the Beneficial Use of Residual Waste other than Coal Ash.

Central Office: Division of Municipal and Residual Waste, Rachel Carson State Office Building, 14th Floor, 400 Market Street, Harrisburg, PA 17106-9170.

General Permit Application No. WMGR097R027. NJ Zinc Brownfield, LLC, 1120 Mauch Chunk Road, Palmerton, PA 18071-1110, **Carbon County**. This permit authorizes research and development activities to support the processing prior to beneficial use and beneficial use of Marcellus Shale drill cuttings. The permit was revoked at the request of the permittee by Central Office on August 24, 2016.

Persons interested in reviewing the general permit may contact Scott E. Walters, Chief, Permits Section, Division of Municipal and Residual Waste, Bureau of Waste Management, P.O. Box 69170, Harrisburg, PA 17106-9170, 717-787-7381. TDD users may contact the Department through the Pennsylvania AT&T Relay Service, (800) 654-5984.

OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE

Applications deemed administratively complete under the Solid Waste Management Act, the Municipal Waste Planning, Recycling and Waste Reduction Act and Regulations to Operate Solid Waste Processing or Disposal area or Site.

Southcentral Region: Regional Solid Waste Manager, 909 Elmerton Avenue, Harrisburg, PA 17110-8200.

Permit No. 301343 Covanta Environmental Solutions, LLC (Residual Waste Transfer Facility) 170 Transport Road, Suite 2, Bedford, PA 15522. Covanta Environmental Solutions, LLC submitted a permit reissuance (change of ownership) application for RecOil, Inc. Residual Waste Transfer facility located in the Bedford Township, **Bedford County**. This application was deemed administratively complete by the Southcentral Regional Office on October 7, 2016. The Department will accept comments from the general public recommending revisions to, and approval or denial of the application during the entire time the Department is reviewing the permit application.

Comments concerning the application should be directed to Mr. John Oren, Permits Chief, Waste Management Program, 909 Elmerton Avenue, Harrisburg, PA 17110-8200. Persons interested in obtaining more information about this permit application may contact the Southcentral Regional Office at (717) 705-4706. TDD users may contact the Department through the Pennsylvania AT&T Relay Service, (800) 654-5984.

AIR QUALITY

General Plan Approval and Operating Permit Usage Authorized under the Air Pollution Control Act (35 P.S. §§ 4001—4015) and 25 Pa. Code Chapter 127 to construct, modify, reactivate or operate air contamination sources and associated air cleaning devices.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110.

Contact: Thomas Hanlon, Facilities Permitting Chief, 717-705-4862, Virendra Trivedi, New Source Review Chief, 717-705-4863, or William Weaver, Regional Air Quality Manager, 717-705-4702.

GP14-67-03089A: John Keffer Funeral Home, Inc. (902 Mt. Rose Avenue, York, PA 17403) on October 5, 2016, for two (2) existing human crematories, under GP14, at the facility located in the City of York, **York County**. The general permit authorization was renewed.

GP15-36-03040B: Wenger's Feed Mill, Inc. (101 West Harrisburg Avenue, Rheems, PA 17570) on October 3, 2016, for a new 30 tph Andritz, model 3818 hammermill, under GP15, to replace an existing hammermill, at the Rheems Feed Mill located in Mount Joy Township, **Lancaster County**.

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

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

GP1-14-00009: Mount Nittany Medical Center (1800 East Park Avenue, State College, PA 16803) on August 26, 2016, authorized the construction and operation of two Superior Boiler Works, Inc. model X6-5-3000-S300 natural gas/# 2 fuel oil fired boilers, each with 25.1 MMBtus per hour pursuant to the General Plan Approval and General Operating Permit for Small Gas and No. 2 Oil Fired Combustion Units (BAQ-GPA/GP-1) at their Medical facility located in College Township, **Centre County**.

GP3-18-218: R.S. Services, Inc. (119 Falls Road, Beech Creek, PA 16822) on August 10, 2016, to authorize the relocation of a 2008 vintage KPI model 4240 portable crushing plant, a 2008 vintage McCloskey model J50 portable crushing plant, a 2012 vintage McCloskey model C44 portable crushing plant, a 2007 vintage Extac S5 portable screening plant and a 2012 vintage McCloskey model R155 portable screening plant pursuant to the General Plan Approval and/or General Operating Permit For Portable Nonmetallic Mineral Processing Plants (BAQ-GPA/GP-3) at a construction site located in Lock Haven, **Clinton County**.

GP11-18-218: R.S. Services, Inc. (119 Falls Road, Beech Creek, PA 16822) on August 10, 2016 to authorize the relocation of a 2008 vintage 350 brake-horsepower Cummins QSL diesel engine, a 2008 vintage 350 brake-horsepower Caterpillar model C-9 diesel engine, a 2011 vintage 440 brake-horsepower (328 kilowatts) Caterpillar model C-13 diesel engine, a 2007 vintage 100 brake-horsepower Deutz model BF4M2012 diesel engine and a 2011 vintage 127 brake-horsepower Caterpillar model C4.4 diesel engine pursuant to the General Plan Approval and General Operating Permit for Nonroad Engines (BAQ-GPA/GP-11) at a construction site located in Lock Haven, **Clinton County**.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481.

Contact: David Balog, New Source Review Chief—Telephone: 814-332-6328.

GP1-10-239B: Mine Safety Appliances (1000 Cranberry Woods Dr., Cranberry Township, PA 16066) on October 4, 2016, for the authority to operate Small Gas & No. 2 Oil Fired Combustion Units. (BAQ-GPS/GP1) located at their facility in Cranberry Township, **Butler County**.

GP5-25-1001C: Emkey Gathering, Carter Hill Compressor Station (558 West 6th Street, Suite 200, Erie, PA 16507) on October 3, 2016, for the authority to operate a 9.0 mmscfd dehydrator, a 0.2 mmbtu/hr reboiler, storage tanks, and Facility fugitive emissions (BAQ-GPA/GP-5) located at their facility in Wayne Township, **Erie County**.

Plan Approvals Issued under the Air Pollution Control Act and regulations in 25 Pa. Code Chapter 127, Subchapter B relating to construction, modification and reactivation of air contamination sources and associated air cleaning devices.

Southcentral Region: Air Quality Program, 909 Elmerston Avenue, Harrisburg, PA 17110.

Contact: Thomas Hanlon, Facilities Permitting Chief, 717-705-4862, Virendra Trivedi, New Source Review Chief, 717-705-4863, or William Weaver, Regional Air Quality Manager, 717-705-4702.

06-05023A: Bimbo Bakeries USA, Inc. (640 Park Avenue, Reading, PA 19611-1926) on October 4, 2016, for the installation of a refurbished catalytic oxidizer to replace the current Bread Line catalytic oxidizer at the bakery located in Reading City, **Berks County**.

Plan Approval Revisions Issued including Extensions, Minor Modifications and Transfers of Ownership under the Air Pollution Control Act and 25 Pa. Code §§ 127.13, 127.13a and 127.32.

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

Contact: James A. Beach, New Source Review Chief—Telephone: 484-250-5920.

15-0142: Mars Drinks NA LLC (1301 Wilson Dr., West Chester, PA 19380-5954) On October 6, 2016 for the construction and installation of a coffee roaster, associated equipment, and control devices equipment in East Goshen Township, **Chester County**.

09-0210A: Waste Management of Fairless LLC (1000 New Ford Mill RD, Morrisville, PA 19067-3704) On October 6, 2016 for the construction of interim and permanent landfill gas collection and treatment systems for the sale of landfill gas, and 2 backup flare in Falls Township, **Bucks County**.

23-0003Y: Monroe Energy LLC (4101 Post Road, Trainer, PA 19361-5052) On October 6, 2016 for the installation of a reconstructed boiler burning gas 1 fuels in Trainer Borough, **Delaware County**.

Southcentral Region: Air Quality Program, 909 Elmerston Avenue, Harrisburg, PA 17110.

Contact: Thomas Hanlon, Facilities Permitting Chief, 717-705-4862, Virendra Trivedi, New Source Review Chief, 717-705-4863, or William Weaver, Regional Air Quality Manager, 717-705-4702.

06-05069U: East Penn Manufacturing Co., Inc. (P.O. Box 147, Lyon Station, PA 19536) on October 5, 2016, for modifying the A-2 Facility operations at the lead-acid battery assembly facility located in Richmond Township, **Berks County**. The plan approval was extended.

36-03161C: Compass Quarries Inc. (47 McIlvaine Road, Paradise, PA 17562) on October 5, 2016, for the construction of a new stone plant to replace the old stone plant at the Paradise Quarry located in Paradise Township, **Lancaster County**. A new baghouse and wet suppression system will control PM emissions. The plan approval was extended.

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

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

08-00001A: Tennessee Gas Pipeline Company, LLC (1001 Louisiana Street, Suite 1000, Houston, TX 77002) on September 8, 2016, extended the authorization an additional 180 days from October 4, 2016 to April 2, 2017, to permit operation of the gas turbine (Source ID P101A) pending issuance of an operating permit in accordance with 25 Pa. Code § 127.12b. The source is located at the Compressor Station 319 facility in Wyalusing Township, **Bradford County**. The plan approval has been extended.

55-00001E: Panda Hummel Station LLC (5001 Spring Valley Road, Suite 1150 West, Dallas, TX 75244) on September 20, 2016, to change the name of the owner

of the facility from Hummel Station LLC to Panda Hummel Station LLC. This facility is located in **Northumberland County**, Pennsylvania.

55-00001G: Panda Hummel Station LLC (5001 Spring Valley Road, Suite 1150 West, Dallas, TX 75244) on September 20, 2016, to change the name of the owner of the facility from Hummel Station LLC to Panda Hummel Station LLC. This facility is located in **Northumberland County**, Pennsylvania.

55-00001F: Panda Hummel Station LLC (5001 Spring Valley Road, Suite 1150 West, Dallas, TX 75244) on September 20, 2016, to change the name of the owner of the facility from Hummel Station LLC to Panda Hummel Station LLC. This facility is located in **Northumberland County**, Pennsylvania.

55-00026A: Panda Hummel Station LLC (5001 Spring Valley Road, Suite 1150 West, Dallas, TX 75244) on September 20, 2016, to change the name of the owner of the facility from Hummel Station LLC to Panda Hummel Station LLC. This facility is located in **Northumberland County**, Pennsylvania.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

Contact: Alan Binder, P.E., Environmental Engineer Manager—Telephone: 412-442-4168.

11-00553A: Starprint Publications, Inc. (722 Dulancey Drive, Portage, PA 15946) plan approval modification effective September 21, 2016, to authorize installation of a catalytic oxidizer for the control of three currently installed printing presses in lieu of a previously authorized (but never installed) regenerative thermal oxidizer at its commercial printing facility located in Portage Borough, **Cambria County**.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481.

Contact: David Balog, New Source Review Chief—Telephone: 814-332-6328.

10-171E: Butler Color Press (119 Bonnie Drive, Butler, PA 16002), on September 30, 2016, effective October 31, 2016, has issued a plan approval extension for the construction of a new web offset pressline controlled by a new dryer/afterburner control system in Summit Township, **Butler County**. This expires April 30, 2017. This is a State Only facility.

25-1043A: Barrel O' Fun Snack Foods Company East (821 Route 97 South, Waterford, PA 16441) on October 6, 2016, effective October 31, 2016, has issued a plan approval extension for the proposed construction of 6 Batch Kettle Fryers (2,700 #/hr of chips), a Corn Puff Line, a Corn Popper, and a hot water boiler in Waterford Township, **Erie County**. This expires April 30, 2017. This is a State Only facility.

42-004J: American Refining Group Inc. (77 North Kendall Ave. Bradford, PA 16701) on October 6, 2016, effective October 31, 2016, has issued a plan approval extension for the installation, startup, and shakedown of the new gas fired # 6 Boiler (Source ID 035) in Bradford City, **McKean County**. This expires April 30, 2017. This is a Title V facility.

Title V Operating Permits Issued under the Air Pollution Control Act and 25 Pa. Code Chapter 127, Subchapter G.

Southcentral Region: Air Quality Program, 909 Elmerston Avenue, Harrisburg, PA 17110.

Contact: Thomas Hanlon, Facilities Permitting Chief, 717-705-4862, Virendra Trivedi, New Source Review Chief, 717-705-4863, or William Weaver, Regional Air Quality Manager, 717-705-4702.

67-05047: Republic Services of PA LLC (4400 Mount Pisgah Road, York, PA 17406-8240) on October 5, 2016, for the Modern Landfill facility located in Lower Windsor Township, **York County**. The Title V permit was renewed.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481.

Contact: David Balog, New Source Review Chief—Telephone: 814-332-6328.

42-00011: International Waxes Plant (45 Route 446, Smethport, PA 16749-5413) issued on October 3, 2016 the Title V Permit for the Farmers Valley Plant in Keating Township, **McKean County**. The facility's representative to contact concerning this application is Mr. Daniel Goldsmith, Environmental Manager. His phone number is (814) 887-4056.

The facility's major emission sources include the boilers 1, 2, and 3 (controlled by an ESP), natural gas boiler 5, rerun unit charge heater 2, crude unit vacuum heater, resin heater, No. 2 Earth Burner (controlled by a scrubber), emergency fire pumps and compressors, storage tanks (controlled by a flare), plant wide-fugitive emissions, wastewater treatment, propane deresiner unit (controlled by a flare), degreasers, flue gas holder, coal unloading, and flyash loading. The facility is a major facility due to its potential to emit Nitrogen Oxides (NO_x), Sulfur Oxides (SO_x), and Volatile Organic Compounds (VOCs). The facility is subject to the Title V Operating Permit requirements adopted in 25 Pa. Code Chapter 127, Subchapter G. The facility is subject to the New Source Performance Standards (NSPS) for Stationary Compression Ignition Internal Combustion Engines (40 CFR 60, Subpart IIII) and the National Emission Standards for Hazardous Air Pollutants (NESHAP) for Organic Hazardous Air Pollutant for Equipment Leaks (40 CFR 63, Subpart H), Recovery Device and Routing to Fuel Gas System or a Process (40 CFR 63, Subpart SS), Organic Liquids Distribution (40 CFR 63, Subpart EEEE), Stationary Reciprocating Internal Combustion Engines (40 CFR 63, Subpart ZZZZ), and, Industrial, Commercial and Institutional Boilers and Process Heaters (40 CFR 63, Subpart DDDDD).

Department of Public Health, Air Management Services: 321 University Avenue, Philadelphia, PA 19104.

Contact: Edward Wiener, Chief—Telephone: 215-685-9426

The City of Philadelphia, Air Management Services (AMS) intends to reissue a Title V/State Operating Permit for the following facility:

V15-005: PaperWorks Industries, Inc (5000 Flat Rock Road, Philadelphia, PA 19127) for the operation of a paperboard manufacturing facility in the City of Philadelphia, **Philadelphia County**. The facility's air emissions' sources include one (1) 240 MMBTU/hr boilers with the capability natural gas only (Reduced the capacity from 240 MMBTU/hr to 156 MMBTU/hr, 2014), and Two natural gas boilers, Boiler # 3 and # 4, each rated 92.27 MMBTUs/hr and paper making and coating machines.

The operating permit will be issued under the 25 Pa. Code, Philadelphia Code Title 3 and Air Management Regulation XIII. Permit copies and other supporting information are available for public inspection at AMS, 321 University Ave., Philadelphia, PA 19104. For further information, contact Mr. Edward Wiener (215) 685-9426.

Persons wishing to file protest or comments on the above operating permit must submit the protest or comments within 30 days from the date of this notice. Any protests or comments filed with AMS must include a concise statement of the objections to the permit issuance and the relevant facts upon which the objections are based. Based upon the information received during the public comment period, AMS may modify the operating permit or schedule a public hearing. The hearing notice will be published in the *Pennsylvania Bulletin* and a local newspaper at least thirty days before the hearing.

Operating Permits for Non-Title V Facilities Issued under the Air Pollution Control Act and 25 Pa. Code Chapter 127, Subchapter F.

Southcentral Region: Air Quality Program, 909 Elmerston Avenue, Harrisburg, PA 17110.

Contact: Thomas Hanlon, Facilities Permitting Chief, 717-705-4862, Virendra Trivedi, New Source Review Chief, 717-705-4863, or William Weaver, Regional Air Quality Manager, 717-705-4702.

36-05163: Clark Filter (3649 Hempland Road, Lancaster, PA 17601-1323) on October 5, 2016, for the diesel locomotive filter manufacturing facility located in West Hempfield Township, **Lancaster County**.

06-03128: Royal Green LLC (Huller Lane, PO Box 9, Temple, PA 19560-0009) on October 3, 2016, for the ferrous metal shredding facility located in Ontelaunee Township, **Berks County**. The State-only permit was renewed.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481.

Contact: Matt Williams, Facilities Permitting Chief at Telephone: 814-332-6940.

10-00312: Purvis Brothers Incorporated (321 Mars Valencia Road, Mars, PA 16046-0957) on October 5, 2016 for a renewal synthetic minor permit to operate a wholesale trading of petroleum bulk stations and terminals facility. The facility is located in Adams Township, **Butler County**. The facility's emitting sources included a comfort heating furnace, space heaters, storage tanks for gasoline, kerosene, diesel, and Stoddard solvent, loading racks, and fugitive emissions. The facility has taken the restriction of Volatile Organic Compound (VOC) emissions of 49.9 Tons per year and maintains the Synthetic Minor status. The facility is subject to 40 CFR 63 Subpart BBBBBB (6B)—pertaining to NESHAPs for the Source Category: Gasoline Distribution Bulk Terminals, Bulk Plants, and Pipeline Facilities. All applicable conditions for the bulk gasoline plant are included in the site level of the permit. The actual emissions from the facility in 2015 were: Particulate Matter less than 2.5 Micron (PM_{2.5}) 0.0008 Ton per year (TPY); Particulate Matter less than 10 micron (PM₁₀) 0.0032TPY; Oxides of Nitrogen (NO_x) 0.0236 TPY; Carbon Monoxide (CO) 0.0066 TPY; and Volatile Organic Compound (VOC) 16.8419 TPY.

37-00234: Praxair, Incorporated/Praxair Surface Technologies, Incorporated New Castle Plant (3225 Honeybee Lane, New Castle, PA 16510-6502) on October 4, 2016 issued a Natural Minor Operating Permit to operate a metal coating operation located in Wilmington Township, **Lawrence County**. The facility has thermal and laser spray booths, grit blasting booths, finishing and machining operations, laser welding, and laser finishing. Each of these sources is controlled by a dust collector. The facility has a mop water and condenser system that is controlled by a built in mist eliminator. The facility has an emergency diesel fire pump engine (64 HP) that is subject to the requirements of 40 CFR 60 Subpart IIII pertaining to Standards of Performance for Stationary Compression Ignition Internal Combustion Engines. The facility is subject to the requirements of 40 CFR 63 Subpart WWWW pertains to the National Emission Standards for Hazardous Air Pollutants: Area Source Standards for Plating and Polishing Operations. The facility also has miscellaneous natural gas usage and a parts washer. The permit contains the requirements of plan approvals 37-318-003A and 37-234B, emission restrictions, recordkeeping, work practice, and additional requirements to ensure compliance with the Clean Air Act and the Air Pollution Control Act. The potential emissions from the facility are: 5.6 TPY NO_x, 2.3 TPY CO, 6.3 TPY PM₁₀, 0.6 TPY SO_x, 0.3 TPY VOC, and 0.14 TPY combined HAPs (cobalt, chrome, manganese, and nickel).

Philadelphia: Air Management Services, 321 University Avenue, Philadelphia, PA 19104-4543, Contact: Edward Wiener, Chief, Source Registration at 215 685 9476.

The City of Philadelphia, Air Management Services (AMS) has intended to issue Minor State Only Operating Permit for the following facilities:

S14-003: Model Finishing, Inc. (4949 Cottman Avenue, Philadelphia, PA 19135) for the operation of a painting and powder coating of metal parts facility in the City of Philadelphia, **Philadelphia County**. The facility's air emission sources include two (2) spray booths, one (1) power coating line, two (2) powder coating booth, a vapor degreaser, miscellaneous solvent cleaning, a 0.8 MMBTU/hr bake oven, a 1.6 MMBTU/hr water heater, a 0.5 MMBTU/hr drying oven, a 1.6 MMBTU/hr conveyor oven, and a 2.5 MMBTU/hr powder bake oven.

S12-027: Transflow Terminal Services Inc. (3600 Moore Street, Philadelphia, PA 19145) for the operation of a Crude Oil Transfer Operations facility in the City of Philadelphia, **Philadelphia County**. The facility's air emission sources include Crude Oil Transfer Operations between rail car and tank truck, Crude Oil Transfer Operations— an operating mode that involves transfer between Railcars and a Manifold System, using flexible hoses equipped dry disconnect and vapor tight fittings and Vapor recovery system to control VOC vapors used in Railcar Load Liquid Product Transfer.

The operating permit will be issued under 25 Pa. Code, Philadelphia Code Title 3 and Air Management Regulation XIII. Permit copies and other supporting information are available for public inspection at AMS, 321 University Avenue, Philadelphia, PA 19104. For further information, contact Edward Wiener at (215) 685-9426.

Persons wishing to file protest or comments on the above operating permit must submit the protest or comments within 30 days from the date of this notice. Any protests or comments filed with AMS must include a concise statement of the objections to the permit issuance and the relevant facts upon which the objections are

based. Based upon the information received during the public comment period, AMS may modify the operating permit or schedule a public hearing. The hearing notice will be published in the *Pennsylvania Bulletin* and a local newspaper at least thirty days before the hearing.

S16000024: Eastern Regional Medical Center (ERMC) (1331 E. Wyoming Ave, Philadelphia, PA 19124), for the operation of a hospital in the City of Philadelphia, **Philadelphia County**. The facility's air emission sources include two (2) 5.10 MMBTUs/hr boilers firing natural gas or No. 2 fuel oil, one (1) 1,100 kW Co-Generation system with Oxidation Catalyst firing natural gas, and one (1) emergency generators rated 750 kW or less firing diesel fuel, and three (3) emergency generators rated 600 kW or less firing diesel fuel.

The operating permit will be issued under 25 Pa. Code, Philadelphia Code Title 3 and Air Management Regulation XIII. Permit copies and other supporting information are available for public inspection at AMS, 321 University Avenue, Philadelphia, PA 19104. For further information, contact Edward Wiener at (215) 685-9426.

Persons wishing to file protest or comments on the above operating permit must submit the protest or comments within 30 days from the date of this notice. Any protests or comments filed with AMS must include a concise statement of the objections to the permit issuance and the relevant facts upon which the objections are based. Based upon the information received during the public comment period, AMS may modify the operating permit or schedule a public hearing. The hearing notice will be published in the *Pennsylvania Bulletin* and a local newspaper at least thirty days before the hearing.

The City of Philadelphia, Air Management Services (AMS) intends to reissue a Minor State Only Operating Permit for the following facility:

OP16000014: Fox Chase Cancer Center (7701 Burholme Avenue, Philadelphia PA 19111) for the operation of a hospital and research facility in the City of Philadelphia, **Philadelphia County**. The facility's air emission sources include the following: three (3) 5.5 MMBTUs/hr boilers firing natural gas; one (1) 8.5 MMBTUs/hr boiler firing natural gas; one (1) 17.0 MMBTUs/hr boiler firing natural gas; two (2) boilers rated 3.188 MMBTUs/hr or less firing No. 2 fuel oil or natural gas; four (4) emergency generators firing natural gas, each at 350 kilowatts or less; and three (3) emergency generators firing diesel fuel, each rated at 750 kilowatts or less.

The facility is proposing to amend the testing time of its emergency generators to include an additional 4 hour test every 3 years to meet the requirements of NFPA 110 Section 8.4.9.

The operating permit will be reissued under 25 Pa. Code, Philadelphia Code Title 3 and Air Management Regulation XIII. Permit copies and other supporting information are available for public inspection at AMS, 321 University Avenue, Philadelphia, PA 19104. For further information, contact Edward Wiener at (215) 685-9426.

Persons wishing to file protest or comments on the above operating permit must submit the protest or comments within 30 days from the date of this notice. Any protests or comments filed with AMS must include a

concise statement of the objections to the permit issuance and the relevant facts upon which the objections are based. Based upon the information received during the public comment period, AMS may modify the operating permit or schedule a public hearing. The hearing notice will be published in the *Pennsylvania Bulletin* and a local newspaper at least thirty days before the hearing.

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.

Southcentral Region: Air Quality Program, 909 Elmerston Avenue, Harrisburg, PA 17110.

Contact: Thomas Hanlon, Facilities Permitting Chief, 717-705-4862, Virendra Trivedi, New Source Review Chief, 717-705-4863, or William Weaver, Regional Air Quality Manager, 717-705-4702.

21-05010: NRG REMA LLC (121 Champion Way, Suite 300, Canonsburg, PA 15317-5817) on October 5, 2016, for the Mountain electric generating station located in South Middleton Township, **Cumberland County**. The State-only permit was administratively amended in order to update the mailing address and responsible official information.

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

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

14-00033: Spectra Wood, Inc. (2651 Carolean Industrial Drive, State College, PA 16801) on August 19, 2016, was issued a revised state only operating permit to incorporate terms and conditions of Plan Approval 14-00033A. The revised state only operating permit contains all applicable regulatory requirements including monitoring, recordkeeping, and reporting conditions. This facility is located in **Centre County**, Pennsylvania.

08-00010: Global Tungsten & Powders Corp. (1 Hawes Street, Towanda, PA 18848) on October 3, 2016, was issued a revised state only (synthetic minor) operating permit to incorporate the terms and conditions of Plan Approvals 08-313-004K, 08-313-004L, 08-00010G, and 08-00010H. The revised state only operating permit contains all applicable regulatory requirements including monitoring, recordkeeping and reporting conditions. This facility is located in **Bradford County**, Pennsylvania.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481.

Contact: David Balog, New Source Review Chief—Telephone: 814-332-6328.

25-00029: Erie Coke Corporation (925 East Bay Drive, Erie, PA 16507) on October 3, 2016 issued an administrative amendment to the Title V Operating Permit for the facility located in Erie City, **Erie County**. The amendment incorporates the requirements of plan approval 25-029C, the change in responsible official, the amended Major Source Boiler MACT requirements, and the RACT II requirements.

ACTIONS ON COAL AND NONCOAL MINING ACTIVITY APPLICATIONS

Actions on applications under the Surface Mining Conservation and Reclamation Act (52 P.S. §§ 1396.1—1396.19a); the Noncoal Surface Mining Conservation and Reclamation Act (52 P.S. §§ 3301—3326); The Clean Streams Law; the Coal Refuse Disposal Control Act (52 P.S. §§ 30.51—30.66); and The Bituminous Mine Subsidence and Land Conservation Act (52 P.S. §§ 1406.1—1406.20a). The final action on each application also constitutes action on the NPDES permit application and, if noted, the request for a Section 401 Water Quality Certification. Mining activity permits issued in response to applications will also address the application permitting requirements of the following statutes: the Air Quality Pollution Act (35 P.S. §§ 4001—4014); the Dam Safety and Encroachments Act (32 P.S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P.S. §§ 6018.101—6018.1002).

Coal Permits Issued

California District Office: 25 Technology Drive, Coal Center, PA 15423, 724-769-1100.

Permit No. 30841307 and NPDES No. PA0213438. Emerald Coal Resources, LP, (158 Portal Road, PO Box 1020, Waynesburg, PA 15370). To revise the permit for the Emerald Mine No. 1 in Franklin Township, **Greene County** and related NPDES permit for stream restoration activities to eliminate pooling in panel D2. No additional discharges. The application was considered administratively complete on March 3, 2016. Application received September 30, 2015. Permit issued September 30, 2016.

Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, 814-472-1900.

Permit No. 56090107 and NPDES No. PA0262790, Fieg Brothers, 3070 Stoystown Road, Stoystown, PA 15563, permit renewal for the continued operation and restoration of a bituminous surface and auger mine in Stonycreek Township, **Somerset County**, affecting 37.5 acres. Receiving stream: unnamed tributary to Stonycreek, classified for the following use: cold water fishes. There are no potable water supply intakes within 10 miles downstream. Application received: July 20, 2016. Permit issued: September 30, 2016.

Knox District Mining Office: P.O. Box 669, 310 Best Avenue, Knox, PA 16232-0669, 814-797-1191.

Permit No. 04100101. Amerikohl Mining, Inc. (202 Sunset Drive, Butler, PA 16001) Renewal of an existing bituminous surface and auger mine in North Sewickley Township, **Beaver County**, affecting 102.2 acres. Receiving streams: Thompson Run and unnamed tributary No. 1 to Beaver River. This renewal is issued for reclamation only. Application received: August 15, 2016. Permit Issued: October 5, 2016.

Permit No. 33110102. Ben Hal Mining Company (389 Irishtown Road, Grove City, PA 16127) Renewal of an existing surface mine in Union Township & Corsica Borough, **Jefferson County**, affecting 33.5 acres. Receiving streams: Unnamed tributary to Welch Run. This renewal is issued for reclamation only. Application received: August 16, 2016. Permit Issued: October 5, 2016.

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, 570-621-3118.

Permit No. 54851601R6. Superior Coal Preparation Co-Op, LLC, (184 Schwenks Road, Hegins, PA 17938), renewal of an existing anthracite coal preparation plant operation in Hegins and Hubley Townships, **Schuylkill County** affecting 19.0 acres, receiving stream: Pine Creek. Application received: March 4, 2016. Renewal issued: October 3, 2016.

Permit No. PAM111073R. Superior Coal Preparation Co-Op, LLC, (184 Schwenks Road, Hegins, PA 17938), renewal of General NPDES Stormwater Permit for stormwater discharges associated with mining activities on Surface Mining Permit No. 54851601 in Hegins and Hubley Townships, **Schuylkill County**, receiving stream: Pine Creek. Application received: March 4, 2016. Renewal issued: October 3, 2016.

Permit No. 54-305-024GP12R. Superior Coal Preparation Co-Op, LLC, (184 Schwenks Road, Hegins, PA 17938), renewal of general operating permit to operate a coal preparation plant on Surface Mining Permit No. 54851601 in Hegins and Hubley Townships, **Schuylkill County**. Application received: March 4, 2016. Renewal issued: October 3, 2016.

Permit No. 13060101C4. Lehigh Anthracite, LP, (1322 East Broad Street, Tamaqua, PA 18252), correction of an existing anthracite surface mine operation to grant a variance for support activities within 100 feet of the right-of-way of SR 209 in Nesquehoning Borough, **Carbon County** affecting 189.1 acres, receiving stream: Nesquehoning Creek. Application received: December 2, 2013. Correction issued: October 3, 2016.

Permit No. 13060101T. Lehigh Anthracite, LP, (1322 East Broad Street, Tamaqua, PA 18252), transfer of an existing anthracite surface mine operation in Nesquehoning Borough, **Carbon County** affecting 189.1 acres, receiving stream: Nesquehoning Creek. Application received: March 31, 2016. Transfer issued: October 3, 2016.

Permit No. PAM113055T. Lehigh Anthracite, LP, (1322 East Broad Street, Tamaqua, PA 18252), transfer of General NPDES Stormwater Permit for stormwater discharges associated with mining activities on Surface Mining Permit No. 13060101 in Nesquehoning Borough, **Carbon County**, receiving stream: Nesquehoning Creek. Application received: April 14, 2016. Transfer issued: October 3, 2016.

Permit No. 13070101T. Lehigh Anthracite, LP, (1322 East Broad Street, Tamaqua, PA 18252), transfer of an existing anthracite surface mine operation in Nesquehoning Borough, **Carbon County** affecting 252.3 acres, receiving stream: Nesquehoning Creek. Application received: March 31, 2016. Transfer issued: October 3, 2016.

Permit No. PAM113007T. Lehigh Anthracite, LP, (1322 East Broad Street, Tamaqua, PA 18252), transfer of General NPDES Stormwater Permit for stormwater discharges associated with mining activities on Surface Mining Permit No. 13070101 in Nesquehoning Borough, **Carbon County**, receiving stream: Nesquehoning Creek. Application received: April 14, 2016. Transfer issued: October 3, 2016.

Permit No. 49850701R6. Reading Anthracite Company, (PO Box 1200, Pottsville, PA 17901), renewal of an existing anthracite coal refuse disposal operation in Coal Township, **Northumberland County** affecting 35.4 acres, receiving stream: Carbon Run. Application received: November 10, 2015. Renewal issued: October 4, 2016.

Permit No. PAM111059R, Reading Anthracite Company, (PO Box 1200, Pottsville, PA 17901), renewal of General NPDES Stormwater Permit for stormwater discharges associated with mining activities on Surface Mining Permit No. 49850701 in Coal Township, **Northumberland County**, receiving stream: Carbon Run. Application received: November 10, 2015. Renewal issued: October 4, 2016.

Permit No. 35910101R4, Pioneer Aggregates, Inc., (215 East Saylor Avenue, Laffin, PA 18702), renewal of an existing anthracite surface mine operation in Fell Township, **Lackawanna County** affecting 425.0 acres, receiving stream: Wilson Creek. Application received: May 2, 2011. Renewal issued: October 5, 2016.

Permit No. 54900103C2, EOJ, Inc., (2401 Summer Valley Road, New Ringgold, PA 17960), correction to update the post-mining land use of an existing anthracite surface mine operation in East Norwegian Township and Palo Alto Borough, **Schuylkill County** affecting 200.1 acres, receiving stream: Schuylkill River. Application received: October 21, 2013. Correction issued: October 5, 2016.

Permit No. 54900103R5, EOJ, Inc., (2401 Summer Valley Road, New Ringgold, PA 17960), renewal of an existing anthracite surface mine operation in East Norwegian Township and Palo Alto Borough, **Schuylkill County** affecting 200.1 acres, receiving stream: Schuylkill River. Application received: November 12, 2015. Renewal issued: October 5, 2016.

Permit No. PAM111032R, EOJ, Inc., (2401 Summer Valley Road, New Ringgold, PA 17960), renewal of General NPDES Stormwater Permit for stormwater discharges associated with mining activities on Surface Mining Permit No. 54900103 in East Norwegian Township and Palo Alto Borough, **Schuylkill County**, receiving stream: Schuylkill County. Application received: November 12, 2015. Permit renewed: October 5, 2016.

Noncoal Permits Issued

Knox District Mining Office: P.O. Box 669, 310 Best Avenue, Knox, PA 16232-0669, 814-797-1191.

Permit No. 43080302, White Rock Silica Sand Company, Inc. (331 Methodist Road, Greenville, PA 16215) Revision to an existing large industrial minerals mine to add blasting in Hempfield Township, **Mercer County**. Receiving streams: Unnamed tributaries to Shenango River. Application received: June 14, 2016. Permit Issued: October 3, 2016.

Permit No. 10162802, DemEx, LLC (P.O. Box 133, Zelenople, PA 16063) Commencement, operation and restoration of a small industrial minerals mine in Forward Township, **Butler County**, affecting 4.9 acres. Receiving streams: Unnamed tributary to Breakneck Creek. Application received: May 23, 2016. Permit Issued: October 3, 2016.

PAM616011, DemEx, LLC (P.O. Box 133, Zelenople, PA 16063) General NPDES Permit for stormwater discharges associated with mining activities on Surface Mining Permit No.10162802 in Forward Township, **Butler County**. Application received: May 23, 2016. Permit Issued: October 3, 2016.

Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, 814-342-8200.

Permit No. 17130801, Bowser Lumber Company, Inc. (8530 Colonel Drake Highway, Mahaffey, PA 15757). Commencement, operation, and restoration of small

noncoal (sandstone) quarry in Bell Township, **Clearfield County** affecting 3.0 acres. Receiving stream(s): Bear Run classified for the following use(s): CWF and MF. Application received: January 19, 2016. Permit Issued: October 4, 2016.

PAM213003, Bowser Lumber Company, Inc. (8530 Colonel Drake Highway, Mahaffey, PA 15757). General NPDES permit for stormwater discharge associated with mining activities on Surface Mining Permit No. 17130801 in Bell Township, **Clearfield County**. Receiving stream(s): Bear Run classified for the following use(s): CWF and MF. Application received: January 19, 2016. Permit Issued: October 4, 2016.

Permit No. 08162803, Black Knight Quarries, Inc., (293 Beacon Light Road, Towanda, PA 18848). Commencement, operation and restoration of small noncoal (bluestone) quarry in Terry and Wilmot Townships, **Bradford County** affecting 5.0 acres. Receiving stream(s): Unnamed Tributary to Susquehanna River classified for the following use(s): WWF and MF. Application received: July 14, 2016. Permit Issued: October 4, 2016.

PAM216001, Black Knight Quarries, Inc., (293 Beacon Light Road, Towanda, PA 18848). General NPDES permit for stormwater discharge associated with mining activities on Surface Mining Permit No. 08162803 in Terry and Wilmot Townships, **Bradford County**. Receiving stream(s): Unnamed Tributary to Susquehanna River. Application received: July 14, 2016. Permit Issued: October 4, 2016.

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, 570-621-3118.

Permit No. 58160812, Robert K. Volk (2318 Narrow Gouge Road, Montrose, PA 18801), commencement, operation and restoration of a quarry operation in Auburn Township, **Susquehanna County** affecting 5.0 acres, receiving stream: no discharge to Little Meshoppen Creek Watershed. Application received: August 1, 2016. Permit issued: October 3, 2016.

Permit No. PAM116039, Robert K. Volk (2318 Narrow Gouge Road, Montrose, PA 18801), General NPDES Stormwater Permit for stormwater discharges associated with mining activities on Surface Mining Permit No. 58160812 in Auburn Township, **Susquehanna County**, receiving stream: no discharge to Little Meshoppen Creek Watershed. Application received: August 1, 2016. Permit issued: October 3, 2016.

Permit No. 8274SM4A2C13 and NPDES Permit No. PA0010111, Rohrer's Quarry, Inc., (70 Lititz Road, Lititz, PA 17543), correction of an existing quarry operation to increase the NPDES Permit discharge rate in Penn and Warwick Townships, **Lancaster County** 191.3 acres, receiving stream: unnamed tributary to Little Conestoga Creek. Application received: January 13, 2015. Renewal issued: October 4, 2016.

Permit No. 8274SM4A2C14 and NPDES Permit No. PA0010111, Rohrer's Quarry, Inc., (70 Lititz Road, Lititz, PA 17543), renewal of NPDES permit for discharge of treated mine drainage from a quarry operation in Penn and Warwick Townships, **Lancaster County** 191.3 acres, receiving stream: unnamed tributary to Little Conestoga Creek. Application received: January 13, 2015. Renewal issued: October 4, 2016.

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 Issued

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, 570-621-3118.

Permit No. 35164110. John H. Brainard, (3978 SR 2073, Kingsley, PA 18826), construction blasting for Mike Shruda Shale Pit in Benton Township, **Lackawanna County** with an expiration date of December 31, 2016. Permit issued: October 4, 2016.

Permit No. 35164111. John H. Brainard, (3978 SR 2073, Kingsley, PA 18826), construction blasting for Mike Shruda, Jr. Electric Line in Benton Township, **Lackawanna County** with an expiration date of December 31, 2017. Permit issued: October 4, 2016.

Permit No. 46164112. Maine Drilling & Blasting, Inc., (P.O. Box 1140, Gardiner, ME 04345), construction blasting for State Route 44 Improvements in Limerick and Perkiomen Townships, **Montgomery County** with an expiration date of September 20, 2017. Permit issued: October 4, 2016.

Permit No. 36164161. Keystone Blasting Service, (15 Hopeland Road, Lititz, PA 17543), construction blasting for Traditions of America Lititz in Warwick Township, **Lancaster County** with an expiration date of December 30, 2016. Permit issued: October 7, 2016.

FEDERAL WATER POLLUTION CONTROL ACT SECTION 401

The Department has taken the following actions on previously received permit applications, requests for Environmental Assessment approval and requests for Water Quality Certification under section 401 of the Federal Water Pollution Control Act (FWPCA) (33 U.S.C.A. § 1341).

Except as otherwise noted, the Department has granted 401 Water Quality Certification certifying that the construction and operation described will comply with sections 301—303, 306 and 307 of the FWPCA (33 U.S.C.A. §§ 1311—1313, 1316 and 1317) and that the construction will not violate applicable Federal and State water quality standards.

Persons aggrieved by an action may appeal that action to the Environmental Hearing Board (Board) under section 4 of the Environmental Hearing Board Act and 2

Pa.C.S. §§ 501—508 and 701—704. The appeal should be sent to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, PO Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users may contact the Board through the Pennsylvania AT&T Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin* unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary to the Board at (717) 787-3483. This paragraph does not, in and of itself, create a right of appeal beyond that permitted by applicable statutes and decisional law.

For individuals who wish to challenge an action, the appeal must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

Actions on applications for the following activities filed under the Dam Safety and Encroachments Act (32 P.S. §§ 693.1—693.27), section 302 of the Flood Plain Management Act (32 P.S. § 679.302) and The Clean Streams Law and Notice of Final Action for Certification under section 401 of the FWPCA.

Permits, Environmental Assessments and 401 Water Quality Certifications Issued:

WATER OBSTRUCTIONS AND ENCROACHMENTS

Northcentral Region: Waterways & Wetlands Program Manager, 208 West Third Street, Williamsport, PA 17701, 570-327-3636.

E41-679. Tiadaghton Valley Municipal Authority, PO Box 5039, Jersey Shore, PA 17740. Recreational structure in Jersey Shore Borough, **Lycoming County**, ACOE Baltimore District (Jersey Shore, PA Quadrangle Lat: 41° 12' 4"; Long: -77° 15' 55").

Tiadaghton Valley Municipal Authority has applied for a Small Projects—Joint Permit Application to construct, operate and maintain an elevated generator platform and chain link fence in the floodplain of the West Branch Susquehanna River in Jersey Shore Borough, Lycoming County. The project is proposing to construct an elevated generator platform measuring 14' by 20' and 8' tall chain link fence measuring 60' by 35' in the floodplain of the West Branch of the Susquehanna River.

The project proposes to have the following impacts

<i>ID</i>	<i>Stream Name</i>	<i>Chapter 93 Classification</i>	<i>Temporary Impact area Length (LF)</i>	<i>Permanent Impact area Length (Sq Ft)</i>	<i>Latitude/ Longitude</i>
Structure	W. Br. Susq River	WWF, MF	0	2,100	41° 12' 4" 77° 15' 55"

The total estimated permanent floodplain disturbance for the project is approximately 2,100 SF of permanent impacts. There are no proposed waterway impacts.

The proposed construction will not permanently impact cultural or archaeological resources, national/state/local parks, forests recreational areas, landmarks wildlife refuge, or historical sites. West Branch of the Susquehanna River is classified with a designated use of Warm Water Fishery (WWF).

EA17-016. Allegheny Mountain Chapter of Trout Unlimited Abandoned Mine Drainage Treatment Project, Morgan Road, Clearfield, PA 16830. Hartshorn Run 05 Discharge, Hartshorn Run watershed, Pike Township, **Clearfield County**, ACOE Baltimore District (Curwensville Quadrangle; Latitude 40° 59' 52" N; Longitude 78° 31' 25" W).

The Allegheny Mountain Chapter of Trout Unlimited is proposing to construct a passive treatment system that will capture and treat acidic Abandoned Mine Drainage (AMD) from the Hartshorn Run 05 discharge along an unnamed tributary to Hartshorn Run. The project will include creating an AMD collection channel, one sediment forebay, three constructed wetlands, one limestone cell, one settling basin, two level spreaders, and associated piping and conveyance structures. Unavoidable wetland impacts totaling 0.045 acre are anticipated to install the collection channel and there will be no direct stream impacts. The system will be designed to treat up to 20 gallons per minute.

<i>Activity</i>	<i>Latitude</i>	<i>Longitude</i>	<i>Resource</i>	<i>Permanent Impact</i>
AMD Interceptor Trench	40° 59' 51.6" N	78° 31' 25.4" W	Wetland	0.012 ac.
AMD Interceptor Trench	40° 59' 51.4" N	78° 31' 25.1" W	Wetland	0.017 ac.
AMD Interceptor Trench	40° 59' 50.9" N	78° 31' 24.8" W	Wetland	0.016 ac.

Mitigation for these impacts is downstream water quality improvement in the unnamed tributary to Hartshorn Run. Under current conditions, the AMD is preventing most aquatic organisms from inhabiting the stream and wetlands.

E49-342. DCNR-PA State Parks, Shikellamy State Park, CPRA, P.O. Box 2, Shamokin Dam, PA 17876. Boat Shelter, in Upper Augusta Township, **Northumberland County**, ACOE Baltimore District (Northumberland, PA Quadrangle, Latitude: 40° 52' 47.5"; Longitude: 76° 47' 28.1").

This permit gives consent to construct, operate and maintain a 40 feet by 70 feet open sided pavilion style boat house to store rowing boats while not in use in the floodway of the Susquehanna River, warm water fishery. This project impacts 2,800 sf of floodway of the Susquehanna River and is located in the Shikellamy State Park on Packer Island. This permit was issued under Section 105.13(e) "Small Projects."

Southwest Region: Waterways and Wetlands Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

E63-475-A1, William G. Tomko, 2559 Route 88, Finleyville, PA 15332, Union Township, **Washington County**, Pittsburgh ACOE District.

Has been given consent to:

Operate and maintain an approximately 374 feet, 54 inch, reinforced concrete pipe culvert, in an unnamed tributary to Peters Creek (TSF), fill within 0.56 acre of wetlands and fill along the left bank floodway for a distance of approximately 460 feet for the purpose of correcting slope failures along the aforementioned tributary and constructing an access to a business building located approximately 600 feet southwest from the intersection of Route 88; Finley Avenue and Boyka Drive (Hackett, PA Quadrangle N: 21.5 inches; W; 0.5 inches) in Union Township, Washington County.

To compensate for these impacts the applicant previously paid a \$500 contribution to the PA Wetland Replacement Fund, and shall:

- 1.) Construct and maintain 0.65 acre of replacement wetlands;
- 2.) Enhance 674 linear feet of stream with structures along a 1,000 linear feet stretch of Peters Creek (TSF);
- 3.) Conduct 400 feet of stream bank plantings along Peters Creek;

The mitigation site is located off of Peters Creek Road, near the intersection of Peters Creek Road and Waterman Road (Glassport, PA, Quad N:40° 16' 56.24", W: -79° 56' 41.59") in the Borough of Jefferson Hills, Allegheny County, Pennsylvania. This permit will replace permit number E63-475.

Central Office: Bureau of Waterways Engineering, 400 Market Street, Floor 2, PO Box 8460, Harrisburg, PA 17105-8460.

MB990459-001 (Note: Previously published for comment as E59-520); First Pennsylvania Resource, LLC, 300 Dibble Hollow Road, Westfield Twp., PA 16950; Upper Susquehanna River Mitigation Bank II, in Harrison Valley and Westfield Townships, **Tioga and Potter Counties**, ACOE Baltimore District (Potterbrook, PA Quadrangle N: 41°, 56', 02.72" (41.560272); W: 77°, 36', 21.27" (-77.362127)).

To construct and maintain construct and maintain the Upper Susquehanna River Mitigation Bank II (USRMB2), in accordance with the final application materials, designs and plans approved by the Department. This project consists of restoration (reestablishment and rehabilitation), enhancement and conservation activities within approximately 134.43 acres of an unnamed tributary watershed (CWF) to the Cowanesque River (WWF). The 134.43 acres that comprise USRMB2 will be placed under conservation easements. The project includes activities affecting uplands, floodplains, including approximately 9,217.31 linear feet of verified watercourses; and approximately 9.18 acres of wetland all within the project watershed.

The project includes affecting wetlands through the following—approximately 1.00 acre of rehabilitation, approximately 8.05 acres of enhancement and approximately 4.23 acres of establishment/re-establishment.

The project includes affecting watercourses and their floodplains through 5,416.03 linear feet of reestablishment, 208.78 linear feet of rehabilitation and 143.90 linear feet of enhancement activities resulting in improvement of approximately 5,768.71 linear feet of watercourse and floodplain and conservation of another 3,606.22 linear feet of watercourse and floodplain under the site conservation easements. Areas also involve habitat management, invasive plant species control and vegetative plantings.

The results of the work performed under this permit may generate credits that the permittee could utilize through permittee's Water Obstruction and Encroachment Compensation Operations Permit MB9915-0001 provided the permittee meets the terms and conditions of all applicable permits. The initial credit baseline is set at 7,857.89 watercourse and 8.12 palustrine wetland credits.

District Oil and Gas Operations: Eastern Oil & Gas District, 208 West Third Street, Suite 101, Williamsport, PA.

E4129-105: Anadarko Marcellus Midstream, LLC, 33 West Third Street, Suite 200, Williamsport, PA 17701, Cascade Township, **Lycoming County**, ACOE Baltimore District.

To construct, operate, and maintain:

1) two 6-inch gas pipelines and a timber mat bridge impacting 43 linear feet of Salt Run and 1,672 square feet of adjacent palustrine forested (PFO) wetland (Bodines, PA Quadrangle 41°27'23"N 76°53'13"W).

The project will result in a total of 0.04 acre of wetland impacts and 43 linear feet of stream impacts all for the purpose of installing natural gas gathering line and access roadway to a natural gas well site for Marcellus well development.

Northwest Region: Oil and Gas Program Manager, 230 Chestnut Street, Meadville, PA 16335; 814-332-6860.

E10-08-008, XTO Energy Inc., 190 Thorn Hill Road Warrendale, PA 15086. Mourer Temporary Waterline in Donegal Township, **Butler County**, Army Corps of Engineers Pittsburgh District (Chicora, PA Quadrangles 40.935197°N; -79.725000°W).

The applicant proposes to construct and maintain approximately 9,486 linear feet of one (16) inch plastic waterline located in Donegal Township, Butler County. The pipeline connects existing Well Pads.

The water obstructions and encroachments are described below:

To construct and maintain:

<i>Impact No.</i>	<i>Description of Impact</i>	<i>Latitude/Longitude</i>
1	One (1) 16" plastic waterline with associated right-of-way and temporary road crossing to impact 116 square feet of Palustrine Emergent Wetland (PEM).	40°56'00.79"N -79°43'55.49"W
2	One (1) 16" plastic waterline with associated right-of-way and temporary road crossing to cross Buffalo Creek (HQ-TSF) having 142 linear feet of temporary stream and floodway impacts.	40°56'00.98"N -79°43'54.86"W
3	One (1) 16" plastic waterline with associated right-of-way and temporary road crossing to cross UNT to Buffalo Creek (HQ-WT) and associated Palustrine Emergent Wetland (EV-PEM) having 137 linear feet of temporary stream and floodway impacts, 30 linear feet of permanent impacts, 0.025 acre of temporary wetland impact, and 0.0007 acre of permanent wetland impact.	40°56'02.03"N -79°43'39.04"W
4	One (1) 16" plastic waterline with associated right-of-way and temporary road crossing to cross the floodway of UNT to Buffalo Creek (HQ-TSF) having 253 linear feet of temporary floodway impacts.	40°54'30.99"N -79°47'18.98"W
5	One (1) 16" plastic waterline with associated right-of-way and temporary road crossing to cross UNT to Buffalo Creek (HQ-TSF) having 136 linear feet of temporary stream and floodway impacts.	40°56'15.62"N -79°43'17.55"W
6	One (1) 16" plastic waterline with associated right-of-way and temporary road crossing to cross UNT to Buffalo Creek (HQ-TSF) having 130 linear feet of temporary stream and floodway impacts.	40°56'30.72"N -79°43'13.18"W
7	One (1) 16" plastic waterline with associated right-of-way and temporary road crossing to impact 269 square feet of Palustrine Emergent Wetland (PEM).	40°56' 32.31"N -79°43'11.49"W

In Butler County, the project will result in a total of 138 linear feet of temporary stream impacts, 30 linear feet of permanent stream impact, 0.034 acre of temporary wetland impacts, and 0.0007 acre of permanent wetland impact.

E10-08-009, Stonehenge Appalachia LLC, 11400 Westmoor Circle, Suite 200A, Westminster, CO 80021. Fleeger 2 to Baird pipeline in Clay and Concord Townships, **Butler County**, Army Corps of Engineers Pittsburgh District (Mount Chestnut, East Butler and Hilliard, PA Quadrangles 40.9773°N; -79.89363°W).

The applicant proposes to construct and maintain approximately 4.2 miles of one (16) inch steel natural gas gathering pipeline located in Clay and Concord Townships, Butler County. The pipeline connects existing Well Pads.

The water obstructions and encroachments are described below:

To construct and maintain:

<i>Impact No.</i>	<i>Description of Impact</i>	<i>Latitude/Longitude</i>
1	One (1) 16" steel gathering line with associated right-of-way and temporary road crossing to cross UNT to Muddy Creek (HQ-CWF) having 105 linear feet of temporary stream and floodway impacts.	40°58' 27.012"N -79°53' 08.90"W
2	One (1) 16" steel gathering line with associated right-of-way to be bored under UNT to Pine Run (WWF) having 103 linear feet of temporary stream and floodway impacts.	40°58' 27.09"N -79°52' 46.50"W
3	One (1) 16" steel gathering line to be bored under a Palustrine Emergent Wetland (EV-PEM) having 0.001 acre of temporary wetland impact, and 0.0 acre of permanent wetland impact.	40°58' 27.09"N -79°52' 46.50"W
4	One (1) 16" steel gathering line with associated right-of-way and temporary road crossing to cross the floodway of UNT to Connoquenessing Creek (HQ-WWF) having 105 linear feet of temporary stream and floodway impacts.	40°58' 35.40"N -79°52' 27.97"W
5	One (1) 16" steel gathering line with associated right-of-way and temporary road crossing to cross the floodway of UNT to Connoquenessing Creek (HQ-WWF) having 110 linear feet of temporary stream and floodway impacts.	40°58' 45.60"N -79°52' 12.82"W
6	One (1) 16" steel gathering line with associated right-of-way and temporary road crossing to impact 2,500 square feet of Palustrine Emergent Wetland (EV-PEM).	40°58' 45.60"N -79°52' 12.82"W
7	One (1) 16" steel gathering line with associated right-of-way to be bored under UNT to Muddy Creek (HQ-CWF) having 105 linear feet of temporary stream and floodway impacts.	40°59' 42.00"N -79°52' 34.68"W
8	One (1) 16" steel gathering line to temporarily impact 60 square feet of Palustrine PFO Wetland (PFO).	40°59' 42.00"N -79°52' 34.68"W
9	One (1) 16" steel gathering line with associated right-of-way and associated road crossing to be bored under cross UNT to South Branch Slippery Rock Creek (CWF) having 104 linear feet of temporary stream and floodway impacts.	40°59' 54.60"N -79°52' 13.44"W
10	One (1) 16" steel gathering line with associated right-of-way and temporary road crossing to impact 100 linear feet of floodway of UNT to Muddy Creek (HQ-CWF).	40°59' 02.04"N -79°52' 32.88"W
11	One (1) 16" steel gathering line with associated right-of-way and temporary road crossing to impact 75 linear feet of floodway of UNT to South Branch Slippery Rock Creek (CWF).	40°55' 59.88"N -79°52' 13.44"W
12	One (1) 16" steel gathering line with associated right-of-way to be bored under a Palustrine Emergent Wetland (PEM) having 270 square feet of temporary impacts.	40°59' 54.60"N -79°52' 13.44"W

In Butler County, the project will result in a total of 807 linear feet of temporary stream impacts and temporary floodway impact, 0.0 linear feet of permanent stream impact, 0.065 acre of temporary wetland impacts, and 0.0 acre of permanent wetland impact.

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 AT&T Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin* unless the appropriate statute provides a different time period. Copies of the

appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary to the Board at (717) 787-3483. This paragraph does not, in and of itself, create a right of appeal beyond that permitted by applicable statutes and decisional law.

For individuals who wish to challenge an action, the appeal must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

Northcentral Region: Waterways & Wetlands Program Manager, 208 W Third Street, Williamsport, PA 17701.

ESCP 2 # ESG001117150002

Applicant Name Tennessee Gas Pipeline Company, LLC
Contact Person Mark Hamarich

Address 1001 Louisiana Street, Suite 1460A
 City, State, Zip Houston, TX 77002
 County Tioga
 Township(s) Shippen, Middlebury, Delmar, Chatham and
 Charleston Twps
 Receiving Stream(s) and Classification(s) Left Straight
 Run, Wildcat Hollow, Right Straight Run, Canada Run,
 Carpenter Hollow, East Branch Canada Run & Baldwin
 Run (HQ-CWF)
 Catlin Hollow Creek (TSF)
 Roberts Branch, Bear Wallow Branch, Norris Brook &
 Spoor Hollow (EV)
 Blair Creek, Hills Creek, Tioga River & Bentley Creek
 (WWF)

*Southwest Region: Oil and Gas Management Program
 Manager 400 Waterfront Drive, Pittsburgh PA, 15222.*

E63-07-010: MarkWest Liberty Midstream & Resources, LLC, 4600 J. Barry Court, Suite 500, Canonsburg, PA 15317, Smith Township, **Washington County**, ACOE Pittsburgh District.

MarkWest Liberty Midstream & Resources, LLC is proposing to install the Harmon Creek D to Fox pipeline that will convey natural gas from the Harmon Creek D well pad (40° 24' 19.83", -80° 23' 24.11") to the Fox processing facility (40° 24' 6.62", -80° 21' 19.69"). The project is located within the Burgettstown and Clinton USGS 7 1/2 Minute Quadrangle Maps. The project will include installation of five 20-inch welded steel gathering lines approximately 12,600 feet in length. The project is a Joint Permit Application due to the crossing of a wetland which is greater than 10 acres on National Wetland Inventory maps. The project will result in two (2) wetland crossings and three (3) watercourse crossings, resulting in a total of 5,897 ft² of temporary wetland impacts and 260 linear feet of temporary stream impacts.

Each of the following crossings will be crossed by the five (5) pipes mentioned above using the open trench method:

<i>Wetland Crossing</i>	<i>Latitude/Longitude</i>	<i>Area of Impact</i>	
Wetland 10 Palustrine Emergent (PEM)	Lat: 40° 24' 13.38", Long: -80° 23' 21.82"	Temporary:	0.0562 acre
		Permanent:	0 acre

<i>Stream Crossings</i>	<i>Latitude/Longitude</i>	<i>Area of Impact</i>	
UNT 74614 to Raccoon Creek (# 25564; WWF)	Lat: 40° 23' 51.16", Long: -80° 22' 37.6"	Temporary:	8 ft. by 90 ft. (720 ft ²)
		Permanent:	0 ln. ft.

Each of the following crossings will be crossed by horizontal directional drilling by the five (5) pipes mentioned above:

<i>Wetland Crossing</i>	<i>Latitude/Longitude</i>	<i>Area of Impact</i>	
Wetland 9 Palustrine Emergent (PEM), Palustrine Scrub-Shrub (PSS)	Lat: 40° 23' 51.30", Long: -80° 22' 9.67"	Temporary:	0.0792 acre
		Permanent:	0 acre

<i>Stream Crossings</i>	<i>Latitude/Longitude</i>	<i>Area of Impact</i>	
Raccoon Creek (# 25564, WWF)	Lat: 40° 23' 51.06", Long: -80° 22' 6.20"	Temporary:	50 ft. by 82 ft. (4,100 ft ²)
		Permanent:	0 ln. ft.
UNT 1 to Raccoon Creek (# 25564, WWF)	Lat: 40° 23' 51.36", Long: -80° 22' 0.34"	Temporary:	7 ft. by 88 ft. (616 ft ²)
		Permanent:	0 ln. ft.

This permit contains the following special permit conditions:

1. Whenever possible, pipeline crossings shall be made in the dry by installing sandbags and plastic dams, and piping stream flow through the affected area.

2. The backfilling of the trench in which the pipeline will be laid shall be done so as to eliminate the formation of a permanent ridge in the stream bed.

3. Ditching, pipe laying and backfilling of the stream crossing shall be conducted as one continuous operation. The trench across the creek shall not be excavated until the pipe is prepared and ready for placement in the trench. Where the trench approaches the stream channel and the stream channel crossing in the trench will not be immediately backfilled, the trench shall be blocked by a trench plug to prevent runoff from entering the stream

via the trench. Temporary stream crossings shall be constructed where equipment must repeatedly cross the stream.

4. The permittee shall avoid wetland areas for use as staging areas or to store equipment and supplies.

5. Prior to the start of earthmoving activities, all wetlands that are not authorized for impact by this permit shall be clearly marked in the field with orange construction fencing or other similar highly visible material.

6. Prior to the beginning of work, all public water supplies or other water-related activities located downstream that may be affected by turbidity increases or other water quality changes caused by said work shall be sufficiently notified in advance to allow for preparation of any water quality changes.

7. The permittee shall only install the approved materials, including timber mats at the crossing of Wetland 9 and clean gravel and seven 48-inch culverts at the crossing of Raccoon Creek, in the event of an inadvertent return. In such an event, all materials shall be placed according to the approved project plans unless a change is agreed to in writing by the Department.

8. In the event of an inadvertent return, the permittee must follow the Preparedness, Prevention, and Contingency Plan (PPC Plan).

9. The permittee and his agents will be watchful for archaeological artifacts and will assure that ground disturbance activities will cease immediately upon discovery of archaeological artifacts, and immediately notify the DEP Regional Office and the Pennsylvania Historical and Museum Commission at P.O. Box 1026, Harrisburg, PA 17120-1026, telephone (717) 783-8947.

10. In State Game Land 117, no work is to occur on Saturdays from October 1 until February 1. No work is to occur Monday through Saturday during the rifle deer season which begins on November 28 and lasts until December 10.

Southwest District: Oil & Gas Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222.

ESCGP-2 # ESX11-051-0034
Applicant Name Chevron Appalachia, LLC
Contact Person Branden Weimer
Address 800 Mountain View Drive
City, State, Zip Smithfield, PA 15478
County Fayette County
Township(s) Luzerne Township
Receiving Stream(s) and Classification(s) Wallace Run,
UNT to Wallace Run, UNT to Lily Run/Middle
Monongahela River (WWF)

ESCGP-2 # ESX15-007-0018
Applicant Name Penn Energy Resources, LLC
Contact Person Gregg Stewart
Address 1000 Commerce, Drive
City, State, Zip Pittsburgh, PA 15275
County Beaver County
Township(s) New Sewickley Township
Receiving Stream(s) and Classification(s) UNTs to Snake
Run, UNTs to Crows Run, Upper Ohio Watershed
(WWF)

ESCGP-2 # ESX11-059-0037
Applicant Name Chevron Appalachia, LLC
Contact Person Branden Weimer
Address 800 Mountain View Drive
City, State, Zip Smithfield, PA 15478
County Greene
Township(s) Greene Township
Receiving Stream(s) and Classification(s) UNTs to Woods
Run (TSF), UNTs to Minor Run (TSF), Monongahela
Watershed (WWF)

ESCGP-2 # ESX15-007-0018
Applicant Name Penn Energy Resources, LLC
Contact Person Gregg Stewart
Address 1000 Commerce, Drive
City, State, Zip Pittsburgh, PA 15275
County Beaver County
Township(s) New Sewickley Township
Receiving Stream(s) and Classification(s) UNTs to Snake
Run, UNTs to Crows Run, Upper Ohio Watershed
(WWF)

ESCGP-2 # ESG14-059-0042
Applicant Name Vantage Energy Appalachia, LLC
Contact Person John Moran
Address 116 Inverness Drive East, Suite 107
City, State, Zip Englewood, CO 80112
County Greene County
Township(s) Center Township
Receiving Stream(s) and Classification(s) UNT to Hargus
Creek(HQ-WWF)/South Fork Tenmile Creek(HQ-WWF).
Hargus Creek/South Fork Tenmile Creek. UNT to
South Fork Ten Mile Creek.

ESCGP-2 # ESX16-125-0010
Applicant Name SWN Production Co LLC
Contact Person Carla Suszkowski
Address P O Box 12359
City, State, Zip Spring, TX 77391
County Washington
Township(s) Independence
Receiving Stream(s) and Classification(s) UNTs to Cross
Ck (WWF); Cross Ck (WWF)
Secondary—Cross Ck (WWF); Ohio River

ESCGP-2 # ESX16-125-0017
Applicant Name EQT Production—Land, PA
Contact Person Todd Klaner
Address 2400 Zenith Ridge Rd, Suite 200
City, State, Zip Canonsburg, PA 15317
County Washington
Township(s) Deemston
Receiving Stream(s) and Classification(s) Plum Run
(TSF), Fishpot Run (WWF)

ESCGP-2 # ESG15-059-0041
Applicant Name EQT Production Company
Contact Person Todd Klaner
Address 2400 Zenith Ridge Road
City, State, Zip Canonsburg, PA 15317
County Greene
Township(s) Center
Receiving Stream(s) and Classification(s) UNTs to Woods
Run/S. Fork Tenmile Creek; UNTs to Pursley Creek/S.
Fork Tenmile Creek (HQ)

ESCGP-2 # ESX16-125-0019
Applicant Name EQT production—Land PA
Contact Person Todd Klaner
Address 2400 Zenith Ridge Rd, Suite 200
City, State, Zip Canonsburg, PA 15317
County Washington
Township(s) Carroll
Receiving Stream(s) and Classification(s) Monongahela
River (WWF)

ESCGP-2 # ESX16-125-0005
Applicant Name Mark West Liberty Midstream and Re-
sources LLC
Contact Person Rich Lowry
Address 4600 J Barry Court, Suite 500
City, State, Zip Canonsburg, PA 15317
County Washington
Township(s) Jefferson
Receiving Stream(s) and Classification(s) UNTs to Cross
Ck (WWF-MF)

ESCGP-2 # ESG16-059-0027
Applicant Name Vantage Energy Appalachia II LLC
Contact Person John Moran
Address 480 Johnson Rd, Suite 100
City, State, Zip Washington, PA 15301
County Greene
Township(s) Jackson

Receiving Stream(s) and Classification(s) UNTs to Falling Timber Run (TSF); Falling Timber Run (TSF); UNTs to Webster Run (TSF); Webster Run (TSF); UNT to House Run (HQ-WWF)
Secondary—Falling Timber Run (TSF); Job Ck (TSF); Webster Run (TSF); North Fork Dunkard Fork (TSF); House Run (HQ-WWF)

ESCGP-2 # ESX16-129-0007
Applicant Name Apex Energy PA LLC
Contact Person Chris Hess
Address 6041 Wallace Rd Ext, Suite 100
City, State, Zip Wexford, PA 15090
County Westmoreland
Township(s) Penn
Receiving Stream(s) and Classification(s) UNT to Byers Run (TSF)

ESCGP-2 # ESG16-129-0006
Applicant Name Apex WML Midstream LLC
Contact Person JD McNally
Address 6041 Wallace Rd Ext, Suite 100
City, State, Zip Wexford, PA 15090
County Westmoreland
Township(s) Salem & Penn
Receiving Stream(s) and Classification(s) Trib to Beaver Run (HQ-CWF)

Western Region: Oil & Gas Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222.

