

# PENNSYLVANIA BULLETIN

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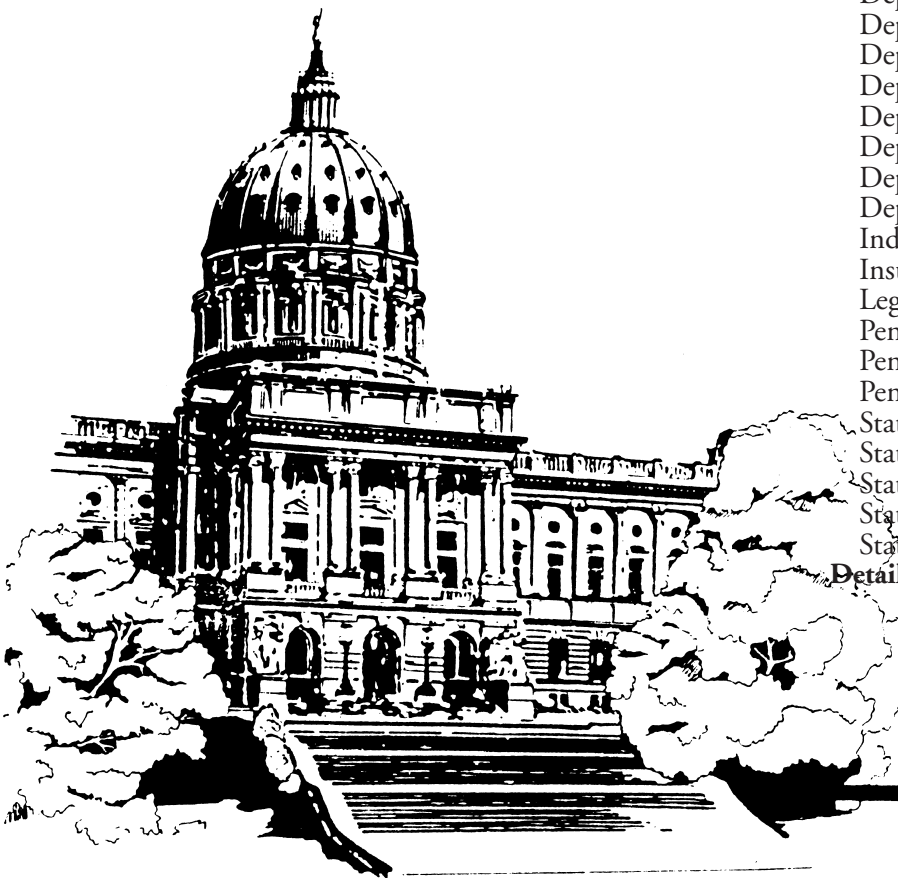
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**Latest Pennsylvania Code Reporters  
(Master Transmittal Sheets):**

**No. 428, July 2010**

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

## *Pennsylvania Bulletin*

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

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

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

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

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

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

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

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

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

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

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

## ***Pennsylvania Code***

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

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

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

## **How to Find Documents**

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

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

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

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### Printing Format

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

### Fiscal Notes

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

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

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# List of Pa. Code Chapters Affected

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# THE GENERAL ASSEMBLY

## COMMISSION ON SENTENCING

### Meetings Scheduled

The Commission on Sentencing announces the following public meeting, to be held at the Commission on Sentencing Office, 408 Forum Building, Harrisburg, PA 17120:

Thursday August 12, 2010	Policy Committee Meeting	9:30 a.m.—12 p.m.
	Commission Meeting	1 p.m.—4 p.m.

MARK H. BERGSTROM,  
*Executive Director*

[Pa.B. Doc. No. 10-1271. Filed for public inspection July 16, 2010, 9:00 a.m.]

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# THE COURTS

## Title 255—LOCAL COURT RULES

### LANCASTER COUNTY

**Lancaster County Rules of Criminal Procedure No. 202.1; No. 13 AD 2010; CPJ. No. 7, Page 1357**

#### Administrative Order

*And Now*, this 7th day of July, 2010, it is hereby Ordered that new Lancaster County Rule of Criminal Procedure No. 202.1\* is adopted as follows:

The Court Administrator is directed to:

1. File one (1) certified copy of this Order and Rule with the Administrative Office of Pennsylvania Courts.

2. File two (2) certified paper copies and one (1) diskette or CD-ROM containing this Order and Rule with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

3. Publish a copy of this Order and Rule on the Unified Judicial System's web site at <http://ujportal.pacourts.us/localrules/ruleselection.aspx>.

4. Keep continuously available for public inspection copies of the Order and Rule in the Prothonotary and Clerk of Courts Office.

This Order shall become effective 30 days after publication in the *Pennsylvania Bulletin*.

*By the Court*

JOSEPH C. MADENSPACHER,  
*President Judge*

#### \*Rule 202.1. Approval of Search Warrant Application by Attorney for the Commonwealth—Local Option.

The District Attorney, having filed a certification pursuant to Pa.R.Crim.P. 202, search warrants applied for by an Officer of the Pennsylvania Game Commission for the crimes listed below, shall not hereafter be issued by any judicial officer, unless the search warrant applications have the approval of an attorney for the Commonwealth before filing:

A. A violation of any criminal offense listed in any title of the Pennsylvania Statutes and/or Pennsylvania Consolidated Statutes Annotated.

[Pa.B. Doc. No. 10-1272. Filed for public inspection July 16, 2010, 9:00 a.m.]

### LANCASTER COUNTY

**Lancaster County Rules of Criminal Procedure No. 316A; No. 12 AD 2010; CPJ. No. 7, Page 1357**

#### Administrative Order

*And Now*, this 7th day of July, 2010, it is hereby Ordered that new Lancaster County Rule of Criminal Procedure No. 316A\* is adopted as follows:

The Court Administrator is directed to:

1. File one (1) certified copy of this Order and Rule with the Administrative Office of Pennsylvania Courts.

2. File two (2) certified paper copies and one (1) diskette or CD-ROM containing this Order and Rule with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

3. Publish a copy of this Order and Rule on the Unified Judicial System's web site at <http://ujportal.pacourts.us/localrules/ruleselection.aspx>.

4. Keep continuously available for public inspection copies of the Order and Rule in the Prothonotary and Clerk of Courts Office.

This Order shall become effective 30 days after publication in the *Pennsylvania Bulletin*.

*By the Court*

JOSEPH C. MADENSPACHER,  
*President Judge*

#### \*Rule No. 316A. Additional Condition of the Accelerated Rehabilitative Disposition Program (A.R.D.) when a summary offense(s) is/are included on the A.R.D. Order.

In addition to fees and charges imposed by statute or by the Supreme Court, fees which relate to the expense of administering the A.R.D. program may be imposed as a condition of the A.R.D. Program. Until changed by administrative order, the following shall be assessed a defendant, a twenty-five dollars (\$25.00) processing fee for each individual summary offense listed on the court case A.R.D. Order to cover expenses related to the administration of the A.R.D. program.

The reasonable costs associated with administering the program shall be collected in the same manner as cost of prosecution and shall be payable to the County of Lancaster general fund.

[Pa.B. Doc. No. 10-1273. Filed for public inspection July 16, 2010, 9:00 a.m.]

## DISCIPLINARY BOARD OF THE SUPREME COURT

### Notice of Suspension

Notice is hereby given that on June 23, 2010, the Supreme Court of Pennsylvania ordered that James Matthew Kernan be placed on Temporary Suspension from the practice of law pursuant to Rule 214, Pa.R.D.E., effective July 23, 2010. In accordance with Rule 217(f), Pa.R.D.E., since this formerly admitted attorney resides outside of the Commonwealth of Pennsylvania, this notice is published in the *Pennsylvania Bulletin*.

ELAINE M. BIXLER,  
*Secretary*

*The Disciplinary Board of the  
Supreme Court of Pennsylvania*

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# RULES AND REGULATIONS

## Title 49—PROFESSIONAL AND VOCATIONAL STANDARDS

### STATE BOARD OF NURSING

#### [ 49 PA. CODE CH. 21 ]

#### Clinical Nurse Specialists

The State Board of Nursing (Board) amends Chapter 21 by adding Subchapter H (relating to clinical nurse specialists) to read as set forth in Annex A.

#### *Effective Date*

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

#### *Statutory Authority*

The final-form rulemaking is required under the act of July 20, 2007 (P. L. 320, No. 49) (Act 49), which amended The Professional Nursing Law (act) (63 P. S. §§ 211—225.5) to authorize the Board to certify clinical nurse specialists (CNSs) in accordance with statutory criteria, to provide title protection for CNSs, to require CNSs to complete continuing education to renew their certification and to require CNSs to maintain professional liability insurance.

#### *Response to Comments*

The proposed rulemaking was published at 38 Pa.B. 3246 (June 14, 2008). The Board received comments from the Pennsylvania State Nurses Association (PSNA) and the American Psychiatric Nurses Association of Pennsylvania (APNA-PA). PSNA and APNA-PA suggested that the Board should delete the reference to the National Council of State Boards of Nursing (NCSBN) in § 21.811(1)(i) (relating to qualifications for initial certification) and reference instead the National Organization of Competency Assurance (NOCA). NOCA created the National Commission for Certifying Agencies (NCCA) in 1987 as the organization that would bestow accreditation under the NCCA's Standards for the Accreditation of Certification Programs. The Board rewrote proposed § 21.811 in this final-form rulemaking and deleted references to certifying bodies.

The Board rewrote proposed § 21.811 in this final-form rulemaking to make the section less convoluted and easier to understand. The requirement that an applicant hold a current, unrestricted registered nurse (RN) license is consistent with requirements for certified registered nurse practitioners (CRNPs). The requirement that an applicant hold the appropriate degree is in section 8.5(a) of the act (63 P. S. § 218.5(a)). These requirements are now in subsections (a) and (b). Subsection (c) also applies to applicants for whom current National certification is available, mirroring section 8.5(a)(1) of the act. Subsection (c) also applies to an applicant who currently holds National certification as a CNS. Subsection (d) applies to applicants for whom National certification is not available, mirroring section 8.5(a)(2) of the act. As rewritten, these applicants will be required to submit a letter from a National certifying organization that demonstrates that the applicant is not eligible to sit for a National certification examination, a curriculum vitae, the employer's job description which evidences practice in the CNS role as

evaluated by the Board's nursing practice advisors and a letter verifying the applicant's dates of employment to show that the applicant has practiced at least 1,000 hours in the CNS role in the past 5 years. Subsection (e) mirrors section 8.5(a)(3) of the act.

Next, PSNA, APNA-PA and the National Association of Clinical Nurse Specialists (NACNS) suggested that § 21.813(d)(1) (relating to application for certification) does not take into consideration a CNS who does not have access to official transcripts from the CNS's educational program. The Board understands that there may be a rare exception of a CNS who does not have access to official transcripts. In this case, the CNS may request a waiver of this section under 1 Pa. Code § 35.18 (relating to petitions for issuance, amendment, waiver or deletion of regulations). The Board declines to specify this procedure in this section, as it could be applicable to virtually any provision of its regulations and it would be repetitive to add a statement or cross reference to every provision to which it might apply.

Third, the organizations recommended that CNSs be given 18 months instead of 12 months to complete their applications for certification under § 21.813(f). Every other class of individuals licensed or certified by the Board is subject to the 12-month limitation on completing an application for licensure. The Board declines to set a different time frame for completion of a CNS's application for certification.

Finally, APNA-PA recommended that § 21.813 should not repeat section 8.6 of the act (63 P. S. § 218.6), regarding scope of practice for a CNS, because the statute is merely title recognition and does not confer scope of practice on CNSs. Other organizations, specifically the Pennsylvania Psychiatric Society (PPS) and Pennsylvania Medical Society (PMS), commented that the statutory section should be added to § 21.813. The Independent Regulatory Review Commission (IRRC) commented that the final-form rulemaking "should include all requirements from the Act or justify why certain provisions are being omitted." Because the weight of comments suggested including this statutory section, the Board decided to add this language to the final-form rulemaking.

The Hospital and Healthsystem Association of Pennsylvania (HAP) wrote in support of the overall direction taken by the Board in the rulemaking. However, HAP expressed concern that CNSs might be confused about the different requirements for continuing education for RNs and CNSs. Section 8.5(c)(2) of the act requires CNSs to complete at least 30 hours of Board-approved continuing education prior to biennial renewal of their certification. The Board set forth its requirements for continuing education in §§ 21.822—21.827. Because CNSs are educated at an advanced, master's degree level, they are more akin to CRNPs than RNs. Therefore, the Board modeled the CNS continuing education provisions after the existing CRNP continuing education provisions.

Specifically, HAP noted that the list of preapproved courses for RNs is more expansive than those proposed for CNSs. The list is equivalent to the list of preapproved courses for CRNPs. HAP questioned whether a course completed from the RN list that is not on the CNS list would qualify for continuing education completed by the CNS. Just as courses completed from the RN list that are not on the CRNP list will not qualify for continuing education completed by a CRNP, a course completed from



the RN list that is not on the CNS list will not qualify for continuing education completed by a CNS.

HAP next questioned why individual nurses or providers of RN continuing education shall submit their materials to the Board 90 days prior to the beginning of the activity but individual CNSs or providers of CNS continuing education shall submit their materials to the Board 60 days prior to the beginning of the activity. There are approximately 200,000 licensed RNs and the Board anticipates only about 4,000 CNS licensees. The Board allowed itself additional time to review requests for approval regarding RN continuing education because there is a higher likelihood that there will be substantially more requests to consider for RN continuing education than for CNS continuing education. Additionally, the 60-day time period is consistent with the time period provided for individual CRNPs or providers of CRNP continuing education.

HAP questioned why the RN continuing education provisions allow for group or individual research but the CNS provisions are silent regarding research. The Board intended that research be creditable under § 21.825(e) (relating to sources of continuing education) when the research is published in a refereed journal or other scholarly publication, similar to when research is creditable for CRNPs. Regarding this provision, HAP also noted that the RN continuing education provisions do not allow for publication in a refereed journal or other scholarly publication. Again, the Board designed the CNS continuing education regulations to be like the CRNP continuing education regulations because CNSs and CRNPs are both master's prepared nurses. HAP recommended that the Board clarify whether participation in a research project is applicable to the CNS and CRNP. The Board determined that, as master's prepared nurses, only published research would be creditable.

HAP also noted the discrepancy between the CNS and CRNP provisions with respect to the number of hours that could be credited for service as a teacher or preceptor. The Board initially determined that CNS should be able to obtain credit for more hours for these activities because these activities are integral to the CNS role. Upon consideration of HAP's comment, and in a further effort to coincide the CNS and CRNP provisions, the Board amended § 21.825(e) to reduce the number of hours that may be credited.

Finally, the Board notes that continuing education for CNSs, like CRNPs, is well-developed because CNSs, like CRNPs, complete extensive continuing education to maintain their National certification. For this additional reason, the Board sought to draft similar regulations for CNS and CRNP continuing education and to grant credit consistent with the standards for continuing education for maintenance of National certification.

NACNS suggested that the Board add a definition of "accepted" and amend its definition of "approved" to indicate Board approval of offerings by entities in this Commonwealth. Because "accepted" is not used in the final-form rulemaking, it is not necessary to define the term.

NACNS recommended phrasing "post-master's degree or certificate in nursing" in § 21.811(b) as "post-master's nursing degree." Board staff has told the Board that nursing schools may call what is awarded a post-master's certificate or a post-master's degree. To ensure that all eligible programs are included, the Board will retain the post-master's degree or certificate in nursing language.

NACNS recommended different language regarding CNSs who are not eligible to take a National certification examination or for whom no examination is available to permit a CNS to "demonstrate eligibility through validation" by a credentialing organization. The Board believes that the General Assembly intended, in this title protection legislation, to be as all-inclusive as possible and permit master's-prepared individuals who have been working in the CNS role to continue to do so and to use the title CNS. The Board has drafted equivalency qualifications that effectuate this intent.

NACNS recommended a new paragraph to permit a CNS to demonstrate eligibility for certification by submitting documents and a fee to a CNS program in this Commonwealth for review and critique. The Board prefers to have applicants submit information directly to the Board, where it can be reviewed by Board staff and, if necessary, the full Board.

NACNS next recommended that § 21.812 (relating to qualifications for certification by endorsement; additional certification) refer to the addition or change of specialty area. The Board determined that the section should apply to addition of specialty area because a CNS already certified in one area does not change the area of specialty even if the CNS decides to allow National or Board certification in that specialty area lapse. The Board also made amendments to improve the clarity of § 21.812 and make the language more closely follow statutory language.

NACNS proposed that the Board add a provision, wherever appropriate, stating that a nurse will be eligible to apply for Board certification for 2 years after the publication of the final-form rulemaking. The Board believes that nurses will be eligible to apply for Board certification indefinitely after the publication of the final-form rulemaking, whenever the nurses meet the qualifications for certification. This approach will allow for ongoing certification of CNSs in new areas of practice for which there is not a National certification examination, notably genetics and forensics.

With response to continuing education, NACNS suggested that the Board refer to "clock hours" rather than "hours." The Board specifically did not refer to clock hours, which means a 60-minute hour, to allow CNSs who wish to receive continuing education credit for taking additional nursing classes to do so. The vast majority of academic institutions use the 50-minute academic hour rather than the 60-minute clock hour. Moreover, because the 50-minute period is a minimum, it will not preclude CNSs from taking continuing education courses based on the clock hour.

NACNS also suggested that the Board should specify, in § 21.805 (relating to fees), that fees are nonrefundable. This is not specified in the regulations for any other class of licensees; however, it is specified on every application. Therefore, the Board declines to make the amendment. NACNS suggested that the fee for approval of continuing education activity be for "each review of a proposal" of continuing education activity in § 21.805(a). The Board agrees and amended the language. NACNS suggested that the Board add § 21.805(c), stating that an action would not be taken until all documents and fees are received. The Board believes this is implicit in its regulations and applications and declines to add a subsection. Finally, NACNS suggested that the regulation specify that the application shall be completed within 12 months "from the first date of application." The Board believes

that this is also implicit in the language already and declines to make the amendment.

The Board received identical comments from PMS and PPS. These associations suggested that the regulation should repeat section 8.6 of the act. The Board agrees that some reference to section 8.6 of the act would improve the regulation and amended § 21.821(a) (related to CNS standards of conduct) to specify that a CNS may perform only those services that comprise the practice of professional nursing as defined in section 2(1) of the act (63 P.S. § 212); amended § 21.831 (relating to penalties for violations) to specify that a CNS may be disciplined for engaging in medical diagnosis or the prescription of medical therapeutic or corrective measures prohibited by section 8.6(a) of the act; and amended § 21.831(2) to specify that a CNS may be disciplined for performing a service beyond the scope of practice of professional nursing.

Several commentators, including the House Professional Licensure Committee (HPLC), suggested that the regulation should include a reference to the liability insurance provisions in section 8.5(e) of the act. The Board referenced section 8.5(e) of the act in § 21.813(f).

IRRC next noted that several commentators suggested the regulation should include a grandfather clause for nurses that have a master's degree in nursing and have previously "demonstrated success" and effectiveness in the role of CNS. IRRC stated: "The Board should consider adding a grandfather clause for a CNS in this situation. If the Board adds a grandfather clause, it should also specify the criteria that must be met for a nurse to be certified as a CNS under a grandfather clause." The Board provided for broad equivalence requirements which will permit master's-educated CNSs to continue using the CNS title.

IRRC noted that the regulatory definition of a CNS is not identical to the statutory definition of a CNS. The regulation replaces the term "registered nurse" with the definition in section 3 of the act (63 P.S. § 213) for clarity. In addition, the regulation clarifies that the Board may only certify a professional nurse as a CNS if the professional nurse meets the requirements in the act. The definition in the regulation is wholly consistent with the statutory definition and the Board believes that the definition is much clearer for the regulated community.

IRRC asked whether the Board intends to require candidates to pay fees to the National certification or credentialing organizations, and if so, asks what is the Board's authority to do so. Section 8.5(a) of the act requires that a candidate either hold current National certification or meet equivalence requirements. The Board assumes that the General Assembly was aware that fees are required to be paid to the National certification organization and intended to require candidates to pay these fees. Section 21.805 merely informs candidates that there are fees associated with obtaining National certification or meeting equivalence requirements and is consistent with the Board's regulations of other licensees who are required to pay fees to entities other than the Board associated with licensure. See §§ 21.5(b), 21.147(b) and 21.705(b) (relating to fees). It should be noted that CRNPs, who under section 8.1(b)(1)(ii) of the act (63 P.S. § 218.1(b)(1)(ii)) shall also hold National certification, also shall pay a fee to the National certification body that confers National certification on CRNPs. In the past, licensing boards have been advised to include in their rulemakings the requirement that candidates pay fees to

organizations involved in certification or credentialing. See 32 Pa.B. 1861 (April 13, 2002).

IRRC commented that §§ 21.811 and 21.813 should specify what evidence shall be submitted by an applicant for certification to demonstrate completion of a CNS educational program, current National certification or certification from a National nursing, nursing specialty or credentialing organization. The Board declines to include these specifics in its regulation for two main reasons. First, because the regulation represents the initial certification of CNSs in this Commonwealth, the Board does not have extensive experience with all of the organizations involved in CNS credentialing and does not know the proper titles of documents used by these organizations. To include the name of every organization's credentialing documents would be unwieldy and unnecessary in the regulations. Second, the Board believes that certification to licensing boards will change in the next several years with the advent of and increased use of online verification programs, which would require rewriting and repromulgating the regulations, an unnecessary expense. As with its other licensees, the Board intends to provide details of the information applicants should submit directly on the application for certification. This procedure has worked well for the Board for many years with the licensure of RNs, LPNs, licensed dietitian-nutritionists and CRNPs and the Board does not anticipate that following the same procedure for CNSs will create confusion or difficulties.

IRRC also commented on other commentator's remarks about NOCA and NCSBN, about "change" or "addition" of specialty area and about applicants who do not have access to their official transcripts. The Board has previously addressed these comments.

Regarding § 21.813(f), which has been renumbered § 21.813(g), IRRC posited that the subsection allowed 12 months for CNSs to meet compliance standards and asked how the Board determine that this was an appropriate time frame. The section does not provide a time frame for candidates to meet compliance standards. The section limits the lifespan of an application for certification. Certification is not granted until the application is complete, that is, until all supporting documentation has been received. If supporting documentation is not received within 12 months of the initial receipt of the application for certification, this section provides that the application will expire and the applicant will be required to file a new application. The section does not give an applicant 12 months to meet compliance standards because the certification is not granted until all standards have been met.

IRRC next questioned § 21.821 and asked how the Board would determine whether a CNS has the "necessary knowledge, preparation, experience and competency" to properly execute a specific practice of procedure. A virtually identical provision has been part of the RN regulations for many years and the Board has not had problems applying the provision. In accordance with 2 Pa.C.S. § 504 (relating to hearing and record), the Board imposes discipline on its licensees only after licensees have been afforded due process protections. Through the legal process, and after hearing evidence presented at hearing, the Board may make determinations regarding whether a licensee has the "necessary knowledge, preparation, experience and competency" to properly execute a specific practice of procedure.

In response to commentators, including IRRC, who suggested that the Board should reference the scope of



practice of CNSs in its final-form rulemaking, the Board added § 21.821(b). The Board notes that the CNS enabling amendments to the act do not confer a scope of practice on CNSs. Rather, Act 49 noted that the scope of practice of a CNS is the same as the statutorily defined scope of practice of the RN. The Board believes its changes and the addition of § 21.821(b) meets the concerns raised by commentators.

Regarding § 21.822 (relating to biennial renewal of certification), IIRC suggested that the Board specify the time when the Board will forward renewal notices to licensees. The boards within the Bureau of Professional and Occupational Affairs (Bureau) plan to send renewal notices to licensees 90 days prior to the expiration date. However, if this time frame were placed in regulations, it is not clear what effect a delay in sending renewal notices would have. Therefore, the Board declines to put a specific time in its regulations. The expiration date is printed on every license, so every licensee is aware of the date by which they shall renew their license.

IIRC suggested that § 21.822(f) was misplaced. The Board decided that the provision, which required identifying information be submitted with correspondence, was unnecessary.

Second, IIRC suggested that the Board should provide circumstances for when it would waive the continuing education requirement or provide a cross reference to § 21.823(b) (relating to CNS-level continuing education; waiver; sanctions). The Board added the requested cross-reference. Third, IIRC asked how the Board would determine if a licensee met the continuing education requirement and suggested that the regulation should clarify how the Board makes this determination. The Board is not aware of regulations of any board within the Bureau that specify how the Board determines that its licensees have met the continuing education requirement. The Board intends to follow the same procedure it uses for CRNP continuing education and that the State Board of Medicine uses for physician continuing education—an audit of licensees. Because the enforcement of the act and regulations is a matter left to the administrative discretion of the Board, and the methods the Board uses to perform this function may change, the Board declines to specify a single procedure that will be used to monitor compliance with this or any other section of the act or regulations.

Regarding § 21.823, IIRC requested that the Board specify in what time frame the Board would grant, deny or grant in part a request for waiver of continuing education requirements. The Board's time frame is determined by its meeting dates, which are set annually, usually in October or November. The Board considers matters at its earliest opportunity, but cannot specify a time frame. If a request was timely made and the inability of the Board to respond to the request resulted in noncompliance, the Board would provide additional time to meet the requirement before discipline would be imposed.

IIRC submitted numerous comments regarding § 21.825. IIRC asked whether the Board considered allowing CNSs to get credit for group or individual research, as RNs may do. The Board did consider this and determined that CNS continuing education should be similar to CRNP continuing education because these two groups of professional nurses have similar educational backgrounds. IIRC asked how one would know that the preapproved continuing education providers and credentialing organizations agreed to abide by §§ 21.826

and 21.827 (relating to requirements for continuing education courses; and continuing education course approval). The Board amended § 21.825(a) to require providers to comply with the provisions.

IIRC next asked what circumstances would result in a reevaluation of approval given to a provider or credentialing organization and what circumstances would warrant a rescission of approval. Reevaluation would result from complaints filed with the Board. Failure to meet the regulatory criteria for continuing education would warrant rescission.

IIRC asked why the time frame for submission of an individual request for continuing education approval from a CNS or CNS provider is different than for an RN or RN provider. The reason is that the Board anticipates licensing several thousand CNS, but licenses 200,000 RNs. Additional time may be needed to process requests from RNs.

IIRC asked how the Board determined that 15 credit hours were sufficient for services such as teaching in a nursing education program or precepting students in a clinical setting. The Board originally thought that nurses providing these services should be able to obtain half of the requirement from the service. Since the rulemaking was published as proposed, the Board has reconsidered. The Board believes that continuing education should advance the knowledge of the practitioner. The Board cannot find that teaching in a nursing education program or precepting students advances the practitioner's knowledge. Therefore, the Board determined that only 4 hours should be credited toward the continuing education requirement. This provision is consistent with § 21.334(e) (relating to sources of continuing education) which limits CRNPs to obtaining 4 hours of continuing education through teaching or precepting activities.

IIRC next noted that "adequate" in § 21.826(2) is nonregulatory language. The Board amended this paragraph for clarity, requiring an adequate physical facility and appropriate instructional materials to carry out the continuing education course. A facility would be adequate to carry out a course if it was adequately lit and ventilated, of adequate temperature, had sufficient seating to accommodate the number of attendees, the attendees were able to hear the presenters, and the like. The regulated community did not express concern with understanding the provision.

Finally, regarding § 21.827, IIRC noted that it would be impossible for an applicant to know what "other information" the Board would want at the time of initial submittal of the application and suggested that this requirement should be in its own subsection. The Board has made the requested change.

The Board received two comments from individuals. The first commenter, Mr. Legg, inquired whether an individual could be eligible for licensure by endorsement if the individual was not Nationally certified. As amended, section 7(c) of the act (63 P.S. § 217(c)) authorizes the Board to issue a certification to a CNS licensed in another state, territory or possession or a foreign country as deemed equivalent to the Commonwealth's certification requirements. Because the Commonwealth's certification requirements mandate National certification or its equivalent, applicants for licensure by endorsement will be required to demonstrate National certification or its equivalent just as will CNSs who are currently practicing in this Commonwealth.

Mr. Legg next asked about CNSs who received their master's degrees before the American Nurses Credentialing Center (ANCC) required 500 hours of supervised clinical practice in CNS educational programs. This is significant because only individuals who completed programs with at least 500 hours of supervised clinical practice are eligible to sit for ANCC National certification examinations. These individuals would be able to obtain certification in this Commonwealth under § 21.811(2)(i)(B).

Next, Mr. Legg asked why National certification was being required for initial CNS licensure when it was not required for initial CRNP licensure. The General Assembly made this determination when it enacted Act 59 granting title protection to CNSs. Mr. Legg also asked if the Board had considered provisions for CRNPs who do not practice as CRNPs, but whose practice more closely reflects the CNS role; specifically inquiring whether a CRNP could obtain a CNS license. Mr. Legg went on to state that some CRNPs are considering surrendering their CRNP certification because of the costs associated with maintaining malpractice insurance. To Mr. Legg's first question, a CRNP cannot "become" a CNS through application; to be certified as a CNS requires completion of a CNS educational program and National certification as a CNS. To Mr. Legg's second remark, CNSs are also required, under the statute, to maintain liability insurance.

The Board also received comments from Ms. Allen. Ms. Allen stated that she held a master's degree in nursing and believed that she had been prepared as a CNS, but did "not have a confirmation that the accreditation focused on the CNS component." Ms. Allen should contact the director of her master's degree program to determine if the program prepared graduates to practice as a CNS. Ms. Allen also expressed concerns about the National certification requirement. Ms. Allen considers as her specialty maternity nursing, for which she states that there is not a National certification examination. Section 21.811(2) allows CNSs for whom there is not a certification examination available in the specialty area to demonstrate equivalency. If there is not a National certification examination for which Ms. Allen is qualified to sit, Ms. Allen may pursue certification under the equivalency requirements.

#### *Fiscal Impact and Paperwork Requirements*

The final-form rulemaking will not have an adverse fiscal impact on the Commonwealth or its political subdivisions because the costs of the Board's activities are supported by fees charged to licensees and others who benefit from specific activities of the Board. The final-form rulemaking will not impose additional paperwork requirements upon the Commonwealth or political subdivisions.

#### *Sunset Date*

The Board continuously monitors the effectiveness of its regulations. Therefore, no sunset date has been assigned.

#### *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on June 4, 2008, the Board submitted a copy of the notice of proposed rulemaking, published at 38 Pa.B. 3246, to IRRC and the Chairpersons of the HPLC and the Senate Consumer Protection and Professional Licensure Committee (SCP/PLC) for review and comment.

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

Under section 5.1(j.2) of the Regulatory Review Act (71 P. S. § 745.5a(j.2)), on May 5, 2010, the final-form rulemaking was approved by the HPLC. On June 2, 2010, the final-form rulemaking was deemed approved by the SCP/PLC. Under section 5.1(e) of the Regulatory Review Act, IRRC met on June 3, 2010, and approved the final-form rulemaking.

#### *Additional Information*

Additional information may be obtained by writing to Ann Steffanic, Board Administrator, State Board of Nursing, P. O. Box 2649, Harrisburg, PA 17105-2649.

#### *Findings*

The State Board of Nursing finds that:

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

(2) A public comment period was provided as required by law and all comments were considered in drafting this final-form rulemaking.

(3) The amendments to the final-form rulemaking do not enlarge the original purpose of the proposed rulemaking as published under section 201 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. § 1201).

(4) These amendments to the regulations of the Board are necessary and appropriate for the regulation of the practice of professional nurses in this Commonwealth.

#### *Order*

The Board orders that:

(a) The regulations of the Board, 49 Pa. Code Chapter 21, are amended by adding §§ 21.801—21.805, 21.811—21.813, 21.821—21.828 and 21.831 to read as set forth in Annex A.

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

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

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

ANN O'SULLIVAN, Ph.D., FAAN, CRNP,  
Chairperson

(*Editor's Note:* For the text of the order of the Independent Regulatory Review Commission relating to this document, see 40 Pa.B. 3471 (June 19, 2010).)

**Fiscal Note:** Fiscal Note 16A-5133 remains valid for the final adoption of the subject regulations.

**Annex A**

**TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS**

**PART I. DEPARTMENT OF STATE**

**Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS**

**CHAPTER 21. STATE BOARD OF NURSING**

**Subchapter H. CLINICAL NURSE SPECIALISTS**

**GENERAL PROVISIONS**

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21.805.	Fees.

**CERTIFICATION REQUIREMENTS**

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**MAINTENANCE OF CERTIFICATION**

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21.823.	CNS-level continuing education; waiver; sanctions.
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21.825.	Sources of continuing education.
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21.827.	Continuing education course approval.
21.828.	CNS responsibilities.

**PENALTIES FOR VIOLATION**

21.831.	Penalties for violations.
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**GENERAL PROVISIONS**

**§ 21.801. Definitions.**

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

*Act*—The Professional Nursing Law (63 P. S. §§ 211—225.5), which provides for the certification of CNSs.

*Approved*—Approved by the Board.

*Approved program*—Those educational programs accredited by the NLNAC or CCNE for preparing a professional nurse to practice as a CNS.

*Board*—The State Board of Nursing of the Commonwealth.

*Board-designated specialty*—One of six patient populations, including neonatal, pediatrics, family/across the lifespan, adult/gerontology, women's health/gender-related and psychiatric/mental health.

*Board-recognized*—The Board has determined that an entity meets the Board's quality standards to conduct an activity and has named the entity on the Board's web site.

*Certification*—Certification as a CNS issued by the Board.

*CCNE—Commission on Collegiate Nursing Education*—The organization recognized by the United States Secretary of Education as a National accreditation agency that provides a nongovernmental peer review process in accordance with Nationally recognized standards established for the practice of accreditation in the United States.

*CNS—Clinical nurse specialist*—An individual licensed in this Commonwealth to practice professional nursing who meets the educational and examination or equivalent

requirements of the act and who is certified by the Board as a clinical nurse specialist.

*NLNAC—National League for Nursing Accrediting Commission*—The organization that is recognized as the accrediting body for all types of nursing education programs by the United States Department of Education and that is responsible for the specialized accreditation of nursing education programs, both postsecondary and higher degrees.

*National certification*—The credential awarded by a Board-recognized organization evidencing that an individual has passed a National certification examination and has maintained current National certification in a specialty as specified by the organization.

*National certification organization*—An organization recognized by the Board and maintained on the approved list on the Board's website that has as one of its purposes the examination of individuals who will practice as CNSs.

**§ 21.802. Scope.**

In this subchapter, the Board:

(1) Provides for certification of CNSs who meet the qualifications set forth in the act.

(2) Administers the act by providing rules and regulations relating to the issuance and renewal of CNS certification.

(3) Provides rules and regulations for the conduct of CNSs.

(4) Regulates the practice of CNSs.

**§ 21.803. Applicability of rules relating to professional nurses.**

Sections §§ 21.1—21.4a, 21.6 and 21.11—21.18a apply to nurses certified under this subchapter.

**§ 21.804. Approved educational programs.**

(a) The Board will approve educational programs as set forth in section 6.2(c) of the act (63 P. S. § 216.2(c)).

(b) The Board will maintain a list of approved educational programs on its web site as set forth in section 6.2(c)(2) of the act.

(c) Educational programs that prepare nurses to practice as CNSs created after March 20, 2008, shall submit evidence that the program meets the criteria in section 6.2(c)(1) of the act to the Board for inclusion on the list of approved programs.

**§ 21.805. Fees.**

(a) The following fees are charged by the Board:

Certification as a CNS .....	\$100
Biennial renewal fee .....	\$50
Restoration of certificate after sanction.....	\$50
Restoration of certificate after lapse of 5 years or greater .....	\$50
Fee for verification of certification .....	\$15
Fee for certification of license history .....	\$30
Application for approval of a CNS continuing education activity.....	\$75

(b) In addition to the application fee prescribed in subsection (a), which is payable directly to the Board, a candidate for National certification will also pay an additional fee to the certifying organization. A candidate



may contact the certifying organization for more information regarding the National certification examination and examination fee.

### **CERTIFICATION REQUIREMENTS**

#### **§ 21.811. Qualifications for initial certification.**

The Board may certify an applicant for initial certification who files an application on a form provided by the Board and pays the application fee in § 21.805 (relating to fees), in accordance with the following:

(1) *RN license.* The Board may certify an applicant who has a current, unrestricted license to practice professional nursing in this Commonwealth.

(2) *Education.* The Board may certify an applicant who has a master's degree, doctoral degree or post-master's degree or certificate in nursing from an educational program that meets the requirements of section 6.2(c)(1) of the act (63 P. S. § 216.2(c)(1)).

(3) *Alternative education.* An applicant for initial certification who completed an educational program in a related discipline previously recognized for National certification as a CNS may be granted certification from the Board in the area of the applicant's current National certification from the American Nurses Association or the American Nurses Credentialing Center.

(4) *National certification or equivalence.*

(i) The Board may grant initial certification in a Board-designated specialty or other pertinent specialty to an applicant who demonstrates current National certification by examination.

(ii) The Board may grant initial certification without specialty to applicants who demonstrate that their educational program does not make them eligible to take a National certification examination and who demonstrate equivalence. For purposes of this section, the Board will determine equivalence on a case-by-case basis after considering the information submitted by the applicant that may include an official transcript, course descriptions, current curriculum vitae, work history in the CNS role, professional recommendations and additional advanced nursing education and certification examinations.

#### **§ 21.812. Qualifications for certification by endorsement; additional certification.**

(a) *Certification by endorsement.* An applicant for certification by the Board who holds an unrestricted license, certificate or authorization to practice as a CNS from another state, territory or possession of the United States or a foreign country, who met initial certification requirements equivalent to the Board's certification requirements and a current RN license in this Commonwealth may be granted certification by endorsement.

(b) *Additional certification.* A CNS who is already certified by the Board may apply for an additional certification. To be granted an additional certification, the CNS shall meet the educational and National certification requirements for the additional certification.

#### **§ 21.813. Application for certification.**

(a) An applicant for certification shall submit an application form provided by the Board to the Board for its review and approval.

(b) An applicant for initial certification shall include documentation satisfactory to the Board that the applicant meets the qualifications in § 21.811 (relating to qualifications for initial certification).

(c) In addition to the documentation in subsections (a) and (b), an applicant for certification by endorsement shall include documentation satisfactory to the Board that the applicant meets the educational qualifications in § 21.812(a) (relating to qualifications for certification by endorsement; additional certification) and the following:

(1) Verification of unrestricted licensure, certification or authority to practice as a professional nurse and CNS issued by the proper licensing authority of another state, territory or possession of the United States or a foreign country.

(2) A written statement from the out-of State licensing, credentialing or authorizing entity setting forth the licensure, certification or authorization to practice requirements at the time the applicant was first licensed, certified or authorized to practice by that entity.

(d) An applicant who holds certification from the Board who is applying for an additional certification under § 21.812(b) shall submit, in addition to the documentation required under subsections (a) and (b), documentation of the following:

(1) Official transcript from the applicant's CNS program and any additional educational programs, including degree awarded, demonstrating a concentration in the specialty in which the applicant is seeking certification.

(2) Proof of current National certification as a CNS.

(e) An applicant shall remit the certification fee in § 21.805 (relating to fees).

(f) An applicant shall verify compliance with section 8.5(e) of the act (63 P. S. § 218.5(e)) on the application for certification.

(g) An applicant shall submit additional information as identified on the application or as requested in writing by the Board. If supporting material is not provided within 12 months of the date of application, the applicant will be required to file a new application and remit the certification fee.

### **MAINTENANCE OF CERTIFICATION**

#### **§ 21.821. CNS standards of conduct.**

(a) In addition to the standards of conduct for a professional nurse set forth in § 21.18 (relating to standards of nursing conduct), a CNS shall perform only those services that comprise the practice of professional nursing as defined in section 2(1) of the act (63 P. S. § 212(1)).

(b) A CNS practicing in this Commonwealth shall maintain a level of professional liability coverage as set forth in section 8.5(e) of the act (63 P. S. § 218.5(e)).

#### **§ 21.822. Biennial renewal of certification.**

(a) The certification of a CNS will expire at the same time as the CNS's professional nursing license as provided in § 21.29 (relating to expiration and renewal of license).

(b) Notice of application for renewal will be forwarded biennially to each active CNS at the CNS's address of record with the Board prior to the expiration date of the current biennial period.

(c) As a condition of biennial renewal, a CNS shall hold a valid, unexpired and unrestricted professional nursing license.

(d) As a condition of biennial renewal, a CNS shall complete a minimum of 30 hours of Board-approved continuing education in the 2 years prior to renewal as required under section 8.5(c)(2) of the act (63 P. S.

§ 218.5(c)(2)), unless the requirement is waived by the Board under § 21.823(b) (relating to CNS-level continuing education; waiver; sanctions) or the CNS's certification is on inactive status.

(e) The applicant shall remit the required renewal fee in § 21.805 (relating to fees) with the applicant's renewal application forms. Upon approval of the renewal application, the CNS will receive a certification for the current renewal period.

**§ 21.823. CNS-level continuing education; waiver; sanctions.**

(a) In lieu of meeting the RN continuing education requirements of section 12.1(b) of the act (63 P.S. § 222(b)), a CNS may submit proof of completion of the CNS continuing education requirement set forth in section 8.5(c)(2) of the act (63 P.S. § 218.5(c)(2)).

(b) The Board may waive the requirements of continuing education in cases of illness or undue hardship. It is the duty of each licensee who seeks a waiver to notify the Board in writing and request the waiver at least 90 days prior to the end of the renewal period. The Board will grant, deny or grant in part the request for waiver.

(c) An individual failing to meet the continuing education requirements for a biennial period will be sanctioned in accordance with § 43b.18a (related to schedule of civil penalties for nurses).

**§ 21.824. Inactive status and reactivation.**

A CNS who places the CNS's certification on inactive status is not required to meet the continuing education requirements in section 8.5(c)(2) of the act (63 P.S. § 218.5(c)(2)) during the period the certification is on inactive status. Upon application for reactivation of certification, the CNS shall provide the documentation in § 21.828(b) (relating to CNS responsibilities) to demonstrate that the CNS has met the continuing education requirements for the biennial period immediately preceding the request for reactivation.

**§ 21.825. Sources of continuing education.**

(a) The following providers of continuing education and credentialing organizations have currently met the standards for course approval for continuing education and, provided that these providers and credentialing organizations comply with §§ 21.826 and 21.827 (relating to requirements for continuing education courses; and continuing education course approval), they are preapproved to offer creditable continuing education, subject to reevaluation as set forth in subsection (b):

(1) Board-approved CNS educational programs and CNS educational programs approved by other state boards of nursing or that hold current accreditation issued by a National nursing accreditation organization.

(2) National and international nursing organizations and their state and local affiliates.

(3) National and international medical and osteopathic organizations and their state and local affiliates.

(4) National pharmaceutical organizations and their state and local affiliates.

(5) National nursing specialty organizations and programs accredited by National nursing accrediting associations.

(6) Continuing education programs approved by other state boards of nursing for advanced practice nurses or CNSs.

(b) The approval given to the providers and credentialing organizations in subsection (a) is subject to reevaluation. A rescission of provider or credentialing organization approval will be made in accordance with 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure) or by amendment of this section.

(c) CNSs may obtain credit for continuing education offered by providers not indicated in subsection (a) if the provider obtains Board approval of the continuing education prior to its implementation, or the CNS obtains Board approval of the continuing education prior to attending the continuing education. A continuing education provider or CNS may obtain Board approval of continuing education by submitting an application for approval, the fee in § 21.805 (relating to fees) and the supporting documentation in § 21.827(b) at least 90 days prior to the course.

(d) CNSs may obtain credit for correspondence courses, taped study courses, and other independent or online study courses if the course is approved under subsection (c).

(e) Up to 4 hours may be approved under subsection (c) for service as a teacher in a nursing education program, preceptor providing direct clinical supervision in a specialty area, lecturer or speaker and for publication in a refereed journal or other scholarly publication relating to the CNS's area of practice.

(f) An hour for the purposes of CNS continuing education is 50 minutes.

(g) The Board will apply § 21.132(b) (relating to continuing education hours) to determine the number of hours awarded for academic coursework.

**§ 21.826. Requirements for continuing education courses.**

Each course must have:

(1) An established mechanism to measure its quality, established criteria for selecting and evaluating faculty, and established criteria for the evaluation of each participant who completes the course.

(2) An adequate physical facility and appropriate instructional materials to carry out the continuing education course.

(3) An instructor whose area of expertise is in the subject matter being taught.

**§ 21.827. Continuing education course approval.**

(a) As a condition of approval, providers and credentialing organizations are required to provide CNSs who complete continuing education courses with a certificate of completion which contains the information in § 21.828(a) (relating to CNS responsibilities).

(b) Providers or CNSs requesting Board approval for continuing education as set forth in § 21.825(c) (relating to sources of continuing education) shall pay the fee in § 21.805 (relating to fees) and submit the following information to the Board:

(1) The full name and address of the provider.

(2) The title of the program.

(3) The dates and location of the program.

(4) The faculty names, titles, affiliations, degrees and areas of expertise.

(5) The schedule of the program—title of subject, lecturer and time allocated.

(6) The total number of hours requested.

(7) The method of certifying and assuring attendance, and draft of certificate of attendance to be provided to course participants.

(8) The course objectives.

(9) The target audience.

(10) The core subjects.

(11) The instruction and evaluation methods.

(c) Providers shall submit other information requested by the Board.

(d) The provider shall provide CNSs who successfully complete a course with a certificate of attendance.

(e) A separate application shall be submitted whenever a change is made to any information submitted under subsection (b), except for information related to a change in date or location, or both.

#### **§ 21.828. CNS responsibilities.**

(a) A CNS is required to maintain documentation of completion of continuing education, including:

(1) CNS's name.

(2) Dates attended.

(3) Continuing education hours.

(4) Title of course.

(5) Course provider.

(6) Location of course.

(b) Primary responsibility for documenting completion of the continuing education requirements rests with the CNS. A CNS seeking to renew certification shall verify compliance with continuing education requirements. Certificates of attendance and other documentation of completion of continuing education requirements must be maintained for 5 years. The Board approval letter sent to the applicant will be considered acceptable documentation of hours obtained through § 21.825(c) or (e) (relating to sources of continuing education).

(c) Falsification of information required under this section or failure to complete the continuing education requirements by those who continue to practice as CNSs may result in the institution of formal disciplinary action under section 14(a)(3) of the act (63 P. S. § 221(a)(3)) and § 21.831(3) (relating to penalties for violations).

### **PENALTIES FOR VIOLATION**

#### **§ 21.831. Penalties for violations.**

Certification as a CNS may be suspended, revoked or otherwise restricted, and the Board may order remedial measures when, after notice and opportunity to be heard, the Board finds that:

(1) The CNS has engaged in medical diagnosis or the prescription of medical therapeutic or corrective measures prohibited under section 8.6(a) of the act (63 P. S. § 218.6(a)).

(2) The CNS has performed a service beyond the scope of practice of professional nursing as defined in section 2(1) of the act (63 P. S. § 212(1)).

(3) The CNS has violated the act or this subchapter, or engaged in any conduct prohibited for professional nurses.

[Pa.B. Doc. No. 10-1275. Filed for public inspection July 16, 2010, 9:00 a.m.]

## **STATE BOARD OF VETERINARY MEDICINE**

### **[ 49 PA. CODE CH. 31 ]**

#### **Responsibility to Clients and Patients**

The State Board of Veterinary Medicine (Board) amends § 31.21 (relating to Rules of Professional Conduct for Veterinarians) to read as set forth in Annex A. The final-form rulemaking amends Principle 7 (relating to responsibility to clients and patients) to specify two exceptions to the existing regulation that veterinarians may choose whom they will serve. First, the final-form rulemaking requires a veterinarian to provide euthanasia to relieve the suffering of an animal physically presented to the veterinarian's facility during the veterinarian's business hours. Second, the final-form rulemaking requires a veterinarian to provide notice and a reasonable time to secure alternative services should a veterinarian decide to discontinue treatment of an animal.

In addition, the final-form rulemaking clarifies an existing provision regarding protecting the personal privacy of clients. The final-form rulemaking also requires veterinarians to practice in accordance with current advancements in veterinary medicine and acceptable and prevailing standards of care, including with respect to drugs used by a veterinarian. Finally, the final-form rulemaking requires veterinarians to utilize analgesic drugs and therapies in accordance with current veterinary medical knowledge and acceptable and prevailing standards of practice.

#### *Effective Date*

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

#### *Statutory Authority*

Section 21(11) of the Veterinary Medicine Practice Act (act) (63 P. S. § 485.21(11)) provides that the Board "shall suspend or revoke" a licensee or certificateholder who "depart[s] from or fail[s] to conform to the standards of acceptable and prevailing veterinary medical practice." The Board's amendments to subsections (d) and (f) are consistent with this provision.

Section 21(12) of the act provides that the Board "shall suspend or revoke" a licensee or certificate holder who is found guilty of "[e]ngaging in practices in connection with the practice of veterinary medicine which are in violation of the standards of professional conduct as defined herein or prescribed by the rules of the board." Section 5(2) of the act (63 P. S. § 485.5(2)) authorizes the Board to "[a]dopt rules and regulations of professional conduct appropriate to establish and maintain a high standard of integrity, skills and practice in the profession of veterinary medicine." The Board's amendments to subsections (a), (c) and (e) update the Board's rules of professional conduct and set forth standards to maintain high standards of integrity, skills and practice in the profession.

#### *Summary of Comments and the Board's Response*

The Board received comments from Tom Garg, VMD, and the Pennsylvania Veterinary Medical Association



(PVMA). Dr. Garg opined that the proposed standards were very reasonable; however, he voiced concern with subsection (e). The first issue raised was whether a client who gave oral consent for euthanasia of a pet being treated at a veterinary facility would find it inappropriate and insensitive for the veterinarian to later ask the client to provide written consent. In addition, Dr. Garg questioned what would happen if the client later refused to return the euthanasia consent form (if it was mailed to the client) or refused to sign the consent form. The Board agrees that many clients would find it insensitive to be asked to provide written consent after a beloved pet had been euthanized. The Board has replaced the proposed requirement with a requirement that the veterinarian document, in the patient's veterinary medical record, a client's oral consent to euthanasia or other treatments that have significant potential risks.

Second, Dr. Garg noted that in an emergency/critical care practice where critically ill patients are continually being reevaluated, it would not be feasible to obtain written consent each time the treatment plan is revised, as the animal's owner is rarely present. Dr. Garg accurately noted that the use of a broad consent form at the outset of treatment would not be obtaining truly informed consent. Section 31.21, Principle 7(e) was not intended to stifle the provision of veterinary care to patients. The Board added language to this subsection to indicate that the subsection does not preclude a veterinarian from obtaining general consent to treat that is effective whenever circumstances require veterinary medical intervention in the best interests of the patient and within parameters previously discussed with the client.

PVMA wrote in support of the requirement that veterinarians provide euthanasia to an animal that is physically presented to the veterinarian, noting that the requirement was consistent with the American Veterinary Medical Association's professional veterinary medical ethics and in the best interest of the welfare of suffering animals. PVMA questioned how "reasonable attempts" to contact an owner would be interpreted and who would establish the definition. The Board added a definition for both a "reasonable attempt" to determine the identity of an animal's owner and for a "reasonable attempt" to contact the owner. Specifically, the new provision provides that a reasonable attempt to contact the owner includes telephoning or using another contact method found on the animal's tag or microchip.

PVMA next asked who defines what are "significant" potential risks of treatment options. The treating veterinarian would be responsible for determining the significant potential risks that need to be explained to a client. The adjective "significant" is intended to limit the list of potential risks that shall be discussed to those that are statistically significant either in frequency or severity. It would be impossible for a health care provider to discuss every potential risk of every treatment; the provision requires veterinarian address with clients those risks that are generally recognized by the veterinary medical community as significant risks. The Board added the words "reasonably anticipated" to further describe the significant potential risks that must be explained to clients.

PVMA next commented on subsection (f), stating that the "'acceptable and prevailing standards of veterinary medical practice' can vary from region to region, general vs. specialty practice, [and so forth]. These terms should be spelled out to prevent subject interpretation." The Board disagrees that the acceptable and prevailing standards of veterinary medical practice, as this phrase is

used in the act and Chapter 31, can vary from region to region or type of practice. The General Assembly created only one Statewide Board and the act provides for only one standard of practice that is acceptable and prevailing across this Commonwealth. Every practitioner of the healing arts—whether veterinarian, physician, dentist or podiatrist—is required to maintain current knowledge of the generally accepted treatments and precautions within their fields. It is impossible for any licensing board to "spell out" the acceptable and prevailing standards of practice in the healing professions for two primary reasons: first, the standards are too extensive; and second, because the acceptable and prevailing standard is, by definition, always changing.

Regarding subsection (g), PVMA questioned what would be a "reasonable period of time." The Board added an explanatory statement that the reasonableness of the time period will be based on the nature of the animal's condition and the transfer shall be sufficiently timely to accommodate the animal's veterinary medical needs. Thus, if the animal were in critical condition, the veterinarian should fax the records immediately; however, if the animal is well and stable, a longer time, up to the 3-day period for release of records to clients, would be acceptable.

Finally, PVMA questioned whether a client shall provide a written release for medical records as currently required under § 31.22 (relating to recordkeeping). Section 31.22(8) requires a veterinarian to release records to an animal owner within 3 business days of receipt of the client's written request. Subsection (h) refers to a transfer of the records from one veterinarian to another veterinarian; this request may be oral.

PVMA also raised the following concerns: (1) what is the protocol when a person adopts an animal and the original owner cannot be located or does not respond to contact attempts; (2) what protection does the veterinarian have when releasing those records; and (3) what recourse does the new owner have in obtaining the records. As to the first inquiry, the Board is not clear how an animal could be adopted if the animal's owner cannot be located or does not respond to contact attempts. If an animal is abandoned at a veterinary facility, the veterinarian shall follow the abandonment provisions in section 601(c) of the Dog Law (3 P. S. § 459-610(c)). In this case, ownership of the animal would be asserted by the humane society. In some cases, by agreement with the humane society, the veterinarian retains possession of the animal and the humane society transfers ownership of the animal to the veterinarian. In this case, the veterinarian either releases the records to the humane society or, if the veterinarian becomes the animal's owner, may release the animal's records to a new adopter. Regarding the second inquiry, the abandonment provisions in section 601(c) of the Dog Law provide the protection. The third question appears to be answered in the response to the first question.

The House Professional Licensure Committee (HPLC) submitted two comments. First, the HPLC requested an explanation "as to how to reconcile the conflict between the need of a veterinarian to obtain oral consent or a signature of an owner to perform humane euthanasia for an animal and the lack of need for client consent for euthanasia when a client cannot be contacted." The Board does not view the provision that requires a veterinarian to obtain an owner's consent for treatment as conflicting with the provision that allows a veterinarian to provide treatment without an owner's consent if the owner cannot

be identified or contacted. There is not a conflict because, in the latter case, there is effectively no owner from whom to obtain consent to treatment.

In the vast majority of cases, the animal's owner brings the animal to a veterinarian for treatment. Euthanasia is a treatment that may be provided by a veterinarian in certain cases. Owner consent is required for treatment; however, an animal may urgently require care in some cases when the owner is unknown or cannot be contacted. The Board's provision allows veterinarians to provide care in these limited cases and sets forth guidelines for the provision of care in these cases. A case such as this might arise when a law enforcement officer or good Samaritan brings an injured animal to a veterinarian. The Board's provision requires the veterinarian to check the animal for tags, a tattoo and to scan for a microchip to attempt to identify the animal's owner and obtain consent for treatment (which may include euthanasia). In some cases the animal does not have identification and an owner cannot be determined, or if an owner is identified, the owner cannot be contacted to obtain consent to treatment. In this case, Principle 7(b), which requires veterinarians to "consider first the welfare of the animal for the purpose of relieving suffering and disability while causing a minimum of pain or fright" would guide the veterinarian's actions. Principle 7(a)(1) authorizes the veterinarian to provide treatment to the animal without the owner's consent. The veterinarian is bound by the standards of acceptable and prevailing veterinary medical practice in the type of treatment that the veterinarian shall provide. In cases when euthanasia is medically necessary to relieve an animal's suffering, the provision allows a veterinarian to provide euthanasia.

Second, the HPLC inquired as to how standards that veterinarians are to follow are determined to be "acceptable and prevailing." The standards are identified through expert testimony, learned treatises, textbooks and peer-reviewed professional journals, just as they are determined in other fields of the healing arts.

The Independent Regulatory Review Commission (IRRC) also submitted comments. IRRC asked the Board to submit information regarding the widespread acceptance that the use of analgesia is the acceptable and prevailing standard of care, which had been detached from the Regulatory Analysis Form prior to submission of the proposed rulemaking. This information is being provided to IRRC as an attachment to the Regulatory Analysis Form.

Regarding subsection (a)(1), IRRC recommended using either "humane euthanasia" or "euthanasia" throughout the final-form rulemaking. As the concept of humane is integral to "euthanasia," the Board deleted the repetitive word from subsection (a)(1). IRRC next recommended that the Board provide a clear standard for what a "reasonable attempt" would be in subsection (a)(1). The Board added language to address the concern. IRRC also inquired as to the meaning of "proper veterinary medical judgment" as used in subsection (a)(1) and (2). The Board intended that veterinarians act in accordance with the acceptable and prevailing standards of veterinary medical practice, as is required by the act.

Next, regarding subsection (a)(2), IRRC asked what type of notice would be required to be given to a client prior to terminating the veterinarian-client-patient relationship and suggested that the notice be in writing. The Board adopted the suggestion.

Regarding subsection (c), IRRC questioned under what circumstances a veterinarian would obtain or need a

person's Social Security number or confidential health information and requested an explanation of why it would be necessary for a veterinarian to request, possess and document a person's Social Security number, sensitive financial information or confidential health information. Subsection (c) does not require a veterinarian to request, possess or document this information; rather, subsection (c) requires a veterinarian who does have this information to protect it. By way of further answer, a veterinarian may have a client's Social Security number if the client applies for Care Credit through the veterinarian. A veterinarian may have confidential health information about a client if the veterinarian is caring for an emotional support animal or assistance animal. Finally, a veterinarian may have sensitive financial information, such as a client's credit card information, if the client has provided this information to pay for services.

IRRC echoed PVMA's questions about defining the acceptable and prevailing standard of veterinary medical practice in subsections (d) and (f). Section 21(11) of the act authorizes the Board to discipline a licensee for the "departure from, or failure to conform to, the standards of acceptable and prevailing veterinary medical practice, in which case actual injury need not be established." Virtually identical language exists in nearly every healthcare profession's practice act. For example, section 7(a)(10) of the Optometric Practice and Licensure Act (63 P.S. § 244.7(a)(10)) states that the State Board of Optometry may discipline a licensee for the "[f]ailure to conform to, the acceptable and prevailing standards of optometric practice in rendering professional service to a patient. Actual injury to a patient need not be established"; section 15(a)(8) of the Osteopathic Medical Practice Act (63 P.S. § 271.15(a)(8)) states that the State Board of Osteopathic Medicine may discipline a licensee for "any departure from, or the failure to conform to, the standards of acceptable and prevailing osteopathic medical practice. Actual injury to a patient need not be established"; section 5(a)(12) of the Pharmacy Act (63 P.S. § 390-5(a)(12)) states that the State Board of Pharmacy may discipline a licensee for "the departure from, or failure to conform to, the standards of acceptable and prevailing pharmacy practice, in which case actual injury need not be established"; and section 41(8) of the Medical Practice Act of 1985 (63 P.S. § 422.41(8)) states that the State Board of Medicine may discipline a licensee for "departure from or failing to conform to an ethical or quality standard of the profession . . . actual injury to a patient need not be established." Section 41(8)(i) of the Medical Practice Act of 1985 further explains the deviation from a standard of the profession by stating that "the accepted standard of care for a practitioner is that which would normally be exercised by the average professional of the same kind in this Commonwealth under the circumstances." The Board has already further defined the "acceptable and prevailing standards of care" as used in subsection (d) by stating that abiding by these standards "includ[es] using current proven techniques, drugs and scientific research that may affect treatment decisions" and to "practice in accordance with . . . pharmacologic properties, indications and contraindications of drugs and biologics." The Board believes these provisions further clarify the statutory phrase.

Next, IRRC raised issues with subsection (e). First, IRRC suggested deleting the word "significant" from the phrase "significant potential risks," stating that the word "significant" was vague. The Board intended the word "significant" to modify and limit the word "risks," thus adding clarity to the vague term "risks." Veterinarians are

required to conform their professional conduct to the acceptable and prevailing standards of practice; this requirement extends to veterinarians' conversations with clients regarding treatment options. Potential risks are significant and shall be disclosed to clients if the risks are generally accepted in the veterinary medical community to be significant and if a majority of practitioners acting on this generally accepted knowledge would disclose the risks to clients. Second, IRRC questioned the requirement for written consent to euthanasia, particularly if oral consent is first obtained. IRRC agreed with commentators that to request a signature after an animal had been euthanized was unrealistic and awkward. As previously discussed, the Board deleted this provision.

Regarding subsection (g), IRRC asked who determines what is a reasonable period of time to forward records to a new veterinarian and suggested that the final-form rulemaking set a finite time limit. The Board declines to set a finite time limit because the time is wholly dependent on the condition of the animal. As an outside period, the Board believes that guidance is already found in § 31.22, which gives a veterinarian a maximum of 3 business days to provide copies of records to a client. The Board added a provision regarding this maximum time period.

#### *Fiscal Impact and Paperwork Requirements*

The final-form rulemaking should not have financial impact on licensees, the Board or any other State entity. The final-form rulemaking will not have fiscal impact on the public. There are not additional paperwork requirements associated with the final-form rulemaking.

#### *Sunset Date*

The Board continuously monitors 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 September 2, 2009, the Board submitted a copy of the notice of proposed rulemaking, published at 39 Pa.B. 5438 (September 19, 2009), to IRRC and to the HPLC and the Senate Consumer Protection and Professional Licensure Committee (SCP/PLC) for review and comment.

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

Under section 5.1(j.2) of the Regulatory Review Act (71 P. S. § 745.5a(j.2)), on May 5, 2010, the final-form rulemaking was approved by the HPLC. On June 2, 2010, the final-form rulemaking was deemed approved by the SCP/PLC. Under section 5.1(e) of the Regulatory Review Act, IRRC met on June 3, 2010, and approved the final-form rulemaking.

#### *Findings*

The Board finds that:

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

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

(3) This final-form rulemaking is necessary and appropriate for administering and enforcing the authorizing act identified in this preamble.

#### *Order*

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

(a) The regulations of the Board, 49 Pa. Code Chapter 31, are amended by amending § 31.21 to read as set forth in Annex A, with ellipses referring to the existing text of the regulation.

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

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

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

ROBIN J. BERNSTEIN, Esq.,  
Chairperson

*(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 40 Pa.B. 3471 (June 19, 2010).)*

**Fiscal Note:** Fiscal Note 16A-5722 remains valid for the final adoption of the subject regulation.

#### **Annex A**

### **TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS**

#### **PART I. DEPARTMENT OF STATE**

#### **Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS**

#### **CHAPTER 31. STATE BOARD OF VETERINARY MEDICINE**

#### **PROFESSIONAL CONDUCT**

#### **§ 31.21. Rules of Professional Conduct for Veterinarians.**

\* \* \* \* \*

#### **Principle 7. Responsibility to clients and patients.**

(a) Except as provided in this subsection, veterinarians may choose whom they will serve, but may not neglect an animal with which the veterinarian has an established veterinarian/client/patient relationship.

(1) During a veterinarian's regular business hours, a veterinarian may not refuse to provide euthanasia to relieve the suffering of an animal that is physically presented to the veterinarian at the veterinarian's facility. A veterinarian may provide euthanasia for an animal under this paragraph without a veterinarian/client/patient relationship if the owner is unknown or cannot be contacted. If the owner is unknown, the veterinarian shall make a reasonable attempt to determine the identity of the animal's owner, including, at a minimum, checking the animal for a tag, tattoo or microchip. If the owner is known or identified, the veterinarian shall make a reasonable attempt to contact the owner, including, at a minimum, telephoning or using another contact method found on the animal's tag or microchip, and obtain consent to euthanasia or treatment. If the owner cannot be identified or cannot be contacted, the veterinarian shall exercise proper veterinary medical judgment to determine whether to provide euthanasia or other veterinary medical care to the animal.



(2) If a veterinarian deems it necessary to discontinue the treatment of an animal with which the veterinarian has a veterinarian/client/patient relationship, the veterinarian shall give written notice to the client of his intention to withdraw and provide reasonable time, based on the condition of the animal and the availability of alternative veterinary medical services, to allow the client to obtain necessary veterinary care for the animal.

(b) Veterinarians shall consider first the welfare of the animal for the purpose of relieving suffering and disability while causing a minimum of pain or fright.

(c) Veterinarians and their staffs shall protect the personal privacy of clients, unless the veterinarians are required by law to reveal the confidences or it becomes necessary to reveal the confidences to protect the health and welfare of an individual, the animal or others whose health and welfare may be endangered. Personal information that should be protected under this section includes a client's Social Security number and sensitive financial information and confidential health information about the client. Veterinary medical records of a client's animals shall be released to the Board or its agents upon demand, as set forth in section 27.1(b)(1) of the act (63 P.S. § 485.27a(b)(1)). Any portion of a veterinary medical record relevant to public health shall be released to public health or law enforcement officials upon demand. Veterinary medical records shall be released to the general public only with the written consent of the client, subpoena or court order.

(d) Veterinarians shall practice in accordance with current advancements and acceptable and prevailing standards of care in veterinary medicine, including using current proven techniques, drugs and scientific research that may affect treatment decisions. Veterinarians shall practice in accordance with advancements and acceptable and prevailing standards of veterinary medical practice in this Commonwealth related to the pharmacologic properties, indications and contraindications of drugs and biologics.

(e) Veterinarians shall explain the benefits and reasonably anticipated significant potential risks of treatment options to clients. When the client or client's agent is present, veterinarians shall document, by signature, the client's consent for euthanasia and other treatments that have significant potential risks. If the client is not present to provide a signature, veterinarians shall attempt to contact the owner by telephone or other established means to obtain oral consent and shall document the oral consent in the animal's veterinary medical record. This subsection does not preclude a veterinarian from obtaining general consent to treat that is effective whenever circumstances require veterinary medical intervention in the best interests of the patient within parameters previously discussed with the client.

(f) Veterinarians shall serve as patient advocates especially regarding the alleviation of pain and suffering, consistent with the acceptable and prevailing standards of veterinary medical practice. Veterinarians shall utilize analgesic drugs, dosages, treatment intervals and combination therapies proven to be safe and effective in different species and in various conditions of age, illness or injury in accordance with current veterinary medical knowledge and acceptable and prevailing standards of veterinary medical practice in this Commonwealth.

(g) If a client desires to consult with another veterinarian about the same case, the first veterinarian shall readily withdraw from the case, indicating the circum-

stances on the veterinary medical record of the animal, and shall forward copies of the animal's veterinary medical records in a reasonable period of time to other veterinarians who request them. For purposes of this subsection and subsection (h), the reasonableness of the period of time shall be based on the nature of the animal's condition and the transfer shall be sufficiently timely to accommodate the animal's veterinary medical needs, but may not be longer than 3 business days after the client makes the request.

(h) If a client requests referral to another veterinarian or veterinary hospital, the attending veterinarian shall honor the request and facilitate the necessary arrangements, which includes forwarding copies of the veterinary medical records of the animal in a reasonable period of time to the other veterinarian or veterinary hospital.

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[Pa.B. Doc. No. 10-1276. Filed for public inspection July 16, 2010, 9:00 a.m.]

## STATE BOARD OF CERTIFIED REAL ESTATE APPRAISERS

[ 49 PA. CODE CH. 36 ]

### Appraiser Trainees; Initial and Continuing Education; Supervised Experience; Practice Standards

The State Board of Certified Real Estate Appraisers (Board) amends Chapter 36 (relating to State Board of Certified Real Estate Appraisal) to read as set forth in Annex A.

The final-form rulemaking accomplishes the following: (1) establishes a regulatory scheme for the appraiser trainee license, which was added to the Real Estate Appraisers Certification Act (REACA) (63 P.S. §§ 457.1—457.19) by the act of July 8, 2008 (P.L. 833, No. 59) and the act of October 9, 2008 (P.L. 1380, No. 103); (2) amends and clarifies initial education, continuing education and supervised experience requirements for certified appraisers, consistent with Federal criteria that are binding on the Board under the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (FIRREA) (Pub. L. No. 101-173, 103 Stat. 183); (3) clarifies appraiser practice standards regarding supervision and use of titles; and (4) harmonizes requirements for certified Pennsylvania evaluators with those for certified appraisers.

#### *Summary of Comments, Responses and Changes to Proposed Rulemaking*

The Board published a notice of proposed rulemaking at 39 Pa.B. 5423 (September 19, 2009) with a 30-day public comment period. The Board received a general comment in support of the proposed rulemaking from the Pennsylvania Association of Realtors.

The Board received comments from the Independent Regulatory Review Commission (IRRC) and the House Professional Licensure Committee (HPLC) as part of the review of the proposed rulemaking under the Regulatory Review Act (71 P.S. §§ 745.1—745.12). The Board did not receive comments from the Senate Consumer Protection and Professional Licensure Committee (SCP/PLC) as part of its review of the proposed rulemaking under the Regulatory Review Act.

§ 36.2. *Application process*

Section 36.2 establishes the procedure for applying for certification as a residential or general real estate appraiser. Section 36.2(e) provides that, except as otherwise stated in §§ 36.11 and 36.12 (relating to qualifications for certification as residential real estate appraiser; and qualifications for certification as general real estate appraiser), an applicant shall comply with increased education or experience requirements that take effect between the applicant's initial filing of an application and the applicant's passing the certification examination.

The final-form rulemaking amends § 36.2 to include the procedure for applying for licensure as an appraiser trainee. One of the amendments to § 36.2(e) provided that an applicant for licensure as an appraiser trainee shall comply with increased education requirements that take effect between the applicant's filing of an application that is disapproved and the applicant's filing of a new application.

IRRC questioned the intent of this amendment to § 36.2(e), which was not specifically discussed in the preamble of the proposed rulemaking. IRRC also asked how or when increased education requirements would take effect; how the Board would notify applicants of increased requirements; and whether increased requirements would be implemented through future rulemaking.

The intent of the amendment is to clarify that an applicant for an appraiser trainee license shall meet the education requirements that are in effect at the time of licensure. This is consistent with the general rule applicable to applicants for residential and general appraiser certification. Increased education requirements for appraiser trainees would be implemented by the Board through rulemaking. The impetus for future rulemaking would be if the requirements adopted by this final-form rulemaking should prove to be inadequate. The Board would publicize pending changes in trainee qualifications in its online newsletter and in special mailings to residential and general appraisers and to individuals who had previously submitted nonqualifying applications for licensure.

§ 36.11. *Qualifications for certification as residential real estate appraiser*

§ 36.12. *Qualifications for certification as general real estate appraiser*

Sections 36.11 and 36.12 are identically structured sections that set forth the qualifications for certification as a residential and general appraiser, respectively. Sections 36.11 and 36.12 were last amended on July 21, 2007, to implement new education and experience requirements prescribed by the Appraiser Qualifications Board (AQB), an independent body charged under the FIRREA with establishing the minimum initial education, continuing education, experience and examination requirements for state-credentialed real estate appraisers. The AQB's new education requirements took effect January 1, 2008.

Sections 36.11(b) and 36.12(b) provide that effective January 1, 2008, an applicant for residential or general appraiser certification, respectively, shall have completed 200 or 300 classroom hours, respectively, in a prescribed appraisal curriculum, while §§ 36.11(d) and 36.12(d) provide that effective January 1, 2008, an applicant for residential or general appraiser certification, respectively, shall possess at least an associate's degree or a bachelor's degree, respectively, or an equivalent number of college credits. These sections exempt from the new education

requirements an applicant who had satisfied, before January 1, 2008, the former 120-classroom hour requirement for residential appraiser certification or the former 180-classroom hour requirement for general appraiser certification.

The exception to the new education requirements for an applicant who satisfied the former education requirements before January 1, 2008, reflects a segmented approach, rather than a firm date approach, to implementation of the AQB's new education requirements. Under the firm date approach, an appraiser certificate would not be issued to an applicant on or after January 1, 2008, unless the applicant satisfied the increased classroom hour requirement. The AQB allowed states the option of implementing the new education requirements through either the firm date approach or the segmented approach. In promulgating the new requirements in 2007, the Board opted for the segmented approach to minimize the potential disruption to the career plans of those persons who, at the time of the adoption of new regulations, were then taking steps to satisfy the education and experience requirements for appraiser certification.

The final-form rulemaking amends §§ 36.11(b) and 36.12(b) to provide that the increased classroom hour requirement does not apply to an applicant who submits an otherwise qualifying application before January 1, 2012, that includes evidence of the applicant's having satisfied the former classroom hour requirement before January 1, 2008. The purpose is to establish a reasonable period of time after January 1, 2008, during which an applicant who satisfied the former classroom hour requirement may qualify for appraiser certification without having to complete the increased classroom hour requirement. The Board determined that placing a 4-year limit on the grandfathering effect of the segmented approach to implementation of the increased classroom hour requirement is desirable because it eliminates the possibility that persons could be credentialed as residential or general appraisers in the distant future who lack the level of appraisal education that users of appraisal services would have come to expect of newly credentialed appraisers.

