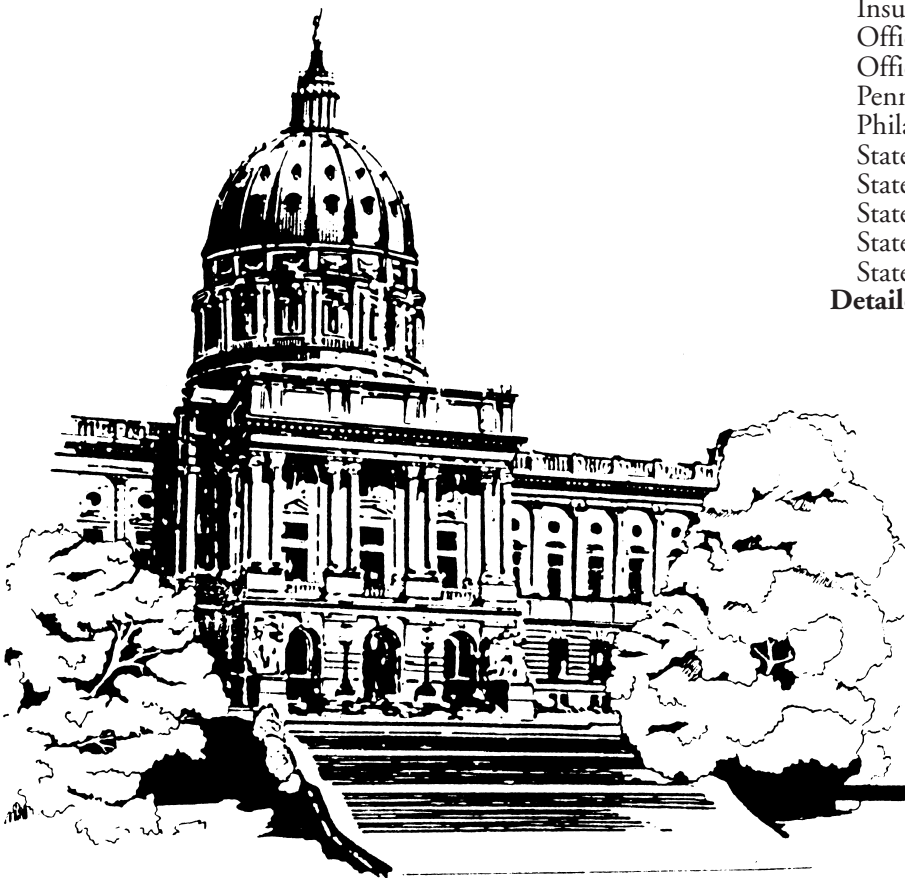


PENNSYLVANIA BULLETIN

Volume 48
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Agencies in this issue

The Governor
The Courts
Department of Banking and Securities
Department of Environmental Protection
Department of Health
Department of Human Services
Environmental Hearing Board
Environmental Quality Board
Insurance Department
Office of Administration
Office of Open Records
Pennsylvania Public Utility Commission
Philadelphia Parking Authority
State Board of Chiropractic
State Board of Dentistry
State Board of Nursing
State Conservation Commission
State Employees' Retirement Board
Detailed list of contents appears inside.



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

No. 519, February 2018

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CONTENTS

THE GOVERNOR

Executive Orders

Governor's Office for Performance through Excellence (OPE)	1087
Governor's Office of Transportation, Innovation, Management and Efficiency (GO TIME)	1089

THE COURTS

JUDICIAL SYSTEM GENERAL PROVISIONS

Administrative regulations governing court interpreters for persons with limited English proficiency and for persons who are deaf or hard of hearing	1092
--	------

JUVENILE RULES

Proposed amendment of Pa.R.J.C.P. 1151	1098
--	------

RULES OF CIVIL PROCEDURE

Order amending Rules 1910.16-2, 1910.16-4 and 1910.16-7 of the Rules of Civil Procedure; No. 679 civil procedural rules doc.	1093
Order amending Rules 1915.1, 1915.4-3, 1940.2 and 1940.5 of the Rules of Civil Procedure; No. 678 civil procedural rules doc.	1095

EXECUTIVE AND INDEPENDENT AGENCIES

DEPARTMENT OF BANKING AND SECURITIES

Notices

Actions on applications	1187
-------------------------------	------

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Notices

Applications, actions and special notices	1187
Availability of revised instructions and form for Chapter 105 water obstruction and encroachment general permit registrations	1234
Bid opportunity (2 documents)	1234

DEPARTMENT OF HEALTH

Notices

Ambulatory surgical facilities; requests for exceptions	1235
Human Immunodeficiency Virus (HIV) Community Prevention Planning Committee public meetings ..	1235
Long-term care nursing facilities; requests for exception	1235
Nursing Home Patient Safety Trust Fund surcharge assessment procedure	1236
Nursing Home Patient Safety Trust Fund surcharge for fiscal year 2017-2018 as provided for under the Medical Care Availability and Reduction of Error (MCARE) Act	1237

Temporary scheduling of substance; fentanyl-related substances as a Schedule I controlled substance ..	1237
--	------

DEPARTMENT OF HUMAN SERVICES

Notices

Clinical laboratory improvement amendments excluded laboratory services update; Medical Assistance fee schedule revisions	1239
---	------

ENVIRONMENTAL HEARING BOARD

Notices

Chris Stockdale, Lesley Stockdale and Barbara Gandy v. Department of Environmental Protection and Consol Pennsylvania Coal Company, LLC, permittee; EHB doc. No. 2018-017-R	1241
Sunoco Partners Marketing & Terminals, LP v. Department of Environmental Protection; EHB doc. No. 2018-016-L	1241

ENVIRONMENTAL QUALITY BOARD

Proposed Rulemaking

Administration of the Storage Tank and Spill Prevention Program	1101
---	------

INSURANCE DEPARTMENT

Notices

Health maintenance organization certificate of authority application filed by Community Care Behavioral Health Organization	1241
Metropolitan Life Insurance Company (SERFF # META-131359706); rate increase filing for several LTC forms	1242
Metropolitan Life Insurance Company (SERFF # META-131359722); rate increase filing for several LTC forms	1242
Metropolitan Life Insurance Company (SERFF # META-131359736); rate increase filing for several LTC forms	1242
Review procedure hearings; cancellation or refusal of insurance	1242
Review procedure hearings under the Unfair Insurance Practices Act	1243

OFFICE OF ADMINISTRATION

Notices

Notice of minimum wage increase under Executive Order 2016-02 establishing a minimum wage for employees of the Commonwealth and of organizations receiving State contracts	1243
--	------

OFFICE OF OPEN RECORDS

Notices

Change of address	1243
-------------------------	------

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Notices

Electric generation supplier license cancellations of companies with an expired financial security or insufficient financial security amount	1244
--	------

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

Petition of PPL Electric Utilities Corporation for approval of a default service program and procurement plan for the period June 1, 2017, through May 31, 2021..... 1245

Seeks comments on corporate Federal income tax rate changes and the effects on Commission-regulated public utilities, ratepayers; M-2018-2641242..... 1253

Service of notice of motor carrier applications..... 1253

Service of notice of motor carrier formal complaints. 1254

Telecommunications (2 documents)..... 1260, 1261

PHILADELPHIA PARKING AUTHORITY

Notices

Service of notice of motor carrier application in the City of Philadelphia..... 1261

STATE BOARD OF CHIROPRACTIC

Proposed Rulemaking

Chiropractic specialties..... 1177

STATE BOARD OF DENTISTRY

Proposed Rulemaking

Child abuse reporting requirements..... 1179

STATE BOARD OF NURSING

Notices

Bureau of Professional and Occupational Affairs v. Deidra A. Bates, LPN; file No. 14-51-09834; doc. No. 1504-51-17 1261

STATE CONSERVATION COMMISSION

Notices

Action on odor management plans for concentrated animal operations and concentrated animal feeding operations and volunteers complying with the Commonwealth's Facility Odor Management Program..... 1261

STATE EMPLOYEES' RETIREMENT BOARD

Notices

Hearing scheduled 1262

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 weekly. A cumulative subject matter index is published quarterly.

The *Pennsylvania Bulletin* serves several purposes. It is the temporary supplement to the *Pennsylvania Code*, which is the official codification of agency rules and regulations, Statewide court rules, and other statutorily authorized documents. Changes in the codified text, whether by adoption, amendment, rescission, repeal or emergency action, must be published in the *Pennsylvania Bulletin*.

The following documents are published in the *Pennsylvania Bulletin*: Governor's Executive Orders; 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 rescind regulations must first publish in the *Pennsylvania Bulletin* a Proposed Rulemaking. There are limited instances when the agency may omit the proposal step; it still must publish the adopted version.

The 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. A Final Rulemaking must be published in the *Pennsylvania Bulletin* before the changes can take effect. If the agency wishes to adopt changes to the 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, Statewide court rules and other statutorily authorized documents. The *Pennsylvania Bulletin* is the temporary supplement to the *Pennsylvania Code*, printing changes when they are adopted. 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.

How to Find Rules and Regulations

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.

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

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Printing Format

Rules, Regulations and Statements of Policy in Titles 1—107 of the Pennsylvania Code

Text proposed to be added is printed in **underscored bold face**. Text proposed to be deleted is enclosed in brackets [] and printed in **bold face**.

Proposed new chapters and sections are printed in regular type to enhance readability. Final rulemakings and statements of policy are printed in regular type.

Ellipses, a series of five asterisks, indicate text that is not amended.

In Proposed Rulemakings and proposed Statements of Policy, existing text corresponds to the official codified text in the *Pennsylvania Code*.

Court Rules in Titles 201—246 of the Pennsylvania Code

Added text in proposed and adopted court rules is printed in **underscored bold face**. Deleted text in proposed and adopted court rules is enclosed in brackets [] and printed in **bold face**.

Proposed new chapters and rules are printed in regular type to enhance readability.

Ellipses, a series of five asterisks, indicate text that is not amended.

Fiscal Notes

Section 612 of The Administrative Code of 1929 (71 P. S. § 232) requires the Governor's Budget Office to prepare a fiscal note for regulatory actions and administrative procedures of the administrative departments, boards, commissions and authorities receiving money from the State Treasury. The fiscal note states whether the action or procedure causes a loss of revenue or an increase in the cost of programs for the Commonwealth or its political subdivisions. The fiscal note is required to be published in the *Pennsylvania Bulletin* at the same time as the 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; and (8) recommendation, if any, of the Secretary of the Budget and the reasons therefor.

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, 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 item (8) the recommendation, if any, made by the Secretary of the Budget is published with the fiscal note. "No fiscal impact" means no additional cost or revenue loss to the Commonwealth or its local political subdivision is intended. See 4 Pa. Code Chapter 7, Subchapter R (relating to fiscal notes).

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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 2018.

4 Pa. Code (Administration)

Adopted Rules	
1	210, 1087, 1089
6	212, 214
7a	217

Statements of Policy

9	37, 299, 522
501	879

10 Pa. Code (Banking and Securities)

Adopted Rules	
1	389
102	389
202	389
203	389
204	389
205	389
206	389
207	389
208	389
209	389
210	389
211	389
301	389
302	389
303	389
304	389
305	389
401	389
404	389
501	389
504	389
513	389
601	389
602	389
603	389
604	389
605	389
606	389
609	389
610	389
701	389
901	389
1001	389

17 Pa. Code (Conservation and Natural Resources)

Proposed Rules	
53	515

25 Pa. Code (Environmental Protection)

Adopted Rules	
93	866
208	251

Proposed Rules

77	733
245	1101
901	255
902	255
903	255

31 Pa. Code (Insurance)

Proposed Rules	
89	517

37 Pa. Code (Law)

Proposed Rules	
33	297
301	267, 742
311	267, 742

Statements of Policy

471	608
-----------	-----

49 Pa. Code (Professional and Vocational Standards)

Proposed Rules	
5	1177
33	1179
47	872

52 Pa. Code (Public Utilities)

Statements of Policy	
41	882

58 Pa. Code (Recreation)

Adopted Rules	
801	21
802	21
803	21
1001	29

201 Pa. Code (Rules of Judicial Administration)

Adopted Rules	
7	595

204 Pa. Code (Judicial System General Provisions)

Adopted Rules	
29	222
89	727
91	727
221	1092
303	716

210 Pa. Code (Appellate Procedure)

Adopted Rules	
1	461
5	461
7	461
9	461
11	461
13	461
15	461
17	461
19	461
21	461
25	461
27	461

231 Pa. Code (Rules of Civil Procedure)

Adopted Rules	
200	224, 475
1000	475
1900	477
1910	477, 1093
1915	477, 1095
1920	477
1930	477
1940	1095
1950	477

1086

2020 475
Part II 483

Proposed Rules

Part II486, 728

234 Pa. Code (Rules of Criminal Procedure)

Adopted Rules

1 487, 490, 856
4 224
5 487, 729, 856

Proposed Rules

4 496
5 507

237 Pa. Code (Juvenile Rules)

Proposed Rules

11 1098

246 Pa. Code (Minor Court Civil Rules)

Adopted Rules

200 511

249 Pa. Code (Philadelphia Rules)

Unclassified10, 227, 731, 732

255 Pa. Code (Local Court Rules)

Unclassified 10, 227, 236, 249, 513, 596, 598, 863,
975, 976

THE GOVERNOR

Title 4—ADMINISTRATION

PART I. GOVERNOR'S OFFICE

[4 PA. CODE CH. 1]

[EXECUTIVE ORDER NO. 2018-01]

Governor's Office for Performance Through Excellence (OPE)

February 1, 2018

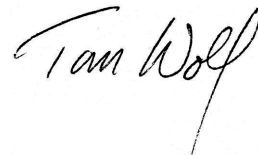
Whereas, a growing body of evidence shows that implementing performance management strategies can enhance the ability of government organizations to achieve continuous performance improvement; and

Whereas, evidence-based performance management systems combine cross-agency coordination, outcome-focused goal-setting, analysis of performance data, collaborative problem-solving, and rigorous program evaluations; and

Whereas, a performance management strategy for the Commonwealth will foster innovation among agencies and will help align agency policies and budgets with the Commonwealth's priority goals; and

Whereas, commitment to continuous process improvements is vital to improving Pennsylvania state government for the benefit of the citizens of this Commonwealth.

Now, Therefore, I, Tom Wolf, Governor of the Commonwealth of Pennsylvania, by virtue of the authority vested in me by the Constitution of the Commonwealth of Pennsylvania and other laws, do hereby establish the Governor's Office for Performance Through Excellence and do order and direct as follows.



Governor

Fiscal Note: GOV-18-01. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 4. ADMINISTRATION

PART I. GOVERNOR'S OFFICE

CHAPTER 1. AGENCY OPERATION AND ORGANIZATION

Subchapter JJJ. GOVERNOR'S OFFICE FOR PERFORMANCE THROUGH EXCELLENCE

Sec.	
1.891.	Mission.
1.892.	Governor's Office for Performance Through Excellence.
1.893.	Powers and duties.
1.894.	Cooperation by Commonwealth agencies.
1.895.	Independent agencies, State-affiliated entities and State-related entities.
1.896.	General provisions.
1.897.	Effective date.

§ 1.891. Mission.

The mission of the Governor's Office for Performance Through Excellence is to engage internal and external stakeholders, as well as employees at every level of government, to enhance State government operations by utilizing continuous process improvement methods and to achieve measurable results by identifying and tracking key performance indicators.

§ 1.892. Governor's Office for Performance Through Excellence.

The Governor's Office for Performance Through Excellence (Office) is created within the Executive Offices of the Governor.

(1) The Governor will appoint a member of his staff to serve as Director of the Office, who shall serve at the pleasure of the Governor.

(2) The Director of the Office shall report to the Governor.

(3) The Governor may appoint, to serve at his pleasure, individuals as he may deem appropriate to provide advice to the Office and the Director.

(4) The Governor's Office of Transformation, Innovation, Management and Efficiency or GO TIME is removed from the Office of Administration, but will continue to work to modernize government operations to reduce costs and deliver better services under the Office.

§ 1.893. Powers and duties.

The Governor's Office for Performance Through Excellence shall have the power and duty to:

(1) Develop and implement strategies for creating a Commonwealth workplace culture that is defined by continuous process improvement principles, including focus on customers, respect for employees and elimination of waste.

(2) Develop and implement strategies for monitoring, managing and accelerating progress toward the Commonwealth's priority goals.

(3) Work with agencies, boards and commissions to identify opportunities to collaborate and partner with external entities to bring new ideas and best practices into State government.

(4) Promote cross-agency coordination and collaboration aimed at solving common problems and achieving shared goals.

(5) Build the capacity of Commonwealth agencies to independently implement strategies for continuous improvement, performance management and innovation.

(6) Provide regular reports to the Governor and the heads of Commonwealth agencies that describe the status of specific priority objectives, identify barriers to achieving the objectives and recommend specific actions for improving performance.

(7) Publish on the Commonwealth's web site administration goals and progress.

(8) Work collaboratively with Commonwealth agencies to identify opportunities to leverage data and evidence for improving State government performance.

(9) Exercise all other necessary powers to ensure successful implementation of this subchapter, as permitted by law.

§ 1.894. Cooperation by Commonwealth agencies.

Agencies under the Governor's jurisdiction shall provide assistance to and cooperate with the Governor's Office for Performance Through Excellence (Office) as requested by the Office in pursuit of the matters which are the subject of this subchapter.

§ 1.895. Independent agencies, State-affiliated entities and State-related entities.

Independent agencies, State-affiliated entities and State-related agencies are strongly encouraged to work with the Governor's Office for Performance Through Excellence and to implement continuous process improvements as envisioned by this subchapter.

§ 1.896. General provisions.

This subchapter shall be implemented consistent with applicable law. This subchapter is not intended to, and does not create, any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the Commonwealth, its departments, agencies or entities, its officers, employees or agents, or any other person.

§ 1.897. Effective date.

This subchapter takes effect immediately.

[Pa.B. Doc. No. 18-283. Filed for public inspection February 23, 2018, 9:00 a.m.]

Title 4—ADMINISTRATION**PART I. GOVERNOR'S OFFICE**

[4 PA. CODE CH. 1]

[EXECUTIVE ORDER NO. 2015-04 AMENDED]

**Governor's Office of Transformation, Innovation, Management
and Efficiency (GO TIME)**

February 1, 2018

Whereas, the Commonwealth faces significant fiscal challenges which require that it make every effort to maximize efficiency, and find new ways of modernizing, and innovating the operations of state government while continuing to deliver services at the highest level; and

Whereas, the administration believes that inter-agency coordination and collaboration is critical to providing high quality services and ensuring the most efficient use of resources; and

Whereas, there are many opportunities for the Commonwealth to enter into partnerships with the private sector in order to develop and pursue innovative new practices; and

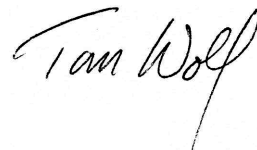
Whereas, the Commonwealth, as a major purchaser of goods and services, can benefit from economies of scale in procurement, and leverage the collective buying power of its many agencies to reduce costs; and

Whereas, the employees of state agencies are best positioned to understand the strengths and opportunities within their agency, and to make recommendations for improvement where possible; and

Whereas, the above initiatives, if appropriately administered, should generate over \$150 million in cost savings for the 2015-2016 fiscal year; and

Whereas, the Governor believes that these goals can be best achieved through coordination among agencies and partners to ensure a government that is responsive to the concerns and needs of the people it serves.

Now, Therefore, I, Tom. Wolf, Governor of the Commonwealth of Pennsylvania, by virtue of the authority vested in me by the Constitution of the Commonwealth of Pennsylvania and other laws, do hereby establish the Governor's Office of Transformation, Innovation, Management and Efficiency within the Governor's Office of Performance Through Excellence and do order and direct as follows.



Governor

Fiscal Note: GOV-15-04 Amended. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 4. ADMINISTRATION

PART I. GOVERNOR'S OFFICE

CHAPTER 1. AGENCY OPERATION AND ORGANIZATION

**Subchapter CCC. GOVERNOR'S OFFICE OF TRANSFORMATION,
INNOVATION, MANAGEMENT AND EFFICIENCY**

§ 1.821. Mission.

The mission of the Governor's Office of Transformation, Innovation, Management and Efficiency is to:

(1) Deliver cost savings to the citizens of this Commonwealth through multiagency efficiencies, productivity improvements and cost-saving innovations.

(2) Remain fully and continuously engaged with agencies to identify new project needs and opportunities.

(3) Promote and foster a culture of innovation, open data and collaboration across agencies in alignment with the Governor's priorities.

(4) Identify partnering opportunities with nonprofit organizations and local communities to leverage resources that will save taxpayer dollars.

(5) Focus on citizen engagement to further improve user oriented services and realize cost-efficiencies through use of modern platforms.

(6) Increase the involvement and participation of State employees at all levels in improving management, reducing waste and improving the delivery of State services.

§ 1.822. Governor's Office of Transformation, Innovation, Management and Efficiency.

(a) The Governor's Office of Transformation, Innovation, Management and Efficiency (Office) is created within the Governor's Office of Performance Through Excellence (OPE). The Director of the Office shall report to the Director of the OPE. The Governor's Office will provide all support services and staff for the Office.

(b) The Office shall be directed by a Steering Committee (Committee) comprised of the following members:

(1) The Secretary of Administration.

(2) The Director of the Office.

(3) The Secretary of Policy and Planning.

(4) The Secretary of General Services.

(5) The Secretary of the Budget.

(6) The Director of the OPE.

(c) The Governor may appoint, to serve at his pleasure, individuals as he might deem appropriate to provide advice to the Office and the Committee.

(d) The Office shall be managed by a Director appointed by the Director of the OPE.

(e) The Director of the OPE shall serve as Chair of the Committee. The Director of the Office shall serve as Secretary of the Committee.

§ 1.823. Powers and duties.

The Steering Committee shall have the power and duty to:

(1) Work collaboratively with the heads of Commonwealth agencies to identify opportunities for streamlining the operation of government and generating new efficiencies.

(2) Develop and implement strategies for implementing these opportunities.

(3) Identify barriers to the implementation of transformational efforts and recommend strategies for addressing these barriers.

(4) Exercise other powers and duties that the Governor may delegate as permitted by law.

§ 1.824. Cooperation by Commonwealth agencies.

Commonwealth agencies shall cooperate with the Governor's Office of Transformation, Innovation, Management and Efficiency (Office) to ensure the success of its mission. Agency heads shall identify key staff to form innovation teams, which shall be responsible for implementing the initiatives identified by the Office. Innovation teams shall recommend to the Office new opportunities to reduce costs and improve efficiency.

§ 1.825. Effective date.

This amendment to this subchapter takes effect immediately.

§ 1.826. Rescission.

Executive Order 2012-04, dated March 22, 2012, is rescinded effective immediately.

[Pa.B. Doc. No. 18-284. Filed for public inspection February 23, 2018, 9:00 a.m.]

THE COURTS

Title 204—JUDICIAL SYSTEM GENERAL PROVISIONS

PART VII. ADMINISTRATIVE OFFICE OF PENNSYLVANIA COURTS [204 PA. CODE CH. 221]

Administrative Regulations Governing Court Interpreters for Persons with Limited English Proficiency and for Persons who are Deaf or Hard of Hearing

In accordance with Judicial Code, 42 Pa.C.S. §§ 4411 and 4431, the Administrative Regulations Governing Court Interpreters for Persons with Limited English Proficiency and for Persons Who Are Deaf or Hard of Hearing have been amended by the Court Administrator of Pennsylvania in the following form and shall be effective March 1, 2018. Additions to the regulations are shown in bold and are underlined. Deletions from the regulations are shown in bold and brackets. The regulations can be found on the interpreter certification webpage located at <http://www.pacourts.us/judicial-administration/court-programs/interpreter-program>.

Filed in the Administrative Office of Pennsylvania Courts on February 12, 2018.

THOMAS B. DARR,
Court Administrator of Pennsylvania

Annex A

TITLE 204. JUDICIAL SYSTEM GENERAL PROVISIONS

PART VII. ADMINISTRATIVE OFFICE OF PENNSYLVANIA COURTS

CHAPTER 221. COURT INTERPRETERS FOR PERSONS WITH LIMITED ENGLISH PROFICIENCY AND FOR PERSONS WHO ARE DEAF OR HARD OF HEARING

Subchapter 1. GENERAL PROVISIONS

§ 102. Definitions.

For purposes of these regulations:

* * * * *

(g) *Immediate family member* means a [**spouse, child, parent or an individual who stands in loco parentis to a child in a proceeding pursuant to 42 Pa.C.S. Ch. 63 (relating to juvenile matters)] person other than a principal party in interest who is a spouse, child, parent, grandparent or guardian of a principal party in interest.**

* * * * *

(o) *Principal party in interest* means a person involved in a judicial proceeding who is [**a plaintiff or defendant in a proceeding pursuant to 23 Pa.C.S. Ch. 61 (relating to protection from abuse); a defendant, parent of a defendant or direct victim in a proceeding pursuant to 42 Pa.C.S. Ch. 63 (relating to juvenile matters); a defendant or direct victim in a criminal proceeding; a person who is a named party in any other judicial proceeding; or a person who brings an action on behalf of a minor or incompetent person.]:**

(1) a named party or a fiduciary for a named party;

(2) a direct victim in a criminal proceeding or a proceeding pursuant to 42 Pa.C.S. Ch. 63 (relating to juvenile matters);

(3) a parent, guardian, or custodian of a minor or incapacitated person who is:

(i) a party;

(ii) a direct victim in a criminal proceeding or a proceeding pursuant to 42 Pa.C.S. Ch. 63; or

(iii) a witness.

(p) *Roster* means the list of certified and otherwise qualified interpreters maintained and distributed by the Court Administrator.

(q) *Staff Interpreter* means a certified or otherwise qualified interpreter who is an employee of the appellate court or judicial district and whose duties include providing services as an interpreter and functions related to interpreting.

(r) *Transliteration* means to convey spoken or written English in an English-based sign system and the process of conveying an English-based sign system in spoken or written English.

(s) *Witness* means a person who testifies in a judicial proceeding.

Comment

The definition of “Certified Interpreter” set forth in subsection (b) contains the requirement that the interpreter be certified by the Court Administrator. An interpreter who is certified pursuant to another jurisdiction or organization’s policies is nonetheless not a certified interpreter under these regulations if that individual has not been certified by the Court Administrator. Therefore, persons charged with applying these regulations should take care to confirm that an interpreter who purports to be certified has in fact been certified by the Court Administrator. A “Staff Interpreter” pursuant to subsection (q) is a full-time employee of the appellate court or judicial district whose duties include providing interpretation services. Persons employed as staff interpreters—even those employed as such on or before the date of the enactment of these regulations—will be required to be certified in their language of expertise by the Court Administrator in order to attain certified status under these regulations, if such certification is available.

These regulations are not intended to restrict a deaf or hard of hearing person’s ability pursuant to the Americans With Disabilities Act (ADA), 42 U.S.C. §§ 12101 *et seq.*, to request a process, procedure or means of communication other than an interpreter. Under the ADA and its regulations, a deaf or hard of hearing person may request a specific auxiliary aid and the public entity must give primary consideration to that choice unless another effective means of communication exists or it can demonstrate that doing so would fundamentally alter the nature of the service, program or activity or result in undue financial hardship. 28 CFR 35.160; 35.164; 28 CFR Pt. 35, App. A.

See 42 Pa.C.S. § 6302, defining “custodian” as “[a] person other than a parent or legal guardian, who stands in loco parentis to the child, or a person to whom legal custody of the child has been given by order of a court.” See also Pa.R.C.P. 76, which

defines fiduciaries to include “an executor, administrator, guardian, committee, receiver, trustee, assignee for the benefit of creditors, and any other person, association, partnership, or corporation, acting in any similar capacity.” Pa.R.C.P. 2051 defines “incapacitated person” to include “an adult whose ability to receive and evaluate information effectively and communicate decisions in any way is impaired to such a significant extent that the person is partially or totally unable to manage financial resources or to meet the essential requirements for physical health and safety.”

§ 107. Cost of Providing Interpreters for Persons with Limited English Proficiency.

(a) *General rule.*—An interpreter appointed pursuant to § 203 for a principal party in interest or a witness is entitled to a reasonable fee for interpreter services and shall be reimbursed for actual and reasonable expenses by the county of the court or the appellate court that has jurisdiction over the judicial proceeding in accordance with the compensation schedule approved by the Court Administrator pursuant to 42 Pa.C.S. § 4411(d). In no event shall the costs of providing interpreter services be the responsibility of the person who is limited English proficient.

[(b) *Principal party in interest.*—If the person with limited English proficiency is a principal party in interest, the payment of the cost of providing the interpreter shall be the responsibility of the county of the court or the appellate court that has jurisdiction over the judicial proceeding for which the interpreter was appointed.

(c) *Witness.*—If the person with limited English proficiency is compelled to appear as a witness in a judicial proceeding for a criminal matter or juvenile proceeding pursuant to 42 Pa.C.S. Ch. 63 (relating to juvenile matters), the payment of the cost of providing the interpreter shall be the responsibility of the county of the court that has jurisdiction over the judicial proceeding for which the interpreter was appointed.

(d) [(b) *Assignment of costs.*—[Except as provided in subsections (b) and (c), disposition of all or part of the cost of providing interpreter services shall be in the discretion of the presiding judicial officer and in accordance with the compensation schedule established by the Court Administrator, unless the principal party in interest is indigent. If the principal party in interest is indigent, the cost of providing interpreter services shall be the responsibility of the county of the court or the appellate court that has jurisdiction over the judicial proceeding for which the interpreter was appointed. Except as provided in subsections (b) and (c)] In those cases where appointment of an interpreter is discretionary as specified in section 203(d) regarding appointment of interpreters for immediate family members, the presiding judicial officer may order reimbursement by the family member to the county of the court or the appellate court that has jurisdiction over the judicial proceeding for which the interpreter was appointed for its responsibilities under this chapter. In determining the amount of actual and reasonable expenses to be paid to the interpreter, the presiding judicial officer shall follow the fee schedule for interpreters established by the Court Administrator.

Comment

The compensation schedule referred to in subsection (a) will be published in the *Pennsylvania Bulletin* and the official website of the Administrative Office of Pennsylvania Courts and will be subject to periodic review. In a judicial district comprised of more than one county, the county of the court that has jurisdiction over the judicial proceedings is the county in which the cause of action arose.

[Pa.B. Doc. No. 18-285. Filed for public inspection February 23, 2018, 9:00 a.m.]

Title 231—RULES OF CIVIL PROCEDURE

PART I. GENERAL

[231 PA. CODE CH. 1910]

Order Amending Rules 1910.16-2, 1910.16-4 and 1910.16-7 of the Rules of Civil Procedure; No. 679 Civil Procedural Rules Doc.

Order

Per Curiam

And Now, this 9th day of February, 2018, upon the recommendation of the Domestic Relations Procedural Rules Committee; the proposal having been submitted without publication pursuant to Pa.R.J.A. No. 103(a)(3) in the interest of efficient administration:

It is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Rules 1910.16-2, 1910.16-4 and 1910.16-7 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 April 1, 2018.

Annex A

TITLE 231. RULES OF CIVIL PROCEDURE

PART I. GENERAL

CHAPTER 1910. ACTIONS FOR SUPPORT

Rule 1910.16-2. Support Guidelines. Calculation of Monthly Net Income.

Generally, the amount of support to be awarded is based upon the parties' monthly net income.

* * * * *

(b) *Treatment of Public Assistance, SSI Benefits, Social Security Payments to a Child Due to a Parent's Death, Disability or Retirement and Foster Care Payments.*

* * * * *

(3) *Foster Care Payments.* If either party to a support action is a foster parent and/or is receiving payments from a public or private agency for the care of a child who is not his or her biological or adoptive child, those payments shall not be included in the income of the foster parent or other caretaker for purposes of calculating child support for the foster parent's or other caretaker's biological or adoptive child.

* * * * *

Example 2. Two children live with Grandmother who receives \$800 per month in Social Security death benefits for the children as a result of Father's death. Grandmother also receives \$500 per month from a trust established by Father for the benefit of the children. Grandmother is employed and earns \$2,000 net per month. Grandmother seeks support from the children's mother, who earns [**\$1,500**] **\$2,000** net per month. For purposes of calculating Mother's support obligation, Grandmother's income will be \$1,300, the amount she receives on behalf of the children in Social Security derivative benefits and the income from the trust. (If Mother were receiving the benefit on behalf of the children it would be added to her income such that Mother's income would be [**\$2,300**] **\$2,800** and Grandmother's income would be \$500.) Therefore, Mother's and Grandmother's combined monthly net incomes total [**\$2,800**] **\$3,300**. The basic support amount at the [**\$2,800**] **\$3,300** income level for two children is [**\$949**] **\$1,115**. As Mother's income of [**\$1,500** is 54%] **\$2,000** is 61% of the parties' combined income of [**\$2,800**] **\$3,300**, her portion of the basic support obligation is [**\$512**] **\$680**. Since Mother's retirement or disability did not generate the child's derivative benefit, the benefit amount is not subtracted from her portion of the basic support amount and Mother owes Grandmother [**\$512**] **\$680**. If Grandmother was not receiving the children's derivative benefits or income from the trust, her income for purposes of calculating Mother's child support obligation would be zero, and Mother would pay 100% of the basic support amount because Grandmother has no duty to support the children.

* * * * *

Rule 1910.16-4. Support Guidelines. Calculation of Support Obligation, Formula.

* * * * *

(d) *Divided or Split Physical Custody. When Each Party Owes Child Support to the Other Party. Varied Partial or Shared Custodial Schedules.*

(1) *Divided or Split Physical Custody. When Each Party Owes Child Support to the Other Party.* When calculating a child support obligation and each party owes child support to the other party as a result of the custodial arrangement, the court shall offset the parties' respective child support obligations and award the net difference to the obligee as child support.

Example 1. If the parties have three children, one child resides with Mother and two children reside with Father, and their monthly net incomes are [**\$2,500**] **\$4000** and [**\$1,250**] **\$2,000** respectively, Mother's child support obligation is calculated using the schedule in Pa.R.C.P. No. 1910.16-3 for two children at the parties' combined monthly net income of [**\$3,750**] **\$6,000**. The amount of basic child support to be apportioned between the parties is [**\$1,224**] **\$1,523**. As Mother's income is 67% of the parties' combined monthly net income, Mother's support obligation for the two children living with Father is [**\$820**] **\$1,020**. Father's child support obligation is calculated using the schedule in Pa.R.C.P. No. 1910.16-3 for one child at the parties' combined monthly net income of [**\$3,750**] **\$6,000**. The amount of basic child support to be apportioned between the parties is [**\$853**] **\$1,071**. Father's support obligation for the child living with Mother is [**\$281**] **\$353**. Subtracting [**\$281 from \$820**] **\$353**

from **\$1,020** produces a net basic support amount of [**\$539**] **\$667** payable to Father as child support.

Example 2. If the parties have two children, one child resides with Mother and the parties share custody (50% - 50%) of the other child, and the parties' monthly net incomes are as set forth in Example 1. The child support obligation is calculated using the schedule in Pa.R.C.P. No. 1910.16-3 for the one child primarily residing with Mother at the parties' combined monthly net income of [**\$3,750**] **\$6,000**, the amount of basic child support to be apportioned between the parties is [**\$853**] **\$1,071**. Father's income is 33% of the parties' combined monthly net income, and the support obligation for the child living with Mother is [**\$281**] **\$353**. For Mother's obligation for the child with the 50% - 50% shared custody arrangement, using the schedule in Pa.R.C.P. No. 1910.16-3 for one child at the parties' combined monthly net income of [**\$3,750**] **\$6,000**, the amount of basic child support to be apportioned between the parties is [**\$853**] **\$1,071**. Mother's proportionate share of the combined monthly net incomes is 67%, but it is reduced to 47% after applying the shared parenting time adjustment for 50% custody under subdivision (c). Mother's child support obligation for the shared custody child is [**\$401** (**\$853**)] **\$503** (**\$1,071** × 47%). As Mother's obligation is greater than Father's obligation, Father is the obligee and receives the net of the two obligations by subtracting [**\$281 from \$401, or \$120**] **\$353 from \$503, or \$150**.

(2) *Varied Partial or Shared Custodial Schedules.* When the parties have more than one child and each child spends either (a) different amounts of partial or shared custodial time with the party with the higher income or (b) different amounts of partial custodial time with the party with the lower income, the trier of fact shall add the percentage of time each child spends with that party and divide by the number of children to determine the party's percentage of custodial time. If the average percentage of custodial time the children spend with the party is 40% or more, the provisions of subdivision (c) apply.

Example 1. The parties have two children and one child spends 50% of the time with Mother, who has the higher income, and the other child spends 20% of the time with Mother. Add those percentages together and divide by the number of children (50% plus 20% = 70% divided by 2 children = 35% average time with Mother). Pursuant to subdivision (c), Mother does not receive a reduction in the support order for substantial parenting time.

Example 2. The parties have three children. Two children spend 50% of the time with Mother, who has the higher income, and the third child spends 30% of the time with Mother. Add the percentages of custodial time for all three children together and divide by the number of children (50% plus 50% plus 30% = 130% divided by three children = 43.33% average percentage of time with Mother). Pursuant to subdivision (c), Mother receives a reduction in the support order for substantial parenting time.

Example 3. The parties have three children, Mother has primary custody (60% - 40%) of one child, Father has primary custody (60% - 40%) of one child, and the parties share custody (50% - 50%) of the third child. The parties' monthly net incomes are \$2,500 (Mother) and [**\$1,250**] **\$2,000** (Father). As a result of the custodial arrangement, Father owes support for the child in the primary custody of Mother and Mother owes support for the child in the

primary custody of Father and for the child shared equally between the parties. Father's child support obligation is calculated using the schedule in Pa.R.C.P. No. 1910.16-3 for one child at the parties' combined monthly net income of [**\$3,750**] **\$4,500**. The amount of basic child support to be apportioned between the parties is [**\$853**] **\$940**. Father's proportionate share of the combined monthly net incomes is [**33%**] **44%**, but is reduced to [**23%**] **34%** after applying the shared parenting time adjustment for 40% custody under subdivision (c). Father's child support obligation for this child is [**\$196 (\$853 × 23%)**] **\$320 (\$940 × 34%)**. Mother's child support obligation is calculated using the schedule in Pa.R.C.P. No. 1910.16-3 for two children at the parties' combined monthly net income of [**\$3,750**] **\$4,500**. The amount of basic child support to be apportioned between the parties is [**\$1,224**] **\$1,349**. Mother has varying partial or shared custody of the two children (40% and 50%). Under subdivision (d)(2), the custodial time is averaged or in this case 45%. Mother's proportionate share of the combined monthly net incomes is [**67%**] **56%**, but it is reduced to [**52%**] **41%** after applying the shared parenting time adjustment for 45% custody under subdivision (c). Mother's child support obligation for these children is [**\$636 (\$1,224 × 52%)**] **\$553 (\$1,349 × 41%)**. Offsetting the support amounts consistent with subdivision (d)(1), Mother's obligation is greater than Father's obligation, and Father is the obligee receiving the net of the two obligations by subtracting [**\$196 from \$636, or \$440**] **\$320 from \$553, or \$233**.

* * * * *

Rule 1910.16-7. Support Guidelines. Awards of Child Support When There are Multiple Families.

* * * * *

(b) When the total of the obligor's basic support obligations exceeds 50% of his or her monthly net income, the court may consider a proportional reduction of these obligations. Since, however, the goal of the guidelines is to treat each child equitably, a first or later family shall not receive preference, and the court shall not divide the guideline amount for all of the obligor's children among the households in which those children live.

Example 1. The obligor is sued for support of an out of wedlock child. The obligor is already paying support for two children of the first marriage, and has an intact second marriage with one child. The relevant monthly net incomes are \$3,800 for the obligor, \$1,100 for the former spouse, \$0 for the current spouse and \$1,500 for the parent of the new child. The obligor's basic support obligations to each family are \$1,097 for the two children of the first marriage, \$862 for the one child of the second marriage, and \$727 for the one child out of wedlock for a total support obligation of \$2,686. Since the total of these obligations exceeds 50% of the obligor's monthly net income of \$3,800 per month, the court may consider a proportional reduction of all of the orders.

Example 2. The obligor is sued for support of three children of a second marriage. There is already an order in effect for two children of the first marriage. The relevant monthly net incomes are [**\$1,600**] **\$2,500** for the obligor, \$0 for the first spouse and \$500 for the second spouse. The obligor's basic support obligations to each family are [**\$555**] **\$849** for the two children of the first marriage and [**\$641**] **\$987** for the three children of the

second marriage for a total support obligation of [**\$1,196**] **\$1,836**. Since this total obligation leaves the obligor with only [**\$404**] **\$664** on which to live, the orders are too high as the obligor must be left with a Self-Support Reserve of \$981. However, reducing the order for three children while leaving the existing order intact would give preference to the first family, contrary to the rule. Therefore, both orders must be reduced proportionally.

* * * * *

[Pa.B. Doc. No. 18-286. Filed for public inspection February 23, 2018, 9:00 a.m.]

Title 231—RULES OF CIVIL PROCEDURE

PART I. GENERAL

[231 PA. CODE CHS. 1915 AND 1940]

Order Amending Rules 1915.1, 1915.4-3, 1940.2 and 1940.5 of the Rules of Civil Procedure; No. 678 Civil Procedural Rules Doc.

Order

Per Curiam

And Now, this 8th day of February, 2018, upon the recommendation of the Domestic Relations Procedural Rules Committee; the proposal having been published for public comment in the *Pennsylvania Bulletin*, 46 Pa.B. 7524 (December 3, 2016):

It is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Rules 1915.1, 1915.4-3, 1940.2, and 1940.5 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 April 1, 2018.

Annex A

TITLE 231. RULES OF CIVIL PROCEDURE

PART I. GENERAL

CHAPTER 1915. ACTIONS FOR CUSTODY OF MINOR CHILDREN

Rule 1915.1. Scope. Definitions.

(a) These rules govern the practice and procedure in all actions for legal and physical custody of minor children, including habeas corpus proceedings and claims for custody asserted in an action of divorce.

Official Note: The term custody includes shared legal custody, sole legal custody, partial physical custody, primary physical custody, shared physical custody, sole physical custody and supervised physical custody. See 23 Pa.C.S. § 5322(a). Rule 1920.32(a) provides that when a claim for custody is joined with the action of divorce, the practice and procedure governing the claim for custody shall be in accordance with these rules.

(b) As used in this chapter, unless the context of a rule indicates otherwise, **the following terms shall have the following meanings:**

“action[” means],” all proceedings for legal and physical custody and proceedings for modification of prior orders of any court;

“child,” an unemancipated individual under 18 years of age;

“conference officer,” an individual who presides over an office conference pursuant to Pa.R.C.P. No. 1915.4-2(a) or the initial non-record proceeding under Pa.R.C.P. No. 1915.4-3(a). For purposes of these rules, a conciliator is synonymous with a conference officer;

“custody[” means],” the legal right to keep, control, guard, care for, and preserve a child and includes the terms “legal custody,” “physical custody,” and “shared custody;”

“hearing officer,” a lawyer who conducts a record hearing on partial custody cases pursuant to Pa.R.C.P. No. 1915.4-2(b);

“home county[” means],” the county in which the child [immediately preceding the time involved lived with the child’s parents, a parent, or] lived with either or both parents, a person acting as a parent, or in an institution[,] for at least six consecutive months immediately preceding the filing of the action, and in the case of a child less than six months old, the county in which the child lived from birth with any of the persons mentioned. A period of temporary absence of the child from the physical custody of the parent, institution, or person acting as parent shall not affect the six-month or other period;

“*in loco parentis*,” a person who puts himself or herself in the situation of a lawful parent by assuming the obligations incident to the parental relationship without going through the formality of a legal adoption. The status of *in loco parentis* embodies two ideas: (1) the assumption of a parental status; and (2) the discharge of parental duties;

Official Note: See *A.S. v. I.S.*, 130 A.3d 763, 766 n.3 (Pa. 2015).

“legal custody[” means],” the right to make major decisions on behalf of the child, including, but not limited to, medical, religious, and educational decisions;

“mediator,” an individual qualified under Pa.R.C.P. No. 1940.4 and who assists custody litigants independently from the procedures set forth in Pa.R.C.P. Nos. 1915.1—1915.25 by engaging the litigants in the alternative dispute principles in Pa.R.C.P. No. 1940.2 to resolve custody matters in whole or in part;

“mediation,” the confidential process by which a neutral mediator assists the parties in attempting to reach a mutually acceptable agreement on issues arising in a custody action. Mediation is not a court proceeding; rather, it is an independent, non-record proceeding in lieu of court involvement for the purpose of assisting the parties to address the child’s best interest. An agreement reached by the parties must be based on the voluntary decisions of the parties and not the decision of the mediator. The agreement may resolve all or only some of the disputed issues. The parties are required to mediate in good faith, but are not compelled to reach an agreement. While mediation is an alternative means of conflict resolution, it is not a substitute for the

benefit of legal advice. The participants in mediation shall be limited to the parties to the custody action, primarily the child’s parents and persons acting as parents. Except as provided in Pa.R.C.P. No. 1940.5(c), non-parties, including children, grandparents, and the parties’ attorneys, shall not participate in the mediation.

“non-record proceeding,” the initial office conference set forth in Pa.R.C.P. No. 1915.4-3. Mediation, as outlined in Pa.R.C.P. No. 1940.1—1940.9, shall not be construed as a non-record proceeding;

“partial physical custody[” means],” the right to assume physical custody of the child for less than a majority of the time;

“person acting as a parent[” means],” a person other than a parent, including an institution, who has physical custody of a child and who has either been awarded custody by a court or claims a right to custody. See also the definition of *in loco parentis*;

“physical custody[” means],” the actual physical possession and control of a child;

“primary physical custody[” means],” the right to assume physical custody of the child for the majority of time;

“relocation[” means],” a change in a residence of the child [which] that significantly impairs the ability of a non-relocating party to exercise custodial rights;

“shared legal custody[” means],” the right of more than one individual to legal custody of the child;

“shared physical custody[” means],” the right of more than one individual to assume physical custody of the child, each having significant periods of physical custodial time with the child;

“sole legal custody[” means],” the right of one individual to exclusive legal custody of the child;

“sole physical custody[” means],” the right of one individual to exclusive physical custody of the child; and

“supervised physical custody[” means],” custodial time during which an agency or an adult designated by the court or agreed upon by the parties monitors the interaction between the child and the individual with those rights.

Official Note: The term “supervised visitation” in the prior statute has been replaced by the term “supervised physical custody.”

Official Note: The definitions of the terms of the various forms of legal custody and physical custody are taken from 23 Pa.C.S. § 5322(a).

For additional definitions, see the Uniform Child Custody Jurisdiction and Enforcement Act, 23 Pa.C.S. § 5402.

[Explanatory Comment—2008

The Uniform Child Custody Jurisdiction Act, formerly at subchapter B of Chapter 53 of the Domestic Relations Code, was repealed by Act 2004-39 and replaced by the Uniform Child Custody Jurisdiction and Enforcement Act at Chapter 54 of the Domestic Relations Code. Amendments throughout the rules governing procedures in child custody matters were necessary to make the rules consistent with the Uniform Child Custody Jurisdiction

and Enforcement Act and to update the citations to the statutory provisions.]

Rule 1915.4-3. Non-Record Proceedings. Trials.

(a) *Non-Record Proceedings.* [In those jurisdictions that utilize an initial non-record proceeding such as a conciliation conference or office conference, if no agreement is reached at the conclusion of the proceeding, the conference officer or conciliator shall promptly notify the court that the matter should be listed for trial.] In judicial districts utilizing an initial non-record proceeding, i.e., office conference, if an agreement is not finalized by the conclusion of the proceeding, the conference officer shall promptly notify the court that the matter should be listed for trial. [Any] A lawyer employed by, or under contract with, a judicial district or appointed by the court to serve as a [conciliator or mediator or] conference officer to preside over a non-record proceeding shall not practice family law before a conference officer, hearing officer, permanent or standing master, or judge of the same judicial district.

(b) *Trial.* The trial before the court shall be *de novo*. The court shall hear the case and render a decision within the time periods set forth in [Rule] Pa.R.C.P. No. 1915.4.

Explanatory Comment—2018

The amendment to this rule, in conjunction with the amendment to Pa.R.C.P. No. 1915.1, standardizes terminology used in the custody process and identifies court personnel by title and in some cases qualifications. Of note, the term “mediator,” which had been included in the rule, has been omitted and is specifically defined in Pa.R.C.P. No. 1915.1.

As in the support rules, custody conference officers preside over conferences and hearing officers preside over hearings. Regardless of the individual’s title, presiding over a conference or a hearing triggers the family law attorney practice preclusion in this rule and in Pa.R.C.P. No. 1915.4-2(b) in the case of a hearing officer. Mediators, as defined in Pa.R.C.P. No. 1915.1 and as qualified in Pa.R.C.P. No. 1940.4, do not preside over custody conferences or hearings; rather, mediators engage custody litigants in alternative dispute resolution methods pursuant to Chapter 1940 of the Rules of Civil Procedure and, as such, the preclusion from practicing family law in the same judicial district in which an attorney/mediator is appointed is inapplicable.

CHAPTER 1940. VOLUNTARY MEDIATION IN CUSTODY ACTIONS

Rule 1940.2. Definitions.

As used in this Chapter, the following terms shall have the following meanings:

“Mediation,” [is] the confidential process by which a neutral mediator assists the parties in attempting to reach a mutually acceptable agreement on issues arising in a custody action. [The role of the mediator is to assist the parties in identifying the issues, reducing misunderstanding, clarifying priorities, exploring areas of compromise and finding points of agreement.] Mediation is not a court proceeding; rather, it is an independent, non-record proceeding in lieu

of court involvement for the purpose of assisting the parties to address the child’s best interest. An agreement reached by the parties must be based on the voluntary decisions of the parties and not the decision of the mediator. The agreement may resolve all or only some of the disputed issues. [Parties] The parties are required to mediate in good faith[,] but are not compelled to reach an agreement. While mediation is an alternative means of conflict resolution, it is not a substitute for the benefit of legal advice. The participants in mediation shall be limited to the parties to the custody action, primarily the child’s parents and persons acting as parents. Except as provided in Pa.R.C.P. No. 1940.5(c), non-parties, including children, grandparents, and the parties’ attorneys, shall not participate in the mediation.

Official Note: See Pa.R.C.P. No. 1915.1 for the definition of a person acting as a parent.

“Memorandum of Understanding,” [is] the written document prepared by a mediator [which] that contains and summarizes the resolution reached by the parties during mediation. A Memorandum of Understanding is primarily for the benefit of the parties and is not legally binding on either party.

“Orientation Session,” [is] the initial process of educating the parties on the mediation process so that they can make an informed choice about continued participation in mediation. This process may be mandated by the court and may be structured to include either group or individual sessions. An orientation session may also include an educational program for parents and children on the process of divorce and separation and the benefits of mediation in resolving custody disputes.

Rule 1940.5. Duties of the Mediator. Role of the Mediator.

(a) As part of the orientation session, the mediator must inform the parties in writing of the following:

(1) the costs of mediation;

Official Note: [Rule] Pa.R.C.P. No. 240 sets forth the procedures for obtaining leave to proceed *in forma pauperis* when the parties do not have the financial resources to pay the costs of litigation. This rule applies to court-connected mediation services as well, so that parties without sufficient resources may file a petition seeking a waiver or reduction of the costs of mediation.

(2) the process of mediation;

(3) that the mediator does not represent either or both of the parties;

(4) the nature and extent of any relationships with the parties and any personal, financial, or other interests that could result in a bias or conflict of interest;

(5) that mediation is not a substitute for the benefit of independent legal advice; and

(6) that the parties should obtain legal assistance for drafting any agreement or for reviewing any agreement drafted by the other party.

(b) When mediating a custody dispute, the mediator shall ensure that the parties consider fully the best interests of the child or children.

(c) With the consent of the parties, the mediator may meet with the parties’ children or invite other persons to participate in the mediation.

(d) The role of the mediator is to assist the parties in identifying the issues, reducing misunderstandings, clarifying priorities, exploring areas of compromise, and finding points of agreement.

[Pa.B. Doc. No. 18-287. Filed for public inspection February 23, 2018, 9:00 a.m.]

Title 237—JUVENILE RULES

PART I. RULES

[237 PA. CODE CH. 11]

Proposed Amendment of Pa.R.J.C.P. 1151

The Juvenile Court Procedural Rules Committee proposes the amendment of Rule 1151 to provide for the appointment of counsel for a dependent child 18 years of age or older for the reasons set forth in the accompanying explanatory report. Pursuant to Pa.R.J.A. No. 103(a)(1), the proposal is being published in the *Pennsylvania Bulletin* for comments, suggestions, or objections prior to submission to the Supreme Court.

Any reports, notes, or comments in the proposal have been inserted by the Committee for the convenience of those using the rules. They neither will constitute a part of the rules nor will be officially adopted by the Supreme Court.

Additions to the text of the proposal are bolded and underlined; deletions to the text are bolded and bracketed.

The Committee invites all interested persons to submit comments, suggestions, or objections in writing to:

Daniel A. Durst, Chief Counsel
Juvenile Court Procedural Rules Committee
Supreme Court of Pennsylvania
Pennsylvania Judicial Center
PO Box 62635
Harrisburg, PA 17106-2635
FAX: 717-231-9541
juvenilerules@pacourts.us

All communications in reference to the proposal should be received by May 14, 2018. E-mail is the preferred method for submitting comments, suggestions, or objections; any e-mailed submission need not be reproduced and resubmitted via mail. The Committee will acknowledge receipt of all submissions.

*By the Juvenile Court
Procedural Rules Committee*

JENNIFER R. SLETVOLD,
Chair

Annex A

TITLE 237. JUVENILE RULES

PART I. RULES

Subpart B. DEPENDENCY MATTERS

CHAPTER 11. GENERAL PROVISIONS

PART B(2). COUNSEL

Rule 1151. Assignment of Guardian *Ad Litem* and Counsel.

A. *Guardian ad litem for child.* The court shall assign a guardian ad litem to represent the legal interests and the best interests of the child **less than 18 years of age**

if a proceeding has been commenced pursuant to Rule 1200 alleging a child to be dependent who:

1) is without proper parental care or control, subsistence, education as required by law, or other care or control necessary for the physical, mental or emotional health, or morals;

2) has been placed for care or adoption in violation of law;

3) has been abandoned by parents, guardian, or other custodian;

4) is without a parent, guardian or legal custodian; or

5) is born to a parent whose parental rights with regard to another child have been involuntarily terminated under 23 Pa.C.S. § 2511 (relating to grounds for involuntary termination) within three years immediately preceding the date of birth of the child and conduct of the parent poses a risk to the health, safety, or welfare of the child.

B. *Counsel for child.* The court shall appoint legal counsel for a child:

1) if a proceeding has been commenced pursuant to Rule 1200 alleging a child to be dependent who:

a) while subject to compulsory school attendance is habitually and without justification truant from school;

b) has committed a specific act or acts of habitual disobedience of the reasonable and lawful commands of the child's guardian and who is ungovernable and found to be in need of care, treatment, or supervision;

c) is under the age of ten years and has committed a delinquent act;

d) has been formerly adjudicated dependent, and is under the jurisdiction of the court, subject to its conditions or placements and who commits an act which is defined as ungovernable in paragraph (B)(1)(b);

e) has been referred pursuant to section 6323 (relating to informal adjustment), and who commits an act which is defined as ungovernable in paragraph (B)(1)(b); or

f) has filed a motion for resumption of jurisdiction pursuant to Rule 1634; **[or]**

2) when the child is 18 years of age or older; or

[2)] 3) upon order of the court.

C. *Counsel and Guardian ad litem for child.*

1) If a child has legal counsel and a guardian ad litem, counsel shall represent the legal interests of the child and the guardian ad litem shall represent the best interests of the child.

2) If a child younger than 18 years of age has a guardian ad litem, then that representative may be appointed as counsel when the child becomes 18 years of age unless the court determines there is a conflict.

D. *Time of appointment.*

1) *Child in custody.* The court shall appoint a guardian ad litem or legal counsel immediately after a child is taken into protective custody and prior to any proceeding.

2) *Child not in custody.* If the child is not in custody, the court shall appoint a guardian ad litem or legal counsel for the child when a dependency petition is filed.

E. *Counsel for other parties.* If counsel does not enter an appearance for a party, the court shall inform the

party of the right to counsel prior to any proceeding. If counsel is requested by a party in any case, the court shall assign counsel for the party if the party is without financial resources or otherwise unable to employ counsel. Counsel shall be appointed prior to the first court proceeding.

Comment

See 42 Pa.C.S. §§ 6302, 6311, and 6337.

The age specifications set forth in paragraphs (A) and (B)(2) are intended to effectuate a requirement that a guardian ad litem be appointed in every case when a child is younger than 18 years of age and counsel be appointed in every case when a child is 18 years of age or older.

The guardian ad litem for the child **younger than 18 years of age** may move the court for appointment as legal counsel and assignment of a separate guardian ad litem, when, for example, the information that the guardian ad litem possesses gives rise to the conflict and can be used to the detriment of the child. To the extent 42 Pa.C.S. § 6311(b)(9) is inconsistent with this rule, it is suspended. See Rule 1800. See also Pa.R.P.C. 1.7 and 1.8.

Pursuant to paragraph (B)(1)(f), the court is to appoint legal counsel when a motion for resumption of jurisdiction has been filed. It is best practice to appoint the guardian ad litem or legal counsel who was previously assigned to the child as legal counsel.

Under paragraph (C), legal counsel represents the legal interests of the child and the guardian ad litem represents the best interests of the child.

Nothing in these rules anticipates that a guardian [**ad litem**] for an adult is to be appointed by these rules. For appointment of a guardian of the person, see 20 Pa.C.S. § 5501 *et seq.* and Pa. O.C. Rules 14.2—14.5.

Pursuant to paragraph (E), the court is to inform all parties of the right to counsel if they appear at a hearing without counsel. If a party is without financial resources or otherwise unable to employ counsel, the court is to appoint counsel prior to the proceeding. Because of the nature of the proceedings, it is extremely important that every “guardian” has an attorney. Therefore, the court is to encourage the child’s guardian to obtain counsel. Pursuant to Rule 1120, a guardian is any parent, custodian, or other person who has legal custody of a child, or person designated by the court to be a temporary guardian for purposes of a proceeding. See Pa.R.J.C.P. 1120.

Official Note: Rule 1151 adopted August 21, 2006, effective February 1, 2007. Amended February 20, 2007, effective immediately. Amended May 12, 2008, effective immediately. Amended April 29, 2011, effective July 1, 2011. Amended October 21, 2013, effective December 1, 2013. **Amended _____, 2018, effective _____, 2018.**

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 1151 published with the Court’s Order at 36 Pa.B. 5571 (September 2, 2006).

Final Report explaining the amendments to this rule published with the Court’s order at 37 Pa.B. 1123 (March 10, 2007).

Final Report explaining the amendments to Rule 1151 published with the Court’s Order at 38 Pa.B. 2360 (May 24, 2008).

Final Report explaining the amendments to Rule 1151 published with the Court’s Order at 41 Pa.B. 2430 (May 14, 2011).

Final Report explaining the amendments to Rule 1151 published with the Court’s Order at 43 Pa.B. 6658 (November 9, 2013).

Final Report explaining the amendments to Rule 1151 published with Court’s Order at Pa.B. _____, 2018.

REPORT

Proposed Amendment of Pa.R.J.C.P. 1151

The Juvenile Court Procedural Rules Committee proposes the amendment of Rule 1151 to provide for the appointment of counsel for a dependent child 18 years of age or older.

The Juvenile Act provides that “[e]xcept as provided under section 6337.1 (relating to right to counsel for children in dependency and delinquency proceedings), counsel must be provided for a child.” 42 Pa.C.S. § 6337. Section 6337.1 states “[l]egal counsel shall be provided for a child who is alleged or has been found to be a dependent child in accordance with the Pennsylvania Rules of Juvenile Court Procedure.” 42 Pa.C.S. § 6337.1(a).

The statutory directive for the provision of counsel is satisfied when a dependency proceeding is initiated because statute further provides that an alleged dependent child is to be appointed an attorney to serve as a guardian ad litem (“GAL”) to represent the legal interests and the best interests of the child. See 42 Pa.C.S. § 6311(a). The procedures for doing so are set forth in Pa.R.J.C.P. 1151. When legal and best interests may conflict, the GAL is to seek the appointment of counsel to represent the child’s legal interests. See Pa.R.J.C.P. 1151, Comment at ¶ 2.

The Committee recently considered the distinction between the appointment of a GAL and the appointment of counsel when a child is 18 years of age or older in the context of resumption of jurisdiction. For example, Rule 1151(B)(1)(f) provides counsel for the child who has filed a motion for the resumption of jurisdiction, but Rule 1151(A) does not provide for the appointment of a GAL for the child. In contrast, it was reported that a child 18 years of age or older remaining under the jurisdiction of the juvenile court would continue to have a GAL.

This illustration led to a further examination of the GAL paradigm and whether a GAL, as opposed to counsel, should represent a child 18 year of age or older. It was believed at that age that many children could express their own interests and direct counsel. Accordingly, the Committee proposes amendment of Rule 1151 to maintain the current model of a GAL in all cases and counsel when there is a conflict for a child under 18 years if age. However, the Committee further proposes a reversal of the model for a child 18 years of age or older whereby counsel would be appointed in all cases and a GAL when there is a conflict.

The Committee acknowledges a previous proposal that sought to clarify the role and duties of attorneys in juvenile court proceedings patterned after the American Bar Association's Model Act Governing the Representation of Children in Abuse, Neglect, and Dependency Proceedings. *See* 42 Pa.B. 5470 (August 25, 2012). The present proposal is not intended as a revision and republication of that earlier proposal.

The Committee invites all comments, concerns, and suggestions regarding this rulemaking proposal.

[Pa.B. Doc. No. 18-288. Filed for public inspection February 23, 2018, 9:00 a.m.]

PROPOSED RULEMAKING

ENVIRONMENTAL QUALITY BOARD

[25 PA. CODE CH. 245]

Administration of the Storage Tank and Spill Prevention Program

The Environmental Quality Board (Board) proposes to amend Chapter 245 (relating to administration of the Storage Tank and Spill Prevention Program). This proposed rulemaking will strengthen the requirements for operation and maintenance of underground storage tank (UST) equipment. Currently, UST owners and operators are required to have spill prevention, overflow prevention and release detection equipment in place, but are not required to periodically verify the functionality of some of that equipment. This proposed rulemaking also adds a new certification category for persons that only perform minor modifications of UST systems. This proposed rulemaking shortens the in-service inspection cycle for aboveground storage tanks (AST) in underground vaults and small ASTs. This proposed rulemaking clarifies or corrects a number of other provisions in Chapter 245 based on the Department's experience in implementing this chapter since it was updated in 2007.

This proposed rulemaking was adopted by the Board at its meeting on October 17, 2017.

A. Effective Date

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

B. Contact Persons

For further information contact Kris A. Shiffer, Chief, Division of Storage Tanks, P.O. Box 8762, Rachel Carson State Office Building, Harrisburg, PA 17105-8762, (717) 772-5809; or Keith J. Salador, Assistant Counsel, Bureau of Regulatory Counsel, P.O. Box 8464, Rachel Carson State Office Building, Harrisburg, PA 17105-8464, (717) 783-8075. Information regarding submitting comments on this proposed rulemaking appears in Section J of this preamble. Persons with a disability may use the AT&T Relay Service, (800) 654-5984 (TDD users) or (800) 654-5988 (voice users). This proposed 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 proposed rulemaking has been developed under the authority of section 106 of the Storage Tank and Spill Prevention Act (act) (35 P.S. § 6021.106), which authorizes the Board to adopt rules and regulations governing ASTs and USTs to accomplish the purposes and carry out the provisions of the act; section 301 of the act (35 P.S. § 6021.301), which authorizes the Department to establish program requirements for ASTs; section 501 of the act (35 P.S. § 6021.501), which authorizes the Department to establish program requirements for USTs; and section 1920-A of The Administrative Code of 1929 (71 P.S. § 510-20), which authorizes the Board to formulate, adopt and promulgate rules and regulations that are necessary for the proper work of the Department.

D. Background and Purpose

Comprehensive Federal regulations for USTs have been codified by the United States Environmental Protection Agency (EPA) in 40 CFR Part 280 (relating to technical standards and corrective action requirements for owners and operators of underground storage tanks (UST)). The EPA initially promulgated these regulations in 1988. The EPA published final revisions to 40 CFR Part 280 at 80 FR 41566 (July 15, 2015). These revisions, among other things: added secondary containment requirements for new and replaced tanks and piping; added operator training requirements; added periodic operation and maintenance requirements for UST systems; removed certain deferrals; added new release prevention and detection technologies; updated codes of practice; and made editorial and technical corrections. Secondary containment and operator training requirements that meet the Federal requirements were incorporated into Chapter 245 through a prior final-form rulemaking. Secondary containment reduces releases to the environment by containing releases from the primary containment area in a second containment area to ensure detection before the contaminants reach the environment. Operator training educates UST system operators on the regulations and proper operation and maintenance of their UST systems to prevent releases of contaminants.

This proposed rulemaking is necessary to further prevent releases of contaminants from USTs into the environment. There were 209 confirmed releases from USTs in this Commonwealth from October 1, 2015, through September 30, 2016. Lack of proper operation and maintenance of UST systems is the main cause of new releases. While releases from USTs themselves are less common than in the past, releases from piping and spills and overfills associated with deliveries, and releases at the dispenser have emerged as more common problems. In addition, release detection equipment is only detecting approximately 50% of releases it is designed to detect.

On July 15, 2015, the EPA also revised the state program approval requirements in 40 CFR Part 281 (relating to approval of state underground storage tank programs). Under these revisions, the EPA is requiring that states amend their UST regulations and apply for initial or revised state program approval within 3 years of the effective date of the final EPA rule published at 80 FR 41566. Currently, the Commonwealth has state program approval. Therefore, Chapter 245 must be updated to be no less stringent than the Federal requirements so the Department can apply for revised state program approval by October 13, 2018. States and Tribal lands that do not have state program approval were required to comply with the EPA final regulations on October 13, 2015. The EPA has not codified companion AST regulations.

The Commonwealth receives approximately \$2.3 million annually in Federal grant funding from the EPA under section 9014 of the Solid Waste Disposal Act (42 U.S.C.A. § 6991m) to aid in administering the UST program. This proposed rulemaking is necessary to ensure continued receipt of Federal grant funds.

A comprehensive summary of the proposed amendments to Chapter 245 is provided in Section E of this preamble. Key amendments recommended to improve proper operation and maintenance of USTs to prevent the release of contaminants into the environment include: a visual inspection of spill prevention equipment and re-

lease detection every 30 days; a visual inspection of containment sumps and handheld release detection devices annually; testing of spill prevention equipment every 3 years; inspection of overfill prevention equipment every 3 years; testing of containment sumps used for interstitial monitoring every 3 years; and annual release detection equipment testing.

In addition to the new operation and maintenance requirements, this proposed rulemaking recommends two other key provisions to prevent releases of contaminants into the environment:

- Release detection requirements are proposed for emergency generator USTs. Previously, emergency generator USTs were deferred from having to meet release detection requirements.
- Flow restrictors (ball float valves) are proposed to be prohibited as an option for overfill prevention in new UST systems and when these devices need to be replaced.

In addition, this proposed rulemaking clarifies and corrects various provisions of Chapter 245 identified as necessary through implementation of this chapter since the last comprehensive update 10 years ago.

This proposed rulemaking would affect approximately 7,100 storage tank owners at over 12,600 storage tank facilities. Industry sectors potentially affected by this proposed rulemaking include retail motor fuel sales, commercial, institutional, manufacturing, transportation, communications and utilities, and agriculture. Federal, State and local government operations would also be affected.

Tank installers and inspectors certified by the Department would likely have the capacity to provide the increased testing and inspections that would be required by this proposed rulemaking. Owners of existing storage tank systems would be provided with time frames in which to comply with certain requirements. Owners of new storage tank systems would need to comply with the requirements upon the effective date of adoption of this proposed rulemaking.

The Department worked with the Storage Tank Advisory Committee (STAC) during development of this proposed rulemaking. The STAC, which was established by section 105 of the act (35 P.S. § 6021.105), consists of persons representing a cross-section of organizations having a direct interest in the regulation of storage tanks in this Commonwealth. As required under section 105 of the act, the STAC has been given the opportunity to review and comment on the draft proposed annex. Initially, STAC members were provided with the opportunity to review Department concepts and present concepts that they would like to see incorporated into Chapter 245. This occurred at the December 8, 2015, and June 7, 2016, meetings. The STAC was also afforded the opportunity to review and discuss draft proposed regulatory language at the December 6, 2016, and March 7, 2017, meetings. On March 7, 2017, the STAC voted to unanimously support the amendments and recommended that the Board consider the amendments for publication as a proposed rulemaking. A listing of STAC members and minutes of STAC meetings are available on the Department's web site at www.dep.pa.gov (select "Public Participation," then "Advisory Committees") and may also be obtained from Kris Shiffer, whose contact information appears in Section B of this preamble. The Citizens Advisory Council was kept apprised of developments in the regulatory process on a monthly basis.

E. Summary of Regulatory Requirements

Subchapter A. General provisions

General

§ 245.1. Definitions

Definitions of the following terms are proposed to be amended to provide clarity and to correct errors: "aboveground storage tank," "cathodic protection tester," "certified inspector," "certified installer," "containment structure or facility," "de minimis," "existing underground storage tank system," "hazardous substance storage tank system," "minor modification," "reconstruction," "regulated substance," "release detection," "removal from service," "storage tank system" and "tank handling activities." For example, the current definition of "removal from service" implies that these activities only apply to UST systems. The proposed amendment clarifies that the term applies to AST systems as well.

Proposed amendments to the definition of "certification categories" include the new certification category "underground storage tank system minor modification."

The definitions of "motor fuel," "pipeline facilities (including gathering lines)" and "underground storage tank" are proposed to be amended to be consistent with the Federal definitions in 40 CFR 280.12 (relating to definitions).

The definition of "underground storage tank" is proposed to be amended by deleting two exclusions and modifying several other exclusions. The exclusions proposed to be deleted relate to tanks containing radioactive materials or coolants that are regulated under the Atomic Energy Act of 1954 (42 U.S.C.A. §§ 2011—2266) and a UST system that is part of an emergency generator system at nuclear power generation facilities regulated by the United States Nuclear Regulatory Commission (NRC) under 10 CFR Part 50, Appendix A (relating to general design criteria for nuclear power plants). The exclusion for a wastewater treatment tank system is proposed to clarify that the exclusion only applies to systems regulated under section 307(b) or 402 of the Clean Water Act (33 U.S.C.A. §§ 1317(b) and 1342) to be consistent with 40 CFR 280.10(b)(2) (relating to applicability). USTs that would be regulated as a result of these proposed amendments would need to meet the same requirements that all other regulated UST systems must meet. However, with regard to Subchapter E (relating to technical standards for underground storage tanks), certain requirements would not apply.

Proposed amendments to the definition of "release" clarify that all releases into a containment structure or facility pose an immediate threat of contamination of soils, subsurface soils, surface water or groundwater. The only exception would be a release of a regulated substance into a liquid-tight containment sump or emergency containment structure as a result of a tank handling activity, if the certified installer providing direct onsite supervision has control over the regulated substance, the regulated substance is completely contained and, prior to the certified installer leaving the storage tank facility, the total volume of the regulated substance is recovered and removed. Examples include gasoline released as a result of the replacement, removal or disconnection of a piping fitting or section of piping, such as a flexible connector, or replacement or removal of a submersible pump manifold assembly.

The definition of "aboveground storage tank system" is proposed to be added to be consistent with the fact that

the definition of “underground storage tank system” already exists and the definition of “tank system” as it pertains to AST system requirements currently exists.

The definition of “containment sump” is proposed to be added as certain containment sumps are subject to the periodic testing requirements in proposed § 245.437 (relating to periodic testing). The proposed definition is consistent with the Federal definition in 40 CFR 280.12.

The definition of “environmental covenant” is proposed to be added because the term is used in § 245.311(a)(12) (relating to remedial action plan). This proposed definition is the same as the definition in 27 Pa.C.S. § 6502 (relating to definitions) and Chapter 253 (relating to administration of the Uniform Environmental Covenants Act).

The definition of “repair” is proposed to be added to clarify that a repair means to restore a storage tank system component, which has failed to function properly, to its original operating condition. The proposed definition is consistent with the Federal definitions in 40 CFR 280.12.

The definition of “spill prevention equipment” is proposed to be added as spill prevention equipment is subject to the periodic testing requirements in proposed § 245.437.

The definition of “actively involved” is proposed to be deleted as the term is no longer used in §§ 245.111 and 245.113 (relating to certified installer experience and qualifications; and certified inspector experience and qualifications).

The definition “interim certification” is proposed to be deleted as the Department no longer grants interim certification to installers and inspectors of storage tank systems.

The definition “reportable release” is proposed to be deleted as all releases shall be reported to the Department with the exception of those releases described in proposed § 245.305(i) (relating to reporting releases).

Tank handling and inspection activities

§ 245.21. Tank handling and inspection requirements

Proposed minor amendments clarify the requirements in this section.

Testing activities

§ 245.31. Underground storage tank system testing requirements

The heading of this section is proposed to be amended to address general UST system testing requirements. Current subsection (b) is proposed to be deleted. The circumstances as to when tightness testing is required to be conducted are addressed in Subchapter E. Current subsection (b)(2) is no longer applicable as installation of single wall USTs are no longer permitted. Proposed subsection (f) states that tests or evaluations of spill prevention and overfill prevention equipment, containment sumps and release detection equipment required under this chapter would be performed by a Department-certified individual holding the appropriate certification and documented on a form provided by the Department. Proposed subsection (f) further states that the test or evaluation results would be maintained onsite at the storage tank facility or at a readily available alternative site and would be provided to the Department upon request.

Tank registration and fees

§ 245.41. Tank registration requirements

Proposed amendments to subsection (a) clarify that storage tank owners would be required to pay the appropriate storage tank registration fee prior to expiration of the current storage tank certificate. Proposed subsection (c)(8) would require that UST operator training information be provided with the storage tank registration form for the Department to consider the registration form to be complete. This is current Department policy that is proposed to be incorporated into regulation. Proposed subsection (h) is not a new requirement. This requirement is proposed to be moved from current § 245.423(e) (relating to registration requirements) so that all storage tank registration requirements are in one section.

§ 245.42. Tank registration fees

Proposed amendments to subsection (d) clarify that the Department will prorate the registration fee to reflect the percentage of time remaining in the registration year when ownership of a storage tank changes. Also, a proposed addition clarifies that the Department will not refund registration fees due to a change of ownership. This has been long-standing Department policy.

Subchapter B. Certification program for installers and inspectors of storage tanks and storage tank facilities

General certification requirements

§ 245.102. Requirement for certification

The date is proposed to be deleted from subsection (d) as it has passed and is no longer relevant.

§ 245.105. Certification examinations

Subsection (d) is proposed to be amended to clarify that the technical and administrative examinations are separate examinations. Proposed subsection (f) clarifies that passing examination scores are valid for 2 years from the date of the examination.

§ 245.106. Conflict of interest

This section is proposed to be amended to clarify when activities of a certified installer can result in a conflict of interest. Proposed subsection (c) would prohibit a certified inspector from performing an inspection as required under § 245.411 (relating to inspection frequency) for a facility where the inspector is also the designated Class A or Class B operator as defined in § 245.436 (relating to operator training).

§ 245.107. Reciprocity

This section is proposed to be rescinded. Since incorporation of this section into Chapter 245, no installer or inspector in this Commonwealth has been certified utilizing reciprocity because examinations conducted in other states do not test on the requirements in Chapter 245, which is a requirement for reciprocity.

§ 245.108. Suspension of certification

Subsection (a)(4)(iii) is proposed to be amended to add that certification may be suspended for failure to submit reports of modification inspection activities to the Department within 30 days of conducting a modification inspection activity. Proposed amendments to subsection (a)(6) clarify that a suspension can result from failing to maintain certification. Proposed amendments to subsection (a)(9) clarify when violation of certain environmental laws and regulations can result in suspension.

§ 245.110. *Certification of installers*

Subsection (b)(1) is proposed to be amended to add overfill prevention equipment evaluations, containment sump and spill prevention equipment testing, and release detection equipment testing to the list of activities that may be conducted by an installer certified to install and modify UST systems (UMX certification). These new periodic testing requirements would need to be conducted by UST owners under proposed § 245.437.

Proposed subsection (b)(2) adds a new certification category (UMI) for installers only certified to make minor modifications to UST systems. Installers certified under this category could also conduct overfill prevention equipment evaluations, containment sump and spill prevention equipment testing, and release detection equipment testing. Creation of this new certification category will afford UST owners with the opportunity to employ individuals who specialize in minor modifications only. In addition, these new installers will be available to assist UST owners in complying with the new periodic testing requirements under proposed § 245.437.

Certification for UST tightness testing (UTT certification) in proposed subsection (b)(4) (current subsection (c)) is proposed to be amended to add containment sump and spill prevention equipment testing, and release detection equipment testing, to the list of activities that may be conducted with this certification. These new periodic testing requirements would need to be conducted by UST owners under proposed § 245.437.

Other minor clarifications are proposed throughout this section.

§ 245.111. *Certified installer experience and qualifications*

Subsection (a) establishes the minimum experience, education, training or certification requirements and the required number of activities in the appropriate category for an initial installer category certification.

This subsection is proposed to be amended to add the requirements for the new UMI certification proposed in § 245.110 (relating to certification of installers). To qualify for this certification, a person would need to have: 2 years of experience or a college degree and 1 year of experience; successful completion of technical training; and documentation of the performance of ten minor modifications.

Certified installers with the UMX certification have expressed difficulty in achieving the requirement to conduct nine installations in the 3-year period immediately prior to submitting an application for certification because of the decline in the number of UST systems being installed. As a result, this subsection is proposed to be amended to allow UMX certification after ten installations or major modifications, provided the installer has a minimum of five installations. It is proposed that UMX certification can be obtained by having obtained UMI certification together with the proposed activity requirements.

To be consistent, the proposed amendments for UMX certification are also proposed for certification to install and modify aboveground manufactured metallic storage tanks (AMMX certification) and to install and modify aboveground nonmetallic storage tanks (AMNX certification).

The types of bachelor's degrees that can be substituted for experience in subsection (c) are proposed to be expanded to include hydrology, geology or the equivalent of

the degrees listed. The effective date in subsection (g) is proposed to be deleted as the date has passed and is no longer relevant.

§ 245.112. *Certification of inspectors*

Subsection (b)(1) is proposed to be amended to add containment sump and spill prevention equipment testing, and release detection equipment testing to the activities that may be conducted by a person certified to inspect UST systems and facilities (an IUM certified inspector). These new periodic testing requirements would need to be conducted by UST owners under proposed § 245.437.

§ 245.113. *Certified inspector experience and qualifications*

Proposed subsection (f) clarifies that corrosion protection training required for IUM certification would need to be documented by completion of a Nationally recognized training course in the area of cathodic protection or corrosion protection, or other training as approved by the Department.

Proposed subsection (j) requires certified inspectors of field constructed and manufactured ASTs (IAF certified inspectors) and certified inspectors of manufactured ASTs (IAM certified inspectors) to complete Department-provided inspector training prior to conducting AST installation, modification, in-service and out-of-service inspections. This would be similar to the current requirement for certified inspectors of USTs in proposed subsection (i) (current subsection (h)).

Other minor amendments are proposed to this section to clarify the requirements.

§ 245.114. *Renewal and amendment of certification*

Subsection (c) is proposed to be amended to provide the minimum training requirements for renewal of the new UMI certification category in this proposed rulemaking. In addition, all of the activity requirements that would no longer be applicable to renewal of installer certification are proposed to be deleted.

Current subsection (e) is proposed to be deleted because the deadline established has passed and the provision is no longer relevant.

Proposed subsection (e) (current subsection (f)) is proposed to be amended to clarify that inspector training is to be obtained within the 2 years prior to submission of an application for certification, and that inspector training would be provided by the Department. The compliance date in subsection (e)(1) is proposed to be deleted as it has passed and is no longer relevant.

Company certification

§ 245.121. *Certification of companies*

Proposed amendments to this section clarify that a company would not be allowed to perform the listed activities unless it holds a valid certification from the Department.

§ 245.123. *Suspension of company certification*

Proposed amendments to subsection (a)(4) clarify when a violation of certain environmental laws and regulations could result in suspension of a company's certification.

Standards of performance

§ 245.132. *Standards of performance*

Subsection (a)(2) is proposed to be amended to require that modification inspection reports be submitted to the

Department within 30 days of the inspection activity. The current requirement is to submit the report within 60 days from completion of the inspection. This proposed amendment shortens the length of time between submittal of the modification report (required within 30 days of completion of the modification) and the modification inspection report.

Subsection (a)(4) is proposed to be amended to clarify that certified companies, certified installers and certified inspectors would need to report to the Department a release of a regulated substance observed in a containment structure or facility while performing services as a certified installer or certified inspector. The details in subsection (a)(4) regarding the method and timing of reporting to the Department are clarified in proposed subsection (a)(6). The last two sentences of subsection (a)(4) are proposed to be deleted, as they pertain to notification of reportable releases in accordance with § 245.305. The definition of “reportable release” is proposed to be deleted and the proposed amendments to § 245.305 render these sentences unnecessary.

Proposed subsection (a)(5) requires certified companies, certified installers and certified inspectors to report to the Department failed tests of spill prevention equipment, containment sumps and overflow prevention equipment as required under Chapter 245. These reports would allow the Department to follow up with facility owners to make sure that faulty equipment and tank components are repaired or replaced.

Proposed subsection (a)(6) requires that written notification to the Department be provided upon: performing a failed test of spill prevention equipment, containment sumps and overflow prevention equipment; observing a release of a regulated substance; or observing a regulated substance in a containment structure or facility. This subsection also requires that copies of failed spill prevention equipment tests, containment sump tests and overflow prevention evaluations be provided to the Department with the notification report.

Current subsection (a)(6) and (7) is proposed to be deleted and restated in proposed subsection (c) as activities that certified companies and individuals are prohibited from performing.

Proposed subsection (b) clarifies that a company that employs an individual certified in certain categories under this chapter or an individual certified in the same categories would need to participate in the Tank Installer Indemnification Program (TIIP) as required under section 704(a)(1) of the act (35 P.S. § 6021.704(a)(1)), and need to provide timely payment of TIIP fees as required under section 705(d)(1) and (e) of the act (35 P.S. § 6021.705(d)(1) and (e)) and § 977.19(b) (relating to certified company fees).

Training approval

§ 245.141. Training approval

Proposed subsection (b)(5) would require an application for training approval to include other information such as copies of presentations, presenter notes, training handouts or references necessary for a determination that the training program conforms to the act and Chapter 245.

Subchapter C. Permitting of underground and above-ground storage tank systems and facilities

General

§ 245.203. General requirements for permits

Current subsections (c) and (d) are proposed to be deleted as they refer to activities that have already

occurred and are no longer applicable. The Department has taken final action on the permit applications that were requested in current subsection (c) or the Department has notified the persons that the tank systems are deemed permitted or that the permits were withheld or denied.

Proposed subsection (f) clarifies the various permit actions or nonactions by the Department that would prohibit a person from delivering or placing a regulated substance in a storage tank.

Proposed subsection (g) clarifies that the owner and operator of a storage tank system who causes or allows a violation of the act, Chapter 245, an order of the Department, a condition of a permit issued under the act or any other applicable law would be subject to enforcement action including suspension, modification or revocation of the permit.

Permits-by-rule

§ 245.211. Scope

This section is proposed to be rescinded because permits-by-rule are no longer necessary.

§ 245.212. Minimum requirements for obtaining a permit-by-rule

This section is proposed to be rescinded. The Department has issued operating permits for registered storage tanks and does not consider any storage tanks to be permitted by rule, so this provision is no longer necessary.

Operating permits

§ 245.221. Scope

This section is proposed to be rescinded as it refers to § 245.211 (relating to scope), which is also proposed to be rescinded.

§ 245.222. Application requirements

“General” in the term “general operating permit” is proposed to be deleted. “Operating permit” has been used by the Department when referring to the permit that shall be obtained prior to placing a storage tank in operation.

Paragraph (3) is proposed to be amended to clarify that the owners of large ASTs and large AST facilities are required to file Spill Prevention Response Plans with the Department. Subsection (3)(ii) is proposed to be deleted as tightness testing is not required for new AST systems to receive an operating permit.

Site-specific installation permits

§ 245.231. Scope

Subsection (a)(4) is proposed to be amended to clarify that new, field-constructed UST systems installed within a previously registered UST system do not require a site-specific installation permit.

Proposed subsection (d) clarifies that site-specific installation permits expire 5 years from the date of issuance unless the Department receives a written extension request from the owner prior to the expiration date and the Department grants an extension. Five years provides adequate time to complete construction or installation of

the storage tanks and register and receive operating permits for the storage tanks.

§ 245.232. *General requirements*

Subsection (b)(1) is proposed to be amended to clarify that the Spill Prevention Response Plan would need to include the proposed storage tank systems for the facility.

§ 245.233. *Mapping requirements*

Proposed subsection (a)(2) requires that the site-specific installation permit application contains maps and plans showing the location of the proposed storage tanks.

§ 245.234. *Siting requirements*

Subsection (a)(1) is proposed to be amended to clarify that the proposed installation of storage tank systems and facilities on 100-year floodplains or a larger area that the flood of record has inundated would be prohibited unless an industrial use on the proposed site was in existence as of August 5, 1989. Any industrial use would qualify and this use is not limited to that associated with the prior existence of regulated storage tanks.

Several proposed amendments clarify that the requirements apply to storage tank systems rather than tank systems.

§ 245.236. *Public notice*

Proposed amendments to this section assist owners of certain ASTs and facilities to identify the information that would need to be provided in the written notice to the local municipality and county in which the proposed AST or facility is to be located prior to submitting a site-specific permit application.

Subchapter D. Corrective action process for owners and operators of storage tanks and storage tank facilities and other responsible parties

§ 245.301. *Purpose*

This section is proposed to be amended to clarify that Subchapter D (relating to corrective action process for owners and operators of storage tanks and storage tank facilities and other responsible parties) establishes suspected release investigation requirements as opposed to release confirmation requirements for owners and operators of storage tank systems and storage tank facilities and other responsible parties.

§ 245.303. *General requirements*

Subsection (e)(1) is proposed to be amended to clarify that the Department may waive or combine one or more of the requirements in Subchapter D in the case of a release to a containment structure or facility that is shown to be liquid-tight.

§ 245.304. *Investigation of suspected releases*

Subsection (a)(1) is proposed to be amended to clarify that the presence of a regulated substance or an unusual level of vapors from a regulated substance outside of storage tank system components designed to routinely contain or convey product, at or near a storage tank facility, would be a suspected release that would need to be investigated.

Subsection (a)(5) is proposed to be amended to clarify that the sounding of an alarm from a release detection method would be a suspected release that would need to be investigated.

Subsection (a)(6) is proposed to be amended to clarify that damage to a storage tank system which occurs

during activities such as inspection, repair or removal from service would be a suspected release that would need to be investigated.

Subsection (b)(6) is proposed to be amended to clarify that the sampling and analysis conducted in response to a suspected release may need to include subsurface soil and backfill, vapor and water, in addition to soil and groundwater. In addition, samples would need to be taken from locations where contamination from a release would most likely be present.

Subsection (c) is proposed to be amended to delete references to "reportable release" as the use and definition of this term is proposed to be deleted. All releases would need to be reported to the Department with the exception of those releases described in proposed § 245.305(i).

Current subsection (d) is proposed to be deleted as releases that do not have to be reported to the Department are addressed in proposed § 245.305(i).

§ 245.305. *Reporting releases*

Current subsection (b) is proposed to be deleted as releases that do not have to be reported to the Department are addressed in proposed § 245.305(i).

Proposed subsection (b) (current subsection (c)) is proposed to be amended to clarify that the notice required of the owner to report releases would also need to include the cause of the release.

Proposed subsection (e) (current subsection (f)) is proposed to be amended to clarify that the written notice required of the owner to report releases shall be provided on a Department-provided form.

Proposed subsection (g) (current subsection (h)) is proposed to be amended to clarify that the owner or operator of an AST facility would be subject to the notification requirements in this subsection only if the aggregate aboveground storage capacity is greater than 21,000 gallons.

Proposed subsection (i) specifically identifies those releases that do not require reporting to the Department and further corrective action, provided certain criteria are met. The criteria are as follows: 1) the owner or operator has control over the release; 2) the release is completely contained; 3) the total volume of the release is recovered and removed within 24 hours of the release; and 4) any defective storage tank system component that caused or contributed to the release is properly repaired or replaced.

Provided all four of these criteria would be met, the following release situations would not be required to be reported to the Department: 1) a release of petroleum to an aboveground surface, including within an emergency containment structure, that is less than 25 gallons; 2) a release of a hazardous substance to an aboveground surface, including within an emergency containment structure, that is less than its reportable quantity under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C.A. §§ 9601—9675) and 40 CFR Part 302 (relating to designation, reportable quantities, and notification); and 3) a release to a liquid-tight containment sump used for interstitial monitoring of piping in accordance with § 245.444(6) (relating to methods of release detection for tanks).

If any other release situation occurs, or if one of the previous three release situations occurs, but all four of the previous criteria are not met, the release would need

to be reported. Some examples of release situations that would need to be reported to the Department and that would require further corrective action include: 1) an accidental release of 5 gallons of gasoline from a dispenser nozzle at a retail service station to a highly weathered and cracked asphalt or concrete surface that prohibits total recovery of the released product; 2) an overflow of 20 gallons of diesel fuel during delivery that results in some product reaching a nearby storm sewer—therefore, the release has not been controlled, contained and cannot be completely recovered; 3) a release to a liquid-tight containment sump that is not used for interstitial monitoring of piping; and 4) a release to the interstitial space of a double-walled AST or UST.

§ 245.306. *Interim remedial actions*

Proposed subsection (e) would require a responsible party to notify the Department by telephone or e-mail as soon as practicable, but no later than 24 hours, after the initiation of interim remedial actions. For releases associated with USTs, 40 CFR 280.62 (relating to initial abatement measures and site check) does not require the initiation of initial abatement measures to be reported, but does require a report to be submitted within 20 days after release confirmation summarizing the initial abatement steps taken. Proposed subsection (e) differs from the Federal regulation by proposing to require notification when an interim remedial action is initiated. The notice will allow the Department to monitor early actions taken to clean up a release of contaminants. These initial corrective actions are extremely important in limiting the complexity of the release, the amount of corrective action that shall be undertaken and the ultimate cost of the corrective action.

§ 245.307. *Affected or diminished water supplies*

Proposed subsection (e) requires that a responsible party notify the Department within 24 hours of providing an alternate source of water to the owner of the affected or diminished water supply. This subsection will allow the Department to monitor corrective actions involving affected or diminished water supplies and to assure that responsible parties are complying with the requirements to provide temporary and permanent water supplies. Part 280 of 40 CFR does not address providing alternate water supplies to affected water supply owners. However, section 1303 of the act (35 P.S. § 6021.1303) specifically authorizes the Department to adopt regulations for the protection of any source of water for present or future supply to the public or other legitimate use.

§ 245.309. *Site characterization*

This section is proposed to be amended to clarify the site characterization requirements. The substantive requirements remain the same.

Current subsection (c)(22), which allows for recommendation for further site characterization work, is proposed to be deleted. As stated in proposed subsection (c)(23), any additional tasks necessary to meet the objectives of the site characterization should be performed to complete the site characterization process. The site characterization process is to result in the submission of a complete site characterization report that addresses all necessary tasks performed during the site characterization and should not need to discuss further site characterization work.

Proposed subsection (c)(24) requires the responsible party to notify the Department by telephone or e-mail as soon as practicable, but no later than 24 hours, after the initiation of site characterization activities. These activi-

ties should be initiated concurrent with the implementation of interim remedial actions. This paragraph would assure the Department that responsible parties are proceeding with the required site characterization tasks. Too often responsible parties delay the implementation of site characterization activities and find themselves requesting an extension to submit the site characterization report. The proposed amendments should encourage responsible parties to initiate site characterization earlier and significantly reduce the site characterization report extension requests submitted to the Department. Part 280 of 40 CFR does not include a notification provision. However, 40 CFR 280.63(b) and 280.64(d) (relating to initial site characterization; and free product removal) require that owners and operators submit an initial site characterization report and a free product removal report within 45 days of release confirmation, respectively. The Department is not proposing incorporation of these Federal regulatory provisions.

§ 245.310. *Site characterization report*

The section is proposed to be amended to clarify the requirements. The proposed amendments are not substantive changes. The proposed amendments correspond to similar proposed amendments to § 245.309 (relating to site characterization), as the site characterization report describes the activities undertaken during the site characterization.

Subsection (c)(6), which provides for Department review of the site characterization report without further action, is proposed to be deleted. The Department expects to take action upon review of all site characterization reports submitted under subsection (c).

§ 245.311. *Remedial action plan*

The requirement in subsection (a)(2) which requires submission of a copy of the plan relating to worker health and safety is proposed to be deleted because the Department does not need to review the worker health and safety plan.