ESCGP-2 # ESX15-129-0011
Applicant Name Apex Energy PA LLC
Contact Person Chris Hess
Address 6041 Wallace Rd Extension, Suite 100
City, State, Zip Wexford, PA 15090
County Westmoreland
Township(s) Penn
Receiving Stream(s) and Classification(s) UNT to Bushy Run (TSF, MF); Turtle Run (TSF, MF)
Secondary—Bushy Run

ESCGP-2 # ESG16-125-0016
Applicant Name Range Resources—Appalachia LLC
Contact Person Karl Matz
Address 3000 Town Center Blvd
City, State, Zip Canonsburg, PA 15317
County Washington

Township(s) Donegal
Receiving Stream(s) and Classification(s) UNTs to Buck Run (HQ-WWF)
Secondary—Buck Run (HQ-WWF)

ESCGP-2 # ESG16-125-0021
Applicant Name Apex Energy PA LLC
Contact Person Chris Hess
Address 6041 Wallace Rd Extension, Suite 100
City, State, Zip Wexford, PA 15090
County Westmoreland
Township(s) N Strabane
Receiving Stream(s) and Classification(s) UNT to Little Chartiers Ck (HQ-WWF)
Secondary—Little Chartiers Ck (HQ-WWF)

ESCGP-2 # ESX16-129-0001
Applicant Name Range Resources—Appalachia LLC
Contact Person Karl Matz
Address 3000 Town Center Blvd
City, State, Zip Canonsburg, PA 15317
County Washington Township(s) Penn
Receiving Stream(s) and Classification(s) UNT to Bushy Run (TSF, MF)
Secondary—Bushy Run

ESCGP-2 # ESX16-059-0026
Applicant Name Rice Midstream Holdings LLC
Contact Person Kyle Shirey
Address 2200 Rice Dr
City, State, Zip Canonsburg, PA 15317
County Greene
Township(s) Richhill
Receiving Stream(s) and Classification(s) Polen Run (TSF)
Secondary—N Fork Dunkard Fork (TSF)

ESCGP-2 # ESX16-125-0013
Applicant Name Rice Drilling B LLC
Contact Person Joseph Mallow
Address 400 Woodcliff Dr
City, State, Zip Canonsburg, PA 15317
County Washington
Township(s) Robinson
Receiving Stream(s) and Classification(s) UNT to Raccoon Ck (WWF)
Secondary—Raccoon Ck (WWF)

Northwest Region: Waterways and Wetlands Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

Butler County Conservation District, 122 McCune Drive, Butler, PA 16001-6501.

ESCGP-2 No.	Applicant Name & Address	County	Municipality	Receiving Water/Use
ESG 00 019 16 0001	National Fuel Gas Distribution Corporation 6363 Main Street Williamsville, NY 14221-8247	Butler	Allegheny Township	UNT Lowery Run WWF; Lowery Run WWF

Northwest Region: Oil and Gas Program Manager, 230 Chestnut St., Meadville, PA 16335.

ESCGP-2 # ESX16-019-0011
Applicant XTO Energy, Inc.
Contact Ms. Melissa Breitenbach
Address 190 Thorn Hill Road
City Warrendale State PA Zip Code 15086
County Butler Township(s) Franklin Township
Receiving Stream(s) and Classification(s) Unnamed Tributaries to Mulligan Run (CWF) Slippery Rock Creek Watershed

ESCGP-2 # ESX15-019-0026
Applicant EM Energy Pennsylvania, LLC
Contact Mr. Hugh Caperton
Address 1800 Main Street Suite 220
City Canonsburg State PA Zip Code 15317
County Butler Township(s) Allegheny
Receiving Stream(s) and Classification(s) Trib 51141 to Lowrey Run/Trib 51139 to Lowrey Run

ESCGP-2 # ESX12-019-0175A
Applicant R. E. Gas Development
Contact Michael T. Endler

Address 600 Cranberry Woods Drive
City Cranberry Township State PA Zip Code 16066
County Butler Township(s) Jackson
Receiving Stream(s) and Classification(s) Connoqueness-
ing Creek and Slippery Rock Creek Watershed

ESCGP-2 # ESG16-019-0013

Applicant R. E. Gas Development
Contact Michael Endler
Address 600 Cranberry Woods Drive
City Cranberry Township State PA Zip Code 16066
County Butler Township Oakland
Receiving Stream(s) and Classification(s) Tributaries to
Thorn Creek and Thorn Creek and Tributaries to
Connoquenessing Creek.

ESCGP-2 # ESG15-019-0064—Fleegeer # 2 to Baird Pipe-
line

Applicant Stonehenge Appalachia, LLC
Contact Mr. Patrick Redalen
Address 11400 Westmoor Circle, Suite 200A
City Westminster State CO Zip Code 80021
County Butler Township(s) Clay and Concord
Receiving Stream(s) and Classification(s) 3 UNTs to
Muddy Creek (HQ-CWF), 1 UNTs to Connoquenessing
Creek (HQ-WWF), 1 to Pine Run (WWF) and one UNT
to South Branch Slippery Rock Creek (CWF)

ESCGP-2 # ESG16-019-0016—Bachelder Gas Pipeline
Applicant Mountain Gathering LLC

Contact Dewey Chalos
Address 810 Houston Street
City Forth Worth State TX Zip Code 76102
County Butler Township(s) Penn
Receiving Stream(s) and Classification(s) UNT to Patter-
son (CWF) and Paterson Run (CWF)/Thorn Creek

ESCGP-2 # ESX12-053-0032A—Forest Howe Pad B Major
Modification

Applicant Pennsylvania General Energy Company, LLC
Contact Doug Kuntz
Address 120 Market Street
City Warren State PA Zip Code 16365
County Forest Township(s) Howe & Jenk
Receiving Stream(s) and Classification(s) UNT to
Fourmile Run # 23314, Fourmile Run # 23314 EV

*Eastern Region: Oil & Gas Management Program Man-
ager, 208 West Third Street, Williamsport, PA 17701.*

ESCGP-2 # ESX29-115-16-0036

Applicant Name Williams Field Services Co LLC
Contact Person Lauren Miladinovich
Address Park Place Corporate Ctr 2, 2000 Commerce Dr
City, State, Zip Pittsburgh, PA 15275
County Susquehanna
Township(s) Dimock
Receiving Stream(s) and Classification(s) White Ck (CWF-
MF)

ESCGP-2 # ESX29-115-16-0037

Applicant Name Williams Field Services Co LLC
Contact Person Matthew Anderson
Address 310 SR 92 North
City, State, Zip Tunkhannock, PA 18657-7845
County Susquehanna
Township(s) Brooklyn
Receiving Stream(s) and Classification(s) Hop Bottom Ck
(CWF-MF) and Martins Ck (CWF-MF)

ESCGP-2 # ESX11-015-0322(02)

Applicant Name Talisman Energy USA Inc.
Contact Person Lance Ridall
Address 337 Daniel Zenker Dr
City, State, Zip Horseheads, NY 14845

County Bradford
Township(s) Sylvania
Receiving Stream(s) and Classification(s) West Branch
Sugar Ck (TSF, MF); Morgan Ck (TSF, MF) and UNT
to Sugar Ck (TSF, MF)
Secondary—Sugar Ck

ESCGP-2 # ESG29-081-16-0021

Applicant Name Anadarko E&P Onshore LLC
Contact Person Stephen Barondeau
Address 33 W Third St, Suite 200
City, State, Zip Williamsport, PA 17701
County Lycoming
Township(s) Cummings
Receiving Stream(s) and Classification(s) UNT to Dam
Run (EV), Dam Run (EV)
Secondary—Dam Run (EV), Little Pine Ck (EV)

ESCGP-2 # ESX29-115-16-0039

Applicant Name DTE Energy
Contact Person Michael Cefalo
Address 1429 Oliver Dr
City, State, Zip New Milford, PA 18834
County Susquehanna
Township(s) Harford
Receiving Stream(s) and Classification(s) UNT to E
Branch Martins Ck (CWF, MF)
Secondary—E Branch Martins Ck (CWF, MF)

ESCGP-2 # ESX29-115-16-0015

Applicant Name Williams Field Services Co LLC
Contact Person Lauren Miladinovich
Address Park Place Corporate Ctr 2, 2000 Commerce Dr
City, State, Zip Pittsburgh, PA 15275
County Susquehanna
Township(s) Brooklyn
Receiving Stream(s) and Classification(s) Hop Bottom Ck
(CWF-MF) and UNTs thereto; Dry Ck (CWF-MF) and
UNTs thereto

ESCGP-2 # ESG29-081-16-0022

Applicant Name Anadarko E&P Onshore LLC
Contact Person Stephen Barondeau
Address 33 W Third St, Suite 200
City, State, Zip Williamsport, PA 17701
County Lycoming
Township(s) Cummings
Receiving Stream(s) and Classification(s) Lower Pine Bot-
tom Run (HQ-CWF); Bull Run (HQ-CWF); Gamble Run
(HQ-CWF)
Secondary—Pine Ck (EV)

ESCGP-2 # ESX29-115-16-0034

Applicant Name Williams Field Services Co LLC
Contact Person Chad Johnson
Address 310 SR 29 N
City, State, Zip Tunkhannock, PA 18657
County Susquehanna
Township(s) Gibson
Receiving Stream(s) and Classification(s) UNTs to
Tunkhannock Ck (CWF-MF)

ESCGP-2 # ESG29-081-16-0016

Applicant Name NFG Midstream Trout Run LLC
Contact Person Duane Wassum
Address 6363 Main St
City, State, Zip Williamsville, NY 14221
County Lycoming
Township(s) Lewis & Gamble
Receiving Stream(s) and Classification(s) UNTs to Lycom-
ing Ck (HQ-CWF)
Secondary—Lycoming Ck (EV)

SPECIAL NOTICES

Air Quality; Alternative Compliance Schedule Petition

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

*Contact: Raymond Kempa, New Source Review Chief—
Telephone: 570-826-2531.*

48-00003: Keystone Cement Co. (PO Box A, Routes 329 and 987, Bath, PA 18014) on June 29, 2016 submitted to the Department an alternative compliance schedule petition. Keystone is proposing an interim emission limit of 3.03 pounds of NO_x per ton of clinker until installation of a SNCR system around September 1, 2017. This interim limit and extension is authorized under 25 Pa. Code § 129.97(k)—(m) for their facility in East Allen Township, **Northampton County**.

Environmental Assessment

Hollidaysburg Sewer Authority, 1731 N. Juniata Street, Hollidaysburg, PA 16647-0462.

The Pennsylvania Infrastructure Investment Authority which administers the Commonwealth's State Revolving Fund is intended to be the funding source for this project. The proposed project will separate a portion of the existing combined sewer system tributary to the Jones Street Combined Sewer Outfall. The project consists of construction of approximately 10,500 feet of gravity sanitary sewer collection system. The Department's review of the project and the information received in the Uniform Environmental Review for the project has not identified any significant adverse environmental impact resulting from this proposal. The Department hereby approves the Environmental Assessment.

[Pa.B. Doc. No. 16-1813. Filed for public inspection October 21, 2016, 9:00 a.m.]

Bid Opportunity

OSM 11(4788,4789)101.1, Abandoned Mine Reclamation Project, Wyerough Run, Chest Township, Cambria County. The principal items of work and approximate quantities include grading 4,780 tons, seeding 41.5 acres, tree planting—seedlings 18,600 trees, tree planting—trees 12 trees, rock underdrains 1,100 linear feet, permanent swales with R-4 rock check dams 660 linear feet, permanent access roads 2,625 linear feet and wetland mitigation 0.07 acre.

This bid issues on November 11, 2016, and bids will be opened on December 13, 2016, at 2 p.m. Bid documents, including drawings in PDF format and Auto-Cad Map 3D format, may be downloaded for free beginning on the issue date from the Department of Environmental Protection's web site at www.dep.pa.gov/ConstructionContracts. Bid documents and drawings can also be obtained upon payment of \$22, plus \$13 for postage, which includes sales tax, by calling (717) 787-7820. Auto-Cad Map 3D format drawings can also be purchased on a compact disc (CD) for an additional \$5 per CD. Money will not be refunded. This project is financed by the Federal government under the authority given it by the Surface Mining Control and Reclamation Act of 1977 (act) (30 U.S.C.A §§ 1201—1328) and is subject to the act and to the

Federal grant for this project. Contact the Construction Contracts Section at (717) 787-7820 for more information on this bid.

PATRICK McDONNELL,
Acting Secretary

[Pa.B. Doc. No. 16-1814. Filed for public inspection October 21, 2016, 9:00 a.m.]

Conventional Oil and Gas Advisory Committee Meeting Cancellation

The November 2, 2016, meeting of the Conventional Oil and Gas Advisory Committee (Committee) is cancelled. This meeting was scheduled to begin at 10 a.m. at the Rachel Carson State Office Building, Conference Room 105, 400 Market Street, Harrisburg, PA 17105.

Additional Committee meetings are not scheduled to occur through the end of calendar year 2016. For additional information contact Todd M. Wallace at twallace@pa.gov or (717) 783-9438.

PATRICK McDONNELL,
Acting Secretary

[Pa.B. Doc. No. 16-1815. Filed for public inspection October 21, 2016, 9:00 a.m.]

Oil and Gas Technical Advisory Board Meeting Cancellation

The November 3, 2016, meeting of the Oil and Gas Technical Advisory Board (Board) is cancelled. This meeting was scheduled for 10 a.m. at the Rachel Carson State Office Building, Room 105, 400 Market Street, Harrisburg, PA 17105.

Additional Board meetings are not scheduled to occur through the end of calendar year 2016. For additional information contact Todd Wallace at twallace@pa.gov or (717) 783-9438.

PATRICK McDONNELL,
Acting Secretary

[Pa.B. Doc. No. 16-1816. Filed for public inspection October 21, 2016, 9:00 a.m.]

Proposed Revision to State Implementation Plan Incorporating Amendments to Sulfur Content in Fuels Requirements Passed by Philadelphia City Council and Philadelphia Air Management Ser- vices

The City of Philadelphia, Department of Public Health, Air Management Services (AMS) is proposing a revision to the Commonwealth's State Implementation Plan (SIP) incorporating amendments to Philadelphia Code Section 3-207—Sale of Fuel Oil (section 3-207) and Air Management Regulation III—Control of Sulfur Compounds (AMR III).

On July 15, 2014, and June 18, 2015, Bill No. 140510 and Bill No. 150500-A finalized amendments to section 3-207 by adding requirements for commercial fuel oil

content and emissions, deleting superseded standards and adding paragraphs (1)(c)—(f) modifying certain requirements for commercial fuel oil content all under certain terms and conditions.

On June 15, 2015, and November 25, 2015, amendments to AMR III were finalized by adding requirements for commercial fuel oil sulfur content and emissions, deleting superseded standards and adding or modifying sections I—III.

In summary, the amendments to section 3-207 and AMR III reduced the sulfur content limit for No. 2 and lighter commercial fuel oil and No. 4 commercial fuel oil to 0.0015% (15 parts per million (ppm)) and 0.2500% (2,500 ppm), respectively. The amendments also included provisions for use of No. 2 and lighter commercial fuel oil by the ultimate consumer, purchased prior to June 30, 2015, beyond the July 1, 2015, deadline. The Department of Environmental Protection, on behalf of AMS, will submit these amendments to the United States Environmental Protection Agency as a revision to the Commonwealth's SIP.

Interested persons may submit written comments or a request for a public hearing on the proposed SIP revision to Air Management Services, 321 University Avenue, 2nd Floor, Philadelphia, PA 19104, Attn: Ramesh Mahadevan or ramesh.mahadevan@phila.gov. Use "Low Sulfur Content in Fuel SIP Revision" as the subject line in written communication.

The written comments or a request for a public hearing must be received by AMS no later than Tuesday, November 22, 2016. If requested, AMS will hold a public hearing to receive comments on the proposed amendment to the Commonwealth's SIP on Wednesday, December 7, 2016, at 6 p.m. at the Spelman Building, 321 University Avenue, 1st Floor Conference Room, Philadelphia, PA 19104. 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 Rachel Andes at (215) 685-9422 to discuss how AMS may accommodate their needs.

If no request for a public hearing is received by Tuesday, November 22, 2016, the hearing will be cancelled and a notice of cancellation will be published on Friday, December 2, 2016, on the AMS web site at <http://www.phila.gov/health/AirManagement/PublicMeetings.html>. Interested persons may also call (215) 685-9436 to find out if the hearing has been cancelled.

PATRICK McDONNELL,
Acting Secretary

[Pa.B. Doc. No. 16-1817. Filed for public inspection October 21, 2016, 9:00 a.m.]

DEPARTMENT OF HEALTH

Long-Term Care Nursing Facilities; Requests for Exception

The following long-term care nursing facility is seeking an exception to 28 Pa. Code § 205.6(a) (relating to function of building):

Scottdale Healthcare and Rehabilitation Center
900 Porter Avenue
Scottdale, PA 15683
FAC ID # 232802

This request is on file with the Department of Health (Department). Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, 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 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 the request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact the Division at the address or phone number listed previously, or for speech and/or hearing impaired persons V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Service (800) 654-5984 (TT).

KAREN M. MURPHY, PhD, RN,
Secretary

[Pa.B. Doc. No. 16-1818. Filed for public inspection October 21, 2016, 9:00 a.m.]

DEPARTMENT OF REVENUE

Pennsylvania \$1,000,000 Snow Bank Instant Lottery Game

Under the State Lottery Law (72 P.S. §§ 3761-101—3761-314) and 61 Pa. Code § 819.203 (relating to notice of instant game rules), the Secretary of Revenue hereby provides public notice of the rules for the following instant lottery game:

1. *Name:* The name of the game is Pennsylvania \$1,000,000 Snow Bank.

2. *Price:* The price of a Pennsylvania \$1,000,000 Snow Bank instant lottery game ticket is \$20.

3. *Play Symbols:* Each Pennsylvania \$1,000,000 Snow Bank instant lottery game ticket will contain one play area featuring a "WINNING NUMBERS" area, a "YOUR NUMBERS" area, a "5X BONUS PLAY" area and two "FAST \$500" areas. The play symbols and their captions located in the "WINNING NUMBERS" and the "5X BONUS PLAY" areas are: 1 (ONE), 2 (TWO), 3 (THREE), 4 (FOUR), 6 (SIX), 7 (SEVEN), 8 (EIGHT), 9 (NINE), 10 (TEN), 11 (ELEVN), 12 (TWLV), 13 (THRTN), 14 (FORTN), 15 (FIFTN), 16 (SIXTN), 17 (SVNTN), 18 (EGHTN), 19 (NINTN), 20 (TWENT), 21 (TWYONE), 22 (TWYTWO), 23 (TWYTHR), 24 (TWYFOR), 25 (TWYFIV), 26 (TWYSIX), 27 (TWYSVN), 28 (TWYEGT), 29 (TWYNIN), 30 (THIRTY), 31 (THYONE), 32 (THYTWO), 33 (THYTHR), 34 (THYFOR), 35 (THYFIV), 36 (THYSIX), 37 (THYSVN), 38 (THYEGT), 39 (THYNIN) and 40 (FORTY). The play symbols and their captions located in the "YOUR NUMBERS" area are: 1 (ONE), 2 (TWO), 3 (THREE), 4 (FOUR), 6 (SIX), 7 (SEVEN), 8 (EIGHT), 9 (NINE), 10 (TEN), 11 (ELEVN), 12 (TWLV), 13 (THRTN), 14 (FORTN), 15 (FIFTN), 16 (SIXTN), 17 (SVNTN), 18 (EGHTN), 19 (NINTN), 20 (TWENT), 21 (TWYONE), 22 (TWYTWO), 23 (TWYTHR), 24 (TWYFOR), 25 (TWYFIV),

26 (TWYSIX), 27 (TWYSVN), 28 (TWYEGT), 29 (TWNIN), 30 (THIRTY), 31 (THYONE), 32 (THYTWO), 33 (THYTHR), 34 (THYFOR), 35 (THYFIV), 36 (THYSIX), 37 (THYSVN), 38 (THYEGT), 39 (THYNIN), 40 (FORTY), Snowbank (SNWBK) symbol and a Shovel (WINALL) symbol. The play symbols and their captions located in the two "FAST \$500" play areas are: Bells (TRY AGAIN) symbol, Bow (NO BONUS) symbol, Stocking (TRY AGAIN) symbol, Wreath (NO BONUS) symbol, Holly (TRY AGAIN) symbol and a \$500 Burst (WIN500) symbol.

4. *Prize Symbols:* The prize symbols and their captions located in the "YOUR NUMBERS" area are: \$20⁰⁰ (TWENTY), \$30⁰⁰ (THIRTY), \$50⁰⁰ (FIFTY), \$100 (ONE HUN), \$400 (FOR HUN), \$500 (FIV HUN), \$1,000 (ONE THO), \$20,000 (TWY THO), \$100,000 (ONEHUNTHO) and \$1MILL (ONE MIL).

5. *Prizes:* The prizes that can be won in this game are: \$20, \$30, \$50, \$100, \$400, \$500, \$1,000, \$20,000, \$100,000 and \$1,000,000. The prize that can be won in each of the "FAST \$500" play areas is \$500. A player can win up to 21 times on a ticket.

6. *Second-Chance Drawings:* The Pennsylvania Lottery will conduct a Secret Santa Second-Chance Drawing for which non-winning Pennsylvania \$1,000,000 Snow Bank instant lottery game tickets may be eligible as provided for in section 10.

7. *Approximate Number of Tickets Printed For the Game:* Approximately 4,800,000 tickets will be printed for the Pennsylvania \$1,000,000 Snow Bank instant lottery game.

8. *Determination of Prize Winners:*

(a) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of \$1MILL (ONE MIL) appears in the "Prize" area under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$1,000,000. This prize shall be paid as a lump-sum cash payment.

(b) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of \$100,000 (ONEHUNTHO) appears in the "Prize" area under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$100,000.

(c) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Snowbank (SNWBK) symbol, and a prize symbol of \$100,000 (ONEHUNTHO) appears in the "Prize" area under that Snowbank (SNWBK) symbol, on a single ticket, shall be entitled to a prize of \$100,000.

(d) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of \$20,000 (TWY THO) appears in the "Prize" area under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$20,000.

(e) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Snowbank (SNWBK) symbol, and a prize symbol of \$20,000 (TWY THO) appears in the "Prize" area under that Snowbank (SNWBK) symbol, on a single ticket, shall be entitled to a prize of \$20,000.

(f) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Shovel (WINALL) symbol, and a prize symbol of \$1,000 (ONE THO) appears in all

twenty of the "Prize" areas, on a single ticket, shall be entitled to a prize of \$20,000.

(g) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches the "5X BONUS PLAY" symbol, and a prize symbol of \$1,000 (ONE THO) appears in the "Prize" area under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$5,000.

(h) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of \$1,000 (ONE THO) appears in the "Prize" area under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$1,000.

(i) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Snowbank (SNWBK) symbol, and a prize symbol of \$1,000 (ONE THO) appears in the "Prize" area under that Snowbank (SNWBK) symbol, on a single ticket, shall be entitled to a prize of \$1,000.

(j) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Shovel (WINALL) symbol, and a prize symbol of \$50⁰⁰ (FIFTY) appears in all twenty of the "Prize" areas, on a single ticket, shall be entitled to a prize of \$1,000.

(k) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of \$500 (FIV HUN) appears in the "Prize" area under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$500.

(l) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Snowbank (SNWBK) symbol, and a prize symbol of \$500 (FIV HUN) appears in the "Prize" area under that Snowbank (SNWBK) symbol, on a single ticket, shall be entitled to a prize of \$500.

(m) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches the "5X BONUS PLAY" symbol, and a prize symbol of \$100 (ONE HUN) appears in the "Prize" area under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$500.

(n) Holders of tickets with a \$500 BURST (WIN500) symbol in either "FAST \$500" area, on a single ticket, shall be entitled to a prize of \$500.

(o) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Shovel (WINALL) symbol, and a prize symbol of \$30⁰⁰ (THIRTY) appears in ten of the "Prize" areas and a prize symbol of \$20⁰⁰ (TWENTY) appears in ten of the "Prize" areas, on a single ticket, shall be entitled to a prize of \$500.

(p) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of \$400 (FOR HUN) appears in the "Prize" area under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$400.

(q) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Snowbank (SNWBK) symbol, and a prize symbol of \$400 (FOR HUN) appears in the "Prize" area under that Snowbank (SNWBK) symbol, on a single ticket, shall be entitled to a prize of \$400.

(r) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Shovel (WINALL) symbol,

and a prize symbol of \$20⁰⁰ (TWENTY) appears in all twenty of the "Prize" areas, on a single ticket, shall be entitled to a prize of \$400.

(s) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches the "5X BONUS PLAY" symbol, and a prize symbol of \$50⁰⁰ (FIFTY) appears in the "Prize" area under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$250.

(t) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of \$100 (ONE HUN) appears in the "Prize" area under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$100.

(u) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Snowbank (SNWBANK) symbol, and a prize symbol of \$100 (ONE HUN) appears in the "Prize" area under that Snowbank (SNWBANK) symbol, on a single ticket, shall be entitled to a prize of \$100.

(v) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches the "5X BONUS PLAY" symbol, and a prize symbol of \$20⁰⁰ (TWENTY) appears in the "Prize" area under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$100.

(w) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of \$50⁰⁰ (FIFTY) appears in the "Prize" area under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$50.

(x) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Snowbank (SNWBANK) symbol, and a prize symbol of \$50⁰⁰ (FIFTY) appears in the "Prize" area under that Snowbank (SNWBANK) symbol, on a single ticket, shall be entitled to a prize of \$50.

(y) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of \$30⁰⁰ (THIRTY) appears in the "Prize" area under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$30.

(z) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Snowbank (SNWBANK) symbol, and a prize symbol of \$30⁰⁰ (THIRTY) appears in the "Prize" area under that Snowbank (SNWBANK) symbol, on a single ticket, shall be entitled to a prize of \$30.

(aa) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of \$20⁰⁰ (TWENTY) appears in the "Prize" area under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$20.

(bb) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Snowbank (SNWBANK) symbol, and a prize symbol of \$20⁰⁰ (TWENTY) appears in the "Prize" area under that Snowbank (SNWBANK) symbol, on a single ticket, shall be entitled to a prize of \$20.

9. *Number and Description of Prizes and Approximate Odds:* The following table sets forth the approximate number of winners, amounts of prizes, and approximate odds of winning:

When Any Of Your Numbers Match Any Winning Number, Win Prize Shown Under The Matching Number. Win With:

<i>Fast \$500 Areas:</i>	<i>Win:</i>	<i>Approximate Odds Are 1 In:</i>	<i>Approximate No. Of Winners Per 4,800,000 Tickets:</i>
\$20 w/ SNOWBANK	\$20	12	400,000
\$20	\$20	15	320,000
\$30 w/ SNOWBANK	\$30	25	192,000
\$30	\$30	37.50	128,000
\$30 + \$20	\$50	100	48,000
(\$30 w/ SNOWBANK) + (\$20 w/ SNOWBANK)	\$50	100	48,000
\$50 w/ SNOWBANK	\$50	30	160,000
\$50	\$50	150	32,000
\$50 × 2	\$100	300	16,000
\$20 w/ 5X BONUS PLAY	\$100	50	96,000
(\$20 w/ SNOWBANK) × 5	\$100	300	16,000
\$100 w/ SNOWBANK	\$100	300	16,000
\$100	\$100	300	16,000
SHOVEL w/ (\$20 × 20)	\$400	1,000	4,800
\$100 × 4	\$400	12,000	400
(\$20 w/ 5X BONUS PLAY) × 4	\$400	12,000	400
(\$50 w/ SNOWBANK) × 8	\$400	12,000	400
\$400 w/ SNOWBANK	\$400	24,000	200
\$400	\$400	24,000	200
SHOVEL w/ ((\$30 × 10) + (\$20 × 10))	\$500	1,200	4,000
	\$500 BURST	521.74	9,200
(\$50 w/ 5X BONUS PLAY) × 2	\$500	12,000	400
\$100 w/ 5X BONUS PLAY	\$500	2,400	2,000
\$500 w/ SNOWBANK	\$500	24,000	200
\$500	\$500	24,000	200

When Any Of Your Numbers
Match Any Winning Number,
Win Prize Shown Under
The Matching Number.
Win With:

	Fast \$500 Areas:	Win:	Approximate Odds Are 1 In:	Approximate No. Of Winners Per 4,800,000 Tickets:
SHOVEL w/ (\$50 × 20)		\$1,000	120,000	40
SHOVEL w/ ((\$30 × 10) + (\$20 × 10))	\$500 BURST	\$1,000	40,000	120
\$100 × 10		\$1,000	120,000	40
\$100 w/ 5X BONUS PLAY	\$500 BURST	\$1,000	40,000	120
\$1,000 w/ SNOWBANK		\$1,000	120,000	40
\$1,000		\$1,000	120,000	40
SHOVEL w/ (\$1,000 × 20)		\$20,000	480,000	10
(((\$1,000 w/ 5X BONUS PLAY) × 3) + (\$1,000 × 4))	(\$500 BURST) × 2	\$20,000	960,000	5
(\$1,000 w/ 5X BONUS PLAY) × 4		\$20,000	960,000	5
\$20,000 w/ SNOWBANK		\$20,000	960,000	5
\$20,000		\$20,000	960,000	5
\$100,000 w/ SNOWBANK		\$100,000	960,000	5
\$100,000		\$100,000	960,000	5
\$1,000,000		\$1,000,000	960,000	5

5X BONUS PLAY: When the 5X BONUS PLAY number matches any YOUR NUMBER, win 5 times the prize shown under the matching number.

Reveal a "SNOWBANK" (SNWBK) symbol, win prize shown under that symbol automatically.

Reveal a "SHOVEL" (WINALL) symbol, win all 20 prizes shown!

FAST \$500: Reveal a "\$500 BURST" (WIN500) symbol, win \$500! Fast \$500 areas are played separately.

Prizes, including top prizes, are subject to availability at the time of purchase.

10. *Second-Chance Drawings:* Pennsylvania Lottery's Secret Santa Second-Chance Drawings (hereafter, the "Drawings").

(a) *Qualifying Tickets:* Non-winning PA-1246 Merry Money '16 (\$1), PA-1245 Unwrap the Cash (\$2), PA-1244 Freezin' Greetings '16 (\$3), PA-1243 Frosty Cash '16 (\$5), PA-1242 Trim the Tree '16 (\$10), and PA-1241 \$1,000,000 Snow Bank (\$20) instant lottery tickets ("Qualifying Tickets") are eligible for entry in the Drawings. In addition, PICK 2, PICK 3, PICK 4, PICK 5, Treasure Hunt, Cash 5, Match 6 lotto, Cash4Life®, Powerball®, or Mega Millions® terminal-based lottery tickets sold from October 24, 2016 through January 5, 2017, and imprinted with a Second Chance Prize Zone™ Official Entry Code ("Qualifying Tickets") are eligible for entry in the Drawings.

(b) *Participation and Entry:*

(1) Entrants must be members of the Pennsylvania Lottery VIP Players Club to participate in the Drawings. To join the VIP Players Club, visit <https://www.palottery.state.pa.us/vip-players-club/login.aspx>. Becoming a VIP Players Club member is free.

(2) To enter the Drawings, entrants must submit the identifying information from at least one instant lottery ticket or the Second Chance Prize Zone™ Official Entry Code ("Official Entry Code") from at least one terminal-based lottery ticket via the Drawings' promotional website, available at <http://www.palottery.com>, or the Pennsylvania Lottery's official mobile application during the entry period.

(3) A Qualifying Ticket may be submitted only once in the Drawings. No other method of submission will be accepted, and entries submitted using any other method, including entries mailed or hand-delivered to the Pennsylvania Lottery, are not valid and will be disqualified.

(4) Each entry must be complete and the information supplied by the entrant must be accurate. Incomplete entries cannot be submitted.

(5) Only one claimant per entry allowed.

(6) Entrants must be 18 years of age or older.

(7) Players may submit an unlimited number of Qualifying Tickets in the Drawings.

(c) *Drawings Description.*

(1) The Drawings will consist of two drawings and a virtual non-prize-determinative holiday-themed game that will reveal the number of entries the entrant receives by entering a Qualifying Ticket.

(2) *Drawings.*

(i) The Lottery will conduct a total of two drawings. The drawings will consist of a "Secret Santa Drawing" and a "Not So Secret Drawing". A Qualifying Ticket may only be entered into one of the drawings. The Entrant must choose which drawing to enter. Once an entry has been submitted it cannot be withdrawn or changed. All time references are Eastern Prevailing Time.

(ii) All entries received after 11:59:59 p.m. October 23, 2016, through 11:59:59 p.m. January 5, 2017 will be entered into one of the drawings as selected by the entrant pursuant to section 10(c)(2)(i) above, held between January 6, 2017 and January 17, 2017.

(3) The entry periods for each drawing will be posted to the Pennsylvania Lottery's publicly accessible website.

(4) Each entrant will have the opportunity to play a virtual non-prize-determinative holiday-themed game that will reveal the number of entries the entrant receives by entering a Qualifying Ticket. Each instant lottery ticket will have a predetermined ticket file assigned at the time the ticket is printed that will determine the outcome of the non-prize-determinative game play.

(5) The number of entries an entrant will receive for a drawing is determined by the purchase price of the terminal-based ticket entered. An entrant will receive one entry for each \$0.50 in purchase price of the terminal-based ticket submitted. For example, an entrant who enters the Official Entry Code from a terminal-based ticket with a purchase price of \$0.50 will receive one entry into the Drawings. Similarly, an entrant who enters the Official Entry Code from a Qualifying Ticket with a purchase price of \$2⁰⁰ will receive four entries into the Drawings.

(6) The respective purchase prices and corresponding number of entries for Qualifying Tickets for the instant lottery tickets are as follows: PA-1246 Merry Money '16 (\$1) = 2 entries; PA-1245 Unwrap the Cash (\$2) = 4 entries; PA-1244 Freezin' Greetings '16 (\$3) = 6 entries; PA-1243 Frosty Ca\$h '16 (\$5) = 10 entries; PA-1242 Trim the Tree '16 (\$10) = 20 entries; and PA-1241 \$1,000,000 Snow Bank (\$20) = 40 entries.

(7) Players may review prizes won and their entries for the Drawings via the Drawings' promotional website.

(d) *Prizes Available to be Won, Determination of Winners, and Odds of Winning.*

(1) The prize entitlements described below are subject to all restrictions and limitations described in section 10(e), or mentioned anywhere else in these rules.

(2) The Lottery will conduct two drawings from among all the entries received for each of the drawings, and during the applicable entry period(s), as described in section 10(c).

(3) *Secret Santa Drawing:* The first through the fifth entries selected from the total number of entries awarded in the Secret Santa Drawing will be winning entries, and the entrants who submitted those winning entries shall each be entitled to a prize of \$100,000. This prize will be paid as a one-time, lump-sum cash payment.

(4) *Not So Secret Drawing:*

(i) The first entry selected from the total number of entries awarded in the Not So Secret Drawing will be a winning entry, and the entrant who submitted the winning entry shall be entitled to a prize of \$100,000. This prize will be paid as a one-time, lump-sum cash payment.

(ii) The second and the third entries selected from the total number of entries awarded in the Not So Secret Drawing will be winning entries, and the entrants who submitted those winning entries shall each be entitled to a prize of \$50,000.

(iii) The fourth through the thirteenth entries selected from the total number of entries awarded in the Not So Secret Drawing will be winning entries, and the entrants who submitted those winning entries shall each be entitled to a prize of \$10,000.

(5) The number of winning entries to be selected for each drawing will be posted to the Pennsylvania Lottery's publicly accessible website.

(6) The odds of winning a prize in either of the drawings depends upon the number of entries received for each of the drawings.

(7) A computer-generated randomizer will be used to select the winning entries for the Drawings.

(e) *Drawings Restrictions:*

(1) To be eligible to participate in the Drawings, entrants must have complied with the requirements of these rules.

(2) The Lottery is not responsible for late, lost or misdirected entries not entered into the Drawings. The Lottery is not responsible for entries that are not entered into the Drawings because of incompatible cellular telephones or internet browsers, mobile lottery application failure, or other technical issues. If a Drawings entry is selected as a winner and rejected during or following either of the drawings, the Lottery will select another entry to replace the rejected entry in accordance with these rules and Lottery procedure.

(3) If any discrepancy exists between these rules and any material describing the Drawings, these rules shall govern.

(4) Employees of the Pennsylvania Lottery, MARC Advertising, Scientific Games International Inc., MDI Entertainment, LLC, and their subcontractors, or a spouse, child, brother, sister or parent residing as a member of the same household in the principal place of residence of any such person are not eligible to participate in the Drawings. Offer void where prohibited or restricted.

(5) The Pennsylvania Lottery reserves the right, in its sole discretion, to cancel or suspend the Drawings and change these rules if the Drawings cannot be conducted as planned due to errors in these rules or advertising, unauthorized intervention, tampering, fraud, technical errors, viruses, worms, bugs, or any other cause beyond the control of the Pennsylvania Lottery that, in the Pennsylvania Lottery's sole judgment, could corrupt or impair the administration, security, fairness, integrity, or proper conduct of the Drawings.

(6) All entries shall be subject to verification by the Pennsylvania Lottery.

(7) The Pennsylvania Lottery reserves the right, in its sole discretion, to disqualify an entrant found to be tampering with the operation of the Drawings or to be acting in violation of these rules or applicable law.

(8) The time frame for the drawings to be conducted, as stated in section 10(c)(2), as well as the announcement of winners on the Pennsylvania Lottery's publicly accessible website, are subject to change based on the number of entries received for any given drawing. Entrants should check the Pennsylvania Lottery's publicly accessible website after the entry periods have closed for up to date information.

(9) The Drawings are governed by the laws of the Commonwealth of Pennsylvania. Applicable laws and regulations apply.

(10) Prizes must be claimed within 1 year of the drawing date of the drawing in which the prize was won. If no claim is made within 1 year of the drawing date of the drawing in which the prize was won, the right of an entrant to claim the prize won, if any, will expire and the prize money will be paid into the State Lottery Fund and used for purposes provided by statute.

(11) Final determination of winners will be made by the Secretary, whose judgment will be final and binding.

(12) The payment of a prize awarded in the Drawings to a person who dies before receiving the prize shall be paid according to 61 Pa. Code § 811.16 (relating to prizes payable after death of a prize winner).

(13) A winner is responsible for all taxes arising from or in connection with any prize won.

(14) A player may only win the prize for which the player is first selected in the Drawings. Subsequent

entries, from the same individual, selected in the Drawings will be disqualified and a replacement entry will be selected.

(15) Prizes are not transferrable.

(16) Other restrictions may apply.

11. *Retailer Incentive Awards:* The Lottery may conduct a separate Retailer Incentive Program for retailers who sell Pennsylvania \$1,000,000 Snow Bank instant lottery game tickets.

12. *Retailer Bonus:* The Lottery may offer a retailer bonus in connection with the sale of Pennsylvania instant lottery game tickets. If a retailer bonus is offered, a Lottery retailer shall be eligible for a bonus as described in this section. Lottery retailers who sell a winning ticket that entitles the ticket holder to a prize, either payable in a single installment or having a guaranteed minimum payout, of at least \$100,000 and not exceeding \$500,000 shall be paid a bonus of \$500. Lottery retailers who sell a winning ticket that entitles the ticket holder to a prize, either payable in a single installment or having a guaranteed minimum payout, of at least \$500,001 and not exceeding \$1,000,000 shall be paid a bonus of \$5,000. Lottery retailers who sell a winning ticket that entitles the ticket holder to a prize, either payable in a single installment or having a guaranteed minimum payout, of at least \$1,000,001 and not exceeding \$10,000,000 shall be paid a bonus of \$10,000. A Lottery retailer is entitled only to the largest bonus for which he qualifies on a winning ticket. A bonus will be initiated for payment after the instant ticket is claimed and validated. A bonus will not be awarded to a Lottery retailer that sells a non-winning Pennsylvania Lottery instant ticket used to enter a Pennsylvania Lottery second-chance drawing or promotion that is subsequently selected to win a prize.

13. *Unclaimed Prize Money:* For a period of 1 year from the announced close of Pennsylvania \$1,000,000 Snow Bank, prize money from winning Pennsylvania \$1,000,000 Snow Bank instant lottery game tickets will be retained by the Secretary for payment to the persons entitled thereto. If no claim is made within 1 year of the announced close of the Pennsylvania \$1,000,000 Snow Bank instant lottery game, the right of a ticket holder to claim the prize represented by the ticket, if any, will expire and the prize money will be paid into the State Lottery Fund and used for purposes provided for by statute.

14. *Governing Law:* In purchasing a ticket, the customer agrees to comply with and abide by the State Lottery Law (72 P.S. §§ 3761-101—3761-314), 61 Pa. Code Part V (relating to State Lotteries) and the provisions contained in this notice.

15. *Termination of the Game:* The Secretary may announce a termination date, after which no further tickets from this game may be sold. The announcement will be disseminated through media used to advertise or promote Pennsylvania \$1,000,000 Snow Bank or through normal communications methods.

EILEEN H. McNULTY,
Secretary

[Pa.B. Doc. No. 16-1819. Filed for public inspection October 21, 2016, 9:00 a.m.]

Pennsylvania Freezin' Greetings '16 Instant Lottery Game

Under the State Lottery Law (72 P.S. §§ 3761-101—3761-314) and 61 Pa. Code § 819.203 (relating to notice of instant game rules), the Secretary of Revenue hereby provides public notice of the rules for the following instant lottery game:

1. *Name:* The name of the game is Pennsylvania Freezin' Greetings '16.

2. *Price:* The price of a Pennsylvania Freezin' Greetings '16 instant lottery game ticket is \$3.

3. *Play Symbols:* Each Pennsylvania Freezin' Greetings '16 instant lottery game ticket will contain one play area consisting of "ROW 1," "ROW 2," "ROW 3," "ROW 4," "ROW 5," "ROW 6," "ROW 7," "ROW 8," "ROW 9," "ROW 10," and "ROW 11." Each "ROW" is played separately. The play symbols and their captions, located in each of the "ROW" areas are: Penguin (PNGN) symbol, Jacket (JCKT) symbol, Snowflake (SNFK) symbol, Mitten (MITN) symbol, Cabin (CBIN) symbol, Scarf (SCRF) symbol, Hat (HAT) symbol, Goggles (GGLS) symbol, Sleigh (SLGH) symbol, Earmuffs (ERMF) symbol and a Tree (TREE) symbol.

4. *Prizes:* The prizes that can be won in this game are: \$3, \$5, \$10, \$15, \$30, \$50, \$100, \$300, \$1,000, \$3,000, and \$75,000. The player can win up to 11 times on the ticket.

5. *Second-Chance Drawings:* The Pennsylvania Lottery will conduct a Secret Santa Second-Chance Drawing for which non-winning Pennsylvania Freezin' Greetings '16 instant lottery game tickets may be eligible as provided for in section 9.

6. *Approximate Number of Tickets Printed For the Game:* Approximately 9,600,000 tickets will be printed for the Pennsylvania Freezin' Greetings '16 instant lottery game.

7. *Determination of Prize Winners:*

(a) Holders of tickets with three Penguin (PNGN) play symbols in the same "ROW," on a single ticket, shall be entitled to a prize of \$75,000.

(b) Holders of tickets with three Jacket (JCKT) play symbols in the same "ROW," on a single ticket, shall be entitled to a prize of \$3,000.

(c) Holders of tickets with three Snowflake (SNFK) play symbols in the same "ROW," on a single ticket, shall be entitled to a prize of \$1,000.

(d) Holders of tickets with three Mitten (MITN) play symbols in the same "ROW," on a single ticket, shall be entitled to a prize of \$300.

(e) Holders of tickets with three Cabin (CBIN) play symbols in the same "ROW," on a single ticket, shall be entitled to a prize of \$100.

(f) Holders of tickets with three Scarf (SCRF) play symbols in the same "ROW," on a single ticket, shall be entitled to a prize of \$50.

(g) Holders of tickets with three Hat (HAT) play symbols in the same "ROW," on a single ticket, shall be entitled to a prize of \$30.

(h) Holders of tickets with three Goggles (GGLS) play symbols in the same "ROW," on a single ticket, shall be entitled to a prize of \$15.

(i) Holders of tickets with three Sleigh (SLGH) play symbols in the same "ROW," on a single ticket, shall be entitled to a prize of \$10.

(j) Holders of tickets with three Earmuffs (ERMF) play symbols in the same "ROW," on a single ticket, shall be entitled to a prize of \$5.

(k) Holders of tickets with three Tree (TREE) play symbols in the same "ROW," on a single ticket, shall be entitled to a prize of \$3.

8. *Number and Description of Prizes and Approximate Odds:* The following table sets forth the approximate number of winners, amounts of prizes, and approximate odds of winning:

When You Reveal 3 Identical Symbols In The Same Row, Win Corresponding Prize Shown In The Prize Legend. Win With:

<i>Win:</i>	<i>Approximate Odds Are 1 In:</i>	<i>Approximate No. Of Winners Per 9,600,000 Tickets</i>	
3 TREE SYMBOLS	\$3	9.09	1,056,000
3 EARMUFFS SYMBOLS	\$5	12.50	768,000
(3 EARMUFFS SYMBOLS) × 2	\$10	100	96,000
3 SLEIGH SYMBOLS	\$10	100	96,000
(3 TREE SYMBOLS) × 5	\$15	200	48,000
(3 EARMUFFS SYMBOLS) × 3	\$15	200	48,000
3 SLEIGH SYMBOLS + 3 EARMUFFS SYMBOLS	\$15	250	38,400
3 GOGGLES SYMBOLS	\$15	250	38,400
(3 EARMUFFS SYMBOLS) × 6	\$30	500	19,200
(3 SLEIGH SYMBOLS) × 3	\$30	1,000	9,600
(3 GOGGLES SYMBOLS) × 2	\$30	1,000	9,600
((3 EARMUFFS SYMBOLS) × 3) + ((3 TREE SYMBOLS) × 5)	\$30	500	19,200
((3 SLEIGH SYMBOLS) × 2) + ((3 EARMUFFS SYMBOLS) × 2)	\$30	500	19,200
3 HAT SYMBOLS	\$30	500	19,200
(3 EARMUFFS SYMBOLS) × 10	\$50	3,000	3,200
(3 SLEIGH SYMBOLS) × 5	\$50	3,000	3,200
((3 EARMUFFS SYMBOLS) × 4) + 3 HAT SYMBOLS	\$50	3,000	3,200
((3 SLEIGH SYMBOLS) × 2) + 3 HAT SYMBOLS	\$50	3,000	3,200
((3 GOGGLES SYMBOLS) × 3) + 3 EARMUFFS SYMBOLS	\$50	3,000	3,200
((3 GOGGLES SYMBOLS) × 2) + ((3 SLEIGH SYMBOLS) × 2)	\$50	3,000	3,200
((3 EARMUFFS SYMBOLS) × 5) + ((3 TREE SYMBOLS) × 5) + 3 SLEIGH SYMBOLS	\$50	3,000	3,200
((3 SLEIGH SYMBOLS) × 2) + ((3 EARMUFFS SYMBOLS) × 3) + ((3 TREE SYMBOLS) × 5)	\$50	3,000	3,200
3 SCARF SYMBOLS	\$50	3,000	3,200
(3 SLEIGH SYMBOLS) × 10	\$100	4,800	2,000
(3 SCARF SYMBOLS) × 2	\$100	4,800	2,000
((3 EARMUFFS SYMBOLS) × 10) + 3 SCARF SYMBOLS	\$100	4,800	2,000
((3 SLEIGH SYMBOLS) × 5) + 3 SCARF SYMBOLS	\$100	4,800	2,000
((3 GOGGLES SYMBOLS) × 6) + ((3 EARMUFFS SYMBOLS) × 2)	\$100	4,800	2,000
((3 GOGGLES SYMBOLS) × 4) + ((3 SLEIGH SYMBOLS) × 4)	\$100	4,800	2,000
((3 GOGGLES SYMBOLS) × 2) + ((3 SLEIGH SYMBOLS) × 7)	\$100	4,800	2,000
((3 HAT SYMBOLS) × 3) + ((3 EARMUFFS SYMBOLS) × 2)	\$100	4,800	2,000
((3 GOGGLES SYMBOLS) × 2) + ((3 EARMUFFS SYMBOLS) × 8) + 3 HAT SYMBOLS	\$100	4,800	2,000
3 CABIN SYMBOLS	\$100	4,800	2,000
(3 HAT SYMBOLS) × 10	\$300	60,000	160
(3 SCARF SYMBOLS) × 6	\$300	60,000	160
(3 CABIN SYMBOLS) × 3	\$300	60,000	160

When You Reveal 3 Identical Symbols In The Same Row, Win Corresponding Prize Shown In The Prize Legend. Win With:

<i>Win:</i>	<i>Approximate Odds Are 1 In:</i>	<i>Approximate No. Of Winners Per 9,600,000 Tickets</i>	
((3 SCARF SYMBOLS) × 3) + ((3 HAT SYMBOLS) × 5)	\$300	60,000	160
3 MITTEN SYMBOLS	\$300	60,000	160
(3 CABIN SYMBOLS) × 10	\$1,000	480,000	20
3 SNOWFLAKE SYMBOLS	\$1,000	480,000	20
(3 MITTEN SYMBOLS) × 10	\$3,000	960,000	10
(3 SNOWFLAKE SYMBOLS) × 3	\$3,000	1,920,000	5
3 JACKET SYMBOLS	\$3,000	1,920,000	5
3 PENGUIN SYMBOLS	\$75,000	960,000	10

Each row is played separately.

Prizes, including top prizes, are subject to availability at the time of purchase.

9. *Second-Chance Drawings:* Pennsylvania Lottery's Secret Santa Second-Chance Drawings (hereafter, the "Drawings").

(a) *Qualifying Tickets:* Non-winning PA-1246 Merry Money '16 (\$1), PA-1245 Unwrap the Cash (\$2), PA-1244 Freezin' Greetings '16 (\$3), PA-1243 Frosty Ca\$h '16 (\$5), PA-1242 Trim the Tree '16 (\$10), and PA-1241 \$1,000,000 Snow Bank (\$20) instant lottery tickets ("Qualifying Tickets") are eligible for entry in the Drawings. In addition, PICK 2, PICK 3, PICK 4, PICK 5, Treasure Hunt, Cash 5, Match 6 lotto, Cash4Life®, Powerball®, or Mega Millions® terminal-based lottery tickets sold from October 24, 2016 through January 5, 2017, and imprinted with a Second Chance Prize Zone™ Official Entry Code ("Qualifying Tickets") are eligible for entry in the Drawings.

(b) *Participation and Entry:*

(1) Entrants must be members of the Pennsylvania Lottery VIP Players Club to participate in the Drawings. To join the VIP Players Club, visit <https://www.palottery.state.pa.us/vip-players-club/login.aspx>. Becoming a VIP Players Club member is free.

(2) To enter the Drawings, entrants must submit the identifying information from at least one instant lottery ticket or the Second Chance Prize Zone™ Official Entry Code ("Official Entry Code") from at least one terminal-based lottery ticket via the Drawings' promotional website, available at <http://www.palottery.com>, or the Pennsylvania Lottery's official mobile application during the entry period.

(3) A Qualifying Ticket may be submitted only once in the Drawings. No other method of submission will be accepted, and entries submitted using any other method, including entries mailed or hand-delivered to the Pennsylvania Lottery, are not valid and will be disqualified.

(4) Each entry must be complete and the information supplied by the entrant must be accurate. Incomplete entries cannot be submitted.

(5) Only one claimant per entry allowed.

(6) Entrants must be 18 years of age or older.

(7) Players may submit an unlimited number of Qualifying Tickets in the Drawings.

(c) *Drawings Description.*

(1) The Drawings will consist of two drawings and a virtual non-prize-determinative holiday-themed game

that will reveal the number of entries the entrant receives by entering a Qualifying Ticket.

(2) *Drawings.*

(i) The Lottery will conduct a total of two drawings. The drawings will consist of a "Secret Santa Drawing" and a "Not So Secret Drawing". A Qualifying Ticket may only be entered into one of the drawings. The Entrant must choose which drawing to enter. Once an entry has been submitted it cannot be withdrawn or changed. All time references are Eastern Prevailing Time.

(ii) All entries received after 11:59:59 p.m. October 23, 2016, through 11:59:59 p.m. January 5, 2017 will be entered into one of the drawings as selected by the entrant pursuant to section 9(c)(2)(i) above, held between January 6, 2017 and January 17, 2017.

(3) The entry periods for each drawing will be posted to the Pennsylvania Lottery's publicly accessible website.

(4) Each entrant will have the opportunity to play a virtual non-prize-determinative holiday-themed game that will reveal the number of entries the entrant receives by entering a Qualifying Ticket. Each instant lottery ticket will have a predetermined ticket file assigned at the time the ticket is printed that will determine the outcome of the non-prize-determinative game play.

(5) The number of entries an entrant will receive for a drawing is determined by the purchase price of the terminal-based ticket entered. An entrant will receive one entry for each \$0.50 in purchase price of the terminal-based ticket submitted. For example, an entrant who enters the Official Entry Code from a terminal-based ticket with a purchase price of \$0.50 will receive one entry into the Drawings. Similarly, an entrant who enters the Official Entry Code from a Qualifying Ticket with a purchase price of \$2.00 will receive four entries into the Drawings.

(6) The respective purchase prices and corresponding number of entries for Qualifying Tickets for the instant lottery tickets are as follows: PA-1246 Merry Money '16 (\$1) = 2 entries; PA-1245 Unwrap the Cash (\$2) = 4 entries; PA-1244 Freezin' Greetings '16 (\$3) = 6 entries; PA-1243 Frosty Ca\$h '16 (\$5) = 10 entries; PA-1242 Trim the Tree '16 (\$10) = 20 entries; and PA-1241 \$1,000,000 Snow Bank (\$20) = 40 entries.

(7) Players may review prizes won and their entries for the Drawings via the Drawings' promotional website.

(d) *Prizes Available to be Won, Determination of Winners, and Odds of Winning.*

(1) The prize entitlements described below are subject to all restrictions and limitations described in section 9(e), or mentioned anywhere else in these rules.

(2) The Lottery will conduct two drawings from among all the entries received for each of the drawings, and during the applicable entry period(s), as described in section 9(c).

(3) *Secret Santa Drawing*: The first through the fifth entries selected from the total number of entries awarded in the Secret Santa Drawing will be winning entries, and the entrants who submitted those winning entries shall each be entitled to a prize of \$100,000. This prize will be paid as a one-time, lump-sum cash payment.

(4) *Not So Secret Drawing*:

(i) The first entry selected from the total number of entries awarded in the Not So Secret Drawing will be a winning entry, and the entrant who submitted the winning entry shall be entitled to a prize of \$100,000. This prize will be paid as a one-time, lump-sum cash payment.

(ii) The second and the third entries selected from the total number of entries awarded in the Not So Secret Drawing will be winning entries, and the entrants who submitted those winning entries shall each be entitled to a prize of \$50,000.

(iii) The fourth through the thirteenth entries selected from the total number of entries awarded in the Not So Secret Drawing will be winning entries, and the entrants who submitted those winning entries shall each be entitled to a prize of \$10,000.

(5) The number of winning entries to be selected for each drawing will be posted to the Pennsylvania Lottery's publicly accessible website.

(6) The odds of winning a prize in either of the drawings depends upon the number of entries received for each of the drawings.

(7) A computer-generated randomizer will be used to select the winning entries for the Drawings.

(e) *Drawings Restrictions*:

(1) To be eligible to participate in the Drawings, entrants must have complied with the requirements of these rules.

(2) The Lottery is not responsible for late, lost or misdirected entries not entered into the Drawings. The Lottery is not responsible for entries that are not entered into the Drawings because of incompatible cellular telephones or internet browsers, mobile lottery application failure, or other technical issues. If a Drawings entry is selected as a winner and rejected during or following either of the drawings, the Lottery will select another entry to replace the rejected entry in accordance with these rules and Lottery procedure.

(3) If any discrepancy exists between these rules and any material describing the Drawings, these rules shall govern.

(4) Employees of the Pennsylvania Lottery, MARC Advertising, Scientific Games International Inc., MDI Entertainment, LLC, and their subcontractors, or a spouse, child, brother, sister or parent residing as a member of the same household in the principal place of residence of any such person are not eligible to participate in the Drawings. Offer void where prohibited or restricted.

(5) The Pennsylvania Lottery reserves the right, in its sole discretion, to cancel or suspend the Drawings and change these rules if the Drawings cannot be conducted

as planned due to errors in these rules or advertising, unauthorized intervention, tampering, fraud, technical errors, viruses, worms, bugs, or any other cause beyond the control of the Pennsylvania Lottery that, in the Pennsylvania Lottery's sole judgment, could corrupt or impair the administration, security, fairness, integrity, or proper conduct of the Drawings.

(6) All entries shall be subject to verification by the Pennsylvania Lottery.

(7) The Pennsylvania Lottery reserves the right, in its sole discretion, to disqualify an entrant found to be tampering with the operation of the Drawings or to be acting in violation of these rules or applicable law.

(8) The time frame for the drawings to be conducted, as stated in section 9(c)(2), as well as the announcement of winners on the Pennsylvania Lottery's publicly accessible website, are subject to change based on the number of entries received for any given drawing. Entrants should check the Pennsylvania Lottery's publicly accessible website after the entry periods have closed for up to date information.

(9) The Drawings are governed by the laws of the Commonwealth of Pennsylvania. Applicable laws and regulations apply.

(10) Prizes must be claimed within 1 year of the drawing date of the drawing in which the prize was won. If no claim is made within 1 year of the drawing date of the drawing in which the prize was won, the right of an entrant to claim the prize won, if any, will expire and the prize money will be paid into the State Lottery Fund and used for purposes provided by statute.

(11) Final determination of winners will be made by the Secretary, whose judgment will be final and binding.

(12) The payment of a prize awarded in the Drawings to a person who dies before receiving the prize shall be paid according to 61 Pa. Code § 811.16 (relating to prizes payable after death of a prize winner).

(13) A winner is responsible for all taxes arising from or in connection with any prize won.

(14) A player may only win the prize for which the player is first selected in the Drawings. Subsequent entries, from the same individual, selected in the Drawings will be disqualified and a replacement entry will be selected.

(15) Prizes are not transferrable.

(16) Other restrictions may apply.

10. *Retailer Incentive Awards*: The Lottery may conduct a separate Retailer Incentive Program for retailers who sell Pennsylvania Freezin' Greetings '16 instant lottery game tickets.

11. *Retailer Bonus*: The Lottery may offer a retailer bonus in connection with the sale of Pennsylvania instant lottery game tickets. If a retailer bonus is offered, a Lottery retailer shall be eligible for a bonus as described in this section. Lottery retailers who sell a winning ticket that entitles the ticket holder to a prize, either payable in a single installment or having a guaranteed minimum payout, of at least \$100,000 and not exceeding \$500,000 shall be paid a bonus of \$500. Lottery retailers who sell a winning ticket that entitles the ticket holder to a prize, either payable in a single installment or having a guaranteed minimum payout, of at least \$500,001 and not exceeding \$1,000,000 shall be paid a bonus of \$5,000. Lottery retailers who sell a winning ticket that entitles the ticket holder to a prize, either payable in a single

installment or having a guaranteed minimum payout, of at least \$1,000,001 and not exceeding \$10,000,000 shall be paid a bonus of \$10,000. A Lottery retailer is entitled only to the largest bonus for which he qualifies on a winning ticket. A bonus will be initiated for payment after the instant ticket is claimed and validated. A bonus will not be awarded to a Lottery retailer that sells a non-winning Pennsylvania Lottery instant ticket used to enter a Pennsylvania Lottery second-chance drawing or promotion that is subsequently selected to win a prize.

12. *Unclaimed Prize Money:* For a period of 1 year from the announced close of Pennsylvania Freezin' Greetings '16, prize money from winning Pennsylvania Freezin' Greetings '16 instant lottery game tickets will be retained by the Secretary for payment to the persons entitled thereto. If no claim is made within 1 year of the announced close of the Pennsylvania Freezin' Greetings '16 instant lottery game, the right of a ticket holder to claim the prize represented by the ticket, if any, will expire and the prize money will be paid into the State Lottery Fund and used for purposes provided for by statute.

13. *Governing Law:* In purchasing a ticket, the customer agrees to comply with and abide by the State Lottery Law (72 P.S. §§ 3761-101—3761-314), 61 Pa. Code Part V (relating to State Lotteries) and the provisions contained in this notice.

14. *Termination of the Game:* The Secretary may announce a termination date, after which no further tickets from this game may be sold. The announcement will be disseminated through media used to advertise or promote Pennsylvania Freezin' Greetings '16 or through normal communications methods.

EILEEN H. McNULTY,
Secretary

[Pa.B. Doc. No. 16-1820. Filed for public inspection October 21, 2016, 9:00 a.m.]

Pennsylvania Frosty Ca\$h '16 Instant Lottery Game

Under the State Lottery Law (72 P.S. §§ 3761-101—3761-314) and 61 Pa. Code § 819.203 (relating to notice of instant game rules), the Secretary of Revenue hereby provides public notice of the rules for the following instant lottery game:

1. *Name:* The name of the game is Pennsylvania Frosty Ca\$h '16.

2. *Price:* The price of a Pennsylvania Frosty Ca\$h '16 instant lottery game ticket is \$5.

3. *Play Symbols:* Each Pennsylvania Frosty Ca\$h '16 instant lottery game ticket will contain one play area featuring a "WINNING NUMBERS" area and a "YOUR NUMBERS" area. The play symbols and their captions located in the "WINNING NUMBERS" area are: 1 (ONE), 2 (TWO), 3 (THREE), 4 (FOUR), 5 (FIVE), 6 (SIX), 7 (SEVEN), 8 (EIGHT), 9 (NINE), 10 (TEN), 11 (ELEVN), 12 (TWLV), 13 (THRTN), 14 (FORTN), 15 (FIFTN), 16 (SIXTN), 17 (SVNTN), 18 (EGHTN), 19 (NINTN), 20 (TWENT), 21 (TWYONE), 22 (TWYTWO), 23 (TWYTHR), 24 (TWYFOR), 25 (TWYFIV), 26 (TWYSIX), 27 (TWYSVN), 28 (TWYEGT), 29 (TWYNIN) and 30 (THIRTY). The play symbols and their captions located in the "YOUR NUMBERS" area are: 1 (ONE), 2 (TWO), 3

(THREE), 4 (FOUR), 5 (FIVE), 6 (SIX), 7 (SEVEN), 8 (EIGHT), 9 (NINE), 10 (TEN), 11 (ELEVN), 12 (TWLV), 13 (THRTN), 14 (FORTN), 15 (FIFTN), 16 (SIXTN), 17 (SVNTN), 18 (EGHTN), 19 (NINTN), 20 (TWENT), 21 (TWYONE), 22 (TWYTWO), 23 (TWYTHR), 24 (TWYFOR), 25 (TWYFIV), 26 (TWYSIX), 27 (TWYSVN), 28 (TWYEGT), 29 (TWYNIN), 30 (THIRTY), Stack of Cash (WIN100) symbol and a Snowman (WINALL) symbol.

4. *Prize Symbols:* The prize symbols and their captions located in the "YOUR NUMBERS" area are: \$5⁰⁰ (FIV DOL), \$10⁰⁰ (TEN DOL), \$20⁰⁰ (TWENTY), \$40⁰⁰ (FORTY), \$50⁰⁰ (FIFTY), \$100 (ONE HUN), \$400 (FOR HUN), \$500 (FIV HUN), \$1,000 (ONE THO), \$10,000 (TEN THO) and \$100,000 (ONEHUNTHO).

5. *Prizes:* The prizes that can be won in this game are: \$5, \$10, \$20, \$40, \$50, \$100, \$400, \$500, \$1,000, \$10,000 and \$100,000. A player can win up to 12 times on a ticket.

6. *Second-Chance Drawings:* The Pennsylvania Lottery will conduct a Secret Santa Second-Chance Drawing for which non-winning Pennsylvania Frosty Ca\$h '16 instant lottery game tickets may be eligible as provided for in section 10.

7. *Approximate Number of Tickets Printed For the Game:* Approximately 13,200,000 tickets will be printed for the Pennsylvania Frosty Ca\$h '16 instant lottery game.

8. Determination of Prize Winners:

(a) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of \$100,000 (ONEHUNTHO) appears in the "prize" area under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$100,000.

(b) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of \$10,000 (TEN THO) appears in the "prize" area under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$10,000.

(c) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of \$1,000 (ONE THO) appears in the "prize" area under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$1,000.

(d) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Snowman (WINALL) symbol, and a prize symbol of \$100 (ONE HUN) appears in eight of the "prize" areas and a prize symbol of \$50⁰⁰ (FIFTY) appears in four of the "prize" areas, on a single ticket, shall be entitled to a prize of \$1,000.

(e) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of \$500 (FIV HUN) appears in the "prize" area under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$500.

(f) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Snowman (WINALL) symbol, and a prize symbol of \$100 (ONE HUN) appears in two of the "prize" areas, a prize symbol of \$40⁰⁰ (FORTY) appears in five of the "prize" areas and a prize symbol of

\$20.⁰⁰ (TWENTY) appears in five of the “prize” areas, on a single ticket, shall be entitled to a prize of \$500.

(g) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols is a Snowman (WINALL) symbol, and a prize symbol of \$50.⁰⁰ (FIFTY) appears in two of the “prize” areas and a prize symbol of \$40.⁰⁰ (FORTY) appears in ten of the “prize” areas, on a single ticket, shall be entitled to a prize of \$500.

(h) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols matches any of the “WINNING NUMBERS” play symbols and a prize symbol of \$400 (FOR HUN) appears in the “prize” area under the matching “YOUR NUMBERS” play symbol, on a single ticket, shall be entitled to a prize of \$400.

(i) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols is a Snowman (WINALL) symbol, and a prize symbol of \$100 (ONE HUN) appears in two of the “prize” areas and a prize symbol of \$20.⁰⁰ (TWENTY) appears in ten of the “prize” areas, on a single ticket, shall be entitled to a prize of \$400.

(j) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols matches any of the “WINNING NUMBERS” play symbols and a prize symbol of \$100 (ONE HUN) appears in the “prize” area under the matching “YOUR NUMBERS” play symbol, on a single ticket, shall be entitled to a prize of \$100.

(k) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols is a Stack of Cash (WIN100) symbol and a prize symbol of \$100 (ONE HUN) appears in the “prize” area under that Stack of Cash (WIN100) symbol, on a single ticket, shall be entitled to a prize of \$100.

(l) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols is a Snowman (WINALL) symbol, and a prize symbol of \$10.⁰⁰ (TEN DOL) appears in eight of the “prize” areas and a prize symbol of \$5.⁰⁰ (FIV

DOL) appears in four of the “prize” areas, on a single ticket, shall be entitled to a prize of \$100.

(m) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols matches any of the “WINNING NUMBERS” play symbols and a prize symbol of \$50.⁰⁰ (FIFTY) appears in the “prize” area under the matching “YOUR NUMBERS” play symbol, on a single ticket, shall be entitled to a prize of \$50.

(n) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols matches any of the “WINNING NUMBERS” play symbols and a prize symbol of \$40.⁰⁰ (FORTY) appears in the “prize” area under the matching “YOUR NUMBERS” play symbol, on a single ticket, shall be entitled to a prize of \$40.

(o) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols matches any of the “WINNING NUMBERS” play symbols and a prize symbol of \$20.⁰⁰ (TWENTY) appears in the “prize” area under the matching “YOUR NUMBERS” play symbol, on a single ticket, shall be entitled to a prize of \$20.

(p) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols matches any of the “WINNING NUMBERS” play symbols and a prize symbol of \$10.⁰⁰ (TEN DOL) appears in the “prize” area under the matching “YOUR NUMBERS” play symbol, on a single ticket, shall be entitled to a prize of \$10.

(q) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols matches any of the “WINNING NUMBERS” play symbols and a prize symbol of \$5.⁰⁰ (FIV DOL) appears in the “prize” area under the matching “YOUR NUMBERS” play symbol, on a single ticket, shall be entitled to a prize of \$5.