IRRC questioned whether the proposed 4-year time frame for a grandfathered applicant is too generous, considering that the experience requirement for residential and general appraiser certification can be completed in as little as 24 months and 30 months, respectively, and that experience can be acquired contemporaneously with classroom hours after a minimum of 75 classroom hours have been completed. The Board regards 4 years as an appropriate time frame because it takes into account the fact that many apprentice appraisers acquire their qualifying experience on a part-time basis, depending on the availability of appraisal assignments from their supervising appraisers.

Sections 36.11(b) and (d) and 36.12(b) and (d) reference an applicant's obligation to provide evidence of having completed the requisite classroom hours in appraisal subjects. IRRC recommended that the final-form rulemaking clarify what the Board considers appropriate documentation of classroom hours. The Board does not believe a clarification is necessary for these sections. The Board's application for residential or general appraiser certification, which can be downloaded from the Board's web site, provides detailed instructions to prospective applicants about the acceptable forms of documentation needed to establish their compliance with education and experience requirements for certification.

Sections 36.11(b) and (d) and 36.12(b) and (d) also reference an applicant's obligation to complete the 15-hour National Uniform Standards of Professional Appraisal Practice (USPAP) Course "or equivalent course." IRRC recommended that the final-form rulemaking clarify how the Board will determine what course is equivalent to the 15-hour National USPAP Course. The AQB, which developed the 15-hour National USPAP Course, determines what is an acceptable equivalent. The final-form rulemaking revises §§ 36.11(b) and (d) and 36.12(b) and (d) to reflect this clarification.

The HPLC noted that the proposed rulemaking inadvertently misplaced two brackets in §§ 36.11(b) and 36.12(b) that identified material for elimination. The Legislative Reference Bureau corrected the errors before the proposed rulemaking was published in the *Pennsylvania Bulletin*.

§ 36.12a. *Qualifications for licensure as appraiser trainee*

The final-form rulemaking adds § 36.12a, which sets forth the requirements for licensure as an appraiser trainee. Section 36.12a(b)(2) provides that with respect to each of the three courses that comprise the 75-hour education requirement for licensure, an appraiser trainee candidate shall have passed "an examination pertinent to the course." IRRC recommended that the Board clarify what is meant by "an examination pertinent to the course." The Board does not believe a clarification of the phrase is necessary because its meaning is not likely to be misunderstood by trainee candidates. Identical language applies to residential and general appraiser candidates in §§ 36.11(b)(1) and 36.12(b)(1), respectively. The usage was derived from the AQB's education criteria, which provides that an individual seeking credit for classroom hours in an appraisal subject shall have passed "an examination pertinent to that educational offering."

Section 36.12a(b)(4) permits a trainee candidate to utilize a distance education course if the course that meets the following criteria: (1) is approved by the Board; (2) is presented either by an accredited college or university that offers distance education courses in other disciplines or by a course provider that has received approval of course content from the Board or the AQB through its Course Approval Program and approval of course design and delivery mechanism from the International Distance Education Certification Center; (3) requires completion of a written examination proctored by an official approved by the college, university or other course provider; and (4) meets the course content and classroom hour requirements prescribed by the Board. These distance education requirements are the same as those applicable to residential and general appraiser candidates in §§ 36.11(b)(4) and 36.12(b)(4), respectively.

The HPLC asked whether there is a limit on the number of classroom hours that can be obtained through distance education. There is not a limit, either for appraiser trainee candidates or for residential and general appraiser candidates. The HPLC also asked how a written examination for a distance education course is proctored. The proctoring standard, established by the AQB, requires that the proctor be physically present to administer the written examination.

Section 36.12a(d) provides that an appraiser trainee license may not be biennially renewed more than four times unless the Board, for good cause shown and on a case-by-case basis, should determine that one or more additional renewals is warranted. IRRC asked when the Board would consider additional renewals appropriate

and whether there would be a limit on the number of additional renewals. IRRC also asked what the Board considers good cause for an additional renewal and what procedures a trainee would have to follow to request an additional renewal.

Section 36.12a(d) expressly restricts the Board's authority to grant a trainee more than four renewals to those circumstances establishing good cause. While not susceptible of precise definition, "good cause" would apply to circumstances in which a relaxation of the four-renewal limit is necessary to avoid an unjust result. Among the possible circumstances that might give rise to a bona fide claim of good cause are military service, lack of apprenticeship opportunities, and serious, extended illness. The Board is not limited in the number of additional renewals that it may grant to a trainee who establishes good cause. The Board does not consider it necessary to prescribe by regulation specific procedures for a trainee to follow in requesting one or more additional renewals; if the Board should determine that a request needs to be made in a particular format, it can develop an application or request form that a trainee can download from the Board's web site for submission.

§ 36.13. *Experience options for preparation of appraisal reports*

Section 36.13 sets forth the standards by which the Board evaluates experience acquired in the preparation of appraisal reports by a candidate for certification as a residential or general appraiser. The final-form rulemaking amends § 36.13(a) to establish July 1, 2010, as the date by which an appraisal assistant shall be licensed as an appraiser trainee to continue acquiring qualifying experience in the preparation of appraisal reports. Because publication of final-form rulemaking will not occur until July 2010, the final-form rulemaking revises § 36.13(a) to extend the deadline by which an appraisal assistant must obtain an appraiser trainee license to October 1, 2010. The extended deadline will allow the Board sufficient time to process license applications from persons currently employed as appraisal assistants so that their acquisition of qualifying experience may continue without interruption.

§ 36.52. *Use of certificate number and title*

Section 36.52 requires a certified appraiser to place his name, signature and certificate number immediately adjacent to or immediately below the appraiser's title on each appraisal report and appraisal agreement. Section 36.52 references the titles of "Pennsylvania certified general real estate appraiser," "Pennsylvania certified residential real estate appraiser" and "Pennsylvania certified broker/appraiser" and provides an example of how these titles, together with the other required information, should appear on an appraisal report or appraisal agreement. The final-form rulemaking amends § 36.52 to permit "substantially similar" titles to be substituted for those referenced in the section. IRRC asked why an appraiser would need to use a "substantially similar" title given the list of titles already in § 36.52. IRRC also asked what the Board considers a "substantially similar" title.

The current regulation sets forth a separate title for use by each of the three classes of certified appraiser, that is, broker/appraiser, residential appraiser and general appraiser. The titles are not interchangeable among the certification classes. As stated in the proposed rulemaking, the need to allow appraisers to use a substantially similar version of their titles arises from the fact that some of the commercial software and templates that



appraisers use to prepare appraisal reports cannot be easily modified to accommodate their titles. A substantially similar title would likely be a shortened or abbreviated version of the prescribed title that provides enough information to identify the certification class of the user.

*§ 36.54. Duties of supervisory appraiser*

Section 36.54 sets forth the supervisory duties of a residential or general appraiser when utilizing the services of an appraisal assistant, an appraiser trainee or another appraiser. Consistent with the amendment to § 36.13(a) (relating to experience options for preparation of appraisal reports) regarding the revised deadline by which an appraisal assistant shall obtain an appraiser trainee license, the final-form rulemaking extends the deadline by which a residential or general appraiser must cease utilizing the services of an appraisal assistant from July 1, 2010, to October 1, 2010.

*Statutory Authority*

Section 5(2) of the REACA (63 P. S. § 457.5(2)) and section 3 of the Assessors Certification Act (ACA) (63 P. S. § 458.3) authorize the Board to promulgate regulations as necessary to carry out the provisions of the REACA and the ACA, respectively. Additionally, section 9(a) of the REACA (63 P. S. § 457.9(a)) authorizes the Board to establish fees for its operations by regulation.

*Fiscal Impact*

The final-form rulemaking requires applicants for licensure as appraiser trainees to pay an application fee of \$75 to the Board. The fee will generate approximately \$30,000 in biennial revenues for the Board, based on projections that the Board will receive approximately 400 license applications biennially. The final-form rulemaking also requires those seeking to become licensed as appraiser trainees to incur costs in obtaining qualifying education for licensure. Although these costs cannot be quantified, they do not add to the overall cost of becoming credentialed as a residential or general appraiser because the coursework that is necessary for licensure as an appraiser trainee is part of the coursework that is necessary for certification as a residential or general appraiser.

The final-form rulemaking does not have a direct fiscal impact on the public or on other agencies and political subdivisions of this Commonwealth.

*Paperwork Requirements*

The final-form rulemaking requires each prospective appraiser trainee to file a license application with the Board and, once licensed, to file a biennial renewal application to retain the right to practice as a trainee. The Board is required to develop application forms for initial licensure and biennial renewal of licensure as well as an appraiser trainee checklist for use by trainees and their supervisory real estate appraisers in documenting the nature of trainees' work in the preparation of appraisal reports. The final-form rulemaking does not create additional paperwork for residential and general appraisers because they are already required to use checklists to document the experience acquired by appraisal assistants in their employ. The final-form rulemaking does not create additional paperwork for the general public or the Commonwealth and its political subdivisions.

*Effective Date*

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

*Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on September 9, 2009, the Board submitted a copy of the notice of proposed rulemaking, published at 39 Pa.B. 5423, to IRRC and to the HPLC and the SCP/PLC for review and comment.

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

Under section 5.1(j.2) of the Regulatory Review Act (71 P. S. § 745.5a(j.2)), on May 5, 2010, the final-form rulemaking was approved by the HPLC. On June 2, 2010, the final-form rulemaking was deemed approved by the SCP/PLC. Under section 5.1(e) of the Regulatory Review Act, IRRC met on June 3, 2007, and approved the final-form rulemaking.

*Additional Information*

Persons who require additional information about the final-form rulemaking should submit inquiries to Heidi M. Weirich, Administrator, State Board of Certified Real Estate Appraisers, P. O. Box 2649, Harrisburg, PA 17105-2649, (717) 783-4866, ST-APPRAISE@state.pa.us.

*Findings*

The Board finds that:

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

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

(3) The amendments to the final-form rulemaking do not enlarge the original purpose of the proposed rulemaking.

(4) The final-form rulemaking adopted by this order is necessary and appropriate for the administration of the REACA and the ACA.

*Order*

The Board, acting under the REACA and the ACA, orders that:

(a) The regulations of the Board, 49 Pa. Code Chapter 36, are amended by amending §§ 36.1—36.3, 36.6, 36.42, 36.51, 36.52 and 36.262 and by adding § 36.12a to read as set forth at 39 Pa.B. 5423; and by amending §§ 36.11—36.13 and 36.54 to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.

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

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

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

DANIEL A. BRADLEY,  
Chairperson

(*Editor's Note:* For the text of the order of the Independent Regulatory Review Commission relating to this document, see 40 Pa.B. 3471 (June 19, 2010).)

**Fiscal Note:** Fiscal Note 16A-7015 remains valid for the final adoption of the subject regulations.

#### Annex A

### TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

#### PART I. DEPARTMENT OF STATE

#### Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

### CHAPTER 36. STATE BOARD OF CERTIFIED REAL ESTATE APPRAISERS

#### Subchapter A. GENERAL PROVISIONS

#### QUALIFICATIONS FOR CERTIFICATION OR LICENSURE

#### § 36.11. Qualifications for certification as residential real estate appraiser.

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(b) *Appraisal classroom hours.* Effective January 1, 2008, an applicant shall submit evidence to the Board of having completed 200 classroom hours in the appraisal curriculum set forth in subsection (c)(2). This requirement does not apply to an applicant who submits an otherwise qualifying application before January 1, 2012, that shows evidence of the applicant's having completed 120 classroom hours of courses related to real estate appraisal, including the 15-hour National USPAP Course or equivalent course approved by the AQB, together with coverage of the topics listed in subsection (c)(1), before January 1, 2008.

(1) *Length of classroom hour requirement.* Credit toward the classroom hour requirement will only be granted when the length of the course is at least 15 hours, and the applicant successfully completes an examination pertinent to the course. A classroom hour is defined as 50 minutes out of each 60 minute segment.

(2) *Providers of appraisal courses.* Credit for the classroom hour requirement may be obtained from accredited colleges or universities and community or junior colleges. Subject to Board approval under § 36.31 (relating to provider registration/appraisal courses), credit for the classroom hour requirement may also be obtained from real estate appraisal or real estate related organizations, State or Federal agencies or commissions, proprietary schools and other providers.

(3) *Distance education.* A distance education course is acceptable to meet the classroom hour requirement if the course is approved by the Board and meets the following conditions:

(i) The course is presented by one of the following:

(A) An accredited (Commission on Colleges or a regional accreditation association) college or university that offers distance education programs in other disciplines.

(B) A course provider that has received approval for course design and delivery mechanism from the IDECC and approval for course content from the Board or from the AQB through its Course Approval Program.

(ii) The applicant successfully completes a written examination proctored by an official approved by the college, university or other course provider.

(iii) The length and content of the course meet the requirements of paragraph (1) and subsection (c), respectively.

(c) *Content of appraisal education.* The content of an applicant's appraisal education must be as follows:

\* \* \* \* \*

(d) *Postsecondary education.*

(1) Effective January 1, 2008, an applicant shall submit evidence to the Board of having satisfied one of the following requirements:

(i) Possession of an associate's degree, or higher, from an accredited college or university.

(ii) Completion of 21 semester credit hours in the following college-level subjects at an accredited college or university:

(A) English composition.

(B) Principles of economics (micro or macro).

(C) Finance.

(D) Algebra, geometry or higher mathematics.

(E) Statistics.

(F) Computer science.

(G) Business or real estate law.

(2) This requirement does not apply to an applicant who submits an otherwise qualifying application before January 1, 2012, that shows evidence of the applicant's having completed 120 classroom hours of courses related to real estate appraisal, including the 15-hour National USPAP Course or equivalent course approved by the AQB, together with coverage of the topics listed in subsection (c)(1), before January 1, 2008.

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#### § 36.12. Qualifications for certification as general real estate appraiser.

\* \* \* \* \*

(b) *Appraisal classroom hours.* Effective January 1, 2008, an applicant shall submit evidence to the Board of having completed 300 classroom hours in the appraisal curriculum set forth in subsection (c)(2). This requirement does not apply to an applicant who submits an otherwise qualifying application before January 1, 2012, that shows evidence of the applicant's having completed 180 classroom hours of courses related to real estate appraisal, including the 15-hour National USPAP Course or equivalent course approved by the AQB, together with coverage of the topics listed in subsection (c)(1), before January 1, 2008.

(1) *Length of classroom hour requirement.* Credit toward the classroom hour requirement will only be granted when the length of the course is at least 15 hours, and the applicant successfully completes an examination pertinent to the course. A classroom hour is defined as 50 minutes out of each 60 minute segment.

(2) *Providers of appraisal courses.* Credit for the classroom hour requirement may be obtained from accredited colleges or universities and community or junior colleges. Subject to Board approval under § 36.31 (relating to provider registration/appraisal courses), credit for the classroom hour requirement may also be obtained from real estate appraisal or real estate related organizations, State or Federal agencies or commissions, proprietary schools and other providers.

(3) *Distance education.* A distance education course is acceptable to meet the classroom hour requirement if the course is approved by the Board and meets the following conditions:

(i) The course is presented by one of the following:

(A) An accredited (Commission on Colleges or a regional accreditation association) college or university that offers distance education programs in other disciplines.

(B) A course provider that has received approval for course design and delivery mechanism from the IDECC and approval for course content from the Board or from the AQB through its Course Approval Program.

(ii) The applicant successfully completes a written examination proctored by an official approved by the college, university or other course provider.

(iii) The length and content of the course meet the requirements of paragraph (1) and subsection (c), respectively.

(c) *Content of appraisal education.* The content of an applicant's appraisal education must be as follows:

\* \* \* \* \*

(d) *Postsecondary education.*

(1) Effective January 1, 2008, an applicant shall submit evidence to the Board of having satisfied one of the following requirements:

(i) Possession of a bachelor's degree, or higher, from an accredited college or university.

(ii) Completion of 30 semester credit hours in the following college-level subjects at an accredited college or university:

(A) English composition.

(B) Macroeconomics.

(C) Microeconomics.

(D) Finance.

(E) Algebra, geometry or higher mathematics.

(F) Statistics.

(G) Computer science.

(H) Business or real estate law.

(I) Two elective courses in accounting, geography, ag-economics, business management or real estate.

(2) This requirement does not apply to an applicant who submits an otherwise qualifying application before January 1, 2012, that shows evidence of the applicant's having completed 180 classroom hours of courses related to real estate appraisal, including the 15-hour National USPAP Course or equivalent course approved by the AQB, together with coverage of the topics listed in subsection (c)(1), before January 1, 2008.

\* \* \* \* \*

### § 36.13. Experience options for preparation of appraisal reports.

(a) An applicant for certification as a residential real estate appraiser or a general real estate appraiser under §§ 36.11 and 36.12 (relating to qualifications for certification as residential real estate appraiser; and qualifications for certification as general real estate appraiser) shall have acquired experience in the preparation of appraisal reports in one or more of the following:

(1) Prior to September 3, 1998:

(i) As a licensed real estate broker under the Real Estate Licensing and Registration Act (63 P. S. §§ 455.101—455.902) and Chapter 35 (relating to State Real Estate Commission).

(ii) As an elected officer, director or employee of a banking institution, savings institution, savings bank, credit union or trust company operating under applicable Federal or State laws, when acting on behalf of the institution in connection with a loan transaction.

(iii) As a certified broker/appraiser.

(iv) As an assistant to a certified residential real estate appraiser or certified general real estate appraiser, provided the assistant satisfies the requirements of subsection (b).

(v) As a certified residential real estate appraiser assisting a certified general real estate appraiser in an appraisal of nonresidential property or an appraisal of residential property of more than four dwelling units, provided the residential appraiser satisfies the requirements of subsection (d).

(2) On or after September 3, 1998:

(i) As a certified broker/appraiser.

(ii) As an assistant to a certified residential real estate appraiser or certified general real estate appraiser, provided the experience is acquired before October 1, 2010, and the assistant satisfies the requirements of subsection (b).

(iii) As a licensed appraiser trainee assisting a certified residential real estate appraiser or certified general real estate appraiser, provided the trainee satisfies the requirements of subsection (c).

(iv) As a certified residential real estate appraiser assisting a general real estate appraiser in an appraisal of nonresidential property or an appraisal of residential property of more than four dwelling units, provided the residential appraiser satisfies the requirements of subsection (d).

(b) An assistant to a certified general real estate appraiser or certified residential real estate appraiser shall observe the following requirements when preparing an appraisal report:

(1) The assistant shall perform an inspection of the interior and exterior of the property.

(2) The assistant may not arrive at an independent determination of value.

(3) The assistant shall comply with USPAP.

(4) The assistant shall complete and co-sign a Board-approved appraisal assistant checklist that relates to the assistant's work on the appraisal report.

(5) Unless the appraisal assistant checklist is made part of the appraisal report, the assistant shall co-sign the appraisal report as "assistant to the certified real estate appraiser" or be referenced in the certification section of the appraisal report, or in an addendum to the appraisal report, as having provided significant real property appraisal assistance.

(c) A licensed appraiser trainee shall observe the following requirements when preparing an appraisal report for a certified general real estate appraiser or certified residential real estate appraiser:



(1) The trainee may not be supervised by more than one residential or general appraiser on each appraisal assignment.

(2) The trainee shall perform an inspection of the interior and exterior of the property.

(3) The trainee may not arrive at an independent determination of value.

(4) The trainee shall comply with USPAP.

(5) The trainee shall complete and co-sign a Board-approved appraiser trainee checklist that relates to the trainee's work on the appraisal report and that is made part of the appraisal report submitted to the client.

(d) A certified residential real estate appraiser shall observe the following requirements when preparing an appraisal report for a certified general real estate appraiser:

(1) The residential appraiser shall perform an inspection of the interior and exterior of the property.

(2) The residential appraiser may not arrive at an independent determination of value.

(3) The residential appraiser shall comply with USPAP.

(4) The residential appraiser shall co-sign the appraisal report as set forth in § 36.52 (relating to use of certificate number and title) and ensure that the nature of his significant real property appraisal assistance is specified in the report.

#### **STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE**

##### **§ 36.54. Duties of supervisory appraiser.**

(a) A certified residential real estate appraiser or certified general real estate appraiser who utilizes an appraisal assistant before October 1, 2010, shall:

(1) Provide written notification to the Board of the name and address of the assistant when the assistant begins work for the appraiser.

(2) Directly supervise and control the assistant's work, assuming total responsibility for the contents of the appraisal report, including all value conclusions.

(3) Accompany the assistant during the physical inspection of the property until the assistant has logged 300 hours of appraisal experience or until the supervising appraiser determines the assistant is competent under USPAP to perform the physical inspection unaccompanied, whichever is the longer period.

(4) Co-sign the appraisal report as a certified real estate appraiser under § 36.52 (relating to use of certificate number and title) and, unless the appraisal assistant checklist referenced in paragraph (5) is made part of the appraisal report submitted to the client, either have the assistant sign the appraisal report as assistant to the certified real estate appraiser or identify the assistant in the certification section of the appraisal report, or in addendum to the appraisal report, as having provided significant real property appraisal assistance.

(5) Co-sign a Board-approved appraisal assistant checklist that has been completed by the assistant and relates to the assistant's work on the appraisal report.

(6) Provide a current or former assistant who is applying for appraiser certification with copies of designated appraisal reports and appraisal assistant checklists requested by the Board to verify the assistant's experience.

(b) A certified residential real estate appraiser or certified general real estate appraiser who utilizes a licensed appraiser trainee shall:

(1) Have at least 5 years' experience as a residential or general appraiser.

(2) Supervise no more than three trainees at one time.

(3) Directly supervise and control the trainee's work, assuming total responsibility for the contents of the appraisal report, including all value conclusions.

(4) Accompany the trainee during the physical inspection of the property until the trainee has logged 300 hours of appraisal experience or until the supervising appraiser determines the trainee is competent under USPAP to perform the physical inspection unaccompanied, whichever is the longer period.

(5) Co-sign a Board-approved appraiser trainee checklist that has been completed by the trainee, relates to the trainee's work on the appraisal report and is made part of the appraisal report submitted to the client.

(6) Provide a current or former trainee who is applying for appraiser certification with copies of designated appraisal reports requested by the Board to verify the trainee's experience.

(c) A certified general real estate appraiser who utilizes a certified residential real estate appraiser as an assistant for an appraisal of nonresidential property or an appraisal of residential property of more than four dwelling units shall:

(1) Directly supervise and control the residential appraiser's work, assuming total responsibility for the contents of the appraisal report, including all value conclusions.

(2) Accompany the residential appraiser during the physical inspection of the property until the general appraiser determines the residential appraiser is competent under USPAP to perform the physical inspection unaccompanied.

(3) Co-sign the appraisal report as set forth in § 36.52 and specify in the appraisal report the nature of the significant real property appraisal assistance rendered by the residential appraiser.

(4) Provide the residential appraiser, at the time of application for general appraiser certification, with copies of designated appraisal reports requested by the Board to verify the residential appraiser's experience.

[Pa.B. Doc. No. 10-1277. Filed for public inspection July 16, 2010, 9:00 a.m.]

# STATEMENTS OF POLICY

## Title 55—PUBLIC WELFARE

### DEPARTMENT OF PUBLIC WELFARE

[ 55 PA. CODE CHS. 1101, 1102, 1121, 1123, 1149, 1151, 1163, 1181, 1187, 1230 AND 1243 ]

### Policy Clarification Regarding Written Prescriptions, Orders and Requests

#### Scope

These statements of policy apply to providers enrolled in the Medical Assistance (MA) Program who order, prescribe or request services or items.

#### Purpose

The purpose of these statements of policy is to clarify the terms “written” and “in writing” as they apply to prescriptions, orders and requests for services or items, subject to the Department of Public Welfare’s (Department) regulations in the following chapters:

Chapter 1101 (relating to general provisions)  
Chapter 1102 (relating to shared health facilities)  
Chapter 1121 (relating to pharmaceutical services)  
Chapter 1123 (relating to medical supplies)  
Chapter 1149 (relating to dentists’ services)  
Chapter 1151 (relating to inpatient psychiatric services)  
Chapter 1163 (relating to inpatient hospital services)  
Chapter 1181 (relating to nursing facility care)  
Chapter 1187 (relating to nursing facility services)  
Chapter 1230 (relating to portable X-ray services)  
Chapter 1243 (relating to outpatient laboratory services)

#### Background / Discussion

MA regulations in these chapters state that prescriptions, orders and requests for services or items shall be written or in writing, and, in some instances, also require a signature. When these regulations were adopted, the terms “written” and “in writing” were generally accepted to mean that the practitioner transcribed a signature and the prescription, order or request by hand. However, with advancements in technology and application to the standards of medical practice, the use of electronic media as a mode of communicating prescriptions, orders and requests for services is becoming more commonplace.

The Centers for Medicare and Medicaid Services supports the use of electronic prescribing as a means to reduce medication errors. The Department is issuing these statements of policy to clarify that the terms “written” and “in writing” include prescriptions, orders and requests transmitted using electronic media. Providers shall continue to comply with applicable laws and regulations. These statements of policy do not supersede any existing law or regulation.

#### Regulation Interpretation

The interpretations are set forth in Annex A.

#### Effective Date

These statements of policy are effective upon publication in the *Pennsylvania Bulletin*.

#### Contact Person

The contact person for these statements of policy is the Regulations Coordinator, Office of Medical Assistance Programs, Bureau of Policy, Budget and Planning, (717) 772-6341.

HARRIET DICTER,  
*Secretary*

(*Editor’s Note:* Title 55 of the *Pennsylvania Code* is amended by adding statements of policy in §§ 1101.66a, 1102.34a, 1121.52a, 1123.2a, 1149.43a, 1151.41a, 1163.451a, 1181.257a, 1187.2a, 1187.32a, 1187.55a, 1230.52a and 1243.52a to read as set forth in Annex A.)

**Fiscal Note:** 14-BUL-92. No fiscal impact; (8) recommends adoption.

#### Annex A

### TITLE 55. PUBLIC WELFARE

### PART III. MEDICAL ASSISTANCE MANUAL

### CHAPTER 1101. GENERAL PROVISIONS

#### FEES AND PAYMENTS

#### § 1101.66a. Clarification of the terms “written” and “signature”—statement of policy.

(a) The term “written” in § 1101.66(b) (relating to payment for rendered, prescribed or ordered services) includes orders and prescriptions that are handwritten or transmitted by electronic means.

(b) Written orders and prescriptions transmitted by electronic means must be electronically encrypted or transmitted by other technological means designed to protect and prevent access, alteration, manipulation or use by any unauthorized person.

(c) The term “signature” in § 1101.66(b)(2) includes a handwritten or electronic signature that is made in accordance with the Electronic Transaction Act (73 P. S. §§ 2260.101—2260.5101).

### CHAPTER 1102. SHARED HEALTH FACILITIES

#### ADMINISTRATIVE RESPONSIBILITIES OF OPERATORS

#### § 1102.34a. Clarification of the term “written”—statement of policy.

(a) The term “written” in § 1102.34(3) (relating to responsibilities relating to provider performance) includes orders and prescriptions that are handwritten or transmitted by electronic means.

(b) Written orders and prescriptions transmitted by electronic means must be electronically encrypted or transmitted by other technological means designed to protect and prevent access, alteration, manipulation or use by any unauthorized person.

### CHAPTER 1121. PHARMACEUTICAL SERVICES

#### PAYMENT FOR PHARMACEUTICAL SERVICES

#### § 1121.52a. Clarification of the term “written”—statement of policy.

(a) The term “written” in § 1121.52(a) (relating to payment conditions for various services) includes prescriptions that are handwritten or transmitted by electronic means.

(b) Written prescriptions transmitted by electronic means must be electronically encrypted or transmitted by other technological means designed to protect and prevent access, alteration, manipulation or use by any unauthorized person.

#### **CHAPTER 1123. MEDICAL SUPPLIES**

##### **GENERAL PROVISIONS**

#### **§ 1123.2a. Clarification of the term “written”—statement of policy.**

(a) The term “written” in the definition of “shoe inserts” in § 1123.2 (relating to definitions) includes prescriptions that are handwritten or transmitted by electronic means.

(b) Written prescriptions transmitted by electronic means must be electronically encrypted or transmitted by other technological means designed to protect and prevent access, alteration, manipulation or use by any unauthorized person.

#### **CHAPTER 1149. DENTISTS’ SERVICES**

##### **PROVIDER PARTICIPATION**

#### **§ 1149.43a. Clarification of the terms “in writing,” “written” and “signature”—statement of policy.**

(a) The terms “in writing” and “written” in § 1149.43(7) and (8) (relating to requirements for dental records) include prescriptions that are handwritten or transmitted by electronic means.

(b) Written prescriptions transmitted by electronic means must be electronically encrypted or transmitted by other technological means designed to protect and prevent access, alteration, manipulation or use by any unauthorized person.

(c) The term “signature” in § 1149.43(8)(vi) includes a handwritten or electronic signature that is made in accordance with the Electronic Transaction Act (73 P. S. §§ 2260.101—2260.5101).

#### **CHAPTER 1151. INPATIENT PSYCHIATRIC SERVICES**

##### **PAYMENT FOR INPATIENT PSYCHIATRIC SERVICES**

#### **§ 1151.41a. Clarification of the term “in writing”—statement of policy.**

(a) The term “in writing” in § 1151.41(j) (relating to general payment policy) includes orders that are handwritten or transmitted by electronic means.

(b) Written orders transmitted by electronic means must be electronically encrypted or transmitted by other technological means designed to protect and prevent access, alteration, manipulation or use by any unauthorized person.

#### **CHAPTER 1163. INPATIENT HOSPITAL SERVICES**

##### **Subchapter B. HOSPITALS AND HOSPITAL UNITS UNDER COST REIMBURSEMENT PRINCIPLES**

##### **PAYMENT FOR COST REIMBURSED HOSPITAL SERVICES**

#### **§ 1163.451a. Clarification of the term “in writing”—statement of policy.**

(a) The term “in writing” in § 1163.451(h) (relating to general payment policy) includes orders that are handwritten or transmitted by electronic means.

(b) Written orders transmitted by electronic means must be electronically encrypted or transmitted by other

technological means designed to protect and prevent access, alteration, manipulation or use by any unauthorized person.

#### **CHAPTER 1181. NURSING FACILITY CARE**

##### **Subchapter B. MANUAL FOR ALLOWABLE COST REIMBURSEMENT FOR SKILLED NURSING AND INTERMEDIATE CARE FACILITIES**

##### **OTHER COST ITEMS**

#### **§ 1181.257a. Clarification of the term “written”—statement of policy.**

(a) The term “written” in § 1181.257(c) (relating to drug services) includes orders and prescriptions that are handwritten or transmitted by electronic means.

(b) Written orders and prescriptions transmitted by electronic means must be electronically encrypted or transmitted by other technological means designed to protect and prevent access, alteration, manipulation or use by any unauthorized person.

#### **CHAPTER 1187. NURSING FACILITY SERVICES**

##### **Subchapter A. GENERAL PROVISIONS**

#### **§ 1187.2a. Clarification of the term “written”—statement of policy.**

(a) The term “written” in the definition of “specially adapted DME” in § 1187.2 (relating to definitions) includes orders that are handwritten or transmitted by electronic means.

(b) Written orders transmitted by electronic means must be electronically encrypted or transmitted by other technological means designed to protect and prevent access, alteration, manipulation or use by any unauthorized person.

##### **Subchapter D. DATA REQUIREMENTS FOR NURSING FACILITY APPLICANTS AND RESIDENTS**

#### **§ 1187.32a. Clarification of the term “written”—statement of policy.**

(a) The term “written” in § 1187.32(4) (relating to continued need for nursing facility services requirements) includes orders that are handwritten or transmitted by electronic means.

(b) Written orders transmitted by electronic means must be electronically encrypted or transmitted by other technological means designed to protect and prevent access, alteration, manipulation or use by any unauthorized person.

##### **Subchapter E. ALLOWABLE PROGRAM COSTS AND POLICIES**

#### **§ 1187.55a. Clarification of the term “written”—statement of policy.**

(a) The term “written” in § 1187.55(1)(i) (relating to selected resident care and other resident related cost policies) includes orders and prescriptions that are handwritten or transmitted by electronic means.

(b) Written orders and prescriptions transmitted by electronic means must be electronically encrypted or transmitted by other technological means designed to



protect and prevent access, alteration, manipulation or use by any unauthorized person.

#### **CHAPTER 1230. PORTABLE X-RAY SERVICES**

##### **PAYMENT FOR PORTABLE X-RAY SERVICES**

##### **§ 1230.52a. Clarification of the terms “written” and “signature”—statement of policy.**

(a) The term “written” in § 1230.52(a) (relating to payment conditions for various services) includes requests for portable X-ray procedures that are handwritten or transmitted by electronic means.

(b) Written requests transmitted by electronic means must be electronically encrypted or transmitted by other technological means designed to protect and prevent access, alteration, manipulation or use by any unauthorized person.

(c) The term “signature” in § 1230.52(a)(5) includes a handwritten or electronic signature that is made in accordance with the Electronic Transaction Act (73 P. S. §§ 2260.101—2260.5101).

#### **CHAPTER 1243. OUTPATIENT LABORATORY SERVICES**

##### **PAYMENT FOR OUTPATIENT LABORATORY SERVICES**

##### **§ 1243.52a. Clarification of the terms “written” and “signature”—statement of policy.**

(a) The term “written” in § 1243.52(b) (relating to payment conditions for various services) includes requests for laboratory procedures that are handwritten or transmitted by electronic means.

(b) Written requests transmitted by electronic means must be electronically encrypted or transmitted by other technological means designed to protect and prevent access, alteration, manipulation or use by any unauthorized person.

(c) The term “signature” in § 1243.52(b)(5) includes a handwritten or electronic signature that is made in accordance with the Electronic Transaction Act (73 P. S. §§ 2260.101—2260.5101).

[Pa.B. Doc. No. 10-1278. Filed for public inspection July 16, 2010, 9:00 a.m.]

# NOTICES

## DEPARTMENT OF AGRICULTURE

### Interstate Quarantine Order; Equine Piroplasmosis

#### Recitals

A. Equine Piroplasmosis (Babesiosis) is a tick-borne disease that affects equine animals, including horses, donkeys, mules and zebras. The etiologic agents of equine piroplasmosis are *Babesia caballi* and *Theileria equi* (also known as *Babesia equi*), protozoan parasites which can be transmitted to equine animals by certain tick species. The parasites can also be transmitted by the transfer of blood from infected equine animals through transfusions and shared needles. There is also evidence of vertical transmission. Infected equine animals can remain carriers of the disease agent for extended periods and can act as the source of disease for other equine animals.

B. Infected horses cannot be effectively treated for Equine Piroplasmosis to remove the carrier status.

C. Equine Piroplasmosis (Babesiosis) is designated a "dangerous transmissible disease" of animals under 3 Pa.C.S. § 2321(a)(7) (relating to dangerous transmissible diseases).

D. The Department of Agriculture (Department) has broad authority under 3 Pa.C.S. §§ 2301—2389 (relating to Domestic Animal Law) to regulate the keeping and handling of domestic animals to exclude, contain or eliminate dangerous transmissible diseases. This includes the authority in 3 Pa.C.S. § 2329 (relating to quarantine) to issue the interstate quarantine order as follows.

E. Equine Piroplasmosis has been shown to exist in Texas, and appears to be spreading through natural transmission. The transporting of infected animals from Texas could spread the disease among susceptible domestic animals in this Commonwealth.

F. The Department issued a previous interstate quarantine, establishing a quarantine with respect to the State of Texas and imposing restrictions and testing requirements with respect to equine animals that resided in Texas for a cumulative total of 30 days or more within the 6 months preceding the date of entry into this Commonwealth.

G. Since the establishment of the interstate quarantine described in the preceding paragraph, Equine Piroplasmosis has also been identified in horses in New Mexico. No epidemiological link between the New Mexico cases and Texas animals has been reported. Since the transporting of infected animals from New Mexico could spread the disease among susceptible domestic animals in this Commonwealth, it is necessary to expand the scope of the interstate quarantine order to include New Mexico.

H. The requirements of this interstate quarantine order are reasonable and relatively nonintrusive quarantine restrictions intended to prevent Equine Piroplasmosis from entering this Commonwealth.

#### Order

The Department enters an interstate quarantine order with respect to Equine Piroplasmosis, incorporating the foregoing recitals into this order. This order is entered under authority of 3 Pa.C.S. § 2329 and establishes the following restrictions and conditions:

#### 1. Confirmation of Quarantine; Addition of the State of New Mexico to the Quarantined Area.

a. The Interstate Quarantine established by previous Interstate Quarantine Order of December 20, 2009 (Order of December 20, 2009, published at 40 Pa.B. 30) with respect to the State of Texas remains in effect, subject to the conditions set forth in this Order.

b. An interstate quarantine is hereby established with respect to the State of New Mexico, effective immediately. New Mexico is part of the quarantined area, and is subject to the conditions set forth in this Order.

#### 2. Conditions of Quarantine.

a. If an equine animal has resided in Texas or New Mexico for a cumulative total of 30 days or more within the 6 months preceding the date of entry into this Commonwealth, that animal must be test-negative for *Babesia caballi* and *Theileria equi* (also known as *Babesia equi*) on a competitive enzyme-linked immunosorbent assay (c-ELISA) test, or a Department-approved equivalent test, with the test occurring within the 30 days preceding entry into this Commonwealth. This requirement shall not be applicable to an equine animal that is being transported through this Commonwealth to another state, and that is not offloaded or commingled with other equine animals while within this Commonwealth.

b. The written laboratory test report, confirming compliance with the requirement described in the preceding paragraph, shall accompany the equine animal in transit to a destination within this Commonwealth; and the date of test and the test results shall be written on the Certificate of Veterinary Inspection.

3. *Other Import Requirements.* The test requirement described in this Order is in addition to all other Commonwealth import requirements applicable to equine animals.

4. *Effective Date.* This order shall take effect as of July 1, 2010; and shall remain in effect until rescinded or modified by subsequent Order.

RUSSELL C. REDDING,  
Secretary

[Pa.B. Doc. No. 10-1279. Filed for public inspection July 16, 2010, 9:00 a.m.]

## DEPARTMENT OF BANKING

### Actions on Applications

The Department of Banking (Department), under the authority contained in the act of November 30, 1965 (P. L. 847, No. 356), known as the Banking Code of 1965; the act of December 14, 1967 (P. L. 746, No. 345), known as the Savings Association Code of 1967; the act of May 15, 1933 (P. L. 565, No. 111), known as the Department of Banking Code; and the act of December 19, 1990 (P. L. 834, No. 198), known as the Credit Union Code, has taken the following action on applications received for the week ending June 29, 2010.

Under section 503.E of the Department of Banking Code (71 P. S. § 733-503.E), any person wishing to comment on the following applications, with the exception of branch applications, may file their comments in writing with the Department of Banking, Corporate Applications Division, 17 North Second Street, Suite 1300, Harrisburg, PA 17101-2290. Comments must be received no later than 30 days from the date notice regarding receipt of the application is published in the *Pennsylvania Bulletin*. The nonconfidential portions of the applications are on file at the Department and are available for public inspection, by appointment only, during regular business hours. To schedule an appointment, contact the Corporate Applications Division at (717) 783-2253. Photocopies of the nonconfidential portions of the applications may be requested consistent with the Department's Right-to-Know Law Records Request policy.

### BANKING INSTITUTIONS

#### Interim Incorporations

<i>Date</i>	<i>Name and Location of Applicant</i>	<i>Action</i>
6-24-2010	Bryn Mawr Interim Bank Bryn Mawr Montgomery County  The purpose of Bryn Mawr Interim Bank, Bryn Mawr, is to facilitate the proposed merger of First Keystone Bank, Media, with and into The Bryn Mawr Trust Company, Bryn Mawr.	Effective

#### Branch Applications

##### De Novo Branches

<i>Date</i>	<i>Name and Location of Applicant</i>	<i>Location of Branch</i>	<i>Action</i>
6-23-2010	New Century Bank Phoenixville Chester County	1015 Penn Avenue Wyomissing Bucks County	Filed

#### Branch Consolidations

<i>Date</i>	<i>Name and Location of Applicant</i>	<i>Location of Branch</i>	<i>Action</i>
3-26-2010	Parkvale Savings Bank Monroeville Allegheny County	<i>Into:</i> 307 Fourth Avenue Pittsburgh Allegheny County  <i>From:</i> 200 Fifth Avenue Pittsburgh Allegheny County	Effective

#### Branch Discontinuances

<i>Date</i>	<i>Name and Location of Applicant</i>	<i>Location of Branch</i>	<i>Action</i>
6-23-2010	Susquehanna Bank Lititz Lancaster County	275 Clifton Boulevard Westminster Carroll County, MD	Filed

### SAVINGS INSTITUTIONS

No activity.

### CREDIT UNIONS

#### Community Charter Conversions

<i>Date</i>	<i>Name and Location of Institution</i>	<i>Action</i>
6-24-2010	Moonlight Credit Union Worthington Armstrong County  The credit union proposes to amend Article 8 of its Articles of Incorporation to provide the following field of membership: "All people who live, work, worship, attend school in, and businesses and other legal entities in the County of Armstrong, Commonwealth of Pa."	Filed

The Department's web site at [www.banking.state.pa.us](http://www.banking.state.pa.us) includes public notices for more recently filed applications.

STEVEN KAPLAN,  
Secretary

[Pa.B. Doc. No. 10-1280. Filed for public inspection July 16, 2010, 9:00 a.m.]

## DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES

### Conservation and Natural Resources Advisory Council Meeting

The Conservation and Natural Resources Advisory Council to the Department of Conservation and Natural Resources (Department) will hold a meeting on Wednesday, July 28, 2010, at 10 a.m. in Room 105, Lobby Level, Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA.

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

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

JOHN QUIGLEY,  
*Secretary*

[Pa.B. Doc. No. 10-1281. Filed for public inspection July 16, 2010, 9:00 a.m.]

## DEPARTMENT OF EDUCATION

### Application of Jerome K. Hasson for Reinstatement of Teaching Certificates; Doc. No. RE-10-01

#### Notice of Opportunity for Hearing and Invitation to Protest

Under the Professional Educator Discipline Act (act) (24 P. S. §§ 2070.1—2070.18a), the Professional Standards

and Practices Commission (Commission) will consider the application of Jerome K. Hasson for reinstatement of his teaching certificates.

Jerome K. Hasson filed an application for reinstatement of his teaching certificates under section 16 of the act (24 P. S. § 2070.16), 1 Pa. Code §§ 35.1 and 35.2 (relating to applications) and 22 Pa. Code § 233.14 (relating to reinstatements). Under section 16 of the act, the Department of Education on June 21, 2010, does not support reinstatement.

In accordance with the act, 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure) and 22 Pa. Code § 233.14(d) (relating to waiver of hearing), the Commission will act upon the application without hearing, unless within 30 days after the publication of this notice a written request for public hearing is filed with the Commission, along with a notice of intervention, a petition to intervene or protest in accordance with 1 Pa. Code §§ 35.23 and 35.24 (relating to protests) or 1 Pa. Code §§ 35.27—35.32 (relating to intervention).

Petitions to intervene, protests and requests for hearing shall be filed with Carolyn Angelo, Executive Director of the Professional Standards and Practices Commission, at 333 Market Street, Harrisburg, PA 17126-0333, on or before 4 p.m. on the due date prescribed by this notice.

Persons with a disability who wish to attend the hearing, if held, and require an auxiliary aid, service or other accommodation to participate, should contact Suzanne Markowicz at (717) 787-6576 to discuss how the Commission may best accommodate their needs.

THOMAS E. GLUCK,  
*Acting Secretary*

[Pa.B. Doc. No. 10-1282. Filed for public inspection July 16, 2010, 9:00 a.m.]

## DEPARTMENT OF ENVIRONMENTAL PROTECTION

### Applications, Actions and Special Notices

#### APPLICATIONS

### THE CLEAN STREAMS LAW AND THE FEDERAL CLEAN WATER ACT

#### APPLICATIONS FOR NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES) PERMITS AND WATER QUALITY MANAGEMENT (WQM) PERMITS

This notice provides information about persons who have applied for a new, amended or renewed NPDES or WQM permit, a permit waiver for certain stormwater discharges or submitted a Notice of Intent (NOI) for coverage under a general permit. The applications concern, but are not limited to, discharges related to 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 (CAFOs). This notice is provided in accordance with 25 Pa. Code Chapters 91 and 92 and 40 CFR Part 122, implementing The Clean Streams Law (35 P. S. §§ 691.1—691.1001) and the Federal Clean Water Act.

<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



<i>Location</i>	<i>Permit Authority</i>	<i>Application Type or Category</i>
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 a tentative determination of proposed effluent limitations and other terms and conditions for the permit applications. These determinations are published as proposed actions for comments prior to taking final actions.

Unless indicated otherwise, the 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 an NPDES application are invited to submit a statement to the regional office noted before an application within 30 days from the date of this public notice. Persons wishing to comment on a WQM permit application are invited to submit a statement to the regional 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. Comments 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 a public hearing on applications. A public hearing may be held if the responsible office considers the public response significant. If a hearing is scheduled, a notice of the hearing will be published in the *Pennsylvania Bulletin* and a newspaper of general circulation within the relevant geographical area. The Department will postpone its final determination until after a public hearing is held.

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

## I. NPDES Renewal Applications

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

**PA0020168**, Sewage, SIC Code 4941, 4952, **East Stroudsburg Borough**, P. O. Box 303, East Stroudsburg, PA 18301-0303. Facility Name: East Stroudsburg Borough. This existing facility is located in East Stroudsburg Borough, **Monroe 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), Brodhead, is located in State Water Plan watershed 01E and is classified for CWF, 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 2.25 MGD.

<i>Parameters</i>	<i>Mass (lb/day)</i>			<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Weekly Average</i>	<i>Minimum</i>	<i>Average Monthly</i>	<i>Weekly Average</i>	<i>Instantaneous Maximum</i>
Flow (MGD)	Report	Report Daily Maximum	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0	XXX	XXX	9.0
Total Residual Chlorine	XXX	XXX	XXX	1.0	XXX	2.3
CBOD <sub>5</sub>	469	751	XXX	25	40	50
Total Suspended Solids	563	844	XXX	30	45	60
Fecal Coliform (CFU/100 ml)						
May 1 - Sep 30	XXX	XXX	XXX	200 Geometric Mean	XXX	XXX
Oct 1 - Apr 30	XXX	XXX	XXX	2,000 Geometric Mean	XXX	XXX
Ammonia-Nitrogen						
May 1 - Oct 31	178	XXX	XXX	9.5	XXX	XXX

The proposed effluent limits for Outfall 002 are based on stormwater.

<i>Parameters</i>	<i>Mass (lb/day)</i>			<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Minimum</i>	<i>Average Monthly</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>
pH (S.U.)	XXX	XXX	XXX	XXX	Report	XXX
CBOD <sub>5</sub>	XXX	XXX	XXX	XXX	Report	XXX
Chemical Oxygen Demand	XXX	XXX	XXX	XXX	Report	XXX
Total Suspended Solids	XXX	XXX	XXX	XXX	Report	XXX
Oil and Grease	XXX	XXX	XXX	XXX	Report	XXX
Total Kjeldahl Nitrogen	XXX	XXX	XXX	XXX	Report	XXX
Total Phosphorus	XXX	XXX	XXX	XXX	Report	XXX
Total Iron	XXX	XXX	XXX	XXX	Report	XXX

The proposed effluent limits for Outfall 003 are based on stormwater.

<i>Parameters</i>	<i>Mass (lb/day)</i>			<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Minimum</i>	<i>Average Monthly</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>
pH (S.U.)	XXX	XXX	XXX	XXX	Report	XXX
CBOD <sub>5</sub>	XXX	XXX	XXX	XXX	Report	XXX
Chemical Oxygen Demand	XXX	XXX	XXX	XXX	Report	XXX
Total Suspended Solids	XXX	XXX	XXX	XXX	Report	XXX
Oil and Grease	XXX	XXX	XXX	XXX	Report	XXX
Total Kjeldahl Nitrogen	XXX	XXX	XXX	XXX	Report	XXX
Total Phosphorus	XXX	XXX	XXX	XXX	Report	XXX
Total Iron	XXX	XXX	XXX	XXX	Report	XXX

The proposed effluent limits for Outfall 004 are based on stormwater.

<i>Parameters</i>	<i>Mass (lb/day)</i>			<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Minimum</i>	<i>Average Monthly</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>
pH (S.U.)	XXX	XXX	XXX	XXX	Report	XXX
CBOD <sub>5</sub>	XXX	XXX	XXX	XXX	Report	XXX
Chemical Oxygen Demand	XXX	XXX	XXX	XXX	Report	XXX
Total Suspended Solids	XXX	XXX	XXX	XXX	Report	XXX
Oil and Grease	XXX	XXX	XXX	XXX	Report	XXX
Total Kjeldahl Nitrogen	XXX	XXX	XXX	XXX	Report	XXX
Total Phosphorus	XXX	XXX	XXX	XXX	Report	XXX
Total Iron	XXX	XXX	XXX	XXX	Report	XXX

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

- Stormwater, WETT.

You may make an appointment to review the Department of Environmental Protection's files on this case by calling the File Review Coordinator at 570-826-5472.

The EPA waiver is not in effect.

**PA0062898**, Industrial Waste, SIC Code 4941, **PA American Water Co.**, 100 North Pennsylvania Avenue, Wilkes-Barre, PA 18701-1397. Facility Name: PA American Water Watres WTP. This existing facility is located in Plains Township, **Luzerne 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), Deep Creek, is located in State Water Plan watershed 5-B and is classified for, aquatic life, water supply and recreation. The discharge is not expected to affect public water supplies.

The proposed effluent limits for Outfall 001 (Deep Creek) are based on a design flow of 0.034 MGD.

<i>Parameters</i>	<i>Mass (lb/day)</i>			<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Daily Maximum</i>	<i>Minimum</i>	<i>Average Monthly</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>
Flow (MGD)	Report	Report	XXX	XXX	XXX	XXX
Duration of Discharge (minutes)	Report	Report	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0	XXX		9.0
Total Residual Chlorine	XXX	XXX	XXX	0.38	0.57	XXX

<i>Parameters</i>	<i>Mass (lb/day)</i>			<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Daily Maximum</i>	<i>Minimum</i>	<i>Average Monthly</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>
Total Suspended Solids	XXX	XXX	XXX	30		60
Total Aluminum	0.5	0.8	XXX	1.02	1.6	2.0
Total Barium	XXX	XXX	XXX	Report	Report	XXX
Total Iron	XXX	XXX	XXX	2.0	4.0	XXX
Total Manganese	XXX	XXX	XXX	1.0	2.0	XXX
Total Zinc	XXX	XXX	XXX	Report	Report	XXX

The proposed effluent limits for Outfall 002 (Stormwater only, to Mill Creek) are based on a design flow of 0.336 MGD.

<i>Parameters</i>	<i>Mass (lb/day)</i>			<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Daily Maximum</i>	<i>Minimum</i>	<i>Average Monthly</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>
pH (S.U.)	XXX	XXX	XXX	XXX	Report	XXX
CBOD <sub>5</sub>	XXX	XXX	XXX	XXX	Report	XXX
Chemical Oxygen Demand	XXX	XXX	XXX	XXX	Report	XXX
Total Suspended Solids	XXX	XXX	XXX	XXX	Report	XXX
Oil and Grease	XXX	XXX	XXX	XXX	Report	XXX
Total Kjeldahl Nitrogen	XXX	XXX	XXX	XXX	Report	XXX
Total Phosphorus	XXX	XXX	XXX	XXX	Report	XXX
Total Iron	XXX	XXX	XXX	XXX	Report	XXX

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

- The Outfall 001 discharge is for emergency use only, with reporting requirements and effluent sampling frequencies modified to address intermittent discharge scenarios.

- Stormwater conditions have been added to address the plant's stormwater Outfall 002

You may make an appointment to review the Department of Environmental Protection's files on this case by calling the File Review Coordinator at 570-826-5472.

The EPA waiver is in effect.

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

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0087718 (IW)	Crystal Spring Hardwoods P. O. Box 34 Crystal Spring, PA 15536	Fulton County Brush Creek Township	Little Brush Creek 11-C	Y
PA0022250 (Sew)	Biglerville Borough Authority 33 Musselman Avenue Biglerville, PA 17307	Adams County Butler Township	UNT of Conewago Creek 7-F	Y
PA0088781 (IW—Transfer)	Calpine Mid Merit, LLC 717 Texas Avenue Suite 1000 Houston, TX 77002	York County Peach Bottom Township	Susquehanna River 7-I	Y
PA0030511 (Sew)	Bermudian Springs School District 7335 Carlisle Pike York Springs, PA 17372-0501	Adams County Huntington Township	UNT to Mud Run 7-F	Y
PA0036790 (Sew)	Paradise Mobile Home Park, Inc. 101 Pfautz Road Duncannon, PA 17020	Perry County Wheatfield Township	UNT to Dark Run 7-A	Y
PA0088234 (CAFO)	Franklin Family Farms, Inc. Acorn Farms, Inc. 14627 Lurgan Road Orrstown, PA 17244	Franklin County Lurgan Township	UNT to Paxton Run 7-B	Y
PA0080195 (IW)	Anvil International 1411 Lancaster Avenue Columbia, PA 17512-1939	Lancaster County Columbia Borough	UNT to Shawnee Run 7-G	Y

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0088439 (Sew)	Lee E. Mummau 14192 Day Avenue Mount Airy, MD 21771-4635	Fulton County Licking Creek Township	Sindeldecker Branch 13-B	Y

*Northcentral Regional Office: Water Management Program Manager, 208 West Third Street, Suite 101, Williamsport, PA 17701-6448. Phone: 570-327-0532.*

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N?</i>
PA0209147 (Sewage)	Centre Hall Potter Sewer System 2940 Penns Valley Pike Centre Hall, PA 16828-0497	Centre County Potter Township	Unnamed Tributary to Sinking Creek 6-A	Y
PA0113433 (Sewage)	Fetterman SFTF 2074 Old Reading Road Catawissa, PA 17820	Columbia County Roaring Creek Township	Unnamed Tributary of Roaring Creek 5-E	Y
PA0014575 (Industrial Waste)	Jersey Shore Area Joint Water Authority Water Company Road Off Route 973e Jersey Shore, PA 17740-5046	Lycoming County Anthony Township	Larrys Creek 10-A	Y
PA0014567 (Industrial Waste)	Jersey Shore Area Joint Water Authority Route 973 Jersey Shore, PA 17740-5046	Clinton County Pine Creek Township	Pine Creek 9-A	Y
PA0112585 (Sewage)	Wagon Wheel Apartments Wastewater Treatment Plant R. R. 2 Box 291 Ulster, PA 18850	Bradford County Ulster Township	Toad Hollow 4-B	Y
PA0209031 (Sewage)	Loganton Borough Authority Wastewater Treatment Plant P. O. Box 203 Loganton, PA 17747-0203	Clinton County Loganton Borough	Fishing Creek 9-C	Y
PA0228931 (Sewage)	Kathy Weaver and Robert Martin SFTF 2495 Valley View Road Bellefonte, PA 16823	Centre County Benner Township	Unnamed Tributary of Buffalo Run 9-C	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0239585	Lawrence J. Adams 125 Wallace Road Portersville, PA 16051	Butler County Muddy Creek Township	Unnamed Tributary to Big Run 20-C	Y
PA0002461	Dresser, Inc., d/b/a Dresser Piping Specialties, Inc. 41 Fisher Avenue Bradford, PA 16701-1649	McKean County City of Bradford	Tunungwant Creek 16-C	Y

## **II. Applications for New or Expanded Facility Permits, Renewal of Major Permits and EPA Nonwaived Permit Applications**

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

**PA0244040**, Sewage, SIC Code 4952, **Shelly Square LP**, 528 Main Street, Harleysville, PA 19610. Facility Name: Shelly Rd Development. This existing facility is located in Upper Salford Township, **Montgomery County**.

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

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



The proposed effluent limits for Outfall 001 are based on flow of 12,446 GPD.

<i>Parameters</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Daily Maximum</i>	<i>Minimum</i>	<i>Average Monthly</i>	<i>Instantaneous Maximum</i>
Flow (MGD)	Report	Report			
pH (S.U.)			6.0 Instantaneous Minimum		9.0
Dissolved Oxygen			6.0		
CBOD <sub>5</sub>				15	30
Total Suspended Solids				15	30
Total Dissolved Solids				Report	
Oil and Grease				Report	
Fecal Coliform (CFU/100 ml)				200	1,000
Total Nitrogen				Report	
Ammonia-Nitrogen				1.5	3.0
Total Phosphorus				0.5	1.0

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

- Notification of operator.
- Once per week monitoring.
- Abandon of STP.
- Public Nuisance.
- No stormwater.
- Property Rights.
- Change of ownership.
- Sludge disposal.
- TMDL/WLA Analysis.
- UV—disinfection system.
- Laboratory Certification.
- Fecal Coliform IMAX reporting.

You may make an appointment to review the Department of Environmental Protection's files on this case by calling the File Review Coordinator at 484-250-5910.

The EPA waiver is in effect.

**PA0057657**, Sewage, **Kendal-Crosslands Communities**, P. O. Box 100, Kennett Square, PA 19348. This proposed facility is located in Kennett Township, **Chester County**.

Description of Proposed Activity: This application is for renewal of an NPDES permit for an existing discharge of treated sewage from Kendal-Crosslands sewage treatment plant. The discharge is authorized only during the period of November 1 through April 30, and the permittee is expected to maximize the use of spray irrigation for disposal of the treated wastewater in accordance with existing Water Quality Management permits.

The receiving stream, Bennetts Run, is in the State Water Plan watershed 3H and is classified for: WWF and MF.

The proposed effluent limits for Outfall 001 are based on a design flow of 0.125 mgd:

<i>Parameters</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		<i>Instantaneous Maximum (mg/l)</i>
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	
CBOD <sub>5</sub>	21		20		40
Total Suspended Solids	10		10		20
Ammonia-Nitrogen	2.1		2.0		4.0
Total Phosphorus	2.1		2.0		4.0
Fecal Coliform			200/100 ml		1,000/100 ml
Dissolved Oxygen			5.0 (Minimum)		
pH (Std. Units)			6.0 (Minimum)		9.0
Total Residual Chlorine			0.1		0.2
Copper, Total	0.013	0.025	0.012	0.024	0.03
Zinc, Total	0.08	0.17	0.08	0.16	0.2

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

1. Notification of Designation of Operator.
2. Abandon STP when Municipal Sewers Available.
3. Remedial Measures if Unsatisfactory Effluent.

4. No Stormwater.
5. Acquire Necessary Property Rights.
6. Change of Ownership.
7. Total Residual Chlorine Requirement.
8. Sludge Disposal Requirement.
9. I-Max Requirements.
10. Laboratory Certification.
11. Fecal Coliform I-Max Reporting.
12. Discharge Authorized Only November 1 to April 30.

**PA0052230**, Sewage, SIC Code 4952, **Spring Hill Farm WWTF Association**, P. O. Box 756, Chadds Ford, PA 19317. Facility Name: Spring Hill Farm STP. This existing facility is located in Chadds Ford Township, **Delaware County**.

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

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

The proposed effluent limits for Outfall 001 are based on a design flow of 0.1 MGD.

<i>Parameters</i>	<i>Mass (lb/day)</i>			<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Daily Maximum</i>	<i>Instantaneous Minimum</i>	<i>Average Monthly</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>
Flow (MGD)	Report	Report	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0	XXX	XXX	9.0
Dissolved Oxygen	XXX	XXX	5.0	XXX	XXX	XXX
Total Residual Chlorine	XXX	XXX	XXX	0.06	XXX	0.14
CBOD <sub>5</sub>	21	XXX	XXX	25	XXX	50
Total Suspended Solids	25	XXX	XXX	30	XXX	60
Fecal Coliform (CFU/100 ml)	XXX	XXX	XXX	200	XXX	1,000
Ammonia-Nitrogen (MGD)						
May 1 - Oct 31	1.7	XXX	XXX	2.0	XXX	4.0
Ammonia-Nitrogen						
Nov 1 - Apr 30	5.0	XXX	XXX	6.0	XXX	12.0
Total Phosphorus (Interim)	XXX	XXX	XXX	Report	XXX	Report
Total Phosphorus						
May 1 - Oct 31 (Final)	0.8	XXX	XXX	1.0	XXX	2.0
Nov 1 - May 31 (Final)	1.7	XXX	XXX	2.0	XXX	4.0

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

1. Operator Notification.
2. Abandon STP when Municipal Sewers Available.
3. Remedial Measures if Unsatisfactory Effluent.
4. No Stormwater.
5. Acquire Necessary Property Rights.
6. Small Stream Discharge.
7. Change of Ownership.
8. Chlorine Minimization Plan.
9. Proper Sludge Disposal.
10. TMDL/WLA Requirement.
11. Laboratory Certification.
12. Fecal Coliform Reporting.

You may make an appointment to review the Department of Environmental Protection's files on this case by calling the File Review Coordinator at 484-250-5910.

The EPA waiver is in effect.

**PA0057967**, Industrial Waste, SIC Code 2066, **RAF Pennsburg, LP**, 165 Township Line Road, Suite 100, Jenkintown, PA 19046-3546. Facility Name: RAF Pennsburg Plant. This existing facility is located in Upper Hanover Township, **Montgomery County**.

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

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

The proposed effluent limits for Outfall 001 are based on a design flow of 0.020 MGD.

<i>Parameters</i>	<i>Mass (lb/day)</i>			<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Daily Maximum</i>	<i>Instantaneous Minimum</i>	<i>Average Monthly</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>
Flow (MGD)	Report	Report				
pH (S.U.)			6.0			9.0
Dissolved Oxygen			5.0			
Color (Pt-Co Units)						100
CBOD <sub>5</sub>	4.0	8.0		25	50	62
Total Suspended Solids	3.5	7.0		20	40	50
Total Dissolved Solids	167	334		1,000	2,000	2,500
Oil and Grease				15	30	30
Fecal Coliform					200	1,000
					Geometric Mean	
Ammonia-Nitrogen	0.35	0.70		2.0	4.0	5.0
Total Phosphorus	0.35	0.70		2.0	4.0	5.0
Chromium, Total				Report		
Cadmium, Total				Report		
Copper, Total				Report		
Manganese, Total				Report		
Chromium, Hex				Report		
Chromium, Trivalent				Report		
Nickel, Total				Report		

The proposed effluent limits for Outfalls 002—005 are based on average storm event are as follows:

<i>Parameters</i>	<i>Mass (lb/day)</i>			<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Daily Maximum</i>	<i>Minimum</i>	<i>Average Monthly</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>
pH (S.U.)					Report	
CBOD <sub>5</sub>					Report	
Chemical Oxygen Demand					Report	
Total Suspended Solids					Report	
Oil and Grease					Report	
Total Kjeldahl Nitrogen					Report	
Total Phosphorus					Report	
Total Iron					Report	

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

13. Storm Water Management Practices.
14. Approved Test Methods.

You may make an appointment to review the Department of Environmental Protection's files on this case by calling the File Review Coordinator at 484.250.5910.

The EPA waiver is in effect.

#### NPDES PUBLIC NOTICE

Application for National Pollutant Discharge Elimination  
System (NPDES) Permit to Discharge to State Waters

*Northcentral Regional Office: Regional Water Management Program Manager, 208 West Third Street, Suite 101, Williamsport, PA 17701-6448, Telephone: 570-327-0532.*

**PA0034576**, Sewage, SIC Code 4952, **Towanda Borough Municipal Authority Bradford County**, 724 Main Street, Towanda, PA 18848-1616. Facility Name: Towanda Municipal Authority. This existing facility is located in Towanda Borough, **Bradford County**.

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

The receiving stream(s), Susquehanna River, is located in State Water Plan watershed 4-C and is classified for Warm Water Fishes, aquatic life, water supply and recreation. The discharge is not expected to affect public water supplies.

The proposed effluent limits for Outfall 001 are based on a design flow of 1.16 MGD.

<i>Parameters</i>	<i>Mass (lb/day)</i>		<i>Minimum</i>	<i>Concentration (mg/l)</i>		<i>Instantaneous Maximum</i>
	<i>Average Monthly</i>	<i>Weekly Average</i>		<i>Average Monthly</i>	<i>Weekly Average</i>	
Flow (MGD)	Report	Report Daily Maximum				
pH (S.U.)			6.0			9.0
CBOD <sub>5</sub>	242	387		25	40	50
Total Suspended Solids	290	435		30	45	60
Fecal Coliform (CFU/100 ml)						
May 1 - Sep 30				200		
				Geometric Mean		
Oct 1 - Apr 30				2,000		
				Geometric Mean		
UV Intensity (%)			Report			
Total Copper					Report Daily Maximum	

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 (lb/day)</i>		<i>Minimum</i>	<i>Concentration (mg/l)</i>	
	<i>Monthly</i>	<i>Annual</i>		<i>Monthly Average</i>	<i>Maximum</i>
Ammonia-N	Report	Report		Report	
Kjeldahl-N	Report			Report	
Nitrate-Nitrite as N	Report			Report	
Total Nitrogen	Report	Report		Report	
Total Phosphorus	Report	Report		Report	
Net Total Nitrogen (Interim)	Report	Report			
Net Total Nitrogen (Final)	Report	21,187			
Net Total Phosphorus (Interim)	Report	Report			
Net Total Phosphorus (Final)	Report	2,825			

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

- I. Compliance schedule for PART A I.
- II. Chesapeake Bay Nutrient Requirements.
- III. Other Requirements.
  - A. Requires the permittee to acquire easements to maintain and operate the sanitary sewers.
  - B. The right to require operation and/or construction changes, when necessary, to produce an acceptable discharge.
  - C. Requires proper disposal of sludge.
  - D. Requires no direct discharge of storm water to the sanitary sewers.
  - E. Requires whole effluent toxicity test submission with next renewal application.
- IV. Stormwater Requirements.
- V. Requires management and reporting of biosolids within the treatment process.

You may make an appointment to review the Department of Environmental Protection's files on this case by calling the File Review Coordinator at 570-327-3693.

The EPA waiver is not in effect.

**PA0037966**, Sewage 4952, **Moshannon Valley Joint Sewer Authority**, 829 North 9th Street, Philipsburg, PA 16866. This proposed facility is located in Rush Township, **Centre County**.

Description of Proposed Activity: Renewal of NPDES permit for POTW.

The receiving stream, Moshannon Creek, is in the State Water Plan watershed 8D and is classified for TSF. The nearest downstream public water supply intake for PA American Water is located on West Branch Susquehanna River and is 160 miles below the point of discharge.



The proposed effluent limits for Outfall 001 are based on a design flow of 1.732 MGD

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum mg/l</i>
Flow MGD				
CBOD <sub>5</sub>	25	40	50	50
TSS	30	45	60	60
TRC	1.0			2.3
Fecal Coliforms 5/1 - 9/30	200 colonies/100 ml as a Geometric Mean, and not greater than 1,000 colonies/100 ml in more than 10% of the samples tested			
(10/1 - 4/30)	(2000 #/100 ml Geometric Mean)			
pH (S.U.)	6.0 to 9.0 at all times			

#### Bay Limits

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum mg/l</i>
Ammonia-N	Report			
Kjeldahl-N	Report			
Nitrite/Nitrate-N	Report			
Total Nitrogen	Report			
Total Phosphorus	Report			

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

- Chesapeake Bay Schedule.
- Chesapeake Bay Nutrient Requirements.
- Solids Management.

The EPA waiver is not in effect.

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

**PA0003255**, Industrial Waste, SIC, **Latrobe Specialty Steel**, 2626 South Ligonier Street, Latrobe, PA 15650-0031. This application is for renewal of an NPDES permit to discharge cooling water and storm water from steel mill in Latrobe Borough, **Westmoreland County**.

The following effluent limitations are proposed for discharge to the receiving waters, Sulfur Run and Loyalhanna Creek, classified as cold water fisheries with existing and/or potential uses for aquatic life, water supply and recreation. The first existing/proposed downstream potable water supply is Buffalo Township Municipal Authority, located at Freeport, 35 miles below the discharge point.

*Outfall 001: existing discharge, design flow of 0.0035 mgd.*

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Flow (MGD)	Monitor and Report				
Temperature (° F)				110	
TRC			0.5	1.0	
Aluminum	0.05	0.10	0.75	1.5	
Iron	0.09	0.18	1.5	3.0	
Manganese	0.06	0.12	1.0	2.0	
pH (S.U.)	not less than 6.0 nor greater than 9.0				

*Outfall 002: existing stormwater discharge.*

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Flow (MGD)	Monitor and Report				
Aluminum	7.70	15.4	0.75	1.5	
Iron	22.2	44.4	2.16	4.32	
Manganese	10.3	20.6	1.0	2.0	
TSS	Monitor and Report				

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
BOD <sub>5</sub>			Monitor and Report		
Zinc			Monitor and Report		
Fluoride			Monitor and Report		
Molybdenum			Monitor and Report		
pH (S.U.)	not less than 6.0 nor greater than 9.0				

*Outfall 003:* existing stormwater discharge.

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Discharge from Outfall 003 shall consist of uncontaminated stormwater runoff.					

*Outfall 004:* existing discharge, design flow of 0.00733 MGD.

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Flow (MGD)	Monitor and Report				
Temperature (° F)				110	
TRC			0.5	1.0	
Aluminum	0.31	0.62	0.75	1.5	
Iron	1.14	2.28	1.5	3.0	
Manganese	0.42	0.84	1.0	2.0	
pH (S.U.)	not less than 6.0 nor greater than 9.0				

*Outfall 006:* existing discharges.

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Flow (MGD)	Monitor and Report				
Aluminum	0.01	0.02	0.75	1.5	
Iron	0.02	0.04	1.5	3.0	
Manganese	0.01	0.02	1.0	2.0	
Molybdenum			Monitor and Report		
pH (S.U.)	not less than 6.0 nor greater than 9.0				

*Outfall 007:* storm water runoff.

Parameter	Mass (lb / day)		Concentration (mg / l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
Flow (MGD)	Monitor and Report				
Total Suspended Solids			30	60	
Total Residual Chlorine			1.4	3.28	
Aluminum	9.83	19.7	0.75	1.5	
Iron	19.7	39.4	1.5	3.0	
Manganese	13.1	26.2	1.0	2.0	
BOD <sub>5</sub>			Monitor and Report		
C-BOD			Monitor and Report		
Barium			Monitor and Report		
Boron			Monitor and Report		
Chromium III			Monitor and Report		
Molybdenum			Monitor and Report		
pH (S.U.)			Monitor and Report		

The EPA waiver is in effect.

**PA0098531**, Sewage, **Chesla Investment Group, LLC**, 2114 Nicholas Lane, Greensburg, PA 15601. This application is for renewal of an NPDES permit to discharge treated sewage from Green Hills MHP STP in Hempfield Township, **Westmoreland County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Unnamed Tributary of Little Sewickley Creek, which are classified as a trout stock fishery with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the McKeesport Municipal Water Authority.

*Outfall 001*: existing discharge, design flow of 0.03 mgd.

Parameter	Concentration (mg/l)			
	Average Monthly	Average Weekly	Maximum Daily	Instantaneous Maximum
CBOD <sub>5</sub>	10			20
Suspended Solids	25			50
Ammonia Nitrogen				
May 1 to Oct 31	2.5			5.0
Nov 1 to Apr 30	7.5			15.0
Fecal Coliform				
May 1 to Sep 30	200/100 ml as a Geometric Mean			
Oct 1 to Apr 30	2,000/100 ml as a Geometric Mean			
Total Residual Chlorine	0.2			0.45
Dissolved Oxygen	not less than 6.0 mg/l			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

**PA0035882**, Sewage, **S-2 Properties**, P. O. Box 24509, Pittsburgh, PA 15234. This application is for renewal of an NPDES permit to discharge treated sewage from Placid Manor Mobile Home Park STP in Hempfield Township, **Westmoreland County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Unnamed Tributary of Little Sewickley Creek, which are classified as a trout stock fishery with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the Westmoreland County Municipal Authority, McKeesport Plant, on the Youghiogheny River.

*Outfall 001*: existing discharge, design flow of 0.015 mgd.

Parameter	Concentration (mg/l)			
	Average Monthly	Average Weekly	Maximum Daily	Instantaneous Maximum
CBOD <sub>5</sub>	25			50
Suspended Solids	30			60
Ammonia Nitrogen				
May 1 to Oct 31	2.6			5.2
Nov 1 to Apr 30	5.0			10.0
Fecal Coliform				
May 1 to Sep 30	200/100 ml as a Geometric Mean			
Oct 1 to Apr 30	2,000/100 ml as a Geometric Mean			
Total Residual Chlorine	0.06			0.15
Dissolved Oxygen	not less than 6.0 mg/l			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

**PA0218456**, Sewage, **Elaine L. and Dale R. Wright**, 432 Lakeview Drive, New Brighton, PA 15066-4123. Facility Name: Wright Single Residence STP. This existing facility is located in New Sewickley Township, **Beaver County**.

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

The receiving stream(s), Brush Creek, is located in State Water Plan watershed 20-C and is classified for Warm Water Fishes, aquatic life, water supply and recreation. The discharge is not expected to affect public water supplies.