Subsection (a)(12) is proposed to be amended to clarify that the description of the proposed postremediation care requirements should include the proposed activity and use limitations to be implemented under an environmental covenant. “Environmental covenant” is proposed to be defined in § 245.1 (relating to definitions) consistent with 27 Pa.C.S. Chapter 65 (relating to Uniform Environmental Covenants Act) and Chapter 253.

Proposed subsection (a)(14) would require the responsible party to provide a description of any water supply that remains affected or diminished, the replacement system that was provided, the analytical results of samples taken and any maintenance or monitoring that would be required to ensure its functionality until the supply is no longer affected or diminished.

Under proposed amendments to subsections (b) and (c), the Department would publish an acknowledgment of receipt of the remedial action plan in the *Pennsylvania Bulletin*. Section 280.67(a) of 40 CFR (relating to public participation) also requires that notice to the public be provided for each confirmed release requiring a corrective action plan.

Existing subsections (b)(6) and (c)(6), which provide for Department review of the remedial action plan without further action, are proposed to be deleted. The Department expects to take action upon review of all remedial action plans submitted under subsections (b) and (c). Proposed subsections (b)(6) and (c)(6) provide the Depart-

ment with the option to publish a notice of its final action on the remedial action plan in the *Pennsylvania Bulletin*.

§ 245.312. *Remedial action*

Proposed amendments to subsection (c)(4) add that the quantitative analytical results from a replacement water supply system would also be provided with each remedial action progress report.

Proposed subsection (c)(10) would require each remedial action progress report to include a summary of data collected from any water supply that remains affected or diminished, and any maintenance performed.

Subsection (d) currently provides that the first remedial action progress report shall be received by the Department 3 months following the date of remedial action plan implementation. This subsection is proposed to be amended to allow the first remedial action progress report to be received by the Department at an alternative interval. In determining this interval, the Department would consider the nature, extent, type, volume or complexity of the release.

Subsection (f) provides the responsible party with the ability to suspend implementation of the current remedial action plan should continued implementation of the plan cause additional environmental harm. Proposed subsection (g) would provide the Department with the authority to require suspension of the remedial action, if during implementation of the remedial action plan the Department determines that the remedial action plan will not attain the selected remediation standard or will cause additional environmental harm.

§ 245.313. *Remedial action completion report*

Proposed subsection (b)(1) would require the remedial action completion report to contain data demonstrating that the remedial actions have attained the selected standard for the site in accordance with Chapter 250, Subchapter G (relating to demonstration of attainment).

Proposed amendments to proposed subsection (b)(3) and (4) (current subsection (b)(2) and (3)) correct citations to Chapter 250 (relating to administration of land recycling program).

Proposed amendments to subsection (c) provide that the Department would publish an acknowledgment of receipt of the remedial action completion report in the *Pennsylvania Bulletin*.

Current subsection (c)(6), which provides for Department review of the remedial action completion report without further action, is proposed to be deleted. The Department will take action upon review of all remedial action completion reports submitted under subsection (c). Proposed subsection (c)(6) would allow the Department to publish a notice of its final action on the remedial action completion report in the *Pennsylvania Bulletin*.

Subchapter E. Technical standards for underground storage tanks

General

§ 245.402. *Scope*

This section is proposed to be amended to clarify that this subchapter applies to storage tank systems.

§ 245.403. *Applicability*

Previously, UST systems that stored fuel solely for use by emergency power generators were deferred from complying with the release detection requirements in §§ 245.441—245.446 (relating to release detection). Sec-

tion 280.10(a)(1)(ii) and (iii) of 40 CFR, which became effective on October 13, 2015, removed the release detection deferral. Therefore, current subsection (b) is proposed to be deleted. Proposed subsection (b) would require UST systems installed after the effective date of adoption of this proposed rulemaking to meet the release detection requirements at installation. Existing UST systems are afforded 1 year or 2 years to meet the release detection requirements depending on the date of installation. This will provide UST owners with the necessary time to decide which release detection method they wish to utilize, or if they wish to permanently close the UST and possibly replace it with an AST.

The Department has not required, as a matter of policy, that existing underground field-constructed storage tanks installed on or before October 11, 1997, comply with Chapter 245. See Policy for Existing Field-Constructed Hazardous Substance Underground Storage Tanks at Facilities Regulated under the Safe Drinking Water Act, DEP 263-2320-001. The Department intends to rescind this policy. Underground field-constructed storage tanks were previously deferred from Federal regulation. However, as of October 13, 2015, underground field-constructed storage tanks are now regulated in accordance with 40 CFR 280.10(a)(1)(i). Therefore, proposed subsection (d) (current subsection (c)), states that underground field-constructed storage tanks will now be regulated under Chapter 245, but subject to some temporary exclusions. Under proposed subsection (d), owners of existing and previously exempt underground field-constructed storage tanks will have 30 days to register their storage tanks and 1 year from the effective date of adoption of this proposed rulemaking to meet the requirements in §§ 245.421, 245.422, 245.431, 245.432, 245.437 and 245.441—245.446. In addition, owners of existing USTs that meet the requirements in proposed subsection (c) will have 30 days to register their storage tanks.

The definition of “underground storage tank” is proposed to be amended to delete the exclusions for tanks containing radioactive materials or coolants that are regulated under The Atomic Energy Act of 1954 and UST systems that are part of emergency generator systems at nuclear power generation facilities regulated by the NRC under 10 CFR Part 50, Appendix A. In addition, the exclusion for a wastewater treatment tank system is proposed to be amended consistent with the Federal regulations to apply only to a wastewater treatment tank system that is part of a wastewater treatment facility regulated under section 307(b) or 402 of the Clean Water Act. USTs that become regulated as a result of these proposed amendments would need to meet the same requirements that all other regulated UST systems must meet. However, with regard to Subchapter E, UST owners will not need to comply with §§ 245.411, 245.421(b)(3), 245.421(b)(4)(ii) and (iii), 245.422(d), 245.432(g) and 245.436—245.446.

USTs containing radioactive material and emergency generator UST systems at nuclear power generation facilities regulated by the NRC are subject to United States Department of Energy orders and NRC regulations that are comparable to the Chapter 245 requirements for new and existing USTs regarding spill and overflow control and operation and maintenance of corrosion protection. Since owners and operators of these UST systems had to meet Federal UST regulations dating back to 1988 that require systems to be designed and constructed to prevent releases during the operating life of the facility due to

corrosion or structural failure, these systems should already be in compliance with most of the Chapter 245 requirements.

Inspections

§ 245.411. Inspection frequency

Current subsections (b)(1) and (3) and (c)(2) are proposed to be deleted as the deadlines for these requirements have passed and they are no longer applicable. The heading of subsection (c) is proposed to be amended from “subsequent routine facility inspections” to “subsequent inspections.” The heading of subsection (d) is proposed to be amended from “additional inspections and mandatory training” to “training” and clarify that UST owners and operators found through inspection to have violations that result in failure to meet EPA guidelines for significant operational compliance, as determined by the Department, shall be retrained in a manner consistent with the Department’s technical document “Underground Storage Tank Class A and Class B Operator Training Courses.”

Underground storage tank systems: design, construction, installation and notification

§ 245.421. Performance standards for underground storage tank systems

Subsection (a)(2) is proposed to be amended to clarify that owners and operators would be required to notify the Department of the proposed installation of specific storage tank system components such as the piping system and dispenser, and not just when a storage tank or storage tank system is being installed.

Subsection (a)(3) is proposed to be amended to clarify that a Department-certified installer, not an inspector, would need to certify that UST systems changing from unregulated to regulated service meet new UST system requirements.

Subsection (b)(1)(iii) is proposed to be amended to be consistent with 40 CFR 280.20(a)(3) (relating to performance standards for new UST systems).

Subsection (b)(2) is proposed to be amended to be consistent with the Federal definition of “replaced” in 40 CFR 280.12, but is not expected to result in a substantive change.

Subsection (b)(3)(i) is proposed to be amended to require that spill and overfill prevention equipment be permanently installed to facilitate the periodic testing that would be required under proposed § 245.437.

Subsection (b)(3)(i)(B)(III) is proposed to be deleted because equipment to prevent tank overfilling meeting these requirements is not able to be routinely verified in a practical manner and no facilities are currently known to be using this option. In 1991, the EPA finalized a minor technical amendment to the Federal UST regulation in 40 CFR 280.20(c)(1)(ii)(C) allowing overfill prevention equipment to be used closer to the tops of larger tanks when certain minimum levels of performance can be achieved. The Board is interested in comments from any facilities that have installed equipment that meets the requirements in subsection (b)(3)(i)(B)(III) and the testing procedures used to evaluate the effectiveness of the equipment.

Current subsection (b)(3)(iii) is proposed to be renumbered as subsection (b)(3)(iv) and amended to clarify that the prohibition applies to existing ball float valves. Proposed subsection (b)(3)(iii) would prohibit the use of ball float valves when overfill prevention equipment is installed or replaced after the effective date of adoption of

this proposed rulemaking. This proposed amendment is consistent with 40 CFR 280.20(c)(3). This proposed amendment reduces the frequency of UST releases due to operability issues, addresses system safety concerns and addresses personnel safety concerns.

Proposed subsection (b)(3)(v) requires that the newly proposed spill and overfill prevention equipment tests would need to be documented on a form provided by the Department and would need to be maintained onsite at the storage tank facility or at a readily available alternative site. This proposed amendment is consistent with 40 CFR 280.34 (relating to reporting and recordkeeping).

The language pertaining to ball float valves in subsection (b)(4)(iii) is proposed to be deleted as ball float valves would be prohibited from being installed after the effective date of adoption of this proposed rulemaking.

Subsection (c) is proposed to be deleted as duplicative because owners and operators are required to provide the certification of installation by a certified installer under the tank registration requirements in § 245.41 (relating to tank registration requirements).

Other minor amendments are proposed to this section to clarify the requirements.

§ 245.422. Upgrading of existing underground storage tank systems

Existing subsection (b)(2)(ii) and (iii) is proposed to be deleted as the time frames associated with these provisions have passed and they are no longer applicable to cathodic protection upgrades.

Subsection (e) is proposed to be amended to clarify that when an existing dispenser is replaced with another dispenser, and equipment at or below the shear valve needed to connect the dispenser to the UST system is replaced, under-dispenser containment is required. Equipment is clarified to mean check valves, shear valves, vertical risers, flexible connectors or other transitional components. This is consistent with 40 CFR 280.20(f).

Other minor amendments are proposed to this section to clarify the requirements.

§ 245.423. Registration requirements

This section is proposed to be rescinded because it is duplicative of storage tank registration requirements in § 245.41.

General operating requirements

§ 245.432. Operation and maintenance including corrosion protection

Subsection (a) is proposed to be amended to clarify that corrosion protection requirements would apply until the UST system is permanently closed or undergoes a change-in-service.

Proposed subsection (a)(2)(iii) requires owners and operators to document surveys of cathodic protection systems on a form provided by the Department and provide the forms to the Department upon request. This proposal is consistent with 40 CFR 280.34.

Subsection (f) is proposed to be amended to clarify that, in addition to primary and secondary containment structures, containment sumps and spill prevention equipment would need to be maintained in a leak-free condition. This subsection is also proposed to be amended to clarify that if any liquid (for example, water) or regulated substance is detected, the liquid or regulated substance would need to be immediately removed.

Other minor amendments are proposed to this section to clarify the requirements.

§ 245.433. *Compatibility*

Subsection (a) is proposed to be amended to delete language that references specific codes of practice regarding material compatibility as this language is duplicative of § 245.405 (relating to codes and standards).

Proposed subsection (b) requires an owner and operator of a UST storing alternative fuel blends or biodiesel or biodiesel blended fuel to provide information to the Department, on a form provided by the Department, verifying compatibility with all UST system components. This proposed amendment would codify the Department's current practice.

Proposed subsection (c) requires an owner and operator of a UST system to demonstrate, upon Department request, the compatibility of the UST system with the material being stored by using one or more of the options listed. This proposed amendment is consistent with 40 CFR 280.32(b)(1) (relating to compatibility).

§ 245.434. *Repairs allowed*

Current paragraph (3) is proposed to be deleted because it could be interpreted to mean that repairs made to underground fiberglass reinforced plastic tanks by a manufacturer's authorized representative do not require direct, onsite supervision and control of a certified installer. Supervision and control is required, as stated in paragraph (1). This proposed deletion will eliminate confusion.

Proposed paragraph (4) (current paragraph (5)) is proposed to be amended to specifically address how repairs to secondary containment areas of tanks and piping, containment sumps and spill prevention equipment would be tested. This proposed amendment is consistent with 40 CFR 280.33(d) (relating to repairs allowed). The exception to tightness testing in current paragraph (5)(ii) when the repaired portion of the UST system can be monitored monthly for releases is proposed to be deleted. This option is allowed under 40 CFR 280.33(d)(2). However, most manufacturer's specifications and Nationally recognized codes of practice recommend tightness testing of the UST system to determine competency prior to placing product in the UST system.

§ 245.435. *Reporting and recordkeeping*

Proposed amendments to this section clarify the requirements and delete the distinction between permanent and temporary records, as that distinction is no longer relevant. The reporting requirements in existing subsection (b)(1) are proposed to be moved to proposed subsection (c) and the recordkeeping requirements in existing subsection (b)(2) are proposed to be moved to proposed subsection (d). The list of records to be maintained are proposed to be consolidated into one list and several records are proposed to be added to the list.

Proposed subsection (d)(9) requires that owners and operators maintain documentation showing that their UST systems are continuously participating in the Underground Storage Tank Indemnification Fund (USTIF). In the event of a release at the facility, this information will be necessary to prove eligibility for payment of a USTIF claim.

New requirements are being proposed relating to periodic testing (proposed § 245.437) and periodic operation and maintenance walkthrough inspections (§ 245.438 (relating to periodic operation and maintenance walkthrough

inspections)). New reporting and recordkeeping requirements are proposed to be added to § 245.435 (relating to reporting and recordkeeping) regarding the proposed periodic testing and inspection requirements.

Proposed subsection (d)(19) requires that documentation of the last test of spill prevention equipment and containment sumps and evaluations of overflow prevention equipment conducted to meet the periodic testing requirements in proposed § 245.437 be maintained. This proposed amendment is consistent with 40 CFR 280.34(b)(5).

Proposed subsection (d)(20) requires that documentation of periodic testing conducted under proposed § 245.437(a)(1)(i) be maintained. This documentation would need to show that the containment sump and spill prevention equipment are double-walled and that the integrity of both walls is periodically monitored in accordance with proposed § 245.438(a)(1)(i). This proposed amendment is consistent with 40 CFR 280.34(b)(5).

Proposed subsection (d)(21) requires that records of maintenance walkthrough inspections as required under proposed § 245.438 be maintained for the past 12 months. Records would need to include a list of each area checked, whether each area checked was acceptable or needed action taken, a description of actions taken to correct an issue and delivery records if spill prevention equipment is checked less frequently than every 30 days due to infrequent deliveries. This proposed amendment is consistent with 40 CFR 280.34(b)(6).

Proposed subsection (d)(22) clarifies that documentation of investigations of suspected releases in accordance with § 245.304 (relating to investigation of suspected releases) be maintained. This documentation shall be maintained for the operational life of the storage tank system and retained for a minimum of 1 year after the storage tank system has been permanently closed.

Other minor amendments are proposed to this section to clarify the requirements.

§ 245.436. *Operator training*

Subsection (a)(2) is proposed to be amended by deleting the date as it has passed and as it is no longer relevant.

Subsection (a)(3)(ii) is proposed to be amended to clarify that storage tank facilities required to have an onsite Class C operator must have emergency contact information and written instructions and procedures in the event of an emergency immediately available upon request.

Subsection (a)(3)(iii) is proposed to be amended to clarify that, for storage tank facilities that do not dispense motor fuel for retail sales to the general public, emergency contact information and written instructions and procedures in the event of an emergency would need to be prominently displayed at the site and visible to the storage tank user.

Current subsection (a)(4) is proposed to be deleted as the date for compliance has passed and it is no longer applicable.

Subsection (b)(1)(iv) is proposed to be amended to add that Department-certified installers and inspectors with a current UMI certification may perform Class A operator duties when employed or contracted by the tank owner to perform these functions.

Subsection (b)(2)(iv) is proposed to be amended to add that Department-certified installers and inspectors with a current UMI certification may perform Class B operator duties when employed or contracted by the tank owner to perform these functions.

Subsection (b)(3)(i)—(iii) is proposed to be deleted. The provision in subparagraph (i) authorizing a Class C operator to control or monitor the dispensing or sale of regulated substances is proposed to be incorporated into subsection (b)(3). The provision in subparagraph (ii) pertaining to written instructions and procedures is proposed to be incorporated into subsection (a)(3)(ii) and (iii). Subsection (b)(3)(iii) is proposed to be deleted because the requirements regarding Class C operator availability at a storage tank facility are addressed in subsection (a)(3) and this provision is unnecessary.

Subsection (c)(3) is proposed to be amended to clarify that training provided by the tank owner or Class A or Class B operator to the Class C operator would need to be specific to the facility and enable the Class C operator to take action in response to emergencies.

Subsection (c)(5), regarding reciprocity of training, is proposed to be deleted. While other states may provide training consistent with the Federal regulations, the Department has determined that training specifically pertaining to Chapter 245 is necessary for Class A and Class B operators in this Commonwealth, and other state training courses do not provide this training.

Subsection (d)(1) is proposed to be amended to require the owner to identify Class A, Class B and Class C operators on a form provided by the Department prior to placing the UST system into use, which is the Department's current practice.

Subsection (e)(2) and (3) is proposed to be amended to delete "manned" and "unmanned" in describing a facility and instead referring to a facility that does or does not dispense motor fuel for retail sales to the general public.

§ 245.437. Periodic testing

This section is proposed to be added to be consistent with 40 CFR 280.35 (relating to periodic testing of spill prevention equipment and containment sumps used for interstitial monitoring of piping and periodic inspection of overfill prevention equipment).

Subsection (a)(1) is proposed to require owners and operators to ensure that containment sumps used for interstitial monitoring of piping and spill prevention equipment are tested once every 3 years to ensure they are liquid-tight. If the containment sump and spill prevention equipment are double-walled, the integrity of both walls shall be periodically monitored consistent with the maintenance walkthrough inspections proposed in § 245.438 instead of testing the equipment once every 3 years.

Subsection (a)(2) would require owners and operators to ensure that overfill prevention equipment would be evaluated at least once every 3 years to ensure that the equipment is set to activate at the correct level and would activate when the regulated substance stored reaches that level.

Subsection (a)(3) would require owners and operators to ensure that electronic and mechanical components of release detection equipment be tested for proper operation at least annually. The required tests would apply to automatic tank gauges (ATG) and other controllers, probes and sensors, automatic line leak detectors, vacuum pumps and pressure gauges, and hand-held electronic sampling equipment associated with groundwater and vapor monitoring.

Subsection (b) sets forth the criteria under which the required tests and evaluations would be performed.

Subsection (c) proposes the dates by which owners and operators would need to ensure that the periodic testing requirements are met.

Subsection (c)(1) proposes that, for UST systems installed on or before the effective date of adoption of this proposed rulemaking, the tests and inspections would need to be conducted prior to the next required UST inspection due date occurring after 1 year from the effective date of adoption of this proposed rulemaking or not later than 3 years after the effective date of adoption of this proposed rulemaking, whichever occurs first. So, if the effective date of adoption of this proposed rulemaking would be January 1, 2019, the first facility tests and inspections would need to occur prior to the next required UST facility inspection occurring between January 1, 2020, and January 1, 2022. Subsection (c)(2) would establish that for UST systems installed after the effective date of adoption of this proposed rulemaking, the periodic testing requirements in this section would apply at installation.

Subsection (d) would require that the liquids used to perform the periodic tests be reused, treated or disposed of in accordance with applicable requirements in Chapters 91, 92a, 260a—270a and 287—299. In addition, the Department plans to develop technical guidance for owners and operators of storage tank facilities to follow to ensure test liquids are reused, treated or disposed of properly.

§ 245.438. Periodic operation and maintenance walkthrough inspections

This section is proposed to be added and is consistent with 40 CFR 280.36 (relating to periodic operation and maintenance walkthrough inspections).

Subsection (a) would require owners and operators to conduct maintenance walkthrough inspections of spill prevention and release detection equipment for UST systems a minimum of every 30 days beginning not later than 1 year after the effective date of adoption of this proposed rulemaking. For spill prevention equipment associated with UST systems receiving deliveries at intervals greater than every 30 days, the owners and operators could conduct maintenance walkthrough inspections prior to each delivery.

Subsection (b) would require owners and operators to conduct maintenance walkthrough inspections of containment sumps and handheld release detection equipment for UST systems a minimum of every 12 months beginning not later than 1 year after the effective date of adoption of this proposed rulemaking.

Subsection (c) would set forth the criteria under which the operation and maintenance walkthrough inspections would need to be performed.

Release detection

§ 245.441. General requirements for underground storage tank systems

The table of release detection methods in subsection (a)(3) is proposed to be deleted as the dates for compliance have passed and it is no longer applicable.

With the proposed periodic testing and operation and maintenance walkthrough inspection requirements in proposed §§ 245.437 and 245.438, respectively, the current requirement to monitor containment sumps and dispenser pan sumps on a monthly basis in subsection (e) is proposed to be deleted as unnecessary.

§ 245.442. *Periodic monitoring requirements for petroleum underground storage tank systems*

The heading of this section is proposed to be amended to clarify this section is related to monitoring for releases of petroleum UST systems.

Subsection (a) is proposed to be amended to clarify the existing requirements regarding the methods and frequency of release detection monitoring for petroleum UST systems and underground piping.

Subsection (b)(1) is proposed to be amended to allow the use of any of the release detection methods in § 245.444, as proposed to be amended, when monitoring for release detection in tanks every 30 days as currently required. Subsection (b)(1)(i)—(iv) is proposed to be deleted because the established time frames have passed or these requirements are no longer necessary since the release detection methods available for use have been expanded.

§ 245.443. *Requirements for hazardous substance underground storage tank systems*

This section is proposed to be amended to set forth and distinguish between the release detection requirements for hazardous substance UST systems installed on or before November 10, 2007, and those hazardous substance storage tank systems installed after November 10, 2007.

§ 245.444. *Methods of release detection for tanks*

This section is proposed to be amended to clarify that the release detection methods provided for tanks would meet the requirements in §§ 245.441 and 245.442 (relating to general requirements for underground storage tank systems; and periodic monitoring requirements for petroleum underground storage tank systems). The inventory control method of release detection for tanks in paragraph (1) is proposed to be deleted because the time frame for this method's continued use has passed. An end date for this method's continued use was established at 37 Pa.B. 5979 (November 10, 2007).

The manual tank gauging method of release detection in proposed paragraph (1) (current paragraph (2)) is proposed to be amended to clarify in paragraph (1)(v) that this method would no longer be available for USTs of greater than 1,000 gallons nominal capacity. Tanks of this size would need to use another method because of the potential for a substantial release using the manual tank gauging method. The requirements pertaining to tank capacities of 1,001 to 2,000 gallons is also proposed to be deleted from the table in paragraph (1)(iv).

The automatic tank gauging method in proposed paragraph (3) (current paragraph (4)) is proposed to be amended to delete the reference to the inventory control method currently in paragraph (1) as that method is proposed to be deleted and the time frame for use of this method has passed.

The statistical inventory reconciliation (SIR) method for release detection in proposed paragraph (7) (current paragraph (8)) is proposed to be amended by deleting subparagraph (ii)(A), which requires that reports be available within 20 days of the end of the monitored period. Owners and operators of USTs using SIR to meet the tank release detection requirement shall determine the leak status of their USTs within the 30-day monitoring period. The EPA established the 30-day monitoring period in the 1988 Federal UST regulations and reconfirmed it in the 2015 Federal UST regulations. UST system owners and operators may use SIR or another method to meet

the tank release detection requirement, as long as the method meets specified performance standards. One performance standard that applies to all release detection methods is the need to determine the tank's leak status in a 30-day monitoring period. That means owners and operators using SIR or another release detection method shall determine the leak status of their USTs within the 30-day monitoring period. This amendment is being proposed to be consistent with the Federal regulations.

§ 245.445. *Methods of release detection for piping*

The automatic line leak detector method for release detection of piping in paragraph (1) is proposed to be amended and paragraph (1)(ii) is proposed to be added, which would require owners and operators of UST systems that store fuel solely for use by emergency power generators to install methods that trigger an audible or visual alarm to meet the release detection requirement. Automatic line leak detectors that either restrict or shut off the flow of regulated substances would not be required to avoid the potential for facilities such as hospitals and nursing homes to be without power at any time.

Paragraph (1)(iii) is proposed to be added to require pressurized piping installed on or before November 10, 2007, that conveys a regulated substance, except piping used in UST systems that store fuel for emergency power under proposed paragraph (1)(ii), to be equipped with a release detection method that restricts or automatically shuts off the flow of regulated substances in the event of a 3-gallon-per-hour leak rate, if the storage tank facility is unattended while open for business.

Out-of-service underground storage tank systems and closure

§ 245.451. *Temporary removal from service (out-of-service)*

"Closure" is proposed to be replaced with "removed from service," "removal from service" or "out-of-service." "Closure" would only be used when permanent closure occurs.

Subsection (b) is proposed to be amended to delete the requirement that release detection be performed until the tank is empty. A tank temporarily removed from service must be empty.

Subsection (c) is proposed to be amended to require owners and operators to empty the tank being placed in temporarily out-of-service status prior to submission of the registration form to the Department.

Subsection (e) is proposed to be amended to require inspections to be conducted at 3-year intervals on UST systems in temporary out-of-service status. Inspections could not be delayed for UST systems in temporarily removed from service status. This proposed amendment is consistent with Federal regulations, which do not defer the 3-year inspection requirement for tank systems in temporary removal from service status.

Proposed subsection (i) provides the Department with the ability to require tests to be performed of the UST system in temporary out-of-service status when returning the storage tank system to currently-in-use status. Storage tanks that are in temporarily out-of-service status are often in this status for a number of years. The results of this testing will determine if the storage tank may be brought back into operation.

§ 245.452. *Permanent closure and changes-in-service*

In subsection (b), "[t]anks taken out of service permanently" is proposed to be amended to "[t]anks being permanently closed." Taken "out of service" implies a

temporary condition and is proposed to be reserved for use with the term “temporary out-of-service.”

Subsection (c) is proposed to be amended to clarify that removal or closure-in-place of underground piping, in addition to replacement of underground piping, is considered a permanent closure. Underground piping includes remote fill lines connected to a storage tank. In addition, proposed amendments to subsection (c) clarify that excavation beneath the dispenser and removal of the dispenser would be permanent closure of that part of the UST system. The requirements applicable to permanent closure of a UST system would apply to the permanent closure of underground product piping, remote fill lines and dispensers.

Subsection (e) is proposed to be amended to clarify that the owner would need to complete and submit an amended storage tank registration form, signed by the owner and the certified installer that provided direct onsite supervision of the tank handling activity, to the Department within 30 days of the completion of permanent closure or change-in-service of the storage tank.

Subchapter F. Technical standards for aboveground storage tanks and facilities

Several sections in this subchapter are proposed to be amended to clarify that the requirements apply to ASTs and facilities.

General

§ 245.501. *Purpose*

This section is proposed to be amended to clarify that the technical standards and requirements established by this subchapter also apply to ASTs in underground vaults. Specific requirements applicable to ASTs in underground vaults are established in § 245.523 (relating to aboveground storage tanks in underground vaults).

§ 245.503. *Variations*

Paragraph (6) is proposed to be added to clarify that the Department will publish approved variances in the *Pennsylvania Bulletin*.

§ 245.505. *Applicability*

Paragraphs (1)—(3) are proposed to be deleted as the ASTs regulated under this chapter are no longer excluded from the monitoring, in-service inspection and out-of-service inspection requirements outlined in these paragraphs.

Operations and maintenance

§ 245.512. *Facility operations and spill response plan*

This section is proposed to be amended to require that Spill Prevention Response Plan amendments be submitted to the Department within 120 days of any necessary updates to the plan. The current regulation is silent as to when an updated plan needs to be submitted to the Department.

§ 245.513. *Preventive maintenance and housekeeping requirements*

This section is proposed to be amended to clarify that storage tank facility owners and operators are responsible for compliance. Subsection (b)(1)(iii) is proposed to be added to clarify that the continuous leak detection system required under § 245.523(7) for an AST in an underground vault would need to be checked as part of the visual inspection conducted every 72 hours.

Subsection (b)(2) is proposed to be amended to clarify that the monthly maintenance inspection would need to be performed for each AST system.

Proposed subsection (b)(2)(v) requires that the monthly maintenance inspection include a check of the cathodic protection system, if installed, to ensure the equipment is functioning as designed.

Subsection (c) is proposed to be amended to replace the general requirement for good housekeeping practice to reduce spills and safety hazards with a specific requirement that would require storage tank facility owners and operators to immediately initiate the actions necessary to correct deficiencies noted during the 72-hour visual and monthly maintenance inspections required under this section.

Proposed subsection (d) sets forth the requirements for repairing AST systems. All repairs to AST systems shall be properly conducted in accordance with the manufacturer’s instructions, a code of practice developed by a Nationally recognized association or an independent testing laboratory.

§ 245.514. *Security*

Proposed subsection (b) provides an additional level of security. This subsection would require owners and operators of AST facilities with an aggregate aboveground storage capacity greater than 21,000 gallons to maintain a written log book. Each log book entry would need to identify the name of the individual performing tank handling and inspection activities, the individual’s signature, the company name, the date of work, start and end times, and a brief description of work performed, including tank identification. Department experience has shown that log books either do not exist at facilities or, when they do exist, the information being maintained is often vague or incomplete. The use of a log book containing the proposed information is a best management practice for storage tank owners and operators.

§ 245.516. *Recordkeeping requirements*

Subsection (a) is proposed to be amended to require owners and operators of AST systems to provide records required under Chapter 245 and to cooperate fully when inspections, monitoring and testing are being conducted by the Department, certified installers or certified inspectors, and when requests for document submission, testing and monitoring by the owner or operator are made under section 107(c) of the act (35 P.S. § 6021.107(c)). The provisions in subsection (a) regarding the location of records are proposed to be moved to proposed subsection (b) and amended to clarify the requirements.

The recordkeeping requirements in subsection (b) are proposed to be renumbered as subsection (c). The distinction between permanent and temporary records is no longer relevant and this subsection is proposed to be amended to identify all records that are to be maintained for the operational life of the AST system and retained for 1 year after the system has been permanently closed. Records previously identified under subsection (c) as temporary records are proposed to be included in this subsection. In addition, written log books required under proposed § 245.514(b) (relating to security), records of 72-hour visual inspections for the last 12 months, and documentation of investigations of suspected releases are proposed to be added to the list of records to be maintained.

*Design, construction and installation**§ 245.522. New aboveground storage tank installations and reconstructions*

Proposed amendments to this section clarify its requirements. Proposed subsection (g) clarifies that ASTs previously regulated by the Department would need to meet performance requirements for new AST systems prior to returning to regulated tank status. This provision would codify the Department's current policy.

§ 245.523. Aboveground storage tanks in underground vaults

In addition to proposed amendments in this section to clarify that the requirements apply to ASTs, amendments are also proposed to clarify that the vault leak detection system in paragraph (7) must activate an alarm that automatically shuts down the dispensing system if vapors or liquids are detected, not if releases occur. Proposed amendments clarify that the leak detection monitoring records in paragraph (11) shall be retained for 12 months as required under § 245.516 (relating to recordkeeping requirements).

§ 245.526. Piping for aboveground storage tanks

Subsection (c) is proposed to be amended to clarify that all piping in contact with the soil or an electrolyte would need to be adequately protected from corrosion in accordance with current codes of practice, not only piping installed after October 11, 1997. Current codes of practice do not differentiate corrosion protection requirements based on installation date.

*Corrosion and deterioration prevention**§ 245.531. General corrosion and deterioration requirements*

This section is proposed to be amended to clarify its requirements. Specifically, proposed amendments to subsection (a) clarify that the tank system shall be continuously protected from corrosion and deterioration. Proposed amendments to subsection (b) clarify that metallic tank bottoms, not metallic tank systems, need to be evaluated by a corrosion expert. Proposed amendments to subsection (c) clarify that any tank bottom not adequately protected from corrosion and deterioration would need to be upgraded immediately, not when the tank bottom is replaced.

§ 245.532. Cathodic protection systems

Proposed amendments to this section delete the reference to corrosion protection on new, reconstructed or relocated tanks or the replacement of the tank bottom, as corrosion protection requirements are not limited to these tanks or tank bottoms. The reference to API 651 or associations such as NACE as an example of another method that can be used is proposed to be deleted as this language is duplicative of § 245.504 (relating to referenced organizations).

§ 245.534. Interior linings and coatings

Proposed amendments to this section clarify the requirements in subsection (a), delete the reference to API 652 or associations such as NACE examples of current Nationally recognized design codes for interior linings and coatings and require Department approval of an alternate inspection schedule in subsection (c).

*Release prevention and leak detection**§ 245.541. Overfill prevention requirements*

Proposed amendments to this section clarify the requirements. Proposed amendments to subsection (a)

clarify that owners and operators shall ensure: that spills do not occur during filling of the storage tank; the tank volume is greater than the volume of product to be delivered prior to the transfer; and that the transfer operation is monitored constantly to prevent overfilling and spilling.

Subsection (b)(2) is proposed to be amended to add that manned operator shutdown procedures be in writing and provided to the Department upon request.

Subsection (e) is proposed to be amended to delete the examples of National industry standards for overfill protection and to delete the compliance date that has already passed.

§ 245.542. Containment requirements for aboveground storage tank systems

This section is proposed to be amended to clarify the requirements. The references in subsection (d) and subsection (d)(2) to a compliance date that has passed are proposed to be deleted.

Subsection (f) is proposed to be amended to require that any water, not only stormwater, be removed from the emergency containment area as soon as possible and to clarify that the water is to be removed from the containment before it comes in contact with the AST or piping, or before it reduces the capacity of the containment by 10% or more.

§ 245.543. Leak detection requirements

Subsection (d) is proposed to be amended to delete the examples of National industry standards.

*Aboveground storage tank inspections**§ 245.551. General requirements for third-party inspections*

Subsection (b) is proposed to be amended to clarify that Department-certified inspectors shall be certified for the applicable inspector certification category to conduct the inspections required under this section.

§ 245.552. In-service inspections

Proposed amendments to this section clarify the requirements. The date referenced in subsection (d)(1) is no longer relevant and is proposed to be deleted. Current subsection (d)(2) is proposed to be deleted because it relates to time frames for initial tank inspections that have already passed and are no longer relevant.

Proposed subsection (d)(4) (current subsection (d)(5)) is proposed to be amended to clarify that an in-service inspection interval for an AST that is temporarily removed from service may only be delayed if agreed upon by the Department.

Proposed subsection (d)(5) addresses all ASTs in underground vaults that require an in-service inspection. Proposed subsection (d)(5)(i) and (ii) states that vaulted ASTs with a capacity greater than 5,000 gallons, and vaulted ASTs storing highly hazardous substances with a capacity greater than 1,100 gallons would need to have in-service inspections conducted within 6 and 12 months of installation and at least every 3 years thereafter. Proposed subsection (d)(5)(iii) allows the Department to require more frequent in-service inspections when a prior inspection identifies corrosion, deterioration or other violations.

Proposed subsection (d)(5) increases the frequency of in-service inspections on large ASTs in underground vaults from once every 5 years to once every 3 years. The in-service inspection frequency on small ASTs in underground vaults is proposed to increase from once every 10

years to once every 3 years. The Department has discovered numerous issues with vaulted ASTs including corrosion, improper installation and water infiltration. A shortened inspection cycle is proposed to help improve compliance. Currently, the inspection cycle for USTs is once every 3 years. The Department has seen a marked improvement in UST facility compliance rates since implementation of the 3-year inspection cycle. Some vaulted AST systems are required to conduct line leak detection similar to UST systems.

Proposed subsection (d)(6) requires that existing ASTs in underground vaults with scheduled in-service inspections greater than 3 years from the effective date of adoption of this proposed rulemaking be inspected by the next currently scheduled in-service inspection date, unless notified otherwise by the Department.

§ 245.553. *Out-of-service inspections*

Proposed amendments to this section clarify the requirements. The date referenced in subsection (e)(1) is no longer relevant and is proposed to be deleted. Current subsection (e)(2) is proposed to be deleted because it relates to time frames for initial tank inspections that have already passed and are no longer relevant.

Proposed subsection (e)(3) (current subsection (e)(4)) is proposed to be amended to clarify that an out-of-service inspection interval for an AST that is temporarily removed from service may only be delayed if agreed upon by the Department.

§ 245.554. *Installation and modification inspections*

Amendments to this section are proposed to clarify the requirements. The requirement to keep inspection reports for the operational life of the storage tank is proposed to be deleted. Proposed subsection (d) clarifies that completed inspection reports for installation and modification inspections would need to be retained with the facility records in accordance with § 245.516.

Closure and removal from service requirements

§ 245.561. *Permanent closure or change-in-service*

Paragraph (1) is proposed to be amended to delete references to an unregulated tank as these references are no longer necessary based on the definition of "change-in-service" in § 245.1.

Paragraph (2) is proposed to be amended to clarify the amended registration form requirements of owners completing a permanent closure or change-in-service.

§ 245.562. *Temporary removal from service (out-of-service)*

Subsection (f) is proposed to be amended to clarify that ASTs would need to be permanently closed within 5 years of being placed temporarily out-of-service unless the owner requests in writing an extension to the temporary out-of-service period and the Department approves the request. The proposed amendment would eliminate the need to extend the temporary out-of-service period under the variance process in accordance with § 245.503 (relating to variances).

Proposed subsection (g) will allow the Department to impose conditions and require the submission of documentation when reviewing and approving a request for an extension of the temporary out-of-service period.

Subchapter G. Simplified program for small aboveground storage tanks

General

§ 245.603. *General storage tank facility requirements*

Subsection (a) is proposed to be amended to require that Spill Prevention Response Plan amendments be

submitted to the Department within 120 days of any necessary updates to the plan. The current regulation is silent as to when an updated plan needs to be submitted to the Department.

Proposed subsection (c) provides an additional level of security. This subsection requires owners and operators of storage tank facilities with an aggregate aboveground storage capacity greater than 21,000 gallons to maintain a written log book. Each log book entry must identify the name of the individual performing tank handling and inspection activities, the individual's signature, the company name, the date of work, start and end times, and a brief description of work performed, including tank identification. Department experience has shown that log books either do not exist at facilities or, where they do exist, the information being maintained is vague and incomplete. The use of a log book with the proposed information is a best management practice for the storage tank owner and operator.

§ 245.605. *Applicability*

This section is proposed to be amended to delete the date for registration as it has passed and is no longer relevant, and to delete the temporary exclusions of certain technical requirements as the time frames for these exclusions have also passed.

§ 245.606. *Variances*

This proposed section extends the use of the variance process to owners of small ASTs, as it is currently afforded to owners of large ASTs. This section mirrors § 245.503.

Technical requirements

§ 245.612. *Performance and design standards*

Subsection (d)(1) is proposed to be amended to clarify that spill and overfill protection controls operated with double-walled ASTs to meet both emergency and secondary containment requirements must be permanently installed. Subsection (d)(2) is proposed to be amended to clarify that the shutdown procedure for the overfill alarm or prevention device or monitoring gauge must be in writing.

Existing subsections (e) and (f) are proposed to be deleted as compliance time frames have passed or other requirements have made them obsolete, so they are no longer applicable.

Proposed subsection (f) (current subsection (h)) would eliminate the need for ASTs that are internally lined to comply with § 245.534(c) (relating to interior linings and coatings). Therefore, the interior linings or coatings would not have to be inspected by a Department-certified AST inspector at installation, when undergoing a major modification or at least every 10 years.

Proposed subsection (h) would require AST systems and storage tank system components whose failure could contribute to a release of product to be maintained in a good state of repair to ensure they function as designed.

§ 245.613. *Monitoring standards*

Subsection (b)(1) is proposed to be amended to clarify that monthly operation and maintenance checks would need to include a visual examination of the containment structure or facility for deterioration. Subsection (b)(4) is proposed to be amended to clarify the functionality of the leak detection system shall be checked. Proposed subsection (b)(5) provides for a check of the cathodic protection system, if installed, to ensure the equipment is functioning as designed.

§ 245.614. *Requirements for closure*

This section is proposed to be rescinded. The requirements for temporary removal from service (out-of-service) and permanent closure or change-in-service are in proposed §§ 245.617 and 245.618 (relating to temporary removal from service (out-of-service); and permanent closure or change-in-service), respectively. The requirements for closure are proposed to be placed at the end of the subchapter as they are in Subchapter E and Subchapter F (relating to technical standards for aboveground storage tanks and facilities).

§ 245.615. *Recordkeeping requirements*

Subsection (b) establishes the records to be maintained for the operational life of the AST system. Proposed subsection (b)(7) adds documentation of investigations of suspected releases to the list of records that shall be maintained. Proposed subsection (b)(8) adds that written log book information be maintained as required under § 245.603(c) (relating to general storage tank facility requirements).

§ 245.616. *Inspection requirements*

In general, subsection (c) currently requires the owner and operator of small ASTs storing regulated substances with a capacity greater than 5,000 gallons and the owner and operator of small ASTs storing highly hazardous substances with a capacity greater than 1,100 gallons to have in-service inspections conducted every 10 years. Subsection (c) is proposed to be amended to increase the frequency of in-service inspections on these small ASTs from once every 10 years to once every 5 years. Department inspection records show that less than 50% of ASTs inspected meet current requirements. A shortened inspection cycle is being proposed to improve compliance. Currently, the inspection cycle for USTs is once every 3 years. The Department has seen a marked improvement in UST facility compliance rates since implementation of the 3-year inspection cycle.

Subsection (c)(1) is proposed to be amended to require that ASTs installed after the effective date of adoption of this proposed rulemaking be initially inspected within 5 years of installation, as opposed to the current 10 years.

Proposed subsection (c)(2) allows existing AST systems with scheduled in-service inspections more than 5 years from the effective date of adoption of this proposed rulemaking to be inspected by that next currently scheduled in-service inspection date, unless notified otherwise by the Department. Subsequent in-service inspections would need to be conducted once every 5 years.

Existing subsection (c)(2) and (3) is proposed to be deleted as the time frames for compliance have passed and they are no longer applicable.

Subsection (c)(4) is proposed to be deleted and addressed in proposed subsection (e). Proposed subsection (e) sets forth the requirements to delay an in-service inspection interval for ASTs that are temporarily removed-from-service. Prior to placing product in the AST, the delayed inspection would need to be conducted, deficiencies noted during inspection would need to be addressed and remedied, and an amended registration form would need to be completed and submitted to the Department.

§ 245.617. *Temporary removal from service (out-of-service)*

§ 245.618. *Permanent closure or change-in-service*

Proposed § 245.617 would establish the temporary removal from service requirements that currently exist in

§ 245.614 (relating to requirements for closure), which is proposed to be deleted. The only revised language in this section pertains to temporary removal from service in subsection (f). Subsection (f) would provide the Department with the ability to impose conditions and require submission of documentation when reviewing and approving a request for an extension of the temporary removal from service period.

Proposed § 245.618 would establish the permanent closure and change-in-service requirements that currently exist in § 245.614, which is proposed to be deleted. Proposed § 245.618 does not include any amendments to the requirements that currently exist.

Subchapter H. Financial responsibility requirements for owners and operators of underground storage tanks and storage tank facilities

§ 245.704. *General requirements*

Subsection (a) is proposed to be amended to clarify that continuously participating in the USTIF administered by the Insurance Department would mean paying all applicable fees in a timely fashion and conforming with all other requirements in Chapter 245 and the act. All UST owners are required under the act to participate in the USTIF.

F. Benefits, Costs, and Compliance

Benefits

When enacting the act, the General Assembly found and declared the following: 1) the lands and waters of this Commonwealth constitute a unique and irreplaceable resource from which the well-being of the public health and economic vitality of this Commonwealth is assured; 2) these resources have been contaminated by releases and ruptures of regulated substances from both active and abandoned storage tanks; 3) once contaminated, the quality of the affected resources may not be completely restored to their original state; 4) when remedial action is required or undertaken, the cost is extremely high; 5) contamination of groundwater supplies caused by releases from storage tanks constitutes a grave threat to the health of affected residents; and 6) contamination of these resources shall be prevented through improved safeguards on the installation and construction of storage tanks. See section 102 of the act (35 P.S. § 6021.102).

The regulatory scheme established by the act to prevent releases of contaminants from storage tanks, as implemented through Chapter 245, provides the important benefits articulated in the General Assembly's findings.

The primary purpose of the proposed amendments to Chapter 245 is to further reduce the potential for releases of contaminants from USTs and ASTs by strengthening the requirements regarding properly operating and maintaining release detection equipment. These proposed amendments would require UST equipment to be inspected and tested regularly, which will help to further reduce the number of releases from USTs and in turn protect public health and the environment. Incorporation of these UST amendments into Chapter 245 will enable the Commonwealth to retain approval of its UST program from the EPA and remain eligible for continued substantial Federal funding for the UST program.

A substantial portion of the beneficial impacts associated with this proposed rulemaking are avoided cleanup costs as a result of preventing releases and reducing the severity of releases from USTs. The EPA, in the analysis of the potential benefits associated with its final UST

regulation which became effective on October 13, 2015, estimated the typical cost of a small-extent, soil-only remediation to be \$25,300, and the typical cost of a large-extent, groundwater-contamination remediation to be \$428,200. These costs are in 2008 dollars. During calendar year 2016, the average cost per closed claim paid by the USTIF was \$360,807, and the total paid for all claims was \$31,672,157.

While the reduced cleanup costs associated with this proposed rulemaking cannot be accurately quantified, a decrease in release frequency and severity is expected to result in both a reduction of the average cost per closed claim and the total annual claim payments made by the USTIF. Groundwater contamination incidents and vapor intrusion remediation costs are expected to be reduced or avoided, which would reduce the need for USTIF claims and payments and potentially reduce fees paid by UST owners to fund USTIF. These fees are typically passed on to the public at motor fuel retail locations. Thus, any decrease in release frequency achieved by this proposed rulemaking would benefit the public and the environment by protecting soil and water resources, and reducing costs associated with necessary corrective action.

Other benefits of decreasing the frequency of releases from storage tanks that cannot be quantified or monetized include the avoidance of human health risks, protection of ecological receptors, protection of gallons of groundwater each year and avoided property devaluation.

This proposed rulemaking would also benefit storage tank owners and operators and the Department by reducing the staff time and cost associated with releases from storage tanks and through proposed provisions that would reduce administrative costs. For example, this rulemaking proposes to add a new UST certification category to allow individuals to perform tank handling activities such as repairs that do not involve excavation without having to obtain the (full) certification to install and modify storage tank systems, and to perform tests of UST systems recommended by this proposed rulemaking. Creation of this new certification category would afford UST owners with the opportunity to employ individuals who specialize in modifications only, which could save UST owners some of the costs associated with minor modification work and system testing. This proposed "minor modification" certification category would also provide opportunities for existing certified companies to employ individuals who specialize in minor modification work. In addition, it may create an incentive for persons interested in only performing "minor modification" work to become certified and establish their own companies. In either case, the establishment of this new certification category is expected to result in the creation of a significant number of jobs within the certified installer community, which may reduce the cost of UST system testing over time.

The increase in proposed inspections and testing by storage tank owners is expected to reduce Department costs. For example, these proposed amendments will require all ASTs in underground vaults that require an in-service inspection to be inspected within 6 and 12 months of installation and at least every 3 years thereafter due to their history of noncompliance. This mirrors the inspection requirement for USTs. Also, the initial inspection requirement and in-service inspection cycle for small ASTs will be shortened from 10 years to 5 years. Based on current in-service inspections, the compliance rate with regulatory requirements is less than 50%. When the facility operations inspection cycle for USTs was

shortened from 5 years to 3 years in a prior final-form rulemaking, the Department observed increased regulatory compliance, fewer releases and a reduction in the severity of releases from USTs, which reduced Department staff time needed to follow-up on noncompliant facilities.

Compliance costs

In general, this proposed rulemaking recommends additional storage tank testing and inspection of existing release detection equipment for USTs, small ASTs and ASTs in vaults, and does not propose changes that would require large-scale investments in equipment or significant changes to operations at the facility level. The only exceptions are the one-time costs to replace ball float valves following failure of the overfill prevention evaluation with alternate overfill prevention equipment and to add release detection to those emergency generator USTs that were previously deferred from regulation. These one-time costs apply to a limited number of UST systems. Of the 22,456 existing UST systems regulated in this Commonwealth, 3,588 have ball float valves for overfill prevention and 629 are emergency generator UST systems without a form of release detection.

The increased cost of compliance associated with this proposed rulemaking is less than the costs that would be imposed on storage tank facility owners and operators without the proposed amendments. Most of the proposed amendments are necessary for the Commonwealth's regulations in Chapter 245 to be consistent with Federal requirements for USTs and retain EPA approval of the State program. Without these proposed amendments, the EPA could not continue to approve the State program and would then be required to implement the UST program in this Commonwealth. Therefore, UST owners would incur the increased costs for their UST facilities to comply with 40 CFR Part 280 even if Chapter 245 was not amended due to the EPA's revised regulations for USTs.

Analysis of UST compliance costs

Within this Commonwealth, 7,772 UST facilities are regulated consisting of 22,456 UST systems, for an average of 2.89 UST systems per facility. Compliance costs for the proposed UST regulatory requirements are estimated in this analysis based on a UST facility with three UST systems that have the following features: three 10,000-gallon UST systems with two storing gasoline and one storing diesel; 100 feet of piping per UST system; one fill port per UST system; spill prevention equipment at each UST system; two drop tube shut-off devices and one ball float valve for overfill prevention equipment; four dispensers each with an under-dispenser containment sump; one submersible turbine pump sump/tank top sump per UST system; and one ATG with an ATG probe per UST system.

Costs presented on a facility basis were adjusted for the fact that each UST facility has on average 2.89 UST systems. The Department contacted five Department-certified companies from various regions of this Commonwealth to estimate cost for the various requirements in this proposed rulemaking for the UST facility previously described.

The maintenance walkthrough inspection requirement proposed for UST facilities involves a visual inspection of spill prevention equipment and release detection every 30 days and a visual inspection of containment sumps and handheld release detection devices annually. All 7,772 UST facilities would be required to conduct 30-day maintenance walkthrough inspections. The 5,817 UST facilities with containment sumps would be required to conduct the annual visual inspection. These inspections

can be performed by the UST owner, operator or other employee of the UST owner resulting in no cost other than the necessary time to conduct the inspections. However, some UST owners may choose to utilize third-party companies to conduct the maintenance walkthrough inspections. If a UST owner chose to hire a third-party company, the owner would incur costs. However, this action would be voluntary and is not required by this proposed rulemaking.

Testing of spill prevention equipment and containment sumps and evaluation of overfill prevention equipment at UST facilities would be required every 3 years. All 22,456 UST systems have overfill prevention equipment and would be required to conduct evaluations. Likewise, all

UST systems would require spill prevention equipment tests. Thirty-nine percent, or 8,835 UST systems at 3,245 UST facilities, have containment sumps used for interstitial monitoring of piping that would need to be tested. These tests and evaluations would need to be conducted by appropriate certified individuals.

Although the cost for testing and evaluation would only be incurred every 3 years, the costs are estimated on an annualized basis for purposes of this analysis (that is, the testing and evaluation costs are divided by three to estimate the cost per year). The estimated annual cost range and average annual cost for each evaluation or test per facility on an annual basis are summarized as follows:

<i>Evaluation or Test</i>	<i>Estimated Range of Annual Costs</i>	<i>Estimated Average Annual Cost</i>
Overfill prevention equipment	\$96—\$161	\$112
Spill prevention equipment	\$88—\$209	\$127
Containment sump	\$257—\$899	\$546

Based on the estimated average cost, the total annualized cost to a UST facility owner for equipment testing and evaluation every 3 years is estimated to range from \$239—\$785. The lower cost would apply to a facility that does not have containment sumps used for interstitial monitoring of piping. Based on these per facility costs, the annualized cost to evaluate and test equipment at all UST facilities is estimated to be \$3,629,278.

This proposed rulemaking would prohibit continued use of flow restrictors (ball float valves) as an option for overfill prevention when these devices need to be replaced. A total of 3,588 UST systems are reported to have ball float valves as the form of overfill prevention. The increased cost to repair a ball float valve or replace a ball float valve with another ball float valve versus providing another form of overfill prevention (for example, shut-off device or alarm) is estimated to range from \$975—\$1,100 with the average cost to be \$1,038. The average cost represents the one-time increased cost to a UST owner for this overfill prevention equipment replacement. Replacement of a ball float valve would only be necessary when the equipment no longer functions as originally designed and fails the 3-year overfill evaluation requirement. Based on the average cost, the total one-time increased cost to replace ball float valves with another form of overfill prevention for all UST systems is estimated to be \$3,724,344.

Annual release detection equipment testing would be required by this proposed rulemaking for all 22,456 UST systems. Operability tests would need to be conducted of the electronic and mechanical components of release detection equipment. The annualized cost to a UST facility owner for this release detection testing requirement is estimated to range from \$337—\$1,036, with the

average cost to be \$592. Based on the average cost, the annual cost to test release detection equipment at all UST facilities is estimated to be \$4,601,024. These costs are based on an average UST facility consisting of three UST systems and four dispensers. Facilities that have fewer UST systems are expected to have lower costs.

This proposed rulemaking would require release detection for emergency generator USTs. An estimated 629 UST systems are reported as not having any form of release detection. For this analysis, an ATG is used as the form of release detection for these systems and would need to be tested annually for operability. However, other lower cost methods of tank release detection could be chosen by the UST owner depending on type and location of the UST system. The cost for the operability tests for these systems were included in the cost for release detection equipment testing previously described. The cost for the addition of an ATG ranges from \$4,000—\$30,000 with the average estimated cost to be \$16,875. Cost estimates are dependent on several factors including amount of excavation required to install wiring and conduit, access to the UST system and location of the UST system to utilities and buildings. The average cost represents the one-time cost to a UST owner to add an ATG for release detection. Based on the average cost, the total one-time cost to add release detection to emergency generator USTs is estimated to be \$10,614,375.

The following table and discussion summarizes the total estimated annualized cost that UST facilities could incur for the testing and inspections in this proposed rulemaking when UST owners, operators or other employees of the UST owner conduct all maintenance walkthrough inspections:

	<i>Annualized Operation and Maintenance¹ Costs²</i>	<i>One-Time Costs³</i>	<i>Number of Potentially Affected Facilities / Systems</i>	<i>Total Annualized Operation and Maintenance¹ Costs⁴</i>	<i>Total One-Time Costs⁵</i>
Maintenance walkthrough inspections	\$0	\$0	7,772 facilities	\$0	\$0

	<i>Annualized Operation and Maintenance Costs¹</i>	<i>One-Time Costs³</i>	<i>Number of Potentially Affected Facilities / Systems</i>	<i>Total Annualized Operation and Maintenance Costs⁴</i>	<i>Total One-Time Costs⁵</i>
Periodic testing/inspection of overfill prevention equipment, spill prevention equipment and containment sumps ⁶	\$239—\$785	\$0	7,772 facilities	\$3,629,278	\$0
Eliminate ball float valves when overfill prevention equipment is replaced	\$0	\$1,038	3,588 UST systems	\$0	\$3,724,344
Operability tests for release detection	\$592	\$0	7,772 facilities	\$4,601,024	\$0
Remove release detection deferral for emergency generator USTs	\$0	\$16,875	629 UST systems	\$0	\$10,614,375
	\$831—\$1,377			\$8,230,302	\$14,338,719

¹ Operation and maintenance.

² Per UST facility.

³ Per UST system. One-time costs do not apply to all UST systems.

⁴ For all UST facilities.

⁵ For all UST systems. One-time costs do not apply to all UST systems.

⁶ The lower range of the annualized operation and maintenance costs is for facilities that do not have containment sumps used for interstitial monitoring of piping.

The annualized increased operation and maintenance costs to conduct maintenance walkthrough inspections, inspect overfill prevention equipment, test spill prevention equipment and containment sumps, and test release detection equipment per UST facility is estimated to range from \$831—\$1,377. The total annualized increased costs for these inspections and tests at all UST facilities are estimated to be \$8,230,302.

The total one-time costs to replace all ball float valves with alternate overfill prevention equipment and to add release detection to emergency generator USTs is estimated to be \$14,338,719. These one-time costs apply to a limited number of UST systems. Currently, 3,588 UST systems (less than 16%) have ball float valves for overfill prevention and 629 UST systems (less than 3%) are emergency generator USTs that would need to add release detection equipment. Owners of emergency generator UST systems will be afforded 1 year to 2 years under this proposed rulemaking to make an informed decision to either add the necessary release detection, close the UST system or close the UST system and install a new AST.

Analysis of AST compliance costs

As with UST systems, the primary focus of this proposed rulemaking for AST systems is on an increased inspection frequency for small ASTs and ASTs in vaults. The Department contacted five Department-certified companies from various regions of this Commonwealth to estimate the increased cost to AST owners for the proposed inspection requirements.

This proposed rulemaking would require all ASTs in underground vaults that require an in-service inspection to be inspected within 6 to 12 months of installation and at least every 3 years thereafter. ASTs with a capacity greater than 5,000 gallons, and ASTs storing highly hazardous substances with a capacity greater than 1,100 gallons, would be subject to these inspection requirements.

Currently, no large ASTs in underground vaults are registered with the Department and 31 small AST systems in underground vaults would need to increase inspections from once every 10 years to once every 3 years. These small ASTs have an average size of approximately 9,800 gallons.

The reported annualized cost range for an in-service inspection of a vaulted AST every 10 years, as currently required, is \$78 to \$315, and the average annualized cost is \$179. The estimated annualized cost range for an in-service inspection of a vaulted AST every 3 years is \$260 to \$1,050, and the estimated average annualized cost is \$595. Thus, the annualized increased cost to an AST owner of a vaulted AST for an in-service inspection every 3 years is estimated to be \$416. The total annualized increased cost to all AST owners who would be subject to the proposed 3-year inspection requirement is estimated to be \$12,896.

This proposed rulemaking would also shorten the initial inspection requirement and in-service inspection cycle for small ASTs (other than small ASTs in underground vaults) from 10 years to 5 years. This requirement would apply to small ASTs with a capacity greater than 5,000 gallons, and small ASTs with a capacity greater than 1,100 gallons that store highly hazardous substances. An estimated 6,847 small ASTs with an average size of 11,500 gallons would need to increase their inspections to every 5 years under this proposed rulemaking.

The reported annualized cost range for an in-service inspection of a small AST every 10 years, as currently required, is \$44 to \$200, and the average annualized cost is \$98. The estimated annualized cost range for an in-service inspection of a small AST every 5 years, as being proposed, is \$88 to \$400, and the estimated average

annualized cost is \$196. Thus, the annualized increased cost to an AST owner of a small AST for the proposed 5-year inspection period is estimated to be \$98. The total annualized increased cost to all AST owners who would be subject to the proposed 5-year inspection period is estimated to be \$671,006.

The following table summarizes the estimated increased annualized costs discussed above that could be incurred by AST system owners under this proposed rulemaking:

	<i>Annualized Operation and Maintenance Costs</i>	<i>One-Time Costs</i>	<i>Number of Potentially Affected Systems</i>	<i>Total Annualized Operation and Maintenance Costs</i>	<i>Total One-Time Costs</i>
Increased inspection frequency for vaulted ASTs	\$416	\$0	31 AST systems	\$12,896	\$0
Increased inspection frequency for small ASTs	\$98	\$0	6,847 AST systems	\$671,006	\$0
		\$0		\$683,902	\$0

Additional compliance costs associated with this proposed rulemaking that cannot be estimated are the costs to UST systems that were previously excluded from the definition of a UST, but would be subject to Chapter 245 under this proposed rulemaking (for example, tanks containing radioactive materials or coolants that are regulated under The Atomic Energy Act of 1954, wastewater treatment tank systems that are not part of a wastewater treatment facility regulated under section 307(b) or 402 of the Clean Water Act, and UST systems that are part of an emergency generator system at nuclear power generation facilities regulated by the NRC under 10 CFR Part 50, Appendix A). In addition, existing field-constructed USTs installed on or before October 11, 1997, would be regulated under Chapter 245 under this proposed rulemaking.

The number of USTs in these categories that would be subject to Chapter 245 under this proposed rulemaking is unknown because they are not currently required to be registered with the Department. Registration would be required within 30 days after the effective date of adoption of this proposed rulemaking. Field-constructed USTs installed on or before October 11, 1997, are temporarily excluded from other regulatory requirements in Chapter 245 until 1 year after the effective date of adoption of this proposed rulemaking. Upon registration of a UST that was previously excluded from regulation, the Department would work with the tank owner to bring the UST into regulatory compliance. Due to the unique nature of these USTs, the steps that would be necessary to bring the USTs into compliance are expected to vary widely. Thus, compliance costs associated with the regulation of this universe of USTs cannot be estimated.

USTs containing radioactive material and emergency generator UST systems at nuclear power generation facilities regulated by the NRC are subject to United States Department of Energy Orders and NRC regulations that are comparable to the Chapter 245 requirements for new and existing USTs regarding spill and overflow control, operation and maintenance of corrosion protection, and release detection. Since owners and operators of these UST systems had to meet Federal UST regulations dating back to 1988 that require systems to be designed and constructed to prevent releases during the operating life of the facility due to corrosion or structural failure, these systems may already be in compliance and therefore incur no additional costs.

Analysis of Department costs

Under this proposed rulemaking, the Department would incur minimal additional costs to publish notices in the *Pennsylvania Bulletin* for the following: acknowledgment of receipt of the remedial action plan; notice of the Department's final action on the remedial action plan; acknowledgment of receipt of the remedial action completion report; notice of the Department's final action on the remedial action completion report; and notice of variances approved by the Department.

Compliance assistance plan

As previously noted, this proposed rulemaking would affect approximately 7,100 storage tank owners at over 12,600 storage tank facilities. Industry sectors potentially affected by this proposed rulemaking include retail motor fuel sales, commercial, institutional, manufacturing, transportation, communications and utilities, and agriculture. Federal, State and local government operations will also be affected.

Department-certified storage tank installers, inspectors and companies would also need to comply with this proposed rulemaking. At the current time, nearly 900 individuals and approximately 350 companies have certifications from the Department under Chapter 245. Currently certified tank installers and inspectors will likely have the capacity to provide the increased testing and inspections that will be required by this proposed rulemaking. In addition, the addition of a new certification category for minor modifications would allow individuals to perform tank handling activities such as repairs that do not involve excavation without having to obtain the (full) certification to install and modify storage tank systems. With this new certification, individuals will also be able to perform tests of UST systems required by this proposed rulemaking.

The visual inspection of spill prevention and release detection equipment, containment sumps and handheld release detection devices could be performed by the UST owner, operator or other employee of the UST owner. However, UST owners can choose to utilize a third-party company to conduct the maintenance walkthrough inspections. In all cases, owners of existing storage tank systems would be provided with time frames in which to comply with the new requirements. Owners of new

storage tank systems would need to comply with the requirements upon the effective date of adoption of this proposed rulemaking.

Financial assistance is not anticipated or planned. The Department would provide technical and compliance assistance outreach through its web site, publications, forms, and presentations to various industry groups and organizations. Webinars explaining the regulatory amendments are also planned.

Paperwork requirements

This proposed rulemaking includes the following new notification, reporting and other paperwork requirements:

Certified installers and inspectors would need to report regulated substance observed in a containment structure or facility within 48 hours on a form provided by the Department.

Certified installers or inspectors would need to report failed tests of UST spill prevention equipment, containment sumps and overfill prevention equipment within 48 hours on a form provided by the Department. A copy of the test results would also need to be provided to the Department with the notification report.

Responsible parties would need to notify the Department by telephone or e-mail as soon as practicable, but no later than 24 hours, after the initiation of interim remedial actions in response to a release.

Responsible parties would need to notify the Department, by telephone or e-mail, within 24 hours of providing an alternate source of water to the owner of an affected or diminished water supply in response to a release.

Responsible parties would need to notify the Department by telephone or e-mail as soon as practicable, but no later than 24 hours, after the initiation of site characterization activities in response to a release.

The Department would need to publish an acknowledgment of receipt of the remedial action plan and notice of its final action on the plan in the *Pennsylvania Bulletin*.

The Department would need to publish an acknowledgment of receipt of the remedial action completion report and notice of its final action on the report in the *Pennsylvania Bulletin*.

Owners and operators would need to notify the Department of the proposed installation of specific UST system components such as the piping system and dispenser, and not just when a tank or tank system is being installed, on a form provided by the Department.

Certified installers and inspectors would need to document tests or evaluations of UST spill prevention and overfill prevention equipment, containment sumps and release detection equipment on a form provided by the Department. Owners and operators would need to maintain test or evaluation results onsite at the storage tank facility or at a readily available alternative site and shall provide the forms to the Department upon request.

Surveys of UST cathodic protection systems would need to be documented on a form provided by the Department and would need to be provided to the Department upon request.

Owners and operators of USTs storing alternative fuel blends or biodiesel or biodiesel blended fuel would need to submit, on a form provided by the Department, informa-

tion verifying that all system components are compatible with the proposed substance to be stored, prior to storing the substance in the UST.

Owners and operators would need to maintain documentation showing that their UST systems are continuously participating in the USTIF.

Owners and operators would need to maintain documentation of the last test of UST spill prevention equipment and containment sumps used for interstitial monitoring of piping and evaluation of overfill prevention equipment.

For containment sumps used for interstitial monitoring of piping and spill prevention equipment not required to be tested, UST owners and operators would need to maintain documentation showing that the equipment is double-walled and the integrity of both walls is periodically monitored.

UST owners and operators would need to maintain records of maintenance walkthrough inspections for the past 12 months.

Owners would need to ensure that Class A, Class B and Class C operators are identified on a form provided by the Department prior to placing the UST system into use.

Owners and operators of AST facilities with an aggregate aboveground storage capacity greater than 21,000 gallons would need to maintain a written log book. Each log book entry would need to identify the name of the individual performing tank handling and inspection activities, the individual's signature, the company name, the date of work, start and end times, and a brief description of work performed, including tank identification.

In addition to routine monthly inspections, AST owners and operators would need to maintain 72-hour maintenance inspections for the past 12 months.

AST owners and operators would need to maintain documentation of investigations of suspected releases.

When a high-level alarm with a manned operator shutdown procedure is used, owners and operators of ASTs would need to document the shutdown procedure and provide it to the Department upon request.

When an overfill alarm or prevention device or monitoring gauge is utilized, owners and operators of ASTs would need to document the shutdown procedure.

The following new forms would be used to implement this proposed rulemaking:

- Underground Storage Tank Groundwater/Vapor Monitoring System Functionality Testing Form
- Underground Storage Tank Sensor Functionality Testing Form
- Underground Storage Tank Automatic Line Leak Detector Functionality Testing Form
- Underground Storage Tank Pressure/Vacuum Monitoring Functionality Testing Form
- Underground Storage Tank Spill Prevention Equipment/Containment Sump Integrity Testing Form
- Underground Storage Tank Automatic Tank Gauge Functionality Testing Form
- Underground Storage Tank Overfill Prevention Evaluation Form
- Aboveground Storage Tank Lining Inspection Summary and Instructions

The following existing forms would be revised to implement this proposed rulemaking:

- Underground Storage Tank Facility Operations Inspection Report Form Instructions (2630-FM-BECB0501)
- Underground Storage Tank Facility Operations Inspection (2630-FM-BECB0501a)
- Underground Storage Tank System Installation/Closure Notification Form (2630-FM-BECB0127)
 - Planning for Permanent Closure Checklist—Underground Storage Tank Systems (2630-FM-BECB0126)
- Underground Storage Tank Modification Report (2630-FM-BECB0575)
- Underground Storage Tank System Closure Report Form (2630-FM-BECB0159)
 - Aboveground Storage Tank Integrity Inspection Summary and Instructions (2630-FM-BECB0150)
- Aboveground Storage Tank System Closure Report Form (2630-FM-BECB0514)
 - Planning for Permanent Closure Checklist—Aboveground Storage Tank Systems (2630-FM-BECB0512)
- Aboveground Storage Tank System Closure Notification Form (2630-FM-BECB0513)
- Notification of Release/Notification of Contamination (2620-FM-BECB0082)
- Storage Tanks Registration/Permitting Application Form and Instructions (2630-PM-BECB0514)
 - Storage Tank Installer/Inspector Certification Application Form and Instructions (2630-PM-BECB0506)
 - Storage Tank Training Course Approval Application and Instructions (2630-PM-BECB0402)
 - Storage Tank Site-Specific Installation Permit Application Instructions (2630-PM-BECB0002)
 - Initial Qualifications—Storage Tank Installer and Inspector Certification (2630-PM-BECB0506b)
 - Renewal Qualifications—Storage Tank Installer and Inspector Certification (2630-PM-BECB0506b2)
 - Instructions—Storage Tank Installer and Inspector Certification—Attachment A (2630-PM-BECB0506c)

The following form could be deleted under this proposed rulemaking:

- Aboveground Storage Tank Installation Inspection Summary (2630-FM-BECB0602). This form is being incorporated into the Aboveground Storage Tank Integrity Inspection Summary and Instructions (2630-FM-BECB0150).

G. Pollution Prevention

The Federal 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.

The primary purpose of this proposed rulemaking is to strengthen the UST requirements by increasing the emphasis on properly operating and maintaining equipment. The proposed amendments would require that UST equip-

ment be operated and maintained properly, which would help to further reduce the number of releases from USTs and in turn protect public health and the environment.

This proposed rulemaking also would require all ASTs in underground vaults that require an in-service inspection to be inspected within 6 and 12 months of installation and at least every 3 years thereafter due to their history of noncompliance. This mirrors the inspection requirement for USTs. Also, the initial inspection requirement and in-service inspection cycle for small ASTs would be shortened from 10 years to 5 years. Based on current in-service inspections, the compliance rate with regulatory requirements is less than 50%. The facility operations inspection cycle for USTs was shortened from 5 years to 3 years in a prior rulemaking, which has resulted in increased regulatory compliance. Increased compliance with the proposed regulatory requirements would mean fewer releases and a reduction in the severity of releases from ASTs.

H. Sunset Review

The Board is not proposing a sunset date for these regulations, since they are needed for the Department to carry out its statutory authority. The Department would continue to closely monitor these regulations for their effectiveness and recommend updates to the Board as necessary.

I. Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on February 13, 2018, the Department submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House and Senate Environmental Resources and Energy Committees. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey any comments, recommendations or objections to this proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections must specify the regulatory review criteria in section 5.2 of the Regulatory Review Act (71 P.S. § 745.5b) which have not been met. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Department, the General Assembly and the Governor.

J. Public Comments

Interested persons are invited to submit to the Board written comments, suggestions, support or objections regarding this proposed rulemaking. Comments, suggestions, support or objections must be received by the Board by March 26, 2018. Comments may be submitted to the Board online, by e-mail, by mail or express mail as follows.

Comments may be submitted to the Board by accessing eComment at <http://www.ahs.dep.pa.gov/eComment>.

Comments may be submitted to the Board by e-mail to RegComments@pa.gov. A subject heading of this proposed rulemaking and a return name and address must be included in each transmission.

If an acknowledgement of comments submitted online or by e-mail is not received by the sender within 2 working days, the comments should be retransmitted to the Board to ensure receipt. Comments submitted by facsimile will not be accepted.

Written comments should be mailed to the Environmental Quality Board, P.O. Box 8477, Harrisburg, PA 17105-8477. Express mail should be sent to the Environmental Quality Board, Rachel Carson State Office Building, 16th Floor, 400 Market Street, Harrisburg, PA 17101-2301.

K. Public Hearings

If sufficient interest is generated as a result of this publication, a public hearing will be scheduled at an appropriate location to receive additional comments.

PATRICK McDONNELL,
Chairperson

Fiscal Note: 7-530. (1) General Fund; (2) Implementing Year 2017-18 is \$0; (3) 1st Succeeding Year 2018-19 is \$0; 2nd Succeeding Year 2019-20 is \$132,000; 3rd Succeeding Year 2020-21 is \$1,862,000; 4th Succeeding Year 2021-22 is \$259,000; 5th Succeeding Year 2022-23 is \$260,000; (4) 2017-18 Program—\$8,372,000; 2016-17 Program—\$8,622,000; 2015-16 Program—\$9,026,000; (7) General Operations—various State agencies; (8) recommends adoption. There is no fiscal impact to the Department, but because State agencies own and operate ASTs and USTs, there will be increased costs spread through various agencies from the estimated totals in this fiscal note.

Annex A

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

Subpart D. ENVIRONMENTAL HEALTH AND SAFETY

ARTICLE VI. GENERAL HEALTH AND SAFETY

CHAPTER 245. ADMINISTRATION OF THE STORAGE TANK AND SPILL PREVENTION PROGRAM

Subchapter A. GENERAL PROVISIONS
GENERAL

§ 245.1. Definitions.

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

* * * * *

Aboveground storage tank—One or a combination of stationary tanks with a capacity in excess of 250 gallons, including the underground pipes and dispensing systems connected thereto within the emergency containment area, which is used, will be used or was used to contain an accumulation of regulated substances, and the volume of which, including the volume of piping within the storage tank facility, is greater than 90% above the surface of the ground. The term includes tanks which can be visually inspected, from the exterior, in an underground area and tanks being constructed or installed for regulated use. The term does not include the following, or pipes connected thereto:

* * * * *

(viii) Tanks [which are] regulated under 58 Pa.C.S. Chapter 32 (relating to development) used to store brines, crude oil, drilling or frac fluids and similar substances or materials and are directly related to the exploration, development or production of crude oil or natural gas [regulated under the Oil and Gas Act (58 P.S. §§ 601.101—601.605)].

* * * * *

(xix) Other tanks excluded by regulations promulgated under the act.

Aboveground storage tank system—An aboveground storage tank, connected piping and ancillary equipment within the emergency containment area, and emergency and secondary containment.

Act—The Storage Tank and Spill Prevention Act (35 P.S. §§ 6021.101—6021.2104).

[Actively involved—To perform or to conduct direct onsite supervision or oversight of the minimum number of qualifying activities in § 245.111 or § 245.113 (relating to certified installer experience and qualifications; and certified inspector experience and qualifications) for renewal of installer or inspector certification in each applicable category, within the period in § 245.114(a)(3) (relating to renewal and amendment of certification).]

Adjacent—Next to or contiguous with.

* * * * *

Cathodic protection tester—A person who can demonstrate an understanding of the principles and measurements of common [type] types of cathodic protection systems as applied to buried or submerged metal piping and tank systems. At a minimum, the person shall have documented education and experience in soil resistivity, stray current, structure to soil potential and component electrical isolation measurements of buried metal piping and tank systems.

Certification categories—

(i) Individual certification categories issued to certified installers or certified inspectors to perform tank handling, tightness testing or inspection activities on aboveground or underground storage tank systems and facilities.

(ii) The term includes category specific certifications in one or more of the following:

* * * * *

(B) Storage tank installer certification categories:

* * * * *

(IX) UMX—Underground storage tank system installation and modification.

(X) UMI—Underground storage tank system minor modification.

[(X)] (XI) UTT—Underground storage tank system tightness tester.

[(XI)] (XII) UMR—Underground storage tank system removal.

Certified company—An entity, including[, but not limited to,] a sole proprietorship, a partnership or a corporation, which is certified by the Department and employs certified installers or certified inspectors to conduct tank handling activities, tightness testing activities or inspection activities.

Certified inspector—A person certified by the Department to conduct inspections of tanks or storage tank facilities and who may conduct environmental audits. A certified inspector may not be an [employe] employee of a tank owner.

Certified installer—A person certified by the Department to install, modify or remove storage tanks. A certified installer may be an [**employe**] **employee** of a tank owner.

* * * * *

Containment structure or facility—Anything built, installed or established which comes in contact with regulated substances that are spilled, leaked, emitted, discharged, escaped, leached or disposed from a storage tank or storage tank system[. **The term includes, but is not limited to**], **including** a vault, dike, wall, building or secondary containment structure around an underground or [**above-ground**] **aboveground** storage tank, or any rock or other fill material placed around an underground storage tank.

Containment sump—**A liquid-tight container designed to protect the environment by containing leaks and spills of regulated substances from piping, dispensers, pumps and related components in the containment area. Containment sumps may be single-walled or secondarily contained and located at the top of the tank (tank top or submersible turbine pump sump), underneath the dispenser (under-dispenser containment sump) or at other points in the piping run (transition or intermediate sump).**

Corrective action—

* * * * *

De minimis—With regard to products containing regulated substances, the term applies when the regulated substance is of insufficient concentration to be required to appear on a [**Material Safety Data Sheet (MSDS)**] **Safety Data Sheet (SDS)**. The term does not apply to section 507 of the act (35 P.S. § 6021.507) as it pertains to site contamination.

* * * * *

Environmental audit—Activities which may be conducted by a certified inspector to evaluate the storage tank system or storage tank facility site, equipment and records to determine evidence of an actual or possible release of regulated substance.

Environmental covenant—**A servitude arising under an environmental response project which imposes activity and use limitations under 27 Pa.C.S. §§ 6501—6517 (relating to Uniform Environmental Covenants Act).**

Environmental media—Soil, sediment, surface water, groundwater, bedrock and air.

Excavation zone—The volume containing the tank system and backfill material bounded by the ground surface, walls and floor of the pit and trenches into which the underground storage tank system is placed at the time of installation.

Exempt underground storage tank—An underground storage tank which has been exempted by regulation from participation in USTIF.

Existing underground storage tank system—An underground storage tank system used to contain an accumulation of regulated substances [**or for which installation has commenced on or before December 22, 1988**] **for which installation has either started or been**

completed in accordance with this chapter. Installation is considered to have [**commenced**] **started** if the following apply:

* * * * *

Hazardous substance storage tank system—

(i) A storage tank system that contains a hazardous substance defined in section 101(14) of CERCLA (42 U.S.C.A. § 9601(14)).

(ii) The term does not include a storage tank system that contains a substance regulated as a hazardous waste under [**Subtitle C of CERCLA**] **sections 3001—3024 of the Solid Waste Disposal Act (42 U.S.C.A. §§ 6921—6939g)**, or mixture of the substances and petroleum, and which is not a petroleum system.

* * * * *

Install—Activities to construct, reconstruct or erect to put into service a storage tank, a storage tank system or storage tank facility.

[**Interim certification**—Certification granted by the Department on an interim basis under section 108 of the act (35 P.S. § 6021.108) to installers and inspectors of storage tank systems or storage tank facilities.]

Intrafacility piping—A common piping system serving more than one storage tank system within a storage tank facility.

* * * * *

Minor modification—

(i) An activity to upgrade, repair, refurbish or restore all or part of an existing storage tank system or storage tank facility which does not alter the design of that storage tank system or storage tank facility, but[, **which may effect**] **which may affect** the integrity of that storage tank system or storage tank facility.

(ii) The term does not include an activity directly affecting the tank portion of the storage tank system or an activity directly affecting an underground component of the storage tank system.

Modify—To conduct an activity that constitutes a major modification or a minor modification.

Monitoring system—A system capable of detecting releases in connection with an aboveground or underground storage tank.

Motor fuel—[**Petroleum or a petroleum-based substance that is motor gasoline, aviation gasoline, No. 1 or No. 2 diesel fuel or any grade of gasohol, and is typically used in the operation of an internal combustion engine.**] **A complex blend of hydrocarbons typically used in the operation of a motor engine, such as motor gasoline, aviation gasoline, No. 1 or No. 2 diesel fuel, or any blend containing one or more of these substances such as motor gasoline blended with alcohol.**

* * * * *

Pipeline facilities (including gathering lines)—New and existing pipe rights-of-way and associated equipment, facilities or buildings [**regulated under the Hazardous Liquid Pipeline Safety Act of 1979 or the Natural Gas Pipeline Safety Act of 1968, codified without substantive change in 1994 by Pub.L. No. 103-272,**

108 Stat. 1371 (49 U.S.C.A. §§ 60101—60125) which may include coastal, interstate or intrastate pipelines].

* * * * *

Reconstruction—The work necessary to reassemble a storage tank that has been dismantled and relocated to a new [site] location.

Regulated substance—

[(i)] An element, compound, mixture, solution or substance that, when released into the environment, may present substantial danger to the public health, welfare or the environment which is one of the following:

[(A)] (i) A substance defined as a hazardous substance in section 101(14) of CERCLA, including hazardous substances that are liquid or gaseous, or suspended therein regardless of holding temperature, but not including a substance regulated as a hazardous waste under Subtitle C of the Resource Conservation and Recovery Act of 1976 (42 U.S.C.A. §§ 6921—6931).

[(B)] (ii) Petroleum, including crude oil or a fraction thereof and petroleum hydrocarbons which are liquid at standard conditions of temperature and pressure (60° F and 14.7 pounds per square inch absolute), including [, but not limited to,] oil, petroleum, petroleum mixed with ethanol, fuel oil, oil sludge, oil refuse, oil mixed with other nonhazardous wastes and crude oils, gasoline and kerosene.

[(C)] (iii) Other substances determined by the Department by regulation whose containment, storage, use or dispensing may present a hazard to the public health and safety or the environment, but not including gaseous substances used exclusively for the administration of medical care. This includes the following other regulated substances:

[(I)] (A) Nonpetroleum oils including biodiesel; synthetic fuels and oils, such as silicone fluids; tung oils and wood-derivative oils, such as resin/rosin oils; and inedible seed oils from plants, which are liquid at standard conditions of temperature and pressure. The requirements in this chapter for petroleum tanks in [clause (B)] subparagraph (ii) apply for this group of substances.

[(II)] (B) Pure ethanol intended for blending with motor fuel. The requirements in this chapter for petroleum tanks in [clause (B)] subparagraph (ii) apply.

Release—Spilling, leaking, emitting, discharging, escaping, leaching or disposing from a storage tank into surface waters and groundwaters of this Commonwealth or soils or subsurface soils in an amount equal to or greater than the reportable released quantity determined under section 102 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C.A. § 9602), and regulations promulgated thereunder, or an amount equal to or greater than a discharge as defined in section 311 of the Federal Water Pollution Control Act (33 U.S.C.A. § 1321) and regulations promulgated thereunder. The term also includes spilling, leaking, emitting, discharging, escaping, leaching or disposing from a storage tank into a containment structure or facility that poses an immediate threat of contamination of the soils, subsurface soils, surface water or groundwater. All spills, leaks, emissions, discharges, escapes, leaching or disposals of a regulated substance into

a containment structure or facility pose an immediate threat of contamination of the soils, subsurface soils, surface water or groundwater, except when a regulated substance is present in a liquid-tight containment sump or emergency containment structure as a result of a tank handling activity, if the certified installer providing direct onsite supervision has control over the regulated substance, the regulated substance is completely contained and, prior to the certified installer leaving the storage tank facility, the total volume of the regulated substance is recovered and removed.

Release detection—The determination, through a method or combination of methods, whether a release of a regulated substance has occurred from a storage tank system into the environment or into the interstitial space between the storage tank system and its secondary containment around it.

Remediation standard—The background, Statewide health or site-specific standard, or any combination thereof, as provided for in the Land Recycling and Environmental Remediation Standards Act (35 P.S. §§ 6026.101—[6026.909] 6026.208).

Removal—Activities involving removal of storage tank system components, ancillary equipment and appurtenances. The term includes removal from service activities when a storage tank or storage tank system is removed, but excludes site assessment activities.

Removal from service—The term includes the following:

(i) Activities related to rendering [**an underground**] a storage tank system permanently unserviceable. Activities include the oversight of the proper draining and cleaning of the storage tank system of product liquids, vapors, accumulated sludges or solids, and completing one of the following:

(A) Leaving the storage tank system in the ground and filling the tank with inert, solid material.

(B) Dismantling or removing the storage tank system from the tank site.

(ii) [**Discontinued use, abandonment, closure in place and permanent closure but does not include temporary closure as those terms are used in the act.**] Closure-in-place and permanent closure.

(iii) Site assessment activities required under Subchapter E (relating to technical standards for underground storage tanks) and applicable State law, which are the responsibility of owners and operators, but are not conducted by certified installers or inspectors.

[**Reportable release**—A quantity or an unknown quantity of regulated substance released to or posing an immediate threat to surface water, groundwater, bedrock, soil or sediment. The term does not include the following, if the owner or operator has control over the release, the release is completely contained and, within 24 hours of the release, the total volume of the release is recovered or removed in the corrective action:

(i) A release to the interstitial space of a double-walled aboveground or underground storage tank.

(ii) A release of petroleum to an aboveground surface that is less than 25 gallons.

(iii) A release of a hazardous substance to an aboveground surface that is less than its reportable quantity under the Comprehensive Environmental

Response, Compensation, and Liability Act of 1980 (42 U.S.C.A. §§ 9601—9675) and 40 CFR Part 302 (relating to designation, reportable quantities, and notification).]

Repair—An activity that restores to original operating condition a tank, piping, spill prevention equipment, overfill prevention equipment, corrosion protection equipment, release detection equipment or other storage tank system component that has failed to function properly.

Residential tank—A tank located on property used primarily for dwelling purposes.

* * * * *

Solid Waste Management Act—The Solid Waste Management Act (35 P.S. §§ 6018.101—6018.1003).

Spill prevention equipment—A liquid-tight container placed around the fill pipe or fill port riser of a storage tank designed to capture any product that may spill when the delivery hose is disconnected including a catchment basin, spill containment bucket or spill containment box.

Spill prevention response plan—Emergency plans and procedures developed by an aboveground storage tank or tank facility owner, operator, or both, for response to an accident or spill on the facility by facility personnel or contractors.

Stationary tank—An aboveground storage tank that is permanently affixed to the real property on which the tank is located.

Storage tank—An aboveground or underground storage tank which is used for the storage of a regulated substance.

Storage tank facility—One or more stationary tanks, including associated intrafacility pipelines, fixtures, monitoring devices and other equipment. A facility may include aboveground tanks, underground tanks or a combination of both. For the purposes of the act and this part, the associated intrafacility pipelines, fixtures, monitoring devices and other equipment for an aboveground storage tank shall be that which lies within the emergency containment area. The term storage tank facility does not encompass portions of a facility that do not contain storage tank systems.

Storage tank system—[**An**] **All or part of an** underground or aboveground storage tank, associated underground or aboveground piping directly serving that storage tank, and one or more of the following which are directly associated with that storage tank:

* * * * *

Tank handling activities—Activities to install, modify [**or remove**], **perform change-in-service or close** all or part of a storage tank system or storage tank facility. The term does not include maintenance activities.

* * * * *

Underground storage tank—One or a combination of tanks (including underground pipes connected thereto) which are used, were used or will be used to contain an accumulation of regulated substances, and the volume of which (including the volume of underground pipes connected thereto) is 10% or more beneath the surface of the ground. The term includes tanks being constructed or installed for regulated use. The term does not include:

(i) Farm or residential tanks of 1,100 gallons or less capacity used for storing motor fuel for noncommercial purposes.

(ii) Tanks used for storing heating oil for consumptive use on the premises where stored unless they are specifically required to be regulated by Federal law.

(iii) A septic or other subsurface sewage treatment tank.

(iv) A pipeline facility (including gathering lines) [**regulated under**] **which is one of the following:**

(A) [**The Natural Gas Pipeline Safety Act of 1968.**] **Regulated under 49 U.S.C.A. §§ 60101—60141.**

(B) [**The Hazardous Liquid Pipeline Safety Act of 1979.**] **An intrastate pipeline facility regulated under state laws as provided in 49 U.S.C.A. §§ 60101—60141 and which is determined by the Secretary of the United States Department of Transportation to be connected to a pipeline or to be operated or intended to be capable of operating at pipeline pressure or as an integral part of a pipeline.**

(v) An interstate [**or intrastate**] pipeline facility regulated under State laws comparable to the provisions of law in subparagraph (iv).

* * * * *

(xii) An underground storage tank system with capacity of 110 gallons or less.

[**(xiii) Tanks containing radioactive materials or coolants that are regulated under The Atomic Energy Act of 1954 (42 U.S.C.A. §§ 2011—2297).**

(xiv) **A wastewater treatment tank system.]**

(xiii) A wastewater treatment tank system that is part of a wastewater treatment facility regulated under section 307(b) or 402 of the Clean Water Act (33 U.S.C.A. §§ 1317(b) and 1342).

[**(xv)**] **(xiv)** Equipment or machinery that contains regulated substances for operational purposes such as hydraulic lift tanks and electrical equipment tanks.

[**(xvi)**] **(xv)** An underground storage tank system that contains a de minimis concentration of regulated substances.

[**(xvii)**] **(xvi)** An emergency spill or overflow containment underground storage tank system that is expeditiously emptied after use.

[**(xviii) An underground storage tank system that is part of an emergency generator system at nuclear power generation facilities regulated by the Nuclear Regulatory Commission under 10 CFR Part 50, Appendix A (relating to general design criteria for nuclear power plants).**

(xix)] **(xvii)** Other tanks excluded by policy or regulations promulgated under the act.

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TANK HANDLING AND INSPECTION ACTIVITIES

§ 245.21. Tank handling and inspection requirements.

(a) Tank handling activities shall be conducted by a certified installer except in the case of modification to an aboveground nonmetallic storage tank, which may be

modified by the tank manufacturer. Storage tank facility owners and operators **[may not use persons who are not Department certified] shall use persons who are Department-certified** to conduct tank handling activities except as noted in this subsection. The certified installer shall perform the tank handling activity or provide direct onsite supervision and control of the activity.

(b) Tank handling activities conducted on all **aboveground** field constructed storage **[tanks] tank systems** and tank handling activities conducted on all aboveground storage **[tanks] tank systems** having a capacity greater than 21,000 gallons shall be inspected by a certified inspector, except in the case of a minor modification or removal from service.

* * * * *

[TIGHTNESS] TESTING ACTIVITIES

§ 245.31. Underground storage tank **[tightness] system** testing requirements.

(a) Tightness testing activities shall be conducted by a Department-certified underground storage tank system tightness tester (UTT), except when performed by an owner or operator using installed automatic tank gauging or monitoring equipment meeting requirements **[of § 245.444(3) and (4)] in § 245.444(2) and (3)** (relating to methods of release detection for tanks).

[(b) Tightness testing is required to be conducted when it is:

(1) Used as a method of release (leak) detection as prescribed in §§ 245.442(b)(1), 245.443(1), 245.444(3) and 245.445(2).

(2) Used to complete the installation of a new single wall constructed underground storage tank. The testing is an integral part of the installation process.

(3) Used in conjunction with cathodic protection upgrading as prescribed in § 245.422(b)(2)(iii) or (v) (relating to upgrading of existing underground storage tank systems).

(4) Used to test tanks repaired in response to a release as prescribed in § 245.434(5) (relating to repairs allowed).

(5) Otherwise required by the Department.

(c) **[(b)]** Tightness testing shall be conducted in accordance with equipment manufacturer's written instructions and using the recommended written practices, procedures and established test method protocols developed by the sources in § 245.132(a)(1) (relating to standards of performance).

[(d)] (e) A failed valid tightness test will, regardless of the test method, constitute a suspected release, except as provided in § 245.304(b) (relating to investigation of suspected releases). A failed valid tightness test conducted as part of an investigation of a suspected release constitutes a confirmed release.

[(e)] (d) A complete written test report shall be provided to the tank owner as documentation of test results within 20 days of the test. The test methodology, a certification that the test meets the requirements **[of § 245.444(3)] in § 245.444(2)** or § 245.445(2) (relating to methods of release detection for piping), and sufficient

test data, which were used to conclude that the **[tank] underground storage tank system** passed or failed the tightness test, shall be included in the test report.

[(f)] (e) Certified underground storage tank system tightness testers (UTT) shall maintain complete records of tightness testing activities for a minimum of 10 years as provided in § 245.132(a)(3) (relating to standards of performance).

[(g) Tightness testing of the underground storage tank system's piping shall be conducted by a Department-certified underground storage tank system tightness tester (UTT) after November 10, 2008.]

(f) Tests or evaluations of spill prevention and overflow prevention equipment, containment sumps and release detection equipment required under this chapter shall be performed by a Department-certified individual holding the appropriate certification category and documented on a form provided by the Department. Results shall be maintained onsite at the storage tank facility or at a readily available alternative site and shall be provided to the Department upon request.

TANK REGISTRATION AND FEES

§ 245.41. Tank registration requirements.

(a) Tank owners shall properly register each storage tank by meeting the requirements **[of] in** this section and paying the registration fee **prior to registration certificate expiration as** required by § 245.42 (relating to tank registration fees).

(b) Tank owners shall register each aboveground storage tank and each underground storage tank with the Department, except as specifically excluded by Department policy or this chapter, on a form provided by the Department, within 30 days after installation or acquisition of an ownership interest in the storage tank. Unless otherwise approved by the Department, a regulated substance may not be placed in the tank and the tank may not be operated until the tank is properly registered and the Department approves an operating permit for the tank.

(c) A form for registration of a storage tank must be complete upon submission to the Department and provide the following:

(1) Tank owner, operator, **property owner** and contact information.

(2) General facility, site and location information.

(3) Specific tank description and usage information, including regulated substance or substances that will be stored in each tank.

(4) Specific tank construction, system components and installation information.

(5) **[Owner or owner's representative] Owner's** certification validating the registration information and operating permit application.

(6) Certified tank installer information and signature (when required).

(7) Certified tank inspector information and signature for certain classes of tanks addressed in § 245.21 (relating to tank handling and inspection requirements).