9. *Number and Description of Prizes and Approximate Odds:* The following table sets forth the approximate number of winners, amounts of prizes, and approximate odds of winning:

When Any Of Your Numbers Match Any Winning Number, Win Prize Shown Under The Matching Number. Win With:

<i>Win With:</i>	<i>Win:</i>	<i>Approximate Odds Are 1 In:</i>	<i>Approximate No. Of Winners Per 13,200,000 Tickets:</i>
\$5	\$5	8.57	1,540,000
\$5 × 2	\$10	30	440,000
\$10	\$10	30	440,000
\$5 × 4	\$20	60	220,000
\$10 × 2	\$20	120	110,000
\$20	\$20	120	110,000
\$5 × 8	\$40	300	44,000
\$10 × 4	\$40	600	22,000
\$20 × 2	\$40	600	22,000
\$40	\$40	600	22,000
\$5 × 10	\$50	600	22,000
\$10 × 5	\$50	600	22,000
\$40 + \$10	\$50	600	22,000
\$50	\$50	600	22,000
SNOWMAN w/ ((\$10 × 8) + (\$5 × 4))	\$100	600	22,000
\$20 × 5	\$100	12,000	1,100
\$50 × 2	\$100	12,000	1,100
\$100 w/ STACK OF CASH	\$100	230.77	57,200
\$100	\$100	12,000	1,100
SNOWMAN w/ ((\$100 × 2) + (\$20 × 10))	\$400	24,000	550
\$40 × 10	\$400	24,000	550
\$50 × 8	\$400	24,000	550
(\$100 w/ STACK OF CASH) × 4	\$400	12,000	1,100
\$400	\$400	24,000	550

When Any Of Your Numbers Match Any
Winning Number, Win Prize Shown
Under The Matching Number:
Win With:

Win:	Approximate Odds Are 1 In:	Approximate No. Of Winners Per 13,200,000 Tickets:	
SNOWMAN w/ ((\$50 × 2) + (\$40 × 10))	\$500	24,000	550
SNOWMAN w/ ((\$100 × 2) + (\$40 × 5) + (\$20 × 5))	\$500	24,000	550
\$50 × 10	\$500	24,000	550
(\$100 w/ STACK OF CASH) × 5	\$500	24,000	550
\$500	\$500	24,000	550
SNOWMAN w/ ((\$100 × 8) + (\$50 × 4))	\$1,000	120,000	110
\$100 × 10	\$1,000	120,000	110
\$500 × 2	\$1,000	120,000	110
(\$100 w/ STACK OF CASH) × 10	\$1,000	120,000	110
\$1,000	\$1,000	120,000	110
\$1,000 × 10	\$10,000	880,000	15
\$10,000	\$10,000	1,320,000	10
\$100,000	\$100,000	1,320,000	10

Reveal a "STACK OF CASH" (WIN100) symbol, win \$100 instantly.

Reveal a "SNOWMAN" (WINALL) symbol, win all 12 prizes shown!

Prizes, including top prizes, are subject to availability at the time of purchase.

10. *Second-Chance Drawings*: Second-Chance Drawings: Pennsylvania Lottery's Secret Santa Second-Chance Drawings (hereafter, the "Drawings").

(a) *Qualifying Tickets*: Non-winning PA-1246 Merry Money '16 (\$1), PA-1245 Unwrap the Cash (\$2), PA-1244 Freezin' Greetings '16 (\$3), PA-1243 Frosty Cash '16 (\$5), PA-1242 Trim the Tree '16 (\$10), and PA-1241 \$1,000,000 Snow Bank (\$20) instant lottery tickets ("Qualifying Tickets") are eligible for entry in the Drawings. In addition, PICK 2, PICK 3, PICK 4, PICK 5, Treasure Hunt, Cash 5, Match 6 lotto, Cash4Life®, Powerball®, or Mega Millions® terminal-based lottery tickets sold from October 24, 2016 through January 5, 2017, and imprinted with a Second Chance Prize Zone™ Official Entry Code ("Qualifying Tickets") are eligible for entry in the Drawings.

(b) *Participation and Entry*:

(1) Entrants must be members of the Pennsylvania Lottery VIP Players Club to participate in the Drawings. To join the VIP Players Club, visit <https://www.palottery.state.pa.us/vip-players-club/login.aspx>. Becoming a VIP Players Club member is free.

(2) To enter the Drawings, entrants must submit the identifying information from at least one instant lottery ticket or the Second Chance Prize Zone™ Official Entry Code ("Official Entry Code") from at least one terminal-based lottery ticket via the Drawings' promotional website, available at <http://www.palottery.com>, or the Pennsylvania Lottery's official mobile application during the entry period.

(3) A Qualifying Ticket may be submitted only once in the Drawings. No other method of submission will be accepted, and entries submitted using any other method, including entries mailed or hand-delivered to the Pennsylvania Lottery, are not valid and will be disqualified.

(4) Each entry must be complete and the information supplied by the entrant must be accurate. Incomplete entries cannot be submitted.

(5) Only one claimant per entry allowed.

(6) Entrants must be 18 years of age or older.

(7) Players may submit an unlimited number of Qualifying Tickets in the Drawings.

(c) *Drawings Description*.

(1) The Drawings will consist of two drawings and a virtual non-prize-determinative holiday-themed game that will reveal the number of entries the entrant receives by entering a Qualifying Ticket.

(2) *Drawings*.

(i) The Lottery will conduct a total of two drawings. The drawings will consist of a "Secret Santa Drawing" and a "Not So Secret Drawing". A Qualifying Ticket may only be entered into one of the drawings. The Entrant must choose which drawing to enter. Once an entry has been submitted it cannot be withdrawn or changed. All time references are Eastern Prevailing Time.

(ii) All entries received after 11:59:59 p.m. October 23, 2016, through 11:59:59 p.m. January 5, 2017 will be entered into one of the drawings as selected by the entrant pursuant to section 10(c)(2)(i) above, held between January 6, 2017 and January 17, 2017.

(3) The entry periods for each drawing will be posted to the Pennsylvania Lottery's publicly accessible website.

(4) Each entrant will have the opportunity to play a virtual non-prize-determinative holiday-themed game that will reveal the number of entries the entrant receives by entering a Qualifying Ticket. Each instant lottery ticket will have a predetermined ticket file assigned at the time the ticket is printed that will determine the outcome of the non-prize-determinative game play.

(5) The number of entries an entrant will receive for a drawing is determined by the purchase price of the terminal-based ticket entered. An entrant will receive one entry for each \$0.50 in purchase price of the terminal-based ticket submitted. For example, an entrant who enters the Official Entry Code from a terminal-based ticket with a purchase price of \$0.50 will receive one entry into the Drawings. Similarly, an entrant who enters the Official Entry Code from a Qualifying Ticket with a purchase price of \$2.00 will receive four entries into the Drawings.

(6) The respective purchase prices and corresponding number of entries for Qualifying Tickets for the instant

lottery tickets are as follows: PA-1246 Merry Money '16 (\$1) = 2 entries; PA-1245 Unwrap the Cash (\$2) = 4 entries; PA-1244 Freezin' Greetings '16 (\$3) = 6 entries; PA-1243 Frosty Ca\$h '16 (\$5) = 10 entries; PA-1242 Trim the Tree '16 (\$10) = 20 entries; and PA-1241 \$1,000,000 Snow Bank (\$20) = 40 entries.

(7) Players may review prizes won and their entries for the Drawings via the Drawings' promotional website.

(d) *Prizes Available to be Won, Determination of Winners, and Odds of Winning.*

(1) The prize entitlements described below are subject to all restrictions and limitations described in section 10(e), or mentioned anywhere else in these rules.

(2) The Lottery will conduct two drawings from among all the entries received for each of the drawings, and during the applicable entry period(s), as described in section 10(c).

(3) *Secret Santa Drawing:* The first through the fifth entries selected from the total number of entries awarded in the Secret Santa Drawing will be winning entries, and the entrants who submitted those winning entries shall each be entitled to a prize of \$100,000. This prize will be paid as a one-time, lump-sum cash payment.

(4) *Not So Secret Drawing:*

(i) The first entry selected from the total number of entries awarded in the Not So Secret Drawing will be a winning entry, and the entrant who submitted the winning entry shall be entitled to a prize of \$100,000. This prize will be paid as a one-time, lump-sum cash payment.

(ii) The second and the third entries selected from the total number of entries awarded in the Not So Secret Drawing will be winning entries, and the entrants who submitted those winning entries shall each be entitled to a prize of \$50,000.

(iii) The fourth through the thirteenth entries selected from the total number of entries awarded in the Not So Secret Drawing will be winning entries, and the entrants who submitted those winning entries shall each be entitled to a prize of \$10,000.

(5) The number of winning entries to be selected for each drawing will be posted to the Pennsylvania Lottery's publicly accessible website.

(6) The odds of winning a prize in either of the drawings depends upon the number of entries received for each of the drawings.

(7) A computer-generated randomizer will be used to select the winning entries for the Drawings.

(e) *Drawings Restrictions:*

(1) To be eligible to participate in the Drawings, entrants must have complied with the requirements of these rules.

(2) The Lottery is not responsible for late, lost or misdirected entries not entered into the Drawings. The Lottery is not responsible for entries that are not entered into the Drawings because of incompatible cellular telephones or internet browsers, mobile lottery application failure, or other technical issues. If a Drawings entry is selected as a winner and rejected during or following either of the drawings, the Lottery will select another entry to replace the rejected entry in accordance with these rules and Lottery procedure.

(3) If any discrepancy exists between these rules and any material describing the Drawings, these rules shall govern.

(4) Employees of the Pennsylvania Lottery, MARC Advertising, Scientific Games International Inc., MDI Entertainment, LLC, and their subcontractors, or a spouse, child, brother, sister or parent residing as a member of the same household in the principal place of residence of any such person are not eligible to participate in the Drawings. Offer void where prohibited or restricted.

(5) The Pennsylvania Lottery reserves the right, in its sole discretion, to cancel or suspend the Drawings and change these rules if the Drawings cannot be conducted as planned due to errors in these rules or advertising, unauthorized intervention, tampering, fraud, technical errors, viruses, worms, bugs, or any other cause beyond the control of the Pennsylvania Lottery that, in the Pennsylvania Lottery's sole judgment, could corrupt or impair the administration, security, fairness, integrity, or proper conduct of the Drawings.

(6) All entries shall be subject to verification by the Pennsylvania Lottery.

(7) The Pennsylvania Lottery reserves the right, in its sole discretion, to disqualify an entrant found to be tampering with the operation of the Drawings or to be acting in violation of these rules or applicable law.

(8) The time frame for the drawings to be conducted, as stated in section 10(c)(2), as well as the announcement of winners on the Pennsylvania Lottery's publicly accessible website, are subject to change based on the number of entries received for any given drawing. Entrants should check the Pennsylvania Lottery's publicly accessible website after the entry periods have closed for up to date information.

(9) The Drawings are governed by the laws of the Commonwealth of Pennsylvania. Applicable laws and regulations apply.

(10) Prizes must be claimed within 1 year of the drawing date of the drawing in which the prize was won. If no claim is made within 1 year of the drawing date of the drawing in which the prize was won, the right of an entrant to claim the prize won, if any, will expire and the prize money will be paid into the State Lottery Fund and used for purposes provided by statute.

(11) Final determination of winners will be made by the Secretary, whose judgment will be final and binding.

(12) The payment of a prize awarded in the Drawings to a person who dies before receiving the prize shall be paid according to 61 Pa. Code § 811.16 (relating to prizes payable after death of a prize winner).

(13) A winner is responsible for all taxes arising from or in connection with any prize won.

(14) A player may only win the prize for which the player is first selected in the Drawings. Subsequent entries, from the same individual, selected in the Drawings will be disqualified and a replacement entry will be selected.

(15) Prizes are not transferrable.

(16) Other restrictions may apply.

11. *Retailer Incentive Awards:* The Lottery may conduct a separate Retailer Incentive Program for retailers who sell Pennsylvania Frosty Ca\$h '16 instant lottery game tickets.

12. *Retailer Bonus:* The Lottery may offer a retailer bonus in connection with the sale of Pennsylvania instant lottery game tickets. If a retailer bonus is offered, a Lottery retailer shall be eligible for a bonus as described in this section. Lottery retailers who sell a winning ticket that entitles the ticket holder to a prize, either payable in a single installment or having a guaranteed minimum payout, of at least \$100,000 and not exceeding \$500,000 shall be paid a bonus of \$500. Lottery retailers who sell a winning ticket that entitles the ticket holder to a prize, either payable in a single installment or having a guaranteed minimum payout, of at least \$500,001 and not exceeding \$1,000,000 shall be paid a bonus of \$5,000. Lottery retailers who sell a winning ticket that entitles the ticket holder to a prize, either payable in a single installment or having a guaranteed minimum payout, of at least \$1,000,001 and not exceeding \$10,000,000 shall be paid a bonus of \$10,000. A Lottery retailer is entitled only to the largest bonus for which he qualifies on a winning ticket. A bonus will be initiated for payment after the instant ticket is claimed and validated. A bonus will not be awarded to a Lottery retailer that sells a non-winning Pennsylvania Lottery instant ticket used to enter a Pennsylvania Lottery second-chance drawing or promotion that is subsequently selected to win a prize.

13. *Unclaimed Prize Money:* For a period of 1 year from the announced close of Pennsylvania Frosty Ca\$h '16, prize money from winning Pennsylvania Frosty Ca\$h '16 instant lottery game tickets will be retained by the Secretary for payment to the persons entitled thereto. If no claim is made within 1 year of the announced close of the Pennsylvania Frosty Ca\$h '16 instant lottery game, the right of a ticket holder to claim the prize represented by the ticket, if any, will expire and the prize money will be paid into the State Lottery Fund and used for purposes provided for by statute.

14. *Governing Law:* In purchasing a ticket, the customer agrees to comply with and abide by the State Lottery Law (72 P.S. §§ 3761-101—3761-314), 61 Pa. Code Part V (relating to State Lotteries) and the provisions contained in this notice.

15. *Termination of the Game:* The Secretary may announce a termination date, after which no further tickets from this game may be sold. The announcement will be disseminated through media used to advertise or promote Pennsylvania Frosty Ca\$h '16 or through normal communications methods.

EILEEN H. McNULTY,
Secretary

[Pa.B. Doc. No. 16-1821. Filed for public inspection October 21, 2016, 9:00 a.m.]

Pennsylvania Merry Money '16 Instant Lottery Game

Under the State Lottery Law (72 P.S. §§ 3761-101—3761-314) and 61 Pa. Code § 819.203 (relating to notice of instant game rules), the Secretary of Revenue hereby provides public notice of the rules for the following instant lottery game:

1. *Name:* The name of the game is Pennsylvania Merry Money '16.

2. *Price:* The price of a Pennsylvania Merry Money '16 instant lottery game ticket is \$1.

3. *Play Symbols:* Each Pennsylvania Merry Money '16 instant lottery game ticket will contain one play area featuring a "WINNING NUMBERS" area and a "YOUR NUMBERS" area. The play symbols and their captions located in the "WINNING NUMBERS" area are: 1 (ONE), 2 (TWO), 3 (THREE), 4 (FOUR), 5 (FIVE), 6 (SIX), 7 (SEVEN), 8 (EIGHT), 9 (NINE), 10 (TEN), 11 (ELEVN), 12 (TWLV), 13 (THRTN), 14 (FORTN), 15 (FIFTN), 16 (SIXTN), 17 (SVNTN), 18 (EGHTN), 19 (NINTN) and 20 (TWENT). The play symbols and their captions located in the "YOUR NUMBERS" area are: 1 (ONE), 2 (TWO), 3 (THREE), 4 (FOUR), 5 (FIVE), 6 (SIX), 7 (SEVEN), 8 (EIGHT), 9 (NINE), 10 (TEN), 11 (ELEVN), 12 (TWLV), 13 (THRTN), 14 (FORTN), 15 (FIFTN), 16 (SIXTN), 17 (SVNTN), 18 (EGHTN), 19 (NINTN), 20 (TWENT) and a MERRY (WINALL) symbol.

4. *Prize Symbols:* The prize symbols and their captions located in the "YOUR NUMBERS" area are: FREE (TICKET), \$1⁰⁰ (ONE DOL), \$2⁰⁰ (TWO DOL), \$4⁰⁰ (FOR DOL), \$5⁰⁰ (FIV DOL), \$10⁰⁰ (TEN DOL), \$20⁰⁰ (TWENTY), \$30⁰⁰ (THIRTY), \$40⁰⁰ (FORTY), \$50⁰⁰ (FIFTY), \$100 (ONE HUN), \$400 (FOR HUN) and \$10,000 (TEN THO).

5. *Prizes:* The prizes that can be won in this game are: Free \$1 ticket, \$1, \$2, \$4, \$5, \$10, \$20, \$30, \$40, \$50, \$100, \$400 and \$10,000. A player can win up to 4 times on a ticket.

6. *Second-Chance Drawings:* The Pennsylvania Lottery will conduct a Secret Santa Second-Chance Drawing for which non-winning Pennsylvania Merry Money '16 instant lottery game tickets may be eligible as provided for in section 10.

7. *Approximate Number of Tickets Printed For the Game:* Approximately 16,800,000 tickets will be printed for the Pennsylvania Merry Money '16 instant lottery game.

8. Determination of Prize Winners:

(a) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches either of the "WINNING NUMBERS" play symbols and a prize symbol of \$10,000 (TEN THO) appears in the "Prize" area to the right of the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$10,000.

(b) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches either of the "WINNING NUMBERS" play symbols and a prize symbol of \$400 (FOR HUN) appears in the "Prize" area to the right of the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$400.

(c) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a MERRY (WINALL) symbol and a prize symbol of \$100 (ONE HUN) appears in all four of the "Prize" areas, on a single ticket, shall be entitled to a prize of \$400.

(d) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches either of the "WINNING NUMBERS" play symbols and a prize symbol of \$100 (ONE HUN) appears in the "Prize" area to the right of the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$100.

(e) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a MERRY (WINALL) symbol and a prize symbol of \$40⁰⁰ (FORTY) appears in two of the "Prize" areas and a prize symbol of \$10⁰⁰ (TEN DOL) appears in two of the "Prize" areas, shall be entitled to a prize of \$100.

(f) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols matches either of the “WINNING NUMBERS” play symbols and a prize symbol of \$50.00 (FIFTY) appears the “Prize” area to the right of the matching “YOUR NUMBERS” play symbol, on a single ticket, shall be entitled to a prize of \$50.

(g) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols matches either of the “WINNING NUMBERS” play symbols and a prize symbol of \$40.00 (FORTY) appears in the “Prize” area to the right of the matching “YOUR NUMBERS” play symbol, on a single ticket, shall be entitled to a prize of \$40.

(h) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols is a MERRY (WINALL) symbol and a prize symbol of \$10.00 (TEN DOL) appears in all four of the “Prize” areas, on a single ticket, shall be entitled to a prize of \$40.

(i) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols matches either of the “WINNING NUMBERS” play symbols and a prize symbol of \$30.00 (THIRTY) appears in the “Prize” area to the right of the matching “YOUR NUMBERS” play symbol, on a single ticket, shall be entitled to a prize of \$30.

(j) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols is a MERRY (WINALL) symbol and a prize symbol of \$10.00 (TEN DOL) appears in two of the “Prize” areas and a prize symbol of \$5.00 (FIV DOL) appears in two of the “Prize” areas, on a single ticket, shall be entitled to a prize of \$30.

(k) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols matches either of the “WINNING NUMBERS” play symbols and a prize symbol of \$20.00 (TWENTY) appears in the “Prize” area to the right of the matching “YOUR NUMBERS” play symbol, on a single ticket, shall be entitled to a prize of \$20.

(l) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols is a MERRY (WINALL) symbol and a prize symbol of \$5.00 (FIV DOL) appears in all four of the “Prize” areas, on a single ticket, shall be entitled to a prize of \$20.

(m) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols matches either of the “WINNING NUMBERS” play symbols and a prize symbol of \$10.00 (TEN DOL) appears in the “Prize” area to the right of the matching “YOUR NUMBERS” play symbol, on a single ticket, shall be entitled to a prize of \$10.

(n) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols is a MERRY (WINALL) symbol and a prize symbol of \$4.00 (FOR DOL) appears in two of the “Prize” areas and a prize symbol of \$1.00 (ONE DOL) appears in two of the “Prize” areas, on a single ticket, shall be entitled to a prize of \$10.

(o) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols matches either of the “WINNING NUMBERS” play symbols and a prize symbol of \$5.00 (FIV DOL) appears in the “Prize” area to the right of the matching “YOUR NUMBERS” play symbol, on a single ticket, shall be entitled to a prize of \$5.

(p) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols matches either of the “WINNING NUMBERS” play symbols and a prize symbol of \$4.00 (FOR DOL) appears in the “Prize” area to the right of the matching “YOUR NUMBERS” play symbol, on a single ticket, shall be entitled to a prize of \$4.

(q) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols is a MERRY (WINALL) symbol and a prize symbol of \$1.00 (ONE DOL) appears in all four of the “Prize” areas, on a single ticket, shall be entitled to a prize of \$4.

(r) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols matches either of the “WINNING NUMBERS” play symbols and a prize symbol of \$2.00 (TWO DOL) appears in the “Prize” area to the right of the matching “YOUR NUMBERS” play symbol, on a single ticket, shall be entitled to a prize of \$2.

(s) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols matches either of the “WINNING NUMBERS” play symbols and a prize symbol of \$1.00 (ONE DOL) appears in the “Prize” area to the right of the matching “YOUR NUMBERS” play symbol, on a single ticket, shall be entitled to a prize of \$1.

(t) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols matches either of the “WINNING NUMBERS” play symbols and a prize symbol of FREE (TICKET) appears in the “Prize” area to the right of the matching “YOUR NUMBERS” play symbol, on a single ticket, shall be entitled to a prize of one Pennsylvania Merry Money '16 instant game ticket or one Pennsylvania Lottery instant game ticket of equivalent sale price which is currently on sale.

9. *Number and Description of Prizes and Approximate Odds:* The following table sets forth the approximate number of winners, amounts of prizes, and approximate odds of winning:

*When Any Of Your Numbers Match
Either Winning Number, Win Prize
Shown To The Right Of The
Matching Number.*

<i>Win With:</i>	<i>Win:</i>	<i>Approximate Odds Are 1 In:</i>	<i>Approximate No. Of Winners Per 16,800,000 Tickets</i>
FREE	FREE \$1 TICKET	12	1,400,000
\$1	\$1	37.50	448,000
\$1 × 2	\$2	37.50	448,000
\$2	\$2	30	560,000
MERRY w/ (\$1 × 4)	\$4	75	224,000
\$2 × 2	\$4	600	28,000
\$4	\$4	600	28,000
(\$2 × 2) + \$1	\$5	300	56,000
\$4 + \$1	\$5	300	56,000
\$5	\$5	300	56,000
MERRY w/ ((\$4 × 2) + (\$1 × 2))	\$10	100	168,000
\$5 × 2	\$10	600	28,000

When Any Of Your Numbers Match
Either Winning Number, Win Prize
Shown To The Right Of The
Matching Number:
Win With:

Win:	Approximate Odds Are 1 In:	Approximate No. Of Winners Per 16,800,000 Tickets
\$10	\$10	28,000
MERRY w/ (\$5 × 4)	\$20	33,600
\$10 × 2	\$20	11,200
\$20	\$20	11,200
MERRY w/ ((\$10 × 2) + (\$5 × 2))	\$30	11,200
\$10 × 3	\$30	5,600
\$30	\$30	5,600
MERRY w/ (\$10 × 4)	\$40	5,600
\$20 × 2	\$40	700
\$40	\$40	700
MERRY w/ ((\$40 × 2) + (\$10 × 2))	\$100	1,400
\$50 × 2	\$100	350
\$100	\$100	350
MERRY w/ (\$100 × 4)	\$400	350
\$400	\$400	350
\$10,000	\$10,000	10

Reveal a "MERRY" (WINALL) symbol, win all 4 prizes shown!

Prizes, including top prizes, are subject to availability at the time of purchase.

10. *Second-Chance Drawings*: Pennsylvania Lottery's Secret Santa Second-Chance Drawings (hereafter, the "Drawings").

(a) *Qualifying Tickets*: Non-winning PA-1246 Merry Money '16 (\$1), PA-1245 Unwrap the Cash (\$2), PA-1244 Freezin' Greetings '16 (\$3), PA-1243 Frosty Cash '16 (\$5), PA-1242 Trim the Tree '16 (\$10), and PA-1241 \$1,000,000 Snow Bank (\$20) instant lottery tickets ("Qualifying Tickets") are eligible for entry in the Drawings. In addition, PICK 2, PICK 3, PICK 4, PICK 5, Treasure Hunt, Cash 5, Match 6 lotto, Cash4Life®, Powerball®, or Mega Millions® terminal-based lottery tickets sold from October 24, 2016 through January 5, 2017, and imprinted with a Second Chance Prize Zone™ Official Entry Code ("Qualifying Tickets") are eligible for entry in the Drawings.

(b) *Participation and Entry*:

(1) Entrants must be members of the Pennsylvania Lottery VIP Players Club to participate in the Drawings. To join the VIP Players Club, visit <https://www.palottery.state.pa.us/vip-players-club/login.aspx>. Becoming a VIP Players Club member is free.

(2) To enter the Drawings, entrants must submit the identifying information from at least one instant lottery ticket or the Second Chance Prize Zone™ Official Entry Code ("Official Entry Code") from at least one terminal-based lottery ticket via the Drawings' promotional website, available at <http://www.palottery.com>, or the Pennsylvania Lottery's official mobile application during the entry period.

(3) A Qualifying Ticket may be submitted only once in the Drawings. No other method of submission will be accepted, and entries submitted using any other method, including entries mailed or hand-delivered to the Pennsylvania Lottery, are not valid and will be disqualified.

(4) Each entry must be complete and the information supplied by the entrant must be accurate. Incomplete entries cannot be submitted.

(5) Only one claimant per entry allowed.

(6) Entrants must be 18 years of age or older.

(7) Players may submit an unlimited number of Qualifying Tickets in the Drawings.

(c) *Drawings Description*.

(1) The Drawings will consist of two drawings and a virtual non-prize-determinative holiday-themed game that will reveal the number of entries the entrant receives by entering a Qualifying Ticket.

(2) *Drawings*.

(i) The Lottery will conduct a total of two drawings. The drawings will consist of a "Secret Santa Drawing" and a "Not So Secret Drawing". A Qualifying Ticket may only be entered into one of the drawings. The Entrant must choose which drawing to enter. Once an entry has been submitted it cannot be withdrawn or changed. All time references are Eastern Prevailing Time.

(ii) All entries received after 11:59:59 p.m. October 23, 2016, through 11:59:59 p.m. January 5, 2017 will be entered into one of the drawings as selected by the entrant pursuant to section 10(c)(2)(i) above, held between January 6, 2017 and January 17, 2017.

(3) The entry periods for each drawing will be posted to the Pennsylvania Lottery's publicly accessible website.

(4) Each entrant will have the opportunity to play a virtual non-prize-determinative holiday-themed game that will reveal the number of entries the entrant receives by entering a Qualifying Ticket. Each instant lottery ticket will have a predetermined ticket file assigned at the time the ticket is printed that will determine the outcome of the non-prize-determinative game play.

(5) The number of entries an entrant will receive for a drawing is determined by the purchase price of the terminal-based ticket entered. An entrant will receive one entry for each \$0.50 in purchase price of the terminal-based ticket submitted. For example, an entrant who enters the Official Entry Code from a terminal-based ticket with a purchase price of \$0.50 will receive one entry into the Drawings. Similarly, an entrant who enters

the Official Entry Code from a Qualifying Ticket with a purchase price of \$2⁰⁰ will receive four entries into the Drawings.

(6) The respective purchase prices and corresponding number of entries for Qualifying Tickets for the instant lottery tickets are as follows: PA-1246 Merry Money '16 (\$1) = 2 entries; PA-1245 Unwrap the Cash (\$2) = 4 entries; PA-1244 Freezin' Greetings '16 (\$3) = 6 entries; PA-1243 Frosty Ca\$h '16 (\$5) = 10 entries; PA-1242 Trim the Tree '16 (\$10) = 20 entries; and PA-1241 \$1,000,000 Snow Bank (\$20) = 40 entries.

(7) Players may review prizes won and their entries for the Drawings via the Drawings' promotional website.

(d) *Prizes Available to be Won, Determination of Winners, and Odds of Winning.*

(1) The prize entitlements described below are subject to all restrictions and limitations described in section 10(e), or mentioned anywhere else in these rules.

(2) The Lottery will conduct two drawings from among all the entries received for each of the drawings, and during the applicable entry period(s), as described in section 10(c).

(3) *Secret Santa Drawing:* The first through the fifth entries selected from the total number of entries awarded in the Secret Santa Drawing will be winning entries, and the entrants who submitted those winning entries shall each be entitled to a prize of \$100,000. This prize will be paid as a one-time, lump-sum cash payment.

(4) *Not So Secret Drawing:*

(i) The first entry selected from the total number of entries awarded in the Not So Secret Drawing will be a winning entry, and the entrant who submitted the winning entry shall be entitled to a prize of \$100,000. This prize will be paid as a one-time, lump-sum cash payment.

(ii) The second and the third entries selected from the total number of entries awarded in the Not So Secret Drawing will be winning entries, and the entrants who submitted those winning entries shall each be entitled to a prize of \$50,000.

(iii) The fourth through the thirteenth entries selected from the total number of entries awarded in the Not So Secret Drawing will be winning entries, and the entrants who submitted those winning entries shall each be entitled to a prize of \$10,000.

(5) The number of winning entries to be selected for each drawing will be posted to the Pennsylvania Lottery's publicly accessible website.

(6) The odds of winning a prize in either of the drawings depends upon the number of entries received for each of the drawings.

(7) A computer-generated randomizer will be used to select the winning entries for the Drawings.

(e) *Drawings Restrictions:*

(1) To be eligible to participate in the Drawings, entrants must have complied with the requirements of these rules.

(2) The Lottery is not responsible for late, lost or misdirected entries not entered into the Drawings. The Lottery is not responsible for entries that are not entered into the Drawings because of incompatible cellular telephones or internet browsers, mobile lottery application failure, or other technical issues. If a Drawings entry is selected as a winner and rejected during or following

either of the drawings, the Lottery will select another entry to replace the rejected entry in accordance with these rules and Lottery procedure.

(3) If any discrepancy exists between these rules and any material describing the Drawings, these rules shall govern.

(4) Employees of the Pennsylvania Lottery, MARC Advertising, Scientific Games International Inc., MDI Entertainment, LLC, and their subcontractors, or a spouse, child, brother, sister or parent residing as a member of the same household in the principal place of residence of any such person are not eligible to participate in the Drawings. Offer void where prohibited or restricted.

(5) The Pennsylvania Lottery reserves the right, in its sole discretion, to cancel or suspend the Drawings and change these rules if the Drawings cannot be conducted as planned due to errors in these rules or advertising, unauthorized intervention, tampering, fraud, technical errors, viruses, worms, bugs, or any other cause beyond the control of the Pennsylvania Lottery that, in the Pennsylvania Lottery's sole judgment, could corrupt or impair the administration, security, fairness, integrity, or proper conduct of the Drawings.

(6) All entries shall be subject to verification by the Pennsylvania Lottery.

(7) The Pennsylvania Lottery reserves the right, in its sole discretion, to disqualify an entrant found to be tampering with the operation of the Drawings or to be acting in violation of these rules or applicable law.

(8) The time frame for the drawings to be conducted, as stated in section 10(c)(2), as well as the announcement of winners on the Pennsylvania Lottery's publicly accessible website, are subject to change based on the number of entries received for any given drawing. Entrants should check the Pennsylvania Lottery's publicly accessible website after the entry periods have closed for up to date information.

(9) The Drawings are governed by the laws of the Commonwealth of Pennsylvania. Applicable laws and regulations apply.

(10) Prizes must be claimed within 1 year of the drawing date of the drawing in which the prize was won. If no claim is made within 1 year of the drawing date of the drawing in which the prize was won, the right of an entrant to claim the prize won, if any, will expire and the prize money will be paid into the State Lottery Fund and used for purposes provided by statute.

(11) Final determination of winners will be made by the Secretary, whose judgment will be final and binding.

(12) The payment of a prize awarded in the Drawings to a person who dies before receiving the prize shall be paid according to 61 Pa. Code § 811.16 (relating to prizes payable after death of a prize winner).

(13) A winner is responsible for all taxes arising from or in connection with any prize won.

(14) A player may only win the prize for which the player is first selected in the Drawings. Subsequent entries, from the same individual, selected in the Drawings will be disqualified and a replacement entry will be selected.

(15) Prizes are not transferrable.

(16) Other restrictions may apply.

11. *Retailer Incentive Awards:* The Lottery may conduct a separate Retailer Incentive Program for retailers who sell Pennsylvania Merry Money '16 instant lottery game tickets.

12. *Retailer Bonus:* The Lottery may offer a retailer bonus in connection with the sale of Pennsylvania instant lottery game tickets. If a retailer bonus is offered, a Lottery retailer shall be eligible for a bonus as described in this section. Lottery retailers who sell a winning ticket that entitles the ticket holder to a prize, either payable in a single installment or having a guaranteed minimum payout, of at least \$100,000 and not exceeding \$500,000 shall be paid a bonus of \$500. Lottery retailers who sell a winning ticket that entitles the ticket holder to a prize, either payable in a single installment or having a guaranteed minimum payout, of at least \$500,001 and not exceeding \$1,000,000 shall be paid a bonus of \$5,000. Lottery retailers who sell a winning ticket that entitles the ticket holder to a prize, either payable in a single installment or having a guaranteed minimum payout, of at least \$1,000,001 and not exceeding \$10,000,000 shall be paid a bonus of \$10,000. A Lottery retailer is entitled only to the largest bonus for which he qualifies on a winning ticket. A bonus will be initiated for payment after the instant ticket is claimed and validated. A bonus will not be awarded to a Lottery retailer that sells a non-winning Pennsylvania Lottery instant ticket used to enter a Pennsylvania Lottery second-chance drawing or promotion that is subsequently selected to win a prize.

13. *Unclaimed Prize Money:* For a period of 1 year from the announced close of Pennsylvania Merry Money '16, prize money from winning Pennsylvania Merry Money '16 instant lottery game tickets will be retained by the Secretary for payment to the persons entitled thereto. If no claim is made within 1 year of the announced close of the Pennsylvania Merry Money '16 instant lottery game, the right of a ticket holder to claim the prize represented by the ticket, if any, will expire and the prize money will be paid into the State Lottery Fund and used for purposes provided for by statute.

14. *Governing Law:* In purchasing a ticket, the customer agrees to comply with and abide by the State Lottery Law (72 P.S. §§ 3761-101—3761-314), 61 Pa. Code Part V (relating to State Lotteries) and the provisions contained in this notice.

15. *Termination of the Game:* The Secretary may announce a termination date, after which no further tickets from this game may be sold. The announcement will be disseminated through media used to advertise or promote Pennsylvania Merry Money '16 or through normal communications methods.

EILEEN H. McNULTY,
Secretary

[Pa.B. Doc. No. 16-1822. Filed for public inspection October 21, 2016, 9:00 a.m.]

Pennsylvania Trim the Tree '16 Instant Lottery Game

Under the State Lottery Law (72 P.S. §§ 3761-101—3761-314) and 61 Pa. Code § 819.203 (relating to notice of instant game rules), the Secretary of Revenue hereby provides public notice of the rules for the following instant lottery game:

1. *Name:* The name of the game is Pennsylvania Trim the Tree '16.

2. *Price:* The price of a Pennsylvania Trim the Tree '16 instant lottery game ticket is \$10.

3. *Play Symbols:* Each Pennsylvania Trim the Tree '16 instant lottery game ticket will contain one play area featuring a "WINNING NUMBERS" area, a "YOUR NUMBERS" area and a "BONUS" area. The "BONUS" area is played separately. The play symbols and their captions located in the "WINNING NUMBERS" area are: 1 (ONE), 2 (TWO), 3 (THREE), 4 (FOUR), 5 (FIVE), 6 (SIX), 7 (SEVEN), 8 (EIGHT), 9 (NINE), 10 (TEN), 11 (ELEVN), 12 (TWLV), 13 (THRTN), 14 (FORTN), 15 (FIFTN), 16 (SIXTN), 17 (SVNTN), 18 (EGHTN), 19 (NINTN), 20 (TWENT), 21 (TWYONE), 22 (TWY TWO), 23 (TWYTHR), 24 (TWYFOR), 25 (TWYFIV), 26 (TWYSIX), 27 (TWYSVN), 28 (TWYEGT), 29 (TWYNIN), 30 (THIRTY), 31 (THYONE), 32 (THYTWO), 33 (THYTHR), 34 (THYFOR), 35 (THYFIV), 36 (THYSIX), 37 (THYSVN), 38 (THYEGT), 39 (THYNIN) and 40 (FORTY). The play symbols and their captions located in the "YOUR NUMBERS" area are: 1 (ONE), 2 (TWO), 3 (THREE), 4 (FOUR), 5 (FIVE), 6 (SIX), 7 (SEVEN), 8 (EIGHT), 9 (NINE), 10 (TEN), 11 (ELEVN), 12 (TWLV), 13 (THRTN), 14 (FORTN), 15 (FIFTN), 16 (SIXTN), 17 (SVNTN), 18 (EGHTN), 19 (NINTN), 20 (TWENT), 21 (TWYONE), 22 (TWY TWO), 23 (TWYTHR), 24 (TWYFOR), 25 (TWYFIV), 26 (TWYSIX), 27 (TWYSVN), 28 (TWYEGT), 29 (TWYNIN), 30 (THIRTY), 31 (THYONE), 32 (THYTWO), 33 (THYTHR), 34 (THYFOR), 35 (THYFIV), 36 (THYSIX), 37 (THYSVN), 38 (THYEGT), 39 (THYNIN), 40 (FORTY), Star (STAR) symbol, Double Candy Cane (DOUBLE) symbol and a Tree (WINALL) symbol. The play symbols and their captions in the "BONUS" area are: Bow (TRY AGAIN) symbol, Bells (NO BONUS) symbol, String of Lights (TRY AGAIN) symbol, Wreath (NO BONUS) symbol, Scarf (TRY AGAIN) symbol, Holly (NO BONUS) symbol and a Money (MONEY) symbol.

4. *Prize Symbols:* The prize symbols and their captions located in the "YOUR NUMBERS" area are: \$10⁰⁰ (TEN DOL), \$15⁰⁰ (FIFTN), \$20⁰⁰ (TWENTY), \$40⁰⁰ (FORTY), \$50⁰⁰ (FIFTY), \$100 (ONE HUN), \$400 (FOR HUN), \$500 (FIV HUN), \$1,000 (ONE THO), \$10,000 (TEN THO), \$30,000 (TRY THO) and \$300,000 (THRHUNTHO). The prize symbols and their captions located in the "BONUS" area are: \$10⁰⁰ (TEN DOL), \$15⁰⁰ (FIFTN), \$20⁰⁰ (TWENTY), \$40⁰⁰ (FORTY), \$50⁰⁰ (FIFTY), \$100 (ONE HUN) and \$500 (FIV HUN).

5. *Prizes:* The prizes that can be won in this game are: \$10, \$15, \$20, \$40, \$50, \$100, \$400, \$500, \$1,000, \$10,000, \$30,000 and \$300,000. The prizes that can be won in the "BONUS" area are: \$10, \$15, \$20, \$40, \$50, \$100 and \$500. The player can win up to 16 times on a ticket.

6. *Second-Chance Drawings:* The Pennsylvania Lottery will conduct a Secret Santa Second-Chance Drawings for which non-winning Pennsylvania Trim the Tree '16 instant lottery game tickets may be eligible as provided for in section 10.

7. *Approximate Number of Tickets Printed For the Game:* Approximately 6,600,000 tickets will be printed for the Pennsylvania Trim the Tree '16 instant lottery game.

8. *Determination of Prize Winners:*

(a) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol

of \$300,000 (THR HUNTHO) appears in the “prize” area under the matching “YOUR NUMBERS” play symbol, on a single ticket, shall be entitled to a prize of \$300,000.

(b) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols matches any of the “WINNING NUMBERS” play symbols and a prize symbol of \$30,000 (TRY THO) appears in the “prize” area under the matching “YOUR NUMBERS” play symbol, on a single ticket, shall be entitled to a prize of \$30,000.

(c) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols is a Star (STAR) symbol, and a prize symbol of \$30,000 (TRY THO) appears in the “prize” area under that Star (STAR) symbol, on a single ticket, shall be entitled to a prize of \$30,000.

(d) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols matches any of the “WINNING NUMBERS” play symbols and a prize symbol of \$10,000 (TEN THO) appears in the “prize” area under the matching “YOUR NUMBERS” play symbol, on a single ticket, shall be entitled to a prize of \$10,000.

(e) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols is a Star (STAR) symbol, and a prize symbol of \$10,000 (TEN THO) appears in the “prize” area under that Star (STAR) symbol, on a single ticket, shall be entitled to a prize of \$10,000.

(f) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols is a Tree (WINALL) symbol, and a prize symbol of \$1,000 (ONE THO) appears in five of the “prize” areas and a prize symbol of \$500 (FIV HUN) appears in ten of the “prize” areas, on a single ticket, shall be entitled to a prize of \$10,000.

(g) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols matches any of the “WINNING NUMBERS” play symbols and a prize symbol of \$1,000 (ONE THO) appears in the “prize” area under the matching “YOUR NUMBERS” play symbol, on a single ticket, shall be entitled to a prize of \$1,000.

(h) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols is a Star (STAR) symbol, and a prize symbol of \$1,000 (ONE THO) appears in the “prize” area under that Star (STAR) symbol, on a single ticket, shall be entitled to a prize of \$1,000.

(i) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols is a Double Candy Cane (DOUBLE) symbol, and a prize symbol of \$500 (FIV HUN) appears in the “prize” area under that Double Candy Cane (DOUBLE) symbol, on a single ticket, shall be entitled to a prize of \$1,000.

(j) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols is a Tree (WINALL) symbol, and a prize symbol of \$100 (ONE HUN) appears in six of the “prize” areas, a prize symbol of \$50⁰⁰ (FIFTY) appears in four of the “prize” areas and a prize symbol of \$40⁰⁰ (FORTY) appears in five of the “prize” areas, on a single ticket, shall be entitled to a prize of \$1,000.

(k) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols is a Tree (WINALL) symbol, and a prize symbol of \$100 (ONE HUN) appears in five of the “prize” areas and a prize symbol of \$50⁰⁰ (FIFTY) appears in ten of the “prize” areas, on a single ticket, shall be entitled to a prize of \$1,000.

(l) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols matches any of the “WINNING NUMBERS” play symbols and a prize symbol of \$500

(FIV HUN) appears in the “prize” area under the matching “YOUR NUMBERS” play symbol, on a single ticket, shall be entitled to a prize of \$500.

(m) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols is a Star (STAR) symbol, and a prize symbol of \$500 (FIV HUN) appears in the “prize” area under that Star (STAR) symbol, on a single ticket, shall be entitled to a prize of \$500.

(n) Holders of tickets upon which a Money (MONEY) symbol appears in the “BONUS” area, and a prize symbol of \$500 (FIV HUN) appears in the “prize” area under that Money (MONEY) symbol, on a single ticket, shall be entitled to a prize of \$500.

(o) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols is a Tree (WINALL) symbol, and a prize symbol of \$100 (ONE HUN) appears in three of the “prize” areas, a prize symbol of \$50⁰⁰ (FIFTY) appears in two of the “prize” areas and a prize symbol of \$10⁰⁰ (TEN DOL) appears in ten of the “prize” areas, on a single ticket, shall be entitled to a prize of \$500.

(p) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols is a Tree (WINALL) symbol, and a prize symbol of \$40⁰⁰ (FORTY) appears in ten of the “prize” areas and a prize symbol of \$20⁰⁰ (TWENTY) appears in five of the “prize” areas, on a single ticket, shall be entitled to a prize of \$500.

(q) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols matches any of the “WINNING NUMBERS” play symbols and a prize symbol of \$400 (FOR HUN) appears in the “prize” area under the matching “YOUR NUMBERS” play symbol, on a single ticket, shall be entitled to a prize of \$400.

(r) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols is a Star (STAR) symbol, and a prize symbol of \$400 (FOR HUN) appears in the “prize” area under that Star (STAR) symbol, on a single ticket, shall be entitled to a prize of \$400.

(s) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols is a Tree (WINALL) symbol, and a prize symbol of \$50⁰⁰ (FIFTY) appears in five of the “prize” areas and a prize symbol of \$15⁰⁰ (FIFTN) appears in ten of the “prize” areas, on a single ticket, shall be entitled to a prize of \$400.

(t) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols is a Tree (WINALL) symbol, and a prize symbol of \$40⁰⁰ (FORTY) appears in five of the “prize” areas and a prize symbol of \$20⁰⁰ (TWENTY) appears in ten of the “prize” areas, on a single ticket, shall be entitled to a prize of \$400.

(u) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols is a Double Candy Cane (DOUBLE) symbol, and a prize symbol of \$100 (ONE HUN) appears in the “prize” area under that Double Candy Cane (DOUBLE) symbol, on a single ticket, shall be entitled to a prize of \$200.

(v) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols matches any of the “WINNING NUMBERS” play symbols and a prize symbol of \$100 (ONE HUN) appears in the “prize” area under the matching “YOUR NUMBERS” play symbol, on a single ticket, shall be entitled to a prize of \$100.

(w) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols is a Star (STAR) symbol, and a prize symbol of \$100 (ONE HUN) appears

in the “prize” area under that Star (STAR) symbol, on a single ticket, shall be entitled to a prize of \$100.

(x) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols is a Double Candy Cane (DOUBLE) symbol, and a prize symbol of \$50⁰⁰ (FIFTY) appears in the “prize” area under that Double Candy Cane (DOUBLE) symbol, on a single ticket, shall be entitled to a prize of \$100.

(y) Holders of tickets upon which a Money (MONEY) symbol appears in the “BONUS” area, and a prize symbol of \$100 (ONE HUN) appears in the “prize” area under that Money (MONEY) symbol, on a single ticket, shall be entitled to a prize of \$100.

(z) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols matches any of the “WINNING NUMBERS” play symbols and a prize symbol of \$50⁰⁰ (FIFTY) appears in the “prize” area under the matching “YOUR NUMBERS” play symbol, on a single ticket, shall be entitled to a prize of \$50.

(aa) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols is a Star (STAR) symbol, and a prize symbol of \$50⁰⁰ (FIFTY) appears in the “prize” area under that Star (STAR) symbol, on a single ticket, shall be entitled to a prize of \$50.

(bb) Holders of tickets upon which a Money (MONEY) symbol appears in the “BONUS” area, and a prize symbol of \$50⁰⁰ (FIFTY) appears in the “prize” area under that Money (MONEY) symbol, on a single ticket, shall be entitled to a prize of \$50.

(cc) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols matches any of the “WINNING NUMBERS” play symbols and a prize symbol of \$40⁰⁰ (FORTY) appears in the “prize” area under the matching “YOUR NUMBERS” play symbol, on a single ticket, shall be entitled to a prize of \$40.

(dd) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols is a Star (STAR) symbol, and a prize symbol of \$40⁰⁰ (FORTY) appears in the “prize” area under that Star (STAR) symbol, on a single ticket, shall be entitled to a prize of \$40.

(ee) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols is a Double Candy Cane (DOUBLE) symbol, and a prize symbol of \$20⁰⁰ (TWENTY) appears in the “prize” area under that Double Candy Cane (DOUBLE) symbol, on a single ticket, shall be entitled to a prize of \$40.

(ff) Holders of tickets upon which a Money (MONEY) symbol appears in the “BONUS” area, and a prize symbol of \$40⁰⁰ (FORTY) appears in the “prize” area under that Money (MONEY) symbol, on a single ticket, shall be entitled to a prize of \$40.

(gg) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols matches any of the “WINNING NUMBERS” play symbols and a prize symbol

of \$20⁰⁰ (TWENTY) appears in the “prize” area under the matching “YOUR NUMBERS” play symbol, on a single ticket, shall be entitled to a prize of \$20.

(hh) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols is a Star (STAR) symbol, and a prize symbol of \$20⁰⁰ (TWENTY) appears in the “prize” area under that Star (STAR) symbol, on a single ticket, shall be entitled to a prize of \$20.

(ii) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols is a Double Candy Cane (DOUBLE) symbol, and a prize symbol of \$10⁰⁰ (TEN DOL) appears in the “prize” area under that Double Candy Cane (DOUBLE) symbol, on a single ticket, shall be entitled to a prize of \$20.

(jj) Holders of tickets upon which a Money (MONEY) symbol appears in the “BONUS” area, and a prize symbol of \$20⁰⁰ (TWENTY) appears in the “prize” area under that Money (MONEY) symbol, on a single ticket, shall be entitled to a prize of \$20.

(kk) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols matches any of the “WINNING NUMBERS” play symbols and a prize symbol of \$15⁰⁰ (FIFTN) appears in the “prize” area under the matching “YOUR NUMBERS” play symbol, on a single ticket, shall be entitled to a prize of \$15.

(ll) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols is a Star (STAR) symbol, and a prize symbol of \$15⁰⁰ (FIFTN) appears in the “prize” area under that Star (STAR) symbol, on a single ticket, shall be entitled to a prize of \$15.

(mm) Holders of tickets upon which a Money (MONEY) symbol appears in the “BONUS” area, and a prize symbol of \$15⁰⁰ (FIFTN) appears in the “prize” area under that Money (MONEY) symbol, on a single ticket, shall be entitled to a prize of \$15.

(nn) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols matches any of the “WINNING NUMBERS” play symbols and a prize symbol of \$10⁰⁰ (TEN DOL) appears in the “prize” area under the matching “YOUR NUMBERS” play symbol, on a single ticket, shall be entitled to a prize of \$10.

(oo) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols is a Star (STAR) symbol, and a prize symbol of \$10⁰⁰ (TEN DOL) appears in the “prize” area under that Star (STAR) symbol, on a single ticket, shall be entitled to a prize of \$10.

(pp) Holders of tickets upon which a Money (MONEY) symbol appears in the “BONUS” area, and a prize symbol of \$10⁰⁰ (TEN DOL) appears in the “prize” area under that Money (MONEY) symbol, on a single ticket, shall be entitled to a prize of \$10.

9. *Number and Description of Prizes and Approximate Odds:* The following table sets forth the approximate number of winners, amounts of prizes, and approximate odds of winning:

<i>When Any Of Your Numbers Match Any Winning Number, Win Prize Shown Under The Matching Number. Win With:</i>	<i>Bonus:</i>	<i>Win:</i>	<i>Approximate Odds Are 1 In:</i>	<i>Approximate No. Of Winners Per 6,600,000 Tickets</i>
\$10 w/ STAR	\$10 w/ BONUS	\$10	20	330,000
\$10		\$10	15	440,000
		\$10	20	330,000
\$15 w/ STAR	\$15 w/ BONUS	\$15	60	110,000
		\$15	30	220,000

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<i>When Any Of Your Numbers Match Any Winning Number, Win Prize Shown Under The Matching Number. Win With:</i>	<i>Bonus:</i>	<i>Win:</i>	<i>Approximate Odds Are 1 In:</i>	<i>Approximate No. Of Winners Per 6,600,000 Tickets</i>
\$15		\$15	60	110,000
\$10 × 2		\$20	600	11,000
	\$20 w/ BONUS	\$20	200	33,000
\$10 w/ DOUBLE CANDY CANE		\$20	60	110,000
\$20 w/ STAR		\$20	120	55,000
\$20		\$20	600	11,000
\$10 × 4		\$40	600	11,000
\$20 × 2		\$40	600	11,000
\$10 w/ DOUBLE CANDY CANE	\$20 w/ BONUS	\$40	300	22,000
(\$10 w/ DOUBLE CANDY CANE) × 2		\$40	200	33,000
\$20 w/ DOUBLE CANDY CANE		\$40	600	11,000
\$40 w/ STAR		\$40	600	11,000
\$40		\$40	600	11,000
\$10 × 5		\$50	600	11,000
\$10 × 3	\$20 w/ BONUS	\$50	300	22,000
(\$10 w/ DOUBLE CANDY CANE) × 2	\$10 w/ BONUS	\$50	200	33,000
\$50 w/ STAR		\$50	600	11,000
\$50		\$50	600	11,000
\$10 × 10		\$100	600	11,000
\$20 × 5		\$100	600	11,000
(\$10 w/ STAR) × 5	\$50 w/ BONUS	\$100	600	11,000
\$50 w/ DOUBLE CANDY CANE		\$100	600	11,000
\$100 w/ STAR		\$100	600	11,000
\$100		\$100	600	11,000
TREE w/ ((\$40 × 5) + (\$20 × 10))		\$400	4,000	1,650
TREE w/ ((\$50 × 5) + (\$15 × 10))		\$400	4,000	1,650
\$100 × 4		\$400	24,000	275
\$50 × 8		\$400	24,000	275
(\$20 w/ DOUBLE CANDY CANE) × 9	\$40 w/ BONUS	\$400	12,000	550
(\$100 w/ DOUBLE CANDY CANE) × 2		\$400	12,000	550
(\$100 w/ STAR) × 3	\$100 w/ BONUS	\$400	12,000	550
(\$40 w/ STAR) × 10		\$400	12,000	550
\$400 w/ STAR		\$400	24,000	275
\$400		\$400	24,000	275
TREE w/ ((\$40 × 10) + (\$20 × 5))		\$500	12,000	550
TREE w/ ((\$100 × 3) + (\$50 × 2) + (\$10 × 10))		\$500	12,000	550
TREE w/ ((\$40 × 5) + (\$20 × 10))	\$100 w/ BONUS	\$500	6,000	1,100
(\$100 w/ DOUBLE CANDY CANE) × 2	\$100 w/ BONUS	\$500	24,000	275
(\$100 w/ STAR) × 5		\$500	24,000	275
\$500 w/ STAR		\$500	24,000	275
\$500		\$500	24,000	275
TREE w/ ((\$100 × 5) + (\$50 × 10))		\$1,000	12,000	550
TREE w/ ((\$100 × 6) + (\$50 × 4) + (\$40 × 5))		\$1,000	24,000	275
TREE w/ ((\$40 × 10) + (\$20 × 5))	\$500 w/ BONUS	\$1,000	12,000	550
\$100 × 10		\$1,000	24,000	275
(\$100 w/ STAR) × 5	\$500 w/ BONUS	\$1,000	24,000	275
\$500 w/ DOUBLE CANDY CANE		\$1,000	24,000	275
\$1,000 w/ STAR		\$1,000	24,000	275
\$1,000		\$1,000	24,000	275
TREE w/ ((\$1,000 × 5) + (\$500 × 10))		\$10,000	1,320,000	5
\$1,000 × 10		\$10,000	1,320,000	5
\$10,000 w/ STAR		\$10,000	1,320,000	5
\$10,000		\$10,000	1,320,000	5
\$10,000 × 3		\$30,000	1,320,000	5
\$30,000 w/ STAR		\$30,000	1,320,000	5
\$30,000		\$30,000	1,320,000	5
\$300,000		\$300,000	660,000	10

Reveal a "STAR" (STAR) symbol, win prize shown under that symbol automatically.

Reveal a "DOUBLE CANDY CANE" (DOUBLE) symbol, win double the prize shown under that symbol.

Reveal a "TREE" (WINALL) symbol, win all 15 prizes shown!

BONUS: Reveal a "MONEY" (MONEY) symbol, win prize shown under that symbol. Bonus is played separately.

Prizes, including top prizes, are subject to availability at the time of purchase.

10. *Second-Chance Drawings*: Pennsylvania Lottery's Secret Santa Second-Chance Drawings (hereafter, the "Drawings").

(a) *Qualifying Tickets*: Non-winning PA-1246 Merry Money '16 (\$1), PA-1245 Unwrap the Cash (\$2), PA-1244 Freezin' Greetings '16 (\$3), PA-1243 Frosty Ca\$h '16 (\$5), PA-1242 Trim the Tree '16 (\$10), and PA-1241 \$1,000,000 Snow Bank (\$20) instant lottery tickets ("Qualifying Tickets") are eligible for entry in the Drawings. In addition, PICK 2, PICK 3, PICK 4, PICK 5, Treasure Hunt, Cash 5, Match 6 lotto, Cash4Life®, Powerball®, or Mega Millions® terminal-based lottery tickets sold from October 24, 2016 through January 5, 2017, and imprinted with a Second Chance Prize Zone™ Official Entry Code ("Qualifying Tickets") are eligible for entry in the Drawings.

(b) *Participation and Entry*:

(1) Entrants must be members of the Pennsylvania Lottery VIP Players Club to participate in the Drawings. To join the VIP Players Club, visit <https://www.palottery.state.pa.us/vip-players-club/login.aspx>. Becoming a VIP Players Club member is free.

(2) To enter the Drawings, entrants must submit the identifying information from at least one instant lottery ticket or the Second Chance Prize Zone™ Official Entry Code ("Official Entry Code") from at least one terminal-based lottery ticket via the Drawings' promotional website, available at <http://www.palottery.com>, or the Pennsylvania Lottery's official mobile application during the entry period.

(3) A Qualifying Ticket may be submitted only once in the Drawings. No other method of submission will be accepted, and entries submitted using any other method, including entries mailed or hand-delivered to the Pennsylvania Lottery, are not valid and will be disqualified.

(4) Each entry must be complete and the information supplied by the entrant must be accurate. Incomplete entries cannot be submitted.

(5) Only one claimant per entry allowed.

(6) Entrants must be 18 years of age or older.

(7) Players may submit an unlimited number of Qualifying Tickets in the Drawings.

(c) *Drawings Description*.

(1) The Drawings will consist of two drawings and a virtual non-prize-determinative holiday-themed game that will reveal the number of entries the entrant receives by entering a Qualifying Ticket.

(2) *Drawings*.

(i) The Lottery will conduct a total of two drawings. The drawings will consist of a "Secret Santa Drawing" and a "Not So Secret Drawing". A Qualifying Ticket may only be entered into one of the drawings. The Entrant must choose which drawing to enter. Once an entry has been submitted it cannot be withdrawn or changed. All time references are Eastern Prevailing Time.

(ii) All entries received after 11:59:59 p.m. October 23, 2016, through 11:59:59 p.m. January 5, 2017 will be entered into one of the drawings as selected by the entrant pursuant to section 10(c)(2)(i) above, held between January 6, 2017 and January 17, 2017.

(3) The entry periods for each drawing will be posted to the Pennsylvania Lottery's publicly accessible website.

(4) Each entrant will have the opportunity to play a virtual non-prize-determinative holiday-themed game that will reveal the number of entries the entrant receives by entering a Qualifying Ticket. Each instant lottery ticket will have a predetermined ticket file assigned at the time the ticket is printed that will determine the outcome of the non-prize-determinative game play.

(5) The number of entries an entrant will receive for a drawing is determined by the purchase price of the terminal-based ticket entered. An entrant will receive one entry for each \$0.50 in purchase price of the terminal-based ticket submitted. For example, an entrant who enters the Official Entry Code from a terminal-based ticket with a purchase price of \$0.50 will receive one entry into the Drawings. Similarly, an entrant who enters the Official Entry Code from a Qualifying Ticket with a purchase price of \$2.00 will receive four entries into the Drawings.

(6) The respective purchase prices and corresponding number of entries for Qualifying Tickets for the instant lottery tickets are as follows: PA-1246 Merry Money '16 (\$1) = 2 entries; PA-1245 Unwrap the Cash (\$2) = 4 entries; PA-1244 Freezin' Greetings '16 (\$3) = 6 entries; PA-1243 Frosty Ca\$h '16 (\$5) = 10 entries; PA-1242 Trim the Tree '16 (\$10) = 20 entries; and PA-1241 \$1,000,000 Snow Bank (\$20) = 40 entries.

(7) Players may review prizes won and their entries for the Drawings via the Drawings' promotional website.

(d) *Prizes Available to be Won, Determination of Winners, and Odds of Winning*.

(1) The prize entitlements described below are subject to all restrictions and limitations described in section 10(e), or mentioned anywhere else in these rules.

(2) The Lottery will conduct two drawings from among all the entries received for each of the drawings, and during the applicable entry period(s), as described in section 10(c).

(3) *Secret Santa Drawing*: The first through the fifth entries selected from the total number of entries awarded in the Secret Santa Drawing will be winning entries, and the entrants who submitted those winning entries shall each be entitled to a prize of \$100,000. This prize will be paid as a one-time, lump-sum cash payment.

(4) *Not So Secret Drawing*:

(i) The first entry selected from the total number of entries awarded in the Not So Secret Drawing will be a winning entry, and the entrant who submitted the winning entry shall be entitled to a prize of \$100,000. This prize will be paid as a one-time, lump-sum cash payment.

(ii) The second and the third entries selected from the total number of entries awarded in the Not So Secret Drawing will be winning entries, and the entrants who submitted those winning entries shall each be entitled to a prize of \$50,000.

(iii) The fourth through the thirteenth entries selected from the total number of entries awarded in the Not So Secret Drawing will be winning entries, and the entrants who submitted those winning entries shall each be entitled to a prize of \$10,000.

(5) The number of winning entries to be selected for each drawing will be posted to the Pennsylvania Lottery's publicly accessible website.

(6) The odds of winning a prize in either of the drawings depends upon the number of entries received for each of the drawings.

(7) A computer-generated randomizer will be used to select the winning entries for the Drawings.

(e) *Drawings Restrictions:*

(1) To be eligible to participate in the Drawings, entrants must have complied with the requirements of these rules.

(2) The Lottery is not responsible for late, lost or misdirected entries not entered into the Drawings. The Lottery is not responsible for entries that are not entered into the Drawings because of incompatible cellular telephones or internet browsers, mobile lottery application failure, or other technical issues. If a Drawings entry is selected as a winner and rejected during or following either of the drawings, the Lottery will select another entry to replace the rejected entry in accordance with these rules and Lottery procedure.

(3) If any discrepancy exists between these rules and any material describing the Drawings, these rules shall govern.

(4) Employees of the Pennsylvania Lottery, MARC Advertising, Scientific Games International Inc., MDI Entertainment, LLC, and their subcontractors, or a spouse, child, brother, sister or parent residing as a member of the same household in the principal place of residence of any such person are not eligible to participate in the Drawings. Offer void where prohibited or restricted.

(5) The Pennsylvania Lottery reserves the right, in its sole discretion, to cancel or suspend the Drawings and change these rules if the Drawings cannot be conducted as planned due to errors in these rules or advertising, unauthorized intervention, tampering, fraud, technical errors, viruses, worms, bugs, or any other cause beyond the control of the Pennsylvania Lottery that, in the Pennsylvania Lottery's sole judgment, could corrupt or impair the administration, security, fairness, integrity, or proper conduct of the Drawings.

(6) All entries shall be subject to verification by the Pennsylvania Lottery.

(7) The Pennsylvania Lottery reserves the right, in its sole discretion, to disqualify an entrant found to be tampering with the operation of the Drawings or to be acting in violation of these rules or applicable law.

(8) The time frame for the drawings to be conducted, as stated in section 10(c)(2), as well as the announcement of winners on the Pennsylvania Lottery's publicly accessible website, are subject to change based on the number of entries received for any given drawing. Entrants should check the Pennsylvania Lottery's publicly accessible website after the entry periods have closed for up to date information.

(9) The Drawings are governed by the laws of the Commonwealth of Pennsylvania. Applicable laws and regulations apply.

(10) Prizes must be claimed within 1 year of the drawing date of the drawing in which the prize was won. If no claim is made within 1 year of the drawing date of the drawing in which the prize was won, the right of an entrant to claim the prize won, if any, will expire and the prize money will be paid into the State Lottery Fund and used for purposes provided by statute.

(11) Final determination of winners will be made by the Secretary, whose judgment will be final and binding.

(12) The payment of a prize awarded in the Drawings to a person who dies before receiving the prize shall be

paid according to 61 Pa. Code § 811.16 (relating to prizes payable after death of a prize winner).

(13) A winner is responsible for all taxes arising from or in connection with any prize won.

(14) A player may only win the prize for which the player is first selected in the Drawings. Subsequent entries, from the same individual, selected in the Drawings will be disqualified and a replacement entry will be selected.

(15) Prizes are not transferrable.

(16) Other restrictions may apply.

11. *Retailer Incentive Awards:* The Lottery may conduct a separate Retailer Incentive Program for retailers who sell Pennsylvania Trim the Tree '16 instant lottery game tickets.

12. *Retailer Bonus:* The Lottery may offer a retailer bonus in connection with the sale of Pennsylvania instant lottery game tickets. If a retailer bonus is offered, a Lottery retailer shall be eligible for a bonus as described in this section. Lottery retailers who sell a winning ticket that entitles the ticket holder to a prize, either payable in a single installment or having a guaranteed minimum payout, of at least \$100,000 and not exceeding \$500,000 shall be paid a bonus of \$500. Lottery retailers who sell a winning ticket that entitles the ticket holder to a prize, either payable in a single installment or having a guaranteed minimum payout, of at least \$500,001 and not exceeding \$1,000,000 shall be paid a bonus of \$5,000. Lottery retailers who sell a winning ticket that entitles the ticket holder to a prize, either payable in a single installment or having a guaranteed minimum payout, of at least \$1,000,001 and not exceeding \$10,000,000 shall be paid a bonus of \$10,000. A Lottery retailer is entitled only to the largest bonus for which he qualifies on a winning ticket. A bonus will be initiated for payment after the instant ticket is claimed and validated. A bonus will not be awarded to a Lottery retailer that sells a non-winning Pennsylvania Lottery instant ticket used to enter a Pennsylvania Lottery second-chance drawing or promotion that is subsequently selected to win a prize.

13. *Unclaimed Prize Money:* For a period of 1 year from the announced close of Pennsylvania Trim the Tree '16, prize money from winning Pennsylvania Trim the Tree '16 instant lottery game tickets will be retained by the Secretary for payment to the persons entitled thereto. If no claim is made within 1 year of the announced close of the Pennsylvania Trim the Tree '16 instant lottery game, the right of a ticket holder to claim the prize represented by the ticket, if any, will expire and the prize money will be paid into the State Lottery Fund and used for purposes provided for by statute.

14. *Governing Law:* In purchasing a ticket, the customer agrees to comply with and abide by the State Lottery Law (72 P.S. §§ 3761-101—3761-314), 61 Pa. Code Part V (relating to State Lotteries) and the provisions contained in this notice.

15. *Termination of the Game:* The Secretary may announce a termination date, after which no further tickets from this game may be sold. The announcement will be disseminated through media used to advertise or promote Pennsylvania Trim the Tree '16 or through normal communications methods.

EILEEN H. McNULTY,
Secretary

[Pa.B. Doc. No. 16-1823. Filed for public inspection October 21, 2016, 9:00 a.m.]

Pennsylvania Unwrap the Cash Instant Lottery Game

Under the State Lottery Law (72 P.S. §§ 3761-101—3761-314) and 61 Pa. Code § 819.203 (relating to notice of instant game rules), the Secretary of Revenue hereby provides public notice of the rules for the following instant lottery game:

1. *Name:* The name of the game is Pennsylvania Unwrap the Cash.

2. *Price:* The price of a Pennsylvania Unwrap the Cash instant lottery game ticket is \$2.

3. *Play Symbols:* Each Pennsylvania Unwrap the Cash instant lottery game ticket will contain one play area featuring a “WINNING NUMBERS” area and a “YOUR NUMBERS” area. The play symbols and their captions located in the “WINNING NUMBERS” area are: 1 (ONE), 2 (TWO), 3 (THREE), 4 (FOUR), 5 (FIVE), 6 (SIX), 7 (SEVEN), 8 (EIGHT), 9 (NINE), 10 (TEN), 11 (ELEVN), 12 (TWLV), 13 (THRTN), 14 (FORTN), 15 (FIFTN), 16 (SIXTN), 17 (SVNTN), 18 (EGHTN) and 19 (NINTN). The play symbols and their captions located in the “YOUR NUMBERS” area are: 1 (ONE), 2 (TWO), 3 (THREE), 4 (FOUR), 5 (FIVE), 6 (SIX), 7 (SEVEN), 8 (EIGHT), 9 (NINE), 10 (TEN), 11 (ELEVN), 12 (TWLV), 13 (THRTN), 14 (FORTN), 15 (FIFTN), 16 (SIXTN), 17 (SVNTN), 18 (EGHTN), 19 (NINTN), Gift (GIFT) symbol and a \$20 Bill (WIN20) symbol.