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

Parameters	Mass (lb/day)			Concentration (mg/l)		
	Average Monthly	Daily Maximum	Minimum	Average Monthly	Daily Maximum	Instantaneous Maximum
Flow (MGD)	0.0004	XXX	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0	XXX	XXX	9.0
Total Residual Chlorine	XXX	XXX	XXX	Report	XXX	XXX

<i>Parameters</i>	<i>Mass (lb/day)</i>			<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Daily Maximum</i>	<i>Minimum</i>	<i>Average Monthly</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>
CBOD <sub>5</sub>	XXX	XXX	XXX	25	XXX	50
Total Suspended Solids	XXX	XXX	XXX	30	XXX	60
Fecal Coliform (CFU/100 ml)						
May 1 - Sep 30	XXX	XXX	XXX	200 Geometric Mean	XXX	1,000
Oct 1 - Apr 30	XXX	XXX	XXX	2,000 Geometric Mean	XXX	10,000

You may make an appointment to review the Department of Environmental Protection's files on this case by calling the File Review Coordinator at 412-442-4000.

The EPA waiver is in effect.

**PA0254266**, Sewage, **Family Guidance, Inc.**, 307 Duff Road, Sewickley, PA 15143. This application is for issuance of an NPDES permit to discharge treated sewage from Promise Camp STP, in Hanover Township, **Beaver County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Unnamed Tributary to Little Traverse Creek, which are classified as a warm water fishery with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the Village Inn.

*Outfall 001*: new discharge, design flow of 0.0075 mgd.

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
CBOD <sub>5</sub>	25			50
Suspended Solids	30			60
Ammonia Nitrogen				
May 1 to Oct 31	2.6			5.2
Nov 1 to Apr 30	8.5			17.0
Fecal Coliform				
May 1 to Sep 30	200/100 ml as a Geometric Mean			
Oct 1 to Apr 30	2,000/100 ml as a Geometric Mean			
Total Residual Chlorine	1.0			0.0
Dissolved Oxygen	not less than 4.0 mg/l			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

### III. WQM Industrial Waste and Sewerage Applications under The Clean Streams Law (35 P. S. §§ 691.1—691.1001)

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

**WQM Permit No. 1510403**, Sewerage, **Caln Township Municipal Authority**, 253 Municipal Drive, P. O. Box 72149, Thorndale, PA 19372. This proposed facility is located in Caln Township, **Chester County**.

Description of Action/Activity: Construction of a wastewater pump station and gravity sewer to connect to an existing force main on Fisherville Road.

**WQM Permit No. WQG010032**, Sewerage, **Mary Louise Rockel**, 1317 West Lynwood Street, Phoenix, AZ 85007. This proposed facility is located in Hilltown Township, **Bucks County**.

Description of Action/Activity: Construction of a single residence sewage treatment plant to replace an existing malfunctioning unit.

**WQM Permit No. 1510402**, Sewerage, **Stroud Water Research Center**, 970 Spencer Road, Avondale, PA 19311. This proposed facility is located in West Marlborough Township, **Chester County**.

Description of Action/Activity: Construction and operation of a wastewater treatment plant.

**WQM Permit No. 1510201**, Industrial, **Jackson Immuno Research Laboratory, Inc.**, 872 West Baltimore Pike, P. O. Box 9, West Grove, PA 19390. This proposed facility is located in Penn Township, **Chester County**.

Description of Action/Activity: Expansion of research laboratory, install drain field for RO discharge water.

**WQM Permit No. 0999427**, Sewerage, **Amendment, Chalfont New Britian Township Joint Sewer Authority**, 1645 Upper State Road, Doylestown, PA 18901-2666. This proposed facility is located in Doylestown Township, **Bucks County**.

Description of Action/Activity: Installation of a new UV disinfection system to replace the existing system.



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

**WQM Permit No. 0110403**, Sewerage, **William Stevens**, 130 Lion Archer Drive, Littlestown, PA 17340. This proposed facility is located in Germany Township, **Adams County**.

Description of Proposed Action/Activity: Seeking approval for the construction/operation of a single continuous SBR facility, provided by Kappe Associates is proposed for the purpose of treatment and denitrification prior to discharge to a sand mound to serve Steven's Restaurant.

**WQM Permit No. 3681401, Amendment 10-1**, Sewerage, **Ephrata Borough Authority**, 124 South State Street, Ephrata, PA 17522-2792. This proposed facility is located in Ephrata Borough, **Lancaster County**.

Description of Proposed Action/Activity: Upgrades to Plant No. 1 to include: New Addition to Headworks Building, Convert Orbital Ox Ditch to BNR, New Gravity Thickener and Flow Spitter Box.

**WQM Permit No. 0610202**, Industrial Waste, **Exide Technologies**, P. O. Box 14294, Reading, PA 19612-4294. This proposed facility is located in Muhlenberg Township and Laureldale Borough, **Berks County**.

Description of Proposed Action/Activity: Seeking approval to construct and operate a new stormwater treatment plant.

**WQM Permit No. 3610202**, CAFO, **Bion PA 1, LLC**, 1035 South Gaylord Street, Denver, CO 80209. This proposed facility is located in Penn Township, **Lancaster County**.

Description of Proposed Action/Activity: Seeking approval to modify an existing 1.2 million gallon concrete manure storage lagoon at Kreider Dairy Farm.

*Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701.*

**WQM Permit No. 410406**, Sewerage, SIC 4952, **Borough of South Williamsport**, 329 West Southern Avenue, South Williamsport, PA 17702. This proposed facility is located in Borough of South Williamsport, **Lycoming County**.

Description of Proposed Action/Activity: The project includes; improvements to the Charles Street Pump Station (CSPS) and the Main Street Bypass Pump Station (MSBPS), a new force main from the MSBPS to the CSPS, and a new wet weather storage tank in the baseball field adjacent to the CSPS.

*Southwest Region: Water Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.*

**WQM Permit No. 1110403**, Sewerage, **Johnstown Redevelopment Authority**, 4th Floor, Public Safety Building, 401 Washington Street, Johnstown, PA 15901-1812. This proposed facility is located in the City of Johnstown, **Cambria County**.

Description of Proposed Action/Activity: Application for the construction and operation of a sanitary sewer line.

The Pennsylvania Infrastructure Investment Authority which administers Pennsylvania's State Revolving Fund has been identified as a possible funding source. The Department of Environmental Protection's review of the sewage facilities plan revision has not identified any significant environmental impacts resulting from this proposal.

**WQM Permit No. 6510408**, Sewerage, **Vandergrift Borough**, 109 Grant Avenue, Vandergrift, PA 15690. This proposed facility is located in Vandergrift Borough, **Westmoreland County**.

Description of Proposed Action/Activity: Application for the construction and operation of a sewer system.

The Pennsylvania Infrastructure Investment Authority which administers Pennsylvania's State Revolving Fund has been identified as a possible funding source. The Department of Environmental Protection's review of the sewage facilities plan revision has not identified any significant environmental impacts resulting from this proposal.

**WQM Permit No. 1110405**, Sewerage, **Johnstown Redevelopment Authority**, 4th Floor, Public Safety Building, 401 Washington Street, Johnstown, PA 15901-1812. This proposed facility is located in the City of Johnstown, **Cambria County**.

Description of Proposed Action/Activity: Application for the construction and operation of a sanitary sewer line.

The Pennsylvania Infrastructure Investment Authority which administers Pennsylvania's State Revolving Fund has been identified as a possible funding source. The Department of Environmental Protection's review of the sewage facilities plan revision has not identified any significant environmental impacts resulting from this proposal.

**WQM Permit No. 1110406**, Sewerage, **Johnstown Redevelopment Authority**, 4th Floor, Public Safety Building, 401 Washington Street, Johnstown, PA 15901-1812. This proposed facility is located in the City of Johnstown, **Cambria County**.

Description of Proposed Action/Activity: Application for the construction and operation of a sanitary sewer line.

The Pennsylvania Infrastructure Investment Authority which administers Pennsylvania's State Revolving Fund has been identified as a possible funding source. The Department of Environmental Protection's review of the sewage facilities plan revision has not identified any significant environmental impacts resulting from this proposal.

**WQM Permit No. 1110407**, Sewerage, **Johnstown Redevelopment Authority**, 4th Floor, Public Safety Building, 401 Washington Street, Johnstown, PA 15901-1812. This proposed facility is located in the City of Johnstown, **Cambria County**.

Description of Proposed Action/Activity: Application for the construction and operation of a sanitary sewer line.

The Pennsylvania Infrastructure Investment Authority which administers Pennsylvania's State Revolving Fund has been identified as a possible funding source. The Department of Environmental Protection's review of the sewage facilities plan revision has not identified any significant environmental impacts resulting from this proposal.

**WQM Permit No. 1110408**, Sewerage, **Johnstown Redevelopment Authority**, 4th Floor, Public Safety Building, 401 Washington Street, Johnstown, PA 15901-1812. This proposed facility is located in the City of Johnstown, **Cambria County**.

Description of Proposed Action/Activity: Application for the construction and operation of a sanitary sewer line.

The Pennsylvania Infrastructure Investment Authority which administers Pennsylvania's State Revolving Fund has been identified as a possible funding source. The Department of Environmental Protection's review of the sewage facilities plan revision has not identified any significant environmental impacts resulting from this proposal.

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

**WQM Permit No. 2510402**, Sewerage, **Erie Sewer Authority, c/o Knox, McLaughlin, Gornall & Sennett, P.C.**, 120 West 10th Street, Erie, PA 16501-1461. This proposed facility is located in City of Erie, **Erie County**.

Description of Proposed Action/Activity: This project involves replacing the Erie Wastewater Treatment Plants's main low-pressure air blowers and related systems.

#### **IV. NPDES Applications for Stormwater Discharges from Municipal Separate Storm Sewer Systems (MS4)**

#### **V. Applications for NPDES Wavier Stormwater Discharges from Municipal Separate Storm Sewer Systems (MS4)**

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

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

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water / Use</i>
PAI01 151016	Ronald L. Keene 1118 Summer Lane Pottstown, PA 19465	Chester	East Nantmeal Township	Beaver Run EV
PAI01 0904024-R	RB Quakertown, LP 810 Seventh Avenue 28th Floor New York, NY 10019	Bucks	Richland Township	Unnamed Tributaries Unami Creek and Tohickon Creek HQ-MF-TSF-MF
PAI01 091002	Robert Mockoviak 2727 Aquetong Road New Hope, PA 18938	Bucks	Solebury Township	Aquetong Creek HQ-CWF
PAI01 461002	Glenn Springs Holdings, Inc. 375 Armand Hammer Boulevard Pottstown, PA 19464	Montgomery	Lower Pottsgrove Township	Schuylkill River WWF-MF

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

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

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water / Use</i>
PAI041410002	Department of Transportation P. O. Box 342 Clearfield, PA 16830	Centre	Rush Township	Wolf Run/Big Fill Watershed EV
PAI041410003	John Rhodes ADG-Hospital Drive Assoc P. O. Box 622 Lemoyne, PA 17043	Centre	College Township	Spring Creek HQ-CWF

*Sullivan County Conservation District: R. R. 2, Box 2022B, Dushore, PA 18614, (570) 928-7057.*

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water / Use</i>
PAI045710001	George M. Jenkins Merritt Capital Corporation 467 Belrose Lane St. Davids, PA 19087	Sullivan	Laprote Township	Pole Bridge HQ-CWF Shanerburg Run EV

#### **VII. List of NOIs for NPDES and/or Other General Permit Types**

PAG-12	Concentrated Animal Feeding Operations (CAFOs)
PAG-13	Stormwater Discharges from Municipal Separate Storm Sewer Systems (MS4)

**CAFO Notices of Intent Received**

*Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701.*

**PAG124809**, CAFO, **Daniel P. Hershberger**, 132 Center Road, Quarryville, PA 17566, R. D. 2, Box 251, Towanda, PA 18848. This proposed facility is located in Terry Township, **Bradford County**.

Description of Size and Scope of Proposed Operation/Activity: Swine finishing.

The receiving stream, UNT of Susquehanna River, is in watershed Susquehanna River and classified for: WWF. The proposed effluent limits for the operation/activity include: Except for the chronic or catastrophic rainfall events defined as over the 25-year/24-hour rain storms, the CAFO general permit is a nondischarge NPDES permit. Where applicable, compliance with 40 CFR Federal effluent limitation guidelines is required. The general permit requires no other numeric effluent limitations and compliance with the Pennsylvania Nutrient Management Act and the Clean Stream Law constitutes compliance with the state narrative water quality standards.

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

**NUTRIENT MANAGEMENT PLAN—PUBLIC NOTICE SPREADSHEET**

<i>Agricultural Operation Name and Address</i>	<i>County</i>	<i>Total Acres</i>	<i>Animal Equivalent Units</i>	<i>Animal Type</i>	<i>Special Protection Waters (HQ or EV or NA)</i>	<i>Application or Action</i>
Parx Casino and Racing 3001 Street Road Bensalem, PA 19021	Bucks	452.4	1,500	Horses	NA	New

**STATE CONSERVATION COMMISSION**

**NUTRIENT MANAGEMENT PLANS RELATED TO APPLICATIONS FOR  
NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES)  
PERMITS FOR CONCENTRATED ANIMAL FEEDING OPERATIONS (CAFO)**

This notice provides information about agricultural operations that have submitted nutrient management plans (NMPs) for approval under the act of July 6, 2005 (Act 38 of 2005, 3 Pa.C.S. §§ 501—522) (hereinafter referred to as Act 38), 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 92. This notice is provided in accordance with 25 Pa. Code Chapter 92 and 40 CFR Part 122, implementing The Clean Streams Law (35 P. S. §§ 691.1—691.1001) 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 [www.pacd.org/districts/directory.htm](http://www.pacd.org/districts/directory.htm) 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.

The address for the SCC is Agriculture Building, Room 407, 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.

**NUTRIENT MANAGEMENT PLAN—PUBLIC NOTICE SPREADSHEET—APPLICATIONS**

<i>Agricultural Operation Name and Address</i>	<i>County</i>	<i>Total Acres</i>	<i>Animal Equivalent Units</i>	<i>Animal Type</i>	<i>Special Protection Waters (HQ or EV or NA)</i>	<i>Renewal / New</i>
Kar-Dale-Acres Dale Hoffman 243 Healy Road Shinglehouse, PA 16748	Potter	1,150.8	1,262.79	Dairy, Beef	HQ Eleven Mile Creek Big Hollow Deering Hollow Dwight Hollow  EV Gilmore Hollow	Application

<i>Agricultural Operation Name and Address</i>	<i>County</i>	<i>Total Acres</i>	<i>Animal Equivalent Units</i>	<i>Animal Type</i>	<i>Special Protection Waters (HQ or EV or NA)</i>	<i>Renewal/ New</i>
Four Winds Dairy, LLC Rick VanEtten 400 VanEtten Road Ulysses, PA 16948	Potter	1,472	1,700.75	Dairy	HQ Trib. To Lehman Hollow	Amendment
Pheasant Hill Farm George Myers 530 Faulkner Road Wellsboro, PA 16901	Tioga	155	3.61	Finishing Swine	Swartz Hollow	Renewal

## PUBLIC WATER SUPPLY (PWS) PERMIT

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

Persons wishing to comment on a permit application are invited to submit a statement to the office listed before the application within 30 days of this public notice. Comments received within the 30-day comment period will be considered in the formulation of the final determinations regarding the application. Comments should include the name, address and telephone number of the writer and a concise statement to inform the Department of Environmental Protection (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 any related documents are on file at the office listed before the application and are available for public review. Arrangements for inspection and copying information should be made with the office listed before the application.

Persons with a disability who 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 should contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

### SAFE DRINKING WATER

#### Applications Received under the Pennsylvania Safe Drinking Water Act

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

#### Application No. 4610509, Public Water Supply.

Applicant **Borough of East Greenville**  
Township Upper Hanover  
County **Montgomery**

Responsible Official Ms. Jennifer Boyer  
206 Main Street  
East Greenville, PA 18041  
Type of Facility PWS  
Consulting Engineer Cowan Associates, Inc.  
120 Penn-AM Drive  
Quakertown, PA 18951  
Application Received Date March 12, 2010  
Description of Action Replacement of existing filter surface wash system with an air scour system.

#### Application No. 4610513, Public Water Supply.

Applicant **Aqua Pennsylvania, Inc.**  
Township Abington  
County **Montgomery**  
Responsible Official Michael Convery  
Project Manager  
762 West Lancaster Avenue  
Bryn Mawr, PA 19010  
Type of Facility PWS  
Consulting Engineer Aqua Pennsylvania, Inc.  
762 West Lancaster Avenue  
Bryn Mawr, PA 19010  
Application Received Date June 2, 2010  
Description of Action Construction of a re-chlorination building to ensure optimal chlorine residual at the Hillside standpipe.

#### 4610514, Public Water Supply.

Applicant **Aqua Pennsylvania, Inc.**  
Township Abington  
County **Montgomery**  
Responsible Official Marc A. Lucca  
762 West Lancaster Avenue  
Bryn Mawr, PA 19010  
Type of Facility PWS  
Consulting Engineer C.E.T. Engineering  
1240 North Mountain Road  
Harrisburg, PA 17112  
Application Received Date May 17, 2010



Description of Action Installation of underground chlorine contact piping to achieve 4-log treatment of viruses at the Hall Road Well Station under the groundwater rule.

**0910516, Public Water Supply.**

Applicant **Township of Falls Authority**  
 Township Falls  
 County **Bucks**  
 Responsible Official Mr. David Busch  
 557 Lincoln Highway  
 Fairless Hills, PA 19030  
 Type of Facility PWS  
 Consulting Engineer Remington, Vernick & Beach  
 Engineers  
 922 Fayette Street  
 Conshohocken, PA 19428  
 Application Received June 2, 2010  
 Date  
 Description of Action Addition of a rechlorination facility at the Twin Oaks interconnection.

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

**Application No. 3510502, Public Water Supply.**

Applicant **Nestle Waters North America, Inc.**  
 505 Nestle Way  
 Breinigsville, PA  
 Township or Borough Millcreek Township  
**Lebanon County**  
 Responsible Official Eric Andreus  
 Type of Facility Bottling Plant  
 Consulting Engineer Forino Company, LP  
 Edward Davis, P. E.  
 555 Mountain Home Road  
 Sinking Spring, PA  
 Application Received 5/11/10  
 Date  
 Description of Action The addition of pH adjustment to the Arrowhead Springs source used at the Nestle bottling plant.

**Application No. 4010507, Public Water Supply.**

Applicant **Pennsylvania American Water Co.**  
 (Whitney Point)  
 800 West Hersheypark Drive  
 Hershey, PA  
 Township or Borough Newport Township  
**Luzerne County**  
 Responsible Official Daniel Rickard  
 Type of Facility Public Water System  
 Consulting Engineer SM Design Group, LLC  
 275 Mundy Street  
 Suite 101  
 Wilkes-Barre, PA  
 Application Received 6/17/10  
 Date

Description of Action The construction of a booster pump station to serve a new residential development from the existing water system.

**Application No. 3510504, Public Water Supply.**

Applicant **Reich-Thomas Reality**  
 79 Lincoln Avenue  
 Carbondale, PA  
 Township or Borough Clifton Township  
**Lackawanna County**  
 Responsible Official Donald Thomas  
 Type of Facility Public Water System  
 Consulting Engineer KBA Engineering, PC  
 25 South Washington Avenue  
 Jermyrn, PA  
 Application Received 5/27/10  
 Date

Description of Action The transfer and major amendment of a public water system permit. The addition of a source of supply to replace well 3. The construction of this source with associated treatment, pressure and chlorine contact tanks.

**Application No. 3910503, Public Water Supply.**

Applicant **Nestle Waters North America, Inc.**  
 305 Nestle Way  
 Breinigsville, PA  
 Township or Borough Upper Macungie Township  
**Lehigh County**  
 Responsible Official David Thorpe  
 Type of Facility Bottling Plant  
 Consulting Engineer Forino Company, LP  
 Edward Davis, P. E.  
 555 Mountain Home Road  
 Sinking Spring, PA  
 Application Received 6/23/10  
 Date  
 Description of Action The addition of UV systems at the Breinigsville plant and its nearby east plant to meet enhanced disinfection requirements.

**MINOR AMENDMENT**

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

**Application No. 4010506MA.**

Applicant **Freeland Municipal Authority**  
 Township or Borough Freeland Borough  
**Luzerne County**  
 Responsible Official Lynn Falatko, Manager  
 Freeland Municipal Authority  
 711 Birkbeck Street  
 Freeland, PA 18224  
 Type of Facility Community Water System

Consulting Engineer Christopher D. McCue, P. E.  
Borton-Lawson Engineering  
613 Baltimore Drive  
Suite 300  
Wilkes-Barre, PA 18702  
570-821-1999

Application Received Date June 14, 2010

Description of Action Application for painting and repair of the Harding Street finished water storage tank.

**Application No. 4010504MA, Minor Amendment.**

Applicant **Aqua Pennsylvania, Inc.**  
(Garbush Water System)  
1 Aqua Way  
White Haven, PA

Township or Borough Jackson Township  
**Luzerne County**

Responsible Official Joshua Shoff

Type of Facility Public Water System

Consulting Engineer Pennoni Associates, Inc.  
2041 Avenue C  
Suite 100  
Bethlehem, PA

Application Received Date 6/15/10

Description of Action The construction of a contact pipeline to meet the groundwater rule.

## 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—6026.908).

Sections 302—305 of the Land Recycling and Environmental Remediation Standards Act (act) require the Department of Environmental Protection (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. Persons intending to use the Background Standard, Statewide Health Standard, the Site-Specific Standard or who intend to remediate a site as a special industrial area must 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, a combination of the cleanup standards or who 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 any 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 sites identified, 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. 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 before which the notice appears. 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 Program Manager, 2 East Main Street, Norristown, PA 19401.*

**Verizon Bryn Mawr Garage**, Lower Merion Township, **Montgomery County**. Sean M. Damon, P. G., Langan Engineering & Environmental Services Inc., P. O. Box 1569, Doylestown, PA 18901, James McElman, P. G., Verizon Environment Management, 7701 East Telecom Drive, MV: FLTDSB1M, Temple Terrace, FL 33637 on behalf of Paul Aschkenasy, Blank Aschkenasy Properties, LLC, 300 Four Falls Corporate Center, 300 Conshohocken State Road, Suite 360, West Conshohocken, PA 19428 has submitted a Notice of Intent to Remediate. Soil at the site has been impacted with the release of chlorinated solvents. The future use of the site will remain the same. A summary of the Notice of Intent to Remediate was to have been published in *The Main Line Times* on May 27, 2010.

**NVF MGF Facility**, Kennett Square Borough, **Chester County**. Paul Miller, P. E., Environmental Alliance, Inc., 660 Yorklyn Road, Hockessin, DE 19707 on behalf of George Beer, Rockhopper, LLP, 722 Yorklyn Road, Hockessin, DE 18707 has submitted a Notice of Intent to Remediate. Groundwater and soil at the site has been impacted with the release of chlorinated solvents. The future use of the site will remain the same. A summary of the Notice of Intent to Remediate was to have been published in *The Kennett Paper/Chadds Ford Post* on June 10, 2010.

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

**SACA Development Site**, City of Lancaster, **Lancaster County**. GCI Environmental Services, 1250 East King Street, Lancaster, PA 17602, on behalf of SACA Development Corporation, 453 South Lime Street, Suite B, Lancaster, PA 17603, submitted a Notice of Intent to

Remediate site soils contaminated with arsenic from the historical operation of a junkyard. The site, which will be remediated to the Site-Specific Standard, will be developed for residential use.

**Former UGI Harrisburg Maintenance Facility,** City of Harrisburg, **Dauphin County.** EPSYS LLC, 1414 North Cameron Street, Harrisburg, PA 171033, on behalf of Journal Publications, Inc., 1500 Paxton Street, Harrisburg, PA 17104, submitted a Notice of Intent to Remediate site soils and groundwater contaminated with VOCs from the operation of a maintenance facility. The site will remain commercial and will be remediated to the Site-Specific Standard.

## AIR QUALITY

### PLAN APPROVAL AND OPERATING PERMIT APPLICATIONS

#### NEW SOURCES AND MODIFICATIONS

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

The Department has received applications for plan approvals and/or operating permits from the following facilities.

Copies of the applications, subsequently prepared draft permits, review summaries and other support materials are available for review in the regional office identified in this notice. Persons interested in reviewing the application files should contact the appropriate regional office to schedule an appointment.

Persons wishing to receive a copy of a proposed plan approval or operating permit must indicate their interest to the Department regional office within 30 days of the date of this notice and must file protests or comments on a proposed plan approval or operating permit within 30 days of the Department providing a copy of the proposed document to that person or within 30 days of its publication in the *Pennsylvania Bulletin*, whichever comes first. Interested persons may also request that a hearing be held concerning the proposed plan approval and operating permit. Comments or protests filed with the Department regional offices must include a concise statement of the objections to the issuance of the Plan approval or operating permit and relevant facts which serve as the basis for the objections. If the Department schedules a hearing, a notice will be published in the *Pennsylvania Bulletin* at least 30 days prior the date of the hearing.

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

Final plan approvals and operating permits will contain terms and conditions to ensure that the source is constructed and operating in compliance with applicable requirements in 25 Pa. Code Chapters 121—143, the Federal Clean Air Act (act) and regulations adopted under the act.

## PLAN APPROVALS

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

*Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790. Contact: Ray Kempa, New Source Review Chief—Telephone: 570-826-2507.*

**39-309-078: Lafarge North America** (5160 Main Street, Whitehall, PA 18052) for the revised HCN and Cl2 emission limits for kilns 2 and 3 at their facility in Whitehall Township, **Lehigh County.**

**Intent to Issue Plan Approvals and Intent to Issue or Amend Operating Permits under the Air Pollution Control Act (35 P.S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter B. These actions may include the administrative amendments of an associated operating permit.**

*Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401. Contact: Sachin Shankar, New Source Review Chief—Telephone: 484-250-5920.*

**46-0147C: Chemalloy Co., Inc.** (1301 Conshohocken Road, Conshohocken, PA 19428) for authorization to process chromium-containing alloys in Plant 2 and 2A buildings of their existing natural minor facility in Plymouth Township, **Montgomery County.** The proposal requests processing of nonhazardous as well as hazardous minerals at four existing sources (ID Nos. 105—108). The pollutant of concern from the proposed operations is particulate matter (PM) emissions. There will be no increase in currently permitted PM emission limits from the existing sources. All sources of PM emissions are controlled by existing wet scrubbers. The Plan Approval will contain recordkeeping and operating restrictions designed to keep the facility operating within the allowable emissions and all applicable air quality requirements.

**09-0124G: Fairless Energy, LLC** (50 Sinter Road, Fairless Hills, PA 19030) for establishment of short term emission limits during automatic runback and retuning events for their natural gas fired combined cycle electric generating station in Falls Township, **Bucks County.** This is a major facility. Short-term emission limits will be established for NO<sub>x</sub>, CO, SO<sub>x</sub>, VOC, PM<sub>10</sub> and NH<sub>4</sub> for these nonnormal modes of operation. The Plan Approval will contain recordkeeping and operating restrictions designed to keep the facility operating within the allowable emissions and all applicable air quality requirements.

*Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790. Contact: Ray Kempa, New Source Review Chief—Telephone: 570-826-2507.*

**39-309-077: Lafarge North America, Inc.** (5160 Main Street, Whitehall, PA 18052) for the replacement of a dust collector on Kiln 2 feed system for their plant in Whitehall Township, **Lehigh County.**

In accordance with 25 Pa. Code §§ 127.44(b) and 127.424(b), the Department of Environmental Protection (Department) intends to issue Plan Approval No. 39-309-077 to Lafarge North America, Inc., 5160 Main Street, Whitehall, PA 18052, for their plant located in Whitehall Township, Lehigh County. The facility currently operates



under Title V Operating Permit No. 39-00011. This plan approval will be incorporated into the Title V Operating Permit through an administrative amendment at a later date, and the action will be published as a notice in the *Pennsylvania Bulletin*.

Plan Approval No. 39-309-077 is for the replacement of a dust collector on Kiln 2 feed system. The proposed changes do not physically alter the facility in any way, do not impact facility's production capacity, and do not result in an increase in facility's production or emissions. The existing fabric filter dust collector was installed in the 1960s and is in need of replacement. A collection efficiency of 99.9% is anticipated for new dust collector, which will yield an outlet concentration of particulate less than 0.02 gr/dscf. Emissions from the K-2 feed system will meet BAT and NESHAP requirements of 40 CFR Part 63, Subpart LLL. 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.

The proposed dust collector and sources will be operated to comply with the above emissions limitations. The Plan Approval and Operating Permit will contain additional recordkeeping and operating restrictions designed to keep the facility operating in compliance with all applicable air quality requirements.

Copies of the application, the Department's analysis and other documents used in the evaluation of the application are available for public review during normal business hours at the Department's Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711.

Any person(s) wishing to provide the Department with additional information which they believe should be considered prior to the issuance of this permit may submit the information to the address shown in the preceding paragraph. Each written comment must contain the following:

Name, address and telephone number of the person submitting the comments.

Identification of the proposed permit No. 39-309-077.

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

A public hearing may be held, if the Department, in its discretion, decides that such a hearing is warranted based on the comments received. All persons submitting comments or requesting a hearing will be notified of the decision to hold a hearing by publication in the newspaper or the *Pennsylvania Bulletin* or by telephone, where the Department determines such notification is sufficient. Written comments or requests for a public hearing should be directed to Raymond Kempa, P.E., Environmental Group Manager, Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711, Phone 570-826-2531 within 30 days after publication date.

**48-329-009: PPL Renewable Energy, LLC** (Two North Ninth Street, Allentown, PA 18101) for a plan approval to construct and operate three 1,600 kW Caterpillar model G3520C landfill gas fired engines at their facility in Glendon Borough, **Northampton County**. The Department of Environmental Protection's review of the information submitted by PPL Renewable Energy indicates that the proposed engines will meet all applicable air quality requirements pertaining to air contamination sources and the emission of air contaminants, including the BAT requirements. The company shall comply with

123.31 for malodorous emissions. The company shall comply with 123.41 for visible emissions. The engines are subject to 40 CFR Part 63, Subpart ZZZZ. The engines are subject to 40 CFR Part 60, Subpart JJJJ and WWW requirements. The VOC emissions from the facility will not equal or exceed 50 tpy, based on a 12-month rolling sum. The NOx emissions from the facility will not equal or exceed 100 tpy, based on a 12-month rolling sum. The CO emissions from the facility will not equal or exceed 250 TPY, based on a 12-month rolling sum. The SO<sub>2</sub> emissions from the facility will not equal or exceed 250 tpy, based on a 12-month rolling sum. Total PM emissions from the facility will not equal or exceed 100 tpy, based on a 12-month rolling sum. The formaldehyde emissions from the facility will be 24.31 tpy, based on a 12-month rolling sum making it a major source a single HAP. The total HAPs from the facility will be 25.41 tpy of all aggregated HAPs, based on a 12-month rolling sum making it a major source for combined HAPs. The Plan approval and Operating Permit will include testing, monitoring, recordkeeping and reporting requirements designed to keep the sources operating within all applicable air quality requirements. For further details, contact Ray Kempa at (570) 826-2511 within 30 days after publication date.

*Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701. Contact: Muhammad Q. Zaman, Environmental Program Manager—Telephone: 570-327-3648.*

**41-302-050A: Wire Rope Works, Inc.** (100 Maynard Street, Williamsport, PA 17701) for a plan approval to incorporate revised particulate matter, nitrogen oxide, and carbon monoxide emission limitations as well as revised monitoring, recordkeeping, reporting, work practice, and additional requirements for the anthracite coal-fired boilers, each having a maximum rated heat input capacity of 15 million Btu per hour and each equipped with two-stage fly-ash collectors with a flue gas recirculation system that includes a secondary cyclone collector, at their facility in the City of Williamsport, **Lycoming County**.

The particulate matter emission limitations will be revised from 0.2 pound per million Btu (lb/mmBtu) to 0.25 lb/mmBtu and from 15.26 tons in any 12 consecutive month period (tpy) to 19.08 tpy. The nitrogen oxide emission limitations will be revised from 0.13 lb/mmBtu to 0.21 lb/mmBtu and from 9.92 tpy to 16.03 tpy. The carbon monoxide emission limitations will be revised from 0.061 lb/mmBtu to 0.15 lb/mmBtu and from 4.66 tpy to 11.45 tpy.

This plan approval contains conditions that require Wire Rope Works, Inc. to perform stack testing to demonstrate compliance with the air contaminant emission limitations and to increase monitoring of the control devices to confirm the control devices are operating correctly. The increased recordkeeping requirements require Wire Rope Works, Inc. to document any control device malfunction and the action taken to correct any malfunction. The increased reporting requirements require Wire Rope Works, Inc. to report any control device malfunction and the action taken to correct the malfunction.

This plan approval contains a condition that requires Wire Rope Works, Inc. to replace the secondary cyclone after discovery of a malfunction.

The Department of Environmental Protection's (Department) review of the information submitted by Wire Rope



Works, Inc. indicates that the operation of the two boilers with the revised particulate matter, nitrogen oxide, and carbon monoxide emission limitations as well as revised monitoring, recordkeeping, reporting, work practice, and additional requirements will meet all applicable air quality requirements pertaining to air contamination sources and the emission of air contaminants. Based on these findings, the Department intends to approve the application and issue plan approval for the modification of the particulate matter, nitrogen oxide, and carbon monoxide emission limitations as well as revised monitoring, recordkeeping, reporting, work practice, and additional requirements. Additionally, if the Department determines that the two boilers are operating in compliance with all plan approval conditions, the conditions established in the plan approval will be incorporated into a State-only operating permit by means of an administrative amendment under 25 Pa. Code § 127.450.

The plan approval contains monitoring, recordkeeping and reporting conditions to ensure compliance with applicable Federal and State regulatory requirements.

A copy of the plan approval application is available for public review between 8 a.m. and 4 p.m. at the Department's Northcentral Regional Office, 208 West Third Street, Suite 101, Williamsport, PA 17701. Appointments for scheduling a review may be made by calling the Department at 570-327-3693. Written comments or requests for a public hearing should be directed to Muhammad Q. Zaman, Environmental Program Manager, Department of Environmental Protection, Air Quality Program, Northcentral Regional Office, 208 West Third Street, Suite 101, Williamsport, PA 17701, 570-327-0512.

**41-00081A: East Lycoming School District** (349 Cemetery Street, Hughesville, PA 17737-1028) for construction of a 6.43 mmBtu/hr, Hurst Boiler and Welding Company, Inc. model FB-900, wood-fired boiler and a multi-clone collector to control particulate matter emissions from the boiler in Hughesville, **Lycoming County**. The boiler is proposed to generate supplemental steam for domestic heating and hot water for an educational complex that includes the East Lycoming High School.

The Department of Environmental Protection's (Department) review of the information submitted by East Lycoming School District indicates that the air contamination sources to be constructed will comply with all regulatory requirements pertaining to air contamination sources and the emission of air contaminants including the best available technology requirement (BAT) of 25 Pa. Code §§ 127.1 and 127.12. Based on this finding, the Department proposes to issue a plan approval for the proposed construction.

The emissions from the control device associated with the wood-fired boiler will not exceed on a 12-consecutive month period (CMP) basis; 6.2 tons of nitrogen oxides, 4.5 tons of carbon monoxide, 0.5 ton of volatile organic compounds, 0.7 ton of sulfur oxides, 6.7 tons of total particulate matter (filterable and condensable). Additionally, total HAP emissions will not exceed 0.7 ton in any 12 CMP. To demonstrate compliance with ton per 12 CMP emissions limitations, East Lycoming School District is required to conduct EPA reference method testing on the exhaust of the control device associated with the wood-fired boiler for nitrogen oxides, carbon monoxide and particulate matter to measure the average emissions concentration/rate over at least three, 1-hour periods does not exceed the following:

nitrogen oxides—0.22 lb/mmBtu  
carbon monoxide—0.16 lb/mmBtu  
particulate matter—0.22 lb/mmBtu

In addition to the emission limitations previously listed, the following is a summary of the types of conditions the Department intends to place in Plan Approval 41-00081A to ensure compliance applicable Federal and State regulatory requirements including the best available technology requirements of 25 Pa. Code §§ 127.1 and 127.12.

Work practice requirements to construct and operate the wood-fired boiler in accordance with the manufacturer's recommendations and good air pollution control practices.

Recordkeeping and reporting conditions to verify compliance with the emission limitations and all applicable requirements.

A copy of the plan approval application and the Department's review is available for public review between 8 a.m. and 4 p.m. at the Department's Northcentral Regional Office, 208 West Third Street, Suite 101, Williamsport, PA 17701. Appointments for scheduling a review may be made by calling the Department at 570-327-3693. Written comments or requests for a public hearing shall be directed to Muhammad Q. Zaman, Environmental Program Manager, Air Quality Program, Department of Environmental Protection, Northcentral Regional Office, 208 West Third Street, Suite 101, Williamsport, PA 17701, 570-327-3648.

**53-00001E: Tennessee Gas Pipeline Co.** (197 Tennessee Road, Coudersport, PA 16915) for construction of a lean burn, emergency engine-generator at Station 313 facility in Hebron Township, **Potter County**. The respective facility is a major facility and is currently operating under Title V Operating Permit 53-00001. The Department of Environmental Protection's (Department) review of the information contained in the application indicates that the construction of the engine will comply with all applicable air quality regulatory requirements including the best available technology requirements of 25 Pa. Code §§ 127.1 and 127.12. Based on these findings, the Department intends to issue a plan approval for the proposed construction. Additionally, if the Department determines that the engine is operating in compliance with all plan approval conditions, the conditions established in the plan approval will be incorporated into Title V Operating Permit 53-00001 means by of an administrative amendment pursuant to 25 Pa. Code § 127.450.

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

1. Under best available technology requirements of 25 Pa. Code §§ 127.1 and 127.12, the permittee shall not permit the emission of air contaminant pollutants from Source ID P309A in excess of the following limitations: Nitrogen Oxides—2.0 grams per horsepower-hour, Carbon Monoxide—4.0 grams per horsepower-hour, Volatile Organic Compound—1.0 gram per horsepower-hour.

2. [Additional authority for this permit condition is also derived from 40 CFR 60.4243(d) and 40 CFR 63.6645(f).]

The permittee shall limit the operation of Source ID P309A to the requirements of 40 CFR 60.4243(d) and 63.6645(f).

3. [Additional authority for this permit condition is derived from the permittee requesting this voluntary restriction.]

The permittee shall not operate Source ID P309A in excess of 500 hours in any 12 consecutive month period.

4. [Additional authority for this permit condition is also derived from 40 CFR 60.4243(b)(2) in addition to the permittee electing to construct a non-certified stationary spark-ignited internal combustion engine.]

The permittee shall perform nitrogen oxides (NO<sub>x</sub>), carbon monoxide (CO), and volatile organic compound (VOC) emissions stack tests on Source ID P309A within 60 days after Source ID P309A operates at maximum capacity or no later than 180 days of commencement of operation, whichever is sooner. The testing shall be performed in accordance with the requirements of 40 CFR 60.4244 and 25 Pa. Code § 139.1.

5. The permittee shall equip Source ID P309A with a non-resettable hour meter prior to initial startup of Source ID P309A.

6. The permittee shall maintain the nonresettable hour meter to be fully functional and shall assure the device accurately monitors the run-time of Source ID P309A during each occurrence of engine operation.

7. [Additional authority for this permit condition is also derived from 40 CFR 60.4245.]

The permittee shall keep records of the all information specified in 40 CFR 60.4245(a)(1)—(4).

8. The permittee shall keep record of the following information relating to Source ID P309A operation:

- (i) The total hours of operation on a monthly basis.
- (ii) For each occurrence of operation, a statement that describes the reason for engine operation.
- (iii) All test reports and supporting calculations used to verify compliance with the nitrogen oxides, carbon monoxide and volatile organic compounds emissions limitations of Source P309A.

The information used to generate the previously mentioned records shall be kept for a minimum of 5 years and shall be made available to the Department upon request.

9. [Additional authority for this permit condition is also derived from 25 Pa. Code § 122.3 and 40 CFR 60.4245(c).]

The permittee shall submit the initial notification as required in 40 CFR 60.7(a)(1). The notification must include all the information specified in 40 CFR 60.4245(c)(1)—(5). The initial notification shall be submitted to the Department and EPA.

10. [Additional authority for this permit condition is also derived from 40 CFR 63.6645(f).]

The permittee shall submit the initial notification that includes the information in 40 CFR 63.9(b)(2)(i)—(v), and a statement that your stationary RICE has no additional requirements and explain the basis of the exclusion. The initial notification shall be submitted to the Department and EPA.

11. Within 15 days of the determination of the stack design parameters specifications for Source P309A, the permittee shall submit design specifications for the stack to the Department for review and final approval. The specification shall include stack height above grade, grade elevation, stack diameter, distance of discharge to nearest property line (including map showing location), location dimensions of sampling ports, and estimated percent moisture of stack exhaust.

12. [Additional authority for this permit condition is also derived from 40 CFR 60.4243(b)(2)(ii).]

The permittee shall maintain and operate Source ID P309A in a manner consistent with good air pollution control practice for minimizing emissions.

13. [Additional authority for this permit condition is also derived from 40 CFR 60.4230.]

Source ID P309A is subject to the Standards of Performance for Stationary Spark Ignition Internal Combustion Engines (40 CFR Part 60, Subpart JJJJ). The permittee shall comply with all applicable requirements of 40 CFR 60.4230—60.4248.

14. [Additional authority for this permit condition is also derived from 40 CFR 63.6585.]

Source ID P309A is subject to the National Emissions Standards for Hazardous Air Pollutants for Stationary Reciprocating Internal Combustion Engines (40 CFR Part 63, Subpart ZZZZ). The permittee shall comply with all applicable requirements of 40 CFR 63.6580—63.6675.

15. Source ID P309A is a Caterpillar, Model G3516B LE, 4-stroke, lean burn, reciprocating internal combustion engine rated for 1,818 hp at 100% load and used for emergency electricity generation. The engine-generator set is rated for 1,300 kW.

16. [Additional authority for this permit condition is also derived from the permittee's election to shutdown Engine 10A upon shakedown of the new electric compressor.]

Within 15 days of the date of permanent shutdown of Source ID P110, the permittee shall submit in writing the actual date of shutdown, and information to justify the Engine 10A associated with Source ID P110 is permanently shutdown and not capable of future operation (that is, the fuel lines have been disconnected, and the like).

17. Upon receipt of the information previously-listed and Administrative Amendment Application to incorporate the conditions herein into Title V Operating Permit 53-00001, the Department will incorporate a Federally enforceable condition into the Title V operating permit to prohibit any operation of Engine 10A of Source ID P110, and the permittee may submit a emission reduction credit (ERC) registry application.

A copy of the plan approval application and the Department's review are available for public review between 8 a.m. and 4 p.m. at the Department's Northcentral Regional Office, 208 West Third Street, Suite 101, Williamsport, PA 17701. Appointments for scheduling a review may be made by calling the Department at 570-327-3693. Written comments or requests for a public hearing should be directed to Muhammad Q. Zaman, Environmental Program Manager, Air Quality Program, Department of Environmental Protection, Northcentral Regional Office, 208 West Third Street, Suite 101, Williamsport, PA 17701, 570-327-3648.

*Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745. Contact: B. Hatch, Environmental Engineer Managers—Telephone: 412-442-4163/5226.*

**32-00297F: Creps United Publications** (1163 Water Street, Indiana, PA 15701) to authorize installation of a new Goss C550 heatset web offset lithographic printing press in replacement of an existing Harris NCH 400 press of the same type with a lesser capacity at Creps' facility in White Township, **Indiana County**.

Notice is hereby given in accordance with 25 Pa. Code §§ 127.44—127.46 that the Department of Environmental Protection (Department) intends to issue Air Quality Plan Approval: PA-32-00297F to authorize installation of a new Goss C550 heatset web offset lithographic printing press in replacement of an existing Harris NCH 400 press of the same type with a lesser capacity at Creps' facility located in White Township, Indiana County. The Harris NCH 400 printing press has been completely removed from the facility and will no longer be a source of air emissions. A small natural gas-fired dryer rated at 3 mmBtu/hr is included with the new press.

Facility-wide emissions are limited by plan approval condition to no more than 49 tons of volatile organic compounds (VOCs). Remaining potential emissions from the facility are estimated to be 14.8 tons of nitrogen oxides (NO<sub>x</sub>), 12.8 tons of carbon monoxide (CO), 1.1 tons of particulate matter (PM), 2.85 tons of xylene, 2.63 tons of ethylene glycol, 2.31 tons of cumene, and 8.71 tons of total hazardous air pollutants (HAPs) per year. Best Available Technology (BAT) for the new press is the capture of VOC emissions during the drying process and their destruction in an existing Airex Corp. regenerative thermal oxidizer. BAT also includes the use of low vapor pressure cleaning solvents, minimization of solvent used during cleaning, and storage of used cleaning rags in closed containers. This authorization is subject to state regulations. Stack testing of the existing regenerative thermal oxidizers is required to confirm their VOC destruction efficiency and to establish a set-point operating temperature. Compliance with emission limitations will be demonstrated through stack testing, ink and solvent VOC content records, and ink and solvent consumption records. Plan Approval has been conditioned to ensure compliance with all applicable rules. Once compliance with the Plan Approval is demonstrated, the applicant will revise their current pending State-only Permit Application in accordance with 25 Pa. Code § 127.411.

Those who wish to provide the Department with additional written information that they believe should be considered prior to the issuance of the Plan Approval may submit the information to Alan Binder, Department of Environmental Protection, 400 Waterfront Drive, Pittsburgh, PA 15222. Each written comment must contain the following:

Name, address and telephone number of the person submitting the comments.

Identification of the proposed Plan Approval (PA-32-00297F).

Concise statements regarding the relevancy of the information or objections to issuance of the Plan Approval.

All comments must be received prior to the close of business 30 days after the date of this publication.

For additional information you may contact Alan Binder at 412-442-4168.

The facility currently operates under a Title V Operating Permit No. TV-56-00257. Once compliance with the Plan Approval is demonstrated, the provisions of this Plan Approval will subsequently be incorporated into the Title V Operating Permit through an administrative amendment in accordance with 25 Pa. Code § 127.450.

## OPERATING PERMITS

### Intent to Issue Title V Operating Permits under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter G.

*Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110. Contact: Thomas J. Hanlon, Chief, East Permitting Section—Telephone: 717-705-4862 or Daniel Husted, Chief, West Permitting Section—Telephone: 814-949-7935.*

**06-05081: Delaware County Solid Waste Authority** (583 Longview Road, Boyertown, PA 19512) for operation of the Rolling Hills Landfill in Earl Township, **Berks County**. This action is a renewal of the Title V operating permit issued in 2005.

*Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481. Contact: Matthew Williams, Facilities Permitting Chief—Telephone: 814-332-6940.*

**43-00310: Duferco Farrell Steel** (15 Roemer Boulevard, Farrell, PA 16121) for re-issuance of the Title V Permit to operate a cold rolling manufacturing steel facility in the City of Farrell, **Mercer County**. The facility's major emission sources include two natural gas steam boilers, three slab rehear furnaces, a 60 inch hot strip mill, No. 21 slitter, No. 2 shot blast, No. 7 pickle line, No. 4 tandem mill, No. 21 and No. 22 annealing furnaces, Nos. 26—28 temper mills, No. 2 shear, No. 26 slitter, No. 1 tension leveler, No. 3 shotblast and rotoblast, miscellaneous combustion sources, slab cutting torch, emergency diesel engine for the fire pump, emergency generators for the IT building and No. 7 pickle line, and fugitive emissions from the facility. The sources are part of two cold rolling lines and a hot rolling line. The facility is a major facility due to its potential to emit Volatile Organic Compounds, Carbon Dioxide, Oxides of Nitrogen, and Hazardous Air Pollutants (HCl). The facility is also subject to the National Emission Standards for Hazardous Air Pollutants for Steel Pickling—40 CFR 63, Subpart CCC.

### Intent to Issue Operating Permits under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter F.

*Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19428. Contact: Janine Tulloch-Reid, Facilities Permitting Chief—Telephone: 484-250-5920.*

**15-00103: Christiana Cabinetry** (504 Rosemont Avenue, Atglen, PA 19310-9449) for a renewal of the original State-only Operating Permit (Natural Minor), which was last modified on May 15, 2008 and expires on 7/31/2010 in Atglen Borough, **Chester County**. There have been no other changes made to the permit since it was issued. The permit includes monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.



**46-00235: North Penn School District** (400 Penn Street, Lansdale, PA 19446) for a renewal of State-only (Synthetic Minor) Operating Permit No 46-00235, which was originally issued on September 9, 2005 in Towamencin Township, **Montgomery County**. No major changes have occurred at the facility since the permit was originally issued. The renewed permit will include monitoring, recordkeeping, and work practice requirements designed to keep the facility operating within all applicable air quality requirements.

*Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701. Contact: Muhammad Q. Zaman, Environmental Program Manager—Telephone: 570-327-3648.*

**60-00003: Pilling's FRP, Inc.** (P. O. Box 119, West Milton, PA 17886) for their plant in Deer Township, **Union County**. The facility's main sources include three natural gas fired combustion units, a spray booth, a resin transfer molding room, a prototype lab room, and a sanding booth. Particulate matter emissions from the sanding booth are controlled by a filtered capture chamber. The facility has the potential to emit major quantities of VOCs. The facility has taken a synthetic minor restriction to limit its VOC emissions below the major emission thresholds. The facility has the potential to emit SO<sub>x</sub>, NO<sub>x</sub>, CO, PM (PM<sub>10</sub>) and HAPs below the major emission thresholds. The proposed operating permit contains all applicable regulatory requirements including monitoring, recordkeeping and reporting conditions.

**59-00009: State System of Higher Education—Mansfield University** (Brooks Maintenance Building, Mansfield University, Mansfield, PA 16933) for Mansfield University in Mansfield Borough, **Tioga County**. The facility's main sources include three natural gas/No. 2 fuel oil-fired boilers, 41 natural gas-fired combustion units and 20 natural gas/diesel fuel-fired emergency generators. The facility has the potential to emit particulate matter (PM<sub>10</sub>), nitrogen oxides (NO<sub>x</sub>), carbon monoxide (CO), volatile organic compounds (VOCs), hazardous air pollutants (HAPs) and sulfur oxides (SO<sub>x</sub>) below the major emission thresholds. The proposed operating permit contains requirements including monitoring, recordkeeping and reporting conditions to ensure compliance with applicable Federal and State regulations.

*Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745. Contact: Barbara Hatch, Facilities Permitting Chief—Telephone: 412-442-4174.*

**03-00148: Altmeyer Stable and Farm—Kittanning** (119 Altmeyer Drive, Kittanning, PA 16201) a Natural Minor Operating Permit for operation of the facility's air contamination source consisting of one 120 lb/hr animal crematory incinerator, Shenandoah P25-2G natural gas-fired rated at 425 mmBtu/hr primary chamber and 800 mmBtu/hr secondary chamber in Plumcreek Township, **Armstrong County**. The facility is limited to 0.1 gr/dscf particulate matter corrected to 12% oxygen and 500 ppmv sulfur oxides per requirements of the SIP. The permit includes emission, restrictions, operation requirements, monitoring requirements and recordkeeping requirements.

**04-00673: Lacock Cremation Service, Inc.—Rochester** (2 Chester Way, Rochester, PA 15074) a Natural Minor Operating Permit for operation of the facility's air contamination source consisting of one 100 lb/hr human crematory incinerator, Power-Pak II natural gas-fired rated at 750 mmBtu/hr primary chamber and 1.2

mmBtu/hr secondary chamber in East Rochester Borough, **Beaver County**. The facility is limited to 0.08 gr/dscf particulate matter corrected to 7% oxygen and 500 ppmv sulfur oxides. The permit includes emission, restrictions, operation requirements, monitoring requirements, and recordkeeping requirements for the facility.

*Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481. Contact: Matthew Williams, New Source Review Chief—Telephone: 814-332-6940.*

**25-00037: Joseph McCormick Construction Co., Inc.—Wesleyville Plant** (1507 Wesley Avenue, Erie, PA 16510-1675) for a Synthetic Minor Permit to operate a hot mix asphalt plant in Wesleyville Borough, **Erie County**. The significant sources are batch asphalt plant with dryer, material conveyors and baghouse. The facility becomes synthetic minor because of the throughput restriction to escape from the Title V threshold limits.

**37-00266: Shenango Area School District** (2501 Old Pittsburgh Road, New Castle, PA 16101-6095) to issue a renewal of the State-only Operating Permit for the two Tri-Fuel Boilers, miscellaneous natural gas combustion units, and a diesel fired emergency generator at the High School located in Cranberry Township, **Venango County**. The facility is a Natural Minor.

## PLAN APPROVALS

**Receipt of Plan Approval Applications and Intent to Issue Plan Approvals, and Intent to Issue Amended Operating Permits under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter B And Subchapter F. These actions may include the administrative amendments of an associated operating permit.**

*Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401. Contact: Sachin Shankar, New Source Review Chief—Telephone: 484-250-5920.*

**46-0019A: Lockheed Martin Corp.** (230 East Mall Boulevard, King of Prussia, PA 19406) for installation of two 2,000 kW internal combustion emergency generators at their facility in Upper Merion Township, **Montgomery County**. Lockheed Martin is a Synthetic Minor facility, operating under SMOP 46-00019. The Plan Approval will contain monitoring, recordkeeping and operating restrictions designed to minimize emissions and keep the facility operating within all applicable air quality requirements.

## COAL AND NONCOAL MINING ACTIVITY APPLICATIONS

Applications under the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.19a); the Noncoal Surface Mining Conservation and Reclamation Act (52 P. S. §§ 3301—3326); The Clean Streams Law (35 P. S. §§ 691.1—691.1001); the Coal Refuse Disposal Act (52 P. S. §§ 30.51—30.66); The Bituminous Mine Subsidence and Land Conservation Act (52 P. S. §§ 1406.1—1406.21). 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 of Environmental Protection (Department). A copy of the application is available for inspection at the District Mining Office indicated above each application. Where a 401 Water Quality Certification is needed for any aspect of a particular proposed mining activity, the submittal of the permit application will serve as the request for the certification.

Written comments or objections, or requests for an informal conference, or a public hearing, as applicable, on a mining permit application may be submitted by 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 above 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 related to 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.

Requests 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 a National Pollutant Discharge Elimination System (NPDES) number is listed, the mining activity permit application was accompanied by an application for an individual NPDES permit. The Department has made a tentative determination to issue the NPDES permit in conjunction with the mining activity permit, but the issuance of the NPDES permit is contingent upon the approval of the associated mining activity permit.

For coal mining activities, NPDES permits, when issued, will contain effluent limits that do not exceed the technology-based effluent limitations. The proposed limits are listed in Table 1.

For noncoal mining activities, the proposed limits are found in Table 2. Discharges from noncoal mines located in some geologic settings (for example, in the coal fields)

may require additional effluent limits. If additional effluent limits are needed for an NPDES permit associated with a noncoal mining permit, then the permit description below specifies the parameters. The limits will be in the ranges specified in Table 1.

More restrictive effluent limitations, restrictions on discharge volume, or restrictions on the extent of mining that may occur, will be incorporated into an NPDES permit when necessary for compliance with water quality standards and antidegradation requirements (in accordance with 25 Pa. Code Chapters 91—96).

The procedures for determining the final effluent limits, using a mass-balance equation or model, are found in Technical Guidance Document 362-0600-001, NPDES Program Implementation—Memorandum of Understanding Concerning Water Quality Management, NPDES Program Implementation and Related Matters. Other specific factors to be considered include public comments and Total Maximum Daily Loads (TMDLs).

Persons wishing to comment on an NPDES permit application should submit a statement to the Department at the address of the district mining office indicated previously each application within 30 days of this public notice. Comments received within the comment period will be considered in the final determinations regarding the NPDES permit applications. 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 § 92.61. The request or petition for a public hearing shall be filed within 30 days of this public notice and shall contain the name, address, telephone number and the interest of the party filing the request, and shall 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. In the case where a public hearing is held, the Department will consider comments from the public hearing in the final determination on the NPDES permit application.

#### *Coal Applications Received*

**Effluent Limits**—The following range of effluent limits will apply to NPDES permits issued in conjunction with the associated coal mining activity permit and, in some cases, noncoal mining permits:

Table 1

Parameter	30-Day Average	Daily Maximum	Instantaneous Maximum
Iron (Total)	1.5 to 3.0 mg/l	3.0 to 6.0 mg/l	3.5 to 7.0 mg/l
Manganese (Total)	1.0 to 2.0 mg/l	2.0 to 4.0 mg/l	2.5 to 5.0 mg/l
Suspended solids	10 to 35 mg/l	20 to 70 mg/l	25 to 90 mg/l
Aluminum (Total)	0.75 to 2.0 mg/l	1.5 to 4.0 mg/l	2.0 to 5.0 mg/l
pH <sup>1</sup>		greater than 6.0; less than 9.0	
Alkalinity greater than acidity <sup>1</sup>			

<sup>1</sup> The parameter is applicable at all times.

A settleable solids instantaneous maximum limit of 0.5 ml/l applied to: surface runoff (resulting from a precipitation event of less than or equal to a 10-year 24-hour event) from active mining areas; active areas disturbed by coal refuse disposal activities; and mined areas backfilled and revegetated; and drainage (resulting from a precipitation event of less than or equal to a 1-year 24-hour event) from coal refuse disposal piles.

*California District Office: 25 Technology Drive, Coal Center, PA 15423, 724-769-1100.*

**56001301 and NPDES Permit No. NA, Rosebud Mining Company**, (301 Market Street, Kittanning, PA 16201), to transfer the permit for the Genesis No. 17 Mine in Lincoln, Somerset and Quemahoning Townships, **Somerset County** to Rosebud Mining Company from Genesis, Inc., d/b/a Meadow Run Genesis, Inc. No additional discharges. Application received: May 3, 2010.

**56841310 and NPDES Permit No. PA001914, Rosebud Mining Company**, (301 Market Street, Kittanning, PA 16201), to transfer the permit and related NPDES permit for the Solar No. 7 Mine in Quemahoning Township, **Somerset County** to Rosebud Mining Company from Genesis, Inc., d/b/a Meadow Run Genesis, Inc. No additional discharges. Application received: May 10, 2010.

*Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, 814-472-1900.*

**32050104 and NPDES No. PA0249742. Mears Energy, LLC**, 225 Rich Hill Road, Penn Run, PA 15765, permit renewal for reclamation only of a bituminous surface and auger mine in West Mahoning Township, **Indiana County**, affecting 126.0 acres. Receiving stream(s): Carr Run classified for the following use(s): cold water fishery. There are no potable water supply intakes within 10 miles downstream. Application received: June 21, 2010.

**32950202 and NPDES No. PA0213039. Cambria Reclamation Corporation**, 2929 Allen Parkway, Houston, TX 77019, permit renewal for the continues operation and restoration of a bituminous surface mine in Center Township, **Indiana County**, affecting 287.3 acres. Receiving stream(s): unnamed tributaries to and Yellow Creek classified for the following use(s): cold water fishery; trout stocked fishery. There are no potable water supply intakes within 10 miles downstream. Application received: June 15, 2010.

**32950201 and NPDES No. PA0213004. Cambria Reclamation Corporation**, 2929 Allen Parkway, Houston, TX 77019, permit renewal for the continues operation and restoration of a bituminous surface mine in White and Rayne Township, **Indiana County**, affecting 256 acres. Receiving stream(s): McKee Run to Crooked Creek classified for the following use(s): cold water fishery; warm water fishery. There are no potable water supply intakes within 10 miles downstream. Application received: June 15, 2010.

**32040105 and NPDES No. PA0249637. KMP Associates, Inc.**, 1094 Lantz Road, Avonmore, PA 15618, permit renewal for reclamation only of a bituminous surface mine in Conemaugh Township, **Indiana County**, affecting 6.7 acres. Receiving stream(s): unnamed tributaries to and Big Run; Blacklegs Creek classified for the following use(s): cold water fishery. There are no potable water supply intakes within 10 miles downstream. Application received: June 24, 2010.

**3279103 and NPDES No. PA0079791. Keystone Coal Mining Corporation**, P. O. Box 219, 400 Overview Drive, Shelocta, PA 15774, permit renewal of a bituminous surface mine in Young Township, **Indiana County**, affecting 19.0 acres. Receiving stream(s): Unnamed tributaries to Big Run classified for the following use(s): cold water fishery; There are no potable water supply intakes within 10 miles downstream. Application received: June 21, 2010.

*Greensburg District Mining Office: Armbrust Professional Center, 8205 Route 819, Greensburg, PA 15601, 724-925-5500.*

**02050101 and NPDES Permit No. PA0250791. NBL Mining Co., LLC** (P. O. Box 369, Atlasburg, PA 15004). Renewal application for reclamation only of a bituminous surface mine, located in North Fayette Township, **Allegheny County**, affecting 75.5 acres. Receiving streams: unnamed tributaries to North Branch Robinson Run, classified for the following use: WWF. There is no potable water supply intake within 10 miles downstream from the point of discharge. Renewal application received: May 25, 2010.

**65910103 and NPDES Permit No. PA0592447. Coal Loaders, Inc.** (210 East Main Street, P. O. Box 556, Ligonier, PA 15658). Revision application for 29.7 additional acres of an existing bituminous surface mine, located in South Huntingdon Township, **Westmoreland County**, affecting 72.1 acres. Receiving streams: unnamed tributaries to Barren Run, classified for the following use: WWF. There is no potable water supply intake within 10 miles downstream from the point of discharge. Application received: June 29, 2010.

*Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, 814-342-8200.*

**17990124 and NPDES No. PA0242802. River Hill Coal Co., Inc.** (P. O. Box 141, Kylertown, PA 16847). Renewal of an existing bituminous surface mine located in Bigler Township, **Clearfield County** affecting 73.7 acres. Receiving streams: unnamed tributaries to Muddy Run and Muddy Run classified for Cold Water Fisheries. There are no potable water supply intakes within 10 miles downstream. Application received: June 4, 2010.

#### *Noncoal Applications Received*

**Effluent Limits**—The following effluent limits will apply to NPDES permits issued in conjunction with a noncoal mining permit:

Table 2

Parameter	30-day Average	Daily Maximum	Instantaneous Maximum
Suspended solids	10 to 35 mg/l	20 to 70 mg/l	25 to 90 mg/l
Alkalinity exceeding acidity* pH*		greater than 6.0; less than 9.0	

\* The parameter is applicable at all times.

A settleable solids instantaneous maximum limit of 0.5 ml/l applied to surface runoff resulting from a precipitation event of less than or equal to a 10-year 24-hour event. If coal will be extracted incidental to the extraction of noncoal minerals, at a minimum, the technology-based effluent limitations identified under coal applications will apply to discharges of wastewater to streams.

*Greensburg District Mining Office: Armbrust Professional Center, 8205 Route 819, Greensburg, PA 15601, 724-925-5500.*

**03950301 and NPDES Permit No. PA0201359. Glacial Sand & Gravel Company** (P. O. Box 1022, Kittanning, PA 16201). NPDES renewal application for continued mining of a large noncoal surface mine, located in East Franklin Township, **Armstrong County**, affecting 310 acres. Receiving streams: unnamed tributaries to Allegheny River, classified for the following use: WWF. There is no potable water supply intake within 10 miles downstream from the point of discharge. Renewal application received: June 24, 2010.

**26840402 and NPDES Permit No. PA0599085. Hanson Aggregates BMC, Inc.** (2200 Springfield Pike, Connellsville, PA 15425). NPDES renewal application for continued mining of a large noncoal surface mine, located in Connellsville Township, **Fayette County**, affecting 234.7 acres. Receiving stream: Connell Run, classified for the following use: WWF. There is no potable water supply intake within 10 miles downstream from the point of discharge. Renewal application received: June 25, 2010.

*Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, 814-342-8200.*

**08100302 and NPDES No. PA0257389. Johnson Quarries, Inc.** (P. O. Box 136, Orange Street, LeRaysville, PA 18829). Commencement, operation and restoration of a overburden, shale, bluestone quarry located in Stevens Township, **Bradford County** affecting 127.9 acres. Receiving streams: unnamed tributary to Wyalusing Creek (Warm Water Fishery) and Rockwell Creek (Warm Water Fishery). Both flow to Wyalusing Creek (Warm Water Fishery) to the Susquehanna River (Warm Water Fishery). There are no potable water supply intakes within 10 miles downstream. Application received: June 28, 2010.

## ACTIONS

### THE CLEAN STREAMS LAW AND THE FEDERAL CLEAN WATER ACT FINAL ACTIONS TAKEN FOR NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES) PERMITS AND WATER QUALITY MANAGEMENT (WQM) PERMITS

The Department of Environmental Protection (Department) has taken the following actions on previously received applications for new, amended and renewed NPDES and WQM permits, applications for permit waivers and Notices of Intent (NOI) for coverage under general permits. This notice is provided in accordance with 25 Pa. Code Chapters 91 and 92 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.

<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 related to industrial, animal or sewage wastes discharges, discharges to groundwater and discharges associated with municipal separate storm sewer systems (MS4), stormwater associated with construction activities and concentrated animal feeding operations (CAFOs). Section VII contains notices for parties who have submitted NOIs for coverage under general NPDES permits. The approval for coverage under general NPDES permits is subject to applicable effluent limitations, monitoring, reporting requirements and other conditions set forth 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 set forth in the respective permit. 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, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (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 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, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

### I. NPDES Renewal Permit Actions

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

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N?</i>
PA0063274 (Sewage)	Brian G. Guinane 1034 Lower Rhiney Creek Road Hallstead, PA 18822	Susquehanna County Liberty Township	Rhiney Creek 04E	Y

*Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701.*

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PAG124816	Boyles Farm 258 Mountain Road Muncy Valley, PA 17758	Lycoming County Franklin Township	Muncy Creek Watershed 10D	Y
PA0228150 (Industrial Waste)	Embassy Powdered Metals Airport Road Emporium, PA 15834	Cameron County Emporium Borough	Driftwood Branch Sinnemahoning Creek 8-A	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0222062	SGM, LLC 1553 Perry Highway Mercer, PA 16137	Mercer County Springfield Township	Unnamed Tributary to Neshannock Creek 20-A	Y
PA0029378	Redbank Valley School District 920 Broad Street New Bethlehem, PA 16242-1117	Clarion County Hawthorn Borough	Unnamed Tributary to Redbank Creek 17-C	Y
PA0101940	Anita and Michael Matthews, d/b/a Country Estates Mobile Home Park 210 Summit City Road Kennerdell, PA 16374-2220	Venango County Clinton Township	Trout Run 16-G	Y

### II. New or Expanded Facility Permits, Renewal of Major Permits and EPA Nonwaived Permit Actions

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

**NPDES Permit No. PA0056081**, Sewage, **Dougherty, Kevin P.**, 937 Worthington Mill Road, Wrightstown, PA 18940. This proposed facility is located in Wrightstown Township, **Bucks County**.

Description of Proposed Action/Activity: Approval for the renewal to discharge 1,750 gpd of treated sewage to an Unnamed Tributary to Mill Creek in Watershed 2-F.

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

**NPDES Permit No. PA0042269, Amendment**, Sewage, **Lancaster Area Sewer Authority**, 130 Centerville Road, Lancaster, PA 17603. This proposed facility is located in Manor Township, **Lancaster County**.

Description of Proposed Action/Activity: Authorization to discharge to Dry Run in Watershed 7-J.

**NPDES Permit No. PA0008184**, Industrial Waste, **Harsco Corporation**, 350 Popular Church Road, Camp Hill, PA 17011. This proposed facility is located in Harrisburg City, **Dauphin County**.

Description of Proposed Action/Activity: Transfer of Permit.

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

**NPDES Permit No. PA0263699**, Sewage, **Kris Ellis**, 7 South Court, Cranberry, PA 16066. This proposed facility is located in Forward Township, **Butler County**.

Description of Proposed Action/Activity: A Single Residence Small Flow Treatment Facility.

### III. WQM Industrial Waste and Sewerage Actions under The Clean Streams Law (35 P. S. §§ 691.1—691.1001)

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

**WQM Permit No. 4601402**, Sewerage, **Transfer, John Polkus**, 153 Papermill Road, Barto, PA 19504. This proposed facility is located in Douglass Township, **Montgomery County**.



Description of Action/Activity: Transfer original single residence wastewater treatment plant permit from O'Neil SRSTP to Polkus SRSTP.

**WQM Permit No. 0987403**, Sewerage, **Amendment No. 1, The Municipal Authority of the Borough of Morrisville**, 35 Union Street, Morrisville, PA 19067. This proposed facility is located in Morrisville Borough, **Bucks County**.

Description of Action/Activity: To reflect an organic capacity rerate of the Morrisville Borough sewage treatment plant. The project will generate 7.1 million gallons of sewage per day.

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

**WQM Permit No. WQG02381002**, Sewerage, **Northern Lebanon County Authority**. This proposed facility is located in Swatara Township, **Lebanon County**.

Description of Proposed Action/Activity: Construction/Operation to extend sanitary sewers to the Mountville Drive, Moritz Drive and Black Oak Road areas.

**WQM Permit No. 6709201**, Industrial Waste, **Phyllis Chant, P.H. Glatfelter Company**, 228 South Main Street, Spring Grove, PA 17362-1000. This proposed facility is located in Spring Grove Borough, **York County**.

Description of Proposed Action/Activity: Construction of industrial waste facilities consisting of: A lift station with three pumps, two spray cooling basins with three spray coolers per basin, an effluent line with step aeration chambers, Parshall flume, temperature probes and flow meters.

*Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701.*

**WQM Permit No. 0810401**, Sewerage, SIC 4952, **Wyalusing Municipal Authority**, P. O. Box 61, Wyalusing, PA 18853. This proposed facility is located in Wyalusing Township, **Bradford County**.

Description of Proposed Action/Activity: A proposed elementary school and an existing Jr/Sr high school have access to the public sewers and capacity has been granted by the Authority. The project proposes to install gravity sewer from the proposed elementary school and existing high school to a central pump station on the elementary school site. The pump station will feed into a new force main that will ultimately discharge into an existing force main stub along the southern side of SR 0006.

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

**WQM Permit No. 1010401**, Sewerage, **Kris Ellis**, 7 South Court, Cranberry, PA 16066. This proposed/existing facility is located in Forward Township, **Butler County**.

Description of Proposed Action/Activity: A Single Residence Small Flow Treatment Facility.

**WQM Permit No. WQG018759**, Sewerage, **Brian and Kirsten May**, 396 Price Road, Bear Lake, PA 16402. This proposed/existing facility is located in Freehold Township, **Warren County**.

Description of Proposed Action/Activity: A Single Residence Small Flow Treatment Facility.

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#### IV. NPDES Stormwater Discharges from MS4 Permit Actions

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#### V. NPDES Waiver Stormwater Discharges from MS4 Actions

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#### VI. NPDES Discharges of Stormwater Associated with Construction Activities Individual Permit Actions

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

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI025208008	Raymondskill Properties, LLC 1875 Century Park East Suite 1980 Los Angeles, CA 90067	Pike	Dingman Township	Raymondskill Creek HQ-CWF, MF

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

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

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI041409016	Dave Palmer S & A Homes, Inc. 2121 Old Gatesburg Road State College, PA 16803	Centre	Ferguson Township	Big Hollow CWF

*Southwest Region: Watershed Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.*

*Westmoreland County Conservation District, 211 Donohoe Road, Greensburg, PA 15601 (724-837-5271).*

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water / Use</i>
PAI056509005	Ray Patalsky 1209 Route 286 Export, PA 15632	Westmoreland	Murrysville Borough	UNT to Turtle Creek TSF

## VII. Approvals to Use NPDES and/or Other General Permits

The EPA Region III Administrator has waived the right to review or object to this permit action under the waiver provision 40 CFR 123.23(d).