(8) Trained underground storage tank operator information, as required under § 245.436 (relating to operator training).

[(8)] (9) Other applicable information that may be required by the Department.

(d) The owner's registration form shall also serve as an operating permit application. The Department may register a tank and not approve an operating permit for the tank if the application, tank system or the storage tank facility does not meet the requirements [of] in this chapter or the permit applicant is in violation of the act. The Department will automatically withhold or withdraw the operating permit for a storage tank that is reported on the registration form in [temporary closure or] temporary removal from service (out-of-service) status. Tank owners may not store, dispense from or place a regulated substance in a storage tank that does not have an operating permit unless otherwise agreed upon by the Department. Additionally, certain classes of tanks require a site-specific installation permit prior to beginning construction of a new or replacement storage tank in accordance with Subchapter C (relating to permitting of underground and aboveground storage tank systems and facilities). Submission of a site-specific installation permit application is a separate requirement for these tanks that is not satisfied by the registration form submission.

(e) A combination of tanks that operate as a single unit require registration of each tank unless otherwise agreed upon by the Department. A tank that has separate compartments within the tank shall be registered separately and charged a separate tank fee for each compartment unless the compartments are connected in a manner that fills, dispenses and operates as a single unit maintaining the same regulated substance at the same operating level in each compartment.

(f) Tank owners shall submit a registration form to amend registration information previously submitted to the Department within 30 days of a change in the previously submitted information. These changes include the following:

- (1) Removal or relocation of a storage tank to a new facility.
- (2) Temporary or permanent closure or removal from service of a storage tank.
- (3) Change in use of a storage tank to or from regulated or nonregulated status, for example, changing a storage tank to use as a process vessel.
- (4) Change in substance or substances stored in the tank, unless otherwise agreed upon by the Department.
- (5) Change of ownership or change of operator [—new and previous owner].
- (6) Change of contact, mailing address or telephone number.
- (7) Installation of a new or replacement storage tank at an existing facility.

(g) The Department may require submission of supporting documentation and process information for exemption or exclusion from regulation for a tank change in status or use from a regulated to a nonregulated status.

(h) Beginning October 24, 1988, a person who sells a tank intended to be used as a regulated storage tank or a property containing an existing

regulated storage tank shall notify the purchaser, in writing, of an owner's obligations under this section.

§ 245.42. Tank registration fees.

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(c) The Department will issue an invoice to the tank owner after receipt of a complete registration form under § 245.41(c) (relating to tank registration requirements). **[A tank owner filing a registration] The tank owner** shall remit the appropriate fee upon receipt of the invoice.

(d) Registration expiration dates are established for storage tanks according to facility location. The Department will prorate the registration fee [established by] in this section to reflect the percentage of time remaining in the registration year from the date of initial registration or change of ownership of a storage tank. The Department will not refund registration fees if an owner permanently closes a storage tank or exempts a storage tank through a change-in-service to store a nonregulated substance or change to nonregulated use (such as a process vessel) prior to the expiration of the storage tank's registration. **The Department will not refund registration fees due to a change of ownership.**

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**Subchapter B. CERTIFICATION PROGRAM FOR INSTALLERS AND INSPECTORS OF STORAGE TANKS AND STORAGE TANK FACILITIES
GENERAL CERTIFICATION REQUIREMENTS**

§ 245.102. Requirement for certification.

(a) A person may not conduct tank handling or tightness testing activities unless that person holds a current installer certification issued by the Department for the applicable certification category as indicated in § 245.110 (relating to certification of installers), except as provided in § 245.31 (relating to underground storage tank [tightness] system testing requirements). Installer certification will only be issued by the Department to a person who:

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(d) [After March 23, 1992, a] A certified installer or certified inspector may not perform tank handling or inspection activities as an employee of a company unless the company holds a valid certification issued by the Department under this chapter.

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§ 245.105. Certification examinations.

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(d) To receive a passing grade on the examinations, the applicant for certification shall achieve a minimum score of 80% on each technical [section] examination and a minimum score of 80% on the administrative [section of the] examination.

(e) An applicant who fails an examination is eligible to retake the examination for up to 1 year from the failed examination test date, but no later than 18 months from date of authorization.

(f) Passing examination scores are valid for 2 years from the date of the examination.

§ 245.106. Conflict of interest.

(a) Except as provided in subsection (b), a certified inspector may not be one or more of the following:

(1) An employee of the tank owner, the tank owner or operator.

(2) A certified installer on the same tank handling activity **[for which he is a] on an aboveground storage tank system for which the installer is the certified inspector.**

(3) An employee of a company that employs a certified installer on the same tank handling activity for which **[he is a] the employee is the certified inspector,** when the tank handling activity is performed on a **[field constructed] field-constructed** storage tank. This prohibition extends to a company that owns, or is owned by, the employer, in whole or in part.

(b) A certified inspector who is a certified installer may conduct a tank handling activity to correct a deficiency identified by the same certified individual or company during an inspection of the operation of **[a storage tank facility] an underground storage tank system or the inspection of the integrity, installation or modification of an aboveground storage tank system.** Notwithstanding this exception, subsection (a)(2) still prohibits a certified inspector from subsequently inspecting a tank handling activity which the certified inspector conducted to correct a deficiency noted **[in an inspection of the operation of a storage tank facility] during an integrity, installation or modification inspection of an aboveground storage tank system.**

(c) A certified inspector may not perform an inspection as required under § 245.411 (relating to inspection frequency) for a facility where the inspector is also the designated Class A or Class B operator as defined in § 245.436 (relating to operator training).

§ 245.107. **[Reciprocity.] (Reserved).**

[(a) A person holding a valid certification issued under the law of another state, territory or the District of Columbia may be issued a certificate in a classification equivalent to the classification of the certification issued by the other state, territory or District of Columbia, if the person proves to the satisfaction of the Department that he is competent to conduct activities in the classification for which certification is being requested. In making its determination, the Department will consider the following:

(1) That the other certification was issued as a result of the passing of an examination equivalent in technical content to that given by the Department for that classification.

(2) That the applicant can be shown to have complied with the laws and requirements of the state, territory or District of Columbia, issuing the other certification in conducting activities for which the other certification was issued.

(3) That the applicant meets the experience and qualification requirements of this chapter for the category of certification being requested.

(4) The applicant achieves a passing grade on all administrative sections of the certification exami-

nation required by this chapter for the category of certification being requested.

(b) The applicant shall submit an application for certification to the Department in accordance with § 245.104 (relating to application for installer or inspector certification).]

§ 245.108. Suspension of certification.

(a) The Department may suspend the certification of a certified installer or certified inspector for good cause which includes **[, but is not limited to]:**

(1) A violation of the act or this chapter.

(2) Incompetency on the part of the certified installer or certified inspector as evidenced by errors in conducting duties and activities for which the certification in question was issued.

(3) Failure to successfully complete a training program required by the Department.

(4) In the case of a certified inspector's failure to:

(i) Inform the owner or operator and the Department of conditions or procedures that are not in accordance with the manufacturer's technical and procedural specifications for installation, construction, modification or operation of the storage tank system or storage tank facility and not in compliance with the act or this chapter.

(ii) Conduct, review or observe a test or inspection activity required by the act or this chapter.

(iii) Submit reports of inspection activities to the Department within 60 days of conducting **[the inspection activities] an inspection activity, except for reports of modification inspection activities, which shall be reported to the Department within 30 days of conducting a modification inspection activity.**

(5) In the case of a certified installer's failure to:

(i) Be present during tank handling activities at the storage tank system or storage tank facility as required by the act or this chapter.

(ii) Conduct tank handling activities in accordance with the requirements **[of] in** the act or this chapter.

(iii) Submit tank handling reports and activities to the Department within 30 days of conducting the tank handling activities. For tank handling activities involving multiple certified individuals and certification categories, the tank handling report shall be submitted within 30 days of the completion of all project tank handling and inspection activities.

(6) Working as a certified installer or certified inspector in a certification category for which the person has failed to obtain **or maintain** certification.

(7) Failure to meet one or more of the standards for performance in § 245.132 (relating to standards of performance).

(8) Submission of false information to the Department.

(9) A violation of The Clean Streams Law, the Air Pollution Control Act or the Solid Waste Management Act or regulations promulgated under those statutes by the certified individual which **[results in the following:] causes pollution, causes a threat of pollution, or causes harm to the public health, safety or welfare.**

[(i) Causes pollution, causes a threat of pollution or causes harm to the public health, safety or welfare.

(ii) Occurs as a result of the certified individual conducting activities related to the installation, modification, removal or inspection of storage tank systems.]

(10) Failure to perform underground tightness testing activities and documentation in accordance with § 245.31 (relating to underground storage tank [**tightness**] **system** testing requirements).

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§ 245.110. Certification of installers.

(a) An installer certification authorizes the person to whom it is issued to conduct tank handling activities or tightness testing activities pertaining to storage tank systems or storage tank facilities in one or more of the categories in subsection (b).

(b) Installer certifications may be issued for the following categories:

(1) Underground storage tank [**system-installation**] **system installation** and modification {UMX}. Installation and modification of underground [**storage tanks and**] storage tank systems including[, **but not limited to,**] the tank and all associated ancillary equipment, appurtenances, corrosion protection systems, structural components and foundations. This category also includes conducting preinstallation air pressure tests for underground storage tank systems, **overflow prevention equipment evaluations, containment sump and spill prevention equipment testing, and release detection equipment testing.**

(2) Underground storage tank system minor modification {UMRI}. Limited to the performance of **minor modifications of underground storage tank systems. This category also includes conducting overflow prevention equipment evaluations, containment sump and spill prevention equipment testing, and release detection equipment testing.**

[(2)] (3) Underground storage [**tank-removal**] **tank system removal** {UMR}. Removal from service of underground storage tank systems [**or storage tank facilities**].

[(3)] (4) Underground storage tank [**system-tightness**] **system tightness tester** {UTT}. Tightness testing activities involved in conducting and interpreting results of volumetric and nonvolumetric tests on underground storage tank systems [**or storage tank facilities**]. **This category also includes containment sump and spill prevention equipment testing and release detection equipment testing.**

[(4)] (5) Aboveground manufactured metallic storage [**tank-installation**] **tank system installation** and modification {AMMX}. Installation and modification of aboveground manufactured metallic storage tank systems, including[, **but not limited to,**] the tank and all associated ancillary equipment, appurtenances and corrosion protection systems. This category also covers foundations, **containment structures** and structural components when they are designed by an engineer qualified in civil construction or when installing small aboveground UL-labeled tanks with manufacturer's installed self-containment or diking systems.

[(5)] (6) Aboveground nonmetallic storage [**tank-installation**] **tank system installation** and modification {AMNX}. Installation and modification of aboveground nonmetallic [**storage tanks or**] storage tank systems, including[, **but not limited to,**] the tank and all associated ancillary equipment and appurtenances. This category also covers foundations and structural components when they are designed by an engineer qualified in civil construction or as specified by the tank manufacturer.

[(6)] (7) Aboveground manufactured storage [**tank-removal**] **tank system removal** {AMR}. Removal from service of aboveground manufactured storage tank systems [**or storage tank facilities**].

[(7)] (8) Aboveground field constructed metallic storage [**tank-installation**] **tank installation, modification and removal** {AFMX}. Installation, modification and removal of aboveground field constructed metallic storage tanks and corrosion protection systems. This category also covers the modification of tank **shell** components of an aboveground manufactured **metallic** storage tank [**system**].

[(8)] (9) Aboveground field constructed storage [**tank-removal**] **tank system removal** {AFR}. Removal from service of aboveground field constructed and manufactured aboveground storage tank systems [**or storage tank facilities**].

[(9)] (10) Aboveground storage tank [**mechanical-installation**] **system mechanical installation, modification and removal** {AMEX}. Installation, modification and removal of tank related mechanical appurtenances, including[, **but not limited to,**] valves, fill piping, suction piping, foam system piping, pumps, corrosion protection systems, release detection systems, and spill and overflow prevention systems that are components of an aboveground storage tank system [**or storage tank facility**].

[(10)] (11) Aboveground storage [**tank-civil**] **tank system civil** {ACVL}. Installation and modification of tank related structural components, including[, **but not limited to,**] foundations, dike walls, field grading, above and below grade vaults, pump supports, pipe supports, corrosion protection systems and drainage systems associated with an aboveground storage tank system [**or storage tank facility**].

[(11)] (12) Storage tank-liner [**Storage tank liner**] {TL}. Activities involved in installation or modification of internal linings for underground and aboveground storage tank systems [**or storage tank facilities**] and the evaluation of underground storage tank linings as required in § 245.422(b)(1)(ii) (relating to upgrading of existing underground **storage tank** systems).

§ 245.111. Certified installer experience and qualifications.

(a) An applicant shall meet the following minimum experience, education, training or certification requirements and have completed the required number of activities in the appropriate category for an initial installer category certification:

Category	Experience, Education, Training or Certification	Total Number of Activities Completed
UMX	2 years, or college degree and 1 year Technical training or <u>UMI certification</u>	[9 installations] 10 installations or major modifications (at least 5 installations) 10 installations or major modifications (at least 5 installations)
<u>UMI</u>	2 years, or college degree and 1 year Technical training	10 minor modifications
UMR	2 years, or college degree and 1 year Technical training	6 removals
UTT	Department-approved training with testing equipment manufacturer's certification	None
AMMX	2 years, or college degree and 1 year Technical training	[9 installations] 10 installations or major modifications (at least 5 installations)
	or UMX certification Technical training	None
	or AFMX certification	None
AMNX	2 years, or college degree and 1 year Technical training or AMMX certification	[9 which may be installations or major modifications] 10 installations or major modifications (at least 5 installations) 6 AST installations
AMR	2 years, or college degree and 1 year Technical training	6 removals
	or UMR certification	None
	or AFR certification	None
AFMX	3 years, or college degree and 2 years Technical training	12 which may be installations or major modifications
AFR	2 years, or college degree and 1 year Technical training	6 removals
AMEX	3 years, or college degree and 2 years Technical training	12 installations or modifications (at least 6 installations)
ACVL	3 years, or college degree and 2 years Technical training	12 installations or modifications (at least 6 installations)
TL	2 years [/] Manufacturer's certification	9 tank linings

* * * * *

(c) A college degree being substituted for experience shall be, **at a minimum, a bachelor's degree** in civil engineering, mechanical engineering, environmental engineering, petroleum engineering, chemical engineering, structural engineering [**or**], geotechnical engineering, **hydrology, geology or an equivalent degree as determined by the Department.**

* * * * *

(g) The technical training required by subsection (a) shall be completed during the experience interval and shall be demonstrated through the submission of proof of successful completion of a category-specific training course approved by the Department in accordance with § 245.141. Successful completion means attendance at all sessions of the training and attainment of the minimum passing grade for the approved course. **[The requirement for category-specific technical training is effective November 10, 2008.]**

* * * * *

§ 245.112. Certification of inspectors.

(a) An inspector certification authorizes the person to whom it is issued to conduct inspection activities for storage tank systems and storage tank facilities in one or more of the categories in subsection (b).

(b) Inspector certifications may be issued for the following categories:

(1) IUM underground storage tank systems and storage tank facilities. **This category also includes containment sump and spill prevention equipment testing and release detection equipment testing.**

(2) IAM aboveground manufactured storage tank systems and storage tank facilities.

(3) IAF aboveground field constructed and aboveground manufactured storage tank systems and storage tank facilities.

§ 245.113. Certified inspector experience and qualifications.

(a) An applicant shall meet the following minimum experience, education, training or certification requirements, and have completed the required number of activities in the appropriate category for an initial inspector category certification:

<i>Category</i>	<i>Experience, Education, Training or Certification</i>	<i>Total Number of Activities Completed</i>
IUM	4 years, or college degree and 2 years and Department-approved tank tightness testing familiarization course or UTT certification and	None
	UMX certification and Corrosion protection training	
IAM	4 years, or college degree and 2 years API 653 certification or STI inspector certification or Department-approved aboveground storage tank inspector certification	None
IAF	4 years, or college degree and 2 years API 653 certification or Department-approved aboveground storage tank inspector certification	12 integrity or construction inspections

(b) The total number of activities completed required by subsection (a) shall have been completed within the 3-year period immediately prior to submitting the application for certification. The activities shall have been completed in compliance with Federal and State requirements and the applicant shall have had substantial personal involvement at the storage tank site in the activities.

(c) A college degree being substituted for experience shall be, **at a minimum, a bachelor's degree** in civil engineering, mechanical engineering, environmental engineering, petroleum engineering, chemical engineering, structural engineering, geotechnical engineering, hydrology, geology or [**environmental studies**] **an equivalent degree as determined by the Department.**

(d) The total number of activities completed required by subsection (a) may be met through the conducting of inspection activities. Noncertified individuals may work at the site but the certified inspector is directly responsible to assure that the activities are conducted properly. This work qualifies toward the total number of activities completed requirements.

(e) The total experience requirement is experience gained working at a storage tank site while working towards the total number of activities completed requirement.

(f) Corrosion protection training required for IUM certification shall be documented by completion of a Nationally recognized training course in the area of cathodic protection or corrosion protection, or other training as approved by the Department.

[(f)] (g) When conducting an aboveground storage tank structural integrity inspection on an aboveground field constructed metallic storage tank, the Department certified inspector shall also possess API Standard 653 (Tank Inspection, Repair, Alteration and Reconstruction Certification).

[(g)] (h) The applicant shall certify completion of safety training which is appropriate for the certification category. Training must be in accordance with regulatory requirements and industry standards and procedures such as Occupational Safety and Health Administration requirements in 29 CFR **Part** 1910 (relating to occupational **safety** and health standards [**for industry**]).

[(h)] (i) Certified inspectors of underground storage tanks (IUM) shall complete Department-provided inspector training prior to conducting [**UST facility operation**] inspections **on underground storage tank systems as required in § 245.411** (relating to inspection frequency).

(j) Certified inspectors of aboveground storage tanks (IAF and IAM) shall complete Department-provided inspector training prior to conducting installation, modification, in-service and out-of-service inspections on aboveground storage tank systems as required under §§ 245.551—245.554 and 245.616.

§ 245.114. Renewal and amendment of certification.

(a) Certification categories [**renewed after January 9, 2008,**] will have a uniform expiration date of 3 years from the issuance date of the first category **obtained or renewed** after January 9, 2008.

(b) [**After the conversion to a uniform expiration date as provided in subsection (a), the**] **The** issued certification will be valid for 3 years from the previous expiration date, unless suspended or revoked before that date.

(c) An applicant shall meet the following [**minimum**] training requirements [**or number of activities**] in the appropriate category for renewal of installer certification:

<i>Category</i>	[<i>training</i>] Training	[<i>Total Number of Activities Completed (Renewal by activities to be phased out November 10, 2009)</i>]
UMR	Examination or Technical training Administrative training	[6 removals]
UMX	Examination or Technical training Administrative training	[9 installations or major modifications]
UMI	Examination or Technical training Administrative training	
UTT	Testing equipment manufacturer's certification Administrative training	[None]
AMMX	Examination or Technical training Administrative training	[9 installations or major modifications]
AMNX	Examination or Technical training Administrative training	[9 installations or major modifications]
AFMX	Examination or Technical training Administrative training	[12 installations or major modifications]
AFR	Examination or Technical training Administrative training	[6 removals]
AMR	Examination or Technical training Administrative training	[6 removals]
AMEX	Examination or Technical training Administrative training	[12 installations or major modifications]
ACVL	Examination or Technical training Administrative training	[12 installations or major modifications]
TL	Manufacturer's certification Administrative training	[9 tank linings]

(d) An applicant shall meet the following requirements in the appropriate category for renewal of inspector certification:

<i>Category</i>	<i>Qualifications and Training</i>
IUM	Department inspector training
IAM	API 653 certification or STI Inspector certification or Department approved inspector certification and Department inspector training
IAF	API 653 certification or Department-approved inspector certification and Department inspector training

[(e) **Renewal of categories based on number of activities completed without technical training or examination as provided in subsection (c) will be a method of renewal until November 10, 2009.**

(f) **Technical and administrative training shall be obtained within 2 years prior to application submission.]**

(e) Technical, administrative and inspector training shall be obtained within 2 years prior to application submission.

(1) Administrative **and inspector** training will be provided by the Department. [**Administrative training in subsection (c) is required after November 10, 2009.]**

(2) Technical training is category-specific and must be approved by the Department in accordance with § 245.141 (relating to training approval).

[(g)] (f) An applicant for renewal shall:

(1) Submit a completed application for renewal to the Department 60 to 120 days prior to the expiration date or examination test date. Applicants who fail to submit a renewal application within 60 days following the expiration date shall meet the experience, qualifications and examination requirements for initial certification as required in § 245.111 or § 245.113 (relating to certified installer experience and qualifications; **and** certified inspector experience and qualifications) and the requirements in § 245.105 (relating to certification examinations).

(2) The applicant shall certify completion of safety training which is appropriate for the certification category. Training must be in accordance with regulatory requirements and industry standards and procedures such as Occupational Safety and Health Administration requirements in 29 CFR **Part** 1910 [**(relating to occupational and health standards for industry)**].

(3) Successfully complete training programs which may be required by the Department. Successful completion means attendance at all sessions of training and attainment of the minimum passing grade established by the

Department in the approval of the training course under § 245.141 for all sections of all qualifying tests given as part of the training course.

[(h) (g)] A certified installer or certified inspector shall notify the Department and seek amendment of the certification from the Department whenever:

(1) There is a change in the information provided in the application for the certification. This request shall be made within 14 days from the date of a change in information.

(2) The certified installer or certified inspector wishes to conduct tank handling or inspection activities in installer or inspector certification categories other than those approved by the Department as set forth on the certification.

(3) The certified installer or certified inspector wishes to eliminate installer or inspector certification categories from the certification.

(4) The EQB amends certification categories or qualification requirements and establishes a phase-in period for the new requirements.

[(i) (h)] Certified installers or certified inspectors required to amend their certifications in accordance with paragraph (1) or (3) shall apply for amendment on a form provided by the Department.

[(j) (i)] Certified installers or certified inspectors required to amend their certifications in accordance with subsection **[(h)(2) (g)(2)]** shall comply with the applicable requirements **[of] in** this chapter related to application, experience, qualifications and examination.

COMPANY CERTIFICATION

§ 245.121. Certification of companies.

A company may not **perform or** employ a certified installer or certified inspector to perform tank handling, tightness testing or inspection activities unless the company holds a valid certification issued by the Department under this chapter and the company verifies that the certified installer or certified inspector holds a valid certification issued under this chapter for the appropriate category.

§ 245.123. Suspension of company certification.

(a) The Department may suspend the certification of a certified company for good cause, which includes, but is not limited to:

* * * * *

(4) A violation of The Clean Streams Law, the Air Pollution Control Act or the Solid Waste Management Act or regulations promulgated thereunder by the company or a certified installer or a certified inspector employed by the company which **[results in the following:] causes pollution, causes a threat of pollution or causes harm to the public health, safety or welfare.**

[(i) Causes pollution, causes a threat of pollution or causes harm to the public health, safety or welfare.

[(ii) Occurs while conducting activities related to the installation, modification, removal from service or inspection of storage tank systems.]

(5) Withholding from a certified installer or certified inspector, individual correspondence or certification documents issued by the Department.

* * * * *

STANDARDS [FOR] OF PERFORMANCE

§ 245.132. Standards of performance.

(a) Certified companies, certified installers and certified inspectors shall:

(1) Maintain current technical and administrative specifications and manuals, **[Nationally-recognized] Nationally recognized** codes and standards, and State and Federal regulations which pertain to the categories for which certification was issued. **[Nationally-recognized] Nationally recognized** organizations are identified in §§ 245.405, 245.504 and 245.604 (relating to codes and standards; **referenced organizations**; and referenced organizations).

(2) Complete and submit to the Department, within 60 days of **[the inspection activity] an inspection activity, except for a modification inspection, which shall be submitted within 30 days of the inspection activity**, or 30 days of a tank handling activity, a Department-approved form certifying that the tank handling activity or inspection activity conducted by the certified installer or certified inspector meets the requirements **[of] in** the act and this chapter and accurately describes the conditions of the storage tank system and facility. For tank handling activities involving multiple certified individuals and certification categories, the tank handling report shall be submitted within 30 days of the completion of all project tank handling and inspection activities.

(3) Maintain complete records of tank handling and inspection activities, nondestructive examination and testing results and tightness testing records for a minimum of 10 years.

[(4) Report to the Department a release of a regulated substance or confirmed or suspected contamination of soil, surface or groundwater from regulated substances observed while performing services as a certified installer or certified inspector. This notification shall be submitted to the Department in writing within 48 hours of observing suspected or confirmed contamination on a form provided by the Department. If the notification is being submitted because of a failed valid tightness test, a copy of the test results shall also be provided to the Department with the notification report. When there is a reportable release, the notification may be submitted jointly by the owner, operator, certified installer and certified inspector. In this instance, the written notification report shall be submitted to the Department, at the appropriate regional office, in accordance with § 245.305 (relating to reporting releases).]

[(4) Report any of the following to the Department while performing services as a certified installer or certified inspector:

[(i) A release of a regulated substance.

[(ii) Suspected or confirmed contamination of soil, surface or groundwater from regulated substances.

[(iii) A regulated substance observed in a containment structure or facility.

[(5) Report to the Department failed tests of spill prevention equipment, containment sumps and overflow prevention equipment conducted as required in this chapter.

(6) As required under paragraphs (4) and (5), notify the Department in writing within 48 hours of performing the failed test or observing a release of a regulated substance, suspected or confirmed contamination, or a regulated substance in a containment structure or facility on a form provided by the Department. If the notification is being submitted because of a failed valid tightness test, spill prevention equipment test, containment sump test or overfill prevention evaluation, a copy of the test results shall also be provided to the Department with the notification report.

[(5)] (7) Perform certified installer or certified inspector activities so that there is no release of regulated substances or contamination of soil, surface or groundwater caused by regulated substances from a storage tank system or storage tank facility.

[(6) Not affix the certified installer's or certified inspector's signature or certification number to documentation concerning the installation or inspection of a component of a storage tank system project or to documentation concerning tank handling or inspection activity, unless:

(i) The storage tank system project was accomplished by the certified installer or under the installer's direct, onsite supervision and control.

(ii) Inspection activities were conducted on the storage tank system project by the certified inspector, or under the inspector's direct, onsite supervision and control and as required by the act and this chapter and the certified inspector was present at the site during the conducting of inspection activities on the storage tank system project and as required by the act and this chapter.

(iii) Installation or modification inspection activities were conducted on a large or field constructed aboveground storage tank and the certified inspector was involved prior to the initiation of the project and was present at critical times, so that the inspector can reliably determine that the following requirements were met:

(A) Industry standards and project specifications were followed throughout the tank handling activity.

(B) Appropriate testing and nondestructive examinations were properly conducted.

(C) The tank is suitable for operational service.

(7) Not certify to an owner or operator or the Department that a storage tank system project or component thereof is complete unless it complies with the act or this chapter. Project certification applies to both certified activities and nontank handling activities that may have been performed as part of the project.]

(8) Adhere to equipment manufacturer's instructions, accepted industry standards and applicable industry codes of practice when performing tank handling, tightness testing or inspection activities or other nontank handling activities on the project.

(9) Provide requested records and documentation to the Department under section 107(c) of the act [(35 P.S. § 6201.107(c))] (35 P.S. § 6021.107(c)).

(b) A company that employs an individual certified in the UMX, UMR, UMI or UTT category or an

individual certified in the UMX, UMR, UMI or UTT category who is not employed by a certified company shall participate in the Tank Installer Indemnification Program (TIIP) as required under section 704(a)(1) of the act (35 P.S. § 6021.704(a)(1)) and shall provide timely payment of TIIP fees as required under section 705(d)(1) and (e) of the act (35 P.S. § 6021.705(d)(1) and (e)) and § 977.19(b) (relating to certified company fees for the Underground Tank Storage Tank Indemnification Fund).

(c) Certified companies, certified installers and certified inspectors may not:

(1) Affix the certified installer's or certified inspector's signature or certification number to documentation concerning the installation or inspection of a component of a storage tank system project or to documentation concerning tank handling or inspection activity as required under the act and this chapter unless:

(i) The storage tank system project was performed by the certified installer or under the installer's direct, onsite supervision and control.

(ii) Inspection activities were conducted on the storage tank system project by the certified inspector, or under the inspector's direct, onsite supervision and control.

(iii) Installation or modification inspection activities were conducted on a large or field-constructed aboveground storage tank and the certified inspector was involved prior to the initiation of the project and was present at critical times so that the inspector can reliably determine that all of the following requirements were met:

(A) Industry standards and project specifications were followed throughout the tank handling activity.

(B) Appropriate testing and nondestructive examinations were properly conducted.

(C) The tank is suitable for operational service.

(2) Certify to an owner or operator or the Department that a storage tank system project or component thereof is complete unless it complies with the act and this chapter. Project certification applies to certified activities and nontank handling activities that may have been performed as part of the project.

[(b)] (d) A certified installer or certified inspector shall display [a] his Department-issued certification identification card or certificate upon request.

[(c)] (e) A certified company is responsible for employees having appropriate safety and technical training. Certified companies, certified installers and certified inspectors shall adhere to health and safety procedures, such as those required by the Federal Occupational Safety and Health Administration (OSHA) and the National Institute for Occupational Safety and Health (NIOSH).

TRAINING APPROVAL

§ 245.141. Training approval.

* * * * *

(b) An application for approval must include the following information:

* * * * *

(4) A narrative describing the preparation and administration of a test to be given at the conclusion of the course. This test must test the participant's knowledge of the technical, administrative and legal requirements related to the subject matter of the course. The narrative must also describe a procedure for conducting and grading of the test that assures careful monitoring and expeditious transmission of test results to the applicant and the Department.

(5) Other information necessary for a determination that the training program conforms to the act and this chapter such as copies of presentations, presenter notes, training handouts or references.

(c) Training approval shall be for 3 years from the date of issuance. An applicant for renewal shall submit a completed application for renewal to the Department 60 to 120 days prior to the expiration date.

(d) The Department may approve industry recognized training without the submission of an application as provided in subsection (a).

Subchapter C. PERMITTING OF UNDERGROUND AND ABOVEGROUND STORAGE TANK SYSTEMS AND FACILITIES

GENERAL

§ 245.203. General requirements for permits.

(a) **[Except as provided in subsections (b)—(d), a]** A person may not operate an aboveground or underground storage tank system or storage tank facility, or install a storage tank system or facility covered by § 245.231 (relating to scope), unless the person has first applied for and obtained a permit for the activity from the Department under this subchapter.

(b) **[A person is not required to submit a separate application for a permit if the storage tank system is subject to a permit-by-rule.]** The storage tank system must be registered with the Department in accordance with Subchapter A (relating to general provisions) and be maintained and operated in compliance with the standards and requirements of the Department under the act and this chapter. Failure to comply with standards could result in administrative or other Departmental actions against the storage tank **[owner/operator] owner and operator.**

[(c) A person may continue to operate an existing storage tank system, registered with the Department on or before October 11, 1997, when the tank system is operated for its intended use, until the Department notifies the person to submit a permit application under this subchapter or the Department notifies the person the tank system is deemed permitted, if the person maintains and operates the storage tank system in compliance with the act and this chapter.

(d) Operation of existing storage tank systems will be allowed to continue until the Department takes final action on the permit application requested in subsection (c) or the Department notifies the person that the tank system is deemed permitted or that the permit is withheld or denied.

(e) **[(c) Operating permits will be renewed automatically on an annual basis concurrent with registration. There will be no additional fee or paperwork required beyond the registration requirements.**

[(f)] (d) The Department will automatically withhold or withdraw the operating permit for a storage tank that is reported under § 245.41 (relating to tank registration requirements) in **[temporary closure or]** temporary removal from service (out-of-service) status. The Department may renew the permit when an amended registration form is received showing the tank returning from **[temporary closure or]** temporary removal from service status to an operating status.

[(g)] (e) A storage tank system may not be operated if the Department suspends, revokes or denies the tank operating permit. **[A person may not deliver or place a regulated substance in a storage tank if the Department suspends, revokes or denies the tank operating permit.]**

(f) A person may not deliver or place a regulated substance in a storage tank if the Department suspends, revokes or denies the tank operating permit, if the tank operating permit is in a withheld or withdrawn status, or if the tank operating permit has not been issued.

(g) The owner and operator of a storage tank system who causes or allows a violation of the act, this chapter, an order of the Department, a condition of a permit issued under the act or any other applicable law is subject to enforcement action including suspension, modification or revocation of the permit.

[PERMITS-BY-RULE]

§ 245.211. [Scope.] (Reserved).

[The following storage tank systems are subject to permit-by-rule for operation:

(1) Aboveground storage tank systems with a capacity less than or equal to 21,000 gallons, except highly hazardous substance storage tank systems.

(2) Underground manufactured storage tank systems storing petroleum.]

§ 245.212. [Minimum requirements for obtaining a permit-by-rule.] (Reserved).

[(a) A storage tank system listed in § 245.211 (relating to scope) shall be deemed to have a permit-by-rule for operation if the following conditions are met:

(1) The storage tank system is properly registered.

(2) Tank handling and inspection activities are performed by Department certified individuals, as specified in Subchapter B (relating to certification program for installers and inspectors of storage tanks and storage tank facilities).

(3) If necessary, the corrective action process regulations in Subchapter D (relating to corrective action process for owners and operators of storage tanks and storage tank facilities and other responsible parties) are followed.

(4) The storage tank system meets the applicable technical, administrative and operational requirements for underground tank systems specified in Subchapter E (relating to technical standards for underground storage tanks) or for aboveground tank systems specified in Subchapter G (relating to simplified program for small aboveground storage tanks).

(5) The owner of an underground storage tank system has met the applicable financial responsibility requirements of Subchapter H (relating to financial responsibility requirements for owners and operators of underground storage tanks and storage tank facilities).

(6) If required, the owner submits a current Spill Prevention and Response Plan that meets the Department's requirement under Chapter 9 of the act (35 P.S. §§ 6021.901—6021.904).

(b) The owner/operator of a storage tank system who causes or allows violations of the act, regulations thereunder, an order of the Department, or a condition of a permit issued under the act is subject to administrative or other actions including suspension, modification or revocation of the permit.]

[GENERAL] OPERATING PERMITS

§ 245.221. [Scope.] (Reserved).

[Storage tank systems not covered by § 245.211 (relating to scope) are subject to general operating permits.]

§ 245.222. Application requirements.

Applications for [a general] an operating permit shall be submitted on a [Department] form provided by the Department. The application must certify the following:

* * * * *

(3) In addition to the requirements [of] in paragraph (1), an owner of [an aboveground storage tank system shall meet the following requirements:] a large aboveground storage tank or large aboveground storage tank facility shall file a current Spill Prevention Response Plan that is in compliance with sections 901—904 of the act (35 P.S. §§ 6021.901—6021.904) with the Department.

[(i) A current Spill Prevention Response Plan, that is in compliance with Chapter 9 of the act (35 P.S. §§ 6021.901—6021.904), is filed with the Department.

(ii) For new tanks, proof that an appropriate tightness test of the aboveground tank system has been completed.]

SITE-SPECIFIC INSTALLATION PERMITS

§ 245.231. Scope.

(a) Site-specific installation permits are required prior to the construction, reconstruction or installation of one or more of the following:

(1) New aboveground storage tank systems with a capacity greater than 21,000 gallons at an existing large aboveground storage tank facility.

(2) New large aboveground storage tank facilities.

(3) New highly hazardous substance tank systems.

(4) New underground field constructed storage tank systems not installed within a previously registered underground storage tank system.

(b) Site-specific installation permit applications meeting the requirements in §§ 245.232(a)(1) and (2) and 245.236 (relating to general requirements; and public

notice) are required to be approved prior to construction, reconstruction or installation. Additional application requirements include the following:

(1) Large aboveground storage tank system at a new facility or existing small aboveground storage tank facility requires compliance with § 245.232(a)(3) and (4) and (b).

(2) Large aboveground storage tank system at an existing large aboveground storage tank facility on new location requires compliance with § 245.232(a)(3) and (b).

(3) Large aboveground storage tank system at an existing large aboveground storage tank facility on the footprint of previous aboveground storage tank system requires compliance with § 245.232(b) and § 245.234(b) (relating to siting requirements).

(4) Small aboveground storage tank systems at a new large aboveground storage tank facility require compliance with § 245.232(a)(3) and (b).

(c) If the facility owner or operator can demonstrate that, on or before November 10, 2007, construction has commenced on an aboveground storage tank with a capacity greater than 30,000 gallons used or to be used for storing heating oil for consumptive use on the premises or on a tank regulated due to the addition of new regulated substances defined in § 245.1 (relating to definitions) [(See “regulated substance” (i)(C)(I) and (II)] (see subparagraphs (i)(C)(I) and (II)), the requirements of this section will not apply.

(d) Site-specific installation permits will expire 5 years from the date of issuance unless the Department receives a written extension request from the owner prior to the expiration date and grants an extension.

§ 245.232. General requirements.

(a) Applicants for site-specific installation permits shall provide the following:

* * * * *

(b) In addition to the items required by subsection (a), owners of aboveground storage tank systems or facilities required to apply for a site-specific installation permit shall include:

(1) [A current Spill Prevention Response Plan that is in compliance with Chapter 9 of the act (35 P.S. §§ 6021.901—6021.904).] A Spill Prevention Response Plan for the facility that includes the proposed storage tank systems demonstrating compliance with sections 901—904 of the act (35 P.S. §§ 6021.901—6021.904).

(2) Proof of notification to the municipality and county prior to submitting the application for a site-specific installation permit under section 1101(a) of the act [(35 P.S. §§ 621.1101(a))] 35 P.S. § 6021.1101(a) and § 245.236 (relating to public notice). Acceptable proof of notification includes, but is not limited to, copies of letters sent to the affected municipality and county and legal notices published in a newspaper of general circulation in the area where the project is proposed.

(c) Applications for site-specific installation permits shall be accompanied by the proper fee required by section 304(c) of the act (35 P.S. § 6021.304(c)) for aboveground storage tanks and section 504(c) of the act (35 P.S. § 6021.504(c)) for underground storage tanks.

§ 245.233. Mapping requirements.

(a) A site-specific **installation** permit application [shall] **must** contain maps and plans of the proposed storage tank system or facility site showing **all of** the following:

(1) The boundaries for the proposed facility site.

(2) The location of the proposed storage tanks.

[(2)] (3) The location and names of public roads within or adjacent to the proposed facility site.

[(3)] (4) The location of proposed monitoring wells.

[(4)] (5) The municipality and county.

[(5)] (6) The elevation and location of test borings and core samples.

[(6)] (7) The ownership, if known, location and extent of known workings of active, inactive and abandoned underground mines including mine openings within the proposed permit site.

[(7)] (8) Streams, lakes or surface watercourses located on or adjacent to the proposed permit site.

[(8)] (9) The location and ownership of public or private groundwater supplies within 2,500 feet of the proposed permit site.

[(9)] (10) Sufficient slope measurements to adequately represent the existing land surface configuration of the proposed permit site.

(b) Maps, plans and cross sections required by this section shall be accurately surveyed and on a scale satisfactory to the Department, not less than 1 inch to 400 feet and in a manner satisfactory to the Department. The maps, plans and cross sections shall be prepared by a Pennsylvania registered professional engineer, Pennsylvania registered land surveyor or Pennsylvania registered professional geologist with assistance from experts in related fields.

§ 245.234. Siting requirements.

(a) The Department will not issue a site-specific storage tank system or facility installation permit if:

(1) The installation of **storage** tank systems and facilities is proposed on 100-year floodplains or a larger area that the flood of record has inundated unless [the] **an** industrial use on the proposed site was in existence as of August 5, 1989.

(2) The installation of **storage** tank systems and facilities is proposed in wetlands in a manner inconsistent with Chapter 105 (relating to dam safety and waterway management).

(3) The Department determines that construction design criteria or engineering specifications submitted by a professional engineer are not in accordance with generally accepted sound engineering practices or existing conditions at the site require mitigation to properly support the tank systems and the applicant's proposed mitigation actions are not deemed adequate.

(b) The applicant shall provide the following additional information if appropriate:

(1) Over areas underlain by carbonate bedrock, the applicant shall provide information and analysis to the Department which assesses the prevalence of solution channels and the potential for sinkholes at the facility site.

(2) If any part of a proposed facility has been previously mined by deep mining methods, the applicant shall provide the results of an engineering study of the proposed site by a Pennsylvania-registered professional engineer or Pennsylvania-registered professional geologist. The study must be detailed enough to assess the potential for and degree of surface subsidence. The study must also include methods which have been used or will be used to stabilize the surface. The applicant shall provide assurance that minerals providing surface support will not be mined as long as the facility stores regulated substances.

(3) A professional engineer's construction design criteria and engineering specifications necessary to mitigate surface or subsurface conditions which may result in excessive **storage** tank system settlement or unstable support of the applicant's proposed **storage** tank systems.

§ 245.235. Environmental assessment.

(a) An application for a site-specific **installation** permit must include an environmental assessment on a form prescribed by the Department.

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§ 245.236. Public notice.

The owner of a proposed new large aboveground storage tank facility or proposed aboveground storage tank system with greater than 21,000 gallons capacity or proposed new highly hazardous substance tank shall provide written notice to the local municipality and county in which the proposed aboveground system or facility is to be located prior to submitting a permit application. **The notice must inform the local municipality and county of the location, capacity and projected installation date of the proposed storage tank system and the substance to be stored in the tank.**

Subchapter D. CORRECTIVE ACTION PROCESS FOR OWNERS AND OPERATORS OF STORAGE TANKS AND STORAGE TANK FACILITIES AND OTHER RESPONSIBLE PARTIES

§ 245.301. Purpose.

This subchapter establishes **suspected release investigation**, release reporting[, **release confirmation**] and corrective action requirements for owners and operators of storage [tanks] **tank systems** and storage tank facilities and other responsible parties.

§ 245.302. Scope.

This subchapter applies to releases of regulated substances from storage [tanks] **tank systems** regulated under the act.

§ 245.303. General requirements.

* * * * *

(c) For corrective actions required by this subchapter, it will be presumed as a rebuttable presumption of law in civil and administrative proceedings that a person who owns or operates an aboveground or underground storage tank **system** is liable, without proof of fault, negligence or causation, for damage, contamination or pollution within 2,500 feet of the perimeter of the site of a storage tank **system** containing or which contained a regulated substance of the type which caused the damage, contamination or pollution. The presumption may be overcome by clear and convincing evidence that the person so charged did not contribute to the damage, contamination or pollution.

(d) To overcome the presumption of liability established in subsection (c), the owner or operator shall affirmatively prove, by clear and convincing evidence, one of the following:

(1) The damage, contamination or pollution existed prior to the use of a storage tank **system** at the facility to contain an accumulation of regulated substances, as determined by surveys of the site and within 2,500 feet of the perimeter of the storage tank **system** or facility.

(2) An adjacent landowner refused to allow the owner or operator of a storage tank **system** at a new facility access to property within 2,500 feet of the perimeter of a storage tank facility to conduct a survey.

(3) The damage, contamination or pollution was not within 2,500 feet of the perimeter of a storage tank **system**.

(4) The owner or operator did not contribute to the damage, contamination or pollution.

(e) The Department may waive or combine one or more of the requirements [of] **in** this subchapter based on:

(1) The nature, extent, type, volume or complexity of the release, **including a release to a containment structure or facility that is shown to be liquid-tight**.

(2) The general characteristics of the site and the regulated substances which were released.

(3) The corrective action which occurred subsequent to the release.

(f) The Department's acceptance or approval of an interim remedial action, site characterization, site characterization report, remedial action plan, remedial action or remedial action completion report, does not constitute and may not be construed as a release from civil or criminal liability in an administrative, civil or criminal proceeding.

§ 245.304. Investigation of suspected releases.

(a) The owner or operator of [**storage tanks and storage tank facilities**] **a storage tank system or storage tank facility** shall initiate and complete an investigation of [**an indication of a release**] **a suspected release** of a regulated substance as soon as practicable, but no later than 7 days after the indication of a release. An indication of a release includes one or more of the following conditions:

(1) The presence of a regulated substance or an unusual level of vapors from a regulated substance [**of unknown origin, at**] **outside of storage tank system components designed to routinely contain or convey product, at or near** a storage tank facility.

(2) Evidence of a regulated substance or vapors in soils, basements, sewer lines, utility lines, surface water or groundwater in the surrounding area.

(3) Unusual operating conditions, indicative of a release, such as the erratic behavior of product dispensing equipment.

(4) The sudden or unexpected loss of a regulated substance from a storage tank[,] **system** or the unexplained presence of water in a storage tank **system**.

(5) Test, sampling or monitoring results, **including the sounding of an alarm**, from a release detection method which indicate a release.

(6) The discovery of holes in **or damage to** a storage tank **system** during activities such as inspection, repair or removal from service.

(7) Other events, conditions or results which may indicate a release.

(b) The investigation required by subsection (a) shall include a sufficient number of the procedures outlined in this subsection and be sufficiently detailed to confirm whether a release of a regulated substance has occurred. The owner or operator shall investigate the indication of a release by one or more of the following procedures:

(1) A check of product dispensing or other similar equipment.

(2) A check of release detection monitoring devices.

(3) A check of inventory records to detect discrepancies.

(4) A visual inspection of the storage tank **system** or the area immediately surrounding the storage tank **system**.

(5) Testing of the storage tank **system** for tightness or structural soundness.

(6) [**Sampling and analysis of soil or groundwater.**] **Sampling and analysis of soil, subsurface soil and backfill, vapor, water or groundwater at a location where contamination from a release would most likely be present.**

(7) Other investigation procedures which may be necessary to determine whether a release of a regulated substance has occurred.

(c) [**If the investigation confirms that a reportable release has occurred, the owner or operator shall report the release in accordance with § 245.305 (relating to reporting releases) and initiate corrective action.**] **Except as provided in § 245.305(i) (relating to reporting releases), if the investigation confirms that a release has occurred, the owner or operator shall report the release in accordance with § 245.305 and initiate corrective action.**

[(d) **If the investigation confirms that a nonreportable release has occurred, the owner or operator shall take necessary corrective actions to completely recover or remove the regulated substance which was released.**

(e)] (d) **If the investigation confirms that a release has not occurred, further [investigation] corrective action** by the owner or operator is not required.

§ 245.305. Reporting releases.

(a) The owner or operator of [**storage tanks and storage tank facilities**] **a storage tank system or storage tank facility** shall notify the appropriate regional office of the Department as soon as practicable, but no later than 24 hours, after the confirmation of a [**reportable**] release.

[(b) **Upon the occurrence of a confirmed, nonreportable release, the owner or operator shall take necessary corrective actions to completely recover or remove the regulated substance which was released.**

(c)] (b) The notice required by subsection (a) shall be by telephone and describe, to the extent of information available, the regulated substance involved, the quantity

of the regulated substance involved, when the release occurred, where the release occurred, **the cause of the release**, the affected environmental media, **[relevant, available]** information concerning impacts to water supplies, buildings or to sewer or other utility lines, and interim remedial actions planned, initiated or completed.

[(d)] (c) Within 15 days of the notice required by subsection (a), the owner or operator shall provide written notification to the Department and to each municipality in which the **[reportable]** release occurred, and each municipality where that release has impacted environmental media or water supplies, buildings or sewer or other utility lines.

[(e)] (d) The owner or operator shall provide written notification to the Department and each impacted municipality of new impacts to environmental media or water supplies, buildings, or sewer or other utility lines discovered after the initial written notification required by subsection **[(d)] (c)**. Written notification under this subsection shall be made within 15 days of the discovery of the new impact.

[(f)] (e) Written notification required by this section **[shall] must** contain the same information as required by subsection **[(e)] (b) and must be on a form provided by the Department**.

[(g)] (f) If the Department determines that a release poses an immediate threat to public health and safety, the Department may evaluate and implement reasonable procedures to provide the public with appropriate information about the situation which may, at a minimum, include a summary of the details surrounding the release and its impacts in a newspaper of general circulation serving the area in which the impacts are occurring.

[(h) Upon the occurrence of a reportable release at the aboveground storage tank, the owner or operator of aboveground storage tank facilities with a] (g) Upon the occurrence of a release at the aboveground storage tank, the owner or operator of a storage tank facility with an aggregate aboveground storage capacity greater than 21,000 gallons shall immediately notify the county emergency management agency, the Pennsylvania Emergency Management Agency and the Department. Downstream water companies, downstream municipalities and downstream industrial users within 20 miles of an aboveground storage tank facility located adjacent to surface waters shall be notified on a priority basis based on the proximity of the release by the owner or operator or the agent of the owner or operator within 2 hours of a release which enters a water supply or which threatens the water supply of downstream users. If the owner or operator or an agent fails to notify or is incapable of notifying downstream water users, the county emergency management agency shall make the required notification. This notification shall be done in accordance with section 904 of the act (35 P.S. § 6021.904).

[(i) The owner or operator of storage tanks and storage tank facilities shall immediately notify the local fire authority where fire, explosion or safety hazards exist at the site.]

(h) The owner or operator of a storage tank system or storage tank facility shall immediately notify the local fire authority where fire, explosion or safety hazards exist as a result of a release.

(i) Release reporting under this section and further corrective action under this subchapter are not required for the following releases if the owner or operator has control over the release, the release is completely contained, the total volume of the release is recovered and removed within 24 hours of the release, and any defective storage tank system component that caused or contributed to the release is properly repaired or replaced:

(1) A release of petroleum to an aboveground surface, including within an emergency containment structure, that is less than 25 gallons.

(2) A release of a hazardous substance to an aboveground surface, including within an emergency containment structure, that is less than its reportable quantity under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C.A. §§ 9601—9675) and 40 CFR Part 302 (relating to designation, reportable quantities, and notification).

(3) A release to a liquid-tight containment sump used for interstitial monitoring of piping in accordance with § 245.444(6) (relating to methods of release detection for tanks).

§ 245.306. Interim remedial actions.

(a) [Upon confirming that a release has occurred in accordance with § 245.304 (relating to investigation of suspected releases) or after a release from a storage tank is identified in another manner, the] A responsible party shall immediately initiate the following interim remedial actions necessary to prevent or address an immediate threat to human health or the environment **from a release** while initiating, as necessary, one or more of the tasks identified in § 245.309(c) (relating to site characterization):

(1) Remove the regulated substance from the storage tank **system** to prevent further release to the environment.

(2) Identify, mitigate and continue to monitor and mitigate, fire, explosion and safety hazards posed by vapors and free product.

(3) Prevent further migration of the regulated substance released from the storage tank **system** into the environment as follows:

(i) If contaminated soil exists at the site, the interim remedial action may include excavation of the soils for treatment or disposal.

(ii) If free product is present, free product recovery shall be initiated immediately.

(4) Identify and **[sample] analyze samples of** affected water supplies and water supplies with the potential to be affected in a reasonable and systematic manner consistent with § 245.309(b)(1) and (4) and (c)(4), (6) **[and (13)], (12) and (16)**. The responsible party shall restore or replace an affected or diminished water supply in accordance with § 245.307 (relating to affected or diminished water supplies). The responsible party shall provide a copy of the sample results to the water supply owner and the Department within 5 days of receipt of the sample results from the laboratory.

(b) At sites where free product recovery, regulated substance removal or contaminated soil excavation is performed, the responsible party shall:

(1) Conduct recovery, removal, storage, treatment and disposal activities in a manner that prevents the spread of contamination into previously uncontaminated areas.

(2) Handle flammable products in a safe and competent manner to prevent fires or explosions.

(3) Obtain required State and local permits or approvals for treatment and disposal activities.

(4) Minimize the amount of soil and subsurface material affected by a release of a regulated substance by segregating the unaffected soil and subsurface material from the material affected by a release of a regulated substance.

(c) **[If free product recovery affects or diminishes] If interim remedial actions such as free product recovery affect or diminish** the quality or quantity of a water supply, the responsible party shall restore or replace the water supply in accordance with § 245.307.

(d) Where soil and subsurface material affected by a release is removed from the site, the person removing the material shall provide to the owner, operator, landowner or other responsible party a receipt documenting acceptance of the material at a permitted treatment or disposal facility.

(e) A responsible party shall notify the Department by telephone or e-mail as soon as practicable, but no later than 24 hours, after the initiation of interim remedial actions.

§ 245.307. Affected or diminished water supplies.

* * * * *

(d) A permanent water supply shall be provided within 90 days, or within an alternative time frame as determined by the Department, after one of the following:

(1) The responsible party receives information which establishes that the responsible party has affected or diminished the water supply.

(2) The responsible party is notified by the Department that the responsible party has affected or diminished the water supply.

(e) A responsible party shall notify the Department, by telephone or e-mail, within 24 hours of providing an alternate source of water to the owner of the affected or diminished water supply.

§ 245.309. Site characterization.

(a) Upon confirming that a **[reportable]** release has occurred in accordance with § 245.304 (relating to investigation of suspected releases) or after a **[reportable]** release from a storage tank **system** is identified in another manner, the responsible party shall perform a site characterization.

(b) The objectives of a site characterization are to accomplish the following:

(1) Determine whether additional interim remedial actions are necessary to abate an imminent hazard to human health or the environment.

(2) Determine whether additional site characterization work is required upon completion of an interim remedial action.

(3) Determine or confirm the sources of contamination.

(4) Provide sufficient physical data, through field investigations, to determine the regulated substances involved,

and the extent of migration of those regulated substances in surface water, groundwater, soil or sediment.

(5) Determine, from measurements at the site, values **[for input parameters] necessary for fate and transport analysis** including hydraulic conductivity, source dimensions, hydraulic gradient, water table fluctuation and fraction organic carbon **[necessary for fate and transport analysis]**.

(6) Provide sufficient information to select a remediation standard.

(7) Provide sufficient information to allow for completion of a remedial action plan or a design for remedial action.

(c) The responsible party shall conduct the site characterization activities necessary to satisfy the objectives **[established]** in subsection (b). The site characterization shall include the following tasks, as necessary, based on the nature, extent, type, volume or complexity of the release:

(1) Identifying the need for and initiating additional interim remedial actions.

(2) Opening **[and sampling] storage tanks and analyzing samples of the contents** to determine the regulated substances stored in the tanks.

(3) **[Tightness] Performing tightness** testing or other release detection testing and monitoring to determine the structural integrity of the storage tank **system**.

(4) **[Identify and sample] Identifying and analyzing samples of** affected water supplies and water supplies with the potential to be affected **which were** not previously identified or sampled under § 245.306(a)(4) (relating to interim remedial actions). The responsible party shall restore or replace an affected or diminished water supply in accordance with § 245.307 (relating to affected or diminished water supplies). The responsible party shall provide a copy of the sample results to the water supply owner and the Department within 5 days of receipt of the sample results from the laboratory.

(5) Determining the location of the ecological receptors identified in § 250.311(a) (relating to evaluation of ecological receptors).

[(6) A review of the site history.

(7) A review and analysis of data from removal from service and interim remedial action activities.

(8) Using geophysical survey techniques to locate storage tanks and to determine geologic and hydrogeologic characteristics of affected hydrogeologic zones and hydrogeologic zones with the potential to be affected.

(9) Drilling soil borings, conducting soil gas surveys and collecting soil samples to determine soil characteristics and the horizontal and vertical extent of soil contamination.

(10) Using piezometers, well points, monitoring wells and public and private wells to:

(i) Determine the direction of groundwater flow.

(ii) Determine soil, geologic, hydrogeologic and aquifer characteristics.

(iii) Measure the horizontal extent and thickness of free product.

(iv) Sample groundwater to determine the horizontal and vertical extent of groundwater contamination.

(11) A demonstration that groundwater is not used or currently planned to be used.

(12) Sampling surface water and sediments to determine the extent of surface water and sediment contamination.

(13) Assessing potential migration pathways, including sewer lines, utility lines, wells, geologic structures and hydrogeologic conditions.

(14) Performing site surveying and topographic mapping.

(15) Developing a conceptual site model that describes the sources of contamination, fate and transport of contaminants and potential receptors.

(16) Handling and disposing of site characterization wastes.

(17) Preparing and implementing a site-specific plan for the provision of the following:

(i) Worker health and safety in accordance with OSHA requirements established at 29 CFR 1910.120 (relating to hazardous waste operations and emergency response), including health and safety policies, medical monitoring, training and refresher courses, emergency and decontamination procedures, personal protective equipment and standard work practices.

(ii) The identification, management and disposition of solid, hazardous, residual and other wastes generated as part of the site characterization.

(iii) A quality assurance/quality control program for the performance of site characterization field activities and for the accurate collection, storage, retrieval, reduction, analysis and interpretation of site characterization data.

(18) An analysis of the data collected as a result of the site characterization.

(19) Selection of a remediation standard.

(20) If the site-specific standard is selected, performance of a risk assessment in accordance with Chapter 250, Subchapter F (relating to exposure and risk determinations).

(21) Recommendation of preferred remedial action options.

(22) Recommendation for further site characterization work.

(23) Developing a conceptual design of the selected remedial action options and identifying additional investigations or pilot studies needed to design and implement a detailed remedial action plan.

(24) Additional tasks necessary to characterize the site.]

(6) Reviewing the history of operations, releases and corrective actions at the site.

(7) Reviewing and analyzing data collected during removal from service and interim remedial action activities.

(8) Using geophysical survey techniques to locate storage tanks and to determine geologic and hydro-

geologic characteristics of affected hydrogeologic zones and hydrogeologic zones with the potential to be affected.

(9) Using soil survey techniques which include drilling soil borings and analyzing soil samples to determine soil characteristics and the horizontal and vertical extent of soil contamination.

(10) Using direct push probes, piezometers, well points, monitoring wells, public and private wells, and other resources to:

(i) Determine the direction of groundwater flow.

(ii) Determine soil, geologic, hydrogeologic and aquifer characteristics, including parameters necessary for fate and transport analysis.

(iii) Determine the horizontal and vertical extent and evaluate the properties of free product in the subsurface.

(iv) Analyze groundwater samples to determine the horizontal and vertical extent of groundwater contamination.

(11) Analyzing surface water and sediment samples to determine the extent of surface water and sediment contamination.

(12) Assessing potential migration pathways, including sewer lines, utility lines, wells, geologic structures, hydrogeologic conditions and vapor intrusion into structures.

(13) Performing site surveying and topographic mapping.

(14) Developing a conceptual site model that describes the sources of contamination, fate and transport of contaminants, actual and potential receptors, and an evaluation of the vapor intrusion pathway.

(15) Handling and disposing of site characterization wastes.

(16) Preparing and implementing a site-specific plan for the provision of the following:

(i) Worker health and safety in accordance with OSHA requirements in 29 CFR 1910.120 (relating to hazardous waste operations and emergency response), including health and safety policies, medical monitoring, training and refresher courses, emergency and decontamination procedures, personal protective equipment and standard work practices.

(ii) The identification, management and disposition of solid, hazardous, residual and other wastes generated as part of the site characterization.

(iii) Establishment of data quality objectives and a quality assurance/quality control program for the performance of site characterization field activities and for the accurate collection, storage, retrieval, reduction, analysis and interpretation of all data that will be collected during the corrective action, according to appropriate standards and guidelines for environmental remediation.

(17) Analyzing the data collected as a result of the site characterization.

(18) Selecting a remediation standard.

(19) Demonstrating that groundwater is not used or currently planned to be used in accordance with the selected remediation standard.

(20) If the site-specific standard is selected, performing a risk assessment in accordance with Chapter 250, Subchapter F (relating to exposure and risk determinations).

(21) Developing preferred remedial action options to attain the selected remediation standard.

(22) Identifying additional investigations or pilot studies needed to design and implement the preferred remedial action options.

(23) Performing additional tasks necessary to meet the objectives in subsection (b).

(24) Notifying the Department by telephone or e-mail as soon as practicable, but no later than 24 hours, after the initiation of site characterization activities.

§ 245.310. Site characterization report.

(a) [**The**] **A** responsible party shall prepare and submit to the Department within 180 days of reporting a [**reportable**] release under § 245.305(a) (relating to reporting releases), or within an alternative time frame as determined by the Department, [**two copies of**] a site characterization report which describes the activities undertaken in accordance with § 245.309 (relating to site characterization). **The responsible party shall submit two copies of the site characterization report to the Department unless directed otherwise.** The site characterization report shall be complete and concisely organized and shall contain the following elements, as necessary, based on the nature, extent, type, volume or complexity of the release:

(1) A narrative description of the site and the historical and current operations conducted at the site.

(2) A site map showing location of buildings, roads, storage tanks, including those removed from service or closed in place, utilities, property boundaries, topographic contours, potential receptors and other information pertinent to the site characterization.

(3) A description of natural and manmade features pertinent to the site characterization.

(4) Details of interim remedial actions conducted at the site in accordance with § 245.306 (relating to interim remedial actions). These details [**shall**] **must** include the following, as necessary:

(i) A description of the type and volume of the regulated substance removed from the storage tank.

(ii) A discussion of fire, explosion and safety hazards which have been identified, mitigated and monitored.

(iii) A discussion of necessary relocation of affected residents.

(iv) Where free product recovery is performed, **a description of:**

(A) The regulated substance released [**and**], the thickness of free product in wells, boreholes or excavations, **and the properties and vertical and horizontal distribution of any free product remaining in the subsurface.**

(B) The type of free product recovery system used.

(C) Whether a discharge has or will take place during the recovery operation, and where this discharge is or will be located.

(D) The type of treatment applied to, and the effluent quality expected from, a discharge.

(E) The steps that have been or are being taken to obtain necessary permits or approvals for a discharge.

(F) The volume and disposition of the recovered free product.

(G) The date free product recovery was initiated.

(H) The date free product recovery was completed.

(v) Where excavation of contaminated soil is performed, **a description of:**

(A) The regulated substance released and actual volume of soil excavated.

(B) The method used to determine the existence and extent of contaminated soil.

(C) The treatment method or disposition of the excavated soil, including receipts documenting acceptance of the material at a permitted treatment or disposal facility.

(D) The date excavation was initiated.

(E) The date excavation was completed.

(F) The rationale for terminating soil excavation where the contaminated soil has not been excavated, including the volume of contaminated soil remaining in place, and a description of what steps will be taken to address the soils that remain unexcavated.

(5) [**The**] **Details of actions conducted at the site in accordance with § 245.307 (relating to affected or diminished water supplies). These details must include the steps that have been or are being taken to restore or replace affected or diminished water supplies.**

(6) A description of the type and characteristics of regulated substances involved, including quantities, physical state, concentrations, toxicity, propensity to bioaccumulate, persistence and mobility.

(7) The results of tightness testing or other release detection method used or conducted to determine the structural integrity of the storage [**tanks**] **tank systems.**

(8) The details of removal from service activities conducted at the site.

(9) The identification of the sources of contamination, including the actual or estimated date and quantity of release from each source.

(10) The location and description of affected water supplies and water supplies with the potential to be affected.

(11) [**A description of further site characterization work needed.**] **A statement certifying that the site-specific plan, prepared for worker health and safety in accordance with OSHA requirements in 29 CFR 1910.120 (relating to hazardous waste operations and emergency response), including health and safety policies, medical monitoring, training and refresher courses, emergency and decontamination procedures, personal protective equipment and standard work practices, was implemented.**

(12) A discussion and **[conclusions that demonstrate] analysis to demonstrate that** the site characterization objectives **[outlined]** in § 245.309(b) have been satisfied.

(13) The rationale, equipment, methodology and results of geophysical surveys.

(14) The location, rationale and logs of soil borings.

(15) The location, rationale, construction details, including methods and materials, and depth to groundwater of piezometers, well points and monitoring wells.

(16) Groundwater contour maps depicting groundwater flow direction at the site.

(17) A description of methods and equipment used to determine site-specific soil, geologic, hydrogeologic and aquifer properties.

(18) Sampling locations and rationale for selection of these locations.

(19) The results of a survey used to identify and sample public and private wells.

(20) Parameters analyzed for, analytical methods used and detection limits of these methods.

(21) Field and laboratory analytical results and interpretations.

(22) Contaminant distribution maps in the media and contaminant phases.

(23) A conceptual site model **[describing] which describes** the sources of contamination, **the** fate and transport of contaminants, **actual** and potential receptors, **and evaluates the vapor intrusion pathway.**

(24) The disposition of site characterization wastes.

(25) A copy of site-specific plans prepared and implemented for the provision of the following:

[(i) Worker health and safety in accordance with OSHA requirements established at 29 CFR 1910.120 (relating to hazardous waste operations and emergency response), including health and safety policies, medical monitoring, training and refresher courses, emergency and decontamination procedures, personal protective equipment and standard work practices.

(ii)] (i) The identification, management and disposition of solid, hazardous, residual and other wastes generated as part of the site characterization.

[(iii) A] (ii) The data quality objectives and quality assurance/quality control program for the performance of site characterization field activities and for the accurate collection, storage, retrieval, reduction, analysis and interpretation of site characterization data.

(26) The identification of the remediation standard which has or will be attained at the site.

(27) The Department's written determination that groundwater is not used or currently planned to be used, **if needed to attain the remediation standard selected or to be selected.**

(28) The impacts to ecological receptors as a result of the evaluation conducted in accordance with § 250.311 or § 250.402(d) (relating to evaluation of ecological receptors; and human health and environmental protection goals).

(29) The impacts to surface water as a result of the evaluation conducted in accordance with § 250.309 or § 250.406 (relating to MSCs for surface water; and relationship to surface water quality requirements).

(30) [A discussion of the remedial action options selected to remediate the site.] A summary of the remedial action option that will be used at the site to attain the selected remediation standard. The summary must include a description of the components of each option, a conceptual design and a description of any additional investigation needed to complete the design of each option.

(31) A risk assessment report in accordance with § 250.409 (relating to risk assessment report).

(32) A demonstration that no current or future exposure pathways exist following the procedures described in § 250.404 (relating to pathway identification and elimination).

[(33) A conceptual design of the remedial action options selected.

(34) A report of additional tasks performed to characterize the site.]

(33) A report of additional tasks performed to meet the objectives in § 245.309(b).

(b) If the responsible party determines, after completion of interim remedial actions, that further site characterization is not required, that soil is the only media of concern, and that interim remedial actions have remediated the site, the responsible party may submit a site characterization report to the Department, in lieu of the report required in subsection (a), which contains the following:

(1) A concise statement that describes the release, including information such as the amount of regulated substance that was released, the extent of contamination and interim remedial actions taken under § 245.306.

(2) Data demonstrating that the interim remedial actions have attained the Statewide health standard for the site in accordance with Chapter 250, Subchapter G (relating to demonstration of attainment).

(3) The basis for selection of the residential or nonresidential Statewide health standard.

(4) The results of the evaluation of ecological receptors conducted in accordance with § 250.311.

(5) Additional information as identified in subsection (a) necessary to fully describe the release, the extent of contamination and the interim remedial actions taken to address the release.

(c) Following submission of a complete site characterization report prepared under subsection (a), selecting the site-specific standard, or subsection (b), the Department will do one or more of the following:

(1) Review and approve the site characterization report as submitted.

(2) Review and approve the site characterization report with modifications made by the Department.

(3) Review and disapprove the site characterization report, citing deficiencies.

(4) Review and disapprove the site characterization report and direct, require or order the responsible party to perform other tasks or make modifications as prescribed by the Department.

(5) Review and disapprove the site characterization report, perform the site characterization in whole or in part and recover, in accordance with § 245.303(b) (relating to general requirements), the Department's costs and expenses involved in performing the site characterization.

[(6) Review the site characterization report without further action.]

(d) The Department will take one or more of the actions listed in subsection (c) within 60 days of receipt of a site characterization report meeting the requirements [of] in subsection (b) or within 90 days of receipt of a site characterization report selecting the site-specific standard. If the Department does not respond, in writing, within the allotted time, the report shall be deemed approved, unless the responsible party and the Department agree, in writing, to an alternative time frame.

§ 245.311. Remedial action plan.

(a) Unless a site characterization report is submitted in accordance with § 245.310(b) (relating to site characterization report), the responsible party shall prepare and submit to the Department **two copies of the remedial action plan, unless directed otherwise. The remedial action plan shall be submitted** within 45 days of submission of a site characterization report required by § 245.310(a) selecting the background or Statewide health standard, within 45 days of deemed approval or receipt of a written approval of a site characterization report selecting the site-specific standard, or within an alternative time frame as determined by the Department [, **two copies of a remedial action plan prior to implementation of the remedial action plan**]. The remedial action plan [**must**] **shall be submitted prior to its implementation**, be complete and concisely organized and contain **all** of the following elements, as necessary, based on the nature, extent, type, volume or complexity of the release:

(1) A brief summary of the site characterization report conclusions.

(2) A copy of the plans relating to [**worker health and safety,**] management of wastes generated and quality assurance/quality control procedures, as they relate to the remedial action, if different from the plans submitted in accordance with § 245.310(a)(25).

* * * * *

(12) A description of proposed postremediation care requirements, **including proposed activity and use limitations to be implemented under an environmental covenant.**

(13) A description of additional items necessary to develop the remedial action plan.

(14) A description of any water supply that remains affected or diminished, the replacement system that was provided, the analytical results of samples taken, and any maintenance or monitoring required to ensure its functionality until the supply is no longer affected or diminished.

(b) Following submission of a complete remedial action plan selecting the background or Statewide health standard, the Department will **publish an acknowledgment of receipt of the remedial action plan in the Pennsylvania Bulletin and** do one or more of the following:

(1) Review and approve the site characterization report and remedial action plan as submitted.

(2) Review and approve the site characterization report and remedial action plan with modifications made by the Department.

(3) Review and disapprove the site characterization report and remedial action plan, citing deficiencies.

(4) Review and disapprove the site characterization report and remedial action plan and direct, require or order the responsible party to perform other tasks or make modifications as prescribed by the Department.

(5) Review and disapprove the site characterization report and remedial action plan, prepare a remedial action plan or perform the remedial action in whole or in part, and recover, in accordance with § 245.303(b) (relating to general requirements), the Department's costs and expenses involved in preparing the remedial action plan or performing the remedial action.

(6) [Review the site characterization report and remedial action plan without further action.] Publish a notice of its final action in the Pennsylvania Bulletin.

(c) Following submission of a complete remedial action plan selecting the site-specific standard, the Department will **publish an acknowledgment of receipt of the remedial action plan in the Pennsylvania Bulletin and** do one or more of the following:

(1) Review and approve the remedial action plan as submitted.

(2) Review and approve the remedial action plan with modifications made by the Department.

(3) Review and disapprove the remedial action plan, citing deficiencies.

(4) Review and disapprove the remedial action plan and direct, require or order the responsible party to perform other tasks or make modifications as prescribed by the Department.

(5) Review and disapprove the remedial action plan, prepare a remedial action plan or perform the remedial action in whole or in part, and recover, in accordance with § 245.303(b), the Department's costs and expenses involved in preparing or performing the remedial action plan.

(6) [Review the remedial action plan without further action.] Publish a notice of its final action in the Pennsylvania Bulletin.

* * * * *

§ 245.312. Remedial action.

* * * * *

(c) Each remedial action progress report shall provide the data generated during the reporting period and shall show the progress to date toward attainment of the selected remediation standard. Each report shall be complete and concisely organized and shall contain the following elements, as necessary, based on the nature, extent, type, volume or complexity of the release:

* * * * *

(4) Quantitative analytical results from **replacement water supply system**, groundwater, surface water, soil and sediment sampling.

* * * * *

(9) Demonstration that required Federal, State and local permits and approvals are being complied with.

(10) A summary of data collected from any water supply that remains affected or diminished, and any maintenance performed.

[(10)] (11) A report of additional items necessary to describe the progress of the remedial action.

(d) The first remedial action progress report shall be received by the Department 3 months following the date of remedial action plan implementation **or at an alternative interval as determined by the Department.** The final remedial action progress report shall be submitted to the Department as part of the remedial action completion report.

(e) If during implementation of the remedial action plan the responsible party decides to change the remedial action plan, the responsible party shall prepare and submit, to the Department, a new or modified remedial action plan, to include selection of the new remediation standard, if applicable, in accordance with § 245.311 (relating to remedial action plan).

(f) If during implementation of the remedial action plan the responsible party determines that continued implementation of the remedial action plan will cause additional environmental harm, the responsible party shall suspend remedial action and notify the Department, by telephone, within 24 hours of suspension. The responsible party shall prepare and submit a new or modified remedial action plan, to include selection of the new remediation standard, if applicable, to the Department in accordance with § 245.311.

(g) If during implementation of the remedial action plan the Department determines that the remedial action plan will not attain the selected remediation standard or will cause additional environmental harm, the Department may require the responsible party to suspend remedial action and notify the Department, by telephone or e-mail, within 24 hours of suspension. The Department may require the responsible party to prepare and submit a new or modified remedial action plan, to include selection of the new remediation standard, if applicable, to the Department in accordance with § 245.311.

§ 245.313. Remedial action completion report.

(a) When the selected remediation standard has been attained, the responsible party shall submit a remedial action completion report to the Department.

(b) The remedial action completion report [shall] **must** be complete and concisely organized and [shall] **must** contain the following elements, as necessary, based on the remediation standard attained:

(1) Data demonstrating that the remedial actions have attained the selected standard for the site in accordance with Chapter 250, Subchapter G (relating to demonstration of attainment).

[(1)] (2) When the background standard has been attained, the remedial action completion report shall include the requirements [of] **in** § 250.204(f) and (g) (relating to final report).

[(2)] (3) When the Statewide health standard has been attained, the remedial action completion report shall

include the requirements [of § 250.312(b)—(h)] **in** § 250.312(a)—(h) (relating to final report).

[(3)] (4) When the site-specific standard is attained, the remedial action completion report shall include the requirements [of § 250.411(c)—(f)] **in** § 250.411(c), (d) and (f) (relating to final report).

[(4)] (5) For fate and transport analyses, the following information, in addition to that required by § 250.204(f)(5):

(i) An isoconcentration map showing the configuration and concentrations of contaminants within the plume being analyzed.

(ii) Sufficient information from monitoring data to establish whether the plume is stable, shrinking or expanding.

(iii) Input parameters for the analysis and the rationale for their selection.

(iv) Figures showing the orientation of the model or analysis to the field data.

(v) Comparison and analysis of the model or mathematical output to the actual field data.

(c) Following submission of the remedial action completion report, the Department will **publish an acknowledgment of receipt of the remedial action completion report in the Pennsylvania Bulletin and** do one or more of the following:

(1) Review and approve the remedial action completion report as submitted.

(2) Review and approve the remedial action completion report with modifications made by the Department.

(3) Review and disapprove the remedial action completion report, citing deficiencies.

(4) Review and disapprove the remedial action completion report and direct, require or order the responsible party to perform other tasks or make modifications as prescribed by the Department.

(5) Review and disapprove the remedial action completion report, perform the site characterization or remedial action and recover, in accordance with § 245.303(b) (relating to general requirements), the Department's costs and expenses involved in preparing the remedial action completion report.

(6) [**Review the remedial action completion report without further action.**] **Publish a notice of its final action in the Pennsylvania Bulletin.**

(d) The Department will take one or more of the actions listed in subsection (c) within 60 days of receipt of the remedial action completion report demonstrating attainment of the background or Statewide health standard, or within 90 days of receipt of a remedial action completion report demonstrating attainment of the site-specific standard. If the Department does not respond, in writing, within the allotted time, the report shall be deemed approved, unless the responsible party and the Department agree, in writing, to an alternative time frame.

Subchapter E. TECHNICAL STANDARDS FOR UNDERGROUND STORAGE TANKS
GENERAL

§ 245.402. Scope.

This subchapter applies to underground storage [tanks] **tank systems** regulated under the act and this chapter.

§ 245.403. Applicability.

(a) *General.* The requirements [of] in this subchapter apply to owners and operators, as well as installers and inspectors of underground storage tank systems as defined in § 245.1 (relating to definitions), except as otherwise provided in [subsection (b)] subsections (c) and (d).

[(b) *Deferrals.* Sections 245.441—245.446 (relating to release detection) do not apply to an underground storage tank system that stores fuel solely for use by emergency power generators.

(c) *Temporary exclusions.* Existing tanks that become regulated due to the addition of new regulated substances in § 245.1 ((relating to definitions) (See the definition of “regulated substance” (i)(C)(I) and (II))) are subject to this chapter and shall be registered with the Department by January 9, 2008. In addition, these tanks are temporarily excluded from the requirements of §§ 245.421, 245.422, 245.431, 245.432 and 245.441—245.446, until November 10, 2010.]

(b) *Emergency power generator fuel tanks.* Underground storage tank systems that store fuel solely for use by emergency power generators must meet the requirements in §§ 245.441—245.446 (relating to release detection) as follows:

(1) Underground storage tank systems installed on or before November 10, 2007, must meet the requirements in §§ 245.441—245.446 on or before _____ (Editor’s Note: The blank refers to 730 days after the effective date of adoption of this proposed rulemaking).

(2) Underground storage tank systems installed after November 10, 2007, must meet the requirements in §§ 245.441—245.446 on or before _____ (Editor’s Note: The blank refers to 365 days after the effective date of adoption of this proposed rulemaking).

(3) Underground storage tank systems installed after _____ (Editor’s Note: The blank refers to the effective date of adoption of this proposed rulemaking.), must meet the requirements in §§ 245.441—245.446 at installation.

(c) *Partial exclusions.* The following underground storage tanks systems are not required to comply with §§ 245.411, 245.421(b)(3) and (4)(ii) and (iii), 245.422(d), 245.432(g) and 245.436—245.446:

(1) A wastewater treatment tank system that is not part of a wastewater treatment facility regulated under section 307(b) or 402 of the Clean Water Act (33 U.S.C.A. §§ 1317(b) and 1342).

(2) An underground storage tank system containing radioactive material that is regulated under the Atomic Energy Act of 1954 (42 U.S.C.A. §§ 2011—2296b-7).

(3) An underground storage tank system that is part of an emergency generator system at a nuclear power generation facility licensed by the United States Nuclear Regulatory Commission and subject to United States Nuclear Regulatory Commission requirements regarding design and quality criteria, including 10 CFR Part 50 (relating to domestic licensing of production and utilization facilities).

(d) *Previously excluded underground storage tanks.* Underground storage tank systems that were not required to be registered with the Department prior to _____ (Editor’s Note: The blank refers to the effective date of adoption of this proposed rulemaking.), shall be registered with the Department by _____ (Editor’s Note: The blank refers to 30 days after the effective date of adoption of this proposed rulemaking.). Underground storage tanks include all of the following:

(1) Field-constructed underground storage installed on or before October 11, 1997, that the Department previously did not require to be registered as a matter of policy. These tanks are temporarily excluded from §§ 245.421, 245.422, 245.431, 245.432, 245.437 and 245.441—245.446, until _____ (Editor’s Note: The blank refers to 365 days after the effective date of adoption of this proposed rulemaking).

(2) Underground storage tank systems referenced in subsection (c)(1)—(3) installed on or before _____ (Editor’s Note: The blank refers to the effective date of adoption of this proposed rulemaking).

§ 245.404. Variances.

When unique or peculiar circumstances make compliance with this subchapter technically impractical, infeasible or unsafe, the Department may, upon written application from the [owner/operator] owner of a storage tank system subject to this subchapter, grant a variance from one or more specific provisions of this subchapter:

* * * * *

[FACILITY] INSPECTIONS

§ 245.411. Inspection frequency.

(a) *Inspection of [tanks] underground storage tank systems.* Underground storage tank owners or operators shall have their underground storage tank [facility] systems inspected by a certified inspector at the frequency [established in subsections (b)—(d)] in subsections (b) and (c). The inspection [must include, but not be limited to,] shall include release detection, assessment of the underground storage tank system and ancillary equipment, operation of overfill and spill prevention equipment where practicable, corrosion protection testing, or verification that corrosion protection is functional, and release prevention measures.

[(b) *Initial inspections.*

(1) Storage tank facilities with tank systems installed prior to December 1989, shall be inspected prior to October 11, 1999.

(2) Newly installed storage tank systems shall be inspected between 6 to 12 months after installation. If the facility ownership changes, an inspection of the facility shall be completed between the first 6 to 12 months of operation unless another time frame is agreed to by the Department.

(3) Storage tank facilities not inspected in accordance with paragraph (1) or (2) shall have an initial inspection by October 11, 2002.

(c) *Subsequent routine facility inspections.*

(1) The interval between subsequent routine facility inspections may not exceed 3 years (36

months) commencing after the last inspection, except as provided in the phase-in periods in paragraph (2).

(2) On November 10, 2007, existing facilities with routine inspections scheduled more than 3 years from this date shall be inspected by the following dates, unless notified otherwise by the Department:

(i) Before August 8, 2008, if currently scheduled for inspection between November 10, 2010, and August 7, 2011, inclusive.

(ii) Before August 8, 2009, if currently scheduled for inspection between August 8, 2011, and August 7, 2013, inclusive.

(iii) Before August 8, 2010, if currently scheduled for inspection after August 7, 2013.

(d) *Additional inspections and mandatory training.* Inspections in addition to those in subsections (b) and (c) may be required by the Department when the prior inspection determined release detection, corrosion protection or operational violations occurred, or when the Department determines the inspections are necessary to verify compliance with this subchapter. The Department may require facility owners and operators to successfully complete a release detection or operator training course, such as those offered by PEI or professional industry trainers approved under § 245.141 (relating to training approval), when related violations are documented through an inspection. The owner or operator shall incur the costs of the training.]

(b) Initial inspections. Newly installed underground storage tank systems shall be inspected between 6 to 12 months after installation. If the tank ownership changes, an inspection of the underground storage tank system shall be completed between the first 6 to 12 months of operation unless another time frame is agreed to by the Department.

(c) Subsequent inspections.

(1) The interval between subsequent inspections may not exceed 3 years (36 months) beginning after the last inspection, except as provided in paragraph (2).

(2) An inspection in addition to those required in subsection (b) and paragraph (1) may be required by the Department when the prior inspection determined release detection, corrosion protection or operational violations occurred, or when the Department determines the inspection is necessary to verify compliance with this subchapter.

(d) Training. The Department may require facility owners and operators to successfully complete a release detection, release prevention or operator training course, such as those offered by Nationally recognized associations or professional industry trainers approved under § 245.141 (relating to training approval), when related violations are documented through an inspection. Owners and operators of underground storage tanks that the Department determines through inspection are failing to meet EPA guidelines for significant operational compliance shall be retrained in a manner consistent with the training recommended in Department guidance entitled "Underground Storage Tank Class A and Class B Operator Training Courses." The owner or operator shall incur the costs of the training.

UNDERGROUND STORAGE TANK SYSTEMS: DESIGN, CONSTRUCTION, INSTALLATION AND NOTIFICATION

§ 245.421. Performance standards for underground storage tank systems.

(a) *New underground storage tank systems.*

(1) Underground storage tank systems installed or replaced after November 10, 2007, must have total secondary containment, which consists of double-walled tanks, double-walled piping (for piping that routinely contains and conveys regulated substances (product)) and liquid-tight containment sumps. The sumps must be installed at piping connections that routinely contain and convey product from the tank, such as tank-top sumps and dispenser pan sumps, that allow for release detection monitoring of the system (See PEI RP 100). Also, new or replacement tank systems installed with pressurized product piping systems must be equipped with automatic line leak detectors and automatic pump shutoff devices that meet the requirements of § 245.445(1) (relating to methods of release detection for piping).

(2) At least 30 days prior to the installation of a [new or replacement tank or underground storage tank system installed after January 9, 2008,] tank, piping system, replacement or additional dispenser, or underground storage tank system, or within another reasonable time frame agreed upon by the Department, owners and operators shall notify the Department of the proposed installation on a form provided by the Department.

(3) [An owner or operator of a tank system changing from unregulated to regulated service shall provide certification by a Department-certified installer or inspector that the tank system meets new tank system requirements, using the registration form (See § 245.41 (relating to tank registration requirements)) prior to placing product into the tank and operating the storage tank system.] An owner or operator of an underground storage tank changing from unregulated to regulated service shall provide certification by a Department-certified installer that the underground storage tank system meets new underground storage tank system requirements, on a form provided by the Department, prior to placing product into the tank and operating the storage tank system.

(b) To prevent releases due to structural failure, corrosion or spills and overfills for as long as the underground storage tank system is used to store regulated substances, owners and operators of new and existing underground storage tank systems shall ensure that the system meets the following requirements:

(1) *Tanks.* A tank must be properly designed and constructed. A tank or portion of a tank including the outer metallic wall of a double-walled tank that is underground and routinely contains product shall be protected from corrosion in accordance with a code of practice developed by a [Nationally-recognized] Nationally recognized association or independent testing laboratory, using one of the following methods:

(i) The tank is constructed of fiberglass-reinforced plastic.

(ii) The tank is constructed of steel and cathodically protected in the following manner:

(A) The tank is coated with a suitable dielectric material.

(B) Field-installed cathodic protection systems are designed by a corrosion expert.

(C) Impressed current systems are designed by a corrosion expert and allow determination of current operating status as required in § 245.432(a)(3) (relating to operation and maintenance including corrosion protection).

(D) Cathodic protection systems are operated and maintained in accordance with § 245.432.

(iii) **[The tank is constructed of a steel-fiberglass-reinforced-plastic composite.] The tank is constructed of steel and clad or jacketed with a non-corrodible material.**

(iv) The tank is constructed of metal without additional corrosion protection measures if:

(A) The tank is installed at a site that is determined by a corrosion expert not to be corrosive enough to cause it to have a release due to corrosion during its operating life.

(B) Owners and operators maintain records that demonstrate compliance with clause (A) for the remaining life of the tank.

(2) *Piping.* The piping and ancillary equipment that routinely contain regulated substances shall be protected from corrosion and deterioration. New piping systems that routinely contain and convey regulated substances from the tank must be double-walled with liquid-tight containment sumps **[and dispenser pan sumps]** installed in accordance with paragraph (4)(ii). Whenever **50% or more [than 50%]** of the existing piping that routinely contains and conveys product from the tank is replaced, the entire piping system that routinely contains and conveys product from the tank shall be replaced meeting the requirements for new piping systems in this **[subsection] section**. The portions of the product piping system, including joints, flexible connectors and ancillary equipment that are in contact with the ground must be properly designed, constructed and protected from corrosion in accordance with a code of practice developed by a **[Nationally-recognized] Nationally recognized** association or independent testing laboratory using one of the following methods:

(i) The piping or component is constructed of nonmetallic material such as fiberglass reinforced plastic or other noncorrodible and UL listed material.

(ii) The piping or component is constructed of metal and cathodically protected in the following manner:

(A) The piping is coated with a suitable dielectric material. The wrapping of piping with tape or similar material alone does not meet this requirement.

(B) Field-installed cathodic protection systems are designed by a corrosion expert.

(C) Impressed current systems are designed by a corrosion expert and allow determination of current operating status as required in § 245.432(a)(3).

(D) Cathodic protection systems are operated and maintained in accordance with § 245.432.

(iii) The piping is constructed of metal without additional corrosion protection measures if:

(A) The piping is installed at a site that is determined by a corrosion expert to not be corrosive enough to cause it to have a release due to corrosion during its operating life.

(B) Owners and operators maintain records that demonstrate compliance with clause (A) for the remaining life of the piping.

(3) *Spill and overflow prevention equipment.*

(i) Except as provided in subparagraph **[(iv)] (vi)**, to prevent spilling and overflowing associated with product transfer to the underground storage tank system, owners and operators shall ensure that their systems have the following spill and overflow prevention equipment **permanently installed**:

(A) Spill prevention equipment that will prevent release of product to the environment when the transfer hose is detached from the fill pipe—for example, a spill catchment basin or spill containment bucket.

(B) Overflow prevention equipment that will do one or more of the following:

(I) Automatically shut off flow into the tank when the tank is no more than 95% full.

(II) Alert the transfer operator when the tank is no more than 90% full by restricting the flow into the tank or triggering a high-level alarm.

[(III) Restrict flow 30 minutes prior to overflowing, alert the operator with a high level alarm 1 minute before overflowing, or automatically shut off flow into the tank so that none of the fittings located on top of the tank are exposed to product due to overflowing.]

(ii) **[Bypassing overflow protection is prohibited for example, bypassing the flow vent valve with coax vapor recovery or a spill bucket drain valve is prohibited.] Bypassing overflow protection is prohibited. For example, bypassing the ball float valve with coaxial stage-1 vapor recovery systems or a spill containment bucket drain valve is prohibited.**

(iii) **Ball float valves may not be used to comply with this subsection when overflow prevention is installed or replaced after _____ (Editor's Note: The blank refers to the effective date of adoption of this proposed rulemaking).**

[(iii) Ball] (iv) Existing ball float valves may not be used on suction pump systems having an air eliminator, or on any system having coaxial stage-1 vapor recovery systems or receiving pressurized pump deliveries.

(v) Spill and overflow prevention equipment must be periodically tested or evaluated in accordance with § 245.437 (relating to periodic testing). Required tests shall be documented on a form provided by the Department and shall be maintained onsite at the storage tank facility or at a readily available alternative site.

[(iv)] (vi) Owners and operators are not required to use the spill and overflow prevention equipment specified in subparagraph (i) if the underground storage tank system is filled by transfers of no more than 25 gallons at one time.

(4) *Installation.*

(i) **[Tanks and piping] Underground storage tank systems** shall be properly installed and system

integrity tested in accordance with a code of practice developed by a [**Nationally-recognized**] **Nationally recognized** association or independent testing laboratory [**such as API 1615 and PEI RP100,**] and in accordance with the manufacturer's instructions.

(ii) [**Newly installed spill containment buckets, tank-top sumps, dispenser pans**] **Spill prevention equipment** and containment sumps must be constructed to be liquid-tight, and shall be tested prior to use of the system to confirm liquid-tight construction using a hydrostatic test, vacuum test or other [**Nationally-recognized**] **Nationally recognized** liquid-tight testing procedure or method recommended by the containment equipment manufacturer.

(iii) Overfill prevention equipment shall be properly installed and tested in accordance with a code of practice developed by a [**Nationally-recognized**] **Nationally recognized** association, and in accordance with manufacturer's instructions. [**When ball float valves are used, the valve shall be installed with extractor fitting and ball floats must be readily accessible (not requiring excavation) for removal and operational verification.**]

(c) **Certification of installation.** Owners and operators shall ensure that a certified installer has installed the tank system by providing a certification of compliance on an appropriate form provided by the Department.]

§ 245.422. Upgrading of existing underground storage tank systems.

(a) *Alternatives allowed.* By December 22, 1998, existing underground storage tank systems shall comply with one of the following requirements:

(1) Underground storage tank system performance standards under § 245.421(b) (relating to performance standards for underground storage tank systems).

(2) The upgrading requirements in subsections (b)—(d).

(3) Closure requirements under §§ 245.451—245.455 (relating to out-of-service underground storage tank systems and closure), including applicable requirements for corrective action under Subchapter D (relating to corrective action process for owners and operators of storage tanks and storage tank facilities and other responsible parties).

(b) *Tank upgrading requirements.* Steel tanks shall be upgraded to meet one of the following requirements in accordance with a code of practice developed by a [**Nationally-recognized**] **Nationally recognized** association or independent testing laboratory:

(1) *Interior lining.* [**A tank may only be upgraded by internal lining prior to November 10, 2007. The following conditions of existing lined tanks shall be met:**] **A tank may only be upgraded by internal lining for corrosion protection prior to November 10, 2007. Existing lined tanks must meet the following conditions:**

(i) The lining was installed in accordance with § 245.434 (relating to repairs allowed).

(ii) Within 10 years after lining, and every 5 years thereafter, the lined tank is internally evaluated by, or under the direct onsite supervision of a certified tank liner (TL) or by a professional engineer adhering to the

evaluation process developed by a National association (See API 1631 and NLP 631) and found to be structurally sound with the lining still performing in accordance with original design specifications. The evaluation findings shall be documented on a form approved by the Department and shall be maintained at the facility for the duration of the tank's operating life.

(iii) Lined tank systems that do not meet original design specifications or have not been evaluated as required in subparagraph (ii) shall be emptied, removed from service, and permanently closed in accordance with §§ 245.451 and 245.452 (relating to temporary [**closure**] **removal from service (out-of-service);** and permanent closure and changes-in-service).

(2) *Cathodic protection.* A tank may be upgraded by cathodic protection if the cathodic protection system meets the requirements [**of § 245.421(1)(ii)(B)—(D)**] **in § 245.421(b)(1)(ii)(B)—(D)** and the integrity of the tank is ensured using one or more of the following methods:

(i) The tank is internally inspected and assessed to ensure that the tank is structurally sound and free of corrosion holes prior to installing the cathodic protection system.

[(ii) **The tank has been installed for less than 10 years and is monitored monthly for releases in accordance with § 245.444(4)—(9) (relating to methods of release detection for tanks).**]

(iii) **The tank has been installed for less than 10 years and is assessed for corrosion holes by conducting two tightness tests that meet the requirements of § 245.444(3). The first tightness test shall be conducted prior to installing the cathodic protection system. The second tightness test shall be conducted between 3 and 6 months following the first operation of the cathodic protection system.**

(iv) [(ii)] The tank is installed at a site that is determined by a corrosion expert not to be corrosive enough to cause it to have a release due to corrosion during its operating life. Owners and operators shall maintain records that demonstrate compliance with this requirement for the remaining life of the tank.