4. *Prize Symbols:* The prize symbols and their captions located in the “prize” areas are: FREE (TICKET), \$2⁰⁰ (TWO DOL), \$4⁰⁰ (FOR DOL), \$5⁰⁰ (FIV DOL), \$10⁰⁰ (TEN DOL), \$20⁰⁰ (TWENTY), \$25⁰⁰ (TWY FIV), \$40⁰⁰ (FORTY), \$50⁰⁰ (FIFTY), \$100 (ONE HUN), \$200 (TWO HUN), \$500 (FIV HUN), \$1,000 (ONE THO) and \$50,000 (FTY THO).

5. *Prizes:* The prizes that can be won in this game are: Free \$2 Ticket, \$2, \$4, \$5, \$10, \$20, \$25, \$40, \$50, \$100, \$200, \$500, \$1,000 and \$50,000. The player can win up to 10 times on a ticket.

6. *Second-Chance Drawings:* The Pennsylvania Lottery will conduct a Secret Santa Second-Chance Drawing for which non-winning Pennsylvania Unwrap the Cash instant lottery game tickets may be eligible as provided for in section 10.

7. *Approximate Number of Tickets Printed For the Game:* Approximately 12,600,000 tickets will be printed for the Pennsylvania Unwrap the Cash instant lottery game.

8. Determination of Prize Winners:

(a) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols matches either of the “WINNING NUMBERS” play symbols and a prize symbol of \$50,000 (FTY THO) appears in the “prize” area under the matching “YOUR NUMBERS” play symbol, on a single ticket, shall be entitled to a prize of \$50,000.

(b) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols matches either of the “WINNING NUMBERS” play symbols and a prize symbol of \$1,000 (ONE THO) appears in the “prize” area under the matching “YOUR NUMBERS” play symbol, on a single ticket, shall be entitled to a prize of \$1,000.

(c) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols is a Gift (GIFT) symbol and a prize symbol of \$1,000 (ONE THO) appears in the “prize”

area under that Gift (GIFT) symbol, on a single ticket, shall be entitled to a prize of \$1,000.

(d) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols matches either of the “WINNING NUMBERS” play symbols and a prize symbol of \$500 (FIV HUN) appears in the “prize” area under the matching “YOUR NUMBERS” play symbol, on a single ticket, shall be entitled to a prize of \$500.

(e) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols is a Gift (GIFT) symbol and a prize symbol of \$500 (FIV HUN) appears in the “prize” area under that Gift (GIFT) symbol, on a single ticket, shall be entitled to a prize of \$500.

(f) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols matches either of the “WINNING NUMBERS” play symbols and a prize symbol of \$200 (TWO HUN) appears in the “prize” area under the matching “YOUR NUMBERS” play symbol, on a single ticket, shall be entitled to a prize of \$200.

(g) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols is a Gift (GIFT) symbol and a prize symbol of \$200 (TWO HUN) appears in the “prize” area under that Gift (GIFT) symbol, on a single ticket, shall be entitled to a prize of \$200.

(h) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols matches either of the “WINNING NUMBERS” play symbols and a prize symbol of \$100 (ONE HUN) appears in the “prize” area under the matching “YOUR NUMBERS” play symbol, on a single ticket, shall be entitled to a prize of \$100.

(i) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols is a Gift (GIFT) symbol and a prize symbol of \$100 (ONE HUN) appears in the “prize” area under that Gift (GIFT) symbol, on a single ticket, shall be entitled to a prize of \$100.

(j) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols matches either of the “WINNING NUMBERS” play symbols and a prize symbol of \$50⁰⁰ (FIFTY) appears in the “prize” area under the matching “YOUR NUMBERS” play symbol, on a single ticket, shall be entitled to a prize of \$50.

(k) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols is a Gift (GIFT) symbol and a prize symbol of \$50⁰⁰ (FIFTY) appears in the “prize” area under that Gift (GIFT) symbol, on a single ticket, shall be entitled to a prize of \$50.

(l) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols matches either of the “WINNING NUMBERS” play symbols and a prize symbol of \$40⁰⁰ (FORTY) appears in the “prize” area under the matching “YOUR NUMBERS” play symbol, on a single ticket, shall be entitled to a prize of \$40.

(m) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols is a Gift (GIFT) symbol and a prize symbol of \$40⁰⁰ (FORTY) appears in the “prize” area under that Gift (GIFT) symbol, on a single ticket, shall be entitled to a prize of \$40.

(n) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols matches either of the “WINNING NUMBERS” play symbols and a prize symbol of \$25⁰⁰ (TWY FIV) appears in the “prize” area under the matching “YOUR NUMBERS” play symbol, on a single ticket, shall be entitled to a prize of \$25.

(o) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols is a Gift (GIFT) symbol

and a prize symbol of \$25⁰⁰ (TWY FIV) appears in the “prize” area under that Gift (GIFT) symbol, on a single ticket, shall be entitled to a prize of \$25.

(p) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols matches either of the “WINNING NUMBERS” play symbols and a prize symbol of \$20⁰⁰ (TWENTY) appears in the “prize” area under the matching “YOUR NUMBERS” play symbol, on a single ticket, shall be entitled to a prize of \$20.

(q) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols is a Gift (GIFT) symbol and a prize symbol of \$20⁰⁰ (TWENTY) appears in the “prize” area under that Gift (GIFT) symbol, on a single ticket, shall be entitled to a prize of \$20.

(r) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols is a \$20 Bill (WIN20) symbol and a prize symbol of \$20⁰⁰ (TWENTY) appears in the “prize” area under that \$20 Bill (WIN20) symbol, on a single ticket, shall be entitled to a prize of \$20.

(s) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols matches either of the “WINNING NUMBERS” play symbols and a prize symbol of \$10⁰⁰ (TEN DOL) appears in the “prize” area under the matching “YOUR NUMBERS” play symbol, on a single ticket, shall be entitled to a prize of \$10.

(t) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols is a Gift (GIFT) symbol and a prize symbol of \$10⁰⁰ (TEN DOL) appears in the “prize” area under that Gift (GIFT) symbol, on a single ticket, shall be entitled to a prize of \$10.

(u) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols matches either of the “WINNING NUMBERS” play symbols and a prize symbol of \$5⁰⁰ (FIV DOL) appears in the “prize” area under the matching “YOUR NUMBERS” play symbol, on a single ticket, shall be entitled to a prize of \$5.

(v) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols is a Gift (GIFT) symbol

and a prize symbol of \$5⁰⁰ (FIV DOL) appears in the “prize” area under that Gift (GIFT) symbol, on a single ticket, shall be entitled to a prize of \$5.

(w) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols matches either of the “WINNING NUMBERS” play symbols and a prize symbol of \$4⁰⁰ (FOR DOL) appears in the “prize” area under the matching “YOUR NUMBERS” play symbol, on a single ticket, shall be entitled to a prize of \$4.

(x) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols is a Gift (GIFT) symbol and a prize symbol of \$4⁰⁰ (FOR DOL) appears in the “prize” area under that Gift (GIFT) symbol, on a single ticket, shall be entitled to a prize of \$4.

(y) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols matches either of the “WINNING NUMBERS” play symbols and a prize symbol of \$2⁰⁰ (TWO DOL) appears in the “prize” area under the matching “YOUR NUMBERS” play symbol, on a single ticket, shall be entitled to a prize of \$2.

(z) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols is a Gift (GIFT) symbol and a prize symbol of \$2⁰⁰ (TWO DOL) appears in the “prize” area under that Gift (GIFT) symbol, on a single ticket, shall be entitled to a prize of \$2.

(aa) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols matches either of the “WINNING NUMBERS” play symbols and a prize symbol of FREE (TICKET) appears in the “prize” area under the matching “YOUR NUMBERS” play symbol, on a single ticket, shall be entitled to a prize of one Pennsylvania Unwrap the Cash instant game ticket or one Pennsylvania Lottery instant game ticket of equivalent sale price which is currently on sale.

9. *Number and Description of Prizes and Approximate Odds:* The following table sets forth the approximate number of winners, amounts of prizes, and approximate odds of winning:

When Any Of Your Numbers Match Either Winning Number, Win Prize Shown Under The Matching Number. Win With:

<i>Win With:</i>	<i>Win:</i>	<i>Approximate Odds Are 1 In:</i>	<i>Approximate No. Of Winners Per 12,600,000 Tickets</i>
FREE	FREE \$2 TICKET	7.89	1,596,000
\$2 w/ GIFT	\$2	30	420,000
\$2	\$2	150	84,000
\$2 x 2	\$4	500	25,200
\$4 w/ GIFT	\$4	300	42,000
\$4	\$4	750	16,800
\$5 w/ GIFT	\$5	150	84,000
\$5	\$5	300	42,000
\$2 x 5	\$10	1,500	8,400
\$5 x 2	\$10	1,500	8,400
\$10 w/ GIFT	\$10	500	25,200
\$10	\$10	1,500	8,400
\$5 x 4	\$20	750	16,800
\$10 x 2	\$20	500	25,200
\$20 w/ \$20 BILL	\$20	50	252,000
\$20 w/ GIFT	\$20	375	33,600
\$20	\$20	1,500	8,400
\$5 x 5	\$25	1,500	8,400
(\$20 w/ \$20 BILL) + \$5	\$25	1,500	8,400
(\$5 w/ GIFT) x 5	\$25	1,500	8,400
\$25 w/ GIFT	\$25	1,500	8,400

When Any Of Your Numbers
Match Either Winning
Number; Win Prize Shown
Under The Matching Number.
Win With:

Win:	Approximate Odds Are 1 In:	Approximate No. Of Winners Per 12,600,000 Tickets	
\$25	\$25	1,500	8,400
\$4 × 10	\$40	12,000	1,050
\$5 × 8	\$40	12,000	1,050
\$10 × 4	\$40	12,000	1,050
\$20 × 2	\$40	12,000	1,050
(\$20 w/ \$20 BILL) + (\$4 × 5)	\$40	2,400	5,250
(\$20 w/ \$20 BILL) + (\$5 × 4)	\$40	2,400	5,250
(\$20 w/ \$20 BILL) × 2	\$40	571.43	22,050
(\$10 w/ GIFT) × 4	\$40	2,400	5,250
\$40 w/ GIFT	\$40	2,400	5,250
\$40	\$40	12,000	1,050
\$10 × 10	\$100	12,000	1,050
\$25 × 4	\$100	12,000	1,050
\$50 × 2	\$100	12,000	1,050
(\$20 w/ \$20 BILL) × 5	\$100	12,000	1,050
(\$10 w/ GIFT) × 10	\$100	12,000	1,050
\$100 w/ GIFT	\$100	12,000	1,050
\$100	\$100	12,000	1,050
\$40 × 5	\$200	24,000	525
\$50 × 4	\$200	24,000	525
\$100 × 2	\$200	24,000	525
(\$20 w/ \$20 BILL) × 10	\$200	24,000	525
(\$20 w/ GIFT) × 10	\$200	24,000	525
\$200 w/ GIFT	\$200	24,000	525
\$200	\$200	24,000	525
\$100 × 5	\$500	252,000	50
(\$50 w/ GIFT) × 10	\$500	126,000	100
\$500 w/ GIFT	\$500	126,000	100
\$500	\$500	252,000	50
\$100 × 10	\$1,000	252,000	50
\$1,000 w/ GIFT	\$1,000	252,000	50
\$1,000	\$1,000	252,000	50
\$50,000	\$50,000	1,260,000	10

Reveal a "GIFT" (GIFT) symbol, win prize shown under that symbol automatically.

Reveal a "\$20 BILL" (WIN20) symbol, win \$20 instantly!

Prizes, including top prizes, are subject to availability at the time of purchase.

10. *Second-chance Drawings:* Pennsylvania Lottery's Secret Santa Second-Chance Drawings (hereafter, the "Drawings").

(a) *Qualifying Tickets:* Non-winning PA-1246 Merry Money '16 (\$1), PA-1245 Unwrap the Cash (\$2), PA-1244 Freezin' Greetings '16 (\$3), PA-1243 Frosty Ca\$h '16 (\$5), PA-1242 Trim the Tree '16 (\$10), and PA-1241 \$1,000,000 Snow Bank (\$20) instant lottery tickets ("Qualifying Tickets") are eligible for entry in the Drawings. In addition, PICK 2, PICK 3, PICK 4, PICK 5, Treasure Hunt, Cash 5, Match 6 lotto, Cash4Life®, Powerball®, or Mega Millions® terminal-based lottery tickets sold from October 24, 2016 through January 5, 2017, and imprinted with a Second Chance Prize Zone™ Official Entry Code ("Qualifying Tickets") are eligible for entry in the Drawings.

(b) *Participation and Entry:*

(1) Entrants must be members of the Pennsylvania Lottery VIP Players Club to participate in the Drawings. To join the VIP Players Club, visit <https://www.palottery.state.pa.us/vip-players-club/login.aspx>. Becoming a VIP Players Club member is free.

(2) To enter the Drawings, entrants must submit the identifying information from at least one instant lottery ticket or the Second Chance Prize Zone™ Official Entry Code ("Official Entry Code") from at least one terminal-based lottery ticket via the Drawings' promotional website, available at <http://www.palottery.com>, or the Pennsylvania Lottery's official mobile application during the entry period.

(3) A Qualifying Ticket may be submitted only once in the Drawings. No other method of submission will be accepted, and entries submitted using any other method, including entries mailed or hand-delivered to the Pennsylvania Lottery, are not valid and will be disqualified.

(4) Each entry must be complete and the information supplied by the entrant must be accurate. Incomplete entries cannot be submitted.

(5) Only one claimant per entry allowed.

(6) Entrants must be 18 years of age or older.

(7) Players may submit an unlimited number of Qualifying Tickets in the Drawings.

(c) *Drawings Description.*

(1) The Drawings will consist of two drawings and a virtual non-prize-determinative holiday-themed game

that will reveal the number of entries the entrant receives by entering a Qualifying Ticket.

(2) *Drawings.*

(i) The Lottery will conduct a total of two drawings. The drawings will consist of a "Secret Santa Drawing" and a "Not So Secret Drawing". A Qualifying Ticket may only be entered into one of the drawings. The Entrant must choose which drawing to enter. Once an entry has been submitted it cannot be withdrawn or changed. All time references are Eastern Prevailing Time.

(ii) All entries received after 11:59:59 p.m. October 23, 2016, through 11:59:59 p.m. January 5, 2017 will be entered into one of the drawings as selected by the entrant pursuant to section 10(c)(2)(i) above, held between January 6, 2017 and January 17, 2017.

(3) The entry periods for each drawing will be posted to the Pennsylvania Lottery's publicly accessible website.

(4) Each entrant will have the opportunity to play a virtual non-prize-determinative holiday-themed game that will reveal the number of entries the entrant receives by entering a Qualifying Ticket. Each instant lottery ticket will have a predetermined ticket file assigned at the time the ticket is printed that will determine the outcome of the non-prize-determinative game play.

(5) The number of entries an entrant will receive for a drawing is determined by the purchase price of the terminal-based ticket entered. An entrant will receive one entry for each \$0.50 in purchase price of the terminal-based ticket submitted. For example, an entrant who enters the Official Entry Code from a terminal-based ticket with a purchase price of \$0.50 will receive one entry into the Drawings. Similarly, an entrant who enters the Official Entry Code from a Qualifying Ticket with a purchase price of \$2⁰⁰ will receive four entries into the Drawings.

(6) The respective purchase prices and corresponding number of entries for Qualifying Tickets for the instant lottery tickets are as follows: PA-1246 Merry Money '16 (\$1) = 2 entries; PA-1245 Unwrap the Cash (\$2) = 4 entries; PA-1244 Freezin' Greetings '16 (\$3) = 6 entries; PA-1243 Frosty Ca\$h '16 (\$5) = 10 entries; PA-1242 Trim the Tree '16 (\$10) = 20 entries; and PA-1241 \$1,000,000 Snow Bank (\$20) = 40 entries.

(7) Players may review prizes won and their entries for the Drawings via the Drawings' promotional website.

(d) *Prizes Available to be Won, Determination of Winners, and Odds of Winning.*

(1) The prize entitlements described below are subject to all restrictions and limitations described in section 10(e), or mentioned anywhere else in these rules.

(2) The Lottery will conduct two drawings from among all the entries received for each of the drawings, and during the applicable entry period(s), as described in section 10(c).

(3) *Secret Santa Drawing:* The first through the fifth entries selected from the total number of entries awarded in the Secret Santa Drawing will be winning entries, and the entrants who submitted those winning entries shall each be entitled to a prize of \$100,000. This prize will be paid as a one-time, lump-sum cash payment.

(4) *Not So Secret Drawing:*

(i) The first entry selected from the total number of entries awarded in the Not So Secret Drawing will be a

winning entry, and the entrant who submitted the winning entry shall be entitled to a prize of \$100,000. This prize will be paid as a one-time, lump-sum cash payment.

(ii) The second and the third entries selected from the total number of entries awarded in the Not So Secret Drawing will be winning entries, and the entrants who submitted those winning entries shall each be entitled to a prize of \$50,000.

(iii) The fourth through the thirteenth entries selected from the total number of entries awarded in the Not So Secret Drawing will be winning entries, and the entrants who submitted those winning entries shall each be entitled to a prize of \$10,000.

(5) The number of winning entries to be selected for each drawing will be posted to the Pennsylvania Lottery's publicly accessible website.

(6) The odds of winning a prize in either of the drawings depends upon the number of entries received for each of the drawings.

(7) A computer-generated randomizer will be used to select the winning entries for the Drawings.

(e) *Drawings Restrictions:*

(1) To be eligible to participate in the Drawings, entrants must have complied with the requirements of these rules.

(2) The Lottery is not responsible for late, lost or misdirected entries not entered into the Drawings. The Lottery is not responsible for entries that are not entered into the Drawings because of incompatible cellular telephones or internet browsers, mobile lottery application failure, or other technical issues. If a Drawings entry is selected as a winner and rejected during or following either of the drawings, the Lottery will select another entry to replace the rejected entry in accordance with these rules and Lottery procedure.

(3) If any discrepancy exists between these rules and any material describing the Drawings, these rules shall govern.

(4) Employees of the Pennsylvania Lottery, MARC Advertising, Scientific Games International Inc., MDI Entertainment, LLC, and their subcontractors, or a spouse, child, brother, sister or parent residing as a member of the same household in the principal place of residence of any such person are not eligible to participate in the Drawings. Offer void where prohibited or restricted.

(5) The Pennsylvania Lottery reserves the right, in its sole discretion, to cancel or suspend the Drawings and change these rules if the Drawings cannot be conducted as planned due to errors in these rules or advertising, unauthorized intervention, tampering, fraud, technical errors, viruses, worms, bugs, or any other cause beyond the control of the Pennsylvania Lottery that, in the Pennsylvania Lottery's sole judgment, could corrupt or impair the administration, security, fairness, integrity, or proper conduct of the Drawings.

(6) All entries shall be subject to verification by the Pennsylvania Lottery.

(7) The Pennsylvania Lottery reserves the right, in its sole discretion, to disqualify an entrant found to be tampering with the operation of the Drawings or to be acting in violation of these rules or applicable law.

(8) The time frame for the drawings to be conducted, as stated in section 10(c)(2), as well as the announcement of winners on the Pennsylvania Lottery's publicly accessible

website, are subject to change based on the number of entries received for any given drawing. Entrants should check the Pennsylvania Lottery's publicly accessible website after the entry periods have closed for up to date information.

(9) The Drawings are governed by the laws of the Commonwealth of Pennsylvania. Applicable laws and regulations apply.

(10) Prizes must be claimed within 1 year of the drawing date of the drawing in which the prize was won. If no claim is made within 1 year of the drawing date of the drawing in which the prize was won, the right of an entrant to claim the prize won, if any, will expire and the prize money will be paid into the State Lottery Fund and used for purposes provided by statute.

(11) Final determination of winners will be made by the Secretary, whose judgment will be final and binding.

(12) The payment of a prize awarded in the Drawings to a person who dies before receiving the prize shall be paid according to 61 Pa. Code § 811.16 (relating to prizes payable after death of a prize winner).

(13) A winner is responsible for all taxes arising from or in connection with any prize won.

(14) A player may only win the prize for which the player is first selected in the Drawings. Subsequent entries, from the same individual, selected in the Drawings will be disqualified and a replacement entry will be selected.

(15) Prizes are not transferrable.

(16) Other restrictions may apply.

11. *Retailer Incentive Awards:* The Lottery may conduct a separate Retailer Incentive Program for retailers who sell Pennsylvania Unwrap the Cash instant lottery game tickets.

12. *Retailer Bonus:* The Lottery may offer a retailer bonus in connection with the sale of Pennsylvania instant lottery game tickets. If a retailer bonus is offered, a Lottery retailer shall be eligible for a bonus as described in this section. Lottery retailers who sell a winning ticket that entitles the ticket holder to a prize, either payable in a single installment or having a guaranteed minimum payout, of at least \$100,000 and not exceeding \$500,000 shall be paid a bonus of \$500. Lottery retailers who sell a winning ticket that entitles the ticket holder to a prize, either payable in a single installment or having a guaranteed minimum payout, of at least \$500,001 and not exceeding \$1,000,000 shall be paid a bonus of \$5,000. Lottery retailers who sell a winning ticket that entitles the ticket holder to a prize, either payable in a single installment or having a guaranteed minimum payout, of at least \$1,000,001 and not exceeding \$10,000,000 shall be paid a bonus of \$10,000. A Lottery retailer is entitled only to the largest bonus for which he qualifies on a winning ticket. A bonus will be initiated for payment after the instant ticket is claimed and validated. A bonus will not be awarded to a Lottery retailer that sells a non-winning Pennsylvania Lottery instant ticket used to enter a Pennsylvania Lottery second-chance drawing or promotion that is subsequently selected to win a prize.

13. *Unclaimed Prize Money:* For a period of 1 year from the announced close of Pennsylvania Unwrap the Cash, prize money from winning Pennsylvania Unwrap the Cash instant lottery game tickets will be retained by the Secretary for payment to the persons entitled thereto. If no claim is made within 1 year of the announced close

of the Pennsylvania Unwrap the Cash instant lottery game, the right of a ticket holder to claim the prize represented by the ticket, if any, will expire and the prize money will be paid into the State Lottery Fund and used for purposes provided for by statute.

14. *Governing Law:* In purchasing a ticket, the customer agrees to comply with and abide by the State Lottery Law (72 P.S. §§ 3761-101—3761-314), 61 Pa. Code Part V (relating to State Lotteries) and the provisions contained in this notice.

15. *Termination of the Game:* The Secretary may announce a termination date, after which no further tickets from this game may be sold. The announcement will be disseminated through media used to advertise or promote Pennsylvania Unwrap the Cash or through normal communications methods.

EILEEN H. McNULTY,
Secretary

[Pa.B. Doc. No. 16-1824. Filed for public inspection October 21, 2016, 9:00 a.m.]

DEPARTMENT OF STATE

Corporation Bureau Advisory Committee Meeting

The Corporation Bureau Advisory Committee, under 15 Pa.C.S. § 155(c) (relating to disposition of funds), has scheduled a meeting for Monday, November 14, 2016, at 11 a.m. for discussion of the Bureau of Corporations and Charitable Organizations' budget. The meeting will be held in Room 303, Executive Office Conference Room, Department of State, North Office Building, 3rd Floor, Harrisburg, PA 17120. The public is invited to attend. Persons who need accommodation due to a disability and wish to attend the meeting should contact Barbara Kennedy at (717) 783-9210 so that arrangements can be made.

PEDRO A. CORTÉS,
Secretary

[Pa.B. Doc. No. 16-1825. Filed for public inspection October 21, 2016, 9:00 a.m.]

FISH AND BOAT COMMISSION

Special Regulation Redesignations

The Fish and Boat Commission (Commission) took the following actions with respect to waters subject to 58 Pa. Code Chapter 65 (relating to special fishing regulations), effective on January 1, 2017:

58 Pa. Code § 65.19. *Stocked trout waters open to year-round fishing*

The Commission removed the designation as a stocked trout water open to year-round fishing from the following waters:

County	Water
Butler	Harbar Acres Lake
Cambria	Duman Lake
Cambria	Lake Rowena

<i>County</i>	<i>Water</i>
Cumberland	Laurel Lake
Erie	East Basin Pond
Erie	Lake Pleasant
Erie	Upper Gravel Pit
Erie	West Basin Pond
Fayette	Virgin Run Lake
Fulton	Cowans Gap Lake
Jefferson	Cloe Lake
Lawrence	Bessemer Lake
McKean	Bradford City Number Three Reservoir
Potter	Lyman Run Reservoir
Westmoreland	Mammoth Lake

JOHN A. ARWAY,
Executive Director

[Pa.B. Doc. No. 16-1826. Filed for public inspection October 21, 2016, 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 (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. 16-1827. Filed for public inspection October 21, 2016, 9:00 a.m.]

HOUSING FINANCE AGENCY

Mixed Use Development Tax Credit Program

The Housing Finance Agency (Agency) is the entity designated by law for the administration of the Mixed Use Development (MUD) Tax Credit Program enacted as part of Article XIX-E of the Tax Reform Code of 1971 (72 P.S. §§ 8901-E—8911-E) to provide funding for mixed use, combined housing and commercial, developments through the sale of State tax credits. The MUD is administered by the Agency in consultation with the Department of Revenue. Funding is expected to be available for this program in July 2017.

The Agency is announcing its preliminary plan, the MUD Tax Credit Program, for procedures relating to the sale of MUD tax credits and for distribution of MUD funds available to the Commonwealth for 2017 and inviting public comment. The Agency will administer the MUD funds through the State housing trust fund established under the act of November 23, 2010 (P.L. 1035, No. 105), known as the Pennsylvania Housing and Rehabilitation Enhancement Program.

In accordance with the requirements of State law, the Agency is providing notice of the 2017 MUD Tax Credit Program and inviting public comment. The MUD Tax Credit Program is available on the Agency's web site at www.phfa.org.

Persons who would like to comment on the MUD Tax Credit Program may provide comments in writing only addressed to MUD c/o Housing Finance Agency, 211 North Front Street, Harrisburg, PA 17101. Comments on the MUD Tax Credit Program are due no later than 2 p.m. on December 5, 2016.

BRIAN A. HUDSON, Sr.,
Executive Director

[Pa.B. Doc. No. 16-1828. Filed for public inspection October 21, 2016, 9:00 a.m.]

INDEPENDENT REGULATORY REVIEW COMMISSION

Notice of Filing of Final Rulemakings

The Independent Regulatory Review Commission (Commission) received the following regulation. It is scheduled to be considered on the date noted. The Commission's public meetings are held at 333 Market Street, 14th Floor, Harrisburg, PA at 10 a.m. To obtain a copy of the regulation, interested parties should first contact the promulgating agency. If a copy cannot be obtained from the promulgating agency, the Commission will provide a copy or it can be viewed on the Commission's web site at www.irrc.state.pa.us.

<i>Reg. No.</i>	<i>Agency/Title</i>	<i>Received</i>	<i>Public Meeting</i>
16A-5623	State Real Estate Commission Seller Property Disclosure Statement	10/11/16	11/17/16

GEORGE D. BEDWICK,
Chairperson

[Pa.B. Doc. No. 16-1829. Filed for public inspection October 21, 2016, 9:00 a.m.]

INSURANCE DEPARTMENT

Application for Approval to Acquire Control of Positive Physicians Insurance Exchange

Diversus, Inc., a Delaware corporation, has filed an application to acquire control of Positive Physicians Insurance Exchange, a Pennsylvania domiciled reciprocal interinsurance exchange. The filing was received on August 1, 2016, and was made under the requirements of Article XIV of The Insurance Company Law of 1921 (40 P.S. §§ 991.1401—991.1413).

Persons wishing to comment on this acquisition are invited to submit a written statement to the Insurance Department (Department) within 30 days from the date of publication of this notice in the *Pennsylvania Bulletin*. Each written statement must include the 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 Cressinda Bybee, Company Licensing Division, Insurance Department, 1345 Strawberry Square, Harrisburg, PA 17120, fax (717) 787-8557, cbybee@pa.gov. Comments received will be part of the public record regarding the filing and will be forwarded to the applicant for appropriate response.

TERESA D. MILLER,
Insurance Commissioner

[Pa.B. Doc. No. 16-1830. Filed for public inspection October 21, 2016, 9:00 a.m.]

List of Approved Guide Source Method Vendors; Notice 2016-14

Under the authority of the Motor Vehicle Physical Damage Appraiser Act (63 P.S. §§ 851—863), the Insurance Commissioner hereby lists guide source providers approved to calculate the replacement value of total loss or unrecovered vehicles under 31 Pa. Code § 62.3(e)(1)(i) (relating to applicable standards for appraisal).

A listing of approved guide source method providers will be published annually in the *Pennsylvania Bulletin*. In the interim, an updated listing will be available on the

Insurance Department's web site at www.insurance.pa.gov. Requests for this information may also be submitted to the Insurance Department, Bureau of Consumer Services, (877) 881-6388, fax (717) 787-8585, ra-insresponse@pa.gov.

Approved Guide Source Vendors

Accurate ACV, LLC
221 East 11th Street
Kansas City, MO 64106
(816) 291-4818
www.admin@accuacv.com

Automobile Red Book (including the Older Used Car Publication)
Price Digests
9800 Metcalf Avenue
Overland Park, KS 66212
(800) 654-6776
www.pricedigests.com

CCC Information Services, Inc.
222 Merchandise Mart Plaza, Suite 900
Chicago, IL 60654-1105
(800) 621-8070
www.cccis.com

NADA Official Used Car Guide (including the Older Used Car Publication)
8400 Westpark Drive
McLean, VA 22102
(800) 544-6232
www.nada.com/b2b

Audatex
(formerly ADP Claims Solution Group, Inc.)
15030 Avenue of Science, Suite 100
San Diego, CA 92128
(800) 237-4968
www.audatex.com

Autobid, Inc.
10965 Lowell, Suite 1007
Overland Park, KS 66210
(913) 825-4800
www.autobid.com

Mitchell International, Inc.
6220 Greenwich Drive
San Diego, CA 92122
(900) 238-9111
www.mitchell.com

This document supersedes the notice published at 46 Pa.B. 6087 (September 24, 2016) and shall remain in effect until a subsequent notice is published in the *Pennsylvania Bulletin*.

TERESA D. MILLER,
Insurance Commissioner

[Pa.B. Doc. No. 16-1831. Filed for public inspection October 21, 2016, 9:00 a.m.]

Medical Care Availability and Reduction of Error Fund; Notice of and Amount of Assessment Action; Notice 2016-13

The Insurance Department Medical Care Availability and Reduction of Error Fund (MCARE), by Theodore G. Otto, III, Executive Director, under section 712 of the Medical Care Availability and Reduction of Error (MCARE) Act (40 P.S. § 1303.712) and the Settlement Agreement between MCARE and the Pennsylvania Medical Society, the Hospital and Healthsystem Association of Pennsylvania and the Pennsylvania Podiatric Medical Association, notifies all basic insurance coverage insurers and self-insured participating health care providers that the annual assessment to be levied for calendar year 2017 shall be 19% applied to the prevailing primary premium for each participating health care provider.

This action is subject to 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure).

THEODORE G. OTTO, III,
Executive Director

[Pa.B. Doc. No. 16-1832. Filed for public inspection October 21, 2016, 9:00 a.m.]

Review Procedure Hearings; Cancellation or Refusal of Insurance

The following insured has requested a hearing as authorized by the act of June 17, 1998 (P.L. 464, No. 68) (Act 68) in connection with the termination of the insured's automobile insurance policy. The hearing will be held in accordance with the requirements of Act 68; 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure); and 31 Pa. Code §§ 56.1—56.3 (relating to Special Rules of Administrative Practice and Procedure). The administrative hearing will be held in the Insurance Department's regional office in Harrisburg, PA. Failure by the appellant to appear at the scheduled hearing may result in dismissal with prejudice.

The following hearing will be held in the Administrative Hearings Office, Capitol Associates Building, Room 200, 901 North Seventh Street, Harrisburg, PA 17102.

Appeal of Seth Miller; File No. 16-115-200473; State Farm Mutual Automobile Insurance Company; Doc. No. P16-10-005; November 17, 2016, 9:30 a.m.

Parties may appear with or without counsel and offer relevant testimony and other relevant evidence, or both. Each party must bring documents, photographs, drawings, claims files, witnesses, and the like, necessary to support the party's case. A party intending to offer documents or photographs into evidence shall bring enough copies for the record and for each opposing party.

In some cases, the Insurance Commissioner (Commissioner) may order that the company reimburse an insured for the higher cost of replacement insurance coverage obtained while the appeal is pending. Reimbursement is available only when the insured is successful on appeal, and may not be ordered in all instances. If an insured wishes to seek reimbursement for the higher cost of replacement insurance, the insured must produce documentation at the hearing which will allow comparison of coverages and costs between the original policy and the replacement policy.

Following the hearing and receipt of the stenographic transcript, the Commissioner will issue a written order resolving the factual issues presented at the hearing and stating what remedial action, if any, is required. The Commissioner's Order will be sent to those persons participating in the hearing or their designated representatives. The Order of the Commissioner may be subject to judicial review by the Commonwealth Court.

Persons with a disability who wish to attend the previously-referenced administrative hearing and require an auxiliary aid, service or other accommodation to participate in the hearing, should contact Donna R. Fleischauer, Human Resources Director at (717) 705-4194.

TERESA D. MILLER,
Insurance Commissioner

[Pa.B. Doc. No. 16-1833. Filed for public inspection October 21, 2016, 9:00 a.m.]

Review Procedure Hearings under the Unfair Insurance Practices Act

The following insureds have requested a hearing as authorized by section 8 of the Unfair Insurance Practices Act (act) (40 P.S. § 1171.8) in connection with the company's termination of the insureds' homeowners policy. The hearing will be held in accordance with the requirements of the act; 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure); and 31 Pa. Code §§ 56.1—56.3 (relating to Special Rules of Administrative Practice and Procedure). The administrative hearing will be held in the Insurance Department's regional office in Harrisburg, PA. Failure by the appellants to appear at the scheduled hearing may result in dismissal with prejudice.

The following hearing will be held in the Administrative Hearings Office, Capitol Associates Building, Room 200, 901 North Seventh Street, Harrisburg, PA 17102.

Appeal of Ronald and Sylvia Long; File No. 16-115-200627; Property & Casualty Insurance Company Hartford; Doc. No. P16-10-006; November 16, 2016, 10 a.m.

Parties may appear with or without counsel and offer relevant testimony or other relevant evidence, or both. Each party must bring documents, photographs, drawings, claims files, witnesses, and the like, necessary to support the party's case. A party intending to offer documents or photographs into evidence shall bring enough copies for the record and for each opposing party.

Following the hearing and receipt of the stenographic transcript, the Insurance Commissioner (Commissioner) will issue a written order resolving the factual issues presented at the hearing and stating what remedial action, if any, is required. The Commissioner's Order will

be sent to those persons participating in the hearing or their designated representatives. The Order of the Commissioner may be subject to judicial review by the Commonwealth Court.

Persons with a disability who wish to attend the previously-referenced administrative hearing and require an auxiliary aid, service or other accommodation to participate in the hearing, should contact Donna R. Fleischauer, Human Resources Director at (717) 705-4194.

TERESA D. MILLER,
Insurance Commissioner

[Pa.B. Doc. No. 16-1834. Filed for public inspection October 21, 2016, 9:00 a.m.]

OFFICE OF OPEN RECORDS

Right-to-Know Law and Sunshine Law Annual Training

The Office of Open Records (OOR) will conduct its annual training on the Right-to-Know Law (RTKL) (65 P.S. §§ 67.101—67.3104) and 65 Pa.C.S. §§ 701—716 (relating to Sunshine Act) on October 26, 2016, from 10 a.m. to 12 p.m. in the State Museum Auditorium, 300 North Street, Harrisburg, PA 17120.

Senior staff from the OOR will lead this session covering the RTKL and the Sunshine Act. The training will touch on the basics of each law, but additional detail will be provided on recent Final Determinations issued by the OOR, recent Supreme Court and Commonwealth Court decisions, and emerging issues. This training session is designed to be of interest to both agencies and requesters. Attendees will have ample opportunity to ask questions.

The OOR's annual training is free and open to everyone, including citizens, public officials, agency open records officers, attorneys and members of the media. The program is pending approval for 1.5 CLE hours. Registration by October 21 is recommended as seating is limited. Registration forms are available at <http://www.openrecords.pa.gov> or by calling (717) 346-9903. Online registration is available at <https://oor-training-2016.eventbrite.com>.

ERIK ARNESON,
Executive Director

[Pa.B. Doc. No. 16-1835. Filed for public inspection October 21, 2016, 9:00 a.m.]

PATIENT SAFETY AUTHORITY

Public Meeting

The Patient Safety Authority (Authority), established by section 303 of the Medical Care Availability and Reduction of Error (MCARE) Act (40 P.S. § 1303.303), announces a meeting of the Authority's Board to be held

at the Conference Center, Central Penn College, 600 Valley Road, Summerdale, PA 17093 at 10 a.m. on Tuesday, October 25, 2016.

Individuals with questions regarding this meeting, which is open to the public, should contact the Authority at (717) 346-0469.

REGINA M. HOFFMAN, RN, BSN, MBA, CPPS,
Executive Director

[Pa.B. Doc. No. 16-1836. Filed for public inspection October 21, 2016, 9:00 a.m.]

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Clear World Communications Corp.

Public Meeting held
October 6, 2016

Commissioners Present: Gladys M. Brown, Chairperson; Andrew G. Place, Vice Chairperson; John F. Coleman, Jr.; Robert F. Powelson; David W. Sweet

Clear World Communications Corp.; Doc. No. A-310860

Tentative Order

By the Commission:

Clear World Communications Corporation (Clear World or Company), utility code 310860, is an Interexchange Carrier—Reseller (IXC-R) certificated at Docket No. A-310860 on January 12, 2000.

Clear World appears to be an inactive business entity. The Company is a Connecticut Domestic Profit Corporation; however, research by Commission staff revealed that the Connecticut Secretary of State lists the business status as “withdrawn.” Commission staff’s attempts to reach the Company have been unsuccessful: staff called four different phone numbers listed in the Commission’s records for the Company and all are no longer in service; staff emailed the Company’s CEO/President without success; and the customer service inquiry number listed with the FCC database currently belongs to a travel agency. Commission records show that the Company’s last filed annual financial report was in 2015 for the year ended 2014.

Currently, there are no informal or formal complaints pending against Clear World before the Commission. Based on the above facts, we tentatively conclude that it is appropriate to revoke Clear World’s certificate of public convenience as being in the public interest. Where a company no longer provides utility service to the public, there is no reason to maintain a certificate of public convenience for that company; *Therefore,*

It Is Ordered That:

1. Revocation of Clear World Communications Corporation’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 & 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*, the Bureau of Technical Utility Services shall prepare a Final Order for entry by the Secretary and shall advise the affected Bureaus within the Commission in writing that the certificate of public convenience held by Clear World Communications Corporation, utility code 310860, is cancelled and the case may be closed.

4. Upon entry of the Final Order described in ordering Paragraph No. 3 above, Clear World Communications Corporation's name will be stricken from all active utility lists maintained by the Commission's Bureau of Technical Utility Services and the Assessment Section of the Bureau of Administration, and the docket shall be closed.

ROSEMARY CHIAVETTA,
Secretary

[Pa.B. Doc. No. 16-1837. Filed for public inspection October 21, 2016, 9:00 a.m.]

Natural Gas Service

A-2016-2570731. National Fuel Gas Distribution Corporation. Application of National Fuel Gas Distribution Corporation for approval of the abandonment of natural gas service to one natural gas service customer located in Conneaut Township, Erie County.

Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities) on or before November 7, 2016. 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. 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.pa.gov and at the applicant's business address.

Applicant: National Fuel Gas Distribution Corporation

Through and By Counsel: Anthony D. Kanagy, Esquire, Post & Schell, PC, 17 North Second Street, 12th Floor, Harrisburg, PA 17101-1601

ROSEMARY CHIAVETTA,
Secretary

[Pa.B. Doc. No. 16-1838. Filed for public inspection October 21, 2016, 9:00 a.m.]

Petition of Waiver of Regulations and Extension of Authority

A-2014-2416127 and A-2014-2424608. Rasier-PA, LLC. The Pennsylvania Public Utility Commission (Commission) invites comment on the petition of Rasier-PA, LLC for waiver of 52 Pa. Code §§ 5.43 and 29.352 (relating to petitions for issuance, amendment, repeal, or waiver of Commission regulations; and experimental service).

Rasier-PA, LLC was granted certificates of public convenience at Application Doc. Nos. A-2014-2416127 and A-2014-2424608 on January 29, 2015. Its certificates authorize the transportation of persons, in experimental service, between points in Allegheny County, as well as between points in Pennsylvania, excluding trips which

originate or terminate at points in the Counties of Allegheny, Beaver, Clinton, Columbia, Crawford, Lawrence, Lycoming, Mercer, Montour, Northumberland, Philadelphia and Union and in that portion of the County of Luzerne which is located within an airline distance of 15 statute miles of the limits of the Borough of Berwick, Columbia County. In accordance with 52 Pa. Code § 29.352, the certificate is valid until abandoned, until 2 years from the date of issuance, or until the Commission enacts regulations governing the new class of service, whichever occurs first.

If granted, the waiver would extend the certificates beyond the date of January 29, 2017. The certificates would be valid until abandoned or until the Commission enacts regulations governing the new class of service, whichever occurs first.

Interested parties are invited to file comments at the relevant docket numbers within 30 days of publication of this notice. Reply comments of the carrier are due within 10 days thereafter. Interested parties may review the pending petition on the Commission's web site at <http://www.puc.pa.gov> or hard copies are available for a fee by means of written request to the Secretary of the Commission, Pennsylvania Public Utility Commission, Rosemary Chiavetta, Secretary, 400 North Street, Harrisburg, PA 17120.

The contact for questions regarding this notice is John Herzog, Deputy Chief Counsel, Law Bureau, (717) 783-3714.

ROSEMARY CHIAVETTA,
Secretary

[Pa.B. Doc. No. 16-1839. Filed for public inspection October 21, 2016, 9:00 a.m.]

Service of Notice of Motor Carrier Applications

The following temporary authority and/or permanent authority applications for the right to render service as a common carrier or contract carrier in this Commonwealth have been filed with the Pennsylvania Public Utility Commission. Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). A protest shall indicate whether it applies to the temporary authority application, the permanent authority application, or both. Filings must be made with the Secretary, Pennsylvania Public Utility Commission, P.O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant by November 7, 2016. Documents filed in support of the applications are available for inspection and copying at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday, and at the business address of the respective applicant.

Applications of the following for approval to begin operating as common carriers for transportation of persons as described under each application.

A-2016-2551126. The Connections Group, Inc. (4919 Knox Street, Philadelphia, Philadelphia County, PA 19144) for the right to begin to transport, as a common carrier, by motor vehicle, persons in paratransit service, between points in the Counties of Bucks, Chester, Delaware, Montgomery and Philadelphia.

A-2016-2561576. ASAP Management, Inc. (2655 Philmont Avenue, Suite 206B, Huntingdon Valley,

Huntingdon County, PA 19006) in paratransit service, from points in the City and County of Philadelphia, to points in Pennsylvania, and return.

A-2016-2568401. All Blue Taxi Service, LLC (1000 Scenery Drive, Harrisburg, Dauphin County, PA 17109) for the right to begin to transport, as a common carrier, by motor vehicle, persons in call or demand service, from points in the Counties of Berks and Lancaster, to points in Pennsylvania, and return.

A-2016-2568405. Alliance for Nonprofit Resources, t/a ANR Transport (212-214 South Main Street, Suite 1023, Butler, Butler County, PA 16001) in paratransit service, between points in the Counties of Allegheny, Armstrong, Butler, Indiana, Jefferson, Lawrence, Mercer, Washington and Westmoreland, and from points in said area to points in the Counties of Beaver, Bedford, Blair, Cambria, Cameron, Centre, Clarion, Clearfield, Crawford, Elk, Erie, Fayette, Forest, Greene, Huntingdon, McKean, Potter, Somerset, Venango and Warren, and vice versa. *Attorney:* David O'Boyle, 1450 Two Chatham Center, 112 Washington Place, Pittsburgh, PA 15219-3455.

A-2016-2568872. Jonathan Johnson and Walter Foote, Co-Partners, t/a Big Johns Taxi (434 Odell Road, Mansfield, Tioga, PA 16933) in call or demand service, in Mansfield Borough, Tioga County.

A-2016-2569036. Custer's Garage, Inc. (P.O. Box 580, Trumbauersville, Bucks County, PA 18970) for the right to begin to transport, as a common carrier, by motor vehicle, persons in limousine service, between points in the Counties of Bucks, Chester, Delaware, Lehigh, Montgomery and Northampton.

A-2016-2570266. Haggerty's Rides, Inc. (111 Cynthia Drive, Canonsburg, Washington County, PA 15317) for the right to begin to transport, as a common carrier, by motor vehicle, persons in limousine service, between points in the Counties of Allegheny and Washington. *Attorney:* John A. Pillar, Esquire, 150 Green Commons Drive, Pittsburgh, PA 15243.

ROSEMARY CHIAVETTA,
Secretary

[Pa.B. Doc. No. 16-1840. Filed for public inspection October 21, 2016, 9:00 a.m.]

Water Service

A-2016-2570927. NRG Energy Center Pittsburgh, LLC. Application of NRG Energy Center Pittsburgh, LLC for approval to expand its service territory for steam, hot water and chilled water service into a certain portion of the Uptown Corridor of the City of Pittsburgh.

Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities) on or before November 7, 2016. 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. 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.pa.gov and at the applicant's business address.

Applicant: NRG Energy Center Pittsburgh, LLC

Through and By Counsel: David P. Zambito, Esquire, Cozen O'Connor, 17 North Second Street, Suite 1410, Harrisburg, PA 17101

ROSEMARY CHIAVETTA,
Secretary

[Pa.B. Doc. No. 16-1841. Filed for public inspection October 21, 2016, 9:00 a.m.]

PHILADELPHIA PARKING AUTHORITY

Request for Bids

The Philadelphia Parking Authority will accept sealed bids for Bid No. 16-29, Non-urea Deicing/Anti-Icing Solid for Runways and Taxiways at Philadelphia International Airport, until 2 p.m. on Friday, November 18, 2016. Information can be obtained from the web site www.philapark.org or by calling Mary Wheeler at (215) 683-9665.

CLARENA TOLSON,
Executive Director

[Pa.B. Doc. No. 16-1842. Filed for public inspection October 21, 2016, 9:00 a.m.]

PHILADELPHIA REGIONAL PORT AUTHORITY

Request for Bids

The Philadelphia Regional Port Authority will accept sealed bids for Project No. 16-110.1, Parking Lot 77L Construction at the Philadelphia Navy Yard, until 2 p.m. on Wednesday, November 30, 2016. Information (including mandatory prebid information) can be obtained from www.philaport.com under "Our Port" then "Procurement" or call (215) 426-2600.

JEFF THEOBALD,
Executive Director

[Pa.B. Doc. No. 16-1843. Filed for public inspection October 21, 2016, 9:00 a.m.]

Request for Proposals

The Philadelphia Regional Port Authority will accept sealed proposals for Project No. 16-127.S, RFP for Engineering & Construction Management Services for Pier 84 Outshore Refurbishment Project, until 2 p.m. on Thursday, December 1, 2016. Information (including mandatory preproposal information) can be obtained from www.philaport.com under "Our Port" then "Procurement" or call (215) 426-2600.

JEFF THEOBALD,
Executive Director

[Pa.B. Doc. No. 16-1844. Filed for public inspection October 21, 2016, 9:00 a.m.]

STATE BOARD OF NURSING

**Bureau of Professional and Occupational Affairs v.
Richard Clayton, RN; File No. 13-51-10738; Doc.
No. 1700-51-13**

On June 13, 2016, Richard Clayton, RN, Pennsylvania license No. RN592178, last known of Richmond, VA, was issued a civil penalty of \$500 and indefinitely suspended based on receiving disciplinary action by the proper licensing authority of another state and failing to report same to the State Board of Nursing (Board).

Individuals may obtain a copy of the adjudication by writing to Board Counsel, State Board of Nursing, P.O. Box 69523, Harrisburg, PA 17106-9523.

This order represents the final Board decision in this matter. It may be appealed to the Commonwealth Court of Pennsylvania by the filing of a petition for review with that court in accordance with the Pennsylvania Rules of Appellate Procedure. Individuals who take an appeal to the Commonwealth Court must serve the Board with a copy of their petition for review. The Board contact for receiving service of appeals is the previously-named Board counsel.

KRISTIN MALADY, BSN, RN,
Chairperson

[Pa.B. Doc. No. 16-1845. Filed for public inspection October 21, 2016, 9:00 a.m.]

RULES AND REGULATIONS

Title 25—ENVIRONMENTAL PROTECTION

ENVIRONMENTAL QUALITY BOARD

[25 PA. CODE CH. 129]

Control of Volatile Organic Compound Emissions from Automobile and Light-Duty Truck Assembly Coating Operations and Heavier Vehicle Coating Operations

The Environmental Quality Board (Board) amends Chapter 129 (relating to standards for sources) to read as set forth in Annex A. This final-form rulemaking adds § 129.52e (relating to control of VOC emissions from automobile and light-duty truck assembly coating operations and heavier vehicle coating operations) to adopt reasonably available control technology (RACT) requirements and RACT emission limitations for stationary sources of volatile organic compound (VOC) emissions from automobile and light-duty truck assembly coating operations and heavier vehicle coating operations including primer, primer-surfacer, topcoat and final repair coating materials, as well as VOC emissions from additional coatings applied during the vehicle assembly process and related cleaning activities. This final-form rulemaking also adds terms and definitions to § 129.52e to support the interpretation of the final-form measures and amends § 129.51 (relating to general) to support the addition of § 129.52e.

This final-form rulemaking will be submitted to the United States Environmental Protection Agency (EPA) for approval as a revision to the Commonwealth's State Implementation Plan (SIP) following promulgation of this final-form rulemaking.

This final-form rulemaking is given under Board order at its meeting of June 21, 2016.

A. Effective Date

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

B. Contact Persons

For further information, contact Kirit Dalal, Chief, Division of Air Resource Management, Bureau of Air Quality, Rachel Carson State Office Building, P.O. Box 8468, Harrisburg, PA 17105-8468, (717) 772-3436; or Jesse C. Walker, Assistant Counsel, Bureau of Regulatory Counsel, Rachel Carson State Office Building, P.O. Box 8464, Harrisburg, PA 17105-8464, (717) 787-7060. Persons with a disability may use the Pennsylvania AT&T Relay Service, (800) 654-5984 (TDD users) or (800) 654-5988 (voice users). This final-form rulemaking is available on the Department of Environmental Protection's (Department) web site at www.dep.pa.gov (select "Public Participation," then "Environmental Quality Board (EQB)").

C. Statutory Authority

This final-form rulemaking is authorized under section 5(a)(1) of the Air Pollution Control Act (act) (35 P.S. § 4005(a)(1)), which grants the Board the authority to adopt rules and regulations for the prevention, control, reduction and abatement of air pollution in this Commonwealth. Section 5(a)(8) of the act grants the Board the

authority to adopt rules and regulations designed to implement the provisions of the Clean Air Act (CAA) (42 U.S.C.A. §§ 7401—7671q).

D. Background and Purpose

The purpose of this final-form rulemaking is to implement control measures to reduce VOC emissions from automobile and light-duty truck assembly coating operations and, when elected, certain other vehicle-related surface coating operations. These processes include the application of an automobile assembly coating or a light-duty truck assembly coating, or both, to a new automobile body or a new light-duty truck body, to a body part for a new automobile or for a new light-duty truck, or to another part that is coated along with the new automobile body or body part or new light-duty truck body or body part, as well as the application of coatings to a body or body part for a new heavier vehicle. A heavier vehicle is a self-propelled vehicle designed for transporting persons or property on a street or highway that has a gross vehicle weight rating over 8,500 pounds.

VOCs are precursors for ground-level ozone formation. Ground-level ozone, a public health and welfare hazard, is not emitted directly to the atmosphere from these sources, but forms from a photochemical reaction between VOCs and nitrogen oxides (NO_x) in the presence of sunlight. In accordance with sections 172(c)(1), 182(b)(2)(A) and 184(b)(1)(B) of the CAA (42 U.S.C.A. §§ 7502(c)(1), 7511a(b)(2)(A) and 7511c(b)(1)(B)), this final-form rulemaking establishes VOC emission limitations and other requirements consistent with the recommendations of the EPA 2008 Automobile and Light-Duty Truck Assembly Coatings Control Techniques Guidelines (2008 ALDT CTG) for these sources in this Commonwealth. See "Consumer and Commercial Products, Group IV: Control Techniques Guidelines in Lieu of Regulations for Miscellaneous Metal Products Coatings, Plastic Parts Coatings, Auto and Light-Duty Truck Assembly Coatings, Fiberglass Boat Manufacturing Materials, and Miscellaneous Industrial Adhesives," 73 FR 58481, 58483 (October 7, 2008); and *Control Techniques Guidelines for Automobile and Light-Duty Truck Assembly Coatings*, EPA 453/R-08-006, Office of Air Quality Planning and Standards, EPA, September 2008.

The EPA is responsible for establishing National Ambient Air Quality Standards (NAAQS) for six criteria pollutants considered harmful to public health and welfare, including the environment: ground-level ozone, particulate matter, NO_x, carbon monoxide, sulfur dioxide and lead. Section 109 of the CAA (42 U.S.C.A. § 7409) established two types of NAAQS: primary standards, which are limits set to protect public health; and secondary standards, which are limits set to protect public welfare and the environment, including protection against visibility impairment and from damage to animals, crops, vegetation and buildings. The EPA established primary and secondary ground-level ozone NAAQS to protect public health and welfare.

Ground-level ozone is a highly reactive gas, which at sufficiently high concentrations can produce a wide variety of harmful effects. At elevated concentrations, ground-level ozone can adversely affect human health, animal health, vegetation, materials, economic values, and personal comfort and well-being. It can cause damage to important food crops, forests, livestock and wildlife. Repeated exposure to ground-level ozone pollution may

cause a variety of adverse health effects for both healthy people and those with existing conditions, including difficulty in breathing, chest pains, coughing, nausea, throat irritation and congestion. It can worsen bronchitis, heart disease, emphysema and asthma, and reduce lung capacity. Asthma is a significant and growing threat to children and adults. High levels of ground-level ozone adversely affect animals in ways similar to humans. High levels of ground-level ozone can also cause damage to buildings and synthetic fibers, including nylon, and reduced visibility on roadways and in natural areas. The implementation of additional measures to address ozone air quality nonattainment in this Commonwealth is necessary to protect the public health and welfare, animal and plant health and welfare, and the environment.

In July 1997, the EPA promulgated primary and secondary ozone NAAQS at a level of 0.08 part per million (ppm) averaged over 8 hours. See 62 FR 38856 (July 18, 1997). In 2004, the EPA designated 37 counties in this Commonwealth as 8-hour ozone nonattainment areas for the 1997 8-hour ozone NAAQS. Based on the ambient air monitoring data for the 2014 and 2015 ozone seasons, all monitored areas of this Commonwealth are attaining the 1997 8-hour ozone NAAQS. Maintenance plans have been submitted to the EPA and approved for the 1997 ozone NAAQS. In accordance with the CAA, the maintenance plans include permanent and enforceable control measures that will provide for the maintenance of the ozone NAAQS for at least 10 years following the EPA's redesignation of the areas to attainment. Eight years after the EPA redesignates an area to attainment, additional maintenance plans approved by the EPA must also provide for the maintenance of the ozone NAAQS for another 10 years following the expiration of the initial 10-year period.

In March 2008, the EPA lowered the primary and secondary ozone NAAQS to 0.075 ppm averaged over 8 hours to provide even greater protection for children, other at-risk populations and the environment against the array of ground-level ozone-induced adverse health and welfare effects. See 73 FR 16436 (March 27, 2008). In April 2012, the EPA designated five areas in this Commonwealth as nonattainment for the 2008 ozone NAAQS. See 77 FR 30088, 30143 (May 21, 2012). These areas include all or a portion of Allegheny, Armstrong, Berks, Beaver, Bucks, Butler, Carbon, Chester, Delaware, Fayette, Lancaster, Lehigh, Montgomery, Northampton, Philadelphia, Washington and Westmoreland Counties. The Department's analysis of 2014 ambient air ozone concentrations showed that all ozone samplers in this Commonwealth, except the Harrison sampler in Allegheny County, were monitoring attainment of the 2008 ozone NAAQS. The certified 2015 ozone season monitoring data indicate that all areas of this Commonwealth, including the Harrison sampler, are monitoring attainment of the 2008 ozone NAAQS as well. As with the 1997 ozone NAAQS, the Department must ensure that the 2008 ozone NAAQS are attained and maintained by implementing permanent and enforceable control measures. At the Department's request, the EPA granted 1-year attainment date extensions for the 2008 ozone NAAQS in the Philadelphia and Pittsburgh-Beaver Valley Areas due to air monitor violations in New Jersey and Maryland.

On October 1, 2015, the EPA again lowered the ozone NAAQS, this time to 0.070 ppm averaged over 8 hours. See 80 FR 65292 (October 26, 2015). Based on ambient air monitoring data for the 2013-2015 ozone seasons, eight monitors in this Commonwealth have design values

that violate the 2015 ozone NAAQS. The samplers are located in Allegheny, Armstrong, Bucks, Delaware, Indiana, Lebanon, Montgomery and Philadelphia Counties. The Commonwealth submitted designation recommendations for the 2015 ozone NAAQS to the EPA on October 3, 2016. The EPA's final designations for attainment and nonattainment areas for the 2015 ozone NAAQS are expected to take effect in December 2017.

Reductions in VOC emissions that are achieved following the adoption and implementation of VOC RACT emission control measures for source categories covered by Control Techniques Guidelines (CTG), including automobile and light-duty truck assembly coating operations and heavier vehicle coating operations, will allow the Commonwealth to make progress in achieving and maintaining the 1997, 2008 and 2015 8-hour ozone NAAQS.

There are Federal regulatory limits for VOC emissions from automobile and light-duty truck assembly coatings for several of the coating categories. In 1977, the EPA issued a CTG document entitled *Control of Volatile Organic Emissions from Existing Stationary Sources Volume II: Surface Coating of Cans, Coils, Paper, Fabrics, Automobiles, and Light-Duty Trucks*, EPA-450/2-77-008 (1977 CTG). The 1977 CTG provided RACT recommendations for controlling VOC emissions from automobile and light-duty truck assembly surface coating operations. The recommendations were for VOC emission limits calculated on a daily basis for each electrodeposition primer operation, primer-surfacer operation, topcoat operation and final repair operation. The limits of § 129.52 (relating to surface coating processes), Table I, category 6, regarding automobile and light duty truck coating subcategories of prime coat, top coat and repair, were promulgated at 9 Pa.B. 1447 (April 28, 1979) to implement RACT measures consistent with the recommendations in the 1977 CTG for the automobile and light duty truck coating categories.

The EPA promulgated New Source Performance Standards (NSPS) in 1980 (1980 NSPS) for surface coating of automobile and light-duty trucks in 40 CFR Part 60, Subpart MM (relating to standards of performance for automobile and light duty truck surface coating operations). The 1980 NSPS established VOC emission limits calculated on a monthly basis for each electrodeposition primecoat operation, guidecoat (primer-surfacer) operation and topcoat operation located in an automobile or light-duty truck assembly plant constructed, reconstructed or modified after October 5, 1979. See 45 FR 85415 (December 24, 1980) and 59 FR 51383 (October 11, 1994). The NSPS limits and the 1977 CTG recommendations for primer-surfacer and topcoat cannot be directly compared because of differences in the compliance period (monthly for the NSPS limits and daily for the 1977 CTG recommendations) and how transfer efficiency is considered (table values for the NSPS limits and actual transfer efficiency testing for the 1977 CTG recommendations).

In addition to establishing the 1980 NSPS VOC content limits, in 2004 the EPA promulgated 40 CFR Part 63, Subpart IIII (relating to National emission standards for hazardous air pollutants: surface coating of automobiles and light-duty trucks) (2004 NESHAP). See 69 FR 22602, 22623 (April 26, 2004). The 2004 NESHAP established organic hazardous air pollutant (HAP) emissions limitations calculated on a monthly basis for existing sources. More stringent limits apply to new sources that began construction after December 24, 2002. The 2004 NESHAP also specified work practices to minimize organic HAP emissions from the storage, mixing and conveying of coatings, thinners and cleaning materials, and from han-

dling waste materials generated by the coating operation. Many HAPs are VOCs, but not all VOCs are HAPs. The requirements of the 2004 NESHAP apply to "major sources" of HAP from surface coatings applied to bodies or body parts for new automobiles or new light-duty trucks. For the purpose of regulating HAP emissions, a "major source" is considered to be a stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit considering controls, in the aggregate, 10 tons per year (tpy) or more of any single listed HAP or 25 tpy or more of any combination of HAPs. See section 112(a)(1) of the CAA (42 U.S.C.A. § 7412(a)(1)) and 69 FR 22602, 22603.

When developing the VOC emission reduction RACT measures included in its 2008 ALDT CTG, the EPA took into account the VOC emission limitations of the 1980 NSPS as well as the VOC control recommendations of the 1977 CTG and the HAP emission reduction measures in the 2004 NESHAP for the automobile and light-duty truck assembly coating industries. Additionally, in 2008, the Alliance of Automobile Manufacturers, an industry trade association representing the majority of these facilities, provided the EPA with information from its member companies. Nonmember companies also submitted information to the EPA. The EPA reviewed and evaluated this information in conjunction with developing the 2008 ALDT CTG. The information included VOC emission rates for electrodeposition primer operations, primer-surfacer operations and topcoat operations on a daily and monthly average for calendar years 2006 and 2007. The VOC emission limits recommended in the 2008 ALDT CTG are based on 2006 and 2007 data from then-operating automobile and light-duty truck assembly coating operations. The resulting recommended VOC emission limits in the 2008 ALDT CTG for electrodeposition primer operations, primer-surfacer operations and topcoat operations are more stringent than the 1977 CTG and the 1980 NSPS limits. The recommended VOC emission limit for final repair operation in the 2008 ALDT CTG is the same as the 1977 CTG recommended limit for this category. The work practices recommendations in the 2008 ALDT CTG mirror those in the 2004 NESHAP.

This final-form rulemaking is designed to adopt VOC emission limitations and requirements consistent with the standards and recommendations in the 2008 ALDT CTG to meet the requirements of sections 172(c)(1), 182(b)(2) and 184(b)(1)(B) of the CAA. This final-form rulemaking applies these VOC emission limitations and requirements across this Commonwealth, as required under section 184(b)(1)(B) of the CAA. The VOC content and emission rate limitations and other requirements in this final-form rulemaking are not more stringent than the recommendations included in the EPA 2008 ALDT CTG upon which this final-form rulemaking is based. Consistent with section 4.2 of the act (35 P.S. § 4004.2(a)), the measures in this final-form rulemaking are reasonably required to achieve and maintain the health-based and welfare-based 8-hour ozone NAAQS in this Commonwealth and to satisfy related CAA requirements.

State regulations to control VOC emissions from automobile and light-duty truck assembly coating operations, as well as VOC emissions from the related cleaning activities, are required under Federal law. The Commonwealth's regulation will be approved by the EPA as a revision to the Commonwealth's SIP if the provisions meet the RACT requirements of the CAA and its implementing regulations. See 73 FR 58481, 58483. The EPA defines RACT as "the lowest emission limitation that a

particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility." See "State Implementation Plans; General Preamble for Proposed Rulemaking on Approval of Plan Revisions for Nonattainment Areas-Supplement (on Control Techniques Guidelines)," 44 FR 53761 (September 17, 1979).

Section 110(a) of the CAA (42 U.S.C.A. § 7410(a)) provides that each state shall adopt and submit to the EPA a plan to implement measures (a SIP) to enforce the NAAQS or revision to the NAAQS promulgated under section 109(b) of the CAA. Section 172(c)(1) of the CAA provides that SIPs for nonattainment areas must include "reasonably available control measures," including RACT, for sources of emissions of VOC and NO_x. Section 182(b)(2) of the CAA provides that for moderate ozone nonattainment areas, states must revise their SIPs to include RACT for sources of VOC emissions covered by a CTG document issued by the EPA prior to the area's date of attainment of the applicable ozone NAAQS. More importantly, section 184(b)(1)(B) of the CAA requires that states in the Ozone Transport Region (OTR), including the Commonwealth, submit a SIP revision requiring implementation of RACT for all sources of VOC emissions in the state covered by a specific CTG and not just for those sources that are located in designated nonattainment areas of the state.

Section 183(e) of the CAA (42 U.S.C.A. § 7511b(e)) directs the EPA to list for regulation those categories of products that account for at least 80% of the aggregate VOC emissions from consumer and commercial products in ozone nonattainment areas. Section 183(e)(3)(C) of the CAA further provides that the EPA may issue a CTG document in place of a National regulation for a product category on the section 183(e) list when the EPA determines that the CTG will be "substantially as effective as [National] regulations" in reducing emissions of VOC in ozone nonattainment areas. In 1995, the EPA listed automobile and light-duty truck assembly coatings on its section 183(e) list and, in 2008, issued a CTG for this product category. See 60 FR 15264, 15267 (March 23, 1995); 73 FR 58481; and *Control Techniques Guidelines for Automobile and Light-Duty Truck Assembly Coatings*, EPA 453/R-08-006, Office of Air Quality Planning and Standards, EPA, September 2008. The 2008 ALDT CTG is available on the EPA's web site at <https://www.epa.gov/stationary-sources-air-pollution/clean-air-act-guidelines-and-standards-solvent-use-and-surface>.

In the 2008 notice of final determination and availability of final CTGs, the EPA determined that the RACT recommendations of the 2008 ALDT CTG would be substantially as effective as National regulations in reducing VOC emissions from the automobile and light-duty truck assembly coatings product category in ozone nonattainment areas. See 73 FR 58481. The 2008 ALDT CTG provides states with the EPA's recommendations of what constitutes RACT for the covered category. States may use the Federal recommendations provided in the 2008 ALDT CTG to inform their own determination as to what constitutes RACT for VOC emissions from the covered category. State air pollution control agencies may implement other technically-sound approaches that are consistent with the CAA requirements and the EPA's implementing regulations or guidelines.

The Department reviewed the RACT recommendations included in the 2008 ALDT CTG for their applicability to the ground-level ozone reduction measures necessary for this Commonwealth. The Bureau of Air Quality determined that VOC emission reduction measures consistent

with the recommendations provided in the 2008 ALDT CTG are appropriate to be implemented in this Commonwealth as RACT for this category.

This final-form rulemaking applies to the owner and operator of an automobile and light-duty truck assembly coating operation that applies an automobile assembly coating or a light-duty truck assembly coating, or both, to a new automobile body or a new light-duty truck body, to a body part for a new automobile or for a new light-duty truck, or to another part that is coated along with the new automobile body or body part or new light-duty truck body or body part. The owner or operator of a separate coating line at an automobile and light-duty truck assembly coating facility, and the owner or operator of a facility that coats a body or body part for a new heavier vehicle, have the option to elect to be regulated under this final-form rulemaking instead of final-form § 129.52d (relating to control of VOC emissions from miscellaneous metal parts surface coating processes, miscellaneous plastic parts surface coating processes and pleasure craft surface coatings). These options are provided to allow these owners and operators flexibility in complying with their permit conditions and to optimize their operations.

This final-form rulemaking also applies to the owner and operator of a facility that performs a coating operation subject to this final-form rulemaking on a contractual basis.

This final-form rulemaking does not apply to the use or application of an automobile and light-duty truck assembly coating by an owner or operator at a plastic or composites molding facility. The VOC content limits in this final-form rulemaking do not apply to an assembly coating supplied in a container with a net volume of 16 ounces or less or a net weight of 1 pound or less.