### List of NPDES and/or Other General Permit Types

PAG-1	General Permit for Discharges From Stripper Oil Well Facilities
PAG-2	General Permit for Discharges of Stormwater Associated With Construction Activities (PAR)
PAG-3	General Permit for Discharges of Stormwater From Industrial Activities
PAG-4	General Permit for Discharges From Small Flow Treatment Facilities
PAG-5	General Permit for Discharges From Gasoline Contaminated Ground Water Remediation Systems
PAG-6	General Permit for Wet Weather Overflow Discharges From Combined Sewer Systems (CSO)
PAG-7	General Permit for Beneficial Use of Exceptional Quality Sewage Sludge by Land Application
PAG-8	General Permit for Beneficial Use of Nonexceptional Quality Sewage Sludge by Land Application to Agricultural Land, Forest, a Public Contact Site or a Land Reclamation Site
PAG-8 (SSN)	Site Suitability Notice for Land Application Under Approved PAG-8 General Permit Coverage
PAG-9	General Permit for Beneficial Use of Residential Septage by Land Application to Agricultural Land, Forest, or a Land Reclamation Site
PAG-9 (SSN)	Site Suitability Notice for Land Application Under Approved PAG-9 General Permit Coverage
PAG-10	General Permit for Discharge Resulting from Hydrostatic Testing of Tanks and Pipelines
PAG-11	(To Be Announced)
PAG-12	Concentrated Animal Feeding Operations (CAFOs)
PAG-13	Stormwater Discharges from Municipal Separate Storm Sewer Systems (MS4)

#### *General Permit Type—PAG-2*

##### *Facility Location:*

<i>Municipality &amp; County</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water / Use</i>	<i>Contact Office &amp; Phone No.</i>
Bristol Township Bucks County	PAG0200 091017	County of Bucks 555 Court Street Doylestown, PA 18901	Delaware River WWF-MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
Middletown Township Bucks County	PAG0200 0909102	St. Mary Medical Center 1201 Langhorne- Newtown Road Langhorne, PA 19047	Neshaminy Creek WWF-MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
Warrington Township Bucks County	PAG0200 091020	Warrington Township 852 Easton Road Warrington, PA 18975	Little Neshaminy Creek WWF-MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
Solebury Township Bucks County	PAG0200 091018	Solebury Township 3092 Sagan Road P. O. Box 139 Solebury, PA 18963	Primose Creek TSF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
Middletown Township Bucks County	PAG0200 091027	Department of Transportation 7000 Geerdes Boulevard King of Prussia, PA 19406	Unnamed Tributary Mill Creek WWF-MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900

<i>Facility Location: Municipality &amp; County</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water / Use</i>	<i>Contact Office &amp; Phone No.</i>
Doylestown Township Bucks County	PAG0200 0909089	Doylestown Presbyterian Church 127 Court Street Doylestown, PA 18901	Cooks Creek WWF-M	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
Upper Makefield Township Bucks County	PAG0200 0903185-R	Toll Brothers, Inc. 250 Gibraltar Road Horsham, PA	Unnamed Tributary Jericho Creek WWF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
Falls Township Bucks County	PAG0200 091028	Sims Metal Management 300 South Steel Road Morrisville, PA 19067	Pidcock-Mill Creek WWF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
Haverford Township Delaware County	PAG0200 2307027	The Goldenberg Group 350 Sentry Parkway Building 630 Suite 300 Blue Bell, PA 19422	Darby Creek CWF-MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
Concord Township Delaware County	PAG0200 231005	Concord Township 43 Thornton Road Glenn Mills, PA 19342	Chester Creek TSF-MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
Horsham Township Montgomery County	PAG0200 4609102	Glen Acer Development, LP 636 Old York Road Jenkintown, PA 19046	Little Neshaminy Creek WWF-MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
Horsham Township Montgomery County	PAG0200 461015	Horsham Water and Sewer Authority 617 Horsham Road Horsham, PA 19044	Park Creek WWF-MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
Lower Providence Township Montgomery County	PAG0200 461003	HTC Associates, Inc. 1741 Valley Forge Road P. O. Box 12 Worcester, PA 19426	Perkiomen Creek WWF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
Souderton Township Montgomery County	PAG0200 461036	Zwingli United Church of Christ 350 Nile Avenue Souderton, PA 18964	Tributary Skippack Creek TSF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
Lower Frederick Township Montgomery County	PAG0200 461042	Department of Transportation 7000 Geerdes Boulevard King of Prussia, PA 19406	Perkiomen Creek and Mill Race WWF-MF-TSF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
Lower Salford Township Montgomery County	PAG0200 461025	Indian Valley Mennonite Church 190 Maple Avenue Harleysville, PA 19428	Unnamed Tributary Indian Creek TSF-MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
Horsham Township Montgomery County	PAG0200 461009	Vantage Point Advisors, Inc. 1029 North Bethlehem Pike Lower Gwynedd, PA 19002	Little Neshaminy Creek WWF-MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
North Manheim Township Schuylkill County	PAG2005409010	Achey Land Partners, LLC Attn: Arthur L. Raudenbush 355 East Second Mountain Road Schuylkill Haven, PA 17972	Tributary to Schuylkill River CWF, MF	Schuylkill County Conservation District 570-622-3742

*Facility Location:  
Municipality &  
County*

*Permit No.*

*Applicant Name &  
Address*

*Receiving  
Water / Use*

*Contact Office &  
Phone No.*

Archbald Borough Lackawanna County	PAG2003510006	Lackawanna Heritage Valley Authority Attn: Natalie Gelb Solfanelli 538 Spruce Street Suite 516 Scranton, PA 18503	Laurel Run CWF, MF	Lackawanna County Conservation District 570-281-9495
North Towanda Township Bradford County	PAG2000810011	Bhadresh Patel Peace Motel, Inc. 383 York Avenue Towanda, PA 18848	Sugar Creek Susquehanna River WWF/MF	Bradford County Conservation District Stoll Natural Resource Center R. R. 5 Box 5030C Towanda, PA 18848 (570) 265-5539 Ext. 6
State College Borough Centre County	PAG2001410011	William James Foxdale Village Corp 500 East Marylyn Avenue State College, PA 16801	Slab Cabin Run CWF	Centre County Conservation District 414 Holmes Avenue Suite 4 Bellefonte, PA 16823 (814) 355-6817
Cooper and Graham Townships Clearfield County	PAG2001710006	Department of Transportation, District 2-0 P. O. Box 342 Clearfield, PA 16830	Alder Run CWF Sulpher Run CWF	Clearfield County Conservation District 650 Leonard Street Clearfield, PA 16830 (814) 765-2629
Woodward Township Clinton County	PAG2001810001	R. Edward Nestlerode, Jr. Linwood Acres-Phase I 145 East Walnut Street Lock Haven, PA 17745	UNT to Susquehanna River CWF	Clinton County Conservation District 45 Cooperation Lane Mill Hall, PA 17751 (570) 726-3798

*General Permit Type—PAG-3*

*Facility Location:  
Municipality &  
County*

*Permit No.*

*Applicant Name &  
Address*

*Receiving  
Water / Use*

*Contact Office &  
Phone No.*

Berks County Reading City	PAR143514	Sealed Air Corporation 450 Riverfront Drive Reading, PA 19602	Schuylkill River WWF	DEP—SCRO—WQ 909 Elmerton Avenue Harrisburg, PA 17110 717-705-4707
Franklin County Letterkenney Township	PAR233545	Alex C. Fergusson, LLC 5000 Letterkenney Road Chambersburg, PA 17201	Muddy Run WWF Rocky Spring Branch TSF	DEP—SCRO—WQ 909 Elmerton Avenue Harrisburg, PA 17110 717-705-4707
Franklin County Chambersburg Borough	PAR123542	Ventura Foods, LLC 1501 Orchard Drive Chambersburg, PA 17201-4812	UNT Conococheague Creek WWF 13-C	DEP—SCRO—WQ 909 Elmerton Avenue Harrisburg, PA 17110 717-705-4707
Perry County Penn Township	PAR213559	Marstellar Concrete, Inc. Penn Township Facility P. O. Box 210 Port Royal, PA 17082	UNT Susquehanna River WWF 7A	DEP—SCRO—WQ 909 Elmerton Avenue Harrisburg, PA 17110 717-705-4707
Lancaster County East Hempfield Township	PAR203570	Amerimax Home Products, Inc. Box 4515 Lancaster, PA 17604	West Branch Little Conestoga Creek TSF 7-J	DEP—SCRO—WQ 909 Elmerton Avenue Harrisburg, PA 17110 717-705-4707



*Facility Location:  
Municipality &  
County*

*Permit No.*

*Applicant Name &  
Address*

*Receiving  
Water / Use*

*Contact Office &  
Phone No.*

Williamsport City  
Lycoming County

PAR704807

HRI, Inc.  
1750 West  
College Avenue  
State College, PA 16801

UNT Daugherty Run  
10-A  
WWF

Northcentral Regional  
Office Water Management  
208 West Third Street  
Suite 101  
Williamsport, PA  
17701-6448  
570-327-0532

Moon Township  
Allegheny County

PAR606152

Jerry's Auto Wrecking  
176 Flaugherty  
Run Road  
Coraopolis, PA 15108

Ohio River

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

*General Permit Type—PAG-4*

*Facility Location:  
Municipality &  
County*

*Permit No.*

*Applicant Name &  
Address*

*Receiving  
Water / Use*

*Contact Office &  
Phone No.*

Berks County  
Bern Township

PAG043714

Jeanette L. Drey  
1193 Fairview Drive  
Reading, PA 19605

UNT Plum Creek 3C  
CWF

DEP—SCRO  
909 Elmerton Avenue  
Harrisburg, PA 17110  
717-705-4707

Freehold Township  
Warren County

PAG049591

Brian and Kirsten May  
396 Price Road  
Bear Lake, PA 16402

Unnamed tributary  
to Coffee Creek  
16-B

DEP—NWRO  
Water Management  
230 Chestnut Street  
Meadville, PA 16335-3481  
814/332-6942

*General Permit Type—PAG-5*

*Facility Location:  
Municipality &  
County*

*Permit No.*

*Applicant Name &  
Address*

*Receiving  
Water / Use*

*Contact Office &  
Phone No.*

North Huntingdon  
Township  
Westmoreland  
County

PAG056238

Speedway Super-  
America, LLC  
500 Speedway Drive  
Enon, OH 45501

UNT of Tinkers Run

Southwest Regional Office  
Water Management  
Program Manager  
400 Waterfront Drive  
Pittsburgh PA 15222-4745  
(412) 442-4000

*General Permit Type—PAG-8*

*Facility Location:  
Municipality &  
County*

*Permit No.*

*Applicant Name &  
Address*

*Site Name &  
Location*

*Contact Office &  
Phone No.*

Christiana Borough  
Chester County

PAG083584

Christiana Borough  
P. O. Box 135  
Christiana, PA 17509

Christiana Borough  
WWTP  
1200 Valley Avenue  
Atglen, PA 19310

DEP—SCRO  
909 Elmerton Avenue  
Harrisburg, PA  
17110-8200  
717-705-4707

Clay Township  
Huntingdon  
Township

PAG083595

Spring Creek Joint  
Sewer Authority  
P. O. Box 373  
Three Springs, PA 17264

Spring Creek Joint  
Sewer Authority WWTP  
8809 Hudson Street  
Three Springs, PA 17264

DEP—SCRO  
909 Elmerton Avenue  
Harrisburg, PA  
17110-8200  
717-705-4707

Conewago Township  
Adams County

PAG083596

Borough of Hanover  
44 Frederick Street  
Hanover, PA 17331

Hanover Area  
Regional WWTP  
44 Frederick Street  
Hanover, PA 17331

DEP—SCRO  
909 Elmerton Avenue  
Harrisburg, PA  
17110-8200  
717-705-4707

**STATE CONSERVATION COMMISSION**  
**NUTRIENT MANAGEMENT PLANS RELATED TO APPLICATIONS FOR**  
**NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES)**  
**PERMITS FOR CONCENTRATED ANIMAL FEEDING OPERATIONS (CAFO)**

The State Conservation Commission has taken the following actions on previously received applications for nutrient management plans under the act of July 6, 2005 (Act 38 of 2005, 3 Pa.C.S. §§ 501—522) (hereinafter referred to as Act 38), for agricultural operations that have or anticipate submitting applications for new, amended or renewed NPDES permits, or Notices of Intent for coverage under a general permit, for CAFOs, under 25 Pa. Code Chapter 92. This notice is provided in accordance with 25 Pa. Code Chapter 92 and 40 CFR Part 122, implementing The Clean Streams Law (35 P. S. §§ 691.1—691.1001) and the Federal Clean Water Act.

Persons aggrieved by any action may appeal under section 517 of Act 38, section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to Administrative Agency Law) to the Environmental Hearing Board, Second Floor, Rachael Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania AT&T Relay Service at (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

For individuals who wish to challenge an action, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for pro bono representation. Call the Secretary of the Board at (717) 787-3483 for more information.

**CAFO PUBLIC NOTICE SPREADSHEET—ACTIONS**

<i>Agricultural Operation Name and Address</i>	<i>County</i>	<i>Total Acres</i>	<i>Animal Equivalent Units</i>	<i>Animal Type</i>	<i>Special Protection Waters (HQ or EV or NA)</i>	<i>Approved or Disapproved</i>
Martin Farms 167 Overcash Road Chambersburg, PA 17202	Franklin	1,061	1,406.25	Dairy	N/A	Approved
Greystone Pork 12950 Forge Road Mercersburg, PA 17236	Franklin	87.7	715.12	Swine	N/A	Approved
Robert Boyles & Son 258 Mountain Road Muncy Valley, PA 17758	Lycoming	225.1	558.25	Swine/Beef	NA	Approved

**PUBLIC WATER SUPPLY (PWS)  
PERMITS**

The Department of Environmental Protection 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, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (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 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, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

**SAFE DRINKING WATER**

**Actions taken under the Pennsylvania Safe Drinking Water Act**

*Southeast Region: Watershed Management Program  
Manager, 2 East Main Street, Norristown, PA 19401.*

**Source Water Assessment Plan Approval** issued to **Buckingham Township Water Systems**, P. O. Box 413, Buckingham, PWSID 1090137, 1090123, 1090145 and 1090159, Buckingham Township, **Bucks County** on June 30, 2010.

*Southcentral Region: Water Supply Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.*

**Operations Permit** issued to **Herr Mobile Home Park**, 7360064, West Earl Township, **Lancaster County** on 6/25/2010 for the operation of facilities approved under Construction Permit No. 3609509.

**Operations Permit** issued to **Groffdale Mobile Home Park**, 7360098, Upper Leacock Township, **Lancaster County** on 6/25/2010 for the operation of facilities approved under Construction Permit No. 3609510.

**Operations Permit** issued to **Washington Township Municipal Authority**, 7280026, Washington Township, **Franklin County** on 7/1/2010 for the operation of facilities approved under Construction Permit No. 2809522 MA.

**Operations Permit** issued to **Mt. Holly Springs Borough Authority**, 7210037, Mt. Holly Springs Borough, **Cumberland County** on 6/25/2010 for the operation of facilities approved under Construction Permit No. 2110502 MA.

**Operations Permit** issued to **Berk Tek, Inc.**, 7360967, Earl Township, **Lancaster County** on 6/25/2010 for the operation of facilities approved under Construction Permit No. 3610510 MA.

**Operations Permit** issued to **Northwestern Lancaster County Authority**, 7360164, Penn Township, **Lancaster County** on 6/25/2010 for the operation of facilities approved under Construction Permit No. 3610521 MA.

**Operations Permit** issued to **Reflections Restaurant**, 7360537, Manheim Borough, **Lancaster County** on 6/25/2010 for the operation of facilities approved under Construction Permit No. 3610512 MA.

*Northcentral Region: Water Supply Management Program Manager, 208 West Third Street, Williamsport, PA 17701.*

**Permit No. M.A. (5381501)—Operation**, Public Water Supply.

Applicant	<b>Ulysses Municipal Authority</b>
Township or Borough	Ulysses Borough
County	<b>Potter</b>
Responsible Official	Timothy C. Scott, Chairperson Ulysses Municipal Authority 518 Main Street Ulysses, PA 16948
Type of Facility	Public Water Supply—Operation
Consulting Engineer	N/A
Permit Issued Date	June 28, 2010
Description of Action	Operation of 117,000 gallon steel welded water storage tank that was recently repainted on both inner and outer surfaces, followed by acceptable bacteriological and volatile organic chemical test results.

**Permit No. 1409501—Operation**, Public Water Supply.

Applicant	<b>Nittany Grove Mobile Home Park</b>
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Township or Borough	Harris Township
County	<b>Centre</b>
Responsible Official	Kirk Aguer Nittany Grove Mobile Home Park 233 Timberwood Trail Boalsburg, PA 16827
Type of Facility	Public Water Supply—Operation
Consulting Engineer	Eric Casanave, P. E. Pen Terra Engineering, Inc. 3075 Enterprise Drive State College, PA 16801
Permit Issued Date	June 29, 2010
Description of Action	Operation of a new finished water storage tank.
<b>Permit No. 0810501—Construction</b> , Public Water Supply.	
Applicant	<b>Wysox Township Municipal Authority</b>
Township or Borough	Wysox Township
County	<b>Bradford</b>
Responsible Official	Robert C. Williams, Chairperson Wysox Township Municipal Authority 724 Main Street Towanda, PA 18848
Type of Facility	Public Water Supply—Construction
Consulting Engineer	William Sauserman, P. E. Stiffler McGraw & Associates 1731 North Juniata Street Hollidaysburg, PA 16648
Permit Issued Date	June 29, 2010
Description of Action	Construction of a new public water supply to serve Wysox Township, including a distribution system, a 257,000 gallon glass-lined, bolted steel, finished water storage tank, transmission lines and a booster pump station to convey finished water from Towanda Municipal Authority.

The **Renovo Borough Water Department** (Public Water Supply), **Clinton County**: On June 30, 2010, the Watershed Management Program approved the Source Water Protection (SWP) plan for this Renovo Borough Water Department of Environmental Protection (Department). The personnel involved with the development of this SWP are to be commended for taking these proactive steps to protect these water sources for their community. Development of the SWP plan was funded by the Department (Mark R. Stephens, P. G.) (570) 327-3422.

The **South Renovo Water System** (Public Water Supply), **Clinton County**: On June 30, 2010, the Watershed Management Program approved the Source Water Protection (SWP) plan for this South Renovo Water System. The personnel involved with the development of this SWP are to be commended for taking these proactive steps to protect these water sources for their community. Development of the SWP plan was funded by the Department of Environmental Protection (Mark R. Stephens, P. G.) (570) 327-3422.

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

**Permit No. 5610501**, Public Water Supply.

Applicant	<b>Central City Water Authority</b> 314 Central Avenue Suite 203 Central City, PA 15926
Borough or Township	Shade Township
County	<b>Somerset</b>
Type of Facility	Village of Rockingham waterline project
Consulting Engineer	The EADS Group, Inc. 450 Aberdeen Drive Somerset, PA 15501
Permit to Construct Issued	June 28, 2010

**Permit No. 5610506**, Public Water Supply.

Applicant	<b>Central City Water Authority</b> 314 Central Avenue Suite 203 Central City, PA 15926
Borough or Township	Shade Township
County	<b>Somerset</b>
Type of Facility	Sorber water storage tank and Ridge Road pump station
Consulting Engineer	The EADS Group, Inc. 450 Aberdeen Drive Somerset, PA 15501
Permit to Construct Issued	June 28, 2010

#### SEWAGE FACILITIES ACT PLAN APPROVAL

#### Plan Approvals Granted under the Pennsylvania Sewage Facilities Act (35 P. S. § 750.5)

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

##### Plan Location:

Borough or Township	Borough or Township Address	County
Rouseville Borough	64 Main Street P. O. Box 317 Rouseville, PA 16344	Venango

*Plan Description:* The approved plan addresses needed improvements/upgrades to Rouseville's sewage treatment plant (STP). The project will convert the existing 0.24 MGD extended aeration STP into a 0.24 MGD Sequential Batch Reactor STP. In addition, sanitary sewer rehabilitation will be performed. The Department of Environmental Protection's review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal. Any required NPDES Permits or WQM Permits must be obtained in the name of the municipality or authority as appropriate.

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

##### Plan Location:

Borough or Township	Borough or Township Address	County
Washington Township	13013 Welty Road Waynesboro, PA 17268	Franklin

*Plan Description:* The approved plan provides for the replacement and expansion of sewer lines 1—5 upper and lower interceptors to eliminate surcharging and the potential for sewage overflows. The Department of Environmental Protection's review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal. Any required NPDES Permits or WQM Permits must be obtained in the name of the municipality or authority as appropriate.

#### SEWAGE FACILITIES ACT PLAN DISAPPROVAL

#### Plan Disapprovals Granted under the Pennsylvania Sewage Facilities Act (35 P. S. § 750.5)

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

##### Plan Location:

Borough or Township	Borough or Township Address	County
Windsor Township	730 Monument Road Hamburg, PA 19526	Berks

*Plan Description:* The planning module for the Christman Lot 1 Subdivision, DEP Code No. A3-06974-078-3 and APS Id 721194, consists of a single residential building lot proposing connection to the Christman Lake Development collection system by means of a grinder pump and low pressure force main. The project is located on the west side of Christman Road approximately 200 feet south of Balthaser Road. The plan revision was denied because the proposal is not consistent with the Windsor Township Act 537 Plan. The 537 Plan for the Christman Lake development provides for a community sewerage system to serve just the Christman Lake area as defined in that plan. The method of sewage disposal for the area outside of the Christman Lake development is on lot sewage disposal, as provided for in the Berks County Master Water and Sewer Plan; the module did not evaluate all the technically available alternatives, specifically onlot sewage disposal was not evaluated in the alternatives analysis. No site suitability testing was conducted; the module did not evaluate the alternatives for consistency with existing plans and resolve the inconsistencies between the chosen alternative and the existing plan; ownership, operation and maintenance of the grinder pump and force main was not established or discussed in the module.

## 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—6026.908).**

Provisions of Chapter 3 of the Land Recycling and Environmental Remediation Standards Act (act) require the Department of Environmental Protection (Depart-



ment) 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, shall 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 refuse 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 after 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.*

**Gray Ferry Shop Center**, City of Philadelphia, **Philadelphia County**. Bill Schmdit, Pennoni Associates, Inc., 3001 Market Street, Philadelphia, PA 19104, Paul Martino, Pennoni Associates, Inc., 3001 Market Street, Philadelphia, PA 19104 on behalf of Arnold Lurie, Korman Commercial Properties, 2 Neshaminy Inteplex, Suite 305, Trevose, PA 19053 has submitted a Remedial Investigation/Cleanup Plan concerning remediation of site groundwater and soil contaminated with inorganic and lead. The Report is intended to document remediation of the site to meet the Site-Specific Standard.

**Rydal Park**, Abington Township, **Montgomery County**. Stacie Cottone, J&J Spill Service & Supplies Inc., P. O. Box 370, Blue Bell, PA 19422 on behalf of Craig Pierre, Presby's Inspired Life, 2000 Joshua Road, Lafayette, PA 19444 has submitted a 90 day 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.

**10 East Moreland Site**, City of Philadelphia, **Philadelphia County**. Michael Welsh, P. E., Welsh Environmental, Inc., 131 Clearview Drive, Downingtown, PA 19335 behalf of Eli Kahn, Free Range Associates, 55 County Drive, Downingtown, PA 19355, Dr. Edward Jones, Renal Enterprises, LLC, 125 Medical Campus Drive, Lansdale, PA 19446 has submitted a Final Report concerning remediation of site groundwater and soil

contaminated with No. 2 fuel oil. The Report is intended to document remediation of the site to meet the Statewide Health Standard.

**Verizon Bryn Mawr Garage Lower Merion, Montgomery County**. Sean M. Damon, P. G., Langan Engineering & Environmental, P. O. Box 1569, Doylestown, PA 18901, James McElman, P. G., Verizon Environment Management, 7701 East Telecom Drive, MC: FLTDSB1M, Temple Terrace, FL 33637 on behalf of Paul Aschkenasy, Blank Aschkenasy Properties, LLC, 30 Four Falls Corporate Center, 300 Conshohocken State Road, Suite 360, West Conshohocken, PA 19428 has submitted a Final Report concerning remediation of site soil contaminated with chlorinated solvents. The Report is intended to document remediation of the site to meet the Statewide Health Standard.

**Goodwin Residence**, Bristol Township, **Bucks County**. Charles Burger, Mountain Research, LLC, 825 25th Street, Altoona, PA 16601 on behalf of Dorothy Goodwin, 26 Ring Lane, Levittown, PA 19055 has submitted a 90 day 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.

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

**G & B Specialties Berwick Plant**, Berwick Borough, **Columbia County**. Manko, Gold, Katcher & Fox, LLP, 401 City Avenue, Suite 500, Bala Cynwyd, PA 19004 on behalf G&B Specialties, Inc., P. O. Box 305, 535 West Third Street, Berwick, PA 18603 has submitted a Remedial Investigation Report/Cleanup Plan concerning remediation of site soil and groundwater contaminated with VOCs, PAHs and metals. The Report is intended to document remediation of the site to meet the Site-Specific Standard.

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

**ITT Water & Wastewater—Leopold**, Zelienople Borough, **Butler County**. AECOM, 4 Neshaminy Interplex, Suite 300, Trevose, PA 19053 on behalf of ITT Water & Wastewater, 227 South Division Street, Zelienople, PA 16063 has submitted a Final Report concerning remediation of site soil contaminated with mercury. The Report is intended to document remediation of the site to meet the Statewide Health Standard.

## LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

### UNDER ACT 2, 1995

#### PREAMBLE 3

**The Department has taken action on the following plans and reports under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908).**

Provisions of 25 Pa. Code § 250.8, administration of the Land Recycling and Environmental Remediation Standards Act (act), require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* a notice of 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 provisions of 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 refuse 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 provisions of 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 before 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.*

**Sharon Hill Apartments**, Sharon Hill Borough, **Delaware County**. Richard Werner, Environmental Consulting, Inc., 500 East Washington Street, Suite 375, Norristown, PA 19401 on behalf of John Gilsenan, Woodland Investments, LLC, 911 Ormond Road, Drexel Hill, PA 19026 has submitted a Final Report concerning the remediation of site soil contaminated with No. 2 fuel oil. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department of Environmental Protection on June 15, 2010.

**Pilgrim Gardens Senior Living**, City of Philadelphia, **Philadelphia County**. Staci Cottone, J&J Spill Service and Supplies, Inc., P.O. Box 370, Blue Bell, PA 19422 on behalf of John Ardente, Wesley Enhanced Living at Pilgrim Gardens, 7032 Rising Sun Avenue, Philadelphia, PA 19111 has submitted a Final Report concerning the remediation of site soil contaminated with No. 4 fuel oil. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department of Environmental Protection on June 15, 2010.

**Oscar Mayer/Dupont Facility**, City of Philadelphia, **Philadelphia County**. Paul Martino, Pennoni Associ-

ates, Inc., 3001 Market Street, Philadelphia, PA 19104 on behalf of Joseph Syrnick, Schuylkill River Development Corporation, Cira Centre, 2929 Arch Street, 13th Floor, Philadelphia, PA 19104 has submitted a Final Report concerning the remediation of site groundwater and soil contaminated with chlorinated solvents. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department of Environmental Protection on June 23, 2010.

**Montgomery County Community College**, Pottstown Borough, **Montgomery County**. Greg Firely, Malcolm Pirnie, Inc., 640 Freedom Business Center, Suite 310, King of Prussia, PA 19406 on behalf of Dean Foster, Montgomery County Community College, 10 College Drive, Pottstown, PA 19464 has submitted a Final Report concerning the remediation of site groundwater and soil contaminated with lead and inorganic. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department of Environmental Protection on June 22, 2010.

**Mench Residence**, Concord Township **Delaware County**. Dan Ruch, Underwood Engineering, 143 Harding Avenue, Bellmawr, NJ 18031 on behalf of Robert Mench, 1120 Clayton Greenspring Road, Smyra, DE 19977 has submitted a Final Report concerning the remediation of site groundwater contaminated with unleaded gasoline. The Final Report demonstrated attainment of the Site-Specific Standard and was approved by the Department of Environmental Protection on June 24, 2010.

**BMW of the Main Line**, Lower Merion Township **Montgomery County**. Richard Werner, Environmental Consulting, Inc., 500 East Washington Street, Suite 375, Norristown, PA 19401, Elizabeth Kirsch, Kirsch Enterprise, Inc., and Estate of C. H. Kirsch, c/o Richard E. Javage, Jr. Esp., 3550 Township Line Road, Drexel Hill, PA 19026 on behalf of Steve Holstad, Bala Properties North, LLC/Bala Properties South, LLC, Mini of the Main Line, 130 Montgomery Avenue, Bala Cynwyd, PA 19004 has submitted a Final Report concerning the remediation of site groundwater contaminated with PAH's and chlorinated solvents. The Final Report demonstrated attainment of the Background Standard and Statewide Health Standard and was disapproved by the Department of Environmental Protection on June 23, 2010.

*Northeast Region: Ronald S. Brezinski, Regional Environmental Cleanup Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.*

**Bethlehem Commerce Center—Lot 11**, 1805 East 4th Street, Bethlehem City, **Northampton County**. Kenneth G. Robbins, HDR Engineering, Inc., 1720 Spillman Drive, Suite 280, Bethlehem, PA 18015-2165 submitted a Cleanup Plan (on behalf of his client, Lehigh Valley Industrial Park, Inc., 1720 Spillman Drive, Suite 150, Bethlehem, PA 18015-2164), concerning the remediation of soils found to have been impacted by inorganics, VOCs and SVOCs as a result of historical manufacturing operations at the site. The Report met the requirements of the Site-Specific Standard for soils and was approved by Central Office on June 28, 2010.

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

**Former Glucroft Corporation Roaring River Mills Property**, Altoona City, **Blair County**. Mountain Research, LLC, 825 25th Street, Altoona, PA 16601, on behalf of AMTRAN, 3301 Fifth Avenue, Altoona, PA 16602, submitted a Baseline Environmental Report for



site soils and groundwater contaminated with VOCs, SVOCs and metals. The Baseline Environmental Report was approved by the Department of Environmental Protection on June 28, 2010. The site is being remediated as a Special Industrial Area.

**Ken Johnson Property**, Rushcombmanor Township, **Berks County**. GemChem, Inc., 53 North Cedar Street, P. O. Box 384, Lititz, PA 17543-0384, on behalf of Ken Johnson, 51 Lark Lane, Fleetwood, PA 19522, submitted a Final Report concerning remediation of site soils contaminated with No. 2 fuel oil. The Final Report demonstrated attainment of the Residential Statewide Health Standard, and was approved by the Department of Environmental Protection on June 29, 2010.

**Charlotte Hampton Residence**, Logan Township, **Blair County**. Trimpi Associates, Inc., 1635 Old Plains Road, Pennsburg, PA 18073, on behalf of Charlotte Hampton, 3397 Washington Avenue, Altoona, PA 16601 and Allstate Insurance Company, 309 Lakeside Drive, Suite 100, Horsham, PA 19044, submitted a Final Report concerning remediation of site soils contaminated with No. 2 fuel oil. The Final Report, which was submitted within 90 days of the release, demonstrated attainment of the Residential Statewide Health Standard, and was approved by the Department of Environmental Protection on June 29, 2010.

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

**Lock Haven Bald Eagle St. Former MGP Site**, City of Lock Haven, **Clinton County**. The Mahfood Group, 260 Millers Run Road, Bridgeville, PA 15017 on behalf of UGI Utilities, Inc., 2525 North 12th Street, Suite 360, Reading, PA 19612 has submitted a Remedial Investigation Report concerning remediation of site groundwater contaminated with benzene, toluene, ethylbenzene, and xylenes (BTEX) and polycyclic aromatic hydrocarbons (PAHs). The Remedial Investigation Report was approved by the Department of Environmental Protection on June 30, 2010.

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

**Tennessee Gas Pipeline Compressor Station 307**, Howe Township, **Forest County**. SE Technologies, LLC, 98 Vanadium Road, Building D, 2nd Floor, Bridgeville, PA 15017 on behalf of Tennessee Gas Pipeline, 1211 Greenville Mercer Road, Mercer, PA 16137 has submitted a Final Report concerning remediation of site soil contaminated with anthracene, benzene, benzo[a]anthracene, benzo[a]pyrene, benzo[b]fluoranthene, benzo[g,h,i]perylene, chrysene, fluorene, lead, naphthalene, phenanthrene and pyrene. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department of Environmental Protection on March 24, 2010.

**Pennzoil Rouseville Refinery Plant 2** (Former PQS Rouseville Refinery Plant No. 2), Cornplanter Township, **Venango County**. URS Corporation, 200 Orchard Ridge Drive, Suite 101, Gaithersburg, MD 20878 on behalf of Pennzoil-Quaker State Company, 910 Louisiana OSP 687, Houston, TX 77002 has submitted a Risk Assessment Report concerning the remediation of site soil contaminated with 1,1,2,2-tetrachloroethane, 1,2,3-trichloropropane, 1,2,4-trimethylbenzene, benzene, ethylbenzene, naphthalene, toluene, xylenes (total), 2-methylnaphthalene, benzo[a]anthracene, benzo[a]pyrene, benzo[b]fluoranthene, benzo[k]fluoranthene, dibenz[a,h]anthracene, indeno[1,2,3-cd]pyrene, antimony, arsenic,

chromium, cobalt, iron, lead, manganese, mercury, thallium, and vanadium; site groundwater contaminated with, 1,2,3-trichloropropane, 1,2,4-trimethylbenzene, 1,2-dichloroethane, 1,3,5-trimethylbenzene, 2-hexanone, 4-isopropyltoluene, benzene, cumene, ethylbenzene, methylene chloride, methyl-tert-butyl-ether, naphthalene, n-propylbenzene, styrene, toluene, xylenes (total), 2,4-dimethylphenol, 2-methylnaphthalene, 3 and 4 methylphenol, acenaphthene, benzo[a]anthracene, benzo[a]pyrene, benzo[b]fluoranthene, benzo[g,h,i]perylene, benzo[k]fluoranthene, bix[2-ethylhexyl]phthalate, chrysene, dibenz[a,h]anthracene, dibenzofuran, di-n-octyl phthalate, fluoranthene, fluorene, indeno[1,2,3-cd]pyrene, pentachlorophenol, phenanthrene, pyrene, antimony (dissolved and total), arsenic (dissolved and total), barium (dissolved and total), cadmium (total), cobalt (dissolved and total), iron (dissolved and total), lead (dissolved and total), Manganese (dissolved and total), mercury (dissolved and total), nickel (total), selenium (dissolved and total), vanadium (dissolved and total), zinc (dissolved and total), and cyanide; sediment contaminated with benzene, benzo[a]anthracene, benzo[a]pyrene, benzo[b]fluoranthene, benzo[k]fluoranthene, chrysene, and dibenz[a,h]anthracene. The Risk Assessment Report was approved by the Department of Environmental Protection on June 16, 2010.

## RESIDUAL WASTE GENERAL PERMITS

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

*Central Office: Division of Municipal and Residual Waste, Rachel Carson State Office Building, 14th Floor, 400 Market Street, Harrisburg, PA 17105-8472.*

**General Permit Application No. WMGR079D002.** Allan A. Myers, LP, 638 Lancaster Avenue, Malvern, PA 19355. The general permit WMGR079D002 is for the processing and beneficial use of waste asphalt shingles as aggregate in the production of asphalt paving material and as a sub-base for road and driveway construction, processed at Devault Asphalt Plant, located in Charlestown Township, **Chester County**. The permittee requested the general permit be revoked due to the utilization of another general permit for the operation at the Devault Asphalt Plant. Central Office revoked this general permit on July 2, 2010.

## OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE

**Permits Issued under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003), the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904) and Regulations to Operate Solid Waste Processing or Disposal Area or Site.**

*Southwest Regional Office, Regional Solid Waste Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, Telephone 412.442.4000.*

**Permit ID No. 101689. Valley Waste Services, Inc.,** Valley Waste Transfer Facility, Wallace Run Road, Beaver Falls, PA 15010. Operation of a Municipal Solid Waste Transfer Facility in Chippewa Township, Big Beaver and West Mayfield Boroughs, **Beaver County**. Permit issued in the Regional Office on June 23, 2010.

*Override Justification Notice under Section 504 of the Act (35 P. S. § 6018.504):*

The Department of Environmental Protection (Department) is issuing a permit under the Pennsylvania Solid Waste Management Act to Valley Waste Services, Inc. for Valley Waste Transfer Facility overriding objections from Beaver County, which is the host county, and the Boroughs of West Mayfield and Big Beaver, and Chippewa Township, the host townships.

*Issue:* Beaver County objected in writing to the proposed transfer station being within the county, stating that they felt it is unnecessary for the transport and disposal of municipal solid waste within the county and because of unresolved disagreements with Vogel Disposal Services associated with their contract with Vogel's Seneca Landfill.

*Response:* The Department has determined that the facility does not conflict with the host county plans and complies with all applicable regulations. Also the contract between Beaver County and Vogel Disposal Services is not germane to the requirements of issuing this waste transfer station permit.

*Issue:* The Boroughs of West Mayfield and Big Beaver objected to the proposed transfer station because of concerns raised by some residents over potential nuisances and protection of groundwater.

*Response:* A public hearing was held on August 11, 2008, and a comment response document was developed to address the comments raised at that hearing. The comment response document details that nuisance issues were resolved through permitted mitigation measures and specific permit conditions incorporated into the permit.

The Department has determined that the applicant has taken reasonable measures to address public concerns and that the harms remaining after mitigation were minor in nature and are outweighed by the socioeconomic benefits of the proposed facility. The Department memorialized those findings with approval of the Environmental Assessment Harms/Benefits Analysis for the proposed Facility on February 7, 2008.

Valley Waste Services, Inc. has satisfied all requirements to receive a permit under the Pennsylvania Solid Waste Management Act.

## AIR QUALITY

**General Plan Approval and Operating Permit Usage Authorized under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127 to construct, modify, reactivate or operate air contamination sources and associated air cleaning devices.**

*Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401. Contact: Sachin Shankar, New Source Review Chief—Telephone: 484-250-5920.*

**GP9-46-0042: United States Liability Insurance Group** (190 South Warner Road, Wayne, PA 19087) on June 30, 2010, to operate a diesel-fired emergency generators engines in Upper Merion Township, **Montgomery County**.

*Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790. Contact: Ray Kempa, New Source Review Chief—Telephone: 570-826-2507.*

**58-310-033GP3: Darwin R. Greene** (668 Bethel Hill Road, Susquehanna, PA 18847) on June 30, 2010, to construct and operate a Portable Crushing Operation with watersprays at their site in Harmony Township, **Susquehanna County**.

**58-329-024GP9: Darwin R. Greene** (668 Bethel Hill Road, Susquehanna, PA 18847) on June 30, 2010, to install and operate Diesel I/C Engines at their site in Harmony Township, **Susquehanna County**.

**58-399-011GP5: Appalachia Midstream Services, LLC** (6100 North Western Avenue, P. O. Box 54382, Oklahoma City, OK 73154-1382) on June 30, 2010, to construct and operate a Natural Gas Compressor Station (Stonehouse Station) at their site in Rush Township, **Susquehanna County**.

**58-310-032GP3: Alan Gage** (R. R. 1, Box 1275, Lawton, PA 18828) on June 23, 2010, to construct and operate a Portable Crushing Operation with watersprays at their site in Rush Township, **Susquehanna County**.

**58-329-023GP9: Alan Gage** (R. R. 1, Box 1275, Lawton, PA 18828) on June 23, 2010, to install and operate Diesel I/C Engines at their site in Rush Township, **Susquehanna County**.

*Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110. Contact: Thomas J. Hanlon, Chief, East Permitting Section—Telephone: 717-705-4862 or Daniel Husted, Chief, West Permitting Section—Telephone: 814-949-7935.*

**GP1-36-05149: Burle Business Park, LP** (1004 New Holland Avenue, Lancaster, PA 17601) on July 1, 2010, for a 23.4 mmBtu natural gas-fired boiler at their business park facility in Lancaster City, **Lancaster County**.

**GP3-36-03178B: Pennsy Supply, Inc.** (P. O. Box 3331, Harrisburg, PA 17105-3331) on June 30, 2010, for a portable crushing plant consisting of two crushers a screen and six conveyors at the East Petersburg Quarry in East Hempfield Township, **Lancaster County**.

**GP9-36-03178B: Pennsy Supply, Inc.** (P. O. Box 3331, Harrisburg, PA 17105-3331) on June 30, 2010, for three diesel engines to power stone crushing equipment at the East Petersburg Quarry in East Hempfield Township, **Lancaster County**.

**GP3-36-03158: Thaddeus Stevens College of Technology** (750 East King Street, Lancaster, PA 17602-3198) on June 24, 2010, for two natural gas-fired boilers at their Orange Street Branch Campus located in Lancaster Township, **Lancaster County**.

*Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745. Contact: Barb Hatch, Environmental Engineer Managers—Telephone: 412-442-4163/5226.*

**GP5-65-00867B: CONSOL Gas Co.** (CNX Center, 1000 Consol Energy Drive, Canonsburg, PA 15317-6506) on June 18, 2010, to operate a natural gas production facility at their Jacob's Creek Compressor Station in South Huntingdon Township, **Westmoreland County**.



**GP5-65-00961C: CONSOL Gas Co.** (CNX Center, 1000 Consol Energy Drive, Canonsburg, PA 15317-6506) on June 18, 2010, to operate a natural gas production facility at their Hickman Compressor Station in Bell Township, **Westmoreland County**.

**GP3-32-00320A: Penn Run Quarry-2** (590 Spruce Grove Road, Penn Run, PA 15765) on June 23, 2010, under GP-3 to install and operate of a non-coal mineral processing plant at their Spruce Mine (Permit No. 32040301) in Cherry Hill Township, **Indiana County**.

**GP9-32-00320B: Penn Run Quarry-2** (590 Spruce Grove Road, Penn Run, PA 15765) on June 23, 2010, under GP-9 to allow installation and operation of four diesel engines to power a non-coal mineral processing plant at their Spruce Mine (Permit No. 32040301) in Cherry Hill Township, **Indiana County**.

**GP3-30-00168B: Fayette Coal and Coke, Inc.** (195 Enterprise Lane, Connellsville, PA 15425) on June 23, 2010, for a general operating permit to construct and operate a crusher and a vibratory screen powered by a diesel engine at the Hilltop Surface Mine facility in Dunkard Township, **Greene County**.

**GP5-30-00190A Chief Gathering, LLC** (Suite 210, 6051 Wallace Road Extension, Wexford, PA 15090) on June 29, 2010, issued GP-5 to allow the installation of one new 25 MM cfd NG dehydration unit equipped with a reboiler and three new 12 MM cfd NG dehydration units also equipped with reboilers. It will also allow operation of the following existing sources, one Caterpillar, Model 3508LE, 670-bhp, compressor engine, one Caterpillar, Model 3516LE, 1340-bhp, compressor engine, one 12 MM cfd NG dehydration unit with a reboiler, located off of State Route 3008 in Gilmore Township, **Greene County**.

**GP9-63-00953: Antero Resources Appalachian Corp.** (1625 17th Street, Suite 300, Denver, CO 80202) on June 30, 2010, to construct and operate one diesel fuel fired engine at their Doerfler Compressor Station on Locust Road, West Pike Run Township, **Washington County**.

**65-00974: Range Resources-Appalachia, LLC** (380 Southpoint Boulevard, Canonsburg, PA 15317) on June 30, 2010, received a renewal GP-5 authorization for continued operation of a natural gas production facility at the Unity Compressor Station in Unity Township, **Westmoreland County**.

*Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481. Contact: Mark Gorog, New Source Review Chief—Telephone: 814-332-6940.*

**GP5-42-224A: Open Flow Gas Supply Corp.** (192 Colegrove Brock Road, Crosby, PA 16724) on June 30, 2010, to operate a natural gas fired compressor engine (BAQ-GPA/GP-5) in Norwhich Township, **McKean County**.

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**Plan Approvals Issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and regulations in 25 Pa. Code Chapter 127, Subchapter B relating to construction, modification and reactivation of air contamination sources and associated air cleaning devices.**

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*Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401. Contact: Sachin Shankar, New Source Review Chief—Telephone: 484-250-5920.*

**15-0067G: Herr Foods, Inc.** (273 Old Baltimore Pike, Nottingham, PA 19362-0300) on June 22, 2010, for installation of an additional mist collection control system on Fryer No. 3 at their facility in West Nottingham Township, **Chester County**. Herr Foods, Inc. is a Synthetic Minor facility, operating under SMOP 15-00067. The second mist eliminator is to help control the PM emissions from Fryer No. 3 and should not increase the facilities PM emissions. The Plan Approval will contain monitoring, recordkeeping and operating restrictions designed to minimize emissions and keep the facility operating within all applicable air quality requirements.

**15-0132B: Cephalon, Inc.** (145 Brandywine Parkway, West Chester, PA 19380) on June 22, 2010, for installation of two 500 KW diesel fuel oil-fired internal combustion engine, emergency electric generator sets in West Goshen Township, **Chester County**. This unit will be used for emergency power generation and periodic readiness testing only. The primary pollutant of concern is nitrogen oxides (NOx). Cephalon is categorized as a Synthetic Minor facility and the proposed operation of this generator will not cause the facility to exceed any major thresholds. The Plan Approval will contain recordkeeping and operating restrictions designed to keep the facility operating within the allowable emissions and all applicable air quality requirements.

**09-0204A: Biofuel Advanced Research and Development, LLC** (Sinter Road, Fairless Hills, PA 19030) on June 23, 2010, for installation and operation of a biodiesel processing plant to be in Falls Township, **Bucks County**. BARD is in the business of producing biodiesel as an alternative fuel. A chemical process is employed to extract oil from soybeans and process the soybean oil for production as biodiesel. The pollutants of concern from the proposed operation include particulate matter, hexane, and methanol emissions. The facility will utilize air pollution control devices to maintain emissions below major threshold levels. The Plan Approval will contain recordkeeping and operating restrictions designed to keep the facility operating within the allowable emissions and all applicable air quality requirements.

**09-0192: Waste Management of Pennsylvania, Inc.** (1000 New Ford Mill Road, Morrisville, PA 19067) on July 6, 2010, for operation of a bulk material handling and storage facility in Falls Township, **Bucks County**. Operations include ship or truck loading/unloading of pumice, gypsum, slag, salt or scrap steel. The only pollutant of concern at this facility is particulate matter (PM) emissions. This facility is a non-Title V facility. PM emissions will be controlled by water suppression and/or Best Management Practices for material transfer. The Plan Approval will contain recordkeeping and operating restrictions designed to keep the facility operating within the allowable emissions and all applicable air quality requirements.

*Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110. Contact: Thomas J. Hanlon, Chief, East Permitting Section—Telephone: 717-705-4862 or Daniel Husted, Chief, West Permitting Section—Telephone: 814-949-7935.*

**38-03014C: Pennsy Supply, Inc.** (P. O. Box 3331, 1001 Paxton Street, Harrisburg, PA 17105-3331) on June 29, 2010, for installation of a crusher, conveyor and fabric filter at the Millard Stone Plant in North Londonderry Township, **Lebanon County**.

**Plan Approval Revisions Issued including Extensions, Minor Modifications and Transfers of Ownership under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code §§ 127.13, 127.13a and 127.32.**

*Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401. Contact: Sachin Shankar, New Source Review Chief—Telephone: 484-250-5920.*

**09-0193: Basic Chemical Solutions, LLC** (5 Steel Road East, Morrisville, PA 19067) on June 29, 2010, to operate above ground acid storage tanks in Falls Township, **Bucks County**.

*Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481. Contact: Mark Gorog, New Source Review Chief—Telephone: 814-332-6940.*

**16-132H: Clarion Boards, Inc.** (143 Fiberboard Road, Shippensburg, PA 16245) on June 30, 2010, for modification of plan approvals 16-132B and C conditions with regards to the RTO in Paint Township, **Clarion County**. These changes are due to the CO&A and are a result of the facility being major for VOC. This is a Title V facility.

**24-161B: Greentree Landfill Gas Co., LLC** (Tower Road, Brockway, PA 15824) on June 30, 2010, to construct two natural gas compressor engines to replace their existing two compressor engines for boosting natural gas production into the custody transfer point in Horton Township, **Elk County**. This is a State-only facility.

**42-011B: International Waxes, Inc.** (45 Route 446, Smethport, PA 16749) on June 30, 2010, to construct a 99.8 mmBtu package boiler that will primarily use fuel oil and natural gas as the pilot. This boiler will have Low NOx Burners and Flue Gas Recirculation at the Keating Township, **McKean County** facility. This is a Title V facility.

**Title V Operating Permits Issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter G.**

*Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790. Contact: Norman Frederick, Facilities Permitting Chief—Telephone: 570-826-2507.*

**45-00004: United States Department of Defense—Tobyhanna Army Depot** (11 Hap Arnold Boulevard, Tobyhanna, PA 18466) on June 30, 2010, for renewal of a Title V Operating Permit to operate an electrical equipment manufacturing facility in Coolbaugh Township, **Monroe County**.

*Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110. Contact: Thomas J. Hanlon, Chief, East Permitting Section—Telephone: 717-705-4862 or Daniel Husted, Chief, West Permitting Section—Telephone: 814-949-7935.*

**67-05001: Magnesita Refractories Co.** (425 South Salem Church Road, York, PA 17408-5955) on June 29, 2010, for the refractories manufacturing facility in West Manchester Township, **York County**. This is a renewal of the Title V Operating Permit.

**21-05005: Department of Corrections** (P. O. Box 596, Camp Hill, PA 17001-0598) on June 29, 2010, for the SCI Camp Hill facility in Lower Allen Township, **Cumberland County**. This is a renewal of the Title V Operating Permit.

*Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481. Contact: Matthew Williams, Facilities Permitting Chief—Telephone: 814-332-6940.*

**10-00027: Calumet Penreco, LLC** (138 Petrolia Street, Karns City, PA 16041) on June 29, 2010, re-issued Title V Permit to operate a high quality specialty oils and lubricants manufacturing facility in Karns City Borough, **Butler County**. The facility's major emission sources include three boilers (66 mBtu/hr, 91 mmBtu/hr, and 91 mmBtu/hr), hydrotreater reactor furnace, hydrotreater reformer furnace, hydrotreater stripper furnace, kerosene unit furnaces, emergency diesel generator, two retort process heaters with a cyclone control, an Oleum process controlled by two venturi scrubbers, alcohol storage and handling, plant-wide fugitive emissions, wastewater treatment, small gasoline storage tank, naphtha rerun unit furnace, hydrotreater flare, kerosene/naphtha unit flare, and pumps and compressors. The facility is a major facility due to its potential to emit Volatile Organic Compounds, Sulfur Dioxide Compounds, and Oxides of Nitrogen.

**25-00326: Foamex Innovations** (466 South Shady Avenue, Corry, PA 16407) on June 4, 2010, issued an administrative amendment to the Title V Permit for the facility in the City of Corry, **Erie County** to incorporate the conditions from plan approval 25-0326A.

**Operating Permits for Non-Title V Facilities Issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter F.**

*Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401. Contact: Janine Tulloch-Reid, Facilities Permitting Chief—Telephone: 484-250-5920.*

**09-00102: Clean Earth of Southeast PA, Inc.** (7 East Steel Road, Morrisville, PA 19067) on June 22, 2010, for operation of their facility in Falls Township, **Bucks County**. This action is a renewal of the permit for a non-Title V (Synthetic Minor) facility. The facility operates a soil remediation process. There are no proposed changes to equipment or operating conditions. The permit will continue to include monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

**09-00134: Harsco Minerals** (905 Steel Road South, Fairless Hills, PA 19030) on June 30, 2010, for operation of their facility in Falls Township, **Bucks County**. This action is a renewal of the permit for a non-Title V (Natural Minor) facility. The facility operates a coal slag roofing granules plant. There are no proposed changes to equipment or operating conditions. The permit will continue to include monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

*Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790. Contact: Ray Kempa, New Source Review Chief—Telephone: 570-826-2507.*

**48-00086: Bethlehem Apparatus Co., Inc.** (890 Front Street, Hellertown, PA 18055-1507) on June 23, 2010, for manufacture of inorganic chemical in Hellertown Borough, **Northampton County**. This is a State-only Natural Minor operating permit for this facility. The State-only operating permit includes emissions, work practice standards and testing, monitoring, recordkeeping and report-



ing requirements designed to keep the facility operating within all applicable air quality requirements.

*Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110. Contact: Thomas J. Hanlon, Chief, East Permitting Section—Telephone: 717-705-4862 or Daniel Husted, Chief, West Permitting Section—Telephone: 814-949-7935.*

**22-05048: Amerigas Propane, LP** (5400 Paxton Street, Harrisburg, PA 17111-2527) on July 1, 2010, for their propane cylinder filling facility in Swatara Township, **Dauphin County**. This is a renewal of the State-only operating permit.

**67-03126: Yorkshire Animal Hospital** (3434 East Market Street, York, PA 17402-2621) on June 22, 2010, for their veterinary crematory in Springettsbury Township, **York County**. This is a renewal of the State-only operating permit.

*Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481. Contact: Matthew Williams, Facilities Permitting Chief—Telephone: 814-332-6940.*

**24-00062: Metal Powder Products Co.** (879 Washington Street, Saint Marys, PA 15857-3644) on July 1, 2010, for a Natural Minor Permit to operate fabricated metal products in Saint Marys City, **Elk County**. The significant sources are natural gas fired boiler (1), sintering ovens (12), parts washer (1) and rust inhibitors (2). The facility is natural minor because the emission of pollutants is less than Title V threshold limits.

**37-00271: Quality Aggregates—Limestone Plant** (4955 Steubenville Pike, Suite 245, Pittsburgh, PA 15205), on June 15, 2010, issued a renewal State-only Operating Permit for the facility in Slippery Rock Township, **Lawrence County**. The facility is a Natural Minor. The facility processes limestone at the facility. The primary sources at the facility include a dry crushing and screening process and a wet crushing and screening process. The facility is subject to 40 CFR 60, Subpart OOO—Standards of Performance for Nonmetallic Mineral Processing Plants and the applicable requirements have been included in the renewal permit. The renewal permit also contains emission restrictions, recordkeeping, work practice, and additional requirements to ensure compliance with the Clean Air Act and the Air Pollution Control Act.

**43-00182: Wheatland Tube Co.** (1 Council Avenue, Wheatland, PA 16161), on July 1, 2010, to re-issue a Title V Permit to operate a steel pipe and tubes manufacturing facility in Wheatland Borough, **Mercer County**. The facility's major emission sources include three natural gas fired boilers (600 HP, 400 HP and 1000HP), continuous weld furnace, galvanizing kettles (2), coating lines (2), conduit metallizers (2), chromate treatments (2), coupling department, blow stations (2), PM threaders (2), outside pipe coating, galvanizing furnaces (2), miscellaneous heaters, miscellaneous parts washers, lime silo, wastewater evaporator and one waste oil space heater. The facility is a major facility due to its potential to emit Volatile Organic Compounds and Oxides of Nitrogen.

**43-00304: Greenville Veterinary Clinic.** (409 East Jamestown Road, Greenville, PA 16125) on June 29, 2010, to issue a renewal State-only Operating Permit for their facility in West Salem Township, **Mercer County**. The facility is a Natural Minor. The facility has a pet crematory. The renewal permit also contains emission restrictions, recordkeeping, work practice and additional requirements to ensure compliance with the Clean Air Act and the Air Pollution Control Act.

**61-00034: The Franklin Investment Corp., d/b/a Franklin Industries Co.** (600 Atlantic Avenue, P. O. Box 671, Franklin, PA 16323-2206), on June 25, 2010, to issue a Synthetic Minor Operating Permit to operate a process that converts steel railroad rails into steel rods and posts in the City of Franklin, **Venango County**. The facility's primary emission sources include a walking beam furnace, rail scarfing, five parts washers, post line ovens, post dip coating, post flow coating and miscellaneous natural gas combustion.

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**Operating Permit Revisions Issued including Administrative Amendments, Minor Modifications or Transfers of Ownership under the Air Pollution Control Act (35 P.S. §§ 4001—4015) and 25 Pa. Code §§ 127.412, 127.450, 127.462 and 127.464.**

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*Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401. Contact: Janine Tulloch-Reid, Facilities Permitting Chief—Telephone: 484-250-5920.*

**09-00110: Riverside Construction Materials, Inc.** (7900 North Radcliffe Street, Bristol, PA 19007) on June 22, 2010, is a non-Title V facility in Bristol Township, **Bucks County**. The Natural Minor Operating Permit No. 09-00110 has been amended to include the requirements of Plan Approval No. 09-0110E, which was issued for the modification of their cement handling operation. The Natural Minor Operating Permit contains monitoring, recordkeeping and operating conditions designed to keep the facility operating within the allowable emissions and all applicable air quality requirements.

*Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481. Contact: Matthew Williams, Facilities Permitting Chief—Telephone: 814-332-6940.*

**10-00305: Harsco Minerals** (359 North Pike Road, Sarver, PA 16055) on June 17, 2010, issued an administrative amendment to the State-only Operating Permit for their facility in Winfield Township, **Butler County** to incorporate the conditions from plan approval 10-305B, and the sources exempted from plan approval in April 2008 and December 2009.

**25-00918: MMC Sterilization Group, Inc.** (2205 East 33rd Street, Erie, PA 16510) on June 25, 2010, issued an administrative amendment to the State-only Operating Permit for their facility in the City of Erie, **Erie County** to incorporate the change of responsible official.

**33-00116: PW Hardwood, LLC** (11424 Route 36, Brookville, PA 15825) on June 24, 2010, issued an administrative amendment to the State-only Operating Permit for their facility in Rose Township, **Jefferson County** to incorporate the change of ownership and tax identification.

**33-00145: Huntington Holdings, LLC** (222 Industrial Park Drive, Brockway, PA 15824) on June 3, 2010, issued an administrative amendment to the State-only Operating Permit for their facility in Brockway Borough, **Jefferson County** to incorporate the change of ownership, tax ID and responsible official.

**61-00187: SMS Millcraft, LLC** (671 Colbert Avenue, Oil City, PA 16301) on June 17, 2010, issued an administrative amendment to the State-only Operating Permit for the facility in Oil City, **Venango County** to incorporate the conditions from plan approval 61-187D.

## 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 (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—1406.21).** The final action on each application also constitutes action on the request for 401 Water Quality Certification and the NPDES permit application. Mining activity permits issued in response to the applications will also address the application permitting requirements of the following statutes: the Air Quality 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).

### *Coal Permits Actions*

*Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, 814-472-1900.*

**56950101 and NPDES No. PA0213012. Action Mining, Inc.**, 1117 Shaw Mines Road, Meyersdale, PA 15552, renewal for the continued operation of a bituminous surface and auger mine in Brothersvalley Township, **Somerset County**, affecting 106.5 acres. Receiving stream(s): unnamed tributaries to/and Pine Run classified for the following use(s): cold water fishery. There are no potable water supply intakes within 10 miles downstream. Application received: February 24, 2010. Permit Issued: June 29, 2010.

**56040105 and NPDES No. PA0249602. Hoffman Mining, Inc.**, P. O. Box 130, 118 Runway Road, Friedens, PA 15541, permit renewal for reclamation only of a bituminous surface and auger mine in Paint Township, **Somerset County**, affecting 150.1 acres. Receiving stream(s): unnamed tributary to/and Shade Creek classified for the following use(s): cold water fishery. The first downstream potable water supply intake from the point of discharge is Cambria Somerset Authority Border Dam SWI. Application received: February 23, 2010. Permit Issued: July 1, 2010.

*Greensburg District Mining Office: Armbrust Professional Center, 8205 Route 819, Greensburg, PA 15601, 724-925-5500.*

**65-09-02 and NPDES Permit No. PA0251861. Britt Energies, Inc.** (2450 Philadelphia Street, Indiana, PA 15701). Government Financed Construction Contract issued for reclamation of approximately 8.7 acres of abandoned mine lands located in Derry Township, **Westmoreland County**. Receiving streams: unnamed tributaries to Conemaugh River. Application received: January 11, 2010. Contract issued: June 23, 2010.

*Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, 814-342-8200.*

**17090105 and NPDES No. PA0257150. Sky Haven Coal, Inc.** (5510 State Park Road, Penfield, PA 15849). Commencement, operation and restoration of a bituminous surface and auger mine located in Bradford Township, **Clearfield County** affecting 46.2 acres. Receiving streams: unnamed tributary to Roaring Run classified for Cold Water Fishery. There are no potable water supply

intakes within 10 miles downstream. Application received: June 2, 2009. Permit issued: June 23, 2010.

### *Noncoal Permits Actions*

*Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, 814-342-8200.*

**08090305 and NPDRS No. PA0257214. Johnson Quarries, Inc.** (P. O. Box 136, Le Raysville, PA 18829). Commencement, operation and restoration of a surface large non-coal mine (bluestone) located in Wilmot Township, **Bradford County** affecting 53.55 acres. Receiving streams: Rocky Forest Creek, unnamed tributary to the Susquehanna River, Susquehanna River classified for the following uses: Cold Water Fisheries. Application received: September 22, 2009. Permit issued: June 24, 2010.

## ACTIONS ON BLASTING ACTIVITY APPLICATIONS

**Actions on applications under the Explosives Acts of 1937 and 1957 (43 P. S. §§ 151—161); and 25 Pa. Code § 211.124 (relating to blasting activity permits).** Blasting activity performed as part of a coal or noncoal mining activity will be regulated by the mining permit for that coal or noncoal mining activity.

### *Blasting Permits Actions*

*Greensburg District Mining Office: Armbrust Professional Center, 8205 Route 819, Greensburg, PA 15601, 724-925-5500.*

**65104005. Helix Seismic International, Inc.** (No. 110 7445-45 Avenue Close, Red Deer, AB T4P 4C2). Blasting activity permit for seismic exploration, located in Fairfield and St. Clair Townships, **Westmoreland County**, with an expected duration of six months. Permit issued: June 22, 2010.

**63104004. Dyno Nobel, Inc.** (494 Four H Camp Road, Morgantown, WV 26508). Blasting activity permit for the construction of the Raymond Margaria Pad to conduct seismic activities, located in Cross Creek Township, **Washington County**. The duration of blasting is expected to last one month. Blasting permit issued: June 28, 2010.

*Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, 814-342-8200.*

**08104015. John Brainard** (3978 SR 2023, Kingsley, PA 18826). Blasting for a well pad—Van DeMark—located in Wilmont Township, **Bradford County**. Permit issued: June 29, 2010. Permit expires: August 30, 2010.

**17104006. L.D. Baumgardner Coal Co., Inc.** (P. O. Box 186, Lanse, PA 16849). Blasting on the GFCC permit No. 17-08-17 located in Decatur Township, **Clearfield County**. Permit issued: June 30, 2010. Permit expires: August 31, 2010.

**17104007. Appalachian Geophysical Services, LLC** (2659 SR 60, P. O. Box 426, Killbuck, OH 44637). Seismic data acquisition by blasting for Line No. Trin-1-10 located in Sandy Township, **Clearfield County**. Permit issued: June 30, 2010. Permit expires: October 31, 2010.

**41104103. M & J Explosives, Inc.** (P. O. Box 608, Carlisle, PA 17013-0608). Blasting for a pipeline—Myers Gathering Line—located in Penn Township, **Lycoming County**. Permit issued: June 30, 2010. Permit expires: June 30, 2011.



**59104007. Doug Wathen, LLC** (16282 State Highway 13, Suite J, Branson West, MO 65737). Blasting for Valldes—Pad “C”—located in Covington Township, **Tioga County**. Permit issued: June 30, 2010. Permit expires: July 1, 2011.

**59104008. Doug Wathen, LLC** (16282 State Highway 13, Suite J, Branson West, MO 65737). Construction blasting for Pierson 810 and Fox 813 located in Elk Township, **Tioga County**. Permit issued: June 30, 2010. Permit expires: July 30, 2011.

*Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, 570-621-3118.*

**38104112. Keystone Blasting Service**, (15 Hopeland Road, Lititz, PA 17543), construction blasting for Chicken Houses in Jackson Township, **Lebanon County** with an expiration date of September 30, 2010. Permit issued: June 28, 2010.

**67104112. Douglas Explosives, Inc.**, (P. O. Box 77, Philipsburg, PA 16866), construction blasting for York Haven By-Pass in York Haven Borough, **York County** with an expiration date of June 24, 2011. Permit issued: June 28, 2010.

**15104104. Pact Construction, Inc.**, (P. O. Box 74, Ringoes, NJ 08551), construction blasting for Sadsbury Township Sanitary Sewer Extension in Sadsbury Township, **Chester County** with an expiration date of June 21, 2011. Permit issued: June 30, 2010.

**39104105. American Rock Mechanics, Inc.**, (7531 Chestnut Street, Zionsville, PA 18092), construction blasting for Lehigh Hills Development in Upper Macungie Township, **Lehigh County** with an expiration date of June 22, 2011. Permit issued: June 30, 2010.

**66104106. Meshoppen Blasting, Inc.**, (P. O. Box 127, Meshoppen, PA 18630), construction blasting for Meshoppen Stone Carter Quarry construction project in Meshoppen Township, **Wyoming County** with an expiration date of June 1, 2011. Permit issued: June 30, 2010.

**66104107. Meshoppen Blasting, Inc.**, (P. O. Box 127, Meshoppen, PA 18630), construction blasting for McGraw Well Site in Washington Township, **Wyoming County** with an expiration date of July 30, 2010. Permit issued: June 30, 2010.

**46104001. Explo-Craft, Inc.**, (P. O. Box 1332, West Chester, PA 19380), construction blasting at the Lankenau Hospital Campus in Lower Merion Township, **Montgomery County** with an expiration date of December 31, 2010. Permit issued: July 1, 2010.

**36104140. Keystone Blasting Service**, (15 Hopeland Road, Lititz, PA 17543), construction blasting for Sewage Pump Pit in Manheim Township, **Lancaster County** with an expiration date of August 30, 2010. Permit issued: July 1, 2010.

**38104113. J Roy's, Inc.**, (P. O. Box 125, Bowmansville, PA 17507), construction blasting for a Warehouse in North Londonderry Township, **Lebanon County** with an expiration date of July 1, 2011. Permit issued: July 1, 2010.

**52104108. Holbert Explosives, Inc.**, (237 Mast Hope Plank Road, Lackawaxen, PA 18435), construction blasting for Blue Heron Woods Development in Blooming Grove and Lackawaxen Townships, **Pike County** with an expiration date of June 25, 2011. Permit issued: July 1, 2010.

**58104113. M & J Explosives, Inc.**, (P. O. Box 608, Carlisle, PA 17013), construction blasting for a Pipeline in

Lathrop Township, **Susquehanna County** with an expiration date of June 30, 2011. Permit issued: July 1, 2010.

**64104105. Austin Powder Northeast, LLC** (25800 Science Park Drive, Cleveland, OH 44122), construction blasting for a Natural Gas Well Pad in Starrucca Borough, **Wayne County** with an expiration date of June 30, 2011. Permit issued: July 1, 2010.

## FEDERAL WATER POLLUTION CONTROL ACT SECTION 401

The Department of Environmental Protection (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 the applicable provisions of 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, under section 4 of the Environmental Hearing Board Act (35 P.S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P.O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (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 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, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for pro bono representation. Call the Secretary 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 Floodplain Management Act (32 P.S. § 679.302) and The Clean Streams Law (35 P.S. §§ 691.1—691.702) and Notice of Final Action for Certification under section 401 of the FWPCA (33 U.S.C.A. § 1341).**

*Permits, Environmental Assessments and 401 Water Quality Certifications Issued:*

### WATER OBSTRUCTIONS AND ENCROACHMENTS

*Northcentral Region: Watershed Management Program Manager, 208 West Third Street, Williamsport, PA 17701, 570-327-3636.*

**E14-533. Department of Transportation, Engineering District 2-0**, 1924-30 Daisy Street, Clearfield, PA 16830. Pond M ARD Remediation, in Patton Township, **Centre County**, ACOE Baltimore District (Julian, PA Quadrangle Latitude: 40° 49' 54"; Longitude: 77° 58' 6").

To help protect water quality from Acid Rock Discharges (ARD) by proposing a sedimentation basin M pipe by-pass modification that includes the construction and maintenance of: 1) a permanent enclosure of 462 linear feet of Buffalo Run and unnamed tributary within a 60-inch HDPE pipe; 2) a cast-in-place concrete end wall at the inlet of the 60-inch and 42-inch culvert, for the 60-inch enclosure and the modification of an existing 42-inch HDPE pipe; 3) the installation of two USBR Type VI Impact Basins with R-7 riprap for scour protection at the outlets of the 60-inch HDPE and 42-inch HDPE culverts; 4) the temporary use of two 42-inch HDPE pipes to connect the two outlets of the upstream 60-inch concrete pipes to the inlet of the 60-inch enclosure while modifications are made to the existing 42-inch pipe; 5) modifications to an existing 42-inch HDPE pipe to create a total length of 462 feet to act as a overflow channel for the 60-inch culvert; 6) a gravel access maintenance road from SR 3042 to the far left flood fringe; and 7) a subsurface ARD collection and pumping system sedimentation basin M includes: two pump stations, 1,186 linear feet of 2" SDR-11 HDPE force main pipe, 340 linear feet of 3" SDR-17 HDPE force main pipe, 325 linear feet of 8" HDPE perforated pipe, 395 linear feet of 6" HDPE pipe, and placement of 12,025 cubic yards of soil/aggregate within the 100 year floodplain of Buffalo Run, located 2,200 feet northwest of the SR 3042 and SR 550 intersection. This permit was issued under Section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

**E41-608. Thomas E. Watson**, 350 Heavenly Hill Road, Howard, PA 16841-1923. Watson River Lot Campsite, in Piatt Township, **Lycoming County**, ACOE Baltimore District (Linden, PA Quadrangle N: 41° 12' 57.5"; W: -77° 13' 38.4").

To make additions to an existing river lot by proposing to construct and maintain: 1) a 30-foot wide by 32-foot long picnic pavilion using six, 8-inch diameter steel posts and roof with the associated 4-inch concrete slab floor; and 2) a 4-foot deep by 12-foot wide by 100-foot long boat ramp cut into the left river bank compacted made of gravel for the cartway with a 12-foot by 20-foot concrete pad stopping at normal water's edge, located at the end of Bolin's Landing Road near the intersection of SR 287 and SR 220. This permit was issued under Section 105.13(e) "Small Projects."

*Southwest Region: Watershed Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.*

**E65-932. Ray Patalsky**, 1209 Route 286, Export, PA 15632. To place fill in wetlands in Murrysville Borough, **Allegheny County**, Pittsburgh ACOE District (Murrysville, PA Quadrangle North: 10.2"; West: 2.6", Latitude: 40° 25' 56"; Longitude: 79° 38' 30"). To place and maintain fill in 0.037 acre of wetlands in the Turtle Creek (TSF) watershed, for the purpose of constructing a road and a stormwater management pond, as part of a housing development.

## EROSION AND SEDIMENT CONTROL

The following Erosion and Sediment Control Permits have been issued.

Any person aggrieved by these actions may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. Chapter 5, Subchapter A (relating to practice and procedure of Commonwealth agencies), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users may contact the Environmental Hearing Board (Board) through the Pennsylvania 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 any right of appeal beyond that permitted by applicable statutes and decisional law.

If individuals want to challenge this action, their appeal must reach the Board within 30 days. Individuals do not need a lawyer 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. If individuals cannot afford a lawyer, individuals may qualify for pro bono representation. Call the Secretary to the Board (717) 787-3483 for more information.

*Southwest Region: Oil and Gas Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.*

6/7/2010

ESCGP-1 No.: ESX10-125-0053

Applicant Name: Range Resources—Appalachia, LLC

Contact: Carla L. Suskowsky

Address: 380 Southpointe Boulevard

City: Canonsburg State: PA Zip Code: 15317

County: Washington Township(s): Robinson

Receiving Stream(s) and Classifications: UNT to Robinson Run, other

06/09/2010

ESCGP-1 No.: ESX10-125-0054

Applicant Name: Markwest Liberty Midstream & Resources, LLC

Contact Person: Robert McHale

Address: 100 Plaza Drive Suite 102

City: Atlasburg State: PA Zip Code: 15004

County: Washington Township(s): Chariters and Cecil

Receiving Stream(s) and Classifications: Brush Run and UNT to Brush Run, other

5/21/10

ESCGP-1 No.: ESX10-129-0014

Applicant Name: XTO Energy, Inc.

Contact Person: Tom Dixon

Address: 395 Airport Road

City: Indiana State: PA Zip Code: 15701

County: Westmoreland Township(s): St. Clair/Fairfield

Receiving Stream(s) and Classifications: Hypocrite

Creek—Hendricks Run—Tubmill Creek (all TSWF), other

6/1/2010

ESCGP-1 No.: ESX10-125-0049

Applicant Name: Range Resources—Appalachia, LLC

Contact Person: Carla L. Suszkowski

Address: 380 Southpointe Boulevard

City: Canonsburg State: PA Zip Code: 15317

County: Washington Township(s): Somerset

Receiving Stream(s) and Classifications: UNT to North  
Branch Pigeon Creek, other

6/3/10 Major Rev.

ESCGP-1 No.: ESX09-129-0031

Applicant Name: Williams Production Appalachia, LLC

Contact Person: David Freudenrich

Address: 1000 Town Center, Suite 103

City: Canonsburg State: PA Zip Code: 15317

COUNTY Westmoreland Township(s): Derry

Receiving Stream(s) and Classifications: Unnamed  
Tributary to Union Run (WWF), other

05/17/2010

ESCGP-1 No.: ESX10-059-0036

Applicant Name: Atlas Resources, Inc.

Contact Person: Jeremy Hirtz

Address: 800 Mt. View Drive

City: Smithfield State: PA Zip Code: 15478

County: Greene Township(s): Cumberland

Receiving Stream(s) and Classifications: Unnamed  
Tributary to Muddy Creek, other

6/23/2010

ESCGP-1 No.: ESX10-129-0015

Applicant Name: Williams Production Appalachia, LLC

Contact Person: David R Freudenrich

Address: 1000 Town Center, Suite 130

City: Canonsburg State: PA Zip Code: 15317

County: Westmoreland Township(s): Derry

Receiving Stream(s) and Classifications: Union Run, other

06/16/2010

ESCGP-1 No.: ESX10-051-0015

Applicant Name: Laurel Mountain Midstream

c/o Williams Companies, Inc.