[(v)] (iii) The tank is assessed for corrosion holes by a method that is determined by the Department to prevent releases in a manner that is no less protective of human health and the environment than [**subparagraphs (i)—(iii)**] **subparagraph (i).**

(3) *Internal lining combined with cathodic protection.* A tank upgraded prior to November 10, 2007, having both internal lining and cathodic protection must meet the following:

(i) The lining was installed in accordance with the requirements [**of**] **in § 245.434.**

(ii) The cathodic protection system meets § 245.421(b)(1)(ii)(B)—(D).

(c) *Piping upgrading requirements.* Metal piping and fittings that routinely contain regulated substances and are in contact with the ground must be one or more of the following: [(1)]

(1) Replaced with piping meeting the requirements of new piping in § 245.421(b)(2)(i) and (ii).

(2) Cathodically protected in accordance with a code of practice developed by a [**Nationally-recognized**] **Nationally recognized** association or independent testing laboratory and meets the requirements [of] in § 245.421(b)(2)(ii)(B)—(D).

(3) Installed at a site that is determined to not be corrosive enough to cause a release due to corrosion for the remaining operating life of the piping under § 245.421(b)(2)(iii).

(d) *Spill and overflow prevention equipment.* To prevent spilling and overflowing associated with product transfer to the underground storage tank system, [**existing**] underground storage tank systems must comply with [**new**] underground storage tank system spill and overflow prevention equipment requirements in § 245.421(b)(3) and (4).

(e) [*Under dispenser containment.* When a vertical riser, dispenser and interconnected piping and fittings are added to a storage tank system or a dispenser is replaced, involving major modification, the dispenser must have containment (liquid-tight dispenser pan) meeting requirements in § 245.421(b)(4)(ii).] *Under-dispenser containment.* When an existing dispenser is replaced with another dispenser and equipment at or below the shear valve needed to connect the dispenser to the underground storage tank system is replaced, under-dispenser containment meeting the requirements in § 245.421(b)(4)(ii) is required. This equipment may include check valves, shear valves, vertical risers, flexible connectors or other transitional components. Under-dispenser containment shall also be installed when a major modification as defined in § 245.1 (relating to definitions) is performed at the dispenser area involving excavation beneath the dispenser.

§ 245.423. [**Registration requirements.**] (Reserved).

[(a) An underground storage tank shall be registered with the Department prior to adding a regulated substance. The owner of a tank that was in use after May 8, 1986, shall have notified the Department of the system's existence.

(b) Owners required to submit notices under subsection (a) shall provide notices to the Department for each tank they own. Owners may provide notice for several tanks using one registration form, but owners who own tanks located at more than one facility shall file a separate registration form for each separate facility.

(c) Notices required to be submitted under subsection (a) shall provide all of the requested information on the registration form for each tank for which notice is required to be given.

(d) Owners and operators of new underground storage tank systems shall certify compliance with the following requirements in the registration form provided by the Department:

(1) Installation of tanks and piping under § 245.421(c) (relating to performance standards for new underground storage tank systems).

(2) Cathodic protection of steel tanks and piping under § 245.421(b)(1) and (2).

(3) Financial responsibility under Subchapter H (relating to financial responsibility requirements for owners and operators of underground storage tanks and storage tank facilities).

(4) Release detection under §§ 245.442 and 245.443 (relating to requirements for petroleum underground storage tank systems; and requirements for hazardous substance underground storage tank systems).

(5) Use of a Department-certified installer under § 245.21 (relating to tank handling and inspection requirements).

(e) Beginning October 24, 1988, a person who sells a tank intended to be used as an underground storage tank or a property containing an existing tank system shall notify the purchaser, in writing, of an owner's obligations under subsection (a). The following form may be used to comply with this requirement:

Federal law (the Resource Conservation and Recovery Act) and Commonwealth law (the Storage Tank and Spill Prevention Act) require that the owner of a regulated underground storage tank notify the Pennsylvania Department of Environmental Protection of the existence of its tank.

Notification for tanks brought into service after August 5, 1989, must be made prior to placing the tank system into service. Consult EPA 40 CFR Part 280 and PA Code Title 25 Chapter 245 to determine if you are affected by these laws.

(f) Every owner, including a new owner of an existing tank system, shall comply with tank registration requirements in Subchapter A (relating to general provisions).]

GENERAL OPERATING REQUIREMENTS

§ 245.432. Operation and maintenance including corrosion protection.

(a) [Owners and operators of steel underground storage tank systems with corrosion protection shall comply with the following requirements to ensure that releases due to corrosion are prevented for as long as the underground storage tank system is used to store regulated substances:] Owners and operators of metal underground storage tank systems with corrosion protection shall comply with all of the following requirements to ensure that releases due to corrosion are prevented until the underground storage tank system is permanently closed or undergoes a change-in-service in accordance with § 245.452 (relating to permanent closure and changes-in-service).

(1) Corrosion protection systems shall be operated and maintained to continuously provide corrosion protection to the metal components of that portion of the tank and piping that routinely contain regulated substances.

(2) Underground storage tank systems equipped with cathodic protection systems shall be inspected for proper operation by a qualified cathodic protection tester in accordance with the following requirements:

(i) *Frequency.* Cathodic protection systems shall be tested within 6 months of installation and at least every 3 years thereafter.

(ii) *Inspection criteria.* The criteria that are used to determine that cathodic protection is adequate as re-

quired by this section shall be in accordance with a code of practice developed by a [**Nationally-recognized**] **Nationally recognized** association.

(iii) Documentation. Surveys of cathodic protection systems required under this chapter shall be documented on a form provided by the Department and shall be provided to the Department upon request.

(3) Underground storage tank systems with impressed current cathodic protection systems shall be inspected or checked every 60 days to ensure the equipment is [**running properly**] **functioning as designed**. At a minimum, the operator or person conducting the 60-day check shall document the date checked, annotate the system's functioning status, and for systems equipped with a direct current readout meter, record the amount of current indicated on the meter.

(4) For underground storage tank systems using cathodic protection, records of the operation of the cathodic protection shall be maintained, in accordance with § 245.435 (relating to reporting and recordkeeping) to demonstrate compliance with the performance standards in this section. These records must provide the following:

(i) The results of the last three inspections required in paragraph (3).

(ii) The results of testing from the last two inspections required in paragraph (2).

(b) Monitoring and observation wells shall be clearly identified using industry codes and standards, and caps shall be secured to prevent unauthorized or accidental access.

(c) [Required equipment, including line leak detectors, product sensors and probes, dispenser pans] Underground storage tank systems and storage tank system components, including tanks, piping, line leak detectors, product sensors and probes, containment sumps, measuring devices (including gauge sticks), gauges, corrosion protection, spill prevention, overflow prevention and other appurtenances whose failure could contribute to a release of product, shall be maintained in a good state of repair to ensure they function as designed.

(d) Tanks which have been lined and have not had corrosion protection added in accordance with § 245.422(b)(2) (relating to upgrading of existing underground storage tank systems) shall have the lining evaluated by, or under the direct onsite supervision of, a TL certified tank installer or by a professional engineer.

(1) Evaluations must adhere to an evaluation process developed by a National association identified in § 245.405 (relating to codes and standards) (See API 1631 and NLP 631) as follows:

(i) Ten years after lining installation.

(ii) Every 5 years after the preceding evaluation.

(2) Each evaluation finding shall be documented on a form approved by the Department and shall be maintained at the facility for the duration of the tank's operating life.

(e) Lined tank systems that do not meet original design specifications or have not been evaluated as required in subsection (d)(1) and (2) shall be emptied, removed from service and permanently closed in accordance with [§§ 245.451 and 245.452 (relating to temporary closure; and permanent closure and changes-in-service)] § 245.451 (relating to temporary removal from service (out-of-service)) and § 245.452.

(f) [Primary and secondary containment structure must be maintained in a leak free condition. If infiltration or a release is detected within the secondary containment, the defective component shall be repaired in accordance with § 245.434 (relating to repairs allowed). Repairs, including those performed to stop infiltration, shall be tested in accordance with § 245.434(5).] Primary and secondary containment structures, containment sumps and spill prevention equipment must be maintained in a leak-free condition. If any liquid or regulated substance is detected, the liquid or regulated substance shall be immediately removed and the defective component, if applicable, shall be repaired in accordance with § 245.434 (relating to repairs allowed). Repairs, including those performed to stop infiltration, shall be tested in accordance with § 245.434(4).

(g) A check for water in petroleum tanks shall be performed monthly and excess water shall be promptly removed as necessary. Water may not exceed the tank manufacturer's recommendations, product supplier's guidelines, or 2 inches of accumulation in the bottom of the tank, whichever is less. No amount of water is desirable in gasoline containing ethanol. Therefore, water should not be allowed to accumulate in tanks containing ethanol. Excess water shall be properly managed in accordance with applicable State and Federal requirements, such as Chapter 299 (relating to storage and transportation of residual waste), 40 CFR **Part** 261, Subpart B (relating to [**hazardous waste identification**] **criteria for identifying the characteristics of hazardous waste and for listing hazardous waste**) and 29 CFR **Part** 1910 (relating to occupational safety and health standards).

§ 245.433. Compatibility.

(a) Owners and operators shall use an underground storage tank system[,] made of or lined with materials[, that is] **that are** compatible with the substance stored in the underground storage tank system. [**Owners and operators storing alcohol blends may use the following codes to comply with the requirements of this section:**

(1) American Petroleum Institute Publication 1626, "Storing and Handling Ethanol and Gasoline-Ethanol Blends at Distribution Terminals and Service Stations."

(2) American Petroleum Institute Publication 1627, "Storage and Handling of Gasoline-Methanol/Cosolvent Blends at Distribution Terminals and Service Stations."]

(b) An owner and operator of an underground storage tank storing alternative fuel blends or biodiesel or biodiesel blended fuel shall submit on a form provided by the Department information verifying compatibility of the underground storage tank system with the substance stored prior to storing the substance in the underground storage tank.

(c) Upon Department request, an owner and operator of an underground storage tank system shall demonstrate compatibility of the underground storage tank system with the substance stored by using one or more of the following:

(1) Certification or listing of the underground storage tank system equipment or component by a Nationally recognized, independent testing laboratory for use with the substance stored.

(2) Equipment or component manufacturer approval. The manufacturer's approval must be in writing, indicate an affirmative statement of compatibility, specify the range of alternative fuel blend or biodiesel blend with which the equipment or component is compatible, and be from the equipment or component manufacturer.

(3) Verification by a Pennsylvania-licensed professional engineer who has knowledge, experience and training in materials science that the equipment or component is compatible with the substance stored. The Department may request documentation supporting the professional engineer's verification.

(4) Another option that is determined by the Department to be at least as protective of human health and the environment as those in paragraphs (1)–(3).

§ 245.434. Repairs allowed.

Owners and operators of underground storage tank systems shall ensure that repairs will prevent releases due to structural failure or corrosion as long as the underground storage tank system is used to store regulated substances. The repairs must meet the following requirements:

(1) Repairs involving a tank handling activity shall be performed by or under the direct, onsite supervision and control of a certified installer.

(2) Repairs to underground storage tank systems shall be properly conducted in accordance with a code of practice developed by a [**Nationally-recognized**] **Nationally recognized** association or an independent testing laboratory.

[(3) Repairs to fiberglass reinforced plastic tanks may be made by the manufacturer's authorized representatives, and shall be made in accordance with a code of practice developed by a **Nationally-recognized association or an independent testing laboratory.**

(4) [(3) Metal pipe sections and fittings that have released product as a result of corrosion or other damage shall be replaced. [**Fiberglass**] **Noncorrodible** pipes and fittings may be repaired; repairs shall be made in accordance with the manufacturer's specifications.

[(5) Tanks, containment sumps, and piping repaired in response to a release shall be tightness tested in accordance with §§ 245.421(b)(4)(ii), 245.444(3) and 245.445(2) (relating to performance standards for underground storage tank systems; methods of release detection for tanks; and methods of release detection for piping), respectively, prior to placing the system back into service except as provided as follows:

(i) The repaired tank is internally inspected in accordance with a code of practice developed by a **Nationally-recognized association or an independent testing laboratory.**

(ii) The repaired portion of the underground storage tank system is monitored monthly for releases in accordance with a method specified in § 245.444(4)–(9).

(iii) Another test method is used that is determined by the Department to be at least as protective of human health and the environment as those listed in subparagraphs (i) and (ii).]

(4) Repairs to secondary containment areas of tanks and piping, containment sumps and spill prevention equipment shall be tested for tightness according to the manufacturer's instructions, a code of practice developed by a Nationally recognized association or independent testing laboratory prior to returning the underground storage tank system to operating status. All other repairs to tanks, containment sumps and piping shall be tightness tested in accordance with §§ 245.421(b)(4)(ii), 245.444(2) and 245.445(2) (relating to performance standards for underground storage tank systems; methods of release detection for tanks; and methods of release detection for piping), respectively, prior to placing the underground storage tank system back into service except as provided as follows:

(i) The repaired tank is internally inspected in accordance with a code of practice developed by a **Nationally recognized association or an independent testing laboratory.**

(ii) Another test method is used that is determined by the Department to be at least as protective of human health and the environment as listed in subparagraph (i).

[(6)] (5) Within 6 months following the repair of a cathodically protected underground storage tank system, the cathodic protection system shall be tested in accordance with § 245.432(a)(2) and (3) (relating to operation and maintenance including corrosion protection) to ensure that it is operating properly.

[(7)] (6) Underground storage tank system owners and operators shall maintain records of each repair, including those in response to a release, for the remaining operating life of the underground storage tank system.

§ 245.435. Reporting and recordkeeping.

(a) Owners and operators of underground storage tank systems shall **maintain records as required under this chapter and provide records, as requested, and cooperate fully with inspections, monitoring and testing conducted by the Department, certified installers or certified inspectors[, as well as]. Owners and operators shall provide records and cooperate fully in response to requests for document submission, testing and monitoring by the owner or operator under section 107(c) of the act [(35 P.S. § 6201.107(c))] (35 P.S. § 6021.107(c)).**

(b) Owners and operators shall maintain required records either onsite at the [**underground**] storage tank facility or at a readily available alternative site. Records maintained at the [**underground**] storage tank facility shall be immediately available for inspection by the Department and certified inspectors. If records are maintained offsite, the records shall be easily obtained and provided for inspection or for review by the Department upon request.

[(1)] (c) *Reporting.* Owners and operators shall submit the following applicable information to the Department:

[(i)] (1) Notification in accordance with § 245.41 (relating to tank registration requirements) for under-

ground storage tank systems, including change of ownership, closure of [a] **an underground storage tank system**, change of substance stored and change of tank status, and certification of installation for new underground storage tank systems (§ 245.421(c) (relating to performance standards for underground storage tank systems)).

[(ii) **Reports of confirmed, reportable releases (§ 245.305(d) (relating to reporting releases)).**]

(2) Reports of confirmed, releases (§ 245.305(c) (relating to reporting releases)).

[(iii)] **(3)** A site characterization report (§ 245.310 (relating to site characterization report)).

[(iv)] **(4)** Remedial action plans (§ 245.311 (relating to remedial action plan)), remedial action progress reports (§ 245.312 (relating to remedial action)) and remedial action completion reports (§ 245.313 (relating to remedial action completion report)).

[(v)] **(5)** A notification before installation, permanent closure or change-in-service of a storage tank or storage tank system (§ 245.421(a)(2) and § 245.452(a) (relating to permanent closure and changes-in-service)).

[(vi)] **(6)** In the case of permanent closure, closure records to the Department when requested.

[**(2) Permanent recordkeeping. Owners and operators shall maintain records for new systems and available records for existing systems for the operational life of the tank system and retain the records for a minimum of 1 year after the tank system has been removed. Permanent records include the following:**]

(d) Recordkeeping. Owners and operators shall maintain all of the following records for underground storage tank systems for the operational life of the system and retain the records for a minimum of 1 year after the underground storage tank system has been permanently closed:

[(i)] **(1)** A corrosion expert's analysis of site corrosion potential if corrosion protection equipment is not used (§ 245.421(b)(1)(iv) and (2)(iii) and § 245.422(b)(2)(iv) and (c)(3) (relating to upgrading of existing underground storage tank systems)).

[(ii)] **(2)** The corrosion expert's design of an impressed current system or field-installed cathodic protection system or similar information that demonstrates compliance with §§ 245.421(b)(2)(ii)(B) and 245.422(b)(2) and (c)(2).

[(iii) **Documentation of tank system installation, system modification and tank upgrade activities.**]

(3) Documentation of underground storage tank system installation, modification and upgrade activities.

[(iv) **Tank**] **(4) Underground storage tank system assessment records prior to upgrading in accordance with § 245.422(b).**

[(v)] **(5)** Documentation of the installation testing and commissioning reports required for corrosion protection systems by manufacturers and National standards in accordance with § 245.432 (relating to operation and maintenance including corrosion protection).

[(vi) **Documentation of underground storage tank system repairs, including those in response to a release (§ 245.434(6) (relating to repairs allowed)).**]

(6) Documentation of underground storage tank system repairs.

[(vii)] **(7)** Tank lining evaluation reports (§ 245.432(d)).

[(viii)] **(8)** Documentation showing Department approval for a variance or alternate leak detection method (§§ 245.404 and 245.443 (relating to variances; and requirements for hazardous substance underground storage tank systems)).

[**(3) Temporary recordkeeping. Owners and operators shall retain current temporary records for a minimum of 1 year after the tank system has been removed. Temporary records shall be maintained as follows:**

(i) The current Storage Tank Registration/Permit Certificate.

(ii) Tank and pipe release detection records for the past 12 months, including written certifications or performance claims for the release detection methods in use and documentation of investigations of suspected releases (§§ 245.304 and 245.446 (relating to investigation of suspected releases; and release detection recordkeeping)).]

(9) Documentation showing the owner or operator of an underground storage tank system is continuously participating in the USTIF.

(10) The current Storage Tank Registration/Permit Certificate.

(11) Tank and piping release detection records for the past 12 months, including written certifications or performance claims for the release detection methods in use (§ 245.446 (relating to release detection recordkeeping)).

[(iii)] **(12)** The last annual check/testing, and maintenance records of leak detection equipment including probes, monitors, line leak detectors and automatic tank gauges that verify they are working properly and tested as required by the equipment manufacturers **and this chapter.**

[(iv)] **(13)** Documentation of the last three impressed current cathodic protection system inspection checks for each 60-day test period in accordance with § 245.432.

[(v)] **(14)** The last two cathodic protection surveys, done at 3-year intervals, on impressed current and galvanic cathodic protection systems in accordance with § 245.432.

[(vi)] **(15)** Results of the site investigation conducted at permanent closure or change-in-service (§ 245.455 (relating to closure records)).

[(vii)] **(16)** A properly completed closure report required under § 245.452(f).

[(viii)] **(17)** Documentation of the last test that demonstrates each containment sump[, **dispenser pan and spill containment bucket**] **and spill prevention equipment** installed or repaired after November 10, 2007, were tested and verified to be liquid-tight in accordance with [§§] **§ 245.421(b)(4) and § 245.434(5) (relating to repairs allowed).**

[(ix)] (18) Documentation of operator training, including verification of training for current Class A, Class B and Class C operators, current list of operators and written instructions or procedures for Class C operators in accordance with § 245.436 (relating to operator training).

(19) For owners and operators conducting periodic testing of containment sumps and spill prevention equipment and evaluations of overfill prevention under § 245.437 (relating to periodic testing), documentation of the last test for the containment sump and spill prevention equipment and evaluation of the overfill prevention equipment.

(20) For owners and operators conducting periodic testing of containment sumps and spill prevention equipment under § 245.437(a)(1)(i), documentation showing that the equipment is double-walled and the integrity of both walls is periodically monitored in accordance with § 245.438(a)(1)(i) (relating to periodic operation and maintenance walkthrough inspections) for as long as the equipment is monitored by walkthrough inspection.

(21) Records of walkthrough inspections as required under § 245.438 for the past 12 months. Records must include a list of each area checked, whether each area checked was acceptable or needed action taken, a description of actions taken to correct an issue and delivery records if spill prevention equipment is checked less frequently than every 30 days due to infrequent deliveries.

(22) Documentation of investigations of suspected releases in accordance with § 245.304 (relating to investigation of suspected releases).

§ 245.436. Operator training.

(a) *Requirement for trained operators.*

(1) An owner shall designate Class A, Class B and Class C operators for each underground storage tank system or **storage tank** facility that has underground storage tanks permitted to operate by the Department.

(2) A **storage tank** facility may not operate [**after August 8, 2012,**] unless operators have been designated and trained as required in this section, unless otherwise agreed upon by the Department.

(3) Trained operators shall be readily available to respond to suspected/confirmed releases, other unusual operating conditions and equipment shut-offs or failures.

(i) The Class A or Class B operator shall be available for immediate telephone consultation when a **storage tank** facility is in operation. A Class A or Class B operator must be able to be onsite at the storage tank facility within 24 hours.

(ii) [**Facilities**] **Storage tank facilities** that dispense motor fuel for retail sales to the general public shall be manned by an onsite Class C operator when open for business with the public in accordance with [**37 Pa. Code §§ 13.115 and 13.117**] **34 Pa. Code §§ 14a.115 and 14a.117** (relating to attended self-service stations; and supervision of dispensing). During an unexpected absence of a Class C operator, such as employee no-shows or call-offs, an onsite Class A or Class B operator may fill-in or temporarily substitute for the Class C operator. [**Facilities**] **Storage tank facilities** that do not dispense motor fuel to the general public may be manned based on the facility owner's requirements

and routine operational needs. **Emergency contact information and written instructions and procedures in the event of an emergency shall be immediately available upon request.**

(iii) [**For unmanned facilities, a Class C operator shall be available for immediate telephone consultation and shall be able to be onsite within 2 hours of being contacted. Emergency contact information shall be prominently displayed at the site. Emergency procedures for users of unmanned facilities shall also be prominently posted at the site.**] **For storage tank facilities that do not dispense motor fuel for retail sales to the general public, a Class C operator shall be available for immediate telephone consultation and shall be able to be onsite within 2 hours of being contacted. Emergency contact information and written instructions and procedures in the event of an emergency must be prominently displayed at the site and visible to the storage tank user.**

[(4) Designated operators shall successfully complete required training under subsection (c) by **August 8, 2012.**

(5)] (4) A person may be designated for more than one class of operator.

(b) *Operator classes.*

(1) *Class A operator.* A Class A operator has primary responsibility to operate and maintain the underground storage tank system and facility. The Class A operator's responsibilities typically include managing resources and personnel, such as establishing work assignments, to achieve and maintain compliance with regulatory requirements. In general, this person focuses on the broader aspects of the statutory and regulatory requirements and standards necessary to properly operate and maintain the underground storage tank system and facility.

(i) A Class A operator assists the owner by ensuring that underground **storage** tank systems are properly installed and expeditiously repaired, and records of system installation, modification and repair are retained and made available to the Department and certified IUM inspectors.

(ii) A Class A operator shall be familiar with training requirements for each class of operator and may provide required training for Class C operators.

(iii) A Class A operator may prepare site drawings that indicate equipment locations for Class C operators and routine maintenance checklists for Class B operators. [**(See PEI RP 900—"Recommended Practices for the Inspection and Maintenance of UST Systems.")**]

(iv) Department-certified [**companies,**] installers and inspectors with current underground storage tank UMX, **UMI** or IUM certification categories may perform Class A operator duties when employed or contracted by the tank owner to perform these functions.

(A) Department-certified installers [**, inspectors and companies**] **and inspectors** identified in this subparagraph are excluded from required training under subsection (c), unless required by the Department to successfully complete mandatory operator training under § 245.411(d) (relating to inspection frequency).

(B) A certified IUM inspector may not perform [**a facility operation inspection**] **an inspection as re-**

quired in § 245.411 for a facility where the inspector is also the designated Class A operator. (See § 245.106 (relating to conflict of interest).)

(2) *Class B operator.* A Class B operator implements applicable underground storage tank regulatory requirements and standards in the field or at the storage tank facility. This person oversees and implements the day-to-day aspects of operations, maintenance and recordkeeping for the underground storage [**tanks**] **tank systems** at one or more facilities. For example, the **Class B** operator ensures that release detection methods, release prevention equipment and related recordkeeping and reporting requirements are met, relevant equipment manufacturer's or third-party performance standards are available and followed, and appropriate persons are trained to properly respond to potential emergencies caused by releases or spills from underground storage tank systems at the facility.

(i) A Class B operator checks spill [**prevention and overfill control**] **and overfill prevention** equipment and corrosion protection equipment to ensure that they are functioning properly and that any required system tests are performed at required intervals.

(ii) A Class B operator assists the owner by ensuring that release detection equipment is operational, release detection is performed at the proper intervals and release detection records are retained and made available to the Department and certified IUM inspectors.

(iii) A Class B operator shall be totally familiar with Class B and Class C operator responsibilities, and may provide required training for Class C operators.

(iv) Department-certified [**companies,**] installers and inspectors with current underground storage tank UMX, UMI or IUM certification categories may perform Class B operator duties when employed or contracted by the tank owner to perform these functions.

(A) Department-certified installers[, **inspectors and companies**] **and inspectors** identified in this subparagraph are excluded from required training under subsection (c), unless required by the Department to successfully complete mandatory operator training under § 245.411(d).

(B) A certified IUM inspector may not perform [**a facility operation inspection**] **an inspection as required in § 245.411** for a facility where the inspector is also the designated Class B operator. (See § 245.106.)

(3) *Class C operator.* A Class C operator is the first line of response to events indicating emergency conditions **and may control or monitor the dispensing or sale of regulated substances.** This person is responsible for responding to alarms or other indications of emergencies caused by spills or releases from underground storage tank systems and **associated** equipment failures. The Class C operator shall notify the Class A or Class B operator and appropriate emergency responders when necessary, based on the nature or type of emergency.

[(i) **A Class C operator may control or monitor the dispensing or sale of regulated substances.**

(ii) **After June 28, 2010, written instructions or procedures shall be provided and visible at manned storage tank facilities, and be readily available for unmanned facilities for persons performing duties of the Class C operator to follow and to provide notification necessary in the event of emergency conditions.**

(iii) There may be more than one Class C operator at a storage tank facility, but not all employees of a facility are necessarily Class C operators.]

(c) *Required training.*

(1) *Class A operators.* A Class A operator shall successfully complete a training course approved under § 245.141 (relating to training approval) [**or recognized by the Department under paragraph (5)**] that includes a general knowledge of underground storage tank system requirements. Training must provide information that should enable the operator to make informed decisions regarding compliance and to ensure that appropriate persons are fulfilling operation, maintenance and recordkeeping requirements and standards of this chapter or Federal underground storage tank requirements in 40 CFR Part 280 (relating to technical standards and corrective action requirements for owners and operators of underground storage tanks (UST)), or both, including the following:

(i) Spill and overfill prevention.

(ii) Release detection and related reporting requirements.

(iii) Corrosion protection.

(iv) Emergency response.

(v) Product and equipment compatibility.

(vi) Financial responsibility.

(vii) Notification and storage tank registration requirements.

(viii) Temporary and permanent closure requirements.

(ix) Operator training requirements.

(2) *Class B operators.* A Class B operator shall successfully complete a training course approved under § 245.141 [**or recognized by the Department under paragraph (5)**] that includes an in-depth understanding of operation and maintenance aspects of underground storage tank systems and related regulatory requirements. Training must provide specific information on the components of underground storage tank systems, materials of construction, methods of release detection and release prevention applied to underground storage tank systems and components. Training must address operation and maintenance requirements [**of**] **in** this chapter or Federal underground storage tank requirements in 40 CFR Part 280, or both, including the following:

(i) Spill and overfill prevention.

(ii) Release detection and related reporting requirements.

(iii) Corrosion protection and related testing.

(iv) Emergency response.

(v) Product and equipment compatibility.

(vi) Reporting and recordkeeping requirements.

(vii) Class C operator training requirements.

(3) *Class C operators.* At a minimum, training provided by the tank owner or Class A or Class B operator must **be site-specific and** enable the Class C operator to take action in response to emergencies, such as situations posing an immediate danger or threat to the public or to the environment and that require immediate action, caused by spills or releases and alarms from an underground storage tank system. Training must include writ-

ten instructions or procedures for the Class C operator to follow and to provide notification necessary in the event of emergency conditions.

(4) *Class A and Class B operators.* Successful completion for Class A and Class B operators means attendance for the entire training course and demonstration of knowledge of the course material as follows:

(i) Receipt of a passing grade under § 245.141(b)(4), on an examination of material presented in the training course, or demonstration through practical (hands-on) application to the trainer, operation and maintenance checks of underground storage tank equipment, including performance of release detection at the [**underground**] storage tank facility, at the conclusion of onsite training.

(ii) Receipt of a training certificate by an approved trainer upon verification of successful completion of training under this paragraph.

[(5) *Reciprocity.* The Department may also recognize successful completion of Class A and Class B operator training on regulatory standards consistent with 40 CFR Part 280, which is recognized by other states or implementing agencies and which is approved by the EPA as meeting operator training grant guidelines published by the EPA.

(6)] (5) *Costs of training.* The tank owner or operator shall incur the costs of the training.

(d) *Timing of training.*

(1) An owner shall ensure that Class A, Class B and Class C operators are trained [**as soon as practicable after December 26, 2009, contingent upon availability of approved training providers, but by August 8, 2012**] and identified on a form provided by the Department prior to placing the underground storage tank system into use.

(2) When a Class A or Class B operator is replaced [, **after August 8, 2012**], a new operator shall be trained within 30 days of assuming duties for that class of operator.

(3) Class C operators shall be trained before assuming duties of a Class C operator. [**After June 28, 2010, written**] **Written** instructions or procedures shall be provided to Class C operators to follow and to provide notification necessary in the event of emergency conditions. Class C operators shall be briefed on these instructions or procedures at least annually (every 12 months), which may be concurrent with annual safety training required by the Occupational Safety and Health Administration, under 29 CFR Part 1910 (relating to Occupational Safety and Health Standards).

(e) *Documentation.*

(1) The owner of [**an underground**] a storage tank facility shall prepare a list of designated operators. The list must represent the current Class A, Class B and Class C operators for the [**underground**] storage tank facility and include:

(i) The name of each operator, class of operation trained for and the date each operator successfully completed initial training and refresher training, if any.

(ii) For Class A and Class B operators that are not permanently onsite or assigned to more than one facility, telephone numbers to contact the operators.

(2) A copy of the certificates of training for Class A and Class B operators shall be on file and readily available and a copy of the facility list of Class A, Class B and Class C operators and Class C operator instructions or procedures shall be kept onsite and immediately available for [**manned storage tank facilities and readily available for unmanned facilities.** See § 245.435(b)(3)(ix) (relating to reporting and record-keeping).] **storage tank facilities that dispense motor fuel for retail sales to the general public. Storage tank facilities that do not dispense motor fuel for retail sales to the general public shall have this information readily available.** (See § 245.435(d)(18) (relating to reporting and recordkeeping).)

(3) Class C operator or owner contact information, including names and telephone numbers, and emergency procedures[,] shall be conspicuously posted at [**unmanned facilities**] **storage tank facilities that do not dispense motor fuel for retail sales to the general public.**

(Editor's Note: Sections 245.437 and 245.438 are proposed to be added and printed in regular type to enhance readability.)

§ 245.437. Periodic testing.

(a) Owners and operators of underground storage tank systems shall ensure installed equipment for release detection and prevention is operating properly by meeting all of the following requirements:

(1) Containment sumps used for interstitial monitoring of piping in accordance with § 245.444(6) (relating to methods of release detection for tanks) and spill prevention equipment must meet one of the following:

(i) When the containment sump or spill prevention equipment is double-walled, the integrity of both walls shall be periodically monitored by maintenance walk-through inspections as required under § 245.438 (relating to periodic operation and maintenance walkthrough inspections). If walkthrough inspections are discontinued, the owner and operator shall comply with subparagraph (ii) and conduct a test within 30 days of the last inspection.

(ii) Containment sumps and spill prevention equipment shall be tested at least once every 3 years to ensure the equipment is liquid-tight by using vacuum, pressure or liquid.

(2) Overfill prevention equipment shall be evaluated at least once every 3 years. At a minimum, the evaluation shall ensure that overfill prevention equipment is set to activate at the correct level specified in § 245.421(b)(3) (relating to performance standards for underground storage tank systems) and must activate when the regulated substance stored reaches that level.

(3) Electronic and mechanical components of release detection equipment shall be tested for proper operation at least annually. At a minimum, required tests, as applicable to the facility, shall cover all of the following components and criteria:

(i) Automatic tank gauges and other controllers must be tested by:

- (A) Testing alarm.
- (B) Verifying system configuration.
- (C) Testing battery backup.

(ii) Probes and sensors shall be tested:

- (A) Inspecting for residual buildup.

- (B) Ensuring that floats move freely.
- (C) Ensuring the shaft is not damaged.
- (D) Ensuring cables are free of kinks and breaks.
- (E) Testing alarm operability or running condition and communication with controller.

(iii) Automatic line leak detectors shall be tested to meet criteria in § 245.445 (relating to methods of release detection for piping) by simulating a leak.

(iv) Vacuum pumps and pressure gauges shall be tested to ensure proper communication with sensors and controller.

(v) Handheld electronic sampling equipment associated with groundwater and vapor monitoring shall be tested to ensure proper operation.

(b) Owners and operators of underground storage tank systems shall ensure tests and evaluations required under this section are performed in accordance with one of the following criteria:

- (1) Requirements developed by the manufacturer.
- (2) Code of practice developed by a Nationally recognized association or independent testing laboratory.
- (3) Requirements determined by the Department to be no less protective of human health and the environment than the requirements in paragraphs (1) and (2).

(c) Owners and operators shall comply with the periodic testing requirements in this section as follows:

(1) For underground storage tank systems installed on or before _____ (*Editor's Note:* The blank refers to the effective date of adoption of this proposed rulemaking.), owners and operators shall ensure tests and inspections as required under this section are performed prior to the next required underground storage tank inspection occurring after _____ (*Editor's Note:* The blank refers to 365 days after the effective date of adoption of this proposed rulemaking.), or not later than _____ (*Editor's Note:* The blank refers to 1,095 days after the effective date of adoption of this proposed rulemaking.), whichever occurs first.

(2) For underground storage tank systems installed after _____ (*Editor's Note:* The blank refers to the effective date of adoption of this proposed rulemaking.), these requirements apply at installation.

(d) Test liquids used to perform tests as required in this chapter shall be reused, treated or disposed in accordance with applicable requirements in Chapters 91, 92a, 260a—270a and 287—299.

§ 245.438 Periodic operation and maintenance walkthrough inspections.

(a) To properly operate and maintain spill prevention and release detection equipment part of underground storage tank systems, no later than _____ (*Editor's Note:* The blank refers to 365 days after the effective date of adoption of this proposed rulemaking.), owners and operators shall conduct walkthrough inspections at a minimum of every 30 days, with the exception of spill prevention equipment at underground storage tank systems receiving deliveries at intervals greater than every 30 days, which may be checked prior to each delivery. The walkthrough inspection shall include, at a minimum, all of the following:

- (1) For spill prevention equipment:
 - (i) Visually check for damage.

- (ii) Remove liquid or debris.
- (iii) Check for and remove obstructions in the fill pipe.
- (iv) Check the fill cap to make sure it is securely on the fill pipe.

(v) For double-walled spill prevention equipment with interstitial monitoring, check for a leak in the interstitial area.

(2) For release detection equipment:

(i) Check to make sure the release detection equipment is operating with no alarms or other unusual operating conditions present.

(ii) Ensure records of release detection testing are reviewed and current.

(b) To properly operate and maintain containment sumps and handheld release detection equipment part of underground storage tank systems, no later than _____ (*Editor's Note:* The blank refers to 365 days after the effective date of adoption of this proposed rulemaking.), owners and operators shall conduct walk-through inspections at a minimum of every 12 months that include, at a minimum, all of the following:

- (1) For containment sumps:
 - (i) Visually check for damage and the presence of liquid or debris.
 - (ii) Remove liquid or debris.
 - (iii) For double-walled sumps with interstitial monitoring, check for a leak in the interstitial area.

(2) For handheld release detection equipment, check devices such as tank gauge sticks or groundwater bailers for operability and serviceability.

(c) Owners and operators of underground storage tank systems shall ensure operation and maintenance walk-through inspections required under this section are performed in accordance with one of the following criteria, unless the Department determines that a more stringent requirement is necessary to avoid releases of regulated substances from underground storage tank systems:

- (1) Requirements developed by the manufacturer.
- (2) Code of practice developed by a Nationally recognized association or independent testing laboratory.
- (3) Requirements determined by the Department to be no less protective of human health and the environment than the requirements in paragraphs (1) and (2).

RELEASE DETECTION

§ 245.441. General requirements for underground storage tank systems.

(a) Owners and operators of new and existing underground storage tank systems shall provide a method, or combination of methods, of release detection that:

(1) Can detect a release from any portion of the tank and the connected underground piping that routinely contains product.

(2) Is installed, calibrated, operated and maintained in accordance with the manufacturer's instructions, including routine maintenance and service checks for operability or running condition.

(3) Meets the performance requirements in § 245.444 or § 245.445 (relating to methods of release detection for tanks; and methods of release detection for piping), with any performance claims and their manner of determina-

tion described in writing by the equipment manufacturer or installer. In addition, methods [**used after the date shown in the following table corresponding with the specified method except for methods permanently installed prior to that date, shall**] in

§§ 245.444 and 245.445 must be capable of detecting the leak rate or quantity specified for that method in the corresponding section of this subchapter[, **also shown in the table,**] with a probability of detection (Pd) of 0.95 and a probability of false alarm (Pfa) of 0.05.

<i>[Method</i>	<i>Section</i>	<i>Date After Which Pd/Pfa Must be Characterized</i>
Manual Tank Gauging	245.444(2)	December 22, 1990
Tank Tightness Testing	245.444(3)	December 22, 1990
Automatic Tank Gauging	245.444(4)	December 22, 1990
Statistical Inventory Reconciliation	245.444(8)	December 22, 1990
Automatic Line Leak Detectors	245.445(1)	September 22, 1991
Line Tightness Testing	245.445(2)	December 22, 1990]

(i) Test method performance claims shall be verified by an independent third party using leak rates that are unknown to the tester.

(ii) When the EPA evaluation protocol for a method changes, the manufacturer shall reevaluate the method within 24 months of the new protocol's effective date for its continued use in this Commonwealth.

(b) When a release detection method operated in accordance with the performance standards in §§ 245.444 and [§] 245.445 indicates a release may have occurred, owners and operators shall investigate the suspected release in accordance with Subchapter D (relating to corrective action process for owners and operators of storage tanks and storage tank facilities and other responsible parties).

(c) Owners and operators of underground storage tank systems shall comply with the release detection requirements [**of**] in this subchapter.

(d) An existing tank system that cannot apply a method of release detection that complies with this subchapter must immediately empty the tank and complete the closure procedures in §§ 245.451—245.455 (relating to out-of-service underground storage tank systems and closure).

[**(e) For existing tank systems equipped with double-walled pressurized piping that routinely contains regulated substance, and containment sumps at the piping junctures and dispensers, the containment sumps and dispenser pan sumps of these systems shall be monitored monthly beginning November 10, 2009, and monthly monitoring records maintained for the last 12 months of monitoring. Monitoring shall be accomplished by one of the following methods:**

(1) **Monthly visual check of the sumps.**

(2) **Interstitial monitoring under § 245.444(7) (relating to methods of release detection for tanks) (also see secondary containment—liquid sump sensors in PEI RP 100).]**

§ 245.442. [**Requirements**] Periodic monitoring requirements for petroleum underground storage tank systems.

(a) [**Owners and operators of underground storage tank systems installed after November 10, 2007, shall perform interstitial monitoring, at least once**

every 30 days, in accordance with § 245.444(7) (relating to methods of release detection for tanks) of both the tank and underground piping that routinely contains a product (regulated substance). In addition, pressurized piping for these systems must be equipped and operated with an automatic line leak detector with an automatic pump shut off device in accordance with § 245.445(1) (relating to methods of release detection for piping).] Owners and operators of underground storage tank systems that store petroleum installed after November 10, 2007, and underground piping installed after November 10, 2007, that routinely contain regulated substances shall perform interstitial monitoring in accordance with § 245.444(6) (relating to methods of release detection for tanks) at least once every 30 days. Underground piping installed after November 10, 2007, that conveys regulated substances under pressure must be equipped and operated with an automatic line leak detector with an automatic pump shut off device in accordance with § 245.445(1) (relating to methods of release detection for piping). Release detection is not required for suction piping that meets the requirements in subsection (b)(2)(ii)(A)—(E).

(b) Owners and operators of petroleum underground storage tank systems installed on or before November 10, 2007, shall provide release detection for tanks and piping as follows:

(1) *Tanks.* Tanks shall be monitored at least every 30 days for releases using one of the methods [**listed in § 245.444(4)—(9) except that:**] in § 245.444(1)—(8).

[(i) **Underground storage tank systems that meet the performance standards in § 245.421 (relating to performance standards for underground storage tank systems), may use monthly inventory control requirements in § 245.444(1) or (2), and tank tightness testing (conducted in accordance with § 245.444(3)) until 10 years after the tank was first installed or upgraded under § 245.422(b), but not later than December 22, 2008.**

(ii) **Underground storage tank systems with a capacity of 1,001 to 2,000 gallons may use manual tank gauging, conducted in accordance with § 245.444(2) and a tank tightness test at least every 5 years until November 10, 2017.**

(iii) **Tanks with a capacity of 550 gallons or less may use manual tank gauging, conducted in ac-**

cordance with § 245.444(2) as long as they continue to meet requirements of this subchapter.

(iv) Tanks with a capacity of 551 to 1,000 gallons using the longer test times specified may use manual tank gauging, conducted in accordance with § 245.444(2) as long as they continue to meet requirements of this subchapter.]

(2) *Piping.* Underground piping that routinely contains regulated substances shall be monitored for releases in a manner that meets one of the following requirements:

* * * * *

§ 245.443. Requirements for hazardous substance underground storage tank systems.

Owners and operators of hazardous substance underground storage tank systems shall provide release detection that meets the following requirements:

(1) [**Release detection at existing underground storage tank systems shall meet the requirements for petroleum underground storage tank systems in § 245.442 (relating to requirements for petroleum underground storage tank systems). By December 22, 1998, all existing hazardous substance underground storage tank systems shall meet the release detection requirements for new systems in paragraph (2).] Hazardous substance underground storage tank systems installed after November 10, 2007, shall perform interstitial monitoring in accordance with § 245.444(6) (relating to methods of release detection for tanks).**

(2) Release detection at [**new**] hazardous substance underground storage tank systems [**shall**] installed on or before November 10, 2007, must meet the following requirements:

(i) Secondary containment systems.

(A) Secondary containment systems shall be designed, constructed and installed to:

(I) Contain regulated substances released from the tank system until they are detected and removed.

(II) Prevent the release of regulated substances to the environment at any time during the operational life of the underground storage tank system.

(III) Be checked for evidence of a release at least every 30 days.

[(B) The provisions of § 264.193 (relating to secondary containment) may be used to comply with the requirements of this paragraph.]

(3) The provisions of 40 CFR 264.193 (relating to containment and detection of releases) may be used to comply with the requirements in this paragraph.

[(ii)] (i) Double walled tanks shall be designed, constructed and installed to:

(A) Contain a release from any portion of the inner tank within the outer wall.

(B) Detect the failure of the inner wall.

[(iii)] (ii) External liners, including vaults, shall be designed, constructed and installed to:

(A) Contain 100% of the capacity of the largest tank within its boundary.

(B) Prevent the interference of precipitation or ground-water intrusion with the ability to contain or detect a release of regulated substances.

(C) Surround the tank completely making it capable of preventing lateral as well as vertical migration of regulated substances.

[(iv)] (4) Underground piping shall be equipped with secondary containment that satisfies the requirements [of] in subparagraph (i) for example, trench liners, jacketing or double-walled pipe. In addition, underground piping that conveys regulated substances under pressure shall be equipped with an automatic line leak detector in accordance with § 245.445(1) (relating to methods of release detection for piping).

[(v)] (5) Other methods of release detection may be used if owners and operators:

[(A)] (1) Demonstrate to the Department that an alternate method can detect a release of the stored substance as effectively as any of the methods allowed in [§ 245.444(2)—(9) (relating to methods of release detection for tanks)] § 245.444(1)—(8) can detect a release of petroleum.

[(B)] (ii) Provide information to the Department on effective corrective action technologies, health risks and chemical and physical properties of the stored substance, and the characteristics of the underground storage tank site.

[(C)] (iii) Obtain approval from the Department to use the alternate release detection method before the installation and operation of the new underground storage tank system.

§ 245.444. Methods of release detection for tanks.

[**Each method of release detection for tanks used to meet the requirements of § 245.442 (relating to requirements for petroleum underground storage tank systems) shall be conducted in accordance with the following:**

(1) ***Inventory control.*** Product inventory control, or another test of equivalent performance, shall be conducted monthly to detect a release of at least 1.0% of flow-through plus 130 gallons on a monthly basis in the following manner:

(i) **Inventory volume measurements for regulated substance inputs, withdrawals and the amount still remaining in the tank are recorded each operating day.**

(ii) **The equipment used is capable of measuring the level of product over the full range of the tank's height to the nearest 1/8 of an inch.**

(iii) **The regulated substance inputs are reconciled with delivery receipts by measurement of the tank inventory volume before and after delivery.**

(iv) **Deliveries are made through a drop tube that extends to within 1 foot of the tank bottom.**

(v) **Product dispensing is metered and recorded within an accuracy of at least 6 cubic inches for every 5 gallons of product withdrawn.**

(vi) **Dispenser meters shall be calibrated.**

(vii) **The measurement of any water level in the bottom of the tank is made to the nearest 1/8 of an inch at least once a month.**

(2) *Manual tank gauging.* Manual tank gauging shall meet the following requirements:]

Each method of release detection for tanks used to meet the requirements in §§ 245.441 and 245.442 (relating to general requirements for underground storage tank systems; and periodic monitoring requirements for petroleum underground storage tank systems) shall be conducted in accordance with all of the following:

(1) *Manual tank gauging.* Manual tank gauging shall meet the following requirements:

(i) Tank liquid level measurements are taken at the beginning and ending of a period of at least 36 hours

<i>Nominal Tank Capacity</i>	<i>Minimum Duration of Test</i>	<i>Weekly Standard (one test)</i>	<i>Monthly Standard (average of) four tests</i>	<i>Periodic Tightness Test Required</i>
550 gallons or less	36 hours	10 gallons	5 gallons	No
551—1,000 gallons: 64" diameter tank	44 hours	9 gallons	4 gallons	No
551—1,000 gallons: 48" diameter tank	58 hours	12 gallons	6 gallons	No
551—1,000 gallons	36 hours	13 gallons	7 gallons	Yes
[1,001—2,000 gallons	36 hours	26 gallons	13 gallons	Yes]

(v) [Only tanks of 550 gallons or less nominal capacity may use this as the sole method of release detection. Tanks of 551 to 2,000 gallons may use the method in place of manual inventory control in paragraph (1). Tanks of greater than 2,000 gallons nominal capacity may not use this method to meet the requirements of this section.] Owners and operators of underground storage tanks of greater than 1,000 gallons nominal capacity may not use this method to meet the requirements in this section.

[(3)] (2) *Tank tightness testing.* Tank tightness testing, or another test of equivalent performance, must be capable of detecting a 0.1 gallon per hour leak rate from any portion of the tank that routinely contains product while accounting for the effects of thermal expansion or contraction of the product, vapor pockets, tank deformation, evaporation or condensation, and the location of the water table.

[(4)] (3) *Automatic tank gauging.* Equipment for automatic tank gauging that tests for the loss of product and conducts inventory control must meet one of the following requirements:

(i) The automatic product level monitor test can detect a 0.2 gallon per hour leak rate from any portion of the tank that routinely contains product.

(ii) [For tank gauges installed prior to December 22, 1990, that do not meet the requirements of subparagraph (i), inventory control, or another test of equivalent performance, shall also be conducted in accordance with paragraph (1). Tank gauges shall be replaced or be certified by an independent third party verifying the gauge's ability to detect the leak rate in subparagraph (i) following EPA evaluation protocol by November 10, 2008.] Tank gauges shall be certified by an independent third

during which no liquid is added to or removed from the tank.

(ii) Level measurements are based on an average of two consecutive stick readings at both the beginning and ending of the period.

(iii) The equipment used is capable of measuring the level of product over the full range of the tank's height to the nearest 1/8 of an inch.

(iv) A leak is suspected and subject to Subchapter D (relating to corrective action process for owners and operators of storage tanks and storage tank facilities and other responsible parties) if the variation between beginning and ending measurements exceeds the weekly or monthly standards in the following table:

party verifying the gauge's ability to detect the leak rate in subparagraph (i) following EPA evaluation protocol.

[(5)] (4) *Vapor monitoring.* Testing or monitoring for vapors within the soil gas of the excavation zone must meet the following requirements:

* * * * *

[(6)] (5) *Groundwater monitoring.* Testing or monitoring for liquids on the groundwater must meet the following requirements:

* * * * *

[(7)] (6) *Interstitial monitoring.* Interstitial monitoring between the underground storage tank system and a secondary barrier immediately around or beneath it may be used, but only if the system is designed, constructed and installed to detect a leak from any portion of the tank that routinely contains product and also meets one of the following requirements:

(i) For double-walled underground storage tank systems, the sampling or testing method can detect a release through the inner wall in any portion of the tank that routinely contains product.

(ii) For underground storage tank systems with a secondary barrier within the excavation zone, the sampling or testing method used can detect a release between the underground storage tank system and the secondary barrier.

* * * * *

(F) Monitoring wells are clearly marked and secured to avoid unauthorized access and tampering in accordance with [§ 245.432(5)] § 245.432(b).

(iii) For tanks with an internally fitted liner, an automated device can detect a release between the inner wall of the tank and the liner, and the liner is compatible with the substance stored.

[(8)] (7) *Statistical Inventory Reconciliation (SIR)*. SIR shall meet the performance standards of paragraph [(9)(i)] (8)(i) for monthly monitoring.

(i) The owner or operator shall follow the instructions of the SIR manufacturer's protocol.

(ii) A separate report for each tank monitored shall be maintained by the [owner/operator] **owner or operator** in accordance with § 245.446(2) (relating to release detection recordkeeping). Each report shall meet the following requirements:

[(A) Owners and operators shall have reports available within 20 days of the end of the monitored period.

(B) [(A) A valid report shall include the calculated leak rate, positive for out of tank and negative for into tank, minimum detectable leak rate (MDL), leak detection threshold, probability of detection (Pd) and probability of false alarm (Pfa) which the supplied data supports.

[(C)] (B) A valid report shall also include one of the following test results:

(I) If the calculated leak rate, absolute value, is less than the leak threshold and the MDL is less than or equal to the certified performance standard [(paragraph (3), paragraph (9)(i) or § 245.445(2) (relating to methods of release detection for piping)], the test result is "pass."

(II) If the calculated leak rate, absolute value, is greater than the leak threshold, the test result is "fail."

(III) If the MDL exceeds the certified performance standard and the calculated leak rate is less than the leak threshold, the test result is "inconclusive." An inconclusive result is considered a suspected leak and shall be investigated in accordance with § 245.304 (relating to investigation of suspected releases).

[(9)] (8) *Other methods*. Other types of release detection methods, or a combination of methods, may be used if the owner or operator can demonstrate to the Department that one of the following exists:

(i) It can detect a 0.2 gallon per hour leak rate or a release of 150 gallons within a month with a probability of detection of 0.95 and a probability of false alarm of 0.05.

(ii) It can detect a release as effectively as any of the methods allowed in paragraphs [(3)—(8)] (2)—(7). In comparing methods, the Department will consider the size of release that the method can detect and the frequency and reliability with which it can be detected. If the method is approved, the owner and operator shall comply with conditions imposed by the Department on its use to ensure the protection of human health and the environment.

§ 245.445. Methods of release detection for piping.

Each method of release detection for piping used to meet the requirements [of] **in** § 245.442 (relating to **periodic monitoring** requirements for petroleum underground storage tank systems) shall be conducted in accordance with the following:

(1) *Automatic line leak detectors*. Methods which alert the operator to the presence of a leak by restricting or automatically shutting off the flow of regulated substances through piping or triggering an audible or visual alarm may be used only if they detect leaks of 3 [gallons

per hour] **gallons-per-hour** at 10 pounds per square inch line pressure within 1 hour. An annual test of the operation of the **automatic line** leak detector shall be conducted in accordance with the manufacturer's requirements. [**Underground**]

(i) **Except as provided in subparagraph (ii), underground storage tank systems installed or replaced after November 10, 2007, must have automatic line leak detectors with an automatic pump shut-off device that shuts off the flow of regulated substances through pressurized piping that routinely contains and conveys product from the tank (See § 245.421(a)(1) (relating to performance standards for underground storage tank systems)).**

(ii) Owners and operators of underground storage tank systems that store fuel solely for use by emergency power generators shall install methods that trigger an audible or visual alarm to meet the requirements in this subsection.

(iii) Except as provided in subparagraph (ii), pressurized piping installed on or before November 10, 2007, that conveys regulated substances must be equipped with a method that restricts or automatically shuts off the flow of regulated substances and meets the requirements in this section if the storage tank facility is unattended while open for business.

(2) *Line tightness testing*. A periodic test of piping may be conducted only if it can detect a 0.1 gallon per hour leak rate at 1 1/2 times the operating pressure.

(3) *Applicable tank methods*. The methods in [§ 245.444(5)—(9)] § 245.444(4)—(8) (relating to methods of release detection for tanks) may be used if they are designed to detect a release from any portion of the underground piping that routinely contains regulated substances.

OUT-OF-SERVICE UNDERGROUND STORAGE TANK SYSTEMS AND CLOSURE

§ 245.451. Temporary [**closure**] **removal from service** (out-of-service).

(a) When an underground storage tank system is temporarily [**closed**] **removed from service** (out-of-service), the owner shall complete and submit an amended registration form to the Department within 30 days in accordance with § 245.41 (**relating to** tank registration requirements).

(b) Owners and operators shall continue operation and maintenance of corrosion protection in accordance with § 245.432 (relating to operation and maintenance including corrosion protection), while the tank is temporarily out-of-service[, **and release detection in accordance with §§ 245.441—245.446 (relating to release detection) until the tank is empty**]. Records shall continue to be kept in accordance with § 245.435 (relating to reporting and recordkeeping).

(c) Owners and operators shall empty a tank being placed temporarily out-of-service [**within 30 days or**] prior to submission of the registration form to the Department[, **whichever occurs first,**] unless directed otherwise by the Department. Removed contents shall be reused, treated or disposed of in accordance with State and Federal requirements, such as Chapter 299 (relating to storage and transportation of residual waste) and 29 CFR **Part** 1910 (relating to occupational safety and health standards). Release detection is not required as long as

the underground storage tank system is empty. The underground storage tank system is empty when all materials have been removed using commonly employed practices so that no more than 2.5 centimeters (1 inch) of residue, or 0.3% by weight of the total capacity of the underground storage tank system, remain in the system. Owners and operators shall maintain release detection records required under § 245.446(2) (relating to release detection recordkeeping) for the most recent 12-month period of active operation.

(d) Subchapter D (relating to corrective action process for owners and operators of storage tanks and storage tank facilities and other responsible parties) shall be complied with if a release is suspected or confirmed.

(e) **[Routine facility inspection requirements at 3-year intervals in § 245.411(c) (relating to inspection frequency) may be delayed for a storage tank facility with all tank systems temporarily closed, unless notified otherwise by the Department under § 245.21(c) and (d) (relating to tank handling and inspection requirements). A delayed inspection shall be performed on a storage tank system or facility in temporary closure when returning the tank system to operating status.] Inspection requirements at 3-year intervals in § 245.411(c) (relating to inspection frequency) shall be performed on an underground storage tank system in temporary out-of-service status.**

(f) When an underground storage tank system is temporarily **[closed] removed from service** for 3 months or more, owners and operators shall also comply with the following requirements:

(1) Vent lines shall be open and functioning.

(2) All other lines, pumps, manways and ancillary equipment shall be capped and secure.

(g) When an underground storage tank system is temporarily **[closed] removed from service** for more than 12 months, owners and operators shall:

(1) Permanently close the underground storage tank system if it does not meet either performance standards in § 245.421 (relating to performance standards for underground storage tank systems) for new underground storage tank systems or the upgrading requirements in § 245.422 (relating to upgrading of existing underground storage tank systems), except that the spill and overflow equipment requirements do not have to be met.

(2) Permanently close the substandard underground storage tank systems at the end of this 12-month period in accordance with §§ 245.452—245.455, unless the Department provides an extension of the 12-month temporary **[closure] out-of-service** period.

(3) Complete a site assessment in accordance with § 245.453 (relating to assessing the site at closure or change-in-service) before an extension may be applied for.

(h) Underground storage tank systems that meet performance standards in § 245.421 or the upgrading requirements in § 245.422 shall be permanently closed within 3 years of being placed temporarily out-of-service or by November 10, 2010, whichever is later, unless the Department grants an extension to this temporary **[closure] out-of-service** period. The Department may establish conditions and require submission of documentation associated with extension of the temporary **[closure] out-of-service** period, such as the following:

(1) Requirements for inspection under **[§§ 245.21 and 245.411] § 245.21 (relating to tank handling and inspection requirements) and § 245.111.**

(2) Verification and testing of cathodic protection systems under § 245.432.

(3) Site assessment under § 245.453.

(4) Other considerations determined by the Department.

(i) The Department may require tests to be performed of the underground storage tank system in temporary out-of-service status when returning the storage tank system to currently-in-use status. These tests may include tank and line tightness testing, verification of compatibility, operability testing as required under § 245.437 (relating to periodic testing), internal inspection of the tank or other tests to ensure proper operation.

§ 245.452. Permanent closure and changes-in-service.

(a) At least 30 days before beginning either permanent closure or a change-in-service under subsections (b) (d), or within another reasonable time determined by the Department, owners and operators shall notify the Department on a form provided by the Department of their intent to permanently close or make the change-in-service, unless the action is in response to corrective action. The required assessment of the excavation zone under § 245.453 (relating to assessing the site at closure or change-in-service) shall be performed after notifying the Department but before completion of the permanent closure or a change-in-service.

(b) To permanently close a tank, owners and operators shall ensure that the tank is empty and clean in accordance with a Nationally recognized code of practice **[such as API 2015]** by removing the liquids and accumulated sludges. Tanks **[taken out of service permanently] being permanently closed** shall also be either removed from the ground or filled with a nonshrinking, inert solid material.

(c) [Replacement of the underground piping connected to a storage tank shall be considered a permanent closure of that part of the underground storage tank system. The requirements applicable to permanent closure of an underground storage tank system also apply to the permanent closure of system piping.] Replacement, removal or closure-in-place of underground product piping or remote fill lines connected to a storage tank shall be considered a permanent closure of that part of the underground storage tank system. A major modification to the dispenser involving excavation beneath the dispenser and removal of the dispenser shall also be considered permanent closure of that part of the tank system. The requirements applicable to permanent closure of an underground storage tank system also apply to the permanent closure of system piping, remote fill lines, and dispensers.

(d) Before a change-in-service, owners and operators shall ensure that the tank is empty and clean in accordance with a Nationally recognized code of practice such as API 2015 by removing the liquid and accumulated sludge, and conduct a site assessment in accordance with § 245.453.

(e) [An amended registration shall be submitted by the owner to the Department.] The owner shall

complete and submit an amended tank registration form, signed by the owner and the certified installer that provided direct onsite supervision of the tank handling activity, to the Department within 30 days of either of the following:

- (1) The completion of permanent closure.
- (2) Change-in-service of the tank.

(f) A properly completed closure report is required to permanently close a site, including a change-in-service. A copy of the completed closure report shall be submitted to the Department when requested.

**Subchapter F. TECHNICAL STANDARDS FOR
ABOVEGROUND STORAGE TANKS AND
FACILITIES
GENERAL**

§ 245.501. Purpose.

This subchapter establishes technical standards and requirements for operations and maintenance, design, construction and installation, corrosion and deterioration prevention, release prevention and leak detection, inspection, and closure and removal from service requirements for large aboveground storage tanks and facilities **and aboveground storage tanks in underground vaults** regulated under the act. Regulated aboveground storage tanks are defined in § 245.1 (relating to definitions).

§ 245.503. Variances.

When unique or peculiar circumstances make compliance with this subchapter technically impractical, infeasible or unsafe, the Department may, upon written application from the [**owner/operator**] **owner** of a storage tank system subject to this subchapter, grant a variance from one or more specific provisions of this subchapter.

* * * * *

(4) The Department will not grant a variance which would result in regulatory controls less stringent than other applicable Federal or State regulations, such as [**37 Pa. Code Chapter 11**] **34 Pa. Code Chapter 14** (relating to flammable and combustible liquids; preliminary provisions) and 40 CFR Part 112 (relating to oil pollution prevention).

(5) When granting the variance, the Department may impose specific conditions necessary to assure that the variance will adequately protect the public health, safety or welfare and the environment.

(6) The Department will provide to the applicant a written notice of approval, approval with conditions or denial. **The Department will publish notice of approved variances in the *Pennsylvania Bulletin*.**

§ 245.505. Applicability.

Existing tanks that become regulated due to the addition of new regulated substances as defined in § 245.1 (relating to definitions) [(See definition of “regulated substance” (i)(C)(I) and (II))] (see subparagraph (iii)(A) and (B)), and the regulation of aboveground storage tanks greater than 30,000 gallons capacity, storing heating oil that is consumed on the premises (See definition of “consumptive use” in § 245.1) are subject to the requirements [of] **in** this chapter and shall be registered with the Department [by January 9, 2008]. **[In addition, these tanks are temporarily excluded from the following requirements:**

(1) **Monitoring requirements in § 245.541(c) (relating to overfill prevention requirements) until November 10, 2010.**

(2) **In-service inspection requirements in § 245.552 (relating to in-service inspections) until within 5 years of the date of construction or the date of the last inspection or by November 10, 2010, whichever is greater.**

(3) **Out-of-service inspection requirements in § 245.553 (relating to out-of-service inspections) until November 10, 2010, for tanks not previously inspected or 10 years after construction for tanks without known corrosion rates, whichever is greater, or within projected inspection intervals based on corrosion rates determined at the last out-of-service inspection, but not to exceed 20 years from the date of the last inspection.]**

OPERATIONS AND MAINTENANCE

§ 245.511. General operations and maintenance.

[**An aboveground storage tank facility owner/operator**] **A storage tank facility owner and operator** shall implement and have onsite a written operations and maintenance plan which assures conformance with applicable safety and operational standards, compliance with applicable Federal and State regulations, and shall use appropriate work practices and procedures.

§ 245.512. Facility operations and spill response plan.

[**An initial Spill Prevention Response Plan (Plan) and any future updates, which address the requirements described in Chapter 9 of the act (35 P.S. §§ 6021.901—6021.904) and this chapter, shall be submitted to the Department for aboveground storage tank facilities with an aggregate aboveground storage capacity greater than 21,000 gallons.**] **An initial Spill Prevention Response Plan (Plan), which addresses the requirements in sections 901—904 of the act (35 P.S. §§ 6021.901—6021.904) and this chapter, shall be submitted to the Department for a storage tank facility with an aggregate aboveground storage capacity greater than 21,000 gallons. Plan revisions shall be submitted to the Department within 120 days of any occurrences as described in section 901(b) of the act.** A current copy of the Plan shall be readily available at the facility at all times.

§ 245.513. Preventive maintenance and housekeeping requirements.

(a) [**An aboveground storage tank facility owner/operator**] **A storage tank facility owner and operator** shall establish and implement a preventive maintenance and housekeeping program which protects the integrity of the system from degradation and protects the public health and the environment.

(b) [**Routine maintenance inspection procedures shall be established and implemented at each storage tank facility.**] **The storage tank facility owner and operator shall establish and implement routine maintenance inspection procedures at each storage tank facility.**

(1) [**An owner/operator is**] **The facility owner and operator are** responsible to assure that a visual inspection is performed once every 72 hours. The visual

inspection may be accomplished by or supplemented with electronic surveillance and shall include:

(i) A check of the facility to ensure that no potential hazardous environmental conditions exist. This includes a check for evidence of a release for example, spill, overflow or leakage.

(ii) A check of the containment areas for accumulation of water and a confirmation that containment drain valves are secured in a closed position when not in use. If excessive water has accumulated, it shall be drained off and disposed of in accordance with applicable State and Federal requirements.

(iii) In the case of aboveground storage tanks in underground vaults, a check of the continuous leak detection system, as required under § 245.523(7) (relating to aboveground storage tanks in underground vaults), to ensure the equipment is functioning as designed.

(2) [An owner/operator is responsible to assure that a maintenance inspection of the facility and equipment is performed each month. The maintenance inspection shall include:] The facility owner and operator are responsible to assure that a maintenance inspection of each aboveground storage tank system is performed each month. The maintenance inspection shall include all of the following:

(i) An inspection of the tank system exterior surfaces for deterioration and maintenance deficiencies including a visual check for cracks, areas of wear, excessive settlement and deterioration of the foundation and supports.

(ii) Ancillary equipment and appurtenances shall be visually checked for operational malfunctions.

(iii) An inspection of containment and transfer areas for cracks, defects and fire hazards.

(iv) A check of overflow prevention equipment and monitoring of the leak detection system.

(v) A check of the cathodic protection system, if installed, to ensure the equipment is functioning as designed.

[(v)] (vi) The monthly maintenance inspection report shall be completed and signed by the individual who conducted the inspections and maintained for 1 year.

(3) [An owner/operator is] The facility owner and operator are responsible to establish a process to assure that storage tank vents are operational and free of restrictions.

(c) [Housekeeping practices shall be established and implemented in a manner that reduces the possibility of accidental spills and safety hazards to plant or facility personnel.] The storage tank facility owner and operator shall immediately initiate the actions necessary to correct deficiencies noted during the 72-hour visual and monthly maintenance inspections.

(d) Repairs to aboveground storage tank systems shall be properly conducted in accordance with the manufacturer's instructions, a code of practice developed by a Nationally recognized association or an independent testing laboratory.

§ 245.514. Security.

[An owner/operator is] (a) The storage tank facility owner and operator are responsible to assure

that appropriate security measures and procedures based on the facility location are established and implemented to protect the environment and the public. These security measures and procedures may include, but are not limited to monitoring, fencing, lighting, access control, locked entrances and securing of valves and dispensers.

(b) The owner and operator of an aboveground storage tank facility with an aggregate aboveground storage capacity greater than 21,000 gallons are responsible for maintaining a written log book. At a minimum, each log book entry must identify the name of the individual performing tank handling and inspection activities, the individual's signature, the company name, the date of work, start and end times, and a brief description of work performed, including tank identification.

§ 245.515. Labeling/marketing of aboveground storage tank systems.

(a) [An owner/operator is] The storage tank facility owner and operator are responsible to assure aboveground storage tank systems are labeled/marked in accordance with industry standards and in compliance with Federal and State requirements. Tank labels/marks shall be easily legible from outside the containment area and shall be capable of readily identifying the regulated substance stored.

(b) The [owner/operator] storage tank facility owner and operator shall be capable of readily identifying the substances transferred in the regulated piping system and be able to determine flow control points, including pumps, valves and dispensers through labeling or other suitable means.

§ 245.516. Recordkeeping requirements.

[(a) Owners and operators of aboveground tank facilities shall maintain required records. If records are maintained offsite, the records shall be easily obtained and provided to the Department upon request.

(b) Permanent records for new systems and available records for existing systems shall be maintained for the operational life of the tank system and retained for a minimum of 1 year after the tank system has been removed. Permanent records include the following:]

(a) Owners and operators of aboveground storage tank systems shall maintain records as required under this chapter and provide records, as requested, and cooperate fully with inspections, monitoring and testing conducted by the Department, certified installers or certified inspectors. Owners and operators shall provide records and cooperate fully in response to requests for document submission, testing and monitoring by the owner or operator under section 107(c) of the act (35 P.S. § 6021.107(c)).

(b) Owners and operators shall maintain required records either onsite at the storage tank facility or at a readily available alternative site. Records maintained at the storage tank facility shall be immediately available for inspection by the Department and certified inspectors. If records are maintained offsite, the records shall be easily obtained and provided for inspection or for review by the Department upon request.

(c) Recordkeeping. Owners and operators shall maintain all of the following records for aboveground storage tank systems for the operational life of the tank system and retain the records for a minimum of 1 year after the tank system has been permanently closed:

(1) Original installation and modification of **aboveground storage** tank system design specifications.

(2) Any variance issued for the **aboveground storage** tank system under § 245.503 (relating to variances).

(3) The permits issued under Subchapter C (relating to permitting of underground and aboveground storage tank systems and facilities).

(4) Tank handling activity installation, relocation, reconstruction and major modification inspection results.

(5) The notices of [**reportable**] releases submitted under § 245.305 (relating to reporting releases).

(6) Applicable manufacturer's documentation for the **aboveground storage** tank system and any ancillary equipment.

(7) Third party out-of-service inspection reports.

[(c) Temporary records shall be maintained as follows:]

(8) Written log books required under § 245.514(b) (relating to security).

[(1)] **(9)** The current registration certificate.

[(2)] **(10)** The leak detection records for the past 12 months.

[(3)] **(11)** The last two results of cathodic protection monitoring, when a cathodic protection system is in use.

[(4) **The routine**] **(12) The routine 72-hour visual and** monthly maintenance inspections for the past 12 months.

[(5)] **(13)** The last third party in-service inspection report.

[(6)] **(14)** A properly completed closure report and results of the site assessment conducted at permanent closure or change-in-service under § 245.561 (relating to permanent closure or change-in-service).

(15) Documentation of investigations of suspected releases in accordance with § 245.304 (relating to investigation of suspected releases).

DESIGN, CONSTRUCTION AND INSTALLATION

§ 245.521. Performance standards for aboveground storage tanks.

(a) [**Tank**] **Aboveground storage tank** construction shall meet or exceed Nationally recognized industry association codes of practice. New [**tanks**] **aboveground storage tank systems** shall be installed in accordance with applicable codes of practice and consistent with manufacturer's or fabricator's specifications as specified in § 245.522 (relating to new aboveground **storage** tank installations and reconstructions).

(b) [**Tank**] **Aboveground storage tank** modifications shall be in accordance with industry codes of practice as specified in § 245.524 (relating to aboveground tank modifications).

(c) [**Tanks**] **Aboveground storage tanks** shall be protected from corrosion and deterioration as specified in §§ 245.531—245.534 (relating to corrosion and deterioration prevention).

(d) A leak monitoring system shall be installed as specified in § 245.543 (relating to leak detection requirements).

(e) A release prevention system shall be installed as specified in §§ 245.541 and 245.542 (relating to overflow prevention requirements; and containment requirements for aboveground storage tank systems).

(f) [**Tanks**] **Aboveground storage tanks** shall be tested according to industry standards before being placed in service as specified in §§ 245.522 and 245.524 [**(relating to new aboveground tank installations and reconstructions; and aboveground tank modifications)**].

(g) [**Tanks**] **Aboveground storage tanks** shall be inspected at installation, reconstruction or relocation and when a major modification is performed on a tank as specified in § 245.554 (relating to installation and modification inspections).

§ 245.522. New aboveground **storage** tank installations and reconstructions.

(a) [**Tanks must**] **Aboveground storage tanks shall** be designed and constructed in accordance with an appropriate current code of practice developed by [**Nationally-recognized**] **Nationally recognized** associations such as UL, ACI, API, ASME, ASTM, STI or NACE and will follow applicable engineering specifications.

(b) [**Tanks**] **Aboveground storage tanks** must have a stable foundation, capable of supporting the total weight of the tank when full of product without movement, rolling or unacceptable settling. The foundation must minimize corrosion of the tank bottom and meet or exceed the specifications of the tank manufacturer. The foundation design and construction must be based on sound engineering practices.

(c) [**Tanks**] **Aboveground storage tanks** shall be tested for tightness in accordance with current codes of practice developed by [**Nationally-recognized**] **Nationally recognized** associations and manufacturer's specifications. If a pneumatic test is used for manufactured (shop built) tanks, the fittings, welds, joints and connections shall be coated with a soap solution and checked for leaks. Aboveground field constructed storage tanks shall be hydrostatically tested. Deficiencies shall be remedied prior to tanks being placed into service. Hydrostatic test fluids shall be discharged or disposed of in accordance with State and Federal requirements.

(d) Reconstruction of **aboveground storage** tanks must follow the current codes of practice developed by [**Nationally-recognized**] **Nationally recognized** associations and be accomplished in accordance with sound engineering practices. Reconstructed **aboveground storage** tanks must be inspected and hydrostatically tested before being placed into service. Reconstructed **aboveground storage** tanks must meet or exceed requirements specified in § 245.521 (relating to performance standards for aboveground storage tanks). Hydrostatic test fluids shall be discharged or disposed of in accordance with State and Federal requirements.

(e) Aboveground manufactured storage tanks that are relocated to another service site must meet the perfor-

mance requirements for aboveground storage tanks and shall be tested according to industry standards and inspected before being put back in service.

(f) The Department may require the tank owner to submit documentation of construction design criteria and engineering specifications for review.

(g) Aboveground storage tanks previously regulated by the Department must meet performance requirements for new aboveground storage tank systems prior to returning to regulated tank status.

§ 245.523. Aboveground storage tanks in underground vaults.

The following requirements shall be met when an owner or operator chooses to install an aboveground storage tank in an underground vault:

(1) The vault shall completely enclose the **aboveground storage** tank. There may be no openings in the vault enclosure except those necessary for access to, inspection of, and filling, emptying and venting of the tank. The walls and floor of the vault must be constructed of reinforced concrete at least 6 inches thick. The top, walls and floor shall be designed to withstand the anticipated loading, including loading from traffic, soil and groundwater.

(2) The vault must be compatible with the stored substance and have a permeability of less than 1×10^{-7} cm/sec for substance stored and be water tight.

(3) **[A] An aboveground storage** tank must be in its own vault. Adjacent vaults may share a common wall.

(4) There may be no backfill around the **aboveground storage** tank and there shall be sufficient space between the tank and the vault to allow inspection of the tank and ancillary equipment.

(5) **[A vault and its tank] Vaults and aboveground storage tanks** must be suitably anchored to withstand uplifting by either water or released substance, including when the tank is empty.

(6) Connections shall be provided to permit venting of each vault to dilute, disperse and remove vapors prior to personnel entering the vault.

(7) A vault must be equipped with a continuous leak detection system capable of detecting vapors and liquids including water. The detection system must activate an alarm that automatically shuts down the dispensing system if **[a release occurs] vapors or liquids are detected.**

(8) A vault must have a means for personnel entry. The entry point must have a warning sign indicating the need for procedures for safe entry into a confined space. An entry point must be secured against unauthorized entry and vandalism.

(9) A suitable means to admit a fire suppression agent shall be provided for each vault.

(10) **[Tanks] Aboveground storage tanks** and ancillary equipment shall be installed, maintained and inspected in accordance with the requirements for aboveground storage tanks in this subchapter.

(11) Underground piping distribution systems for each **aboveground storage** tank system used to dispense class I or class II motor fuels for resale must be provided with release detection equivalent to underground piping release detection addressed in § 245.445 (relating to methods of release detection for piping) and monitored as

required in paragraph (7) with monitoring records retained for 12 months as required under § 245.516 **[or § 245.615 (relating to recordkeeping requirements)]** (relating to recordkeeping requirements).

§ 245.524. Aboveground tank modifications.

(a) Modifications **performed on aboveground storage tank systems** shall be designed and implemented in accordance with current codes of practice developed by **[Nationally-recognized] Nationally recognized** associations such as API, ACI, ASME, ASTM, NACE, STI or UL.

(b) Modifications shall be performed in accordance with **[Nationally-recognized] Nationally recognized** codes and manufacturer's specifications or a professional engineer's design requirements.

(c) Aboveground **[tanks] storage tank systems** which are modified shall be inspected and tested according to industry standards before being put in service when a major modification has been performed on the **[tank shell, tank roof or tank bottom] storage tank system.** Deficiencies shall be remedied before being returned to service.

(d) The Department may require the tank owner to submit documentation of construction modification design criteria and engineering specifications for review.

§ 245.525. Ancillary equipment for aboveground storage tanks.

(a) Ancillary equipment shall be designed and installed in accordance with Nationally recognized codes of practice and manufacturer's specifications such as API, ASME, ASTM, UL, PEI or ANSI. Ancillary equipment shall be in good working order and maintained according to manufacturer's specifications and accepted industry practices. Ancillary equipment shall be compatible with the stored substance.

(b) **[Tanks shall] Aboveground storage tanks must** be appropriately vented to protect the tank from over pressurization and excessive vacuums. Vents shall meet or exceed the appropriate codes of practice developed by Nationally recognized associations such as API and NFPA. Normal venting **[shall] must** allow the tank to breath when transferring the stored product. Emergency venting **[shall] must** ensure that the safe pressure for the tank is not exceeded.

(c) **[Tank] Aboveground storage tank** connections through which regulated substance can flow **[shall] must** be equipped with an operating valve adjacent to the tank to control flow of substance. Appropriate valves **[shall] must** be installed to meet or exceed current codes of practice and jurisdictional requirements. Valves shall be designed, installed and maintained according to current codes of practice.

§ 245.526. Piping for aboveground storage tanks.

* * * * *

(c) Piping **[installed after October 11, 1997, and]** in contact with the soil or an electrolyte shall be adequately protected from corrosion in accordance with current codes of practice developed by Nationally recognized associations such as NACE or API.

* * * * *

CORROSION AND DETERIORATION PREVENTION

§ 245.531. General corrosion and deterioration requirements.

(a) [The tank system shall be maintained with corrosion and deterioration prevention measures. Aboveground storage tank systems must be continuously protected from corrosion and deterioration.]

(b) Metallic tank [systems] bottoms in direct contact with the soil or other electrolyte shall be evaluated by a corrosion expert to determine if cathodic protection is necessary or appropriate.

(c) [Existing tank bottoms that do not meet the standards in subsection (b) shall be upgraded when the tank bottom is replaced. Tank bottoms that are not adequately protected from corrosion and deterioration shall be upgraded to meet §§ 245.532 and 245.534 (relating to cathodic protection systems; and interior linings and coatings).]

§ 245.532. Cathodic protection systems.

(a) [When required for corrosion prevention, on new, reconstructed or relocated tanks or the replacement of the tank bottom the cathodic protection system shall consist of one or more of the following: When required for corrosion prevention, cathodic protection systems must consist of one or more of the following:]

(1) Sacrificial anodes and [dielectrical] dielectric coating.

(2) Impressed current.

(3) Another method specified in an appropriate Nationally recognized association code of practice [such as API 651 or associations such as NACE].

* * * * *

§ 245.533. Coating exterior tank and piping surfaces.

The exterior surfaces of aboveground storage tanks and piping shall be protected by a suitable coating which prevents corrosion and deterioration. The coating system shall be maintained throughout the entire operational life of the tank.

§ 245.534. Interior linings and coatings.

(a) [Coating or lining systems may be used to protect tank interiors from corrosion. The coating or lining system shall be designed in accordance with current codes of practices such as API 652 or associations such as NACE. Any appropriate coating which is bonded firmly to the interior surfaces may be used to protect a tank from corrosion. Coating or lining systems may be used to protect aboveground storage tank interiors from corrosion and deterioration. The coating or lining system shall be designed in accordance with current codes of practice. Coating or lining systems must be bonded firmly to the interior surfaces of the tank.]

* * * * *

(c) Interior linings or coatings shall be inspected by a third-party, Department-certified, aboveground storage tank inspector at installation, when undergoing a major modification, and at least every 10 years or as warranted or recommended by the manufacturer or design engineer and agreed upon by the Department.

RELEASE PREVENTION AND LEAK DETECTION

§ 245.541. Overfill prevention requirements.

(a) [An owner/operator shall ensure that releases from overfills do not occur. Transfer of stored substance may not exceed the volume available in the receiving tank and the transfer shall be adequately monitored. Owners and operators shall ensure that releases due to spilling or overfilling do not occur. The owner and operator shall ensure that the volume available in the aboveground storage tank is greater than the volume of product to be transferred to the tank before the transfer is made and that the transfer operation is monitored constantly to prevent overfilling and spilling.] Immediate action shall be taken to stop the flow of regulated substance prior to exceeding tank capacity or in the event that an equipment failure occurs.

(b) [Tanks must] Aboveground storage tanks shall be installed with the following:

(1) A gauge or monitoring device which accurately indicates the level or volume in the tank and is visible to the individual responsible for the transfer of product. The monitoring device shall be installed, calibrated and maintained in accordance with manufacturer's specifications.

(2) A high-level alarm with an automatic high-level cut-off device or a high-level alarm with a manned operator shutdown procedure in operation. The shutdown procedure must be in writing and shall be provided to the Department upon request.

(c) Existing aboveground storage tanks must have a gauge or monitoring device installed by October 11, 2000.

(d) An existing aboveground storage tank [system] which is taken out of service to perform a scheduled out-of-service inspection or a major modification to the tank shall be upgraded with a high-level alarm with a cut-off device or a high-level alarm with a manned operator shutdown procedure prior to being put back in service.

(e) An existing aboveground storage tank system which has not been required to be taken out of service to perform a scheduled inspection or modification must have overfill protection consistent with National industry standards [, such as API 2350, NFPA 30 or PEI RP 200 by November 10, 2010].

§ 245.542. Containment requirements for [aboveground] aboveground storage tank systems.

(a) Containment structures must be compatible with the substance stored and minimize deterioration to the aboveground storage tank system.

(b) Containment areas shall be designed, maintained and constructed in accordance with sound engineering practices adhering to [Nationally-recognized codes of practice such as NFPA, NACE, ACI or API] Nationally recognized codes of practice and in compliance with State and Federal requirements.

(c) Secondary containment under the aboveground storage tank bottom and around underground piping must be designed to direct any release to a monitoring point to meet leak detection requirements. Secondary containment shall be provided on a new tank at installation, and shall be provided on an existing tank at reconstruction or relocation of the tank or when the tank floor is replaced (See API 650 Appendix I). Permeability of

the secondary containment must be less than 1×10^{-7} cm/sec at anticipated hydrostatic head and shall be verified at the time of installation.

(d) Aboveground **storage** tanks must have emergency containment structures, such as dike fields, curbing and containment collection systems, which contain releases from overfills, leaks and spills [, **when a new tank system is installed or at the next out-of-service inspection for existing tank systems as established in § 245.553(d) (relating to out-of-service inspections) or by November 10, 2010, whichever occurs first**] .

(1) Permeability of newly installed or replacement emergency containment structures must be less than 1×10^{-6} cm/sec at anticipated hydrostatic head and be of sufficient thickness to prevent the released substance from penetrating the containment structure for a minimum of 72 hours, and until the release can be detected and recovered.

(2) Emergency containment structures for existing aboveground storage tanks must meet one of the following standards [**by November 10, 2010, or at the next out-of-service inspection, prior to the tank being placed back into service, whichever occurs first**] :

(i) The standards for new emergency containment structures for aboveground storage tanks in paragraph (1).

(ii) Verification by a professional engineer that the emergency containment structure, coupled with the tank monitoring program and response plan, is capable of detecting and recovering a release and is designed to prevent contamination of the waters of this Commonwealth. Verification may be conducted in a manner consistent with the Department's technical document entitled "Verification of Emergency Containment Structures for Aboveground Storage Tanks" or in a manner at least as protective of public health and safety and the environment and which meets all statutory and regulatory requirements. Verification of earthen structures should include determination of the containment structure permeability following [**Nationally-recognized testing methods such as ASTM Methods and Engineering Standards Listed in API Publication 351**] **Nationally recognized testing methods.**

(3) Verification of the containment structure is valid until conditions at the site, monitoring program, response plan or procedures change.

(4) Transfers of regulated substances to [**a**] **an aboveground storage** tank within the emergency containment shall be monitored by designated personnel for the duration of the transfer.

(e) Emergency containment areas, such as dike fields, must be able to contain 110% of the capacity of the largest **aboveground storage** tank in the containment area.

(f) [**Stormwater shall be removed from the emergency containment area as soon as possible or when the water is in contact with the tank or piping and prior to the capacity of containment being reduced by 10% or more.**] **Water shall be removed from the emergency containment area as soon as possible. Water shall be removed from the containment before it comes in contact with the aboveground storage tank or piping and before it**

reduces the capacity of containment by 10% or more. Manually operated pumps or siphons and manually operated gravity drains may be used to empty the containment. If drain valves are used they shall be secured in the closed position when not in use. Discharge or disposal of substances from the containment structure must comply with applicable State and Federal requirements.

§ 245.543. Leak detection requirements.

(a) Aboveground **storage** tank systems shall be provided **with** a method of leak detection at installation that is capable of detecting a release. The leak detection method shall be monitored at least monthly and shall be installed, calibrated, operated and maintained in accordance with industry practices and manufacturer's specifications.

(1) The area beneath the **aboveground storage** tank bottom shall be monitored for leakage by visual, mechanical or electronic leak detection methods.

(2) Observation wells outside of the secondary containment structure do not satisfy the leak detection requirements.

(b) Existing aboveground storage tank systems with secondary containment shall implement a monthly leak detection method as required by subsection (a). Monthly visual inspections shall be an acceptable method of leak detection.

(c) Existing aboveground storage tanks without secondary containment under the bottom of the tank that are in contact with the soil, such as vertical flat bottom tanks, [**and**] **that** do not have cathodic protection or an internal lining shall be leak tested at the next scheduled in-service inspection consistent with subsection (d) and continue to be leak tested at each in-service inspection thereafter, until the tank is upgraded.

(d) Tank leak test must follow a [**Nationally-recognized**] **Nationally recognized** procedure that is based on a volumetric/mass measurement, an acoustic measurement, or a soil-vapor monitoring method [, **such as those addressed in API Publication 334 "Guide to Leak Detection in Aboveground Storage Tanks."**] . The test shall be performed by a third-party inspector or a technician who has experience with the selected method and is qualified by the test equipment manufacturer or certified by the relevant industry association [**such as ASNT (See Recommended Practice No. SNT-TC-1A)**] and is not an employee of the tank owner.

(e) Aboveground piping shall be visually checked for leaks in accordance with the facility operations and maintenance plan.

ABOVEGROUND STORAGE TANK INSPECTIONS

§ 245.551. General requirements for [**third party**] **third-party** inspections.

(a) Aboveground storage tank owners and operators shall have their **aboveground** storage tank systems inspected by a Department certified aboveground storage tank inspector at frequencies [**established**] in this subchapter. Inspections will check for compliance with State and Federal requirements and adherence to current codes of practice developed by Nationally recognized associations, tank manufacturer's instructions and design engineer's specifications.

(b) Only Department certified inspectors, **certified for the applicable inspector certification category**, shall be used to satisfy requirements for:

- (1) In-service inspections.
- (2) Out-of-service inspections.
- (3) Installation and modification inspections.

§ 245.552. In-service inspections.

(a) The in-service inspection must follow the guidelines of a [**Nationally-recognized**] **Nationally recognized** association such as API 653, API 570 and applicable engineering criteria (See §§ 245.524(b), 245.542(d)(2) and 245.543(d) (relating to aboveground tank modifications; containment requirements for aboveground storage tank systems; and leak detection requirements)).

* * * * *

(d) [**Inspection**] **Except as provided in paragraphs (5) and (6), inspection** intervals for in-service inspections are as follows:

(1) Aboveground [**tanks installed after October 11, 1997,**] **storage tanks** shall be initially inspected within 5 years of installation.

[**(2) Existing tanks shall be initially inspected as follows:**

(i) **Tanks over 5 years old without a previous inspection shall be inspected by October 11, 1999.**

(ii) **Tanks with an inspection more than 3 years prior to October 11, 1997, shall be inspected by October 11, 2000.**

(iii) **Tanks with an inspection within 3 years prior to October 11, 1997, shall be inspected within 6 years of the previous inspection.**

(3) **Tanks** [**(2) Aboveground storage tanks** shall have an in-service inspection within 1/4 of the corrosion rate life with a maximum of 5 years from the previous inspection or installation.

[**(4)**] [**(3)**] An out-of-service inspection may replace an in-service inspection.

[**(5) An in-service inspection interval may be delayed under § 245.562 (relating to temporary removal-from-service) for a tank that is temporarily removed from service. The delayed inspection shall be conducted prior to placing regulated substance in a tank and returning the tank to operating status. Deficiencies noted during inspection shall be addressed and remedied and an amended registration form submitted to the Department prior to returning the tank to operating status.**]

(4) An in-service inspection interval, if agreed upon by the Department, may be delayed under § 245.562 (relating to temporary removal from service (out-of-service)) for an aboveground storage tank that is temporarily removed from service. Prior to placing product in the aboveground storage tank, the delayed inspection shall be conducted, deficiencies noted during inspection shall be addressed and remedied, and an amended registration form shall be completed and submitted to the Department.

(5) Aboveground storage tanks in underground vaults shall have in-service inspections conducted as follows:

(i) Aboveground storage tanks with a capacity greater than 5,000 gallons shall have in-service inspections conducted within 6 and 12 months of installation and at least every 3 years thereafter.

(ii) Aboveground storage tanks storing highly hazardous substances with a capacity greater than 1,100 gallons shall have in-service inspections conducted within 6 and 12 months of installation and at least every 3 years thereafter.

(iii) More frequent in-service inspections may be required by the Department when a prior inspection identifies corrosion, deterioration or other violations of this subchapter.

(6) Existing aboveground storage tanks in underground vaults with scheduled in-service inspections after _____ (Editor's Note: The blank refers to 1,095 days after the effective date of adoption of this proposed rulemaking.) shall be inspected by the next currently scheduled in-service inspection date, unless notified otherwise by the Department. Subsequent in-service inspections shall be conducted in accordance with this section.

(e) Inspection recommendations shall be addressed and deficiencies remedied. When [**substantial**] modifications **or repairs** are necessary to correct deficiencies, they shall be made in accordance with manufacturer's specifications and engineering design criteria ([**See**] see §§ 245.522(a) and (b), 245.524(b)(2), 245.532(b) and (c) and 245.534(c)). The Department may require submission and review of all documentation relating to these remedies. Required tank handling activities are reported to the Department by the certified installer. Tank handling activities involving major modifications shall also be inspected by a certified aboveground storage tank inspector and reported to the Department.

(f) The complete inspection report shall be kept at the facility until the next out-of-service inspection is completed.

§ 245.553. Out-of-service inspections.

(a) Inspections must follow the guidelines of a [**Nationally-recognized**] **Nationally recognized** association such as API 653, API 570 or ASME and applicable engineering criteria (See §§ 245.524(b), 245.534(c), 245.542(d)(2) and 245.543(d)).

(b) The out-of-service inspection [**must**] **shall** evaluate the following:

- (1) Containment areas.
- (2) Foundation and supports.
- (3) Tank shell.
- (4) Tank roof.
- (5) Tank bottom.
- (6) Appurtenances.
- (7) Ancillary equipment including piping.
- (8) Leak detection method.
- (9) Cathodic protection system, if installed.
- (10) Internal linings and coatings, if installed.

(11) [**Tank**] **Aboveground storage tank** system integrity and suitability for service.

(c) The **aboveground storage** tank bottom evaluation of metallic floors must be based on ultrasonic testing and visual examination and include at least one other method

of nondestructive examination such as magnetic flux tests or vacuum tests of bottom lap welds (See API 653 and ASTM metallography—nondestructive testing Vol. 03.03). The ultrasonic evaluation must be statistically representative of the whole floor, excluding the release prevention barrier or secondary containment on double bottom tanks.

(d) Inspection information shall be submitted to the Department on a form provided by the Department and include the results of subsection (b) and the following:

(1) A determination of the corrosion rate for tank shell, bottom plates and piping.

(2) A calculation of the tank life and piping life based on the corrosion rate.

(3) The schedule for next out-of-service inspection, based on the API 653 calculated service life method or 1/2 of the corrosion rate life, with a maximum of 20 years between inspections. Other site-specific conditions, for example, maintenance practices, previous repairs, internal linings, the nature of the substance stored or soil conditions that may affect corrosion rate life and should be considered when projecting tank service life and the next inspection interval.

(4) The recommendations for maintaining **above-ground storage** tank system integrity and meeting performance standards.

(e) Inspection intervals for out-of-service inspections are as follows:

(1) **[Tanks installed after October 11, 1997,] Aboveground storage tanks** shall be initially inspected based on measured **[or similar service]** corrosion rates. When the corrosion rate is unknown, **such as with new tank bottoms**, the tank's actual bottom thickness shall be determined by inspection within 10 years of installation to determine the corrosion rate.

[(2) Existing tanks shall be initially inspected as follows:

(i) **If corrosion rates are not known, tanks shall be inspected within 10 years of installation or by October 11, 2000, whichever is later.**

(ii) **If corrosion rates can be determined or are known, tanks shall be inspected at their API 653 calculated service life method or 1/2 the corrosion rate life, from installation or previous out-of-service inspection or by October 11, 2000, whichever is later.**

(3) **Tanks] (2) Aboveground storage tanks** shall have an out-of-service inspection at their API 653 calculated service life **[method]** or 1/2 of the corrosion rate life, with a maximum of 20 years from the last out-of-service inspection.

[(4) An out-of-service inspection interval may be delayed under § 245.562 (relating to temporary removal-from-service) for a tank that is temporarily removed from service. The delayed inspection shall be conducted prior to placing regulated substance in a tank and returning the tank to operating status. Deficiencies noted during inspection shall be addressed and remedied and an amended registration form submitted to the Department prior to returning the tank to operating status.]