The Board is aware of 61 businesses in this Commonwealth, all of which are likely to be small businesses, whose owners and operators may be subject to this final-form rulemaking. The Board estimates that of this projected total of 61 potentially subject owners and operators, as many as 47 of the potentially subject facility owners and operators may have actual VOC emissions at or above the applicability threshold of 15 pounds (6.8 kilograms) per day of total actual VOC emissions, including VOC emissions from related cleaning activities, before consideration of controls. These owners and operators will be subject to the final-form VOC content limit requirements, work practice requirements, compliance monitoring and daily recordkeeping requirements, and, if requested by the Department, reporting requirements. The owners and operators of the remaining potentially subject 14 facilities will only be subject to compliance monitoring and daily recordkeeping requirements and, if requested by the Department, reporting requirements.

Of the 61 owners and operators who may potentially be subject to this final-form rulemaking, the Department identified the owners and operators of 13 of these facilities from its databases. The owners and operators of 12 of these 13 facilities manufacture or surface coat, or both, bodies or body parts for new heavier vehicles such as fire trucks, ambulances and tow trucks and will only be subject to this final-form rulemaking if they elect to comply with this final-form rulemaking instead of complying with § 129.52d. The owner and operator of the remaining facility may potentially be subject based on previous surface coating operations. For purposes of discussing the potential impacts of this final-form rulemaking, however, the Board assumed that the owners and operators of all 13 facilities will elect to be subject to

this final-form rulemaking. The Commonwealth's Small Business Development Center's Environmental Management Assistance Program (SBDC EMAP) reviewed the list of 13 potentially subject facilities reporting VOC emissions in 2013 identified by the Department from its databases and determined that all 13 of the facilities are considered a small business under the Federal Small Business Administration small business size regulations.

The owners and operators of the 13 facilities identified by the Department from its databases reported actual VOC emissions in 2013 totaling approximately 320 tons. The owners and operators of the ten facilities that may emit 15 pounds (6.8 kilograms) or more of total actual VOC emissions per day, including VOC emissions from related cleaning activities, before consideration of controls, reported actual VOC emissions equal to or greater than 2.7 tpy, totaling approximately 319 tons. Implementation of the recommended control measures by these ten potentially subject facility owners and operators could generate reductions of as much as 111 tons of VOC emissions per year from the ten facilities, depending on the level of compliance already being achieved by these owners and operators. The estimated total maximum annual costs to these ten owners and operators could be up to \$195,138. The range of cost per regulated facility owner and operator for implementing the final-form VOC emission control measures is estimated to be approximately \$10,500 to \$19,514 per facility. The range of cost effectiveness to the regulated facility owners and operators is approximately \$946 per ton of VOC emissions reduced to \$1,758 per ton of VOC emissions reduced on an annual basis.

Similarly, the Board estimates that implementation of the final-form VOC control measures and work practice requirements could generate potential VOC emission reductions of as much as 413 tpy from the 37 potentially subject small business-sized facilities identified by the SBDC EMAP that are likely to be subject at or above the applicability threshold of 15 pounds (6.8 kilograms) per day of total actual VOC emissions, including VOC emissions from related cleaning activities, before consideration of controls, depending on the level of compliance already being achieved by the owners and operators of these facilities. The estimated annual cost to the owners and operators of these 37 potentially subject nonpermitted small business-sized facilities is \$726,054. The estimated maximum annual cost per facility owner and operator is approximately \$19,623.

The ground-level ozone reduction measures included in this final-form rulemaking may achieve VOC emission reductions locally and may also reduce the transport of VOC emissions and ground-level ozone to downwind states. Adoption of VOC emission requirements for sources subject to this final-form rulemaking is part of the Commonwealth's strategy, in concert with other OTR jurisdictions, to further reduce the transport of VOC ozone precursors and ground-level ozone throughout the OTR to attain and maintain the 8-hour ground-level ozone NAAQS.

This final-form rulemaking is required under the CAA and, consistent with section 4.2(a) of the act, is reasonably required to achieve and maintain the health-based and welfare-based 8-hour ground-level ozone NAAQS and to satisfy related CAA requirements in this Commonwealth. Once published in the *Pennsylvania Bulletin*, this

final-form rulemaking will be submitted to the EPA as a revision to the Commonwealth's SIP.

On February 11, 2016, the Air Quality Technical Advisory Committee (AQTAC) was briefed on this final-form rulemaking and the comments received on the proposed rulemaking, and they had no concerns. The AQTAC voted 16-0-1 (yes; no; abstain) to concur with the Department's recommendation to move this final-form rulemaking forward to the Board for consideration. This final-form rulemaking was discussed with the Citizens Advisory Council's (CAC) Policy and Regulatory Oversight Committee on March 2, 2016. On the recommendation of the CAC's Policy and Regulatory Oversight Committee, on March 15, 2016, the CAC concurred with the Department's recommendation to forward this final-form rulemaking to the Board. The Small Business Compliance Advisory Committee (SBCAC) was briefed on this final-form rulemaking on April 27, 2016. The SBCAC voted unanimously to concur with the Department's recommendation to move this final-form rulemaking forward to the Board for consideration.

E. Summary of Final-Form Rulemaking and Changes from Proposed to Final-Form Rulemaking

§ 129.51. General

Subsection (a) is amended to establish that compliance with § 129.52e may be achieved by alternative methods.

Subsection (a)(3) is amended to establish that compliance by a method other than the use of a low-VOC content coating, adhesive, sealant, adhesive primer, sealant primer, surface preparation solvent or cleanup solvent or ink which meets the applicable emission limitation in § 129.52e shall be determined on the basis of equal volumes of solids.

Subsection (a)(6) is amended to establish that the alternative compliance method is incorporated into a plan approval or operating permit, or both, reviewed by the EPA, including the use of an air cleaning device to comply with § 129.52e.

Changes were not made to subsection (a) and subsection (a)(3) and (6) from the proposed rulemaking.

§ 129.52e. Control of VOC emissions from automobile and light-duty truck assembly coating operations and heavier vehicle coating operations

This final-form rulemaking adds § 129.52e to regulate VOC emissions from automobile and light-duty truck assembly coating operations and heavier vehicle coating operations. As explained in subsection (c), § 129.52e supersedes the requirements of a RACT permit already issued under §§ 129.91—129.95 (relating to stationary sources of NO_x and VOCs) to the owner or operator to control, reduce or minimize VOC emissions from a process or coating subject to § 129.52e, except to the extent the RACT permit contains more stringent requirements.

Subsection (a)(1) establishes that this final-form rulemaking applies, as specified, to the owner and operator of an automobile and light-duty truck assembly coating operation that applies an automobile assembly coating or a light-duty truck assembly coating, or both, to a new automobile body or a new light-duty truck body, a body part for a new automobile or a new light-duty truck, or another part that is coated along with the new automobile body or body part or new light-duty truck body or body part.

Subsection (a)(2) establishes that this final-form rulemaking applies, as specified, to the owner and operator of an automobile and light-duty truck assembly coating

operation that operates a separate coating line at the facility on which a coating is applied to another part intended for use in a new automobile or new light-duty truck or an aftermarket repair or replacement part for an automobile or light-duty truck if the owner or operator elects to comply with § 129.52e instead of § 129.52d. The separate coating of another part for use in a new automobile or new light-duty truck or an aftermarket repair or replacement part for an automobile or light-duty truck is included in the Miscellaneous Metal Products and Plastic Parts Coatings categories under section 183(e) of the CAA and covered in the 2008 Miscellaneous Metal and Plastic Parts Coatings CTG (2008 MMPP CTG). The election occurs when the owner or operator notifies the Department by submitting a written statement to the appropriate Department regional office Air Quality Program Manager that specifies the intent to comply with § 129.52e instead of § 129.52d.

Subsection (a)(3) establishes that this final-form rulemaking applies, as specified, to the owner and operator of a heavier vehicle coating operation that coats a body or body part for a new heavier vehicle if the owner or operator elects to comply with § 129.52e instead of § 129.52d. Heavier vehicle coatings are included in the Miscellaneous Metal Products and Plastic Parts Coatings categories under section 183(e) of the CAA and are covered in the 2008 MMPP CTG. The election occurs when the owner or operator notifies the Department by submitting a written statement to the appropriate Department regional office Air Quality Program Manager that specifies the intent to comply with § 129.52e instead of § 129.52d.

Providing the election option under subsection (a)(2) and (3) effectuates the recommendations in the EPA 2008 ALDT CTG that a state consider giving an owner or operator of a separate coating line at an automobile and light-duty truck assembly coating facility the option of complying with the state's regulation adopted under the 2008 ALDT CTG instead of the 2008 MMPP CTG; and that a state give an owner or operator of a facility that coats bodies or body parts for new heavier vehicles the option to comply with either the state's regulation adopted under the 2008 MMPP CTG or the 2008 ALDT CTG. The separate coating of another part for use in a new automobile or new light-duty truck or an aftermarket repair or replacement part for an automobile or light-duty truck as well as heavier vehicle coatings are included in the Miscellaneous Metal Products and Plastic Parts Coatings categories under section 183(e) of the CAA and are therefore covered in the 2008 MMPP CTG. See 2008 ALDT CTG, page 4, and 2008 MMPP CTG, page 4.

Subsection (a)(4) establishes that this final-form rulemaking applies, as specified, to the owner and operator of a facility that performs a coating operation subject to § 129.52e on a contractual basis.

Subsection (a)(5) establishes that this final-form rulemaking does not apply to the use or application of an automobile and light-duty truck assembly coating by an owner or operator at a plastic or composite molding facility.

Subsection (b) establishes 25 definitions to support § 129.52e. The definition of "heavier vehicle" is included upon the request of the AQTAC at its April 3, 2014, meeting to improve the clarity of this final-form rulemaking and further delineate the types of vehicle coating operations subject to this final-form rulemaking.

Subsection (c) establishes that the requirements of this section supersede the requirements of a RACT permit

issued under §§ 129.91–129.95 to the owner or operator of a source subject to this section prior to January 1, 2017, except to the extent the RACT permit contains more stringent requirements. The proposed compliance date was January 1, 2016. However, this final-form rulemaking was not finalized by January 1, 2016. The Board revised the compliance date in this final-form rulemaking to January 1, 2017. January 1, 2017, is the mandated deadline required under the EPA's final rule pertaining to the Implementation of the 2008 National Ambient Air Quality Standards for Ozone: State Implementation Plan Requirements. See 80 FR 12264, 12279 (March 6, 2015). The EPA stated that the RACT measures for the 2008 ozone NAAQS must be implemented "as expeditiously as practicable, but no later than January 1 of the 5th year after the effective date of a nonattainment designation." The nonattainment designations across the United States were effective for the 2008 ozone NAAQS on July 20, 2012. See 77 FR 30088, 30143. Consequently, RACT measures for the 2008 8-hour ozone standard must be implemented by January 1, 2017.

Subsection (d)(1) establishes that beginning January 1, 2017, the VOC content limits specified in Tables I and II (relating to VOC content limits for primary assembly coatings; and VOC content limits for additional assembly coatings (grams of VOC per liter of coating excluding water and exempt compounds) as applied) apply to an owner and operator of a facility that has total actual VOC emissions equal to or greater than 15 pounds (6.8 kilograms) per day, before consideration of controls, from all operations at the facility that apply an assembly coating subject to this section, including VOC emissions from related cleaning activities. As with all RACT regulations, an owner or operator remains subject to the regulation even if the throughput or VOC emissions fall below the applicability threshold.

Subsection (d)(2) establishes that the VOC content limits specified in Tables I and II do not apply to an owner and operator of a facility that has total actual VOC emissions below 15 pounds (6.8 kilograms) per day, before consideration of controls, from all operations at the facility that apply an assembly coating subject to this section, including VOC emissions from related cleaning activities. This subsection also specifies that the VOC content limits in Tables I and II do not apply to an assembly coating supplied in a container with a net volume of 16 ounces or less or a net weight of 1 pound or less.

Subsection (e) establishes that beginning January 1, 2017, an owner and operator subject to the VOC content limits specified in Tables I and II shall comply with specified work practices for coating-related activities and cleaning materials.

Subsection (f) establishes compliance monitoring and recordkeeping requirements.

Subsection (g) establishes measurement, calculation, sampling and testing methodologies. The Automobile Topcoat Protocol specified in subsection (g)(2)(i) for calculation of VOC emissions and rates applies not only to the owner and operator of an automobile and light-duty truck assembly coating operation, but also to the owner and operator of a facility that coats a body or body part for a new heavier vehicle that elects to comply with § 129.52e instead of § 129.52d.

Final-form § 129.52e contains two tables. Table I specifies VOC content limits for primary assembly coatings. The primary assembly coatings are applied to new automobile or new light-duty truck bodies, or to body parts for

new automobiles or new light-duty trucks, as well as to other parts that are coated along with these bodies or body parts. These primary coatings are electrodeposition primer, primer-surfacer, topcoat and final repair. The Automobile Topcoat Protocol specified in subsection (g)(2)(i) and referenced in Table I applies not only to the owner and operator of an automobile and light-duty truck assembly coating operation, but also to the owner and operator of a facility that coats a body or body part for a new heavier vehicle that elects to comply with § 129.52e instead of § 129.52d. Table II specifies VOC content limits for additional assembly coatings. These additional coatings are applied during the vehicle assembly process and include glass bonding primer, adhesive, cavity wax, sealer, deadener, gasket/gasket sealing material, underbody coating, trunk interior coating, bedliner, lubricating wax/compound and weatherstrip adhesive. The EPA VOC emission control recommendations included in the 2008 ALDT CTG, and reflected in this final-form rulemaking, include the VOC content limits for the listed coatings.

The Board specifically requested comment on the proposed emission limit in Table II of 900 grams per liter of coating less water and exempt compounds for automobile and light-duty truck glass bonding primer. A limit of 700 grams per liter of coating less water and exempt compounds applies to a similar category, called automotive glass adhesive primer, in the existing adhesives regulations. See §§ 121.1, 129.77 and 130.702 (relating to definitions; control of emissions from the use or application of adhesives, sealants, primers and solvents; and emission standards). However, the EPA wrote in its notice of availability of the final 2008 ALDT CTG that the cost of the testing required to confirm material performance and compliance with Federal crash safety standards and windshield integrity requirements would be unreasonable compared to the small emission reduction that would be achieved by the 700 grams per liter limit it had proposed for the 2008 ALDT CTG. See 73 FR 58481, 58486. The EPA explained that the small amount of additional emission reductions achieved by the 700 grams per liter limit are negligible compared to reductions potentially achieved by the 900 grams per liter limit and are more technically difficult to implement. See 73 FR 58481, 58486. The EPA concluded that the less stringent limit of 900 grams per liter for automobile and light-duty truck glass bonding primer is appropriate and satisfies RACT for automobile and light-duty truck assembly coating operations. See 73 FR 58481, 58486. The Board did not receive comments on this issue and the limit of 900 grams per liter limit of coating less water and exempt compounds is retained for the automobile and light-duty truck glass bonding primer category in final-form Table II.

Changes were not made to subsections (a), (b), (f) and (g) and Tables I and II from the proposed rulemaking. The only changes to § 129.52e from proposed are the changes from the January 1, 2016, compliance date to the January 1, 2017, compliance date in subsections (c), (d) and (e).

F. Summary of Major Comments and Responses

The Board approved publication of the proposed rulemaking at its meeting of April 21, 2015. The proposed rulemaking was published at 45 Pa.B. 4351 (August 8, 2015). Three public hearings were held on September 8, 9 and 10, 2015, in Norristown, Harrisburg and Pittsburgh, respectively. The public comment period closed on October 13, 2015, for a 67-day public comment period. No public comments were received. The Independent Regulatory Review Commission (IRRC) provided comments on the

proposed rulemaking. The comments received on the proposed rulemaking are summarized in this section and are also addressed in a comment and response document which is available from the Department.

Compliance date

IRRC recommended that the Board establish a compliance date that allows for the proper development of a final-form regulation and full compliance by the regulated community. The Board agrees and revised the compliance date in this final-form rulemaking to January 1, 2017. The new compliance date of January 1, 2017, is the mandated deadline required under the EPA's final rule pertaining to the Implementation of the 2008 National Ambient Air Quality Standards for Ozone: State Implementation Plan Requirements. See 80 FR 12264, 12279.

Option to comply with proposed miscellaneous metal parts surface coating processes, miscellaneous plastic part surface coating processes, and pleasure craft surface coatings requirements

IRRC noted that the owner or operator of a separate coating line at an automobile and light-duty truck assembly coating facility and the owner or operator of a facility that coats a body or body part for a new heavier vehicle have the option to be regulated under this final-form rulemaking or under § 129.52d for the control of VOC emissions from miscellaneous metal parts surface coating processes, miscellaneous plastic parts surface coating processes and pleasure craft surface coatings. IRRC asked the Board to ensure that the two final-form rulemakings are adopted on the same date. The Board agrees and notes that it intends to consider the two final-form rulemakings concurrently.

G. Benefits, Costs and Compliance

Benefits

The Statewide implementation of the VOC emission control measures in this final-form rulemaking will benefit the health and welfare of approximately 12.7 million residents and the numerous animals, crops, vegetation and natural areas of this Commonwealth by reducing emissions of VOCs, which are precursors to the formation of ground-level ozone air pollution. Exposure to high concentrations of ground-level ozone is a serious human and animal health threat, causing respiratory illnesses and decreased lung function as well as other adverse health effects, leading to a lower quality of life. Reduced ambient concentrations of ground-level ozone would reduce the incidences of hospital admissions for respiratory ailments including asthma and improve the quality of life for citizens overall. While children, the elderly and those with respiratory problems are most at risk, even healthy individuals may experience increased respiratory ailments and other symptoms when they are exposed to high levels of ambient ground-level ozone while engaged in activities that involve physical exertion. High levels of ground-level ozone affect animals, including pets, livestock and wildlife, in ways similar to humans.

In addition to causing adverse human and animal health effects, the EPA has concluded that high levels of ground-level ozone affect vegetation and ecosystems leading to: reductions in agricultural crop and commercial forest yields by destroying chlorophyll; reduced growth and survivability of tree seedlings; and increased plant susceptibility to disease, pests and other environmental stresses, including harsh weather. In long-lived species, these effects may become evident only after several years or even decades and have the potential for long-term adverse impacts on forest ecosystems. Ozone damage to

the foliage of trees and other plants can decrease the aesthetic value of ornamental species used in residential landscaping, as well as the natural beauty of parks and recreation areas.

The economic value of some welfare losses due to high concentrations of ground-level ozone can be calculated, such as crop yield loss from soybeans due to both decreased seed production and reduced size and quality of seeds and from visible injury to some leaf crops, including lettuce, spinach and tobacco, as well as visible injury to ornamental plants, including grass, flowers and shrubs. Other types of welfare loss may not be quantifiable, such as the reduced aesthetic value of trees growing in heavily visited parks. This Commonwealth's 59,000 farm families are the stewards of more than 7.7 million acres of farmland, with \$7.5 billion in cash receipts annually from production agriculture. In addition to production agriculture, the industry also raises revenue and supplies jobs through support services such as food processing, marketing, transportation and farm equipment. In total, production agriculture and agribusiness contributes nearly \$75 billion to the economy in this Commonwealth (source: Department of Agriculture).

The Department of Conservation and Natural Resources (DCNR) is the steward of State-owned forests and parks. DCNR awards millions of dollars in construction contracts each year to build and maintain the facilities in these parks and forests. Timber sales on State forest lands contribute to the \$5 billion-a-year timber industry. Hundreds of concessions throughout the park system help complete the park experience for both State and out-of-State visitors (source: DCNR). Further, this Commonwealth leads the Nation in growing volume of hardwood species, with 17 million acres in forest land. As the leading producer of hardwood lumber in the United States, the Commonwealth also leads in the export of hardwood lumber, exporting nearly \$800 million annually in lumber, logs, furniture products and paper products to more than 70 countries around the world. Recent United States Forest Service data show that the forest growth-to-harvest rate in this Commonwealth is better than 2 to 1. This vast renewable resource puts the hardwoods industry at the forefront of manufacturing in this Commonwealth. Through 2006, the total annual direct economic impact generated by the Commonwealth's wood industry was \$18.4 billion. The industry employed 128,000 people, with \$4.7 billion in wages and salaries earned. Production was 1.1 billion board feet of lumber annually (source: Strauss, Lord, Powell; Pennsylvania State University, June 2007, cited in Pennsylvania Hardwoods Development Council Biennial Report, 2009-2010).

Through deposition, ground-level ozone also contributes to pollution in the Chesapeake Bay. These effects can have adverse impacts including loss of species diversity and changes to habitat quality and water and nutrient cycles. High levels of ground-level ozone can also cause damage to buildings and synthetic fibers, including nylon, and reduced visibility on roadways and in natural areas. The reduction of ground-level ozone air pollution concentrations directly benefits the human and animal populations in this Commonwealth with improved ambient air quality and healthier environments. The agriculture and timber industries and related businesses benefit directly from reduced economic losses that result from damage to crops and timber. Likewise, the natural areas and infrastructure within this Commonwealth and downwind benefit directly from reduced environmental damage and economic losses.

This final-form rulemaking is designed to adopt VOC emission standards and emission limitations consistent with the standards and recommendations in the EPA's 2008 ALDT CTG to meet the requirements of sections 172(c)(1), 182(b)(2) and 184(b)(1)(B) of the CAA. This final-form rulemaking applies these standards and limitations across this Commonwealth, as required under section 184(b)(1)(B) of the CAA. Consistent with section 4.2 of the act, the measures in this final-form rulemaking are reasonably required to achieve and maintain the health-based and welfare-based 8-hour ozone NAAQS in this Commonwealth.

The Statewide implementation of the VOC emission control measures in this final-form rulemaking may generate reductions of as much as 111 tons of VOC emissions per year from the ten potentially affected facilities identified by the Department in its databases that are likely to be subject at or above the applicability threshold of 15 pounds (6.8 kilograms) per day of total actual VOC emissions, including VOC emissions from related cleaning activities, before consideration of controls. The owners and operators of these ten facilities will be required to implement the VOC control measures in this final-form rulemaking, depending on the level of compliance already being achieved by the owners and operators of these potentially affected facilities. These projected estimated reductions in VOC emissions and the subsequent reduced formation of ground-level ozone will help ensure that the owners and operators of businesses, citizens and the environment of this Commonwealth experience the benefits of improved health and welfare resulting from lowered concentrations of ground-level ozone. Commonwealth residents will also potentially benefit from improved groundwater quality through reduced quantities of VOCs and HAPs from the use of low-VOC content and low-HAP content automobile and light-duty truck assembly coatings and implementation of work practices for coating-related and cleaning-related activities.

Although this final-form rulemaking is designed primarily to address ozone air quality, the reformulation of high-VOC content coating materials to low-VOC content coating materials or the substitution of low-VOC content coating materials for high-VOC content coating materials to meet the VOC content limits applicable to users may also result in reduction of HAP emissions, which are also a serious health threat. The reduced levels of high-VOC content and high-HAP content solvents will benefit groundwater quality through reduced loading on water treatment plants and in reduced quantities of high-VOC content and high-HAP content solvents leaching into the ground and streams and rivers.

The Statewide implementation of the control measures in this final-form rulemaking will assist the Commonwealth in reducing VOC emissions locally and the resultant local formation of ground-level ozone in this Commonwealth from surface coating processes subject to this final-form rulemaking as well as assist in reducing the transport of VOC emissions and ground-level ozone to downwind states. Statewide implementation will also facilitate implementation and enforcement of this final-form rulemaking in this Commonwealth. The measures in this final-form rulemaking are reasonably necessary to attain and maintain the health-based and welfare-based 8-hour ground-level ozone NAAQS and to satisfy related CAA requirements in this Commonwealth.

This final-form rulemaking may create economic opportunities for coating formulators and VOC emission control technology innovators, manufacturers and distributors through an increased demand for new or reformulated

coating materials or for new or improved application or control equipment. In addition, the owners and operators of regulated facilities may choose to install and operate an emissions monitoring system or equipment necessary for an emissions monitoring method to comply with this final-form rulemaking, thereby creating an economic opportunity for the emissions monitoring industry.

Compliance costs

The Department reviewed its air quality databases and identified 13 facilities in this Commonwealth whose owners and operators may be subject to this final-form rulemaking. The owners and operators of 12 of these 13 facilities manufacture or surface coat, or both, bodies or body parts for new heavier vehicles such as fire trucks, ambulances and tow trucks and will only be subject to this final-form rulemaking if they elect to comply with this final-form rulemaking instead of § 129.52d. The owner and operator of the remaining facility may potentially be subject based on previous surface coating operations. For purposes of discussing the potential impacts of this final-form rulemaking, the Board assumed that the owners and operators of all 13 facilities will elect to be subject to this final-form rulemaking. According to the Department databases, the actual VOC emissions from these 13 facilities assumed to be subject to this final-form rulemaking totaled 320 tons in 2013. Of the 13 facilities reporting VOC emissions in 2013, the owners and operators of 10 of these facilities reported VOC emissions totaling 2.7 tons or more; their combined reported emissions totaled 319 tons in 2013. Accordingly, the owners and operators of these ten facilities are assumed to emit 15 pounds (6.8 kilograms) or more of total actual VOC emissions per day, including VOC emissions from related cleaning activities, before consideration of controls, and will be required to implement the final-form VOC emission reduction measures, which include coating VOC content limits, work practice standards for coatings, development and implementation of a written work practice plan for cleaning materials, and compliance monitoring and daily recordkeeping requirements. The owners and operators of the remaining three facilities each reported VOC emissions below 2.7 tons; their combined reported VOC emissions totaled approximately 1 ton in 2013. The owners and operators of these three facilities are assumed to emit less than 15 pounds (6.8 kilograms) per day of total actual VOC emissions, including VOC emissions from related cleaning activities, before consideration of controls, and will be subject only to the compliance monitoring and daily recordkeeping requirements.

For all subject owners and operators, the daily records are required to be maintained onsite for 2 years, unless a longer period is required under Chapter 127 (relating to construction, modification, reactivation and operation of sources) or a plan approval, operating permit or order issued by the Department. Records shall be submitted to the Department in an acceptable format upon receipt of a written request from the Department.

The recommended RACT VOC emission reduction measures included in the 2008 ALDT CTG are largely based on the 2006 and 2007 data supplied by the Alliance of Automobile Manufacturers member companies and non-member companies, the VOC emission limitations of the 1980 NSPS, the VOC control recommendations of the 1977 CTG and the 2004 NESHAP HAP emission reduction measures. While the owner or operator of an automobile and light-duty truck assembly coating or heavier vehicle surface coating facility area source of HAP may not meet the threshold for implementing the HAP emis-

sion reduction measures of the 2004 NESHAP (10 tpy of any single listed HAP or 25 tpy of any combination of HAPs), the owner or operator may meet the applicability threshold limit for implementing the RACT control measures of this final-form rulemaking to control VOC emissions.

The costs estimated by the EPA to implement the recommended RACT measures are largely based on the 1980 NSPS VOC emission limitations and 2004 NESHAP HAP emission reduction measures and costs. The owner and operator of an automobile and light-duty truck assembly coating facility that is already implementing the requirements of the 1980 NSPS or 2004 NESHAP and is potentially subject to the measures of this final-form rulemaking will likely not have additional costs to comply with the measures of this final-form rulemaking. The EPA therefore projected an estimated cost of \$0 to the owners and operators of automobile and light-duty truck assembly coating facilities potentially subject to regulations implementing requirements consistent with the recommended RACT measures of the 2008 ALDT CTG.

However, the owners and operators of none of the 13 permitted facilities identified by the Department as potentially subject to this final-form rulemaking have permits implementing the 1980 NSPS or 2004 NESHAP requirements. The Department also determined that 12 of the 13 facility owners and operators are likely surface coating bodies and body parts for heavier vehicles. Consistent with a recommendation in the 2008 ALDT CTG and the 2008 MMPP CTG, this final-form rulemaking provides the owner or operator of a facility that coats a body or body part for a new heavier vehicle the option to elect to be regulated under this final-form rulemaking instead of § 129.52d. The EPA wrote in the 2008 ALDT CTG and the 2008 MMPP CTG that an owner or operator making this election will achieve at least equivalent, and perhaps greater, control of VOC emissions.

The cost to the potentially affected population will be about the same whether the owners and operators choose to comply with this final-form rulemaking or § 129.52d. The Board developed its estimate of costs for the potentially subject owners and operators implementing the measures of this final-form rulemaking by using the cost estimates for implementing the recommended RACT measures of the 2008 MMPP CTG. The Board likewise used the EPA's estimate from the 2008 MMPP CTG for the amount of VOC emission reductions implementation of the recommended control measures may achieve.

The EPA estimated that the annual cost to owners and operators to comply with regulations based on the 2008 MMPP CTG to be \$10,500 per facility and estimated the cost effectiveness for controlling the VOC emissions to be \$1,758 per ton of VOC emissions reduced. The EPA also estimated that implementing the RACT measures of the 2008 MMPP CTG will achieve VOC emission reductions of 35%. Both the 2008 ALDT CTG and the 2008 MMPP CTG also recommend work practices for reducing VOC emissions from coatings and cleaning materials. The EPA believes that the work practice recommendations in both the 2008 ALDT CTG and the 2008 MMPP CTG will result in a net cost savings for affected owners and operators for coating and cleaning materials. Implementing the required work practices for coating-related activities and cleaning materials will reduce the amounts of VOC emissions overall from coating operations by reducing the amounts of VOC-containing coating and cleaning materials that are lost to evaporation, spillage and waste, and reducing or eliminating associated VOC emissions, thereby reducing the costs of purchasing coating and

cleaning materials for use in the operation as well as decreasing the amount of annual emissions fees that must be paid for VOC emissions.

The Board estimates that the maximum potential amount of actual annual VOC emission reductions that may be achieved by implementing this final-form rulemaking is approximately 111 tons, based on the 2013 reported VOC emissions of 319 tons by the ten potentially subject permitted facility owners and operators identified from the Department's databases that may be required to implement the VOC control measures of this final-form rulemaking (35% reduction \times 319 tons VOC emissions = 111 tons of VOC emissions reduced), depending on the level of compliance already being achieved by these owners and operators. The estimated annual cost to the owners and operators of these ten potentially subject permitted facilities could be a total of \$195,138 (111 tons reduced \times \$1,758 per ton of VOC emissions reduced = \$195,138). The cost per facility owner and operator could be approximately \$19,514 ($\$195,138/10$ facilities = \$19,514), which is higher than the EPA's estimated cost per facility of \$10,500 for implementing the recommended RACT measures of the 2008 MMPP CTG. This difference in cost may be due in part to the Commonwealth-specific emission data used in the calculation.

The Board also calculated the cost effectiveness for the owners and operators of the ten potentially subject facilities in this Commonwealth using the EPA's cost of \$10,500 per facility. The estimated total maximum anticipated annual costs to the potentially subject ten facility owners and operators could be up to \$105,000 ($\$10,500 \times 10$ facilities = \$105,000). The cost effectiveness for the reductions of 111 tons of VOC emissions could be as little as \$946 per ton of VOC emissions reduced ($\$105,000/111$ tons of VOC emissions reduced = \$946 per ton of VOC emissions reduced) on an annual basis. This is less than the cost effectiveness of \$1,758 per ton of VOC emissions reduced estimated by the EPA for implementing the recommended RACT measures of the 2008 MMPP CTG. Again, this difference may be due in part to the Commonwealth-specific emission data used in the calculation.

The Board estimates that the range of cost effectiveness to these ten facility owners and operators for implementing this final-form rulemaking is \$946/ton of VOC emissions reduced to \$1,758/ton of VOC emissions reduced on an annual basis. The range of cost to this group for implementing the final-form VOC emission control measures is estimated to be \$10,500 to \$19,514 per year per facility. The estimated total annual cost of implementing this final-form rulemaking for this group of potentially subject owners and operators ranges from \$105,000 to \$195,138. The Board expects that the annual costs to the regulated industry in this Commonwealth will be at the lower end of these ranges because low-VOC content coating materials are likely to be readily available at a cost that is not significantly greater than the high-VOC content coatings they replace as a result of the development of 1980 NSPS-compliant low-VOC content coating materials and 2004 NESHAP-compliant low-HAP content coating materials, since lower HAP content usually means lower VOC content. Therefore, the research and development of low-VOC content coating materials should already be complete and these expenses should not be a factor in the cost of complying with the VOC emission control measures of this final-form rulemaking.

Further, the Board expects that the annual financial impact to these owners and operators will be less than the estimated maximum costs due to flexibility in choos-

ing compliance options. This final-form rulemaking provides for compliance through the use of complying coating materials and through work practice standards for coating-related activities and cleaning materials. Flexibility in compliance is provided for an owner or operator of a separate coating line at an automobile and light-duty truck assembly coating facility and an owner or operator of a facility that coats bodies or body parts for new heavier vehicles by the option to remain subject to the requirements of § 129.52d or to elect to be subject to this final-form rulemaking. This final-form rulemaking provides flexibility to all of the potentially affected owners and operators by amending § 129.51(a) to extend its applicability to the owner and operator of a coating operation subject to this final-form rulemaking. Section 129.51(a) authorizes the owner or operator to achieve compliance through an alternative method, which would achieve VOC emission reductions equal to or greater than those of this final-form rulemaking, by submitting the alternative method to the Department for review and approval in an applicable plan approval or operating permit, or both.

The VOC emission limitations established by this final-form rulemaking will not require the submission of applications for amendments to existing operating permits. These requirements will be incorporated as applicable requirements at the time of permit renewal, if less than 3 years remain in the permit term, as specified under § 127.463(c) (relating to operating permit revisions to incorporate applicable standards). If 3 years or more remain in the permit term, the requirements will be incorporated as applicable requirements in the permit within 18 months of the promulgation of this final-form rulemaking, as required under § 127.463(b). Most importantly, § 127.463(e) specifies that “[r]egardless of whether a revision is required under this section, the permittee shall meet the applicable standards or regulations promulgated under the Clean Air Act within the time frame required by standards or regulations. . . .” Consequently, upon promulgation as a final-form rulemaking, the requirements will apply to affected owners and operators irrespective of a modification to the operating permit.

New legal, accounting or consulting procedures are not required.

Compliance assistance plan

The Department plans to educate and assist the public and regulated community in understanding the requirements of this final-form rulemaking and how to comply with them. This will be accomplished through the Department’s ongoing compliance assistance program. The Department will also work with the Pennsylvania Small Business Assistance Program to aid the owners and operators of facilities less able to handle permitting matters with in-house staff.

Paperwork requirements

The recordkeeping and reporting requirements for owners and operators of affected facilities at, above or below the threshold for control measures are minimal because the records required under this final-form rulemaking are consistent with what the industry currently tracks for inventory purposes or is required in current permits. The owner or operator of a facility subject to this final-form rulemaking is required to maintain records sufficient to demonstrate compliance with the applicable requirements. Records maintained for compliance demonstrations may include purchase, use, production and other records. The records shall be maintained onsite for 2 years, unless a longer period is required by an order, plan

approval or operating permit issued under Chapter 127 and submitted to the Department in an acceptable format upon receipt of a written request from the Department.

H. Pollution Prevention

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

Statewide implementation of the VOC emission control measures in this final-form rulemaking may generate reductions of as much as 111 tons of VOC emissions per year from the 10 potentially subject facilities identified by the Department in its databases that are likely to be subject at or above the applicability threshold of 15 pounds (6.8 kilograms) per day of total actual VOC emissions, including VOC emissions from related cleaning activities, before consideration of controls. The owners and operators of these ten facilities will be required to implement the VOC control measures of this final-form rulemaking depending on the level of compliance already demonstrated by the owners and operators of these facilities. These projected estimated reductions in VOC emissions and the subsequent reduced formation of ground-level ozone will help ensure that the owners and operators of businesses, citizens and the environment of this Commonwealth experience the benefits of improved ground-level ozone air quality. Commonwealth residents will also potentially benefit from improved groundwater quality through reduced quantities of VOCs and HAPs from the use of low-VOC content and low-HAP content automobile and light-duty truck assembly coatings, heavier vehicle coatings and cleaning materials.

Although this final-form rulemaking is designed primarily to address ozone air quality, the reformulation of high-VOC content coating materials to low-VOC content coating materials or the substitution of low-VOC content coating materials for high-VOC content materials to meet the VOC content limits applicable to users may also result in reduction of HAP emissions, which are also a serious health threat. The reduced levels of high-VOC content and high-HAP content solvents will benefit groundwater quality through reduced loading on water treatment plants and in reduced quantities of high-VOC content and high-HAP content solvents leaching into the ground, streams and rivers.

This final-form rulemaking provides for compliance through the use of complying coating materials and through work practice standards for coating-related activities and cleaning materials. Flexibility in compliance is provided for an owner or operator of a separate coating line at an automobile and light-duty truck assembly coating facility and an owner or operator of a facility that coats bodies or body parts for new heavier vehicles by the option to remain subject to the requirements of § 129.52d or to elect to be subject to this final-form rulemaking. This final-form rulemaking provides flexibility to all of the potentially affected owners and operators by amending § 129.51(a) to extend its applicability to the owner and operator of a coating operation subject to this final-form rulemaking. Section 129.51(a) authorizes the

owner or operator to achieve compliance through an alternative method, which will achieve VOC emission reductions equal to or greater than those of this final-form rulemaking, by submitting the alternative method to the Department for review and approval in an applicable plan approval or operating permit, or both.

The development and implementation of a written work practice standard for the use and application of cleaning materials, as well as implementation of work practices for coating-related activities, is expected to result in a net cost savings for coating and cleaning materials and related activities for affected owners and operators. Implementing the required work practices for coating-related activities and cleaning materials should reduce the amounts of VOC emissions overall from coating operations by reducing the amounts of VOC-containing coating and cleaning materials that are lost to evaporation, spillage and waste, and reducing or eliminating associated VOC emissions, thereby reducing the costs of purchasing coating and cleaning materials for use in the operation as well as decreasing the amount of annual emissions fees that must be paid for VOC emissions.

I. Sunset Review

This final-form rulemaking will be reviewed in accordance with the sunset review schedule published by the Department to determine whether it effectively fulfills the goals for which it was intended.

J. Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on July 13, 2015, the Department submitted a copy of the notice of proposed rulemaking, published at 45 Pa.B. 4351, to IRRC and the Chairpersons of the House and Senate Environmental Resources and Energy Committees for review and comment.

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

Under section 5.1(j.2) of the Regulatory Review Act (71 P.S. § 745.5a(j.2)), on August 17, 2016, this 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 18, 2016, and approved this 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) At least a 60-day public comment period was provided as required by law and all comments were considered.
- (3) This final-form rulemaking does not enlarge the purpose of the proposed rulemaking published at 45 Pa.B. 4351.
- (4) These regulations are necessary and appropriate for administration and enforcement of the authorizing acts identified in Section C of this preamble.
- (5) These regulations are reasonably necessary to attain and maintain the ozone NAAQS and to satisfy related CAA requirements.

L. Order

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

(a) The regulations of the Department, 25 Pa. Code Chapter 129, are amended by adding § 129.52e and amending § 129.51 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 House and Senate Committees as required by the Regulatory Review Act (71 P.S. §§ 745.1—745.14).

(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 final-form rulemaking will be submitted to the EPA as an amendment to the Pennsylvania SIP.

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

PATRICK McDONNELL,
Acting Chairperson

(Editor's Note: See 46 Pa.B. 6758 (October 22, 2016) for a related final-form rulemaking adopting § 129.52d.)

(Editor's Note: See 46 Pa.B. 5790 (September 3, 2016) for IRRC's approval order.)

Fiscal Note: Fiscal Note 7-490 remains valid for the final adoption of the subject regulations.

Annex A

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

Subpart C. PROTECTION OF NATURAL RESOURCES

ARTICLE III. AIR RESOURCES

CHAPTER 129. STANDARDS FOR SOURCES

SOURCES OF VOCs

§ 129.51. General.

(a) *Equivalency.* Compliance with §§ 129.52, 129.52a, 129.52b, 129.52c, 129.52d, 129.52e, 129.54—129.67, 129.67a, 129.67b, 129.68, 129.69, 129.71—129.73 and 129.77 may be achieved by alternative methods if the following exist:

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

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

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

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

(5) Adequate records are maintained to ensure enforceability.

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

(b) *New source performance standards.* Sources covered by new source performance standards which are more stringent than those contained in this chapter shall comply with those standards in lieu of the standards in this chapter.

(c) *Demonstration of compliance.* Unless otherwise set forth in this chapter, test methods and procedures used to monitor compliance with the emission requirements of this section are those specified in Chapter 139 (relating to sampling and testing).

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

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

(2) The records shall be maintained onsite for 2 years, unless a longer period is required by a plan approval or operating permit issued under Chapter 127 (relating to construction, modification, reactivation and operation of sources). The records shall be made available to the Department on request.

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

§ 129.52e. Control of VOC emissions from automobile and light-duty truck assembly coating operations and heavier vehicle coating operations.

(a) *Applicability.*

(1) This section applies to the owner and operator of an automobile and light-duty truck assembly coating operation that applies an automobile assembly coating or a light-duty truck assembly coating, or both, to one or more of the following:

(i) A new automobile body or a new light-duty truck body.

(ii) A body part for a new automobile or for a new light-duty truck.

(iii) Another part that is coated along with the new automobile body or body part or new light-duty truck body or body part.

(2) This section applies to the owner and operator of an automobile and light-duty truck assembly coating operation that operates a separate coating line at the facility on which a coating is applied to another part intended for use in a new automobile or new light-duty truck or an aftermarket repair or replacement part for an automobile

or light-duty truck if the owner or operator elects to comply with this section instead of § 129.52d (relating to control of VOC emissions from miscellaneous metal parts surface coating processes, miscellaneous plastic parts surface coating processes and pleasure craft surface coatings). The election occurs when the owner or operator notifies the Department by submitting a written statement to the appropriate Department regional office Air Quality Program Manager that specifies the intent to comply with this section instead of § 129.52d.

(3) This section applies to the owner and operator of a facility that coats a body or body part for a new heavier vehicle if the owner or operator elects to comply with this section instead of § 129.52d. The election occurs when the owner or operator notifies the Department by submitting a written statement to the appropriate Department regional office Air Quality Program Manager that specifies the intent to comply with this section instead of § 129.52d.

(4) This section applies to the owner and operator of a facility that performs a coating operation subject to this section on a contractual basis.

(5) This section does not apply to the use or application of an automobile and light-duty truck assembly coating by an owner or operator at a plastic or composites molding facility.

(b) *Definitions.* The following words and terms, when used in this section, have the following meanings, unless the context clearly indicates otherwise:

Adhesive—A chemical substance that is applied for the purpose of bonding two surfaces together by other than mechanical means.

Assembly coating—The term includes the primary and additional surface coatings applied during the vehicle assembly process.

(i) Primary coatings include the following:

- (A) Electrodeposition primer.
- (B) Primer-surfacer (including anti-chip coatings).
- (C) Topcoat (including basecoat and clearcoat).
- (D) Final repair.

(ii) Additional coatings include the following:

- (A) Glass bonding primer.
- (B) Adhesives.
- (C) Cavity wax.
- (D) Sealer.
- (E) Deadener.
- (F) Gasket/gasket sealing material.
- (G) Underbody coating.
- (H) Trunk interior coating.
- (I) Bedliner.
- (J) Weatherstrip adhesive.
- (K) Lubricating waxes and compounds.

(iii) The term does not include aerosol coatings.

Automobile—

(i) A motor vehicle designed to carry up to eight passengers.

(ii) The term does not include vans, sport utility vehicles and motor vehicles designed primarily to transport light loads of property.

Automobile and light-duty truck adhesive—An adhesive, including glass bonding adhesive, used at an automobile

and light-duty truck assembly coating operation, applied for the purpose of bonding two vehicle surfaces together without regard to the substrates involved.

Automobile and light-duty truck assembly coating operation—An operation that applies an assembly coating to a new automobile body or a new light-duty truck body, or both, or a body part for a new automobile or for a new light-duty truck, or both, or another part that is coated along with the new automobile body or body part or new light-duty truck body or body part. The operation consists of one or more of the following processes:

- (i) Surface preparing.
- (ii) Priming, including application of either of the following:
 - (A) Electrodeposition primer.
 - (B) Primer-surfacer.
- (iii) Topcoating.
- (iv) Final repairing.
- (v) Cleaning activities related to the vehicle coating operations.

Automobile and light-duty truck bedliner—A multi-component coating, used at an automobile and light-duty truck assembly coating operation, applied to a cargo bed after the application of topcoat and outside of the topcoat operation to provide additional durability and chip resistance.

Automobile and light-duty truck cavity wax—A coating, used at an automobile and light-duty truck assembly coating operation, applied into the cavities of the vehicle primarily for the purpose of enhancing corrosion protection.

Automobile and light-duty truck deadener—A coating, used at an automobile and light-duty truck assembly coating operation, applied to selected vehicle surfaces primarily for the purpose of reducing the sound of road noise in the passenger compartment.

Automobile and light-duty truck gasket/gasket sealing material—

- (i) A fluid, used at an automobile and light-duty truck assembly coating operation, applied to coat a gasket or replace and perform the same function as a gasket.
- (ii) The term includes room temperature vulcanization seal material.

Automobile and light-duty truck glass bonding primer—

- (i) A primer, used at an automobile and light-duty truck assembly coating operation, applied to windshield or other glass, or to body openings, to prepare the glass or body opening for the application of glass bonding adhesives or the installation of adhesive bonded glass.
- (ii) The term includes glass bonding and cleaning primers that perform both functions (cleaning and priming of the windshield or other glass, or body openings) prior to the application of adhesive or the installation of adhesive bonded glass.

Automobile and light-duty truck lubricating wax/compound—A protective lubricating material, used at an automobile and light-duty truck assembly coating operation, applied to vehicle hubs and hinges.

Automobile and light-duty truck sealer—

- (i) A high viscosity material, used at an automobile and light-duty truck assembly coating operation, generally, but not always, applied in the paint shop after the body has received an EDP coating and before the application of subsequent coatings (for example, primer-surfacer). The

primary purpose of the material is to fill body joints completely so that there is no intrusion of water, gases or corrosive materials into the passenger area of the body compartment.

- (ii) The term is also known as sealant, sealant primer or caulk.

Automobile and light-duty truck trunk interior coating—A coating, used at an automobile and light-duty truck assembly coating operation outside of the primer-surfacer and topcoat operations, applied to the trunk interior to provide chip protection.

Automobile and light-duty truck underbody coating—A coating, used at an automobile and light-duty truck assembly coating operation, applied to the undercarriage or firewall to prevent corrosion or provide chip protection, or both.

Automobile and light-duty truck weatherstrip adhesive—An adhesive, used at an automobile and light-duty truck assembly coating operation, applied to weatherstripping materials for the purpose of bonding the weatherstrip material to the surface of the vehicle.

Automobile Topcoat Protocol—A guidance document by the United States Environmental Protection Agency for determining the daily volatile organic compound emission rate of automobile and light-duty truck primer-surfacer and topcoat operations (EPA-453/R-08-002, September 2008, or revisions).

Body part—

- (i) An exterior part of a motor vehicle including the hood, fender, door, roof, quarter panel, deck lid, tail gate and cargo bed.
- (ii) The term does not include a bumper, fascia or cladding.

EDP—Electrodeposition primer—

- (i) A process of applying a protective, corrosion-resistant waterborne primer on exterior and interior surfaces that provides thorough coverage of recessed areas. It is a dip coating method that uses an electrical field to apply or deposit the conductive coating onto the part. The object being painted acts as an electrode that is oppositely charged from the particles of paint in the dip tank.

- (ii) The term is also known as E-Coat, Uni-Prime and ELPO primer.

Final repair—The operations performed and coating or coatings applied to completely assembled motor vehicles or to parts that are not yet on a completely assembled vehicle to correct damage or imperfections in the coating. The curing of the coatings applied in these operations is accomplished at a lower temperature than that used for curing primer-surfacer and topcoat. This lower temperature cure avoids the need to send parts that are not yet on a completely assembled vehicle through the same type of curing process used for primer-surfacer and topcoat and is necessary to protect heat sensitive components on completely assembled vehicles.

Heavier vehicle—A self-propelled vehicle designed for transporting persons or property on a street or highway that has a gross vehicle weight rating over 8,500 pounds.

In-line repair—

- (i) The operation performed and coating or coatings applied to correct damage or imperfections in the topcoat on parts that are not yet on a completely assembled vehicle. The curing of the coatings applied in these operations is accomplished at essentially the same tem-

perature as that used for curing the previously applied topcoat. This operation is considered part of the topcoat operation.

(ii) The term is also known as high bake repair or high bake reprocess.

Light-duty truck—A van, sport utility vehicle or motor vehicle designed primarily to transport light loads of property with a gross vehicle weight rating of 8,500 pounds or less.

Primer-surfacer—

(i) An intermediate protective coating applied over the EDP and under the topcoat. The coating provides adhesion, protection and appearance properties to the total finish.

(ii) The coating operation may include one or more other coatings, including antichip, lower-body antichip, chip-resistant edge primer, spot primer, blackout, deadener, interior color, basecoat replacement coating or other coating, that is applied in the same spray booth.

(iii) The term is also known as guide coat or surfacer.

Solids turnover ratio (R_T)—The ratio of total volume of coating solids that is added to the EDP system in a calendar month divided by the total volume design capacity of the EDP system.

Topcoat—

(i) The final coating system applied to provide the final color or a protective finish, or both. The coating may be a monocoat color or basecoat/clearcoat system.

(ii) The coating operation may include one or more other coatings including blackout, interior color or other coating that is applied in the same spray booth.

(iii) The term includes in-line repair and two-tone.

(c) *Existing RACT permit.* The requirements of this section supersede the requirements of a RACT permit issued under §§ 129.91—129.95 (relating to stationary sources of NO_x and VOCs) to the owner or operator of a source subject to this section prior to January 1, 2017, except to the extent the RACT permit contains more stringent requirements.

(d) *VOC content limits.*

(1) Beginning January 1, 2017, the VOC content limits specified in Tables I and II apply to an owner and operator of a facility that has total actual VOC emissions equal to or greater than 15 pounds (6.8 kilograms) per day, before consideration of controls, from all operations at the facility that apply an assembly coating subject to this section, including related cleaning activities.

(2) Beginning January 1, 2017, the VOC content limits specified in Tables I and II do not apply to the following:

(i) An owner and operator of a facility that has total actual VOC emissions below 15 pounds (6.8 kilograms) per day, before consideration of controls, from all operations at the facility that apply an assembly coating subject to this section, including related cleaning activities.

(ii) An assembly coating supplied in a container with a net volume of 16 ounces or less or a net weight of 1 pound or less.

(e) *Work practice requirements.* Beginning January 1, 2017, an owner and operator subject to subsection (d)(1) shall comply with the following work practices for:

(1) Coating-related activities. An owner and operator shall:

(i) Store all VOC-containing coatings, thinners and coating-related waste materials in closed containers.

(ii) Ensure that mixing and storage containers used for VOC-containing coatings, thinners and coating-related waste materials are kept closed at all times except when depositing or removing these materials.

(iii) Minimize spills of VOC-containing coatings, thinners and coating-related waste materials and clean up spills immediately.

(iv) Convey VOC-containing coatings, thinners and coating-related waste materials from one location to another in closed containers or pipes.

(v) Minimize VOC emissions from cleaning of storage, mixing and conveying equipment.

(2) Cleaning materials. An owner and operator shall develop and implement a written work practice plan to minimize VOC emissions from cleaning and purging of equipment associated with all coating operations for which emission limits are required. The written plan must specify practices and procedures to ensure that VOC emissions from the following operations are minimized:

(i) Vehicle body wiping.

(ii) Coating line purging.

(iii) Flushing of coating systems.

(iv) Cleaning of spray booth grates.

(v) Cleaning of spray booth walls.

(vi) Cleaning of spray booth equipment.

(vii) Cleaning external spray booth areas.

(viii) Other housekeeping measures, including:

(A) Storing all VOC-containing cleaning materials and used shop towels in closed containers.

(B) Ensuring that mixing and storage containers used for VOC-containing cleaning materials are kept closed at all times except when depositing or removing these materials.

(C) Minimizing spills of VOC-containing cleaning materials and cleaning up spills immediately.

(D) Conveying VOC-containing cleaning materials from one location to another in closed containers or pipes.

(E) Minimizing VOC emissions from cleaning of storage, mixing and conveying equipment.

(f) *Compliance monitoring and recordkeeping.* An owner or operator subject to this section shall maintain records sufficient to demonstrate compliance with this section.

(1) The owner or operator shall maintain daily records of the following parameters for each coating, thinner, component or cleaning material as supplied:

(i) The name and identification number.

(ii) The volume used.

(iii) The mix ratio.

(iv) The density or specific gravity.

(v) The weight percent of total volatiles, water, solids and exempt solvents.

(vi) The volume percent of solids for each EDP coating.

(vii) The VOC content.

(2) The owner or operator shall maintain a daily record of the VOC content of each as applied coating or cleaning material.

(3) The owner or operator shall:

(i) Maintain the records onsite for 2 years, unless a longer period is required under Chapter 127 (relating to

construction, modification, reactivation and operation of sources) or a plan approval, operating permit or order issued by the Department.

(ii) Submit the records to the Department in an acceptable format upon receipt of a written request from the Department.

(4) The owner or operator subject to subsection (e) shall maintain the written work practice plan specified in subsection (e)(2) onsite and make it available to the Department upon request.

(g) *Measurement, calculation, sampling and testing methodologies.* The following measurement, calculation, sampling and testing methodologies shall be used to determine the amount of VOC emissions from automobile and light-duty truck assembly coating operations and heavier vehicle coating operations, as appropriate:

(1) Measurements of the volatile fraction of coatings shall be performed according to the following, as applicable:

(i) EPA Reference Method 24.

(ii) Appendix A of 40 CFR Part 63, Subpart PPPP (relating to National emission standards for hazardous air pollutants for surface coating of plastic parts and

products), regarding determination of weight volatile matter content and weight solids content of reactive adhesives.

(iii) Manufacturer's formulation data.

(2) Calculations of the VOC emissions and rates shall be performed according to the following, as applicable:

(i) Automobile Topcoat Protocol—*Protocol for Determining the Daily Volatile Organic Compound Emission Rate of Automobile and Light-Duty Truck Primer-Surfacer and Topcoat Operations*, EPA-453/R-08-002, including updates and revisions. This protocol applies to the owner and operator of a facility that coats a body or body part for a new heavier vehicle that elects under subsection (a)(3) to comply with this section instead of § 129.52d.

(ii) *A Guideline for Surface Coating Calculations*, EPA-340/1-86-016, including updates and revisions.

(iii) *Procedures for Certifying Quantity of Volatile Organic Compounds Emitted by Paint, Ink, and Other Coatings*, EPA-450/3-84-019, including updates and revisions.

(3) Sampling and testing shall be performed according to the procedures and test methods specified in Chapter 139 (relating to sampling and testing).

(4) Another method or procedure that has been approved in writing by the Department and the EPA.

Table I. VOC Content Limits for Primary Assembly Coatings

Assembly Coating	VOC Emission Limit		
	When $R_T^1 < 0.040$	When $0.040 \leq R_T^1 < 0.160$	When $R_T^1 \geq 0.160$
	No VOC emission limit	$0.084 \times 350^{0.160-R_T}$ kg VOC/liter coating solids applied or $0.084 \times 350^{0.160-R_T} \times 8.34$ lb VOC/gal coating solids applied	0.084 kg VOC/liter coating solids applied or 0.7 lb VOC/gal coating solids applied
Primer-surfacer operations (including application area, flash-off area, and oven)	1.44 kg VOC/liter of deposited solids or 12.0 lbs VOC/gal deposited solids on a daily weighted average basis as determined by following the procedures in the revised Automobile Topcoat Protocol.		
Topcoat operations (including application area, flash-off area, and oven)	1.44 kg VOC/liter of deposited solids or 12.0 lbs VOC/gal deposited solids on a daily weighted average basis as determined by following the procedures in the revised Automobile Topcoat Protocol.		
Final repair operations	0.58 kg VOC/liter less water and less exempt solvents or 4.8 lbs VOC/gallon of coating less water and less exempt solvents on a daily weighted average basis or as an occurrence weighted average.		
Combined primer-surfacer and topcoat operations	1.44 kg VOC/liter of deposited solids or 12.0 lbs VOC/gal deposited solids on a daily weighted average basis as determined by following the procedures in the revised Automobile Topcoat Protocol.		
¹ R_T is the solids turnover ratio. "Solids turnover ratio" is defined in subsection (b).			

**Table II. VOC Content Limits for Additional Assembly Coatings
(grams of VOC per liter of coating excluding water and exempt compounds) as Applied**

<i>Material²</i>	<i>g VOC/liter coating less water and exempt compounds</i>	<i>lb VOC/gal coating less water and exempt compounds</i>
Automobile and Light-duty Truck Glass Bonding Primer	900	7.51
Automobile and Light-duty Truck Adhesive	250	2.09
Automobile and Light-duty Truck Cavity Wax	650	5.4
Automobile and Light-duty Truck Sealer	650	5.4
Automobile and Light-duty Truck Deadener	650	5.4
Automobile and Light-duty Truck Gasket/Gasket Sealing Material	200	1.7
Automobile and Light-duty Truck Underbody Coating	650	5.4
Automobile and Light-duty Truck Trunk Interior Coating	650	5.4
Automobile and Light-duty Truck Bedliner	200	1.7
Automobile and Light-duty Truck Lubricating Wax/Compound	700	5.8
Automobile and Light-duty Truck Weatherstrip Adhesive	750	6.26

² The owner and operator of a facility that coats a body or body part, or both, for a new heavier vehicle that elects under subsection (a)(3) to comply with this section instead of § 129.52d shall comply with these limits for equivalent coating materials.

[Pa.B. Doc. No. 16-1846. Filed for public inspection October 21, 2016, 9:00 a.m.]

ENVIRONMENTAL QUALITY BOARD

[25 PA. CODE CH. 129]

Control of Volatile Organic Compound Emissions from Miscellaneous Metal Parts Surface Coating Processes, Miscellaneous Plastic Parts Surface Coating Processes and Pleasure Craft Surface Coatings

The Environmental Quality Board (Board) amends Chapter 129 (relating to standards for sources) to read as set forth in Annex A. This final-form rulemaking adds § 129.52d (relating to control of VOC emissions from miscellaneous metal parts surface coating processes, miscellaneous plastic parts surface coating processes and pleasure craft surface coatings) to adopt reasonably available control technology (RACT) requirements and RACT emission limitations for stationary sources of volatile organic compound (VOC) emissions from miscellaneous metal parts surface coating processes, miscellaneous plastic parts surface coating processes and pleasure craft surface coatings. These processes include surface coating of miscellaneous metal parts or products, miscellaneous plastic parts or products, automotive and transportation plastic parts, business machine plastic parts, pleasure craft (recreational boats), and bodies or body parts for new heavier vehicles, and surface coating performed on a separate coating line at an automobile and light-duty truck assembly coating facility on which coatings are applied to other parts intended for use in new automobiles or new light-duty trucks or to aftermarket repair or replacement parts for automobiles or light-duty trucks, as well as related cleaning activities. This final-form rulemaking adds terms and definitions to § 129.52d to support the interpretation of the measures and amends §§ 129.51, 129.52, 129.67 and 129.75 to support the addition of § 129.52d.

This final-form rulemaking will be submitted to the United States Environmental Protection Agency (EPA) for

approval as a revision to the Commonwealth's State Implementation Plan (SIP) following promulgation of this final-form rulemaking.

This final-form rulemaking is given under Board order at its meeting of June 21, 2016.

A. *Effective Date*

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

B. *Contact Persons*

For further information, contact Kirit Dalal, Chief, Division of Air Resource Management, Bureau of Air Quality, Rachel Carson State Office Building, P.O. Box 8468, Harrisburg, PA 17105-8468, (717) 772-3436; or Jesse C. Walker, Assistant Counsel, Bureau of Regulatory Counsel, Rachel Carson State Office Building, P.O. Box 8464, Harrisburg, PA 17105-8464, (717) 787-7060. Persons with a disability may use the Pennsylvania AT&T Relay Service, (800) 654-5984 (TDD users) or (800) 654-5988 (voice users). This final-form rulemaking is available on the Department of Environmental Protection's (Department) web site at www.dep.pa.gov (select "Public Participation," then "Environmental Quality Board (EQB)").

C. *Statutory Authority*

This final-form rulemaking is authorized under section 5(a)(1) of the Air Pollution Control Act (act) (35 P.S. § 4005(a)(1)), which grants the Board the authority to adopt rules and regulations for the prevention, control, reduction and abatement of air pollution in this Commonwealth. Section 5(a)(8) of the act grants the Board the authority to adopt rules and regulations designed to implement the provisions of the Clean Air Act (CAA) (42 U.S.C.A. §§ 7401—7671q).

D. *Background and Purpose*

The purpose of this final-form rulemaking is to implement control measures to reduce VOC emissions from miscellaneous metal parts surface coating processes, mis-

cellaneous plastic parts surface coating processes and pleasure craft surface coatings. These processes include surface coating of miscellaneous metal parts or products, miscellaneous plastic parts or products, automotive and transportation plastic parts, business machine plastic parts, pleasure craft (recreational boats), and bodies or body parts for new heavier vehicles, and surface coating performed on a separate coating line at an automobile and light-duty truck assembly coating facility on which coatings are applied to other parts intended for use in new automobiles or new light-duty trucks or to aftermarket repair or replacement parts for automobiles or light-duty trucks, as well as related cleaning activities.

Miscellaneous metal parts and products and miscellaneous plastic parts and products include metal and plastic components of the following types of products as well as the products themselves: fabricated metal products; molded plastic parts; small and large farm machinery; commercial and industrial machinery and equipment; automotive or transportation equipment; interior or exterior automotive parts; construction equipment; motor vehicle accessories; bicycles and sporting goods; toys; recreational vehicles; pleasure craft (recreational boats); extruded aluminum structural components; railroad cars; heavier vehicles; lawn and garden equipment; business machines; laboratory and medical equipment; electronic equipment; steel drums; metal pipes; and numerous other industrial and household products.

VOCs are precursors for ground-level ozone formation. Ground-level ozone, a public health and welfare hazard, is not emitted directly to the atmosphere from these sources, but forms from a photochemical reaction between VOCs and nitrogen oxides (NO_x) in the presence of sunlight. In accordance with sections 172(c)(1), 182(b)(2)(A) and 184(b)(1)(B) of the CAA (42 U.S.C.A. §§ 7502(c)(1), 7511a(b)(2)(A) and 7511c(b)(1)(B)), this final-form rulemaking establishes VOC emission limitations and other requirements consistent with the recommendations of the EPA 2008 Miscellaneous Metal and Plastic Parts Coatings Control Techniques Guidelines (2008 MMPP CTG) for these sources in this Commonwealth. See "Consumer and Commercial Products, Group IV: Control Techniques Guidelines in Lieu of Regulations for Miscellaneous Metal Products Coatings, Plastic Parts Coatings, Auto and Light-Duty Truck Assembly Coatings, Fiberglass Boat Manufacturing Materials, and Miscellaneous Industrial Adhesives," 73 FR 58481, 58483 (October 7, 2008).

The EPA is responsible for establishing National Ambient Air Quality Standards (NAAQS) for six criteria pollutants considered harmful to public health and welfare, including the environment: ground-level ozone, particulate matter, NO_x , carbon monoxide, sulfur dioxide and lead. Section 109 of the CAA (42 U.S.C.A. § 7409) established two types of NAAQS: primary standards, which are limits set to protect public health; and secondary standards, which are limits set to protect public welfare and the environment, including protection against visibility impairment and from damage to animals, crops, vegetation and buildings. The EPA established primary and secondary ground-level ozone NAAQS to protect public health and welfare.

Ground-level ozone is a highly reactive gas, which at sufficiently high concentrations can produce a wide variety of harmful effects. At elevated concentrations, ground-level ozone can adversely affect human health, animal health, vegetation, materials, economic values, and personal comfort and well-being. It can cause damage to

important food crops, forests, livestock and wildlife. Repeated exposure to ground-level ozone pollution may cause a variety of adverse health effects for both healthy people and those with existing conditions, including difficulty in breathing, chest pains, coughing, nausea, throat irritation and congestion. It can worsen bronchitis, heart disease, emphysema and asthma, and reduce lung capacity. Asthma is a significant and growing threat to children and adults. High levels of ground-level ozone adversely affect animals in ways similar to humans. High levels of ground-level ozone can also cause damage to buildings and synthetic fibers, including nylon, and reduced visibility on roadways and in natural areas. The implementation of additional measures to address ozone air quality nonattainment in this Commonwealth is necessary to protect the public health and welfare, animal and plant health and welfare, and the environment.

In July 1997, the EPA promulgated primary and secondary ozone NAAQS at a level of 0.08 part per million (ppm) averaged over 8 hours. See 62 FR 38856 (July 18, 1997). In 2004, the EPA designated 37 counties in this Commonwealth as 8-hour ozone nonattainment areas for the 1997 8-hour ozone NAAQS. Based on the ambient air monitoring data for the 2014 and 2015 ozone seasons, all monitored areas of this Commonwealth are attaining the 1997 8-hour ozone NAAQS. Maintenance plans have been submitted to the EPA and approved for the 1997 ozone NAAQS. In accordance with the CAA, the maintenance plans include permanent and enforceable control measures that will provide for the maintenance of the ozone NAAQS for at least 10 years following the EPA's redesignation of the areas to attainment. Eight years after the EPA redesignates an area to attainment, additional maintenance plans approved by the EPA must also provide for the maintenance of the ozone NAAQS for another 10 years following the expiration of the initial 10-year period.

In March 2008, the EPA lowered the primary and secondary ozone NAAQS to 0.075 ppm averaged over 8 hours to provide even greater protection for children, other at-risk populations and the environment against the array of ground-level ozone-induced adverse health and welfare effects. See 73 FR 16436 (March 27, 2008). In April 2012, the EPA designated five areas in this Commonwealth as nonattainment for the 2008 ozone NAAQS. See 77 FR 30088, 30143 (May 21, 2012). These areas include all or a portion of Allegheny, Armstrong, Berks, Beaver, Bucks, Butler, Carbon, Chester, Delaware, Fayette, Lancaster, Lehigh, Montgomery, Northampton, Philadelphia, Washington and Westmoreland Counties. The Department's analysis of 2014 ambient air ozone concentrations showed that all ozone samplers in this Commonwealth, except the Harrison sampler in Allegheny County, were monitoring attainment of the 2008 ozone NAAQS. The certified 2015 ozone season monitoring data indicate that all areas of this Commonwealth, including the Harrison sampler, are monitoring attainment of the 2008 ozone NAAQS as well. As with the 1997 ozone NAAQS, the Department must ensure that the 2008 ozone NAAQS are attained and maintained by implementing permanent and enforceable control measures. At the Department's request, the EPA granted 1-year attainment date extensions for the 2008 ozone NAAQS in the Philadelphia and Pittsburgh-Beaver Valley Areas due to air monitor violations in New Jersey and Maryland.

On October 1, 2015, the EPA again lowered the ozone NAAQS, this time to 0.070 ppm averaged over 8 hours. See 80 FR 65292 (October 26, 2015). Based on ambient

air monitoring data for the 2013–2015 ozone seasons, eight monitors in this Commonwealth have design values that violate the 2015 ozone NAAQS. The samplers are located in Allegheny, Armstrong, Bucks, Delaware, Indiana, Lebanon, Montgomery and Philadelphia Counties. The Commonwealth submitted designation recommendations for the 2015 ozone NAAQS to the EPA on October 3, 2016. The EPA's final designations for attainment and nonattainment areas for the 2015 ozone NAAQS are expected to take effect in December 2017.

Reductions in VOC emissions that are achieved following the adoption and implementation of VOC RACT emission control measures for source categories covered by Control Techniques Guidelines (CTG), including miscellaneous metal parts surface coating processes, miscellaneous plastic parts surface coating processes and pleasure craft surface coatings, will allow the Commonwealth to make progress in achieving and maintaining the 1997, 2008 and 2015 8-hour ozone NAAQS.