Contact Person: Lisa Reaves

Address: 2800 Post Oak Boulevard

City: Houston State: TX Zip Code: 77056

County: Fayette Township(s): German, Redstone and  
MenallenReceiving Stream(s) and Classifications: Dunlap Creek  
(WWF) Middle Monongahela, other

06/09/2010

ESCGP-1 No.: ESX09-059-0018

Applicant Name: EQT Production

Contact Person: Todd Klaner

Address: 455 Racetrack Road

City: Washington State: PA Zip Code: 15301

County: Greene Township(s): Morgan

Receiving Stream(s) and Classifications: Castile Run—  
Warmwater Fishery (WWF)

06/10/2010

ESCGP-1 No.: ESX10-059-0042

Applicant Name: CNX Gas Company, LLC

Contact Person: Daniel Bitz

Address: 200 Evergreene Drive

City: Waynesburg State: PA Zip Code: 15370

County: Greene Township(s): Center

Receiving Stream(s) and Classifications: South Fork Ten  
Mile Creek, High Quality

6/4/10

ESCGP-1 No.: ESX10-125-0052

Applicant Name: Chesapeake Appalachia, LLC

Contact: Tal Oden

Address: P. O. Box 18496

City: Oklahoma City State: OK Zip Code: 73154

County: Washington Township(s): West Finley

Receiving Stream(s) and Classifications: UNT (WWF)—  
Middle Wheeling Creek (WWF)—WV State Line—Ohio  
River, other

5/21/10

ESCGP-1 No.: ESX10-111-0003

Applicant Name: Chief Oil &amp; Gas, LLC

Contact Person: Michael Hirtz

Address: 6051 Wallace Road, Ext., Suite 210

City: Wexford State: PA Zip Code: 15090

County: Somerset Township(s): Lower Turkeyfoot

Receiving Stream(s) and Classifications: 2 UNT to Laurel  
Hill Creek, HQ

06/04/2010

ESCGP-1 No.: ESX10-125-0051

Applicant Name: Range Resources—Appalachia, LLC

Contact Person: Carla Suszkowski

Address: 380 Southpointe Boulevard, Suite 300

City: Canonsburg State: PA Zip Code: 15317

County: Washington Township(s): Independence

Receiving Stream(s) and Classifications: Sugarcamp  
Run, HQ

06/08/2010

ESCGP-1 No.: ESX10-125-0055

Applicant Name: Chesapeake Appalachia, LLC

Contact Person:

Address: P. O. Box 18496

City: Oklahoma City State: OK Zip Code: 73154

County: Washington Township(s): Cross Creek

Receiving Stream(s) and Classifications: Unnamed

Tributary—(WWF), Burgettstown Fork—(WWF)  
Raccoon Creek—(WWF) Ohio River—(WWF), other

06/11/2010

ESCGP-1 No.: ESX10-051-0014

Applicant Name: Atlas Resources, LLC

Contact Person: Jeremy Hirtz

Address: 800 Mountain View Drive

City: Smithville State: PA Zip Code: 15478

County: Fayette Township(s): Redstone

Receiving Stream(s) and Classifications: Colvin Run,  
other

6/18/2010

ESCGP-1 No.: ESX10-051-0016

Applicant Name: Atlas Energy Resources, LLC

Contact:

Address: 800 Mountain View Drive

City: Smithfield State: PA Zip Code: 15478

County: Fayette Township(s): Dunbar

Receiving Stream(s) and Classifications: UNT 40061 to  
Rankin Run, other

6/18/2010 Minor Revision

ESCGP-1 No.: ESX10-003-0001

Applicant Name: Range Resources—Appalachia, LLC

Contact Person:

Address: 380 Southpointe Boulevard, Suite 300

City: Canonsburg State: PA Zip Code: 15317

County: Allegheny Township(s): Frazer

Receiving Stream(s) and Classifications: Yutes Run, other  
Secondary Water Tawney Run



6/22/2010  
 ESCGP-1 No.: ESX10-051-0018  
 Applicant Name: Phillips Exploration, Inc.  
 Contact: Gary Clark  
 Address: 502 Keystone Drive  
 City: Warrendale State: PA Zip Code: 15086  
 County: Fayette Township(s): Dunbar  
 Receiving Stream(s) and Classifications: UNT of  
 Dickerson Run—WWF, other

6/22/10 Minor Rev.  
 ESCGP-1 No.: ESX10-125-0037  
 Applicant Name: EQT Production Company  
 Contact: Todd Klaner  
 Address: 455 Racetrack Road, Suite 101  
 City: Washington State: PA Zip Code: 15301

County: Washington Township(s): Amwell  
 Receiving Stream(s) and Classifications: Tenmile Creek,  
 Smith Run, other

6/14/10 Major Rev.  
 ESCGP-1 No.: ESX09-125-0055  
 Applicant Name: Chesapeake Appalachia, LLC  
 Contact: Tal Oden  
 Address: P. O. Box 18496  
 City: Oklahoma City State: OK Zip Code: 73154  
 County: Washington Township(s): Hanover  
 Receiving Stream(s) and Classifications: Receiving Water/  
 Watershed Name—UNT (WWF) to Harmon Creek  
 (WWF) to West Virginia  
 Secondary Receiving Stream Data—UNT (WWF) to  
 Raccoon Creek (WWF) to Ohio River (WWF), other

## SPECIAL NOTICES

### Notice of Certification to Perform Radon-Related Activities in Pennsylvania

In the month of June 2010, the Department of Environmental Protection, under the Radon Certification Act (63 P. S. §§ 2001—2014) and regulations promulgated thereunder at 25 Pa. Code Chapter 240, has certified the persons listed to perform radon-related activities in this Commonwealth. The period of certification is 2 years. For a complete list of persons currently certified to perform radon-related activities in this Commonwealth and for information as to the specific testing devices that persons certified for testing or laboratory are certified to use, contact the Bureau of Radiation Protection, Radon Division, P. O. Box 8469, Harrisburg, PA 17105-8469, (800) 23RADON.

<i>Name</i>	<i>Address</i>	<i>Type of Certification</i>
Accredited Radon of Allentown	2517 Treeline Drive Easton, PA 18040	Mitigation
Gerald Aubrey	1517 Daws Road Blue Bell, PA 19422	Testing
William Barroner	1275 Lark Road Williamsburg, PA 16693	Testing
Don Cessna	407 West Sample Street Ebensburg, PA 15931	Testing
Edward Cummins	429 Schuylkill Road Phoenixville, PA 19460	Testing
Gregory Gibson	P. O. Box 733 Tannersville, PA 18372	Testing
Scott Gillian	P. O. Box 63839 Philadelphia, PA 19147	Testing
Dana Hillerby	105 Carroll Avenue Glenside, PA 19038	Testing
Richard Hoffman	4359 Linglestown Road Harrisburg, PA 17112	Testing
Judith Hood-Scheidler	5676 Valleyview Drive Bethel Park, PA 15102	Testing
James F. Andrews Enterprises	353 Loveville Road Warriors Mark, PA 16877	Mitigation
Kirk Knappman	421 West Chocolate Avenue Hershey, PA 17033	Testing
L & J Marketing, Inc.	289 Town Center Boulevard Easton, PA 18040	Testing
Matthew Muelhing	454 Rockwood Drive Elizabethtown, PA 17022	Testing
Roman Paul	36 East Marshall Street Suite 731 Norristown, PA 19401	Testing
Peter Piazza	106 Winslow Court Greensburg, PA 15601	Testing



<i>Name</i>	<i>Address</i>	<i>Type of Certification</i>
Quality Home Services of Delaware Valley	700 Braxton Road Ridley Park, PA 19078	Testing
RJH Radon Mitigation, Inc.	943 High Street Akron, PA 17501	Mitigation
Jon Selko	1276 Bethel Green Drive Bethel Park, PA 15102	Testing
Mike Sheely	1000 Wolfe Road Enola, PA 17025	Testing
Michael Stabile	2 Stonecrest Road Blakeslee, PA 18610	Testing
Michael Tokarczyk	753 Lutzville Road Everett, PA 15537	Mitigation
Jody Viscomi	1304 Eynon Street Scranton, PA 18504	Testing
Gary Walters	4 Sherwood Drive Enola, PA 17025	Mitigation
David Wotring	R. R. 1 Box 491 Scotrun, PA 18533	Testing

**Request for Proposals for Professional Design Services—Geotechnical Engineering Services**

**Issuing Office**

**Bureau of Waterways Engineering  
Department of Environmental Protection  
3rd Floor Rachel Carson State Office Building  
400 Market Street  
P. O. Box 8460  
Harrisburg, PA 17105-8460**

**RFP Number  
BWE- 10-1**

**Date of Issuance  
July 17, 2010**

**Request for Proposals for  
BWE- 10-1**

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**Appendix A DGS Form 150-ASP**

**Calendar of Events**

The Commonwealth will make every effort to adhere to the following schedule:

<i>Activity</i>	<i>Responsibility</i>	<i>Date</i>
Advertise RFP	Issuing Office	7/17/2010
Deadline to submit Questions via e-mail to jkraeuter@state.pa.us	Potential Offerors	8/9/2010
Answers to Potential Offeror questions e-mailed to the Offerors no later than this date	Issuing Office	8/23/2010
Sealed Proposal must be received by the Issuing Office at Department of Environmental Protection Bureau of Waterways Engineering P. O. Box 8460 Harrisburg, PA 17105-8460	Offerors	4 p.m. 9/3/2010
Proposed Contract Award Date	Issuing Office	10/1/2010

## PART 1 GENERAL INFORMATION

### I-1. Authority and Objective.

The Department of Environmental Protection (Department) is authorized under section 905 of the Commonwealth Procurement Code (62 Pa.C.S. 101 et seq.) (CPC) to procure design professional services. Under this authority, the Department will retain a Geotechnical Engineering Consultant to assist and advise the Department's Bureau of Waterways Engineering on proposed and existing water related projects, including flood protection structures and dams. It is the intent of the Department that the contract awarded as a result of this RFP is for a 5 year period with a total of \$300,000.00 in available funds. The contract will be based on the hours of service and qualifying expenses not exceeding the contract amount. Projects will be assigned on an as-needed basis.

### I-2. Specific.

Interested firms must have professional registered engineers and geologists licensed to practice in this Commonwealth on their staffs that have experience in geotechnical engineering. Small engineering firms, small disadvantaged business firms, socially disadvantaged business firms and other engineering firms, which have not previously performed work for the Department, are encouraged to submit proposals.

### I-3. Response Date.

To be considered for selection, hard copies of proposals must arrive at the Issuing Office on or before the time and date specified in the RFP Calendar of Events. The Issuing Office will not accept proposals via email or facsimile transmission. Offerors who send proposals by mail or other delivery service should allow sufficient delivery time to ensure timely receipt of their proposals. If, due to inclement weather, natural disaster, or any other cause, the Commonwealth office location to which proposals are to be returned is closed on the proposal response date, the deadline for submission will be automatically extended until the next Commonwealth business day on which the office is open, unless the Issuing Office otherwise notifies Offerors. The hour for submission of proposals shall remain the same. The Issuing Office will reject, unopened, any late proposals.

### I-4. Type of Contract.

It is proposed that if the Issuing Office enters into a contract as a result of this RFP, it will be a standard design professional contract, with payment to be made on a time and materials basis. The Issuing Office, in its sole discretion, may undertake negotiations with Offerors whose proposals, in the judgment of the Issuing Office, show them to be qualified, responsible and capable of performing the Project.

### I-5. Addenda to the RFP.

If the Issuing Office deems it necessary to revise any part of this RFP before the proposal response date, the Issuing Office will issue an addendum to all proposers who have requested a copy of the RFP.

### I-6. Discussions for Clarification.

Offerors may be required to make an oral or written clarification of their proposals to the Issuing Office to ensure thorough mutual understanding and Offeror responsiveness to the solicitation requirements. The Issuing Office will initiate requests for clarification.

### I-7. Issuing Office.

The Department of Environmental Protection (Issuing Office) has issued this RFP on behalf of the Common-

wealth. The sole point of contact and Issuing Officer in the Commonwealth for this RFP shall be:

John J. Kraeuter, Chief  
Environmental and Geological Services Section  
Bureau of Waterways Engineering  
Department of Environmental Protection,  
400 Market Street  
3rd Floor  
Rachel Carson State Office Building  
P. O. Box 8460  
Harrisburg, PA 17105-8460

E-mail address: jkraeuter@state.pa.us  
Please refer all inquiries to the Issuing Officer.

### I-8. Rejection of Proposals.

The Issuing Office reserves the right, in its sole and complete discretion, to reject any proposals received as a result of this RFP.

## PART II SCOPE OF WORK

### II-1. Nature and Scope of the Project.

The services will focus on assisting and advising the Department's Bureau of Waterways Engineering on geotechnical engineering issues associated with the investigation, design or construction of proposed and existing flood protection projects, dams and stream improvement projects. Responsibilities may include, but are not limited to, site visits with Department personnel; sub-surface investigations and review and testing of soil and rock samples; and reviewing geotechnical reports, plans and specifications for proposed and existing projects.

### II-2. Requirements.

The Geotechnical Engineering Consultant must have professional registered engineers and geologists, licensed to practice in this Commonwealth, on their staffs that have experience in geotechnical engineering. The Consultant's area of responsibility will include projects throughout this Commonwealth. Projects will be assigned on an as needed basis. The selected firm may be required to perform work on multiple projects concurrently; therefore, it is important that the Consultant proceed with each assignment to completion on a timely basis.

### II-3. Tasks and Reports.

1. Prior to the Department assigning a specific project, the consultant shall submit a written proposal that identifies the work elements of each task, the resources assigned to each task, the time allotted to each element and the deliverable items produced. This may require a preliminary meeting for each project with the Department. The Department will review the proposal and when deemed satisfactory will issue a written notice to proceed to the Consultant.

2. A final report shall be submitted to the Department for each project assignment. The final report should include, but is not limited to the following:

- a. Summarize the result of the review or investigation.
- b. Describe data collection and analytical and other techniques used during the review or investigation.
- c. Summarize findings, conclusions and recommendations for each assignment.
- d. Include all supporting documentation.
- e. Make recommendations based on current engineering principles and designs.

### PART III DISADVANTAGED BUSINESS PARTICIPATION

#### PART III-1. General Information.

##### Disadvantaged Business Information:

The Issuing Office encourages participation by small disadvantaged businesses as prime contractors, joint ventures and subcontractors/suppliers and by socially disadvantaged businesses as prime contractors.

Small Disadvantaged Businesses are small businesses that are owned or controlled by a majority of persons, not limited to members of minority groups, who have been deprived of the opportunity to develop and maintain a competitive position in the economy because of social disadvantages. The term includes:

a. Department of General Services Bureau of Minority and Women Business Opportunities (BMWBO)-certified minority business enterprises (MBEs) and women business enterprises (WBEs) that qualify as small businesses; and

b. United States Small Business Administration certified 8(a) small disadvantaged business concerns.

c. Businesses that BMWBO determines meet the Small Business Administration criteria for designation as a small disadvantaged business.

Small businesses are businesses in the United States which are independently owned, are not dominant in their field of operation, employ no more than 100 full-time or full-time equivalent employees, and earn less than \$20 million in gross annual revenues (\$25 million in gross annual revenues for those businesses in the information technology sales or service business).

Socially disadvantaged businesses are businesses in the United States that BMWBO determines are owned or controlled by a majority of persons, not limited to members of minority groups, who are subject to racial or ethnic prejudice or cultural bias, but which do not qualify as small businesses. In order for a business to qualify as "socially disadvantaged," the offeror must include in its proposal clear and convincing evidence to establish that the business has personally suffered racial or ethnic prejudice or cultural bias stemming from the business person's color, ethnic origin or gender.

Questions regarding this Program can be directed to:

Department of General Services  
Bureau of Minority & Women Business  
Opportunities  
Room 611, North Office Building  
Harrisburg, PA 17125  
Phone: (717) 783-3119  
Fax: (717) 787-7052  
E-mail: gs-bmwbo@state.pa.us  
Web site: [www.portal.state.pa.us/portal/  
server.pt?open=512&objID=1360&mode=2](http://www.portal.state.pa.us/portal/server.pt?open=512&objID=1360&mode=2)

A database of BMWBO-certified minority- and women-owned businesses can be accessed at [www.dgsweb.state.pa.us/mbewbe/VendorSearch.aspx](http://www.dgsweb.state.pa.us/mbewbe/VendorSearch.aspx). The Federal vendor database can be accessed at [www.ccr.gov](http://www.ccr.gov) by clicking on "Dynamic Small Business Search" (certified companies are so indicated).

##### Information Concerning Small Businesses in Enterprise Zones:

The Issuing Office encourages participation by small businesses, whose primary or headquarters facility is physically located in areas the Commonwealth has identi-

fied as Designated Enterprise Zones, as prime contractors, joint ventures and subcontractors/suppliers.

The definition of headquarters includes but is not limited to an office or location that is the administrative center of a business or enterprise where most of the important functions of the business are conducted or concentrated and location where employees are conducting the business of the company on a regular and routine basis so as to contribute to the economic development of the geographical area in which the office or business is geographically located.

Small businesses are businesses in the United States that are independently owned, are not dominant in their field of operation, employ no more than 100 persons and earn less than \$20 million in gross annual revenues (\$25 million in gross annual revenues for those businesses in the information technology sales or service business).

There is no database or directory of small business located in Designated Enterprise Zones. Information on the location of Designated Enterprise Zones can be obtained by contacting:

Aldona M. Kartorie  
Center for Community Building  
Department of Community and Economic  
Development  
4th Floor Keystone Building  
400 North Street  
Harrisburg, PA 17120-0225  
Phone: (717) 720-7409  
Fax: (717) 787-4088  
E-mail: [akartorie@state.pa.us](mailto:akartorie@state.pa.us)  
[www.newpa.com/programDetail.aspx?id=76](http://www.newpa.com/programDetail.aspx?id=76)

#### PART III-2. Disadvantaged Businesses Submittal.

##### a. Disadvantaged Business Information:

i) To receive credit for being a Small Disadvantaged Business or a Socially Disadvantaged Business or for entering into a joint venture agreement with a Small Disadvantaged Business or for subcontracting with a Small Disadvantaged Business (including purchasing supplies and/or services through a purchase agreement), an Offeror must include proof of Disadvantaged Business qualification in the Disadvantaged Business Submittal of the proposal, as indicated below:

1) A Small Disadvantaged Business certified by BMWBO as an MBE/WBE must provide a photocopy of their BMWBO certificate.

2) Businesses certified by the United States Small Business Administration under Section 8(a) of the Small Business Act (15 U.S.C. § 636(a)) as an 8(a) small disadvantaged business must submit proof of United States Small Business Administration certification. The owners of such businesses must also submit proof of United States citizenship.

3) Businesses, which assert that they meet the United States Small Business Administration criteria for designation as a small disadvantaged business, must submit: a) self-certification that the business meets the Small Business Administration criteria; and b) documentary proof to support the self-certification. The owners of such businesses must also submit proof of United States citizenship, and provide any relevant disadvantaged business certifications by other certifying entities.

4) All businesses claiming Small Disadvantaged Business status, whether as a result of BMWBO certification,

or United States Small Business Administration certification as an 8(a) or self-certification as a United States Small Business Administration small disadvantaged business, must attest to the fact that the business has 100 or fewer employees.

5) All businesses claiming Small Disadvantaged Business status, whether as a result of BMWBO certification, or United States Small Business Administration certification as an 8(a) or self-certification as a United States Small Business Administration small disadvantaged business, must submit proof that their gross annual revenues are less than \$20,000,000 (\$25,000,000 for those businesses in the information technology sales or service business). This can be accomplished by including a recent tax return or audited financial statement.

ii) All companies claiming status as a Socially Disadvantaged Business must include in the Disadvantaged Business submittal of the proposal clear and convincing evidence to establish that the business has personally suffered racial or ethnic prejudice or cultural bias stemming from the business person's color, ethnic origin or gender. The submitted evidence of prejudice or bias must:

1) Be rooted in treatment which the business person has experienced in American society, not in other countries.

2) Show prejudice or bias that is chronic and substantial, not fleeting or insignificant.

3) Indicate that the business person's experience with the racial or ethnic prejudice or cultural bias has negatively impacted on his or her entry into and/or advancement in the business world.

BMWBO shall determine whether the contractor has established that a business is socially disadvantaged by clear and convincing evidence.

iii) In addition to the previously listed verifications, the Offeror must include in the Disadvantaged Business Submittal of the proposal the following information:

1) Those Small Disadvantaged Businesses submitting a proposal as the Offeror, must include a numerical percentage which represents the total percentage of the work (as a percentage of the total cost in the Cost Submittal) to be performed by the Offeror and not by subcontractors and suppliers.

2) Those Small Disadvantaged Businesses submitting a proposal as a part of a joint venture partnership, must include a numerical percentage which represents the total percentage of the work (as a percentage of the total cost in the Cost Submittal) to be performed by the Small Disadvantaged Business joint venture partner and not by subcontractors and suppliers or by joint venture partners who are not Small Disadvantaged Businesses. Offeror must also provide:

a) The amount of capital, if any, each Small Disadvantaged Business joint venture partner will be expected to provide.

b) A copy of the joint venture agreement signed by all parties.

c) The business name, address, name and telephone number of the primary contact person for the Small Disadvantaged Business joint venture partner.

3) All Offerors must include a numerical percentage which represents the total percentage of the total cost in the Cost Submittal that the Offeror commits to paying to Small Disadvantaged Businesses as subcontractors. To

support its total percentage DB subcontractor commitment, Offeror must also include:

a) The dollar amount of each subcontract commitment to a Small Disadvantaged Business;

b) The name of each Small Disadvantaged Business. The Offeror will not receive credit for stating that after the contract is awarded it will find a Small Disadvantaged Business.

c) The services or supplies each Small Disadvantaged Business will provide, including the time frame for providing the services or supplies.

d) The location where each Small Disadvantaged Business will perform services.

e) The time frame for each Small Disadvantaged Business to provide or deliver the goods or services.

f) A signed subcontract or letter of intent for each Small Disadvantaged Business. The subcontract or letter of intent must identify the specific work, goods or services the Small Disadvantaged Business will perform and how the work, goods or services relates to the project.

g) The name, address and telephone number of the primary contact person for each Small Disadvantaged Business.

4) The total percentages and each subcontractor commitment will become contractual obligations once the contract is fully executed.

5) The name and telephone number of the Offeror's project (contact) person for the Small Disadvantaged Business information.

iv) The Offeror is required to submit two copies of its Disadvantaged Business Submittal. The submittal shall be clearly identified as Disadvantaged Business information and sealed in its own envelope, separate from the remainder of the proposal.

v) A Small Disadvantaged Business can be included as a subcontractor with as many prime contractors as it chooses in separate proposals.

vi) An Offeror that qualifies as a Small Disadvantaged Business and submits a proposal as a prime contractor is not prohibited from being included as a subcontractor in separate proposals submitted by other Offerors.

#### **b. Enterprise Zone Small Business Participation.**

i) To receive credit for being an enterprise zone small business or entering into a joint venture agreement with an enterprise zone small business or subcontracting with an enterprise zone small business, an Offeror must include the following information in the Disadvantaged Business Submittal of the proposal:

1) Proof of the location of the business' headquarters (such as a lease or deed or Department of State corporate registration), including a description of those activities that occur at the site to support the other businesses in the enterprise zone.

2) Confirmation of the enterprise zone in which it is located (obtained from the local enterprise zone office).

3) Proof of United States citizenship of the owners of the business.

4) Certification that the business employs 100 or fewer employees.

5) Proof that the business' gross annual revenues are less than \$20,000,000 (\$25,000,000 for those businesses in



the information technology sales or service business). This can be accomplished by including a recent tax return or audited financial statement.

6) Documentation of business organization, if applicable, such as articles of incorporation, partnership agreement or other documents of organization.

ii) In addition to the previously listed verifications, the Offeror must include in the Disadvantaged Business Submittal of the proposal the following information:

1) The name and telephone number of the Offeror's project (contact) person for the Enterprise Zone Small Business.

2) The business name, address, name and telephone number of the primary contact person for each Enterprise Zone Small Business included in the proposal. The Offeror must specify each Enterprise Zone Small Business to which it is making commitments. The Offeror will not receive credit for stating that it will find an Enterprise Zone Small Business after the contract is awarded or for listing several businesses and stating that one will be selected later.

3) The specific work, goods or services each Enterprise Zone Small Business will perform or provide.

4) The total cost amount submitted in the Offeror's cost proposal and the estimated dollar value of the contract to each Enterprise Zone Small Business.

5) Of the estimated dollar value of the contract to each Enterprise Zone Small Business, the percent of the total value of services or products purchased or subcontracted that each Enterprise Zone Small Business will provide.

6) The location where each Enterprise Zone Small Business will perform these services.

7) The time frame for each Enterprise Zone Small Business to provide or deliver the goods or services.

8) The amount of capital, if any, each Enterprise Zone Small Business will be expected to provide.

9) The form and amount of compensation each Enterprise Zone Small Business will receive.

10) For a joint venture agreement, a copy of the agreement, signed by all parties.

11) For a subcontract, a signed subcontract or letter of intent.

iii) The dollar value of the commitment to each Enterprise Zone Small Business must be included in the same sealed envelope with the Disadvantaged Business Submittal of the proposal. The following will become a contractual obligation once the contract is fully executed:

1) The amount of the selected Offeror's Enterprise Zone Small Business commitment;

2) The name of each Enterprise Zone Small Business; and

3) The services each Enterprise Zone Small Business will provide, including the time frame for performing the services.

### **PART III-3. Criteria for Selection.**

#### **Disadvantaged Business Participation:**

BMWBO has established the weight for the Disadvantaged Business Participation criterion for this RFP as [Insert the percentage] % of the total points. Evaluation will be based upon the following in order of priority:

**Priority Rank 1** Proposals submitted by Small Disadvantaged Businesses.

**Priority Rank 2** Proposals submitted from a joint venture with a Small Disadvantaged Business as a joint venture partner.

**Priority Rank 3** Proposals submitted with subcontracting commitments to Small Disadvantaged Businesses.

**Priority Rank 4** Proposals submitted by Socially Disadvantaged Businesses.

Each proposal will be rated for its approach to enhancing the utilization of Small Disadvantaged Businesses and/or Socially Disadvantaged Businesses. Each approach will be evaluated, with Priority Rank 1 receiving the highest score and the succeeding options receiving scores in accordance with the previously-listed priority ranking

To the extent that an Offeror qualifies as a Small Disadvantaged Business or a Socially Disadvantaged Business, the Small Disadvantaged Business or Socially Disadvantaged Business cannot enter into subcontract arrangements for more than 40% of the total estimated dollar amount of the contract. If a Small Disadvantaged Business or a Socially Disadvantaged Business subcontracts more than 40% of the total estimated dollar amount of the contract to other contractors, the Disadvantaged Business Participation scoring shall be proportionally lower for that proposal.

#### **Enterprise Zone Small Business Participation:**

In accordance with the priority ranks listed below, bonus points in addition to the total points for this RFP, will be given for the Enterprise Zone Small Business Participation criterion. The maximum bonus points for this criterion is 3% of the total points for this RFP. The following options will be considered as part of the final criteria for selection:

**Priority Rank 1** Proposals submitted by an Enterprise Zone Small Business will receive the highest score.

**Priority Rank 2** Proposals submitted by a joint venture with an Enterprise Zone Small Business as a joint venture partner will receive the next highest score for this criterion.

**Priority Rank 3** Proposals submitted with a subcontracting commitment to an Enterprise Zone Small Business will receive the lowest score for this criterion.

**Priority Rank 4** Proposals with no Enterprise Zone Small Business Utilization shall receive no points under this criterion.

To the extent that an Offeror is an Enterprise Zone Small Business, the Offeror cannot enter into contract or subcontract arrangements for more than 40% of the total estimated dollar amount of the contract in order to qualify as an Enterprise Zone Small Business for purposes of this RFP.

### **PART III-4. Work Statement.**

#### **Contract Requirements—Disadvantaged Business Participation and Enterprise Zone Small Business Participation:**

All contracts containing Disadvantaged Business participation and/or Enterprise Zone Small Business participation must also include a provision requiring the selected contractor to meet and maintain those commitments made to Disadvantaged Businesses and/or

Enterprise Zone Small Businesses at the time of proposal submittal or contract negotiation, unless a change in the commitment is approved by the BMWBO. All contracts containing Disadvantaged Business participation and/or Enterprise Zone Small Business participation must include a provision requiring Small Disadvantaged Business subcontractors, Enterprise Zone Small Business subcontractors and Small Disadvantaged Businesses or Enterprise Zone Small Businesses in a joint venture to perform at least 50% of the subcontract or Small Disadvantaged Business/Enterprise Zone Small Business participation portion of the joint venture.

The selected contractor's commitments to Disadvantaged Businesses and/or Enterprise Zone Small Businesses made at the time of proposal submittal or contract negotiation shall be maintained throughout the term of the contract. Any proposed change must be submitted to BMWBO, which will make a recommendation to the Contracting Officer regarding a course of action.

If a contract is assigned to another contractor, the new contractor must maintain the Disadvantaged Business participation and/or Enterprise Zone Small Business participation of the original contract.

The selected contractor shall complete the Prime Contractor's Quarterly Utilization Report (or similar type document containing the same information) and submit it to the contracting officer of the Issuing Office and BMWBO within 10 workdays at the end of each quarter the contract is in force. This information will be used to determine the actual dollar amount paid to Small Disadvantaged Business and/or Enterprise Zone Small Business subcontractors and suppliers, and Small Disadvantaged Business and/or Enterprise Zone Small Business participants involved in joint ventures. Also, this information will serve as a record of fulfillment of the commitment the selected contractor made and for which it received Disadvantaged Business and Enterprise Zone Small Business points. If there was no activity during the quarter then the form must be completed by stating "No activity in this quarter."

NOTE: EQUAL EMPLOYMENT OPPORTUNITY AND CONTRACT COMPLIANCE STATEMENTS REFERRING TO COMPANY EQUAL EMPLOYMENT OPPORTUNITY POLICIES OR PAST CONTRACT COMPLIANCE PRACTICES DO NOT CONSTITUTE PROOF OF DISADVANTAGED BUSINESSES STATUS OR ENTITLE AN OFFEROR TO RECEIVE CREDIT FOR DISADVANTAGED BUSINESSES UTILIZATION.

#### **PART IV CRITERIA FOR SELECTION OF HIGHEST QUALIFIED FIRM; FEE NEGOTIATION**

##### **IV-1. Highest Qualified Firm Determination.**

All proposals received from Professionals will be reviewed and evaluated by the Department in accordance with the selection method set forth in Section 905 of the CPC. The following factors will be considered in making the selection of the highest qualified firm in order of relative importance from the highest to the lowest weighted factors:

**1. Technical:** Evaluation will be based upon the following in order of importance, from the highest to the lowest weighted factors.

a. Professional Qualifications. This refers to the particular capability of the contractor to meet the terms of the RFP and perform the services for the contract being considered. Relevant factors would include time con-

straint, the contractor's financial ability to undertake a project of the required size, the quality and how recent studies and projects were completed by the contractor, and the competence of professional personnel who would be assigned to the job by the contractor. The qualifications of professional personnel will be measured by experience and education, with particular reference to experience on studies/services similar to that described in the RFP. Particular emphasis is placed on the qualifications of the project manager.

b. Past Record of Performance. This refers to the quality and how recent studies and projects were completed by the contractor, with particular reference to projects similar to that described in the RFP. Relevant factors would include cost control, work quality, and ability to meet schedules.

c. Soundness of Approach. Emphasis here is on the techniques for collecting and analyzing data, sequence and relationships of major steps, and methods for managing the study/service. Of equal importance is whether the technical approach is completely responsive to all written specifications and requirements contained in the RFP and it appears to meet agency objectives.

d. Professional Personnel. This refers to the ability of the contractor to have the necessary available personnel to complete the work within the time limitations. The selected firm may be required to perform work on multiple projects concurrently.

e. Geographic Proximity of Professional to the Work. This contract will be for work Commonwealth wide. Emphasis will be placed on firms with a central location or firms with multiple locations in the Commonwealth, in order to minimize travel expense costs to the Department.

f. Equitable Distribution of Contracts to Design Professionals. The Commonwealth will make a reasonable attempt to equalize the assignment of contracts to qualified professionals.

##### **2. Non-Technical**

a. Disadvantaged Businesses participation (Evaluated by DGS).

b. Enterprise Zone Small Business participation (Evaluated by DGS).

Proposers shall relate their proposal to the above criteria.

##### **IV-2. Fee Negotiation.**

In accordance with the selection method in Section 905 (g) of the CPC, once the Department has determined the highest qualified firm, it will request cost data from that firm as a basis for negotiating a fee determined to be fair and reasonable to the Commonwealth. If a satisfactory contract with this firm is not negotiated, negotiations shall be formally terminated and the Department shall begin negotiations with the firm determined to be the second highest qualified firm, and so forth, until a contract is negotiated with a firm determined to be qualified.

#### **PART V GENERAL REQUIREMENTS FOR SUBMISSION**

Firms interested in performing the required services for this project are invited to submit Proposals to Patricia McSparran, Director, Bureau of Waterways Engineering, Department of Environmental Protection, Rachel Carson State Office Building, 3rd Floor, 400 Market Street, P. O. Box 8460, Harrisburg, PA 17105-8460. Contact John

Krauter at 717.772.5959 for general information concerning the engineering work.

Each Letter of Interest must include the firm's Federal identification number and the project reference number. The Letter of Interest shall also include a description of the firm's three most recently completed projects similar to the project proposed. The description shall include the client, contact person and phone number, the project manager, and the names of all personnel who made major contributions to the project. The Letter of Interest shall indicate the firm's capability of working on multiple projects at the same time and understanding of the Department's needs; and shall address all technical criteria for selection set forth in Section IV-1.1. A standard DGS Form 150-ASP must accompany the Letter of Interest and shall indicate the individual in charge. Form 150-ASP is attached hereto as Appendix A. Additional information pertinent to the firm's qualifications to do the work of this contract shall be included with the Letter of Interest. Direct costs other than payroll, such as travel and subsistence, shall be based on the current state rates. The Department shall reimburse miscellaneous expenses such as copies, prints, sepias, postage and film at cost upon approval.

A complete Proposal shall consist of the following:

1. Non-Technical Submittal

One copy of the Disadvantaged Business/Enterprise Zone Small Business section, bound and sealed separately from the remainder of the proposal; and

2. Technical Submittal

Six copies of the complete set consisting of the Letter of Interest and the required form 150-ASP. Proposals must be received no later than 4 p.m. on September 3, 2010. The six copies of the Technical Submittal shall be submitted in six complete sets that shall be spiral bound or in folders or secured by binder clips. The assignment of services will be made, if at all, to one or more of the firms responding to this notice. However, the Department reserves the right to reject all Proposals submitted, cancel the solicitation requested under this notice, and/or re-advertise solicitation for this service.

The Department will not offer a debriefing session to the unsuccessful firms. The Department disclaims any liability whatsoever as to its review of the proposal submitted and in formulating a recommendation for selections. Recommendations made by the Department shall be final.

**NPDES Permit PAI012306006, Waiver 2 (WL 2306303), GP-5 (052307312)**, Stormwater, Water Obstructions and Encroachments, Sentinel Ridge Development, LLC, 110 North Phoenixville Pike, Suite 100, Malvern, PA 19355, has applied to transfer the previously-referenced permits and waiver; and to construct and maintain water obstructions or encroachments; conduct earth disturbance activities and discharge stormwater associated with construction activities in Marple Township, Delaware County to Crum Creek (WWF) and to Holland Run (aka Hotland Run) (WWF).

The Department of Environmental Protection (Department), by this notice, transfers the previously-referenced authorizations from Pulte Homes of PA, LP to Sentinel Ridge Development, LLC. In addition, the Department has reviewed the revised permit application documentation and plans submitted by Sentinel Ridge Development, LLC and proposes, based upon its evaluation, that the NPDES permit suspension imposed by the October 22,

2009, Order of the Environmental Hearing Board (EHB) in the matter of *Crum Creek Neighbors v. DEP and Pulte Homes of PA, L.P.*, EHB Docket No. 2007-287-L, be partially lifted to allow Sentinel Ridge Development, LLC to conduct earth disturbance activities and discharge stormwater associated with construction activities to Crum Creek (WWF) and Holland Run (WWF) in accordance with the terms of the NPDES permit, including supporting documentation and plans. The Best Management Practices for the project site, as set forth in the previously-referenced NPDES permit and supporting documentation and plans, were approved in the previously-referenced EHB decision, and constitute the effluent limitations proposed for this project. Sentinel Ridge Development, LLC is not authorized by the partial lifting of the NPDES permit suspension to discharge stormwater associated with construction activities, conduct earth disturbance activities, or construct, operate, maintain, modify, enlarge or abandon a water obstruction or encroachment, draining into or in the portion of the Holland Run watershed classified as Exceptional Value (EV), a tributary to Crum Creek.

The Department will accept public comment for 30 days on its proposed partial lifting of the NPDES permit suspension described previously. Additionally, public comment will be accepted on the proposal by Sentinel Ridge Development, LLC to revise the sequencing of activities under the NPDES permit; incorporate a cul-de-sac to the end of the proposed entrance road for the project; and add a temporary sediment trap that will be removed upon stabilization of the project. Written comments should be addressed to the Regional Manager, Watershed Management Program, 2 East Main Street, Norristown, PA 19401.

*Greensburg District Mining Office: Armbrust Professional Center, 8205 Route 819, Greensburg, PA 15601, 724-925-5500.*

Application for National Pollutant Discharge Elimination System (NPDES) Permit to Discharge to State Waters

*Greensburg District Mining Operations: 8205 Route 819, Greensburg, PA 15601; Telephone: 724-925-5500.*

**Application No. NPDES PA0119172, Treated Mine Drainage, Shenango, Inc.** (200 Neville Road, Pittsburgh, PA 15225). This facility is located in Luzerne Township, **Fayette County**.

Description of activity: The application is for an amendment of an NPDES permit for an existing discharge of treated mine water. The proposed NPDES permit amendment is based on the proposed revision to the TMDL for Wallace Run.

The receiving stream, Wallace Run, is in the Monongahela River Watershed, and classified as WWF. The nearest downstream public water supply intake is for Southwestern PA Water Authority and is located on the Monongahela River, approximately 2.7 miles downstream. The discharge is not expected to affect the water supply.

The proposed effluent limits for Outfalls 13T and 10T for a design flow of 0.1 MGD are:

I. Effluent Limitations and Monitoring Requirements

A. Mine Drainage Treatment Facilities

Outfall Numbers	Latitude	Longitude
13T	39° 56' 39"	79° 54' 39"
10T	39° 55' 55"	79° 54' 10"



Based on the hydrologic data and anticipated wastewater characteristics and flows described in the permit application and its supporting documents and/or revisions, the following effluent limitations and monitoring requirements apply to the previously listed outfall numbers.

<i>Discharge Limitations</i>			
<i>Discharge Parameter</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Total Iron (Fe)	3.0 mg/l	6.0 mg/l	7.0 mg/l
Total Manganese (Mn)	2.0 mg/l	4.0 mg/l	5.0 mg/l
Total Aluminum (Al)	0.75 mg/l	1.5 mg/l	1.88 mg/l

pH Not less than 6.0 standard units nor greater than 9.0 standard units at all times.

Alkalinity must exceed acidity at all times.

Individuals may make an appointment to review the Department of Environmental Protection (Department) files on the TMDL for Wallace Run by calling the File Review Coordinator at 717-705-4732. Individuals may make an appointment to review the Department files on the amendment to NPDES Permit No. 0119172 by calling the File Review Coordinator at 724-925-5500.

The Wallace Run TMDL, originally approved by USEPA in 2008, is proposed to be revised to reflect scenarios based on the addition of the discharge from the NPDES discharge associated with the Shenango permit.

The data and all supporting documentation used to develop the proposed TMDL is available from the Department. To request a copy of the proposed TMDL, contact:

Bill Brown, Environmental Group Manager  
TMDL Development Section  
Watershed Protection Division  
Department of Environmental Protection  
P. O. Box 8555  
Harrisburg, PA 17105-8555  
Phone: 717-772-5670, E-mail: willbrown@state.pa.us

The TMDLs can be accessed through the Department web site (<http://www.depweb.state.pa.us>) by clicking on the Department Programs A-Z Link, then the TMDL link. Persons with a disability may use the Pennsylvania AT&T Relay Service by calling 1-800-654-5984 (TDD users) or 1-800-654-5988 (voice users) and request that the call be relayed.

The data and all supporting documentation used to amend NPDES Permit No. 0119172 are available from the Department's Greensburg District Mining Office. To request a copy of the file for NPDES Permit No. 0119172, contact:

Scott Jones, Hydrogeologist  
DEP  
8205 SR 819  
Greensburg, PA 15601  
Phone: 724-925-5516, E-mail: deajones@state.pa.us

Written and e-mail comments on the TMDL will be accepted at the address Watershed Protection Division address previously listed. Written and e-mail comments on NPDES Permit No. 0119172 will be accepted at the Greensburg District Mining Office address listed previously. Written comments must be received by August

17, 2010. Comments will not be accepted by facsimile or voice mail. The Department will consider all comments in developing the final TMDL and the final NPDES Permit No. 0119172, which will be submitted to EPA for approval.

This public notice includes the contact person for the Shenango NPDES Permit No. 0119172, the new contact person for the Wallace Run TMDL, and includes the average monthly and daily maximum effluent limits for the Shenango NPDES Permit No. 0119172 which were omitted from the May 25, 2010 public notice.

This public comment period is in addition to the one published on May 25, 2010, for the proposed TMDL for Wallace Run and proposed NPDES Permit No. 0119172. Comments filed during the previous comment period will be addressed together with comments received during this comment period.

[Pa.B. Doc. No. 10-1283. Filed for public inspection July 16, 2010, 9:00 a.m.]

### Alternative Fuels Incentive Grant Program; Grant Opportunity

The Department of Environmental Protection (Department), Bureau of Energy, Innovations and Technology Deployment announces an opportunity to apply for grants under the Alternative Fuels Incentive Grant Program (Program) to improve this Commonwealth's air quality and reduce consumption of imported oil through the use of homegrown alternative fuels that will help this Commonwealth's economy and environment. The Department is seeking applications for innovative, advanced fuel and vehicle technology projects resulting in cleaner advanced alternative transportation within this Commonwealth.

Funding is available for school districts, municipal authorities, political subdivisions, nonprofit entities, corporations, limited liability companies or partnerships incorporated or registered in this Commonwealth to retrofit fleet vehicles to operate on alternative fuels, subsidize the cost of the purchase of an alternative fuel vehicle for a fleet or subsidize the cost to install fleet refueling equipment for alternative fuel vehicles or support next phase advanced research, development and training related to alternative fuels and alternative fuel vehicles.

Additional funding is also available for school districts, municipal authorities, political subdivisions and nonprofit entities to subsidize the incremental cost to purchase biofuel and provide refueling and storage equipment or related tank cleaning.

Funding is available for qualified renewable fuel producers to receive reimbursement of up to 10¢ per gallon of renewable fuels produced in a calendar year up to 12,500,000 gallons.

Project costs cannot be incurred before July 1, 2010.

The Program guidelines and application instructions are available on the Department's web site at <http://www.depweb.state.pa.us> (click on "DEP Programs" and then "Alternative Fuels"). Applications will be accepted online through the eGrants system. Visit <https://www.grants.dcnr.state.pa.us/> and click on "Find a Grant." Scroll down to "AFIG" and click "Apply for this grant."

The application period will open on July 19, 2010. Applications must be submitted by 4 p.m. on August 27,



2010. Only applications submitted through the eGrants system will be accepted. Harcopy applications will not be accepted.

JOHN HANGER,  
*Secretary*

[Pa.B. Doc. No. 10-1284. Filed for public inspection July 16, 2010, 9:00 a.m.]

### **Climate Change Advisory Committee; Natural Resource Working Group Meeting**

The August 5, 2010, meeting of the Natural Resources Working Group has been moved to Thursday, July 29, 2010. The meeting will be held from 10 a.m. to 2 p.m. at the Department of Conservation and Natural Resources, Bureau of Topographic and Geological Survey, 3240 Schoolhouse Road, Middletown, PA 17057.

The remaining meetings have not changed, and are scheduled for Friday, October 15, 2010, and Wednesday, December 8, 2010. These meetings will also be held from 10 a.m. to 2 p.m. at the Department of Conservation and Natural Resources, Bureau of Topographic and Geological Survey building.

Each Adaptation Working Group will focus on a specific area of impact: Infrastructure; Public Health and Safety; Natural Resources; and Tourism and Outdoor Recreation. They will work to identify vulnerabilities to climate change; adaptation efforts already underway; and practical actions the Commonwealth and other stakeholders can undertake to address the risks of climate change. They will also work to share information and knowledge across impacted areas and identify opportunities for collaboration.

For the latest on meeting details and materials, visit [www.depweb.state.pa.us](http://www.depweb.state.pa.us), Keyword: Climate Change. Questions concerning these meetings should be directed to Kim Hoover, Office of Energy and Technology Deployment, P. O. Box 8772, Harrisburg, PA 17105-8772, (717) 772-5161 or [khoover@state.pa.us](mailto:khoover@state.pa.us).

Persons in need of accommodations as provided for in the Americans With Disabilities Act of 1990 should contact Kim Hoover at (717) 772-5161 or through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department of Environmental Protection may accommodate their needs.

JOHN HANGER,  
*Secretary*

[Pa.B. Doc. No. 10-1285. Filed for public inspection July 16, 2010, 9:00 a.m.]

### **Pennsylvania Clean Diesel Grant Program; Opening of the Grant Application Acceptance Period**

The Department of Environmental Protection (Department), Bureau of Air Quality, announces an opportunity to apply for grants under the Pennsylvania State Clean Diesel Grant Program (Program) to improve this Commonwealth's air quality. The Department is seeking applications to retrofit fleet diesel-powered transit buses. The primary goal of the Program is to improve this Commonwealth's air quality by decreasing air emissions from diesel-powered mobile sources. Funding for projects is

limited to counties in the central part of this Commonwealth that are considered nonattainment for the National Ambient Air Quality Standards for fine particulate matter. These counties include: Berks, Dauphin, Lancaster, Lebanon and York. Total funding available for projects is \$235,200.

Funding is available to school districts, municipal authorities, political subdivisions, nonprofit entities, corporations, limited liability companies or partnerships incorporated or registered in this Commonwealth to retrofit diesel-powered transit buses with technologies certified or verified by the United States Environmental Protection Agency or the California Air Resources Board to lower diesel pollution. The technology may be a single technology or a combination of available technologies.

Project costs cannot be incurred before the grant period of performance.

The application package including guidance, instructions and application forms is available by contacting the Department of Environmental Protection, Bureau of Air Quality, 12th Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8468, Harrisburg, PA 17105-8468, (717) 787-9702. The application package is also available electronically on the Department's web site at [www.depweb.state.pa.us](http://www.depweb.state.pa.us) (DEP Keywords "Clean Diesel").

Applications must be postmarked or received by 4 p.m. on August 31, 2010. Faxes and electronic copies will not be accepted.

JOHN HANGER,  
*Secretary*

[Pa.B. Doc. No. 10-1286. Filed for public inspection July 16, 2010, 9:00 a.m.]

### **Request for Applications for Watershed Protection and Restoration Grants and Flood Protection Grants through the Growing Greener Plus Program**

As part of the 2010 Department of Environmental Protection's (Department) Growing Greener Plus Program, applications are now being accepted for watershed protection and restoration grants. Under 27 Pa.C.S. §§ 6101—6113 (relating to Environmental Stewardship and Watershed Protection Act), the Department is authorized to allocate these grants to a variety of eligible applications including: counties, authorities, other municipalities; county conservation districts; watershed organizations recognized by the Department who promote local watershed conservation efforts, council of governments, and other authorized organizations involved in the restoration and protection of the environment in this Commonwealth.

For the upcoming grant round, the Department will invest in projects that will ultimately protect and/or restore this Commonwealth's watersheds from impairment due to nonpoint source pollution. Examples of special priority areas include: Chesapeake Bay Nutrient Reduction—implementation of projects leading to quantitative load reductions of nitrogen, phosphorus and sediment within the Chesapeake Bay Watershed; projects located in "priority" watersheds that reduce the source of

impairment and "priority" type activities that lead to water quality restoration or protection.

Examples of eligible projects could include reducing nonpoint source pollution in watersheds where streams are impaired; integrating stormwater management and flood protection into watershed management; encouraging the beneficial use of abandoned mine pool water; and water conservation strategies, and projects that will help reduce Total Maximum Daily Load pollutants.

Through the same application process, applicants can also apply for funding through the Department's Flood Protection Grant Program and Section 319 Nonpoint Source Grant. Flood protection grants are for communities that operate and maintain State and Federal flood protection projects. Section 319 Grants focus on funding similar projects to Growing Greener but with special emphasis within targeted watersheds.

The deadline for submitting applications to the Department's Growing Greener Grants Center (Center) is September 17, 2010. Applications must be postmarked no later than September 17, 2010. If hand delivered, the package must be received by the Center by 4 p.m. on September 17, 2010, at the address that follows. Late submissions will not be considered.

To request or download an application or obtain more information concerning the Growing Greener Programs, visit the Growing Greener web site at [www.depweb.state.pa.us](http://www.depweb.state.pa.us) (DEP Keyword: Growing Greener). Persons can send e-mails to [GrowingGreener@state.pa.us](mailto:GrowingGreener@state.pa.us) or contact the Center at (717) 705-5400. Written requests should be addressed to Department of Environmental Protection, Grants Center, 15th Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8776, Harrisburg, PA 17105-8776.

JOHN HANGER,  
*Secretary*

[Pa.B. Doc. No. 10-1287. Filed for public inspection July 16, 2010, 9:00 a.m.]

### Statewide Water Resources Committee; Technical Subcommittee Meeting

The Technical Subcommittee of the Statewide Water Resources Committee, associated with the Department of Environmental Protection (Department), will meet on August 6, 2010.

The Statewide and Regional Water Resources Committees were created under 27 Pa.C.S. Chapter 31 (relating to water resources planning), to help guide the development of the State Water Plan and the designation of Critical Water Planning Areas for this Commonwealth.

The meeting schedule, an agenda and meeting materials will be available through the Public Participation Center on the Department's web site at [www.depweb.state.pa.us](http://www.depweb.state.pa.us).

#### Technical Subcommittee

The August 6, meeting of the Technical Subcommittee will be held at 9:30 a.m. at the Department of Environmental Protection, Southcentral Regional Office, Susquehanna Conference Room, 909 Elmerton Avenue, Harrisburg, PA 17110.

Questions concerning this meeting should be directed to Jay Braund, Water Planning Office, P. O. Box 2063, Harrisburg, PA 17105-2063, (717) 772-5634 or [jbraund@state.pa.us](mailto:jbraund@state.pa.us).

Persons with a disability who require accommodations to attend the meeting listed previously should contact the Department at (717) 772-5634 or through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

JOHN HANGER,  
*Secretary*

[Pa.B. Doc. No. 10-1288. Filed for public inspection July 16, 2010, 9:00 a.m.]

## DEPARTMENT OF HEALTH

### Long-Term Care Nursing Facilities; Requests for Exception

The following long-term care nursing facility is seeking an exception to 28 Pa. Code § 201.3 (relating to definitions).

John J. Kane Regional Center—Glen Hazel  
955 Rivermont Drive  
Pittsburgh, PA 15207

The following long-term care nursing facility is seeking an exception to 28 Pa. Code § 205.6(a) (relating to function of building).

Slate Belt Nursing and Rehabilitation Center  
701 Slate Belt Boulevard  
Bangor, PA 18013  
FAC ID 193102

The following long-term care nursing facility is seeking an exception to 28 Pa. Code § 205.67(k) (relating to electric requirements for existing and new construction).

Fairmount Homes  
333 Wheat Ridge Drive  
Ephrata, PA 17522-8558  
FAC ID 060202

These requests are on file with the Department of Health (Department). Persons may receive a copy of a request for exception by requesting a copy from the Division of Nursing Care Facilities, Room 526, Health and Welfare Building, Harrisburg, PA 17120, (717) 787-1816, fax (717) 772-2163, [ra-paexcept@state.pa.us](mailto:ra-paexcept@state.pa.us).

Persons who wish to comment on this exception request may do so by sending a letter by mail, e-mail or facsimile to the Division at the address listed previously.

Comments received by the Department within 15 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of the request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so, should contact V/TT (717) 783-6514 for speech and/or hearing impaired persons or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

EVERETTE JAMES,  
*Secretary*

[Pa.B. Doc. No. 10-1289. Filed for public inspection July 16, 2010, 9:00 a.m.]

# DEPARTMENT OF LABOR AND INDUSTRY

## Current Prevailing Wage Act Debarments

The following contractors have been determined to have intentionally violated the Pennsylvania Prevailing Wage Act (act) (43 P. S. §§ 165-1—165-17). This notice is published for the information and convenience of public bodies subject to the act. Under section 11(e) of the act (43 P. S. § 165-11(e)), these contractors, or either one of them, or any firms, corporations or partnerships in which either one of these contractors has an interest, shall be awarded no contract for 3 years after the date listed.

Contractor	Address	Date of Debarment
Genesis Insulation, Inc. and Karen Duffy, Individually	1545 Mill Road	6/29/2010

SANDI VITO,  
Secretary

[Pa.B. Doc. No. 10-1290. Filed for public inspection July 16, 2010, 9:00 a.m.]

# DEPARTMENT OF REVENUE

## Pennsylvania Lottery's Eagles™ 2010 Instant Lottery Game

Under the State Lottery Law (72 P. S. §§ 3761-101—3761-314) and 61 Pa. Code § 819.203 (relating to notice of instant game rules), the Secretary of Revenue hereby provides public notice of the rules for the following instant lottery game:

1. *Name:* The name of the game is Pennsylvania Lottery's Eagles™ 2010.

2. *Price:* The price of a Pennsylvania Lottery's Eagles™ 2010 instant lottery game ticket is \$5.

3. *Play Symbols:* Each Pennsylvania Lottery's Eagles™ 2010 instant game ticket will contain one play area featuring an "EAGLES NUMBERS" area and a "YOUR NUMBERS" area. The play symbols and their captions located in the "EAGLES NUMBERS" area are: 1 (ONE), 2 (TWO), 3 (THREE), 4 (FOUR), 5 (FIVE), 6 (SIX), 7 (SEVEN), 8 (EIGHT), 9 (NINE), 10 (TEN), 11 (ELEVN), 12 (TWLV), 13 (THRTN), 14 (FORTN), 15 (FIFTN), 16 (SIXTN), 17 (SVNTN), 18 (EGHTN), 19 (NINTN), 20 (TWENT), 21 (TWYONE), 22 (TWYTWO), 23 (TWYTHR), 24 (TWYFOR) and 25 (TWYFIV). The play symbols and their captions located in the "YOUR NUMBERS" area are: 1 (ONE), 2 (TWO), 3 (THREE), 4 (FOUR), 5 (FIVE), 6 (SIX), 7 (SEVEN), 8 (EIGHT), 9 (NINE), 10 (TEN), 11 (ELEVN), 12 (TWLV), 13 (THRTN), 14 (FORTN), 15 (FIFTN), 16 (SIXTN), 17 (SVNTN), 18 (EGHTN), 19 (NINTN), 20 (TWENT), 21 (TWYONE), 22 (TWYTWO), 23 (TWYTHR), 24 (TWYFOR), 25 (TWYFIV), Field Goal (FLDGL) symbol and a Touchdown (TDOWN) symbol.

4. *Prize Symbols:* The prize symbols and their captions located in the "YOUR NUMBERS" area are: \$2 (TWO DOL), \$5<sup>00</sup> (FIV DOL), \$10<sup>00</sup> (TEN DOL), \$15<sup>00</sup>

(FIFTN), \$20<sup>00</sup> (TWENTY), \$25<sup>00</sup> (TWY FIV), \$40<sup>00</sup> (FORTY), \$50<sup>00</sup> (FIFTY), \$100 (ONE HUN), \$200 (TWO HUN), \$400 (FOR HUN), \$1,000 (ONE THO), \$2,500 (TWYFIVHUN), \$50,000 (FTY THO) and \$100,000 (ONEHUNTHO).

5. *Prizes:* The prizes that can be won in this game are: \$2, \$5, \$10, \$15, \$20, \$25, \$40, \$50, \$100, \$200, \$400, \$1,000, \$2,500, \$50,000 and \$100,000. A player can win up to 10 times on a ticket.

6. *Second-Chance Drawings:* The Pennsylvania Lottery will conduct five second-chance drawings for non-winning Pennsylvania Lottery's Eagles™ 2010 instant game tickets as provided for in section 11.

7. *Approximate Number of Tickets Printed For the Game:* Approximately 5,400,000 tickets will be printed for the Pennsylvania Lottery's Eagles™ 2010 instant game.

### 8. Determination of Prize Winners:

(a) Holders of tickets upon which any one of the "EAGLES NUMBERS" play symbols matches any of the "YOUR NUMBERS" play symbols and a prize symbol of \$100,000 (ONEHUNTHO) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$100,000.

(b) Holders of tickets upon which any one of the "EAGLES NUMBERS" play symbols matches any of the "YOUR NUMBERS" play symbols and a prize symbol of \$50,000 (FTY THO) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$50,000.

(c) Holders of tickets upon which any one of the "EAGLES NUMBERS" play symbols matches any of the "YOUR NUMBERS" play symbols and a prize symbol of \$2,500 (TWYFIVHUN) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$2,500.

(d) Holders of tickets upon which any one of the "EAGLES NUMBERS" play symbols matches any of the "YOUR NUMBERS" play symbols and a prize symbol of \$1,000 (ONE THO) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$1,000.

(e) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Touchdown (TDOWN) symbol, and a prize symbol of \$100 (ONE HUN) appears under the Touchdown (TDOWN) symbol, on a single ticket, shall be entitled to a prize of \$700.

(f) Holders of tickets upon which any one of the "EAGLES NUMBERS" play symbols matches any of the "YOUR NUMBERS" play symbols and a prize symbol of \$400 (FOR HUN) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$400.

(g) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Field Goal (FLDGL) symbol, and a prize symbol of \$100 (ONE HUN) appears under the Field Goal (FLDGL) symbol, on a single ticket, shall be entitled to a prize of \$300.

(h) Holders of tickets upon which any one of the "EAGLES NUMBERS" play symbols matches any of the "YOUR NUMBERS" play symbols and a prize symbol of \$200 (TWO HUN) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$200.



(i) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Touchdown (TDOWN) symbol, and a prize symbol of \$25.<sup>00</sup> (TWY FIV) appears under the Touchdown (TDOWN) symbol, on a single ticket, shall be entitled to a prize of \$175.

(j) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Field Goal (FLDGL) symbol, and a prize symbol of \$50.<sup>00</sup> (FIFTY) appears under the Field Goal (FLDGL) symbol, on a single ticket, shall be entitled to a prize of \$150.

(k) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Touchdown (TDOWN) symbol, and a prize symbol of \$20.<sup>00</sup> (TWENTY) appears under the Touchdown (TDOWN) symbol, on a single ticket, shall be entitled to a prize of \$140.

(l) Holders of tickets upon which any one of the "EAGLES NUMBERS" play symbols matches any of the "YOUR NUMBERS" play symbols and a prize symbol of \$100 (ONE HUN) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$100.

(m) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Touchdown (TDOWN) symbol, and a prize symbol of \$10.<sup>00</sup> (TEN DOL) appears under the Touchdown (TDOWN) symbol, on a single ticket, shall be entitled to a prize of \$70.

(n) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Field Goal (FLDGL) symbol, and a prize symbol of \$20.<sup>00</sup> (TWENTY) appears under the Field Goal (FLDGL) symbol, on a single ticket, shall be entitled to a prize of \$60.

(o) Holders of tickets upon which any one of the "EAGLES NUMBERS" play symbols matches any of the "YOUR NUMBERS" play symbols and a prize symbol of \$50.<sup>00</sup> (FIFTY) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$50.

(p) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Field Goal (FLDGL) symbol, and a prize symbol of \$15.<sup>00</sup> (FIFTN) appears under the Field Goal (FLDGL) symbol, on a single ticket, shall be entitled to a prize of \$45.

(q) Holders of tickets upon which any one of the "EAGLES NUMBERS" play symbols matches any of the "YOUR NUMBERS" play symbols and a prize symbol of \$40.<sup>00</sup> (FORTY) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$40.

(r) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Touchdown (TDOWN) symbol, and a prize symbol of \$5.<sup>00</sup> (FIV DOL) appears under the Touchdown (TDOWN) symbol, on a single ticket, shall be entitled to a prize of \$35.

(s) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Field Goal (FLDGL) symbol, and a prize symbol of \$10.<sup>00</sup> (TEN DOL) appears under the Field Goal (FLDGL) symbol, on a single ticket, shall be entitled to a prize of \$30.

(t) Holders of tickets upon which any one of the "EAGLES NUMBERS" play symbols matches any of the "YOUR NUMBERS" play symbols and a prize symbol of \$25.<sup>00</sup> (TWY FIV) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$25.

(u) Holders of tickets upon which any one of the "EAGLES NUMBERS" play symbols matches any of the "YOUR NUMBERS" play symbols and a prize symbol of \$20.<sup>00</sup> (TWENTY) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$20.

(v) Holders of tickets upon which any one of the "EAGLES NUMBERS" play symbols matches any of the "YOUR NUMBERS" play symbols and a prize symbol of \$15.<sup>00</sup> (FIFTN) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$15.

(w) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Field Goal (FLDGL) symbol, and a prize symbol of \$5.<sup>00</sup> (FIV DOL) appears under the Field Goal (FLDGL) symbol, on a single ticket, shall be entitled to a prize of \$15.

(x) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Touchdown (TDOWN) symbol, and a prize symbol of \$2.<sup>00</sup> (TWO DOL) appears under the Touchdown (TDOWN) symbol, on a single ticket, shall be entitled to a prize of \$14.

(y) Holders of tickets upon which any one of the "EAGLES NUMBERS" play symbols matches any of the "YOUR NUMBERS" play symbols and a prize symbol of \$10.<sup>00</sup> (TEN DOL) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$10.

(z) Holders of tickets upon which any one of the "EAGLES NUMBERS" play symbols matches any of the "YOUR NUMBERS" play symbols and a prize symbol of \$5.<sup>00</sup> (FIV DOL) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$5.

(aa) Holders of tickets upon which any one of the "EAGLES NUMBERS" play symbols matches any of the "YOUR NUMBERS" play symbols and a prize symbol of \$2.<sup>00</sup> (TWO DOL) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$2.

9. *Number and Description of Prizes and Approximate Odds:* The following table sets forth the approximate number of winners, amounts of prizes and approximate odds of winning:

*When Any Of Your Numbers  
Match Any Of The Eagles Numbers,  
Win With Prize(s) Of:*

	Win:
\$5	\$5
\$5 × 2	\$10
\$10	\$10
\$5 w/FIELD GOAL	\$15
\$5 × 3	\$15
\$5 + \$10	\$15

*Approximate  
Odds Are 1 In:*

10.91
30
30
200
150
150

*Approximate No.  
Of Winners Per  
5,400,000 Tickets*

495,000
180,000
180,000
27,000
36,000
36,000



When Any Of Your Numbers  
Match Any Of The Eagles Numbers,  
Win With Prize(s) Of:

	Win:	Approximate Odds Are 1 In:	Approximate No. Of Winners Per 5,400,000 Tickets
\$15	\$15	150	36,000
(\$2 w/TOUCHDOWN) + (\$2 × 3)	\$20	120	45,000
(\$5 w/FIELD GOAL) + \$5	\$20	300	18,000
\$5 × 4	\$20	600	9,000
\$10 × 2	\$20	600	9,000
\$20	\$20	600	9,000
(\$5 w/FIELD GOAL) + (\$5 × 2)	\$25	300	18,000
\$5 × 5	\$25	300	18,000
\$10 + \$15	\$25	300	18,000
\$20 + \$5	\$25	300	18,000
\$25	\$25	300	18,000
(\$10 w/FIELD GOAL) + \$10	\$40	800	6,750
(\$5 w/TOUCHDOWN) + \$5	\$40	240	22,500
\$5 × 8	\$40	2,400	2,250
\$10 × 4	\$40	2,400	2,250
\$20 × 2	\$40	2,400	2,250
\$40	\$40	1,200	4,500
(\$15 w/FIELD GOAL) + \$5	\$50	800	6,750
(\$5 w/TOUCHDOWN) + \$15	\$50	342.86	15,750
\$5 × 10	\$50	1,200	4,500
\$10 × 5	\$50	1,200	4,500
\$25 × 2	\$50	1,200	4,500
\$50	\$50	1,200	4,500
(\$20 w/FIELD GOAL) + (\$20 × 2)	\$100	2,000	2,700
(\$10 w/TOUCHDOWN) + (\$10 w/FIELD GOAL)	\$100	800	6,750
\$10 × 10	\$100	4,000	1,350
\$20 × 5	\$100	4,000	1,350
\$25 × 4	\$100	4,000	1,350
(\$40 × 2) + (\$5 × 4)	\$100	2,400	2,250
\$50 × 2	\$100	2,400	2,250
\$100	\$100	2,400	2,250
(\$50 w/FIELD GOAL) + (\$10 × 5)	\$200	24,000	225
(\$20 w/TOUCHDOWN) + (\$20 × 3)	\$200	24,000	225
\$20 × 10	\$200	24,000	225
\$40 × 5	\$200	24,000	225
\$50 × 4	\$200	24,000	225
\$100 × 2	\$200	24,000	225
\$200	\$200	24,000	225
(\$25 w/TOUCHDOWN) + (\$25 × 9)	\$400	120,000	45
(\$100 w/FIELD GOAL) + (\$20 × 5)	\$400	120,000	45
\$40 × 10	\$400	120,000	45
\$100 × 4	\$400	120,000	45
\$400	\$400	120,000	45
(\$100 w/TOUCHDOWN) + (\$50 × 6)	\$1,000	120,000	45
(\$100 w/FIELD GOAL) + (\$100 × 7)	\$1,000	120,000	45
\$100 × 10	\$1,000	120,000	45
(\$400 × 2) + (\$50 × 4)	\$1,000	120,000	45
\$1,000	\$1,000	120,000	45
\$2,500	\$2,500	540,000	10
\$50,000	\$50,000	1,080,000	5
\$100,000	\$100,000	1,080,000	5

“FIELD GOAL” (FLDGL) Symbol = Win 3X the prize shown under it automatically.

“TOUCHDOWN” (TDOWN) Symbol = Win 7X the prize shown under it automatically.

Five (5) Second-Chance Drawings will be conducted during the sales period of the game to award additional prizes.

Prizes, including top prizes, are subject to availability at the time of purchase.

**10. Pennsylvania Lottery's Eagles™ 2010 Second-Chance Drawings Requirements:**

(a) To be eligible for the Second-Chance Drawing, players must mail exactly three (3) non-winning Pennsylvania Lottery's Eagles™ 2010 instant lottery tickets in an envelope no larger than 4 1/8 inches by 9 1/2 inches addressed to Pennsylvania Lottery's Eagles™ 2010

Second-Chance Drawings, P. O. Box 200, Middletown, PA 17057-0200. The player shall affix proper postage to the entry.

(b) Envelopes containing less than or more than three (3) non-winning Pennsylvania Lottery's Eagles™ 2010 instant lottery tickets shall be disqualified.

(c) Non-winning Pennsylvania Lottery's Eagles™ 2010 instant lottery tickets received in an envelope larger than 4 1/8 inches by 9 1/2 inches shall be disqualified. The only

exception is for non-winning Pennsylvania Lottery's Eagles™ 2010 instant lottery tickets received in a United States Post Office "damaged-in-mail-process" envelope.

(d) Winning Pennsylvania Lottery's Eagles™ 2010 instant lottery tickets submitted to the Pennsylvania Lottery's Eagles™ 2010 Second-Chance Drawing's address will not be paid or honored. Second-Chance Drawing entries containing winning Pennsylvania Lottery's Eagles™ 2010 instant lottery tickets will be disqualified.

(e) The back of each non-winning Pennsylvania Lottery's Eagles™ 2010 instant lottery ticket entered in the Pennsylvania Lottery's Eagles™ 2010 Second-Chance Drawings must be completed by the same player in a legible manner, including the player's name, street address, city, state, zip code, telephone number and signature. Only one claimant per entry allowed. Claimant must be 18 years of age or older. Incomplete tickets shall be disqualified.

#### 11. *Second-Chance Drawings Procedures:*

(a) The Lottery will conduct five Pennsylvania Lottery's Eagles™ 2010 Second-Chance Drawings. All Pennsylvania Lottery's Eagles™ 2010 Second-Chance Drawings entries received at Lottery Headquarters on or before 4:00 p.m. March 25, 2011, will be eligible to participate in one of the five Pennsylvania Lottery's Eagles™ 2010 Second-Chance Drawings. All time references in this section are Eastern Standard Time.

(1) All Pennsylvania Lottery's Eagles™ 2010 Second-Chance Drawing entries received at Lottery Headquarters on or before 4:00 p.m. August 13, 2010, will be eligible to participate in the Pennsylvania Lottery's Eagles™ 2010 Second-Chance Drawing which will be held at Lottery Headquarters the week of August 16, 2010.

(2) All Pennsylvania Lottery's Eagles™ 2010 Second-Chance Drawing entries received at Lottery Headquarters after 4:00 p.m. August 13, 2010, through and including 4:00 p.m. September 17, 2010, will be eligible to participate in the Pennsylvania Lottery's Eagles™ 2010 Second-Chance Drawing which will be held at Lottery Headquarters the week of September 20, 2010.

(3) All Pennsylvania Lottery's Eagles™ 2010 Second-Chance Drawing entries received at Lottery Headquarters after 4:00 p.m. September 17, 2010, through and including 4:00 p.m. October 22, 2010, will be eligible to participate in the Pennsylvania Lottery's Eagles™ 2010 Second-Chance Drawing which will be held at Lottery Headquarters the week of October 25, 2010.

(4) All Pennsylvania Lottery's Eagles™ 2010 Second-Chance Drawing entries received at Lottery Headquarters after 4:00 p.m. October 22, 2010, through and including 4:00 p.m. November 19, 2010, will be eligible to participate in the Pennsylvania Lottery's Eagles™ 2010 Second-Chance Drawing which will be held at Lottery Headquarters the week of November 29, 2010.

(5) All Pennsylvania Lottery's Eagles™ 2010 Second-Chance Drawing entries received at Lottery Headquarters after 4:00 p.m. November 19, 2010, through and including 4:00 p.m. March 25, 2011, will be eligible to participate in the final Pennsylvania Lottery's Eagles™ 2010 Second-Chance Drawing which will be held at Lottery Headquarters the week of March 28, 2011.

(6) The odds of an entry being selected in a Pennsylvania Lottery's Eagles™ 2010 Second-Chance Drawing depend upon the number of entries received for that drawing.

(b) To be eligible to participate in a particular Pennsylvania Lottery's Eagles™ 2010 Second-Chance Drawing, a player must have complied with the requirements of section 10.

(1) The Lottery assumes no responsibility for a lost or misplaced entry not entered into one of the Pennsylvania Lottery's Eagles™ 2010 Second-Chance Drawings.

(2) A Pennsylvania Lottery's Eagles™ 2010 Second-Chance Drawing entry is eligible for only one Second-Chance Drawing. An entry that is not eligible in one group, may, at the discretion of the Secretary, remain eligible for a subsequent Second-Chance Drawing.

(3) If a Pennsylvania Lottery's Eagles™ 2010 Second-Chance Drawing entry is rejected during or following the Pennsylvania Lottery's Eagles™ 2010 Second-Chance Drawing, the sole remedy is to select another entry to replace the rejected entry in accordance with Lottery procedure.

(c) A player may only win the prize for which they are first selected in each of the Pennsylvania Lottery's Eagles™ 2010 Second-Chance Drawings. Subsequent entries, from the same individual, selected in the same Pennsylvania Lottery's Eagles™ 2010 Second-Chance Drawing will be disqualified and a replacement entry will be selected.

(d) Manner of conducting each of the Pennsylvania Lottery's Eagles™ 2010 Eagles™ Second-Chance Drawings.

(1) All entries received at Lottery Headquarters that are eligible to participate in a particular drawing, will be placed in numbered containers, each containing approximately 500 envelopes.

(2) A computer-generated randomizer or mechanical device may be used to select the numbered containers from which the winners will be selected. If used, the randomizer will not be programmed to eliminate the possibility of the same container being selected more than once.

(3) One envelope will be randomly drawn from each of the selected numbered containers. As each entry envelope is selected, its contents will be qualified according to the requirements of section 10. If the entry does not meet the requirements of section 10, another entry will be selected from that container; and so on, until a qualified entry has been chosen. Once a qualified entry has been selected, further validation will take place by verifying the status of the tickets contained in the entry envelope drawn by entering the ticket information into the computerized instant ticket database. The first qualified and validated entry from each of the designated containers will entitle its owner to a prize as described in section 12.

(4) Determination of winners will be made by the Secretary, whose judgment will be final and binding.

(e) The payment of a prize awarded in any of the Pennsylvania Lottery's Eagles™ 2010 Second-Chance Drawings to a person who dies before receiving the prize shall be paid according to 61 Pa. Code § 811.16 (relating to prizes payable after death of prize winner).