(3) If agreed upon by the Department, an out-of-service inspection interval may be delayed under § 245.562 (relating to temporary removal from ser-

vice (out-of-service)) for a tank that is temporarily removed from service. Prior to placing product in the tank, the delayed inspection shall be conducted, deficiencies noted during inspection shall be addressed and remedied, and an amended registration form shall be completed and submitted to the Department.

(f) **[Deficiencies shall be remedied before the tank is returned to service. When substantial modifications are necessary to correct deficiencies, they shall be made in accordance with manufacturer's specifications or an engineer's design criteria (See §§ 245.522(a) and (b), 245.524(b)(2) and 245.532(b) and (c) (relating to new aboveground tank installations and reconstructions; aboveground tank modifications; and cathodic protection system)).] Deficiencies noted during the inspection shall be remedied before the aboveground storage tank system is returned to service. Modifications or repairs performed on the aboveground storage tank system shall be made in accordance with manufacturer's specifications or an engineer's design criteria (see §§ 245.522(a) and (b), 245.524(b)(2) and 245.532(b) and (c) (relating to new aboveground storage tank installations and reconstructions; aboveground tank modifications; and cathodic protection systems)).** The Department may require submission of and review documentation relating to these remedies. Required tank handling activities **[are] shall be** reported to the Department by the certified installer. Tank handling activities involving major modifications shall also be inspected by a certified aboveground storage tank inspector and reported to the Department.

(g) Aboveground storage tanks which can be completely **[examined from the exterior are exempt] inspected from the exterior are excluded** from out-of-service inspections, except for tanks that are internally lined.

(h) The completed inspection report for out-of-service inspections shall be kept with the facility records under § 245.516 (relating to recordkeeping requirements).

§ 245.554. Installation and modification inspections.

(a) Aboveground storage tank systems shall be inspected by a Department-certified inspector at the time of installation in accordance with § 245.522 (relating to new aboveground **storage** tank installations and reconstructions), and current **[Nationally-recognized] Nationally recognized** association's code of practice and manufacturer's specifications. **[The inspection report shall be kept for the operational life of the tank.]**

(b) Major modifications shall be inspected by a Department-certified inspector at the time of modification under § 245.524 (relating to aboveground tank modifications) and current codes of practice developed by **[Nationally-recognized] Nationally recognized** associations prior to being put back in service. **[The inspection report shall be kept for the operational life of the tank. When substantial]** **When** modifications are made to the tank floor, the next inspection date projections shall be determined based on the condition of the tank subsequent to those modifications and reported to the Department by the certified inspector on the appropriate inspection form provided by the Department. Other site-specific conditions, for example, maintenance practices,

previous repairs, the nature of the substance stored or soil conditions that may affect corrosion rate life or **aboveground storage** tank system integrity should be considered when projecting tank service life and the next inspection interval.

(c) **[Tanks] Aboveground storage tanks** which are relocated or reconstructed shall be inspected by a Department-certified inspector and tested for tightness in accordance with § 245.522 and current codes of practice developed by **[Nationally-recognized] Nationally recognized** associations prior to being put in service. **[The inspection report shall be kept for the operational life of the tank.]**

(d) The completed inspection report for installation and modification inspections shall be retained with the facility records under § 245.516.

CLOSURE AND REMOVAL FROM SERVICE REQUIREMENTS

§ 245.561. Permanent closure or change-in-service.

Before permanent closure or change-in-service is completed, the **[owner/operator] owner and operator** shall comply with the following:

(1) **[At least 30 days before beginning either a permanent closure or change-in-service to an unregulated tank, or within a lesser time as determined by the Department, the owner/operator shall notify the Department of its intent to permanently close or change-in-service from a regulated tank to an unregulated tank, unless the action is in response to a corrective action or waived by the Department.] At least 30 days before beginning either a permanent closure or change-in-service, or within a lesser time as determined by the Department, the owner and operator shall notify the Department of their intent to permanently close or perform a change-in-service, unless the action is in response to a corrective action or waived by the Department.**

(2) **[The owner/operator shall submit an amended registration form to the Department indicating the change in tank status within 30 days after the change in tank status.] The owner shall complete and submit an amended tank registration form, signed by the owner and the certified installer that provided direct onsite supervision of the tank handling activity, to the Department within 30 days of either of the following:**

- (i) **The completion of permanent closure.**
- (ii) **Change-in-service of the tank.**

(3) The **[owner/operator] owner and operator** shall complete a site assessment to measure for the presence of any release from the **aboveground** storage tank system and a closure report. The assessment of the site shall be made after the notification to the Department and may be conducted in a manner consistent with the Department's technical document entitled "Closure Requirements for Aboveground Storage Tank Systems" or in a manner at least as protective of public health and safety and the environment and which meets all statutory and regulatory requirements. The results of the site assessment and the closure report shall be retained for 3 years.

(4) If contaminated soil, sediment, surface water or groundwater, or free product is discovered or confirmed by

either direct observation or indicated by the analytical results of sampling, the **[owner/operator] owner and operator** shall proceed with the corrective action as required in Subchapter D (relating to corrective action process for owners and operators of storage tanks and storage tank facilities and other responsible parties) or, if applicable, in accordance with remedial action agreements.

(5) Regulated substance and contents removed from the **aboveground storage** tank system **[including piping]** shall be reused, treated or disposed of in a manner consistent with applicable State and Federal waste management requirements.

(6) **[Tank] Aboveground storage tank** systems shall be cleaned, rendered free of hazardous vapors and ventilated if left onsite or **[tank systems]** shall be emptied and removed from the site in a manner consistent with current industry practices and Bureau of Waste Management requirements such as Chapters 263a and 299 (relating to transporters of hazardous waste; and storage and transportation of residual waste).

(7) **[Tanks to be] Aboveground storage tanks** permanently closed and left onsite shall be legibly marked with the date of permanent closure.

(8) The appropriate State agency, county and local jurisdiction shall be notified if the tank is under a fire marshal, flammable and combustible liquids or other State agency, county or local jurisdiction permit.

(9) **[Tanks that are to be] Aboveground storage tanks** that are closed in place shall:

- (i) Be rendered inoperable and incapable of storing liquid substance.
- (ii) Be secured against unauthorized entry.
- (iii) Meet the requirements specified in paragraphs (1)–(8).

§ 245.562. Temporary **[removal-from-service] removal from service (out-of-service).**

(a) The **[owner/operator] owner and operator** shall complete and submit an amended registration form to the Department within 30 days after the change in tank status.

(b) **[A] An aboveground storage** tank system shall be emptied and regulated substances and contents shall be reused, treated or disposed of in accordance with State and Federal requirements.

(c) **[A] An aboveground storage** tank shall be secured against unauthorized entry and all piping entering or exiting the tank, excluding vents, shall be capped or blinded.

(d) **[Tank] Aboveground storage tank system** integrity shall be maintained throughout the temporary **[removal-from-service] removal from service** time and the tank shall be protected against flotation.

(e) Inspection requirements shall be maintained as specified in §§ 245.551–245.554 (relating to aboveground storage tank inspections). In-service and out-of-service inspection intervals may be delayed for a tank that is temporarily removed from service. The delayed inspections shall be conducted prior to placing regulated sub-

stance in a tank and returning the tank to operating status. Deficiencies noted during inspection shall be addressed and remedied and an amended registration form submitted to the Department prior to returning the tank to operating status.

(f) [Tanks which are temporarily removed-from-service for 5 years or longer must meet the requirements for permanent closure, unless the time frame for retaining the tank or tanks in temporary removal-from-service status is extended under § 245.503 (relating to variances).] Aboveground storage tanks shall be permanently closed within 5 years of being placed temporarily out-of-service unless the owner requests in writing an extension to the temporary out-of-service period and the Department approves the request.

(g) The Department may impose conditions and require submission of documentation when reviewing and approving a request for an extension of the temporary out-of-service period, including:

(1) Requirements for inspection under §§ 245.552 and 245.553 (relating to in-service inspections; and out-of-service inspections).

(2) Site assessment under § 245.561 (relating to permanent closure or change-in-service).

(3) Other considerations determined by the Department to be necessary to ensure the integrity of the aboveground storage tank.

Subchapter G. SIMPLIFIED PROGRAM FOR SMALL ABOVEGROUND STORAGE TANKS

GENERAL

§ 245.603. General storage tank facility requirements.

(a) [The owner/operator of aboveground storage tank facilities with an aggregate aboveground storage capacity greater than 21,000 gallons shall develop and adhere to a Spill Prevention Response Plan (Plan) which addresses the requirements described in Chapter 9 of the act (35 P.S. §§ 6021.901—6021.904). The Plan shall be provided to the Department and updated as necessary.] The owner and operator of a storage tank facility with an aggregate aboveground storage capacity greater than 21,000 gallons shall develop and adhere to a Spill Prevention Response Plan (Plan) which addresses the requirements in sections 901—904 of the act (35 P.S. §§ 6021.901—6021.904). Plan revisions shall be submitted to the Department within 120 days of any occurrences as described in section 901(b) of the act. A current copy of the Plan shall be readily available at the storage tank facility at all times.

(b) [The owner/operator of aboveground storage tank facilities is] The owner and operator of a storage tank facility are responsible to assure that appropriate security measures and procedures based on the facility location are established and implemented to protect the environment and the public. These security measures may include, but are not limited to, fencing, lighting, access control, locked entrances and securing of valves, drains and dispensers.

(c) The owner and operator of a storage tank facility with an aggregate aboveground storage capacity greater than 21,000 gallons shall maintain a written log book. At a minimum, each log book

entry must identify the name of the individual performing tank handling and inspection activities, the individual's signature, the company name, the date of work, start and end times, and a brief description of work performed, including tank identification.

§ 245.605. Applicability.

Existing aboveground storage tanks that become regulated due to the addition of new regulated substances as defined in § 245.1 ((relating to definitions) [(See “regulated substance” (i)(C)(I) and (II))] (see subparagraph (iii)(A) and (B)) are subject to the requirements [of] in this chapter and shall be registered with the Department [by January 9, 2008]. [In addition, these tanks are temporarily excluded from the following technical requirements:

(1) Emergency and secondary containment requirements in § 245.612(e) (relating to performance and design standards) until November 10, 2010.

(2) A method of leak detection as required in § 245.613(a) (relating to monitoring standards) until November 10, 2008.

(3) In-service inspections required in § 245.616 (c)(3) (relating to inspection requirements) until November 10, 2010.]

(Editor's Note: The following section is proposed to be added and printed in regular type to enhance readability.)

§ 245.606. Variances.

When unique or peculiar circumstances make compliance with this subchapter technically impractical, infeasible or unsafe, the Department may, upon written application from the owner of a storage tank system subject to this subchapter, grant a variance from one or more specific provisions of this subchapter.

(1) A variance may only be granted if the storage tank system meets alternative technical standards that fully protect human health and the environment.

(2) A written application for a variance shall be submitted to the Department and must provide all of the following information:

(i) The facility name and identification number for which the variance is sought.

(ii) Specific sections of this subchapter from which the variance is sought.

(iii) The unique or peculiar conditions which make compliance with the sections identified under subparagraph (ii) technically impractical, infeasible or unsafe.

(iv) Evidence, including data, plans, specifications and test results, which supports an alternative design, practice, schedule or method as being at least as protective of human health and the environment as the requirement of the sections identified under subparagraph (ii).

(3) New technologies may be granted a variance. New technologies shall be reviewed and documented by a professional engineer and documentation provided to the Department with the variance request.

(4) The Department will not grant a variance which would result in regulatory controls less stringent than other applicable Federal or State regulations, such as 34 Pa. Code Chapter 14 (relating to flammable and combustible liquids; preliminary provisions) and 40 CFR Part 112 (relating to oil pollution prevention).

(5) When granting the variance, the Department may impose specific conditions necessary to assure that the variance will adequately protect the public health, safety or welfare and the environment.

(6) The Department will provide to the applicant a written notice of approval, approval with conditions or denial. Variance approvals will be published in the *Pennsylvania Bulletin*.

TECHNICAL REQUIREMENTS

§ 245.611. Testing requirements for new and substantially modified small aboveground storage tanks.

(a) [**Tanks**] **Aboveground storage tanks** shall be tested for tightness at installation in accordance with current codes of practice developed by [**Nationally-recognized**] **Nationally recognized** associations and manufacturer's specifications, except for manufactured, shop built tanks that meet the requirements [**of**] **in** subsection (b). The testing shall be completed, as part of the installation process, prior to putting the tank in service.

(b) Manufactured, shop built tanks that are initially tested after full assembly at the plant do not require additional testing at installation if the manufacturer certifies that the tank was tested at the plant and the manufacturer's installation instructions do not specify additional testing.

(c) [**Tanks**] **Aboveground storage tanks** that receive major modifications to the tank shell or the tank bottom shall be tested for tightness, in accordance with current codes of practice developed by [**Nationally-recognized**] **Nationally recognized** associations or manufacturer's specifications, prior to being returned to service.

§ 245.612. Performance and design standards.

(a) [**Tanks**] **Aboveground storage tanks** shall be designed, constructed and installed or modified in accordance with current codes of practice developed by [**Nationally-recognized associations such as API, ASME, ASTM, ANSI, STI and UL**] **Nationally recognized associations** and the manufacturer's specifications. Tank handling activities shall be accomplished by a Department-certified aboveground storage tank installer or under the installer's direct, onsite supervision and control.

(b) [**Tanks**] **Aboveground storage tanks** must have a stable support or foundation capable of adequately supporting the total weight of the tank and its contents when in use. The support or foundation must meet or exceed the specifications of the tank manufacturer and be designed and constructed in accordance with sound engineering practices.

(c) Ancillary equipment, including piping, shall be designed, installed and modified in accordance with current codes of practice developed by [**Nationally-recognized associations such as API, SSPC, NACE, ASME, PEI and UL**] **Nationally recognized associations** and the manufacturer's specifications. Ancillary equipment must be compatible with the substance stored and must be adequately protected from corrosion, excessive wear and deterioration. Protective coatings shall be maintained throughout the entire operational life of the **aboveground** storage tank system.

(d) [**Tanks**] **Aboveground storage tanks** shall be installed with secondary containment in or under the tank bottom to provide monitoring capability to satisfy leak detection requirements in § 245.613 (relating to monitoring standards) and emergency containment to contain possible releases, such as overfills, leaks and spills. Emergency containment must be sufficiently impermeable to contain any potential release for a minimum of 72 hours and until the release can be detected and fully recovered in an expeditious manner. Double walled tanks may meet both emergency and secondary containment requirements when the tank system is operated with spill and overflow protection controls including the following:

(1) [**A spill containment bucket**] **Permanently installed spill prevention equipment** at the tank fill point or containment at the remote fill point.

(2) An overflow alarm or prevention device or monitoring gauge and [**shut down**] **written shutdown** procedure.

(3) Block valves on product lines.

(4) Solenoid valve or antisiphon device, if [**appropriate (See PEI RP 200)**] **applicable**.

[**(e) Existing tanks which do not meet the requirements specified in subsection (d) shall be upgraded with secondary containment by October 11, 2007, and emergency containment by October 11, 2000.**

[**(f) Tanks installed in underground vaults after October 11, 1997, and used for dispensing Class I and Class II motor fuels must comply with § 245.523 (relating to aboveground storage tanks in underground vaults).**

[**(g)**] **(e)** The exterior of the **aboveground storage** tank system [**shall**] **must** be protected by an appropriate coating or paint which shall be maintained throughout the entire operational life of the **aboveground storage** tank system.

[**(h) Tanks which are internally lined must comply with § 245.534 (relating to interior linings and coatings).**]

[**(f) Aboveground storage tanks which are internally lined must comply with § 245.534(a) and (b) (relating to interior linings and coatings).**

[**(i) Tanks**] [**(g) Aboveground storage tanks**] shall be labeled or marked in a manner consistent with industry standards and which provides for identifying the regulated substance stored from outside the containment area.

[**(h) Aboveground storage tank systems and storage tank system components whose failure could contribute to a release of product shall be maintained in a good state of repair to ensure they function as designed.**

§ 245.613. Monitoring standards.

(a) By October 12, 1998, a method of leak detection shall be in use and monitored at least monthly. An automatic sensing device, mechanical device or other appropriate method may be used. This method, at a minimum, shall provide a visual examination of the storage tank system by the [**owner/operator**] **owner and operator** or designated representative. If releases are detected, they shall be corrected and the provisions of Subchapter D (relating to corrective action process for

owners and operators of storage tanks and storage tank facilities and other responsible parties) shall be complied with.

(b) The [**owner/operator**] **owner and operator** shall assure that a maintenance and general operations check of the **aboveground** storage tank system is performed at least monthly. Deficiencies noted during the check shall be corrected. The small aboveground storage tank general operations and maintenance checklist provided by the [**owner/operator**] **owner and operator** shall be used to document the monthly operations and maintenance check. The operations and maintenance check shall include:

(1) A visual examination of the **aboveground storage** tank system for deterioration, including [, but not limited to,] the tank, piping, ancillary equipment, foundation, **containment structure or facility**, and safety equipment.

(2) A check of the containment areas for accumulation of water and removal of water as necessary.

(3) Confirmation that containment drain valves are secured in the closed position when not in use.

(4) [**Monitoring**] **Functionality** of the leak detection system.

(5) A check of the cathodic protection system, if installed, to ensure the equipment is functioning as designed.

[(5)] (6) A check of vents for restrictions.

[(6)] (7) A check of ancillary equipment for operational malfunctions.

[(7)] (8) An investigation of conditions that may be a fire or safety hazard, or pose an environmental hazard.

[(8)] (9) Observation for evidence of a release of regulated substance from the **aboveground storage** tank system.

§ 245.614. [**Requirements for closure.**] (Reserved).

[(a) Tank systems shall be cleaned, rendered free from hazardous vapors and ventilated if left onsite or shall be emptied and removed from the site in a manner consistent with current industry practices and Bureau of Waste Management requirements such as Chapters 263a and 299 (relating to transporters of hazardous waste; and storage and transportation of residual waste). Piping shall be removed or capped and fill ports shall be secured, capped or dismantled.

(b) The owner shall conduct a visual examination of the surface, soil and area surrounding and underlying the storage tank system for obvious indications or evidence of a release of regulated substance.

(1) If a release is suspected, it shall be investigated in accordance with § 245.304 (relating to investigation of suspected releases).

(2) If a release is confirmed, it shall be reported to the appropriate Department regional office responsible for the county in which the tank is located in accordance with § 245.305 (relating to reporting releases).

(c) The owner shall complete and submit an amended tank registration form to the Department within 30 days of:

(1) The completion of permanent closure.

(2) Change-in-service status of the tank.

(3) Temporary removal from service.

(d) Temporary removal from service requires that the owner/operator empty the tank system of regulated substances and conduct a visual examination of the area surrounding the tank as required in subsection (b), excluding the surface and soil underlying any tank bottom in contact with the ground. A tank may be considered to be in a temporary removal from service status when the tank is emptied and intended to remain out of use for 1 year or more.

(1) Temporary removal from service may not exceed 5 years, unless the owner can demonstrate an operational need to retain the tank in temporary removal-from-service beyond 5 years and the Department agrees to extend this time frame.

(2) Monitoring standards in § 245.613 (relating to monitoring standards) are not required when a tank is reported to the Department as temporarily removed from service.

(3) Inspection of tanks temporarily removed from service shall be performed in accordance with § 245.616 (relating to inspection requirements). In-service inspection interval may be delayed for a tank that is temporarily removed-from-service. The delayed inspection shall be conducted prior to placing regulated substance in a tank and returning the tank to operating status. Deficiencies noted during inspection shall be addressed and remedied and an amended registration form submitted to the Department prior to returning a tank to operating status.]

§ 245.615. Recordkeeping requirements.

(a) The [**owner/operator**] **owner and operator** shall maintain required **aboveground** storage tank system records. If records are maintained offsite, the records shall be easily obtained and provided to the Department upon request.

(b) The following records shall be maintained for the operational life of the **aboveground storage** tank **system** unless otherwise stated:

(1) Original [**tank and**] **aboveground storage tank** system installation records and design specifications. This requirement is limited to records currently available for [**tank systems existing prior to**] **aboveground storage tank systems installed on or before** October 11, 1997.

(2) Records of modification to the [**tank or**] **aboveground** storage tank system.

(3) The permits issued under Subchapter C (relating to permitting of underground and aboveground storage tank systems and facilities).

(4) Current registration certificates.

(5) [**Monthly leak**] **Leak** detection records and maintenance checklists for the past 12 months.

(6) Third-party inspection reports.

(7) **Documentation of investigations of suspected releases in accordance with § 245.304 (relating to investigation of suspected releases).**

(8) Written log book information as required under § 245.603(c) (relating to general storage tank facility requirements).

§ 245.616. Inspection requirements.

(a) Required inspections of small aboveground storage [tanks] tank systems shall be conducted by Department-certified aboveground storage tank inspectors according to a current [**Nationally-recognized association's code of practice such as API, STI or ASME**] **Nationally recognized association's code of practice** or according to manufacturer's specifications and applicable engineering criteria (See § 245.612 (relating to performance and design standards)). Deficiencies noted during the inspection shall be addressed and remedied. When [**substantial**] modifications **or repairs** are necessary to correct deficiencies, they shall be made in accordance with manufacturer's specifications and applicable engineering design criteria. The Department may require submission and review of documentation relating to these remedies. The associated tank handling activities are reported to the Department by a certified installer.

(b) Small aboveground field constructed storage tanks shall be inspected at installation, reconstruction or relocation and when a major modification activity is performed on the **aboveground storage** tank shell or the tank bottom plates.

(c) [**The owner/operator**] **Except as provided in paragraph (2), the owner and operator** of small aboveground storage tanks storing regulated substances with a capacity greater than 5,000 gallons and [**owner/operator**] **owner and operator** of small aboveground storage tanks storing highly hazardous substances with a capacity greater than 1,100 gallons shall have in-service inspections conducted every [**10**] **5** years or more often when corrosion, deterioration or other specific conditions necessitate. Other specific conditions may include maintenance practices, previous repairs, the nature of the substance stored and coatings or linings that should be considered when projecting tank service life and the next inspection interval. Internally lined tanks and flat bottom tanks without an interstice or external access to the tank bottom may require further evaluation or internal examination. [**Inspections shall be phased in for tanks without a previous inspection as follows:**

(1) **New tanks shall be initially inspected within 10 years of installation.**

(2) **Existing tanks, less than 10 years old without a previous inspection, shall be inspected by October 13, 2003, or 10 years from the date of installation, whichever is later.**

(3) **Existing tanks over 10 years old, without a previous inspection, shall be inspected by October 11, 2002.**

(4) **When an inspection is delayed under § 245.614(d)(3) (relating to requirements for closure) for a tank in temporary removal-from-service status, the inspection shall be completed and deficiencies remedied prior to returning the tank to operational service.**]

(1) Aboveground storage tanks installed after _____ (Editor's Note: The blank refers to the effective date of adoption of this proposed rule-making.), shall be initially inspected within 5 years of installation.

(2) Existing aboveground storage tank systems with scheduled in-service inspections after _____ (Editor's Note: The blank refers to 1,825 days after the effective date of adoption of this proposed rulemaking.) shall be inspected by the next currently scheduled in-service inspection date, unless notified otherwise by the Department. Subsequent in-service inspections shall be conducted in accordance with this section.

(d) In-service inspections [**must**] **shall** evaluate the following:

(1) Containment areas.

(2) Foundation and tank supports.

(3) Tank shell and tank roof, where a roof exists.

(4) Appurtenances.

(5) Ancillary equipment including piping.

(6) Leak detection method, including [**monthly**] leak detection records and maintenance checklists.

(7) Cathodic protection system, if installed.

(8) Coatings and protections from deterioration.

(9) Tank system integrity and suitability for service.

(e) If agreed upon by the Department, an in-service inspection interval may be delayed under § 245.617 (relating to temporary removal from service (out-of-service)) for an aboveground storage tank that is temporarily removed from service. Prior to placing product in the aboveground storage tank, the delayed inspection shall be conducted, deficiencies noted during inspection shall be addressed and remedied, and an amended registration form shall be completed and submitted to the Department.

(Editor's Note: Sections 245.617 and 245.618 are proposed to be added and printed in regular type to enhance readability.)

§ 245.617. Temporary removal from service (out-of-service).

(a) The owner and operator shall complete and submit an amended registration form to the Department within 30 days after the change in tank status.

(b) The owner and operator shall empty the aboveground storage tank system of regulated substances and conduct a visual examination of the area surrounding the tank as required under § 245.618(b) (relating to permanent closure or change-in-service), excluding the surface and soil underlying any tank bottom in contact with the ground before placing the tank in temporary removal from service status.

(c) Monitoring standards in § 245.613(a) (relating to monitoring standards) are not required when an aboveground storage tank is reported to the Department as temporarily removed from service.

(d) Inspection requirements shall be maintained as specified in § 245.616 (relating to inspection requirements). In-service inspection intervals may be delayed for a tank that is temporarily removed from service. The delayed inspections shall be conducted prior to placing regulated substance in a tank and returning the tank to operating status. Deficiencies noted during inspection shall be addressed and remedied and an amended registration form submitted to the Department prior to returning the tank to operating status.

(e) Aboveground storage tanks shall be permanently closed within 5 years of being placed temporarily out-of-service unless the owner requests in writing an extension to this temporary removal from service period and the Department approves the request.

(f) The Department may impose conditions and require submission of documentation when reviewing and approving a request for an extension of the temporary removal from service period, including:

- (1) Requirements for inspection under § 245.616.
- (2) Site assessment under § 245.561 (relating to permanent closure or change-in-service) or § 245.618(b).
- (3) Other considerations determined by the Department to be necessary to ensure the integrity of the aboveground storage tank.

§ 245.618. Permanent closure or change-in-service.

(a) Aboveground storage tank systems shall be cleaned, rendered free from hazardous vapors and ventilated if left onsite or emptied and removed from the site in a manner consistent with current industry practices and Bureau of Waste Management requirements such as Chapters 263a and 299 (relating to transporters of hazardous waste; and storage and transportation of residual waste). Piping shall be removed or capped and fill ports shall be secured, capped or dismantled.

(b) The owner shall conduct a visual examination of the surface, soil and area surrounding and underlying the storage tank system for obvious indications or evidence of a release of regulated substance.

(1) If a release is suspected, it shall be investigated in accordance with § 245.304 (relating to investigation of suspected releases).

(2) If a release is confirmed, it shall be reported to the appropriate Department regional office responsible for the county in which the aboveground storage tank is located in accordance with § 245.305 (relating to reporting releases).

(c) The owner shall complete and submit an amended tank registration form, signed by the owner and the certified installer that provided direct onsite supervision of the tank handling activity, to the Department within 30 days of either of the following:

- (1) The completion of permanent closure.
- (2) Change-in-service of the tank.

Subchapter H. FINANCIAL RESPONSIBILITY REQUIREMENTS FOR OWNERS AND OPERATORS OF UNDERGROUND STORAGE TANKS AND STORAGE TANK FACILITIES

§ 245.704. General requirements.

(a) An owner or operator of an underground storage tank shall continuously participate in the USTIF by timely paying all applicable fees and conforming with all other requirements for participation in the USTIF, unless the EQB has determined that the underground storage tank is an exempt underground storage tank.

* * * * *

§ 245.708. Failure to maintain financial responsibility.

The failure of an owner or operator of an underground storage tank to comply with this subchapter shall subject the owner or operator to the enforcement

[pro09visions in Chapter 13] provisions in sections 1301—1315 of the act (35 P.S. §§ 6021.1301—6021.1315).

[Pa.B. Doc. No. 18-289. Filed for public inspection February 23, 2018, 9:00 a.m.]

STATE BOARD OF CHIROPRACTIC

**[49 PA. CODE CH. 5]
Chiropractic Specialties**

The State Board of Chiropractic (Board) proposes to amend §§ 5.1 and 5.31 (relating to definitions; and professional advertising) to read as set forth in Annex A.

Effective Date

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

Statutory Authority

This proposed rulemaking is authorized under section 302(3) of the Chiropractic Practice Act (act) (63 P.S. § 625.302(3)).

Background and Need for this Proposed Rulemaking

A licensee who “[m]ake[s] misleading, deceptive, untrue or fraudulent representations in the practice of chiropractic” is subject to disciplinary action under section 506(a)(2) of the act (63 P.S. § 625.506(a)(2)). Under § 5.31(c)(2), the Board has defined false, fraudulent, deceptive or misleading advertising to include advertising that “[m]akes only a partial disclosure of relevant facts in its content or in the context in which it is presented.” In addition, a licensee who “[h]old[s] himself out as a specialist unless he possesses a postgraduate certification in that specialty” is subject to disciplinary action under section 506(a)(17) of the act. “Chiropractic specialty” is defined in § 5.1 as a “specialized area of chiropractic in which a licensee has achieved certification or diplomate status through a program approved by an approved chiropractic college that has established valid standards acceptable to the Board for the achievement of certification or diplomate status.” Under § 5.31(c)(5), false, fraudulent, deceptive or misleading advertising includes advertising that “[c]ontains a representation that the licensee holds certification in a chiropractic specialty when the licensee does not hold certification in that specialty.”

The Board is aware that a chiropractor might obtain a “certification” that does not truly reflect genuine advanced knowledge, training or skill, but instead is rather easily obtained. Unfortunately, the public, not knowing what certifications are meaningful, may be confused or deceived by the advertising of these credentials. Because it is not a false statement to advertise the credentials that the licensee actually holds, regardless of the real value of those credentials, the licensee cannot be prosecuted under section 506(a)(2) of the act without showing that the advertisement was misleading or under § 5.31(c)(2) without showing that the advertisement made only a partial disclosure. Because § 5.31(c)(5) already specifically addresses the advertising of chiropractic specialties, it appears appropriate to amend that provision to create a brighter line rule in the advertising of professional credentials.

The American Board of Chiropractic Specialties recognizes various specialty boards including the Academy of

Chiropractic Orthopedists, the American Chiropractic Association Council on Pediatrics, the American Chiropractic Association Council on Chiropractic Physiological Therapeutics and Rehabilitation, the American Chiropractic Association Council on Diagnosis and Internal Disorders, the American Chiropractic Association Council on Diagnostic Imaging, the American Chiropractic Association Council on Nutrition, the American Chiropractic Council on Occupational Health, the American Chiropractic Association Council on Orthopedics, the American Chiropractic Association Council on Injuries and Physical Fitness, the American Chiropractic Association Council on Neurology, the American Chiropractic College of Radiology, the American College of Chiropractic Consultants, the American College of Chiropractic Orthopedists and the International Chiropractic Pediatric Association. These specialty boards require passing a certification examination after either a full-time residency of at least 3 years or a part-time program of more than 300 hours of education and clinical practice.

Consistent with the constitutionally protected commercial free speech rights of its licensees, the Board intends this proposed rulemaking to prohibit false or misleading advertising of chiropractic specialties and credentials, specifically prohibiting advertising those credentials that do not demonstrate any genuine advanced knowledge, training or skill. Because these credentials would not accurately inform the public about lawful activity and are more likely to deceive the public than to inform it, the Board may properly prohibit its licensees from advertising these credentials. See *Bureau of Professional and Occupational Affairs v. State Board of Physical Therapy*, 556 Pa. 268, 728 A.2d 340 (1999).

Description of the Proposed Amendments

This proposed rulemaking would amend § 5.31(c)(5) to provide that advertising is fraudulent, false, deceptive or misleading, and therefore grounds for disciplinary action, if the advertising represents that the licensee holds certification “or otherwise is a specialist in a chiropractic specialty unless the licensee holds certification or diplomate status in that specialty from a specialty board recognized by the American Board of Chiropractic Specialties,” rather than simply holding a certification in a specialty. This proposed rulemaking would also delete as unnecessary the definition of “chiropractic specialty” in § 5.1.

Fiscal Impact and Paperwork Requirements

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

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 February 9, 2018, the Board submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the House Professional Licensure Committee and the Senate Consumer Protection and Professional Licensure Committee. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey comments, recommendations or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections must specify the regulatory review criteria in section 5.2 of the Regulatory Review Act (71 P.S. § 745.5b) which have not been met. The Regulatory Review Act specifies detailed procedures for review prior to final publication of the rulemaking by the Board, the General Assembly and the Governor.

Public Comment

Interested persons are invited to submit written comments, suggestions or objections regarding this proposed rulemaking to the Regulatory Unit Counsel, Department of State, State Board of Chiropractic, P.O. Box 69523, Harrisburg, PA 17105-9523, RA-STRegulatoryCounsel@pa.gov within 30 days following publication of this proposed rulemaking in the *Pennsylvania Bulletin*. Reference No. 16A-4312 (chiropractic specialties) when submitting comments.

J. GERARD HALLORAN, DC,
Chairperson

Fiscal Note: 16A-4312. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

CHAPTER 5. STATE BOARD OF CHIROPRACTIC

Subchapter A. GENERAL PROVISIONS

§ 5.1. Definitions.

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

* * * * *

ChildLine—An organizational unit of the Department of Public Welfare which operates a 24-hour a day State-wide toll free telephone system for receiving reports of suspected child abuse, referring reports for investigation and maintaining the reports in the appropriate file.

[Chiropractic specialty—A specialized area of chiropractic in which a licensee has achieved certification or diplomate status through a program approved by an approved chiropractic college that has established valid standards acceptable to the Board for the achievement of certification or diplomate status.]

Individual residing in the same home as the child—An individual who is 14 years of age or older and who resides in the same home as the child.

* * * * *

Subchapter C. BUSINESS ASPECTS OF PRACTICE

§ 5.31. Professional advertising.

* * * * *

(c) Advertising which is false, fraudulent, deceptive or misleading will be considered unprofessional conduct and may provide the basis for disciplinary action against the advertising licensee. An advertisement shall be deemed

by the Board to be fraudulent, false, deceptive or misleading if it does one of the following:

* * * * *

(5) [**Contains a representation that the licensee holds certification in a chiropractic specialty when the licensee does not hold certification in that specialty.] Contains a representation that the licensee holds certification or otherwise is a specialist in a chiropractic specialty unless the licensee holds certification or diplomate status in that specialty from a specialty board recognized by the American Board of Chiropractic Specialties.**

* * * * *

[Pa.B. Doc. No. 18-290. Filed for public inspection February 23, 2018, 9:00 a.m.]

STATE BOARD OF DENTISTRY

[49 PA. CODE CH. 33]

Child Abuse Reporting Requirements

The State Board of Dentistry proposes to amend §§ 33.1, 33.250—33.255 and 33.401 and add §§ 33.252a, 33.256 and 33.257 (relating to mandatory reporting of children under 1 year of age; child abuse recognition and reporting—mandatory training requirement; and child abuse recognition and reporting course approval process) to read as set forth in Annex A.

Effective Date

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

Statutory Authority

Section 3(o) of The Dental Law (63 P.S. § 122(o)) sets forth the Board’s general rulemaking authority. Under sections 6301—6386 of 23 Pa.C.S. (relating to Child Protective Services Law) (CPSL), specifically section 6383(b)(2) of the CPSL (relating to education and training), the Board is required to promulgate regulations to implement the mandatory reporting requirements for Board-regulated practitioners.

Background and purpose

Throughout 2014, and continuing in 2015 and 2016, the General Assembly made numerous amendments to the CPSL, including the requirement imposed by the act of April 15, 2014 (P.L. 411, No. 31) (Act 31) on all health-related boards to require training in child abuse recognition and reporting for licensees who are considered “mandated reporters” under the CPSL. Section 2 of Act 31 provided that these training requirements would apply to all persons applying for a license, or applying for renewal of a license, on or after January 1, 2015. The Board implemented the training requirements as mandated by Act 31 at the beginning of 2015. This proposed rulemaking is required to update the Board’s existing regulations on the subject of child abuse reporting to be consistent with the CPSL.

Description of the Proposed Amendments

The Board proposes to amend § 33.1 (relating to definitions) to update the definitions of terms used in the CPSL. Specifically, the Board finds it necessary to add definitions of “bodily injury,” “child,” “parent,” “program, activity or service” and “serious physical neglect” and to

amend the definitions of “child abuse,” “person responsible for the child’s welfare,” “recent acts or omissions” and “sexual abuse or exploitation” to comport with amendments made to the CPSL. The Board proposes to define “mandated reporter” for ease of reference. All Board regulated practitioners are considered mandated reporters under the CPSL.

The Board further proposes to delete the following definitions because either they have been deleted from the CPSL or, although they remain in the CPSL, they are no longer used in the Board’s regulations: “individual residing in the same home as the child,” “perpetrator” and “serious physical injury.” The Board also proposes to amend, where necessary throughout this proposed rulemaking, “Department of Public Welfare” to “Department of Human Services,” as the name of the agency has changed. The Board proposes to amend the definition of “Board regulated practitioner” to include restricted faculty license holders, a new category of licensee added by the act of July 2, 2014 (P.L. 828, No. 89). The Board is in the process of promulgating a separate rulemaking which includes provisions regarding restricted faculty licenses.

Although section 6311(a)(12) of the CPSL (relating to persons required to report suspected child abuse) provides that “[a]n individual supervised or managed by a person” licensed or certified to practice in any health-related field under the jurisdiction of the Department of State (such as a dental assistant or other unlicensed staff supervised or managed by a Board regulated practitioner) who has direct contact with children in the course of employment is considered a mandated reporter, the definition of “Board regulated practitioner” was not amended to include those individuals because the Board does not otherwise regulate these individuals and cannot enforce the requirements of the CPSL as to unlicensed/uncertified persons. However, the Board reminds its licensees and certificateholders that individuals they supervise or manage who have direct contact with children in the course of their employment are considered mandated reporters and should be aware of the reporting requirements under the CPSL.

The Board is proposing to amend § 33.250 (relating to suspected child abuse—mandated reporting requirements) to provide the general rule that all Board regulated practitioners are considered mandated reporters, and to set forth the mandated reporting requirements and reporting procedures in section 6311 of the CPSL and section 6313 of the CPSL (relating to reporting procedure). The Department of Human Services (Department) has implemented an electronic reporting process for mandated reporters, and the Board finds it necessary to amend § 33.251 (relating to photographs, medical tests and X-rays of child subject to report) to set forth the requirement to submit these types of materials to the county children and youth social service agency within 48 hours of making an electronic report in accordance with section 6314 of the CPSL (relating to photographs, medical tests and X-rays of child subject to report).

The Board proposes to amend § 33.252 (relating to suspected death as a result of child abuse—mandated reporting requirement) to incorporate an amendment made to section 6317 of the CPSL (relating to mandatory reporting and postmortem investigation of deaths) to permit a report to be made to the appropriate coroner or medical examiner. The Board also proposes to add § 33.252a to incorporate the amendment to section 6386 of the CPSL (relating to mandatory reporting of children under one year of age). The Board proposes to add

§ 33.252a because, although the Board believes it would be an extremely rare situation for a Board regulated practitioner to be treating a child under 1 year of age who is affected by drugs or alcohol, the amendments to section 6386 of the CPSL refer specifically to “a health care provider” and that term is defined in section 6303 of the CPSL (relating to definitions) as a “licensed hospital or health care facility or person who is licensed, certified or otherwise regulated to provide health care services under the laws of this Commonwealth, including a . . . dentist.” Under the canons of statutory construction, “including” is to be read as “including, but not limited to” and for that reason the Board has included all Board regulated practitioners as subject to this section.

Further, the Board is proposing to amend § 33.253 (relating to immunity from liability) to incorporate amendments to section 6318 of the CPSL (relating to immunity from liability). The Board is proposing to amend § 33.254 (relating to confidentiality—waived) to incorporate the provisions of section 6311.1 of the CPSL (relating to privileged communications), which was added in 2014. Likewise, the Board proposes to amend § 33.255 (relating to noncompliance) to update the criminal penalties for failure to make a required report to conform to the increased criminal penalties in the amendments to section 6319 of the CPSL (relating to penalties).

The Board proposes to add two new sections pertaining to the mandatory training requirements in Act 31.

Proposed § 33.256 sets forth the requirements in section 6383(b) of the CPSL that all individuals applying to the Board for an initial license or certificate are required to complete 3 hours of training in child abuse recognition and reporting which has been approved by the Department and that all licensees and certificateholders seeking renewal of a license or certificate complete 2 hours of continuing education in child abuse recognition and reporting as a requirement of renewal. The Board also would provide notice that these 2 hours of training would be accepted as a portion of the total continuing education required for biennial renewal, and not an additional requirement, as provided in section 6383(b)(3)(ii) of the CPSL.

Proposed § 33.256 would also include the process for applying for an exemption from these requirements as set forth in section 6383(b)(4) and (6) of the CPSL for individuals who have already completed similar training or should otherwise not be subject to the training or continuing education requirement. The Board notes that section 6383(b)(4)(ii)(B) of the CPSL provides an exemption for individuals who have already completed child abuse recognition training required under the Human Services Code (62 P.S. §§ 101—1503) (formerly known as the Public Welfare Code), and the training was approved by the Department. However, the Department has confirmed that there is not a provision in the Human Services Code that requires this training. Instead, section 6383(c) of the CPSL sets forth the requirement that certain individuals and entities regulated by the Department complete mandated reporter training. Therefore, the Board believes it is appropriate to include an exemption for a Board regulated practitioner who has already completed comparable training in child abuse recognition and reporting required by the Department under section 6383(c) of the CPSL. For example, if a dentist happened to be a foster parent and was, therefore, required to complete the training under section 6383(c) of the CPSL, there would be no need to repeat the training as a condition of licensure or license renewal under section

6383(b) of the CPSL. In addition, section 6383(b)(6) of the CPSL permits the Board to exempt a licensee from the training requirement “if the licensee submits documentation acceptable to the licensing board that the licensee should not be subject to the training or continuing education requirement.” The Board believes that this section also provides the authority of the Board to determine that those licensees who are required to complete comparable training under section 6383(c) of the CPSL should be exempt from the training requirement under section 6383(b) of the CPSL, provided they submit acceptable documentation to the Board evidencing completion of comparable training.

The Board proposes to add § 33.257 to set forth the process developed by the Bureau of Professional and Occupational Affairs (Bureau), in conjunction with the Department, for individuals, entities and organizations to apply for approval to deliver training required under Act 31. The Bureau has incorporated a requirement that to be approved to provide Act 31 training in child abuse recognition and reporting, an applicant shall be able to report participation/attendance electronically to the Bureau. In this manner, the completion of the training is automatically imported into the licensee’s record with the Board at the time the course is completed. Then, at the time of renewal, the system verifies that the training was completed as required prior to renewing the license.

The Board is proposing to amend § 33.401 (relating to credit-hour requirements) to incorporate the mandatory 2 hours of continuing education in child abuse recognition and reporting in proposed § 33.256 of the Board’s continuing education regulations. It is important to note that the mandatory child abuse training is an exception to the Board’s general rule that continuing education shall be taken in subject areas in § 33.402 (relating to continuing education subject areas) from a program sponsor in § 33.403 (relating to program sponsors). For this reason, the Board will only accept 2 hours of continuing education in the area of child abuse recognition and reporting so as not to dilute further the number of hours of general dental continuing education required by the Board.

Fiscal Impact and Paperwork Requirements

The Board does not anticipate any significant fiscal impact or paperwork requirements regarding this proposed rulemaking. Because licensees and certificateholders are already required to complete mandatory continuing education, and these 2 hours are incorporated in the existing requirement, there would not be an increased burden. Only applicants for licensure or certification would incur an additional requirement and, as there are many low-cost and free options available to complete the training, the Board anticipates this impact to also be minimal. Because all approved Act 31 training providers are required to report attendance/participation electronically, there are no additional paperwork requirements imposed on licensees. In addition, the implementation of an electronic reporting system for mandatory reporters of child abuse under the CPSL by the Department has decreased the paperwork requirements related to the mandatory reporting requirements.

Sunset Date

The Board continuously monitors the effectiveness of its regulations on a fiscal year and biennial basis. 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 February 9, 2018, the Board submit-

ted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the House Professional Licensure Committee and the Senate Consumer Protection and Professional Licensure Committee. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey comments, recommendations or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections must specify the regulatory review criteria in section 5.2 of the Regulatory Review Act (71 P.S. § 745.5b) which have not been met. The Regulatory Review Act specifies detailed procedures for review prior to final publication of the rulemaking by the Board, the General Assembly and the Governor.

Public Comment

Interested persons are invited to submit written comments, suggestions or objections regarding this proposed rulemaking to Regulatory Counsel, Department of State, P.O. Box 69523, Harrisburg, PA 17106-9523, RA-ST RegulatoryCounsel@pa.gov within 30 days following publication of this proposed rulemaking in the *Pennsylvania Bulletin*. Reference No. 16A-4626 (Child Abuse Reporting Requirements) when submitting comments.

JOHN F. ERHARD, III, DDS,
Chairperson

Fiscal Note: 16A-4626. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

CHAPTER 33. STATE BOARD OF DENTISTRY

Subchapter A. GENERAL PROVISIONS

§ 33.1. Definitions.

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

* * * * *

Board regulated practitioner—A dentist, **restricted faculty license holder**, dental hygienist, public health dental hygiene practitioner or expanded function dental assistant.

Bodily injury—**Impairment of physical condition or substantial pain.**

Bureau—The Bureau of Professional and Occupational Affairs of the Commonwealth.

[**Child abuse**—A term meaning any of the following:

(i) A recent act or failure to act by a perpetrator which causes nonaccidental serious physical injury to a child under 18 years of age.

(ii) An act or failure to act by a perpetrator which causes nonaccidental serious mental injury to or sexual abuse or sexual exploitation of a child under 18 years of age.

(iii) A recent act, failure to act or series of acts or failures to act by a perpetrator which creates an imminent risk of serious physical injury to or sexual abuse or sexual exploitation of a child under 18 years of age.

(iv) Serious physical neglect by a perpetrator constituting prolonged or repeated lack of supervision or the failure to provide the essentials of life, including adequate medical care, which endangers a child's life or development or impairs the child's functioning.]

Child—An individual under 18 years of age.

Child abuse—Intentionally, knowingly or recklessly doing any of the following:

(i) **Causing bodily injury to a child through any recent act or failure to act.**

(ii) **Fabricating, feigning or intentionally exaggerating, or inducing a medical symptom or disease which results in a potentially harmful medical evaluation or treatment to the child through any recent act.**

(iii) **Causing or substantially contributing to serious mental injury to a child through any act or failure to act or a series of acts or failures to act.**

(iv) **Causing sexual abuse or exploitation of a child through any act or failure to act.**

(v) **Creating a reasonable likelihood of bodily injury to a child through any recent act or failure to act.**

(vi) **Creating a likelihood of sexual abuse or exploitation of a child through any recent act or failure to act.**

(vii) **Causing serious physical neglect of a child.**

(viii) **Engaging in any of the following recent acts:**

(A) **Kicking, biting, throwing, burning, stabbing or cutting a child in a manner that endangers the child.**

(B) **Unreasonably restraining or confining a child.**

(C) **Forcefully shaking a child under 1 year of age.**

(D) **Forcefully slapping or otherwise striking a child under 1 year of age.**

(E) **Interfering with the breathing of a child.**

(F) **Causing a child to be present at a location while a violation of 18 Pa.C.S. § 7508.2 (relating to operation of methamphetamine laboratory) is occurring.**

(G) **Leaving a child unsupervised with an individual, other than the child's parent, who the actor knows or reasonably should have known:**

(I) **Is required to register as a Tier II or Tier III sexual offender under 42 Pa.C.S. Chapter 97, Subchapter H (relating to registration of sexual offenders) when the victim of the sexual offense was under 18 years of age when the crime was committed.**

(II) **Has been determined to be a sexually violent predator under 42 Pa.C.S. § 9799.24 (relating to assessments) or any of its predecessors.**

(III) Has been determined to be a sexually violent delinquent child as defined in 42 Pa.C.S. § 9799.12 (relating to definitions).

(H) Causing the death of the child through any act or failure to act.

(I) Engaging a child in a severe form of trafficking in persons or sex trafficking, as those terms are defined under section 103 of the Victims of Trafficking and Violence Protection Act of 2000 (22 U.S.C.A. § 7102).

ChildLine—An organizational unit of the Department of [**Public Welfare**] **Human Services**, which operates a 24-hour a day Statewide toll free telephone system for receiving reports of suspected child abuse, referring reports for investigation and maintaining the reports in the appropriate file.

* * * * *

General supervision—In a dental facility, supervision by a dentist who examines the patient, develops a treatment plan, authorizes the performance of dental hygiene services to be performed within 1 year of the examination, and takes full professional responsibility for the performance of the dental hygienist. In facilities identified in § 33.205(c)(2) and (3) (relating to practice as a dental hygienist), general supervision is defined in § 33.205(d)(2).

[Individual residing in the same home as the child—An individual who is 14 years of age or older and who resides in the same home as the child.]

Individual study—A course of continuing education offered by an approved program sponsor, which permits the participant to learn without interacting with an instructor or interactive learning methodologies and which requires a passing grade on a written examination or workbook.

Local anesthesia—The elimination of sensations, especially pain, in one part of the body by regional injection of an anesthetic agent.

[Perpetrator—A person who has committed child abuse and is a parent of the child, a person responsible for the welfare of a child, an individual residing in the same home as a child or a paramour of a child's parent.]

Mandated reporter—A person who is required under 23 Pa.C.S. § 6311 (relating to persons required to report suspected child abuse) to make a report of suspected child abuse. For purposes of this chapter, the term includes all Board regulated practitioners.

Parent—A biological parent, adoptive parent or legal guardian.

Person responsible for the child's welfare—A person who provides permanent or temporary care, supervision, mental health diagnosis or treatment, training or control of a child in lieu of parental care, supervision and control. [**The term does not include a person who is employed by or provides services or programs in a public or private school, intermediate unit or area vocational-technical school.]**

Program, activity or service—Any of the following in which children participate which is sponsored by a school or a public or private organization:

(i) A youth camp or program.

(ii) A recreational camp or program.

(iii) A sports or athletic program.

(iv) A community or social outreach program.

(v) An enrichment or educational program.

(vi) A troop, club or similar organization.

Program sponsor—The party approved by the Board who is responsible for the development and presentation of the continuing dental education program.

Public health dental hygiene practitioner—A licensed dental hygienist who is certified by the Board as having met the requirements of section 11.9 of the act (63 P.S. § 130j), and who is authorized to perform dental hygiene services in accordance with § 33.205b (relating to practice as a public health dental hygiene practitioner) without the authorization, assignment or examination of a dentist.

Recent [acts or omissions—Acts or omissions] act or failure to act—An act or failure to act committed within 2 years of the date of the report to the Department of [Public Welfare] Human Services or county agency.

Serious mental injury—A psychological condition, as diagnosed by a physician or licensed psychologist, including the refusal of appropriate treatment, that does one or more of the following:

(i) Renders a child chronically and severely anxious, agitated, depressed, socially withdrawn, psychotic or in reasonable fear that the child's life or safety is threatened.

(ii) Seriously interferes with a child's ability to accomplish age-appropriate developmental and social tasks.

[Serious physical injury—An injury that causes a child severe pain or significantly impairs a child's physical functioning, either temporarily or permanently.]

Serious physical neglect—Any of the following when committed by a perpetrator that endangers a child's life or health, threatens a child's well-being, causes bodily injury or impairs a child's health, development or functioning:

(i) A repeated, prolonged or egregious failure to supervise a child in a manner that is appropriate considering the child's developmental age and abilities.

(ii) The failure to provide a child with adequate essentials of life, including food, shelter or medical care.

Sexual abuse or exploitation—[**The employment, use, persuasion, inducement, enticement or coercion of a child to engage in or assist another person to engage in sexually explicit conduct or a simulation of sexually explicit conduct for the purpose of producing a visual depiction, including photographing, videotaping, computer depicting or filming, of sexually explicit conduct or the rape, sexual assault, involuntary deviate sexual intercourse, aggravated indecent assault, molestation, incest, indecent exposure, prostitution, statutory sexual assault or other form of sexual exploitation of children.] **Any of the following:****

(i) The employment, use, persuasion, inducement, enticement or coercion of a child to engage in or assist another individual to engage in sexually explicit conduct, which includes any of the following:

(A) Looking at the sexual or other intimate parts of a child or another individual for the purpose of arousing or gratifying sexual desire in any individual.

(B) Participating in sexually explicit conversation either in person, by telephone, by computer or by a computer-aided device for the purpose of sexual stimulation or gratification of any individual.

(C) Actual or simulated sexual activity or nudity for the purpose of sexual stimulation or gratification of any individual.

(D) Actual or simulated sexual activity for the purpose of producing visual depiction, including photographing, videotaping, computer depicting or filming.

(ii) Any of the following offenses committed against a child:

(A) Rape as defined in 18 Pa.C.S. § 3121 (relating to rape).

(B) Statutory sexual assault as defined in 18 Pa.C.S. § 3122.1 (relating to statutory sexual assault).

(C) Involuntary deviate sexual intercourse as defined in 18 Pa.C.S. § 3123 (relating to involuntary deviate sexual intercourse).

(D) Sexual assault as defined in 18 Pa.C.S. § 3124.1 (relating to sexual assault).

(E) Institutional sexual assault as defined in 18 Pa.C.S. § 3124.2 (relating to institutional sexual assault).

(F) Aggravated indecent assault as defined in 18 Pa.C.S. § 3125 (relating to aggravated indecent assault).

(G) Indecent assault as defined in 18 Pa.C.S. § 3126 (relating to indecent assault).

(H) Indecent exposure as defined in 18 Pa.C.S. § 3127 (relating to indecent exposure).

(I) Incest as defined in 18 Pa.C.S. § 4302 (relating to incest).

(J) Prostitution as defined in 18 Pa.C.S. § 5902 (relating to prostitution and related offenses).

(K) Sexual abuse as defined in 18 Pa.C.S. § 6312 (relating to sexual abuse of children).

(L) Unlawful contact with a minor as defined in 18 Pa.C.S. § 6318 (relating to unlawful contact with minor).

(M) Sexual exploitation as defined in 18 Pa.C.S. § 6320 (relating to sexual exploitation of children).

(iii) For the purposes of subparagraph (i), the term does not include consensual activities between a child who is 14 years of age or older and another person who is 14 years of age or older and whose age is within 4 years of the child's age.

Sexual misconduct—Any conduct with a current patient, including words, gestures or expressions, actions or

any combination thereof, which is sexual in nature, or which may be construed by a reasonable person as sexual in nature.

Subgingival agents—Therapeutic agents, including antimicrobials, antibiotics, antiseptics or anesthetics, placed below the free margin of the gingiva by a local delivery system or device, including injectable systems for ointments, gels or pastes, and degradable or nondegradable devices, such as fibers, films, strips, slabs, spheres, discs or chips.

Subchapter C. MINIMUM STANDARDS OF CONDUCT AND PRACTICE

§ 33.250. Suspected child abuse—mandated reporting requirements.

(a) *General rule.* Under 23 Pa.C.S. § 6311 (relating to persons required to report suspected child abuse), all Board regulated practitioners [who, in the course of their employment, occupation or practice of their profession, come into contact with children shall report or cause a report to be made to the Department of Public Welfare when they have reasonable cause to suspect on the basis of their professional or other training or experience, that a child coming before them in their professional or official capacity is a victim of child abuse] are considered mandated reporters. A mandated reporter shall make a report of suspected child abuse in accordance with this section if the mandated reporter has reasonable cause to suspect that a child is a victim of child abuse under any of the following circumstances:

(1) The mandated reporter comes into contact with the child in the course of employment, occupation and practice of the profession or through a regularly scheduled program, activity or service.

(2) The mandated reporter is directly responsible for the care, supervision, guidance or training of the child, or is affiliated with an agency, institution, organization, school, regularly established church or religious organization, or other entity that is directly responsible for the care, supervision, guidance or training of the child.

(3) A person makes a specific disclosure to the mandated reporter that an identifiable child is the victim of child abuse.

(4) An individual 14 years of age or older makes a specific disclosure to the mandated reporter that the individual has committed child abuse.

(b) *Staff members of public or private agencies, institutions and facilities.* [Board regulated practitioners who are staff members of a dental or other public or private institution, school, facility or agency, and who, in the course of their employment, occupation or practice of their profession, come into contact with children shall immediately notify the person in charge of the institution, school, facility or agency or the designated agent of the person in charge when they have reasonable cause to suspect on the basis of their professional or other training or experience, that a child coming before them in their professional or official capacity is a victim of child abuse. Upon notification by the Board regulated practitioner, the person in charge or the designated agent shall assume the responsibility and have the legal obligation to report or cause a report to be made in accordance with subsections

(a), (c) and (d).] When a Board regulated practitioner is required to make a report under subsection (a) in the capacity as a member of the staff of a medical, dental, or other public or private institution, school, facility or agency, that Board regulated practitioner shall report immediately in accordance with subsection (c) and shall immediately thereafter notify the person in charge of the institution, school, facility or agency, or the designated agent of the person in charge.

(c) *Reporting procedure.* [Reports of suspected child abuse shall be made by telephone and by written report.

(1) *Oral reports.* Oral reports of suspected child abuse shall be made immediately by telephone to ChildLine (800) 932-0313.

(2) *Written reports.* Written reports shall be made within 48 hours after the oral report is made by telephone. Written reports shall be made on forms available from a county children and youth social service agency.

A mandated reporter shall immediately make a report of suspected child abuse to the Department of Human Services by either:

(1) Making an oral report of suspected child abuse by telephone to ChildLine at (800) 932-0313, followed by a written report within 48 hours to the Department of Human Services or the county agency assigned to the case in a manner and format prescribed by the Department of Human Services. The written report submitted under this paragraph may be submitted electronically.

(2) Making an electronic report of suspected child abuse in accordance with 23 Pa.C.S. § 6305 (related to electronic reporting) through the Department of Human Service's Child Welfare Information Solution self-service portal at www.compass.state.pa.us/cwis. A confirmation by the Department of Human Services of the receipt of a report of suspected child abuse submitted electronically relieves the mandated reporter of the duty to make an additional oral or written report.

(d) *Written or electronic reports.* [Written reports shall be made in the manner and on forms prescribed by the Department of Public Welfare. The following information shall be included in the written reports, if available:] A written or electronic report of suspected child abuse must include the following information, if known:

(1) The names and addresses of the child [and the parents or], the child's parents and any other person responsible for the [care of the child, if known] child's welfare.

(2) Where the suspected child abuse occurred.

(3) The age and sex of the subject or subjects of the report.

(4) The nature and extent of the suspected child abuse, including any evidence of prior abuse to the child or siblings of the child.

(5) The name and relationship of the person or persons responsible for causing the suspected abuse [, if known,] and any evidence of prior abuse by those persons.

(6) Family composition.

(7) The source of the report.

[(8) The person making the report and where that person can be reached.

(9) The actions taken by the reporting source, including the taking of photographs and X-rays, removal or keeping of the child or notifying the medical examiner or coroner.

(10) Other information which the Department of Public Welfare may require by regulation.]

(8) The name, telephone number and e-mail address of the person making the report.

(9) The actions taken by the person making the report, including actions taken under 23 Pa.C.S. §§ 6314—6317.

(10) Other information required by Federal law or regulation.

(11) Other information that the Department of Human Services may require by regulation.

§ 33.251. Photographs, medical tests and X-rays of child subject to report.

A Board regulated practitioner may take or cause to be taken photographs of the child who is subject to a report and, if clinically indicated, cause to be performed a radiological examination and other medical tests on the child. Medical summaries or reports of the photographs, X-rays and relevant medical tests taken shall be sent to the county children and youth social service agency at the time the written report is sent, or within 48 hours after an electronic report is made under § 33.250(c)(2) (relating to suspected child abuse—mandated reporting requirements), or as soon thereafter as possible. The county children and youth social service agency shall have access to actual photographs or duplicates and X-rays and may obtain them or duplicates of them upon request.

§ 33.252. Suspected death as a result of child abuse—mandated reporting requirement.

A Board regulated practitioner who has reasonable cause to suspect that a child died as a result of child abuse shall report that suspicion to the coroner or medical examiner of the county where death occurred or, in the case where the child is transported to another county for medical treatment, to the coroner or medical examiner of the county where the injuries were sustained.

(*Editor's Note:* The following section is proposed to be added and printed in regular type to enhance readability.)

§ 33.252a. Mandatory reporting of children under 1 year of age.

A Board regulated practitioner shall immediately make a report to the appropriate county agency if the Board regulated practitioner is involved in the care of a child under 1 year of age who is born and identified as being affected by any of the following:

(1) Illegal substance abuse by the child's mother.

(2) Withdrawal symptoms resulting from prenatal drug exposure unless the child's mother, during the pregnancy, was:

(i) Under the care of a prescribing medical professional.

(ii) In compliance with the directions for the administration of a prescription drug as directed by the prescribing medical professional.

(3) A fetal alcohol spectrum disorder.

§ 33.253. Immunity from liability.

Under 23 Pa.C.S. § 6318 (relating to immunity from liability) a Board regulated practitioner who participates in good faith in the making of a report [, cooperating with an investigation, testifying in a proceeding arising out of an instance of suspected child abuse or the taking of photographs] of suspected child abuse, making a referral for general protective services, cooperating or consulting with an investigation including providing information to a child fatality or near fatality review team, testifying in a proceeding arising out of an instance of suspected child abuse or general protective services or engaging in any action authorized under 23 Pa.C.S. §§ 6314—6317, shall have immunity from civil and criminal liability that might otherwise result by reason of the Board regulated practitioner's actions. For the purpose of any civil or criminal proceeding, the good faith of the Board regulated practitioner shall be presumed. The Board will uphold the same good faith presumption in any disciplinary proceeding that might result by reason of a Board regulated practitioner's actions [in participating in good faith in the making of a report, cooperating with an investigation, testifying in a proceeding arising out of an instance of suspected child abuse or the taking of photographs] under §§ 33.250—33.252a.

§ 33.254. Confidentiality—waived.

To protect children from abuse, the reporting requirements of [§§ 33.250—33.252 (relating to suspected child abuse—mandated reporting requirements; photographs, medical tests and X-rays of child subject to report; and suspected death as a result of child abuse—mandated reporting requirement)] §§ 33.250—33.252a take precedence over any other ethical principle or professional standard that might otherwise apply to a Board regulated practitioner. In accordance with 23 Pa.C.S. § 6311.1 (relating to privileged communications), privileged communications between a mandated reporter and a patient does not apply to a situation involving child abuse and does not relieve the mandated reporter of the duty to make a report of suspected child abuse.

§ 33.255. Noncompliance.

(a) *Disciplinary action.* A Board regulated practitioner who willfully fails to comply with the reporting requirements in [§ 33.250 (relating to suspected child abuse—mandated reporting requirements)] §§ 33.250—33.252a will be subject to disciplinary action under section 4.1 of the act (63 P.S. § 123.1).

(b) *Criminal penalties.* [Under 23 Pa.C.S. § 6319 (relating to penalties for failure to report), a Board regulated practitioner who is required to report a case of suspected child abuse who willfully fails to do so commits a summary offense for the first violation and a misdemeanor of the third degree for a second or subsequent violation.] Under 23 Pa.C.S. § 6319 (relating to penalties), a Board regulated practitioner who is required to report a case of suspected child abuse or to make a referral to the

appropriate authorities and who willfully fails to do so commits a criminal offense, as follows:

(1) An offense not otherwise specified in paragraph (2), (3) or (4) is a misdemeanor of the second degree.

(2) An offense is a felony of the third degree if all of the following apply:

(i) The mandated reporter willfully fails to report.

(ii) The child abuse constitutes a felony of the first degree or higher.

(iii) The mandated reporter has direct knowledge of the nature of the abuse.

(3) If the willful failure to report continues while the mandated reporter knows or has reasonable cause to believe the child is actively being subjected to child abuse, the mandated reporter commits a misdemeanor of the first degree, except that if the child abuse constitutes a felony of the first degree or higher, the mandated reporter commits a felony of the third degree.

(4) A mandated reporter who commits a second or subsequent offense commits a felony of the third degree, except that if the child abuse constitutes a felony of the first degree or higher, the penalty for the second or subsequent offense is a felony of the second degree.

(Editor's Note: Sections 33.256 and 33.257 are proposed to be added and printed in regular type to enhance readability.)

§ 33.256. Child abuse recognition and reporting—mandatory training requirement.

(a) Except as provided in subsection (c), individuals applying to the Board for an initial license or certificate shall submit proof of completion of 3 hours of training in child abuse recognition and reporting requirements which has been approved by the Department of Human Services.

(b) Except as provided in subsection (c), licensees and certificateholders seeking renewal of a license or certificate issued by the Board shall complete, as a condition of biennial renewal of the license or certificate, 2 hours of approved continuing education in child abuse recognition and reporting requirements, as a portion of the total continuing education required for biennial renewal. For credit to be granted, the continuing education course or program must be approved by the Bureau, in consultation with the Department of Human Services, as set forth in § 33.257 (relating to child abuse recognition and reporting course approval process).

(c) An applicant, licensee or certificateholder may apply in writing for an exemption from the training/continuing education requirements in subsections (a) and (b) provided the applicant, licensee or certificateholder meets one of the following:

(1) The applicant, licensee or certificateholder submits documentation demonstrating all of the following:

(i) The applicant, licensee or certificateholder has already completed child abuse recognition training as required under section 1205.6 of the Public School Code of 1949 (24 P.S. § 12-1205.6).

(ii) The training was approved by the Department of Education in consultation with the Department of Human Services.

(iii) The amount of training received equals or exceeds the amount of training or continuing education required under subsection (a) or (b), as applicable.

(2) The applicant, licensee or certificateholder submits documentation demonstrating all of the following:

(i) The applicant, licensee or certificateholder has already completed child abuse recognition training required under 23 Pa.C.S. § 6383(c) (relating to education and training).

(ii) The training was approved by the Department of Human Services.

(iii) The amount of training received equals or exceeds the amount of training or continuing education required under subsection (a) or (b), as applicable.

(3) The applicant, licensee or certificateholder submits documentation demonstrating that the applicant, licensee or certificateholder should not be subject to the training or continuing education requirement. Each request for an exemption under this paragraph will be considered on a case-by-case basis.

§ 33.257. Child abuse recognition and reporting course approval process.

(a) An individual, entity or organization may apply for approval to provide mandated reporter training as required under 23 Pa.C.S. § 6383(b) (relating to education and training) by submitting the course materials set forth in subsection (b) simultaneously to the Department of Human Services, Office of Children, Youth and Families, and to the Bureau at the following addresses:

(1) Department of Human Services, Office of Children, Youth and Families, Health and Welfare Building, 625 Forster Street, Harrisburg, Pennsylvania 17120 or electronically to RA-PWOCYFCPSL@pa.gov.

(2) Bureau of Professional and Occupational Affairs, 2601 North Third Street, P.O. Box 2649, Harrisburg, Pennsylvania 17105-2649 or electronically to RA-steps1_course_app@pa.gov.

(b) Submissions must include all of the following:

(1) Contact information (mailing address, e-mail address and telephone number) for the agency/course administrator.

(2) General description of the training and course delivery method.

(3) Title of the course.

(4) Timed agenda and estimated hours of training.

(5) Learning objectives.

(6) Intended audience.

(7) All course related materials, including, as applicable:

(i) Handouts.

(ii) Narrated script or talking points.

(iii) Interactive activities or exercises.

(iv) Videos and audio/visual content.

(v) Knowledge checks, quizzes or other means of assessing participant's understanding of the material.

(vi) For online courses, a transcript or recording of audio training.

(8) Citation of sources, including written permission to use copyrighted material, if applicable.

(9) Anticipated credentials or experience of the presenter, or biography of presenter, if known.

(10) Printed materials used to market the training.

(11) Evaluation used to assess participants' satisfaction with the training.

(12) Sample certificate of attendance/participation, which must include:

(i) Name of participant.

(ii) Title of training.

(iii) Date of training.

(iv) Length of training (2 or 3 hours).

(v) Name and signature of the authorized representative of the provider. The signature may be an electronic signature.

(vi) Statement affirming the participant attended the entire course.

(13) Verification of ability to report participation/attendance electronically to the Bureau in a format prescribed by the Bureau.

(c) The Bureau will notify the applicant in writing upon approval of the course and will post a list of approved courses on the Bureau's web site and the Board's web site.

Subchapter F. CONTINUING DENTAL EDUCATION

§ 33.401. Credit-hour requirements.

* * * * *

(b) [**The**] **Except as provided in subsection (h), the required hours shall be taken in the subject areas listed in § 33.402 (relating to continuing education subject areas) from a program sponsor listed in § 33.403 (relating to program sponsors).**

* * * * *

(g) Exceptions are as follows:

(1) An applicant is exempt from the continuing education requirement in subsection (a) for only the biennial period during which the applicant passed the licensure or certification examination.

(2) An applicant who cannot meet the continuing education requirement due to illness, emergency or hardship may apply to the Board in writing for a waiver. The request [**shall**] **must** explain why compliance is impossible. Waiver requests will be evaluated by the Board on a case-by-case basis.

(h) All licensees and certificateholders shall complete 2 hours of the required hours of continuing education in approved courses on child abuse recognition and reporting as set forth in § 33.256 (relating to child abuse recognition and reporting—mandatory training requirement).

[Pa.B. Doc. No. 18-291. Filed for public inspection February 23, 2018, 9:00 a.m.]

NOTICES

DEPARTMENT OF BANKING AND SECURITIES

Actions on Applications

The Department of Banking and Securities (Department), under the authority in the Banking Code of 1965 (7 P.S. §§ 101—2204), the Department of Banking and Securities Code (71 P.S. §§ 733-1—733-1203) and 17 Pa.C.S. (relating to Credit Union Code), has taken the following actions on applications received for the week ending February 13, 2018.

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 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

Branch Discontinuances

No activity.

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. 18-292. Filed for public inspection February 23, 2018, 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.

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

<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>
PA0065196 (Sewage)	Powell Property (Formerly Schnellman) 5160 Shimerville Road Emmaus, PA 18049-4958	Lehigh County Upper Milford Township	Leibert Creek (2-C)	Yes

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>
PA0114111 (Sewage)	South Shore Recreation Area Cowanesque Lake Wastewater Treatment Plant 710 Ives Run Lane Tioga, PA 16946-8643	Tioga County Lawrence Township	Cowanesque 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>
PA0210668 (Sewage)	Andromeda House 1511 Peach Street Erie, PA 16501-2104	Crawford County Bloomfield Township	Unnamed Tributary to Pine Hollow Run (16-E)	Yes

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

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

PA0057690, Industrial, SIC Code 3731, **Aker Philadelphia Shipyard**, 2100 Kitty Hawk Avenue, Philadelphia, PA 19112-1808. Facility Name: Philly Shipyard Inc. This existing facility is located in Philadelphia City, **Philadelphia County**.

Description of Existing Activity: The application is for a renewal of an NPDES permit for an existing discharge of Industrial Wastewater, groundwater and river water return.

The receiving stream(s), Schuylkill River and Delaware River, is located in State Water Plan watershed 3-F and 3-J 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 012 are based on flow of 2.88 MGD.

<i>Parameters</i>	<i>Mass Units (lbs/day)</i>			<i>Concentrations (mg/L)</i>		
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Minimum</i>	<i>Average Monthly</i>	<i>Daily Maximum</i>	<i>Instant. Maximum</i>
Flow (GPM)	Report	XXX	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0 Inst Min	XXX	XXX	9.0
Total Suspended Solids Effluent Net	XXX	XXX	XXX	100.0	200.0	250
Oil and Grease	XXX	XXX	XXX	15	XXX	30

<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>	
Copper, Total	XXX	XXX	XXX	Report	Report	XXX
Iron, Dissolved	XXX	XXX	XXX	Report	Report	XXX
Iron, Total	XXX	XXX	XXX	Report	Report	XXX
Lead, Total	XXX	XXX	XXX	Report	Report	XXX
Zinc, Total	XXX	XXX	XXX	Report	Report	XXX
1,2-Dichloroethane	XXX	XXX	XXX	Report	Report	XXX
Tetrachloroethylene	XXX	XXX	XXX	Report	Report	XXX
Trichloroethylene	XXX	XXX	XXX	Report	Report	XXX
PCBs Dry Weather Analysis (pg/L)	XXX	XXX	XXX	XXX	Report	XXX

The proposed effluent limits for Outfalls 019 and 021 are based on stormwater.

<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>Maximum</i>	
pH (S.U.)	XXX	XXX	XXX	XXX	XXX	Report
Carbonaceous Biochemical Oxygen Demand (CBOD ₅)	XXX	XXX	XXX	XXX	XXX	Report
Chemical Oxygen Demand (COD)	XXX	XXX	XXX	XXX	XXX	Report
Total Suspended Solids	XXX	XXX	XXX	XXX	XXX	Report
Oil and Grease	XXX	XXX	XXX	XXX	XXX	Report
Total Kjeldahl Nitrogen	XXX	XXX	XXX	XXX	XXX	Report
Total Phosphorus	XXX	XXX	XXX	XXX	XXX	Report
Iron, Dissolved	XXX	XXX	XXX	XXX	XXX	Report
PCBs Wet Weather Analysis (pg/L)	XXX	XXX	XXX	XXX	Report Daily Max	XXX

The proposed effluent limits for Outfalls 022, 023, 026, 027 and 029 are based on stormwater.

<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>Maximum</i>	
pH (S.U.)	XXX	XXX	XXX	XXX	XXX	Report
Total Suspended Solids	XXX	XXX	XXX	XXX	XXX	Report
Oil and Grease	XXX	XXX	XXX	XXX	XXX	Report
Total Kjeldahl Nitrogen	XXX	XXX	XXX	XXX	XXX	Report
Total Phosphorus	XXX	XXX	XXX	XXX	XXX	Report
Iron, Dissolved	XXX	XXX	XXX	XXX	XXX	Report

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

OTHER REQUIREMENTS

- Notification of Wet-Berthing
- Necessary Property Rights
- Sludge Removal
- BAT/BCT Standards
- Public Nuisance
- Ownership change
- TMDL/WLA Analysis
- No Chemical Additions
- BMPs related to ship building
- Schuylkill River assessment
- Sealed piping for flooded Dry Dock 5
- Net TSS reporting

STORMWATER REQUIREMENTS

PCB MINIMIZATION PLAN

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

The EPA Waiver is in effect.

Southcentral Regional Office: Regional Clean Water Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110-8200, Telephone: 717.705.4800.

PA0083704, Industrial, SIC Code 4941, **Shippensburg Borough Authority**, PO Box 129, Shippensburg, PA 17257-0129. Facility Name: Gunter Valley Water Treatment Plant. This existing facility is located in Lurgan Township, **Franklin County**.

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

The receiving stream(s), Trout Run, is located in State Water Plan watershed 7-B and is classified for Exceptional Value Waters, 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 0.0851 MGD.—Limits.

Parameters	Mass Units (lbs/day)			Concentrations (mg/L)		
	Average Monthly	Daily Maximum	Minimum	Average Monthly	Daily Maximum	Instant. Maximum
Flow (MGD)	Report	Report	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0	XXX	9.0	XXX
			Daily Min			
Total Residual Chlorine (TRC)	XXX	XXX	XXX	0.5	XXX	1.6
Total Suspended Solids	Report	Report	XXX	30.0	60.0	75
Aluminum, Total	Report	Report	XXX	4.0	8.0	10
Iron, Total	Report	Report	XXX	2.0	4.0	5.0
Manganese, Total	Report	Report	XXX	1.0	2.0	2.5

Northcentral Regional Office: Regional Clean Water Program Manager, 208 W Third Street, Suite 101, Williamsport, PA 17701-6448, Telephone: 570.327.3636.

PA0007498, Industrial, SIC Code 2096, **Wise Foods, Inc.**, 228 Rasely Street, Berwick, PA 18603-4533. Facility Name: Berwick Snack Food Plant. This existing facility is located in Berwick Borough, **Columbia County**.

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

The receiving stream(s), Susquehanna River, is located in State Water Plan watershed 5-D and is classified for Warm Water Fishes, aquatic life, water supply and recreation. The discharge is not expected to affect public water supplies.

The proposed effluent limits for Outfall 001 are based on a design flow of 0.2798 MGD.

Parameters	Mass Units (lbs/day)			Concentrations (mg/L)		
	Average Monthly	Daily Maximum	Minimum	Average Monthly	Daily Maximum	Instant. Maximum
Flow (MGD)	Report	Report	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0	XXX	XXX	9.0
			Inst Min			
Carbonaceous Biochemical Oxygen Demand (CBOD ₅)	290	580	XXX	125.0	250.0	310
					Wkly Avg	
Total Suspended Solids	600	1,050	XXX	258.0	450.0	645
Oil and Grease	Report	Report	XXX	15.0	20.0	XXX
Ammonia-Nitrogen	90	175	XXX	39.0	75.0	95
Copper, Total	XXX	Report	XXX	XXX	Report	XXX
Iron, Total	5.90	11.8	XXX	2.53	5.06	6.32

The proposed effluent limits for Outfall 001 are based on a design flow of 0.2798 MGD.

Parameters	Mass Units (lbs/day)			Concentrations (mg/L)		
	Average Monthly	Daily Maximum	Minimum	Average Monthly	Daily Maximum	Instant. Maximum
Carbonaceous Biochemical Oxygen Demand (CBOD ₅)	75,781	XXX	XXX	XXX	XXX	XXX
	Annl Avg					
Total Suspended Solids	142,450	XXX	XXX	XXX	XXX	XXX
	Annl Avg					

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

Parameters	Mass Units (lbs/day)			Concentrations (mg/L)		
	Monthly	Annual	Monthly	Monthly Average	Maximum	Instant. Maximum
Ammonia—N	Report	Report	XXX	Report	XXX	XXX
Kjeldahl—N	Report	XXX	XXX	Report	XXX	XXX

Parameters	Mass Units (lbs/day)			Concentrations (mg/L)		Instant. Maximum
	Monthly	Annual	Monthly	Monthly Average	Maximum	
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	19,957	XXX	XXX	XXX	XXX
Net Total Phosphorus	Report	898	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.

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

The EPA Waiver is not in effect.

PA0234117, Sewage, SIC Code 4952, **West Branch Regional Authority**, PO Box 428, Muncy, PA 17756-0428. Facility Name: West Branch Regional Authority Wastewater Treatment Plant. This existing facility is located in Clinton Township, **Lycoming 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), West Branch Susquehanna River, is located in State Water Plan watershed 10-C and is classified for Warm Water Fishes, aquatic life, water supply and recreation. The discharge is not expected to affect public water supplies.

The proposed effluent limits for Outfall 001 are based on a design flow of 2.4 MGD.—Limits.

Parameters	Mass Units (lbs/day)			Concentrations (mg/L)		Instant. Maximum
	Average Monthly	Daily Maximum	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	Inst Min Report Inst Min	XXX	XXX	XXX
Total Residual Chlorine (TRC)	XXX	XXX	XXX	0.5	XXX	1.6
Carbonaceous Biochemical Oxygen Demand (CBOD ₅)	500	800	XXX	25.0	40.0	XXX
Biochemical Oxygen Demand (BOD ₅)		Wkly Avg				
Raw Sewage Influent Total Suspended Solids	Report	Report	XXX	Report	XXX	XXX
Raw Sewage Influent Total Suspended Solids	Report	Report	XXX	Report	XXX	XXX
Total Suspended Solids	600	900	XXX	30.0	45.0	XXX
		Wkly Avg				
Fecal Coliform (No./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
Nitrate-Nitrite as N	XXX	XXX	XXX	Report	XXX	XXX
Nitrate-Nitrite as N (Total Load, lbs) (lbs)	Report Total Mo	XXX	XXX	XXX	XXX	XXX
Total Nitrogen	XXX	XXX	XXX	Report	XXX	XXX
Total Nitrogen (Total Load, lbs) (lbs)	Report Total Mo	XXX	XXX	XXX	XXX	XXX
Effluent Net	Report Total Mo	XXX	XXX	XXX	XXX	XXX
Ammonia-Nitrogen	Report	XXX	XXX	Report	XXX	XXX
Ammonia-Nitrogen (Total Load, lbs) (lbs)	Report Total Mo	XXX	XXX	XXX	XXX	XXX
Total Kjeldahl Nitrogen	XXX	XXX	XXX	Report	XXX	XXX
Total Kjeldahl Nitrogen (Total Load, lbs) (lbs)	Report Total Mo	XXX	XXX	XXX	XXX	XXX
Total Phosphorus	Report	XXX	XXX	Report	XXX	XXX
Total Phosphorus (Total Load, lbs) (lbs)	Report Total Mo	XXX	XXX	XXX	XXX	XXX

<i>Parameters</i>	<i>Mass Units (lbs/day)</i>			<i>Concentrations (mg/L)</i>		<i>Instant. Maximum</i>
	<i>Average Monthly</i>	<i>Daily Maximum</i>	<i>Minimum</i>	<i>Average Monthly</i>	<i>Weekly Average</i>	
Effluent Net	Report	XXX	XXX	XXX	XXX	XXX
Chromium, Hexavalent	Total Mo XXX	Report	XXX	XXX	Report Daily Max 129.20	XXX
Copper, Total (µg/L)	1.29	2.58	XXX	64.60	Daily Max	161.5

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 Units (lbs/day)</i>			<i>Concentrations (mg/L)</i>		<i>Instant. Maximum</i>
	<i>Monthly</i>	<i>Annual</i>	<i>Monthly</i>	<i>Monthly Average</i>	<i>Maximum</i>	
Total Nitrogen (Total Load, lbs)	XXX	Report	XXX	XXX	XXX	XXX
(lbs)		Total Annual				
Effluent Net	XXX	42,508	XXX	XXX	XXX	XXX
Ammonia-Nitrogen (Total Load, lbs)	XXX	Report	XXX	XXX	XXX	XXX
(lbs)		Total Annual				
Total Phosphorus (Total Load, lbs)	XXX	5,728	XXX	XXX	XXX	XXX
(lbs)		Total Annual				
Effluent Net	XXX	Report	XXX	XXX	XXX	XXX
Total Phosphorus (Total Load, lbs)	XXX	Total Annual	XXX	XXX	XXX	XXX
(lbs)						

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

The EPA Waiver is not in effect.

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

PA0265250, Sewage, SIC Code 8800, **Cindy Schmoker**, 640 State Lot Road, Spartansburg, PA 16434-5628. Facility Name: Cindy Schmoker SRSTP. This proposed facility is located in Limestone 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, the Allegheny River, is located in State Water Plan watershed 16-F 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.—Limits.

<i>Parameters</i>	<i>Mass Units (lbs/day)</i>			<i>Concentrations (mg/L)</i>		<i>Instant. Maximum</i>
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Minimum</i>	<i>Annual Average</i>	<i>Maximum</i>	
Flow (GPD)	Report Annl Avg	XXX	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0 Inst Min	XXX	XXX	9.0
Biochemical Oxygen Demand (BOD ₅)	XXX	XXX	XXX	10.0	XXX	20.0
Total Suspended Solids	XXX	XXX	XXX	10.0	XXX	20.0
Fecal Coliform (No./100 ml)	XXX	XXX	XXX	200	XXX	XXX

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

The EPA Waiver is in effect.

PA0020257, Sewage, SIC Code 4952, **Grove City Borough**, P.O. Box 110, Grove City, PA 16127-0110. Facility Name: Grove City Borough STP. This existing facility is located in Grove City Borough, **Mercer 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), Wolf Creek, is located in State Water Plan watershed 20-C and is classified for Cold Water Fishes, aquatic life, water supply and recreation. The discharge is not expected to affect public water supplies.

The proposed effluent limits for Outfall 001 are based on a design flow of 3 MGD.—Interim Limits.

<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
pH (S.U.)	XXX	XXX	6.0	XXX	9.0 Max	XXX
Dissolved Oxygen	XXX	XXX	5.0	XXX	XXX	XXX
Carbonaceous Biochemical Oxygen Demand (CBOD ₅)						
Nov 1 - Apr 30	625	1,000	XXX	25.0	40.0	50
May 1 - Oct 31	375	560	XXX	15.0	22.5	30
Biochemical Oxygen Demand (BOD ₅)						
Raw Sewage Influent	Report	Report	XXX	Report	XXX	XXX
Total Suspended Solids	750	1,125	XXX	30.0	45.0	60
Raw Sewage Influent	Report	Report	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	Report	XXX	XXX
Ammonia-Nitrogen						
Nov 1 - Apr 30	250	XXX	XXX	10.0	XXX	21
May 1 - Oct 31	87.5	XXX	XXX	3.5	XXX	7
Total Dissolved Solids	Report	XXX	XXX	Report	XXX	XXX
	Avg Qrtly			Avg Qrtly		
Total Nitrogen	Report	XXX	XXX	Report	XXX	XXX
	Avg Qrtly			Avg Qrtly		
Total Phosphorus	Report	XXX	XXX	Report	XXX	XXX
	Avg Qrtly			Avg Qrtly		

The proposed effluent limits for Outfall 001 are based on a design flow of 3.342 MGD.—Final Limits.

<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
pH (S.U.)	XXX	XXX	6.0	XXX	9.0 Max	XXX
Dissolved Oxygen	XXX	XXX	6.0 Daily Min	XXX	XXX	XXX
Carbonaceous Biochemical Oxygen Demand (CBOD ₅)	300	450	XXX	15.0	22.5	30
Biochemical Oxygen Demand (BOD ₅)						
Raw Sewage Influent	Report	Report	XXX	Report	XXX	XXX
Total Suspended Solids	555	835	XXX	20.0	30.0	40
Total Suspended Solids						
Raw Sewage Influent	Report	Report	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	Report	XXX	XXX
Ammonia-Nitrogen						
Nov 1 - Apr 30	250	XXX	XXX	9.0	XXX	18
May 1 - Oct 31	80	XXX	XXX	3.0	XXX	6
Total Dissolved Solids	Report	XXX	XXX	Report	XXX	XXX
	Avg Qrtly			Avg Qrtly		
Total Nitrogen	Report	XXX	XXX	Report	XXX	XXX
	Avg Qrtly			Avg Qrtly		
Total Phosphorus	Report	XXX	XXX	Report	XXX	XXX
	Avg Qrtly			Avg Qrtly		

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

- Whole Effluent Toxicity

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 not 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. 1518401, Sewage, **Oxford Area Sewer Authority**, 14 South Third Street, Oxford, PA 19363.

This proposed facility is located in Oxford Borough, **Chester County**.

Description of Action/Activity: Construction and operation of a new pumping station.

WQM Permit No. WQG02151607, Sewage, **West Brandywine Township Municipal Authority**, 199 Lafayette Road, West Brandywine, PA 19320.

This proposed facility is located in West Brandywine Township, **Chester County**.

Description of Action/Activity: A proposed pump station reconstruction and new force main installation.

WQM Permit No. WQG02091710, Sewage, **Bucks County Water & Sewer Authority**, 1275 Almshouse Road, Warrington, PA 18976.

This proposed facility is located in Middletown Township, **Bucks County**.

Description of Action/Activity: Low pressure sewer system to serve 10 lot-subdivison.

WQM Permit No. WQG02151801, Sewage, **Concord Township**, 43 Thornton Road, Glen Mills, PA 19342.

This proposed facility is located in Concord Township, **Delaware County**.

Description of Action/Activity: Construction and operation of a collection and conveyance system.

WQM Permit No. 2318401, Sewage, **DELCORA**, PO Box 999, Chester, PA 19016-0999.

This proposed facility is located in the City of Chester, **Delaware County**.

Description of Action/Activity: Construction and operation of a pumping station.

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

WQM Permit No. 3718403, Sewage, **Randy Boyles**, 567 Smalls Ferry Road, New Castle, PA 16102.

This proposed facility is located in North Beaver Township, **Lawrence County**.

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

WQM Permit No. 2518404, Sewage, **Donald Hamme Jr**, 183 Young Road, Erie, PA 16509.

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

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

WQM Permit No. 2501418 A-1, Sewage, **John Ditrich Subdivision Properties Owners Association Inc.**, 8062 Harboregreene Road, Erie, PA 16510-5763.

This existing facility is located in Harborcreek Township, **Erie County**.

Description of Proposed Action/Activity: Amendment to replace chlorination disinfection system with UV disinfection unit.

WQM Permit No. WQG01431801, Sewage, **Thomas C Pesci**, 227 Corey Drive, Gibsonia, PA 15044.

This proposed facility is located in Wilmington Township, **Mercer County**.

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

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

Southwest Region: Waterways & Wetlands Program, 400 Waterfront Drive, Pittsburgh, PA 15222, Dana Drake, Waterways and Wetlands Program Manager, 412-442-4000.

Permit No.	Applicant & Address	County	Municipality	Stream Name
PAD630026	Washington County Planning Commission 100 West Beau Street Suite 701 Washington, PA 15301	Washington County	Cross Creek Township	Cross Creek (HQ-WWF)

VII. List of NOIs for NPDES and/or Other General Permit Types.

PAG-12 CAFOs

MS4 PAG-13 Notices of Intent Received.*Southwest Region: Clean Water Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.*

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>Municipality, County</i>	<i>Waiver Application Submitted (Y/N)</i>	<i>Pollutant Reduction Plan Submitted (Y/N)</i>
PAG136237	Borough of Ben Avon Heights 6 Lynton Lane Pittsburgh, PA 15202-1327	Ben Avon Heights Borough, Allegheny County	Y	N
PAG136241	Thornburg Borough 545 Hamilton Road Pittsburgh, PA 15205-1708	Thornburg Borough, Allegheny County	Y	N
PAG136156	Pulaski Township Beaver County 3401 Sunflower Road New Brighton, PA 15066-2639	Pulaski Township, Beaver County	N	Y
PAG136120	Monaca Borough Beaver County Pennsylvania Avenue Ext Monaca, PA 15061	Monaca Borough, Beaver County	N	Y
PAG136249	Richland Township Cambria County 322 Schoolhouse Road Johnstown, PA 15904-2924	Richland Township, Cambria County	N	Y
PAG136272	Center Township Beaver County 224 Center Grange Road Aliquippa, PA 15001-1421	Center Township, Beaver County	N	Y
PAG136193	North Irwin Borough 21 2nd Street Irwin, PA 15642-3326	North Irwin Borough, Westmoreland County	Y	N
PAG136305	Uniontown City 20 North Gallatin Avenue Uniontown, PA 15401-3545	Uniontown City, Fayette County	N	Y
PAG136393	Menallen Township 427 Searights Herbert Road Uniontown, PA 15401	Menallen Township, Fayette County	Y	N
PAG136211	Carroll Township Washington County 130 Baird Street Monongahela, PA 15063-1008	Carroll Township, Washington County	N	Y
PAG136124	New Brighton Borough Beaver County 610 Third Avenue New Brighton, PA 15066	New Brighton Borough, Beaver County	N	Y
PAG136364	East Washington Borough Washington County 15 Thayer Street Washington, PA 15301-3628	East Washington Borough, Washington County	N	Y
PAG136234	Beaver Falls City Beaver County 715 15th Street Beaver Falls, PA 15010-4124	Beaver Falls City, Beaver County	N	Y
PAG136135	Scottdale Borough Westmoreland County 10 Mount Pleasant Road Scottdale, PA 15683-1208	Scottdale Borough, Westmoreland County	N	Y

**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.

**ACT 38
NUTRIENT MANAGEMENT PLANS
CAFO PUBLIC NOTICE SPREADSHEET—APPLICATIONS**

<i>Agricultural Operation Name and Address</i>	<i>County</i>	<i>Total Acres</i>	<i>AEU's</i>	<i>Animal Type</i>	<i>Special Protection Waters (HQ or EV or NA)</i>	<i>New or Renewal</i>
Robert & Michael Shearer 806 Anderson Ferry Rd Mount Joy, PA 17552	Lancaster	43.1	682.3	Swine/Beef	NA	R

**PUBLIC WATER SUPPLY (PWS)
PERMITS**

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

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

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

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

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

SAFE DRINKING WATER

Applications Received Under the Pennsylvania Safe Drinking Water Act.

Southcentral Region: Safe Drinking Water Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

Permit No. 6717515, Public Water Supply.

Applicant	The York Water Company
Municipality	Loganville Borough
County	York
Responsible Official	Mark S. Snyder, Engineering Manager 130 East Market Street PO Box 15089 York, PA 17405-7089
Type of Facility	Public Water Supply
Consulting Engineer	Mark S. Snyder, P.E. The York Water Company 130 East Market Street PO Box 15089 York, PA 17405-7089

Application Received: 12/19/2014
 Description of Action The 1,000,000-gallon Loganville Standpipe will be drained and repainted on the interior and exterior. A temporary 3,000-gallon pressurized water tank will be provided to maintain pressure in the Loganville pressure zone while the standpipe is offline.

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

Permit No. 2418501, Public Water Supply.

Applicant **Borough of Ridgway**
 Township or Borough Ridgway Borough
 County **Elk**
 Responsible Official Josh Quattrone
 108 Main Street
 Ridgway, PA 15853
 Type of Facility Public Water Supply
 Consulting Engineer August Maas, P.E.
 Green-Pedersen, Inc.
 8 Gibson Street
 North East, PA 16428

Application Received Date February 5, 2018
 Description of Action Permit existing facilities.

Permit No. 3718502, Public Water Supply.

Applicant **Pennsylvania American Water Company**
 Township or Borough Jackson Township
 County **Butler**
 Responsible Official William Lage, P.E.
 Type of Facility Public Water Supply
 Consulting Engineer William Lage, P.E.
 2736 Ellwood Road
 New Castle, PA 16101

Application Received Date February 5, 2018
 Description of Action Upgrade capacity of Ridge Road Booster Station

MINOR AMENDMENT

Applications Received Under the Pennsylvania Safe Drinking Water Act.