This final-form rulemaking, which is consistent with the RACT recommendations in the EPA's 2008 MMPP CTG, will reduce VOC emissions from the miscellaneous metal parts surface coating processes, miscellaneous plastic parts surface coating processes and pleasure craft surface coatings categories in ozone nonattainment and maintenance areas in this Commonwealth for those affected sources that do not already comply with the control measures. These final-form VOC emission reduction control measures will assist the Commonwealth in achieving and maintaining the ozone NAAQS Statewide.

There are no Federal statutory or regulatory RACT limits for VOC emissions from these miscellaneous metal parts surface coating processes, miscellaneous plastic parts surface coating processes and pleasure craft surface coatings. In 2004, however, the EPA promulgated 40 CFR Part 63, Subparts M and P (relating to National emission standards for hazardous air pollutants for surface coating of miscellaneous metal parts and products; and National emission standards for hazardous air pollutants for surface coating of plastic parts and products) (collectively referred to as 2004 NESHAPs). See 69 FR 130 (January 2, 2004) and 69 FR 20968 (April 19, 2004). These 2004 NESHAPs established organic hazardous air pollutant (HAP) emission limits based on low-HAP content coatings and low-volatile-emitting (nonatomizing) coating application technology for the respective surface coating categories.

When developing the control measure recommendations included in its 2008 MMPP CTG for reducing VOC emissions from these sources, the EPA took into account the HAP emission reduction measures of the 2004 NESHAPs for the metal parts and products and the plastic parts and products coating industries. Many HAPs are also VOCs, but not all VOCs are HAPs. The requirements of the 2004 NESHAPs apply to "major sources" of HAP emissions from miscellaneous metal parts and products coating facilities and plastic parts and products coating facilities. For the purpose of regulating HAPs, a "major source" is considered to be a stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit considering controls, in the aggregate, 10 tons per year (tpy) or more of any single listed HAP or 25 tpy or more of any combination of HAPs. See section 112(a)(1) of the CAA (42 U.S.C.A. § 7412(a)(1)). See 69 FR 130, 131 and 69 FR 20968, 20969. Most of the Federal recommendations for control of VOC emissions included in the 2008 MMPP CTG are based on the HAP content

and emission rate limits for surface coating of miscellaneous metal parts and products and surface coating of plastic parts and products and other requirements in the 2004 NESHAPs for these categories.

For pleasure craft surface coatings, the EPA took into account California regulations when developing the 2008 MMPP CTG. California was the only state at that time with regulations governing VOC emissions from pleasure craft surface coatings. After the EPA finalized the 2008 MMPP CTG, the pleasure craft coatings industry asserted to the EPA that three of the VOC emission limits in the CTG were too low considering the performance requirements of the pleasure craft coatings and that the VOC emission limits recommended did not represent RACT for the National pleasure craft coatings industry. The industry suggested several options for revision. The EPA did not take action on the concerns, but left it up to the states to address the concerns. On June 1, 2010, the EPA issued a memorandum entitled "Control Technique Guidelines for Miscellaneous Metal and Plastic Part Coatings—Industry Request for Reconsideration" in which the EPA stated that each state could determine what would be appropriate for the pleasure craft coatings industry in its jurisdiction.

State regulations to control VOC emissions from miscellaneous metal parts surface coating processes, miscellaneous plastic parts surface coating processes and pleasure craft surface coatings, as well as VOC emissions from the related cleaning activities, are required under Federal law. The Commonwealth's regulation will be approved by the EPA as a revision to the Commonwealth's SIP if the provisions meet the RACT requirements of the CAA and its implementing regulations. See 73 FR 58481, 58483. The EPA defines RACT as "the lowest emission limitation that a particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility." See "State Implementation Plans; General Preamble for Proposed Rulemaking on Approval of Plan Revisions for Nonattainment Areas—Supplement (on Control Techniques Guidelines)," 44 FR 53761 (September 17, 1979).

Section 110(a) of the CAA (42 U.S.C.A. § 7410(a)) provides that each state shall adopt and submit to the EPA a plan to implement measures (a SIP) to enforce the NAAQS or revision to the NAAQS promulgated under section 109(b) of the CAA. Section 172(c)(1) of the CAA provides that SIPs for nonattainment areas must include "reasonably available control measures," including RACT, for sources of emissions of VOC and NO_x. Section 182(b)(2) of the CAA provides that for moderate ozone nonattainment areas, states must revise their SIPs to include RACT for sources of VOC emissions covered by a CTG document issued by the EPA prior to the area's date of attainment of the applicable ozone NAAQS. More importantly, section 184(b)(1)(B) of the CAA requires that states in the Ozone Transport Region (OTR), including the Commonwealth, submit a SIP revision requiring implementation of RACT for all sources of VOC emissions in the state covered by a specific CTG and not just for those sources that are located in designated nonattainment areas of the state.

Section 183(e) of the CAA (42 U.S.C.A. § 7511b(e)) directs the EPA to list for regulation those categories of products that account for at least 80% of the aggregate VOC emissions from consumer and commercial products in ozone nonattainment areas. Section 183(e)(3)(C) of the CAA further provides that the EPA may issue a CTG document in place of a National regulation for a product

category on the section 183(e) list when the EPA determines that the CTG will be “substantially as effective as [National] regulations” in reducing emissions of VOC in ozone nonattainment areas. In 1995, the EPA listed miscellaneous metal products coatings and plastic parts coatings on its section 183(e) list and, in 2008, issued a CTG for these product categories. See 60 FR 15264, 15267 (March 23, 1995) and 73 FR 58481. See *Control Techniques Guidelines for Miscellaneous Metal and Plastic Parts Coatings*, EPA-453/R-08-003, Office of Air Quality Planning and Standards, EPA, September 2008. The 2008 MMPP CTG document is available on the EPA’s web site at <https://www.epa.gov/stationary-sources-air-pollution/clean-air-act-guidelines-and-standards-solvent-use-and-surface>.

In the 2008 notice of final determination and availability of final CTGs, the EPA determined that the RACT recommendations of the 2008 MMPP CTG would be substantially as effective as National regulations in reducing VOC emissions from the miscellaneous metal products coatings and plastic parts coatings product categories, as well as pleasure craft surface coatings, in ozone nonattainment areas. See 73 FR 58481. The 2008 MMPP CTG provides states with the EPA’s recommendation of what constitutes RACT for the covered categories. States may use the Federal recommendations provided in the CTG to inform their own determination as to what constitutes RACT for VOC emissions from the covered categories. State air pollution control agencies may implement other technically-sound approaches that are consistent with the CAA requirements and the EPA’s implementing regulations or guidelines.

The Department reviewed the RACT recommendations included in the 2008 MMPP CTG for their applicability to the ground-level ozone reduction measures necessary for this Commonwealth. The Bureau of Air Quality determined that VOC emission reduction measures consistent with the recommendations provided in the 2008 MMPP CTG are appropriate to be implemented in this Commonwealth as RACT for these categories. The Bureau of Air Quality determined that three VOC content limits applicable to the pleasure craft coatings industry should be revised from the limits in the CTG to represent RACT for that industry, based on the June 1, 2010, memorandum from the EPA entitled “Control Technique Guidelines for Miscellaneous Metal and Plastic Part Coatings-Industry Request for Reconsideration.” The EPA wrote the memorandum in response to input from the pleasure craft coatings industry following the EPA’s publication of the CTG.

This final-form rulemaking applies to the owner and operator of a facility that manufactures miscellaneous metal parts or products or miscellaneous plastic parts or products, including automotive and transportation plastic parts, business machine plastic parts, pleasure craft (recreational boats), or bodies or body parts for new heavier vehicles, on which subject surface coatings are applied by the owner and operator, as well as to the owner and operator of a facility that applies subject surface coatings to affected parts and products on a contractual basis. This final-form rulemaking also applies to the owner and operator of a separate coating line at an automobile and light-duty truck assembly coating facility on which subject surface coatings are applied to other parts intended for use in new automobiles or new light-duty trucks or to aftermarket repair or replacement parts for automobiles or light-duty trucks.

The Board is aware of 160 manufacturing facilities in this Commonwealth whose owners and operators may be subject to the final-form VOC emission reduction mea-

asures. The owners and operators of as many as 139 of these facilities may emit 2.7 tons or more of actual VOC emissions per 12-month rolling period threshold, including VOC emissions from related cleaning activities, before consideration of controls, and will likely be required to implement the final-form VOC emission control measures, work practice standards and recordkeeping requirements. The owners and operators of the remaining 21 affected facilities with actual VOC emissions below the 2.7 tons per 12-month rolling period threshold, including VOC emissions from related cleaning activities, before consideration of controls, are subject only to the recordkeeping requirements and, if requested by the Department, reporting requirements of this final-form rulemaking. It is possible that the owners and operators of additional facilities that have not been identified could be subject to the final-form rulemaking control measures.

Implementation of the recommended control measures could generate reductions of as much as 1,586 tons of VOC emissions per 12-month rolling period from the 139 facilities. The estimated total maximum annual costs to the affected regulated industry could be up to \$2.8 million. The range of cost per regulated facility for implementing the final-form VOC emission control measures is estimated to be \$10,500 to \$20,000 annually per facility. The range of cost effectiveness to the regulated industry would be approximately \$920 per ton of VOC emissions reduced to \$1,758 per ton of VOC emissions reduced on an annual basis.

The ground-level ozone reduction measures included in this final-form rulemaking may achieve VOC emission reductions locally and may also reduce the transport of VOC emissions and ground-level ozone to downwind states, if implemented for sources of VOC emissions from surface coating processes subject to this final-form rulemaking, as well as for the VOC emissions from related cleaning activities. Adoption of VOC emission control requirements for these sources is part of the Commonwealth’s strategy, in concert with other OTR jurisdictions, to further reduce transport of VOC ozone precursors and ground-level ozone throughout the OTR to attain and maintain the 8-hour ground-level ozone NAAQS.

This final-form rulemaking is required under the CAA and, consistent with section 4.2(a) of the act (35 P.S. § 4004.2(a)), is reasonably required to achieve and maintain the health-based and welfare-based 8-hour ground-level ozone NAAQS and to satisfy related CAA requirements in this Commonwealth. Once published in the *Pennsylvania Bulletin*, this final-form rulemaking will be submitted to the EPA as a revision to the Commonwealth’s SIP.

On February 11, 2016, the Air Quality Technical Advisory Committee (AQTAC) was briefed on this final-form rulemaking and the comments received on the proposed rulemaking, and they had no concerns. The AQTAC voted unanimously to concur with the Department’s recommendation to move this final-form rulemaking forward to the Board for consideration. This final-form rulemaking was discussed with the Citizens Advisory Council’s (CAC) Policy and Regulatory Oversight Committee on March 2, 2016. On the recommendation of the CAC’s Policy and Regulatory Oversight Committee, on March 15, 2016, the CAC concurred with the Department’s recommendation to forward this final-form rulemaking to the Board. The Small Business Compliance Advisory Committee (SBCAC) was briefed on this final-form rulemaking on April 27, 2016. The SBCAC voted unanimously to concur with the Department’s recommendation to move this final-form rulemaking forward to the Board for consideration.

E. Summary of Final-Form Rulemaking and Changes from Proposed to Final-Form Rulemaking

§ 129.51. *General*

The final-form rulemaking amends § 129.51(a) (relating to general) to extend coverage to the owner and operator of a miscellaneous metal part surface coating process or miscellaneous plastic part surface coating process covered by this final-form rulemaking. Section 129.51(a) provides an alternative method for the owner and operator of an affected facility to achieve compliance with air emission limits. There are no changes to § 129.51 from proposed to final-form rulemaking.

§ 129.52. *Surface coating processes*

The final-form rulemaking amends § 129.52(g) (relating to surface coating processes) to clarify that the required records shall be maintained onsite for 2 years, unless a longer period is required by an order, plan approval or operating permit issued under Chapter 127 (relating to construction, modification, reactivation and operation of sources). The records shall be submitted to the Department in an acceptable format on a schedule reasonably prescribed by the Department. There are no changes to § 129.52(g) from proposed to final-form rulemaking. The Board received comments from the Independent Regulatory Review Commission (IRRC) recommending that clarity be provided in regard to what constitutes submitting records to the Department “in an acceptable format” and “on a schedule reasonably prescribed.” However, the Board did not make these changes because the conditions of applicable permits include recordkeeping and reporting requirements, including the format and schedule for submittal to the Department. Similarly, the Department specifies the format and schedule in its request for records from those owners and operators of subject sources that do not have permits, tailoring the request to the individual source. Keeping the regulatory language provides flexibility for these conditions to be made specific to different sources by inclusion in the applicable permit.

Subsection (k) was not in the proposed rulemaking. This subsection is added in response to comments received during the public comment period. This amendment to the final-form rulemaking establishes that § 129.52d(a)(5)(i) applies to surface coating processes regulated under Table I, Category 10, miscellaneous metal parts and products. Aerosol coatings shall meet the requirements of 40 CFR Part 59, Subpart E (relating to National volatile organic compound emission standards for aerosol coatings). Subsection (k) is added to provide clarity on the applicability of the requirements of § 129.52, Table I, Category 10, miscellaneous metal parts and products, to the use of aerosol coatings including hand-held aerosol cans.

§ 129.52d. *Control of VOC emissions from miscellaneous metal parts surface coating processes, miscellaneous plastic parts surface coating processes and pleasure craft surface coatings*

The final-form rulemaking adds § 129.52d to regulate VOC emissions from miscellaneous metal parts surface coating processes, miscellaneous plastic parts surface coating processes and pleasure craft surface coatings. As explained in subsection (c), § 129.52d supersedes the requirements of a RACT permit already issued under §§ 129.91–129.95 (relating to stationary sources of NO_x and VOCs) to the owner or operator to control, reduce or minimize VOC emissions from a process or coating subject to § 129.52d(a), except to the extent the RACT permit contains more stringent requirements.

The applicability of § 129.52d is described in subsection (a). Under subsection (a)(1), this final-form rulemaking applies to the owner and operator of a miscellaneous metal part surface coating process or miscellaneous plastic part surface coating process, or both, if the total actual VOC emissions from all miscellaneous metal part coating units and miscellaneous plastic part coating units, including related cleaning activities, at the facility are equal to or greater than 2.7 tons per 12-month rolling period, before consideration of controls. As with all RACT regulations, an affected owner or operator remains subject to the applicable requirements even if the throughput or VOC emissions fall below the applicability threshold of subsection (a)(1).

Subsection (a)(2) establishes that this final-form rulemaking applies, as specified, to the owner and operator of a miscellaneous metal part surface coating process or miscellaneous plastic part surface coating process, or both, if the total actual VOC emissions from all miscellaneous metal part coating units and miscellaneous plastic part coating units, including related cleaning activities, at the facility are below 2.7 tons per 12-month rolling period, before consideration of controls. The only requirements that apply to an owner or operator subject to subsection (a)(2) are recordkeeping requirements and, if requested by the Department, reporting requirements.

Subsection (a)(3) specifies that compliance with the VOC emission limits and other requirements of this section assures compliance with the VOC emission limits and other requirements of § 129.52 (relating to surface coating processes) for the miscellaneous metal parts and products surface coating processes as specified in § 129.52, Table I, Category 10.

Subsection (a)(4) specifies that if an owner or operator elects to comply with § 129.52e (relating to control of VOC emissions from automobile and light-duty truck assembly coating operations and heavier vehicle coating operations) under subsection (a)(2) or (3), then § 129.52e instead of this section applies to the separate coating line at the facility, or to the coating of a body or body part for a new heavier vehicle at the facility, or both, for which the election is made. This effectuates the recommendations in the EPA's *Control Techniques Guidelines for Automobile and Light-Duty Truck Assembly Coatings*, EPA-453/R-08-006, Office of Air Quality Planning and Standards, EPA, September 2008, that a state consider giving an owner or operator of a separate coating line at an automobile and light-duty truck assembly coating facility the option of complying with the state's regulation adopted under the 2008 Automobile and Light-Duty Truck Assembly Coatings CTG (2008 ALDT CTG) instead of the 2008 MMPP CTG, and that a state give an owner or operator of a facility that coats bodies or body parts for new heavier vehicles the option to comply with the state's regulation adopted under the 2008 MMPP CTG or the 2008 ALDT CTG. See 2008 ALDT CTG, page 4, and 2008 MMPP CTG, page 4.

Subsection (a)(5) specifies that this final-form rulemaking does not apply to an affected owner or operator in the use or application of coatings under certain circumstances. Proposed subsection (a)(5)(i) simply specified aerosol coatings. Subsection (a)(5)(i) is amended to clarify that this section does not apply to an owner or operator in the use or application of aerosol coatings that meet the requirements of 40 CFR Part 59, Subpart E. This amendment is added in response to comments received during the public comment period to provide clarity on the applicability of the requirements of § 129.52d to the use of aerosol coatings including hand-held aerosol cans.

Subsection (b) establishes 72 definitions to support this section.

Subsection (c) establishes that the requirements of this section supersede the requirements of a RACT permit issued under §§ 129.91—129.95 to the owner or operator of a source subject to subsection (a) prior to January 1, 2017, except to the extent the RACT permit contains more stringent requirements. The proposed compliance date was January 1, 2016. However, this final-form rulemaking was not finalized by January 1, 2016. The Board revised the compliance date in this final-form rulemaking to January 1, 2017. January 1, 2017, is the mandated deadline required under the EPA's final rule pertaining to the Implementation of the 2008 National Ambient Air Quality Standards for Ozone: State Implementation Plan Requirements. See 80 FR 12264, 12279 (March 6, 2015). The EPA stated that the RACT measures for the 2008 ozone NAAQS must be implemented "as expeditiously as practicable, but no later than January 1 of the 5th year after the effective date of a nonattainment designation." The nonattainment designations across the United States were effective for the 2008 ozone NAAQS on July 20, 2012. See 77 FR 30088, 30143. Consequently, RACT measures for the 2008 8-hour ozone standard must be implemented by January 1, 2017.

Subsection (d) establishes emission limitations beginning January 1, 2017, for a person subject to subsection (a)(1). Three options for meeting the emission limitations are included: in subsection (d)(1), use of compliant materials, as applied, excluding water and exempt compounds, that meet the VOC content limit for the applicable coating category specified in the applicable table of VOC content limits in Tables I—V; in subsection (d)(2), a combination of one or more VOC-containing coatings, as applied, that meet the emission rate limits for the applicable coating category specified in the applicable table of emission rate limits in Tables VI—IX, and one or more VOC emissions capture systems and one or more add-on air pollution control devices that meet the requirements of subsection (e)(2); or in subsection (d)(3), use of a VOC emissions capture system and add-on air pollution control device that is acceptable under § 129.51(a) and meets the requirements of subsection (e)(2). Under the third option, the overall control efficiency of a control system, as determined by the test methods and procedures specified in Chapter 139 (relating to sampling and testing), may be no less than 90%.

Subsection (d)(4) establishes that if more than one VOC content limit or VOC emission rate limit applies to a specific coating, then the least restrictive VOC content limit or VOC emission rate limit applies.

Subsection (d)(5) establishes that for a miscellaneous metal part or miscellaneous plastic part coating that does not meet the coating categories listed in Table I, II, VI or VII, the VOC content limit or VOC emission rate limit shall be determined by classifying the coating as a general one component coating or general multi-component coating. The corresponding general one component coating or general multicomponent coating limit applies.

Subsection (d)(6) establishes that for a pleasure craft coating that does not meet the coating categories listed in Table IV or IX, the VOC content limit or VOC emission rate limit shall be determined by classifying the coating as an "all other pleasure craft surface coatings for metal or plastic." The "all other pleasure craft surface coatings for metal or plastic" limit applies.

Subsection (e) establishes compliance and monitoring requirements.

Subsection (f) establishes recordkeeping and reporting requirements.

Subsection (g) establishes that a person subject to subsection (a)(1) may not cause or permit the emission into the outdoor atmosphere of VOCs from a miscellaneous metal part coating unit or miscellaneous plastic part coating unit, or both, unless the coatings are applied using one or more specified high-transfer-efficient coating application methods.

Subsection (h) specifies exempt coatings and exempt coating unit operations.

Subsection (i) specifies the work practice requirements for coating-related activities.

Subsection (j) specifies the work practice requirements for cleaning materials.

Subsection (k) establishes the requirements for measurements and calculations.

Section 129.52d contains nine tables. Tables I and II set forth surface coating VOC content limits for the overarching surface coating categories of metal parts and products and plastic parts and products, respectively. Tables III—V set forth surface coating VOC content limits for the miscellaneous metal and plastic parts surface coating categories of automotive/transportation and business machine plastic parts, pleasure craft (recreational boats) and motor vehicle materials. The limits set forth in Tables I—V are applicable for complying with emission limitations in subsection (d)(1), namely the use of compliant materials. Tables VI—IX set forth surface coating VOC emission rate limits for the same surface coating categories as Tables I—V, though there is not a table of VOC emission rate limits specific to motor vehicle materials coatings. The limits set forth in Tables VI—IX are applicable for complying with emission limitations in subsection (d)(2) or (3). Subsection (d)(2) provides for the use of a combination of complying coating materials, a VOC emissions capture system and an add-on air pollution control device. Subsection (d)(3) provides for the use of a VOC emissions capture system and an add-on air pollution control device.

Three VOC content limits in Table IV differ from the 2008 MMPP CTG and reflect the input the EPA received from the pleasure craft coatings industry regarding technological infeasibility following the EPA's publication of the final CTG. On September 14, 2009, the EPA was contacted by the pleasure craft coatings industry to reconsider some of the VOC emission limits recommended in the final 2008 MMPP CTG. The pleasure craft coatings industry asserted that three of the VOC emission limits in the 2008 MMPP CTG were too low considering the performance requirements of the pleasure craft coatings and that the VOC emission limits recommended did not represent RACT for the National pleasure craft coatings industry. The industry suggested several options for revision. The EPA did not take action on the concerns, but left it up to the states to address the concerns. On June 1, 2010, the EPA issued a memorandum entitled "Control Technique Guidelines for Miscellaneous Metal and Plastic Part Coatings—Industry Request for Reconsideration," in which the EPA stated that each state could determine what would be appropriate for the pleasure craft coatings industry in its jurisdiction. The three VOC content limits are for Antifoulant Sealer/Tiecoat (not in CTG), Extreme High-gloss Topcoat (more stringent in CTG) and Other Substrate Antifoulant Coating (more stringent in CTG).

The Board expects that these revised VOC content limits for the pleasure craft surface coatings will have a de minimis impact on the amount of VOC emission reductions achieved from the implementation of the final-form rulemaking.

No changes were made to subsections (b) and (e)—(k) or to Tables I—IX from proposed to final-form rulemaking.

§ 129.67. *Graphic arts systems*

Subsection (a)(1) is amended to extend its applicability to the owner and operator of a facility whose rotogravure and flexographic printing presses by themselves or in combination with a surface coating operation subject to § 129.52d have the potential to emit or have emitted VOCs into the outdoor atmosphere in quantities greater than 1,000 pounds (460 kilograms) per day or 100 tons (90,900 kilograms) per year during any calendar year since January 1, 1987. There are no changes to § 129.67 (relating to graphic arts systems) from proposed to final-form rulemaking.

§ 129.75. *Mobile equipment repair and refinishing*

Subsection (b)(1) is amended to specify that § 129.75 (relating to mobile equipment repair and refinishing) does not apply to a person who applies surface coating to mobile equipment or mobile equipment components if the surface coating process is subject to the miscellaneous metal parts finishing requirements of § 129.52 or the requirements of § 129.52d. There are no changes to § 129.75 from proposed to final-form rulemaking.

F. *Summary of Major Comments and Responses*

The Board approved publication of the proposed rulemaking at its meeting of October 21, 2014. The proposed rulemaking was published at 45 Pa.B. 4366 (August 8, 2015). Three public hearings were held on September 8, 9 and 10, 2015, in Norristown, Harrisburg and Pittsburgh, respectively. The public comment period closed on October 13, 2015, for a 67-day public comment period. Comments were received from one commentator. In addition, IRRC provided comments on the proposed rulemaking. The comments received on the proposed rulemaking are summarized in this section and are more extensively addressed in a comment and response document, which is available from the Department.

General support of proposed rulemaking

The commentator supported the Department in proposing § 129.52d to require RACT requirements and RACT emissions limitations for stationary sources of VOC emissions from metal parts surface coating operations. The Board thanks the commentator for the support.

Consistency with the EPA 2008 CTGs

The commentator noted that the proposed RACT requirements and RACT emissions limitations are consistent with the EPA's 2008 *Control Techniques Guidelines for Miscellaneous Metal and Plastic Parts Coatings*, EPA-453/R-08-003. The Board agrees.

Compliance date

The commentator noted that the proposed rulemaking established a compliance date of January 1, 2016, and responded to the Board's request for comments regarding a compliance date of May 1, 2016, or later. The commentator recommended that the compliance date be revised to be no sooner than May 1, 2016, to allow time for manufacturers to switch to complying coatings, order and install new application technology, and train employees to properly apply the new coatings and use the new equipment. Time will also be needed for manufacturers to

evaluate coating substitutions to ensure that the coating will meet customer and quality requirements. In response, the Board revised this final-form rulemaking to require compliance by January 1, 2017. The January 1, 2017, compliance date will allow sufficient time for compliance, and is the mandated deadline for implementation of RACT measures under the EPA final rule for Implementation of the 2008 National Ambient Air Quality Standards for Ozone: State Implementation Plan Requirements. See 80 FR 12264, 12279.

IRRC recommended that the Board establish a compliance date that allows for the proper development of a final-form regulation and full compliance by the regulated community. The Board agrees and revised this final-form rulemaking to require compliance by January 1, 2017.

Option to comply with proposed automobile and light-duty truck assembly coating operations and heavier vehicle coating operations requirements

IRRC noted that certain owners and operators of a miscellaneous metal part surface coating process or a miscellaneous plastic part surface coating process have the option to be regulated under this final-form rulemaking or under § 129.52e for the control of VOC emissions from automobile and light-duty truck assembly coating operations and heavier vehicle coating operations. IRRC requested that the Board ensure that this final-form rulemaking and the final-form rulemaking for automobile and light-duty truck assembly coating operations and heavier vehicle coating operations are adopted on the same date. The Board agrees and notes that it considered the two final-form rulemakings concurrently.

Exemption for aerosol coatings and hand-held aerosol cans

The commentator noted that proposed § 129.52d(a)(5)(i) provided an exemption from the requirements of § 129.52d for aerosol coatings. The commentator supported the exemption for aerosol coatings, but sought clarification that aerosol coatings, specifically hand-held aerosol cans, are also exempt from § 129.52. The commentator recommended that the Board revise § 129.52 to include a specific exemption for aerosol coatings or include a provision similar to § 129.52(i) stating that the requirements and limits for miscellaneous metal parts coatings in § 129.52 are superseded by § 129.52d. Additionally, the commentator recommended that the Board include a provision in § 129.52d similar to § 129.52a(a)(2) (relating to control of VOC emissions from large appliance and metal furniture surface coating processes) that clearly states that § 129.52d supersedes the emissions limits and other requirements of § 129.52.

The Board thanks the commentator for the support of the exemption for aerosol coatings in proposed § 129.52d(a)(5)(i). This exemption is consistent with the recommendations of the EPA in the 2008 MMPP CTG, which stated on page 30 that the EPA recommends that aerosol coatings be excluded from the VOC limitations and application methods addressed by the CTG and noted that aerosol coatings are a separate category under section 183(e) of the CAA. Accordingly, § 129.52d(a)(5)(i) is amended in this final-form rulemaking to clarify that aerosol coatings are exempt from § 129.52d when the aerosol coatings meet the requirements of 40 CFR Part 59, Subpart E.

Further, § 129.52 is amended in this final-form rulemaking by adding subsection (k) to provide clarity on the applicability of the requirements of § 129.52, Table I,

Category 10, miscellaneous metal parts and products, to the use of aerosol coatings including hand-held aerosol cans.

The Board considered the commentator's suggestion to add superseding language to § 129.52d. The Board did not add a provision to supersede the emission limits and other requirements of § 129.52 for miscellaneous metal parts and products with the requirements of § 129.52d due to the differences between the two regulations with respect to the applicability threshold. In making this decision, the Board was mindful of section 110(l) of the CAA, which specifies, in part, that the Administrator of the EPA shall not approve a revision of a plan (State Implementation Plan) if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress. This provision of the CAA is an "anti-backsliding" provision. The Department intends to submit this final-form rulemaking to the EPA as a revision to the SIP upon final-form publication in the *Pennsylvania Bulletin*.

IRRC commented that § 129.52d(a)(5)(i) provides an exemption for the use or application of aerosol coatings and that a commentator asked for clarification on whether hand-held aerosol cans would be included in this exemption. IRRC requested that the Board explain in the preamble of the final-form rulemaking whether hand-held aerosol cans are exempt, and, if they are, to clarify that in this section. The Board agrees that the exemption for aerosol coatings set forth in § 129.52d(a)(5)(i) includes hand-held aerosol cans. The definition for aerosol coatings in § 121.1 (relating to definitions) states that an aerosol coating is "[a] coating expelled from a hand-held pressurized, nonrefillable container in a finely divided spray when a valve on the container is depressed." Therefore, the exemption for aerosol coatings in § 129.52d(a)(5)(i) includes hand-held aerosol cans.

IRRC commented that the commentator suggested that the final-form rulemaking be amended to state that § 129.52d supersedes the emissions limits and other requirements of § 129.52. IRRC noted that other sections of Chapter 129 include language that supersedes § 129.52. If language superseding § 129.52 is appropriate for the final-form rulemaking, while at the same time consistent with Federal requirements on which the rulemaking is based, IRRC suggested that it be included in the final-form rulemaking. After careful review, the Board did not add a provision to supersede the emission limits and other requirements of § 129.52 for miscellaneous metal parts and products with the requirements of § 129.52d due to the differences in the applicability thresholds for the two regulations. As previously mentioned, the anti-backsliding provision of section 110(l) of the CAA specifies, in part, that the Administrator of the EPA shall not approve a revision of a plan (State Implementation Plan) if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress.

§ 129.52. *Surface coating processes—reasonableness; clarity*

IRRC noted that § 129.52(g) is being amended to require *onsite* (emphasis added) storage of records. IRRC asked what the reason is for this change and for the Board to explain the rationale for this requirement in the preamble of the final-form rulemaking. The Board added "onsite" to § 129.52(g) to clarify that records should be maintained at the site for 2 years, unless a longer period is required by an order, plan approval or operating permit, and should be available to a Department inspec-

tor during a site visit. In addition, adding "onsite" to § 129.52(g) establishes consistency with § 129.51(d), as revised in the final-form rulemaking for flexible packaging printing presses, offset lithographic printing presses, letterpress printing presses, and adhesives, sealants, primers and solvents published at 44 Pa.B. 3929 (June 28, 2014).

IRRC expressed a concern regarding the clarity of the last sentence of § 129.52(g). The proposed sentence stated "[t]he records shall be submitted to the Department in an acceptable format on a schedule reasonably prescribed by the Department." IRRC stated that "in an acceptable format" is vague, and suggested that it be clarified to state what formats would be acceptable. The Board carefully considered the suggestion but did not revise the requirement. The conditions of applicable permits include recordkeeping and reporting requirements, including the format. The regulatory language "in an acceptable format" provides flexibility for these conditions to be made specific to individual sources by inclusion in the applicable permit. Similarly, the Department specifies the format in its request for records from those owners and operators of subject sources that do not have permits, tailoring the request to the individual source. Providing more prescriptive language in the regulation would limit the opportunities for the owner and operator of the source to have flexibility in recordkeeping and reporting.

IRRC expressed a second concern regarding the clarity of the last sentence of § 129.52(g). IRRC stated that "on a schedule reasonably prescribed" is vague. IRRC noted that this term is in the existing regulation. IRRC expressed the belief that the overall clarity of this section would be improved if a more definitive and binding time frame or schedule were included in the final-form rulemaking. The Board carefully considered the comment but did not revise the requirement. The conditions of applicable permits include recordkeeping and reporting requirements, as well as the schedule for the submittal of the records to the Department. The regulatory language "on a schedule reasonably prescribed" provides flexibility for these conditions to be made specific to individual sources by inclusion in the applicable permit. Similarly, the Department specifies the schedule in its request for records from those owners and operators of subject sources that do not have permits, tailoring the schedule to each individual source. Providing more prescriptive language in the regulation would limit the opportunities for the owner and operator of the source to have flexibility in recordkeeping and reporting.

Comments received on the proposed rulemaking and related issues have been addressed in this final-form rulemaking.

G. *Benefits, Costs and Compliance*

Benefits

The Statewide implementation of the VOC emission control measures in this final-form rulemaking will benefit the health and welfare of approximately 12.7 million residents and the numerous animals, crops, vegetation and natural areas of this Commonwealth by reducing emissions of VOCs, which are precursors to the formation of ground-level ozone air pollution. Exposure to high concentrations of ground-level ozone is a serious human and animal health threat, causing respiratory illnesses and decreased lung function as well as other adverse health effects, leading to a lower quality of life. Reduced ambient concentrations of ground-level ozone would reduce the incidences of hospital admissions for respiratory

ailments including asthma and improve the quality of life for citizens overall. While children, the elderly and those with respiratory problems are most at risk, even healthy individuals may experience increased respiratory ailments and other symptoms when they are exposed to high levels of ambient ground-level ozone while engaged in activities that involve physical exertion. High levels of ground-level ozone affect animals, including pets, livestock and wildlife, in ways similar to humans.

In addition to causing adverse human and animal health effects, the EPA has concluded that high levels of ground-level ozone affect vegetation and ecosystems leading to: reductions in agricultural crop and commercial forest yields by destroying chlorophyll; reduced growth and survivability of tree seedlings; and increased plant susceptibility to disease, pests and other environmental stresses, including harsh weather. In long-lived species, these effects may become evident only after several years or even decades and have the potential for long-term adverse impacts on forest ecosystems. Ozone damage to the foliage of trees and other plants can decrease the aesthetic value of ornamental species used in residential landscaping, as well as the natural beauty of parks and recreation areas.

The economic value of some welfare losses due to high concentrations of ground-level ozone can be calculated, such as crop yield loss from soybeans due to both decreased seed production and reduced size and quality of seeds and from visible injury to some leaf crops, including lettuce, spinach and tobacco, as well as visible injury to ornamental plants, including grass, flowers and shrubs. Other types of welfare loss may not be quantifiable, such as the reduced aesthetic value of trees growing in heavily visited parks. This Commonwealth's 59,000 farm families are the stewards of more than 7.7 million acres of farmland, with \$7.5 billion in cash receipts annually from production agriculture. In addition to production agriculture, the industry also raises revenue and supplies jobs through support services such as food processing, marketing, transportation and farm equipment. In total, production agriculture and agribusiness contributes nearly \$75 billion to the economy in this Commonwealth (source: Department of Agriculture).

The Department of Conservation and Natural Resources (DCNR) is the steward of State-owned forests and parks. DCNR awards millions of dollars in construction contracts each year to build and maintain the facilities in these parks and forests. Timber sales on State forest lands contribute to the \$5 billion-a-year timber industry. Hundreds of concessions throughout the park system help complete the park experience for both State and out-of-State visitors (source: DCNR). Further, this Commonwealth leads the Nation in growing volume of hardwood species, with 17 million acres in forest land. As the leading producer of hardwood lumber in the United States, the Commonwealth also leads in the export of hardwood lumber, exporting nearly \$800 million annually in lumber, logs, furniture products and paper products to more than 70 countries around the world. Recent United States Forest Service data show that the forest growth-to-harvest rate in this Commonwealth is better than 2 to 1. This vast renewable resource puts the hardwoods industry at the forefront of manufacturing in this Commonwealth. Through 2006, the total annual direct economic impact generated by the Commonwealth's wood industry was \$18.4 billion. The industry employed 128,000 people, with \$4.7 billion in wages and salaries earned. Production was 1.1 billion board feet of lumber annually (source: Strauss, Lord, Powell; Pennsylvania State University,

June 2007, cited in Pennsylvania Hardwoods Development Council Biennial Report, 2009-2010).

Through deposition, ground-level ozone also contributes to pollution in the Chesapeake Bay. These effects can have adverse impacts including loss of species diversity and changes to habitat quality and water and nutrient cycles. High levels of ground-level ozone can also cause damage to buildings and synthetic fibers, including nylon, and reduced visibility on roadways and in natural areas. The reduction of ground-level ozone air pollution concentrations directly benefits the human and animal populations in this Commonwealth with improved ambient air quality and healthier environments. The agriculture and timber industries and related businesses benefit directly from reduced economic losses that result from damage to crops and timber. Likewise, the natural areas and infrastructure within this Commonwealth and downwind benefit directly from reduced environmental damage and economic losses.

This final-form rulemaking is designed to adopt VOC emission standards and emission limitations consistent with the standards and recommendations in the EPA's 2008 MMPP CTG to meet the requirements of sections 172(c)(1), 182(b)(2) and 184(b)(1)(B) of the CAA. This final-form rulemaking applies these standards and limitations across this Commonwealth, as required under section 184(b)(1)(B) of the CAA. Consistent with section 4.2 of the act, the measures in this final-form rulemaking are reasonably required to achieve and maintain the health-based and welfare-based 8-hour ozone NAAQS in this Commonwealth.

The Statewide implementation of the VOC emission control measures in this final-form rulemaking may generate reductions of as much as 1,586 tons of VOC emissions per 12-month rolling period from the 139 potentially affected facilities identified by the Department in its databases, depending on the level of compliance already demonstrated by the owners and operators of these potentially affected facilities. These projected estimated reductions in VOC emissions and the subsequent reduced formation of ground-level ozone will help ensure that the owners and operators of businesses, citizens and the environment of this Commonwealth experience the benefits of improved health and welfare from lowered concentrations of ground-level ozone.

Commonwealth residents will also potentially benefit from improved groundwater quality through reduced quantities of VOCs and HAPs from low-VOC content and low-HAP content miscellaneous metal parts and miscellaneous plastic parts coatings and cleaning materials and pleasure craft surface coatings. Although this final-form rulemaking is designed primarily to address ozone air quality, the reformulation of high-VOC content coating materials to low-VOC content coating materials or the substitution of low-VOC content coating materials for high-VOC content coating materials to meet the VOC content limits applicable to users may also result in reduction of HAP emissions, which are also a serious health threat. The reduced levels of high-VOC content and high-HAP content solvents will benefit groundwater quality through reduced loading on water treatment plants and in reduced quantities of high-VOC content and high-HAP content solvents leaching into the ground and streams and rivers.

The Statewide implementation of the control measures in this final-form rulemaking will assist the Commonwealth in reducing VOC emissions locally and the resultant local formation of ground-level ozone in this Com-

monwealth from surface coating processes subject to this final-form rulemaking as well as assist in reducing the transport of VOC emissions and ground-level ozone to downwind states. Statewide implementation will also facilitate implementation and enforcement of this final-form rulemaking in this Commonwealth. The measures in this final-form rulemaking are reasonably necessary to attain and maintain the health-based and welfare-based 8-hour ground-level ozone NAAQS and to satisfy related CAA requirements in this Commonwealth.

This final-form rulemaking may create economic opportunities for coating formulators and VOC emission control technology innovators, manufacturers and distributors through an increased demand for new or reformulated coating materials or for new or improved application or control equipment. In addition, the owners and operators of regulated facilities may choose to install and operate an emissions monitoring system or equipment necessary for an emissions monitoring method to comply with this final-form rulemaking, thereby creating an economic opportunity for the emissions monitoring industry.

Compliance costs

The Department reviewed its air quality databases and identified 160 manufacturing facilities in this Commonwealth whose owners and operators may be subject to this final-form rulemaking. According to the Department databases, the actual VOC emissions from these 160 facilities assumed to be subject to this final-form rulemaking totaled 4,552 tons in 2012. Of the 160 facilities reporting VOC emissions in 2012, the owners and operators of 139 of these facilities reported VOC emissions totaling 2.7 tons or more; their combined reported emissions totaled 4,531 tons in 2012. Accordingly, the owners and operators of these 139 facilities are assumed to emit 2.7 tons or more of actual VOC emissions per 12-month rolling period threshold, including VOC emissions from related cleaning activities, before consideration of controls, and will be required to implement the final-form VOC emission reduction measures, work practice standards and recordkeeping requirements. The records shall be submitted to the Department in an acceptable format upon receipt of a written request from the Department. The owners and operators of the remaining 21 manufacturing facilities each reported VOC emissions below 2.7 tons; their combined reported emissions totaled 21 tons in 2012. The owners and operators of these 21 facilities are subject only to the recordkeeping requirements and, if requested by the Department, reporting requirements of this final-form rulemaking.

The Board anticipates that implementation of this final-form rulemaking will have minimal financial impact on the owners and operators of affected facilities. The Board expects that the owners and operators of facilities subject to the applicability threshold of 2.7 tons per 12-month rolling period, including VOC emissions from related cleaning activities, before consideration of controls, will use the reformulation of high-VOC content coating materials to low-VOC content coating materials option because it is more cost effective than installation and operation of VOC emission capture systems and add-on air pollution control devices. The owner and operator of a subject facility that already complies with the requirements of the 2004 NESHAPs or other applicable Best Available Technology permitting requirements through the use of VOC emission capture systems and add-on air pollution control devices may already comply with the requirements of this final-form rulemaking and, if so, may have no additional annual costs.

The EPA based its cost effectiveness information in the 2008 MMPP CTG on the analysis it performed for the 2004 NESHAPs. The EPA assumed that the owners and operators of facilities subject to the 2008 MMPP CTG applicability threshold of 2.7 tons per 12-month rolling period would use the reformulation of high-VOC content coating materials to low-VOC content coating materials control option because reformulation of coatings is more cost effective than the installation and operation of VOC emission capture systems and add-on air pollution control devices. The EPA used the costs in the 2004 NESHAPs for reformulation of high-HAP content coating materials to low-HAP content coating materials as the basis for estimating the costs that will be incurred to implement the CTG recommendations, because these costs are thought to be similar to the costs of reformulating high-VOC content coating materials to low-VOC content coating materials. The EPA estimated the cost averaged across all sizes of facilities subject to the 2004 NESHAPs to be \$10,500 per facility, based on the reformulation of high-HAP content coating materials to low-HAP content coating materials and use of low-HAP content coating materials. The EPA applied the NESHAP-derived cost of \$10,500 per facility to the number of facilities it identified Nationwide as subject to the CTG to calculate a cost effectiveness for implementation of the VOC emission control measures. The EPA estimated a cost effectiveness of \$1,758 per ton of VOC emissions reduced.

The EPA stated in the 2008 MMPP CTG that it estimates that implementing the recommended control measures will reduce the emissions of VOC from those facilities that emit above the threshold of 15 pounds per day (or equivalent 2.7 tons per 12-month rolling period) by 35%. See 2008 MMPP CTG, page 32. Therefore, the Board estimates that implementation of the recommended control measures may generate reductions of as much as 1,586 tons (4,531 tons \times 35%) of VOC emissions per 12-month rolling period from the 139 facilities identified by the Department in its databases as emitting at or above the 2.7 tons per 12-month rolling period threshold, including VOC emissions from related cleaning activities, before consideration of controls and, therefore, are required to implement the final-form VOC emission reduction control measures. Using the EPA's cost effectiveness of \$1,758/ton of VOC emissions reduced, the Board estimates that the total maximum annual costs to the affected regulated industry in this Commonwealth could be up to \$2.8 million (\$1,758/ton of VOC emissions reduced \times 1,586 tons of VOC emissions reduced). The approximate annual cost per facility could be as high as \$20,000 (\$2.8 million/139 facilities). This estimated cost of \$20,000 per facility is higher than the EPA's estimate of \$10,500 per facility. This difference in cost may be due in part to the Commonwealth-specific emission data used in the calculation.

The Board also calculated the cost effectiveness for the owners and operators of the 139 potentially affected facilities in this Commonwealth using the EPA's cost of \$10,500 per facility. The estimated total maximum anticipated annual costs to the affected regulated industry could be up to \$1.46 million (\$10,500 \times 139 facilities). Therefore, the cost effectiveness for the reductions of 1,586 tons of VOC emissions would be approximately \$920 per ton of VOC emissions reduced (\$1.46 million/1,586 tons of VOC emissions reduced) on an annual basis, which is lower than the EPA estimate of \$1,758 per ton of VOC emissions reduced on an annual basis. Again, this difference may be due in part to the Commonwealth-specific emission data used in the calculation. The Board

therefore estimates that the range of cost effectiveness to the regulated industry for implementing this final-form rulemaking is \$920 per ton of VOC emissions reduced to \$1,758 per ton of VOC emissions reduced on an annual basis. The range of cost per regulated facility for implementing the final-form VOC emission control measures is estimated to be \$10,500 to \$20,000 per year per facility. The Board expects that the annual costs to the regulated industry in this Commonwealth will be at the lower end of these ranges because low-VOC content coating materials are readily available at a cost that is not significantly greater than the high-VOC content coating materials they replace as a result of the development of NESHAP-compliant low-HAP content coating materials, since lower HAP content usually means lower VOC content. Therefore, the research and development of low-VOC content coating materials should already be complete and these expenses will not be a factor in the cost of complying with the VOC emission control measures of this final-form rulemaking.

The compliance cost per facility may be even lower given that this final-form rulemaking provides as one compliance option the use of individual compliant coating materials in subsection (d)(1) and the high-transfer-efficient coating application methods specified in subsection (g). Coatings that are compliant with the HAP content limits of the 2004 NESHAPs and with the final-form rulemaking VOC content limits are readily available to the owners and operators of all sizes of subject facilities. This final-form rulemaking provides flexibility in compliance through the second option of using a combination of VOC content limit compliant coating materials with a VOC emissions capture system and add-on air pollution control device in subsection (d)(2) with the high-transfer-efficient coating application methods specified in subsection (g). The third compliance option, the use of a VOC emissions capture system and add-on air pollution control device with an overall control efficiency of at least 90%, instead of the use of complying coating materials and the specified high-transfer-efficient coating application methods in subsection (g), is provided in subsection (d)(3). However, because of the wide availability and lower cost (compared to installation and operation of a VOC emission capture system and add-on air pollution control device) of compliant VOC content coating materials and high-transfer-efficient coating application methods, compliant coating materials and the specified high-transfer-efficient coating application methods are generally expected to be used by affected owners and operators to reduce VOC emissions from miscellaneous metal parts surface coating processes and miscellaneous plastic parts surface coating processes.

The implementation of the work practices for the use and application of cleaning materials is expected to result in a net cost savings for affected owners and operators for cleaning materials and cleaning activities. The recommended work practices for cleaning activities should reduce the amounts of cleaning materials used by reducing the amounts that are lost to evaporation, spillage and waste.

Emission limitations established by this final-form rulemaking will not require the submission of applications for amendments to existing operating permits. These requirements will be incorporated as applicable requirements at the time of permit renewal, if less than 3 years remain in the permit term, as specified under § 127.463(c) (relating to operating permit revisions to incorporate applicable standards). If 3 years or more remain in the permit term, the requirements will be incorporated as applicable re-

quirements in the permit within 18 months of the promulgation of this final-form rulemaking, as required under § 127.463(b). Most importantly, § 127.463(e) specifies that “[r]egardless of whether a revision is required under this section, the permittee shall meet the applicable standards or regulations promulgated under the Clean Air Act within the time frame required by standards or regulations. . . .” Consequently, upon promulgation as a final-form rulemaking, the requirements will apply to affected owners and operators irrespective of a modification to the operating permit.

New legal, accounting or consulting procedures are not required.

Compliance assistance plan

The Department plans to educate and assist the public and regulated community in understanding the requirements in this final-form rulemaking and how to comply with them. This will be accomplished through the Department’s ongoing compliance assistance program. The Department will also work with the Pennsylvania Small Business Assistance Program to aid the owners and operators of facilities less able to handle permitting matters with in-house staff.

Paperwork requirements

The recordkeeping and reporting requirements for owners and operators of affected facilities at, above or below the threshold for control measures are minimal because the records required under this final-form rulemaking are in line with what the industry currently tracks for inventory purposes or is required in current permits. The owner or operator of a facility subject to this final-form rulemaking is required to maintain records sufficient to demonstrate compliance with the applicable requirements. Records maintained for compliance demonstrations may include purchase, use, production and other records. The records shall be maintained onsite for 2 years, unless a longer period is required by an order, plan approval or operating permit issued under Chapter 127 and submitted to the Department in an acceptable format upon receipt of a written request from the Department.

H. Pollution Prevention

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

Statewide implementation of the VOC emission control measures in this final-form rulemaking may generate reductions of as much as 1,586 tons of VOC emissions per 12-month rolling period from the 139 potentially subject facilities identified by the Department in its databases, depending on the level of compliance already demonstrated by the owners and operators of these facilities. These projected estimated reductions in VOC emissions and the subsequent reduced formation of ground-level ozone will help ensure that the owners and operators of businesses, citizens and the environment of this Commonwealth experience the benefits of improved ground-level ozone air quality.

Commonwealth residents will also potentially benefit from improved groundwater quality through reduced quantities of VOCs and HAPs from the use of low-VOC content and low-HAP content miscellaneous metal parts and miscellaneous plastic parts coatings and cleaning materials and pleasure craft surface coatings. Although this final-form rulemaking is designed primarily to address ozone air quality, the reformulation of high-VOC content coating materials to low-VOC content coating materials or the substitution of low-VOC content coating materials for high-VOC content coating materials to meet the VOC content limits applicable to users may also result in reduction of HAP emissions, which are also a serious health threat. The reduced levels of high-VOC content and high-HAP content solvents will benefit groundwater quality through reduced loading on water treatment plants and in reduced quantities of high-VOC content and high-HAP content solvents leaching into the ground, streams and rivers.

This final-form rulemaking provides as one compliance option the use of individual compliant coating materials in subsection (d)(1) and the use of specified high-transfer-efficient coating application methods in subsection (g). Coatings that are compliant with the HAP content limits and emission rate limits of the 2004 NESHAPs and with the specified VOC content limits and emission rate limits of this final-form rulemaking are readily available to the owners and operators of all sizes of subject facilities. This final-form rulemaking provides flexibility in compliance through the second option in subsection (d)(2) of using a combination of VOC content limit compliant coating materials and the specified high-transfer-efficient coating application methods in subsection (g) with a VOC emissions capture system and add-on air pollution control device. A third compliance option, the use of a VOC emissions capture system and add-on air pollution control device with an overall control efficiency of at least 90%, instead of the use of complying coating materials and specified high-transfer-efficient coating application methods, is provided in subsection (d)(3). However, because of the wide availability and lower cost (compared to installation and operation of VOC emissions capture systems and add-on air pollution control devices) of compliant VOC content coating materials and high-transfer-efficient coating application methods, compliant coating materials and specified high-transfer-efficient coating application methods are generally expected to be used by affected owners and operators to reduce VOC emissions from surface coating processes subject to this final-form rulemaking.

The implementation of the work practices for the use and application of cleaning materials is expected to result in a net cost savings for affected owners and operators for cleaning materials and cleaning activities. The recommended work practices for cleaning activities should reduce the amounts of cleaning materials used by reducing the amounts that are lost to evaporation, spillage and waste.

I. *Sunset Review*

This final-form rulemaking will be reviewed in accordance with the sunset review schedule published by the Department to determine whether it effectively fulfills the goals for which it was intended.

J. *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on July 13, 2015, the Department submitted a copy of the notice of proposed rulemaking, published at 45 Pa.B. 4366, to IRRC and the Chairper-

sons 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 comments received during the public comment period, as well as other documents when requested. In preparing this final-form rulemaking, the Department has considered all comments from IRRC and the public.

Under section 5.1(j.2) of the Regulatory Review Act (71 P.S. § 745.5a(j.2)), on August 17, 2016, this 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 18, 2016, and approved this 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) At least a 60-day public comment period was provided as required by law and all comments were considered.

(3) This final-form rulemaking does not enlarge the purpose of the proposed rulemaking published at 45 Pa.B. 4366.

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

(5) These regulations are reasonably necessary to attain and maintain the ozone NAAQS and to satisfy related CAA requirements.

L. *Order*

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

(a) The regulations of the Department, 25 Pa. Code Chapter 129, are amended by adding § 129.52d and amending §§ 129.51, 129.52, 129.67 and 129.75 to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.

(b) The Chairperson of the Board shall submit this order 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 House and Senate Committees as required by the Regulatory Review Act (71 P.S. §§ 745.1—745.14).

(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 final-form rulemaking will be submitted to the EPA as an amendment to the Pennsylvania SIP.

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

PATRICK McDONNELL,
Acting Chairperson

(Editor's Note: See 46 Pa.B. 6743 (October 22, 2016) for a related final-form rulemaking adopting § 129.52e.)

(Editor's Note: See 46 Pa.B. 5790 (September 3, 2016) for IRRC's approval order.)

Fiscal Note: Fiscal Note 7-491 remains valid for the final adoption of the subject regulations.

Annex A

TITLE 25. ENVIRONMENTAL PROTECTION

PART I. DEPARTMENT OF ENVIRONMENTAL PROTECTION

Subpart C. PROTECTION OF NATURAL RESOURCES

ARTICLE III. AIR RESOURCES

CHAPTER 129. STANDARDS FOR SOURCES

SOURCES OF VOCs

§ 129.51. General.

(a) *Equivalency.* Compliance with §§ 129.52, 129.52a, 129.52b, 129.52c, 129.52d, 129.52e, 129.54—129.67, 129.67a, 129.67b, 129.68, 129.69, 129.71—129.73 and 129.77 may be achieved by alternative methods if the following exist:

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

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

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

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

(5) Adequate records are maintained to ensure enforceability.

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

(b) *New source performance standards.* Sources covered by new source performance standards which are more stringent than those contained in this chapter shall comply with those standards in lieu of the standards in this chapter.

(c) *Demonstration of compliance.* Unless otherwise set forth in this chapter, test methods and procedures used to monitor compliance with the emission requirements of this section are those specified in Chapter 139 (relating to sampling and testing).

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

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

(2) The records shall be maintained onsite for 2 years, unless a longer period is required by a plan approval or operating permit issued under Chapter 127 (relating to construction, modification, reactivation and operation of sources). The records shall be made available to the Department on request.

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

§ 129.52. Surface coating processes.

* * * * *

(g) The records shall be maintained onsite for 2 years, unless a longer period is required by an order, plan approval or operating permit issued under Chapter 127 (relating to construction, modification, reactivation and operation of sources). The records shall be submitted to the Department in an acceptable format on a schedule reasonably prescribed by the Department.

(h) The VOC standards in Table I do not apply to a coating used exclusively for determining product quality and commercial acceptance, touch-up and repair and other small quantity coatings if the coating meets the following criteria:

(1) The quantity of coating used does not exceed 50 gallons per year for a single coating and a total of 200 gallons per year for all coatings combined for the facility.

(2) The owner or operator of the facility requests, in writing, and the Department approves, in writing, the exemption prior to use of the coating.

(i) Beginning January 1, 2011, the requirements and limits for metal furniture coatings and large appliance coatings in this section are superseded by the requirements and limits in § 129.52a (relating to control of VOC emissions from large appliance and metal furniture surface coating processes).

(j) Beginning January 1, 2012, the requirements and limits for paper coatings in this section are superseded by the requirements and limits in § 129.52b (relating to control of VOC emissions from paper, film and foil surface coating processes).

(k) Section 129.52d(a)(5)(i) (relating to control of VOC emissions from miscellaneous metal parts surface coating processes, miscellaneous plastic parts surface coating processes and pleasure craft surface coatings) applies to surface coating processes regulated under Table I, Category 10, miscellaneous metal parts and products. Aerosol coatings must meet the requirements of 40 CFR Part 59, Subpart E (relating to National volatile organic compound emission standards for aerosol coatings).

Table I
Emission Limits of VOCs in Surface Coatings by
Process Category
Weight of VOC per Volume of Coating Solids

* * * * *

§ 129.52d. Control of VOC emissions from miscellaneous metal parts surface coating processes, miscellaneous plastic parts surface coating processes and pleasure craft surface coatings.

(a) *Applicability.*

(1) This section applies to the owner and operator of a miscellaneous metal part surface coating process or miscellaneous plastic part surface coating process, or both, if the total actual VOC emissions from all miscellaneous metal part coating units and miscellaneous plastic part coating units, including related cleaning activities, at the facility are equal to or greater than 2.7 tons per 12-month rolling period, before consideration of controls.

(2) This section applies, as specified, to the owner and operator of a miscellaneous metal part surface coating process or miscellaneous plastic part surface coating process, or both, if the total actual VOC emissions from all miscellaneous metal part coating units and miscellaneous plastic part coating units, including related cleaning activities, at the facility are below 2.7 tons per 12-month rolling period, before consideration of controls.

(3) Compliance with the VOC emission limits and other requirements of this section assures compliance with the VOC emission limits and other requirements of § 129.52 (relating to surface coating processes) for the miscellaneous metal parts and products surface coating processes as specified in § 129.52, Table I, Category 10.

(4) If an owner or operator elects to comply with § 129.52e (relating to control of VOC emissions from automobile and light-duty truck assembly surface coating operations and heavier vehicle coating operations) under § 129.52e(a)(2) or (3), then § 129.52e instead of this section applies to the separate coating line at the facility, or to the coating of a body or body part for a new heavier vehicle at the facility, or both, for which the election is made.

(5) This section does not apply to an owner or operator in the use or application of the following:

- (i) Aerosol coatings that meet the requirements of 40 CFR Part 59, Subpart E (relating to National volatile organic compound emission standards for aerosol coatings).
- (ii) Aerospace coatings.
- (iii) Architectural coatings.
- (iv) Automobile refinishing coatings.
- (v) Auto and light-duty truck assembly coatings.
- (vi) Can, coil or magnet wire coatings.
- (vii) Coating applied to a test panel or coupon, or both, in research and development, quality control or performance testing activities, if records are maintained as required under subsections (e) and (f).
- (viii) Fiberglass boat manufacturing materials.
- (ix) Flat wood paneling coatings.
- (x) Large appliance coatings.
- (xi) Metal furniture coatings.
- (xii) Miscellaneous industrial adhesives.

- (xiii) Paper, film and foil coatings.
- (xiv) Shipbuilding and repair coatings.
- (xv) Wood furniture coatings.

(b) *Definitions.* The following words and terms, when used in this section, have the following meanings unless the context clearly indicates otherwise:

Adhesion primer—A coating applied to a polyolefin part to promote the adhesion of a subsequent coating. This type of coating is clearly identified on its accompanying MSDS by this term or as an adhesion promoter.

Air-dried coating—A coating that is cured or dried at a temperature below 90°C (194°F).

Antifoulant or antifouling coating—A coating applied to the underwater portion of a pleasure craft to prevent or reduce the attachment of biological organisms, and registered with the EPA as a pesticide under section 2 of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C.A. § 136).

Appurtenance—An accessory to a stationary structure that is coated at the facility. The term includes:

- (i) Bathroom and kitchen fixtures.
- (ii) Cabinets.
- (iii) Concrete forms.
- (iv) Doors.
- (v) Elevators.
- (vi) Fences.
- (vii) Hand railings.
- (viii) Heating equipment, air conditioning equipment, and other fixed mechanical equipment or stationary tools.
- (ix) Lampposts.
- (x) Partitions.
- (xi) Pipes and piping systems.
- (xii) Rain gutters and downspouts.
- (xiii) Stairways.
- (xiv) Fixed ladders.
- (xv) Catwalks and fire escapes.
- (xvi) Window screens.

Baked coating—A coating cured at a temperature at or above 90°C (194°F).

Black coating—A coating that meets either of the following:

- (i) Both of the following criteria, which are based on Cielab color space, 0/45 geometry:
 - (A) Maximum lightness: 23 units.
 - (B) Saturation: less than 2.8, where saturation equals the square root of $A^2 + B^2$.
- (ii) For spherical geometry, specular included, maximum lightness is 33 units.

Business machine—

(i) A device that uses an electronic or mechanical method to process information, perform calculations, print or copy information, or convert sound into electrical impulses for transmission.

(ii) The term includes the following:

- (A) Devices listed in *Standard Industrial Classification Codes* 3572, 3573, 3574, 3579 and 3661.

(B) Photocopy machines, a subcategory of *Standard Industrial Classification Code* 3861.

Camouflage coating—A coating used principally by the military to conceal equipment from detection.

Cleaning material or cleaning solvent—A material used during cleaning activities or cleaning operations to remove residue or other unwanted materials from equipment.

Clear coating—

(i) A colorless coating that contains binders, but no pigment, and is formulated to form a transparent film.

(ii) The term includes a transparent coating that uses the undercoat as a reflectant base or undertone color.

Clear wood finishes—A clear or semitransparent topcoat applied to a wood substrate to provide a transparent or translucent film.

Coating—

(i) A material applied onto or into a substrate for protective, decorative or functional purposes.

(ii) The term includes paints, sealants, caulks, primers, inks and maskants.

(iii) The term does not include protective oils, acids or bases, or combinations of these materials.

Coating unit—A series of one or more coating applicators and associated drying area or oven or both wherein a coating is applied and dried or cured, or both. The unit ends at the point where the coating is dried or cured, or prior to subsequent application of a different coating.

Drum—A cylindrical metal shipping container larger than 12 gallons capacity but not larger than 110 gallons capacity.

EMI/RFI shielding coating—A coating used on electrical or electronic equipment to provide shielding against electromagnetic interference, radio frequency interference or static discharge.

Electric dissipating coating—A coating that rapidly dissipates a high voltage electric charge.

Electric-insulating varnish—A non-convertible-type coating applied to electric motors, components of electric motors or power transformers to provide electrical, mechanical or environmental protection or resistance.

Electrostatic prep coating—A coating applied to a plastic part solely to provide conductivity for the subsequent application of a primer, a topcoat or other coating through the use of electrostatic application methods. This term is clearly identified as an electrostatic prep coat on its accompanying MSDS.

Etching filler—A coating that contains less than 23% solids by weight and at least 0.5% acid by weight, and is used instead of applying a pretreatment coating followed by a primer.

Extreme high-gloss coating—A coating that achieves the following:

(i) For miscellaneous metal part surface coatings or miscellaneous plastic part surface coatings, other than pleasure craft surface coatings, a coating when tested by the American Society for Testing Material Test Method D-523-08 shows a reflectance of at least 75% on a 60° meter.

(ii) For pleasure craft surface coatings, a coating that shows a reflectance of at least 90% on a 60° meter when tested by American Society for Testing Material Test Method D-523-08.

Extreme-performance coating—

(i) A coating used on a metal or plastic surface where the coated surface is, in its intended use, subject to one or more of the following:

(A) Chronic exposure to corrosive, caustic or acidic agents, chemicals, chemical fumes, chemical mixtures or solutions.

(B) Repeated exposure to temperatures in excess of 250°F.

(C) Repeated heavy abrasion, including mechanical wear and repeated scrubbing with industrial grade solvents, cleansers or scouring agents.

(ii) The term includes coatings applied to locomotives, railroad cars, farm machinery and heavy duty trucks.

Finish primer/surfacer—A coating applied with a wet film thickness of less than 10 mils prior to the application of a topcoat for purposes of providing corrosion resistance, adhesion of subsequent coatings, a moisture barrier or promotion of a uniform surface necessary for filling in surface imperfections.

Flexible primer—A coating required to comply with engineering specifications for impact resistance, mandrel bend or elongation as defined by the original equipment manufacturer.

Fog coat—A coating applied to a plastic part, at a thickness of no more than 0.5 mil of coating solids, for the purpose of color matching without masking a molded-in texture.

Gloss reducer—A coating applied to a plastic part, at a thickness of no more than 0.5 mil of coating solids, solely to reduce the shine of the part.

Heat-resistant coating—A coating that must withstand a temperature of at least 400°F during normal use.

Heavier vehicle—A self-propelled vehicle designed for transporting persons or property on a street or highway that has a gross vehicle weight rating over 8,500 pounds.

High bake coating—A coating designed to cure only at temperatures of more than 90°C (194°F).

High build primer/surfacer—A coating applied with a wet film thickness of 10 mils or more prior to the application of a topcoat for purposes of providing corrosion resistance, adhesion of subsequent coatings, a moisture barrier or promotion of a uniform surface necessary for filling in surface imperfections.

High gloss coating—A coating that achieves at least 85% reflectance on a 60° meter when tested by ASTM Method D-523-08.

High-performance architectural coating—A coating used to protect aluminum architectural subsections and which meets the requirements of the American Architectural Manufacturers Association's publication number AAMA 2604 (Voluntary Specification, Performance Requirements and Test Procedures for High Performance Organic Coatings on Aluminum Extrusions and Panels) or 2605 (Voluntary Specification, Performance Requirements and Test Procedures for Superior Performing Organic Coatings on Aluminum Extrusions and Panels), including updates and revisions.

High-temperature coating—A coating certified to withstand a temperature of 1,000°F for 24 hours.

Mask coating—A thin film coating applied through a template to coat a small portion of a substrate.

Metal particles—Pieces of a pure elemental metal or a combination of elemental metals.

Metallic coating—A coating that contains more than 5 grams of metal particles per liter of coating as applied.

Military specification coating—A coating that has a formulation approved by a United States Military Agency for use on military equipment.

Miscellaneous metal parts and miscellaneous plastic parts—Metal or plastic components of parts or products, as well as the parts or products themselves, constructed either entirely or partially from metal or plastic, or both, including the following:

- (i) Fabricated metal products.
- (ii) Molded plastic parts.
- (iii) Farm machinery.
- (iv) Commercial and industrial machinery and equipment.
- (v) Automotive or transportation equipment.
- (vi) Interior or exterior automotive parts.
- (vii) Construction equipment.
- (viii) Motor vehicle accessories.
- (ix) Bicycles and sporting goods.
- (x) Toys.
- (xi) Recreational vehicles.
- (xii) Watercraft.
- (xiii) Extruded aluminum structural components.
- (xiv) Railroad cars.
- (xv) Heavier vehicles.
- (xvi) Lawn and garden equipment.
- (xvii) Business machines.
- (xviii) Laboratory and medical equipment.
- (xix) Electronic equipment.
- (xx) Steel drums.
- (xxi) Metal pipes.

Mold-release coating—A coating applied to a mold to prevent the molded product from sticking to the mold as it is removed.

Mold-seal coating—The initial coating applied to a new or repaired mold to provide a smooth surface that when coated with a mold-release coating prevents products from sticking to the mold.

Motor vehicle bedliner—A multicomponent coating, used at a facility that is not an automobile or light-duty truck assembly coating facility, applied to a cargo bed after the application of topcoat to provide additional durability and chip resistance.

Motor vehicle cavity wax—A coating, used at a facility that is not an automobile or light-duty truck assembly coating facility, applied into the cavities of the vehicle primarily to enhance corrosion protection.

Motor vehicle deadener—A coating, used at a facility that is not an automobile or light-duty truck assembly

coating facility, applied to selected vehicle surfaces primarily to reduce the sound of road noise in the passenger compartment.

Motor vehicle gasket/sealing material—

(i) A fluid, used at a facility that is not an automobile or light-duty truck assembly coating facility, applied to coat a gasket or replace and perform the same function as a gasket.

(ii) The term includes room temperature vulcanization seal material.

Motor vehicle lubricating wax/compound—A protective lubricating material, used at a facility that is not an automobile or light-duty truck assembly coating facility, applied to vehicle hubs and hinges.

Motor vehicle sealer—A high viscosity material, used at a facility that is not an automobile or light-duty truck assembly coating facility, applied in the paint shop after the body has received an electrodeposition primer coating and before the application of subsequent coatings (for example, a primer/surfacer). The primary purpose of the material is to fill body joints completely so that there is no intrusion of water, gases or corrosive materials into the passenger area of the body compartment. The material is also referred to as sealant, sealant primer or caulk.

Motor vehicle trunk interior coating—A coating, used at a facility that is not an automobile or light-duty truck assembly coating facility, applied to the trunk interior to provide chip protection.

Motor vehicle underbody coating—A coating, used at a facility that is not an automobile or light-duty truck assembly coating facility, applied to the undercarriage or firewall to prevent corrosion or provide chip protection, or both.