#### 12. *Description of Pennsylvania Lottery's Eagles™ 2010 Second-Chance Drawings Prizes:*

(a) The following prizes shall be awarded for the drawing held the week of August 16, 2010:

(i) The first and the second winners selected in the drawing held the week of August 16, 2010 shall each be entitled to a prize consisting of an authentic autographed

Eagles game-issued jersey to be awarded at a private event by the player who signed the jersey. The event will include lunch and a tour of the facility for the winner and a guest. The Eagles will determine the player, the date and the facility for the event.

(ii) The third through the fifth winners selected in the drawing held the week of August 16, 2010 shall each be entitled to a prize consisting of two Club Level III game tickets and one reserved parking pass for the September 12, 2010 Eagles home game verses the Packers.

(iii) The sixth through the eighth winners selected in the drawing held the week of August 16, 2010 shall each be entitled to a prize consisting of two Club Level III game tickets and one reserved parking pass for the October 3, 2010 Eagles home game verses the Redskins.

(iv) The ninth winner selected in the drawing held the week of August 16, 2010 shall be entitled to a prize consisting of two game tickets, two pre-game sideline passes and one reserved parking pass for the September 12, 2010 Eagles home game verses the Packers.

(v) The tenth winner selected in the drawing held the week of August 16, 2010 shall be entitled to a prize consisting of two game tickets, two pre-game sideline passes and one reserved parking pass for the October 3, 2010 Eagles home game verses the Redskins.

(b) The following prizes shall be awarded for the drawing held the week of September 20, 2010:

(i) The first and the second winners selected in the drawing held the week of September 20, 2010 shall each be entitled to a prize consisting of a VIP Road Trip for the winner and one guest to the November 15, 2010 Eagles away game verses the Redskins. The trip will include round-trip commercial transportation, one double occupancy hotel room for one night, one dinner for the winner and one guest, and two game tickets. All other costs and expenses arising from or in connection with the road trip shall be the sole responsibility of the winner.

(ii) The third through the twelfth winners selected in the drawing held the week of September 20, 2010 shall each be entitled to a prize consisting of the opportunity for the winner and one guest to watch the October 17, 2010 Eagles home game verses the Falcons from a luxury suite at the stadium. The prize will include food and non-alcoholic beverages in the suite.

(iii) The thirteenth through the twenty-second winners selected in the drawing held the week of September 20, 2010 shall each be entitled to a prize consisting of the opportunity for the winner and one guest to watch the November 7, 2010 Eagles home game verses the Colts from a luxury suite at the stadium. The prize will include food and non-alcoholic beverages in the suite.

(iv) The twenty-third winner selected in the drawing held the week of September 20, 2010 shall be entitled to a prize consisting of the opportunity for the winner to join the Eagles Television Network in the control booth during the October 17, 2010 Eagles home game verses the Falcons. The winner shall receive two tickets and one reserved parking pass for the game.

(v) The twenty-fourth winner selected in the drawing held the week of September 20, 2010 shall be entitled to a prize consisting of the opportunity for the winner to join a cameraman of the Eagles Television Network during the October 17, 2010 Eagles home game verses the Falcons. The winner shall receive two tickets and one reserved parking pass for the game.

(vi) The twenty-fifth and the twenty-sixth winners selected in the drawing held the week of September 20, 2010 shall each be entitled to a prize consisting of the opportunity for the winner and one guest to join the stadium staff in setting up the inflatable tunnel used during the announcement of the starting lineups at the October 17, 2010 Eagles home game verses the Falcons. Each winner shall receive two tickets, two pre-game sideline passes and one reserved parking pass for the game.

(vii) The twenty-seventh winner selected in the drawing held the week of September 20, 2010 shall be entitled to a prize consisting of two game tickets, two pre-game sideline passes and one reserved parking pass for the October 17, 2010 Eagles home game verses the Falcons. This prize will include the opportunity for the winner to help the equipment staff set up the Eagles locker room at the stadium on a day prior to the October 17, 2010 Eagles home game verses the Falcons.

(viii) The twenty-eighth through the thirtieth winners selected in the drawing held the week of September 20, 2010 shall each be entitled to a prize consisting of two Club Level III game tickets and one reserved parking pass for the October 17, 2010 Eagles home game verses the Falcons.

(ix) The thirty-first through the thirty-third winners selected in the drawing held the week of September 20, 2010 shall each be entitled to a prize consisting of two Club Level III game tickets and one reserved parking pass for the November 7, 2010 Eagles home game verses the Colts.

(x) The thirty-fourth winner selected in the drawing held the week of September 20, 2010 shall be entitled to a prize consisting of two game tickets, two pre-game sideline passes and one reserved parking pass for the November 7, 2010 Eagles home game verses the Colts.

(xi) The thirty-fifth through the thirty-eighth winners selected in the drawing held the week of September 20, 2010 shall each be entitled to a prize consisting of the opportunity for the winner and one guest to tour the NovaCare Complex, which shall include lunch with a current team player, as determined by the Eagles. The Eagles will determine the date of the event.

(xii) The thirty-ninth through the forty-sixth winners selected in the drawing held the week of September 20, 2010 shall each be entitled to a prize consisting of the opportunity for the winner and one guest to attend one of the Eagles Head Coach's press conferences at the NovaCare Complex during the regular season. Eagles shall determine the date and time of the press conference.

(xiii) The forty-seventh through the seventy-first winners selected in the drawing held the week of September 20, 2010 shall each be entitled to a prize consisting of a reception with the Eagles Director of Player Programs and a current player to review Eagles football on November 9, 2010. The event will include heavy appetizers. The Eagles will determine the player and the facility for the event.

(xiv) The seventy-second through the seventy-ninth winners selected in the drawing held the week of September 20, 2010 shall each be entitled to a prize consisting of the opportunity for the winner and one guest to attend one of the Eagles player's press conferences at the NovaCare Complex during the regular season. Eagles shall determine the date and time of the press conference.

(xv) The eightieth through the one-hundred and twenty-ninth winners selected in the drawing held the



week of September 20, 2010 shall each be entitled to a prize consisting of the opportunity for the winner and one guest to attend a Breakfast with Legends event to be held at a facility and on a date as determined by the Eagles. The event will include two alumni player appearances as determined by the Eagles. The event will include breakfast and Eagles-related gifts.

(c) The following prizes shall be awarded for the drawing held the week of October 25, 2010:

(i) The first winner selected in the drawing held the week of October 25, 2010 shall be entitled to a prize consisting of a VIP Road Trip for the winner and one guest to the December 19, 2010 Eagles away game verses the Giants. The trip will include round-trip commercial transportation, one double occupancy hotel room for one night, one dinner for the winner and one guest, and two game tickets. All other costs and expenses arising from or in connection with the road trip shall be the sole responsibility of the winner.

(ii) The second through the fourth winners selected in the drawing held the week of October 25, 2010 shall each be entitled to a prize consisting of two Club Level III game tickets and one reserved parking pass for the November 21, 2010 Eagles home game verses the Giants.

(iii) The fifth through the seventh winners selected in the drawing held the week of October 25, 2010 shall each be entitled to a prize consisting of two Club Level III game tickets and one reserved parking pass for the December 2, 2010 Eagles home game verses the Texans.

(iv) The eighth winner selected in the drawing held the week of October 25, 2010 shall be entitled to a prize consisting of two game tickets, two pre-game sideline passes and one reserved parking pass for the November 21, 2010 Eagles home game verses the Giants.

(v) The ninth winner selected in the drawing held the week of October 25, 2010 shall be entitled to a prize consisting of two game tickets, two pre-game sideline passes and one reserved parking pass for the December 2, 2010 Eagles home game verses the Texans.

(d) The following prizes shall be awarded for the drawing held the week of November 29, 2010:

(i) The first through the tenth winners selected in the drawing held the week of November 29, 2010 shall each be entitled to a prize consisting of the opportunity for the winner and one guest to watch the December 12, 2010 Eagles home game verses the Cowboys from a luxury suite at the stadium. The prize will include food and non-alcoholic beverages in the suite.

(ii) The eleventh winner selected in the drawing held the week of November 29, 2010 shall be entitled to a prize consisting of the opportunity for the winner and one guest to accompany the Eagles' Director of Player Programs as he transports the Eagles first pick in the NFL Draft to the NovaCare Complex. The winner and one guest will receive access passes to the draft pick's press conference. The Eagles will determine the date and time of the event. The draft pick will be determined by the Eagles.

(iii) The twelfth through the fourteenth winners selected in the drawing held the week of November 29, 2010 shall each be entitled to a prize consisting of two Club Level III game tickets and one reserved parking pass for the December 26, 2010 Eagles home game verses the Vikings.

(iv) The fifteenth through the seventeenth winners selected in the drawing held the week of November 29,

2010 shall each be entitled to a prize consisting of two Club Level III game tickets and one reserved parking pass for the January 2, 2011 Eagles home game verses the Cowboys.

(v) The eighteenth winner selected in the drawing held the week of November 29, 2010 shall be entitled to a prize consisting of two game tickets, two pre-game sideline passes and one reserved parking pass for the December 26, 2010 Eagles home game verses the Vikings.

(vi) The nineteenth winner selected in the drawing held the week of November 29, 2010 shall be entitled to a prize consisting of two game tickets, two pre-game sideline passes and one reserved parking pass for the January 2, 2011 Eagles home game verses the Cowboys.

(vii) The twentieth and the twenty-first winners selected in the drawing held the week of November 29, 2010 shall each be entitled to a prize consisting of the opportunity for the winner and one guest to attend a post-draft lunch at the NovaCare Complex with the Eagles General Manager and Vice President of Player Personnel or other such prominent member of the Eagles Scouting Department. The Eagles will determine the date of the event.

(viii) The twenty-second through the twenty-fourth winners selected in the drawing held the week of November 29, 2010 shall each be entitled to a prize consisting of two Club Level III game tickets and one reserved parking pass for the first Eagles playoff home game for the 2010-2011 season, if applicable.

(ix) The twenty-fifth through the twenty-seventh winners selected in the drawing held the week of November 29, 2010 shall each be entitled to a prize consisting of two Club Level III game tickets and one reserved parking pass for the second Eagles playoff home game for the 2010-2011 season, if applicable.

(x) The twenty-eighth winner selected in the drawing held the week of November 29, 2010 shall be entitled to a prize consisting of two game tickets, two pre-game sideline passes and one reserved parking pass for the first Eagles playoff home game for the 2010-2011 season, if applicable.

(xi) The twenty-ninth winner selected in the drawing held the week of November 29, 2010 shall be entitled to a prize consisting of two game tickets, two pre-game sideline passes and one reserved parking pass for the second Eagles playoff home game for the 2010-2011 season, if applicable.

(e) The following prizes shall be awarded for the drawing held the week of March 28, 2011:

(i) The first through the fourteenth winners selected in the drawing held the week of March 28, 2010 shall each be entitled to a prize consisting of an authentic autographed Eagles game-issued jersey. The Eagles will determine the player.

(ii) The fifteenth through the eighteenth winners selected in the drawing held the week of March 28, 2010 shall each be entitled to a prize consisting of the opportunity for the winner and one guest to attend a breakfast at the NovaCare Complex with one Eagles coach and the opportunity to watch the coach breakdown film. The Eagles will determine the date of the event and the coach.

(iii) The nineteenth through the sixth-eighth winners selected in the drawing held the week of March 28, 2010 shall each be entitled to a prize consisting of the opportunity for the winner and one guest to attend a VIP Chalk



Talk by two Eagles assistant coaches. The assistant coaches, date and location of the event will be determined by the Eagles. The prize includes appropriate food and beverages for the event, a tour of the complex, an Eagles gift bag for each participant and an address by the assistant coaches.

(iv) The sixty-ninth through the one-hundred and eighteenth winners selected in the drawing held the week of March 28, 2010 shall each be entitled to a prize consisting of the opportunity for the winner and one guest to attend a Punt, Pass and Kick event. The prize includes appropriate food and beverages following the event and Eagles-related prizes. The Eagles will determine the date and location of the event.

**13. Prize Information and Restrictions:**

(a) If no date is provided for a game or event that is part of a prize described in section 12, the date will be determined by the Eagles and provided to the winner.

(b) Prizes are transferable one time.

(c) In the event the winner or the winner's designee is not available on the date of the game or event that is part of a prize described in section 12, there will be no extensions or substitution of prizes and the winner will not receive any reimbursement for the unused prize.

(d) Prizes are not redeemable for cash.

(e) In the event a prize in section 12 is not available, the Lottery may either provide a substitute prize, determined by the Secretary to have an equivalent value to the prize won, or make a cash payment to the winner, in an amount determined by the Secretary to have an equivalent value to the prize won.

(f) The Lottery will make every reasonable effort to deliver a prize to the winner in a timely manner, however, the Lottery is not responsible for prizes lost or unusable due to untimely delivery.

(g) The winner is responsible for all costs, expenses and transportation, not specifically included in the prize descriptions in section 12, arising from or in connection with any prize won.

(h) Verification that the winner is 18 years of age or older will be required before delivery of prizes.

(i) In order to participate in certain prize events the winner and their guests may be required to execute a confidentiality agreement and waiver as determined by the Eagles.

(j) The winner and their guests, as applicable, shall participate in certain prize events at their own risk.

(k) Other restrictions may apply.

(l) All prizes having a value, as determined by the Secretary, of \$600 or more will include an appropriate federal withholding credit.

**14. Retailer Incentive Awards:** The Lottery may conduct a separate Retailer Incentive Game for retailers who sell Pennsylvania Lottery's Eagles™ 2010 instant game tickets. The conduct of the game will be governed by 61 Pa. Code § 819.222 (relating to retailer bonuses and incentive).

**15. Unclaimed Prize Money:** For a period of 1 year from the announced close of Pennsylvania Lottery's Eagles™ 2010 instant game, prize money from winning Pennsylvania Lottery's Eagles™ 2010 instant game tickets will be retained by the Secretary for payment to the persons entitled thereto. If no claim is made within 1

year of the announced close of the Pennsylvania Lottery's Eagles™ 2010 instant game, the right of a ticket holder to claim the prize represented by the ticket, if any, will expire and the prize money will be paid into the State Lottery Fund and used for purposes provided for by statute.

**16. Governing Law:** In purchasing a ticket, the customer agrees to comply with and abide by the State Lottery Law (72 P.S. §§ 3761-101—3761-314), 61 Pa. Code Part V (relating to State Lotteries) and the provisions contained in this notice.

**17. Termination of the Game:** The Secretary may announce a termination date, after which no further tickets from this game may be sold. The announcement will be disseminated through media used to advertise or promote Pennsylvania Lottery's Eagles™ 2010 instant game or through normal communications methods.

C. DANIEL HASSELL,  
Secretary

[Pa.B. Doc. No. 10-1291. Filed for public inspection July 16, 2010, 9:00 a.m.]

## Pennsylvania Lottery's Steelers® 2010 Instant Lottery Game

Under the State Lottery Law (72 P.S. §§ 3761-101—3761-314) and 61 Pa. Code § 819.203 (relating to notice of instant game rules), the Secretary of Revenue hereby provides public notice of the rules for the following instant lottery game:

**1. Name:** The name of the game is Pennsylvania Lottery's Steelers® 2010.

**2. Price:** The price of a Pennsylvania Lottery's Steelers® 2010 instant lottery game ticket is \$5.

**3. Play Symbols:** Each Pennsylvania Lottery's Steelers® 2010 instant game ticket will contain one play area featuring a "STEELERS NUMBERS" area and a "YOUR NUMBERS" area. The play symbols and their captions located in the "STEELERS NUMBERS" area are: 1 (ONE), 2 (TWO), 3 (THREE), 4 (FOUR), 5 (FIVE), 6 (SIX), 7 (SEVEN), 8 (EIGHT), 9 (NINE), 10 (TEN), 11 (ELEVN), 12 (TWLV), 13 (THRTN), 14 (FORTN), 15 (FIFTN), 16 (SIXTN), 17 (SVNTN), 18 (EGHTN), 19 (NINTN), 20 (TWENT), 21 (TWYONE), 22 (TWYTWO), 23 (TWYTHR), 24 (TWYFOR) and 25 (TWYFIV). The play symbols and their captions located in the "YOUR NUMBERS" area are: 1 (ONE), 2 (TWO), 3 (THREE), 4 (FOUR), 5 (FIVE), 6 (SIX), 7 (SEVEN), 8 (EIGHT), 9 (NINE), 10 (TEN), 11 (ELEVN), 12 (TWLV), 13 (THRTN), 14 (FORTN), 15 (FIFTN), 16 (SIXTN), 17 (SVNTN), 18 (EGHTN), 19 (NINTN), 20 (TWENT), 21 (TWYONE), 22 (TWYTWO), 23 (TWYTHR), 24 (TWYFOR), 25 (TWYFIV), Field Goal (FLDGL) symbol and a Touchdown (TDOWN) symbol.

**4. Prize Symbols:** The prize symbols and their captions located in the "YOUR NUMBERS" area are: \$2.<sup>00</sup> (TWO DOL), \$5.<sup>00</sup> (FIV DOL), \$10.<sup>00</sup> (TEN DOL), \$15.<sup>00</sup> (FIFTN), \$20.<sup>00</sup> (TWENTY), \$25.<sup>00</sup> (TWY FIV), \$40.<sup>00</sup> (FORTY), \$50.<sup>00</sup> (FIFTY), \$100 (ONE HUN), \$200 (TWO HUN), \$400 (FOR HUN), \$1,000 (ONE THO), \$2,500 (TWYFIVHUN), \$50,000 (FTY THO), \$100,000 (ONEHUNTHO).

5. *Prizes:* The prizes that can be won in this game are: \$2, \$5, \$10, \$15, \$20, \$25, \$40, \$50, \$100, \$200, \$400, \$1,000, \$2,500, \$50,000 and \$100,000. A player can win up to 10 times on a ticket.

6. *Second-Chance Drawings:* The Pennsylvania Lottery will conduct five second-chance drawings for non-winning Pennsylvania Lottery's Steelers® 2010 instant game tickets as provided for in section 11.

7. *Approximate Number of Tickets Printed For the Game:* Approximately 5,400,000 tickets will be printed for the Pennsylvania Lottery's Steelers® 2010 instant game.

8. *Determination of Prize Winners:*

(a) Holders of tickets upon which any one of the "STEELERS NUMBERS" play symbols matches any of the "YOUR NUMBERS" play symbols and a prize symbol of \$100,000 (ONEHUNTHO) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$100,000.

(b) Holders of tickets upon which any one of the "STEELERS NUMBERS" play symbols matches any of the "YOUR NUMBERS" play symbols and a prize symbol of \$50,000 (FTY THO) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$50,000.

(c) Holders of tickets upon which any one of the "STEELERS NUMBERS" play symbols matches any of the "YOUR NUMBERS" play symbols and a prize symbol of \$2,500 (TWYFIVHUN) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$2,500.

(d) Holders of tickets upon which any one of the "STEELERS NUMBERS" play symbols matches any of the "YOUR NUMBERS" play symbols and a prize symbol of \$1,000 (ONE THO) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$1,000.

(e) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Touchdown (TDOWN) symbol, and a prize symbol of \$100 (ONE HUN) appears under the Touchdown (TDOWN) symbol, on a single ticket, shall be entitled to a prize of \$700.

(f) Holders of tickets upon which any one of the "STEELERS NUMBERS" play symbols matches any of the "YOUR NUMBERS" play symbols and a prize symbol of \$400 (FOR HUN) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$400.

(g) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Field Goal (FLDGL) symbol, and a prize symbol of \$100 (ONE HUN) appears under the Field Goal (FLDGL) symbol, on a single ticket, shall be entitled to a prize of \$300.

(h) Holders of tickets upon which any one of the "STEELERS NUMBERS" play symbols matches any of the "YOUR NUMBERS" play symbols and a prize symbol of \$200 (TWO HUN) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$200.

(i) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Touchdown (TDOWN) symbol, and a prize symbol of \$25<sup>00</sup> (TWY FIV) appears under the Touchdown (TDOWN) symbol, on a single ticket, shall be entitled to a prize of \$175.

(j) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Field Goal (FLDGL) symbol, and a prize symbol of \$50<sup>00</sup> (FIFTY) appears under the Field Goal (FLDGL) symbol, on a single ticket, shall be entitled to a prize of \$150.

(k) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Touchdown (TDOWN) symbol, and a prize symbol of \$20<sup>00</sup> (TWENTY) appears under the Touchdown (TDOWN) symbol, on a single ticket, shall be entitled to a prize of \$140.

(l) Holders of tickets upon which any one of the "STEELERS NUMBERS" play symbols matches any of the "YOUR NUMBERS" play symbols and a prize symbol of \$100 (ONE HUN) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$100.

(m) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Touchdown (TDOWN) symbol, and a prize symbol of \$10<sup>00</sup> (TEN DOL) appears under the Touchdown (TDOWN) symbol, on a single ticket, shall be entitled to a prize of \$70.

(n) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Field Goal (FLDGL) symbol, and a prize symbol of \$20<sup>00</sup> (TWENTY) appears under the Field Goal (FLDGL) symbol, on a single ticket, shall be entitled to a prize of \$60.

(o) Holders of tickets upon which any one of the "STEELERS NUMBERS" play symbols matches any of the "YOUR NUMBERS" play symbols and a prize symbol of \$50<sup>00</sup> (FIFTY) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$50.

(p) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Field Goal (FLDGL) symbol, and a prize symbol of \$15<sup>00</sup> (FIFTN) appears under the Field Goal (FLDGL) symbol, on a single ticket, shall be entitled to a prize of \$45.

(q) Holders of tickets upon which any one of the "STEELERS NUMBERS" play symbols matches any of the "YOUR NUMBERS" play symbols and a prize symbol of \$40<sup>00</sup> (FORTY) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$40.

(r) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Touchdown (TDOWN) symbol, and a prize symbol of \$5<sup>00</sup> (FIV DOL) appears under the Touchdown (TDOWN) symbol, on a single ticket, shall be entitled to a prize of \$35.

(s) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Field Goal (FLDGL) symbol, and a prize symbol of \$10<sup>00</sup> (TEN DOL) appears under the Field Goal (FLDGL) symbol, on a single ticket, shall be entitled to a prize of \$30.

(t) Holders of tickets upon which any one of the "STEELERS NUMBERS" play symbols matches any of the "YOUR NUMBERS" play symbols and a prize symbol of \$25<sup>00</sup> (TWY FIV) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$25.

(u) Holders of tickets upon which any one of the "STEELERS NUMBERS" play symbols matches any of the "YOUR NUMBERS" play symbols and a prize symbol of \$20<sup>00</sup> (TWENTY) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$20.

(v) Holders of tickets upon which any one of the "STEELERS NUMBERS" play symbols matches any of the "YOUR NUMBERS" play symbols and a prize symbol of \$15.<sup>00</sup> (FIFTN) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$15.

(w) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Field Goal (FLDGL) symbol, and a prize symbol of \$5.<sup>00</sup> (FIV DOL) appears under the Field Goal (FLDGL) symbol, on a single ticket, shall be entitled to a prize of \$15.

(x) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Touchdown (TDOWN) symbol, and a prize symbol of \$2.<sup>00</sup> (TWO DOL) appears under the Touchdown (TDOWN) symbol, on a single ticket, shall be entitled to a prize of \$14.

(y) Holders of tickets upon which any one of the "STEELERS NUMBERS" play symbols matches any of the "YOUR NUMBERS" play symbols and a prize symbol

of \$10.<sup>00</sup> (TEN DOL) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$10.

(z) Holders of tickets upon which any one of the "STEELERS NUMBERS" play symbols matches any of the "YOUR NUMBERS" play symbols and a prize symbol of \$5.<sup>00</sup> (FIV DOL) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$5.

(aa) Holders of tickets upon which any one of the "STEELERS NUMBERS" play symbols matches any of the "YOUR NUMBERS" play symbols and a prize symbol of \$2.<sup>00</sup> (TWO DOL) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$2.

9. *Number and Description of Prizes and Approximate Odds:* The following table sets forth the approximate number of winners, amounts of prizes and approximate odds of winning:

<i>When Any Of Your Numbers Match Any Of The Steelers Numbers, Win With Prize(s) Of:</i>	<i>Win:</i>	<i>Approximate Odds Are 1 In:</i>	<i>Approximate No. Of Winners Per 5,400,000 Tickets</i>
\$5	\$5	10.91	495,000
\$5 × 2	\$10	30	180,000
\$10	\$10	30	180,000
\$5 w/FIELD GOAL	\$15	200	27,000
\$5 × 3	\$15	150	36,000
\$5 + \$10	\$15	150	36,000
\$15	\$15	150	36,000
(\$2 w/TOUCHDOWN) + (\$2 × 3)	\$20	120	45,000
(\$5 w/FIELD GOAL) + \$5	\$20	300	18,000
\$5 × 4	\$20	600	9,000
\$10 × 2	\$20	600	9,000
\$20	\$20	600	9,000
(\$5 w/FIELD GOAL) + (\$5 × 2)	\$25	300	18,000
\$5 × 5	\$25	300	18,000
\$10 + \$15	\$25	300	18,000
\$20 + \$5	\$25	300	18,000
\$25	\$25	300	18,000
(\$10 w/FIELD GOAL) + \$10	\$40	800	6,750
(\$5 w/TOUCHDOWN) + \$5	\$40	240	22,500
\$5 × 8	\$40	2,400	2,250
\$10 × 4	\$40	2,400	2,250
\$20 × 2	\$40	2,400	2,250
\$40	\$40	1,200	4,500
(\$15 w/FIELD GOAL) + \$5	\$50	800	6,750
(\$5 w/TOUCHDOWN) + \$15	\$50	342.86	15,750
\$5 × 10	\$50	1,200	4,500
\$10 × 5	\$50	1,200	4,500
\$25 × 2	\$50	1,200	4,500
\$50	\$50	1,200	4,500
(\$20 w/FIELD GOAL) + (\$20 × 2)	\$100	2,000	2,700
(\$10 w/TOUCHDOWN) + (\$10 w/FIELD GOAL)	\$100	800	6,750
\$10 × 10	\$100	4,000	1,350
\$20 × 5	\$100	4,000	1,350
\$25 × 4	\$100	4,000	1,350
(\$40 × 2) + (\$5 × 4)	\$100	2,400	2,250
\$50 × 2	\$100	2,400	2,250
\$100	\$100	2,400	2,250
(\$50 w/FIELD GOAL) + (\$10 × 5)	\$200	24,000	225
(\$20 w/TOUCHDOWN) + (\$20 × 3)	\$200	24,000	225
\$20 × 10	\$200	24,000	225
\$40 × 5	\$200	24,000	225
\$50 × 4	\$200	24,000	225
\$100 × 2	\$200	24,000	225
\$200	\$200	24,000	225



*When Any Of Your Numbers Match Any Of The Steelers Numbers, Win With Prize(s) Of:*

	Win:	Approximate Odds Are 1 In:	Approximate No. Of Winners Per 5,400,000 Tickets
(\$25 w/TOUCHDOWN) + (\$25 × 9)	\$400	120,000	45
(\$100 w/FIELD GOAL) + (\$20 × 5)	\$400	120,000	45
\$40 × 10	\$400	120,000	45
\$100 × 4	\$400	120,000	45
\$400	\$400	120,000	45
(\$100 w/TOUCHDOWN) + (\$50 × 6)	\$1,000	120,000	45
(\$100 w/FIELD GOAL) + (\$100 × 7)	\$1,000	120,000	45
\$100 × 10	\$1,000	120,000	45
(\$400 × 2) + (\$50 × 4)	\$1,000	120,000	45
\$1,000	\$1,000	120,000	45
\$2,500	\$2,500	540,000	10
\$50,000	\$50,000	1,080,000	5
\$100,000	\$100,000	1,080,000	5

“FIELD GOAL” (FLDGL) Symbol = Win 3X the prize shown under it automatically.

“TOUCHDOWN” (TDOWN) Symbol = Win 7X the prize shown under it automatically.

Five (5) Second-Chance Drawings will be conducted during the sales period of the game to award additional prizes.

Prizes, including top prizes, are subject to availability at the time of purchase.

#### 10. *Pennsylvania Lottery's Steelers® 2010 Second-Chance Drawings Requirements:*

(a) To be eligible for the Second-Chance Drawing, players must mail exactly three (3) non-winning Pennsylvania Lottery's Steelers® 2010 instant lottery tickets in an envelope no larger than 4 1/8 inches by 9 1/2 inches addressed to Pennsylvania Lottery-Steelers® 2010 Second-Chance Drawings, P. O. Box 3000, Middletown, PA 17057-3000. The player shall affix proper postage to the entry.

(b) Envelopes containing less than or more than three (3) non-winning Pennsylvania Lottery's Steelers® 2010 instant lottery tickets shall be disqualified.

(c) Non-winning Pennsylvania Lottery's Steelers® 2010 instant lottery game tickets received in an envelope larger than 4 1/8 inches by 9 1/2 inches shall be disqualified. The only exception is for non-winning Pennsylvania Lottery's Steelers® 2010 instant lottery tickets received in a United States Post Office “damaged-in-mail-process” envelope.

(d) Winning Pennsylvania Lottery's Steelers® 2010 instant lottery tickets submitted to the Pennsylvania Lottery's Steelers® 2010 Second-Chance Drawing address will not be paid or honored. Second-Chance Drawing entries containing winning Pennsylvania Lottery's Steelers® 2010 instant lottery tickets will be disqualified.

(e) The back of each non-winning Pennsylvania Lottery's Steelers® 2010 instant lottery ticket entered in the Pennsylvania Lottery's Steelers® 2010 Second-Chance Drawing must be completed by the same player in a legible manner, including the player's name, street address, city, state, zip code, telephone number and signature. Only one claimant per entry allowed. Claimant must be 18 years of age or older. Incomplete tickets shall be disqualified.

#### 11. *Second-Chance Drawings Procedures:*

(a) The Lottery will conduct five Pennsylvania Lottery's Steelers® 2010 Second-Chance Drawings. All Pennsylvania Lottery's Steelers® 2010 Second-Chance Drawing entries received at Lottery Headquarters on or before 4:00 p.m. March 25, 2011, will be eligible to participate in one

of the five Pennsylvania Lottery's Steelers® 2010 Second-Chance Drawings. All time references in this section are Eastern Standard Time.

(1) All Pennsylvania Lottery's Steelers® 2010 Second-Chance Drawing entries received at Lottery Headquarters on or before 4:00 p.m. August 13, 2010, will be eligible to participate in the Pennsylvania Lottery's Steelers® 2010 Second-Chance Drawing which will be held at Lottery Headquarters the week of August 16, 2010.

(2) All Pennsylvania Lottery's Steelers® 2010 Second-Chance Drawing entries received at Lottery Headquarters after 4:00 p.m. August 13, 2010, through and including 4:00 p.m. September 17, 2010, will be eligible to participate in the Pennsylvania Lottery's Steelers® 2010 Second-Chance Drawing which will be held at Lottery Headquarters the week of September 20, 2010.

(3) All Pennsylvania Lottery's Steelers® 2010 Second-Chance Drawing entries received at Lottery Headquarters after 4:00 p.m. September 17, 2010, through and including 4:00 p.m. October 22, 2010, will be eligible to participate in the Pennsylvania Lottery's Steelers® 2010 Second-Chance Drawing which will be held at Lottery Headquarters the week of October 25, 2010.

(4) All Pennsylvania Lottery's Steelers® 2010 Second-Chance Drawing entries received at Lottery Headquarters after 4:00 p.m. October 22, 2010, through and including 4:00 p.m. November 19, 2010, will be eligible to participate in the Pennsylvania Lottery's Steelers® 2010 Second-Chance Drawing which will be held at Lottery Headquarters the week of November 29, 2010.

(5) All Pennsylvania Lottery's Steelers® 2010 Second-Chance Drawing entries received at Lottery Headquarters after 4:00 p.m. November 19, 2010, through and including 4:00 p.m. March 25, 2011, will be eligible to participate in the final Pennsylvania Lottery's Steelers® 2010 Second-Chance Drawing which will be held at Lottery Headquarters the week of March 28, 2011.

(6) The odds of an entry being selected in a Pennsylvania Lottery's Steelers® 2010 Second-Chance Drawing depend upon the number of entries received for that drawing.

(b) To be eligible to participate in a particular Pennsylvania Lottery's Steelers® 2010 Second-Chance Drawing, a player must have complied with the requirements of section 10.



(1) The Lottery assumes no responsibility for a lost or misplaced entry not entered into one of the Pennsylvania Lottery's Steelers® 2010 Second-Chance Drawings.

(2) A Pennsylvania Lottery's Steelers® 2010 Second-Chance Drawing entry is eligible for only one Second-Chance Drawing. An entry that is not eligible in one group, may, at the discretion of the Secretary, remain eligible for a subsequent Second-Chance Drawing.

(3) If a Pennsylvania Lottery's Steelers® 2010 Second-Chance Drawing entry is rejected during or following the Pennsylvania Lottery's Steelers® 2010 Second-Chance Drawing, the sole remedy is to select another entry to replace the rejected entry in accordance with Lottery procedure.

(c) A player may only win the prize for which they are first selected in each of the Pennsylvania Lottery's Steelers® 2010 Second-Chance Drawings. Subsequent entries, from the same individual, selected in the same Pennsylvania Lottery's Steelers® 2010 Second-Chance Drawing will be disqualified and a replacement entry will be selected.

(d) Manner of conducting each of the Pennsylvania Lottery's Steelers® 2010 Second-Chance Drawings.

(1) All entries received at Lottery Headquarters that are eligible to participate in a particular drawing, will be placed in numbered containers, each containing approximately 500 envelopes.

(2) A computer-generated randomizer or mechanical device may be used to select the numbered container(s) from which the winners will be selected. If used, the randomizer will not be programmed to eliminate the possibility of the same container being selected more than once.

(3) One envelope will be randomly drawn from each of the selected numbered container(s). As each entry envelope is selected, its contents will be qualified according to the requirements of section 10. If the entry does not meet the requirements of section 10, another entry will be selected from that container; and so on, until a qualified entry has been chosen. Once a qualified entry has been selected, further validation will take place by verifying the status of the tickets contained in the entry envelope drawn by entering the ticket information into the computerized instant ticket database. The first qualified and validated entry from each of the designated containers will entitle its owner to a prize as described in section 12.

(4) Determination of winners will be made by the Secretary, whose judgment will be final and binding.

(e) The payment of a prize awarded in any of the Pennsylvania Lottery's Steelers® 2010 Instant Game Second-Chance Drawings to a person who dies before receiving the prize shall be paid according to 61 Pa. Code § 811.16 (relating to prizes payable after death of prize winner).

#### 12. *Description of Pennsylvania Lottery's Steelers® 2010 Second-Chance Drawings Prizes:*

(a) The following prizes shall be awarded for the drawing held the week of August 16, 2010:

(i) The first and second winner selected in the drawing held the week of August 16, 2010 shall each be entitled to a prize consisting of a VIP Road Trip for the winner and one guest to the September 19, 2010 Steelers regular season away game versus the Titans. The trip will include round-trip commercial transportation between either Pittsburgh International Airport or Philadelphia

International Airport and Nashville, Tennessee, one double occupancy hotel room for one night, one dinner for the winner and one guest, and two game tickets. All other costs and expenses arising from or in connection with the road trip shall be the sole responsibility of the winner.

(ii) The third winner selected in the drawing held the week of August 16, 2010 shall be entitled to a prize consisting of two Legends Club game tickets, one parking pass and two pre-game sideline passes for the September 12, 2010 Steelers home game versus the Falcons.

(iii) The fourth winner selected in the drawing held the week of August 16, 2010 shall be entitled to a prize consisting of two Legends Club game tickets, one parking pass and two pre-game sideline passes for the October 3, 2010 Steelers home game versus the Ravens.

(iv) The fifth winner selected in the drawing held the week of August 16, 2010 shall be entitled to a prize consisting of two tickets and one parking pass for the September 12, 2010 Steelers home game versus the Falcons.

(v) The sixth and the seventh winners selected in the drawing held the week of August 16, 2010 shall each be entitled to a prize consisting of two VIP Tent passes and two tickets for the September 12, 2010 Steelers home game versus the Falcons.

(vi) The eighth winner selected in the drawing held the week of August 16, 2010 shall be entitled to a prize consisting of two tickets and one parking pass for the October 3, 2010 Steelers home game versus the Ravens.

(vii) The ninth and the tenth winners selected in the drawing held the week of August 16, 2010 shall each be entitled to a prize consisting of two tickets for the September 12, 2010 Steelers home game versus the Falcons.

(viii) The eleventh and the twelfth winners selected in the drawing held the week of August 16, 2010 shall each be entitled to a prize consisting of two tickets for the October 3, 2010 Steelers home game versus the Ravens.

(ix) The thirteenth winner selected in the drawing held the week of August 16, 2010 shall be entitled to a prize consisting of the opportunity for the winner to be a Steelers Co-captain for the coin toss at the September 2, 2010 Steelers pre-season home game versus the Panthers. The winner shall receive two tickets to the game.

(x) The fourteenth winner selected in the drawing held the week of August 16, 2010 shall be entitled to a prize consisting of the opportunity for the winner to collect the tee after a Steelers kickoff at the September 2, 2010 Steelers preseason home game versus the Panthers. The winner shall receive two tickets to the game.

(xi) The fifteenth through the twenty-fourth winners selected in the drawing held the week of August 16, 2010 shall each be entitled to a prize consisting of the opportunity for the winner and one guest to attend a tour of Heinz Field including a private viewing with the 6 Super bowl trophies and two tickets for the September 2, 2010 Steelers pre-season game versus the Panthers.

(xii) The twenty-fifth through the twenty-eighth winners selected in the drawing held the week of August 16, 2010 shall each be entitled to a prize consisting of the opportunity for the winner and one guest to attend a Steelers practice at the South Side Facility on a date as determined by the Steelers. The prize includes lunch in the player's cafeteria.

(xiii) The twenty-ninth winner selected in the drawing held the week of August 16, 2010 shall be entitled to a prize consisting of the opportunity for the winner to interview a Steelers player, former player or coach as part of a Steelers TV production. The Steelers will determine the player or coach, date and location of the event. The winner can bring one guest to the event.

(xiv) The thirtieth through the thirty-fourth winners selected in the drawing held the week of August 16, 2010 shall each be entitled to a prize consisting of the opportunity for the winner and one guest to attend a private viewing of the taping of the PNC Players Show. The prize includes two front row seats as well as a meet and greet with the player that is hosting the show. The Steelers will determine the date and location of the event.

(xv) The thirty-fifth through the seventy-fourth winners selected in the drawing held the week of August 16, 2010 shall each be entitled to a prize consisting of the opportunity for the winner and one guest to attend a Breakfast with Legends event to be held at a facility and on a date as determined by the Steelers. The event will include two alumni player appearances as determined by the Steelers. The event will include breakfast and Steelers-related gifts.

(xvi) The seventy-fifth through the seventy-ninth winners selected in the drawing held the week of August 16, 2010 shall each be entitled to a prize consisting of the opportunity for the winner and one guest to attend the Steelers Kickoff Luncheon on September 2, 2010. The Steelers will determine the time and location of the event.

(xvii) The eightieth through the eighty-fifth winners selected in the drawing held the week of August 16, 2010 shall each be entitled to a prize consisting of the opportunity for the winner and one guest to attend the Steelers Fashion Show on October 15, 2010. The prize includes a VIP reception. The Steelers will determine the time and location of the event.

(b) The following prizes shall be awarded for the drawing held the week of September 20, 2010:

(i) The first and the second winners selected in the drawing held the week of September 20, 2010 shall each be entitled to a prize consisting of a VIP Road Trip for the winner and one guest to the November 8, 2010 Steelers regular season away game against the Bengals. The trip will include round-trip commercial transportation between either Pittsburgh International Airport or Philadelphia International Airport and Cincinnati, Ohio, one double occupancy hotel room for one night, one dinner for the winner and one guest, and two game tickets. All other costs and expenses arising from or in connection with the road trip shall be the sole responsibility of the winner.

(ii) The third winner selected in the drawing held the week of September 20, 2010 shall be entitled to a prize consisting of two Legends Club game tickets, one parking pass and two pre-game sideline passes for the October 17, 2010 Steelers home game versus the Browns.

(iii) The fourth winner selected in the drawing held the week of September 20, 2010 shall be entitled to a prize consisting of two Legends Club game tickets, one parking pass and two pre-game sideline passes for the November 14, 2010 Steelers home game versus the Patriots.

(iv) The fifth winner selected in the drawing held the week of September 20, 2010 shall be entitled to a prize consisting of the opportunity for the winner to join the Steelers team photographer for the October 17, 2010

Steelers home game versus the Browns. The winner will receive two tickets to the game.

(v) The sixth winner selected in the drawing held the week of September 20, 2010 shall be entitled to a prize consisting of the opportunity for the winner and one guest to join the Steelers Radio Network in the control booth during the October 17, 2010 Steelers home game versus the Browns. The winner shall receive two tickets to the game.

(vi) The seventh winner selected in the drawing held the week of September 20, 2010 shall be entitled to a prize consisting of two tickets and one parking pass for the October 17, 2010 Steelers home game versus the Browns.

(vii) The eighth winner selected in the drawing held the week of September 20, 2010 shall be entitled to a prize consisting of two tickets and one parking pass for the November 14, 2010 Steelers home game versus the Patriots.

(viii) The ninth and the tenth winners selected in the drawing held the week of September 20, 2010 shall each be entitled to a prize consisting of two tickets for the October 3, 2010 Steelers home game versus the Browns.

(ix) The eleventh and the twelfth winners selected in the drawing held the week of September 20, 2010 shall each be entitled to a prize consisting of two tickets for the November 14, 2010 Steelers home game versus the Patriots.

(x) The thirteenth through the seventeenth winners selected in the drawing held the week of September 20, 2010 shall each be entitled to a prize consisting of the opportunity for the winner and one guest to attend a private taping of the Steelers Digest TV show in the Steelers locker room on November 17, 2010.

(xi) The eighteenth through the sixty-seventh winners selected in the drawing held the week of September 20, 2010 shall each be entitled to a prize consisting of the opportunity for the winner and one guest to attend a Punt, Pass and Kick event on October 25, 2010. The prize includes appropriate food and beverages following the event and Steelers-related prizes. The Steelers will determine the time and location of the event.

(xii) The sixty-eighth and the sixty-ninth winners selected in the drawing held the week of September 20, 2010 shall each be entitled to a prize consisting of the opportunity for the winner and one guest to attend the Taste of the Steelers event on November 13, 2010. Each winner shall also receive two passes to the VIP reception for the event. The Steelers will determine the time and location of the event.

(c) The following prizes shall be awarded for the drawing held the week of October 25, 2010:

(i) The first and the second winners selected in the drawing held the week of October 25, 2010 shall each be entitled to a prize consisting of an authentic autographed Steelers game-issued jersey. The Steelers will determine the player.

(ii) The third winner selected in the drawing held the week of October 25, 2010 shall be entitled to a prize consisting of two Legends Club game tickets, one parking pass and two pre-game sideline passes for the November 21, 2010 Steelers home game versus the Raiders.

(iii) The fourth winner selected in the drawing held the week of October 25, 2010 shall be entitled to a prize consisting of two Legends Club game tickets, one parking

pass and two pre-game sideline passes for the December 12, 2010 Steelers home game versus the Bengals.

(iv) The fifth winner selected in the drawing held the week of October 25, 2010 shall be entitled to a prize consisting of two Legends Club game tickets, one parking pass and two pre-game sideline passes for the December 19, 2010 Steelers home game versus the Jets.

(v) The sixth through the fifteenth winners selected in the drawing held the week of October 25, 2010 shall each be entitled to a prize consisting of the opportunity for the winner and one guest to attend a tailgate party before the December 12, 2010 Steelers home game versus the Bengals. The prize includes appropriate food and beverages, a Steelers-related gift and two tickets to the game.

(vi) The sixteenth and the seventeenth winners selected in the drawing held the week of October 25, 2010 shall each be entitled to a prize consisting of the opportunity for the winner and one guest to remain on the Steelers sideline for the player introductions at the December 19, 2010 Steelers home game versus the Jets. Each winner shall receive two tickets and two pre-game sideline passes to the game.

(vii) The eighteenth winner selected in the drawing held the week of October 25, 2010 shall be entitled to a prize consisting of two tickets and one parking pass for the November 21, 2010 Steelers home game versus the Raiders.

(viii) The nineteenth winner selected in the drawing held the week of October 25, 2010 shall be entitled to a prize consisting of two tickets and one parking pass to the December 12, 2010 Steelers home game versus the Bengals.

(ix) The twentieth winner selected in the drawing held the week of October 25, 2010 shall be entitled to a prize consisting of two tickets and one parking pass to the December 19, 2010 Steelers home game versus the Jets.

(x) The twenty-first and the twenty-second winners selected in the drawing held the week of October 25, 2010 shall each be entitled to a prize consisting of two tickets for the November 21, 2010 Steelers home game versus the Raiders.

(xi) The twenty-third and twenty-fourth winners selected in the drawing held the week of October 25, 2010 shall each be entitled to a prize consisting of two tickets to the December 12, 2010 Steelers home game versus the Bengals.

(xii) The twenty-fifth and the twenty-sixth winners selected in the drawing held the week of October 25, 2010 shall each be entitled to a prize consisting of two tickets to the December 19, 2010 Steelers home game versus the Jets.

(xiii) The twenty-seventh through the forty-second winners selected in the drawing held the week of October 25, 2010 shall each be entitled to a prize consisting of the opportunity for the winner and one guest to watch the November 21, 2010 Steelers home game versus the Raiders, from a party suite at the stadium. The prize will include food and non-alcoholic beverages in the suite.

(xiv) The forty-third through the forty-sixth winners selected in the drawing held the week of October 25, 2010 shall each be entitled to a prize consisting of the opportunity for the winner and one guest to attend the Steelers Head Coach's press conference on November 23, 2010. The Steelers shall determine the time and location of the press conference.

(xv) The forty-seventh through the fiftieth winners selected in the drawing held the week of October 25, 2010 shall each be entitled to a prize consisting of the opportunity for the winner and one guest to attend the Steelers Head Coach's press conference on December 14, 2010. Steelers shall determine the time and location of the press conference.

(d) The following prizes shall be awarded for the drawing held the week of November 29, 2010:

(i) The first winner selected in the drawing held the week of November 29, 2010 shall be entitled to a prize consisting of the opportunity for the winner and one guest to attend the Steelers' first round draft pick press conference. The Steelers will determine the date and time of the event. The draft pick will be determined by the Steelers.

(ii) The second winner selected in the drawing held the week of November 29, 2010 shall be entitled to a prize consisting of two Legends Club game tickets, one parking pass and two pre-game sideline passes for the December 23, 2010 Steelers home game versus the Panthers.

(iii) The third winner selected in the drawing held the week of November 29, 2010 shall be entitled to a prize consisting of two tickets and one parking pass to the December 23, 2010 Steelers home game versus the Panthers.

(iv) The fourth through the eighth winners selected in the drawing held the week of November 29, 2010 shall each be entitled to a prize consisting of two tickets to a tailgate party before the December 23, 2010 Steelers home game versus the Panthers. Each winner shall receive two tickets to the game.

(v) The ninth and the tenth winners selected in the drawing held the week of November 29, 2010 shall each be entitled to a prize consisting of two tickets to the December 23, 2010 Steelers home game versus the Panthers.

(vi) The eleventh winner selected in the drawing held the week of November 29, 2010 shall be entitled to a prize consisting of two Legends Club game tickets, one parking pass and two pre-game sideline passes for the first Steelers playoff home game for the 2010-2011 season, if applicable.

(vii) The twelfth winner selected in the drawing held the week of November 29, 2010 shall be entitled to a prize consisting of two Legends Club game tickets, one parking pass and two pre-game sideline passes for the second Steelers playoff home game for the 2010-2011 season, if applicable.

(viii) The thirteenth winner selected in the drawing held the week of November 29, 2010 shall be entitled to a prize consisting of two tickets and one parking pass for the first Steelers playoff home game for the 2010-2011 season, if applicable.

(ix) The fourteenth winner selected in the drawing held the week of November 29, 2010 shall be entitled to a prize consisting of two tickets and one parking pass for the second Steelers playoff home game for the 2010-2011 season, if applicable.

(x) The fifteenth and the sixteenth winners selected in the drawing held the week of November 29, 2010 shall each be entitled to a prize consisting of two tickets to the first Steelers playoff home game for the 2010-2011 season, if applicable.



(xi) The seventeenth and the eighteenth winners selected in the drawing held the week of November 29, 2010 shall each be entitled to a prize consisting of two tickets to the second Steelers playoff home game for the 2010-2011 season, if applicable.

(e) The following prizes shall be awarded for the drawing held the week of March 28, 2011:

(i) The first and second winners selected in the drawing held the week of March 28, 2011 shall each be entitled to a prize consisting of an authentic autographed Steelers game-issued jersey. The Steelers will determine the player.

(ii) The third and the fourth winners selected in the drawing held the week of March 28, 2011 shall each be entitled to a prize consisting of the opportunity for the winner and one guest to attend a lunch with the Steelers Director of Football Operations, President or other such prominent member of the Steelers organization. The Steelers will determine the date and location of the event.

(iii) The fifth through the eighth winners selected in the drawing held the week of March 28, 2011 shall each be entitled to a prize consisting of the opportunity for the winner and one guest to attend a breakfast with one Steelers coach and the opportunity to watch the coach breakdown film. The Steelers will determine the date of the event, the location and the coach.

(iv) The ninth winner selected in the drawing held the week of March 28, 2011 shall be entitled to a prize consisting of two tickets to the 2011 Steelers Men's Fantasy Camp Weekend. The trip weekend will include meals and overnight stay Friday and Saturday. The Steelers will determine the date and location of the event.

(v) The tenth winner selected in the drawing held the week of March 28, 2011 shall be entitled to a prize consisting of two tickets to the 2011 Steelers Women's Training Camp. The prize includes meals and former and current players covering the basics of football. The Steelers will determine the date and location of the event.

(vi) The eleventh through the fourteenth winners selected in the drawing held the week of March 28, 2011 shall each be entitled to a prize consisting of the opportunity for the winner and one guest to attend a VIP Tour of the Steelers practice facility, which shall include lunch with a current team player or coach, as determined by the Steelers. The Steelers will determine the date of the event.

(vii) The fifteenth through the nineteenth winners selected in the drawing held the week of March 28, 2011 shall each be entitled to a prize consisting of the opportunity for the winner and one guest to attend a draft day VIP dinner. The winner shall also be entitled to two tickets to the Fan Blitz Event. The Steelers will determine the date and location of the event.

(viii) The twentieth through the forty-fourth winners selected in the drawing held the week of March 28, 2011 shall each be entitled to a prize consisting of the opportunity for the winner and one guest to attend a Highlight Film Premier with a player determined by the Steelers. The Steelers will determine the date and location of the event.

(ix) The forty-fifth through the ninety-fourth winners selected in the drawing held the week of March 28, 2011 shall each be entitled to a prize consisting of the opportunity for the winner and one guest to attend a VIP Chalk Talk by one Steelers assistant coach. The assistant coach, date and location will be determined by the Steelers. The

prize includes appropriate food and beverages for the event, a tour of the complex, a Steelers gift bag for each participant and an address by the assistant coach.

### 13. *Prize Information and Restrictions:*

(a) If no date is provided for a game or event that is part of a prize described in section 12, the date will be determined by the Steelers® and provided to the winner.

(b) Prizes are transferable one time.

(c) In the event the winner or the winner's designee is not available on the date of the game or event that is part of a prize described in section 12, there will be no extensions or substitution of prizes and the winner will not receive any reimbursement for the unused prize.

(d) Prizes are not redeemable for cash.

(e) In the event a prize in section 12 is not available, the Lottery may either provide a substitute prize, determined by the Secretary to have an equivalent value to the prize won, or make a cash payment to the winner, in an amount determined by the Secretary to have an equivalent value to the prize won.

(f) The Lottery will make every reasonable effort to deliver a prize to the winner in a timely manner, however, the Lottery is not responsible for prizes lost or unusable due to untimely delivery.

(g) The winner is responsible for all costs, expenses and transportation, not specifically included in the prize descriptions in section 12, arising from or in connection with any prize won.

(h) Verification that the winner is 18 years of age or older will be required before delivery of prizes.

(i) In order to participate in certain prize events the winner and their guests may be required to execute a confidentiality agreement and waiver as determined by the Steelers.

(j) The winner and their guests, as applicable, shall participate in certain prize events at their own risk.

(k) Other restrictions may apply.

(l) All prizes having a value, as determined by the Secretary, of \$600 or more will include an appropriate federal withholding credit.

14. *Retailer Incentive Awards:* The Lottery may conduct a separate Retailer Incentive Game for retailers who sell Pennsylvania Lottery's Steelers® 2010 instant game tickets. The conduct of the game will be governed by 61 Pa. Code § 819.222 (relating to retailer bonuses and incentive).

15. *Unclaimed Prize Money:* For a period of 1 year from the announced close of Pennsylvania Lottery's Steelers® 2010 instant game, prize money from winning Pennsylvania Lottery's Steelers® 2010 instant game tickets will be retained by the Secretary for payment to the persons entitled thereto. If no claim is made within 1 year of the announced close of the Pennsylvania Lottery's Steelers® 2010 instant game, the right of a ticket holder to claim the prize represented by the ticket, if any, will expire and the prize money will be paid into the State Lottery Fund and used for purposes provided for by statute.

16. *Governing Law:* In purchasing a ticket, the customer agrees to comply with and abide by the State Lottery Law (72 P. S. §§ 3761-101—3761-314), 61 Pa. Code Part V (relating to State Lotteries) and the provisions contained in this notice.



17. *Termination of the Game:* The Secretary may announce a termination date, after which no further tickets from this game may be sold. The announcement will be disseminated through media used to advertise or promote Pennsylvania Lottery's Steelers® 2010 instant game or through normal communications methods.

C. DANIEL HASSELL,  
*Secretary*

[Pa.B. Doc. No. 10-1292. Filed for public inspection July 16, 2010, 9:00 a.m.]

### **Realty Transfer Tax; 2009 Common Level Ratio; Real Estate Valuation Factors**

The following real estate valuation factors are based on sales data compiled by the State Tax Equalization Board in 2009. These factors are the mathematical reciprocals of the actual common level ratio (CLR). For Pennsylvania Realty Transfer Tax purposes, these factors are applicable for documents accepted from July 1, 2010, to June 30, 2011, except as indicated below. The date of acceptance of a document is rebuttably presumed to be its date of execution, that is, the date specified in the body of the document as the date of the instrument (61 Pa. Code § 91.102).

<i>County</i>	<i>CLR Factor</i>
Adams	4.22
Allegheny	1.16
Armstrong	2.77
Beaver	3.35
Bedford (1)	1.00
Berks	1.43
Blair (2)	8.43
Bradford	2.94
Bucks	9.17
Butler	7.30
Cambria	2.82
Cameron	3.08
Carbon	2.72
Centre	3.46
Chester	1.81
Clarion	3.80
Clearfield	5.29
Clinton	1.03
Columbia	3.69
Crawford	2.78
Cumberland	1.25
Dauphin	1.42
Delaware	1.56
Elk	2.52
Erie	1.22
Fayette	1.23
Forest	4.26

<i>County</i>	<i>CLR Factor</i>
Franklin	8.13
Fulton	3.44
Greene	1.18
Huntingdon	7.58
Indiana	5.68
Jefferson	1.86
Juniata	5.88
Lackawanna	5.88
Lancaster	1.33
Lawrence	1.18
Lebanon	7.04
Lehigh	3.11
Luzerne	1.00
Lycoming	1.21
McKean	1.18
Mercer	2.92
Mifflin	2.12
Monroe	6.33
Montgomery	1.78
Montour	1.23
Northampton	3.14
Northumberland	4.12
Perry	1.44
Philadelphia	3.13
Pike	4.90
Potter	2.55
Schuylkill	2.40
Snyder	5.03
Somerset	2.81
Sullivan	1.48
Susquehanna	2.92
Tioga	1.36
Union	1.29
Venango	1.07
Warren	2.94
Washington	5.71
Wayne	1.39
Westmoreland	4.33
Wyoming	4.57
York	1.25

(1) Adjusted by the Department of Revenue to reflect an assessment base change effective January 1, 2010.

(2) Adjustment by the Department of Revenue to reflect an assessment ratio change effective January 1, 2010.

C. DANIEL HASSELL,  
*Secretary*

[Pa.B. Doc. No. 10-1293. Filed for public inspection July 16, 2010, 9:00 a.m.]

## DEPARTMENT OF STATE

### Pennsylvania League of Conservative Voters; cease and desist order

Pennsylvania League of Conservative Voters and all known and unknown officers, directors, principals, shareholders, agents, employees and independent contractors and any entities created by the principal actors after the date of issuance of this order, are ordered to cease and desist from soliciting charitable contributions in this Commonwealth until the Pennsylvania League of Conservative Voters and all known and unknown officers, directors, principals, shareholders, agents, employees and independent contractors and any entities created by the principal actors after the date of issuance of this order respond to the Bureau of Charitable Organizations' requests for information and duly register or provide information that they are excluded or exempt from registration under the Solicitation of Funds for Charitable Purposes Act (10 P. S. §§ 162.1—162.22).

Individuals may obtain a copy of this order by writing to Doreen Harr, Investigator, Department of State, Bureau of Charitable Organizations, 212 North Office Building, Harrisburg, PA 17120.

BASIL L. MERENDA,  
*Acting Secretary*

[Pa.B. Doc. No. 10-1294. Filed for public inspection July 16, 2010, 9:00 a.m.]

## DEPARTMENT OF TRANSPORTATION

### Sale of Land No Longer Needed for Transportation Purposes

The Department of Transportation (Department), under section 2003(e)(7) of The Administrative Code of 1929 (71 P. S. § 513(e)(7)), intends to sell certain land owned by the Department.

The following property is available for sale by the Department.

Parcels No. 343 and 346—351—City of Chester, Delaware County. The parcels contain approximately 8,161.026 square feet of improved land known as the South East Corner of Crosby and Union Streets. The estimated fair market value of the parcel is \$20,000 as a total assemblage of parcels—343 and 346—351. SR 0291 Section A10.

Interested public entities are invited to express their interest in purchasing this parcel within 30 calendar days from the date of publication of this notice to Lester C. Toaso, District Executive, Department of Transportation,

Engineering District—06, 7000 Geerdes Boulevard, King of Prussia, PA 19406-1525.

ALLEN D. BIEHLER, P. E.,  
*Secretary*

[Pa.B. Doc. No. 10-1295. Filed for public inspection July 16, 2010, 9:00 a.m.]

### Sale of Land No Longer Needed for Transportation Purposes

The Department of Transportation (Department), under section 2003(e)(7) of The Administrative Code of 1929 (71 P. S. § 513(e)(7)), intends to sell certain land owned by the Department.

The following property is available for sale by the Department.

Parcels No. 383—385—City of Chester, Delaware County. The parcels contain approximately 7,720 square feet of improved land known as the North East Corner of Upland and East Fourth Streets. The estimated fair market value of the parcel is \$23,100 as a total assemblage of parcels 383—385 SR 0291 Section A10.

Interested public entities are invited to express their interest in purchasing this parcel within 30 calendar days from the date of publication of this notice to Lester C. Toaso, District Executive, Department of Transportation, Engineering District-06, 7000 Geerdes Boulevard, King of Prussia, PA 19406-1525.

ALLEN D. BIEHLER, P. E.,  
*Secretary*

[Pa.B. Doc. No. 10-1296. Filed for public inspection July 16, 2010, 9:00 a.m.]

### Sale of Land No Longer Needed for Transportation Purposes

The Department of Transportation (Department), under section 2003(e)(7) of The Administrative Code of 1929 (71 P. S. § 513(e)(7)), intends to sell certain land owned by the Department.

The following property is available for sale by the Department.

Parcels No. 387—389—City of Chester, Delaware County. The parcels contain approximately 8,161.025 square feet of improved land known as the North West Corner of Morton Avenue and East Fourth Street. The estimated fair market value of the parcel is \$24,700 as a total assemblage of parcels 387—389. SR 0291 Section A10.

Interested public entities are invited to express their interest in purchasing this parcel within 30 calendar days from the date of publication of this notice to Lester C. Toaso, District Executive, Department of Transportation, Engineering District—06, 7000 Geerdes Boulevard, King of Prussia, PA 19406-1525.

ALLEN D. BIEHLER, P. E.,  
*Secretary*

[Pa.B. Doc. No. 10-1297. Filed for public inspection July 16, 2010, 9:00 a.m.]

# INDEPENDENT REGULATORY REVIEW COMMISSION

## Notice of Comments Issued

Section 5(g) of the Regulatory Review Act (71 P.S. § 745.5(g)) provides that the Independent Regulatory Review Commission (Commission) may issue comments within 30 days of the close of the public comment period. The Commission comments are based upon the criteria contained in section 5.2 of the Regulatory Review Act (71 P.S. § 745.5b).

The Commission has issued comments on the following proposed regulations. The agency must consider these comments in preparing the final-form regulation. The final-form regulation must be submitted within 2 years of the close of the public comment period or it will be deemed withdrawn.

<i>Reg. No.</i>	<i>Agency/Title</i>	<i>Close of the Public Comment Period</i>	<i>IRRC Comments Issued</i>
16A-5618	State Real Estate Commission Seller Property Disclosure Statement 40 Pa.B. 2281	6/1/10	7/1/10
16A-5122	State Board of Nursing IV Therapy Functions for Licensed Practical Nurses 40 Pa.B. 2276	6/1/10	7/1/10
7-458	Environmental Quality Board Incidental Coal Extraction, Bonding, Enforcement, Sediment Control and Remining Financial Guarantees 40 Pa.B. 2373	6/1/10	7/1/10
57-257	Pennsylvania Public Utility Commission Universal Services and Energy Conservation Reporting Requirements And Customer Assistance Programs 40 Pa.B. 1764	6/2/10	7/2/10
16A-721	State Board of Massage Therapy Massage Therapy 40 Pa.B. 2428	6/7/10	7/7/10
16A-51	Bureau of Professional and Occupational Affairs Schedule of Civil Penalties—Veterinarians and Veterinary Technicians 40 Pa.B. 2423	6/7/10	7/7/10

**State Real Estate Commission  
Regulation #16A-5618 (IRRC #2838)  
Seller Property Disclosure Statement**

**July 1, 2010**

We submit for your consideration the following comments on the proposed rulemaking published in the May 1, 2010 *Pennsylvania Bulletin*. Our comments are based on criteria in section 5.2 of the Regulatory Review Act (71 P.S. § 745.5b). Section 5.1(a) of the Regulatory Review Act (71 P.S. § 745.5a(a)) directs the State Real Estate Commission (Commission) to respond to all comments received from us or any other source.

**Section 35.284a. Disclosures required by the Real Estate Seller Disclosure Law.—Need; Implementation procedures; Clarity.**

*Subsections (a)(1) and (2)*

These subsections explain the duties of seller's agents. Subsection (a)(1) requires a seller's agent to advise sellers of their duty to disclose known material defects in the property, and Subsection (a)(2) requires the agent to provide the seller a property disclosure statement. The PA Association of Realtors (PAR) asserts that there are circumstances where a seller may be working with a transaction licensee and not a seller's agent, or the seller

is working without licensed assistance. The final-form regulation should clarify who under these circumstances would be responsible for performing the duties required in Subsection (a)(1) and (a)(2).

*Subsection (a)(3)*

In circumstances where a seller refuses to complete a disclosure form, this subsection directs the seller's agent to deliver the form marked "refused" to the buyer or the buyer's agent. Commentators question the need for this provision. PAR states that this subsection will increase the amount of refusals submitted, thus increasing liabilities for those involved in the transaction as well as defeating the purpose of property disclosure statements altogether. Has the Commission considered how this provision will impact the number of sellers who refuse to complete the disclosure statement and the liabilities of other parties involved in the transaction?

Also, what does the Commission consider to be proper "delivery" of a refusal statement? Can it be submitted online? The final-form regulation should clarify this issue.

*Subsection (b)(1)*

Subsection (b)(1) requires a buyer's agent to advise buyers of the seller's duty to provide a property disclosure statement. However, like the seller's agent, the buyer's agent may not perform the actual sale. According to PAR, the transaction may involve a subagent, or the buyer

could make the purchase directly through the seller's agent. In these circumstances, which party would have the responsibility to advise the buyer that the seller has a duty to provide a completed property disclosure statement? The final-form regulation should clarify this issue.

*Subsection (b)(2)*

Subsection (b)(2) requires the buyer's agent to deliver the property disclosure statement to the buyer before the execution of sale. PAR notes that someone other than the buyer's agent may have already delivered the statement, for example the licensee working with the seller. As a result, the commentator is concerned that sellers' agents could unnecessarily be held liable for faulty delivery. The Commission should clarify this issue in the final-form regulation.

*Subsections (c) and (d)*

Like Subsections (a) and (b), Subsections (c) and (d) only refer to sellers' and buyers' agents. Did the Commission intend for these provisions to pertain to any licensee involved in the transaction? The final-form regulation should clarify this issue.

**Section 35.335a. Seller property disclosure statement.—Implementation procedures; Clarity.**

This section details the content of a seller property disclosure statement. A commentator indicates that his real estate agency includes lead-based paint and mold addendums with their property disclosure statements. The Commission should consider including this information in the form contained in this section.

**State Board of Nursing  
Regulation #16A-5122 (IRRC #2840)**

**IV Therapy Functions for Licensed Practical Nurses**

**July 1, 2010**

We submit for your consideration the following comments on the proposed rulemaking published in the May 1, 2010 *Pennsylvania Bulletin*. Our comments are based on criteria in section 5.2 of the Regulatory Review Act (71 P.S. § 745.5b). Section 5.1(a) of the Regulatory Review Act (71 P.S. § 745.5a(a)) directs the State Board of Nursing (Board) to respond to all comments received from us or any other source.

**1. Effective date of the regulation.—Implementation procedures; Protection of the public health, safety and welfare.**

The Preamble states that the regulation "will be effective upon publication of the final-form rulemaking in the *Pennsylvania Bulletin*." What effect will the regulation have on Licensed Practical Nurses (LPNs) currently administering IV therapy that have not meet the curriculum requirements of § 21.145b, pertaining to IV therapy curriculum requirements? Will those LPNs be able to continue to administer IV therapy? If not, has the Board considered providing a grandfathering provision or delaying the effective date of the regulation to allow LPNs the necessary time to meet the curriculum requirements?

**2. Section 21.141. Definitions.—Consistency with statute; Clarity.**

*Focused assessment*

This term is defined as, "Appraisal of an individual's current status and situation, which contributes to comprehensive assessment by the registered nurse and sup-

ports ongoing data collection." A commentator has stated that the Practical Nurse Law (Law) (63 P.S. § 651 et.seq.) does not allow for assessment by an LPN and questions if the use of the term is needed in the regulation. Does inclusion of this term expand the scope of practice of LPNs? If so, is that expansion consistent with the Law?

*IV therapy*

As the title of this proposed rulemaking suggests, the subject matter of this regulation is IV therapy. However, this term is not defined in the Board's existing regulations, nor is it defined in the proposed regulation. The final-form regulation should include a definition of this term.

**3. Section 21.145. Functions of the LPN.—Statutory authority; Need; Protection of the public health, safety and welfare; Clarity.**

Subsection (a)(2) states the following: "An LPN shall obtain instruction and supervision if implementing new or unfamiliar nursing practices or procedures." It is unclear who will provide the instruction and supervision. We suggest that this provision be clarified to specify who must provide the instruction and supervision.

Similar to the concern expressed on the definition of "focused assessment," a commentator is concerned with the use of the word "assess" in Subsections (f)(2)(ii), (iii) and (iv). Under the Law, does an LPN have the authority to perform the assessments referenced in these subsections?

Subsection (f)(4) includes the phrase "readily available" and Subsection (f)(5) includes the phrase "immediate vicinity." These phrases are vague and lack clarity. We suggest that the final-form regulation include more precise standards that eliminate the ambiguity created by these phrases.

Subsection (f)(5)(i) allows LPNs to provide IV therapy when a patient's condition is "critical, fluctuating, unstable or unpredictable" if the LPNs supervisor is present in the immediate vicinity. A commentator has stated that an LPN should not be assigned to a patient in this condition. In the Preamble to the final-form regulation, we ask the Board to explain why this provision is needed and how it adequately protects the health, safety and welfare of the patient.

**4. Section 21.145b. IV therapy curriculum requirements.—Protection of the public health, safety and welfare; Reasonableness; Implementation procedures; Clarity.**

Under this section, IV therapy curriculum can be provided as part of LPN education curriculum as set forth in § 21.203 (related to specific curriculum requirements for practical nursing programs) or as a stand-alone course offered by a licensed health care facility. We have three concerns. First, should § 21.203 be amended to include a cross-reference to this section?

Second, how will the Board ensure that the stand-alone courses are meeting the requirements of this Section? Will the courses have to be approved by the Board? If so, what process will the Board use to approve the courses? These issues should be addressed in the final-form regulation.

Third, as noted by a commentator, has the Board considered adding standards for course length, clinical experience and instructor qualifications for IV therapy curriculums? We believe including such standards would



help ensure the quality of the curriculum and help protect the health, safety and welfare of the public. We recommend that the Board include such standards in the final-form regulation.

#### 5. Miscellaneous clarity.

- § 21.145(a)(1) uses the term “RN”, but § 21.145(f)(1) uses the term “licensed professional nurse.” We recommend that only one of these terms be used in the final regulation.

### Environmental Quality Board Regulation #7-458 (IRRC #2842)

#### Incidental Coal Extraction, Bonding, Enforcement, Sediment Control and Remining Financial Guarantees

July 1, 2010

We submit for your consideration the following comments on the proposed rulemaking published in the May 1, 2010 *Pennsylvania Bulletin*. Our comments are based on criteria in section 5.2 of the Regulatory Review Act (71 P.S. § 745.5b). Section 5.1(a) of the Regulatory Review Act (71 P.S. § 745.5a(a)) directs the Environmental Quality Board (Board) to respond to all comments received from us or any other source.

#### 1. Section 86.1. Definitions.—Consistency with other regulations; Clarity.

Subparagraph (iii)(E) of the definition of “owned or controlled and owns and controls” reads:

Based on the instruments of ownership or the voting securities of a corporate entity, owning of record a percentage of the entity as established in the definition of “owned or controlled and owns or controls” in 30 CFR [773.5] 701.5 (relating to definitions).

The phrase “owned or controlled and owns or controls” does not appear as a definition in 30 CFR 701.5. There is a definition of “own, owner or ownership” in this section of the federal regulations. If the intent is to refer to this definition, then the subparagraph should be clarified in the final-form regulation.

#### 2. Section 86.37. Criteria for permit approval or denial.—Consistency with other regulations; Clarity.

New language is being added to Subsection (a)(8), which states:

For the purpose of this section, the term “violation” includes the types of violations listed in the definition of “violation” in 30 CFR 701.5 (relating to definitions).

The Pennsylvania Coal Association (PCA) expresses concern over the fact that there are definitions for two different terms in 30 CFR 701.5 that include the word “violation.” One is “violation” and the other is “violation, failure or refusal.” The final-form regulation should clearly indicate which federal definition applies to this section.

#### 3. Section 86.129. Coal exploration on areas designated as unsuitable for surface mining operations.—Fiscal impact; Reasonableness; Feasibility.

Subsection (b)(5) states that an exploration permit in areas designated as unsuitable for mining “may not exceed 2 years and the permit may not be renewed or

transferred.” A comparable time limit could not be found in the federal regulations at 30 CFR 772.12 and 938.16(ccc). After a substantial investment in complying with the permit application requirements, why is a company only given two years to explore rather than five years as is the case with other permits? The Board should provide a justification for this rule or delete it from the final-form regulation.

#### 4. Section 86.159. Self-bonding.—Clarity.

New language in Subsection (2) includes these words: “. . . an affidavit certifying that the agreement is valid under all applicable Federal and State laws.” This phrase may be overly broad. Specifically, what laws would be included in the reference to “all applicable Federal and State laws”?

#### 5. Section 86.282. Participation requirements.—Reasonableness; Clarity.

In Subsection (a)(2), the “letter of credit collateral bond” is deleted as an option for a surety bond. In the Preamble, this change is explained by the statement that experience “has shown that the ability to obtain a letter of credit from a bank is not a good test of financial responsibility.” DEP and the Board should provide some evidence from the program’s experience to provide a justification for this change or retain the existing language in the final-form regulation.

The proposed regulation adds new language to Subsection (a)(2) which includes the term “permitted remining site.” This term does not appear in the existing provisions of Chapter 86. In Section 86.252 of the existing regulations, the definition of the term “financial guarantee” includes this phrase: “. . . a qualified operator’s permitted remining area.” The term “remining area” is defined in Section 86.252. The PCA, in its comments, requests that the term “permitted remining site” be defined. The new term should be defined or replaced with the existing term “remining area” if this term matches the Board’s intent for Section 86.282.

#### 6. Section 87.119. Hydrologic balance: water rights and replacement.—Reasonableness; Clarity.

The proposed regulation deletes “attorney fees and expert witness fees” from the list of recoverable “reasonable costs incurred” for mine operators or owners who appeal a DEP order. According to the Preamble, “this correction is necessary due to a revision to the SMCRA [federal Surface Mining Control and Reclamation Act].” However, the Preamble provides no details concerning the revision. PCA questions the basis for this deletion. In addition, attorney fees are specifically identified as costs that “may be assessed against either party” in SMCRA. See 30 U.S.C. § 1275(e). The Board needs to explain the need for this deletion or retain the existing language in the final-form regulation.