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

Application No. 6518502GWR, Minor Amendment.

Applicant **Meadows Mobile Home Park, LLC**
 6557 Alakoko Drive
 Diamonhead, MS 39525
 [Township or Borough] Washington Township
 Responsible Official Timothy Bunta, Operator
 Meadows Mobile Home Park, LLC
 6557 Alakoko Drive
 Diamonhead, MS 39525

Type of Facility Water system
 Consulting Engineer Buchart Horn
 2200 Liberty Avenue
 Suite 300
 Pittsburgh, PA 15222

Application Received Date February 8, 2017

Description of Action Demonstration of 4-log treatment of viruses for groundwater sources for Meadows Mobile Home Park.

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:

Southeast Region: Environmental Cleanup & Brownfields Program Manager, 2 East Main Street, Norristown, PA 19401.

319 West Gay Street, 319 West Gay Street, Borough of West Chester, **Chester County**. Christopher Zeliznak, PG., EnvironSure, Inc., 319 South High Street, 1st Floor, West Chester, PA 19382 on behalf of Chad Weldon, CRW Realty, LP, 319 West Gay Street, West Chester, PA 19382 submitted a Notice of Intent to Remediate. Site soil has been found to be contaminated with leaded and unleaded gasoline compounds. The proposed future use of the property will be a combination of commercial and residential use. The Notice of Intent to Remediate was published in the *Daily Local News* on December 15, 2017.

Byberry Woods, 1282 Byberry Road, Bensalem Township, **Bucks County**. Richard Lake, Geo-Technology Associates Inc., 14 Woods Fair Drive, Somerset, NJ 08873 on behalf of Sandra DiNardo, Dauphine Building & Development, L.P., 920 Wayland Circle, Bensalem, PA 19020 submitted a Notice of Intent to Remediate. Chlorinated solvents have been identified in soil and groundwater on the site. The site is planned to be developed for residential use. The Notice of Intent to Remediate was published in the *Bucks County Courier Times* on January 12, 2018.

Eggert Residence, 545 Hallowell Avenue, Warminster Township, **Bucks County**. Jeremy Bolyn, Environmental Maintenance Company, Inc., 1420 East Mermaid Lane, Glenside, PA 19038 on behalf of Linda Eggert, 545 Hallowell Avenue, Warminster, PA 18974 submitted a Notice of Intent to Remediate. This NIR states that the site is used for residential uses, where soil was impacted by petroleum. The proposed future use of the property will remain the same. The Notice of Intent to Remediate was published in the *Intelligencer* on December 10, 2017.

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

Williams Companies-Rattlesnake Hill Facility, 87 Fuller Road, Auburn Township, **Susquehanna County**. Apex Companies, 20 Valley Stream Parkway, Suite 270, Malvern, PA 19355, on behalf of Williams Companies, 400 IST Center, Horseheads, NY 14845, submitted a Notice of Intent to Remediate. Storage tanks at this former farm property contaminated soil with # 2 heating oil and leaded gasoline. Future use of the site will be non-residential. The Notice of Intent to Remediate was published in the *The Wyoming County Examiner* on January 31, 2018.

Southcentral Region: Environmental Cleanup and Brownfields Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110. Phone 717.705.4705.

Regents Glen, Copper Beech Drive & Crows Nest Lane, York, PA 17403, Spring Garden Township, **York County**. Advantage Engineers, 435 Independence Av-

enue, Suite C, Mechanicsburg, PA 17055, on behalf of RG Services, 290 Seaks Run Road, Glen Rock, PA 17327, submitted a Notice of Intent to Remediate site soil contaminated with arsenic from use as an orchard. The site will be remediated to the Site Specific Standard. Future use of the site will be a future residential housing development. The Notice of Intent to Remediate was published in *The York Dispatch/York Sunday News* and *York Daily Record* on January 25, 2018.

4940 York Road, 4940 York Road, New Oxford, PA 17350, Oxford Township, **Adams County**. Taylor GeoServices, Inc., 38 Bishop Hollow Road, Newtown Square, PA 19073, on behalf of Michael Noble, 373 Barberry Drive, Hanover, PA 17331; Pamela Garrett, 2135 Broadway, Hanover, PA 17331; Michael Noble, 373 Barberry Drive, Hanover, PA 17331; and Ruth Noble, 315 DeGuy Avenue, Hanover, PA 17331, submitted a Notice of Intent to Remediate site soil contaminated with # 2 fuel oil. The site will be remediated to the Residential Statewide Health Standard. Future use of the site is unknown. The Notice of Intent to Remediate was published in *The Evening Sun* on January 30, 2018.

Cornwall Pump Station/Former Sunoco Quentin Terminal, 370 Horseshoe Pike, Lebanon, PA 17042, West Cornwall Township, **Lebanon County**. Aquaterra Technologies, Inc., P.O. Box 744, West Chester, PA 19381, on behalf of Pipeline Operations, a Series of Evergreen Resources Management Group, LLC, 2 Righter Parkway, Suite 200, Wilmington, DE 19803, and Sunoco Pipeline, LP, Energy Transfer, 100 Green Street, Marcus Hook, PA 19061 submitted a Notice of Intent to Remediate site soil and groundwater contaminated with leaded gasoline. The site will be remediated to the Site Specific Standard. Future use of the site will continue to be used for a pump station, and agricultural and residential purposes. The Notice of Intent to Remediate was published in the *LEB/Daily News* on January 24, 2018.

VF Outlet Complex—Parcel 9, 801 Hill Avenue, Wyomissing, PA 19610, Borough of Wyomissing, **Berks County**. Environmental Standards, Inc., 1140 Valley Forge Road, P.O. Box 810, Valley Forge, PA 19482, on behalf of Equus Capital Partners, LTD, 3200 Center Square West, 1500 Market Street, Philadelphia, PA 19102, and VF Corporation, VF Outlet, Inc., 801 Hill Avenue, Wyomissing, PA 19610, submitted a Notice of Intent to Remediate site soil contaminated with inorganics. The site will be remediated to the Site Specific Standard. Future use of the site is nonresidential. The Notice of Intent to Remediate was published in the *Reading Eagle* on February 5, 2018.

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

Kennedy 137 Natural Gas Well Pad, 4876 North Callahan Road, Wellsboro, Delmar Township, **Tioga County**. SWEPI LP, 150 North Dairy Ashford Road, E1296C, Houston, TX 77079 has submitted a Notice of Intent to Remediate site soil contaminated with produced water. The applicant proposes to remediate the site to meet the Background and Statewide Health Standards. A summary of the Notice of Remediation was published in the *Wellsboro Gazette* on January 11, 2018.

Cotton Hanlon 595 Natural Gas Well Pad, 1325 Mountain Ridge Road, Mainsburg, Sullivan Township, **Tioga County**. SWEPI LP, 150 North Dairy Ashford Road, E1296C, Houston, TX 77079 has submitted a Notice of Intent to Remediate site soil contaminated with produced water. The applicant proposes to remediate the

site to meet the Statewide Health Standard. A summary of the Notice of Remediation was published in the *Wellsboro Gazette* on January 11, 2018.

Lacey Property, 2790 State Route 642, East Chillisquaque Township, **Northumberland County**. Gary C. Calvert, LLC, P.O. Box 504, Hollidaysburg, PA 16648, on behalf of Kratzer Oil Company, Inc., 150 East Drive, Sunbury, PA 17801, has submitted a Notice of Intent to Remediate site soil contaminated with heating oil. The applicant proposes to remediate the site to meet the Statewide Health Standard.

OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE

Application received under the Solid Waste Management Act (35 P.S. §§ 6018.101—6018.1003), the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P.S. §§ 4000.101—4000.1904) and Regulations to Operate a Solid Waste Processing or Disposal Area or Site.

Northwest Region: Regional Solid Waste Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

Permit Application No. 101720. TC Recycling, LLC, 120 Hutchman Road, Mars, PA 16046 submitted an application for a new municipal waste transfer facility located in Adams Township, **Butler County**. The proposed transfer station is seeking to transfer up to 800 tons per day of municipal waste, and would like to operating hours are 24 hours/day and 7 days/week. The application was submitted to the Department on August 3, 2017 and was subject to the Local Municipality Involvement Process (LMIP). The LMIP meeting took place on November 8, 2017. The application was found to be administratively complete by the Northwest Regional Office on November 16, 2017.

Comments concerning the application should be directed to Christina S. Wilhelm, Regional Waste Management Program Manager, Department of Environmental Protection, Northwest Regional Office, 230 Chestnut Street, Meadville, PA 16335 at 814-332-6848. TDD users may contact the Department through the Pennsylvania AT&T Relay Service, (800) 654-5984. Public comments must be submitted within 60 days of this notice and may recommend revisions to, and approval or denial of the application.

Southwest Region: Regional Solid Waste Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745. Telephone 412-442-4000.

Permit ID No. 101534. Laurel Highlands Landfill, 260 Laurel Ridge Road, Johnstown, PA 15909. Application for major modification to construct and operate a 4,075,000-gallon aerated leachate pretreatment impoundment at an existing municipal waste landfill in Jackson Township, **Cambria County**. The application was received by the Department on February 1, 2018 and was deemed administratively complete by the Regional Office on February 12, 2018.

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: Norman Frederick, P.E., Environmental Engineer Manager—Telephone: 570-826-2409.

39-00004C: Mack Trucks, Inc. (700 Albutis Road, Macungie, PA 18062) for their facility in Lower Macungie Township, **Lehigh County**.

In accordance with 25 Pa. Code §§ 127.44(a) and 127.45(a), the Department of Environmental Protection (DEP) has received a Plan Approval for Mack Trucks, Inc. (700 Albutis Road, Macungie, PA 18062) for their facility in Lower Macungie Township, Lehigh County. This Plan Approval No. 39-00004C will be incorporated into a Title V Permit through an administrative amendment at a later date.

Plan Approval No. 39-00004C is for a production increase from 74 to 130 chassis per day on their “G” line Chassis spray booth and oven (Source ID 108, ID 109). The main emissions from these sources are VOCs. The project net VOC emission increase is 33.31 tons/year. The new sources will be required to comply with 25 Pa. Code § 129.52 surface coating requirements. The Plan Approval and Operating permit will contain additional recordkeeping and operating restrictions designed to keep the facility operating within all applicable air quality requirements.

Copies of the application, DEP’s analysis and other documents used in the evaluation of the application are available for public review during normal business hours at Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711.

Any person(s) wishing to provide DEP with additional information, which they believe should be considered prior to the issuance of this permit, may submit the information to the address shown in the preceding paragraph. Each written comment must contain the name, address and telephone number of the person submitting the comments, identification of the proposed permit No. 39-00004C and a concise statement regarding the relevancy of the information or objections to the issuance of the permit.

A public hearing may be held, if the Department of Environmental Protection, in its discretion, decides that such a hearing is warranted based on the comments received. All persons submitting comments or requesting a hearing will be notified of the decision to hold a hearing by publication in the newspaper or the *Pennsylvania Bulletin* or by telephone, where DEP determines such notification is sufficient. Written comments or requests for a public hearing should be directed to Ray Kempa, Environmental Group Manager, New Source Review Section, Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711, Phone 570-826-2511 within 30 days after publication date.

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

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

Contact: James A. Beach, New Source Review Chief—Telephone: 484-250-5920.

23-0123: AeroAggregates, LLC (1500 Chester Pike, Eddystone, PA 19022) for the operation of an existing natural gas-fired glass foaming tunnel kiln, an existing natural gas-fired, fluidized bed dryer, and the installation of two (2) new natural gas-fired glass foaming tunnel kilns at an existing foamed glass aggregate production facility in the Borough of Eddystone, **Delaware County**. The potential emissions of NO_x and VOCs, the facility do not trigger major facility status as a Title V facility. The operation of the glass foaming tunnel kilns and the fluidized bed dryer will not exceed the following site-wide pollutant emission limits: 24.9 tpy nitrogen oxides (NO_x) and 24.9 tpy volatile organic compounds (VOCs). The Plan Approval will contain recordkeeping requirements and operating restrictions designed to keep the facility operating within all applicable air quality requirements.

09-0295A: Airgas USA, LLC (107 Park Drive, Montgomeryville, PA 18936) for installation and operation of one spray booth for coating compressed gas cylinders located in Montgomeryville Township, **Montgomery County**. The proposed Plan Approval is for a non-Title V facility as the operation will result in Volatile Organic Compounds (VOC) emissions in the amount of 24.9 tons/year or less. It will contain monitoring, record keeping, and performance testing requirements designed to keep the facility operating within the allowable emission limitations and all applicable air quality requirements.

46-0248A: Pottstown Borough Authority (1269 Industrial Highway, Pottstown, PA 19464) for the installation of a replacement sewage sludge dryer at its existing municipal wastewater treatment plant. The facility located in Pottstown Borough, **Montgomery County**, and is a non-Title V facility.

The potentials to emit nitrogen oxides and carbon monoxide from the sludge dryer are approximately 5.3 tons/yr and 12.9 tons/yr, respectively. Potential odorous compounds in the exhaust gases of the sludge dryer will be controlled by a new biofilter. The plan approval will include monitoring, recordkeeping, reporting, and work practice requirements designed to keep the facility operating within all applicable air quality requirements.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110.

Contact: Thomas 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.

28-03026B: Gish Logging, Inc. (4980 Path Valley Road, Fort Loudon, PA 17224) to issue a plan approval to use Roaring Spring Biofuel to the existing 10 MMBtu/hr boiler at facility in Metal Township, **Franklin County**. The project emissions are estimated 11.83 tons of PM₁₀, 26.28 tons of CO, 21.46 tons of NO_x, 13.75 tons of SO_x, and 0.74 ton of VOC. The Plan Approval will include work practice standards along with monitoring,

recordkeeping and reporting requirements to ensure the facility complies with the applicable air quality regulations. DEP's review of the information submitted by the applicant indicates that the air contamination sources as constructed or modified will comply with all regulatory requirements pertaining to air contamination sources and the emission of air contaminants including the best available technology requirement (BAT) of 25 Pa. Code §§ 127.1 and 127.12. Based on these findings, the Department proposes to issue a plan approval for the proposed modification. If, after the project has been implemented, the Department determines that the sources are constructed and operated in compliance with the plan approval conditions and the specification of the application for plan approval, the requirements established in the plan approval will be incorporated into a State Only Operating Permit pursuant to the administrative amendment provisions of 25 Pa. Code § 127.450.

OPERATING PERMITS

Intent to Issue Title V Operating Permits under the Air Pollution Control Act and 25 Pa. Code Chapter 127, Subchapter G.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

Contact: Thomas Joseph, P.E., Facilities Permitting Chief—Telephone: 412-442-4336.

TVOP-65-00028: Lehigh Specialty Melting, Inc. (107 Gertrude Street, Latrobe, PA 15650-2963), In accordance with 25 Pa. Code §§ 127.424, 127.425 and 127.521, the Department of Environmental Protection (DEP) is providing notice that it intends to issue a renewal Title V Operating Permit (TVOP-65-00028) to Lehigh Specialty Melting, Inc. ("LSM") to authorize the continued operation of steel making and specialty melting shop at their Latrobe facility located in Latrobe Borough, **Westmoreland County**.

The previously installed sources include one (1) 40-ton electric arc furnace (EAF), four (4) ladle pre-heaters rated at 8.5 MMBtu/hr, six (6) heat treat furnaces rated at 133.24 MMBtu/hr, two (2) heat treat furnaces rated at 17.3 MMBtu/hr, one (1) parts washer, 3-cooling towers, miscellaneous combustion sources, and operations like teeming steel, torch cutting, and billet grinding. Fugitive emissions are controlled by three bag houses. Potential emissions from the facility are estimated to be 85.0 PM₁₀, 34.0 tons NO_x, 2.5 tons VOC, 2.0 tons HAP, and 4.5 tons SO_x. The facility is limited to 77,894 tons of annual steel production and CO emissions are limited to 243 tpy.

This facility is subject to applicable NSPS requirements of 40 CFR Part 60 and 40 CFR Part 64; New Emission Standards for Hazardous Air Pollutant area source (NESHAP) requirements of 40 CFR Part 63 Subpart YYYYYY, and State regulations per 25 Pa. Code Chapter 121—145. The facility is also subject to monitoring, record keeping, reporting, and work practice and performance testing requirements. The emergency generator is subject to the applicable requirements 40 CFR Part 63 Subpart ZZZZ and hours of operation.

LSM Title V Operating Permit ("TVOP") renewal application, the Department's Air Quality Review Memorandum, and the proposed Air Quality TVOP for this project are available for review by any interested party at the Pennsylvania Department of Environmental Protection, Southwest Regional Office, 400 Waterfront Drive, Pittsburgh, PA 15222. To request a review of the TVOP renewal application, to receive an electronic copy of the

Department's Air Quality Review Memorandum, or to receive an electronic copy of the Department's proposed Air Quality State Only Operating Permit for this project, a person may contact Thomas Kaminski at thkaminski@pa.gov or 412.442.4097.

Any person may submit comments, requests for the Department to hold a public hearing, or protests to the operating permit or a proposed condition thereof, by filing such submissions in writing to the Department at the Southwest Regional Office. A 30-day comment period from the date of this publication will exist for the submission of comments.

All comments, requests for a public hearing, and protests to a proposed action, shall be filed with the Department within 30 days of the date that notice of the proposed action was published under 25 Pa. Code § 127.424. Comments, requests for a public hearing, and protests must include the name, address and telephone number of the person filing the protest, identification of the proposed permit issuance being opposed (TVOP-65-00028) and a concise statement of the objections to the permit issuance and the relevant facts upon which the objections are based.

A public hearing may be held in accordance with 25 Pa. Code § 127.429, if the Department, in its discretion, decides that such a hearing is warranted based on the information received. If a public hearing is held, all persons who have properly filed a protest under 25 Pa. Code § 127.426 may appear and give testimony. The applicant, the protestant and other participants will be notified of the decision to hold a hearing (and the time, place and purpose of such hearing) by publication in the newspaper or by the *Pennsylvania Bulletin*, or by telephone, where the Department determines such notification by telephone is sufficient.

Comments, protests and requests for a public hearing should be directed to Jesse Parihar, Air Quality Engineering Specialist, Department of Environmental Protection, Southwest Regional Office, 400 Waterfront Drive, Pittsburgh, PA 15222 (jparihar@pa.gov, fax 412.442.4194).

Intent to Issue Operating Permits under the Air Pollution Control Act and 25 Pa. Code Chapter 127, Subchapter F.

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.

67-03055: Vulcan Construction Materials, LLC (322 N. Baker Road, York, PA 17404) for operation of a Limestone crushing at their York Plant in West Manchester Township, **York County**. The facility potential emissions are estimated 23.80 tons of PM. The Operating Permit will include emission limits and work practice standards along with monitoring, recordkeeping and reporting requirements to ensure the facility complies with the applicable air quality regulations. Among other items, the conditions include 40 CFR Part 60, Subpart OOO—Standards of Performance for Nonmetallic Mineral Processing Plants.

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

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

53-00013: C.A. Elliott Lumber Company, Inc. (PO Box 260, Roulette, PA 16746-0260) to issue a State only operating permit for their facility located in Roulette Township, **Potter County**. The facility is currently operating under State Only Operating Permit 53-00013. The facility's sources include a 4.80 million Btu per hour, wood-fired boiler, a woodworking operation and four lumber kilns. The facility has potential emissions of 10.30 tons per year of nitrogen oxides, 12.62 tons per year of carbon monoxide, 0.53 ton per year of sulfur oxides, 10.44 tons per year of particulate matter and 0.61 ton per year of volatile organic compounds. The boiler is subject to 40 CFR Part 63, Subpart JJJJJ of the National Emission Standards for Hazardous Air Pollutants for Industrial, Commercial and Institutional Boilers Area Sources. 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 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.

*Department of Public Health, Air Management Services:
321 University Avenue, Philadelphia, PA 19104.*

Contact: Edward Wiener, Chief—Telephone: 215-685-9426.

OP17-000053: Bellevue Associates (200 South Broad Street, Philadelphia, PA 19102) for a hotel in the City of Philadelphia, **Philadelphia County**. The facility's air emission sources include two (2) natural gas/No. 2 oil fired Superior Steam Boilers each rated at 12.5 MMBtu/hr.

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.

COAL AND NONCOAL MINING ACTIVITY APPLICATIONS

Applications under the Surface Mining Conservation and Reclamation Act (52 P.S. §§ 1396.1—1396.19a); the Noncoal Surface Mining Conservation and Reclamation Act (52 P.S. §§ 3301—3326); The Clean Streams Law (35 P.S. §§ 691.1—691.1001); the Coal Refuse Disposal Control Act (52 P.S. §§ 30.51—30.66); and The Bituminous Mine Subsidence and Land Conservation Act (52 P.S. §§ 1406.1—1406.20a). Mining activity permits issued in response to such applications will also address the applicable permitting requirements of the following statutes:

the Air Pollution Control Act (35 P.S. §§ 4001—4015); the Dam Safety and Encroachments Act (32 P.S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P.S. §§ 6018.101—6018.1003).

The following permit applications to conduct mining activities have been received by the Department. A copy of the application is available for inspection at the district mining office indicated before each application. Notices of requests for 401 Water Quality Certifications are included in individual application notices, as noted.

Written comments or objections, or requests for an informal conference, or a public hearing, as applicable, on a mining permit application and request for Section 401 water quality certification application may be submitted by any person or any officer or head of any Federal, State or local government agency or authority to the Department at the address of the district mining office indicated before each application within 30 days of this publication, or within 30 days after the last publication of the applicant's newspaper advertisement as provided by 25 Pa. Code §§ 77.121—77.123 and 86.31—86.34.

Written comments or objections regarding a mining permit application should contain the name, address and telephone number of persons submitting comments or objections, application number and a statement of sufficient detail to inform the Department on the basis of comment or objection and relevant facts upon which it is based.

A request for an informal conference or a public hearing, as applicable, on a mining permit application, as provided by 25 Pa. Code § 77.123 or § 86.34, must contain the name, address and telephone number of the requestor; the application number; a brief summary of the issues to be raised by the requestor at the conference; and a statement whether the requestor desires to have the conference conducted in the locality of the proposed mining activities.

When an NPDES number is listed, the mining activity permit application was accompanied by an application for an individual NPDES permit. A separate notice will be provided after the draft NPDES permit is prepared.

Coal Applications Received

California District Office: 25 Technology Drive, Coal Center, PA 15423, 724-769-1100.

30841312 and NPDES No. PA0013790. The Monongalia County Coal Company, (46226 National Road, St. Clairsville, OH 43950). To revise the permit for the Monongalia County Mine in Wayne and Gilmore Townships, **Greene County** and related NPDES Permit to widen gates in Panels 7W and 6W. No additional discharges. The application was considered administratively complete on February 6, 2018. Application received November 20, 2017.

30831303 and NPDES No. PA0013511. Cumberland Contura, LLC, (158 Portal Road, P.O. Box 1020, Waynesburg, PA 15370). To revise the permit for the Cumberland Mine in Whiteley, Center and Jackson Townships, **Greene County** and related NPDES Permit for expansion of the Cumberland Mine operations. Underground Acres Proposed 2,528.8, Subsidence Control Plan Acres Proposed 5,188.7. No additional discharge. The application was considered administratively complete on February 8, 2018. Application received December 15, 2017.

Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, 814-472-1900.

Permit No. 11970201. Maple Coal Company, 254 Interpower Drive, Colver, PA 15927, permit renewal for reclamation only of a bituminous surface mine in Barr and Blacklick Townships, **Cambria County**, affecting 47.1 acres. Receiving stream: unnamed tributaries to/and Elk Creek classified for the following use: cold water fishes. There are no potable water supply intakes within 10 miles downstream. Application received: January 24, 2018.

Permit No. 56100103 and NPDES No. PA0263036, Hoffman Mining Inc., 509 15th Street, Windber, PA 15963, commencement, operation and restoration of a bituminous surface & auger mine to change the land use from Woodland to Unmanaged Natural Habitat in Paint Township, **Somerset County**, affecting 129.5 acres. Receiving streams: unnamed tributaries to/and Stonycreek River classified for the following use: Trout Stocked Fishery. There are no potable water supply intakes within 10 miles downstream. Application received: January 17, 2018.

Permit No. 56120117 and NPDES No. PA0269182, Wilson Creek Energy, LLC, P.O. Box 260, Friedens, PA 15541, commencement, operation and restoration of a bituminous surface & auger mine to change the land use to unmanaged natural habitat in Jenner Township, **Somerset County**, affecting 241.6 acres. Receiving streams:

Hoffman Run and unnamed tributaries to Qumeahoning Creek classified for the following use: cold water fishes. The first downstream potable water supply intake from the point of discharge is Cambria—Somerset Water Authority. Application received: February 8, 2018.

Coal Applications Withdrawn

Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, 814-472-1900.

Permit No. 56140102 and NPDES No. PA0269425, Hoffman Mining Inc., 509 15th Street, Windber, PA 15963, commencement, operation and restoration of a bituminous surface & auger mine to change the land use from Woodland to Unmanaged Natural Habitat in Shade Township, **Somerset County**, affecting 141.1 acres. Receiving streams: unnamed tributary to Oven Run to Stonycreek River classified for the following use: cold water fishes. The first downstream potable water supply intake from the point of discharge is at Hooversville, PA on Stonycreek River. Application received: January 17, 2018. Application Withdrawn: February 8, 2018.

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.

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, 570-621-3118.

Permit No. 52060301C4 and NPDES No. PA0224511. Springbrook Enterprises, Inc., (504 Well Road, Hawley, PA 18428), renewal of NPDES Permit for discharge of treated mine drainage from a quarry operation in Blooming Grove Township, **Pike County** affecting 29.6 acres, receiving stream: unnamed tributary to Billings Creek to Shohola Creek, classified for the following use: high quality—cold water fishes. Application received: February 2, 2018.

Permit No. 52970301C6 and NPDES No. PA0223751. G.F. Edwards, Inc., (204 SR 435, Elmhurst Township, PA 18444), renewal of NPDES Permit for discharge of treated mine drainage from a quarry operation in Greene Township, **Pike County** affecting 173.06 acres, receiving stream: Wallenpaupack Creek, classified for the following use: high quality. Application received: February 5, 2018.

Permit No. 4873SM5C2. Kinsley Construction, Inc., (P.O. Box 2886, York, PA 17405), correction of an existing quarry operation to update the permit boundary for a total of 166.09 (adding 17.2 acres) acres, receiving stream: unnamed tributary to Codorus Creek, classified for the following use: warm water fishes. Application received: February 6, 2018.

MINING ACTIVITY NPDES DRAFT PERMITS

This notice provides information about applications for a new, amended or renewed NPDES permits associated with mining activity (coal or noncoal) permits. The applications concern industrial waste (mining) discharges to surface water and discharges of stormwater associated with mining activities. This notice is provided in accordance with 25 Pa. Code Chapters 91 and 92a and 40 CFR Part 122, implementing provisions of The Clean Streams Law (35 P.S. §§ 691.1—691.1001) and the Federal Clean Water Act (33 U.S.C.A. §§ 1251—1376).

The Department of Environmental Protection (Department) has prepared a draft NPDES permit and made a tentative determination to issue the NPDES permit in conjunction with the associated mining activity permit.

Effluent Limits for Coal Mining Activities

For coal mining activities, NPDES permits, when issued, will contain effluent limits that are the more stringent of technology-based (BAT) effluent limitations or Water Quality Based Effluent Limits (WQBEL).

The BAT limits for coal mining activities, as provided in 40 CFR Part 434 and 25 Pa. Code Chapters 87—90 are as follows:

<i>Parameter</i>	<i>30-Day Average</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>
Iron (Total)	3.0 mg/l	6.0 mg/l	7.0 mg/l
Manganese (Total)	2.0 mg/l	4.0 mg/l	5.0 mg/l
Suspended solids	35 mg/l	70 mg/l	90 mg/l
pH*		greater than 6.0; less than 9.0	
Alkalinity greater than acidity*			

* The parameter is applicable at all times.

A settleable solids instantaneous maximum limit of 0.5 ml/l applies to: surface runoff (resulting from a precipitation event of less than or equal to a 10-year 24-hour event) from active mining areas; active areas disturbed by coal refuse disposal activities; mined areas backfilled and revegetated; and all other discharges and drainage (resulting from a precipitation event of greater than 1-year 24-hour to less than or equal to a 10-year 24-hour event) from coal refuse disposal piles. Similarly, modified BAT limits apply to iron, manganese and suspended solids in surface runoff, discharges and drainage resulting from these precipitation events and those of greater magnitude in accordance with 25 Pa. Code §§ 87.102, 88.92, 88.187, 88.292, 89.52 and 90.102.

Exceptions to BAT effluent limits may be applicable in accordance with 25 Pa. Code §§ 87.102, 88.92, 88.187, 88.292, 89.52 and 90.102.

Effluent Limits for Noncoal Mining Activities

The limits for noncoal mining activities as provided in 25 Pa. Code Chapter 77 are pH 6 to 9 and other parameters the Department may require.

Discharges from noncoal mines located in some geologic settings (for example, in the coal fields) may require additional water quality based effluent limits. If additional effluent limits are needed for an NPDES permit associated with a noncoal mining permit, then the permit description specifies the parameters.

In addition to BAT or WQBEL limits, coal and noncoal NPDES permits establish effluent limitations in the form of implemented Best Management Practices (BMPs) identified in the associated Erosion and Sedimentation Plan, the Reclamation Plan and the NPDES permit application. These BMPs restrict the rates and quantities of associated pollutants from being discharged into surface waters in this Commonwealth.

More restrictive effluent limitations, restrictions on discharge volume or restrictions on the extent of mining that may occur are incorporated into an NPDES permit when necessary for compliance with water quality standards and antidegradation requirements (in accordance with 25 Pa. Code Chapters 91—96).

The procedures for determining the final effluent limits, using a mass-balance equation or model, are found in Technical Guidance Document 563-2112-115, Developing National Pollutant Discharge Elimination System (NPDES) Permits for Mining Activities. Other specific factors to be considered include public comments and Total Maximum Daily Load(s). Additional discharge limitations may apply in the event that unexpected discharges occur.

Discharge rates for surface mining activities are precipitation driven. Discharge rates for proposed discharges associated with underground mining are noted in the permit description.

Persons wishing to comment on an NPDES draft permit should submit a written statement to the Department at the address of the district mining office indicated before each draft permit within 30 days of this public notice. Comments received within the comment period will be considered in the final determinations regarding the NPDES permit applications. Comments must include the name, address and telephone number of the writer and a concise statement to inform the Department of the exact basis of a comment and the relevant facts upon which it is based.

The Department will also accept requests or petitions for a public hearing on NPDES permit applications, as provided in 25 Pa. Code § 92a.82(d). The request or petition for a public hearing shall be filed within 30 days of this public notice and contain the name, address, telephone number and the interest of the party filing the request, and state the reasons why a hearing is warranted. A public hearing may be held if the Department considers the public interest significant. If a hearing is scheduled, a notice of the hearing on the NPDES permit application will be published in the *Pennsylvania Bulletin* and a newspaper of general circulation within the relevant geographical area. When a public hearing is held, the Department will consider comments from the public hearing in the final determination on the NPDES permit application.

Coal NPDES Draft Permits

California District Office: 25 Technology Drive, Coal Center, PA 15423, 724-769-1100.

NPDES No. PA0236209 (Mining Permit No. 56131301), Wilson Creek Energy, LLC, (1576 Stoystown Road, Friedens, PA 15541). A new NPDES and mining activity permit for the Keyser Deep Mine in Conemaugh and Jenner Townships, **Somerset County**. Surface Acres Affected 40.1, Underground Acres Affected 3,971.1. Receiving stream: Roaring Run, classified for the following use: CWF. Kiski-Conemaugh River TMDL. The application was considered administratively complete on September 7, 2017. Application received May 10, 2017.

Unless otherwise noted for a specific outfall, the proposed effluent limits for all outfalls in this permit are the BAT limits described above for coal mining activities.

Outfall 001 discharges to: Roaring Run

The proposed effluent limits for Outfall 001 (Lat: 40° 10' 26" Long: 79° 1' 20") are:

Parameter		Minimum	30-Day Average	Daily Maximum	Instant. Maximum
Flow	(mgd)	-	-	Report	-
Iron	(mg/l)	-	1.5	3.0	3.8
Total Suspended Solids	(mg/l)	-	35	70	90
Manganese	(mg/l)	-	1.0	2.0	2.5
Aluminum	(mg/l)	-	0.75	0.75	-
Sulfate	(mg/l)	-	-	-	Report
Total Dissolved Solids	(mg/l)	-	-	-	Report
Chloride	(mg/l)	-	-	-	Report
Acidity, Total (as CaCO ₃)	(mg/l)	-	-	-	Report
Alkalinity, Total (as CaCO ₃)	(mg/l)	-	-	-	Report
Alkalinity Net, Total (as CaCO ₃)	(mg/l)	0.0	-	-	-
pH				9.0	
	(S.U.)	6.0	-	Max	-

Outfall 002 discharges to: Roaring Run

The proposed effluent limits for Outfall 002 (Lat: 40° 10' 22" Long: 79° 1' 51") are:

Parameter		Minimum	30-Day Average	Daily Maximum	Instant. Maximum
Flow	(mgd)	-	-	Report	-
Iron	(mg/l)	-	1.5	3.0	3.8
Total Suspended Solids	(mg/l)	-	35	70	90
Manganese	(mg/l)	-	1.0	2.0	2.5
Aluminum	(mg/l)	-	0.75	0.75	-
Sulfate	(mg/l)	-	1,170	2,340	-
Total Dissolved Solids	(mg/l)	-	2,000	4,000	-
Chloride	(mg/l)	-	-	-	Report
Acidity, Total (as CaCO ₃)	(mg/l)	-	-	-	Report
Alkalinity, Total (as CaCO ₃)	(mg/l)	-	-	-	Report
Alkalinity Net, Total (as CaCO ₃)	(mg/l)	0.0	-	-	-
pH				9.0	
	(S.U.)	6.0	-	Max	-
Osmotic Pressure	(mos/kg)	-	56	112	-
Bromide	(mg/l)	-	-	-	Report

Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, 814-472-1900.

NPDES No. PA0269182 (Mining Permit No. 56120117), Wilson Creek Energy, LLC, 1576 Stoystown Road, P.O. Box 260, Friedens, PA 15541, renewal of an NPDES permit for reclamation only of a bituminous surface and auger mine in Jenner Township, **Somerset County**, affecting 241.6 acres. Receiving stream: Hoffman Run, classified for the following use: cold water fishes. This receiving stream is included in the Kiski-Conemaugh TMDL. Application received: December 15, 2017.

Unless otherwise noted for a specific outfall, the proposed effluent limits for all outfalls in this permit are the BAT limits described above for coal mining activities.

The following stormwater outfalls discharge to Hoffman Run:

Outfall Nos.	New Outfall (Y/N)
006	N
007	N

The proposed effluent limits for the previously listed outfalls are as follows:

Outfalls: (All Weather Conditions) Parameter	30-Day Average	Daily Maximum	Instant. Maximum
Iron (mg/l)	1.5	3.0	3.7
Manganese (mg/l)	1.0	2.0	2.5
Aluminum (mg/l)	0.75	0.75	0.75
Total Suspended Solids (mg/l)	35.0	70.0	90.0
pH (S.U.): Must be between 6.0 and 9.0 standard units at all times.			
Alkalinity must exceed acidity at all times.			

Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, 814-342-8200.

NPDES No. PA0257630 (Mining Permit No. 17110105), RES Coal LLC, 224 Grange Hall Road, P.O. Box 228, Armagh, PA 15920 renewal of an NPDES permit for bituminous coal surface mining in Girard Township, **Clearfield County** affecting 233.9 acres. Receiving stream(s): Unnamed Tributaries to Bald Hill Run and Bald Hill Run, classified for the following use(s): CWF. West Branch Susquehanna River TMDL. Application received: November 7, 2017.

Unless otherwise noted for a specific outfall, the proposed effluent limits for all outfalls in this permit are the BAT limits described above for coal mining activities.

The following outfalls discharge to Bald Hill Run.

<i>Outfall No.</i>	<i>New Outfall (Y/N)</i>
001	N
002	N
003	N
004	N

The proposed effluent limits for the previously listed outfalls are as follows:

<i>Parameter</i>	<i>Minimum</i>	<i>30-Day Average</i>	<i>Daily Maximum</i>	<i>Instant. Maximum</i>
pH ¹ (S.U.)	6.0			9.0
Iron (mg/l)		3.0	6.0	7.0
Manganese (mg/l)		2.0	4.0	5.0
Aluminum (mg/l)		0.75	1.5	1.9
Alkalinity greater than acidity ¹				
Total Suspended Solids (mg/l)		35.0	70.0	90.0
Osmotic Pressure (milliosmoles/kg)			50.0 (mOsm/k)	

¹ The parameter is applicable at all times.

Noncoal NPDES Draft Permits

Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, 814-472-1900.

NPDES No. PA0124532 (Mining Permit No. 4275SM14T), New Enterprise Stone and Lime Co., Inc., P.O. Box 77 New Enterprise, PA 16664-0077, renewal of an NPDES noncoal permit for surface mining in Warriors Mark and Snyder Townships, **Huntingdon and Blair Counties**, affecting 353 acres. Receiving streams: Logan Spring Run, unnamed tributary to/and Little Juniata River, classified for the following uses: warm water fishes. Little Juniata River between Logan Spring Run and McLain Run is classified for the following use: high quality cold water fishes and Class A Wild Trout Stream. The Little Juniata River receiving stream is included in the Little Juniata River TMDL and is considered a special protection watershed. There are no potable water intakes within 10 miles downstream. Application received: January 25, 2018.

<i>Outfall Nos.</i>	<i>New Outfall (Y/N)</i>
001 (Treatment Pond)	N
002 (Sediment Pond)	N
003 (Sediment Pond)	N

The following outfall discharges to Logan Spring Run.

Outfalls: 001

<i>Parameter</i>	<i>30-Day Average</i>	<i>Daily Maximum</i>	<i>Instant. Maximum</i>
Total Suspended Solids (mg/l)	19.0	38.0	48.0
Flow	<1.0mgd		

pH (S.U.): Must be between 6.0 and 9.0 standard units at all times.
Alkalinity must exceed acidity at all times.

The following outfalls discharge to unnamed tributary to/and the Little Juniata River.

Outfalls: 002, 003

<i>Parameter</i>	<i>30-Day Average</i>	<i>Daily Maximum</i>	<i>Instant. Maximum</i>
Total Suspended Solids (mg/l)	19.0	38.0	48.0

pH (S.U.): Must be between 6.0 and 9.0 standard units at all times.
Alkalinity must exceed acidity at all times.

Knox District Mining Office: P.O. Box 669, 310 Best Avenue, Knox, PA 16232-0669, 814-797-1191.

NPDES No. PA0280551 (Permit No. 20800302). L. R. Glover (2188 Strong Road, Waterford, PA 16441) New NPDES permit for a large industrial minerals surface mine in Bloomfield Township, **Crawford County**, affecting 62.0 acres. Receiving streams: Little Federal Run, classified for the following uses: HQ-CWF. TMDL: None. Application received: January 16, 2018.

There will be no discharges from this site.

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 Common-

wealth 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.

ENVIRONMENTAL ASSESSMENTS

Cambria District: Contact Person: Patrick M. Webb, 286 Industrial Park Road, Ebensburg, PA 15931-4119.

EA 6109-001. Pennsylvania Department of Environmental Protection, Bureau of Abandoned Mine Reclamation, Cambria Office, 286 Industrial Park Road, Ebensburg, PA 15931. Abandoned Mine Land Reclamation Project, in Cranberry Township, Venango County, Pittsburgh ACOE District.

The applicant proposes to backfill four abandoned dangerous coal highwalls that total 5,500 linear feet in length and vary from 25—50 feet high. It is proposed to drain two non-discharging trapped surface stormwater

runoff areas that are impaired by acid mine drainage (AMD). The on-site adjacent acidic coal mine spoil materials will be regraded to backfill the abandoned dangerous coal highwall areas. The two non-discharging trapped surface stormwater runoff areas that are impaired with AMD total 0.98 acre. There are no associated wetlands on site due to the acidic coal mine spoils, AMD and steep to vertical topography.

(Cranberry Quadrangle 41° 21' 58" N, 79° 19' 55" W).

Central Office: Bureau of Waterways Engineering and Wetlands, Rachel Carson State Office Building, Floor 2, 400 Market Street, P.O. Box 8460, Harrisburg, PA 17105-8460.

D05-081EA. Gary McCavitt, Chairman, Wood-Broad Top-Wells Joint Municipal Authority, P.O. Box 7, Wood Township, PA 16694, Broad Top Township, Bedford County, USACOE Baltimore District.

Project proposes to replace the raw water intake structure and pipe. The project will temporarily impact approximately 0.035 acre of wetland (PEM) and permanently impact a de minimus area of wetland (PEM) equal to 0.001 acre for construction activities. The dam is located across Great Trough Creek (TSF, MF) (Saxton, PA Quadrangle; Latitude: 40.1347, Longitude: -78.1519).

D06-187EA. Joseph Atkinson, Manager, Global Advanced Metals, 650 County Line Road, P.O. Box 1608, Boyertown, PA 19512-1608, Colebrookdale Township, Berks County, USACOE Philadelphia District.

Project proposes to abandon the Cabot Mill Dam in place and return its contributory flow to the historic channel to restore approximately 500 feet of stream channel to a free-flowing condition. The project is located across Swamp Creek (TSF, MF) (Sassamansville, PA Quadrangle, Latitude: 40.3476; Longitude: -75.6166).

D63-122EA. Mr. James Ashton, 166 Valley Road, West Alexander, PA 15376, Donegal Township, Washington County, USACOE Pittsburgh District.

Project proposes to remove the Ashton South Dam to eliminate a threat to public safety and restore approximately 350 feet of stream channel to a free-flowing condition. The project is located across a tributary to Ralston Creek (HQ-WWF) (West Middletown, PA Quadrangle, Latitude: 40.1536; Longitude: -80.4916).

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

Southeast Region: Clean Water Program Manager, 2 East Main Street, Norristown, PA 19401. Phone: 484.250.5970.

NPDES No. (Type)	Facility Name & Address	County & Municipality	Stream Name (Watershed #)	EPA Waived Y/N?
PA0262013 (CAFO)	Kerwin M. King Kerwin King Duck Operation 375 Forest Manor Road Cochranville, PA 19330-9463	Chester County Upper Oxford Township	Unnamed Tributary to East Branch Big Elk Creek 7-K	Y
PA0023256 (Sewage)	Upper Gwynedd Township PO Box 1 West Point, PA 19486-0001	Montgomery County Upper Gwynedd Township	Wissahickon Creek 3-F	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?
PA0080322 IW	Greater Lebanon Refuse Authority 1610 Russell Road Lebanon, PA 17046-1425	North Lebanon Township Lebanon County	UNT of Swatara Creek in Watershed(s) 7-D	Y

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. WQG02151714, Sewage, **Kennett Township**, 801 Burrows Run Road, Chadds Ford, PA 19317-9219.

This proposed facility is located in Kennett Township, **Chester County**.

Description of Action/Activity: Construction and operation of a low pressure sewer system.

WQM Permit No. 1590413, Sewage, Transfer, **Aqua Pennsylvania Wastewater Inc.**, 762 W. Lancaster Avenue, Bryn Mawr, PA 19010-3486.

This proposed facility is located in New London Township, **Chester County**.

Description of Action/Activity: Transfer of ownership from Avon Grove School District to Aqua PA WW Inc.

WQM Permit No. WQG02151714, Sewage, **Kennett Township**, 801 Burrows Run Road, Chadds Ford, PA 19317-9219.

This proposed facility is located in Kennett Township, **Chester County**.

Description of Action/Activity: Construction and operation of a low pressure sewer system.

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

WQM Permit No. 5617403, Sewage, **Paint Borough**, 119 Hoffman Avenue, Windber, PA 15963.

This proposed facility is located in Paint Borough, **Somerset County**.

Description of Proposed Action/Activity: Proposed construction of Paint Borough Sanitary Sewer Rehabilitation Project to rehabilitate existing defective sewers.

The Pennsylvania Infrastructure Investment Authority (PENNVEST) which administers Pennsylvania's State Revolving Fund has been identified as a possible funding source. The Department's review of the Water Quality Management (Part II) Permit has not identified any significant environmental impacts resulting from this proposal.

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

WQM Permit No. WQG01251703, Sewage, **Julie & Todd Dell**, 10185 Route 98, Edinboro, PA 16412.

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

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

WQM Permit No. WQG02251701, Sewage, **North East Township Water & Sewer Authority**, 31 W Main Street, North East, PA 16428-1135.

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

Description of Proposed Action/Activity: West Law Road sewer extension.

V. NPDES Waiver Stormwater Discharges from MS4 Actions

The following waiver applications have been approved for a 5-year period. The Department is issuing waivers for the MS4s listed below in lieu of NPDES permit coverage.

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

<i>NPDES Waiver No.</i>	<i>Applicant Name & Address</i>	<i>Municipality, County</i>	<i>Receiving Water(s)/Use(s)</i>
PAG136201	North Braddock Borough 600 Anderson Street North Braddock, PA 15104	North Braddock Borough, Allegheny	Unnamed Tributary of Humms Run/WWF
PAG136360	Brownstown Borough Cambria County 350 Habicht Street Johnstown, PA 15906-3131	Brownstown Borough, Cambria	Elk Run/CWF
PAG132280	Banks Township Carbon County 350 N Pine Street Summit Hill, PA 18250-1302	Banks Township, Carbon	Unnamed Tributary to Beaver Creek
PAG132294	East Bangor Borough 204 Bray Street East Bangor, PA 18013-2204	East Bangor Borough, Northampton	Unnamed Tributary 64106 of Martins Creek and Unnamed Tributary 64108 to Martins Creek/TSF, CWF, and MF
PAI132273	Ross Township PO Box 276 Saylorsburg, PA 18353	Ross Township, Monroe	Lake Creek, Aquashicola Creek/HQ-CWF and MF
PAG132204	Weissport Borough 440 Allen Street Weissport, PA 18235	Weissport Borough, Carbon	Lehigh River/TSF and MF

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

Southcentral Region: Waterways & Wetlands Program, 909 Elmerton Avenue, Harrisburg, PA 17110, Nathan Crawford, Section Chief, Telephone 717.705.4802.

<i>Permit #</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAD670001 Issued	Goodman North American Partnership Development, LLC 189201 Von Karman Avenue Suite 1170 Irvine, CA 92612	York	Fairview and Newberry Townships	Fishing Creek (TSF, MF)
PAD360020 Issued	Solanco School District 121 South Hess Street Quarryville, PA 17566	Lancaster	Fulton Township	UNT Conowingo Creek (HQ-CWF, MF) and Wetlands

Southwest Region: Waterways & Wetlands Program, 400 Waterfront Drive, Pittsburgh, PA 15222, Dana Drake, Waterways and Wetlands Program Manager, 412-442-4000.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAD110002	Mid-Atlantic Interstate Transmission, LLC 800 Cabin Hill Drive Greensburg, PA 15601	Cambria County	Gallitzin Township	UNT to Clearfield Creek (CWF); UNT to Bradley Run (HQ-CWF); UNT to Bradley Run (CWF)

Northwest Region: Waterways & Wetlands Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

Lawrence County Conservation District, 430 Court Street, New Castle, PA 16101, 724-652-4512.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAD370004	Borough of Ellwood City 525 Lawrence Avenue Ellwood City, PA 16117	Lawrence County	Borough of Ellwood City	Connoquenessing Creek (Slippery Rock Creek) WWF

VII. Approvals to Use NPDES and/or Other General Permits

The EPA Region III Administrator has waived the right to review or object to this permit action under the waiver provision 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

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>
Town of Bloomsburg Columbia Cnty	PAC190012	Community Strategies Group Silk Mill Apartments 700 Sawmill Rd Suite 101 Bloomsburg, PA 17815	UNT to Fishing Creek	Columbia County Conservation District 702 Sawmill Rd Ste 204 Bloomsburg, PA 17815 (570) 784-1310 X 102

NOTICES

1211

<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>
Fishing Creek Twp Columbia Cnty	PAC190014	Daniel Keeney Keeney Fill Site 2821 State Route 487 Orangeville, PA 17859	Fishing Creek	Columbia County Conservation District 702 Sawmill Rd Ste 204 Bloomsburg, PA 17815 (570) 784-1310 X 102

Southwest Region: Waterways & Wetlands Program, 400 Waterfront Drive, Pittsburgh, PA 15222, Dana Drake, Waterways and Wetlands Program Manager, 412-442-4000.

<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>
Adams Township	PAC110027	Highland Sewer and Water Authority 120 Tank Drive Johnstown, PA 15904	Little Paint Creek (CWF)	Cambria County Conservation District 401 Candlelight Drive Suite 229 Ebensburg, PA 15931 (814) 472-2120
Cambria Township	PAC110032	SKJ Land Holding Company, LLC 8 Walter Lane Indiana, PA 15701	UNT to South Branch Blacklick Creek (CWF)	Cambria County Conservation District 401 Candlelight Drive Suite 229 Ebensburg, PA 15931 (814) 472-2120
Paint Borough	PAC560013	Paint Borough 119 Hoffman Avenue Windber, PA 15963	Paint Creek (CWF)	Somerset Conservation District 6024 Glades Pike Suite 103 Somerset, PA 15501 (814) 445-4652
Robinson Township Mount Pleasant Township	PAC630033	Pennsylvania Turnpike Commission 700 South Eisenhower Boulevard Harrisburg, PA 17057	Robinson Run (WWF)	Washington County Conservation District 2800 North Main Street Suite 105 Washington, PA 15301 (724) 705-7098
Canton Township	PAC630067	Running Brooke II Associates, LP 3555 Washington Road McMurray, PA 15317	Chartiers Creek (WWF)	Washington County Conservation District 2800 North Main Street Suite 105 Washington, PA 15301 (724) 705-7098
California Borough	PAC630070	California Borough 225 Third Street California, PA 15419	UNT to Pike Run (TSF)	Washington County Conservation District 2800 North Main Street Suite 105 Washington, PA 15301 (724) 705-7098
Fallowfield Township	PAC630073	Mon Valley Alliance P.O. Box 145 One Twilight Hollow Road Suite 2 Charleroi, PA 15022	UNT to Pigeon Creek (WWF)	Washington County Conservation District 2800 North Main Street Suite 105 Washington, PA 15301 (724) 705-7098

Northwest Region: Waterways & Wetlands Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

Facility Location:

<i>Municipality & County</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Worth Township, Butler County and Plain Grove Township Lawrence County	PAC100003	Love's Travel Stops & Country Stores, Inc. 10601 N. Pennsylvania Avenue Oklahoma City, OK 73120	Slippery Rock Creek CWF	Butler County Conservation District 122 McCune Drive Butler, PA 16001 724-284-5270
Springfield Township Mercer County	PAC430022	Borough of Grove City Grove City Airport 123 West Main Street Grove City, PA 16127	Unnamed tributary to Black Run CWF	Mercer County Conservation District 747 Greenville Road Mercer, PA 16137 724-662-2242
Cranberry Township Butler County	PAC100084	TOA Cranberry, L.P. Attn: Mr. David Biddison 201 King of Prussia Road Radnor, PA 19087	UNT to Brush Creek WWF	Butler County Conservation District 122 McCune Drive Butler, PA 16001 724-284-5270

General Permit Type—PAG-03

Facility Location:

<i>Municipality & County</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Hempfield Township Westmoreland County	PAR116138 A-2	Baker Hughes Oilfield Operations LLC 2001 Rankin Rd Houston, TX 77073	Unnamed Tributary to Wilson Run—19-D	DEP Southwest Regional Office Clean Water Program 400 Waterfront Drive Pittsburgh, PA 15222-4745 412.442.4000
Pittsburgh City Allegheny County	PAG036218	Arrow Material Svcs LLC 2605 Nicholson Road Suite 5200 Sewickley, PA 15143	Chartiers Creek—20-F	DEP Southwest Regional Office Clean Water Program 400 Waterfront Drive Pittsburgh, PA 15222-4745 412.442.4000
Pittsburgh City Allegheny County	PAG036204	Sunoco Partners Market & Terminal LP 1801 Market Street Philadelphia, PA 19103-1628	Allegheny River—18-A	DEP Southwest Regional Office Clean Water Program 400 Waterfront Drive Pittsburgh, PA 15222-4745 412.442.4000
Jefferson Hills Borough Allegheny County	PAG036215	Durham School Service LP 2601 Navistar Dr. Bldg 5 Lisle, IL 60532	Unnamed Tributary to Peters Creek and Peters 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

Facility Location:

<i>Municipality & County</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Franklin Township Erie County	PAG041225	Julie & Todd Dell 10185 Route 98 Edinboro, PA 16412	Unnamed Tributary of Little Elk Creek—15-A	DEP Northwest Regional Office Clean Water Program 230 Chestnut Street Meadville, PA 16335-3481 814.332.6942

*General Permit Type—PAG-10**Facility Location:
Municipality &
County*

North Beaver
Township
Lawrence County

Permit No.
PAG108335

Applicant Name & Address
Kiewit Power Constructors Co.
3418 Howard Drive
New Castle, PA 16102

*Receiving
Water/Use*
Unnamed Tributary
of Mahoning
River—20-B

*Contact Office &
Phone No.*
DEP Northwest
Regional Office
Clean Water Program
230 Chestnut Street
Meadville, PA
16335-3481
814.332.6942

*General Permit Type—PAG-12**Facility Location
Municipality &
County*

Lower Mahanoy
Township
Northumberland
County

Permit No.
PAG124821

Applicant Name & Address
Just-A-Mere Family Farm LLC
3746 Mahantongo Creek Road
Dalmatia, PA 17017-7235

*Receiving
Water/Use*
Unnamed Tributary
to Mahantongo
Creek—6-C

*Contact Office &
Phone No.*
DEP Northcentral
Regional Office Clean
Water Program
208 W Third Street
Suite 101
Williamsport, PA
17701-6448
570.327.3636

*General Permit Type—PAG-13**Facility Location
Municipality &
County*

Cheswick Borough
Allegheny County

Permit No.
PAG136322

Applicant Name & Address
Cheswick Borough
Allegheny County
220 South Atlantic Avenue
Cheswick, PA 15024-0235

*Receiving
Water/Use*
Allegheny
River—18-A

*Contact Office &
Phone No.*
DEP Southwest
Regional Office
Clean Water Program
400 Waterfront Drive
Pittsburgh, PA
15222-4745
412.442.4000

Verona Borough
Allegheny County

Permit No.
PAG136323

Applicant Name & Address
Verona Borough
Allegheny County
736 E Railroad Avenue
Verona, PA 15147-1165

*Receiving
Water/Use*
Allegheny River and
Plum Creek—18-A

*Contact Office &
Phone No.*
DEP Southwest
Regional Office Clean
Water Program
400 Waterfront Drive
Pittsburgh, PA
15222-4745
412.442.4000

Ross Township
Allegheny County

Permit No.
PAG136221

Applicant Name & Address
Ross Township
Allegheny County
1000 Ross Municipal Road
Pittsburgh, PA 15237-3102

*Receiving
Water/Use*
Nelson Run,
Unnamed Tributary
to Girtys Run,
Spruce Run, Harts
Run, Unnamed
Tributary to Ohio
River, Unnamed
Tributary to Spruce
Run, Little Pine
Creek, Unnamed
Tributary to Little
Pine Creek,
Unnamed Tributary
of Ohio River,
Unnamed Tributary
to Nelson Run,
Girtys Run, and
McKnight
Run—20-G and 18-A

*Contact Office &
Phone No.*
DEP Southwest
Regional Office
Clean Water Program
400 Waterfront Drive
Pittsburgh, PA
15222-4745
412.442.4000

<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>
Bridgeville Borough Allegheny County	PAG136203	Bridgeville Borough Allegheny County 425 Bower Hill Road Bridgeville, PA 15017	Painters Run and McLaughlin Run—20-F	DEP Southwest Regional Office Clean Water Program 400 Waterfront Drive Pittsburgh, PA 15222-4745 412.442.4000
Shaler Township Allegheny County	PAG136146	Shaler Township Allegheny County 300 Wetzel Road Glenshaw, PA 15116	Pine Creek, Unnamed Tributary to Girtys Run, Little Pine Creek, Unnamed Tributary of Girtys Run, Unnamed Tributary to Pine Creek, Unnamed Tributary of Pine Creek, and Girtys Run—18-A	DEP Southwest Regional Office Clean Water Program 400 Waterfront Drive Pittsburgh, PA 15222-4745 412.442.4000
Lehighon Borough Carbon County	PAG132291	Lehighon Borough One Constitution Avenue P.O. Box 29 Lehighon, PA 18235-0029	Mahoning Creek, UNT 1 to Mahoning Creek, UNT 2 to Mahoning Creek (CWF/MF) and Lehigh River (TSF/MF)	DEP Northeast Regional Office Clean Water Program 2 Public Square Wilkes-Barre, PA 18701-1915 570.826.2511
Kenhorst Borough Berks County	PAG133515	Kenhorst Borough Berks County 339 S Kenhorst Boulevard Reading, PA 19607-2038	Angelica Creek and Unnamed Tributary to Angelica Creek—3-C	DEP Southcentral Regional Office Clean Water Program 909 Elmerton Avenue Harrisburg, PA 17110-8200 717.705.4800
Hamburg Borough Berks County	PAG133722	Hamburg Borough Berks County 61 North 3rd Street Hamburg, PA 19526	Schuylkill River and Unnamed Tributary to Schuylkill River—3-B	DEP Southcentral Regional Office Clean Water Program 909 Elmerton Avenue Harrisburg, PA 17110-8200 717.705.4800
Amity Township Berks County	PAG133511	Amity Township Berks County 2004 Weavertown Road Douglassville, PA 19518-8971	Unnamed Tributary to Schuylkill River and Manatawny Creek—D	DEP Southcentral Regional Office Clean Water Program 909 Elmerton Avenue Harrisburg, PA 17110-8200 717.705.4800
Robeson Township Berks County	PAG133525	Robeson Township Berks County 8 Boonetown Road Birdsboro, PA 19508-8317	Schuylkill River, Seidel Creek, and Unnamed Tributary to Allegheny Creek—3-C	DEP Southcentral Regional Office Clean Water Program 909 Elmerton Avenue Harrisburg, PA 17110-8200 717.705.4800
Tilden Township Berks County	PAG133744	Tilden Township Berks County 874 Hex Highway Hamburg, PA 19526	Schuylkill River, Unnamed Tributary to Schuylkill River, and Hassler Run— 3-B	DEP Southcentral Regional Office Clean Water Program 909 Elmerton Avenue Harrisburg, PA 17110-8200 717.705.4800

*Facility Location
Municipality &
County*

Permit No.

Applicant Name & Address

*Receiving
Water/Use*

*Contact Office &
Phone No.*

Harrisburg City
Dauphin County

PAG133689

Dauphin County
1451 Peters Mountain Road
Dauphin, PA 17018-9504

Spring Creek,
Unnamed Tributary
to Susquehanna
River, Paxton Creek,
and Unnamed
Tributary to Manada
Creek—7-C and 7-D

DEP Southcentral
Regional Office Clean
Water Program
909 Elmerton Avenue
Harrisburg, PA
17110-8200
717.705.4800

Leesport Borough
Berks County

PAG133527

Leesport Borough
Berks County
PO Box 710
Leesport, PA 19533-0710

Schuylkill River and
Unnamed Tributary
to Schuylkill
River—3-B

DEP Southcentral
Regional Office
Clean Water Program
909 Elmerton Avenue
Harrisburg, PA
17110-8200
717.705.4800

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.

Northeast Region: Safe Drinking Water Program Manager, 2 Public Square, Wilkes-Barre, PA 18701-1915.

Permit No. 4818501MA, Public Water Supply.

Applicant **Bethlehem Authority**
10 East Church Street
Bethlehem, PA 18018-6005

[Borough or Township] East Allen Township

County **Northampton**

Type of Facility PWS

Consulting Engineer Mr Steven G Lowry, PE
Steven G Lowry & Associates Inc
3708 Leyland Dr
Mechanicsburg, PA 17050-9165

Permit to Construct Issued 2/6/2018

Permit No. 3390024, Operations Permit, Public Water Supply.

Applicant **City of Allentown**
641 S. 10th St., 3rd Floor
Allentown, PA 18103

[Borough or Township] City of Allentown &
South Whitehall Township

County **Lehigh**

Type of Facility PWS

Consulting Engineer Mr. P. Matthew Grapes, PE
Gannett Fleming Inc.
PO Box 67100
Harrisburg, PA 17106

Permit to Operate Issued 2/06/2018

Southcentral Region: Safe Drinking Water Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

Permit No. 2217511, Minor Amendment, Public Water Supply.

Applicant **SUEZ Water Pennsylvania**

Municipality Susquehanna Township

County **Dauphin**

Responsible Official John D. Hollenbach,
Vice-President
4211 East Park Circle
Harrisburg, PA 17111-0151

Type of Facility The replacement of gas chlorination at the Rockville Raw Water Pump Station with a calcium hypochlorite tablet chlorinator feed system.

Consulting Engineer Daniel Cargnel, P.E.
Buchart Horn Inc
3700 Koppers Street
Baltimore, MD 21227

Permit to Construct 2/6/2018
Issued

Operation Permit No. 3817504 MA issued to: **City of Lebanon Authority (PWS ID No. 7380010)**, Swatara Township, **Lebanon County** on 2/2/2018 for facilities approved under Construction Permit No. 3817504 MA.

Northcentral Region: Safe Drinking Water Program Manager, 208 West Third Street, Suite 101, Williamsport, PA 17701-6448.

Permit No. 0817503MA—Operation—Public Water Supply.

Applicant **Northeast Bradford School District**
Township/Borough Orwell Township
County **Bradford County**
Responsible Official Mr. William J. Clark
Northeast Bradford School District
526 Panther Lane
Rome, PA 18837
Type of Facility Public Water Supply
Consulting Engineer N/A
Permit Issued February 6, 2018
Description of Action Authorizes Northeast Bradford School District to stop fluoridation of the water served to the Northeast Bradford Elementary School.

Permit No. 1717507—Construction—Public Water Supply.

Applicant **BCI Municipal Authority**
Township/Borough Gulich Township
County **Clearfield County**
Responsible Official Mr. Paul Winslow
BCI Municipal Authority
625 Cressview Street Exit
Irvona, PA 16656
Type of Facility Public Water
Supply-Construction
Consulting Engineer Louis Seidel PE
Stiffler McGraw & Associates,
Inc.
1731 N Juniata St.
Hollidaysburg, PA 16648
Permit Issued February 6, 2018
Description of Action Authorizes development of Well Nos. 1 and 2 as additional sources of supply, including transmission mains and related appurtenances, chemical treatment facilities, including sodium hydroxide for pH adjustment, sodium hypochlorite for disinfection, and blended phosphate for iron and manganese sequestration, 4-log inactivation of viruses via detention piping, and upgrade of the existing high service pump station.

Permit No. 5317503MA—Construction—Public Water Supply.

Applicant **Coudersport Borough Municipality**
Township/Borough Coudersport Township
County **Potter County**
Responsible Official Mr. Beverly A. Morris, Manager
Coudersport Borough Authority
201 S. West Street
Coudersport, PA 16915
Type of Facility Public Water
Supply-Construction
Consulting Engineer Patrick J. Ward
Uni-Tech Consulting Engineers,
Inc.
2007 Cato Avenue
State College, PA 16801
Permit Issued February 8, 2018
Description of Action Authorizes installation of a potable bulk water loading station from which customers may withdraw a maximum of 80,000 gallons per day.

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

Permit No. 3017512, Public Water Supply.

Applicant **Southwestern Pennsylvania Water Authority**
PO Box 187
1442 Jefferson Road
Jefferson, PA 15344
[Borough or Township] Cumberland & Monongahela Townships; and Greensboro Borough
County **Greene**
Type of Facility Dunkard Valley water system project
Consulting Engineer Bankson Engineers, Inc.
267 Blue Run Road
Suite 200
Cheswick, PA 15024
Permit to Construct Issued February 6, 2018

Permit No. 0217538, Public Water Supply.

Applicant **Wilksburg-Penn Joint Water Authority**
2200 Robinson Boulevard
Pittsburgh, PA 15221
[Borough or Township] Penn Hills Township
County **Allegheny**
Type of Facility Nadine pump station chemical addition
Consulting Engineer Hatch Chester
Gateway View Plaza
1600 West Carson Street
Pittsburgh, PA 15219
Permit to Construct Issued February 9, 2018

Operations Permit issued to: **Municipal Authority of Westmoreland County**, 124 Park & Pool Road, New Stanton, PA 15672, (PWSID # **5260036**) Dunbar Township, **Fayette County** on February 8, 2018 for the operation of facilities approved under Construction Permit # 2618503.

Operations Permit issued to: **East Dunkard Water Authority**, PO Box 241, 2790 South Eighty-Eight Road, Dilliner, PA 15327, (PWSID # **5300012**) Dunkard Township, **Greene County** on January 31, 2018 for the operation of facilities approved under Construction Permit # 3016508.

Operations Permit issued to: **Municipal Authority of Westmoreland County**, 124 Park & Pool Road, New Stanton, PA 15672, (PWSID # **5650032**) Salem Township, **Westmoreland County** on January 29, 2018 for the operation of facilities approved under Construction Permit # 6513509.

Operations Permit issued to: **Municipal Authority of Westmoreland County**, 124 Park & Pool Road, New Stanton, PA 15672, (PWSID # **5260036**) Forward Township, **Allegheny County** on January 29, 2018 for the operation of facilities approved under Construction Permit # 2617506.

Operations Permit issued to: **Municipal Authority of Westmoreland County**, 124 Park & Pool Road, New Stanton, PA 15672, (PWSID # **5260036**) Forward Township, **Allegheny County** on January 29, 2018 for the operation of facilities approved under Construction Permit # 2617505.

Permit No. 0217540MA, Minor Amendment. Public Water Supply.

Applicant	Township of Neville 5050 Grand Avenue Pittsburgh, PA 15225
[Borough or Township]	Neville Township
County	Allegheny
Type of Facility	Robinson Road interconnection
Consulting Engineer	Lennon, Smith, Souleret Engineering, Inc. 846 Fourth Avenue Coraopolis, PA 15108
Permit to Construct Issued	February 8, 2018

Permit No. 3017512, Minor Amendment. Public Water Supply.

Applicant	Southwestern Pennsylvania Water Authority PO Box 187 1442 Jefferson Road Jefferson, PA 15344
[Borough or Township]	Cumberland & Monongahela Townships; and Greensboro Borough
County	Greene
Type of Facility	Dunkard Valley water system project
Consulting Engineer	Bankson Engineers, Inc. 267 Blue Run Road Suite 200 Cheswick, PA 15024
Permit to Construct Issued	February 6, 2018

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

Operation Permit issued to **Ridgway Borough**, **PWSID No. 640012**, Ridgway Borough, **Elk County**. Permit Number 2417501 issued February 8, 2018 for the operation of previously unpermitted booster stations.

SEWAGE FACILITIES ACT PLAN APPROVAL

Plan Approvals Granted Under the Pennsylvania Sewage Facilities Act (35 P.S. § 750.5).

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

Plan Location:

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Tobyhanna Township	105 Government Center Way Pocono Pines, PA 18350	Monroe

Plan Description: The Tobyhanna Township Act 537 Official Sewage Plan Revision, approved by DEP on February 09, 2018, includes the Ownership Transfer of the Tobyhanna Wastewater Treatment Plant (WWTP) and Sewage Collection System from Tobyhanna Township to Aqua Pennsylvania Wastewater Inc. The ownership changes occurred on June 30, 2017. The remainder of the existing PA DEP approved Tobyhanna Township Act 537 Plan remains unchanged.

The Department's review of the Tobyhanna Township Act 537 Official Sewage Plan Revision, dated November 2017, has not identified any significant environmental impacts resulting from the proposal. Any required NPDES Permits or WQM Permits for Ownership Transfer must be obtained in the name of Aqua Pennsylvania Wastewater Inc.

HAZARDOUS SITES CLEAN-UP UNDER THE ACT OF OCTOBER 18, 1988

Notice of Proposed Interim Response Remacor Site, Taylor Township, Lawrence County

The Department of Environmental Protection (Department), under the authority of the Hazardous Sites Cleanup Act (HSCA) (35 P.S. §§ 6020.102—6020.1303), is proposing an interim response at the Remacor Site (Site), Taylor Township, Lawrence County, Pennsylvania. The Site is comprised of 45 acres and is located at 204 Industrial Street, West Pittsburgh, PA 16160 in Taylor Township, Lawrence County, Pennsylvania.

The Site was previously operated and owned by Reactive Metals & Alloys Corporation (RMA), a metal processing company. The Site was previously developed as an industrial complex, containing multiple manufacturing buildings, laboratories, office buildings, processing and storage areas. Taylor Township maintains an office building adjacent to the Site entrance and maintenance sheds along the Beaver River on the west side of the Site. The former manufacturing facility structures on the Site are all in various states of disrepair.

United States Environmental Protection Agency (USEPA) and the Department, through their contractors, conducted investigations of the Site between 2007 and 2015 to characterize and evaluate environmental and building conditions. Site investigations identified soils, wastes, and groundwater impacted with metals, volatile

organic compounds, and radiological contaminants. Additionally, elevated levels of radiological contaminants were found inside and adjacent to several onsite buildings. Contractors were unable to completely characterize radiological contamination within, under, and directly adjacent to certain structures due to the deteriorated and unsafe buildings on Site. Once the issue of the unstable buildings has been resolved, soils and groundwater cleanup will be addressed in a separate remedial response.

The Departments Remedial Action Objectives (RAO) for the Site include: 1) protect the public and environmental receptors from direct contact exposure to radiologically contaminated building materials and physical risks associated with structurally unsound buildings; 2) demolish structurally unsound buildings so that future investigation and remediation of radiologically and chemically contaminated site soils can be completed to protect the public and environmental receptors from site-related hazardous substances; and 3) comply with applicable Federal, State, and local regulations. The objectives are based on the premise that: 1) if the buildings are demolished and properly disposed, the threat of protecting the public from radiologically contaminated building materials is achieved; and 2) if the buildings are demolished and properly disposed, contaminated soils located between and potentially beneath the buildings can be safely assessed and addressed to protect public and ecological receptors from exposure to Site contaminants.

To achieve RAOs, the following alternatives were developed for the Site, including: 1) no action alternative which is required for all alternative comparisons; 2) building demolition and shipment of all demolition debris offsite (Removal); and 3) building demolition and shipment of radiologically contaminated building debris offsite with clean material used onsite (Selective Removal).

Alternative 1: This alternative would involve no further action to reduce threats posed by the Site.

Alternative 2: This alternative would include the demolition, removal and offsite disposal of all demolition wastes including:

- Demolition of all Site buildings, and building slabs will remain in place;
- Offsite disposal of masonry/concrete materials, steel, and radioactive Low Level or High-Level Low Specific Activity (LSA) material to an approved waste processing facility; and
- Regrading, establishment of soil cover, and revegetation of disturbed areas.

Alternative 3: This alternative would include the demolition, removal and offsite disposal of selective Site wastes including:

- Demolition of all Site buildings, and building slabs will remain in place;
- Uncontaminated masonry/concrete materials will be crushed and disposed onsite;
- Offsite disposal of steel and either Low Level or High Level LSA material to an approved waste processing facility; and
- Regrading, establishment of soil cover, and revegetation of disturbed areas.

Each alternative was evaluated with respect to four comparison criteria of: 1) the extent to which each alternative protects the public health and the environment (effectiveness); 2) the extent to which each alternative is feasible, effective, implementable and permanent

(implementability); 3) the relative cost of each alternative (cost); and 4) the extent to which each alternative complies with or otherwise addresses Applicable or Relevant and Appropriate Response (ARARs). These criteria are derived from the remedy evaluation criteria set forth in Section 304(j) of Act 2, and in Section 504(a) of HSCA. A comparative analysis evaluated advantages and disadvantages of each alternative.

Pursuant to Section 505(b) of HSCA, 35 P.S. § 6020.505(b), the Department proposes Alternative 3 as an interim response at the site. Alternative 3 is proposed because it would, in the most cost-effective manner, protect the public and environmental receptors from direct contact with site-related hazardous substances and allow for further Site characterization within and near demolished building footprints.

The response protects the public health and environment; complies with or otherwise addresses all ARARs relating to contaminated demolition materials and disposal, is feasible, implementable, permanent and effective to the maximum extent practicable; and is cost effective. The proposed action addresses the identified immediate threats to human health and the environment.

The proposed interim response is not a final remedial response pursuant to Section 504 of HSCA, and, therefore, is not required to meet the cleanup standards that apply to final remedial responses. The proposed interim response is consistent, however, with any potential future remedial actions and future investigation activities.

This notice is being provided pursuant to Section 506(b) of HSCA. The administrative record, which contains the information that forms the basis and documents the selection of this response, is available for public review and comment. The administrative record is located at the Department's Northwest Regional Office, 230 Chestnut Street, Meadville, PA 16335, and is available for review Monday through Friday from 8:00 a.m. to 4:00 p.m. Please telephone for an appointment at: 814-332-6648.

The administrative record will be open for comment from February 24, 2018 until May 25, 2018. Persons may submit written comments into the record during this time only. Comments should be sent to Mr. Jacob Moore, Project Manager, at the Department's Northwest Regional Office or by delivering them to the office in person.

The Department will hold a public meeting on March 28, 2018 at 6:00 p.m., to briefly describe the Department's proposed interim response and answer questions from the public. The meeting will be held at the Taylor Township Building, located at 218 Industrial Street in West Pittsburgh, PA 16160. Also, the public will have an opportunity to present oral comments, for inclusion into the administrative record, regarding the proposed interim response, at a public hearing immediately following the public meeting at 7:00 PM. Persons wishing to pre-register to present oral comments at the public hearing can call Mr. Moore at (814) 332-6648.

Persons with a disability who wish to attend the meeting or hearing and require auxiliary aid, service or other accommodations to participate in the proceedings, should call Mr. Moore or through the Pennsylvania AT&T Relay Service at 1-800-654-5984 (TDD) to discuss how the Department may accommodate their needs.

**Notice of Prompt Interim Response and
Public Hearing
Rose Valley TCE Investigation, Gamble Township,
Lycoming County**

The Department of Environmental Protection (Department), under the authority of the Hazardous Sites Cleanup Act (HSCA) (35 P.S. §§ 6020.101—6020.1305), has initiated a prompt interim response at homes located near Rose Valley Lake in Gamble Township, Lycoming County, PA. This response has been initiated pursuant to Sections 501(a) and 505(b) of the HSCA (35 P.S. §§ 6020.501(a) and 6020-505(b)).

The Rose Valley TCE Investigation Site currently consists of six homes with water supply wells impacted by trichloroethene (TCE) in concentrations of 1 ppb or greater. The homes are geographically located to the north and northeast of Rose Valley Lake on Lake Road, Kibbe Lane, Drifty Lane, and Rose Valley Road, in Gamble Township.

The primary concern in this case is for human health of those residents living in these homes and consuming the drinking water, and/or utilizing it for bathing and cooking purposes. The concentrations of TCE that are present in supply wells approaches or exceeds the Statewide cleanup standards promulgated under the Land Recycling and Environmental Cleanup Standards Act (Act 2).

The objective of this prompt interim response is to provide treatment systems to remove the TCE in the water supplies to these homes to ensure the residents are consuming water with concentrations below the Statewide Health Standards for TCE.

The remediation alternatives at this Site include 1) No action. This alternative would provide no protection for the residents. 2) Requiring the residents to install treatment systems on their own. This alternative would not ensure that the proper treatment systems were being installed, and would create a financial burden for residents who did not cause or contribute to the contamination that is present. 3) Providing treatment systems for the residents utilizing HSCA funding, with ongoing maintenance of the treatment systems being the responsibility of the property owner. This alternative ensures that adequate treatment systems will be installed, and does not require the residents to incur the initial costs of installation.

The preferred remedy is alternative 3, as it allows the Department to work with a contractor to ensure that the treatment systems are adequate for each home, and it does not require the residents to incur the cost of installation. The property owners will be responsible for any ongoing maintenance of the systems following installation.

The prompt interim response has included the decision to initiate alternative 3 and to hire a contractor to conduct installation of the treatment systems for the residents. Meetings between the contractor and home owners were scheduled to determine the best treatment technology for each residence.

This notice is being provided pursuant to Section 506(b) of HSCA. The administrative record which contains the information that forms the basis and documents the selection of this response action is available for public review and comment. The administrative record is located at the DEP Northcentral Regional Office at 208 West Third Street, Williamsport, PA. Call 570-327-3636 to set up a review of the file at this location. The administrative record is also available at the Gamble Township Building,

17 Beech Valley Road, Trout Run, PA. Call 570-998-9483 to make an appointment with Gamble Township to review the file.

The administrative record will be open for comment from February 26, 2018 until May 31, 2018. Person may submit written comments into the record during this time only, by sending them to Cheryl Sinclair at 208 West Third Street, Williamsport, PA 17701, or by delivering them to this office in person. Person may also submit written comments via e-mail to csinclair@pa.gov.

A combined public meeting and hearing will be held by the Department on Monday, March 26, at the Gamble Township Community Hall, 17 Beech Valley Road, Trout Run, PA. The public meeting will begin at 6:00 p.m., when DEP staff will discuss the site contamination and the selected alternative with the public. The public hearing will follow at 7:00 p.m., at which time formal testimony from the public will be accepted for inclusion in the administrative record. Persons wishing to present comments at the hearing should register in advance with Megan Lehman by telephone at 570-327-3659 or by email at meglehman@pa.gov, or onsite prior to the start of the hearing.

Persons with a disability who wish to attend the hearing and require auxiliary aid, service or other accommodations to participate in the proceedings, should call Megan Lehman at 570-327-3659 or through the Pennsylvania AT&T Relay Service at 1-800-654-5984 (TDD) to discuss how the Department may accommodate their needs.

**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:

Southeast Region: Environmental Cleanup Program Manager, 2 East Main Street, Norristown, PA 19401.

3222-3258 H Street, 3222 H Street, City of Philadelphia, **Philadelphia County**. Angelo Waters, PE, Urban Engineers, Inc., 530 Walnut Street, Philadelphia, PA 19106 on behalf of Susan Post, Esperanza Health Center, 4417 North 6th Street, Philadelphia, PA 19140 submitted a Remedial Investigation Report/Cleanup Plan concerning the remediation of site soil and groundwater contaminated with PAHs and lead. The report is intended to document remediation of the site to meet the site-specific standard.

AAA Car Care Center, 533 West Baltimore Avenue, Clifton Height Borough, **Delaware County**. Jeffery T. Bauer, PG., Whitestone Associates, Inc., 1600 Manor Drive, Suite 220, Chalfont, PA 18914 on behalf of Matthew J. Kelly, SN&JN, LP c/o: Metro Commercial Management, 307 Fellowship Road, Suite 300, Mt Laurel, NJ 08054 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.

St. Laurentius Church, 1608 East Berk Street, City of Philadelphia **Philadelphia County**. Christopher Orzechowski, PG, Keating Environmental Management Inc., 1 Bacton Hill Road, North Building, Suite 107, Frazer, PA 19355 on behalf of James Bock, The Archdioceses of Philadelphia, 222 North 17th Street, Philadelphia, PA 19103 submitted a Final Report concerning remediation of site soil and groundwater contaminated with No. 2 fuel oil. The report is intended to document remediation of the site to meet the site-specific standard.

Eggert Residence, 5545 Hallowed Avenue, Warminster Township, **Bucks County**. Jeremy W. Bolyn, Environmental Maintenance, 1420 East Mermaid Lane, Glenside, PA 19038 on behalf of Linda Eggert, 545 Hallowewell Avenue, Warminster, PA 18974 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.

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

Williams Companies-Rattlesnake Hill Facility, 87 Fuller Road, Auburn Township, **Susquehanna County**. Apex Companies, 20 Valley Stream Parkway, Suite 270, Malvern, PA 19355, on behalf of Williams Companies, 400 IST Center, Horseheads, NY 14845, submitted a Final Report concerning remediation of site soils contaminated with # 2 heating oil and leaded gasoline. The report is

intended to document remediation of the site to meet non-residential Statewide Health Standards.

Schuylkill Community Action, 118 West Main Street, Girardville Borough, **Schuylkill County**. Black-Rock Environmental LLC, PO Box 288, Nazareth, PA 18064, on behalf of Schuylkill Community Action, 225 North Centre Street, Pottsville, PA 17901, submitted a final report concerning remediation of site soils contaminated with gasoline. The report is intended to document remediation of the site to meet residential Statewide Health Standards.

Southcentral Region: Environmental Cleanup and Brownfields Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110. Phone 717.705.4705.

4940 York Road, 4940 York Road, New Oxford, PA 17350, Oxford Township, **Adams County**. Taylor GeoServices, Inc., 38 Bishop Hollow Road, Newtown Square, PA 19073, on behalf of Michael Noble, 373 Barberry Drive, Hanover, PA 17331; Pamela Garrett, 2135 Broadway, Hanover, PA 17331; Michael Noble, 373 Barberry Drive, Hanover, PA 17331; and Ruth Noble, 315 DeGuy Avenue, Hanover, PA 17331, submitted a Final Report concerning remediation of site soil contaminated with heating oil. The report is intended to document remediation of the site to meet the Residential Statewide Health Standard.

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

Harry BRA Pad, 12101 U.S. Route 6, West Burlington Township, **Bradford County**. Leidos, Inc., 6310 Allentown Blvd, Suite 110, Harrisburg, PA 17112, on behalf of Chesapeake Appalachia, LLC, 300 N. 2nd Street, 5th Floor, Harrisburg, PA 17101, has submitted a Final Report concerning remediation of site soil contaminated with produced water. The report is intended to document remediation of the site to meet the Background and Statewide Health Standards.

COP Tract 231 Pad D, 130 Tall Man Lane, Snow Shoe Township, **Centre County**. Groundwater & Environmental Services, Inc., 440 Creamery Way, Suite 500, Exton, PA 19431, on behalf of Alta Resources, 33 West Third Street, Suite 300, Williamsport, PA 17701, has submitted a Final Report concerning remediation of site soil contaminated with organics. The report is intended to document remediation of the site to meet the Statewide Health Standards.

Kennedy 137 Natural Gas Well Pad, 4876 North Callahan Road, Wellsboro, Delmar Township, **Tioga County**. SWEPI LP, 150 North Dairy Ashford Road, E1296C, Houston, TX 77079 has submitted a Final Report concerning site soil contaminated with produced water. The report is intended to document remediation of the site to meet the Background and Statewide Health Standard requirements.

Cotton Hanlon, 595 Natural Gas Well Pad, 1325 Mountain Ridge Road, Mainsburg, Sullivan Township, **Tioga County**. SWEPI LP, 150 North Dairy Ashford Road, E1296C, Houston, TX 77079 has submitted a Final Report concerning remediation of site soil contaminated with produced water. The report is intended to document remediation of the site to meet the Statewide Health Standard requirements.

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:

Southeast Region: Environmental Cleanup Program Manager, 2 East Main Street, Norristown, PA 19401.

Shacklett Realty L.P. Property, Cedar Grove Road, Whitmarsh Township, **Montgomery County**. Terance A. O'Reilly, TriState Environmental Management Services, 368 Dunksferry Road, Bensalem, PA 19020 behalf of Michael Richardson, Toll PA XIV, LP, 250 Gibraltar Road, Horsham, PA 19044 submitted a Final Report

concerning the remediation of site soil contaminated with metals. The Final Report demonstrated attainment of the Statewide health standard and was approved by the Department on January 22, 2018.

Bruner Residence, 3434 Little Road, Upper Frederick Township, **Montgomery County**. Richard D. Trimpi, Trimpi Associates, Inc., 1635 Old Plains Road, Pennsburg, PA 18073 on behalf of Brian Matarese, State Farm Insurance Company, PA Fire Claims, PO Box 106169, Atlanta, GA 30348-6169 submitted a Final Report concerning the remediation of site soil and groundwater contaminated with No. 2 fuel oil. The Final Report demonstrated attainment of the Statewide health standard and was approved by the Department on December 27, 2017.

300-302 MacDade Boulevard Property, 300-302 MacDade Boulevard, Collingdale Borough, **Delaware County**. Richard S. Werner, P.G., Environmental Consulting, Inc., 2002 Renaissance Boulevard, Suite 110, King of Prussia, PA 19406 on behalf of David D. Waltz, The Bryn Mawr Trust Company, 801 Lancaster Avenue, Bryn Mawr, PA 19010 submitted a Remedial Investigation/Risk Assessment Report/Cleanup Plan and Final Report concerning the remediation of site soil and groundwater contaminated with No. 2 fuel oil. The Report was disapproved by the Department on January 24, 2018.

Southcentral Region: Environmental Cleanup and Brownfields Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110. Phone 717.705.4705.

Allegheny Veterinary Hospital, 110 North Jefferson Street, Mount Union, PA 17066, Mount Union Borough, **Huntingdon County**. McKee Environmental, Inc., 218 Washington Avenue, Bellefonte, PA 16823, on behalf of Allegheny Veterinary Hospital, 110 North Jefferson Street, Mount Union, PA 17066, submitted a Final Report concerning remediation of site soil and groundwater contaminated with leaded gasoline. The Final Report did not demonstrate attainment of the Residential Statewide Health Standard, and was disapproved by the Department on February 9, 2018.

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

Lucas Trucking Corp., I-80 MM 226.5 Diesel Release Cleanup, Valley Township, **Montour County**. Northridge Group, Inc., P.O. Box 231, Northumberland, PA 17857, on behalf of Lucas Trucking Corp., 9657 N. Route 220 Highway, Jersey Shore, PA 17740, has submitted a Final Report concerning remediation of site soil contaminated with diesel fuel and motor oil. The report demonstrated attainment of the Statewide Health Standard requirements and was approved by the Department on February 9, 2018.

Kennedy 137 Natural Gas Well Pad, 4876 North Callahan Road, Wellsboro, Delmar Township, **Tioga County**. SWEPI LP, 150 North Dairy Ashford Road, E1296C, Houston, TX 77079 has submitted a Final Report concerning site soil contaminated with produced water. The report demonstrated attainment of the Background and Statewide Health Standard requirements and was approved by the Department on January 31, 2018.

Cotton Hanlon 595 Natural Gas Well Pad, 1325 Mountain Ridge Road, Mainsburg, Sullivan Township, **Tioga County**. SWEPI LP, 150 North Dairy Ashford Road, E1296C, Houston, TX 77079 has submitted a Final Report concerning remediation of site soil contaminated with produced water. The report demonstrated attain-

ment of the Statewide Health Standard requirements and was approved by the Department on February 2, 2018.

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

AERC Acquisitions Corp., dba AERC Recycling Solution, A Clean Earth Company, 2591 Mitchell Avenue, Allentown, PA 18103. License No. PA-AH 0687. Effective Feb 12, 2018.

A&D Environmental Services (SC), LLC, 1741 Calks Ferry Road, Lexington, SC 29073. License No. PA-AH 0743. Effective Feb 12, 2018.

Environmental Specialists, Inc., 1000 Andrews Avenue, Youngstown, OH 44505. License No. PA-AH 0587. Effective Feb 12, 2018.

Freehold Cartage, Inc., PO Box 5010, Freehold, NJ 07728. License No. PA-AH 0067. Effective Feb 12, 2018.

Renewal Applications Received

A&D Environmental Services (SC), LLC, 1741 Calks Ferry Road, Lexington, SC 29073. License No. PA-AH 0743. Effective Feb 08, 2018.

Environmental Specialists, Inc., 1000 Andrews Avenue, Youngstown, OH 44505. License No. PA-AH 0587. Effective Feb 08, 2018.

Freehold Cartage, Inc., PO Box 5010, Freehold, NJ 07728. License No. PA-AH 0067. Effective Feb 08, 2018.

REGISTRATION FOR GENERAL PERMIT—RESIDUAL WASTE

Registration issued Under the Solid Waste Management Act; the Residual Waste Planning, Recycling and Waste Reduction Act (53 P.S. §§ 4000.101—4000.1904); and Residual Waste Regulations for a General Permit to Operate Residual Waste Processing Facilities and/or the Beneficial Use of Residual Waste Other Than Coal Ash.

Northcentral Region: Regional Solid Waste Manager, 208 West Third Street, Williamsport, PA 17701.

General Permit Registration No. WMGR025NC001: Pennsylvania State University, 139J Physical Plant Building, University Park, PA 16802-1118. Registration to operate under General Permit No. WMGR025NC001 for the beneficial use and processing prior to beneficial use of recycle food residuals, leaves, wood chips, manure and small quantities of poultry remains for use as compost to be used as a soil conditioner, soil amendment, fertilizer, mulch, or erosion control. The registration was approved by Northcentral Regional Office on February 10, 2018.

Persons interested in obtaining more information about the general permit application may contact Lisa D. Houser, P.E., Facilities Manager, Williamsport Regional Office, 208 West Third Street, Suite 101, Williamsport, PA 17701, (570) 327-3740. TDD users may contact the Department through the Pennsylvania AT&T Relay Service, (800) 654-5984.

General Permit Registration No. WMGR025NC002: State College Borough Composting Facility, 110 Hawbaker Industrial Drive, State College, PA 16803. Registration to operate under General Permit No. WMGR025NC002 for the beneficial use of agricultural waste other than mortalities, butcher wastes other than whole carcass, food processing waste, pre-consumer and post-consumer food residual, yard waste, land clearing and grubbing material, untreated wood waste, leaves, virgin paper, mill sludge, and spent mushroom substrate for use as compost to be used as a soil conditioner, soil amendment, fertilizer, mulch, or erosion control. The registration was approved by Northcentral Regional Office on February 10, 2018.

Persons interested in obtaining more information about the general permit application may contact Lisa D. Houser, P.E., Facilities Manager, Williamsport Regional Office, 208 West Third Street, Suite 101, Williamsport, PA 17701, (570) 327-3740. TDD users may contact the Department through the Pennsylvania AT&T Relay Service, (800) 654-5984.

General Permit Registration No. WMGR025NC003. Carell Meat Solutions Corp., 1252 State Route 706, Wyalusing, PA 18853. Registration to operate under General Permit No. WMGR025NC003 for the beneficial use of recycled cattle truck bedding with manure, paunch manure, skim fat, wastewater sludge cake, process wastewater solids (manure/grit), rendering filter cake (bone meal fines from screens) for use as compost to be used as a soil conditioner, soil amendment, fertilizer, mulch, or erosion control. The registration was approved by Northcentral Regional Office on February 10, 2018.

Persons interested in obtaining more information about the general permit application may contact Lisa D. Houser, P.E., Facilities Manager, Williamsport Regional Office, 208 West Third Street, Suite 101, Williamsport, PA 17701, (570) 327-3740. TDD users may contact the Department through the Pennsylvania AT&T Relay Service, (800) 654-5984.

General Permit Registration No. WMGR025NC004: Falcon, LLC, 1759 East Lime Bluff Road, Muncy, PA 17756-7927. Registration to operate under General Permit No. WMGR025NC004 for the beneficial use of ground and chipped wood from wood pallets, land clearing, grubbing, and excavation operations for use as compost to be used as a soil conditioner, soil amendment, fertilizer, mulch, or erosion control. The registration was approved by Northcentral Regional Office on February 10, 2018.

Persons interested in obtaining more information about the general permit application may contact Lisa D. Houser, P.E., Facilities Manager, Williamsport Regional Office, 208 West Third Street, Suite 101, Williamsport, PA 17701, (570) 327-3740. TDD users may contact the Department through the Pennsylvania AT&T Relay Service, (800) 654-5984.

REGISTRATION FOR RESIDUAL WASTE GENERAL PERMITS

Renewal of a Registration issued 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/or the Beneficial Use of Residual Waste Other Than Coal Ash.

Southcentral Regional Office: Waste Management Program, 909 Elmerton Avenue, Harrisburg, PA 17110-8200.

General Permit No. WMGR025SC001. Terra-Gro, Inc., 2870 Oregon Pike, Lititz, PA 17543 in Manheim Township, **Lancaster County**. The Department of Environmental Protection has issued the renewal of a registration under General Permit WMGR025 to Terra-Gro, Inc. This general permit authorizes the composting and beneficial use of the following categories of source-separated wastes: agricultural waste other than mortalities, butcher waste other than whole carcass, food processing waste, pre-consumer and post-consumer food residuals, yard waste, land clearing and grubbing material, untreated wood waste, gypsum wallboard, paper, cardboard, waxed cardboard, virgin paper mill sludge and spent mushroom substrate. This registration was issued on February 12, 2018.

Persons interested in reviewing the general permit may contact John Oren, Permits Section Chief, Waste Management Program, 909 Elmerton Avenue, Harrisburg, PA 17110, (717) 705-4706. TDD users may contact the Department through the Pennsylvania AT&T Relay Service, (800) 654-5984.

DETERMINATION OF APPLICABILITY FOR RESIDUAL WASTE GENERAL PERMITS

Determination of Applicability for General Permit issued under the Solid Waste Management Act; and Residual Waste Regulations for a General Permit to Operate Residual Waste Processing Facilities (25 Pa. Code § 287.611 (relating to authorization for general permit)).

Southcentral Regional Office: Waste Management Program, 909 Elmerton Avenue, Harrisburg, PA 17110-8200.