Multicolored coating—A coating that exhibits more than one color when applied and which is packaged in a single container and applied in a single coat.

Multicomponent coating—A coating requiring the addition of a separate reactive resin, commonly known as a catalyst or hardener, before application to the substrate to form an acceptable dry film.

One-component coating—A coating that is ready for application as it comes out of its container to form an acceptable dry film. A thinner may be added to reduce the viscosity, but is not considered a component.

Optical coating—A coating applied to an optical lens.

Pan-backing coating—A coating applied to the surface of pots, pans or other cooking implements that are exposed directly to a flame or other heating element.

Pleasure craft—A vessel that is manufactured or operated primarily for recreational purposes, or leased, rented or chartered to a person or business for recreational purposes.

Pleasure craft coating—A marine coating, except unsaturated polyester resin (fiberglass) coatings, applied by brush, spray, roller or other means to a pleasure craft.

Powder coating—A coating applied as a dry, finely divided solid that, when melted and fused, adheres to the substrate as a paint film.

Prefabricated architectural component coating—A coating applied to a prefabricated metal part or product if the part or product is to be used as an architectural appurtenance or structure. The appurtenance is detached from the structure when coated in a shop setting.

Pretreatment coating—A coating that contains no more than 12% solids by weight and at least 0.5% acid by weight that is used to provide surface etching and that is applied directly to metal surfaces to provide corrosion resistance, adhesion and ease of stripping.

Pretreatment wash primer—A coating that contains no more than 12% solids by weight and at least 0.5% acid by weight that is used to provide surface etching and that is applied directly to fiberglass and metal surfaces to provide corrosion resistance and adhesion of subsequent coatings.

Red coating—A coating that meets the following:

(i) All of the following criteria, which are based on Cielab color space, 0/45 geometry:

- (A) Yellow limit: the hue of hostaperm scarlet.
- (B) Blue limit: the hue of monastral red-violet.
- (C) Lightness limit for metallics: 35% aluminum flake.
- (D) Lightness limit for solids: 50% titanium dioxide white.
- (E) Solid reds: hue angle of -11 to 38 degrees and maximum lightness of 23 to 45 units.
- (F) Metallic reds: hue angle of -16 to 35 degrees and maximum lightness of 28 to 45 units.

(ii) For spherical geometry, specular included, the upper limit is 49 units.

Repair coating—A coating used to recoat portions of a previously coated product that has sustained mechanical damage to the coating following normal coating operations.

Resist coating—A coating that is applied to a plastic part before metallic plating to prevent deposits of metal on portions of the plastic part.

Shock-free coating—A coating applied to electrical components to protect the user from electric shock. The coating has characteristics of being of low capacitance and high resistance, and being resistant to breaking down under high voltage.

Silicone-release coating—A coating which contains silicone resin and is intended to prevent food from sticking to metal surfaces, such as baking pans.

Solar-absorbent coating—A coating which has as its prime purpose the absorption of solar radiation.

Stencil coating—An ink or coating that is applied onto a template, stamp or stencil to add identifying letters, numbers or decorative designs, or a combination of these, to a metal or plastic part or product.

Texture coat—A coating that is applied to a plastic part which, in its finished form, consists of discrete raised spots of the coating.

Topcoat—A final coating applied in a surface coating process that applies two or more coatings.

Touch-up coating—A coating used to cover minor coating imperfections appearing after the main coating operation.

Translucent coating—A coating that contains binders and pigment and is formulated to form a colored, but not opaque, film.

Two-component coating—A coating requiring the addition of a separate reactive resin, commonly known as a catalyst, before application to form an acceptable dry film.

Vacuum-metalizing coating—A coating meeting either of the following:

(i) An undercoat applied to a substrate on which the metal is deposited prior to a vacuum-metalizing process.

(ii) An overcoat applied directly to the metal film after a vacuum-metalizing process.

Vacuum-metalizing process—The process of evaporating metals inside a vacuum chamber and depositing them on a substrate to achieve a uniform metalized layer.

(c) *Existing RACT permit*. The requirements of this section supersede the requirements of a RACT permit issued under §§ 129.91—129.95 (relating to stationary sources of NO_x and VOCs) to the owner or operator of a source subject to subsection (a) prior to January 1, 2017, to control, reduce or minimize VOCs from a miscellaneous metal part or miscellaneous plastic part surface coating process, except to the extent the RACT permit contains more stringent requirements.

(d) *Emission limitations*. Beginning January 1, 2017, a person subject to subsection (a)(1) may not cause or permit the emission into the outdoor atmosphere of VOCs from a miscellaneous metal part coating unit or miscellaneous plastic part coating unit, or both, unless emissions of VOCs are controlled in accordance with paragraph (1), (2) or (3).

(1) *Compliant materials option*. The VOC content of each miscellaneous metal part coating or each miscellaneous plastic part coating, as applied, excluding water and exempt compounds, is equal to or less than the VOC content limit for the applicable coating category specified in the applicable table of VOC content limits in Tables I—V.

(2) *Combination of compliant materials, VOC emissions capture system and add-on air pollution control device option*. The combination of one or more VOC-containing coatings, as applied, that meet the emission rate limits for the applicable coating category specified in the applicable table of emission rate limits in Tables VI—IX, and one or more VOC emissions capture systems and one or more add-on air pollution control devices that meet the requirements of subsection (e)(2).

(3) *VOC emissions capture system and add-on air pollution control device option*. The overall weight of VOCs emitted to the atmosphere is reduced through the use of vapor recovery, oxidation, incineration or another method that is acceptable under § 129.51(a) (relating to general) and meets the requirements of subsection (e)(2). The overall control efficiency of a control system, as determined by the test methods and procedures specified in Chapter 139 (relating to sampling and testing), may be no less than 90%.

(4) *Least restrictive VOC limit*. If more than one VOC content limit or VOC emission rate limit applies to a specific coating, then the least restrictive VOC content limit or VOC emission rate limit applies.

(5) *Coatings not listed in Table I, II, VI or VII*. For a miscellaneous metal part or miscellaneous plastic part coating that does not meet the coating categories listed in Table I, II, VI or VII, the VOC content limit or VOC emission rate limit shall be determined by classifying the coating as a general one component coating or general multicomponent coating. The corresponding general one component coating or general multicomponent coating limit applies.

(6) *Coatings not listed in Table IV or IX*. For a pleasure craft coating that does not meet the coating categories

listed in Table IV or IX, the VOC content limit or VOC emission rate limit shall be determined by classifying the coating as an "all other pleasure craft surface coatings for metal or plastic." The "all other pleasure craft surface coatings for metal or plastic" limit applies.

(e) *Compliance and monitoring requirements.*

(1) *All owners and operators.* Regardless of the facility's VOC emissions, the owner or operator of a miscellaneous metal part surface coating process or miscellaneous plastic part surface coating process, or both, subject to subsection (a)(1) or (2), shall comply with this section as specified throughout this section. For an owner or operator subject only to subsection (a)(2), the compliance requirements are the recordkeeping requirements in subsection (f)(2).

(2) *VOC emissions capture system and add-on air pollution control device.* The owner or operator of a facility subject to subsection (a)(1) that elects to comply with the emission limitations of subsection (d) through installation of a VOC emissions capture system and add-on air pollution control device under subsection (d)(2) or (3) shall submit an application for a plan approval to the appropriate regional office. The plan approval must be approved, in writing, by the Department prior to installation and operation of the emissions capture system and add-on air pollution control device. The plan approval must include the following information:

(i) A description, including location, of each affected source or operation to be controlled with the emissions capture system and add-on air pollution control device.

(ii) A description of the proposed emissions capture system and add-on air pollution control device to be installed.

(iii) A description of the proposed compliance monitoring equipment to be installed.

(iv) A description of the parameters to be monitored to demonstrate continuing compliance.

(v) A description of the records to be kept that will document the continuing compliance.

(vi) A schedule containing proposed interim dates for completing each phase of the required work to install and test the emissions capture system and add-on air pollution control device described in subparagraph (ii) and the compliance monitoring equipment described in subparagraph (iii).

(vii) A proposed interim emission limitation that will be imposed on the affected source or operation until compliance is achieved with the applicable emission limitation.

(viii) A proposed final compliance date that is as soon as possible but not later than 1 year after the start of installation of the approved emissions capture system and add-on air pollution control device and the compliance monitoring equipment.

(f) *Recordkeeping and reporting requirements.*

(1) The owner or operator of a miscellaneous metal part coating unit or miscellaneous plastic part coating unit, or both, subject to subsection (a)(1) shall maintain monthly records sufficient to demonstrate compliance with this section. The records must include the following information:

(i) The following parameters for each coating, thinner, component and cleaning solvent as supplied:

(A) Name and identification number of the coating, thinner, other component or cleaning solvent.

(B) Volume used.

(C) Mix ratio.

(D) Density or specific gravity.

(E) Weight percent of total volatiles, water, solids and exempt solvents.

(F) Volume percent of total volatiles, water and exempt solvents for the applicable table of limits in Tables I—V.

(G) Volume percent of solids for the applicable table of limits in Tables VI—IX.

(ii) The VOC content of each coating, thinner, other component and cleaning solvent as supplied.

(iii) The VOC content of each as applied coating or cleaning solvent.

(iv) The calculations performed for each applicable requirement under subsections (d) and (e).

(v) The information required in a plan approval issued under subsection (e)(2).

(2) An owner or operator subject to subsection (a)(2), or otherwise claiming an exemption or exception in this section, shall maintain records sufficient to verify the applicability of subsection (a)(2), the exemption or exception. Records maintained for compliance demonstrations may include purchase, use, production and other records.

(3) The records shall be maintained onsite for 2 years, unless a longer period is required by an order, plan approval or operating permit issued under Chapter 127 (relating to construction, modification, reactivation and operation of sources).

(4) The records shall be submitted to the Department in an acceptable format upon receipt of a written request from the Department.

(g) *Coating application methods.* A person subject to subsection (a)(1) may not cause or permit the emission into the outdoor atmosphere of VOCs from a miscellaneous metal part coating unit or miscellaneous plastic part coating unit, or both, unless the coatings are applied using one or more of the following coating application methods:

(1) Electrostatic coating.

(2) Flow coating.

(3) Dip coating, including electrodeposition.

(4) Roll coating.

(5) High volume-low pressure (HVLP) spray coating.

(6) Airless spray coating.

(7) Air-assisted airless spray coating.

(8) Other coating application method if approved in writing by the Department prior to use.

(i) The coating application method must be capable of achieving a transfer efficiency equivalent to or better than that achieved by HVLP spray coating.

(ii) The owner or operator shall submit the request for approval to the Department in writing.

(h) *Exempt coatings and exempt coating unit operations.*

(1) The requirements of subsections (d) and (g) do not apply to the application of the following coatings to a metal part:

- (i) Stencil coating.
 - (ii) Safety-indicating coating.
 - (iii) Solid-film lubricant.
 - (iv) Electric-insulating and thermal-conducting coating.
 - (v) Magnetic data storage disk coating.
 - (vi) Plastic extruded onto metal parts to form a coating.
 - (vii) Powder coating.
- (2) The requirements of subsection (d) do not apply to the application of the following coatings to a plastic part:
- (i) Touch-up and repair coating.
 - (ii) Stencil coating applied on a clear or transparent substrate.
 - (iii) Clear or translucent coating.
 - (iv) Coating applied at a paint manufacturing facility while conducting performance tests on coating.
 - (v) Reflective coating applied to highway cones.
 - (vi) Mask coating, if the coating is less than 0.5 millimeter thick (dried) and the area coated is less than 25 square inches.
 - (vii) EMI/RFI shielding coating.
 - (viii) Heparin-benzalkonium chloride (HBAC)-containing coating applied to a medical device, provided that the total usage of HBAC-containing coatings does not exceed 100 gallons in 1 calendar year at the facility.
 - (ix) Powder coating.
 - (x) An individual coating category used in an amount less than 50 gallons in 1 calendar year provided that the total usage of all of the coatings, combined, does not exceed 200 gallons per year at the facility. This exception applies only if substitute compliant coatings are not available.
- (3) The requirements of subsection (d) do not apply to the application of the following coatings to automotive-transportation and business machine parts:
- (i) Texture coat.
 - (ii) Vacuum-metalizing coating.
 - (iii) Gloss reducer.
 - (iv) Texture topcoat.
 - (v) Adhesion primer.
 - (vi) Electrostatic prep coat.
 - (vii) Resist coating.
 - (viii) Stencil coating.
 - (ix) Powder coating.
- (4) The requirements of subsection (g) do not apply to the following activities:
- (i) Application of a touch-up coating, repair coating or textured finish to a metal part.
 - (ii) Application of a powder coating to the following:
 - (A) Plastic part.
 - (B) Automotive-transportation plastic part.
 - (C) Business machine plastic part.
 - (iii) Airbrush application of coating to a metal part or plastic part using no more than 5 gallons of coating per year.

(iv) Use of an add-on air pollution control device to comply with subsection (d).

(v) Application of extreme high-gloss coating in a pleasure craft surface coating operation.

(i) *Work practice requirements for coating-related activities.* The owner or operator of a miscellaneous metal part coating unit or miscellaneous plastic part coating unit, or both, subject to subsection (a)(1) shall comply with the following work practices for coating-related activities:

(1) Store all VOC-containing coatings, thinners or coating-related waste materials in closed containers.

(2) Ensure that mixing and storage containers used for VOC-containing coatings, thinners or coating-related waste materials are kept closed at all times, except when depositing or removing these coatings, thinners or waste materials.

(3) Minimize spills of VOC-containing coatings, thinners or coating-related waste materials and clean up spills immediately.

(4) Convey VOC-containing coatings, thinners or coating-related waste materials from one location to another in closed containers or pipes.

(j) *Work practice requirements for cleaning materials.* The owner or operator of a miscellaneous metal part coating unit or miscellaneous plastic part coating unit subject to subsection (a)(1) shall comply with the following work practices for cleaning materials:

(1) Store all VOC-containing cleaning materials and used shop towels in closed containers.

(2) Ensure that mixing vessels and storage containers used for VOC-containing cleaning materials are kept closed at all times except when depositing or removing these materials.

(3) Minimize spills of VOC-containing cleaning materials and clean up spills immediately.

(4) Convey VOC-containing cleaning materials from one location to another in closed containers or pipes.

(5) Minimize VOC emissions from cleaning of application, storage, mixing or conveying equipment by ensuring that equipment cleaning is performed without atomizing the cleaning solvent and all spent solvent is captured in closed containers.

(k) *Measurements and calculations.* To determine the properties of a coating or component used in a miscellaneous metal parts surface coating process or miscellaneous plastic parts surface coating process, measurements and calculations shall be performed according to one or more of the following:

(1) EPA Reference Method 24, *Determination of Volatile Matter Content, Water Content, Density, Volume Solids, and Weight Solids of Surface Coatings*, found at 40 CFR Part 60, Subpart D, Appendix A, including updates and revisions.

(2) Manufacturer's formulation data.

(3) Sampling and testing done in accordance with the procedures and test methods specified in Chapter 139.

(4) Other test method demonstrated to provide results that are acceptable for purposes of determining compli-

ance with this section if prior approval is obtained in writing from the Department.

(5) Add-on air pollution control devices shall be equipped with the applicable monitoring equipment according to manufacturers' specifications. The monitoring equipment shall be installed, calibrated, operated and maintained according to manufacturers' specifications at all times the add-on air pollution control device is in use.

(6) EPA calculations information in the following:

(i) *A Guideline for Surface Coating Calculations*, EPA-340/1-86-016, including updates and revisions.

(ii) *Procedures for Certifying Quantity of Volatile Organic Compounds Emitted by Paint, Ink, and Other Coatings*, EPA-450/3-84-019, including updates and revisions.

**Table I. VOC Content Limits for Metal Parts and Products Surface Coatings
Weight of VOC per Volume of Coating, Less Water and Exempt Compounds, as Applied**

Coating Category	Air Dried		Baked	
	kg VOC/ l coating	lb VOC/ gal coating	kg VOC/ l coating	lb VOC/ gal coating
General One-component	0.34	2.8	0.28	2.3
General Multicomponent	0.34	2.8	0.28	2.3
Camouflage	0.42	3.5	0.42	3.5
Electric-insulating Varnish	0.42	3.5	0.42	3.5
Etching Filler	0.42	3.5	0.42	3.5
Extreme High-gloss	0.42	3.5	0.36	3.0
Extreme Performance	0.42	3.5	0.36	3.0
Heat-resistant	0.42	3.5	0.36	3.0
High-performance Architectural	0.74	6.2	0.74	6.2
High-temperature	0.42	3.5	0.42	3.5
Metallic	0.42	3.5	0.42	3.5
Military Specification	0.34	2.8	0.28	2.3
Mold-seal	0.42	3.5	0.42	3.5
Pan-backing	0.42	3.5	0.42	3.5
Prefabricated Architectural Multicomponent	0.42	3.5	0.28	2.3
Prefabricated Architectural One-component	0.42	3.5	0.28	2.3
Pretreatment	0.42	3.5	0.42	3.5
Touch-up and Repair	0.42	3.5	0.36	3.0
Silicone-release	0.42	3.5	0.42	3.5
Solar-absorbent	0.42	3.5	0.36	3.0
Vacuum-metalizing	0.42	3.5	0.42	3.5
Drum Coating, New, Exterior	0.34	2.8	0.34	2.8
Drum Coating, New, Interior	0.42	3.5	0.42	3.5
Drum Coating, Reconditioned, Exterior	0.42	3.5	0.42	3.5
Drum Coating, Reconditioned, Interior	0.50	4.2	0.50	4.2

**Table II. VOC Content Limits for Plastic Parts and Products Surface Coatings
Weight of VOC per Volume of Coating, Less Water and Exempt Compounds, as Applied**

Coating Category	kg VOC/ l coating	lb VOC/ gal coating
General One-component	0.28	2.3
General Multicomponent	0.42	3.5
Electric Dissipating and Shock-free	0.80	6.7
Extreme Performance (2-pack coatings)	0.42	3.5
Metallic	0.42	3.5
Military Specification (1-pack)	0.34	2.8
Military Specification (2-pack)	0.42	3.5
Mold-seal	0.76	6.3
Multicolored	0.68	5.7
Optical	0.80	6.7
Vacuum-metalizing	0.80	6.7

**Table III. VOC Content Limits for Automotive/Transportation and Business Machine Plastic Parts
Surface Coatings**

Weight of VOC per Volume of Coating, Less Water and Exempt Compounds, as Applied

Coating Category	Automotive/Transportation Coatings*	
	kg VOC/ l coating	lb VOC/ gal coating
I. High Bake Coatings—Interior and Exterior Parts		
Flexible Primer	0.54	4.5
Nonflexible Primer	0.42	3.5
Basecoat	0.52	4.3
Clear Coat	0.48	4.0
Non-basecoat/Clear Coat	0.52	4.3

Automotive/Transportation Coatings*

<i>Coating Category</i>	<i>kg VOC/ l coating</i>	<i>lb VOC/ gal coating</i>
II. Low Bake/Air Dried Coatings—Exterior Parts		
Primer	0.58	4.8
Basecoat	0.60	5.0
Clear Coat	0.54	4.5
Non-basecoat/Clear Coat	0.60	5.0
III. Low Bake/Air Dried Coatings—Interior Parts	0.60	5.0
IV. Touch-up and Repair	0.62	5.2

* For red, yellow and black automotive coatings, except touch-up and repair coatings, the limit is determined by multiplying the appropriate limit in this table by 1.15.

Business Machine Coatings

<i>Coating Category</i>	<i>kg VOC/ l coating</i>	<i>lb VOC/ gal coating</i>
Primer	0.35	2.9
Topcoat	0.35	2.9
Texture Coat	0.35	2.9
Fog Coat	0.26	2.2
Touch-up and Repair	0.35	2.9

Table IV. VOC Content Limits for Pleasure Craft Surface Coatings**Weight of VOC per Volume of Coating, Less Water and Exempt Compounds, as Applied**

<i>Coating Category</i>	<i>kg VOC/ l coating</i>	<i>lb VOC/ gal coating</i>
Extreme High-gloss Topcoat	0.60	5.0
High Gloss Topcoat	0.42	3.5
Pretreatment Wash Primer	0.78	6.5
Finish Primer/Surfacer	0.42	3.5
High Build Primer Surfacer	0.34	2.8
Aluminum Substrate Antifoulant Coating	0.56	4.7
Antifoulant Sealer/Tiecoat	0.42	3.5
Other Substrate Antifoulant Coating	0.40	3.3
All Other Pleasure Craft Surface Coatings for Metal or Plastic	0.42	3.5

Table V. VOC Content Limits for Motor Vehicle Materials Surface Coatings**Weight of VOC per Volume of Coating, Less Water and Exempt Compounds, as Applied**

<i>Coating Category</i>	<i>kg VOC/ l coating</i>	<i>lb VOC/ gal coating</i>
Motor Vehicle Cavity Wax	0.65	5.4
Motor Vehicle Sealer	0.65	5.4
Motor Vehicle Deadener	0.65	5.4
Motor Vehicle Gasket/Gasket Sealing Material	0.20	1.7
Motor Vehicle Underbody Coating	0.65	5.4
Motor Vehicle Trunk Interior Coating	0.65	5.4
Motor Vehicle Bedliner	0.20	1.7
Motor Vehicle Lubricating Wax/Compound	0.70	5.8

Table VI. VOC Emission Rate Limits for Metal Parts and Products Surface Coatings**Weight of VOC per Volume of Coating Solids, as Applied**

<i>Coating Category</i>	<i>Air Dried</i>		<i>Baked</i>	
	<i>kg VOC/ l solids</i>	<i>lb VOC/ gal solids</i>	<i>kg VOC/ l solids</i>	<i>lb VOC/ gal solids</i>
General One-component	0.54	4.52	0.40	3.35
General Multicomponent	0.54	4.52	0.40	3.35
Camouflage	0.80	6.67	0.80	6.67
Electric-insulating Varnish	0.80	6.67	0.80	6.67
Etching Filler	0.80	6.67	0.80	6.67
Extreme High-gloss	0.80	6.67	0.61	5.06
Extreme Performance	0.80	6.67	0.61	5.06
Heat-resistant	0.80	6.67	0.61	5.06
High-performance Architectural	4.56	38.0	4.56	38.0
High-temperature	0.80	6.67	0.80	6.67
Metallic	0.80	6.67	0.80	6.67
Military Specification	0.54	4.52	0.40	3.35

Coating Category	Air Dried		Baked	
	kg VOC/ l solids	lb VOC/ gal solids	kg VOC/ l solids	lb VOC/ gal solids
Mold-seal	0.80	6.67	0.80	6.67
Pan-backing	0.80	6.67	0.80	6.67
Prefabricated Architectural Multicomponent	0.80	6.67	0.40	3.35
Prefabricated Architectural One-component	0.80	6.67	0.40	3.35
Pretreatment	0.80	6.67	0.80	6.67
Silicone-release	0.80	6.67	0.80	6.67
Solar-absorbent	0.80	6.67	0.61	5.06
Vacuum-metalizing	0.80	6.67	0.80	6.67
Drum Coating, New, Exterior	0.54	4.52	0.54	4.52
Drum Coating, New, Interior	0.80	6.67	0.80	6.67
Drum Coating, Reconditioned, Exterior	0.80	6.67	0.80	6.67
Drum Coating, Reconditioned, Interior	1.17	9.78	1.17	9.78

Table VII. VOC Emission Rate Limits for Plastic Parts and Products Surface Coatings

Weight of VOC per Volume of Coating Solids, as Applied

Coating Category	kg VOC/ l solids	lb VOC/ gal solids
General One-component	0.40	3.35
General Multicomponent	0.80	6.67
Electric Dissipating and Shock-free	8.96	74.7
Extreme Performance (2-pack coatings)	0.80	6.67
Metallic	0.80	6.67
Military Specification (1-pack)	0.54	4.52
Military Specification (2-pack)	0.80	6.67
Mold-seal	5.24	43.7
Multicolored	3.04	25.3
Optical	8.96	74.7
Vacuum-metalizing	8.96	74.7

Table VIII. VOC Emission Rate Limits for Automotive/Transportation and Business Machine Plastic Parts Surface Coatings

Weight of VOC per Volume of Coating Solids, as Applied

Automotive/Transportation Coatings*

Coating Category	kg VOC/ l solids	lb VOC/ gal solids
I. High Bake Coatings—Interior and Exterior Parts		
Flexible Primer	1.39	11.58
Nonflexible Primer	0.80	6.67
Basecoat	1.24	10.34
Clear Coat	1.05	8.76
Non-basecoat/Clear Coat	1.24	10.34
II. Low Bake/Air Dried Coatings—Exterior Parts		
Primer	1.66	13.80
Basecoat	1.87	15.59
Clear Coat	1.39	11.58
Non-basecoat/Clear Coat	1.87	15.59
III. Low Bake/Air Dried Coatings—Interior Parts	1.87	15.59
IV. Touch-up and Repair	2.13	17.72

* For red, yellow and black automotive coatings, except touch-up and repair coatings, the limit is determined by multiplying the appropriate limit in this table by 1.15.

Business Machine Coatings

Coating Category	kg VOC/ l solids	lb VOC/ gal solids
Primer	0.57	4.80
Topcoat	0.57	4.80
Texture Coat	0.57	4.80
Fog Coat	0.38	3.14
Touch-up and Repair	0.57	4.80

**Table IX. VOC Emission Rate Limits for Pleasure Craft Surface Coatings
Weight of VOC per Volume of Coating Solids, as Applied**

<i>Coating Category</i>	<i>kg VOC/ l solids</i>	<i>lb VOC/ gal solids</i>
Extreme High-gloss Topcoat	1.10	9.2
High Gloss Topcoat	0.80	6.7
Pretreatment Wash Primer	6.67	55.6
Finish Primer/Surfacer	0.80	6.7
High Build Primer Surfacer	0.55	4.6
Aluminum Substrate Antifoulant Coating	1.53	12.8
Other Substrate Antifoulant Coating	0.53	4.4
All Other Pleasure Craft Surface Coatings for Metal or Plastic	0.80	6.7

§ 129.67. Graphic arts systems.

(a) This section applies as follows:

(1) This section applies to the owner and operator of a facility whose rotogravure and flexographic printing presses by themselves or in combination with a surface coating operation subject to § 129.52, § 129.52a, § 129.52b, § 129.52c or § 129.52d or in combination with a flexible packaging printing press subject to § 129.67a (relating to control of VOC emissions from flexible packaging printing presses) have the potential to emit or have emitted VOCs into the outdoor atmosphere in quantities greater than 1,000 pounds (460 kilograms) per day or 100 tons (90,900 kilograms) per year during any calendar year since January 1, 1987.

(2) This section applies to the owner and operator of a flexographic or rotogravure printing press that prints flexible packaging materials subject to § 129.67a(a)(1)(ii) if the owner or operator was required to install a control device under this section prior to June 28, 2014.

(3) This section does not apply to the owner or operator of a flexible packaging printing press subject to § 129.67a(a)(1)(i).

(b) A person may not permit the emission into the outdoor atmosphere of VOCs from a rotogravure or flexographic printing press subject to this section unless one of the following limitations is met:

(1) The volatile fraction of the ink, as applied to the substrate, contains 25% or less by volume of VOC and 75% or more by volume of water.

(2) The ink, as applied to the substrate, less water, contains 60% by volume or more of solid material.

(3) The owner or operator installs and operates a carbon adsorption system, an incineration system or an alternative VOC emission reduction system which recovers or destroys at least 90% of the VOCs entering the system. The overall level of emission recovery or destruction may not be less than that necessary to comply with subsection (c).

(c) A capture system shall be used in conjunction with the emission control systems in subsection (b)(3). The design and operation of the capture and control system shall be consistent with good engineering practice and shall be designed to provide for a contemporaneous, overall reduction in VOC emission from each ink/press of at least the following:

(1) Seventy-five percent where a publication rotogravure process is employed.

(2) Sixty-five percent where another rotogravure process is employed.

(3) Sixty percent where a flexographic printing process is employed.

(d) Presses used only to check the quality of the image formation of newly etched or engraved printing cylinders are exempted from this section if the aggregate emissions from the presses do not exceed 400 pounds in a 30-day running period.

(e) To determine applicability under this section, emissions of VOCs used in clean-up operations shall be summed with emissions from surface coating and printing.

§ 129.75. Mobile equipment repair and refinishing.

* * * * *

(b) This section does not apply to a person who applies surface coating to mobile equipment or mobile equipment components under one of the following circumstances:

(1) The surface coating process is subject to the miscellaneous metal parts finishing requirements of § 129.52 (relating to surface coating processes) or the requirements of § 129.52d (relating to control of VOC emissions from miscellaneous metal parts surface coating processes, miscellaneous plastic parts surface coating processes and pleasure craft surface coatings).

* * * * *

[Pa.B. Doc. No. 16-1847. Filed for public inspection October 21, 2016, 9:00 a.m.]

**ENVIRONMENTAL QUALITY BOARD
[25 PA. CODE CHS. 87, 88 AND 90]
Remining Requirements**

The Environmental Quality Board (Board) amends the remining regulations in Chapter 87, Subchapter F, Chapter 88, Subchapter G and Chapter 90, Subchapter F (relating to surface coal mines: minimum requirements for remining areas with pollutional discharges; anthracite surface mining activities and anthracite bank removal and reclamation activities: minimum requirements for remining areas with pollutional discharges; and coal refuse disposal activities on areas with pre-existing pollutional discharges) to read as set forth in Annex A. This final-form rulemaking incorporates requirements of the Federal remining rules in 40 CFR Part 434, Subpart G (relating to coal remining) and the statistical methods in 40 CFR Part 434, Appendix B (relating to baseline determination and compliance monitoring for pre-existing discharges at remining operations).

This final-form rulemaking was adopted by the Board at its meeting of May 17, 2016.

A. *Effective Date*

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

B. *Contact Persons*

For further information, contact Thomas Callaghan, PG, Director, Bureau of Mining Programs, Rachel Carson State Office Building, 5th Floor, 400 Market Street, P.O. Box 8461, Harrisburg, PA 17105-8461, (717) 787-5015; or Joseph Iole, Assistant Counsel, Bureau of Regulatory Counsel, P.O. Box 8464, Rachel Carson State Office Building, Harrisburg, PA 17105-8464, (717) 787-7060. Persons with a disability may use the Pennsylvania AT&T Relay Service, (800) 654-5984 (TDD users) or (800) 654-5988 (voice users). This final-form rulemaking is available on the Department of Environmental Protection's (Department) web site at www.dep.pa.gov (select "Public Participation," then "Environmental Quality Board (EQB)").

C. *Statutory Authority*

This final-form rulemaking is authorized under the authority of section 5 of The Clean Streams Law (35 P.S. § 691.5), sections 4(a) and 4.2 of the Surface Mining Conservation and Reclamation Act (52 P.S. §§ 1396.4(a) and 1396.4b) and section 1920-A of The Administrative Code of 1929 (71 P.S. § 510-20).

D. *Background and Purpose*

The Commonwealth's remining program is implemented through Chapter 87, Subchapter F, Chapter 88, Subchapter G and Chapter 90, Subchapter F, as well as through technical guidance documents and individual permits. This program allows for liability protection for remining operations conducted on abandoned mine lands with existing pollutional discharges by enabling the Department to determine the pollution baseline at a site and set effluent limitations accordingly. Currently, the Department determines the pollution baseline using a single statistical method (Method 1), explained as follows, and incorporates the baseline in the individual permit.

Federal remining requirements are found in 40 CFR Part 434, Subpart G and Appendix B. The Federal requirements differ from the Pennsylvania requirements by providing the option of employing an alternative statistical method (Method 2) for determining the pollution baseline. The choice of methods depends on which method would more accurately characterize baseline levels due to site-specific factors.

The Federal regulations further provide for remining in cases in which the pollution baseline cannot be determined due to infeasibility of sampling and remining would result in significant water quality improvement that would not otherwise occur. Under these circumstances, the Federal regulations require an operator to submit a pollution abatement plan based on best management practices (BMP) without regard for numeric effluent limitations.

The preambles of the Federal remining regulations, proposed at 65 FR 19440 (April 11, 2000) and adopted at 67 FR 3370 (January 23, 2002), provide extensive additional background references explaining the statistical methods, BMPs and other requirements. Notably, the Federal regulations were informed by the extensive experience with remining in this Commonwealth.

This final-form rulemaking incorporates into the Commonwealth's regulations both statistical methods provided in the Federal regulations, eliminating the need to implement the methods through individual permits and providing flexibility regarding the choice of statistical method based on site-specific factors. This final-form rulemaking further provides for remining at sites in which it is infeasible to establish pollution baselines.

Summary of the Federal regulations

40 CFR Part 434, Subpart G

Subpart G of 40 CFR Part 434 includes specialized definitions, applicability and effluent limitations for remining.

The following definitions are included in 40 CFR 434.70 (relating to specialized definitions): "coal remining operation," "pollution abatement area," "pre-existing discharge," "steep slope" and "new source remining operation."

Section 434.71 of 40 CFR (relating to applicability) includes a description of mine sites to which the regulations apply, requirements for water that is intercepted by remining activities, a grandfather clause for existing approved remining authorizations and a description of the time period during which the regulations apply.

The effluent limitations are established in four categories: best practicable control technology currently available (BPT); best available technology economically achievable (BAT); best conventional pollutant control technology (BCT); and new source performance standards (NSPS).

The BPT limitations in 40 CFR 434.72 (relating to effluent limitations attainable by the application of the best practicable control technology currently available (BPT)) are the most commonly applicable. The Federal BPT regulations require a site-specific pollution abatement plan designed to reduce the pollution load. They also establish numerical effluent limitations for pre-existing discharges for total iron, total manganese, net acidity and total suspended solids. These effluent limitations may not exceed the baseline pollution load, as defined under the methods described in 40 CFR Part 434, Appendix B. The BPT limitations also allow for circumstances under which the numerical limitations are not applicable, specifically in cases in which it is infeasible to collect samples to establish the baseline pollution load.

The BAT limitations in 40 CFR 434.73 (relating to effluent limitations attainable by application of the best available technology economically achievable (BAT)) require a pollution abatement plan and compliance with the baseline pollution load for net acidity, iron and manganese.

The BCT limitations in 40 CFR 434.74 (relating to effluent limitations attainable by application of the best conventional pollutant control technology (BCT)) require a pollution abatement plan and compliance with the baseline pollution load for total suspended solids.

The NSPS limitations in 40 CFR 434.75 (relating to new source performance standards (NSPS)) require a pollution abatement plan and compliance with the baseline pollution load for acidity, iron, manganese and total suspended solids.

40 CFR Part 434, Appendix B

Appendix B of 40 CFR Part 434 includes the statistical methods for establishing the baseline pollution load and determining compliance with the numerical effluent limitations. There are two methods (Method 1 and Method 2)

to establish the baseline provided in Appendix B. There are also two time frames to determine compliance, one on a monthly basis (single-observation) and the second on an annual basis. The thresholds to determine compliance are referred to as triggers.

Method 1 for the single-observation trigger uses a statistical method that determines the tolerance interval of the 95th percentile above the median and compares that value with the sample being evaluated. Method 2 for the single-observation trigger is a nonparametric estimate of the 99th percentile of loadings. Method 1 for the annual trigger compares the baseline with 1 year's monitoring data for loading using the 95th percentile confidence interval for the median of each data set. Method 2 for the annual trigger uses the Wilcoxon-Mann-Whitney test to compare the baseline and monitoring year being evaluated. The Wilcoxon-Mann-Whitney test is a ranking test.

When the single-observation trigger is exceeded in 2 consecutive months, accelerated monitoring (weekly, for 4 weeks) is required. If the accelerated sampling confirms the exceedance, then treatment of the discharge is required. If the accelerated sampling does not confirm the exceedance, then the sampling may revert to a monthly basis.

When the annual trigger is exceeded, treatment of the discharge is required.

Project XL

In April 2000, the United States Environmental Protection Agency (EPA), Region III and the Department entered into an agreement under the EPA's Project XL program which allowed for a modified approach to remining permits. Under this program, the water quality performance for eight pilot study remining sites was evaluated based on stream water quality rather than discharge pollutant loading. Under Project XL, the basis for water quality evaluation was bimonthly receiving stream concentration data. The triggers were based on concentrations rather than loading.

The conclusion of the pilot study was that remining with in-stream monitoring was just as effective as the traditional discharge-based remining approach. Another conclusion was that the Project XL approach will encourage additional remining since it can be more cost-effective.

This final-form rulemaking deviates from the Federal regulations by requiring, in appropriate circumstances, in-stream baseline determinations and monitoring.

Current Pennsylvania remining program

The existing remining program in this Commonwealth is implemented through Chapter 87, Subchapter F, Chapter 88, Subchapter G and Chapter 90, Subchapter F, technical guidance documents and individual permit documents. Effluent limitations are determined on a case-by-case basis using best professional judgment.

Monitoring requirements and the pollution baseline are specified in each permit. The statistical method used is the same as Method 1 in 40 CFR Part 434, Appendix B, including the single-observation and the annual triggers.

The existing remining regulations require an applicant to continue the water quality and quantity monitoring program after submitting the permit application, at least until the permitting decision is made. The proposed rulemaking included a change to this approach making the sampling optional rather than mandatory. The Inde-

pendent Regulatory Review Commission (IRRC) observed that the preamble of the proposed rulemaking did not explain this sufficiently.

During the development of the proposed rulemaking, the fact that the post-submission monitoring is not required under the Federal regulations presented the Department with the opportunity to re-evaluate the need for the additional data. Since an application is required to have sufficient data to establish the baseline and that this baseline is enforceable, it was concluded that it is no longer necessary to require this post-submission data. This issue was raised with the Mining and Reclamation Advisory Board's (MRAB) Regulation, Legislation and Technical Committee. Their recommendation was to allow for, but not require, the additional data collection. As an alternative to the requirement in the proposed rulemaking, the elimination of any reference to the continuation of sampling (to be exactly consistent with the Federal requirements) was considered. This was dismissed because in many cases (for example, when there is a large time delay or where other influences on the water quality have occurred) it may make sense to recalculate the baseline after the permit has been submitted, but before any mining occurs. This final-form rulemaking allows flexibility, letting the applicant decide whether to spend money on additional sampling.

MRAB collaboration

The Department collaborated with the MRAB's Regulation, Legislation and Technical Committee to develop the proposed rulemaking. At its October 23, 2014, meeting, the MRAB voted for the proposed rulemaking to move forward in the regulatory process. This final-form rulemaking was reviewed by the MRAB at its January 21, 2016, meeting. The MRAB recommended that the Board proceed as quickly as possible with this final-form rulemaking.

E. Summary of Changes to the Proposed Rulemaking

§§ 87.210(d)(1), 88.510(d)(1) and 90.310(d)(1). Effluent limitations

The Board revised these paragraphs to include reference to subsection (d)(4). In addition, these paragraphs have been revised to specify that "the permit applicant shall establish an in-stream baseline concentration at a suitable point downstream from the remining operation, unless the Department waives the sampling requirement under paragraph (5) and the numeric effluent limitations in subsection (c)(1) do not apply."

§ 87.212(b)(4). Procedure for calculating and applying a single-observation (monthly) trigger

A commentator pointed out that in § 87.212(b)(4) (relating to procedure for calculating and applying a single-observation (monthly) trigger) the subscript to the term "x" in the statement "If n is odd, then M equals x" was omitted. The Board added the correct subscript in this final-form rulemaking to properly identify the value of M if n is odd.

§§ 87.213(c)(7)(ii), 88.513(c)(7)(ii) and 90.313(c)(7)(ii). Procedure for calculating and applying an annual trigger

IRRC commented that in §§ 87.213, 88.513 and 90.313 (relating to procedure for calculating and applying an annual trigger) the calculations did not match the Federal regulations. Specifically, subsection (c)(7)(ii) includes a capital "M" rather than a lower case "m." In response, the Board corrected the "M" in subsection (c)(7)(ii) to be "m."

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

Comments were received from one public commentator and from IRRRC.

The public comment related to § 87.212(b)(4). It points out that the subscript to the term “x” in the statement “If n is odd, then M equals x” was omitted. In response, the Board added the correct subscript to properly identify the value of M if n is odd.

IRRC indicated that the Regulatory Analysis Form (RAF) was incomplete because there was no response to question 23. The Board corrected this omission in the final-form rulemaking package.

IRRC also indicated that the RAF should have referenced §§ 88.510 and 90.310 (relating to effluent limitations) in the response to question 11. The Board corrected this omission in the final-form rulemaking package.

IRRC noted that further explanation was needed to clarify the need for the amendment to § 87.204(b) (relating to application for authorization) regarding the continuation of sampling after the baseline is established. In the former regulation, the continuation of sampling was mandatory; it is optional in this final-form rulemaking. This amendment also applies to §§ 88.504 and 90.304 (relating to application for authorization). In response, the Board provides the following rationale, in addition to a response to the questions on the RAF: the Federal regulations do not require the continuation of sampling; the established baseline is enforceable without any additional data; a cost could be incurred by operators for unnecessary data collection; and the MRAB recommended the change. Further explanation has been provided that the alternative to the requirement in the proposed rulemaking was the elimination of any reference to the continuation of sampling to be consistent with the Federal requirements.

IRRC commented that § 87.210 (relating to effluent limitations) and §§ 88.510 and 90.310 are ambiguous because the reference in subsection (d)(1) includes the phrases “establishing the baseline pollutant levels under this subsection” and “the permit applicant may establish an in-stream baseline concentration.” In response the Board revised the wording to include reference to subsection (d)(4). In addition these subsections have been revised to specify that “the permit applicant shall establish an in-stream baseline concentration at a suitable point downstream from the remining operation, unless the Department waives the sampling requirement under paragraph (5) and the numeric effluent limitations in subsection (c)(1) do not apply.”

IRRC further commented that §§ 87.213, 88.513 and 90.313 include calculations from the Federal regulations but do not match the Federal regulations. Specifically, the calculations in subsections (b)(4) and (6) and (c)(7)(iii) are missing additional sets of parentheses and subsection (c)(7)(ii) includes a capital “M” rather than a small “m.” In response, the Board corrected the “M” in subsection (c)(7)(ii) to be “m.” The additional parentheses are not needed due to the rules on order of operations for arithmetic. The Board concluded that including unnecessary parentheses would result in less clarity and more ambiguity. Therefore, this final-form rulemaking does not

revise the calculations to exactly match the Federal calculations. However, the calculations in this final-form rulemaking provide the same results as the Federal calculations.

G. *Benefits, Costs and Compliance*

Benefits

This final-form rulemaking will allow for additional reclamation of abandoned mine lands by providing protection to mine operators from long-term treatment liability. The amendments that allow for remining in circumstances in which calculating the baseline pollution load of discharges is not feasible have the potential to open up areas to remining where it was not previously possible. Remining typically results in substantial improvements in water quality.

Compliance costs

The primary compliance costs are related to water sampling and analysis and implementation of BMPs for the abatement of abandoned mine drainage. However, these costs are part of the planning process for a mine operator when they decide if an area is economically mineable. Overall, compliance costs for a mine operator are reduced since this final-form rulemaking will provide for protection from long-term treatment liability.

Compliance assistance plan

Compliance assistance for this final-form rulemaking will be provided through the Department’s routine interaction with trade groups and individual applicants. There are about 500 licensed surface coal mining operators in this Commonwealth, most of which are small businesses that will be subject to the regulations.

Paperwork requirements

This final-form rulemaking requires additional information as part of a permit application in the form of a robust pollution abatement plan. Current applicants for remining are required to provide an abatement plan with a remining application. The additional requirements are more focused and may make it simpler to provide the required plans.

H. *Pollution Prevention*

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

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 September 23, 2015, the Department submitted a copy of the notice of proposed rulemaking, published at 45 Pa.B. 5920 (October 3, 2015), to IRRRC

and the House and Senate Environmental Resources and Energy Committees for review and comment.

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

Under section 5.1(j.2) of the Regulatory Review Act (71 P.S. § 745.5a(j.2)), on August 17, 2016, this 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 18, 2016, and approved this 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 as required by law, and all comments were considered.

(3) These regulations do not enlarge the purpose of the proposed rulemaking published 45 Pa.B. 5920.

(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:

(1) The regulations of the Department, 25 Pa. Code Chapters 87, 88 and 90, are amended by adding §§ 87.210—87.213, 88.510—88.513 and 90.310—90.313 and amending §§ 87.202—87.207, 87.209, 88.502—88.507, 88.509, 90.302—90.307 and 90.309 to read as set forth in Annex A.

(2) 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.

(3) The Chairperson shall submit this order and Annex A to IRRC and the Senate and House Committees as required by the Regulatory Review Act (71 P.S. §§ 745.1—745.14).

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

(5) This order shall take effect immediately.

PATRICK McDONNELL,
Acting Chairperson

(*Editor's Note:* See 46 Pa.B. 5790 (September 3, 2016) for IRRC's approval order.)

Fiscal Note: Fiscal Note 7-496 remains valid for the final adoption of the subject regulations.

Annex A

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

Subpart C. PROTECTION OF NATURAL RESOURCES

ARTICLE I. LAND RESOURCES

CHAPTER 87. SURFACE MINING OF COAL

Subchapter F. SURFACE COAL MINES: MINIMUM REQUIREMENTS FOR REMINING AREAS WITH POLLUTIONAL DISCHARGES

§ 87.202. Definitions.

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

Actual improvement—The reduction of the baseline pollution load resulting from the implementation of the approved pollution abatement plan; except that a reduction of the baseline pollution load achieved by water treatment may not be considered as actual improvement.

Baseline pollution load—The characterization of the pollution material being discharged from or on the pollution abatement area, described in terms of mass discharge for each parameter, including seasonal variations and variations in response to precipitation events. The Department will establish in each authorization the specific parameters, including, at a minimum, iron and acid loadings, it deems relevant for the baseline pollution load.

Best professional judgment—The highest quality technical opinion forming the basis for the terms and conditions of the treatment level required after consideration of all reasonably available and pertinent data. The treatment levels shall be established by the Department under sections 301 and 402 of the Federal Clean Water Act (33 U.S.C.A. §§ 1311 and 1342).

Best technology—Measures and practices which will abate or ameliorate to the maximum extent possible pollutional discharges from or on the pollution abatement area. These measures include engineering, geochemical or other applicable practices.

Coal remining operation—A coal mining operation at a site on which coal mining was previously conducted and where the site has been abandoned or the performance bond has been forfeited.

Encountered discharge—

(i) A pre-existing discharge intercepted in the course of active surface mining activities, including, but not limited to, overburden removal, coal extraction and backfilling, or that occurs in the pit, any mining-related conveyance, sedimentation pond or treatment pond.

(ii) The term does not include diversions of surface water and shallow groundwater flow from areas undisturbed by the implementation of the pollution abatement plan which would otherwise drain into the affected area so long as they are designed, operated and maintained in accordance with § 87.105(b)—(g) (relating to hydrologic balance: diversions).

Pollution abatement area—The part of the permit area which is causing or contributing to the baseline pollution load, which shall include adjacent and nearby areas that must be affected to bring about significant improvement of the baseline pollution load, and which may include the immediate location of the discharges.

Pollution abatement plan—Best management practices (BMP), including, but not limited to, the addition of alkaline material, special handling plans for managing toxic and acid forming material, regrading, revegetation and daylighting, that when implemented will result in reduction of the baseline pollution load.

Pre-existing discharge—

(i) Any discharge resulting from mining activities that have been abandoned prior to the time of a remining permit application.

(ii) The term includes a pre-existing discharge that is relocated as a result of the implementation BMPs in the pollution abatement plan.

Steep slope—

(i) Any slope, including abandoned mine land features, above 20 degrees or a lesser slope as may be defined by the Department after consideration of soil, climate and other characteristics of a region.

(ii) The term does not apply to situations in which an operator is mining on flat or gently rolling terrain, on which an occasional steep slope is encountered and through which the mining operation is to proceed, leaving a plain or predominantly flat area.

§ 87.203. Applicability.

(a) Authorization may not be granted under this subchapter unless the authorization is part of:

(1) A permit issued after March 8, 1986, but only if the authorization request is made during one of the following periods:

(i) At the time of the submittal of the permit application for the surface coal mining activities, including the proposed pollution abatement area.

(ii) Prior to a Department decision to issue or deny that permit.

(2) A permit revision under § 86.52 (relating to permit revisions), but only if the operator affirmatively demonstrates to the satisfaction of the Department that:

(i) The operator has discovered pollutional discharges within the permit area that came into existence after its permit application was approved.

(ii) The operator has not caused or contributed to the pollutional discharges.

(iii) The proposed pollution abatement area is not hydrologically connected to an area where surface mining activities have been conducted under the permit.

(iv) The operator has not affected the proposed pollution abatement area by surface mining activities.

(v) The Department has not granted a bonding authorization and mining approval for the area under § 86.37(b) (relating to criteria for permit approval or denial).

(b) Notwithstanding subsection (a), no authorization may be granted under this subchapter for repermitting under §§ 86.12 and 86.14 (relating to continued operation under interim permits; and permit application filing deadlines), permit renewals under § 86.55 (relating to permit renewals: general requirements) or permit transfers under § 86.56 (relating to transfer of permit).

(c) This subchapter applies to pre-existing discharges that are located within or are hydrologically connected to pollution abatement areas of a coal remining operation.

(d) When a coal remining operation seeks reissuance of an existing remining permit with best professional judgment

limitations and the Department determines that it is not feasible for a remining operator to re-establish baseline pollutant levels in accordance with the statistical procedures in this subchapter, pre-existing discharge limitations at the existing remining operation remain subject to baseline pollutant levels established during the original permit application.

§ 87.204. Application for authorization.

(a) An operator who requests authorization under this subchapter shall comply with the permit application requirements of Chapter 86 (relating to surface and underground coal mining: general) and Subchapters A and C—E, except as specifically modified by this subchapter. The operator shall also:

(1) Delineate on a map the proposed pollution abatement area, including the location of the pre-existing discharges.

(2) Provide a description of the hydrologic balance for the proposed pollution abatement area that includes:

(i) Results of a detailed water quality and quantity monitoring program, including seasonal variations, variations in response to precipitation events and modeled baseline pollution loads using this monitoring program.

(ii) Monitoring for flow, pH, alkalinity, acidity, total iron, total manganese, total aluminum, sulfates, total suspended solids and other water quality parameters the Department deems relevant.

(3) Provide a pollution abatement plan which must:

(i) Describe the pollution abatement area.

(ii) Be designed to reduce the pollution load from pre-existing discharges and identify the selected best management practices (BMP) to be used.

(iii) Describe the design specifications, construction specifications, maintenance schedules, criteria for monitoring and inspection, and expected performance of the BMPs.

(iv) Represent best technology and include:

(A) Plans, cross-sections and schematic drawings describing the pollution abatement plan proposed to be implemented.

(B) A description and explanation of the range of abatement level that probably can be achieved, costs and each step in the proposed pollution abatement plan.

(C) A description of the standard of success for revegetation necessary to insure success of the pollution abatement plan.

(v) Provide a description of and information on the pre-existing discharges hydrogeologically connected to the remining area.

(4) Determine the baseline pollution load.

(5) Provide the background data that are the bases for the baseline pollution load. The baseline pollution load shall be reported in pounds per day.

(b) The operator seeking this authorization may continue the water quality and quantity monitoring program required by subsection (a)(2) after making the authorization request. The operator may submit the results of this continuing monitoring program to the Department on a monthly basis until a decision on the authorization request is made.

§ 87.205. Approval or denial.

(a) Authorization may not be granted under this subchapter unless the operator seeking the authorization affirmatively demonstrates to the satisfaction of the Department on the basis of information set forth in the application that:

(1) Neither the operator, nor an officer, principal shareholder, agent, partner, associate, parent corporation, contractor or subcontractor, or a related party as defined in § 86.63(a)(1) (relating to compliance information) has either of the following:

(i) Legal responsibility or liability as an operator for treating the water pollution discharges from or on the proposed pollution abatement area.

(ii) Statutory responsibility or liability for reclaiming the proposed pollution abatement area.

(2) The proposed pollution abatement plan will result in significant reduction of the baseline pollution load and represents best technology.

(3) The land within the proposed pollution abatement area can be reclaimed.

(4) The surface mining operation on the proposed pollution abatement area will not cause additional groundwater degradation.

(5) The standard of success for revegetation will be achieved. The standard of success for revegetation shall be at a minimum:

(i) A ground cover of living plants not less than can be supported by the best available topsoil or other suitable material in the reaffected area.

(ii) A ground cover no less than that existing before disturbance of the area by mining activities.

(iii) Adequate vegetation to control erosion. Vegetation may be no less than that necessary to insure the success of the pollution abatement plan.

(6) The surface mining operation on permitted areas other than the proposed pollution abatement area will not cause surface water pollution or groundwater degradation.

(7) Requirements of § 86.37(a) (relating to criteria for permit approval or denial) that are not inconsistent with this section have been met.

(b) An authorization may be denied under this subchapter if granting the authorization will, or is likely to, affect a legal responsibility or liability under The Clean Streams Law (35 P.S. §§ 691.1—691.1001), the Surface Mining Conservation and Reclamation Act (52 P.S. §§ 1396.1—1396.19b), Chapter 86 (relating to surface and underground coal mining: general) or Subchapters A and C—E, for the proposed pollution abatement area or other areas or discharges in the vicinity of the proposed pollution abatement area.

(c) Authorization may not be granted under this subchapter unless there are one or more pre-existing discharges from or on the pollution abatement area.

(d) The authorization allowed under this subchapter is only for the pollution abatement area and does not apply to other areas of the permit.

§ 87.206. Operational requirements.

An operator who receives an authorization under this subchapter shall comply with the requirements of Chapter 86 (relating to surface and underground coal mining:

general) and Subchapters A and C—E except as specifically modified by this subchapter. The operator shall also:

(1) Implement the approved water quality and quantity monitoring program for the pollution abatement area until the requirements of § 87.209 (relating to criteria and schedule for release of bonds on pollution abatement areas) are met. The monitoring program must conform to the following:

(i) Sampling shall be conducted on a monthly basis for the pre-existing discharges and should adequately represent the seasonal range in loading rates as well as the median loading rate from each pre-existing discharge or combination of discharges.

(ii) Results shall be submitted on a quarterly basis.

(iii) Data must include the flow measurements and loading calculations.

(2) Implement the approved pollution abatement plan.

(3) Notify the Department when more frequent sampling is required.

(i) Weekly sampling of the pre-existing discharges shall begin if any two consecutive monthly samples of pollution load at any of the monitoring points or hydrologic units exceed one or more of the triggers established by the baseline data.

(ii) Weekly sampling requirements shall continue until two consecutive weekly sample analyses indicate that all parameters which triggered weekly sampling have dropped below the trigger established by the baseline data.

§ 87.207. Treatment of discharges.

(a) Except for pre-existing discharges which are not encountered during mining or the implementation of the pollution abatement plan, the operator shall comply with § 87.102 (relating to hydrologic balance: effluent standards).

(b) Except as provided in § 87.210(d) (relating to effluent limitations), the operator shall treat the pre-existing discharges which are not encountered during mining or implementation of the pollution abatement plan to comply with the effluent limitations established by best professional judgment. The effluent limitations established by best professional judgment may not be less than the baseline pollution load. If the baseline pollution load, when expressed as a concentration for a specific parameter, satisfies the effluent limitations at § 87.102 for that parameter, the operator shall treat the pre-existing discharge for that parameter to comply with either effluent limitations established by best professional judgment or the effluent limitations at § 87.102.

(c) For purposes of subsections (a) and (b), the term encountered may not be construed to mean diversions of surface water and shallow groundwater flow from areas undisturbed by the implementation of the pollution abatement plan which would otherwise drain into the affected area, so long as the diversions are designed, operated and maintained under § 87.105(b)—(g) (relating to hydrologic balance: diversions).

(d) An operator required to treat pre-existing discharges will be allowed to discontinue treating the discharges under subsection (b) when the operator affirmatively demonstrates to the Department's satisfaction that:

(1) The pre-existing discharges are meeting the effluent limitations established by subsection (b) as shown by

groundwater and surface water monitoring conducted by the operator or the Department.

(2) Surface coal mining activities under the permit—including the pollution abatement area—are being or were conducted under the requirements of the permit and the authorization, and Chapter 86 (relating to surface and underground coal mining: general) and this chapter except as specifically modified by this subchapter.

(3) The operator has implemented each step of the pollution abatement plan as approved in the authorization.

(4) The operator did not cause or allow additional groundwater degradation by re-affecting the pollution abatement area.

(e) If after discontinuance of treatment of discharges under subsection (d) the discharges fail to meet the effluent limitations established by subsection (b), the operator shall reinstitute treatment of the discharges under subsection (b). An operator who reinstates treatment under this subsection will be allowed to discontinue treatment if the requirements of subsection (d) are met.

(f) Discontinuance of treatment under subsection (d) may not be deemed or construed to be or to authorize a release of bond under § 87.209 (relating to criteria and schedule for release of bonds on pollution abatement areas).

(g) If four consecutive weekly determinations of pollution load, as required under § 87.206(3)(i) (relating to operational requirements), exceed one or more triggers, the permittee shall notify the Department and begin treatment within 30 days of the fourth sample in accordance with the treatment limits established in the permit.

(h) If the Department determines, through analysis of any data submitted pursuant to the monitoring requirements or any data collected by the Department, that there has been pollution loading degradation at any of the monitoring points or hydrologic units, the Department will notify the permittee accordingly. The permittee shall begin treatment within 30 days in accordance with the treatment limits established in the permit.

(i) Any pre-existing pollutional discharge which is an encountered discharge shall be treated to the effluent limitations in the permit until the discharge is no longer encountered.

(j) For the purposes of determining applicable effluent limitations, a discharge will continue to be deemed to be an encountered discharge until the surface mining area which has been disturbed and which contributes to the discharge has been backfilled and regraded, and revegetation work has started.

§ 87.209. Criteria and schedule for release of bonds on pollution abatement areas.

(a) The Department will release up to 60% of the amount of bond for the authorized pollution abatement area if the applicant demonstrates and the Department finds that:

(1) The surface coal mining activities were conducted on the permit area, including the pollution abatement area, under the requirements of the permit and the authorization, Chapter 86 (relating to surface and underground coal mining: general) and this chapter except as specifically modified by this subchapter.

(2) The operator has satisfactorily completed backfilling, regrading and drainage control under the approved reclamation plan.

(3) The operator has properly implemented each step of the pollution abatement plan approved and authorized under this subchapter.

(4) The operator has not caused degradation of the baseline pollution load at any time during the 6 months prior to the submittal of the request for bond release under this subsection and until the bond release is approved as shown by all ground and surface water monitoring conducted by the permittee under § 87.206(1) (relating to operational requirements) or conducted by the Department.

(5) The operator has not caused or contributed to surface water pollution or groundwater degradation by re-affecting or mining the pollution abatement area.

(b) The Department will release an additional amount of bond for the authorized pollution abatement area but retain an amount sufficient to cover the cost to the Department of re-establishing vegetation if completed by a third party if the operator demonstrates and the Department finds that:

(1) The operator has replaced the topsoil or material conserved under § 87.97(d) (relating to topsoil: removal), completed final grading, planting and established revegetation under the approved reclamation plan and achieved the standards of success for revegetation in § 87.205(a)(5) (relating to approval or denial).

(2) The operator has not caused or contributed to surface water pollution or groundwater degradation by re-affecting or mining the pollution abatement area.

(3) The operator has complied with one of the following:

(i) Achieved the actual improvement of the baseline pollution load described in the approved pollution abatement plan and shown by ground and surface water monitoring conducted by the permittee for the time provided in the pollution abatement plan after completion of backfilling, final grading, drainage control, topsoiling and establishment of revegetation to achieve the standard of success for revegetation in § 87.205(a)(5).

(ii) Achieved the following:

(A) At a minimum has not caused degradation of the baseline pollution load as shown by ground and surface water monitoring conducted by the operator or the Department for one of the following:

(I) For the 12 months prior to the date of application for bond release and until the bond release is approved under subsection (b), if backfilling, final grading, drainage control, topsoiling and establishment of revegetation to achieve the standard of success for revegetation in § 87.205(a)(5) have been completed.

(II) If treatment has been initiated at any time after initial bond release under subsection (a) and § 87.207(e) (relating to treatment of discharges), for 12 months from the discontinuance of treatment under § 87.207(d), if backfilling, final grading, drainage control, topsoiling and establishment of revegetation to achieve the standard of success for revegetation in § 87.205(a)(5) have been completed.

(B) Conducted the measures provided in the approved pollution abatement plan and additional measures specified by the Department in writing at the time of initial bond release under subsection (a) for the area requested for bond release.

(C) Caused aesthetic or other environmental improvements or the elimination of public health and safety problems by remining and re-affecting the pollution abatement area.

(D) Stabilized the pollution abatement area.

(c) The Department will release the remaining portion of the amount of bond on the authorized pollution abatement area if the applicant demonstrates and the Department finds that:

(1) The operator has successfully completed the approved pollution abatement and reclamation plans, and the pollution abatement area is capable of supporting the postmining land use approved under § 87.159 (relating to postmining land use).

(2) The operator has complied with the permit and the authorization, Chapter 86 and this chapter, except as specifically modified by this subchapter.

(3) The operator has not caused degradation of the baseline pollution load from the time of bond release under subsection (b) or, if treatment has been initiated after bond release under subsection (b) in accordance with § 87.207(e) for 5 years from the discontinuance of treatment under § 87.207(d).

(4) The applicable liability period has expired under § 86.151 (relating to period of liability).

§ 87.210. Effluent limitations.

(a) *Approval and incorporation into permit.* The pollution abatement plan for the pollution abatement area must be approved by the Department and incorporated into the permit as an effluent limitation.

(b) *Implementation of best management practices.* The best management practices (BMP) in the pollution abatement plan shall be implemented as specified in the plan.

(c) *Pre-existing discharges.*

(1) Except as provided in subsection (d), the following effluent limits apply to pre-existing discharges:

<i>Parameter</i>	<i>Effluent Limit</i>
Total Iron	May not exceed baseline loadings (as determined by this subchapter).
Total Manganese	May not exceed baseline loadings (as determined by this subchapter).
Acidity, Net	May not exceed baseline loadings (as determined by this subchapter).
Suspended Solids	During remining and reclamation, may not exceed baseline loadings (as determined by this subchapter). Prior to bond release, the pre-existing discharge must meet the applicable standards for suspended solids or settleable solids in § 87.102 (relating to hydrologic balance: effluent standards).

(2) A pre-existing discharge is exempt from meeting standards in § 87.102 for suspended solids and settleable solids when the Department determines that the standards are infeasible or impractical based on the site-specific conditions of soil, climate, topography, steep slopes or other baseline conditions provided that the operator demonstrates that significant reductions of sus-

pending solids and settleable solids will be achieved through the incorporation of sediment control BMPs into the pollution abatement plan as required under subsection (a).

(d) *In-stream requirements.*

(1) If the Department determines that it is infeasible to collect samples for establishing the baseline pollutant levels under paragraph (4) and that remining will result in significant improvement that would not otherwise occur, the permit applicant shall establish an in-stream baseline concentration at a suitable point downstream from the remining operation, unless the Department waives the sampling requirement under paragraph (5) and the numeric effluent limitations in subsection (c)(1) do not apply.

(2) The in-stream baseline period must include, at a minimum, twice monthly monitoring for a minimum of a 1-year period and must adequately represent the seasonal range and median pollutant concentrations.

(3) Upon issuance of a surface mining permit, the operator shall continue, at a minimum, monthly monitoring of pollutant concentrations at the in-stream monitoring point referenced in paragraph (1), and make a determination as to whether or not there has been degradation of in-stream water quality.

(i) This determination shall be made on a quarterly basis and for each year defined as each consecutive 12-month period.

(ii) The operator is not required to treat individual pre-existing sources of pollution except as may be needed to maintain the in-stream baseline concentration.

(iii) Unless the operator can demonstrate to the satisfaction of the Department that the degradation was the result of factors that are not related to the remining, the operator shall treat one or more pre-existing pollutional discharges or undertake other pollution abatement measures to restore or improve the in-stream pollutant concentration to its baseline conditions.

(4) Pre-existing discharges for which it is infeasible to collect samples for determination of baseline pollutant levels include, but are not limited to:

(i) Discharges that exist as a diffuse groundwater flow that cannot be assessed by the collection of samples.

(ii) A base flow to a receiving stream that cannot be monitored separate from the receiving stream.

(iii) A discharge on a steep or hazardous slope that is inaccessible for sample collection.

(iv) A number of pre-existing discharges so extensive that monitoring of individual discharges is infeasible.

(5) When in-stream monitoring is not indicative of the impact of remining, the in-stream monitoring requirement may be waived by the Department. In-stream monitoring is not indicative of the impact of remining in circumstances including, but not limited to, the following:

(i) Remining sites in drainage areas exceeding 10 square miles.

(ii) Remining sites in watersheds where there are other influences on the in-stream water quality that make it impossible to establish the cause of water quality changes.

(iii) Remining sites where the Q_{7-10} stream flow is zero.

(e) *Limits.* Pollutants for which there are not effluent limitations established in § 87.102 may be eligible for limits established under this subchapter.

(f) *Applicability of standards.* Section 87.102 applies to a pre-existing discharge that is:

- (1) Intercepted by surface mining activities.
- (2) Commingled with waste streams from operational areas for the purposes of water treatment.

(g) *Cessation of applicability of standards.* Section 87.102 does not apply to a pre-existing discharge described in subsection (f) when the pre-existing discharge is no longer intercepted by surface mining activities or is no longer commingled with waste streams from operational areas for the purposes of water treatment.

(h) *Bond release.* The effluent limitations in this subchapter apply to pre-existing discharges until bond release under the procedures in Chapter 86 (relating to surface and underground coal mining: general).

§ 87.211. Baseline determination and compliance monitoring for pre-existing discharges at remining operations.

(a) The procedures in this section shall be used for determining site-specific baseline pollutant loadings, and for determining whether discharge loadings during coal remining operations have exceeded the baseline loading. A monthly (single-observation) procedure and an annual procedure shall be applied.

(b) At least one sample result per month shall be obtained for 12 months to characterize pollutant loadings for:

- (1) Baseline determination.
- (2) Each annual monitoring period. It is required that at least one sample be obtained per month for 12 months.

(c) Calculations described in this subchapter shall be applied to pollutant loadings.

(d) Each loading value shall be calculated as the product of a flow measurement and pollutant concentration taken on the same date at the same discharge sampling point using standard units of flow and concentration.

(e) If the baseline concentration in a baseline sample is below the daily maximum effluent limits established in § 87.102 (relating to hydrologic balance: effluent standards), the baseline sample concentration may be replaced with daily maximum effluent limit for the purposes of some of the statistical calculations in this subchapter.

(f) The substituted values should be used for all methods in this subchapter except for:

(1) The calculation of the interquartile range (R) in Method 1 for the annual trigger (Step 3).

(2) Method 2 for the single observation trigger (Step 3).

(g) The interquartile range (R) is calculated as the difference between the quartiles M_{-1} and M_1 ; the values for quartiles M_{-1} and M_1 should be calculated using actual loadings (based on measured concentrations) when they are used to calculate the interquartile range (R).

§ 87.212. Procedure for calculating and applying a single-observation (monthly) trigger.

(a) This section contains two alternative methods for calculating a single-observation trigger. One method must

be proposed by the applicant to be approved and applied by the Department for a remining permit.

(b) Method 1 for calculating a single observation trigger (L) is accomplished by completing the following steps:

(1) Count the number of baseline observations taken for the pollutant of interest. Label this number n . To sufficiently characterize pollutant loadings during baseline determination and during each annual monitoring period, it is required that at least one sample result be obtained per month for 12 months.

(2) Order all baseline loading observations from lowest to highest. Let the lowest number (minimum) be $x_{(1)}$, the next lowest be $x_{(2)}$, and so forth until the highest number (maximum) is $x_{(n)}$.

(3) If fewer than 17 baseline observations were obtained, the single observation trigger (L) will equal the maximum of the baseline observations ($x_{(n)}$).