#### 7. Section 90.112. Hydrologic balance: dams, ponds, embankments and impoundments—design, construction and maintenance.—Consistency with other regulations; Clarity.

In its comments, PCA expresses concern that the amendments to Subsection (c)(2) do not include the word “runoff.” In contrast, the federal regulations at 30 CFR 938.16(jjj) specifically uses the word “runoff.” The Board

should revise this subsection to match the federal language in the final-form regulation or provide justification for not using the term “runoff.”

**Pennsylvania Public Utility Commission  
Regulation #57-257 (IRRC #2674)**

**Universal Services and Energy Conservation  
Reporting Requirements and Customer Assistance  
Programs**

**July 2, 2010**

We submit for your consideration the following comments on the notice reopening the public comment period for this proposed regulation in the April 3, 2010 *Pennsylvania Bulletin*. Our comments are based on criteria in section 5.2 of the Regulatory Review Act (71 P.S. § 745.5b) (Act). Section 5.1(a) of the Act (71 P.S. § 745.5a(a)) directs the Pennsylvania Public Utility Commission (PUC) to respond to all comments received from us or any other source. The proposed regulation was originally published in the February 9, 2008 *Pennsylvania Bulletin*. These comments are supplemental to our comments dated May 19, 2008.

**1. Sections 54.74 and 62.4—Review of universal service and energy conservation plans; funding and cost recovery.—Need.**

These sections require electric distribution companies and natural gas distribution companies to submit an updated universal service and energy conservation plan (Plan) in the form of a tariff filing. This filing includes: the Plan itself, the rules that apply to the Plan, documentation in support of funding and cost recovery for the Plan, and a proposed surcharge.

The supplemental comments provided by the regulated community offer various suggestions concerning the content of the tariff. Some commentators argue that no Plan contents should be included in the tariff, while others support including the content in its entirety. Other commentators argue that Plan rates only should be included in the tariff. Finally, another commentator contends that Customer Assistance Program (CAP) rules should not be included in the tariff because it would result in utilities providing duplicative information that is already publicly available and would result in difficulty in modifying the CAP Plan.

The final-form regulation should explain the need to include Plan contents, including CAP rules and rates and documents in support of funding and cost recovery. Will this information be part of the entire tariff or simply the filing requirements included in support of the proposed tariff provisions? The final-form regulation should clarify these issues.

**2. General.—Reasonableness; Feasibility; Clarity.**

In the notice reopening the public comment period, the PUC invited comments on topics divided into six categories. Extensive comments were received in response to this invitation. If significant revisions to the regulation are being considered as a result of this input, the public should be afforded an opportunity to review and comment on the text of the regulation. Therefore, we recommend that the PUC publish an advance notice of final regulation

making to allow the opportunity to review and resolve remaining issues before submittal of a final-form regulation.

**State Board of Massage Therapy  
Regulation #16A-721 (IRRC #2843)**

**Massage Therapy**

**July 7, 2010**

We submit for your consideration the following comments on the proposed rulemaking published in the May 8, 2010 *Pennsylvania Bulletin*. Our comments are based on criteria in section 5.2 of the Regulatory Review Act (71 P.S. § 745.5b). Section 5.1(a) of the Regulatory Review Act (71 P.S. § 745.5a(a)) directs the State Board of Massage Therapy (Board) to respond to all comments received from us or any other source.

**1. Section 20.1. Definitions.—Conflict with existing law; clarity.**

The following terms are used, but not defined, in the proposed regulation: “soft issue manifestations;” “therapeutic massage techniques;” “treatment;” and “treatment plan.” Both the Pennsylvania Physical Therapy Association (PPTA) and the Insurance Federation of Pennsylvania have expressed concern that the use of these terms without qualifying language which specifically relates them to the definition of “massage therapy” in the Massage Therapy Law, Act 45 of 2009 (Law), is confusing. We recommend that the Board define and clarify these terms in the final-form regulation.

*Sexual harassment*

This section defines this term as: “[d]eliberate or repeated comments, gestures or physical contacts of a sexual nature.”

This definition appears inconsistent with how the term is defined in both federal and state law. For example, the U.S. Equal Employment Opportunity Commission has defined sexual harassment, a violation of Title VII of the Civil Rights Act of 1964, as follows:

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when this conduct explicitly or implicitly affects an individual’s employment, unreasonably interferes with an individual’s work performance, or creates an intimidating, hostile, or offensive work environment.

The PA Human Relations Commission defines the term in a similar fashion.

Both of these definitions refer to conduct that is “unwanted” or “unwelcome.” Why did the Board omit this term? In order to be consistent with existing law, the final-form regulation should include the phrase “unwelcome” or “unwanted” at the beginning of the definition.

**2. Section 20.3. Fees.—Reasonableness.**

Subsections (a) and (b) list various types of fees charged for services provided by the Board. How did the Board determine the amounts listed are appropriate?

**3. Section 20.11. Minimum hour requirements for massage therapy programs.—Reasonableness; Clarity.**

Subsection (a) requires massage therapy programs to provide at least 600 hours of in-class instruction, and lists

various subjects and the minimum contact hours required for each. How did the Board determine the appropriate number of contact hours?

**4. Section 20.13. Required knowledge base.—Clarity.**

Subsection (a) lists 12 areas that massage therapy education must provide students with knowledge of, including Subsection (a)(6) which requires knowledge of “legal requirements.” Which “legal requirements” does this refer to? It is also unclear what level of “knowledge” massage therapy education must provide in these subjects to students. These phrases are vague and lack clarity. We suggest that the final-form regulation include more precise standards that eliminate the ambiguity created by these phrases.

**5. Section 20.14. Student practice.—Implementation procedures; Clarity.**

In Subsection (f), what is the basis for the three-year time period to maintain student records? The same concern applies to Section 20.42(a)(19). In addition, Section 20.42(a)(19) also states that the records would be at least three years “from the last date that services were provided to the client.” Did the Board intend for the same time period to apply to student records? We recommend the same language contained in Section 20.42(a)(19) be included in Subsection (f).

In Subsection (g), how does the Board intend for schools to clearly identify to clients students providing services as part of a clinical training program? Would students be required to wear badges? Would there be a sign notifying clients that students are working at that facility? The final-form regulation should include the means of complying with this provision.

**6. Section 20.21. Application for temporary practice permit, initial licensure and licensure by reciprocity.—Statutory authority; Reasonableness; Need; Clarity.**

This section describes various types of applications. We raise five issues.

First, the House Professional Licensure Committee (HPLC) indicates that Section 20.26(b) includes a cross-reference to Section 20.21, and this cross-reference is partly entitled “licensure by endorsement.” However, this type of application is not included in Section 20.21. Did the Board intend to include licensure by endorsement in this section? If so, then the final-form regulation should include a procedure for this type of licensure. If not, the phrase “licensure by endorsement” should be removed from Section 20.26(b) of the final-form regulation. We note that in the Preamble, the Board describes “licensure by endorsement” as being contained in Section 20.25, however, this section refers to “licensure by reciprocity.” To improve consistency, the Board should use one term.

Second, Subsection (b)(2) requires applicants for licensure to submit to the Board a Criminal History Record for every state the applicant has resided in for the past five years. How did the Board determine five years was an appropriate limit on the years of review?

Third, Subsection (d)(3) requires an applicant to submit an explanation to the Board of any arrests, charges, or convictions of a misdemeanor or felony in this Commonwealth or any other jurisdiction of the United States or a foreign country. However, the Law only prohibits those applicants from obtaining licensure who have been **convicted** of a felony (or of what would be considered a felony if committed in this Commonwealth) under The

Controlled Substance, Drug, Device and Cosmetic Act. See 63 P.S. § 627.5(a)(6). Therefore, given this distinction, what is the Board’s statutory authority for requiring the explanations and relevant documentation in this subsection?

Fourth, Subsections (d)(4) and (5) refer to circumstances where an individual is unable to practice massage therapy “with a reasonable skill and safety” due to mental or physical conditions, and the use of alcohol, drugs, etc. Would a licensed professional make that determination? The final-form regulation should clarify who would decide in these instances whether a person is unable to practice. We also recommend that the final-form regulation require these individuals to provide written verifications to the Board confirming their diagnoses and conclusions.

Additionally, how will these evaluators measure a massage therapist ability to practice “with a reasonable skill and safety?” The final-form regulation should define this standard. In Subsection (d)(4), an applicant may be unable to practice massage therapy due to the use of drugs, narcotics or “any other type of material.” This phrase is vague and should be explained further in the final-form regulation.

Finally, Subsection (g) requires the licensure applicant to submit to the Board any missing documentation “within 6 months from the date the application is executed.” What is the basis for the six-month time period?

**7. Section 20.22. Procedure for licensure denial.—Implementation procedures.**

Subsection (b) refers to an evaluation to determine if an applicant can safely practice. Who will conduct this evaluation? Will the applicant be notified of and have the opportunity to review the results? The final-form regulation should clarify the procedures for the evaluation and the means of notifying the applicant of the results of the evaluation.

In addition, the HPLC questions what the appeals process is for an applicant whose license has been refused. The final-form regulation should explain the appeals process. Has the Board considered including in the regulation a cross-reference to Section 627.9 (c) of the Law, which discusses actions of the Board being subject to the administrative agency law (and therefore the appropriate appeals process therein)?

**8. Section 20.23. Licensure examinations.—Reasonableness; Implementation procedures; Clarity.**

Subsections (b) and (c) require applicants to reapply if they are unable to take the required test within 90 days of being authorized by the Board to do so. What is the basis for the 90-day time frame?

Subsections (b) and (d) refer to the “FSBMT,” however Section 20.1 references the “FSMTB,” which the Federation of State Massage Therapy Boards points out in their comments is the correct term. The final-form regulation should correct this typographical error.

Subsection (e) establishes procedures requiring applicants who have failed licensure exams numerous times to obtain additional hours of instruction in massage therapy. Who will monitor these examination results and notify the applicants of the requisite hours necessary to complete? The final-form regulation should clarify this issue.

**9. Section 20.24. Application requirements for existing practitioners.—Reasonableness; Clarity.**

Subsection (c) states that existing practitioners applying for licensure must demonstrate they have been in



practice at least five years “immediately preceding October 9, 2010.” Why did the Board apply this date?

While this section refers to licensure requirements for existing practitioners, the American Massage Therapy Association (AMTA) suggests that “existing practitioners” should also include massage therapy students who would graduate before the passage of the final-form regulation. Has the Board considered “grandfathering” the licenses of these massage therapists?

Also, to improve clarity, we recommend the Board define the term “existing practitioners” in the final-form regulation.

**10. Section 20.26. Application requirements for temporary practice permits.—Clarity.**

Subsection (e) states that those therapists with a temporary practice permit may not “hold themselves out as a licensed massage therapist.” However, the PPTA notes that this subsection does not explain what services these permit holders can perform or how they are supervised. We agree and recommend that the final-form regulation clarify what specific services can be performed under a temporary practice permit and set forth the supervision requirements.

Subsection (e) also states that temporary permit holders may not “advertise their practice of massage therapy.” The PA Association of Private School Administrators is concerned that without advertising, these therapists may not be able to build a practice. Does Subsection (e) prohibit a person from advertising as a temporary permit holder? The final-form regulation should clarify this issue.

**11. Section 20.32. Continuing education hours, maintenance of certificates of completion.—Implementation procedures.**

Under Subsection (g), under what circumstances would the Board determine an audit of a licensee is necessary?

**12. Section 20.41. Scope of practice.—Statutory authority; Implementation procedures; Clarity.**

This section explains the scope of practice for massage therapists. However, as the AMTA points out, there are persons who hold dual licenses. While an act may be permitted within the context of a massage therapy license in Subsection (a), it may be prohibited under that same person’s chiropractic license. For example, as PPTA states, the enumerated list of soft tissue manifestations in Subsection (a) contains items that are “impairments, illnesses, diseases or disabilities which are expressly excluded from the definition of massage therapy.” How will the Board regulate these forms of overlapping licensure? Additionally, how will the Board address the situation where a treated item in Subsection (a) is also a symptom of an underlying disease or medical condition? Will this be set forth in the final-form regulation?

The Preamble to the final-form regulation should also explain what services those with dual licenses can perform and when they can perform them.

**13. Section 20.42. Standards of professional conduct.—Implementation procedures; Clarity.**

Subsection (a)(11) requires massage therapists to “act to safeguard clients from incompetent, abusive or illegal practices of other massage therapists or caregivers.” How will a massage therapist comply with this subsection? Are there reporting requirements that would apply? If so, we

recommend that these requirements be included in the final-form regulation.

**Bureau of Professional and Occupational Affairs  
Regulation #16A-51 (IRRC #2844)**

**Schedule of Civil Penalties—Veterinarians and  
Veterinary Technicians**

**July 7, 2010**

We submit for your consideration the following comments on the proposed rulemaking published in the May 8, 2010 *Pennsylvania Bulletin*. Our comments are based on criteria in section 5.2 of the Regulatory Review Act (71 P. S. § 745.5b). Section 5.1(a) of the Regulatory Review Act (71 P. S. § 745.5a(a)) directs the Bureau of Professional and Occupational Affairs (Bureau) to respond to all comments received from us or any other source.

**Comments of the House Professional Licensure Committee.—Need; Reasonableness; Protection of the public welfare; Implementation procedure; Clarity.**

On June 9, 2010, the House Professional Licensure Committee (Committee) voted to submit the following comments to the Bureau:

- The Committee recommends that the sections of this proposed regulation be re-organized so that each section remains consistent with the previously stated profession.
- The Committee requests information on how the Bureau monitors the civil penalty time periods to ensure compliance with the proposed regulation.
- The Committee questions the need for adding a new civil penalty time period of 25–30 months and requests an explanation on how the Bureau determined the amount of a civil penalty for practicing on a lapsed license.
- The Committee requests an explanation on why a category of failing to display a current certificate for CVTs (certified veterinary technicians) with civil penalty is not included.

We will review the Bureau’s responses to these issues in our determination of whether the final regulation is in the public interest.

ARTHUR COCCODRILLI,  
Chairperson

[Pa.B. Doc. No. 10-1298. Filed for public inspection July 16, 2010, 9:00 a.m.]

**Notice of Filing of Final Rulemakings**

The Independent Regulatory Review Commission (Commission) received the following regulations. They are scheduled to be considered on the date noted. The Commission’s public meetings are held at 333 Market Street, 14th Floor, Harrisburg, PA at 10 a.m. To obtain a copy of the regulation, interested parties should first contact the promulgating agency. If a copy cannot be obtained from the promulgating agency, the Commission will provide a copy or a copy can be obtained on the web site, [www.irrc.state.pa.us](http://www.irrc.state.pa.us).



*Final-Form*

<i>Reg. No.</i>	<i>Agency/Title</i>	<i>Received</i>	<i>Public Meeting</i>
7-449	Environmental Quality Board Large Appliance and Metal Furniture Surface Coating Processes	6/30/10	8/5/10
7-445	Environmental Quality Board Hazardous Waste Management System; Proposed Exclusion for Identification and Listing of Hazardous Waste	6/30/10	8/5/10
2-170	Department of Agriculture Canine Health Board Standards for Commercial Kennels	6/30/10	8/5/10
7-433	Environmental Quality Board Administration of the Water and Wastewater Systems Operators' Certification Program	6/30/10	8/5/10

ARTHUR COCCODRILLI,  
*Chairperson*

[Pa.B. Doc. No. 10-1299. Filed for public inspection July 16, 2010, 9:00 a.m.]

## INSURANCE DEPARTMENT

### Application and Request for a Certificate of Authority to Provide a Continuing Care Retirement Community by The Lutheran Home for the Aged of Erie, Pennsylvania

The Lutheran Home for the Aged of Erie, Pennsylvania has applied for a Certificate of Authority to operate a Continuing Care Retirement Community at The Village at Luther Square in Erie, PA. The initial filing was received on June 15, 2010, and was made under the Continuing-Care Provider Registration and Disclosure Act (40 P. S. §§ 3201—3225).

Persons wishing to comment on the grounds of public or private interest to the issuance of a Certificate of Authority are invited to submit a written statement to the Insurance Department (Department) within 7 days from the date of this issue of the *Pennsylvania Bulletin*. Each written statement must include name, address and telephone number of the interested party; identification of the application to which the statement is addressed; and a concise statement with sufficient detail to inform the Department of the exact basis of the statement. Written statements should be directed to Steven L. Yerger, Insurance Department, 1345 Strawberry Square, Harrisburg, PA 17120, fax (717) 787-8557 or syerger@state.pa.us.

JOEL SCOTT ARIO,  
*Insurance Commissioner*

[Pa.B. Doc. No. 10-1300. Filed for public inspection July 16, 2010, 9:00 a.m.]

### Application and Request for a Certificate of Authority to Provide a Continuing Care Retirement Community by Marion Manor Corporation

Marion Manor Corporation has applied for a Certificate of Authority to operate a Continuing Care Retirement Community at Marion Manor in Pittsburgh, PA. The initial filing was received on June 18, 2010, and was made under the Continuing-Care Provider Registration and Disclosure Act (40 P. S. §§ 3201—3225).

Persons wishing to comment on the grounds of public or private interest to the issuance of a Certificate of Authority are invited to submit a written statement to the Insurance Department (Department) within 7 days from the date of this issue of the *Pennsylvania Bulletin*. Each written statement must include name, address and telephone number of the interested party; identification of the application to which the statement is addressed; and a concise statement with sufficient detail to inform the Department of the exact basis of the statement. Written statements should be directed to Steven L. Yerger, Insurance Department, 1345 Strawberry Square, Harrisburg, PA 17120, fax (717) 787-8557 or syerger@state.pa.us.

JOEL SCOTT ARIO,  
*Insurance Commissioner*

[Pa.B. Doc. No. 10-1301. Filed for public inspection July 16, 2010, 9:00 a.m.]

### Application and Request for a Certificate of Authority to Provide a Continuing Care Retirement Community by Presbyterian Homes in the Presbytery of Lake Erie

Presbyterian Homes in the Presbytery of Lake Erie has applied for a Certificate of Authority to operate three Continuing Care Retirement Communities at Presbyterian Lodge in Erie, PA, at Manchester Presbyterian Lodge in Erie, PA and at Oil City Presbyterian Home in Oil City, PA. The initial filing was received on June 17, 2010, and was made under the Continuing-Care Provider Registration and Disclosure Act (40 P. S. §§ 3201—3225).

Persons wishing to comment on the grounds of public or private interest to the issuance of a Certificate of Authority are invited to submit a written statement to the Insurance Department (Department) within 7 days from the date of this issue of the *Pennsylvania Bulletin*. Each written statement must include name, address and telephone number of the interested party; identification of the application to which the statement is addressed; and a concise statement with sufficient detail to inform the Department of the exact basis of the statement. Written statements should be directed to Steven L. Yerger, Insurance Department, 1345 Strawberry Square, Harrisburg, PA 17120, fax (717) 787-8557 or syerger@state.pa.us.

JOEL SCOTT ARIO,  
*Insurance Commissioner*

[Pa.B. Doc. No. 10-1302. Filed for public inspection July 16, 2010, 9:00 a.m.]

### Application and Request for a Certificate of Authority to Provide a Continuing Care Retirement Community by RC Operator, LLC

RC Operator, LLC has applied for a Certificate of Authority to operate a Continuing Care Retirement Community at Willow Terrace in Philadelphia, PA. The initial filing was received on June 18, 2010, and was made under the Continuing-Care Provider Registration and Disclosure Act (40 P. S. §§ 3201—3225).

Persons wishing to comment on the grounds of public or private interest to the issuance of a Certificate of Authority are invited to submit a written statement to the Insurance Department (Department) within 7 days from the date of this issue of the *Pennsylvania Bulletin*. Each written statement must include name, address and telephone number of the interested party; identification of the application to which the statement is addressed; and a concise statement with sufficient detail to inform the Department of the exact basis of the statement. Written statements should be directed to Steven L. Yerger, Insurance Department, 1345 Strawberry Square, Harrisburg, PA 17120, fax (717) 787-8557 or syerger@state.pa.us.

JOEL SCOTT ARIO,  
Insurance Commissioner

[Pa.B. Doc. No. 10-1303. Filed for public inspection July 16, 2010, 9:00 a.m.]

### Application for Written Consent; Department Notice No. 2010-08

By Insurance Department Notice No. 2000-04 all persons and entities engaged or participating, or seeking to engage or participate, in the business of insurance in this Commonwealth were advised that the Insurance Department (Department) had adopted an application for written consent to engage in the business of insurance under The Violent Crime Control and Law Enforcement Act of 1994 (act), 18 U.S.C.A. §§ 1033 and 1334 (relating to application for written consent).

Under the act, it is a criminal offense for an individual who has been convicted of a criminal felony involving dishonesty or a breach of trust, or an offense under the act, to willfully engage or participate in the business of insurance, or to willfully permit such participation, without the written consent of the appropriate insurance regulatory official. The written consent must specify that the consent is granted for the purpose of permitting insurance activity under section 1033(e) of the act.

The act broadly defines the term “business of insurance” and provides no exemptions or “grandfather” provisions for convictions that occurred prior to its enactment or for persons who are already engaged or participating in the business of insurance. Individuals prohibited from engaging or participating in the business of insurance without written consent are referred to as “prohibited persons.” The Department has jurisdiction under the act to consider requests for written consent filed by the following types of prohibited persons:

1. Officers, directors, employees, consultants and subcontractors of domestic insurers and insurance-related entities, including but not limited to, insurance companies, associations and exchanges, Lloyds insurers, health maintenance organizations, fraternal benefit societies,

beneficial associations, hospital plan corporations, health services plan corporations, preferred provider organizations, premium finance companies, insurance administrators, viatical settlement providers, risk retention groups and purchasing groups.

2. Resident licensees and their officers, directors and employees, including but not limited to insurance agents, brokers, insurance producers, agencies, exclusive general agents, managing general agents and managers, reinsurance intermediaries, surplus lines agents, public adjusters, public adjuster solicitors, viatical settlement brokers and motor vehicle physical damage appraisers.

A Commonwealth resident who is a prohibited person must apply for and obtain the written consent of the Department to begin or to continue to engage or participate in the business of insurance. Written consent under the act must be obtained even if the prohibited person is now or has ever been licensed or otherwise approved by the Department to transact business. In addition, a prohibited person who resides outside of the Commonwealth must obtain the written consent of his or her domiciliary insurance regulatory official to be permitted to begin or continue to engage or participate in the business of insurance in this Commonwealth.

While the act provides a mechanism whereby a prohibited person may apply to the appropriate insurance regulatory official for written consent, it does not allow a prohibited person to work in the business of insurance while applying for that consent. The Department maintains full discretion in deciding whether or not to grant written consents, which will be determined on a case-by-case basis taking into account materials submitted to the Department by the applicant.

All affected persons are encouraged to thoroughly review the act and ensure that they are complying with it. Failure to inform the Department of a prior felony on a license application may result in a violation of the act as well as constitute grounds for denial or revocation of a license. Employers must make diligent efforts to identify prohibited persons and ensure that they are not violating the act by permitting prohibited persons to engage or participate in the business of insurance without written consent. In addition to efforts to identify prohibited persons as part of the employment application process, employers should consider conducting periodic workforce surveys to identify any subsequent convictions that require written consent.

The Department’s application for written consent is available on the Department web site at [www.insurance.pa.gov](http://www.insurance.pa.gov).

Questions concerning this notice may be directed to the Department at [ra-in-company@state.pa.us](mailto:ra-in-company@state.pa.us) or [ra-in-producer@state.pa.us](mailto:ra-in-producer@state.pa.us) or by contacting the Office of Corporate and Financial Regulation at (717) 783-2142 or the Office of Market Regulation, Bureau of Licensing and Enforcement at (717) 787-3840.

This document supersedes the notice published at 30 Pa.B. 1333 (March 4, 2000) and shall remain in effect until a subsequent notice is published in the *Pennsylvania Bulletin*.

JOEL SCOTT ARIO,  
Insurance Commissioner

[Pa.B. Doc. No. 10-1304. Filed for public inspection July 16, 2010, 9:00 a.m.]

**Eligible Surplus Lines Insurer List**

In accordance with section 1605(b) of The Insurance Company Law of 1921 (40 P. S. § 991.1605(b)), the Insurance Department hereby publishes the most recent Eligible Surplus Lines Insurer List. This list replaces in its entirety the Eligible Surplus Lines Insurer List as of January 6, 2010, published at 40 Pa.B. 490 (January 16, 2010).

Persons with any questions concerning this notice should contact Robert Brackbill, Chief, Company Licensing Division, Insurance Department, 1345 Strawberry Square, Harrisburg, PA 17120, (717) 787-2735.

JOEL SCOTT ARIO,  
*Insurance Commissioner*

**As of Thursday, July 01, 2010**

<i>Key No.</i>	<i>Company Name</i>	<i>Statutory Home Address</i>
48123	ACE EUROPEAN GROUP LIMITED	100 LEADENHALL STREET LONDON, Great Britain EC3A 3BP
10512	ADMIRAL INSURANCE COMPANY	1209 ORANGE STREET WILMINGTON, DE 19801
10513	ADRIATIC INSURANCE COMPANY	314 EAST THAYER AVENUE BISMARCK, ND 58501
67489	AIX SPECIALTY INSURANCE COMPANY	103 FOULK ROAD SUITE 202 WILMINGTON, DE 19803
48099	ALLIANZ GLOBAL CORPORATE & SPECIALTY AG	KONIGINASTRASSE 28 MUNICH, Germany D80802
10516	ALLIANZ UNDERWRITERS INSURANCE COMPANY	2350 EMPIRE AVENUE BURBANK, CA 91504-3350
10535	ALLIED WORLD ASSURANCE COMPANY (U.S.) INC.	2711 CENTERVILLE ROAD SUITE 400 WILMINGTON, DE 19808
10519	AMERICAN EMPIRE SURPLUS LINES INSURANCE COMPANY	1209 ORANGE STREET WILMINGTON, DE 19801
10520	AMERICAN EQUITY INSURANCE COMPANY	2401 WEST PEORIA AVENUE PHOENIX, AZ 85029
63828	AMERICAN MODERN SURPLUS LINES INSURANCE COMPANY	7000 MIDLAND BLVD AMELIA, OH 45102-2607
18146	AMERICAN SAFETY INDEMNITY COMPANY	201 ROBERT S. KERR AVENUE OKLAHOMA CITY, OK 73102-4267
10522	AMERICAN WESTERN HOME INSURANCE COMPANY	600 BANK OF OKLAHOMA PLAZA OKLAHOMA CITY, OK 73102
83774	AMTRUST INTERNATIONAL UNDERWRITERS LIMITED	40 WESTLAND ROW DUBLIN, Ireland 2
10524	APPALACHIAN INSURANCE COMPANY	1301 ATWOOD AVENUE JOHNSTON, RI 02919-0500
33748	ARCH EXCESS & SURPLUS INSURANCE COMPANY	10909 MILL VALLEY ROAD OMAHA, NE 68145
10587	ARCH SPECIALTY INSURANCE COMPANY	10909 MILL VALLEY ROAD OMAHA, NE 68145
81107	ARIEL REINSURANCE COMPANY LTD	5TH FLOOR VICTORIA PLACE HAMILTON, Bermuda HM 11
10588	ARROWOOD SURPLUS LINES INSURANCE COMPANY	2711 CENTERVILLE ROAD SUITE 400 WILMINGTON, DE 19808
51442	ASPEN INSURANCE UK LIMITED	30 FENCHURCH STREET LONDON, ENGLAND, United Kingdom
35611	ASPEN SPECIALTY INSURANCE COMPANY	316 NORTH FIFTH STREET BISMARCK, ND 58502
22348	ASSICURAZIONI GENERALI S.p.A.	PIAZZA DUCA DEGLI ABRUZZI, 2 TRIESTE, Italy 34132

<i>Key No.</i>	<i>Company Name</i>	<i>Statutory Home Address</i>
22349	ASSOCIATED ELECTRIC & GAS INSURANCE SERVICES LIMITED	THE MAXWELL ROBERTS BUILDING 4TH FLOOR HAMILTON, Bermuda HM11
10525	ASSOCIATED INTERNATIONAL INSURANCE COMPANY	TEN PARKWAY NORTH DEERFIELD, IL 60015
41586	ATLANTIC CASUALTY INSURANCE COMPANY	400 COMMERCE COURT GOLDSBORO, NC 27534
10526	AUDUBON INDEMNITY COMPANY	C/O CORPORATION SERVICE COMPANY 506 SOUTH PRESIDENT STREET JACKSON, MS 39201
22371	AVIVA INTERNATIONAL INSURANCE LIMITED	ST. HELEN'S 1 UNDERSHAFT LONDON, Great Britain EC3P3DQ
41562	AXA CORPORATE SOLUTIONS ASSURANCE	4 RUE JULES LEFEBVRE PARIS, France 75009
59554	AXIS SPECIALTY EUROPE LIMITED	MOUNT HERBERT COURT 34 UPPER MOUNT STREET DUBLIN, Ireland 2
10592	AXIS SURPLUS INSURANCE COMPANY	303 WEST MADISON SUITE 500 CHICAGO, IL 60606
75458	BERKLEY REGIONAL SPECIALITY INSURANCE COMPANY	1209 ORANGE STREET WILMINGTON, DE 19801-1120
63055	BERKSHIRE HATHAWAY INTERNATIONAL INSURANCE LIMITED	BIRCHIN COURT FOURTH FLOOR LONDON, Great Britain EC3V 9DU
22369	BRITISH AVIATION INSURANCE COMPANY LIMITED	FITZWILLIAM HOUSE 10 ST. MARY'S AXE LONDON, Great Britain EC3ABEQ
10528	CANAL INDEMNITY COMPANY	400 EAST STONE AVENUE GREENVILLE, SC 29601
48319	CAPITOL SPECIALTY INSURANCE CORPORATION	1600 ASPEN COMMONS MIDDLETON, WI 53562
64641	CATLIN INSURANCE COMPANY (UK) LIMITED	3 MINSTER COURT MINCING LANE LONDON, United Kingdom EC3R 7DD
63239	CATLIN SPECIALTY INSURANCE COMPANY	160 GREENTREE DRIVE SUITE 101 DOVER, DE 19904
10529	CENTENNIAL CASUALTY COMPANY	2200 WOODCREST PLACE SUITE 200 BIRMINGHAM, AL 35209
10531	CENTURY SURETY COMPANY	465 CLEVELAND AVENUE WESTERVILLE, OH 43082
38980	CHARTIS SELECT INSURANCE COMPANY	2711 CENTERVILLE ROAD SUITE 400 WILMINGTON, DE 19808
10521	CHARTIS SPECIALTY INSURANCE COMPANY	300 SOUTH RIVERSIDE PLAZA SUITE 2100 CHICAGO, IL 60606-6613
10532	CHUBB CUSTOM INSURANCE COMPANY	C/O CORPORATION SERVICE COMPANY 1209 ORANGE STREET WILMINGTON, DE 19801-1120



<i>Key No.</i>	<i>Company Name</i>	<i>Statutory Home Address</i>
72782	CINCINNATI SPECIALTY UNDERWRITERS INSURANCE COMPANY (THE)	BRANDYWINE VILLAGE 1807 NORTH MARKET STREET WILMINGTON, DE 19802-4810
18617	CLARENDON AMERICA INSURANCE COMPANY	601 EWING STREET SUITE C-8 PRINCETON, NJ 09650
10533	COLONY INSURANCE COMPANY	8720 STONEY POINT PARKWAY SUITE 300 RICHMOND, VA 23235
10582	COLONY NATIONAL INSURANCE COMPANY	8720 STONEY POINT PARKWAY SUITE 300 RICHMOND, VA 23235
10534	COLUMBIA CASUALTY COMPANY	CNA PLAZA CHICAGO, IL 60685
22388	COMMONWEALTH INSURANCE COMPANY	595 BURRARD STREET SUITE 1500 BOX 49115 BENTALL TOWER THREE VANCOUVER, V7X 1G4
74670	COMPANION SPECIALTY INSURANCE COMPANY	51 CLEMSON ROAD COLUMBIA, SC 29229
52712	CRANBROOK INSURANCE COMPANY	2301 E.LAMAR BOULEVARD 5TH FLOOR ARLINGTON, TX 76006
37372	CRUM & FORSTER SPECIALTY INSURANCE COMPANY	2999 NORTH 44TH STREET SHITE 250 PHOENIX, AZ 85018
66658	CUMIS SPECIALTY INSURANCE COMPANY, INC.	2000 HERITAGE WAY WAVERLY, IA 50677
10600	DARWIN SELECT INSURANCE COMPANY	320 WEST CAPITAL STREET SUITE 1000 LITTLE ROCK, AR 72201-3525
37001	DISCOVER SPECIALTY INSURANCE COMPANY	200 NORTH LASALLE STREET CHICAGO, IL 60661
10541	EMPIRE INDEMNITY INSURANCE COMPANY	630 NE 63RD STREET OKLAHOMA CITY, OK 73105
63338	ENDURANCE AMERICAN SPECIALTY INSURANCE COMPANY	767 THIRD AVENUE FIFTH FLOOR NEW YORK, NY 10017
10542	ESSEX INSURANCE COMPANY	1209 ORANGE STREET WILMINGTON, DE 19801
10543	EVANSTON INSURANCE COMPANY	TEN PARKWAY NORTH DEERFIELD, IL 60015
10544	EVEREST INDEMNITY INSURANCE COMPANY	CORPORATION TRUST CENTER 1209 ORANGE STREET WILMINGTON, DE 19801
10545	EXECUTIVE RISK SPECIALTY INSURANCE COMPANY	82 HOPMEADOW STREET SIMSBURY, CT 06070-7683
10547	FIREMAN'S FUND INSURANCE COMPANY OF OHIO	312 WALNUT STREET SUITE 1100 CINCINNATI, OH 45202
10548	FIRST FINANCIAL INSURANCE COMPANY	528 SOUTH FIFTH STREET SUITE 210 SPRINGFIELD, IL 62701-1822
10549	FIRST MERCURY INSURANCE COMPANY	ONE SOUTH WACKER DRIVE SUITE 2740 CHICAGO, IL 60606
10550	FIRST SPECIALTY INSURANCE CORPORATION	237 EAST HIGH STREET JEFFERSON CITY, MO 65102

<i>Key No.</i>	<i>Company Name</i>	<i>Statutory Home Address</i>
18477	GEMINI INSURANCE COMPANY	CORPORATION TRUST CENTER 1209 ORANGE STREET WILMINGTON, DE 19801
10552	GENERAL SECURITY INDEMNITY COMPANY OF ARIZONA	2338 W. ROYAL PALM ROAD SUITE J PHOENIX, AZ 85021
10554	GENERAL STAR INDEMNITY COMPANY	695 EAST MAIN STREET P. O. BOX 10354 STAMFORD, CT 06904-2354
10555	GENESIS INDEMNITY INSURANCE COMPANY	316 NORTH FIFTH STREET BISMARCK, ND 58501
58119	GEOVERA SPECIALTY INSURANCE COMPANY	4820 BUSINESS CENTER DRIVE SUITE 200 FAIRFIELD, CA 94534
44715	GLENCOE INSURANCE LIMITED	RENAISSANCE HOUSE, 8 EAST P. O. BOX HM 2527 HAMILTON, Bermuda HM GX
73754	GNV CUSTOM INSURANCE COMPANY	200 MADISON AVENUE NEW YORK, NY 10016-3904
10556	GOTHAM INSURANCE COMPANY	919 THIRD AVENUE 10TH FLOOR NEW YORK, NY 10022
10514	GREAT AMERICAN E & S INSURANCE COMPANY	THE CORPORATION TRUST COMPANY 1209 ORANGE STREET WILMINGTON, DE 19801
10518	GREAT AMERICAN FIDELITY INSURANCE COMPANY	THE CORPORATION TRUST COMPANY 1209 ORANGE STREET WILMINGTON, DE 19801
10540	GREAT AMERICAN PROTECTION INSURANCE COMPANY	580 WALNUT STREET CINCINNATI, OH 45204
22412	GREAT LAKES REINSURANCE (UK) PLC	PLANTATION PLAN 30 FENCHURCH STREET LONDON, United Kingdom EC3M 3AJ
36489	GUILFORD INSURANCE COMPANY	C/O HINSHAW & CULBERTSON, LLP 400 SOUTH NINTH STREET SPRINGFIELD, IL 62701-1822
10557	GULF UNDERWRITERS INSURANCE COMPANY	ONE TOWER SQUARE HARTFORD, CT 06183
66133	HCC SPECIALTY INSURANCE COMPANY	201 ROBERT S. HERR AVENUE OKLAHOMA, OK 73102
78247	HISCOX SPECIALTY INSURANCE COMPANY INC.	416 SOUTH SECOND STREET GENEVA, IL 60134-0520
44169	HOMELAND INSURANCE COMPANY OF NEW YORK	1000 WOODBURY ROAD SUITE 403 WOODBURY, NY 11797
10559	HOUSTON CASUALTY COMPANY	13403 NORTHWEST FREEWAY HOUSTON, TX 77040
37373	HUDSON SPECIALTY INSURANCE COMPANY	17 STATE STREET 29TH FLOOR NEW YORK, NY 10004
10560	ILLINOIS EMCASCO INSURANCE COMPANY	717 MULBERRY STREET DES MOINES, IA 50309-3872
10561	ILLINOIS UNION INSURANCE COMPANY	525 WEST MONROE STREET CHICAGO, IL 60631

<i>Key No.</i>	<i>Company Name</i>	<i>Statutory Home Address</i>
10562	INDIAN HARBOR INSURANCE COMPANY	CT CORPORATION SYSTEM 314 EAST THAYER AVENUE BISMARCK, ND 58501
75461	INFRASSURE, LTD	UETLIBERGSTRASSE 134A P. O. BOX 5089 ZURICH, Switzerland CH8045
28076	INTERNATIONAL INSURANCE CO OF HANNOVER, LTD	L'AVENIR OPLADEN WAY, BRACKNELL BERKSHIRE, Great Britain UK RG12 OPH
10564	INTERSTATE FIRE & CASUALTY COMPANY	33 WEST MONROE CHICAGO, IL 60603
70118	IRONSHORE INSURANCE LTD.	SWAN BUILDING 26 VICTORIA STREET HAMILTON, Bermuda HM12
10596	IRONSHORE SPECIALTY INSURANCE COMPANY	C/O LOW & CHILDERS P.C. SUITE 250 PHOENIX, AZ 85018
10566	ITT PACIFIC INSURANCE COMPANY	ONE HARTFORD PLAZA HARTFORD, CT 06155
10546	JAMES RIVER INSURANCE COMPANY	52 EAST GAY STREET COLUMBUS, OH 43215
36855	KINSALE INSURANCE COMPANY	425 W. CAPITOL AVENUE SUITE 1800 LITTLE ROCK, AR 72201
75297	LANCASHIRE INSURANCE COMPANY	MINTFLOWER PLACE 8 PAR-LA-VILLE ROAD HAMILTON, Bermuda HM 08
80046	LANCASHIRE INSURANCE COMPANY (UK) LIMITED	LEVEL 11, VITRO 60, FENCHURCH STREET LONDON, United Kingdom EC3M 4AD
8967	LANDMARK AMERICAN INSURANCE COMPANY	201 ROBERT KERR AVENUE SUITE 600 OKLAHOMA CITY, OK 73102-4267
10567	LANDMARK INSURANCE COMPANY	2730 GATEWAY OAKS DRIVE SUITE 100 SACRAMENTO, CA 95833
45576	LANTANA INSURANCE LTD.	RENAISSANCE HOUSE 8-12 EAST BROADWAY HAMILTON, Bermuda HM 19
10569	LEXINGTON INSURANCE COMPANY	2711 CENTERVILLE ROAD SUITE 400 WILMINGTON, DE 19808
22415	LIBERTY MUTUAL INSURANCE EUROPE LIMITED	3RD FLOOR, TWO MINSTER COURT MINCING LANE LONDON, United Kingdom EC3R 7YE
18457	LIBERTY SURPLUS INSURANCE CORPORATION	175 BERKELEY STREET BOSTON, MA 02117
22416	LLOYD'S (UNDERWRITERS AT)	ONE LIME STREET LONDON, Great Britain EC3M7HA
22417	LONDON AND EDINBURGH INSURANCE COMPANY LIMITED	8 SURREY STREET NORWICH NR1 3NG ENGLAND, Great Britain EC3M5BT
45736	MAIDEN SPECIALTY INSURANCE COMPANY	C/O CT CORPORATION SYSTEM 150 FAYETTEVILLE STREET RALEIGH, NC 27601

<i>Key No.</i>	<i>Company Name</i>	<i>Statutory Home Address</i>
22418	MARINE INSURANCE COMPANY LIMITED	ST MARKS COURT. CHART WAY HORSHAM, WEST SUSSEX ENGLAND, Great Britain RH 12 1XL
22455	MARKEL INTERNATIONAL INSURANCE COMPANY LIMITED	THE MARKEL BUILDING 49 LEADENHALL STREET LONDON, Great Britain EC3A2EA
10570	MAX SPECIALTY INSURANCE COMPANY	1209 ORANGE STREET WILMINGTON, DE 19801
10527	MAXUM INDEMNITY COMPANY	1209 ORANGE STREET WILMINGTON, DE 19801
69016	MEDICAL MUTUAL LIABILITY INSURANCE SOCIETY OF MARYLAND	225 INTERNATIONAL CIRCLE HUNT VALLEY, MD 21030
75542	MERCHANTS NATIONAL INSURANCE COMPANY	250 MAIN STREET BUFFALO, NY 14202-4188
75518	MITSUI SUMITOMO INSURANCE COMPANY (EUROPE) LIMITED	25 FENCHURCH AVENUE LONDON, United Kingdom EC3M 5AD
10553	MONTPELIER U.S. INSURANCE COMPANY	115 SOUTHWEST 89TH STREET OKLAHOMA CITY, OK 73139
10571	MT. HAWLEY INSURANCE COMPANY	9025 N. LINDBERGH DRIVE PEORIA, IL 61615
10572	NAMIC INSURANCE COMPANY, INC.	3601 VINCENNES ROAD INDIANAPOLIS, IN 46268
10573	NATIONAL FIRE & MARINE INSURANCE COMPANY	3024 HARNEY STREET OMAHA, NE 68131-3580
10574	NAUTILUS INSURANCE COMPANY	7233 E. BUTHERUS DRIVE SCOTTSDALE, AZ 85260
10575	NAVIGATORS SPECIALTY INSURANCE COMPANY	ONE PENN PLAZA 55TH FLOOR NEW YORK, NY 10119-0002
75182	NAXOS INSURANCE COMPANY	2711 CENTERVILLE ROAD SUITE 400 WILMINGTON, DE 19808
10537	NOETIC SPECIALTY INSURANCE COMPANY	111 S. WACKER DRIVE CHICAGO, IL 60606-4410
10576	NORTH AMERICAN CAPACITY INSURANCE COMPANY	650 ELM STREET MANCHESTER, NH 03101-2524
79123	NORTH LIGHT SPECIALTY INSURANCE COMPANY	2775 SANDERS ROAD NORTHBROOK, IL 60062-7127
10584	NORTH POINTE CASUALTY INSURANCE COMPANY	10199 SOUTHSIDE BLVD BUILDING 1 JACKSONVILLE, FL 32256
10577	NORTHFIELD INSURANCE COMPANY	1270 OFFICE PLAZA DRIVE WEST DES MOINES, IA 50266
10578	NUTMEG INSURANCE COMPANY	ONE HARTFORD PLAZA HARTFORD, CT 06155
22421	OCEAN MARINE INSURANCE COMPANY LIMITED	ST. HELEN'S 1 UNDERSHAFT LONDON, Great Britain EC3P3DQ
10579	OLD REPUBLIC UNION INSURANCE COMPANY	307 NORTH MICHIGAN AVENUE CHICAGO, IL 60601
75544	OMEGA US INSURANCE, INC	C/O THE CORPORATION TRUST COMPANY 1209 ORANGE STREET WILMINGTON, DE 19801
58179	PENN-PATRIOT INSURANCE COMPANY	526 KING STREET ALEXANDRIA, VA 22314



<i>Key No.</i>	<i>Company Name</i>	<i>Statutory Home Address</i>
74667	PRIME INSURANCE COMPANY	303 WEST MADISON #2075 CHICAGO, IL 60606
23150	PRINCETON EXCESS AND SURPLUS LINES INSURANCE COMPANY	2711 CENTERVILLE ROAD SUITE 400 WILMINGTON, DE 19808
44436	PROASSURANCE SPECIALTY INSURANCE COMPANY, INC.	100 BROOKWOOD PLACE SUITE 500 BIRMINGHAM, AL 35209
10583	PROFESSIONAL UNDERWRITERS LIABILITY INSURANCE COMPANY	2180 SOUTH 1300 EAST SUITE 650 SALT LAKE CITY, UT 84106
75543	PROTECTIVE SPECIALTY INSURANCE COMPANY	1099 NORTH MERIDIAN STREET INDIANAPOLIS, IN 46204
22449	QBE INSURANCE (EUROPE) LIMITED	PLANTATION PLACE 30 FENCHURCH STREET LONDON, Great Britain EC3M 3BD
47448	QBE SPECIALTY INSURANCE COMPANY	314 EAST THAYER AVENUE BISMARCK, ND 58501
53074	QUANTA SPECIALTY LINES INSURANCE COMPANY	10 WEST MARKET STREET SUITE 450 INDIANAPOLIS, IN 46204
70898	REPUBLIC-VANGUARD INSURANCE COMPANY	2394 E. CAMELBACK ROAD PHOENIX, AZ 85016
10603	ROCKHILL INSURANCE COMPANY	2999 NORTH 44TH STREET SUITE 250 PHOENIX, AZ 85018
10589	SAFECO SURPLUS LINES INSURANCE COMPANY	SAFECO PLAZA 1001 FOURTH AVENUE SEATTLE, WA 98154
10590	SAVERS PROPERTY AND CASUALTY INSURANCE COMPANY	700 WEST 47TH STREET KANSAS CITY, MO 64112-1802
10591	SCOTTSDALE INSURANCE COMPANY	ONE NATIONWIDE PLAZA COLUMBUS, OH 43215
44276	SENECA SPECIALTY INSURANCE COMPANY	2999 NORTH 44TH STREET SUITE 250 PHOENIX, AZ 85018-7256
33514	SIRIUS INTERNATIONAL INSURANCE CORPORATION	BIRGER JARISGATAN 57B STOCKHOLM, Sweden SE 113 96
10565	SPECIALTY SURPLUS INSURANCE COMPANY	1 KEMPER DRIVE LONG GROVE, IL 60049-0001
10593	ST. PAUL SURPLUS LINES INSURANCE COMPANY	2711 CENTERVILLE ROAD SUITE 400 WILMINGTON, DE 19808
79898	STARR SURPLUS LINES INSURANCE COMPANY	500 WEST MONROE STREET 26TH FLOOR CHICAGO, IL 60661
10594	STEADFAST INSURANCE COMPANY	SUITE 202 32 LOOCKERMAN SQUARE DOVER, DE 19904
22453	SWISS RE INTERNATIONAL SE	2A, RUE ALBERT BORSCHETTE LUXEMBOURG, Luxembourg L1246
73071	TOKIO MARINE EUROPE INSURANCE LIMITED	150 LEADENHALL STREET LONDON, United Kingdom EC3V 4TE

<i>Key No.</i>	<i>Company Name</i>	<i>Statutory Home Address</i>
40659	TORUS SPECIALTY INSURANCE COMPANY	1209 ORANGE STREET WILMINGTON, DE 19801-1120
10597	TRAVELERS EXCESS AND SURPLUS LINES COMPANY	ONE TOWER SQUARE HARTFORD, CT 06183
54486	TT CLUB MUTUAL INSURANCE LIMITED	90 FENCHURCH STREET LONDON, United Kingdom ECM 4ST
10598	TUDOR INSURANCE COMPANY	50 WASHINGTON STREET KEENE, NH 03431
10599	U. S. UNDERWRITERS INSURANCE COMPANY	316 NORTH FIFTH STREET SIXTH FLOOR BISMARCK, ND 58501
10558	UNITED NATIONAL SPECIALTY INSURANCE COMPANY	411 EAST WISCONSIN AVENUE SUITE 700 MILWAUKEE, WI 53202
64798	UNITED SPECIALTY INSURANCE COMPANY	160 GREENTREE DRIVE SUITE 101 DOVER, DE 19904
82097	UTICA SPECIALTY RISK INSURANCE COMPANY	2435 N CENTRAL EXPRESSWAY SUITE 400 RICHARDSON, TX 75080
79945	VALIANT SPECIALTY INSURANCE COMPANY	BRANDYINE VILLAGE 1807 NORTH MARKET STREET WILMINGTON, DE 19802
10605	VOYAGER INDEMNITY INSURANCE COMPANY	260 INTERSTATE NORTH CIRCLE NW ATLANTA, GA 30339
10607	WESTCHESTER SURPLUS LINES INSURANCE COMPANY	500 COLONIAL CENTER PARKWAY SUITE 200 ROSWELL, GA 30076
10608	WESTERN HERITAGE INSURANCE COMPANY	9200 E. PIMA CENTER PKWY SUITE 350 SCOTTSDALE, AZ 85258
10610	WESTERN WORLD INSURANCE COMPANY	50 WASHINGTON STREET KEENE, NH 03431
49219	WILSHIRE INSURANCE COMPANY	702 OBERLIN ROAD RALEIGH, NC 27605-0800
70201	WIND RIVER REINSURANCE COMPANY, LTD	PURVIS HOUSE VICTORIA PLACE HAMILTON, Bermuda HM 10
10604	XL SELECT INSURANCE COMPANY	1209 ORANGE STREET WILMINGTON, DE 19801
10611	ZC SPECIALTY INSURANCE COMPANY	400 WEST 15TH STREET SUITE 710 AUSTIN, TX 78701

[Pa.B. Doc. No. 10-1305. Filed for public inspection July 16, 2010, 9:00 a.m.]

### **Geisinger Health Plan; Prehearing**

#### **Appeal of Geisinger Health Plan under 40 P. S. §§ 991.2101—991.2193; Thomas D. Keeler; Doc. No. HC10-06-009**

Under 40 P. S. §§ 991.2101—991.2193, notice is given that the appellant in this action has requested a hearing, in connection with the appellant's managed health care plan. The proceedings in this matter will be governed by 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), 1 Pa. Code Part II (relating

to General Rules of Administrative Practice and Procedure) and any other relevant procedure provisions of law.

A prehearing telephone conference initiated by the Administrative Hearings Office shall be conducted on August 26, 2010, at 9:30 a.m. Each party shall provide a telephone number to be used for the telephone conference to the Hearings Administrator on or before August 24, 2010. A date for a hearing shall be determined, if necessary, at the prehearing telephone conference.

Motions preliminary to those at hearing, protests, petitions to intervene or notices of intervention, if any,

must be filed on or before August 10, 2010, with the Hearings Administrator, Administrative Hearings Office, Capitol Associates Building, Room 200, 901 North Seventh Street, Harrisburg, PA 17102. Answer to petitions to intervene, if any shall be filed on or before August 24, 2010.

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, contact Donna R. Fleischauer, Human Resources Director at (717) 705-4194.

JOEL SCOTT ARIO,  
*Insurance Commissioner*

[Pa.B. Doc. No. 10-1306. Filed for public inspection July 16, 2010, 9:00 a.m.]

### **Pennsylvania 2009 Private Passenger Automobile Data Call (Act 6 Data Call)**

Each year, the Insurance Department (Department) conducts routine "Data Calls" to companies licensed to write motor vehicle insurance in this Commonwealth. Data Calls are used to monitor the auto insurance marketplace and to collect data for statutory reports. On July 2, 2010, the Department sent notification of Data Calls to be completed by companies who are licensed to write private passenger automobile insurance in this Commonwealth. The 2009 Data Call letter, instructions and data formats are available on the Department's web site <http://www.insurance.pa.gov>.

Companies with Pennsylvania private passenger automobile direct written premium in 2009 are required to complete Parts 1 and 2. Data for more than one insurance company may not be combined into a single submission. This information is to be submitted to the Department no later than October 15, 2010.

Insurance companies with no Pennsylvania private passenger automobile direct written premium in 2009 are required to submit only Part 2. This is to be submitted to the Department no later than October 15, 2010.

Consistent with previous Data Calls, the Department will consider the data submitted as proprietary and handle the data accordingly. See the instructions for additional information regarding the completion of the individual parts.

Submissions and inquiries should be directed to Bojan Zorkic, Insurance Department, Insurance Product Regulation and Administration, 1311 Strawberry Square, Harrisburg, PA 17120, [bzorkic@state.pa.us](mailto:bzorkic@state.pa.us), (717) 787-6968.

JOEL SCOTT ARIO,  
*Insurance Commissioner*

[Pa.B. Doc. No. 10-1307. Filed for public inspection July 16, 2010, 9:00 a.m.]

## **LEGISLATIVE REFERENCE BUREAU**

### **Documents Filed But Not Published**

The Legislative Reference Bureau (Bureau) accepted the following documents during the preceding calendar

month for filing without publication under 1 Pa. Code § 3.13(b) (relating to contents of *Bulletin*). The Bureau will continue to publish on a monthly basis either a summary table identifying the documents accepted during the preceding calendar month under this subsection or a statement that no documents have been received. For questions concerning or copies of documents filed, but not published, call (717) 783-1530.

### *Executive Board*

Resolution No. CB-10-002, Dated May 26, 2010. Attached is the Executive Board Resolution which authorizes the Memorandum of Agreement between the Commonwealth of Pennsylvania and AFSCME regarding PA Conservation Corps Crew Leaders effective January 1, 2009, through June 30, 2010.

Resolution No. CB-10-003, Dated May 26, 2010. Attached is the Executive Board Resolution which authorizes the side letter with AFSCME regarding the reimbursements and pay increases for certain employees with CPA licensure in the Department of Revenue, Bureau of Audits.

Resolution No. CB-10-004, Dated June 15, 2010. Attached is the Executive Board Resolution authorizing the implementation of the recent interest arbitration award for Game Conservation Officers for the period of July 1, 2008, through June 30, 2012.

### *Governor's Office*

Management Directive No. 215.8—Contractor Integrity Provisions for Commonwealth Contracts, Amended June 17, 2010.

Management Directive No. 245.15—Pennsylvania Statewide Radio Network, Amended June 24, 2010.

Management Directive No. 250.1—The Sunshine Act, Advertising Public Meetings, Amended June 24, 2010.

Management Directive No. 530.17—Partial and Full-Day Closings of State Offices, Amended May 25, 2010.

Administrative Circular No. 10-08—Closing Instruction No. 4, 2009-10 Fiscal Year; Funds Blocking/Lapse Transactions and Reporting Deadlines, Dated May 20, 2010.

Administrative Circular No. 10-09—Closing Instruction No. 5, 2009-10 Fiscal Year; Year-End Processing Deadlines, Dated May 20, 2010.

Administrative Circular No. 10-10—Revenue Estimates, 2011-12 Fiscal Years, Dated June 21, 2010.

MARY JANE PHELPS,  
*Director*  
*Pennsylvania Code and Bulletin*

[Pa.B. Doc. No. 10-1308. Filed for public inspection July 16, 2010, 9:00 a.m.]

## **PENNSYLVANIA EMERGENCY MANAGEMENT AGENCY**

### **Application for the Volunteer Fire Company and Volunteer Ambulance Services Grant Program**

This notice provides information about the Volunteer Fire Company and Volunteer Ambulance Services Grant

Program (Program). Volunteer fire companies and volunteer ambulance services seeking grants under the Program shall submit completed applications no later than 4 p.m. on October 22, 2010. Written instructions and guidelines for the Program will be available online at the Office of State Fire Commissioner (Commissioner) web site [www.osfc.state.pa.us](http://www.osfc.state.pa.us) no later than September 1, 2010. Grant applications will be available online at the Commissioner's web site no later than September 7, 2010.

This notice is provided in accordance with section 302.1 of the Volunteer Fire Company and Volunteer Ambulance Service Grant Act (35 P. S. § 6942.302.1).

ROBERT P. FRENCH,  
*Director*

[Pa.B. Doc. No. 10-1309. Filed for public inspection July 16, 2010, 9:00 a.m.]

## PENNSYLVANIA PUBLIC UTILITY COMMISSION

### Acquisition of Tangible Property

**A-2010-2185172 and P-2010-2185173. Trigen-Philadelphia Energy Corporation.** Application of Trigen-Philadelphia Energy Corporation for approval of the acquisition by long-term lease of tangible property between the Trustees of the University of Pennsylvania and Trigen; and the petition of Trigen-Philadelphia Energy Corporation for approval of economic development and load stabilization rider agreement and related operations and maintenance agreement.

Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). Filings must be made with the Secretary of the Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant, on or before August 2, 2010. The documents filed in support of the application are available for inspection and copying at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday, and at the applicant's business address.

*Applicant:* Trigen-Philadelphia Energy Corporation

*Through and By Counsel:* Barnett Satinsky, Esquire, Christine Soares, Esquire, Fox Rothschild, LLP, 2000 Market Street, 20th Floor, Philadelphia, PA 19103-3222

ROSEMARY CHIAVETTA,  
*Secretary*

[Pa.B. Doc. No. 10-1310. Filed for public inspection July 16, 2010, 9:00 a.m.]

### Service of Notice of Motor Carrier Applications

The following temporary authority and/or permanent authority applications for the right to render service as a common carrier or contract carrier in this Commonwealth have been filed with the Pennsylvania Public Utility Commission. Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). A protest shall indicate whether it applies to the temporary authority application, the permanent authority application, or both. Filings must be made

with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant by August 2, 2010. Documents filed in support of the applications are available for inspection and copying at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday, and at the business address of the respective applicant.

### Applications of the following for approval to *begin operating as common carriers for transportation of persons as described under each application.*

**A-2010-2182939. Continental Limousine Service, LLC** (400 East King Street, Suite 3, Malvern, Chester County, PA 19355)—for the right to begin, as a common carrier, persons in limousine service, from points in the Counties of Chester, Montgomery, Bucks, Delaware, York, Lancaster, Berks, Lehigh, Northampton and Philadelphia, to points in Pennsylvania, and return, excluding areas under the jurisdiction of the Philadelphia Parking Authority.

**A-2010-2183554. Meadville Area Ambulance Service, LLC** (592 Williamson Road, Meadville, Crawford County, PA 16335)—a limited liability company of the Commonwealth—for the right to begin to transport persons, in paratransit service, from points in Crawford County to points in Pennsylvania, and return. *Attorney:* David M. O'Boyle, Wick, Streiff, Meyer, O'Boyle & Szeligo, P.C., 1450 Two Chatham Center, Pittsburgh, PA 15219.

**A-2010-2184603. Wyoming Valley Professional Ambulance Service, Inc.** (842 East Northampton Street, Wilkes-Barre, Luzerne County, PA 18702), a corporation of the Commonwealth—persons, in paratransit service, between points in Pennsylvania, and return.

**A-2010-2184921. 1st Choice Limousine & Transportation Group, LLC** (526 Mockingbird Way, Warrington, Bucks County, PA 18976), a limited liability company of the Commonwealth—persons, in limousine service, from points in the Counties of Montgomery, Bucks, Delaware and Chester, to points in Pennsylvania, and return, excluding service that is under the jurisdiction of the Philadelphia Parking Authority. *Attorney:* David P. Temple, Gallagher, Malloy & Georges, Suite 1100, 1760 Market Street, Philadelphia, PA 19103-9104.

**A-2010-2185476. Valley Forge Limo Co., LLC** (931 Penn Circle, Unit B-206, King of Prussia, Montgomery County, PA 19406), a limited liability company of the Commonwealth—persons, in limousine service, from points in the Counties of Montgomery, Bucks, Delaware, Chester and Lehigh, to points in Pennsylvania, and return, excluding service which is under the jurisdiction of the Philadelphia Parking Authority. *Attorney:* David P. Temple, Esquire, Gallagher, Malloy & Georges, 1760 Market Street, Suite 1100, Philadelphia, PA 19103-4104.

**A-2010-2185923. Benjamin Pickel** (P. O. Box 212, Ronks, Lancaster County, PA 17572), for the right to begin to transport persons, in paratransit service, limited to persons whose personal convictions prevent them from owning or operating motor vehicles, from points in Lancaster County, to points in Pennsylvania, and return.

**A-2010-2186028. Tastings and Tours, LLC, t/a Tastings and Tours**, a limited liability company of the Commonwealth (894 Doyletown Pike, Quakertown, Bucks County, PA 18951)—persons on private winery and brewery tours, in group and party service, in vehicles seating 11 to 15 passengers, including the driver, between points in the Counties of Bucks, Lehigh, Northampton and Berks.



**Application of the following for approval to begin operating as a broker for transportation of persons as described under the application.**

**A-2010-2186051. Access Transport Services Holding, Inc., d/b/a Accesson Time** (3210 Lake Emma Road, Suite 3090, Lake Mary, FL 32746), a corporation of the State of Delaware—brokerage license—for the transportation of persons between points in Pennsylvania. *Attorney:* Christopher A. Lewis, Blank Rome, LLP, 130 North 18th Street, 16th Floor, One Logan Square, Philadelphia, PA 19103.

**Application of the following for the approval of the transfer of stock as described under the application.**

**A-2010-2184889. Allegheny Valley Transfer Co.** (1512 Lebanon Church Road, Pittsburgh, Allegheny County, PA 15236)—a corporation of the Commonwealth—approval of the transfer of 50 shares of the issued stock, from the estate of Howard A. Jessup to Mary L. Jessup. *Attorney:* David M. O'Boyle, 1450 Two Chatham Center, 112 Washington Place, Pittsburgh, PA 152198-3455.

**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-2010-2183872. Michael Lee and Trudy Kay Bennett, Tenants by Entirety, t/a Bennett's Limousine Company** (339 Frosty Valley Road, Danville, Columbia County, PA 17815)—for the discontinuance of service and cancellation of its certificate as a common carrier, persons in limousine service, between points in the Counties Columbia, Montour and Sullivan, and from points in said counties, to points in Pennsylvania, and return.

**A-2010-2183889. William F. March t/a Eagle Valley Transportation** (2298 William Penn Way, Lancaster, Lancaster County, PA 17601)—for the discontinuance of service and cancellation of its certificate as a common carrier, persons in paratransit service, limited to persons whose personal convictions prevent them from owning or operating motor vehicles, from points in the County of Lancaster, to points in Pennsylvania, and return.

**A-2010-2183905. Robert Weir** (284 South Sandy Hill Road, Coatesville, Chester County, PA 19320)—for the discontinuance of service and cancellation of its certificate as a common carrier, persons in paratransit service, limited to persons whose personal convictions prevent them from owning or operating motor vehicles, from points in the County of Chester, to points in Pennsylvania, and return.

**A-2010-2185213. Daniel D. Paugh** (187 Keefer Lane, New Columbia, Union County, PA 17856)—for the discontinuance of service and cancellation of his certificate, as a common carrier, by motor vehicle, authorizing the transportation of persons in paratransit service, limited to persons whose personal convictions prevent them from owning or operating vehicles, from: (1) points in the Township of White Deer, Union County, and within 35 statute miles of said township, to points in Pennsylvania, and return; and (2) from points in the Township of Watsonstown, Northumberland County, and within 35 statute miles of said township, to points in Pennsylvania, and return.

*Pennsylvania Public Utility Commission, Bureau of Transportation and Safety v. Westmoreland Aerosports, Inc., t/a A Sky Limousine;*  
Doc. No. C-2010-2087754

### COMPLAINT

The Pennsylvania Public Utility Commission (Commission) is a duly constituted agency of the Commonwealth of Pennsylvania empowered to regulate public utilities within the Commonwealth. The Commission has delegated its authority to initiate proceedings which are prosecutory in nature to the Bureau of Transportation and Safety and other bureaus with enforcement responsibilities. Pursuant to that delegated authority and Section 701 of the Public Utility Code, the Bureau of Transportation and Safety Prosecutory Staff hereby represents as follows:

1. That Westmoreland Aerosports, Inc., t/a A Sky Limousine, respondent, maintains its principal place of business at 4039 Benden Circle, Murrysburg, Westmoreland County, PA 15668.

2. That respondent was issued a certificate of public convenience by this Commission on May 17, 2004, at Application Docket No. A-00120542 for group and party 11—15 authority.

3. Pursuant to 66 Pa.C.S. § 506, duly authorized officers of the PA Public Utility Commission have the power and authority to inspect, inquire, and investigate all property, records, books, papers, accounts, and documents, of any public utility, whenever necessary, in carrying out their duties.

4. On June 1, 9, 17, 25, and July 1, 2009, Enforcement Officer Andrew Rosenberger, of the Pittsburgh District Office, attempted to contact respondent by telephone to schedule its annual inspection of its vehicles. Each attempt was unsuccessful and each time Officer Rosenberger left a voice mail message. On July 20, 2009, Officer Rosenberger visited respondent's place of business and left a typed message advising respondent to contact the Pittsburgh District Office to schedule its annual inspection. On July 22, 2009, the Pittsburgh District Office sent a certified letter to the respondent advising them to make their group and party vehicles available for inspection on July 30, 2009, at 9:30 a.m. On July 30, 2009, Officer Rosenberger arrived at 4039 Benden Circle, Murrysburg, at 9:00 a.m. The respondent did not arrive and Officer Rosenberger left at 10:00 a.m. The certified letter sent by the Pittsburgh District Office on July 22, 2009, was returned "unclaimed" on August 11, 2009. A certified letter dated November 10, 2009 was sent to carrier advising carrier that its annual inspection of limousines was scheduled for November 30, 2009, at 10:00 a.m. The letter also advised the carrier that penalties would be imposed, including cancellation of its certificate of public convenience, if the carrier did not cooperate with its inspection. The November 10, 2009 certified letter was served on November 30, 2009. On November 30, 2009, Officer Rosenberger arrived at the carrier's place of business and waited until 3:30 p.m. and then left because the carrier did not arrive. As of this date, the respondent has not contacted the Pittsburgh District Office to schedule its annual inspection and has not cooperated with the Commission in aid of its inspection of its group and party 11—15 operations.

5. That respondent, by failing to cooperate with an officer's continuous attempt to inspect its transportation operation, violated 66 Pa.C.S. § 505. The penalty is \$500.00 per day, with a maximum penalty of \$10,000.00 for one month, for a total penalty of \$10,000.00.

Wherefore, the Bureau of Transportation and Safety Prosecutory Staff hereby requests that the Commission fine Westmoreland Aerosports, Inc., t/a A Sky Limousine the sum of ten thousand dollars (\$10,000.00), for the illegal activity described in this complaint, and order such other remedy as the Commission may deem to be appropriate.

Respectfully submitted,

Wendy J. Keezel, Chief of Enforcement  
Motor Carrier Services & Enforcement Division  
Bureau of Transportation and Safety  
P. O. Box 3265  
Harrisburg, PA 17105-3265

#### VERIFICATION

I, Wendy J. Keezel, Chief of Enforcement for the Motor Carrier Services and Enforcement Division of the Bureau of Transportation and Safety, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect the Bureau will be able to prove the same at any hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: \_\_\_\_\_

Wendy J. Keezel, Chief of Enforcement  
Motor Carrier Services and Enforcement  
Division  
Bureau of Transportation and Safety

#### NOTICE

A. You must file an answer within twenty (20) days of the date of service of this complaint. The date of service is the mailing date as indicated at the top of the Secretarial cover letter for this complaint and notice, 52 Pa. Code § 1.56(a). An answer is a written explanation of circumstances wished to be considered in determining the outcome. The answer shall raise all factual and legal arguments that you wish to claim in your defense and must include the reference number of this complaint. Your answer must be verified and the original and three (3) copies sent to:

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
P. O. Box 3265  
Harrisburg, PA 17105-3265

B. If you fail to answer this complaint within twenty (20) days, the Bureau of Transportation and Safety will request that the Commission issue an Order imposing a penalty. The penalty could include a fine, the suspension or revocation of your certificate of public convenience or other remedy.

C. You may elect not to contest this complaint by paying the fine proposed in this complaint by certified check or money order. Payment must be made to the Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Your payment is an admission that you committed the alleged violation and an agreement to cease and desist from further violations. Upon receipt of your payment, the complaint proceeding shall be closed.

D. If you file an Answer which admits or fails to deny the allegations of the Complaint, the Bureau of Transportation and Safety will request that the Commission issue an Order imposing a penalty.

E. If you file an answer which contests the complaint, the matter will be assigned to an administrative law judge for hearing and decision.

F. If you have questions regarding this Complaint or if you would like an alternative format of this complaint (for persons with disabilities) please contact the Compliance Office at (717) 787-1227.

*Pennsylvania Public Utility Commission Bureau of  
Transportation and Safety v. Martin Kabachia Kamau;  
Doc. No. C-2009-2135513*

#### COMPLAINT

The Pennsylvania Public Utility Commission (Commission) is a duly constituted agency of the Commonwealth of Pennsylvania empowered to regulate public utilities within the Commonwealth. The Commission has delegated its authority to initiate proceedings which are prosecutory in nature to the Bureau of Transportation and Safety and other bureaus with enforcement responsibilities. Pursuant to that delegated authority and Section 701 of the Public Utility Code, the Bureau of Transportation and Safety Prosecutory Staff hereby represents as follows:

1. That all authority issued to Martin Kabachia Kamau (respondent) is under suspension effective October 14, 2009, for failure to maintain evidence of insurance on file with this Commission.

2. That respondent maintains a principal place of business at 710 Hanover Manor, 207E, Carlisle, PA 17013.

3. That respondent was issued a Certificate of Public Convenience by this Commission on April 28, 2008, at A-00122348.

4. That respondent has failed to maintain evidence of Liability insurance on file with this Commission. The penalty is \$250 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 \$250 and 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 Transportation and Safety Prosecutory Staff will request that the Commission issue an Order which: (1) cancels the Certificate of Public Convenience held by respondent at A-00122348 for failure to maintain evidence of current insurance on file with the Commission; (2) fines Respondent the sum of two hundred and fifty dollars (\$250.00) 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,

Wendy J. Keezel, Chief of Enforcement  
Motor Carrier Services & Enforcement Division  
Bureau of Transportation and Safety  
P. O. Box 3265  
Harrisburg, PA 17105-3265

#### VERIFICATION

I, Wendy J. Keezel, 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: \_\_\_\_\_

Wendy J. Keezel, Chief of Enforcement  
Motor Carrier Services and Enforcement  
Division  
Bureau of Transportation and Safety

#### NOTICE

A. You must file an Answer within twenty (20) days of the date of service of this Complaint. The date of service is the mailing date as indicated at the top of the Secretarial Cover Letter for this Complaint and Notice, 52 Pa. Code § 1.56(a). An Answer is a written explanation of circumstances wished to be considered in determining the outcome. The Answer shall raise all factual and legal arguments that you wish to claim in your defense and must include the reference number of this Complaint. Your Answer must be verified and the original and three (3) copies sent to:

James J. McNulty, Secretary  
Pennsylvania Public Utility Commission  
P. O. Box 3265  
Harrisburg, PA 17105-3265

B. If you fail to answer this Complaint within twenty (20) days of the date of service, the Bureau of Transportation and Safety will request that the Commission issue an Order imposing a penalty. Pursuant to 66 Pa.C.S. § 3301(a), the penalty could include a fine of up to \$1,000 for each violation, the revocation of your Certificate of Public Convenience, or any other remedy as may be appropriate. Each day you continue to violate any regulation, direction, requirement, determination or Order of the Commission is a separate and distinct offense, subject to additional penalties.

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 \$250 fine proposed in the Complaint by certified check or money order within twenty (20) days of the date of service of this Complaint.

The proof of insurance must be filed with the:

Compliance Office, Bureau of Transportation  
and Safety  
Pennsylvania Public Utility Commission  
P. O. Box 3265  
Harrisburg, PA 17105-3265

Acord Certificates of Insurance and Faxed Form Es and Hs are Unacceptable as Evidence of Insurance.

The fine payment must be made to the Commonwealth of Pennsylvania and forwarded to:

James J. McNulty, 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 receipt of your fine payment, the Complaint proceeding shall be closed.

D. If you file an Answer which admits or fails to deny the allegations of the Complaint, the Bureau of Transportation and Safety will request that the Commission issue

an Order imposing a penalty, which may include the cancellation of your Certificate of Public Convenience. Should the Commission cancel your Certificate of Public Convenience, it may also impose an additional fine of up to \$1,000.

E. If you file an Answer which contests the Complaint, the matter will be assigned to an Administrative Law Judge for hearing and decision. The judge is not bound by the optional fine set forth above.

F. If you have questions regarding this Complaint or if you would like an alternative format of this Complaint (for persons with disabilities), please contact the Compliance Office at (717) 787-1227.

\_\_\_\_\_  
*Pennsylvania Public Utility Commission, Bureau of  
Transportation and Safety v. Alpha Moving & Storage  
(PA), Inc., t/a A Pioneer Moving System;  
Doc. No. C-2010-2172261*

#### COMPLAINT

The Pennsylvania Public Utility Commission (Commission) is a duly constituted agency of the Commonwealth of Pennsylvania empowered to regulate public utilities within the Commonwealth. The Commission has delegated its authority to initiate proceedings which are prosecutory in nature to the Bureau of Transportation and Safety and other Bureaus with enforcement responsibilities. Pursuant to that delegated authority and Section 701 of the Public Utility Code, the Bureau of Transportation and Safety Prosecutory Staff hereby represents as follows:

1. That Alpha Moving & Storage (PA), Inc., t/a A Pioneer Moving System, Respondent, maintains its principal place of business at 13451 Damar Drive, Philadelphia, PA 19116.