General Permit No. WMGR019SC003. Boyertown Foundry Company, 9th Street and Rothermel Drive, New Berlinville, PA 19545 located in Boyertown Borough, **Berks County**. The Department of Environmental Protection has issued a Determination of Applicability under General Permit WMGR019 to Boyertown Foundry Company for the beneficial use of waste foundry sand from ferrous and nonferrous casting foundries; system dust generated by ferrous metal casting foundries; and slag and refractories generated by ferrous metal casting foundries. The foundry wastes may be beneficially used as (a) roadway construction material; (b) a component or ingredient in the manufacturing of concrete or asphalt products; (c) a soil additive or soil substitute; and (d) non-roadway construction material. This Determination of Applicability was issued on February 9, 2018.

Persons interested in reviewing the general permit may contact John Oren, Permits Section Chief, Waste Management Program, 909 Elmerton Avenue, Harrisburg, PA 17110, (717) 705-4706. TDD users may contact the Department through the Pennsylvania AT&T Relay Service, (800) 654-5984.

DETERMINATION OF APPLICABILITY FOR RESIDUAL WASTE GENERAL PERMITS

Renewal of a Determination of Applicability 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/or the Beneficial Use of Residual Waste Other Than Coal Ash.

Southcentral Regional Office: Waste Management Program, 909 Elmerton Avenue, Harrisburg, PA 17110-8200.

General Permit No. WMGR019D009. Unicast Company, 241 North Washington Street, Boyertown, PA 19512 located in Boyertown Borough, **Berks County**. The Department of Environmental Protection has issued renewal of a Determination of Applicability under General Permit WMGR019 to Unicast Company for the beneficial use of waste foundry sand from ferrous and nonferrous casting foundries; system dust generated by ferrous metal casting foundries; and slag and refractories generated by ferrous metal casting foundries. The foundry wastes may be beneficially used as (a) roadway construction material; (b) a component or ingredient in the manufacturing of concrete or asphalt products; (c) a soil additive or soil substitute; and (d) non-roadway construction material. This Determination of Applicability was issued on February 9, 2018.

Persons interested in reviewing the general permit may contact John Oren, Permits Section Chief, Waste Management Program, 909 Elmerton Avenue, Harrisburg, PA 17110, (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.

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

Contact: Norman Frederick, P.E., Environmental Engineer Manager—Telephone: 570-826-2409.

GP5-58-002A: Regency Marcellus Gas Gathering, LLC (101 West Third Street, Williamsport, PA 17701) on February 6, 2018 the general operating permit GP5 reissued for the operation of natural gas compressor station at the facility located in Springville Township, **Susquehanna County**.

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.

GP1-21-03126: Westrock Box on Demand (53 Commerce Drive, Mechanicsburg, PA 17050) on February 5, 2018, for an existing natural gas-fired boiler, under GP1, for the packaging manufacturing facility located in Mechanicsburg Borough, **Cumberland County**. The GP1 authorization was renewed due to a change of ownership.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

Contact: Alan Binder, P.E., Environmental Engineer Manager—Telephone: 412-442-4168.

GP5-30-00186B: CNX Gas Company, LLC (1000 Consol Energy Drive, Canonsburg, PA 15317) on February 5, 2018, for the continued operation of the existing equipment of at the Deer Lick Compressor Station located in Morris Township, **Greene 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.

36-05002F: Armstrong Flooring, Inc. (1067 Dillerville Road, Lancaster, PA 17604) on February 6, 2018, for the modification to emission limits at their flooring plant in the City of Lancaster, **Lancaster County**. The plan approval will revise the 0.001 gr/dscf particulate matter emission limits on Control IDs C902 & C906 to 0.003 gr/dscf. The 0.001 gr/dscf limits were initially established in PA 36-05002E, which was for the installation of a luxury vinyl tile (LVT) line.

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.

23-0120: Agilyx Corporation Inc. (7904 SW Hunziker Street, Tigard, OR 97223) On February 9, 2018 for installation of a new plastics to oil plant in Marcus Hook Borough, **Delaware County**.

46-0198PL: Blommer Chocolate Co. (1101 Bloomer Drive, East Greenville, PA 18041) On February 7, 2018 to upgrade the existing bean cleaning processor in Upper Hanover Township, **Montgomery County**.

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

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

57-00006A: Dwight Lewis Lumber Company (P.O. Box A, Hillsgrove, PA 18619) on January 31, 2018, to extend the plan approval expiration date to August 6, 2018 to allow continued operation of a 6.04 MMBtu/hr biomass-fired boiler at its facility in Hillsgrove Township, **Sullivan County**.

41-00088A: Compass Natural Gas Partners LP (1215 Manor Drive, Suite 302, Mechanicsburg, PA 17055) on February 8, 2018, to extend the authorization for the construction of the compressed natural gas truck terminal at their Compass-Quaker CNG Truck Terminal facility located in Upper Fairfield Township, **Lycoming County** to August 7, 2018. The plan approval has been extended.

59-00005G: Dominion Transmission, Inc. (925 White Oaks Blvd., Bridgeport, WV 26330) on February 8, 2018, to extend the authorization for the construction of a 2,370 horsepower, natural-gas fired reciprocating internal combustion compressor engine controlled by a prechambered combustion system, an LE-54C air/fuel ratio controller and an EAS model EN4YE28 oxidation catalyst, for the construction of a 5,810 horsepower (49.98 million Btu per hour heat input), natural-gas fired compressor turbine, controlled by a dry low NO_x (SoLoNO_x) combustion

system and a Universal Silencer oxidation catalyst and for the construction of eight 65 kilowatt model C65 NG Low NO_x Capstone MicroTurbines, at the Sabinsville Station located in Clymer Township, **Tioga County** to August 8, 2018. The plan approval has been extended.

Plan Approvals Denied, Terminated, Modified, Suspended or Revoked under the Air Pollution Control Act and the provisions of 25 Pa. Code §§ 127.13b and 127.13c.

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

Contact: Thomas McGinley, New Source Review Chief—Telephone: 610-832-6242.

23-0120: Agilyx Corporation Inc. (7904 SW Hunziker Street, Tigard, OR 97223) On February 9, 2018 for installation of a new plastics to oil plant in Marcus Hook Borough, **Delaware County**.

46-0198PL: Blommer Chocolate Co. (1101 Bloomer Drive, East Greenville, PA 18041) On February 7, 2018 to upgrade the existing bean cleaning processor in Upper Hanover Township, **Montgomery County**.

Operating Permits for Non-Title V Facilities Issued under the Air Pollution Control Act and 25 Pa. Code Chapter 127, Subchapter F.

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

Contact: Janine Tulloch-Reid, Facilities Permitting Chief—Telephone: 484-250-5920.

09-00059: Saint Mary Medical Center, (1201 Langhorne Newtown Rd., Langhorne, PA 19047-1295) On February 9, 2018 for the renewal of the State Only (Synthetic Minor) Operating Permit for their general medical and surgical hospital located in Middletown Township, **Bucks County**.

09-00234: WCR, Inc. (4080 Blanche Road, Bensalem, PA 19020) On February 9, 2018 for an initial State Only Operating Permit for the non-destructive quality assurance testing of heat exchanger parts using coatings in a spray booth in Bensalem Township, **Bucks County**.

09-00231: New Age Industries, Inc. (145 James Way, Southampton, PA 18966) On February 9, 2018, for an initial State Only Operating Permit for cleanup operations using isopropyl alcohol at a manufacturing facility located in Upper Southampton **Bucks County**.

46-00181: Technetics Group Hatfield (1600 Industry Rd, Hatfield, PA 19440) On February 9, 2018 for the renewal of a State Only Operating Permit for a poly-tetra-flouro-ethylene (PTFE) etching facility in Hatfield Township, **Montgomery County**.

15-00053: Chester County Hospital (701 E Marshal St, West Chester, PA 19380) On February 9, 2018 for the renewal of a State-Only Operating Permit for the hospital located in West Chester Borough, **Chester County**. This issuance also includes an administrative amendment to add a previously issued general plan approval (GP1-15-0105) for a boiler.

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

Contact: Norman Frederick, P.E., Environmental Engineer Manager—Telephone: 570-826-2409.

40-00134: LGS, PA, LLC (1355 Oak Hill Road, Mountain Top, PA 18707) The Department issued, on 2/1/18, a

State-Only (Synthetic Minor) Operating Permit for operation of an enclosed cargo trailer manufacturing facility located in the Wright Township, **Luzerne County**. The proposed permit contains applicable requirements for emission limitations, work practice standards, testing, monitoring, recordkeeping, and reporting standards used to verify facility compliance with Federal and State air pollution regulations.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

Contact: Tom Joseph, P.E., Facilities Permitting Chief—Telephone: 412-442-4336.

04-00687: Swagelok Processing Corp. (7544 Route 18 N, Koppel, PA 16136) on January 31, 2018, a State Only Operating Permit (SOOP) renewal issued to Swagelok Processing Corp. to authorize the operation of their cold drawn metal products at Big Beaver Borough, **Beaver County**.

Philadelphia: Air Management Services, 321 University Avenue, Philadelphia, PA 19104-4543, Contact: Edward Wiener, Chief, Source Registration at 215-685-9476.

OP17-000066: Comcast of Philadelphia II, LLC (11400 Northeast Avenue, Philadelphia, PA 19116) for the operation of an office and call centre in the City of Philadelphia, **Philadelphia County**. The facility's air emission sources include one (1) diesel fired Katolight emergency generator rated at 275 kW, one (1) diesel fired Katolight emergency generator rated at 230 kW, and two (2) diesel fired Cummins emergency generators each rated at 1,112 kW.

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.

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

Contact: Janine Tulloch-Reid, Facilities Permitting Chief—Telephone: 484-250-5920.

46-00021: First Quality Retail Services, LLC (601 Allendale Road, King of Prussia, PA 19406) On February 6, 2018 for an Administrative Amendment to State Only (Synthetic Minor) Operating Permit No. 46-00021 for its facility located in located in King of Prussia, Upper Merion Township, **Montgomery County**. The Administrative Amendment incorporates a change in responsible official for the facility. These additional changes were made to the amended State Only Operating Permit (a) the sanitary napkin and adult incontinence diaper production equipment and associated filters at the facility (previously exempted from Plan Approval requirements under Requests for Determination No. 4920 and 4921), and (b) certain provisions of 40 CFR Part 63, Subpart ZZZZ, for the engines of the emergency generator sets at the facility (vacated, remanded, or corrected).

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481.

Contact: Matt Williams, Facilities Permitting Chief—Telephone: 814-332-6131.

16-00035: Commodore Corporation (20898 Paint Blvd., Clarion, PA 16214). The Department on February 6, 2018, issued an administrative amendment to the State Operating Permit to incorporate the change of responsible official and permit contact for the facility located in Paint Township, **Clarion County**.

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.

17743702 and NPDES No. PA0215490. Rosebud Mining Company, (301 Market Street, Kittanning, PA 16201). To revise the NPDES permit for the Lady Jane Plant in Huston Township, **Clearfield County** to add two NPDES Outfalls. Receiving Streams: Unnamed Tributaries to Moose Run, classified for the following use: CWF. The application was considered administratively complete on June 11, 2013. Application received: May 21, 2012. NPDES Permit issued: February 6, 2018.

Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, 814-472-1900.

Permit No. 56120102 and NPDES No. PA0263419. Rosebud Mining Co., 301 Market Street, Kittanning, PA 16201, permit renewal for the continued operation and restoration of a bituminous surface and auger mine in Jenner Township, **Somerset County**, affecting 114.7 acres. Receiving streams: unnamed tributaries to Coal Run and unnamed tributaries to Pickings Run classified for the following uses: cold water fishes and high quality—cold water fishes. The first downstream potable water supply intake from the point of discharge is Lincoln Municipal Authority—intake on North Branch of Quemahoning Creek. Application received: July 27, 2017. Permit issued: February 8, 2018.

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, 570-621-3118.

Permit No. 54111302T. M & D Anthracite Coal Co., (2030 East Center Street, Tremont, PA 17981), transfer of an existing anthracite underground mine operation in Cass Township, **Schuylkill County** affecting 2.1 acres, receiving stream: West Branch Schuylkill River. Application received: August 18, 2016. Transfer issued: February 6, 2018.

Permit No. PAM117062. M & D Anthracite Coal Co., (2030 East Center Street, Tremont, PA 17981), General NPDES Stormwater Permit for stormwater discharges associated with mining activities on Underground Mining Permit No. 54111302 in Cass Township, **Schuylkill County**, receiving stream: West Branch Schuylkill River. Application received: August 18, 2016. Permit issued: February 6, 2018.

Noncoal Permits Issued

Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, 814-472-1900.

PAM418005-GP104. Harold L. Hamilton Sr., 261 Ridge Road, Shippensburg, PA 17257. General NPDES Permit for stormwater discharges associated with mining activities on Non-Coal Permit No. 21920802 located in North Newton Township, **Cumberland County**. Receiving stream: Green Spring Creek classified for the following uses: cold water fishes, Migratory Fishes. There are no potable water supplies located within 10 miles downstream. Notice of Intent for Coverage received: January 16, 2018. Coverage Approved: February 6, 2018.

Knox District Mining Office: P.O. Box 669, 310 Best Avenue, Knox, PA 16232-0669, 814-797-1191.

PAM618005. Custom Crushing, LTD (88 Cherry Hill Road, Greenville, PA 16125). General NPDES Permit for stormwater discharges associated with mining activities on Surface Mining Permit No. 43910307 in Perry Township, **Mercer County**. Receiving streams: Unnamed tributary to Little Shenango River. Application received: January 16, 2018. Permit Issued: February 6, 2018.

PAM617051. Hanas Gravel Company (300 Conneauttee Road, Waterford, PA 16441). General NPDES Permit for stormwater discharges associated with mining activities on Mine Drainage Permit No. 25880305 in LeBoeuf Township, **Erie County**. Receiving streams: French Creek. Application received: November 30, 2017. Permit Issued: February 6, 2018.

PAM618001. R. Hunter Incorporated (15428 Sheets Road, Guys Mills, PA 16327). General NPDES Permit for stormwater discharges associated with mining activities on Mine Drainage Permit No. 20890304 in Hayfield Township, **Crawford County**. Receiving streams: French Creek. Application received: January 3, 2018. Permit Issued: February 6, 2018.

PAM618004. R. Hunter Incorporated (15428 Sheets Road, Guys Mills, PA 16327). General NPDES Permit for stormwater discharges associated with mining activities on Surface Mining Permit No. 20960301 in Woodcock Township, **Crawford County**. Receiving streams: Woodcock Creek. Application received: January 16, 2018. Permit Issued: February 6, 2018.

PAM618003. R. Hunter Incorporated (15428 Sheets Road, Guys Mills, PA 16327). General NPDES Permit for stormwater discharges associated with mining activities on Surface Mining Permit No. 20950301 in Bloomfield Township, **Crawford County**. Receiving streams: Unnamed tributary to Bloomfield Run. Application received: January 16, 2018. Permit Issued: February 6, 2018.

37070302. Allegheny Mineral Corporation (P.O. Box 1022, Kittanning, PA 16201) Renewal of the existing NPDES permit No. PA0258423 in Slippery Rock Township, **Lawrence County**. Receiving streams: Slippery Rock Creek. Application received: November 21, 2017. Permit Issued: February 6, 2018.

37170301. Slippery Rock Materials, Inc. (704 Golf Course Road, Volant, PA 16156) Commencement, operation and restoration of a large industrial minerals mine in Plain Grove Township, **Lawrence County**, affecting 75.0 acres. Receiving streams: Unnamed tributary to Taylor

Run and Taylor Run. This application includes a request for a post-mining land use change from unmanaged natural habitat, forestland, and cropland, to unmanaged natural habitat, wildlife habitat, unmanaged water impoundment and wetlands on the property of Joseph Venasco; and a post-mining land use change from pastureland or land occasionally cut for hay, unmanaged natural habitat, cropland, residential, and forestland, to cropland on the Kurt and Mary Ann Miller property. Application received: July 20, 2017. Permit Issued: February 6, 2018.

PAM617009. Slippery Rock Materials, Inc. (704 Golf Course Road, Volant, PA 16156) General NPDES Permit for stormwater discharges associated with mining activities on Surface Mining Permit No. 37170301 in Plain Grove Township, **Lawrence County**. Receiving streams: Unnamed tributary to Taylor Run and Taylor Run. Application received: July 20, 2017. Permit Issued: February 6, 2018.

Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, 814-342-8200.

17172801. Swisher Contracting, Inc. (P.O. Box 1223, Clearfield, PA 16830). Commencement, operation, and restoration of a small noncoal industrial minerals surface mine permit (shale) in Lawrence Township, **Clearfield County** affecting 7.9 acres. Receiving stream(s): Unnamed Tributary to Clearfield Creek classified for the following use(s): CWF. Application received: July 10, 2017. Permit issued: January 26, 2018.

PAM217011. Swisher Contracting, Inc. (P.O. Box 1223, Clearfield, PA 16830). General NPDES permit for stormwater discharge associated with mining activities on a Small Noncoal Permit No. 17172801 in Lawrence Township, **Clearfield County**. Receiving stream(s): Unnamed Tributary to Clearfield Creek. Application received: July 10, 2017. Permit issued: January 26, 2018.

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, 570-621-3118.

Permit No. 39880302A1C10 and NPDES Permit No. PA0225655. Coplay Aggregates, Inc., (21 East 10th Street, Northampton, PA 18067), correction to an existing quarry operation to add an NPDES Permit for discharge of treated mine drainage in Whitehall Township, **Lehigh County** affecting 21.49 acres, receiving stream: unnamed tributary to Coplay Creek. Application received: January 26, 2017. Correction issued: February 6, 2018.

Permit No. 7874SM2A1C10 and NPDES Permit No. PA0612880. New Enterprise Stone & Lime Company, Inc. d/b/a Eastern Industries, Inc., (3724 Crescent Court West, Suite 200, Whitehall, PA 18052), renewal of NPDES permit for discharge of treated mine drainage in North Whitehall Township, **Lehigh County**, receiving stream: Coplay Creek. Application received: November 13, 2017. Renewal issued: February 6, 2018.

Permit No. 7674SM1C17 and NPDES Permit No. PA0613312. Pennsy Supply, Inc., (1001 Paxton Street, P.O. Box 3331, Harrisburg, PA 17105), renewal of NPDES permit for discharge of treated mine drainage in South Lebanon & Jackson Townships, **Lebanon County**, receiving stream: Tulpehocken Creek. Application received: October 19, 2017. Renewal issued: February 6, 2018.

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

Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, 814-342-8200.

41184101. Maine Drilling & Blasting Inc. (P.O. Box 1140, Gardiner, ME 04345-1140). Blasting for pipeline on the Atlantic Sunrise Pipeline Spread 2A in Penn, Franklin, and Jordan Townships, **Lycoming County** with an expiration date of January 17, 2019. Permit issued: February 8, 2018.

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, 570-621-3118.

Permit No. 06184001. Kesco, Inc., (215 South Main Street, Suite 3, Zelenople, PA 16063), demolition of brick stack in the City of Reading, **Berks County** with an expiration date of March 8, 2018. Permit issued: February 8, 2018.

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

Southeast Region: Waterway and Wetlands Program Manager, 2 East Main Street, Norristown, PA 19401, Telephone 484-250-5900.

E15-891. Eastern Shore Natural Gas Company, 1110 Forest Avenue, Dover, DE 19904-2788, Londonderry, Penn, New London, and Franklin Townships, **Chester County**, ACOE Philadelphia District.

To construct and maintain the appurtenant structures and approximately 7.3 miles of 24-inch pipeline (Jennersville Loop) beginning at Street Road in Oxford, PA Quadrangle N: 39°51'34.60", W: 75°53'24.37" and ending at Hess Mill Road in West Grove, PA Quadrangle N: 39°46'15.09", W: 75°50'46.74". The proposed project impacts in Chester County include temporary impacts to 890 linear feet of eight unnamed tributaries to East Branch Big Elk Creek (TSF, MF), 85 linear feet of West Branch White Clay Creek (TSF, MF), and 502 linear feet of eight unnamed tributaries to West Branch White Clay Creek (TSF, MF); permanent impacts to 99 linear feet of seven unnamed tributaries to East Branch Big Elk Creek (TSF, MF), 13 linear feet of West Branch White Clay Creek (TSF, MF), and 34 linear feet of seven unnamed tributaries to West Branch White Clay Creek; 4.36 acres of temporary floodway impacts; 0.22 acre of permanent floodway impacts; 1.30 acre of temporary impacts to Palustrine Emergent (PEM), 0.02 acre of temporary impacts Palustrine Scrub-Shrub (PSS), 0.02 acre of temporary impacts to Palustrine Forested (PFO) wetlands; 0.11 acre of permanent impacts to PEM and 0.0001 acre permanent impacts to PFO wetlands. No compensation is being proposed by the applicant for the proposed permanent project impacts in Chester County. The proposed project impacts in this permit application are associated with proposed project of seven buried natural gas pipeline segments totaling approximately 40 miles in Chester County, PA; Cecil County, MD; and New Castle and Sussex Counties, Delaware.

The issuance of this permit also constitutes approval of a Water Quality Certification under Section 401 of the Federal Water Pollution Control Act (33 U.S.C.A. § 1341(a)).

E09-1012—Pennsylvania Department of Transportation, 7000 Geerdes Blvd. King of Prussia, PA 19406, Norristown Borough, **Montgomery County**, ACOE Philadelphia District.

To perform the following water obstruction and encroachment activities associated with the S.R. 0001, Section RC1 Improvement Project. Specific water obstruction and encroachment are:

1. To place fill associated with road widening and stream relocation within a UNT to Poquessing Creek (WUS-25) (WWF-MF).

2. To conduct grading work within the floodway in the Street Road intersection area for road widening and stream (WUS-25) relocation.

3. To temporarily impact the UNT to Poquessing Creek (WUS-26) for the creation of an on-site stream mitigation site.

The project will permanently impact approximately 515 linear feet (4,248 sq ft) and temporarily impact 788 linear feet (6,079 sq. ft.) of watercourses associated with the road project.

The project extends from the S.R. 2037 (Old Lincoln Highway) signalized intersection north to the area just south of the S.R. 2044 (Rockhill Drive) interchange, and also includes the replacement of the Bristol Road overpass over S.R. 0001. Section RC1 includes the S.R. 0132 (Street Road) and PA Turnpike interchanges in Bensalem Township, Bucks County (Langhorne USGS Quadrangle, Latitude: 40.128071; Longitude: -74.964826).

The issuance of this permit also constitutes approval of a Water Quality Certification under Section 401 of the Federal Water Pollution Control Act (33 U.S.C.A. § 1341(a)).

Southcentral Region: Waterways & Wetlands Program, 909 Elmerton Avenue, Harrisburg, PA 17110, Ed Muzic, Section Chief, 717.705.4802.

E34-138: Clubhouse Grill and Restaurant, 8 Parkside Court, Mifflintown, PA 17059-9012 in Fermanagh Township, **Juniata County**, U.S. Army Corps of Engineers, Baltimore District.

To place and maintain 32 cubic yards of fill in the floodway of Schweyer Run (CWF, MF), permanently impacting seventy square feet of palustrine emergent wetlands for the purpose of expanding an existing parking lot. The project is located 0.25 mile south of the intersection of SR 35 and Butcher Shop Road (Latitude 40°34'57.22", Longitude -77°22'09.16") in Fermanagh Township, Juniata County. Wetland impacts de minimus and replacement is not required. The permit was issued on February 1, 2018.

E05-391: Hopewell Township, 2759 Raystown Road, Hopewell, PA 16650 in Hopewell Township, **Bedford County**, U.S. Army Corps of Engineers, Baltimore District.

To construct and maintain 1) an approximately 359-foot long, 8-inch PVC gravity main pipe, through an Exceptional Value (EV) Palustrine Emergent (PEM) wetland and an unnamed tributary to Yellow Creek (HQ-CWF, MF), permanently impacting 0.11 acre and temporarily impacting 0.01 acre of the PEM wetland, and permanently impacting 15-foot of stream and 645-square foot of floodway; 2) an approximately 960-foot long, 3-inch PVC pressure sewer main pipe, through an EV PEM wetland and an unnamed tributary to Yellow Creek (HQ-CWF, MF), permanently impacting 0.07 acre of the PEM wetland, and permanently impacting 15-foot of stream and 210-square foot of floodway; 3) grout and abandon the existing 3-inch pipe underneath an EV PEM Wetland and an unnamed tributary to Yellow Creek (HQ-CWF); and 4) grout and abandon the existing 8-inch pipe underneath an EV PEM wetland and an unnamed tributary to Yellow Creek (HQ-CWF). The project is located at the intersection of SR 0026 and SR 0036 in the village of Cottles Corner; (Latitude: 40°08'18", Longitude: -78°20'26") in Hopewell Township, Bedford County. The permanent wetland impacts are not proposed to lose wetland acreage and no wetland replacement is proposed. The purpose of

the project is to maintain and continue to operate wastewater collection systems in areas of Yellow Creek, Tatesville and Sunnyside. The permit was issued on February 1, 2018.

E21-458: Plenary Walsh Keystone Partners, 2000 Cliff Mine Road, Park West Two, 3rd Floor, Pittsburgh, PA 15275 in Cooke Township, **Cumberland County**, U.S. Army Corps of Engineers, Baltimore District.

To remove the existing structure and to install and maintain 1) a single-cell precast concrete box culvert with baffles, having a total span of 24.0 feet, an underclearance of 5.0 feet, and inverts depressed 1.0-foot below the streambed crossing over Toms Run (HQ-CWF, MF) and 2) a relocation of a 76.0-foot section of an Unnamed Tributary to Toms Run (HQ-CWF, MF) downstream of the bridge due to interference with a wingwall. The project is located in Pine Grove Furnace State Park on SR 0233 (Centerville Road) in Gardners, PA, Cooke Township, Cumberland County (Latitude 40°02'01", Longitude -77°18'14"). The project will temporarily impact 0.006 acre of Palustrine Shrub (PSS) wetland, 0.032 acre of permanent stream impacts, and 0.02 acre of floodway impacts. The purpose of the project is to improve the roadway to current safety standards. The project will have a detour implemented to maintain traffic control. The permit was issued on February 9, 2018.

E28-394: Antrim Township Municipal Authority, PO Box 130, 10655 Antrim Church Road, Greencastle, PA 17225 in Antrim Township, **Franklin County**, U.S. Army Corps of Engineers, Baltimore District.

To remove and replace a Trojan UV4000 in-channel UV system. The existing UV system is located in Zone A of FEMA's Flood Insurance Rate Map 42055C0560E. The project is located at The Antrim Township Municipal Authority Wastewater Treatment Plant (Latitude: 39.746075, Longitude: -77.784711) in Antrim Township, Franklin County. The purpose of the project is to replace an outdated wastewater treatment unit to better provide UV disinfection to maintain compliance within permitted fecal coliform limits. The permit was issued on February 9, 2018.

Northcentral Region: Waterways & Wetlands Program Manager, 208 West Third Street, Williamsport, PA 17701, 570-327-3636.

E19-321. Pennsylvania Department of Transportation, Engineering District 3-0, 715 Jordan Ave, Montoursville, PA 17754. SR 0339 Section 06M Roadway Improvement Project in Mifflin Township, **Columbia County**, ACOE Baltimore District (Berwick, PA Quadrangle; Latitude: 41°02'13"; Longitude -76°16'10").

PA DOT Engineering District 3-0 proposes a 1.9 Mi. Roadway Safety Improvement Project along SR 0339 between Mifflinville and the Luzerne County line. The project will include shoulder improvements, roadway widening, milling and overlaying pavement, four outfalls and two culvert structure rehabilitations.

The first culvert structure rehabilitation will include slip lining with a corrugated metal plate arch and downstream extension to accommodate the roadway widening. The existing single span concrete arch has a span of 15.0 Ft., a skew of 82 degrees, an underclearance of 11.6 Ft., a low chord of 496.69 Ft., a hydraulic opening of 141 Ft², and an out to out width of 43.8 Ft. The proposed slip lined corrugated metal plate arch culvert on reinforced concrete abutments will have a span of 13.7 Ft., a skew of 82 degrees, an underclearance of 11.4 Ft., a low chord of 496.27 Ft., a hydraulic opening of 130 Ft² and an

out to out width of 77.0 Ft. The proposed structure will be extended 33.2 Ft. downstream and include streambed paving with concrete baffles through the entire structure. Grouted R-8 Rip Rap will be placed at the outlet to backfill an existing scour hole.

The second culvert structure rehabilitation will be extended upstream to accommodate the roadway widening. The existing corrugated metal pipe culvert has a span of 10.0 Ft., a skew of 85 degrees, an underclearance of 8.5 Ft., a low chord of 485.44 Ft., a hydraulic opening of 71 Ft², and an out to out width of 150.9 Ft. The proposed culvert structure will have a span of 10.0 Ft., a skew of 85 degrees, an underclearance of 9.0 Ft., a low chord of 485.44 Ft., a hydraulic opening of 74 Ft² and an out to out width of 178.9 Ft. The proposed structure will be extended 28 Ft. upstream and include streambed paving with concrete baffles through the entire structure. Grouted R-8 Rip Rap will be placed at the outlet to backfill an existing scour hole.

Traffic will be maintained during construction. A sandbag diversion and clean water pump will be utilized to convey the stream during construction. The project will not impact any jurisdictional wetlands. The Unnamed Tributaries to the North Branch of the Susquehanna River are classified as a Cold Water Fishery by Title 25, Chapter 93 Water Quality Standards. This project will not require mitigation. This permit also includes 401 Water Quality Certification.

E59-536. Pennsylvania Department of Transportation, Engineering District 3-0, PO Box 218 Montoursville, PA 17754-0218. S.R. 0006 Section 108, Unnamed Tributary to Charleston Creek Rehabilitation. Charleston Township, **Tioga County**, Baltimore ACOE.

(Antrim, PA Quadrangle N: 41° 44' 36"; W: -77° 15' 49").

PA DOT Engineering District 3-0 proposes to rehabilitate a single span concrete arch on SR 0006 over an Unnamed Tributary to Charleston Creek. The existing structure has a span of 7.4 Ft., a skew of 60 degrees, an underclearance of 8.7 Ft., roadway width of 116 Ft., and a hydraulic opening of 40 Ft². The proposed structure will be slip lined with a steel plate liner on partial height concrete jackets, with stream bed paving and baffles. The streambed paving and concrete baffles will be constructed in accordance with the BD-632M. The proposed structure will have a span of 5.9 Ft., a skew of 60 degrees, an underclearance of 8.3 Ft., roadway width of 132.5 Ft. and a hydraulic opening of 38 Ft². The proposed structure will be extended 13 Ft. upstream to accommodate the roadway side slope, which will result in approximately 37 Ft. of channel realignment. The project will permanently impact 0.01 acre of jurisdictional wetlands. The unnamed tributary to Charleston Creek is classified as a Warm Water Fishery by Title 25, Chapter 93 Water Quality Standards. The wetland impact is considered *Deminimis*. This project does not require mitigation. This permit also includes 401 Water Quality Certification.

F41-008 County of Lycoming, 348 W. Third Street, Williamsport, PA 17701. Floodplain encroachment demolition (10) in **Lycoming County**, US ACOE Baltimore District. Lycoming County is seeking authorization to demolish the existing floodplain encroachments (flood damaged structures) and to re-grade the floodplain at the following locations.

652 Lyons Barr Rd., Montoursville, PA 17754-Montoursville North Quadrangle, Lat.: 41° 16' 35.3" N, Long.: -76° 55' 04.7" W.

336 W. Creek Rd., Cogan Station, PA 17728-Cogan Station Quadrangle, Lat.: 41° 18' 21.7" N, Long.: -77° 04' 09.4" W.

129 Veterans Lane, PA—Trout Run, PA 17771-Cogan Station Quadrangle, Lat.: 41° 21' 47.5" N, Long.: -77° 04' 37.6" W.

2974 Barneys Drive, Montoursville, PA 17754-Montoursville South Quadrangle, Lat.: 41° 14' 58.9" N, Long.: -76° 56' 11.9" W.

326 W. Creek Rd., Cogan Station, PA 17728-Cogan Station Quadrangle, Lat.: 41° 18' 21.2" N, Long.: -77° 03' 38.5" W.

209 N. Market St., Muncy, PA 17756-Muncy Quadrangle, Lat.: 41° 12' 33.3" N, Long.: -76° 47' 16.1" W.

1 Mechanic St., Muncy, PA 17756-Muncy Quadrangle, Lat.: 41° 12' 37" N, Long.: -76° 47' 15.1" W.

308 N. Main St., Muncy, PA 17756-Muncy Quadrangle, Lat.: 41° 12' 38.2" N, Long.: -76° 47' 12.6" W.

3565 Oberlin Ave., Cogan Station, PA 17728-Cogan Station Quadrangle, Lat.: 41° 17' 42.6" N, Long.: -77° 03' 20.1" W.

2986 Barneys Drive, Montoursville, PA 17754-Montoursville South Quadrangle, Lat.: 41° 14' 59.9" N, Long.: -76° 56' 11.2" W.

Southwest Region: Waterways & Wetlands Program, 400 Waterfront Drive, Pittsburgh, PA 15222, Dana Drake, Waterways and Wetlands Program Manager, 412-442-4000.

E04-367, Pennsylvania Department of Transportation, Engineering District 11-0, 45 Thoms Run Road, Bridgeville, PA 15017, Chippewa Township, **Beaver County**, Pittsburgh ACOE District.

Has been given consent to:

Remove the existing 10' single span, 18' wide bridge with a minimum underclearance of 1.17' carrying SR 4012 over an unnamed tributary to South Branch Brady Run (TSF) and having a drainage area of 0.603 square mile; construct and maintain a replacement 27.5 long, 12' wide box culvert with a minimum underclearance of 2.5' and depressed 1'. Place and maintain fill in a *de minimis* 0.001 acre of PEM wetland. In addition, temporarily impact 0.005 acre of PEM wetland and 59' of stream for the purpose of constructing these encroachments. Mitigation is provided onsite. These encroachments are located approximately 3 miles southwest of Beaver Falls, PA (Midland, PA Quadrangle; Latitude: 40° 43' 27.19"; Longitude: -80° 23' 50.37") in Chippewa Township, Beaver County.

Northwest Region: Waterways & Wetlands Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

E27-091, Kane Hardwood Division Collins Pine Co., 95 Hardwood Drive, Kane, PA 16735. Trust 13 Stream Crossing, in Kingsley Township, **Forest County**, ACOE Pittsburgh District (Mayburg, PA Quadrangle N: 41° 36', 6.464"; W: -79°, 12', 36.505").

Construct and maintain a 40-foot long CMP arched culvert measuring approximately 137 inches wide by 87 inches high in an unnamed tributary to Bobbs Creek (HQ-CWF) as part of the construction of a timber haul road extending northwest of an existing timber road approximately 0.65 mile north of SR 666 (Mayburg, PA Quadrangle N: 41°, 36', 6.464"; W: -79°, 12', 36.505") in Kingsley Township, Forest County.

E24-269FP Ridgway Borough, PO Box 149, Ridgway, PA 15853, NFIP Buyout—7 Penn Avenue, Ridgway Borough, **Elk County**, ACOE Pittsburgh District (Ridgway, PA Quadrangle N: 41.42147°; W: -78.73644°).

To remove two existing structures and restore property within the 100-year flood plain of the Clarion River at 7 Penn Avenue, Ridgway, PA. Subject property is a FEMA NFIP buyout.

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.

Southwest District: Oil & Gas Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222.

ESCGP-2 # ESX17-125-0035
Applicant Name Burnett Oil Company, Inc.
Contact Person Dan Tomley
Address 375 Southpointe Blvd, Suite 430
City, State, Zip Canonsburg, PA 15317
County Fayette County
Township(s) Springhill Township
Receiving Stream(s) and Classification(s) UNTs to
Rubbles Run (CWF) & Rubbles Run (CWF)

ESCGP-2 # ESX17-125-0035 Renewal
Applicant Name Range Resources—Appalachia, LLC
Contact Person Karl Matz
Address 3000 Town Center Boulevard
City, State, Zip Canonsburg, PA 15317
County Washington County
Township(s) Mount Pleasant Township
Receiving Stream(s) and Classification(s) Westland Run
(CWF) & UNTs to Westland Run (CWF)

ESCGP-2 # ESX17-129-0006
Applicant Name Huntley & Huntley Energy Exploration, LLC
Contact Person Paul Burke
Address 2660 Monroeville Boulevard
City, State, Zip Monroeville, PA 15146
County Westmoreland County
Township(s) Murrysville Borough & Penn Township

Receiving Stream(s) and Classification(s) Trib 37366 to
Lyons Run (TSF), Lyons Run (TSF)

ESCGP-2 # ESX17-125-0036
Applicant Name EQT Production Company
Contact Person Todd Klaner
Address 2400 Ansys Drive, Suite 200
City, State, Zip Canonsburg, PA 15317
County Washington County
Township(s) Amwell Township, West Bethlehem Township
Receiving Stream(s) and Classification(s) UNTs to
Tenmile Run (TSF), UNTs to Plum Run (TSF), Little
Tenmile Run (TSF), & Tenmile Run (TSF)

ESCGP-2 # ESG17-059-0042
Applicant Name EQT Gathering, LLC
Contact Person Brinton Goettel
Address 625 Liberty Avenue
City, State, Zip Pittsburgh, PA 15222
County Greene County
Township(s) Center Township
Receiving Stream(s) and Classification(s) UNT to Patter-
son Creek (HQ-WWF)

ESCGP-2 # ESG17-005-0010
Applicant Name Pine Run Midstream, LLC
Contact Person Scott Sweder
Address 1000 Commerce Drive, Park Place One, Suite
400
City, State, Zip Pittsburgh, PA 15275
County Armstrong County
Township(s) West Franklin Township
Receiving Stream(s) and Classification(s) UNTs to Buffalo
Creek (HQ-TSF)

ESCGP-2 # ESX17-125-0025
Applicant Name EQT Production Company
Contact Person Todd Klaner
Address 2400 Ansys Drive, Suite 200
City, State, Zip Canonsburg, PA 15317
County Washington County
Township(s) Amwell Township
Receiving Stream(s) and Classification(s) UNTs to
Tenmile Run (TSF), Boyd Run (TSF)

ESCGP-2 # ESX16-125-0058
Applicant Name Range Resources—Appalachia, LLC
Contact Person Karl Matz
Address 3000 Town Center Boulevard
City, State, Zip Canonsburg, PA 15317
County Washington County
Township(s) Hanover Township
Receiving Stream(s) and Classification(s) UNTs to Aunt
Clara Fork Kings Creek (CWF)

ESCGP-2 # ESX17-125-0027
Applicant Name MarkWest Liberty Midstream & Re-
sources LLC
Contact Person Rick Lowry
Address 4600 J. Barry Court, Suite 500
City, State, Zip Canonsburg, PA 15317
County Washington County
Township(s) Jefferson Township
Receiving Stream(s) and Classification(s) UNTs to Cross
Creek (WWF), Scott Run (WWF), and Harmon Creek
(WWF)

ESCGP-2 # ESX12-125-0066 Renewal
Applicant Name Range Resources—Appalachia, LLC
Contact Person Karl Matz
Address 3000 Town Center Boulevard
City, State, Zip Canonsburg, PA 15317
County Washington County

Township(s) Smith Township
 Receiving Stream(s) and Classification(s) UNTs to Raccoon Creek (WWF)

ESCGP-2 # ESX13-003-0008 Renewal
 Applicant Name CNX Gas Company, LLC
 Contact Person Erika Whetstone
 Address 1000 Consol Energy Drive
 City, State, Zip Canonsburg, PA 15317
 County Allegheny County
 Township(s) Findlay Township
 Receiving Stream(s) and Classification(s) Trib 33656 to Raredon Run (WWF), UNTs to Raredon Run (WWF), Raredon Run (WWF)

ESCGP-2 # ESX17-007-0011
 Applicant Name Penn Energy Resources, LLC
 Contact Person Gregg Stewart
 Address 1000 Commerce Drive, Park Place, Suite 400
 City, State, Zip Pittsburgh, PA 15275
 County Beaver County
 Township(s) Economy Townships
 Receiving Stream(s) and Classification(s) UNTs to North Branch Legionville Run (WWF) & UNT to North Fork Big Sewickley Creek (TSF)

ESCGP-2 # ESX15-125-0069
 Applicant Name MarkWest Liberty Midstream & Resources LLC
 Contact Person Rick Lowry
 Address 4600 J. Barry Court, Suite 500
 City, State, Zip Canonsburg, PA 15317
 County Washington County
 Township(s) Canton Township
 Receiving Stream(s) and Classification(s) UNTs to Georges Run (WWF) & Georges Run (WWF)

ESCGP-2 # ESX11-125-0024 Renewal
 Applicant Name Range Resources—Appalachia, LLC
 Contact Person Karl Matz
 Address 3000 Town Center Boulevard
 City, State, Zip Canonsburg, PA 15317
 County Washington County
 Township(s) Buffalo Township
 Receiving Stream(s) and Classification(s) UNTs to Buffalo Creek (HQ-WWF)

Southwest Region: Waterways & Wetlands Program, 400 Waterfront Drive, Pittsburgh, PA 15222, Dana Drake, Waterways and Wetlands Program Manager, 412-442-4000.

<i>ESCGP-2 No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
ESG0012518001	Range Resources— Appalachia, LLC 3000 Town Center Boulevard Canonsburg, PA 15317	Washington County	Robinson Township	Little Raccoon Run (WWF); UNT to Little Raccoon Run (WWF)

Northwest Region: Oil and Gas Program Manager, 230 Chestnut St., Meadville, PA 16335.

ESCGP-2 # ESG16-053-0001—Buzzard Swamp 1400 Well Site
 Applicant SWEPI LP
 Contact Jason Shoemaker
 Address 150 North Dairy Ashford E 1296-E
 City Houston State TX Zip Code 77079
 County Forest Township Jenks
 Receiving Stream(s) and Classification(s) Dry Run (HQ-CWF) & UNT to Log Run (HQ-CWF)

ESCGP-2 # ESG13-019-0019—Renick Well Site Renewal
 Applicant R.E. Gas Development, LLC
 Contact Mr. Michael Endler
 Address 600 Cranberry Woods Drive, Suite 250
 City Cranberry Township State PA Zip Code 16066
 County Butler Township(s) Center
 Receiving Stream(s) and Classification(s) UNT to Stony Run (WWF)/Slippery Rock Creek

Eastern Region: Oil & Gas Management Program Manager, 208 West Third Street, Williamsport, PA 17701.

ESCGP-2 # ESX29-115-17-0037
 Applicant Name Carrizo Marcellus LLC
 Contact Person Jeremy Manno
 Address 2634 Sleepy Hollow Dr
 City, State, Zip State College, PA 16803
 County Susquehanna
 Township(s) Jessup
 Receiving Stream(s) and Classification(s) UNT to East Branch of Wyalusing Ck (CWF-MF)

ESCGP-2 # ESX29-115-17-0042
 Applicant Name Susquehanna Gathering Co 1 LLC
 Contact Person Paul Corrigan

Address 333 Technology Dr, Suite 255
 City, State, Zip Canonsburg, PA 15317
 County Susquehanna
 Township(s) Harford
 Receiving Stream(s) and Classification(s) E Branch Martins Ck (CWF-MF)

ESCGP-2 # ESX29-115-17-0039
 Applicant Name SWN Production Co LLC
 Contact Person Nicki Atkinson
 Address 917 SR 92 N
 City, State, Zip Tunkhannock, PA 18657
 County Susquehanna
 Township(s) Forest Lake
 Receiving Stream(s) and Classification(s) UNT to Middle Branch Wyalusing Ck

ESCGP-2 # ESX29-115-17-0045
 Applicant Name Williams Field Services Co LLC
 Contact Person Adam Weightman
 Address 310 SR 29 North
 City, State, Zip Tunkhannock, PA 18657-7845
 County Susquehanna
 Township(s) Harford
 Receiving Stream(s) and Classification(s) UNTs to Martins Ck (CWF-MF) and E Branch of Martins Ck (CWF-MF)

ESCGP-2 # ESX29-015-18-0003
 Applicant Name Chesapeake Appalachia LLC
 Contact Person Keri Fieno
 Address 14 Chesapeake Lane
 City, State, Zip Sayre, PA 18840
 County Bradford
 Township(s) Wysox
 Receiving Stream(s) and Classification(s) Fall Run (CWF, MF); Wysox Ck (CWF, MF)
 Secondary—Susquehanna River

ESCGP-2 # ESG29-015-17-0037
 Applicant Name Chief Oil & Gas LLC
 Contact Person Jeffrey Deegan
 Address 1720 Sycamore Rd
 City, State, Zip Montoursville, PA 17754
 County Bradford
 Township(s) Leroy
 Receiving Stream(s) and Classification(s) McCraney Run
 (EV, MF)
 Secondary—Schrader Ck
 ESCGP-2 # ESG29-081-17-0012(01)
 Applicant Name Seneca Resources Corp
 Contact Person Doug Kepler
 Address 5800 Corporate Dr, Suite 300

City, State, Zip Pittsburgh, PA 15237
 County Lycoming
 Township(s) Lewis
 Receiving Stream(s) and Classification(s) Lycoming Ck
 (EV)
 Secondary—W Branch Susquehanna River (WWF)
 ESCGP-2 # ESX12-113-0041(01)
 Applicant Name Chief Oil & Gas LLC
 Contact Person Jeffrey Deegan
 Address 1720 Sycamore Rd
 City, State, Zip Montoursville, PA 17754
 County Sullivan
 Township(s) Elkland
 Receiving Stream(s) and Classification(s) Elk Creek (EV)

**STORAGE TANKS
 SITE-SPECIFIC INSTALLATION PERMITS**

The following Storage Tank Site-Specific Installation Permits, under the authority of the Storage Tank Spill Prevention Act (35 P.S. §§ 6021.304, 6021.504, 6021.1101—6021.1102) and under 25 Pa. Code Chapter 245, Subchapter C, have been issued by the Bureau of Environmental Cleanup and Brownfields, Director, PO Box 8763, Harrisburg, PA 17105-8763.

<i>SSIP Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Tank Type</i>	<i>Tank Capacity</i>
18-51-030	Philadelphia Energy Solutions Refining and Marketing LLC 3144 Passyunk Avenue Philadelphia, PA 19145-5299 Attn: Mark O. Brandon	Philadelphia	City of Philadelphia	1 AST storing distillate	5,758,200 gallons

SPECIAL NOTICES

PUBLIC NOTICE OF FINAL STATE WATER QUALITY CERTIFICATION FOR FERC PIPELINE PROJECT

Water Quality Certification Required by Section 401 of the Clean Water Act for the Eastern Panhandle Expansion Project; Columbia Gas Transmission, LLC; FERC Docket No. CP17-80; PADEP File No. WQ03-002

Southcentral Region: Waterways and Wetlands Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

Certification Request initiated by **Columbia Gas Transmission, LLC** (“Columbia”), a TransCanada company, 700 Louisiana Street, Houston, Texas, 77022, Eastern Panhandle Expansion Project in Bethel Township, **Fulton County** (Hancock, USGS Quadrangle, Lat: 39° 43’ 23”; Long: -78° 12’ 23”), U.S. Army Corps of Engineers Baltimore District.

WQ03-002: On March 15, 2017, **Columbia Gas Transmission, LLC** filed an application with the Federal Energy Regulatory Commission (FERC) under Section 7 of the Natural Gas Act (15 U.S.C.A. § 717f) seeking a certificate of public convenience and necessity to construct and operate its Eastern Panhandle Expansion Project (FERC Docket No. CP-17-80).

On June 27, 2017, Columbia requested a state water quality certification from the Department of Environmental Protection (Department), as required by Section 401 of the Clean Water Act (33 U.S.C.A. § 1341), to ensure that the construction, operation and maintenance of the Eastern Panhandle Expansion Project will protect water qual-

ity in Pennsylvania through compliance with State water quality standards and associated State law requirements, which are consistent with the requirements of the Clean Water Act.

The proposed overall project consists of the installation of approximately 3.37 miles of new greenfield 8.0-inch diameter natural gas pipeline, 0.05 mile of which is in Pennsylvania. The proposed project will tie into the existing Columbia 1804 and 10240 pipelines in Bethel Township, Fulton County, PA. In Pennsylvania, the project also includes new main line valves and tie-in assemblies (including pig launchers and receivers) at the main-line interconnections, one temporary and one permanent access road. The pipeline does not propose to cross any streams or wetlands in Pennsylvania. One existing stream crossing is proposed to be replaced for site access. The pipeline is being proposed to provide 47.5 Dekatherms per day of firm transportation capacity to markets in West Virginia through Mountaineer Gas Company’s gathering system.

The proposed Eastern Panhandle Expansion Project will require approximately 2.5 acres of earth disturbance in Pennsylvania, permanent impacts to 9 linear feet and temporary impacts to 32 linear feet of a UNT to Little Tonoloway Creek (WWF, MF); and 0.05 acre of temporary impacts to floodway, 0.015 acre of permanent impacts to floodway. No wetland impacts are anticipated with the portion of this project in Pennsylvania.

The Department published notice of its proposed State water quality certification in the *Pennsylvania Bulletin* on August 26, 2017, (Vol 47, No. 34 Pa.B.). No comments were received.

On February 12, 2018, the Department issued Section 401 Water Quality Certification the Department to Co-

lumbia Gas Transmission, LLC for the Eastern Panhandle Expansion Project. The Department certifies to Columbia Gas Transmission, LLC that the construction, operation and maintenance of the Project will not violate applicable State water quality standards set forth in 25 Pa. Code Chapter 93, provided Columbia Gas Transmission, LLC complies with the permitting programs, criteria and conditions established pursuant to State law and as part of the Water Quality Certification as follows:

1. *Discharge Permit*—Columbia Gas Transmission LLC shall obtain and comply with a Department National Pollutant Discharge Elimination System (NPDES) permit for the discharge of water from the hydrostatic testing of the Northeast Supply Enhancement Project pursuant to Pennsylvania's Clean Streams Law (35 P.S. §§ 691.1—691.1001) and all applicable implementing regulations (25 Pa. Code Chapter 92a) if such discharges are proposed.

2. *Erosion and Sediment Control Permit*—Columbia Gas Transmission LLC shall obtain and comply with the Department's Chapter 102 Erosion and Sediment Control General Permit for Earth Disturbance Associated with Oil and Gas Exploration, Production, Processing or Treatment issued pursuant to Pennsylvania's Clean Streams Law and Storm Water Management Act (32 P.S. §§ 680.1—680.17), and all applicable implementing regulations (25 Pa. Code Chapter 102) if earth disturbance activities are equal to or exceeds 5.0 acres.

3. *Erosion and Sediment Control Plan*—Columbia Gas Transmission LLC shall implement their written Erosion and Sediment Control Plan and best management practices (BMP's) that are consistent with the requirements identified in 25 Pa. Code Chapter 102 to minimize the potential for accelerated erosion and sedimentation from the project and to protect, maintain, reclaim and restore water quality and the existing and designated uses of waters of the Commonwealth and comply with all applicable implementing regulations (25 Pa. Code Chapter 102) pursuant to Pennsylvania's Clean Streams Law.

4. *Water Obstruction and Encroachment Permits*—Columbia Gas Transmission LLC shall comply with all terms and conditions of Water Obstruction and Encroachment General Permit GP-11-29-17-101 and shall obtain and comply with any other Department Chapter 105 Water Obstruction and Encroachment Permits that become necessary for the construction, operation and maintenance of all water obstructions and encroachments associated with the Eastern Panhandle Expansion Project pursuant to Pennsylvania's Clean Streams Law, Dam Safety and Encroachments Act (32 P.S. §§ 673.1—693.27), and Flood Plain Management Act (32 P.S. §§ 679.101—679.601) and all applicable implementing regulations (25 Pa. Code Chapter 105).

5. *Water Quality Monitoring*—The Department retains the right to specify additional studies or monitoring to ensure that the receiving water quality is not adversely impacted by any operational and construction process that may be employed by Columbia Gas Transmission LLC.

6. *Operation*—Columbia Gas Transmission LLC shall at all times properly operate and maintain all Eastern Panhandle Expansion Project facilities and systems of treatment and control (and related appurtenances) which are installed to achieve compliance with the terms and conditions of this State Water Quality Certification and all required permits, authorizations and approvals. Proper operation and maintenance includes adequate laboratory controls, appropriate quality assurance proce-

dures, and the operation of backup or auxiliary facilities or similar systems installed by Columbia Gas Transmission LLC.

7. *Incidents Causing or Threatening Pollution*—In compliance with 25 Pa. Code Chapter 91.33, in the event of a spill or discharge of a polluting substance that may endanger downstream users of waters of the Commonwealth or would otherwise result in pollution or create the danger of pollution to waters of the Commonwealth, Columbia Gas Transmission LLC shall contact the Department immediately by telephone, immediately implement their Spill Prevention, Control, and Countermeasure Plan for Construction Activities, and take other steps or measures to abate the polluting discharge or danger thereof to waters of the Commonwealth and users of waters of the Commonwealth. Columbia shall otherwise fully comply with 25 Pa. Code Chapter 91.33. In the event of such spills or discharges, Columbia Gas Transmission LLC shall contact the Department using the 24 hour Emergency Response hotline (866) 825-0208.

8. *Inspection*—The Eastern Panhandle Expansion Project, including all relevant records, are subject to inspection at reasonable hours and intervals by an authorized representative of the Department to determine compliance with this State Water Quality Certification, including all required State water quality permits and State water quality standards. A copy of this certification shall be available for inspection by the Department, or an authorized representative thereof, during such inspections of the Eastern Panhandle Expansion Project.

9. *Transfer of Projects*—If Columbia Gas Transmission LLC intends to transfer any legal or equitable interest in the Eastern Panhandle Expansion Project which is affected by this State Water Quality Certification, Columbia Gas Transmission LLC shall serve a copy of this certification upon the prospective transferee of the legal and equitable interest at least 30 days prior to the contemplated transfer and shall simultaneously inform the Department Regional Office of such intent. Notice to the Department shall include a transfer agreement signed by the existing and new owner containing a specific date for transfer of certification responsibility, coverage, and liability between them.

10. *Correspondence*—All correspondence with and submittals to the Department concerning this State Water Quality Certification shall be addressed to the Department of Environmental Protection, Southcentral Regional Office, Program Manager, Waterways and Wetlands, 909 Elmerton Avenue, Harrisburg, PA 17110.

11. *Reservation of Rights*—The Department may suspend or revoke this State Water Quality Certification if it determines that Columbia Gas Transmission LLC has not complied with the terms and conditions of this certification. The Department may require additional measures to achieve compliance with applicable law, subject to Columbia Gas Transmission LLC's applicable procedural and substantive rights.

12. *Other Laws*—Nothing in this State Water Quality Certification shall be construed to preclude the institution of any legal action or relieve Columbia Gas Transmission LLC from any responsibilities, liabilities, or penalties established pursuant to any applicable Federal or State law or regulation.

13. *Severability*—The provisions of this State Water Quality Certification are severable and should any provision of this certification be declared invalid or unenforceable, the remainder of the certification shall not be affected thereby.

Any person aggrieved by this action may file a petition for review pursuant to Section 19(d) of the Natural Gas Act, 15 U.S.C.A. § 717r(d), with the Office of the Clerk, United States Court of Appeals for the Third Circuit, 21400 U.S. Courthouse, 601 Market Street, Philadelphia, PA 19106-1790 within 30 days of publication of this notice, or within 30 days of receipt of written notice of this action, whichever occurs first. Important legal rights are at stake, so you should show this document to a lawyer promptly.

[Pa.B. Doc. No. 18-293. Filed for public inspection February 23, 2018, 9:00 a.m.]

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Availability of Revised Instructions and Form for Chapter 105 Water Obstruction and Encroachment General Permit Registrations

Description: Effective March 26, 2018, the Department of Environmental Protection (Department) will require the use of the new General Permit Registration Form for Chapter 105 Water Obstruction and Encroachment Permits. This information is intended to clarify the application process for a Water Obstruction and Encroachment General Permit registration in accordance with 25 Pa. Code Chapter 105 (relating to dam safety and waterway management). The revised General Permit Registration Form and instructions can be accessed through the Department's e-Library web site at www.elibrary.dep.state.pa.us (select "Permit and Authorization Packages," then "Waterways Engineering and Wetlands" then "Water Obstruction and Encroachment and Wetlands" and "General Permits").

These revisions do not change the substantive requirements to qualify for a Federal or State authorization under the Pennsylvania State Programmatic General Permit-5 (PASPGP-5) or any Chapter 105 General Permit. In general, the changes to the forms streamline and clarify the information that is required to obtain coverage under a Chapter 105 Water Obstruction and Encroachment General Permit. The General Permit Registration Form (3150-PM-BWEW-0500) has been refined and reformatted to eliminate redundancies and unnecessary information required for the submission to be complete. The General Permit Instructions (3150-PM-BWEW-0500) have also been simplified to better explain the General Permit registration requirements. The Fee Calculation Worksheet (3150-PM-BWEW-0553) is no longer required to be submitted for registration completeness, but can continue to be used as a reference to assist the applicant in determining the correct permit fees. The Reporting Criteria Checklist (3150-PM-BWEW-0051) is no longer required to be submitted by the permit registrant or reviewed by the Department. The checklist will continue to serve as a useful tool. The Aquatic Resource Impact Table (3150-PM-BWEW-0557) has been condensed by removing references to Federal impact data based on discussions with the United States Army Corps of Engineers. This new format should expedite the Department reviews to determine if any impact area triggers a review by the United States Army Corps of Engineers for the Federal authorization. The Bog Turtle Screening Form (3150-PM-BWEW-0550) will no longer be required because bog turtle habitat

information is now available when a Pennsylvania Natural Diversity Inventory receipt is obtained.

The Department will be hosting a webinar on these new forms on March 6, 2018. Interested persons may register at <https://copa.webex.com/copa/onstage/g.php?MTID=ea1075e1c0c4fa052c3f49e7d4a3ad1ea>.

Contact: Questions regarding this new General Permit registration process should be directed to Sidney Freyermuth, Chief, Water Obstruction and Encroachments, Bureau of Waterways Engineering and Wetlands at (717) 772-5977 or sfreyermut@pa.gov.

PATRICK McDONNELL,
Secretary

[Pa.B. Doc. No. 18-294. Filed for public inspection February 23, 2018, 9:00 a.m.]

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Bid Opportunity

OOGM 17-3, Cleaning Out and Plugging Two Abandoned Oil and Gas Wells, Concord Township, Jefferson County, and Butler Township, Butler County. The principal items of work and approximate quantities include: clean-out and plug two abandoned oil and gas wells, estimated to be 1,600 feet and 2,000 feet in depth, to Department of Environmental Protection (Department) specifications; prepare and restore well sites; and mobilize and demobilize plugging equipment.

This bid issues on March 2, 2018, and bids will be opened on April 5, 2018, at 2 p.m. Bid documents may be downloaded for free beginning on the issue date from the Department by going to www.BidExpress.com. A prebid conference is scheduled for March 6, 2018, at 10 a.m. at the 3 C's Pizza, 1252 West Sunbury Road, West Sunbury, PA 16061. Contact the Construction Contracts Section at (717) 787-7820 for more information on this bid. Note this is a Small Construction Business Program bid opportunity.

PATRICK McDONNELL,
Secretary

[Pa.B. Doc. No. 18-295. Filed for public inspection February 23, 2018, 9:00 a.m.]

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Bid Opportunity

OSM 10(7136)101.1, Abandoned Mine Reclamation Project, Little Bear Creek East, Allegheny Township, Butler County. The principal items of work and approximate quantities include: mobilization and demobilization, 1 L.S.; channel excavation, 750 cubic yards; erosion matting, 2,110 square yards; dewatering impoundment, 1 L.S.; grading, 24,180 cubic yards; and seeding, 4.5 acres.

This bid issues on February 23, 2018, and bids will be opened on March 22, 2018, at 2 p.m. Bid documents, including drawings in PDF format and AutoCAD Map 3D

format, may be downloaded for free beginning on the issue date from the Department of Environmental Protection by going to www.BidExpress.com. 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. Note this is a Small Construction Business Program bid opportunity.

PATRICK McDONNELL,
Secretary

[Pa.B. Doc. No. 18-296. Filed for public inspection February 23, 2018, 9:00 a.m.]

DEPARTMENT OF HEALTH

Ambulatory Surgical Facilities; Requests for Exceptions

The following ambulatory surgical facility (ASF) has filed a request for exception under 28 Pa. Code § 51.33 (relating to requests for exceptions) with the Department of Health (Department), which has authority to license ASFs under the Health Care Facilities Act (35 P.S. §§ 448.101—448.904b). The following request for exception relates to regulations governing ASF licensure in 28 Pa. Code Chapters 51 and 551—571 (relating to general information; and ambulatory surgical facilities).

<i>Facility Name</i>	<i>Regulation</i>
PGC Endoscopy Center for Excellence, LLC	28 Pa. Code § 551.52 (relating to ASF responsibilities)

The previously listed request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, ra-paexcept@pa.gov. 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 previously listed address. Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact the Director, Division of Acute and Ambulatory Care at (717) 783-8980, or for speech and/or hearing impaired persons, call the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

RACHEL L. LEVINE, MD,
Acting Secretary

[Pa.B. Doc. No. 18-297. Filed for public inspection February 23, 2018, 9:00 a.m.]

DEPARTMENT OF HEALTH

Human Immunodeficiency Virus (HIV) Community Prevention Planning Committee Public Meetings

The Statewide HIV Planning Group, established by the Department of Health (Department) under sections 301(a) and 317 of the Public Health Service Act (42 U.S.C.A. §§ 241(a) and 247b), will hold a public meeting on Wednesday, March 14, 2018, and Thursday, March 15, 2018, from 9 a.m. to 4 p.m. at the Park Inn Harrisburg West, 5401 Carlisle Pike, Mechanicsburg, PA 17050.

Jurisdictional HIV prevention planning is a required activity of the Department's Centers for Disease Control and Prevention grant for Comprehensive HIV Prevention Programs for Health Departments. Additionally, the Ryan White HIV/AIDS Treatment Extension Act of 2009 (Pub.L. No. 111-87), previously known as the Ryan White Comprehensive AIDS Resources Emergency Act of 1990 (42 U.S.C.A. §§ 300ff-21—300ff-38), requires that the Department engage in a public advisory planning process in developing a comprehensive plan. The purpose of these meetings is to conduct an integrated prevention and care HIV planning process by which the Department works in partnership with the community and stakeholders to enhance access to HIV prevention, care and treatment services.

For additional information, or persons with a disability who wish to attend the meeting who require an auxiliary aid, service or other accommodation to do so should

contact Cynthia Findley, Bureau Director, Department of Health, Bureau of Communicable Diseases, 625 Forster Street, Room 1010, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-0572, or for speech and/or hearing-impaired persons, call the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

The Department reserves the right to cancel this meeting without prior notice.

RACHEL L. LEVINE, MD,
Acting Secretary

[Pa.B. Doc. No. 18-298. Filed for public inspection February 23, 2018, 9:00 a.m.]

DEPARTMENT OF HEALTH

Long-Term Care Nursing Facilities; Requests for Exception

The following long-term care nursing facilities are seeking exceptions to 28 Pa. Code § 205.67(k) (relating to electric requirements for existing and new construction):

William Hood Dunwoody Care Center
3500 West Chester Pike
Newtown Square, PA 19073
FAC ID # 041602

Calvary Fellowship Homes, Inc.
502 Elizabeth Drive
Lancaster, PA 17601
FAC ID # 030102

The following long-term care nursing facilities are seeking exceptions to 28 Pa. Code § 201.22(e) (relating to prevention, control and surveillance of tuberculosis (TB)):

Phoebe Berks Health Care Center, Inc.
1 Heidelberg Drive
Wernersville, PA 19565
FAC ID # 167802

Phoebe Richland Health Care Center
108 South Main Street
Richlandtown, PA 18955
FAC ID # 260302

These requests are on file with the Department of Health (Department). Persons may receive a copy of a request for exception by requesting a copy from the 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 previously listed address.

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 previously listed address or phone number, or for speech and/or hearing-impaired persons, call the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

RACHEL L. LEVINE, MD,
Acting Secretary

[Pa.B. Doc. No. 18-299. Filed for public inspection February 23, 2018, 9:00 a.m.]

DEPARTMENT OF HEALTH

Nursing Home Patient Safety Trust Fund Surcharge Assessment Procedure

On March 20, 2002, the Medical Care Availability and Reduction of Error (MCARE) Act (MCARE Act) (40 P.S. §§ 1303.101—1303.910) was enacted. Among other provisions, the MCARE Act established the Patient Safety Authority (Authority) to collect, analyze and evaluate data regarding reports of serious events and incidents occurring in certain medical facilities and to make recommendations to those facilities regarding changes, trends and improvements in health care practices and procedures for the purpose of reducing the number and severity of serious events and incidents.

Section 305(a) of the MCARE Act (40 P.S. § 1303.305(a)) authorizes the establishment of a Patient Safety Trust Fund (Fund) for the operations of the Authority. Section 305(c) of the MCARE Act states that beginning July 1, 2002, and for every fiscal year thereaf-

ter, each medical facility covered by the MCARE Act shall pay the Department of Health (Department) a surcharge on its licensing fee as necessary to provide sufficient revenues for the Authority to operate. Section 305(c) of the MCARE Act also states that the total assessment amount for Fiscal Year (FY) 2002-2003 shall not exceed \$5 million and that the Department shall transfer the total assessment amount to the Fund within 30 days of receipt. Section 305(d) of the MCARE Act provides that for each succeeding calendar year, the Department shall determine and assess each medical facility a proportionate share of the Authority's budget. The base amount of \$5 million provided for in FY 2002-2003 shall be increased no more than the Consumer Price Index in each succeeding fiscal year.

Initially, the surcharge was assessed on ambulatory surgical facilities (ASF), birth centers and hospitals. Subsequently, the MCARE Act was amended and abortion facilities were also required to pay the surcharge.

With the cooperation of hospitals, birthing centers, abortion facilities and ASFs in this Commonwealth, the surcharge has been implemented and has provided resources for the implementation of the web-based Pennsylvania Patient Safety Reporting System and the operation of the Authority.

This notice sets forth the procedure that the Department will follow in assessing and collecting the surcharge for FY 2017-2018. The Authority FY 2017-2018 surcharge assessment is \$6.86 million. The MCARE Act states that the surcharge shall be collected from medical facilities, which are defined as ASFs, birth centers and hospitals licensed under either the Health Care Facilities Act (35 P.S. §§ 448.101—448.904b) or Article X of the Human Services Code (62 P.S. §§ 1001—1088). Also included, as of May 1, 2006, are abortion facilities which are defined in 18 Pa.C.S. § 3203 (relating to definitions). Nursing homes, which are assessed under sections 401—411 of the MCARE Act (40 P.S. §§ 1303.401—1303.411), receive a separate assessment notification.

To assess the surcharge in an equitable manner, the Department continues to use a common denominator in these facilities. For ASFs, birth centers and abortion facilities, the Department has chosen the number of operating and procedure rooms. For hospitals, the Department has chosen the number of beds contained on the license of each hospital, whether by the Department (general and special acute care hospitals) or the Department of Human Services (privately owned psychiatric hospitals). It was also necessary to pick a point in time to make this assessment; the Department has chosen December 31, 2017.

The number of operating/procedure rooms (for ASFs, birth centers and abortion facilities) and the number of licensed beds (for hospitals) was totaled and that number was divided into \$6.68 million to arrive at a charge per unit for the assessment. The total number of units (operating rooms, procedure rooms and licensed beds) is 41,989. Dividing this number into \$6.68 million results in a per unit assessment for each installment of approximately \$163.38. The assessment is payable by May 31, 2018.

To obtain a copy of the assessment for all facilities, send an e-mail to paexcept@pa.gov and request the FY 2017-2018 MCARE surcharge assessment lists.

Each facility will receive notification from the Department setting forth the amount due, date due and the name and address to which the payment should be sent.

Payment will be due within 60 days. The MCARE Act authorizes the Department to assess an administrative penalty of \$1,000 per day on facilities who fail to pay the surcharge by the due date.

If a facility has any questions concerning this notice, a representative from that facility should contact Garrison E. Gladfelter, Jr., Chief, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, 825 Forster Street, Harrisburg, PA 17120, (717) 783-8980.

Persons with a disability who require an alternative format of this document (for example, large print, audio-tape or Braille) should contact Garrison E. Gladfelter, Jr., at the previously listed address or telephone number, or for speech and/or hearing-impaired persons, call the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

RACHEL L. LEVINE, MD,
Acting Secretary

[Pa.B. Doc. No. 18-300. Filed for public inspection February 23, 2018, 9:00 a.m.]

DEPARTMENT OF HEALTH

Nursing Home Patient Safety Trust Fund Surcharge for Fiscal Year 2017-2018 as Provided for under the Medical Care Availability and Reduction of Error (MCARE) Act

Sections 401—411 of the Medical Care Availability and Reduction of Error (MCARE) Act (MCARE Act) (40 P.S. §§ 1303.401—1303.411) require nursing homes to electronically report health care-associated infection (HAI) data to the Department of Health (Department) and the Patient Safety Authority (Authority). Mandatory reporting of nursing home HAIs was implemented in June 2009.

Section 409 of the MCARE Act states that every fiscal year, beginning July 1, 2008, each nursing home shall pay the Department a surcharge on its licensing fee to provide sufficient revenues for the Authority to perform its responsibilities related to the MCARE Act. The base amount of \$1 million for Fiscal Year (FY) 2008-2009 has the potential to be increased no more than the Consumer Price Index in each succeeding fiscal year.

The FY 2016-2017 surcharge was \$1.11 million. The Authority has recommended that the FY 2017-2018 surcharge assessment total \$1.14 million.

To assess the surcharge in an equitable manner, the number of licensed nursing home beds as of December 31, 2017, was totaled and that amount was divided into \$1.14 million. The total number of licensed beds is 86,680. This equates to a surcharge of \$13.15 per bed.

To obtain a copy of the assessment for all facilities, send an e-mail to paexcept@pa.gov and request the FY 2017-2018 MCARE surcharge assessment list for nursing care facilities. Each facility will receive notification from the Department setting forth the amount due, date due, and the name and address to which the payment should be sent. Payment will be due within 60 days. The MCARE Act authorizes the Department to assess an administrative penalty of \$1,000 per day on facilities who fail to pay the surcharge by the due date.

If a nursing care facility has any questions concerning this notice, a representative from that facility should

contact Susan Williamson, Director, Division of Nursing Care Facilities, Room 526, Health and Welfare Building, 825 Forster Street, Harrisburg, PA 17120, (717) 787-1816.

Persons with a disability who require an alternative format of this document (for example, large print, audio-tape or Braille) should contact Susan Williamson at the previously listed address or telephone number, or for speech and/or hearing-impaired persons, call the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

RACHEL L. LEVINE, MD,
Acting Secretary

[Pa.B. Doc. No. 18-301. Filed for public inspection February 23, 2018, 9:00 a.m.]

DEPARTMENT OF HEALTH

Temporary Scheduling of Substance; Fentanyl-Related Substances as a Schedule I Controlled Substance

The Acting Secretary of Health (Acting Secretary) of the Department of Health (Department) is issuing this notice of intent to issue a final notice to temporarily schedule fentanyl-related substances that are not currently listed in any schedule of The Controlled Substance, Drug, Device and Cosmetic Act (act) (35 P.S. §§ 780-101—780-144). This temporary final notice will place these substances in schedule I under the act. The Acting Secretary is taking this action because the scheduling of fentanyl-related substances in this Commonwealth on a temporary basis is necessary to avoid an imminent hazard to public safety.

At the time of publication in the *Pennsylvania Bulletin*, the Acting Secretary will transmit a copy of the proposed notice to the Attorney General under section 3(d)(4) of the act (35 P.S. § 780-103(d)(4)) for his review. The Attorney General shall, by law, have 30 days from receipt of the proposed notice to provide written comments to the Department, if any.

Any formal order may not be issued before the expiration of 14 days after both:

(i) The date of publication in the *Pennsylvania Bulletin* of this proposed notice of the intention to issue a final notice and the grounds upon which the order is to be issued.

(ii) The date the Acting Secretary transmitted the notice to the Attorney General.

Background

The United States Drug Enforcement Administration (DEA) published its intent to classify fentanyl-related substances as schedule I synthetic opioids under the Federal Controlled Substances Act (CSA) (21 U.S.C.A. §§ 801—971) at 82 FR 61700 (December 29, 2017). The DEA's temporary scheduling order was issued upon its publication at 83 FR 5188 (February 6, 2018) and is effective February 6, 2018, until February 6, 2020. If the order is extended or made permanent, the DEA will publish a document in the *Federal Register*.

Section 201 of the CSA (21 U.S.C.A. § 811) provides the United States Attorney General with the authority to temporarily place a substance in schedule I of the CSA for 2 years if he finds that the action is necessary to avoid an

imminent hazard to the public safety. The United States Attorney General has delegated his scheduling authority under section 201 of the CSA to the Administrator of the DEA. To find that placing a substance temporarily into schedule I of the CSA is necessary to avoid an imminent hazard to the public safety, the Administrator is required to consider: (1) the substances' history and current pattern of abuse; (2) the scope, duration and significant of abuse; and (3) what, if any, risk there is to the public health. Section 201(h)(3) of the CSA.

The Administrator of the DEA determined that because fentanyl-related substances have: (1) a high potential for abuse; (2) no currently accepted medical use in treatment in the United States; and (3) a lack of accepted safety for use under medical supervision, it was necessary to temporarily schedule I of the CSA to avoid an imminent hazard to the public safety. 83 FR 5188, 5190 (February 6, 2018). A substance may be temporarily scheduled if it is not listed in any other schedule under section 202 of the CSA (21 U.S.C.A. § 812), or if there is no exemption or approval in effect for the substance under section 505 of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C.A. § 355). If an exemption or approval is in effect under section 505 of the FD&C Act with respect to a substance that falls within the definition of a fentanyl-related substance set forth in this notice and the final notice, the substance will be excluded from the temporary scheduling order.

The DEA has further determined that its current temporary scheduling notice would define fentanyl-related substances to include any substance that is structurally related to fentanyl by one or more of the following modifications:

1. Replacement of the phenyl portion of the phenethyl groups by any monocycle, whether further substituted in or on the monocycle.
2. Substitution in or on the phenethyl group with alkyl, alkenyl, alkoxy, halo, haloalkyl, amino or nitro groups.
3. Substitution in or on the piperidine ring with alkyl, alkenyl, alkoxy, ester, ether, hydroxyl, haloalkyl, amino or nitro groups.
4. Replacement of the aniline ring with an aromatic monocycle whether further substituted in or on the aromatic monocycle.
5. Replacement of the N-propionyl group by another acyl group.

83 FR 5188, 5191 and 5192. The DEA's temporary scheduling order includes all substances that fall within the previous definition—even if the substances have not yet emerged on the illicit market in the United States or this Commonwealth. The DEA further noted in its temporary scheduling order that none of the substances being temporarily controlled has a currently accepted medical use in treatment in the United States.

In this Commonwealth, fentanyl-related substances are not currently scheduled. The Commonwealth has recently seen an increase in use of the drug to mix with heroin and other substances (such as cocaine and methamphetamine) or used in counterfeit pharmaceutical prescription drugs. Consequently, users who buy these substances on the illicit market are often unaware of the specific substance they are actually consuming and the associated risk with that substance. Fentanyl-related substances have a high potential for abuse and are approximately 100 times stronger than morphine. Typically, these substances are manufactured outside the United States by

clandestine manufacturers and then smuggled into the United States. They are also widely available over the internet as a "research chemical," allowing for potential widespread use within this Commonwealth.

These factors, in addition to fentanyl-related substances not currently listed in any schedule having no currently acceptable medical use in the United States, show that fentanyl-related substances pose a substantial risk to the public. This has prompted the Acting Secretary to schedule fentanyl-related substances as schedule I controlled substances on a temporary basis. In doing so, the Acting Secretary is acting to protect the citizens of this Commonwealth and bring the Commonwealth into conformity with Federal law.

Legal Authority and Action

Under section 3 of the act, the Acting Secretary shall control all substances listed in schedules I through V of the act. Under section 3(d) of the act, the Acting Secretary is authorized to schedule any substance on a temporary basis to avoid an imminent hazard to public safety. When determining whether a substance poses an imminent hazard to public safety, the Acting Secretary is required to consider: (1) the substance's history and current pattern of abuse; (2) the substance's scope, duration and significance of its abuse; (3) the risk to the public health; and (4) whether the substance is controlled under Federal law. When a substance is already controlled under Federal law, the Acting Secretary is not required to take the remaining factors into consideration.

In addition, the Acting Secretary is authorized under section 3(d) of the act to schedule on a temporary basis a substance under one of the schedules in section 4 of the act (35 P.S. § 780-104), regarding schedules of controlled substances, if the substance is not listed in any other schedule in section 4 of the act or 28 Pa. Code §§ 25.72 and 25.75 (relating to schedules of controlled substances; and paregoric) and if no exception or approval is in effect for the substance under section 505 of the FD&C Act. As previously noted, the FDA has not approved fentanyl-related substances not currently listed in any schedule under the CSA for any type of medical use.

Because fentanyl-related substances are not currently listed in any schedule of the CSA, the Acting Secretary has the authority to temporarily schedule fentanyl-related substances under the act. Although not required to do so in taking this action, the Acting Secretary has considered: (1) the increased current use of fentanyl-related substances in combination with other substances; (2) fentanyl-related substances' addictive nature; (3) the fact that fentanyl-related substances are approximately 100 times more potent than morphine; (4) the availability of fentanyl-related substances through online distributors; and (5) the lack of a valid, medical use. Accordingly, the Acting Secretary determined that fentanyl-related substances are a dangerous hazard to public safety.

To revise 28 Pa. Code § 25.72 to conform to any final notice issued by the Acting Secretary under section 3(c) of the act to temporarily schedule as schedule I controlled substances fentanyl-related substances that are not currently listed in any schedule under the act, the Department plans to promulgate a conforming amendment to 28 Pa. Code § 25.72 through final rulemaking with proposed rulemaking omitted.

Accessibility

Persons with a disability who require an alternative format of this notice (for example, large print, audiotope, Braille) should contact the Department of Health, Bureau of Community Program Licensure and Certification, Division of Home Health, Drug, Device and Cosmetic Program, 132A Kline Plaza, Harrisburg, PA 17104, (717) 783-1379, or for speech and/or hearing-impaired persons,

call the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

RACHEL L. LEVINE, MD,
Acting Secretary

[Pa.B. Doc. No. 18-302. Filed for public inspection February 23, 2018, 9:00 a.m.]

DEPARTMENT OF HUMAN SERVICES

Clinical Laboratory Improvement Amendments Excluded Laboratory Services Update; Medical Assistance Fee Schedule Revisions

The Department of Human Services (Department) announces changes to the Medical Assistance (MA) Program Fee Schedule. These changes are effective for dates of service on and after February 26, 2018.

Each year, the Centers for Medicare & Medicaid Services provides an updated list of Current Procedural Terminology (CPT) codes that are laboratory tests under section 353 of the Clinical Laboratory Improvement Amendments of 1988 (CLIA) (42 U.S.C.A. § 263a), that are excluded from CLIA certificate requirements under the CLIA regulations, 42 CFR Part 493 (relating to laboratory requirements). The Department identified seven procedure codes in this list to add to the MA Fee Schedule, and six codes that need to be opened to additional provider types, provider specialties and places of service, to make these services available outside a laboratory setting.

Therefore, the Department is adding certain outpatient laboratory CPT procedure codes to the MA Program Fee Schedule that are excluded from CLIA certificate requirements. In addition, the Department is adding certain Provider Types (PT), Provider Specialties (Spec) and Places of Service (POS) to certain outpatient laboratory CPT procedure codes that are excluded from CLIA certificate requirements and already open on the MA Program Fee Schedule.

The Department will issue an MA Bulletin to inform providers of the updates.

Additions to the MA Fee Schedule

The Department is adding the following procedure codes with the associated PT, Spec and POS combinations to the MA Program Fee Schedule:

<i>Procedure Code</i>	<i>Description</i>	<i>Provider Type</i>	<i>Provider Specialty</i>	<i>Place of Service</i>	<i>MA Fee</i>	<i>Prior Auth.</i>	<i>Units</i>	<i>Limits</i>
83013	Helicobacter pylori; breath test analysis for urease activity, nonradioactive isotope (for example, c-13)	01	016	23	\$60.10	No	Per test	Once per day
		01	017	23				
		01	183	22				
		08	082	49				
		09	All	11				
		28	280	81				
86077	Blood bank physician services; difficult cross match and/or evaluation of irregular antibody(s), interpretation and written report	01	017	23	\$41.83	No	Per procedure	Once per day
		01	183	22				
		08	082	49				
		28	280	81				
		31	All	11, 21, 23				
86078	Blood bank physician services; investigation of transfusion reaction including suspicion of transmissible disease, interpretation and written report	01	017	23	\$41.56	No	Per procedure	Once per day
		01	183	22				
		08	082	49				
		28	280	81				
		31	All	11, 21, 23				
86079	Blood bank physician services; authorization for deviation from standard blood banking procedures (for example, use of outdated blood, transfusion of Rh incompatible units), with written report	01	017	23	\$41.56	No	Per procedure	Once per day
		01	183	22				
		08	082	49				
		28	280	81				
		31	All	11, 21, 23				

<i>Procedure Code</i>	<i>Description</i>	<i>Provider Type</i>	<i>Provider Specialty</i>	<i>Place of Service</i>	<i>MA Fee</i>	<i>Prior Auth.</i>	<i>Units</i>	<i>Limits</i>
88329	Pathology consultation during surgery	01	016	23	\$29.77	No	Per procedure	Once per day
		01	017	23				
		01	183	22				
		08	082	49				
		27	All	11, 21, 24				
		28	280	81				
88738	Hemoglobin (Hgb), quantitative, transcutaneous	01	016	23	\$4.47	No	Per test	Once per day
		01	017	23				
		01	183	22				
		08	082	49				
		09	All	11				
		28	280	81				
		31	All	11				
89049	Caffeine halothane contracture test for malignant hyperthermia susceptibility, including interpretation and report	01	183	22	\$53.03	No	Per test	Once per day
		28	280	81				

Updates to Procedure Codes Currently on the MA Program Fee Schedule

The Department is adding the following PT, Spec and POS combinations to the procedure codes:

<i>Procedure Code</i>	<i>Description</i>	<i>Provider Type</i>	<i>Provider Specialty</i>	<i>Place of Service</i>
86485	Skin test; candida	08	082	49
		09	All	11
		31	All	11
		33	335	11
86490	Skin test; coccidioidomycosis	08	082	49
		09	All	11
		31	All	11
		33	335	11
86510	Skin test: histoplasmosis	08	082	49
		09	All	11
		31	All	11
		33	335	11
87900	Infectious agent drug susceptibility phenotype prediction using regularly updated genotype bioinformatics	31	All	11
88720	Bilirubin, total transcutaneous	08	082	49
		09	All	11, 12
		31	All	11, 12
		33	335	11, 12
88740	Hemoglobin, quantitative, transcutaneous, per day; carboxyhemoglobin	08	082	49
		09	All	11
		31	All	11

Fiscal Impact

The estimated cost for Fiscal Year 2017-2018 is \$0.038 million (\$0.018 million in State funds).

Public Comment

Interested persons are invited to submit written comments regarding this notice to the Department of Human Services, Office of Medical Assistance Programs, c/o Deputy Secretary's Office, Attention: Regulations Coordinator, Room 515,

Health and Welfare Building, Harrisburg, PA 17120. Comments received will be reviewed and considered for any subsequent revisions to the MA Program Fee Schedule.

Persons with a disability who require an auxiliary aid or service may submit comments using the Pennsylvania AT&T Relay Service (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

TERESA D. MILLER,
Acting Secretary

Fiscal Note: 14-NOT-1210. (1) General Fund; (2) Implementing Year 2017-18 is \$18,000; (3) 1st Succeeding Year 2018-19 through 5th Succeeding Year 2022-23 are \$74,000; (4) 2016-17 Program—\$450,970,000; 2015-16 Program—\$392,918,000; 2014-15 Program—\$564,772,000; (7) MA—Fee-for-Service; (8) recommends adoption. Funds have been included in the budget to cover this increase.

[Pa.B. Doc. No. 18-303. Filed for public inspection February 23, 2018, 9:00 a.m.]

ENVIRONMENTAL HEARING BOARD

Chris Stockdale, Lesley Stockdale and Barbara Gandy v. Department of Environmental Protection and Consol Pennsylvania Coal Company, LLC, Permittee; EHB Doc. No. 2018-017-R

Chris Stockdale, Lesley Stockdale and Barbara Gandy have appealed the issuance by the Department of Environmental Protection of revised NPDES Permit No. PA0236195 to Consol Pennsylvania Coal Company, LLC for the Harvey Mine located in Richhill and Morris Townships, Greene County.

A date for the hearing on the appeal has not yet been scheduled.

The appeal is filed with the Environmental Hearing Board (Board) at its office on the Second Floor, Rachel Carson State Office Building, 400 Market Street, P.O. Box 8457, Harrisburg, PA 17105-8457, and may be reviewed by any interested party on request during normal business hours. If information concerning this notice is required in an alternative form, contact the Secretary to the Board at (717) 787-3483. TDD users may telephone the Board through the Pennsylvania AT&T Relay Center at (800) 654-5984.

Petitions to intervene in the appeal may be filed with the Board by interested parties under 25 Pa. Code § 1021.81 (relating to intervention). Copies of the Board's rules of practice and procedure are available upon request from the Board.

THOMAS W. RENWAND,
Chairperson

[Pa.B. Doc. No. 18-304. Filed for public inspection February 23, 2018, 9:00 a.m.]

ENVIRONMENTAL HEARING BOARD

Sunoco Partners Marketing & Terminals, LP v. Department of Environmental Protection; EHB Doc. No. 2018-016-L

Sunoco Partners Marketing & Terminals, LP has appealed the issuance by the Department of Environmental Protection of NPDES Permit No. PA0011096 to Sunoco Partners Marketing & Terminals, LP for the Marcus Hook Industrial Complex located in Marcus Hook Borough, Delaware County.

A date for the hearing on the appeal has not yet been scheduled.

The appeal is filed with the Environmental Hearing Board (Board) at its office on the Second Floor, Rachel Carson State Office Building, 400 Market Street, P.O. Box 8457, Harrisburg, PA 17105-8457, and may be reviewed by any interested party on request during normal business hours. If information concerning this notice is required in an alternative form contact the Secretary to the Board at (717) 787-3483. TDD users may telephone the Board through the Pennsylvania AT&T Relay Center at (800) 654-5984.

Petitions to intervene in the appeal may be filed with the Board by interested parties under 25 Pa. Code § 1021.81 (relating to intervention). Copies of the Board's rules of practice and procedure are available upon request from the Board.

THOMAS W. RENWAND,
Chairperson

[Pa.B. Doc. No. 18-305. Filed for public inspection February 23, 2018, 9:00 a.m.]

INSURANCE DEPARTMENT

Health Maintenance Organization Certificate of Authority Application Filed by Community Care Behavioral Health Organization

On October 27, 2017, Community Care Behavioral Health Organization filed an application with the Department of Health and the Insurance Department for a certificate of authority to operate and maintain a health maintenance organization (HMO) under the Health Maintenance Organization Act (40 P.S. §§ 1551—1567), Department of Health HMO regulations (28 Pa. Code §§ 9.631—9.654) and the Insurance Department HMO regulations (31 Pa. Code §§ 301.1—301.204).

The proposed service areas of the applicant are 41 Pennsylvania counties.

A copy of the application is available for public inspection, by appointment only, at the following locations:

Department of Health
Bureau of Managed Care
Room 912, Health and Welfare Building
Harrisburg, PA 17109-0900
(717) 787-5193

Insurance Department
Company Licensing Division
1345 Strawberry Square
Harrisburg, PA 17120
(717) 787-2735

Interested parties are invited to submit written comments to William Wiegmann, Department of Health or Cressinda Bybee, Insurance Department at the previously listed addresses. Persons who wish to submit written comments regarding the application may do so within 30 days of publication of this notice in the *Pennsylvania Bulletin*. Persons with disabilities may submit information and comments through alternative formats, such as audio tape, Braille or Department of Health TDD, (717) 783-6514. Persons with a disability requesting alternative forms may contact William Wiegmann to make the necessary arrangements.

JESSICA K. ALTMAN,
Acting Insurance Commissioner

[Pa.B. Doc. No. 18-306. Filed for public inspection February 23, 2018, 9:00 a.m.]

INSURANCE DEPARTMENT

Metropolitan Life Insurance Company (SERFF # META-131359706); Rate Increase Filing for Several LTC Forms

Metropolitan Life Insurance Company is requesting approval to increase the premium an aggregate 30.56% on 2,110 policyholders with LTC forms LTC2-IDEAL-PA, LTC2-FAC-PA, LTC2-VAL-PA, LTC2-PREM-PA, LTC2-IDEAL-PA-ML, LTC2-FAC-PA-ML, LTC2-VAL-PA-ML and LTC2-PREM-PA-ML.

Unless formal administrative action is taken prior to May 10, 2018, the subject filing may be deemed approved by operation of law.

A copy of the filing is available on the Insurance Department's (Department) web site at www.insurance.pa.gov (hover the cursor over the "Consumers" tab, then select "Long Term Care Rate Filings").

Copies of the filing are also available for public inspection, by appointment, during normal working hours at the Department's Harrisburg office.

Interested parties are invited to submit written comments, suggestions or objections to James Laverty, Actuary, Insurance Department, Insurance Product Regulation, Room 1311, Strawberry Square, Harrisburg, PA 17120, jlaverty@pa.gov within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

JESSICA K. ALTMAN,
Acting Insurance Commissioner

[Pa.B. Doc. No. 18-307. Filed for public inspection February 23, 2018, 9:00 a.m.]

INSURANCE DEPARTMENT

Metropolitan Life Insurance Company (SERFF # META-131359722); Rate Increase Filing for Several LTC Forms

Metropolitan Life Insurance Company is requesting approval to increase the premium an aggregate 18.88% on 876 policyholders with LTC forms 1LTC-97-PA and 2LTC-97-PA.

Unless formal administrative action is taken prior to May 10, 2018, the subject filing may be deemed approved by operation of law.

A copy of the filing is available on the Insurance Department's (Department) web site at www.insurance.pa.gov (hover the cursor over the "Consumers" tab, then select "Long Term Care Rate Filings").

Copies of the filing are also available for public inspection, by appointment, during normal working hours at the Department's Harrisburg office.

Interested parties are invited to submit written comments, suggestions or objections to James Laverty, Actuary, Insurance Department, Insurance Product Regulation, Room 1311, Strawberry Square, Harrisburg, PA 17120, jlaverty@pa.gov within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

JESSICA K. ALTMAN,
Acting Insurance Commissioner

[Pa.B. Doc. No. 18-308. Filed for public inspection February 23, 2018, 9:00 a.m.]

INSURANCE DEPARTMENT

Metropolitan Life Insurance Company (SERFF # META-131359736); Rate Increase Filing for Several LTC Forms

Metropolitan Life Insurance Company is requesting approval to increase the premium an aggregate 33% on 2,997 policyholders with LTC forms LTC-IDEAL-PA, LTC-FAC-PA, LTC-VAL-PA, LTC-PREM-PA, LTC-IDEAL-PA-ML, LTC-FAC-PA-ML, LTC-VAL-PA-ML and LTC-PREM-PA-ML.

Unless formal administrative action is taken prior to May 10, 2018, the subject filing may be deemed approved by operation of law.

A copy of the filing is available on the Insurance Department's (Department) web site at www.insurance.pa.gov (hover the cursor over the "Consumers" tab, then select "Long Term Care Rate Filings").

Copies of the filing are also available for public inspection, by appointment, during normal working hours at the Department's Harrisburg office.

Interested parties are invited to submit written comments, suggestions or objections to James Laverty, Actuary, Insurance Department, Insurance Product Regulation, Room 1311, Strawberry Square, Harrisburg, PA 17120, jlaverty@pa.gov within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

JESSICA K. ALTMAN,
Acting Insurance Commissioner

[Pa.B. Doc. No. 18-309. Filed for public inspection February 23, 2018, 9:00 a.m.]

INSURANCE DEPARTMENT

Review Procedure Hearings; Cancellation or Refusal of Insurance

The following insureds have requested a hearing as authorized by the act of June 17, 1998 (P.L. 464, No. 68) (Act 68) in connection with the termination of the insureds' automobile insurance policies. The hearings will be held in accordance with the requirements of Act 68; 2

Pa.C.S. §§ 501—508, 561—588 and 701—704 (relating to Administrative Agency Law); 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure); and 31 Pa. Code §§ 56.1—56.3 (relating to Special Rules of Administrative Practice and Procedure). The administrative hearings will be held as follows. Failure by the appellants to appear at the scheduled hearing may result in dismissal with prejudice.

The following hearings will be held in Room 2014, Piatt Building, 301 5th Avenue, Pittsburgh, PA 15222.

Appeal of Amie A. Thompson; Erie Insurance Exchange; File No. 17-176-217688; Doc. No. P17-12-010; April 11, 2018, 9 a.m.

Appeal of Edward C. and Janet C. Renaud; Erie Insurance Exchange; File No. 17-176-217061; Doc. No. P17-12-006; April 11, 2018, 10 a.m.