(4) If at least 17 baseline observations were obtained, calculate the median (M) of all baseline observations. If n is odd, then M equals $x_{(n/2+1/2)}$. If n is even, then M equals $0.5 * (x_{(n/2)} + x_{(n/2+1)})$.

(5) Next, calculate M_1 as the median of the subset of observations that range from the calculated M to the maximum $x_{(n)}$; that is, calculate the median of all x larger than or equal to M.

(6) Next, calculate M_2 as the median of the subset of observations that range from the calculated M_1 to $x_{(n)}$; that is, calculate the median of all x larger than or equal to M_1 .

(7) Next, calculate M_3 as the median of the subset of observations that range from the calculated M_2 to $x_{(n)}$; that is, calculate the median of all x larger than or equal to M_2 .

(8) Finally, calculate the single observation trigger (L) as the median of the subset of observations that range from the calculated M_3 to $x_{(n)}$.

(9) When subsetting the data for each of the steps in paragraphs (5)–(8), the subset should include all observations greater than or equal to the median calculated in the previous step. If the median calculated in the previous step is not an actual observation, it is not included in the new subset of observations. The new median value will then be calculated using the median procedure, based on whether the number of points in the subset is odd or even.

(c) The method for applying the single observation trigger (L) to determine when the baseline level has been exceeded is as follows:

(1) If two successive monthly monitoring observations both exceed L, immediately begin weekly monitoring for 4 weeks (four weekly samples).

(2) If three or fewer of the weekly observations exceed L, resume monthly monitoring.

(3) If all four weekly observations exceed L, the baseline pollution loading has been exceeded.

(d) Method 2 for calculating a single observation trigger (L) is accomplished by completing the following steps:

(1) Follow Method 1 in subsection (b) to obtain M_1 (the third quartile, that is, the 75th percentile).

(2) Calculate M_{-1} as the median of the baseline data which are less than or equal to the sample median M.

(3) Calculate interquartile range, $R = (M_1 - M_{-1})$.

(4) Calculate the single observation trigger L as $L = M_1 + 3 * R$.

(5) If two successive monthly monitoring observations both exceed L, immediately begin weekly monitoring for 4 weeks (four weekly samples).

(6) If three or fewer of the weekly observations exceed L, resume monthly monitoring.

(7) If all four weekly observations exceed L, the baseline pollution loading has been exceeded.

§ 87.213. Procedure for calculating and applying an annual trigger.

(a) This section contains two alternative methods for calculating the annual trigger. One method shall be proposed by the applicant to be approved and applied by the Department for a reminging permit.

(b) Method 1 for calculating and applying an annual trigger (T) is accomplished by completing the following steps:

(1) Calculate M and M_1 of the baseline loading data as described under Method 1 for the single observation trigger in § 87.212(b) (relating to procedure for calculating and applying a single-observation (monthly) trigger).

(2) Calculate M_1 as the median of the baseline data which are less than or equal to the sample median M.

(3) Calculate the interquartile range, $R = (M_1 - M_{.1})$.

(4) The annual trigger for baseline (T_b) is calculated as $T_b = M + (1.815 * R) / \text{SQRT}(n)$

where n is the number of baseline loading observations.

(5) To compare baseline loading data to observations from the annual monitoring period, repeat the steps in paragraphs (1)–(3) for the set of monitoring observations. Label the results of the calculations M' and R'. Let m be the number of monitoring observations.

(6) The subtle trigger (T_m) of the monitoring data is calculated as

$$T_m = M' * (1.815 * R') / \text{SQRT}(m)$$

(7) If $T_m > T_b$, the median loading of the monitoring observations has exceeded the baseline loading.

(c) Method 2 for calculating and applying an annual trigger (T) is accomplished by completing the following steps:

(1) Let n be the number of baseline loading observations taken, and let m be the number of monitoring loading observations taken. To sufficiently characterize pollutant loadings during baseline determination and during each annual monitoring period, it is required that at least one sample result be obtained per month for a period of 12 months.

(2) Order the combined baseline and monitoring observations from smallest to largest.

(3) Assign a rank to each observation based on the assigned order: the smallest observation will have rank 1, the next smallest will have rank 2 and so forth, up to the highest observation, which will have rank n + m. If two or more observations are tied (have the same value), then the average rank for those observations should be used.

(4) Sum all the assigned ranks of the n baseline observations, and let this sum be S_n .

(5) Obtain the critical value (C) from Table 1.

(6) Compare C to S_n . If S_n is less than C, then the monitoring loadings have exceeded the baseline loadings.

(7) Critical values for the Wilcoxon-Mann-Whitney test are as follows:

(i) When n and m are less than 21, use Table 1. To find the appropriate critical value, match column with correct n (number of baseline observations) to row with correct m (number of monitoring observations).

Table 1—Critical Values (C) of the Wilcoxon-Mann-Whitney Test (for a one-sided test at the 0.001 significance level)

n \ m	10	11	12	13	14	15	16	17	18	19	20
10	66	79	93	109	125	142	160	179	199	220	243
11	68	82	96	112	128	145	164	183	204	225	248
12	70	84	99	115	131	149	168	188	209	231	253
13	73	87	102	118	135	153	172	192	214	236	259
14	75	89	104	121	138	157	176	197	218	241	265
15	77	91	107	124	142	161	180	201	223	246	270
16	79	94	110	127	145	164	185	206	228	251	276
17	81	96	113	130	149	168	189	211	233	257	281
18	83	99	116	134	152	172	193	215	238	262	287
19	85	101	119	137	156	176	197	220	243	268	293
20	88	104	121	140	160	180	202	224	248	273	299

(ii) When n or m is greater than 20 and there are few ties, calculate an approximate critical value using the following formula and round the result to the next larger integer. Let N = n + m.

$$\text{Critical Value} = 0.5 * n * (N + 1) - 3.0902 * \text{SQRT}(n * m * (N + 1) / 12)$$

(iii) When n or m is greater than 20 and there are many ties, calculate an approximate critical value using

the following formula and round the result to the next larger integer. Let S be the sum of the squares of the ranks or average ranks of all N observations. Let N = n + m.

$$\text{Critical Value} = 0.5 * n * (N + 1) - 3.0902 * \text{SQRT}(V)$$

In the preceding formula, calculate V using:

$$V = (n * m * S) / (N * (N - 1) - (n * m * (N + 1)^2 / (4 * (N - 1)))$$

CHAPTER 88. ANTHRACITE COAL

Subchapter G. ANTHRACITE SURFACE MINING ACTIVITIES AND ANTHRACITE BANK REMOVAL AND RECLAMATION ACTIVITIES: MINIMUM REQUIREMENTS FOR REMINING AREAS WITH POLLUTIONAL DISCHARGES

§ 88.502. Definitions.

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

Actual improvement—The reduction of the baseline pollution load resulting from the implementation of the approved pollution abatement plan, except that a reduction of the baseline pollution load achieved by water treatment may not be considered as actual improvement.

Baseline pollution load—The characterization of the pollutional material being discharged from or on the pollution abatement area, described in terms of mass discharge for each parameter, including seasonal variations and variations in response to precipitation events. The Department will establish in each authorization the specific parameters, including, at a minimum, iron and acid loadings, it deems relevant for the baseline pollution load.

Best professional judgment—The highest quality technical opinion forming the basis for the terms and conditions of the treatment level required after consideration of reasonably available and pertinent data. The treatment levels shall be established by the Department under sections 301 and 402 of the Federal Clean Water Act (33 U.S.C.A. §§ 1311 and 1342).

Best technology—Measures and practices which will abate or ameliorate to the maximum extent possible pollutional discharges from or on the pollution abatement area. These measures include engineering, geochemical or applicable practices.

Coal remining operation—A coal mining operation at a site on which coal mining was previously conducted and where the site has been abandoned or the performance bond has been forfeited.

Encountered discharge—

(i) A pre-existing discharge intercepted in the course of active surface mining activities, including, but not limited to, overburden removal, coal extraction and backfilling, or that occurs in the pit, any mining-related conveyance, sedimentation pond or treatment pond.

(ii) The term does not include diversions of surface water and shallow groundwater flow from areas undisturbed by the implementation of the pollution abatement plan which would otherwise drain into the affected area so long as they are designed, operated and maintained in accordance with § 88.95(b)—(g), § 88.190(b)—(g) or § 88.295(b)—(g) (relating to hydrologic balance: diversions; hydrologic balance: diversions; and hydrologic balance: diversions and conveyances), as applicable.

Pollution abatement area—The part of the permit area which is causing or contributing to the baseline pollution load, which shall include adjacent and nearby areas that must be affected to bring about significant improvement of the baseline pollution load, and which may include the immediate location of the discharges.

Pollution abatement plan—Best management practices (BMP), including, but not limited to, the addition of alkaline material, special handling plans for managing toxic and acid forming material, regrading, revegetation

and daylighting, that when implemented will result in reduction of the baseline pollution load.

Pre-existing discharge—

(i) Any discharge resulting from mining activities that have been abandoned prior to the time of a remining permit application.

(ii) The term includes a pre-existing discharge that is relocated as a result of the implementation BMPs in the pollution abatement plan.

Steep slope—

(i) Any slope, including abandoned mine land features, above 20 degrees or a lesser slope as may be defined by the Department after consideration of soil, climate and other characteristics of a region.

(ii) The term does not apply to situations in which an operator is mining on flat or gently rolling terrain, on which an occasional steep slope is encountered and through which the mining operation is to proceed, leaving a plain or predominantly flat area.

§ 88.503. Applicability.

(a) This subchapter is applicable only to surface mining activities and bank removal and reclamation activities as defined in § 88.1 (relating to definitions) and coal refuse disposal activities subject to Subchapter D (relating to anthracite refuse disposal: minimum environmental protection performance standards).

(b) No authorization may be granted under this subchapter unless the authorization is part of:

(1) A permit issued after March 8, 1986, but only if the authorization request is made during one of the following periods:

(i) At the time of the submittal of the permit application for surface mining activities or bank removal and reclamation activities, including the proposed pollution abatement area.

(ii) Prior to a Department decision to issue or deny the permit.

(2) A permit revision under § 86.52 (relating to permit revisions), but only if the operator affirmatively demonstrates to the satisfaction of the Department that:

(i) The operator has discovered pollutional discharges within the permit area that came into existence after its permit application was approved.

(ii) The operator has not caused or contributed to the pollutional discharges.

(iii) The proposed pollution abatement area is not hydrologically connected to an area where surface mining activities have been conducted under the permit.

(iv) The operator has not affected the proposed pollution abatement area by surface mining activities.

(v) The Department has not granted a bonding authorization and mining approval for the area under § 86.37(b) (relating to criteria for permit approval or denial).

(c) Notwithstanding subsection (a), no authorization may be granted under this subchapter for repermitting under §§ 86.12 and 86.14 (relating to continued operation under interim permits; and permit application filing deadlines), permit renewals under § 86.55 (relating to permit renewals: general requirements), or permit transfers under § 86.56 (relating to transfer of permit).

(d) This subchapter applies to pre-existing discharges that are located within or are hydrologically connected to pollution abatement areas of a coal remining operation.

(e) When a coal remining operation seeks reissuance of an existing remining permit with best professional judgment limitations and the Department determines that it is not feasible for a remining operator to re-establish baseline pollutant levels in accordance with the statistical procedures in this subchapter, pre-existing discharge limitations at the existing remining operation remain subject to baseline pollutant levels established during the original permit application.

§ 88.504. Application for authorization.

(a) An operator who requests authorization under this subchapter shall comply with the permit application requirements of Chapter 86 (relating to surface and underground coal mining: general) and Subchapter A (relating to general provisions) and either Subchapter B, C or D (relating to surface anthracite coal mines: minimum environmental protection performance standards; anthracite bank removal and reclamation: minimum environmental protection performance standards; and anthracite refuse disposal: minimum environmental protection performance standards), whichever is applicable, except as specifically modified by this subchapter. The operator shall also comply with all of the following:

(1) Delineate on a map the proposed pollution abatement area, including the location of the pre-existing discharges.

(2) Provide a description of the hydrologic balance for the proposed pollution abatement area that includes:

(i) Results of a detailed water quality and quantity monitoring program, including seasonal variations, variations in response to precipitation events, and modeled baseline pollution loads using this monitoring program.

(ii) Monitoring for flow, pH, alkalinity, acidity, total iron, total manganese, total aluminum, sulfates, total suspended solids and other water quality parameters the Department deems relevant.

(3) Provide a pollution abatement plan which must:

(i) Describe the pollution abatement area.

(ii) Be designed to reduce the pollution load from pre-existing discharges and must identify the selected best management practices (BMP) to be used.

(iii) Describe the design specifications, construction specifications, maintenance schedules, criteria for monitoring and inspection, and expected performance of the BMPs.

(iv) Represent the best technology and include:

(A) Plans, cross sections and schematic drawings describing the pollution abatement plan proposed to be implemented.

(B) A description and explanation of the range of abatement that probably can be achieved, costs and each step in the proposed pollution abatement plan.

(C) A description of the standard of success for revegetation necessary to insure success of the pollution abatement plan.

(v) Provide a description of and information on the pre-existing discharges hydrologically connected to the remining area.

(4) Determine the baseline pollution load.

(5) Provide the background data that are the bases for the baseline pollution load. The baseline pollution load shall be reported in pounds per day.

(b) The operator seeking this authorization may continue the water quality and quantity monitoring program required by subsection (a)(2) after making the authorization request. The operator may submit the results of this continuing monitoring program to the Department on a monthly basis until a decision on the authorization request is made.

§ 88.505. Approval or denial.

(a) Authorization may not be granted under this subchapter unless the operator seeking the authorization affirmatively demonstrates to the satisfaction of the Department on the basis of information set forth in the application that:

(1) Neither the operator, nor an officer, principal shareholder, agent, partner, associate, parent corporation, contractor or subcontractor, or a related party as defined in § 86.63(a)(1) (relating to compliance information) has either of the following:

(i) Legal responsibility or liability as an operator for treating the water pollution discharges from or on the proposed pollution abatement area.

(ii) Legal responsibility or liability for reclaiming the proposed pollution abatement area.

(2) The proposed pollution abatement plan will result in significant reduction of the baseline pollution load and represents best technology.

(3) The land within the proposed pollution abatement area can be reclaimed.

(4) The surface mining operation on the proposed pollution abatement area will not cause additional groundwater degradation.

(5) The standard of success for revegetation will be achieved. The standard of success for revegetation shall be at a minimum:

(i) A ground cover of living plants not less than can be supported by the best available topsoil or other suitable material in the reaffected area.

(ii) A ground cover no less than that existing before disturbance of the area by mining activities.

(iii) Adequate vegetation to control erosion. Vegetation may not be less than that necessary to insure the success of the pollution abatement plan.

(6) The surface mining operation on permitted areas other than the proposed pollution abatement area will not cause surface water pollution or groundwater degradation.

(7) All requirements of § 86.37(a) (relating to criteria for permit approval or denial) that are not inconsistent with this section have been met.

(b) An authorization may be denied under this subchapter if granting the authorization will, or is likely to, affect legal responsibility or liability under The Clean Streams Law (35 P.S. §§ 691.1—691.1001), the Surface Mining Conservation and Reclamation Act (52 P.S. §§ 1396.1—1396.19b), Chapter 86 (relating to surface and underground coal mining: general), Chapter 87, Subchapter B (Reserved) or Subchapters A—C (relating to general provisions; surface anthracite coal mines: minimum environmental protection performance standards; and anthracite bank removal and reclamation: minimum

environmental protection performance standards) for the proposed pollution abatement area or other areas or discharges in the vicinity of the proposed pollution abatement area.

(c) Authorization may not be granted under this subchapter unless there are one or more pre-existing discharges from or on the pollution abatement area.

(d) The authorization allowed under this subchapter is only for the pollution abatement area and does not apply to other areas of the permit.

§ 88.506. Operational requirements.

An operator who receives an authorization under this subchapter shall comply with the requirements of Chapter 86 (relating to surface and underground coal mining: general), and Subchapter A (relating to general provisions) and either Subchapter B, C or D (relating to surface anthracite coal mines: minimum environmental protection performance standards; anthracite bank removal and reclamation: minimum environmental protection performance standards; and anthracite refuse disposal: minimum environmental protection performance standards), whichever is applicable, except as specifically modified by this subchapter. The operator shall also:

(1) Implement the approved water quality and quantity monitoring program for the pollution abatement area until the requirements of § 88.509 (relating to criteria and schedule for release of bonds on pollution abatement areas) are met. The monitoring program must conform to the following:

(i) Sampling shall be conducted on a monthly basis for the pre-existing discharges and should adequately represent the seasonal range in loading rates as well as the median loading rate from each pre-existing discharge or combination of discharges.

(ii) Results shall be submitted on a quarterly basis.

(iii) Data must include the flow measurements and loading calculations.

(2) Implement the approved pollution abatement plan.

(3) Notify the Department when more frequent sampling is required.

(i) Weekly sampling of the pre-existing discharges shall begin if any two consecutive monthly samples of pollution load at any of the monitoring points or hydrologic units exceed one or more of the triggers established by the baseline data.

(ii) Weekly sampling requirements shall continue until two consecutive weekly sample analyses indicate that all parameters which triggered weekly sampling have dropped below the trigger established by the baseline data.

§ 88.507. Treatment of discharges.

(a) Except for pre-existing discharges which are not encountered during mining or the implementation of the pollution abatement plan, the operator shall comply with §§ 88.92, 88.187 and 88.292 (relating to hydrologic balance: effluent standards).

(b) Except as provided in § 88.510(d) (relating to effluent limitations), the operator shall treat the pre-existing discharges which are not encountered during mining or implementation of the pollution abatement plan to comply with the effluent limitations established by best professional judgment. The effluent limitations established by best professional judgment may not be less than the baseline pollution load. If the baseline pollution load

when expressed as a concentration for a specific parameter satisfies the effluent limitations at §§ 88.92, 88.187 and 88.292 for that parameter, the operator shall treat the pre-existing discharge for that parameter to comply with effluent limitations established by best professional judgment or the effluent limitations at §§ 88.92, 88.187 and 88.292.

(c) For purposes of subsections (a) and (b), the term "encountered" may not be construed to mean diversions of surface water and shallow groundwater flow from areas undisturbed by the implementation of the pollution abatement plan which would otherwise drain into the affected area, so long as the diversions are designed, operated and maintained under §§ 88.95(b), 88.190(b) and 88.295(b) (relating to hydrologic balance: diversions; hydrologic balance: diversions; and hydrologic balance: diversions and conveyances).

(d) An operator required to treat pre-existing discharges will be allowed to discontinue treating the discharges under this section when the operator affirmatively demonstrates to the Department's satisfaction that:

(1) The pre-existing discharges are meeting the effluent limitations established by subsection (b) as shown by groundwater and surface water monitoring conducted by the operator or the Department.

(2) Surface coal mining activities under the permit—including the pollution abatement area—are being or were conducted in accordance with the requirements of the permit and the authorization, Chapter 86 (relating to surface and underground coal mining: general) and this chapter, except as specifically modified by this subchapter.

(3) The operator has implemented each step of the pollution abatement plan as approved in the authorization.

(4) The operator did not cause or allow additional groundwater degradation by re-affecting the pollution abatement area.

(e) If after discontinuance of treatment of discharges under subsection (d) the discharges fail to meet the effluent limitations established by subsection (b), the operator shall reinstitute treatment of the discharges in accordance with subsection (b). An operator who reinstates treatment under this subsection will be allowed to discontinue treatment if the requirements of subsection (d) are met.

(f) Discontinuance of treatment under subsection (d) may not be deemed or construed to be or to authorize a release of bond under § 88.509 (relating to criteria and schedule for release of bonds on pollution abatement areas).

(g) If four consecutive weekly determinations of pollution load, as required under § 88.506(3)(i) (relating to operational requirements), exceed one or more triggers, the permittee shall notify the Department and begin treatment within 30 days of the fourth sample in accordance with the treatment limits established in the permit.

(h) If the Department determines, through analysis of any data submitted pursuant to the monitoring requirements or any data collected by the Department, that there has been pollution loading degradation at any of the monitoring points or hydrologic units, the Department will notify the permittee accordingly. The permittee shall begin treatment within 30 days in accordance with the treatment limits established in the permit.

(i) Any pre-existing pollutional discharge which is an encountered discharge shall be treated to the effluent limitations in the permit until the discharge is no longer encountered.

(j) For the purposes of determining applicable effluent limitations, a discharge will continue to be deemed to be an encountered discharge until the surface mining area which has been disturbed and which contributes to the discharge has been backfilled and regraded, and revegetation work has started.

§ 88.509. Criteria and schedule for release of bonds on pollution abatement areas.

(a) The Department will release up to 60% of the amount of bond for the authorized pollution abatement area if the applicant demonstrates and the Department finds that:

(1) The surface mining activities were conducted on the permit area, including the pollution abatement area, under the requirements of the permit and the authorization, Chapter 86 (relating to surface and underground coal mining: general) and this chapter, except as specifically modified by this subchapter.

(2) The operator has satisfactorily completed backfilling, regrading and drainage control in accordance with the approved reclamation plan.

(3) The operator has properly implemented each step of the pollution abatement plan approved and authorized under this subchapter.

(4) The operator has not caused degradation of the baseline pollution load at any time during the 6 months prior to the submittal of the request for bond release under this subsection and until the bond release is approved as shown by all ground and surface water monitoring conducted by the permittee under § 88.506(1) (relating to operational requirements) or conducted by the Department.

(5) The operator has not caused or contributed to surface water pollution or groundwater degradation by re-affecting or mining the pollution abatement area.

(b) The Department will release an additional amount of bond for the authorized pollution abatement area but retaining an amount sufficient to cover the cost to the Department of re-establishing vegetation if completed by a third party if the operator demonstrates and the Department finds that:

(1) The operator has replaced the topsoil or material conserved under §§ 88.87, 88.183 and 88.287 (relating to vegetation-supporting material: available soil removal; vegetation-supporting material: soil; and vegetation supporting material: available soil removal), completed final grading, planting and established revegetation in accordance with the approved reclamation plan and achieved the standard of success for revegetation in § 88.505(a)(5) (relating to approval or denial).

(2) The operator has not caused or contributed to surface water pollution or groundwater degradation by re-affecting or mining the pollution abatement area.

(3) The operator has complied with one of the following:

(i) Achieved the actual improvement of the baseline pollution load described in the approved pollution abatement plan and shown by all ground and surface water monitoring conducted by the permittee for the period of time provided in the pollution abatement plan after completion of backfilling, final grading, drainage control, topsoiling and establishment of revegetation to achieve the standard of success for revegetation in § 88.505(a)(5).

(ii) Achieved all of the following:

(A) At a minimum has not caused degradation of the baseline pollution load as shown by all ground and surface water monitoring conducted by the operator or the Department:

(I) For 12 months prior to the date of application for bond release and until the bond release is approved under subsection (b), if backfilling, final grading, drainage control, topsoiling and establishment of revegetation to achieve the standard of success for revegetation in § 88.505(a)(5) have been completed.

(II) If treatment has been initiated at any time after initial bond release under subsection (a) and in accordance with § 88.507(e) (relating to treatment of discharges), for 12 months from the discontinuance of treatment under § 88.507(d), if backfilling, final grading, drainage control, topsoiling and establishment of revegetation to achieve the standard of success for revegetation in § 88.505(a)(5) have been completed.

(B) Conducted all measures provided in the approved pollution abatement plan and additional measures specified by the Department in writing at the time of initial bond release under subsection (a) for the area requested for bond release.

(C) Caused aesthetic or other environmental improvements or elimination of public health and safety problems by re-mining and re-affecting the pollution abatement area.

(D) Stabilized the pollution abatement area.

(c) The Department will release the remaining portion of the amount of bond on the authorized pollution abatement area if the applicant demonstrates and the Department finds that:

(1) The operator has successfully completed all the approved pollution abatement and reclamation plans and the pollution abatement area is capable of supporting the postmining land use approved under §§ 88.133, 88.221 and 88.334 (relating to postmining land use; postmining land use; and postdisposal land use).

(2) The operator has complied with the permit and the authorization, Chapter 86 and this chapter, except as specifically modified by this subchapter.

(3) The operator has not caused degradation of the baseline pollution load from the time of bond release under subsection (b) or, if treatment has been initiated after bond release under subsection (b) in accordance with § 88.507(e) for 5 years from the discontinuance of treatment under § 88.507(d).

(4) The applicable liability period has expired under § 86.151 (relating to period of liability).

§ 88.510. Effluent limitations.

(a) *Approval and incorporation into permit.* The pollution abatement plan for the pollution abatement area must be approved by the Department and incorporated into the permit as an effluent limitation.

(b) *Implementation of best management practices.* The best management practices (BMP) in the pollution abatement plan shall be implemented as specified in the plan.

(c) *Pre-existing discharges.*

(1) Except as provided in subsection (d), the following effluent limits apply to pre-existing discharges:

<i>Parameter</i>	<i>Effluent Limit</i>
Total Iron	May not exceed baseline loadings (as determined by this subchapter).
Total Manganese	May not exceed baseline loadings (as determined by this subchapter).

<i>Parameter</i>	<i>Effluent Limit</i>
Acidity, Net	May not exceed baseline loadings (as determined by this subchapter).
Suspended Solids	During remining and reclamation, may not exceed baseline loadings (as determined by this subchapter). Prior to bond release, the pre-existing discharge must meet the applicable standards for suspended solids or settleable solids in § 88.92, § 88.187 or § 88.292 (relating to hydrologic balance: effluent standards).

(2) A pre-existing discharge is exempt from meeting standards in § 88.92, § 88.187 or § 88.292 for suspended solids and settleable solids when the Department determines that the standards are infeasible or impractical based on the site-specific conditions of soil, climate, topography, steep slopes or other baseline conditions provided that the operator demonstrates that significant reductions of suspended solids and settleable solids will be achieved through the incorporation of sediment control BMPs into the pollution abatement plan as required under subsection (a).

(d) *In-stream requirements.*

(1) If the Department determines that it is infeasible to collect samples for establishing the baseline pollutant levels under paragraph (4) and that remining will result in significant improvement that would not otherwise occur, the permit applicant shall establish an in-stream baseline concentration at a suitable point downstream from the remining operation, unless the Department waives the sampling requirement under paragraph (5) and the numeric effluent limitations in subsection (c)(1) do not apply.

(2) The in-stream baseline period must include, at a minimum, twice monthly monitoring for a minimum of a 1-year period and must adequately represent the seasonal range and median pollutant concentrations.

(3) Upon issuance of a surface mining permit, the operator shall continue, at a minimum, monthly monitoring of pollutant concentrations at the in-stream monitoring point referenced in paragraph (1), and make a determination as to whether or not there has been degradation of in-stream water quality.

(i) This determination shall be made on a quarterly basis and for each year defined as each consecutive 12-month period.

(ii) The operator is not required to treat individual pre-existing sources of pollution except as may be needed to maintain the in-stream baseline concentration.

(iii) Unless the operator can demonstrate to the satisfaction of the Department that the degradation was the result of factors that are not related to the remining, the operator shall treat one or more pre-existing pollutional discharges or undertake other pollution abatement measures to restore or improve the in-stream pollutant concentration to its baseline conditions.

(4) Pre-existing discharges for which it is infeasible to collect samples for determination of baseline pollutant levels include, but are not limited to:

(i) Discharges that exist as a diffuse groundwater flow that cannot be assessed by the collection of samples.

(ii) A base flow to a receiving stream that cannot be monitored separate from the receiving stream.

(iii) A discharge on a steep or hazardous slope that is inaccessible for sample collection.

(iv) A number of pre-existing discharges so extensive that monitoring of individual discharges is infeasible.

(5) When in-stream monitoring is not indicative of the impact of remining, the in-stream monitoring requirement may be waived by the Department. In-stream monitoring is not indicative of the impact of remining in circumstances including, but not limited to, the following:

(i) Remining sites in drainage areas exceeding 10 square miles.

(ii) Remining sites in watersheds where there are other influences on the in-stream water quality that make it impossible to establish the cause of water quality changes.

(iii) Remining sites where the Q_{7-10} stream flow is zero.

(e) *Limits.* Pollutants for which there are not effluent limitations established in § 88.92, § 88.187 or § 88.292 may be eligible for limits established under this subchapter.

(f) *Applicability of standards.* Section 88.92, § 88.187 or § 88.292 applies to a pre-existing discharge that is:

(1) Intercepted by surface mining activities.

(2) Commingled with waste streams from operational areas for the purposes of water treatment.

(g) *Cessation of applicability of standards.* Section 88.92, § 88.187 or § 88.292 does not apply to a pre-existing discharge described in subsection (f) when the pre-existing discharge is no longer intercepted by surface mining activities or is no longer commingled with waste streams from operational areas for the purposes of water treatment.

(h) *Bond release.* The effluent limitations in this subchapter apply to pre-existing discharges until bond release under the procedures in Chapter 86 (relating to surface and underground coal mining: general).

§ 88.511. Baseline determination and compliance monitoring for pre-existing discharges at remining operations.

(a) The procedures in this section shall be used for determining site-specific baseline pollutant loadings, and for determining whether discharge loadings during coal remining operations have exceeded the baseline loading. A monthly (single-observation) procedure and an annual procedure shall be applied.

(b) At least one sample result per month shall be obtained for 12 months to characterize pollutant loadings for:

(1) Baseline determination.

(2) Each annual monitoring period. It is required that at least one sample be obtained per month for 12 months.

(c) Calculations described in this subchapter shall be applied to pollutant loadings.

(d) Each loading value shall be calculated as the product of a flow measurement and pollutant concentration taken on the same date at the same discharge sampling point using standard units of flow and concentration.

(e) If the baseline concentration in a baseline sample is below the daily maximum effluent limits established in

§ 88.92, § 88.187 or § 88.292 (relating to hydrologic balance: effluent standards), the baseline sample concentration may be replaced with daily maximum effluent limit for the purposes of some of the statistical calculations in this subchapter.

(f) The substituted values should be used for all methods in this subchapter except for:

(1) The calculation of the interquartile range (R) in Method 1 for the annual trigger (Step 3).

(2) Method 2 for the single observation trigger (Step 3).

(g) The interquartile range (R) is calculated as the difference between the quartiles M_{-1} and M_1 ; the values for quartiles M_{-1} and M_1 should be calculated using actual loadings (based on measured concentrations) when they are used to calculate the interquartile range (R).

§ 88.512. Procedure for calculating and applying a single-observation (monthly) trigger.

(a) This section contains two alternative methods for calculating a single-observation trigger. One method must be proposed by the applicant to be approved and applied by the Department for a reming permit.

(b) Method 1 for calculating a single observation trigger (L) is accomplished by completing the following steps:

(1) Count the number of baseline observations taken for the pollutant of interest. Label this number n. To sufficiently characterize pollutant loadings during baseline determination and during each annual monitoring period, it is required that at least one sample result be obtained per month for 12 months.

(2) Order all baseline loading observations from lowest to highest. Let the lowest number (minimum) be $x_{(1)}$, the next lowest be $x_{(2)}$, and so forth until the highest number (maximum) is $x_{(n)}$.

(3) If fewer than 17 baseline observations were obtained, the single observation trigger (L) will equal the maximum of the baseline observations ($x_{(n)}$).

(4) If at least 17 baseline observations were obtained, calculate the median (M) of all baseline observations. If n is odd, then M equals $x_{(n/2+1/2)}$. If n is even, then M equals $0.5 * (x_{(n/2)} + x_{(n/2+1)})$.

(5) Next, calculate M_1 as the median of the subset of observations that range from the calculated M to the maximum $x_{(n)}$; that is, calculate the median of all x larger than or equal to M.

(6) Next, calculate M_2 as the median of the subset of observations that range from the calculated M_1 to $x_{(n)}$; that is, calculate the median of all x larger than or equal to M_1 .

(7) Next, calculate M_3 as the median of the subset of observations that range from the calculated M_2 to $x_{(n)}$; that is, calculate the median of all x larger than or equal to M_2 .

(8) Finally, calculate the single observation trigger (L) as the median of the subset of observations that range from the calculated M_3 to $x_{(n)}$.

(9) When subsetting the data for each of the steps in paragraphs (5)—(8), the subset should include all observations greater than or equal to the median calculated in the previous step. If the median calculated in the previous step is not an actual observation, it is not included in the new subset of observations. The new median value

will then be calculated using the median procedure, based on whether the number of points in the subset is odd or even.

(c) The method for applying the single observation trigger (L) to determine when the baseline level has been exceeded is as follows:

(1) If two successive monthly monitoring observations both exceed L, immediately begin weekly monitoring for 4 weeks (four weekly samples).

(2) If three or fewer of the weekly observations exceed L, resume monthly monitoring.

(3) If all four weekly observations exceed L, the baseline pollution loading has been exceeded.

(d) Method 2 for calculating a single observation trigger (L) is accomplished by completing the following steps:

(1) Follow Method 1 in subsection (b) to obtain M_1 (the third quartile, that is, the 75th percentile).

(2) Calculate M_{-1} as the median of the baseline data which are less than or equal to the sample median M.

(3) Calculate interquartile range, $R = (M_1 - M_{-1})$.

(4) Calculate the single observation trigger L as $L = M_1 + 3 * R$.

(5) If two successive monthly monitoring observations both exceed L, immediately begin weekly monitoring for 4 weeks (four weekly samples).

(6) If three or fewer of the weekly observations exceed L, resume monthly monitoring.

(7) If all four weekly observations exceed L, the baseline pollution loading has been exceeded.

§ 88.513. Procedure for calculating and applying an annual trigger.

(a) This section contains two alternative methods for calculating the annual trigger. One method shall be proposed by the applicant to be approved and applied by the Department for a reming permit.

(b) Method 1 for calculating and applying an annual trigger (T) is accomplished by completing the following steps:

(1) Calculate M and M_1 of the baseline loading data as described under Method 1 for the single observation trigger in § 88.512(b) (relating to procedure for calculating and applying a single-observation (monthly) trigger).

(2) Calculate M_{-1} as the median of the baseline data which are less than or equal to the sample median M.

(3) Calculate the interquartile range, $R = (M_1 - M_{-1})$.

(4) The annual trigger for baseline (Tb) is calculated as

$$Tb = M + (1.815 * R) / \text{SQRT}(n)$$

where n is the number of baseline loading observations.

(5) To compare baseline loading data to observations from the annual monitoring period, repeat the steps in paragraphs (1)—(3) for the set of monitoring observations. Label the results of the calculations M' and R'. Let m be the number of monitoring observations.

(6) The subtle trigger (Tm) of the monitoring data is calculated as

$$Tm = M' - (1.815 * R') / \text{SQRT}(m)$$

(7) If $Tm > Tb$, the median loading of the monitoring observations has exceeded the baseline loading.

(c) Method 2 for calculating and applying an annual trigger (T) is accomplished by completing the following steps:

(1) Let n be the number of baseline loading observations taken, and let m be the number of monitoring loading observations taken. To sufficiently characterize pollutant loadings during baseline determination and during each annual monitoring period, it is required that at least one sample result be obtained per month for a period of 12 months.

(2) Order the combined baseline and monitoring observations from smallest to largest.

(3) Assign a rank to each observation based on the assigned order: the smallest observation will have rank 1, the next smallest will have rank 2 and so forth, up to the

highest observation, which will have rank n + m. If two or more observations are tied (have the same value), then the average rank for those observations should be used.

(4) Sum all the assigned ranks of the n baseline observations, and let this sum be S_n.

(5) Obtain the critical value (C) from Table 1.

(6) Compare C to S_n. If S_n is less than C, then the monitoring loadings have exceeded the baseline loadings.

(7) Critical values for the Wilcoxon-Mann-Whitney test are as follows:

(i) When n and m are less than 21, use Table 1. To find the appropriate critical value, match column with correct n (number of baseline observations) to row with correct m (number of monitoring observations).

Table 1—Critical Values (C) of the Wilcoxon-Mann-Whitney Test (for a one-sided test at the 0.001 significance level)

n \ m	10	11	12	13	14	15	16	17	18	19	20
10	66	79	93	109	125	142	160	179	199	220	243
11	68	82	96	112	128	145	164	183	204	225	248
12	70	84	99	115	131	149	168	188	209	231	253
13	73	87	102	118	135	153	172	192	214	236	259
14	75	89	104	121	138	157	176	197	218	241	265
15	77	91	107	124	142	161	180	201	223	246	270
16	79	94	110	127	145	164	185	206	228	251	276
17	81	96	113	130	149	168	189	211	233	257	281
18	83	99	116	134	152	172	193	215	238	262	287
19	85	101	119	137	156	176	197	220	243	268	293
20	88	104	121	140	160	180	202	224	248	273	299

(ii) When n or m is greater than 20 and there are few ties, calculate an approximate critical value using the following formula and round the result to the next larger integer. Let N = n + m.

$$\text{Critical Value} = 0.5 * n * (N + 1) - 3.0902 * \text{SQRT}(n * m * (N + 1) / 12)$$

(iii) When n or m is greater than 20 and there are many ties, calculate an approximate critical value using the following formula and round the result to the next larger integer. Let S be the sum of the squares of the ranks or average ranks of all N observations. Let N = n + m.

$$\text{Critical Value} = 0.5 * n * (N + 1) - 3.0902 * \text{SQRT}(V)$$

In the preceding formula, calculate V using:

$$V = (n * m * S) / (N * (N - 1)) - (n * m * (N + 1)^2 / (4 * (N - 1)))$$

CHAPTER 90. COAL REFUSE DISPOSAL

Subchapter F. COAL REFUSE DISPOSAL ACTIVITIES ON AREAS WITH PRE-EXISTING POLLUTIONAL DISCHARGES

§ 90.302. Definitions.

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

Actual improvement—The reduction of the baseline pollution load resulting from the implementation of the approved pollution abatement plan; except that any re-

duction of the baseline pollution load achieved by water treatment may not be considered as actual improvement provided that treatment approved by the Department of the coal refuse before, during or after placement in the coal refuse disposal area will not be considered to be water treatment.

Baseline pollution load—The characterization of the pollutional material being discharged from or on the pollution abatement area, described in terms of mass discharge for each parameter deemed relevant by the Department, including seasonal variations and variations in response to precipitation events. The Department will establish in each authorization the specific parameters it deems relevant for the baseline pollution load, including, at a minimum, iron and acid loadings.

Best professional judgment—The highest quality technical opinion forming the basis for the terms and conditions of the treatment level required after consideration of all reasonably available and pertinent data. The treatment levels shall be established by the Department under sections 301 and 402 of the Federal Clean Water Act (33 U.S.C.A. §§ 1311 and 1342).

Best technology—Measures and practices which will abate or ameliorate, to the maximum extent possible, discharges from or on the pollution abatement area. These measures include engineering, geochemical or other applicable practices.

Coal refuse disposal activities—

(i) The storage, dumping or disposal of any waste coal, rock, shale, slurry, culm, gob, boney, slate, clay, underground development wastes, coal processing wastes, excess soil and related materials, associated with or near a coal seam, that are either brought above ground or otherwise removed from a coal mine in the process of mining coal or are separated from coal during the cleaning or preparation operations.

(ii) The term does not include the removal or storage of overburden from surface mining activities.

*Coal remining operation—*A coal mining operation at a site on which coal mining was previously conducted and where the site has been abandoned or the performance bond has been forfeited.

Encountered discharge—

(i) A pre-existing discharge intercepted in the course of active surface mining activities, including, but not limited to, overburden removal, coal extraction and backfilling, or that occurs in the pit, any mining-related conveyance, sedimentation pond or treatment pond.

(ii) the term does not include diversions of surface water and shallow groundwater flow from areas undisturbed by the implementation of the pollution abatement plan which would otherwise drain into the affected area so long as they are designed, operated and maintained in accordance with § 90.104(b)—(g) (relating to hydrologic balance: diversions).

Excess soil and related material—

(i) Rock, clay or other material located immediately above or below a coal seam and which are extracted from a coal mine during the process of mining coal.

(ii) The term does not include topsoil or subsoil.

Pollution abatement area—

(i) The part of the permit area that is causing or contributing to the baseline pollution load.

(ii) The term includes adjacent and nearby areas that must be affected to bring about significant improvements of the baseline pollution load and may include the immediate locations of the discharges.

*Pollution abatement plan—*Best management practices (BMP), including, but not limited to, the addition of alkaline material, special handling plans for managing toxic and acid forming material, regrading, revegetation and daylighting, that when implemented will result in reduction of the baseline pollution load.

Pre-existing discharge—

(i) Any discharge resulting from mining activities that have been abandoned prior to the time of a remining permit application.

(ii) The term includes a pre-existing discharge that is relocated as a result of the implementation BMPs in the pollution abatement plan.

Steep slope—

(i) Any slope, including abandoned mine land features, above 20 degrees or a lesser slope as may be defined by the Department after consideration of soil, climate and other characteristics of a region.

(ii) The term does not apply to situations in which an operator is mining on flat or gently rolling terrain, on which an occasional steep slope is encountered and

through which the mining operation is to proceed, leaving a plain or predominantly flat area.

§ 90.303. Applicability.

(a) Authorization may be granted under this subchapter when the authorization is part of the following:

(1) A permit issued after February 6, 1995, but only if the authorization request is made during one of the following periods:

(i) At the time of the submittal of the permit application for the coal refuse disposal activities, including the proposed pollution abatement area.

(ii) Prior to a Department decision to issue or deny that permit.

(2) A permit revision under § 86.52 (relating to permit revisions), but only if the operator affirmatively demonstrates to the satisfaction of the Department that:

(i) The operator has discovered pollutional discharges within the permit area that came into existence after its permit application was approved.

(ii) The operator has not caused or contributed to the pollutional discharges.

(iii) The proposed pollution abatement area is not hydrologically connected to an area where coal refuse disposal activities have been conducted under the permit.

(iv) The operator has not affected the proposed pollution abatement area by coal refuse disposal activities.

(v) The Department has not granted a bonding authorization and mining approval for the area under § 86.37(b) (relating to criteria for permit approval or denial).

(b) Notwithstanding subsection (a), authorization will not be granted under this subchapter for repermitting under §§ 86.12 and 86.14 (relating to continued operation under interim permits; and permit application filing deadlines), permit renewals under § 86.55 (relating to permit renewals: general requirements) or permit transfers under § 86.56 (relating to transfer of permit).

(c) This subchapter applies to pre-existing discharges that are located within or are hydrologically connected to pollution abatement areas of a coal remining operation.

(d) When a coal remining operation seeks reissuance of an existing remining permit with best professional judgment limitations and the Department determines that it is not feasible for a remining operator to re-establish baseline pollutant levels in accordance with the statistical procedures in this subchapter, pre-existing discharge limitations at the existing remining operation remain subject to baseline pollutant levels established during the original permit application.

§ 90.304. Application for authorization.

(a) An operator who requests authorization under this subchapter shall comply with the permit application requirements of Chapter 86 (relating to surface and underground coal mining: general) and Subchapters A—D, except as specifically modified by this subchapter. The operator shall also:

(1) Delineate on a map the proposed pollution abatement area, including the location of the pre-existing discharges.

(2) Provide a description of the hydrologic balance for the proposed pollution abatement area that includes:

(i) Results of a detailed water quality and quantity monitoring program, including seasonal variations, variations in response to precipitation events and modeled baseline pollution loads using this monitoring program.

(ii) Monitoring for flow, pH, alkalinity, acidity, total iron, total manganese, total aluminum, sulfates, total suspended solids and other water quality parameters the Department deems relevant.

(3) Provide a pollution abatement plan which must:

(i) Describe the pollution abatement area.

(ii) Be designed to reduce the pollution load from pre-existing discharges and must identify the selected best management practices (BMP) to be used.

(iii) Describe the design specifications, construction specifications, maintenance schedules, criteria for monitoring and inspection, and expected performance of the BMPs.

(iv) Represent best technology and include:

(A) Plans, cross-sections and schematic drawings describing the pollution abatement plan proposed to be implemented.

(B) A description and explanation of the range of abatement level that is anticipated to be achieved, costs and each step in the proposed pollution abatement plan.

(C) A description of the standard of success for revegetation necessary to insure success of the pollution abatement plan.

(v) Provide a description of and information on the pre-existing discharges hydrogeologically connected to the remaining area.

(4) Determine the baseline pollution load.

(5) Provide background data that are the bases for the baseline pollution load. The baseline pollution load shall be reported in pounds per day.

(b) The operator seeking this authorization may continue the water quality and quantity monitoring program required by subsection (a)(2) after making the authorization request. The operator may submit the results of this continuing monitoring program to the Department on a monthly basis until a decision on the authorization request is made.

§ 90.305. Application approval or denial.

(a) Authorization may not be granted under this subchapter unless the operator seeking the authorization affirmatively demonstrates the following to the satisfaction of the Department on the basis of information in the application:

(1) Neither the operator, nor an officer, principal shareholder, agent, partner, associate, parent corporation, subsidiary or affiliate, sister corporation, contractor or subcontractor, or a related party as defined in § 86.1 (relating to definitions) has either of the following:

(i) Legal responsibility or liability as an operator for treating the water pollution discharges from or on the proposed pollution abatement area.

(ii) Statutory responsibility or liability for reclaiming the proposed pollution abatement area.

(2) The proposed pollution abatement plan will result in significant reduction of the baseline pollution load and represents best technology.

(3) The land within the proposed pollution abatement area can be reclaimed.

(4) The coal refuse disposal activities on the proposed pollution abatement area will not cause additional surface water pollution or groundwater degradation.

(5) The standard of success for revegetation will be achieved. The standard of success for revegetation for sites previously reclaimed to the standards of this chapter and Chapters 87 and 88 (relating to surface mining of coal; and anthracite coal) shall be the standards set forth in § 90.159 (relating to revegetation: standards for successful revegetation). The standard of success for revegetation for sites not previously reclaimed to the standards of this chapter and Chapters 87 and 88 shall be, at a minimum, the following, provided the site is not a bond forfeiture site where the forfeited money paid into the fund is sufficient to reclaim the forfeited site to the applicable standards:

(i) A ground cover of living plants not less than can be supported by the best available topsoil or other suitable material in the reaffected area.

(ii) A ground cover no less than that existing before disturbance of the area by coal refuse disposal activities.

(iii) Adequate vegetation to control erosion. Vegetation may be no less than that necessary to insure the success of the pollution abatement plan.

(6) The coal refuse disposal activities on permitted areas other than the proposed pollution abatement area will not cause surface water pollution or groundwater degradation.

(7) Requirements of § 86.37(a) (relating to criteria for permit approval or denial) that are consistent with this section have been met.

(b) An authorization may be denied under this subchapter if granting the authorization will, or is likely to, affect a legal responsibility or liability under The Clean Streams Law (35 P.S. §§ 691.1—691.1001), the Surface Mining Conservation and Reclamation Act (52 P.S. §§ 1396.1—1396.19b), Chapter 86 (relating to surface and underground coal mining: general) or Subchapters A—D, for the proposed pollution abatement area or other areas or discharges in the vicinity of the proposed pollution abatement area.

(c) Authorization may not be granted under this subchapter unless there are one or more pre-existing discharges from or on the pollution abatement area.

(d) The authorization allowed under this subchapter is only for the pollution abatement area and does not apply to other areas of the permit.

§ 90.306. Operational requirements.

An operator who receives an authorization under this subchapter shall comply with Chapter 86 (relating to surface and underground coal mining: general) and Subchapters A—D except as specifically modified by this subchapter. The operator shall also:

(1) Implement the approved water quality and quantity monitoring program for the pollution abatement area until the requirements of § 90.309 (relating to criteria and schedule for release of bonds on pollution abatement areas) are met. The monitoring program must conform to the following:

(i) Sampling shall be conducted on a monthly basis for the pre-existing discharges and should adequately represent the seasonal range in loading rates as well as the median loading rate from each pre-existing discharge or combination of discharges.

(ii) Results shall be submitted on a quarterly basis.
 (iii) Data must include the flow measurements and loading calculations.

(2) Implement the approved pollution abatement plan.

(3) Notify the Department when more frequent sampling is required.

(i) Weekly sampling of the pre-existing discharges shall begin if any two consecutive monthly samples of pollution load at any of the monitoring points or hydrologic units exceed one or more of the triggers established by the baseline data.

(ii) Weekly sampling requirements shall continue until two consecutive weekly sample analyses indicate that all parameters which triggered weekly sampling have dropped below the trigger established by the baseline data.

§ 90.307. Treatment of discharges.

(a) Except for pre-existing discharges that are not encountered during coal refuse disposal activities or the implementation of the pollution abatement plan, the operator shall comply with § 90.102 (relating to hydrologic balance: water quality standards, effluent limitations and best management practices).

(b) Except as provided in § 90.310(d) (relating to effluent limitations), the operator shall treat the pre-existing discharges that are not encountered during coal refuse disposal activities or implementation of the pollution abatement plan to comply with the effluent limitations established by best professional judgment. The effluent limitations established by best professional judgment may not be less than the baseline pollution load. If the baseline pollution load, when expressed as a concentration for a specific parameter, satisfies the effluent limitation in § 90.102 for that parameter, the operator shall treat the pre-existing discharge for that parameter to comply with either effluent limitations established by best professional judgment or the effluent limitations in § 90.102.

(c) For purposes of subsections (a) and (b), the term encountered may not be construed to mean diversions of surface water and shallow groundwater flow from areas undisturbed by the implementation of the pollution abatement plan that would otherwise drain into the affected area, as long as the diversions are designed, operated and maintained under § 90.104(b)—(h) (relating to hydrologic balance: diversions).

(d) An operator required to treat pre-existing discharges will be allowed to discontinue treating the discharges under subsection (b) when the operator affirmatively demonstrates the following to the Department's satisfaction:

(1) The pre-existing discharges are meeting the effluent limitations established by subsection (b) as shown by groundwater and surface water monitoring conducted by the operator or the Department.

(2) Coal refuse disposal activities under the permit—including the pollution abatement area—are being or were conducted under the requirements of the permit and the authorization, and Chapter 86 (relating to surface and underground mining: general) and this chapter except as specifically modified by this subchapter.

(3) The operator has implemented each step of the pollution abatement plan as approved in the authorization.

(4) The operator did not cause or allow additional surface water pollution or groundwater degradation by re-affecting the pollution abatement area.

(e) If after discontinuance of treatment of discharges under subsection (d) the discharges fail to meet the effluent limitations established by subsection (b), the operator shall reinstitute treatment of the discharges under subsection (b). An operator who reinstates treatment under this subsection will be allowed to discontinue treatment if the requirements of subsection (d) are met.

(f) Discontinuance of treatment under subsection (d) may not be deemed or construed to be or to authorize a release of bond under § 90.309 (relating to criteria and schedule for release of bonds on pollution abatement areas).

(g) If four consecutive weekly determinations of pollution load, as required under § 90.306(3)(i) (relating to operational requirements), exceed one or more triggers, the permittee shall notify the Department and begin treatment within 30 days of the fourth sample in accordance with the treatment limits established in the permit.

(h) If the Department determines, through analysis of any data submitted pursuant to the monitoring requirements or any data collected by the Department, that there has been pollution loading degradation at any of the monitoring points or hydrologic units, the Department will notify the permittee accordingly. The permittee shall begin treatment within 30 days in accordance with the treatment limits established in the permit.

(i) Any pre-existing pollutional discharge which is an encountered discharge shall be treated to the effluent limitations in the permit until the discharge is no longer encountered.

(j) For the purposes of determining applicable effluent limitations, a discharge will continue to be deemed to be an encountered discharge until the surface mining area which has been disturbed and which contributes to the discharge has been backfilled and regraded, and revegetation work has started.

§ 90.309. Criteria and schedule for release of bonds on pollution abatement areas.

(a) The Department will release up to 50% of the amount of bond for the authorized pollution abatement area if the applicant demonstrates and the Department finds the following:

(1) The coal refuse disposal activities were conducted on the permit area, including the pollution abatement area, under the requirements of the permit and the authorization, Chapter 86 (relating to surface and underground coal mining: general) and this chapter except as specifically modified by this subchapter.

(2) The operator has satisfactorily completed backfilling, grading, installing the water impermeable cover and drainage control in accordance with the approved reclamation plan.

(3) The operator has properly implemented each step of the pollution abatement plan approved and authorized under this subchapter.

(4) The operator has not caused degradation of the baseline pollution load at any time during the 6 months prior to the submittal of the request for bond release under this subsection and until the bond release is approved as shown by all groundwater and surface water monitoring conducted by the permittee under

§ 90.306(a)(1) (relating to operational requirements) or conducted by the Department.

(5) The operator has not caused or contributed to surface water pollution or groundwater degradation by re-affecting the pollution abatement area.

(b) The Department will release up to an additional 35% of the amount of bond for the authorized pollution abatement area but retain an amount sufficient to cover the cost to the Department of re-establishing vegetation if completed by a third party if the operator demonstrates and the Department finds the following:

(1) The operator has replaced the topsoil or material conserved under § 90.97 (relating to topsoil: removal), completed final grading, planting and established revegetation under the approved reclamation plan and achieved the standards of success for revegetation in § 90.305(a)(5) (relating to application approval or denial).

(2) The operator has not caused or contributed to groundwater or surface water pollution by re-affecting the pollution abatement area.

(3) The operator has achieved the following standards:

(i) Achieved the actual improvement of the baseline pollution load described in the approved pollution abatement plan as shown by groundwater and surface water monitoring conducted by the permittee for the time provided in the pollution abatement plan after completion of backfilling, final grading, drainage control, topsoiling and establishment of revegetation to achieve the standard for success in § 90.305(a)(5).

(ii) Achieved the following:

(A) At a minimum has not caused degradation of the baseline pollution load as shown by groundwater and surface water monitoring conducted by the operator or the Department for one of the following:

(I) For 12 months from the date of initial bond release under subsection (a), if backfilling, final grading, drainage control, placement of impermeable cover, topsoiling and establishment of revegetation to achieve the standard of success for revegetation in § 90.305(a)(5) have been completed.

(II) If treatment has been initiated at any time after initial bond release under subsection (a) and § 90.307(e) (relating to treatment of discharges), for 12 months from the date of discontinuance of treatment under § 90.307(d), if backfilling, final grading, drainage control, placement of impermeable cover, topsoiling and establishment of revegetation to achieve the standard of success for revegetation in § 90.305(a)(5) have been completed.

(B) Conducted all the measures provided in the approved pollution abatement plan and additional measures specified by the Department in writing at the time of initial bond release under subsection (a) for the area requested for bond release.

(C) Caused aesthetic or other environmental improvements and the elimination of public health and safety problems by engaging in coal refuse disposal activities and re-affecting the pollution abatement area.

(D) Stabilized the pollution abatement area.

(c) The Department will release the remaining portion of the amount of bond on the authorized pollution abatement area if the operator demonstrates and the Department finds the following:

(1) The operator has successfully completed the approved pollution abatement and reclamation plans, and

the pollution abatement area is capable of supporting the postdisposal land use approved under § 90.166 (relating to postdisposal land use).

(2) The operator has complied with the permit and the authorization, Chapter 86 and this chapter, except as specifically modified by this subchapter.

(3) The operator has not caused degradation of the baseline pollution load from the time of bond release under subsection (b) or, if treatment has been initiated after bond release under subsection (b) in accordance with § 90.307(e) for 5 years from the discontinuance of treatment under § 90.307(d).

(4) The applicable liability period has expired under § 86.151 (relating to period of liability).

§ 90.310. Effluent limitations.

(a) *Approval and incorporation into permit.* The pollution abatement plan for the pollution abatement area must be approved by the Department and incorporated into the permit as an effluent limitation.

(b) *Implementation of best management practices.* The best management practices (BMP) in the pollution abatement plan shall be implemented as specified in the plan.

(c) *Pre-existing discharges.*

(1) Except as provided in subsection (d), the following effluent limits apply to pre-existing discharges:

<i>Parameter</i>	<i>Effluent Limit</i>
Total Iron	May not exceed baseline loadings (as determined by this subchapter).
Total Manganese	May not exceed baseline loadings (as determined by this subchapter).
Acidity, Net	May not exceed baseline loadings (as determined by this subchapter).
Suspended Solids	During remining and reclamation, may not exceed baseline loadings (as determined by this subchapter). Prior to bond release, the pre-existing discharge must meet the applicable standards for suspended solids or settleable solids in § 90.102 (relating to hydrologic balance: water quality standards, effluent limitations and best management practices).

(2) A pre-existing discharge is exempt from meeting standards in § 90.102 for suspended solids and settleable solids when the Department determines that the standards are infeasible or impractical based on the site-specific conditions of soil, climate, topography, steep slopes or other baseline conditions provided that the operator demonstrates that significant reductions of suspended solids and settleable solids will be achieved through the incorporation of sediment control BMPs into the pollution abatement plan as required under subsection (a).

(d) *In-stream requirements.*

(1) If the Department determines that it is infeasible to collect samples for establishing the baseline pollutant levels under paragraph (4) and that remining will result in significant improvement that would not otherwise occur, the permit applicant shall establish an in-stream baseline concentration at a suitable point downstream

from the remining operation, unless the Department waives the sampling requirement under paragraph (5) and the numeric effluent limitations in subsection (c)(1) do not apply.

(2) The in-stream baseline period must include, at a minimum, twice monthly monitoring for a minimum of a 1-year period and must adequately represent the seasonal range and median pollutant concentrations.

(3) Upon issuance of a surface mining permit, the operator shall continue, at a minimum, monthly monitoring of pollutant concentrations at the in-stream monitoring point referenced in paragraph (1), and make a determination as to whether or not there has been degradation of in-stream water quality.

(i) This determination shall be made on a quarterly basis and for each year defined as each consecutive 12-month period.

(ii) The operator is not required to treat individual pre-existing sources of pollution except as may be needed to maintain the in-stream baseline concentration.

(iii) Unless the operator can demonstrate to the satisfaction of the Department that the degradation was the result of factors that are not related to the remining, the operator shall treat one or more pre-existing pollutional discharges or undertake other pollution abatement measures to restore or improve the in-stream pollutant concentration to its baseline conditions.

(4) Pre-existing discharges for which it is infeasible to collect samples for determination of baseline pollutant levels include, but are not limited to:

(i) Discharges that exist as a diffuse groundwater flow that cannot be assessed by the collection of samples.

(ii) A base flow to a receiving stream that cannot be monitored separate from the receiving stream.

(iii) A discharge on a steep or hazardous slope that is inaccessible for sample collection.

(iv) A number of pre-existing discharges so extensive that monitoring of individual discharges is infeasible.

(5) When in-stream monitoring is not indicative of the impact of remining, the in-stream monitoring requirement may be waived by the Department. In-stream monitoring is not indicative of the impact of remining in circumstances including, but not limited to, the following:

(i) Remining sites in drainage areas exceeding 10 square miles.

(ii) Remining sites in watersheds where there are other influences on the in-stream water quality that make it impossible to establish the cause of water quality changes.

(iii) Remining sites where the Q_{7-10} stream flow is zero.

(e) *Limits.* Pollutants for which there are not effluent limitations established in § 90.102 may be eligible for limits established under this subchapter.

(f) *Applicability of standards.* Section 90.102 applies to a pre-existing discharge that is:

(1) Intercepted by surface mining activities.

(2) Commingled with waste streams from operational areas for the purposes of water treatment.

(g) *Cessation of applicability of standards.* Section 90.102 does not apply to a pre-existing discharge described in subsection (f) when the pre-existing discharge is no longer intercepted by surface mining activities or is

no longer commingled with waste streams from operational areas for the purposes of water treatment.

(h) *Bond release.* The effluent limitations in this subchapter apply to pre-existing discharges until bond release under the procedures in Chapter 86 (relating to surface and underground coal mining: general).

§ 90.311. Baseline determination and compliance monitoring for pre-existing discharges at remining operations.

(a) The procedures in this section shall be used for determining site-specific baseline pollutant loadings, and for determining whether discharge loadings during coal remining operations have exceeded the baseline loading. A monthly (single-observation) procedure and an annual procedure shall be applied.

(b) At least one sample result per month shall be obtained for 12 months to characterize pollutant loadings for:

(1) Baseline determination.

(2) Each annual monitoring period. It is required that at least one sample be obtained per month for 12 months.

(c) Calculations described in this subchapter shall be applied to pollutant loadings.

(d) Each loading value shall be calculated as the product of a flow measurement and pollutant concentration taken on the same date at the same discharge sampling point using standard units of flow and concentration.

(e) If the baseline concentration in a baseline sample is below the daily maximum effluent limits established in § 90.102 (relating to hydrologic balance: water quality standards, effluent limitations and best management practices), the baseline sample concentration may be replaced with daily maximum effluent limit for the purposes of some of the statistical calculations in this subchapter.

(f) The substituted values should be used for all methods in this subchapter except for:

(1) The calculation of the interquartile range (R) in Method 1 for the annual trigger (Step 3).

(2) Method 2 for the single observation trigger (Step 3).

(g) The interquartile range (R) is calculated as the difference between the quartiles M_{-1} and M_1 ; the values for quartiles M_{-1} and M_1 should be calculated using actual loadings (based on measured concentrations) when they are used to calculate the interquartile range (R).

§ 90.312. Procedure for calculating and applying a single-observation (monthly) trigger.

(a) This section contains two alternative methods for calculating a single-observation trigger. One method must be proposed by the applicant to be approved and applied by the Department for a remining permit.

(b) Method 1 for calculating a single observation trigger (L) is accomplished by completing the following steps:

(1) Count the number of baseline observations taken for the pollutant of interest. Label this number n. To sufficiently characterize pollutant loadings during baseline determination and during each annual monitoring period, it is required that at least one sample result be obtained per month for 12 months.

(2) Order all baseline loading observations from lowest to highest. Let the lowest number (minimum) be $x_{(1)}$, the next lowest be $x_{(2)}$, and so forth until the highest number (maximum) is $x_{(n)}$.

(3) If fewer than 17 baseline observations were obtained, the single observation trigger (L) will equal the maximum of the baseline observations ($x_{(n)}$).

(4) If at least 17 baseline observations were obtained, calculate the median (M) of all baseline observations. If n is odd, then M equals $x_{(n/2+1/2)}$. If n is even, then M equals $0.5 * (x_{(n/2)} + x_{(n/2+1)})$.

(5) Next, calculate M_1 as the median of the subset of observations that range from the calculated M to the maximum $x_{(n)}$; that is, calculate the median of all x larger than or equal to M.

(6) Next, calculate M_2 as the median of the subset of observations that range from the calculated M_1 to $x_{(n)}$; that is, calculate the median of all x larger than or equal to M_1 .

(7) Next, calculate M_3 as the median of the subset of observations that range from the calculated M_2 to $x_{(n)}$; that is, calculate the median of all x larger than or equal to M_2 .

(8) Finally, calculate the single observation trigger (L) as the median of the subset of observations that range from the calculated M_3 to $x_{(n)}$.

(9) When subsetting the data for each of the steps in paragraphs (5)—(8), the subset should include all observations greater than or equal to the median calculated in the previous step. If the median calculated in the previous step is not an actual observation, it is not included in the new subset of observations. The new median value will then be calculated using the median procedure, based on whether the number of points in the subset is odd or even.

(c) The method for applying the single observation trigger (L) to determine when the baseline level has been exceeded is as follows:

(1) If two successive monthly monitoring observations both exceed L, immediately begin weekly monitoring for 4 weeks (four weekly samples).

(2) If three or fewer of the weekly observations exceed L, resume monthly monitoring.

(3) If all four weekly observations exceed L, the baseline pollution loading has been exceeded.

(d) Method 2 for calculating a single observation trigger (L) is accomplished by completing the following steps:

(1) Follow Method 1 in subsection (b) to obtain M_1 (the third quartile, that is, the 75th percentile).

(2) Calculate M_{-1} as the median of the baseline data which are less than or equal to the sample median M.

(3) Calculate interquartile range, $R = (M_1 - M_{-1})$.

(4) Calculate the single observation trigger L as $L = M_1 + 3 * R$.

(5) If two successive monthly monitoring observations both exceed L, immediately begin weekly monitoring for 4 weeks (four weekly samples).

(6) If three or fewer of the weekly observations exceed L, resume monthly monitoring.

(7) If all four weekly observations exceed L, the baseline pollution loading has been exceeded.

§ 90.313. Procedure for calculating and applying an annual trigger.

(a) This section contains two alternative methods for calculating the annual trigger. One method shall be proposed by the applicant to be approved and applied by the Department for a remaining permit.

(b) Method 1 for calculating and applying an annual trigger (T) is accomplished by completing the following steps:

(1) Calculate M and M_1 of the baseline loading data as described under Method 1 for the single observation trigger in § 90.312(b) (relating to procedure for calculating and applying a single-observation (monthly) trigger).

(2) Calculate M_{-1} as the median of the baseline data which are less than or equal to the sample median M.

(3) Calculate the interquartile range, $R = (M_1 - M_{-1})$.

(4) The annual trigger for baseline (Tb) is calculated as

$$Tb = M + (1.815 * R) / \text{SQRT}(n)$$

where n is the number of baseline loading observations.

(5) To compare baseline loading data to observations from the annual monitoring period, repeat the steps in paragraphs (1)—(3) for the set of monitoring observations. Label the results of the calculations M' and R' . Let m be the number of monitoring observations.

(6) The subtle trigger (Tm) of the monitoring data is calculated as

$$Tm = M' - (1.815 * R') / \text{SQRT}(m)$$

(7) If $Tm > Tb$, the median loading of the monitoring observations has exceeded the baseline loading.

(c) Method 2 for calculating and applying an annual trigger (T) is accomplished by completing the following steps:

(1) Let n be the number of baseline loading observations taken, and let m be the number of monitoring loading observations taken. To sufficiently characterize pollutant loadings during baseline determination and during each annual monitoring period, it is required that at least one sample result be obtained per month for a period of 12 months.

(2) Order the combined baseline and monitoring observations from smallest to largest.

(3) Assign a rank to each observation based on the assigned order: the smallest observation will have rank 1, the next smallest will have rank 2 and so forth, up to the highest observation, which will have rank n + m. If two or more observations are tied (have the same value), then the average rank for those observations should be used.

(4) Sum all the assigned ranks of the n baseline observations, and let this sum be S_n .

(5) Obtain the critical value (C) from Table 1.

(6) Compare C to S_n . If S_n is less than C, then the monitoring loadings have exceeded the baseline loadings.

(7) Critical values for the Wilcoxon-Mann-Whitney test are as follows:

(i) When n and m are less than 21, use Table 1. To find the appropriate critical value, match column with correct n (number of baseline observations) to row with correct m (number of monitoring observations).

Table 1—Critical Values (C) of the Wilcoxon-Mann-Whitney Test (for a one-sided test at the 0.001 significance level)

n \ m	10	11	12	13	14	15	16	17	18	19	20
10	66	79	93	109	125	142	160	179	199	220	243
11	68	82	96	112	128	145	164	183	204	225	248
12	70	84	99	115	131	149	168	188	209	231	253
13	73	87	102	118	135	153	172	192	214	236	259
14	75	89	104	121	138	157	176	197	218	241	265
15	77	91	107	124	142	161	180	201	223	246	270
16	79	94	110	127	145	164	185	206	228	251	276
17	81	96	113	130	149	168	189	211	233	257	281
18	83	99	116	134	152	172	193	215	238	262	287
19	85	101	119	137	156	176	197	220	243	268	293
20	88	104	121	140	160	180	202	224	248	273	299

(ii) When n or m is greater than 20 and there are few ties, calculate an approximate critical value using the following formula and round the result to the next larger integer. Let N = n + m.

$$\text{Critical Value} = 0.5 * n * (N + 1) - 3.0902 * \text{SQRT}(n * m * (N + 1) / 12)$$

(iii) When n or m is greater than 20 and there are many ties, calculate an approximate critical value using the following formula and round the result to the next larger integer. Let S be the sum of the squares of the ranks or average ranks of all N observations. Let N = n + m.

$$\text{Critical Value} = 0.5 * n * (N + 1) - 3.0902 * \text{SQRT}(V)$$

In the preceding formula, calculate V using:

$$V = (n * m * S) / (N * (N - 1)) - (n * m * (N + 1)^2) / (4 * (N - 1))$$

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