Following the hearings and receipt of the stenographic transcript, the Acting Insurance Commissioner (Acting Commissioner) will issue a written order resolving the factual issues presented at a hearing and stating what remedial action, if any, is required. The Acting Commissioner's Order will be sent to those persons participating in the hearing or their designated representatives. The Order of the Acting Commissioner may be subject to judicial review by the Commonwealth Court.

Persons with a disability who wish to attend a previously-referenced administrative hearing and require an auxiliary aid, service or other accommodation to participate in the hearing, should contact Human Resources at (717) 783-4308.

JESSICA K. ALTMAN,
Acting Insurance Commissioner

[Pa.B. Doc. No. 18-310. Filed for public inspection February 23, 2018, 9:00 a.m.]

INSURANCE DEPARTMENT

Review Procedure Hearings under the Unfair Insurance Practices Act

The following insured has 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 insured's homeowners policy. The hearing will be held in accordance with the requirements of the act; 2 Pa.C.S. §§ 501—508, 561—588 and 701—704 (relating to Administrative Agency Law); 1 Pa. Code Part II (relating to Administrative Rules of 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 as follows. Failure by the appellant to appear at the scheduled hearing may result in dismissal with prejudice.

The following hearing will be held in Room 2014, Piatt Building, 301 5th Avenue, Pittsburgh, PA 15222.

Appeal of Cindy L. Miranda; Erie Insurance Exchange; File No. 17-130-216080; Doc. No. P17-11-002; April 11, 2018, 11 a.m.

Following the hearing and receipt of the stenographic transcript, the Acting Insurance Commissioner (Acting Commissioner) will issue a written order resolving the factual issues presented at the hearing and stating what remedial action, if any, is required. The Acting Commis-

sioner's Order will be sent to those persons participating in the hearing or their designated representatives. The Order of the Acting 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 Human Resources at (717) 783-4308.

JESSICA K. ALTMAN,
Acting Insurance Commissioner

[Pa.B. Doc. No. 18-311. Filed for public inspection February 23, 2018, 9:00 a.m.]

OFFICE OF ADMINISTRATION

Notice of Minimum Wage Increase under Executive Order 2016-02 Establishing a Minimum Wage for Employees of the Commonwealth and of Organizations Receiving State Contracts

Executive Order 2016-02 (Executive Order), Minimum Wage for Employees of the Commonwealth and of Organizations Receiving State Contracts was signed by Governor Tom Wolf on March 7, 2016. The Executive Order raised the hourly minimum wage paid to employees of Commonwealth agencies under the Governor's jurisdiction and by contractors to workers performing work on or in connection with covered State contracts to \$10.15 per hour, beginning July 1, 2016; and beginning January 1, 2017, and annually thereafter, an amount determined in accordance with the methodology set forth in the Executive Order. Effective July 1, 2017, the hourly minimum wage paid to employees of Commonwealth agencies under the Governor's jurisdiction and by contractors to workers performing work on or in connection with covered State contracts increased to \$10.20 per hour.

Under the Executive Order, notice is hereby given that beginning July 1, 2018, the minimum wage rate to be paid to employees of Commonwealth agencies under the jurisdiction of the Governor and workers performing work on or in connection with covered State contracts as described in section 2 of the Executive Order will increase to \$10.35 per hour.

This notice is effective on March 1, 2018.

SHARON P. MINNICH,
Secretary

[Pa.B. Doc. No. 18-312. Filed for public inspection February 23, 2018, 9:00 a.m.]

OFFICE OF OPEN RECORDS

Change of Address

As of Monday, February 5, 2018, the Office of Open Records' new physical and mailing address is 333 Market Street, 16th Floor, Harrisburg, PA 17101-2234.

The other contact information has not changed:

Telephone: (717) 346-9903

Fax: (717) 425-5343

E-mail: openrecords@pa.gov

Web site: www.openrecords.pa.gov

ERIK ARNESON,
Executive Director

[Pa.B. Doc. No. 18-313. Filed for public inspection February 23, 2018, 9:00 a.m.]

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Electric Generation Supplier License Cancellations of Companies with an Expired Financial Security or Insufficient Financial Security Amount

Public Meeting held
February 8, 2018

Commissioners Present: Gladys M. Brown, Chairperson;
Andrew G. Place, Vice Chairperson; Norman J. Ken-
nard; David W. Sweet; John F. Coleman, Jr.

*Electric Generation Supplier License Cancellations of
Companies with an Expired Financial Security or
Insufficient Financial Security Amount; M-2018-2640827*

Tentative Order

By the Commission:

The Commission's regulations at 52 Pa. Code § 54.40(a) state that an Electric Generation Supplier (EGS) license

will not be issued or remain in force until the licensee furnishes a bond or other security approved by the Commission. In addition, 52 Pa. Code § 54.40(d) states that the maintenance of an EGS license is contingent on the licensee providing proof to the Commission that a bond or other approved security in the amount directed by the Commission has been obtained.

Each EGS must file an original bond, letter of credit, continuation certificate, amendment, or other approved financial instrument with Rosemary Chiavetta, Secretary, Pennsylvania Public Utility Commission, 400 North Street, Harrisburg, PA 17120 prior to the EGS's current security expiration date. Each financial instrument must be an original document that displays a "wet" signature or digital signature, preferable in blue ink, and displays a "raised seal" or original notary stamp. The name of the principal on the original financial instrument must match exactly with the name that appears on the EGS's license issued by the Commission.

Failure to file before the financial security's expiration date may cause Commission staff to initiate a formal proceeding that may lead to the following: cancellation of each company's electric supplier license, removal of each company's information from the Commission's website and notification to all electric distribution companies, in which each company is licensed to do business, of the cancellation of the license.

As of January 30, 2018, each EGS listed in the Supplier Table below has not provided proof to the Commission that it has a bond or other approved security in the amount directed by the Commission, to replace its expired bond as noted in the table below.

Supplier Table—List of Electric Generation Suppliers

<i>Docket Number</i>	<i>Company Name</i>	<i>Financial Security Expiration Date</i>	<i>Commission Approved Amount</i>
A-2013-2354759	DYNAMIS ENERGY, LLC	January 9, 2018	Yes
A-2011-2234410	ECOVA, INC.	January 26, 2018	Yes
A-110175*	LIBERTY POWER HOLDINGS, LLC	January 14, 2018	Yes
A-2017-2585655	PRUDENTIAL ENERGY SERVICES CORPORATION	January 9, 2018	Yes
A-110072	RICHARDS ENERGY GROUP, INC.	January 23, 2018	Yes
A-2015-2507378	UTMOST, INC.	January 22, 2018	Yes

*Taking title to electricity

As part of its EGS license validation procedures, the Commission's Bureau of Technical Utility Services sent a 90-day Security Renewal Notice Letter to each entity in the Supplier Table above stating that original documentation of a bond, or other approved security, must be filed within 30 days prior to each entity's security expiration date. None of the companies listed in the Supplier Table provided the required documentation.

Based on the above facts, we tentatively conclude that the EGSs listed in the Supplier Table are not in compliance with 52 Pa. Code § 54.40(a) and (d) and therefore it is appropriate to initiate the cancellation process for each EGS license of each company listed in the Supplier Table, without the necessity of a formal complaint, as being in the public interest; *Therefore,*

It Is Ordered That:

1. Cancellation of the Electric Generation Supplier Licenses of each company listed in the Supplier Table 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, the Bureau of Investigation & Enforcement, Department of Revenue—Bureau of Corporation Taxes, all electric distribution companies, all of the Electric Generation Suppliers in the Supplier Table 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 or the filing of an approved security 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.

4. Upon entry of the Final Order described in Ordering Paragraph No. 3 above, each company listed in the Supplier Table 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, removed from the Commission's website, and notifications be sent to all electric distribution companies in which the Electric Generation Suppliers are licensed to do business.

5. Upon entry of the Final Order described in Ordering Paragraph No. 3, each electric distribution company in which the Electric Generation Suppliers are licensed to do business, shall return the customers of the Electric Generation Suppliers to default service.

ROSEMARY CHIAVETTA,
Secretary

[Pa.B. Doc. No. 18-314. Filed for public inspection February 23, 2018, 9:00 a.m.]

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Petition of PPL Electric Utilities Corporation for Approval of a Default Service Program and Procurement Plan for the Period June 1, 2017, through May 31, 2021

Public Meeting held
February 8, 2018

Commissioners Present: Gladys M. Brown, Chairperson; Andrew G. Place, Vice Chairperson; Norman J. Kennard; David W. Sweet, statement follows; John F. Coleman, Jr.

Petition of PPL Electric Utilities Corporation for Approval of a Default Service Program and Procurement Plan for the Period June 1, 2017 Through May 31, 2021;
P-2016-2526627

Final Order

By the Commission:

Before the Pennsylvania Public Utility Commission (Commission) for consideration is a recommendation from the Office of Competitive Market Oversight (OCMO) concerning operational issues concerning the implementation of PPL Electric Utilities' Customer Assistance Program Standard Offer Program (PPL CAP-SOP).¹ On November 8, 2017, the Commission adopted a Tentative Order (Tentative Order) in this proceeding seeking comment on various implementation issues including how to handle customers who are receiving service from an electric generation supplier (EGS) after June 1, 2017, and subsequently enroll in CAP. Through this Final Order, we provide directions as to the actions PPL and EGSs are to

¹ The PPL CAP-SOP, as of June 1, 2017, is the only vehicle that a CAP participating customer may use to shop and receive supply from an electric generation supplier (EGS), wherein EGSs participating in the CAP-SOP must agree to serve customers for 12 months at a 7% discount off the price-to-compare (PTC) at the time of enrollment, with no early termination fees.

take regarding customers who are either currently participating in PPL's CAP² or enroll into CAP in the future.

History of the Proceeding

On January 29, 2016, PPL filed with the Commission a Petition for Approval of a Default Service Program and Procurement Plan (DSP IV or DSP IV Plan) for the period June 1, 2017 through May 31, 2021 (DSP Petition). The DSP Petition was filed pursuant to 66 Pa.C.S. § 2807. On July 19, 2016, PPL and various parties filed a Joint Petition for Approval of Partial Settlement (Settlement or Partial Settlement). Several of the Parties to the proceeding filed briefs and reply briefs regarding a single litigated issue—the Customer Assistance Program (CAP) customer shopping issue.

On August 17, 2016, Administrative Law Judge (ALJ) Susan D. Colwell issued her Initial Decision wherein she adopted the PPL CAP-SOP proposed by PPL, the Bureau of Investigation and Enforcement (I&E), the Office of Consumer Advocate (OCA) and the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA), as modified by ALJ Colwell. Exceptions to the Initial Decision were filed by PPL, the Retail Energy Supply Association (RESA) and PP&L Industrial Customer Alliance (PPLICA) on September 6, 2016. Replies to Exceptions were received on September 16, 2016, from PPL, the OCA, I&E and CAUSE-PA. In an Opinion and Order issued on October 27, 2016³ (October 2016 Order), the Commission approved the Settlement and adopted the PPL CAP-SOP jointly proposed by the Joining Parties to become effective June 1, 2017.

On November 14, 2016, RESA filed a Petition for Reconsideration (Petition), seeking reconsideration of the approval of the PPL CAP-SOP in the October 2016 Order. By Order entered November 16, 2016, the Commission granted the Petition, pending further review of, and consideration on, the merits. On November 28, 2016, PPL, I&E, the OCA and CAUSE-PA filed Answers to the Petition. In an Opinion and Order issued on January 26, 2017⁴ (January 2017 Order), the Commission denied RESA's Petition.

On February 27, 2017, RESA filed with the Commonwealth Court a Petition for Review of the October 2016 Order and January 2017 Order, with respect to the approval of the PPL CAP-SOP. *RESA v. Pa. PUC*, 230 C.D. 2017. However, RESA has not sought a stay of the implementation of the PPL CAP-SOP. Briefs have been filed and oral argument was held before the Commonwealth Court on December 6, 2017, and the parties await a court decision.

On March 10, 2017, PPL filed a petition to push back the implementation date of the PPL CAP-SOP (Petition to Amend) to September 2017—citing various operational and information-technology challenges. On March 30, 2017, letters in response to the Petition to Amend were filed by the OCA and CAUSE-PA. However, on May 8, 2017, PPL filed a petition to withdraw its petition to push back the implementation date—and instead go with the original June 1 implementation date. On May 12, 2017, RESA filed a letter in opposition to the petition to withdraw and on May 16, 2017, CAUSE-PA filed a letter in support of the petition to withdraw. On May 16, 2017,

² PPL's CAP program is also referred to as the On-Track program.

³ See Petition of PPL Electric Utilities Corporation for Approval of a Default Service Program and Procurement Plan for the Period June 1, 2017 Through May 31, 2021, Docket No. P-2016-2526627 (Order Entered October 27, 2016).

⁴ See Petition of PPL Electric Utilities Corporation for Approval of a Default Service Program and Procurement Plan for the Period June 1, 2017 Through May 31, 2021, Docket No. P-2016-2526627 (Order Entered January 26, 2017).

PPL filed a letter in response to RESA's letter, followed by a May 17, 2017, RESA response to PPL's May 16th Letter.

In a June 2017 Order,⁵ the Commission granted the Petition to Withdraw. The Commission directed OCMO to facilitate meetings between PPL and the affected Electric Generation Suppliers (EGSs), including RESA, to examine and resolve any operational issues integral to the implementation of the CAP-SOP and, thereafter, to provide a status report to the Commission that addresses the discussions and dispositions of those operational issues.

CAUSE-PA and the OCA filed Petitions on July 5, 2017, and July 7, 2017, respectively. In its Petition, CAUSE-PA requested that the Commission clarify its June 2017 Order to allow all parties to participate in the meetings, as the process and procedures discussed are likely to have a significant impact on the proper implementation of the Commission's underlying Order. OCA made a similar request in their petition. On July 11, 2017, letters in response to the instant Petitions were filed by PPL and RESA. In an Opinion and Order issued on July 12, 2017 (July 2017 Order), the Commission granted the Petitions, pending further review of, and consideration on, the merits. Furthermore, the directives within the June 2017 Order that OCMO was to hold a meeting within thirty days and provide a status report within ninety days were suspended.

With an Order adopted on August 3, 2017,⁶ (August Order) the Commission agreed to allow all parties to participate in the meetings. In addition, the Commission directed the following:

- (1) That, within thirty days OCMO would facilitate meetings with PPL, the affected EGSs, including RESA, CAUSE-PA, the OCA and any other interested party to this proceeding to examine and resolve any operational issues that are integral to the implementation of the CAP-SOP; and,
- (2) That, within ninety days of the entry date of this Opinion and Order, OCMO would provide a status report of the discussions and the disposition of the implementation issues in this matter to the Commission.

August Order at 11-12.

August 28, 2017 Meeting

Per the Commission's August Order directives, OCMO convened an in-person meeting on August 28, 2017. Approximately two-dozen individuals participated; including consumer advocates, suppliers, PPL, and Commission staff from various bureaus. During the discussion, it soon became apparent that the primary point of contention was the treatment of supplier customers on month-to-month contracts—specifically—when do these customers need to be returned to PPL to either go onto default service or obtain a supplier via the PPL CAP-SOP?

Some participants pointed to ordering paragraph (14)(i) of the Commission's October 2016 Order to support their contention that month-to-month customers remain with their supplier until the customer is re-certified by PPL for the PPL CAP:

- (i) PPL Electric will revise its CAP recertification scripts/process so that all existing CAP shopping customers receiving generation supply on a month-to-

month basis after June 1, 2017 will be required at the time of CAP recertification to enroll in the CAP-SOP or return to default service, but in any event will only be permitted to shop through the CAP-SOP.

However, other participants disagreed with this contention—pointing to ordering paragraphs (14)(g) and (h) of the same order:

- (g) All CAP customer shopping fixed-term contracts in effect as of the effective date of the CAP-SOP will remain in place until the contract term expires and/or is terminated.
- (h) Once the existing CAP customer shopping contract expires or is terminated, the CAP customer will have the option to enroll in the CAP-SOP or return to default service, but in any event will only be permitted to shop through the CAP-SOP.

Some parties contended that a month-to-month contract expires at the end of the billing period; meaning that the customers on month-to-month supplier contracts should have already been returned to PPL default service or CAP-SOP. Further, as a practical matter, some parties noted that, at that time, there was no way for suppliers to know when customer recertification occurs—so there was no possibility for the ordering paragraph (14)(i) interpretation noted above to even be accomplished. Some parties noted that recertification occurs every 18 months, asserting that it could not have been the Commission's intention to allow a customer in CAP to go this long without being enrolled into the PPL CAP-SOP or returned to default service. Some parties asserted that ordering paragraph (14)(i) was simply a "catch-all" intended to catch any customer who was, for whatever reason, not previously dropped by their supplier. Some also argued that there was no such thing as a month-to-month contract; that all contracts are for a fixed duration and that the duration of a month-to-month contract is one month. However, other participants pointed out that this interpretation does not provide enough time for suppliers to provide customers with the two contract expiration notices required by the Commission at 52 Pa. Code § 54.10.⁷

There was also discussion as to what extent these issues are truly transitional in nature or not as customers will always be moving in and out of CAP and in and out of shopping. Going forward, what is the expectation upon PPL as to handling new CAP customers who are with a competitive supplier? PPL stated that it does not want to interfere with existing contracts and risk exposing the customer to early termination fees. PPL noted that it currently lets the customer's fixed duration contract run its course before the customer is required to be dropped by the supplier to default service or the PPL CAP-SOP. However, the question about how customers who are on a month-to-month supplier contract and are subsequently enrolled in CAP are to be treated remains. And regardless, PPL noted that it has no way of knowing just what type of supplier contract a customer is on; fixed duration or month-to-month; and customers are often uncertain about their contract type.

To aid suppliers in identifying CAP customers, on October 18, 2017, PPL notified OCMO that it had revised its supplier web-portal to make recertification dates available to suppliers. Also, effective September 13, 2017, PPL

⁵ See Petition of PPL Electric Utilities Corporation for Approval of a Default Service Program and Procurement Plan for the Period June 1, 2017 Through May 31, 2021, Docket No. P-2016-2526627 (Order Entered June 23, 2017).

⁶ See Petition of PPL Electric Utilities Corporation for Approval of a Default Service Program and Procurement Plan for the Period June 1, 2017 Through May 31, 2021, Docket No. P-2016-2526627 (Order Entered August 3, 2017).

⁷ 52 Pa. Code § 54.10 requires suppliers to provide two notices; one 45–60 days before expiration; the other at least 30 days before expiration. <http://www.pacode.com/secure/data/052/chapter54/s54.10.html>.

would identify which customers were enrolled in CAP on their supplier portal customer lists. PPL also indicated that the customer lists would be updated daily, giving suppliers a near real-time method of identifying which of their customers were enrolled in CAP so that the supplier could comply with the Commission approved directives in the PPL CAP-SOP settlement.

Given the fundamental disagreements between the stakeholders noted above, and acknowledging that some of the post-transition issues had not been fully addressed in previous orders, the Commission, on November 8, 2017 adopted a Tentative Order (Tentative Order) to solicit comment on proposed clarifications and proposals regarding when a shopping customer who subsequently becomes CAP-eligible must be transferred to either PPL's default service or to the CAP-SOP.⁸ Specifically, regarding customers that are taking supply service from an EGS through a fixed-duration contract and subsequently is enrolled in PPL's CAP, we proposed the following:

The Commission affirms the position that customers who are on a fixed-duration contract with a supplier and subsequently enrolls in the On-Track program at any time after June 1, 2017, remain with that supplier until the expiration date of the fixed-duration contract or the contract is terminated. Once the newly enrolled CAP customer supplier contract expires or is terminated, the CAP customer will have the option to enroll in the CAP-SOP or return to default service, but in any event, will only be able to shop through the CAP-SOP.

This proposal was intended to ensure that we are not directing the abrogation of contracts and possibly exposing these customers to early termination fees.

Regarding customers that are taking supply service from an EGS through a month-to-month contract and subsequently is enrolled in PPL's CAP, we proposed the following as to give suppliers the time needed to provide appropriate notices to the customer:

A shopping customer who subsequently becomes CAP-eligible must be dropped by the supplier to PPL default service within 120 days after the customer is enrolled in CAP.⁹ The CAP customer will then have the option to enroll in the CAP-SOP or return to default service, but in any event, will only be able to shop through the CAP-SOP.

Further, we acknowledged that some post-transition issues needed to be addressed, given that customers will be continually moving in-and-out of On-Track and shopping. Suppliers need to know which potential customers are in the On-Track program—and when any of their current customers enter On-Track. PPL may need to know what type of supply contract a customer is on at the time they enter On-Track. We asked parties to comment on the sufficiency of the web-portal mechanisms developed by PPL to provide CAP customer information and asked parties to comment on whether suppliers should

also be obligated to respond to any information request from PPL as to what type of contract the customer is on; month-to-month or fixed duration—and if the contract is for a fixed duration, should the supplier provide PPL with the expiration date of the contract. Finally, we invited parties to comment on any other implementation issues that may have been overlooked.

Comments

Five parties filed comments on December 8, 2017: the Retail Energy Supply Association (RESA); WGL Energy Services Inc. (WGL); the Office of Consumer Advocate (OCA); the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA); and PPL Electric Utilities Corporation (PPL).¹⁰

RESA prefaces its comments by noting that it continues to strongly disagree with the Commission's decision to implement the CAP-SOP and that their comments offered in response to the Tentative Order should not be viewed as a waiver or reversal of RESA's position in this regard. RESA at 1. Also, in RESA's view, requiring EGS customers who decide they want to receive CAP benefits to take affirmative action (either during initial enrollment or recertification) to cancel existing month-to-month contracts or to not renew an existing contract upon contract expiration is the most appropriate way to proceed. However, RESA recognizes the apparent desire to place the burden on EGSs to cancel these contracts if the customer fails to take affirmative steps to do so and, to that end, offers their comments. RESA at 3-4.

RESA notes that to facilitate the cancelling of EGS contracts, PPL was initially providing a list to EGSs of their customers enrolled in CAP. PPL then subsequently modified its web portal to provide information to EGSs regarding their customer's enrollment in CAP which is to include providing the customer recertification dates to suppliers. Based on some random sampling, RESA reports that its members have been unable to confirm the timeliness and accuracy of the data provided. Initially, the recertification date coincided with the date PPL refreshed the list but now some of the dates (but not all) appear to be repopulating more accurately. Because PPL has implemented updates to its web portal, it has discontinued sending EGSs customer lists which identify the new CAP participants. However, even to the extent the portal process is refined so that it is timely and usable, RESA believes that requiring PPL to affirmatively send lists to the EGSs would better ensure prompt EGS action. RESA at 4-5.

Regarding fixed-duration contracts, RESA requests that the Commission give EGSs flexibility to manage the notice of contract cancellation process to allow EGSs to send one notice to the customer rather than requiring them to send the two renewal notices mandated by 52 Pa. Code § 54.10. EGSs have had to make individual company decisions based on their specific operations to determine how to best comply with: (1) the CAP-SOP Final Order, (2) the Commission's contract renewal requirements; and, (3) specific contract language regarding contract cancellation. Depending on the size and internal operational processes of the specific EGS, it may not have been able to "personalize" the Commission required customer renewal notices leaving it with no choice but to send a third cancellation notice to the customer who is enrolled in CAP. Other companies may have been able to issue an "options" notice stating that as the customer is

⁸ The Commission, however, did not propose to otherwise clarify, amend or change the terms and conditions of the CAP-SOP adopted in the Opinions and Orders entered on October 27, 2016 and January 26, 2017, which are presently the subject of an appeal at Docket No 230 C.D. 2017. The clarifications conforms with the Rules of Appellate Procedure, Rule 1701(b)(1), which permits the Commission to "[t]ake such action as may be necessary to preserve the status quo, . . . , and take other action permitted or required by these rules or otherwise ancillary to the appeal or petition for review proceeding." RESA agreed in its April 25, 2017 letter, filed at this Docket and available at <http://www.puc.state.pa.us/pcdocs/1518238.pdf>, that RAP 1701 permits the Commission to take further action in this matter to address CAP-SOP operational and implementation issues.

⁹ For customers who are receiving supply service from an EGS through a month-to-month contract and are subsequently enrolled in PPL's CAP after June 1, 2017 and before this proposal becomes final, the supplier must drop that customer to PPL default within 120 days after a Final Order adopting this proposal is published in the *Pennsylvania Bulletin*.

¹⁰ In addition, the PPL Industrial Customer Alliance (PPLICA) filed a notice on December 8, 2017 informing the Commission that it would not be submitting comments in this proceeding.

enrolled in CAP he/she cannot renew the existing contract. Still other companies may have elected to issue a cancellation notice immediately (and consistent with the terms of the existing contract) without sending the initial and options notices set forth in the Commission's regulations. Accordingly, the Commission should give EGSs flexibility to manage the notice of contract cancellation process based on their individual company's processes and abilities. RESA at 5—7.

RESA notes that while PPL has modified its web portal to provide information to EGSs regarding their customer's enrollment in CAP including the customer recertification dates, knowing the recertification date does not inform the EGS about whether the customer has elected to recertify on that date. RESA at 7.

Concerning month-to-month contracts, RESA notes that these contracts generally include provisions that allow either party to cancel at any time. Because this ability to cancel a month-to-month contract is a key term in these types of contracts, EGSs are likely not relying on the notice process of § 54.10 because they are not "renewing or changing" month-to-month contract terms when the EGS exercises its right. Regardless, RESA agrees with the Tentative Order that this "120-day return deadline is simpler to administer and comply with" for two reasons. First, it provides the customer some time to affirmatively exercise his/her rights under the contract to cancel it if the customer wishes to accept CAP benefits in lieu of shopping. Second, it gives EGSs ample opportunity to provide any customer notices required by the specific contract with the customer and comply with the Commission's directive to drop these customers. RESA at 8-9.

Concerning existing month-to-month contracts, in the Tentative Order, the Commission proposes that any EGS customers on a month-to-month contract who enrolled in PPL's CAP after June 1, 2017 be dropped within 120 days after a final order is published in the Pennsylvania Bulletin. Given the directive of the CAP-SOP Final Order that customers would be responsible for cancelling month-to-month EGS contracts after June 1, 2017 and that PPL was going to revise its CAP recertification scripts/process to facilitate this, there may be some CAP participants who are still receiving EGS service through "legacy" contracts (meaning the EGS customer had enrolled in CAP prior to June 1, 2017 and was being served on a month-to-month contract on June 1, 2017). To provide clear guidance to the industry, the Commission should clarify that its 120-day window to drop any EGS customers on a month-to-month contract who are enrolled in CAP on the date of publication of the final order applies without regard for whether the CAP enrollment occurred pre or post-June 1, 2017. RESA at 9-10.

Concerning whether EGSs should be obligated to respond to any information request from PPL as to what type of contract the customer is on and, if a fixed-duration contract, provide PPL the expiration date of the contract—RESA opines that EGSs generally view this information as competitively sensitive and would not support a requirement that it be disclosed to PPL. RESA believes that the processes that the Commission is developing place the burden on the EGSs to cancel contracts and as such there is no useful purpose served by requiring EGSs to provide information about their customer contracts to PPL. RESA at 10.

Regarding when customers on month-to-month contracts need to be returned to PPL, WGL believes that the Commission's October 2016 Order is very clear on this point—paragraph (14)(i) clearly indicates that such cus-

tomers may remain with their supplier until the customer is re-certified by PPL for the PPL CAP. However, this mandate is impossible to implement unless EGSs know when a customer is due for CAP recertification. WGL believes that a termination of the contract would be considered a change in terms that would trigger the need to issue the two notices required by regulation. To the extent that CAP recertification is used as a trigger to drop a customer, the obligation to drop a customer should only occur after a customer recertifies—and the supplier will need adequate time after the recertification to provide the required notices. Therefore, WGL agrees with the Commission's proposal to allow 120 days for an EGS to return a month-to-month customer to PPL default service after that customer enrolls in CAP, or, for existing CAP customers on month-to-month contracts, 120 days after the Order is final. WGL at 2.

WGL notes that PPL's current process requires EGSs to log into the PPL web portal on a recurring basis to check on customers' CAP status and recertification timing—and that they believe this process is not workable. It requires dozens of suppliers to task individual employees to log into the PPL web-portal, and cross-check the EGS's customer lists against PPL's list, to determine if an existing customer has enrolled in CAP. As the entities who have the obligation under the PPL CAP-SOP to take the initiative to "drop" their own customers, suppliers will spend many hours checking and re-checking PPL's portal to make sure no change in CAP status is missed. Much of this time and effort will come to nothing. WGL thinks that a much more reasonable and workable process would involve placing the obligation on PPL to proactively notify EGSs when an existing EGS customer enrolls in CAP. This could be accomplished with a once a week email from PPL to each EGS, identifying which existing customers of the EGS has enrolled in CAP during the preceding week. PPL has all of the information needed to automatically generate EGS-specific reports about customer enrollments in CAP. As the only party with the direct access to that information, WGL believes that PPL is in the best position to assume the obligation of identifying the appropriate customers who must be "dropped" and notifying the EGSs accordingly. WGL at 3.

Further, in addition to notifying EGSs when their enrolled customers enter CAP, WGL opines that basic fairness justifies requiring PPL to notify the EGSs when their customers who were "dropped" upon entry to CAP subsequently leave CAP. PPL's CAP-SOP gives EGSs no choice but to "drop" their customers who happen to enroll in CAP—even if the customer is completely satisfied with their EGS service offering. As a result of the CAP-SOP rules, EGSs who have invested time and money in acquiring a customer and procuring electricity to serve them is then forced to relinquish that customer, in some cases before fully recouping the costs of customer acquisition. WGL therefore proposes that PPL should proactively notify that EGS when the customer exits CAP. This will give the affected EGS the first opportunity to re-engage with the customer to seek re-enrollment. The customer would not be forced to re-enroll with the EGS; but at least the EGS who was forced to "drop" the customer would have the opportunity to make the first contact with the customer to discuss re-enrollment options with the customer. WGL at 4.

Finally, WGL states that there is absolutely no basis or need to require suppliers to inform PPL about that the suppliers' contractual arrangements with customers. Suppliers are the entities that have the obligation to "drop" customers who enroll in PPL's CAP. Because PPL has no

involvement in initiating the “drop” process, there is no need for PPL to know the length or end-date of a customer’s EGS contract. WGL at 5.

The OCA is concerned that the Commission’s proposal concerning the treatment of month-to-month customer contracts relies upon notices for expiration of fixed term contracts, not month-to-month contracts, which could delay a CAP customer’s transition to default service or the CAP-SOP. OCA thinks that customers on a month-to-month contract, without a cancellation fee, should be able to be moved into CAP within thirty days. OCA at 3.

The OCA submits that there are two groups of customers taking EGS service on “month-to-month” contracts; the first group is customers who were previously on a fixed price contract and have been defaulted to a month-to-month contract. The second group is those customers who signed up for a variable rate contract. Regarding the first group of customers (shopping customers who have defaulted to a month-to-month contract from a fixed price contract), the only notice requirement is for EGS’ to provide a thirty-day advanced notice of a price change per 52 Pa. Code § 54.10(2)(ii). While this is an advanced notice of price change, this notice appears to be intended to allow the customer to exit the service with the EGS or change to another product if the new price is unacceptable. OCA at 3-4.

The second group of customers on “month-to-month” contracts are customers being served under variable rates. These customers are not subject to the notice requirements of 54.10(2) as they are not on fixed term contracts. 52 Pa. Code § 54.10(2). EGSs are not required to provide advance price notices to customers who are on variable rate contracts and the decision to end the contract rests with the customer. Since there are no notice provisions for these customers in the Commission’s regulations, the OCA submits that the proposed 120 day waiting period to be returned to default service or select CAP-SOP is not necessary. CAP customers on variable rate contracts can, and should, be transitioned to default service or to the CAP-SOP as soon as the customer terminates the variable rate agreement. OCA at 3—5.

Concerning customers with fixed-duration contracts, the OCA submits that allowing a customer seeking to enroll in CAP to continue until expiration could negatively impact the customer and costs paid by non-CAP customers. Contracts can have a significant duration with some suppliers offering 24-month and 36-month duration contracts. If new CAP participants were permitted to enroll in the CAP program with an existing contract of significant duration, the goals of the CAP-SOP will not be fully realized. The OCA submits that the customer seeking to enroll in CAP should be required to end the contract to enter the CAP and the customer should be informed of the possibility of cancellation fees and provided assistance in evaluating that possibility. OCA at 5.

CAUSE-PA prefaces its comments by noting that it will limit its comments to the stated rationale for the order: to address implementation issues for shopping customers who, post June 1, 2017, seek to enroll in CAP. On this narrow issue which the Commission’s proposal seeks to address, CAUSE-PA asserts that no further guidance is necessary beyond the Commission’s October 27, 2016 and January 26, 2017 Orders, which are still on appeal before the Commonwealth Court. Given the pendency of the appeal, CAUSE-PA opines that the Commission lacks jurisdiction to make any changes to those orders at this time. CAUSE-PA at 1. CAUSE-PA notes that oral arguments were held on December 6, 2017 and as such,

jurisdiction over the CAP-SOP terms remains with the Commonwealth Court until a decision is reached. CAUSE-PA at 2.

CAUSE-PA does not believe the approach proposed by the Commission is necessary or prudent because the Commission’s previous orders, and existing regulations, provide sufficient guidance for the issues identified. The restriction, that effective June 1, 2017, the CAP-SOP is the only vehicle that a CAP customer may use to shop and receive supply from an EGS, is clear and applies to both new and existing CAP customers. CAUSE-PA insists that this restriction must be “upheld—without erosion—to prevent certain and substantial harm from occurring.” CAUSE-PA at 2.

CAUSE-PA opposes the imposition of new requirements over those that already exist in the CAP-SOP program approved by the Commission in its October 2016 Order. While EGSs may need to be directed to comply with the terms of the order, no additional clarification is needed. CAUSE-PA submits that the Commission’s proposals directly contradicts the approved CAP-SOP, which is currently on appeal before the Commonwealth Court, and would undermine the CAP-SOP. CAUSE-PA at 5.

Instead, CAUSE-PA urges the Commission to direct that PPL follow the October 2016 Order that provides that customers who are being served by an EGS and who are seeking to enroll in CAP with three choices: (1) return to PPL provided default service; (2) enroll in CAP-SOP; or, (3) decline CAP enrollment and remain with their supplier. CAUSE-PA believes that there are no other reasonable alternatives. CAUSE-PA at 5.

CAUSE-PA opines that there is no real debate here—an examination of subsections (g), (h) and (i) shows that these provisions were only prospective in nature, and were designed to ease the implementation of CAP-SOP for existing CAP customers who—as of June 1, 2017—were currently shopping. CAUSE-PA at 7. CAUSE-PA notes that ALJ Colwell’s Initial Decision recognized that subsections (g), (h) and (i) were only intended to apply to those CAP customers who were enrolled in the program and shopping for competitive supply at the time of implementation—not prospective or future CAP enrollees after implementation was complete. These “transitional provisions” were only intended to apply for existing CAP customers at the time of implementation and that they were not intended to apply in perpetuity to all new CAP enrollees. CAUSE-PA at 7—9. CAUSE-PA believes that the controlling language for when a new CAP enrollee must elect to return to default service or enter the CAP-SOP is contained in subsection (a), which prohibits any CAP enrollees who were not shopping at the time of transition and/or who seek to enroll in CAP after June 1, 2017 from shopping outside of the CAP-SOP for any length of time after June 1, 2017. CAUSE-PA at 8.

CAUSE-PA submits that the Commission’s rationales for its proposals in the Tentative Order fail to consider the likely harm in allowing new CAP applicants to remain with their supplier—harm to a household’s financial and physical safety as well as to other residential ratepayers. While some CAP customers may face a cancellation or termination fee, those fees are not collectible through utility bills and cannot result in the customer’s termination. Nor are cancellation or termination fees recoverable through the purchase of receivables program, nor are they recoverable from ratepayers through uncollectible expenses. On the other hand, shopping outside the CAP-SOP for any length of time effects the costs paid by other ratepayers who pay for CAP and can and does

routinely result in the early expiration of a customer's maximum CAP credits. CAUSE-PA at 10.

CAUSE-PA questions the Commission's assertion that a transition period is necessary to allow suppliers to comply with notice requirements in section 54.10 because these requirements are designed to ensure that a shopping customer is informed about a change in the terms and conditions of an ongoing relationship with a supplier that are initiated by a supplier. Nothing in section 54.10 requires suppliers to provide notice to a customer when the customer is taking proactive action to switch away from the supplier. CAUSE-PA opines that no such notice is needed because the notice requirements only require suppliers to notify a consumer when a contract period is set to expire—leading to the imposition of new terms or pricing—or when the supplier seeks to change the terms of the contract to ensure that the consumer is aware of their options. CAUSE-PA at 10-11.

Further, CAUSE-PA thinks that the Commission's concern that an immediate supplier switch is "too abrupt" from the customer's perspective is misplaced. CAP customers are actively seeking immediate relief from unaffordable rates, often have arrears, and are frequently facing termination of service. They require immediate financial assistance to help stabilize their finances. Requiring CAP customers to choose between returning to default service or enrolling in the CAP-SOP as a condition of receiving immediate rate relief is not "too abrupt"—rather, it cannot come fast enough in the opinion of CAUSE-PA. CAUSE-PA at 11-12.

CAUSE-PA submits that, to facilitate compliance with the CAP shopping rule, new CAP applicants should be required to: (1) affirmatively acknowledge that they may only shop for electric through the CAP-SOP; (2) elect whether to return to default service or enroll in the CAP-SOP; (3) provide express authorization for PPL to make the elected switch on their behalf, and (4) acknowledge that they may face a termination or cancellation fee if they opt to cancel their EGS-contract. PPL's CAP-SOP is "a Commission-approved program" that was designed to mitigate the ramifications of unrestricted shopping by PPL's CAP customers. Accordingly, it is appropriate pursuant to the language in section 57.172(a) for a customer enrolling in CAP to provide their express or written authorization—as part of the CAP application process—for PPL to switch their service to a new EGS through the CAP-SOP. CAUSE-PA at 13—15.

PPL agrees with the Tentative Order's proposal to clarify the requirement that customers with fixed-duration contracts who subsequently enroll in CAP must either return to default service or enroll in the CAP-SOP upon the expiration of their contracts. This proposal simply clarifies that the CAP-SOP rule approved in the October 2016 Order, which addresses fixed-duration contracts for existing CAP customers, should apply to customers who enroll in CAP after June 1, 2017. PPL submits that there is no reason to treat future CAP customers differently and that it was not the intent of the Commission to carve-out future CAP customers from the requirements of CAP-SOP. PPL at 2-3.

However, PPL requests that the Commission clarify its proposal further by including the requirement that the EGS has the duty to return customers to default service at the conclusion of the fixed-duration contracts. PPL submits that without the EGSs returning customers to default service at the conclusion of their contracts, the goal of having customers returned to default service or enrolled into CAP-SOP will not be achieved. PPL notes

that it does not know the end-dates of its customers' shopping contracts or terms, and thus cannot return CAP customers to default service at the expiration of these contracts. The EGSs, however, know which customers are enrolled in CAP, the end dates of the CAP customers' contracts, and have the ability to return these customers to default service. Accordingly, PPL asks that language be included directing that "the supplier will return" the CAP customer to default service. PPL at 3-4.

Regarding customers who receive supply service from an EGS through a month-to-month contract and subsequently enroll in CAP, PPL submits that the Tentative Order's proposal to have them returned to default service within 120 days is a reasonable and balanced approach and should be adopted. The proposal to provide EGSs 120 days to return these customers to default service resolves this concern by providing EGSs with the time necessary to fully comply with the Commission's notice regulations. In PPL's opinion, this proposal also protects the interests of CAP customers and the other residential customers who pay for CAP. If CAP customers are permitted to stay on a month-to-month contract until their recertification date, CAP customers could potentially continue on a month-to-month contracts for up to 18 months. PPL at 4-5.

Concerning CAP customer data availability, PPL reports that it has revised its supplier web-portal referred to as "My Customer List" with a "Yes" or "No" indicator to show which accounts are CAP customers. If the account is a "Yes," then there is also a recertification date. The "My Customer List" is updated daily to capture when existing customers enroll into CAP. The purpose of the revised "My Customer List" is to allow EGSs to identify those customers that are enrolled in CAP and providing their CAP recertification date. PPL further notes that the web-portal information is downloadable and that will allow EGSs to sort through and filter their lists of customers to quickly and easily identify changes to their lists of accounts. PPL at 5.

Finally, PPL requests the opportunity to respond to any additional issues or proposals raised by other parties to further change the CAP-SOP program prior to a final order in this matter. PPL at 6.

Discussion

We thank the stakeholders for their participation in this process and the thoughtful comments they provided. As we stated in the Tentative Order, this is an admittedly complex and challenging subject involving consumers needing assistance with paying their electric bills. We acknowledge the need to protect these consumers and the interests of all residential consumers who support assistance programs via the rates they pay. At the same time, we do not want to deny these consumers the benefits of the competitive market—nor do we want to impose unreasonable or burdensome procedures upon the suppliers and PPL. This requires a careful consideration and balancing of the interests of all the stakeholders involved. We found the advice of the stakeholders as presented in their comments helpful in working toward these objectives. After review of the comments submitted, the previous Orders in this proceeding, and the applicable regulations and laws, we are prepared to offer the following directions.

First, concerning those customers on fixed-duration contracts who subsequently enter PPL's CAP program, we agree with PPL in that there is no reason to treat future CAP customers differently than those that were on CAP

on or before June 1, 2017. These customers should return to default service or enroll in the CAP-SOP upon the expiration of their contracts. This serves to protect the integrity of supplier-customer contracts and protects customers from possible early-termination/cancellation fees.

While CAUSE-PA may be correct in that early termination fees are not collectible through utility bills; cannot result in the customer's termination; are not recoverable through the purchase of receivables program; and are not recoverable from ratepayers through rates—the customer still may be held responsible for the payment of the fees and could still face collection actions through other means. We find it unreasonable to adopt a course of action that would expose consumers to such a liability and deliberately expose them to collection enforcement due to actions beyond their control or force them to make a choice between avoiding early termination fees or obtaining the benefits of the consumer assistance program. We find that this resolution provides the most reasonable approach.

Accordingly, we think our proposal concerning fixed-duration contracts as presented in the Tentative Order is reasonable and appropriately balances the interests of the CAP participant, the other residential ratepayers, PPL's administration of this program and EGSs. However, we agree with PPL that it should be clarified further by explicitly stating that the supplier is the entity responsible for returning the customer to default service. Our revised direction on this matter is as follows, with the modified language in bold:

The Commission affirms the position that customers who are on a fixed-duration contract with a supplier and subsequently enrolls in the On-Track program at any time after June 1, 2017, remain with that supplier until the expiration date of the fixed-duration contract or the contract is terminated, whichever occurs first. Once the newly enrolled CAP customer supplier contract expires or is terminated, **the supplier will return the CAP customer to default service. The CAP customer** will have the option to enroll in the CAP-SOP or **remain on** default service, but in any event, will only be able to shop through the CAP-SOP.

Second, concerning those customers on month-to-month contracts, we agree with PPL that having them returned to default service within 120 days after the customer is enrolled in CAP is a reasonable and balanced approach. 120 days provides EGSs with ample time to send notices to the customer regarding the termination of the month-to-month contract and their return to default service. We also concur with PPL's opinion that this proposal is more reasonable than waiting till the customer's CAP recertification date in that it protects the interests of CAP customers and the other residential customers who pay for CAP. We find it significant that CAP customers could potentially continue on a month-to-month contract for up to 18 months before CAP recertification can occur.

We acknowledge the comments of parties including OCA and CAUSE-PA that the notice requirements at 52 Pa. Code § 54.10 apply to "fixed term contracts" and thus are not relevant to customers on "month-to-month" contracts. However, even if we accept this argument, these customers are still supposed to receive notice—notice that are to be described in the customer's disclosure (see 52 Pa. Code § 54.5(c)(7)); and time must be provided to send these notices. Regardless, we do not accept the argument that § 54.10 is not applicable—noting that this rule also applies anytime there is a change in contract

terms. We agree with WGL that the ending of a month-to-month contract is more accurately described as a change in contract terms than an expiration. Admittedly, this situation does not fit neatly into either classification. It is not entirely accurate to describe it as a supplier-initiated drop because the supplier is being forced to drop the customer not as a result of the supplier's deliberate business decision—but as a result of PPL's approved customer assistance program. Nor is this accurately described as a customer-initiated drop; the customer is being forced to leave the supplier, again as a result of PPL's approved customer assistance program.

Accordingly, we agree with WGL that what is occurring in this situation is a change in contract terms not an expiration or termination of the contract per the supplier or the customer's decision—but is instead being changed as a result of PPL's approved customer assistance program tariff. As such, we find that the two notices required by 52 Pa. Code § 54.10 are appropriate and required in this scenario. For these same reasons, we must reject RESA's request that only one notice be required in this situation.

In response to the concerns expressed by OCA and CAUSE-PA that 120 days is too long, we note again that the customer's choice of supplier ultimately rests with the customer. Even if we establish a 120-day return period, there is nothing to prevent a customer from dropping the supplier at any time. Again, it is the customer that can weigh their options—and if they desire to drop back to default service and/or enter the PPL CAP-SOP sooner, they can do that at any time. Furthermore, we note that we are giving suppliers up to 120 days after the customer is enrolled in CAP to provide the two required notices and drop the customer to default service. We find that this 120 day limit establishes a reasonable standard that EGSs can be held accountable for. If an EGS fails to meet this standard, they may face penalties under Chapter 33 of the Public Utility Code.

We agree with RESA's request that we clarify that the 120-day window to drop any EGS customers on a month-to-month contract who are enrolled in CAP on the date of publication of the final order applies without regard for whether the CAP enrollment occurred pre-or post-June 1, 2017. Accordingly, we provide the following direction concerning customers on month-to-month supplier contracts:

Customers who are receiving supply service from an EGS through a month-to-month contract and subsequently becomes CAP-eligible must be dropped by the supplier to PPL default service within 120 days after the customer is enrolled in CAP. The CAP customer will then have the option to enroll in the CAP-SOP or return to default service, but in any event, will only be able to shop through the CAP-SOP.

Customers who are receiving supply service from an EGS through a month-to-month contract and are subsequently enrolled in PPL's CAP either before or after June 1, 2017 and before this Final Order is published in the *Pennsylvania Bulletin*, the supplier must drop that customer to PPL default within 120 days after this Final Order is published in the *Pennsylvania Bulletin*.

Concerning the data made available by the suppliers, we agree with RESA and WGL that there is no need for suppliers to inform PPL of the type of contracts their customers are on. The obligation to drop CAP customers to default service has been placed upon the suppliers—

meaning that PPL has no need for this information. We also agree that sharing this type of information raises customer privacy and confidentiality concerns. There is no compelling need for PPL to have this information that would cause us to intrude on customer confidentiality expectations.

Concerning the data made available by PPL to suppliers concerning the CAP-status of their customers, we acknowledge the changes PPL has made to its web-portal to make this information accessible to suppliers. However, we do share WGL's and RESA's concerns with the reasonableness and effectiveness of requiring all the suppliers to continually check PPL's web-portal and to constantly cross-check customer lists to determine which of their customers has recently enrolled in CAP. We agree with WGL that this will be a time-consuming and labor-intensive process just to identify a limited number of customers who enroll in CAP. We are also concerned that such a procedure could result in these customer's being overlooked or not identified timely. We conclude that a more reasonable approach is for PPL to proactively notify EGSs when an existing EGS customer enrolls in CAP. PPL is the only entity that has direct access to all of the needed information, and as such, is in a position to generate EGS-specific reports about customer enrollments in CAP. This should be accomplished by email from PPL to each EGS on at least a once a month basis, identifying which existing customers of the EGS have enrolled in CAP during the preceding month and indicating the date the customer was enrolled. EGSs would then be obligated to act upon this information per the directions provided in this Final Order.

However, we reject WGL's request that PPL notify suppliers of when a customer is dropped from CAP and thus eligible to choose freely in the competitive market. We assume in this situation that PPL will update the customer's status on the Eligible Customer List (ECL)—assuming the customer has not opted-out of the ECL of course, as well as the web portal. Other than updating the ECL information, which is available to all EGSs, we decline to require separate specific notice to individual EGSs.

Conclusion

Upon careful review and consideration of the comments submitted in response to the Tentative Order, we provide the following directions to PPL and suppliers concerning the PPL CAP-SOP program:

The Commission affirms the position that customers who are on a fixed-duration contract with a supplier and subsequently enrolls in the On-Track program at any time after June 1, 2017, remain with that supplier until the expiration date of the fixed-duration contract or the contract is terminated, whichever comes first. Once the newly enrolled CAP customer supplier contract expires or is terminated, the supplier will return the CAP customer to default service. The CAP customer will have the option to enroll in the CAP-SOP or remain on default service, but in any event, will only be able to shop through the CAP-SOP.

Customers who are receiving supply service from an EGS through a month-to-month contract and subsequently becomes CAP-eligible must be dropped by the supplier to PPL default service within 120 days after the customer is enrolled in CAP. The CAP customer will then have the option to enroll in the CAP-SOP or return to default service, but in any event, will only be able to shop through the CAP-SOP.

Customers who are receiving supply service from an EGS through a month-to-month contract and are subsequently enrolled in PPL's CAP either before or after June 1, 2017 and before this Final Order is published in the *Pennsylvania Bulletin*, the supplier must drop that customer to PPL default within 120 days after this Final Order is published in the *Pennsylvania Bulletin*.

PPL Electric Utilities is directed to send an e-mail to each electric generation supplier at least a once a month identifying which existing customers of the electric generation supplier have enrolled in On-Track during the preceding month and indicating the date the customer was enrolled. Electric generation suppliers are to act upon this information per the directions provided in this Final Order.

These directions become effective upon publication of this Final Order in the *Pennsylvania Bulletin*; Therefore, *It Is Ordered That:*

1. Customers who are on a fixed duration contract with a supplier and subsequently enrolls in the On-Track program at any time after June 1, 2017, remain with that supplier until the expiration date of the fixed duration contract or the contract is terminated, whichever comes first. Once the newly enrolled On-Track customer's supplier contract expires or is terminated, the supplier will return the On-Track customer to default service. The On-Track customer will have the option to enroll in the CAP-SOP or remain on default service, but in any event, will only be able to shop through the CAP-SOP.

2. Customers who are receiving supply service from an electric generation supplier through a month-to-month contract and subsequently become On-Track-eligible must be dropped by the electric generation supplier to default service within 120 days after the customer is enrolled in On-Track. The On-Track customer will then have the option to enroll in the CAP-SOP or return to default service, but in any event, will only be able to shop through the CAP-SOP.

3. Customers who are receiving supply service from an electric generation supplier through a month-to-month contract and are subsequently enrolled in PPL's On-Track program either before or after June 1, 2017 and before this Final Order is published in the *Pennsylvania Bulletin*, the electric generation supplier must drop that customer to default service within 120 days after this Final Order is published in the *Pennsylvania Bulletin*.

4. PPL Electric Utilities is directed to send an e-mail to each electric generation supplier at least once a month identifying which existing customers of the electric generation supplier have enrolled in On-Track during the preceding month and indicating the date the customer was enrolled. Electric generation suppliers are to act upon this information per the directions provided in this Final Order.

5. This Final Order be served on all jurisdictional Electric Distribution Companies, all licensed Electric Generation Suppliers, the Bureau of Investigation and Enforcement, the Office of Consumer Advocate, the Office of Small Business Advocate and the parties at this Docket No. P-2016-2526627.

6. A copy of this Order be shall be published in the *Pennsylvania Bulletin* and posted on the Commission's website at the Office of Competitive Market Oversight's web page at http://www.puc.pa.gov/utility_industry/electricity/electric_competitive_market_oversight.aspx.

7. The Office of Competitive Market Oversight shall electronically serve a copy of this Final Order on all persons on the contact list for the Committee Handling Activities for Retail Growth in Electricity.

8. The contact person for technical issues related to this Final Order is Daniel Mumford, 717-783-1957 or dmumford@pa.gov. The contact person for legal issues related to this Final Order is Kriss Brown, 717-787-4518 or kribrown@pa.gov.

ROSEMARY CHIAVETTA,
Secretary

Statement of Commissioner David W. Sweet

Before joining my staff as Legal Counsel, Susan Colwell was working in the Office of Administrative Law Judge and worked on this case in her capacity as an Administrative Law Judge. Please note that she has not advised me in this matter.

DAVID W. SWEET,
Commissioner

[Pa.B. Doc. No. 18-315. Filed for public inspection February 23, 2018, 9:00 a.m.]

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Seeks Comments on Corporate Federal Income Tax Rate Changes and the Effects on Commission-Regulated Public Utilities, Ratepay- ers; M-2018-2641242

On February 12, 2018, the Pennsylvania Public Utility Commission (Commission) issued a Secretarial Letter to establish a docket and begin a proceeding by which the Commission shall seek to determine the effects of the Tax Cuts and Jobs Act (TCJA) (Pub.L. No. 115-97) on the tax liabilities of Commission-regulated public utilities for 2018 and future years and the feasibility of reflecting the impacts in the rates charged to Pennsylvania utility ratepayers.

Under the TCJA, effective January 1, 2018, various provisions of the Tax Reform Act of 1986 have been repealed or amended and one of these modifications is a reduction in the corporate Federal Income Tax (FIT) rate from 35% to 21%. Commission-regulated public utilities are corporations subject to the FIT. The Commission will seek to determine any effects of the TCJA on the tax liabilities of Commission-regulated public utilities for 2018 and future years. Therefore, the Commission has directed that specified utilities provide responses to data requests designed to calculate, among other things, the net effect on income tax expense and rate base as a result of implementation of the TCJA. The Commission has further requested that interested parties submit comments addressing, among other things, whether the Commission should adjust current customer rates to reflect the reduced annual State and Federal income tax expenses of public utilities due to the tax rate changes in the TCJA. Responses to the data requests and comments are due on, or before, March 9, 2018.

The Secretarial Letter and data requests can be found on the Commission's web site at www.puc.pa.gov under docket number M-2018-2641242.

ROSEMARY CHIAVETTA,
Secretary

[Pa.B. Doc. No. 18-316. Filed for public inspection February 23, 2018, 9:00 a.m.]

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Service of Notice of Motor Carrier Applications

The following temporary authority and/or permanent authority applications for the right to render service as a common carrier or contract carrier in this Commonwealth have been filed with the Pennsylvania Public Utility Commission. Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). A protest shall indicate whether it applies to the temporary authority application, the permanent authority application, or both. Protests may only be filed in the event that there is evidence that the applicant lacks fitness. Please note that protests based on endangering or impairing operations of an existing carrier will not be honored. 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 March 12, 2018. 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-2018-2642920. Medical Transportation Providers, LLC (104 Diamond Street, 2nd Floor, Philadelphia, PA 19122) for the right to begin to transport, as a common carrier, by motor vehicle, persons in paratransit service, from various points in the City of Philadelphia, solely within city boundaries, for nonemergency medical transit purposes, to points in Pennsylvania, and return.

A-2018-2644963. Bonnie Lynn Gordon, t/a Waynesboro Cab Co. (369 Fridinger Avenue, Hagerstown, Washington County, MD 21740) for the right to transport as a common carrier, by motor vehicle, persons in paratransit service, from points in Franklin County, to points in Pennsylvania, and return.

A-2018-2645424. Pickup Transportation, LLC (4530 North 13th Street, Philadelphia, PA 19140) in limousine service, between points in the Counties of Berks, Bucks, Chester, Delaware and Montgomery.

A-2018-2645600. HTC Van, Inc. (55 Steinwehr Avenue, Gettysburg, Adams County, PA 17325) for the right to begin to transport, as a common carrier, by motor vehicle, persons, in group and party service, in vehicles seating 11 to 15 passengers, including the driver, from points in Adams County to points in Pennsylvania, and return; excluding service that is under the jurisdiction of the Philadelphia Parking Authority.

A-2018-2646122. RCAA Health Services, Inc. (11603 State Route 61, Mount Carmel, Northumberland County, PA 17851) for the right to begin to transport, as a

common carrier, by motor vehicle, persons in paratransit service from points in Northumberland County to points in Pennsylvania, and return.

Applications of the following for amendment to the certificate of public convenience approving the operation of motor vehicles as common carriers for transportation of persons as described under each application.

A-2017-2640335. United Taxi Company, LLC (632 North Jordan Street, Allentown, Lehigh County, PA 18101) for the amended right to transport as a common carrier, by motor vehicle, persons upon call or demand service, between points in the City of Bethlehem, the Borough of Hellertown, the City of Easton, the Borough of Bath, the Borough of Nazareth and the Borough of Northampton, all in Northampton County.

A-2018-2644555. Integrated Medical Transport, LLC (322C East Allen Street, Mechanicsburg, Cumberland County, PA 17055) persons in paratransit service from points in the Counties of Adams, Allegheny, Berks, Franklin, Lancaster, Lebanon, Lehigh, Northampton and Schuylkill, to points in Pennsylvania, and return. *Attorney:* Charles E. Thomas, III, 212 Locust Street, Suite 302, Harrisburg, PA 17101.

Application of the following for approval of the additional right and privilege of operating motor vehicles as common carriers for transportation of persons as described under the application.

A-2017-2634490. Little Driver Chauffeur Services, LLC, t/a Advantage Chauffeur Services (P.O. Box 253, Macungie, Lehigh County, PA 18062) persons in group and party service, in vehicles seating between 11 and 15 passengers, including the driver, between points in the Counties of Carbon, Chester, Berks, Bucks, Lebanon, Lehigh, Monroe, Montgomery, Northampton, Northumberland, Pike and Schuylkill, and the City and County of Philadelphia.

Applications of the following for approval of the beginning of the exercise of the right and privilege of operating motor vehicles as common carriers for the transportation of household goods as described under each application.

A-2018-2645305. Dinges Moving & Storage Co., Inc. (901 Scotch Valley Road, Holidaysburg, Blair County, PA 16648) for the right to begin to transport, as a common carrier, by motor vehicle, household goods in use, between points in Pennsylvania. *Attorney:* William H. Stewart, III, Vuono & Gray, LLC, 310 Grant Street, Suite 2310, Pittsburgh, PA 15219.

A-2018-2646625. Sunway Carrier, Inc., t/a Sunway Moving and Storage (1975 East Sunrise Boulevard, # 802, Fort Lauderdale, FL 33304) household goods in use between points in Pennsylvania.

Applications of the following for approval to begin operating as contract carriers for transportation of persons as described under each application.

A-2017-2619628. Comfort Healthcare Solutions, LLC (1246 Elson Road, Brookhaven, Delaware County, PA 19015) for Dove Health Care Services, LLC, between points in the County of Northumberland, and from points in the Counties of Allegheny, Chester, Delaware, Lancaster and Philadelphia, to points in Pennsylvania, and return. *Subject to the following condition:* that any service or trip originating in Chester County shall end at a point outside of said county.

A-2018-2643809. DPD Transport, LLC (3021 Franks Road, Suite 6, Huntingdon, Montgomery County, PA 19006) for Bensalem Adult Day Care Center, between points in the Counties of Bucks, Chester, Delaware and Montgomery, and the City and County of Philadelphia. *Attorney:* David Temple, 1600 Market Street, Suite 1320, Philadelphia, PA 19103.

Applications of the following for the approval of the right and privilege to discontinue/abandon operating as common carriers by motor vehicle and for cancellation of the certificate of public convenience as described under each application.

A-2018-2643388. Vesely Brothers Moving & Storage, Inc. (316 Finley Road, Belle Vernon, Fayette County, PA 15012) discontinuance of service and cancellation of its certificate, to transport, as a common carrier, by motor vehicle, household goods in use and property, from points in the Counties of Allegheny, Fayette, Washington and Westmoreland, and vice versa, as more thoroughly described in the original ordering paragraphs at A-00102958, F.1 and F.1 Am-A.

A-2018-2646757. Jason Litigation Support Services, LLC (211 Moosic Street, Olyphant, Lackawanna County, PA 18447) for the discontinuance of service and cancellation of the certificate as a common carrier, by motor vehicle, persons in paratransit service, from points in the Counties of Lackawanna, Lehigh, Luzerne (excluding the Township of Salem), Monroe, Northampton, Northumberland (excluding the Borough of Riverside), Philadelphia, Pike and Schuylkill, to points in Pennsylvania, and return.

ROSEMARY CHIAVETTA,
Secretary

[Pa.B. Doc. No. 18-317. Filed for public inspection February 23, 2018, 9:00 a.m.]

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Service of Notice of Motor Carrier Formal Complaints

Formal complaints have been issued by the Pennsylvania Public Utility Commission. Answers must be filed in accordance with 52 Pa. Code (relating to public utilities). Answers are due March 12, 2018, and must be made with the Secretary, Pennsylvania Public Utility Commission, P.O. Box 3265, Harrisburg, PA 17105-3265, with a copy to the First Deputy Chief Prosecutor, Pennsylvania Public Utility Commission.

Pennsylvania Public Utility Commission; Bureau of Investigation and Enforcement v. Kamus Construction Incorporated; Docket No. C-2017-2638024

COMPLAINT

The Pennsylvania Public Utility Commission (Commission) is a duly constituted agency of the Commonwealth of Pennsylvania empowered to regulate public utilities within the Commonwealth. The Commission has delegated its authority to initiate proceedings which are prosecutory in nature to the Bureau of Investigation and Enforcement and other bureaus with enforcement respon-

sibilities. Pursuant to that delegated authority and Section 701 of the Public Utility Code, the Bureau of Investigation and Enforcement hereby represents as follows:

1. That all authority issued to Kamus Construction Incorporated, (respondent) is under suspension effective December 03, 2017 for failure to maintain evidence of insurance on file with this Commission.

2. That respondent maintains a principal place of business at 57 Walnut Street, Forty-Fort, PA 18704.

3. That respondent was issued a Certificate of Public Convenience by this Commission on January 31, 2011, at A-8910368.

4. That respondent has failed to maintain evidence of Liability insurance on file with this Commission. The Bureau of Investigation and Enforcement's proposed civil penalty for this violation is \$500 and cancellation of the Certificate of Public Convenience.

5. That respondent, by failing to maintain evidence of insurance on file with this Commission, violated 66 Pa.C.S. § 512, 52 Pa. Code § 32.2(c), and 52 Pa. Code § 32.11(a), § 32.12(a) or § 32.13(a).

Wherefore, unless respondent pays the penalty of \$500 or files an answer in compliance with the attached notice and/or causes its insurer to file evidence of insurance with this Commission within twenty (20) days of the date of service of this Complaint, the Bureau of Investigation and Enforcement will request that the Commission issue an Order which (1) cancels the Certificate of Public Convenience held by respondent at A-8910368 for failure to maintain evidence of current insurance on file with the Commission, (2) fines Respondent the sum of five hundred dollars (\$500.00) for the illegal activity described in this Complaint, (3) orders such other remedy as the Commission may deem to be appropriate, which may include the suspension of a vehicle registration and (4) imposes an additional fine on the respondent should cancellation occur.

Respectfully submitted,
David W. Loucks, Chief
Motor Carrier Enforcement
Bureau of Investigation and Enforcement
P.O. Box 3265
Harrisburg, PA 17105-3265

VERIFICATION

I, David W. Loucks, Chief, Motor Carrier Enforcement, Bureau of Investigation and Enforcement, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect that the Bureau will be able to prove same at any hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: 12/19/2017

David W. Loucks, Chief
Motor Carrier Enforcement
Bureau of Investigation and Enforcement

NOTICE

A. You must file an Answer within 20 days of the date of service of this Complaint. The date of service is the mailing date as indicated at the top of the Secretarial Letter. See 52 Pa. Code § 1.56(a). The Answer must raise all factual and legal arguments that you wish to claim in

your defense, include the docket number of this Complaint, and be verified. You may file your Answer by mailing an original to:

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

Or, you may eFile your Answer using the Commission's website at www.puc.pa.gov. The link to eFiling is located under the Filing & Resources tab on the homepage. If your Answer is 250 pages or less, you are not required to file a paper copy. If your Answer exceeds 250 pages, you must file a paper copy with the Secretary's Bureau.

Additionally, a copy should either be mailed to:

Michael L. Swindler, Deputy Chief Prosecutor
Pennsylvania Public Utility Commission
Bureau of Investigation and Enforcement
P.O. Box 3265
Harrisburg, PA 17105-3265

Or, emailed to Mr. Swindler at: RA-PCCmplntResp@pa.gov

B. If you fail to answer this Complaint within 20 days, the Bureau of Investigation and Enforcement will request that the Commission issue an Order imposing the penalty.

C. You may elect not to contest this Complaint by causing your insurer to file proper evidence of current insurance in accordance with the Commission's regulations and by paying the fine proposed in this Complaint by certified check or money order within twenty (20) days of the date of service of this Complaint. Accord certificates of insurance and faxed form Es and Hs are unacceptable as evidence of insurance.

The proof of insurance must be filed with the:

Compliance Office, Bureau of Technical Utility Services
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

Payment of the fine must be made to the Commonwealth of Pennsylvania and should be forwarded to:

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

Your payment is an admission that you committed the alleged violation and an agreement to cease and desist from further violations. Upon receipt of the evidence of insurance from your insurer, and upon receipt of your payment, the Complaint proceeding shall be closed.

D. If you file an Answer which either admits or fails to deny the allegations of the Complaint, the Bureau of Investigation and Enforcement will request the Commission to issue an Order imposing the penalty set forth in this Complaint.

E. If you file an Answer which contests the Complaint, the matter will be assigned to an Administrative Law Judge for hearing and decision. The Judge is not bound by the penalty set forth in the Complaint, and may impose additional and/or alternative penalties as appropriate.

F. If you are a corporation, you must be represented by legal counsel. 52 Pa. Code § 1.21.

Alternative formats of this material are available for persons with disabilities by contacting the Commission's ADA Coordinator at 717-787-8714. Do not call this number if you have questions as to why you received this complaint. For those questions you may call 717-783-3847.

Pennsylvania Public Utility Commission; Bureau of Investigation and Enforcement v. Cercone Trucking, Inc.; Docket No. C-2017-2638121

COMPLAINT

The Pennsylvania Public Utility Commission (Commission) is a duly constituted agency of the Commonwealth of Pennsylvania empowered to regulate public utilities within the Commonwealth. The Commission has delegated its authority to initiate proceedings which are prosecutory in nature to the Bureau of Investigation and Enforcement and other bureaus with enforcement responsibilities. Pursuant to that delegated authority and Section 701 of the Public Utility Code, the Bureau of Investigation and Enforcement hereby represents as follows:

1. That all authority issued to Cercone Trucking, Inc., (respondent) is under suspension effective December 04, 2017 for failure to maintain evidence of insurance on file with this Commission.
2. That respondent maintains a principal place of business at 116 Carlye Drive, Cranberry Township, PA 16066.
3. That respondent was issued a Certificate of Public Convenience by this Commission on April 30, 2014, at A-00118891.
4. That respondent has failed to maintain evidence of Liability insurance on file with this Commission. The Bureau of Investigation and Enforcement's proposed civil penalty for this violation is \$500 and cancellation of the Certificate of Public Convenience.
5. That respondent, by failing to maintain evidence of insurance on file with this Commission, violated 66 Pa.C.S. § 512, 52 Pa. Code § 32.2(c), and 52 Pa. Code § 32.11(a), § 32.12(a) or § 32.13(a).

Wherefore, unless respondent pays the penalty of \$500 or files an answer in compliance with the attached notice and/or causes its insurer to file evidence of insurance with this Commission within twenty (20) days of the date of service of this Complaint, the Bureau of Investigation and Enforcement will request that the Commission issue an Order which (1) cancels the Certificate of Public Convenience held by respondent at A-00118891 for failure to maintain evidence of current insurance on file with the Commission, (2) fines Respondent the sum of five hundred dollars (\$500.00) for the illegal activity described in this Complaint, (3) orders such other remedy as the Commission may deem to be appropriate, which may include the suspension of a vehicle registration and (4) imposes an additional fine on the respondent should cancellation occur.

Respectfully submitted,
David W. Loucks, Chief
Motor Carrier Enforcement
Bureau of Investigation and Enforcement
P.O. Box 3265
Harrisburg, PA 17105-3265

VERIFICATION

I, David W. Loucks, Chief, Motor Carrier Enforcement, Bureau of Investigation and Enforcement, hereby state

that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect that the Bureau will be able to prove same at any hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: 12/19/2017

David W. Loucks, Chief
Motor Carrier Enforcement
Bureau of Investigation and Enforcement

NOTICE

A. You must file an Answer within 20 days of the date of service of this Complaint. The date of service is the mailing date as indicated at the top of the Secretarial Letter. See 52 Pa. Code § 1.56(a). The Answer must raise all factual and legal arguments that you wish to claim in your defense, include the docket number of this Complaint, and be verified. You may file your Answer by mailing an original to:

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

Or, you may eFile your Answer using the Commission's website at www.puc.pa.gov. The link to eFiling is located under the Filing & Resources tab on the homepage. If your Answer is 250 pages or less, you are not required to file a paper copy. If your Answer exceeds 250 pages, you must file a paper copy with the Secretary's Bureau.

Additionally, a copy should either be mailed to:

Michael L. Swindler, Deputy Chief Prosecutor
Pennsylvania Public Utility Commission
Bureau of Investigation and Enforcement
P.O. Box 3265
Harrisburg, PA 17105-3265

Or, emailed to Mr. Swindler at: RA-PCCmplntResp@pa.gov

B. If you fail to answer this Complaint within 20 days, the Bureau of Investigation and Enforcement will request that the Commission issue an Order imposing the penalty.

C. You may elect not to contest this Complaint by causing your insurer to file proper evidence of current insurance in accordance with the Commission's regulations and by paying the fine proposed in this Complaint by certified check or money order within twenty (20) days of the date of service of this Complaint. Accord certificates of insurance and faxed form Es and Hs are unacceptable as evidence of insurance.

The proof of insurance must be filed with the:

Compliance Office, Bureau of Technical Utility Services
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

Payment of the fine must be made to the Commonwealth of Pennsylvania and should be forwarded to:

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

Your payment is an admission that you committed the alleged violation and an agreement to cease and desist from further violations. Upon receipt of the evidence of insurance from your insurer, and upon receipt of your payment, the Complaint proceeding shall be closed.

D. If you file an Answer which either admits or fails to deny the allegations of the Complaint, the Bureau of Investigation and Enforcement will request the Commission to issue an Order imposing the penalty set forth in this Complaint.

E. If you file an Answer which contests the Complaint, the matter will be assigned to an Administrative Law Judge for hearing and decision. The Judge is not bound by the penalty set forth in the Complaint, and may impose additional and/or alternative penalties as appropriate.

F. If you are a corporation, you must be represented by legal counsel. 52 Pa. Code § 1.21.

Alternative formats of this material are available for persons with disabilities by contacting the Commission's ADA Coordinator at 717-787-8714. Do not call this number if you have questions as to why you received this complaint. For those questions you may call 717-783-3847.

Pennsylvania Public Utility Commission; Bureau of Investigation and Enforcement v. Creekside Transport, LLC; Docket No. C-2018-2642736

COMPLAINT

The Pennsylvania Public Utility Commission (Commission) is a duly constituted agency of the Commonwealth of Pennsylvania empowered to regulate public utilities within the Commonwealth. The Commission has delegated its authority to initiate proceedings which are prosecutory in nature to the Bureau of Investigation and Enforcement and other bureaus with enforcement responsibilities. Pursuant to that delegated authority and Section 701 of the Public Utility Code, the Bureau of Investigation and Enforcement hereby represents as follows:

1. That all authority issued to Creekside Transport, LLC, (respondent) is under suspension effective January 05, 2018 for failure to maintain evidence of insurance on file with this Commission.
2. That respondent maintains a principal place of business at 2810 SR 29S, Monroe Township, PA 18636.
3. That respondent was issued a Certificate of Public Convenience by this Commission on December 27, 2012, at A-8915030.
4. That respondent has failed to maintain evidence of both Liability insurance and Cargo insurance on file with this Commission. The Bureau of Investigation and Enforcement's proposed civil penalty for this violation is \$500 and cancellation of the Certificate of Public Convenience.
5. That respondent, by failing to maintain evidence of insurance on file with this Commission, violated 66 Pa.C.S. § 512, 52 Pa. Code § 32.2(c), and 52 Pa. Code § 32.11(a), § 32.12(a) or § 32.13(a).

Wherefore, unless respondent pays the penalty of \$500 or files an answer in compliance with the attached notice and/or causes its insurer to file evidence of insurance with this Commission within twenty (20) days of the date of service of this Complaint, the Bureau of Investigation

and Enforcement will request that the Commission issue an Order which (1) cancels the Certificate of Public Convenience held by respondent at A-8915030 for failure to maintain evidence of current insurance on file with the Commission, (2) fines Respondent the sum of five hundred dollars (\$500.00) for the illegal activity described in this Complaint, (3) orders such other remedy as the Commission may deem to be appropriate, which may include the suspension of a vehicle registration and (4) imposes an additional fine on the respondent should cancellation occur.

Respectfully submitted,
David W. Loucks, Chief
Motor Carrier Enforcement
Bureau of Investigation and Enforcement
P.O. Box 3265
Harrisburg, PA 17105-3265

VERIFICATION

I, David W. Loucks, Chief, Motor Carrier Enforcement, Bureau of Investigation and Enforcement, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect that the Bureau will be able to prove same at any hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: 1/18/2018

David W. Loucks, Chief
Motor Carrier Enforcement
Bureau of Investigation and Enforcement

NOTICE

A. You must file an Answer within 20 days of the date of service of this Complaint. The date of service is the mailing date as indicated at the top of the Secretarial Letter. See 52 Pa. Code § 1.56(a). The Answer must raise all factual and legal arguments that you wish to claim in your defense, include the docket number of this Complaint, and be verified. You may file your Answer by mailing an original to:

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

Or, you may eFile your Answer using the Commission's website at www.puc.pa.gov. The link to eFiling is located under the Filing & Resources tab on the homepage. If your Answer is 250 pages or less, you are not required to file a paper copy. If your Answer exceeds 250 pages, you must file a paper copy with the Secretary's Bureau.

Additionally, a copy should either be mailed to:

Michael L. Swindler, Deputy Chief Prosecutor
Pennsylvania Public Utility Commission
Bureau of Investigation and Enforcement
P.O. Box 3265
Harrisburg, PA 17105-3265

Or, emailed to Mr. Swindler at: RA-PCCmplntResp@pa.gov

B. If you fail to answer this Complaint within 20 days, the Bureau of Investigation and Enforcement will request that the Commission issue an Order imposing the penalty.

C. You may elect not to contest this Complaint by causing your insurer to file proper evidence of current insurance in accordance with the Commission's regulations and by paying the fine proposed in this Complaint by certified check or money order within twenty (20) days of the date of service of this Complaint. Accord certificates of insurance and faxed form Es and Hs are unacceptable as evidence of insurance.

The proof of insurance must be filed with the:

Compliance Office, Bureau of Technical Utility
Services
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

Payment of the fine must be made to the Commonwealth of Pennsylvania and should be forwarded to:

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

Your payment is an admission that you committed the alleged violation and an agreement to cease and desist from further violations. Upon receipt of the evidence of insurance from your insurer, and upon receipt of your payment, the Complaint proceeding shall be closed.

D. If you file an Answer which either admits or fails to deny the allegations of the Complaint, the Bureau of Investigation and Enforcement will request the Commission to issue an Order imposing the penalty set forth in this Complaint.

E. If you file an Answer which contests the Complaint, the matter will be assigned to an Administrative Law Judge for hearing and decision. The Judge is not bound by the penalty set forth in the Complaint, and may impose additional and/or alternative penalties as appropriate.

F. If you are a corporation, you must be represented by legal counsel. 52 Pa. Code § 1.21.

Alternative formats of this material are available for persons with disabilities by contacting the Commission's ADA Coordinator at 717-787-8714. Do not call this number if you have questions as to why you received this complaint. For those questions you may call 717-783-3847.

**Pennsylvania Public Utility Commission; Bureau of
Investigation and Enforcement v. Dependability
Co.; Docket No. C-2018-2639873**

COMPLAINT

The Pennsylvania Public Utility Commission (Commission) is a duly constituted agency of the Commonwealth of Pennsylvania empowered to regulate public utilities within the Commonwealth. The Commission has delegated its authority to initiate proceedings which are prosecutory in nature to the Bureau of Investigation and Enforcement and other bureaus with enforcement responsibilities. Pursuant to that delegated authority and Section 701 of the Public Utility Code, the Bureau of Investigation and Enforcement hereby represents as follows:

1. That all authority issued to Dependability Co., (respondent) is under suspension effective December 13, 2017 for failure to maintain evidence of insurance on file with this Commission.

2. That respondent maintains a principal place of business at 1300 Adams Ave Frnt, Philadelphia, PA 19124-4517.

3. That respondent was issued a Certificate of Public Convenience by this Commission on September 21, 2012, at A-6411324.

4. That respondent has failed to maintain evidence of Liability insurance on file with this Commission. The Bureau of Investigation and Enforcement's proposed civil penalty for this violation is \$500 and cancellation of the Certificate of Public Convenience.

5. That respondent, by failing to maintain evidence of insurance on file with this Commission, violated 66 Pa.C.S. § 512, 52 Pa. Code § 32.2(c), and 52 Pa. Code § 32.11(a), § 32.12(a) or § 32.13(a).

Wherefore, unless respondent pays the penalty of \$500 or files an answer in compliance with the attached notice and/or causes its insurer to file evidence of insurance with this Commission within twenty (20) days of the date of service of this Complaint, the Bureau of Investigation and Enforcement will request that the Commission issue an Order which (1) cancels the Certificate of Public Convenience held by respondent at A-6411324 for failure to maintain evidence of current insurance on file with the Commission, (2) fines Respondent the sum of five hundred dollars (\$500.00) for the illegal activity described in this Complaint, (3) orders such other remedy as the Commission may deem to be appropriate, which may include the suspension of a vehicle registration and (4) imposes an additional fine on the respondent should cancellation occur.

Respectfully submitted,
David W. Loucks, Chief
Motor Carrier Enforcement
Bureau of Investigation and Enforcement
P.O. Box 3265
Harrisburg, PA 17105-3265

VERIFICATION

I, David W. Loucks, Chief, Motor Carrier Enforcement, Bureau of Investigation and Enforcement, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect that the Bureau will be able to prove same at any hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: 1/3/2018

David W. Loucks, Chief
Motor Carrier Enforcement
Bureau of Investigation and Enforcement

NOTICE

A. You must file an Answer within 20 days of the date of service of this Complaint. The date of service is the mailing date as indicated at the top of the Secretarial Letter. See 52 Pa. Code § 1.56(a). The Answer must raise all factual and legal arguments that you wish to claim in your defense, include the docket number of this Complaint, and be verified. You may file your Answer by mailing an original to:

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

Or, you may eFile your Answer using the Commission's website at www.puc.pa.gov. The link to eFiling is located under the Filing & Resources tab on the homepage. If your Answer is 250 pages or less, you are not required to file a paper copy. If your Answer exceeds 250 pages, you must file a paper copy with the Secretary's Bureau.

Additionally, a copy should either be mailed to:

Michael L. Swindler, Deputy Chief Prosecutor
 Pennsylvania Public Utility Commission
 Bureau of Investigation and Enforcement
 P.O. Box 3265
 Harrisburg, PA 17105-3265

Or, emailed to Mr. Swindler at: RA-PCCmplntResp@pa.gov

B. If you fail to answer this Complaint within 20 days, the Bureau of Investigation and Enforcement will request that the Commission issue an Order imposing the penalty.

C. You may elect not to contest this Complaint by causing your insurer to file proper evidence of current insurance in accordance with the Commission's regulations and by paying the fine proposed in this Complaint by certified check or money order within twenty (20) days of the date of service of this Complaint. Accord certificates of insurance and faxed form Es and Hs are unacceptable as evidence of insurance.

The proof of insurance must be filed with the:

Compliance Office, Bureau of Technical Utility Services
 Pennsylvania Public Utility Commission
 P.O. Box 3265
 Harrisburg, PA 17105-3265

Payment of the fine must be made to the Commonwealth of Pennsylvania and should be forwarded to:

Rosemary Chiavetta, Secretary
 Pennsylvania Public Utility Commission
 P.O. Box 3265
 Harrisburg, PA 17105-3265

Your payment is an admission that you committed the alleged violation and an agreement to cease and desist from further violations. Upon receipt of the evidence of insurance from your insurer, and upon receipt of your payment, the Complaint proceeding shall be closed.

D. If you file an Answer which either admits or fails to deny the allegations of the Complaint, the Bureau of Investigation and Enforcement will request the Commission to issue an Order imposing the penalty set forth in this Complaint.

E. If you file an Answer which contests the Complaint, the matter will be assigned to an Administrative Law Judge for hearing and decision. The Judge is not bound by the penalty set forth in the Complaint, and may impose additional and/or alternative penalties as appropriate.

F. If you are a corporation, you must be represented by legal counsel. 52 Pa. Code § 1.21.

Alternative formats of this material are available for persons with disabilities by contacting the Commission's ADA Coordinator at 717-787-8714. Do not call this number if you have questions as to why you received this complaint. For those questions you may call 717-783-3847.

Pennsylvania Public Utility Commission; Bureau of Investigation and Enforcement v. K & D Transfer, LLC; Docket No. C-2018-2642142

COMPLAINT

The Pennsylvania Public Utility Commission (Commission) is a duly constituted agency of the Commonwealth of Pennsylvania empowered to regulate public utilities within the Commonwealth. The Commission has delegated its authority to initiate proceedings which are prosecutory in nature to the Bureau of Investigation and Enforcement and other bureaus with enforcement responsibilities. Pursuant to that delegated authority and Section 701 of the Public Utility Code, the Bureau of Investigation and Enforcement hereby represents as follows:

1. That all authority issued to K & D Transfer, LLC, (respondent) is under suspension effective December 20, 2017 for failure to maintain evidence of insurance on file with this Commission.

2. That respondent maintains a principal place of business at 234 Miller Farm Road, Uniontown, PA 15401.

3. That respondent was issued a Certificate of Public Convenience by this Commission on July 06, 2017, at A-8919825.

4. That respondent has failed to maintain evidence of Liability insurance on file with this Commission. The Bureau of Investigation and Enforcement's proposed civil penalty for this violation is \$500 and cancellation of the Certificate of Public Convenience.

5. That respondent, by failing to maintain evidence of insurance on file with this Commission, violated 66 Pa.C.S. § 512, 52 Pa. Code § 32.2(c), and 52 Pa. Code § 32.11(a), § 32.12(a) or § 32.13(a).

Wherefore, unless respondent pays the penalty of \$500 or files an answer in compliance with the attached notice and/or causes its insurer to file evidence of insurance with this Commission within twenty (20) days of the date of service of this Complaint, the Bureau of Investigation and Enforcement will request that the Commission issue an Order which (1) cancels the Certificate of Public Convenience held by respondent at A-8919825 for failure to maintain evidence of current insurance on file with the Commission, (2) fines Respondent the sum of five hundred dollars (\$500.00) for the illegal activity described in this Complaint, (3) orders such other remedy as the Commission may deem to be appropriate, which may include the suspension of a vehicle registration and (4) imposes an additional fine on the respondent should cancellation occur.

Respectfully submitted,
 David W. Loucks, Chief
 Motor Carrier Enforcement
 Bureau of Investigation and Enforcement
 P.O. Box 3265
 Harrisburg, PA 17105-3265

VERIFICATION

I, David W. Loucks, Chief, Motor Carrier Enforcement, Bureau of Investigation and Enforcement, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect that the Bureau will be able to prove same at any hearing held in this matter. I understand that the

statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: 1/18/2018

David W. Loucks, Chief
Motor Carrier Enforcement
Bureau of Investigation and Enforcement

NOTICE

A. You must file an Answer within 20 days of the date of service of this Complaint. The date of service is the mailing date as indicated at the top of the Secretarial Letter. See 52 Pa. Code § 1.56(a). The Answer must raise all factual and legal arguments that you wish to claim in your defense, include the docket number of this Complaint, and be verified. You may file your Answer by mailing an original to:

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

Or, you may eFile your Answer using the Commission's website at www.puc.pa.gov. The link to eFiling is located under the Filing & Resources tab on the homepage. If your Answer is 250 pages or less, you are not required to file a paper copy. If your Answer exceeds 250 pages, you must file a paper copy with the Secretary's Bureau.

Additionally, a copy should either be mailed to:

Michael L. Swindler, Deputy Chief Prosecutor
Pennsylvania Public Utility Commission
Bureau of Investigation and Enforcement
P.O. Box 3265
Harrisburg, PA 17105-3265

Or, emailed to Mr. Swindler at: RA-PCCmpltResp@pa.gov

B. If you fail to answer this Complaint within 20 days, the Bureau of Investigation and Enforcement will request that the Commission issue an Order imposing the penalty.

C. You may elect not to contest this Complaint by causing your insurer to file proper evidence of current insurance in accordance with the Commission's regulations and by paying the fine proposed in this Complaint by certified check or money order within twenty (20) days of the date of service of this Complaint. Accord certificates of insurance and faxed form Es and Hs are unacceptable as evidence of insurance.

The proof of insurance must be filed with the:

Compliance Office, Bureau of Technical Utility Services
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

Payment of the fine must be made to the Commonwealth of Pennsylvania and should be forwarded to:

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

Your payment is an admission that you committed the alleged violation and an agreement to cease and desist from further violations. Upon receipt of the evidence of

insurance from your insurer, and upon receipt of your payment, the Complaint proceeding shall be closed.

D. If you file an Answer which either admits or fails to deny the allegations of the Complaint, the Bureau of Investigation and Enforcement will request the Commission to issue an Order imposing the penalty set forth in this Complaint.

E. If you file an Answer which contests the Complaint, the matter will be assigned to an Administrative Law Judge for hearing and decision. The Judge is not bound by the penalty set forth in the Complaint, and may impose additional and/or alternative penalties as appropriate.

F. If you are a corporation, you must be represented by legal counsel. 52 Pa. Code § 1.21.

Alternative formats of this material are available for persons with disabilities by contacting the Commission's ADA Coordinator at 717-787-8714. Do not call this number if you have questions as to why you received this complaint. For those questions you may call 717-783-3847.

ROSEMARY CHIAVETTA,
Secretary

[Pa.B. Doc. No. 18-318. Filed for public inspection February 23, 2018, 9:00 a.m.]

**PENNSYLVANIA PUBLIC
UTILITY COMMISSION**
Telecommunications

A-2018-2646752. Verizon North, LLC and Level 3 Communications, LLC. Joint Petition of Verizon North, LLC and Level 3 Communications, LLC for approval of amendment number 5 to the interconnection agreement under section 252(e) of the Telecommunications Act of 1996.

Verizon North, LLC and Level 3 Communications, LLC, by their counsel, filed on February 9, 2018, at the Public Utility Commission (Commission), a joint petition for approval of amendment number 5 to the interconnection agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, 400 North Street, Harrisburg, PA 17120. Comments are due on or before 10 days after the date of publication of this notice. The documents filed in support of Verizon North, LLC and Level 3 Communications, LLC's joint petition are available for inspection and copying at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday, at the Commission's web site at www.puc.pa.gov and at the applicant's business address.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

ROSEMARY CHIAVETTA,
Secretary

[Pa.B. Doc. No. 18-319. Filed for public inspection February 23, 2018, 9:00 a.m.]

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Telecommunications

A-2018-2646735. Verizon Pennsylvania, LLC and Level 3 Communications, LLC. Joint petition of Verizon Pennsylvania, LLC and Level 3 Communications, LLC for approval of amendment number 6 to the interconnection agreement under section 252(e) of the Telecommunications Act of 1996.

Verizon Pennsylvania, LLC and Level 3 Communications, LLC, by their counsel, filed on February 9, 2018, at the Pennsylvania Public Utility Commission (Commission), a joint petition for approval of amendment number 6 to the interconnection agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, 400 North Street, Harrisburg, PA 17120. Comments are due on or before 10 days after the date of publication of this notice. The documents filed in support of Verizon Pennsylvania, LLC and Level 3 Communications, LLC joint petition are available for inspection and copying at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday, at the Commission's web site at www.puc.pa.gov and at the applicant's business address.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

ROSEMARY CHIAVETTA,
Secretary

[Pa.B. Doc. No. 18-320. Filed for public inspection February 23, 2018, 9:00 a.m.]

PHILADELPHIA PARKING AUTHORITY

Service of Notice of Motor Carrier Application in the City of Philadelphia

The following permanent authority application to render service as a common carrier in the City of Philadelphia has been filed with the Philadelphia Parking Authority's (PPA) Taxicab and Limousine Division (TLD). Formal protests must be filed in accordance with 52 Pa. Code Part II (relating to Philadelphia Parking Authority) with the TLD's Office of the Clerk, 2415 South Swanson Street, Philadelphia, PA 19148, no later than March 12, 2018. The nonrefundable protest filing fee is

\$5,000 payable to the PPA by certified check or money order. The application is available for inspection at the TLD between 9 a.m. and 4 p.m., Monday through Friday (contact TLD Director Christine Kirlin, Esq. at (215) 683-9653 to make an appointment) or may be inspected at the business address of the respective applicant.

Doc. No. A-18-02-01. SMA Trans, Inc. (110 Meadowbrook Lane, Brookhaven, PA 19015): An application for a medallion taxicab certificate of public convenience to transport persons in taxicab service between points within the City of Philadelphia and from points in the City of Philadelphia to points in Pennsylvania, and return.

CLARENA TOLSON,
Executive Director

[Pa.B. Doc. No. 18-321. Filed for public inspection February 23, 2018, 9:00 a.m.]

STATE BOARD OF NURSING

Bureau of Professional and Occupational Affairs v. Deidra A. Bates, LPN; File No. 14-51-09834; Doc. No. 1504-51-17

On January 3, 2018, Deidra A. Bates, LPN, license No. PN066847L, last known of Philadelphia, Philadelphia County, was indefinitely suspended and ordered to pay \$525 in costs of investigation, based on her being unable to practice practical nursing with reasonable skill and safety to patients by reason of addiction to alcohol, or addiction to hallucinogenic or narcotic drugs or other drugs which tend to impair judgment or coordination, so long as the dependence shall continue, or she has become mentally incompetent.

Individuals may obtain a copy of the adjudication by writing to Megan E. Castor, Board Counsel, State Board of Nursing, P.O. Box 69523, Harrisburg, PA 17106-9523.

This order represents the final State Board of Nursing (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.

LINDA L. KMETZ, PhD, RN,
Chairperson

[Pa.B. Doc. No. 18-322. Filed for public inspection February 23, 2018, 9:00 a.m.]

STATE CONSERVATION COMMISSION

Action on Odor Management Plans for Concentrated Animal Operations and Concentrated Animal Feeding Operations and Volunteers Complying with the Commonwealth's Facility Odor Management Program

The State Conservation Commission has taken the following actions on previously received applications for Odor Management Plans under 3 Pa.C.S. §§ 501—522 (relating to nutrient management and odor management).

Persons aggrieved by any action may appeal under 3 Pa.C.S. § 517 (relating to appealable actions), section 4 of the Environmental Hearing Board Act (35 P.S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to Administrative Agency Law) to the Environmental Hearing Board, Second Floor, 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 any right of appeal beyond that permitted by applicable statutes and decision law.

For individuals who wish to challenge an action, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, so individuals interested in challenging this action should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for pro bono representation. Call the Secretary of the Board at (717) 787-3483 for more information.

Odor Management Plan—Public Notice Spreadsheet—Actions

<i>Ag Operation Name, Address</i>	<i>County/Township</i>	<i>Animal Equivalent Units</i>	<i>Animal Type</i>	<i>New, Amended or Existing</i>	<i>Action Taken</i>
Shadow Ridge Farm, LLC Phil Good 2418 Bachman Road Lancaster, PA 17602	Lancaster County/ Strasburg Township	620	Layers	New	Approved
Nelson H. Auker 16 Rehrersburg Road Bethel, PA 19507	Berks County/ Tulpehocken Township	24.1	Broiler	New	Approved
Chris Hoover 366 Blackburn Road Quarryville, PA 17566	Lancaster County/ East Drumore Township	63.16	Layers	New	Approved
Joe L. Miller 2651 State Route 642 Milton, PA 17847	Northumberland County/ East Chillisquaque Township	84	Layers	Existing	Rescind

RUSSELL C. REDDING,
Chairperson

[Pa.B. Doc. No. 18-323. Filed for public inspection February 23, 2018, 9:00 a.m.]

**STATE EMPLOYEES'
RETIREMENT BOARD**

Hearing Scheduled

The following hearing has been scheduled, as authorized by 71 Pa.C.S. Part XXV (relating to State Employees' Retirement Code), in connection with the State Employees' Retirement System's denial of claimant's request concerning the indicated accounts.

The hearing will be held before a hearing officer at the State Employees' Retirement System, 30 North Third Street, Fifth Floor, Harrisburg, PA 17101:

March 14, 2018 Bryan K. Kerekish 1 p.m.
Pension Forfeiture Issue

Parties in the respective case may appear with or without counsel and offer relevant testimony or evidence to support their respective positions. The hearing will be held in accordance with the requirements of 2 Pa.C.S. §§ 501—508 and 701—704 (relating to Administrative Agency Law). Under 4 Pa. Code § 250.1 (relating to applicability of general rules), procedural matters will be in conformance with 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure) unless specific exemption is granted.

ANTHONY J. FAIOLA,
Acting Secretary

[Pa.B. Doc. No. 18-324. Filed for public inspection February 23, 2018, 9:00 a.m.]