2. That Respondent was issued a Certificate of Public Convenience by this Commission on April 1, 1999, at Application Docket No. A-00115139, F.2.

3. That on December 20, 2007, Respondent received an initial assessment of \$431.00. On August 29, 2008, Respondent received an initial assessment of \$440.00, and on September 9, 2009, Respondent received an initial assessment of \$462.00. Respondent failed to pay these assessments; therefore, a balance was due in the amount of \$1,333.00.

4. That Respondent has an outstanding assessment of \$1,333.00.

5. That Respondent failed to file objections to the assessment, pursuant to 66 Pa.C.S. § 510(c).

6. That Respondent, by failing to pay the assessment, violated the Public Utility Code at 66 Pa.C.S. § 510(c).

Wherefore, unless Respondent pays the overdue assessment in full within twenty days of the date of service of this Complaint, the Bureau of Transportation and Safety Prosecutory Staff hereby requests that the Commission issue an Order which cancels the Certificate of Public Convenience issued to Respondent, notifies the Pennsylvania Department of Revenue that Respondent's Certificate of Public Convenience has been revoked, notifies Respondent's insurance carrier that Respondent's Certificate of Public Convenience has been revoked, and imposes an additional fine on the Respondent.



Respectfully submitted,

Wendy J. Keezel, Chief of Enforcement  
Motor Carrier Services & Enforcement Division  
Bureau of Transportation and Safety  
P. O. Box 3265  
Harrisburg, PA 17105-3265

#### VERIFICATION

I, Wendy J. Keezel, 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 to be able to prove the same at any hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: \_\_\_\_\_

Wendy J. Keezel, Chief of Enforcement  
Motor Carrier Services and Enforcement  
Division  
Bureau of Transportation and Safety

#### NOTICE

A. You must file an Answer within twenty days of the date of service of this Complaint. The date of service is the mailing date as indicated at the top of the Secretarial Cover Letter for this Complaint and Notice, 52 Pa. Code § 1.56(a). The Answer shall raise all factual and legal arguments that you wish to claim in your defense and must include the reference number of this Complaint. Your Answer must be verified and the original and three copies sent to:

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
P. O. Box 3265  
Harrisburg, PA 17105-3265

B. If you fail to answer this Complaint within twenty days, the Bureau of Transportation and Safety will request that the Commission issue an Order imposing a penalty. Pursuant to 66 Pa.C.S. § 3301(a), the penalty could include a fine of up to \$1,000 for each violation, the revocation of your Certificate of Public Convenience, or any other remedy as may be appropriate.

C. You may elect not to contest this Complaint by paying your outstanding assessment within twenty (20) days. Your certified check or money order for the assessment should be payable to the Commonwealth of Pennsylvania and should be forwarded to:

Bureau of Administrative Services  
Pennsylvania Public Utility Commission  
P. O. Box 3265  
Harrisburg, PA 17105-3265

D. If you file an Answer which either admits or fails to deny the allegations of the Complaint, the Bureau of Transportation and Safety will request the Commission to issue an Order imposing a penalty (see Paragraph B). Should the Commission cancel your Certificate of Public Convenience, it may also impose an additional fine of up to \$1,000.

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 Paragraph B.

F. If you have questions regarding this Complaint, or if you would like an alternative format of this Complaint for persons with disabilities, please contact the Compliance Office at 717-787-1227.

*Pennsylvania Public Utility Commission, Bureau of  
Transportation and Safety v. S & V Cab Co.;  
Doc. No. C-2010-2132483, A-00116863*

#### COMPLAINT

The Pennsylvania Public Utility Commission (Commission) is a duly constituted agency of the Commonwealth of Pennsylvania empowered to regulate public utilities within the Commonwealth. The Commission has delegated its authority to initiate proceedings, which are prosecutory in nature to the Bureau of Transportation and Safety and other bureaus with enforcement responsibilities. Pursuant to that delegated authority and Section 701 of the Public Utility Code, the Bureau of Transportation and Safety Prosecutory Staff hereby represents as follows:

1. That S & V Cab Co., Respondent, maintains a principal place of business at 1100 Spring Street, Philadelphia, PA 19123.

2. That Respondent was issued a Certificate of Public Convenience by this Commission on June 14, 2000, at A-00116863.

3. That Respondent was advised by letter dated May 10, 2005, that its medallion authority was being transferred to the Philadelphia Parking Authority. At that time, Respondent was advised that its taxicab service which had an origin and destination outside of the City of Philadelphia remained subject to the regulatory oversight of the PA PUC.

4. That Respondent was advised by letter dated September 11, 2009, that it failed to file a valid tariff with this Commission as required by 52 Pa. Code § 23.11. Respondent was provided 60 days to file an acceptable tariff. To date, Respondent has not filed an acceptable tariff. The Bureau of Transportation and Safety's Motor Carrier Services and Enforcement Prosecutory Staff's proposed civil penalty for this violation is \$250.00.

Wherefore, the Bureau of Transportation and Safety Prosecutory Staff hereby requests that the Commission fine S & V Cab Co., the sum of two hundred and fifty dollars (\$250.00) for the illegal activity described in the complaint and order such other remedy as the Commission may deem to be appropriate.

Respectfully submitted,

Wendy J. Keezel, Chief of Enforcement  
Motor Carrier Services & Enforcement Division  
Bureau of Transportation and Safety  
P. O. Box 3265  
Harrisburg, PA 17105-3265

#### VERIFICATION

I, Wendy J. Keezel, Chief of Enforcement for the Motor Carrier Services and Enforcement Division of the Bureau of Transportation and Safety, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect the Bureau will be able to prove the same at any hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: \_\_\_\_\_

Wendy J. Keezel, Chief of Enforcement  
Motor Carrier Services and Enforcement  
Division  
Bureau of Transportation and Safety



NOTICE

A. You must file an answer within twenty (20) days of the date of service of this complaint. The date of service is the mailing date as indicated at the top of the Secretarial cover letter for this complaint and notice, 52 Pa. Code § 1.56(a). An answer is a written explanation of circumstances wished to be considered in determining the outcome. The answer shall raise all factual and legal arguments that you wish to claim in your defense and must include the reference number of this complaint. Your answer must be verified and the original and three (3) copies sent to:

James J. McNulty, Secretary  
 Pennsylvania Public Utility Commission  
 P. O. Box 3265  
 Harrisburg, PA 17105-3265

B. If you fail to answer this complaint within twenty (20) days of the date of service, the Bureau of Transportation and Safety will request that the Commission issue a Secretarial Letter imposing a penalty. Each day you continue to violate any regulation, direction, requirement or Order of the Commission is a separate and distinct offense, subject to additional penalties.

D. You may elect not to contest this complaint by filing an acceptable tariff and by paying the fine proposed in this Complaint by certified check or money order. The tariff must be filed with the:

Compliance Office, Bureau of Transportation  
 and Safety  
 Pennsylvania Public Utility Commission  
 P. O. Box 3265  
 Harrisburg, PA 17105-3265

The fine payment must be made to the Commonwealth of Pennsylvania and should be forwarded to:

James J. McNulty, 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 an acceptable tariff and payment of the proposed fine, the complaint proceeding shall be closed.

E. If you file an Answer, which admits or fails to deny the allegations of the Complaint, the Bureau of Transportation and Safety will request that the Commission issue a Secretarial Letter imposing a penalty.

F. If you file an Answer which contests the Complaint, the matter will be assigned to an Administrative Law Judge for hearing and decision. The judge is not bound by the optional fine set forth above.

G. If you have questions regarding this Complaint or if you would like an alternative format to this Complaint (for persons with disabilities), please contact the Compliance Office at (717) 787-1227.

*Pennsylvania Public Utility Commission, Bureau of  
 Transportation and Safety v. La Cayenne Cab Co.;  
 Doc. No. C-2010-2131211, A-00116158*

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 del-

egated its authority to initiate proceedings, which are prosecutory in nature to the Bureau of Transportation and Safety and other bureaus with enforcement responsibilities. Pursuant to that delegated authority and Section 701 of the Public Utility Code, the Bureau of Transportation and Safety Prosecutory Staff hereby represents as follows:

1. That La Cayenne Cab Co., Respondent, maintains a principal place of business at 1336 Arrott Street, Apt. A12A, Philadelphia, PA 19134.

2. That Respondent was issued a Certificate of Public Convenience by this Commission on September 24, 1999, at A-00116158.

3. That Respondent was advised by letter dated May 10, 2005, that its medallion authority was being transferred to the Philadelphia Parking Authority. At that time, Respondent was advised that its taxicab service which had an origin and destination outside of the City of Philadelphia remained subject to the regulatory oversight of the PA PUC.

4. That Respondent was advised by letter dated September 4, 2009, that it failed to file a valid tariff with this Commission as required by 52 Pa. Code § 23.11. Respondent was provided 60 days to file an acceptable tariff. To date, Respondent has not filed an acceptable tariff. The Bureau of Transportation and Safety's Motor Carrier Services and Enforcement Prosecutory Staff's proposed civil penalty for this violation is \$250.00.

Wherefore, the Bureau of Transportation and Safety Prosecutory Staff hereby requests that the Commission fine La Cayenne Cab Co., the sum of two hundred and fifty dollars (\$250.00) for the illegal activity described in the complaint and order such other remedy as the Commission may deem to be appropriate.

Respectfully submitted,

Wendy J. Keezel, Chief of Enforcement  
 Motor Carrier Services & Enforcement Division  
 Bureau of Transportation and Safety  
 P. O. Box 3265  
 Harrisburg, PA 17105-3265

VERIFICATION

I, Wendy J. Keezel, Chief of Enforcement for the Motor Carrier Services and Enforcement Division of the Bureau of Transportation and Safety, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect the Bureau will be able to prove the same at any hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: \_\_\_\_\_

Wendy J. Keezel, Chief of Enforcement  
 Motor Carrier Services and Enforcement  
 Division  
 Bureau of Transportation and Safety

NOTICE

A. You must file an answer within twenty (20) days of the date of service of this complaint. The date of service is the mailing date as indicated at the top of the Secretarial cover letter for this complaint and notice, 52 Pa. Code § 1.56(a). An answer is a written explanation of circumstances wished to be considered in determining the outcome. The answer shall raise all factual and legal arguments that you wish to claim in your defense and

must include the reference number of this complaint. Your answer must be verified and the original and three (3) copies sent to:

James J. McNulty, Secretary  
Pennsylvania Public Utility Commission  
P. O. Box 3265  
Harrisburg, PA 17105-3265

B. If you fail to answer this complaint within twenty (20) days of the date of service, the Bureau of Transportation and Safety will request that the Commission issue a Secretarial Letter imposing a penalty. Each day you continue to violate any regulation, direction, requirement or Order of the Commission is a separate and distinct offense, subject to additional penalties.

C. You may elect not to contest this complaint by filing an acceptable tariff and by paying the fine proposed in this Complaint by certified check or money order. The tariff must be filed with the:

Compliance Office, Bureau of Transportation  
and Safety  
Pennsylvania Public Utility Commission  
P. O. Box 3265  
Harrisburg, PA 17105-3265

The fine payment must be made to the Commonwealth of Pennsylvania and should be forwarded to:

James J. McNulty, 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 an acceptable tariff and payment of the proposed fine, the complaint proceeding shall be closed.

D. If you file an Answer, which admits or fails to deny the allegations of the Complaint, the Bureau of Transportation and Safety will request that the Commission issue a Secretarial Letter imposing a penalty.

E. If you file an Answer which contests the Complaint, the matter will be assigned to an Administrative Law Judge for hearing and decision. The judge is not bound by the optional fine set forth above.

F. If you have questions regarding this Complaint or if you would like an alternative format to this Complaint (for persons with disabilities), please contact the Compliance Office at (717) 787-1227.

*Pennsylvania Public Utility Commission, Bureau of  
Transportation and Safety v. J & H Cab Co.;  
Doc. No. C-2010-2131185, A-00110142*

#### COMPLAINT

The Pennsylvania Public Utility Commission (Commission) is a duly constituted agency of the Commonwealth of Pennsylvania empowered to regulate public utilities within the Commonwealth. The Commission has delegated its authority to initiate proceedings, which are prosecutory in nature to the Bureau of Transportation and Safety and other bureaus with enforcement responsibilities. Pursuant to that delegated authority and Section 701 of the Public Utility Code, the Bureau of Transportation and Safety Prosecutory Staff hereby represents as follows:

1. That J & H Cab Co., Respondent, maintains a principal place of business at 325 Brigade Court, Wayne, PA 19087.

2. That Respondent was issued a Certificate of Public Convenience by this Commission on January 25, 1993, A-00110142.

3. That Respondent was advised by letter dated May 10, 2005, that its medallion authority was being transferred to the Philadelphia Parking Authority. At that time, Respondent was advised that its taxicab service which had an origin and destination outside of the City of Philadelphia remained subject to the regulatory oversight of the PA PUC.

4. That Respondent was advised by letter dated September 4, 2009, that it failed to file a valid tariff with this Commission as required by 52 Pa. Code § 23.11. Respondent was provided 60 days to file an acceptable tariff. To date, Respondent has not filed an acceptable tariff. The penalty is \$250.00.

Wherefore, the Bureau of Transportation and Safety Prosecutory Staff hereby requests that the Commission fine J & H Cab Co., the sum of two hundred and fifty dollars (\$250.00) for the illegal activity described in the complaint and order such other remedy as the Commission may deem to be appropriate.

Respectfully submitted,

Wendy J. Keezel, Chief of Enforcement  
Motor Carrier Services & Enforcement Division  
Bureau of Transportation and Safety  
P. O. Box 3265  
Harrisburg, PA 17105-3265

#### VERIFICATION

I, Wendy J. Keezel, Chief of Enforcement for the Motor Carrier Services and Enforcement Division of the Bureau of Transportation and Safety, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect the Bureau will be able to prove the same at any hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: \_\_\_\_\_

Wendy J. Keezel, Chief of Enforcement  
Motor Carrier Services and Enforcement  
Division  
Bureau of Transportation and Safety

#### NOTICE

A. You must file an answer within twenty (20) days of the date of service of this complaint. The date of service is the mailing date as indicated at the top of the Secretarial cover letter for this complaint and notice, 52 Pa. Code § 1.56(a). An answer is a written explanation of circumstances wished to be considered in determining the outcome. The answer shall raise all factual and legal arguments that you wish to claim in your defense and must include the reference number of this complaint. Your answer must be verified and the original and three (3) copies sent to:

James J. McNulty, Secretary  
Pennsylvania Public Utility Commission  
P. O. Box 3265  
Harrisburg, PA 17105-3265

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tion and Safety will request that the Commission issue a Secretarial Letter imposing a penalty. Each day you continue to violate any regulation, direction, requirement or Order of the Commission is a separate and distinct offense, subject to additional penalties.

C. You may elect not to contest this complaint by filing an acceptable tariff and by paying the fine proposed in this Complaint by certified check or money order. The tariff must be filed with the:

Compliance Office, Bureau of Transportation  
and Safety  
Pennsylvania Public Utility Commission  
P. O. Box 3265  
Harrisburg, PA 17105-3265

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James J. McNulty, Secretary  
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D. If you file an Answer, which admits or fails to deny the allegations of the Complaint, the Bureau of Transportation and Safety will request that the Commission issue a Secretarial Letter imposing a penalty.

E. If you file an Answer which contests the Complaint, the matter will be assigned to an Administrative Law Judge for hearing and decision. The judge is not bound by the optional fine set forth above.

F. If you have questions regarding this Complaint or if you would like an alternative format to this Complaint (for persons with disabilities), please contact the Compliance Office at (717) 787-1227.

*Pennsylvania Public Utility Commission, Bureau of  
Transportation and Safety v. Wlawala Cab Co.;  
Doc. No. C-2010-2135200, A-00118559*

#### COMPLAINT

The Pennsylvania Public Utility Commission (Commission) is a duly constituted agency of the Commonwealth of Pennsylvania empowered to regulate public utilities within the Commonwealth. The Commission has delegated its authority to initiate proceedings, which are prosecutory in nature to the Bureau of Transportation and Safety and other bureaus with enforcement responsibilities. Pursuant to that delegated authority and Section 701 of the Public Utility Code, the Bureau of Transportation and Safety Prosecutory Staff hereby represents as follows:

1. That Wlawala Cab Co., Respondent, maintains a principal place of business at 1100 Spring Garden Street, Philadelphia, PA 19123.

2. That Respondent was issued a Certificate of Public Convenience by this Commission on March 28, 2002, at A-00118559.

3. That Respondent was advised by letter dated May 10, 2005, that its medallion authority was being transferred to the Philadelphia Parking Authority. At that time, Respondent was advised that its taxicab service

which had an origin and destination outside of the City of Philadelphia remained subject to the regulatory oversight of the PA PUC.

4. That Respondent was advised by letter dated September 11, 2009, that it failed to file a valid tariff with this Commission as required by 52 Pa. Code § 23.11. Respondent was provided 60 days to file an acceptable tariff. To date, Respondent has not filed an acceptable tariff. The Bureau of Transportation and Safety's Motor Carrier Services and Enforcement Prosecutory Staff's proposed civil penalty for this violation is \$250.00.

Wherefore, the Bureau of Transportation and Safety Prosecutory Staff hereby requests that the Commission fine Wlawala Cab Co., the sum of two hundred and fifty dollars (\$250.00) for the illegal activity described in the complaint and order such other remedy as the Commission may deem to be appropriate.

Respectfully submitted,

Wendy J. Keezel, Chief of Enforcement  
Motor Carrier Services & Enforcement Division  
Bureau of Transportation and Safety  
P. O. Box 3265  
Harrisburg, PA 17105-3265

#### VERIFICATION

I, Wendy J. Keezel, Chief of Enforcement for the Motor Carrier Services and Enforcement Division of the Bureau of Transportation and Safety, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect the Bureau will be able to prove the same at any hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: \_\_\_\_\_

Wendy J. Keezel, Chief of Enforcement  
Motor Carrier Services and Enforcement  
Division  
Bureau of Transportation and Safety

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James J. McNulty, Secretary  
Pennsylvania Public Utility Commission  
P. O. Box 3265  
Harrisburg, PA 17105-3265

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F. If you have questions regarding this Complaint or if you would like an alternative format to this Complaint (for persons with disabilities), please contact the Compliance Office at (717) 787-1227.

*Pennsylvania Public Utility Commission, Bureau of  
Transportation and Safety v. Dialmaad Cab, Inc.;  
Doc. No. C-2010-2133704, A-00117459*

#### COMPLAINT

The Pennsylvania Public Utility Commission (Commission) is a duly constituted agency of the Commonwealth of Pennsylvania empowered to regulate public utilities within the Commonwealth. The Commission has delegated its authority to initiate proceedings, which are prosecutory in nature to the Bureau of Transportation and Safety and other bureaus with enforcement responsibilities. Pursuant to that delegated authority and Section 701 of the Public Utility Code, the Bureau of Transportation and Safety Prosecutory Staff hereby represents as follows:

1. That Dialmaad Cab, Inc., Respondent, maintains a principal place of business at 1100 Spring Garden Street, Philadelphia, PA 19123.

2. That Respondent was issued a Certificate of Public Convenience by this Commission on August 6, 2001, at A-00117459.

3. That Respondent was advised by letter dated May 10, 2005, that its medallion authority was being transferred to the Philadelphia Parking Authority. At that time, Respondent was advised that its taxicab service which had an origin and destination outside of the City of Philadelphia remained subject to the regulatory oversight of the PA PUC.

4. That Respondent was advised by letter dated September 11, 2009, that it failed to file a valid tariff with this Commission as required by 52 Pa. Code § 23.11. Respondent was provided 60 days to file an acceptable tariff. To date, respondent has not filed an acceptable tariff. The Bureau of Transportation and Safety's Motor

Carrier Services and Enforcement Prosecutory Staff's proposed civil penalty for this violation is \$250.00.

Wherefore, the Bureau of Transportation and Safety Prosecutory Staff hereby requests that the Commission fine Dialmaad Cab Inc., the sum of two hundred and fifty dollars (\$250.00) for the illegal activity described in the complaint and order such other remedy as the Commission may deem to be appropriate.

Respectfully submitted,

Wendy J. Keezel, Chief of Enforcement  
Motor Carrier Services & Enforcement Division  
Bureau of Transportation and Safety  
P. O. Box 3265  
Harrisburg, PA 17105-3265

#### VERIFICATION

I, Wendy J. Keezel, Chief of Enforcement for the Motor Carrier Services and Enforcement Division of the Bureau of Transportation and Safety, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect the Bureau will be able to prove the same at any hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: \_\_\_\_\_

Wendy J. Keezel, Chief of Enforcement  
Motor Carrier Services and Enforcement  
Division  
Bureau of Transportation and Safety

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Pennsylvania Public Utility Commission  
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F. If you have questions regarding this Complaint or if you would like an alternative format to this Complaint (for persons with disabilities), please contact the Compliance Office at (717) 787-1227.

ROSEMARY CHIAVETTA,  
*Secretary*

[Pa.B. Doc. No. 10-1311. Filed for public inspection July 16, 2010, 9:00 a.m.]

### Transfer by Sale

**A-2010-2185999 and A-2010-2186003. WJM Services, Inc.** Joint application filed Nunc Pro Tunc of WJM Services, Inc. for approval of the: 1) transfer by sale of the Wastewater Facilities and Rights of Bradford Heights to WJM Services, Inc.; 2) the commencement by WJM Services, Inc. of wastewater service in the certificated service territory of Bradford Heights; and 3) the abandonment by Bradford Heights of all wastewater service to the public in this Commonwealth.

Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). Filings must be made with the Secretary of the Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant, on or before August 2, 2010. The documents filed in support of the application are available for inspection and copying at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday, and at the applicant's business address.

*Applicants:* WJM Services, Inc., Bradford Heights Woodland Properties Management, LLC

*Through and By Counsel:* Daniel P. Delaney, Esquire, K & L Gates, LLP, 17 North Second Street, 18th Floor, Harrisburg, PA 17101-1507

ROSEMARY CHIAVETTA,  
*Secretary*

[Pa.B. Doc. No. 10-1312. Filed for public inspection July 16, 2010, 9:00 a.m.]

## PENNSYLVANIA STIMULUS OVERSIGHT COMMISSION

### Public Meeting

The next public meeting of the Pennsylvania Stimulus Oversight Commission is scheduled for Thursday, July 22, 2010, at 9:30 a.m. in the William Pitt Union Ballroom of the University of Pittsburgh, 4200 5th Avenue, Pittsburgh, PA 15201.

RONALD NAPLES,  
*Chairperson*

[Pa.B. Doc. No. 10-1313. Filed for public inspection July 16, 2010, 9:00 a.m.]

## STATE POLICE

### Mobile Video Recording System Equipment Standards and Approved Mobile Video Recording Systems

The State Police, under 18 Pa.C.S. §§ 5704(16)(ii)(C) and 5706(b)(4) (relating to exceptions to prohibition of interception and disclosure of communications; and exceptions to prohibitions in possession, sale, distribution, manufacture or advertisement of electronic, mechanical or other devices), published at 34 Pa.B. 1304 (February 28, 2004) a notice of Mobile Video Recording System Equipment Standards and Approved Mobile Video Recording Systems for use until the next comprehensive list is published.

As an addendum to the listing of approved mobile video recording systems published at 34 Pa.B. 1304, the State Police, under the authority cited previously, has approved for use, until the next comprehensive list is published, subject to interim amendment, the following additional approved mobile video recording system, which meets the minimum equipment standards published at 34 Pa.B. 1304:

*WatchGuard DV-1 Mobile Video Recorder*, WatchGuard Video, Plano, TX

Comments, suggestions or questions should be directed to State Police, Bureau of Patrol, Department Headquarters, 1800 Elmerton Avenue, Harrisburg, PA 17110.

COLONEL FRANK E. PAWLOWSKI,  
*Commissioner*

[Pa.B. Doc. No. 10-1314. Filed for public inspection July 16, 2010, 9:00 a.m.]

## STATE TAX EQUALIZATION BOARD

### 2009 Common Level Ratios

The State Tax Equalization Board (Board) has established a Common Level Ratio for each county in this Commonwealth for the calendar year 2009. The ratios were mandated by the act of December 13, 1982 (P.L. 1158, No. 267).

The law requires the Board to use statistically acceptable techniques, to make the methodology for computing ratios public and to certify, prior to July 1, the ratio to the Chief Assessor of each county each year.

The statistical technique which the Board used for the 2009 Common Level Ratio is to determine the arithmetic mean of the individual sales ratios for every valid sale received from the county for the calendar year 2009.

The methodology used is to include every valid sale with a ratio from 1% to 100% and compute a mean. Using this mean as a base, the Board has defined high and low limits by multiplying and dividing this computed mean by 4. Using these computed limits, the Board has utilized the valid sales, rejecting those sales, which exceed the limits. The resulting arithmetic mean ratio is the ratio which the Board is certifying as the Common Level Ratio for each county for 2009.

There is one exception to this procedure. The original mean ratio for those counties which have a predetermined assessment ratio for 2009 of 100% will utilize valid sales from 1% to 200%.

The Common Level Ratios for 2009 are listed as follows.

#### 2009 COMMON LEVEL RATIOS

<i>County</i>	<i>Ratio</i>
ADAMS	23.7
* ALLEGHENY	86.2
ARMSTRONG	36.1
BEAVER	29.9
* BEDFORD	23.7
* BERKS	70.1
BLAIR	8.9
BRADFORD	34.0
* BUCKS	10.9
* BUTLER	13.7
* CAMBRIA	35.5
CAMERON	32.5
CARBON	36.8
CENTRE	28.9
* CHESTER	55.4
* CLARION	26.3
CLEARFIELD	18.9
* CLINTON	96.9
COLUMBIA	27.1
CRAWFORD	36.0
* CUMBERLAND	80.1
* DAUPHIN	70.6
* DELAWARE	64.2
ELK	39.7
* ERIE	81.8
* FAYETTE	81.4
FOREST	23.5

<i>County</i>	<i>Ratio</i>
* FRANKLIN	12.3
* FULTON	29.1
* GREENE	84.6
HUNTINGDON	13.2
* INDIANA	17.6
* JEFFERSON	53.9
* JUNIATA	17.0
* LACKAWANNA	17.0
* LANCASTER	75.2
* LAWRENCE	84.8
* LEBANON	14.2
LEHIGH	32.2
* LUZERNE	99.7
* LYCOMING	82.7
* MCKEAN	84.6
* MERCER	34.2
MIFFLIN	47.2
MONROE	15.8
* MONTGOMERY	56.1
* MONTOUR	81.4
NORTHAMPTON	31.9
* NORTHUMBERLAND	24.3
* PERRY	69.5
PHILADELPHIA	32.0
PIKE	20.4
* POTTER	39.2
SCHUYLKILL	41.6
* SNYDER	19.9
SOMERSET	35.6
* SULLIVAN	67.8
SUSQUEHANNA	34.3
* TIOGA	73.7
* UNION	77.4
* VENANGO	93.5
WARREN	34.0
WASHINGTON	17.5
* WAYNE	72.2
* WESTMORELAND	23.1
WYOMING	21.9
* YORK	79.9
* Counties with a Predetermined Assessment Ratio of 100%	

JAMES A. ZURICK, Esq.,  
Chairperson

[Pa.B. Doc. No. 10-1315. Filed for public inspection July 16, 2010, 9:00 a.m.]

# RULES AND REGULATIONS

## Title 55—PUBLIC WELFARE

### DEPARTMENT OF PUBLIC WELFARE

#### [ 55 PA. CODE CH. 2800 ]

#### Assisted Living Residences

The Department of Public Welfare (Department) adopts Chapter 2800 (relating to assisted living residences) to read as set forth in Annex A under the authority of sections 211, 213 and Article X of the Public Welfare Code (code) (62 P. S. §§ 211 and 213 and 1001—1087). Notice of proposed rulemaking was published at 38 Pa.B. 4459 (August 9, 2008).

#### *Purpose of the Final-Form Rulemaking*

The purpose of this final-form rulemaking is to fulfill the statutory requirement in the act of July 25, 2007 (P. L. 402, No. 56) (Act 56) that requires the Department to adopt regulations establishing minimum standards for building, equipment, operation, care, program and services, staffing qualifications and training, and for the issuance of licenses for assisted living residences (ALR) operated in this Commonwealth. See section 1021(a)(2)(i) of the code (62 P. S. § 1021(a)(2)(i)).

#### *Background*

Prior to Act 56, there was not a legal definition of “assisted living residence” in this Commonwealth. Act 56 directed the Department to adopt regulations establishing the minimum licensing standards for ALRs which “meet or exceed” standards established for personal care homes (PCH) under Chapter 2600 (relating to personal care homes). See section 1021(a)(2)(i) of the code.

Act 56 was intended to recognize that ALRs are a significant long-term care alternative Nationwide. ALRs are a combination of housing and supportive services, as needed. They are widely accepted by the general public because they allow people to age in place, maintain their independence and exercise decision making and personal choice. In enacting Act 56, the General Assembly found that it is in the best interests of the residents of this Commonwealth that a system of licensure and regulation be established for ALRs to ensure accountability and a balance of availability between institutional and home-based and community-based long-term care for adults who need this type of care. See Act 56, Legislative Findings and Declarations.

Act 56 further directed the Department to develop regulations for ALRs in consultation with industry stakeholders, consumers and other interested parties. See section 1021(d) of the code. As described more fully in the preamble to the proposed rulemaking, the Department convened a group of industry stakeholders, consumers and other interested parties and held numerous meetings over a period of many months to carefully consider the viewpoints of the groups and individuals that have a stake in this new licensure program. See 38 Pa.B. 4459. Following the notice of proposed rulemaking, the Department continued to consult with industry stakeholders, consumers and other interested parties which culminated in issuance of a draft final-form regulation on June 24, 2009. The purpose of the release of the draft final-form regulation was to solicit additional input as recommended by the Independent Regulatory Review Commission (IRRC) and commentators.

#### *Affected Individuals and Organizations*

Individuals who choose to live in ALRs are affected by this final-form rulemaking. ALR providers are also affected.

#### *Accomplishments and Benefits*

This final-form rulemaking establishes the minimum standards for licensure of ALRs to allow individuals to age in place. This final-form rulemaking protects consumers’ health and safety, privacy and autonomy, while at the same time balancing industry stakeholders’ concerns related to costs, liability and individual choice.

#### *Fiscal Impact*

The Department estimates a net administrative cost to implement this change at \$0.437 million State funds in Fiscal Year (FY) 2010-2011. In the out years, costs will be covered by fee revenues.

Costs are expected to be incurred by the regulated community beginning in FY 2010-2011 ranging from \$0.006 million to \$0.403 million per ALR based on a 75-bed ALR. At a minimum, ALRs would be required to pay a licensure fee amounting to the \$0.006 million on average. This cost assumes a flat application or renewal fee of \$300 per home, an additional fee of \$75 per bed and for those facilities granted a special care designation, a third fee of \$150. It is assumed these fees will remain constant in the subsequent years. Additional costs may be incurred, which when added to the licensing fee brings the total potential cost up to the maximum estimated average cost of \$0.403 million in the first year. These costs may or may not be incurred depending upon each facility’s current status in relation to potential new costs imposed by the regulation. The majority of the costs relate to additional personnel expense in administering medication, enhanced reporting and additional administrative costs for resident care. It is assumed that those facilities that choose to apply for ALR licensure will already comply with the facility structural requirements of the proposed rulemaking, so no costs are assumed for structural modifications. It is assumed that 50 ALRs will incur these costs in FY 2010-2011.

#### *Paperwork Requirements*

The final-form rulemaking does require some additional paperwork by the Commonwealth and ALRs. However, there is no reasonable alternative to the increased paperwork.

Required forms will be developed by the Department in cooperation with the ALRs and will be shared in draft form with external stakeholders for review and comment prior to implementation. With respect to the initial assessment form and the preliminary and final support plans (§§ 2800.224, 2800.225 and 2800.227 (relating to initial assessment and preliminary support plan; additional assessments; and development of the final support plan)), the ALR may use its own forms as long as all the required information in the Department’s standard forms is included. The Department will also work with stakeholders to develop sample policies and procedures to assist ALRs to comply with the final-form rulemaking. ALRs are also required to develop a residence handbook which is to be approved by the Department.

#### *Public Comment*

Written comments, suggestions and objections regarding the proposed rulemaking were requested within a



30-day comment period following publication of the proposed rulemaking. The Department received 222 public comment letters as well as comments from legislators and IRRC. The Department also testified at a public hearing on September 18, 2008, convened by the House Aging and Older Adult Services Committee regarding the proposed rulemaking. In addition, the Department held individual meetings with industry stakeholders, consumers and other interested parties following the proposed rulemaking. Finally, as previously mentioned, in response to a recommendation of IRRC, the Department issued a draft final-form regulation on June 24, 2009, to solicit further comment. IRRC posted this draft regulation on its web site at <http://www.irrc.state.pa.us/Regulations/RegInfo.cfm?IRRCNo=2712>. The Department received 79 additional comment letters in response to this draft final-form regulation.

The Department received comments from every sector of the community that will be affected by the final-form rulemaking including industry stakeholders, consumers and other interested parties, IRRC and the majority and minority chairpersons and members of the House Aging and Older Adult Services Committee and the Senate Public Health and Welfare Committee.

The Department has continued to consult with and meet with industry stakeholders, consumers and interested parties to help ensure that this final-form rulemaking will achieve a balance between the competing interests of all parties in the regulatory review process. The Department carefully considered the comments it received in response to the proposed rulemaking and the draft final-form rulemaking. The Department would like to thank the many industry stakeholders, consumers and other interested parties for their expertise and consultation in the development of this final-form rulemaking. The Department appreciates the many thoughtful comments submitted. Many of the suggestions and recommendations made by commentators have been incorporated into this final-form rulemaking.

#### *Discussion of Comments and Major Changes*

The Department finds that IRRC summarized the major comments noted by commentators. As a result, the Department will use IRRC's comments as a "blueprint" for discussion of the major comments received. The Department has filed a separate comment and response document, which includes the comments received, with IRRC, the legislative committees, the Legislative Reference Bureau and commentators along with this final-form rulemaking. This preamble also includes responses to the major comments received as a result of the release of the draft final-form regulation on June 24, 2009.

#### *Legislative comments*

IRRC recommended that the Department carefully consider the comments from legislators.

#### *Response*

The Department agrees with this recommendation and appreciates the high level of interest that this final-form rulemaking has generated from the General Assembly, IRRC and the public. Many of the concerns expressed by members of the General Assembly were echoed in the public comment letters as well as in IRRC's comments and are included in this preamble and are reflected in the comment and response document which has been filed separately along with this final-form rulemaking.

#### *General—A. Distinction between ALRs and PCHs*

IRRC posed several questions regarding the implementation of Act 56 through the proposed rulemaking. IRRC

stated that it would review the Department's response to its questions as part of its determination of whether the final-form rulemaking is in the public interest. IRRC requested the Department explain the difference between an ALR and a PCH.

IRRC specifically asked for an explanation of the statutory language in Act 56 that allows PCHs to "assist residents in obtaining health care services" versus the requirement that ALRs be "required to provide supplemental health care services." It also asked "If a PCH offers many of the same services as an ALR, what will stop consumers from contracting with PCHs when there is no statutory protection for 'supplemental health care services' or 'aging in place' at a PCH?" IRRC also inquired about the implications of the differences between an ALR and a PCH, including how these differences will affect residents and licensees in the future.

Finally, IRRC inquired about the fact that the current statutory provision for Act 56 regarding special care designation does not reference the existing PCH regulations in §§ 2600.231—2600.239 (relating to secured dementia care units). IRRC commented that the definition of "special care designation" in Act 56 only refers to ALRs.

#### *Response*

The Department submits that this final-form rulemaking is in the public interest for a number of reasons. Implementation of Act 56 through this final-form rulemaking provides another choice for consumers who are searching for a residential care option to meet the rising demand for this Commonwealth's rapidly growing population of older adults as well as individuals with disabilities who wish to have another alternative to nursing facility care or a PCH. Assisted living is a new model of care for this Commonwealth in three basic ways: 1) the concept of aging in place; 2) the types of care offered to consumers; and 3) the design and construction of the facility. While there are similarities between ALRs and PCHs, there are also distinctions between the two types of licensure categories. As the following more fully describes, there are clear differences between PCHs and ALRs regarding the kinds of service offered to the residents, the physical site requirements for individual living units and the conditions for licensure. In addition, assisted living offers an opportunity for the Commonwealth to seek Medicaid waiver funding.

As the Department noted in the preamble to the PCH final-form rulemaking "...the demand for residential care options is increasing." See 35 Pa.B. 2499 (April 23, 2005). For consumers, an ALR is another choice in the array of long-term care alternatives in this Commonwealth. This final-form rulemaking accords with the legislative intent behind Act 56 to "allow people to age in place, maintain their independence and exercise decision making and personal choice." (Act 56, Legislative Findings and Declarations.) Implementing the final-form rulemaking will fulfill the legislative intent to provide a "significant long-term care alternative" to residents of this Commonwealth and to "ensure a balance of availability between institutional and home-based and community-based long-term care for adults who need such care." (Act 56, Legislative Findings and Declarations (1) and (3).)

To address IRRC's specific concerns regarding the provision of supplemental health care services in an ALR, Act 56 defines an "ALR" as:



any premises in which food, shelter, personal care, assistance or supervision *and supplemental health care services are provided* for a period exceeding twenty-four hours for four or more adults who are not relatives of the operator and who require assistance or supervision in such matters as dressing, bathing, diet, financial management, evacuation from the residence in the event of an emergency or medication prescribed for self-administration.

Section 1001 of the code (62 P.S. § 1001). (Emphasis added.)

The definition of a PCH, while similar to the definition of an ALR, does not contain the key phrase “supplemental health care services are provided.” Hence, a distinction between an ALR and a PCH is that an ALR is required by law to provide “supplemental health care services,” whereas under Act 56 a PCH may not provide supplemental health care services, but, instead, may assist residents in obtaining health care services in the manner provided by §§ 2600.29, 2600.142 and 2600.181–2600.191 (relating to hospice care and services; assistance with health care; and medications). See section 1057.3(a)(13) of the code (62 P.S. § 1057.3(a)(13)).

There is a major difference between requiring a facility to actually provide supplemental health care services and having a facility merely assist with securing health care. While one is mandatory, the other is permissive. A PCH can choose whether it wants to assist the resident to secure health care, but an ALR has no choice in the matter. An ALR must provide supplemental health care as defined in Act 56 or it will not meet the minimum licensure standard to operate as an ALR.

Requiring that an ALR provide supplemental health care services supports another core concept of an ALR, that is, an ALR allows individuals to age in place. Act 56 defines “age in place” or “aging in place” as “receiving care and services at a *licensed assisted living residence* to accommodate changing needs and preferences in order to *remain in the assisted living residence*.” (Emphasis added.) See section 1001 of the code.

Rather than having to move out of a PCH when a resident’s acuity needs become too great for the PCH to meet, an ALR is designed to allow a resident to age in place to accommodate changing needs as well as preferences of the resident. As stated in the preamble to the PCH final-form rulemaking, “Personal care homes are not licensed as medical facilities and are not required to hire licensed, certified or registered medical professionals. Although some personal care homes employ doctors, registered nurses, certified nursing assistants, certified registered nurse practitioners and licensed practical nurses to assist in service provision for the residents, this is not mandated.” See 35 Pa.B. 2499, 2502.

This leads to a discussion of another significant difference between ALRs and PCHs. A PCH is restricted in the type of care that it can provide. A PCH, by statute, is not permitted to serve individuals who “require the services in or of a licensed long-term care facility.” See section 1001 of the code. This was emphasized in the preamble to the PCH final-form rulemaking at 35 Pa.B. 2499: “Personal care homes are designed to provide safe, humane, comfortable and supportive residential settings for adults *who do not require the services in or of a licensed long-term care facility*, but who do require assistance or supervision with activities of daily living (ADL) or instrumental activities of daily living (IADL), or both.” (Emphasis added.) Indeed, the preamble to the PCH final-form

rulemaking emphasized “Commonwealth law prohibits a personal care home from housing and serving residents whose care needs would qualify them for nursing facility care. This distinction is made in the statutory definition of ‘personal care home’ in section 1001 of the Public Welfare Code (62 P.S. § 1001), which provides that an individual who needs the level of care of a long-term care facility, or nursing home, cannot be served in a personal care home.” See 35 Pa.B. 2499, 2502.

To reinforce the distinction between an ALR and a PCH, Act 56 provides that prior to admission, an initial screening must be done to determine whether the potential resident requires the services provided by an ALR or a PCH. See section 1057.3(a)(1)(ii) and (iii) of the code. According to section 1057.3(a)(1)(iii) of the code, “a resident who currently does not require assistance in obtaining supplemental health care services, but who may require such services in the future or who wishes to obtain assistance in obtaining such services or reside in a facility in which such services are available, may be admitted to the ALR provided the resident is only provided service required or requested by the resident. Where services are required, the ALR shall develop a support plan as defined in 55 Pa. Code Chapter 2600 (relating to personal care homes) and any other regulations applicable to assisted living residences.”

Thus, the level of care for an ALR resident can vary widely, ranging from an individual: who does not require supplemental health care services at the time of admission to the ALR, but who may require services in the future; or who wishes to obtain assistance with obtaining such service; or who wants to live in a facility in which such services are available.

By contrast, the screening for a PCH provides that the screening will be done “to determine that the potential resident does not require the services in or of a long-term care facility and whether the resident requires the services of a personal care home, and if so, the nature of the services and supervision necessary.” See section 1057.3(a)(1)(ii) of the code.

The screening requirements in this final-form rulemaking clearly exceed the preadmission screening currently in place for PCHs. See §§ 2800.224, 2800.225 and 2800.227. This should further allay concerns that there will be confusion in the minds of potential residents as to the appropriate place to live, whether it be a PCH or an ALR. The screening and assessment process for an ALR will allow an individual and his family, if applicable, to know up front whether or not the ALR can meet his care needs and preferences and what those care needs are through the assessment process.

Furthermore, Act 56 provides that some services that would traditionally be offered in a skilled nursing facility may be offered by an ALR. For example, although Act 56 contains a prohibition against allowing a consumer with certain excludable conditions to be admitted, retained or served in an ALR, the law permits an exception to be granted by the Department upon the request of the ALR. These excludable conditions defined in Act 56 include skilled nursing care needs such as ventilator dependency, stage III and IV decubiti and vascular ulcers that are not in a healing stage, continuous intravenous fluids, reportable infectious diseases in a communicable state, nasogastric tubes, physical restraints and “continuous skilled nursing care twenty-four hours a day.” See section 1057.3(e) of the code. Nevertheless, if an exception is granted by the Department, an ALR may care for an individual whose health care needs fall within these

excludable conditions, some of which would ordinarily be provided in a skilled nursing facility. See section 1057.3(f) and (g) of the code. Again, this accords with the legislative intent of Act 56 that consumers who choose an ALR be allowed to “age in place” and receive care that is beyond the level that a PCH is authorized to provide.

The concept of allowing an ALR to provide for “aging in place” is also reinforced by the provisions of Act 56 that require the regulations for ALRs to create “standards for transfer and discharge that require the ALR to make reasonable accommodations for aging the place and that may include service from outside providers.” See section 1026(a)(1)(viii) of the code (62 P.S. § 1026(a)(1)(viii)). Finally, with respect to informed consent agreements, Act 56 provides that the Department’s regulations must create standards for informed consent agreements that promote aging in place. See section 1026(a)(1)(vii) of the code. Including the concept of informed consent in promoting the ability of an individual to age in place is yet another distinction between PCHs and ALRs.

In addition, in further response to IRRC’s request that the Department explain the difference between an ALR and a PCH, the Department would point out that a key distinction between PCHs and ALRs relates to “bricks and mortar.” As stated in the preamble to Act 56 “[a]ssisted living residences are a combination of housing and supportive services, as needed.” (Act 56, Findings and Declarations.) While PCHs are required under § 2600.101 (relating to resident bedrooms) to have bedrooms for residents, there is not a requirement that the PCH resident have a private bathroom, living space or kitchen capacity in his own room. Furthermore, the regulations for PCHs permit up to four residents per bedroom. Bathrooms in a PCH may be shared and § 2600.102 (relating to bathrooms) provide specific ratios for residents for matters such as toilets, sinks and bathtubs or showers. On the other hand, Act 56 mandates that the regulations issued by the Department require that an ALR provide a resident with the resident’s own living unit. See section 1026(a)(2)(ii) of the code. Act 56 further provides that a licensee may not require residents to share a living unit, but two residents may voluntarily agree to share one unit, provided that the agreement is in writing and contained in each of the residency agreements of those individuals. See section 1026(a)(2)(ii) of the code.

A living unit in an ALR must contain a “... private bathroom, living and bedroom space, kitchen capacity, which may mean electrical outlets to have small appliances such as a microwave and refrigerator, closets and adequate space for storage and a door with a lock, except where a lock or appliances in a unit under special care designation would pose a risk or be unsafe.” See section 1021(a)(2)(iv) of the code. Under no circumstances may a resident be required to share a living unit in an ALR. See section 1021(a)(2)(ii) of the code. By law, the Department is required to establish the minimum square footage requirements for individual living units. See section 1021(a)(2)(v) of the code. Clearly, the characteristics of the accommodations that are provided in a PCH versus an ALR are distinguishable.

The physical site requirements for an ALR provide for greater privacy and freedom for the individual to exercise decision making and personal choice. Residents in an ALR will have more options regarding their personal preferences in their living units, such as meal planning and preparation, since kitchen capacity is required for the living units in an ALR.

Further, the minimum square footage for resident bedrooms versus living units is distinguishable between PCHs and ALRs. The minimum square footage for a single resident bedroom in a PCH is 80 square feet. Each PCH shared bedroom must have at least 60 square feet per resident with up to four residents sharing a bedroom. See § 2600.101. The Department also notes that for individuals with mobility needs, the square footage requirement for PCHs is 100 square feet for the individual’s bedroom. See § 2600.101(c). This final-form rulemaking requires for ALRs, however, at a minimum, 160 square feet for single person living units for existing facilities that wish to convert to ALR licensure, and 225 square feet for single person living units in an ALR which is built after the effective date of this proposed rulemaking. Since the requirement that the living unit must not only provide space for a resident’s bedroom, but must also contain living space and kitchen capacity to allow for the individual a private place to relax, entertain family and friends and possibly prepare meals (if the resident chooses to have appliances in his living unit), adequate square footage must be provided to accommodate all of these activities.

Additionally, as the Legislature made clear in enacting Act 56, “No person, organization or program shall use the term ‘assisted living’ in any name or written material, except as a licensee in accordance with this chapter.” See section 1057.3(i) of the code. Hence, only those ALRs licensed under this final-form rulemaking will be authorized to advertise themselves as an ALR. When comparing potential long-term living options, prospective residents will have the assurance that the facility that they are considering is licensed as an ALR by the Department. This should further reduce the confusion that has been expressed by commentators as to explaining the difference between an ALR and a PCH.

In response to IRRC’s inquiry about how residents and licensees will be affected by the statutory differences between ALRs and PCHs, an existing licensed PCH is neither required to seek licensure as an ALR, nor meet the new licensure requirements in Chapter 2800. It is a business decision by a facility whether to seek licensure as an ALR or remain licensed as a PCH. This final-form rulemaking is designed to fulfill the statutory requirement that the Department establish minimum licensure requirements for an ALR. It does not dictate that an existing PCH convert to an ALR. The Department did, however, take into account that there are many existing PCHs that are interested in becoming licensed as ALRs. Therefore, the Department, with the advice and consultation of the stakeholders, made provision in the final-form rulemaking to allow existing PCHs to convert to ALR by providing decreased square footage for living units and lower kitchen capacity requirements for existing facilities. In addition, the Department amended the language in § 2800.53(a)(6) (relating to qualifications and responsibilities of administrators) to provide for a PCH administrator to be qualified as an ALR administrator if certain conditions are met.

Finally, as to IRRC’s inquiry about the fact that the statutory provision for Act 56 regarding “special care designation” does not reference the existing PCH regulations in §§ 2600.231—2600.239, the Department finds that there is not a restriction in Act 56 that would preclude a PCH from continuing to provide secure dementia care in accordance with the PCH regulations cited by IRRC.

*General—B. Resident population*

IRRC inquired about what population will be served by an ALR. Specifically, IRRC asked how the care in an ALR differs from the care currently provided by long-term care facilities and PCHs. IRRC commented that this distinction is vital to potential residents and their families in their evaluation of which path best fits their current and future health care needs and the ability to pay and promotes happiness and wellness. IRRC further inquired what would be the advantages and disadvantages of choosing one over the other.

*Response*

Since ALRs provide for residents to age in place, the population of an ALR will vary widely. Prospective residents include adults who require assistance or supervision in matters such as dressing, bathing, diet, financial management, emergency evacuation and self-administration of medication. With respect to the provision by the ALR of supplemental health care services, some consumers may not require assistance in obtaining supplemental health care services currently, but may require such services in the future. Some may wish to obtain such services or reside in a facility in which supplemental health care services are available. It is apparent that the legislature wanted to provide flexibility to consumers by requiring that the ALR screening process would determine the individual's needs regarding provision of supplemental health care services. The distinction between ALRs and PCHs is that ALRs are a long-term care alternative that allow individuals to age in place, maintain independence and exercise decision making and personal choice. Note that a PCH is not defined in Act 56 as a long-term care alternative. Instead, as previously discussed, the definition of a "PCH" specifically excludes individuals who require the services in or of a licensed long-term care facility. ALRs are designed to provide a home-like environment where residents have an opportunity to have their own private living unit complete with a private bathroom and kitchen capacity which gives the residents an area to prepare their own meals if they choose to do so. As stated previously, as a long-term care alternative, an ALR is required to provide supplemental health care services; by contrast, a PCH is merely permitted to assist the resident in obtaining health care service as provided in the PCH regulations under §§ 2600.29 and 2600.181—2600.191. A PCH may not provide supplemental health care services to residents. See section 1057.3(a)(13) of the code.

The distinction between an ALR and a long-term care facility is that a long-term care facility provides "nursing care and related medical or other health services" to individuals who need care. See section 1001 of the code. In § 2800.22(b)(1) and (d) (relating to application and admission), the Department clarified that an adult who requires the services of a licensed long-term care nursing facility may reside in the ALR, if certain conditions are met. These include: the needs of the potential resident can be met by the ALR; the appropriate supplemental health care services are provided to the resident; and the design, construction, staffing and operation of the ALR allow for a safe emergency evacuation of the resident.

In choosing between a PCH, an ALR and a long-term care facility, an individual or the individual's family will have to examine the individual's current health care needs, potential future health care needs and preferences for living environments. As previously noted, an ALR offers another choice for consumers as the demand for

residential options for older residents and people with disabilities is increasing in this Commonwealth.

*General—C. Affect on PCHs and their residents*

IRRC noted that commentators are concerned that the new ALR licensure will affect Departmental policy concerning PCHs in a manner that disrupts current PCH residents receiving higher levels of care. For example, under existing PCH regulations, the permissible spectrum of care extends through hospice care. The Department was asked to explain how implementation of ALR licensure will affect PCHs and their residents, whether the proposed rulemaking will in any manner diminish the ability of licensed PCHs to continue providing the same levels of care as they do now, and how Departmental enforcement actions regarding PCHs and their current care will change as a result of this new category of licensure.

*Response*

PCHs are required in § 2600.1 (relating to purpose) to provide safe, humane, comfortable and supportive residential settings for adults who do not require the services *in or of a licensed long-term care facility*, but who do require assistance or supervision with tasks of daily living, such as dressing, bathing, diet, and financial management. (Emphasis added.) It is the Department's position that if a resident's needs are being safely met in a PCH, the resident should be permitted to remain in the PCH. However, it is the PCH's responsibility under § 2600.225(d) (relating to initial and annual assessment) to assess, on an ongoing basis, whether the resident is in need of a higher level of care, and to develop plan for placement as soon as possible.

*General—D. What specifically does "aging in place" mean for the resident and the ALR?*

Since aging in place allows a resident to remain in the ALR, IRRC inquired how the Department defines "residence." IRRC further inquired if a resident will remain in the same living unit or whether a resident will be moved to another area within an ALR as the resident's needs changed.

*Response*

The Department's interpretation of "residence" in the definition of "aging in place" refers to the ALR since aging in place is distinctly a new concept which applies to ALRs. As IRRC noted previously, a key distinction in Act 56 is the definition of "aging in place." "Aging in place" is defined as "receiving care and services at a licensed assisted living residence to accommodate changing needs and preferences in order to remain in the assisted living residence." See section 1001 of the code. Act 56 provides residences with the discretion to decide whether they designate portions or sections of the ALR for use only by residents not requiring supplemental health care services or whether they allow both those needing these services and those who do not need these services to reside within the same portions or sections of the ALR. See section 1057.3(h)(ii) of the code. This will be a major determining factor in whether or not a person will move when needs change.

Additionally, special care units are residences or portions of residences that provide specialized care and services for residents with Alzheimer's disease, dementia and brain injury. It is only in these special care units that specialized care can be provided to residences with these conditions. That is also another determinative factor in



whether a resident will move from one portion of an ALR to another area within the facility.

In the case of a dually-licensed facility which is licensed as both a PCH and an ALR, when a resident who currently resides in a PCH later requires the services of an ALR, there are a number of factors to consider whether the resident would need to transfer to the ALR portion of the facility. A requirement of dual licensure for a PCH and ALR is that ALR areas must be collocated in the same building and be a distinct part of the building. A "distinct part" is defined in § 2600.4 (relating to definitions) as a portion of a building that is visually separated such as a wing or floor, or sections or parts of floors. This provision is in the regulation because ALRs and PCHs have a number of significantly different physical site licensing requirements, such as room size, private bath and kitchen capacity. ALR living units must meet the square footage requirements of the ALR regulations; kitchen capacity must be provided to allow for resident meal choice; the living unit would have to be located in a distinct part of the facility and would have to meet all other ALR standards including the mandate to provide supplemental health care services. In other words, a PCH bedroom cannot automatically become an ALR living unit merely because the needs of its occupant change. If, however, a PCH bedroom qualifies as an ALR living unit by meeting the requirements of this chapter, and if the ALR chooses to designate it and increase its ALR capacity accordingly, the resident would be able to remain in the same room he occupied as a PCH resident.

*General—E. Revision of existing PCH regulations*

IRRC questioned whether the Department has a strategy for revising the existing PCH regulations.

*Response*

The Department's policy is to continually review its regulations as circumstances change. Once this final-form rulemaking is promulgated, the Department will give careful consideration to whether the PCH regulations should be amended.

*General—F. Fiscal impact and the potential for Medicaid funding*

IRRC and legislators questioned the fiscal impact of this final-form rulemaking and also the potential for Federal financial assistance through a Medicaid waiver program. IRRC requested that the Department explain how and when the Department intends to seek Medicaid waiver funding, including the anticipated Federal response. IRRC also inquired into how many rooms will be qualified to be licensed to provide ALR services. IRRC also requested an explanation on the availability of ALRs at a cost residents of this Commonwealth can afford.

*Response*

The Department intends to apply for a Medicaid waiver after this final-form rulemaking is published. The waiver application process consists of an application submitted to the United States Department of Health and Human Services' Centers for Medicare and Medicaid (CMS). Thereafter, CMS reviews the application, provides comment and can request additional information. This process may be repeated until final approval is obtained. At least 38 states have CMS-approved Assisted Living waivers in place. If approval for the waiver is granted, the Department would implement it in FY 2010-2011.

In October 2008, the Department conducted a survey of the 1,437 PCHs licensed in this Commonwealth. We received 723 responses to the survey. The 723 responses

represented a total of 28,774 rooms. Of those rooms, 20,648 were indicated to have a bathroom and 5,409 with a kitchen or kitchen facilities. Using the originally proposed square footage of 175 square feet, the Department estimated that there were approximately 220 PCHs that had at least 90% of their rooms that would meet the square footage requirements under the ALR regulations. Using the same survey results, approximately 243 PCHs had 90% of their rooms that would qualify as to room size under a square footage requirement of 160 square feet. While these PCHs would meet the square footage requirements, it is unknown how many of them plan to pursue licensure as an ALR.

In terms of the availability of ALRs at a cost that people can afford, it is important to recognize how costly long-term care services are and to view that cost in the context of services provided in other settings, such as in nursing facilities. Medical Assistance is the primary payer for approximately 2/3 of those using nursing facility-based care.

Today, the older population in this Commonwealth at highest risk of needing nursing facility level of care lacks the personal financial resources to pay for that care. Eighty percent of this population has less than \$100,000 in liquid assets and only 27% of those over 65 years of age have sufficient resources to cover 2 1/2 years of nursing facility care. The cost of nursing facility care is over \$70,000 a year for a private payer (Health Affairs, Volume 22, Number 3, May/June 2003, <http://www.healthaffairs.org>). On the other hand, according to MetLife data, the average cost for assisted living Nationally is \$3,000 a month, or \$36,000 a year (<http://www.metlife.com/assets/cao/mmi/publications/studies/mmi-market-survey-nursing-home-assisted-living.pdf>).

By establishing a licensed ALR program in this Commonwealth, once a waiver is approved, persons with low income will have an opportunity to age in place and receive supplemental health care services at a much more affordable rate than they would in nursing facilities.

*General—G. Dual licensure*

IRRC, legislators and many other public commentators objected to the fact that the proposed rulemaking did not provide standards for dual licensure of PCHs and ALRs.

*Response*

The Department has provided for dual licensure for PCHs and ALRs in this final-form rulemaking. The dual licensure provisions are in §§ 2800.4 and 2800.11(g) (relating to definitions; and procedural requirements for licensure or approval of assisted living residences; special care designation and dual licensure). If the ALR and the PCH are collocated in the same building and are each located in a distinct part of the building, they may be dually licensed. See § 2800.11(g). As previously noted, a "distinct part" is defined as "a portion of a building that is visually separated such as a wing or floor, or sections or parts of floors." See § 2800.4.

Based on industry stakeholder input, the Department's intent in this language is to provide some flexibility in the configuration of what constitutes a distinct part to allow for the establishment of smaller, visually separated clusters of ALR-licensed living units.

*General—H. Levels of care*

IRRC questioned whether the final-form rulemaking provides a single level of care to residents. IRRC further commented that the Department should explain why the Department did not develop different ranges of require-



ments or levels of care to meet the unique needs of the different types of residents and also provide for choice and availability for consumers.

*Response*

The Department carefully weighed the competing concerns expressed by consumers versus industry stakeholders. Industry stakeholders suggested a “menu” approach whereby a few essential services such as personal care services, linen service, meals, housekeeping and supervision are required so-called core assisted living services. They recommended that other services be optional so that the resident could pick and choose from a menu containing a variety of services with different costs associated with each service option.

Consumers, however, were very concerned that it is difficult to compare and contrast one ALR from another if each offers an array of confusing add-ons to the basic core services. Further, there was concern that once an individual entered an ALR, the individual could be “nicked and dined” for various add-ons that would rapidly deplete his financial resources and increase the cost of care dramatically from the consumer’s planned outlay for residing in an ALR. In the draft final-form regulation issued in June 2009, the Department attempted to reconcile these competing concerns by establishing two distinct levels of care: an independent core package and enhanced core package. See § 2800.220 (relating to service provision). The Department further modified these provisions of the final-form rulemaking to allow a consumer to opt-out of certain services in the two core service packages with a concomitant contract price adjustment. Further, to allay the concerns of consumers, the Department added much more depth and detail to assessment of a potential ALR resident to ensure that the needs of the potential resident are carefully assessed so that the type and cost of care that will be provided by the ALR will be known “up-front.”

*General—I. Further consultation and advanced notice of rulemaking*

Although IRRC commended the Department for convening numerous meetings to consult with industry stakeholders, consumers and other interested parties in preparing the proposed rulemaking, IRRC recommended that the Department organize additional meetings with stakeholders and that the Department publish an advance notice of final rulemaking to allow the opportunity to resolve and review remaining issues prior to publication of the final-form rulemaking.

*Response*

The Department recognizes that in any new licensure program, there will be many voices to consider and viewpoints to reconcile. To expect that consensus can be achieved in all areas is not realistic or feasible. Nevertheless, the Department strived to be as inclusive and transparent in this final-form rulemaking as possible. The Department, following notice of proposed rulemaking, continued to meet with stakeholders, both in group settings as well as individually. In addition, the Department facilitated several meetings with representatives from major industry groups and a coalition of consumers for both the elderly and persons with disabilities. In some cases, the parties were able to come to mutual agreement regarding specific language changes and resolve several key issues in the final-form rulemaking.

Finally, the Department worked closely and collaboratively with stakeholders, IRRC and the legislative committees by issuing a draft final-form regulation that

was released for public comment and posted on IRRC’s website on June 24, 2009. Following the 30-day comment period, the Department carefully considered the additional 79 comment letters it received and participated in further meetings with stakeholders and legislators. The Department finds that it has identified the major concerns expressed on all sides of the regulatory debate and has attempted either to resolve the competing concerns by consensus or has struck a balance between what the industry stakeholders would like to see versus what consumers have advocated.

*§ 2800.1. Purpose*

*§ 2800.2. Scope*

IRRC commented that it believes that these sections did not sufficiently explain the proposed rulemaking. IRRC also commented that these sections should distinguish ALRs from PCHs.

*Response*

The Department finds that the two cited provisions are designed to be very general overall statements regarding the scope and purpose of the regulations. The language in these provisions is similar to the PCH regulations. See § 2600.1 and § 2600.2 (relating to scope). Further, the distinctions between an ALR and a PCH are more fully set forth previously in the discussion regarding the statutory distinctions between an ALR and a PCH.

*§ 2800.3. Inspections and licenses*

IRRC questioned how the abbreviated inspection process would work and how it would differ from a routine inspection. Also, IRRC asked what portions of the inspection the Department would waive during an abbreviated inspection.

*Response*

Act 56 provides that “while developing regulations under this act, the department may provide for an abbreviated annual licensure visit when a residence has established a history of exemplary compliance.” (Emphasis added.) See section 211(l) of the code. After careful consideration, the Department decided to delete proposed § 2800.3(c) (relating to inspections and licenses). This issue will be the subject of a future rulemaking after the Department has had an opportunity to study and review the matter further and gain greater experience in licensing ALRs.

*§ 2800.4. Definitions—Age in place or aging in place*

IRRC questioned why the definition did not mirror the statutory definition.

*Response*

The Department amended the definition to conform to the statutory definition.

*§ 2800.4. Definitions—Commercial boarding residence*

IRRC questioned the inclusion of this definition and noted that it was found in the exclusions in § 2800.2(b) (relating to scope).

*Response*

The proposed definition contained an error. The Department’s intent was to conform to the definition and the exclusion in the PCH regulation since ALR regulations must “meet or exceed” the PCH regulations under section 1021(a)(2)(i) of the code. The definition has been corrected to be a “commercial boarding home” and the exclusion relates to a “commercial boarding home” to be consistent with the PCH regulations in § 2600.4.

§ 2800.4. *Definitions—Designated person and legal representative*

IRRC asked for an explanation of these terms. IRRC suggested that the terms are confusing. IRRC requested the Department explain why different terms are needed and appropriate. IRRC further questioned the intent of the phrase “or other person authorized to act for the resident” in the definition of “legal representative.”

*Response*

A “designated person” is a broader term than “legal representative” and may be a family member, close friend or relative who is to be notified in exigent circumstances, such as an emergency or closure of an ALR. See § 2800.4. Although in some situations a resident may choose a legal representative as a “designated person,” it is not required for a resident to have a legal representative fulfill this role. In contrast, a “legal representative” has powers beyond those of a designated person and is “an individual who holds a power of attorney, a court-appointed guardian or other person legally authorized to act for the resident.” See § 2800.4.

Since not every type of legal representation can be identified, the definition left open the possibility of other types of authorization being included in the definition of “legal representative.” The Department did, however, clarify the definition to include “other person legally authorized to act for the resident.”

§ 2800.4. *Definitions—Exemplary compliance*

IRRC questioned the use of this term and inquired how the 3-year history of exemplary compliance was established. IRRC further inquired into what would constitute a “deficiency.”

*Response*

As noted previously, the Department decided to withdraw this provision and will consider it for a future rulemaking.

§ 2800.4. *Definitions—Informed consent agreement*

IRRC questioned why the regulatory and statutory terms differed. The regulatory definition included additional language in subparagraph (iii) and IRRC recommended its deletion.

*Response*

The Department agreed and made the change so that the two definitions mirror each other.

§ 2800.4. *Definitions—Supplemental health care services*

IRRC questioned why the regulatory definition did not precisely mirror the statutory definition.

*Response*

The Department agreed and made the change so that the two definitions mirror each other.

§ 2800.11. *Procedural requirements for licensure or approval of assisted living residences; special care designation and dual licensure*

IRRC and legislators commented the licensure fees for an ALR were excessive. IRRC requested that the Department provide detailed information on how the fees were established, how the fees cover the Department’s costs in implementing quality assurance and how much the fees will increase costs to residents. IRRC also requested an explanation of whether an application to change maximum capacity requires payment of a fee and, if so, the

amount of the fee. Finally, IRRC requested an explanation of how fees will be charged for dually licensed facilities.

*Response*

Based on the comments received, the Department reconsidered the fee structure for ALRs. The Department reduced the licensure application and renewal fee from \$500 to \$300 and reduced the per bed fee from \$105 to \$75. An application to change the maximum capacity will not require an additional licensure fee. It will, however, result in additional per bed fees to reflect the increased capacity. For dually-licensed facilities, the fee will be the same fee charged for a PCH license plus the licensing fee previously mentioned for an ALR. Dually-licensed facilities would continue to pay the PCH per bed fee for those beds in the licensed PCH parts of the facility and the ALR per bed fee for those beds in the licensed ALR parts of the facility. The Department also will charge an application fee of \$150 for an ALR to request special care designation.

In terms of how the Department arrived at these fees, the initial intent was to make them reasonably related to the cost of regulating this care setting. The Department looked at the number of potential residences, approximated the number of beds per residence and calculated how much staff time it would take to license and oversee the program. The Department then looked at other states to make sure that the rates were not unduly higher or lower than others. When the proposed rulemaking was published, the Department received many comments from industry stakeholders stating that the fees that were proposed would be a disincentive for many of them to seek ALR licensure. Consequently, the fees were decreased. Attachment B of the Regulatory Analysis Form contains a comparative analysis of licensure fees between this Commonwealth and a number of other states.

§ 2800.19. *Waivers*

IRRC questioned the time frame for the Department to respond to waiver requests.

*Response*

The Department did not specify a time frame for responding to waiver requests. A review of the Department’s other licensure chapters discloses that no other chapter provides for a time frame for responding to waivers. See §§ 2600.19, 3130.4, 3140.5, 3270.13, 3280.13, 3680.5, 3700.5, 3800.22, 5310.5 and 6500.12. Indeed, at the request of commentators, the Department has provided greater transparency in the waiver process in this final-form rulemaking than that which exists in other Department licensure regulations. Under the final-form rulemaking, waiver requests will be posted to the Department’s website for a 30-day comment period prior to review and decision on the requested waiver. Given that the types of waivers requested may vary widely in scope and complexity, the Department is reluctant to bind itself to a specific time frame for responding to waiver requests. Furthermore, since there is no other precedent in Department licensure regulations for a deadline for responding to waiver requests, the Department will not establish a deadline in this final-form rulemaking.

§ 2800.22. *Application and admission*

IRRC questioned the application and admission procedures and raised a concern as to whether these procedures are completed quickly enough to protect a resident’s health and to protect a resident who may later be rejected. The Department was also asked to explain how

it came up with the time frames for the various admission procedures and why those time frames are reasonable and protective of the public health, safety and welfare.

*Response*

The Department made several significant changes to the admission and assessment procedures to respond to the concerns expressed by IRRC and other commentators. Based on these comments, this final-form rulemaking now provides for an initial assessment, a preliminary support plan, final support plan and certification that the needs of a potential resident can be met by the services provided by the residence. Specifically, the admission process includes the following: a medical evaluation completed within 60 days prior to or within 15 days after admission; an initial assessment completed within 30 days prior to admission or within 15 days after admission; a preliminary support plan developed within 30 days prior to admission or within 15 days after admission; a certification that the needs of a potential resident can be met prior to admission; and a final support plan within 30 days after admission.

These preadmission and assessment procedures provide both the resident and the ALR with the information to determine whether a potential resident's needs can be met by the ALR prior to admission.

Further, to allow for flexibility, the final-form rulemaking provides exceptions to the medical evaluation, initial assessment and preliminary support plan timelines under certain circumstances. The medical evaluation, initial assessment and the preliminary support plan can be completed 15 days after admission if one of the following conditions applies: the resident is being admitted directly to the ALR from an acute care hospital; the resident is being admitted to escape an abusive situation; or there is a situation where the resident has no alternative living arrangement. See §§ 2800.22 and 2800.224.

In addition to additional preadmission requirements, the Department also added language to clarify both the certification process and the admission process. The final-form rulemaking now defines who is authorized to make a certification. The Department added language that potential residents who do not need supplemental health care services and also potential residents who require the service of a licensed long-term care nursing facility may be admitted to an ALR. This added language was based on the statutory language of Act 56. See section 1057.3(b) of the code.

§ 2800.25. *Resident—residence contract*

IRRC questioned whether assisted living services must be listed separately or whether they can be bundled or unbundled to meet a resident's needs. IRRC also questioned the relationship between this section and § 2800.220, regarding assisted living services.

*Response*

The Department clarified the language in this section. Subsection (c)(2) now provides that a contract must specify the "fee schedule that lists the actual amount of charges for each of the assisted living services that are included in the resident's core service package in accordance with § 2800.220 (relating to service provision)." As previously mentioned, the Department further amended § 2800.220 to provide for two core service packages: an independent core package and an enhanced core package. These two packages provide different services based on a resident's needs. Since the services are clearly identified

in the resident-residence contract, a potential resident will be able to accurately compare the prices of assisted living services offered by different ALRs. In addition to the core service packages, an ALR must provide supplemental health care services and the supplemental health care services must be packaged, contracted and priced separately from the contract. See section 1026(b)(iii) of the code.

The Department also carefully considered the comments of industry stakeholders who argued that there were too many services listed in the two core service packages that consumers neither "want nor need" and expressed concern that the final-form rulemaking would require individuals to accept and pay for services that consumers could do for themselves. The two examples cited most often were meals and personal laundry service as being services that many consumers would prefer to do on their own or ask family or friends for assistance. The Department heeded these concerns and made provision for the resident to "opt-out" of three services in the core service packages with an accompanying requirement that the contract price be adjusted accordingly. See § 2800.25(c)(2) and (l) (relating to resident-residence contract) and § 2800.220(d). The three services that a resident may opt out of are meals, housekeeping and laundry service. See § 2800.220(c)(1)(ii)—(iv).

§ 2800.30. *Informed consent process*

IRRC questioned whether the informed consent process will discourage providers from participating in the process, but also pointed out that other commentators believe that the informed consent provisions do not provide sufficient protection for consumers. IRRC requested that the Department explain how it developed the informed consent process and why it represents the best alternative to accomplish informed consent agreements.

*Response*

While the informed consent process generated numerous comments, including suggestions that the process be omitted, the Department is, nevertheless, required by Act 56 to develop standards for an informed consent process. Act 56, however, was silent with respect to those standards. Thus, the Department, based upon recommendations by the American Association of Retired Persons during the meetings that included industry stakeholders, adopted the procedures from House Bill 1583, Printer's Number 2012 (2007 Session) introduced by Representative Mundy.

In the proposed rulemaking, the Department was criticized for including a provision that would involve the local ombudsman in the informed consent process as an investigator or mediator rather than as an advocate for the resident. The Department deleted those provisions in the final-form rulemaking. Instead, the notification provisions for the availability of the ombudsman are the only references remaining in the final-form rulemaking. A rescission provision that allows either the resident or the ALR to cancel the agreement was also added in the final-form rulemaking, which further protects the rights of residents and providers. The Department also listened to the concerns of consumers by including in the proposed rulemaking that informed consent agreements are entered into only by the residence and the resident when there was "imminent" risk of "substantial" harm to the resident. On reconsideration, however, and in response to objections made by other commentators, the Department decided to delete these terms and adhere strictly to the provisions in the statute, which does not qualify the level or immediacy of the risk to the resident.



The Department further limited the informed consent process to a resident who is competent unless a legal representative is involved in the process. Based upon these changes, the Department finds that it has struck a balance between the competing concerns of the parties while at the same time ensuring that the informed consent process meets the legislative intent and protects both the providers and consumers involved in the process.

*§ 2800.51. Criminal history checks*

IRRC questioned the requirements for criminal history checks of employees in light of *Nixon v. Commonwealth*, 789 A.2d 376 (Pa. Cmwlth. Ct. 2001). IRRC specifically inquired how the Department will enforce this provision without violating the Nixon rule.

*Response*

The Department clarified in the final-form rulemaking that it will follow the hiring policies in the Department of Aging's policy concerning the Older Adults Protective Services Act (OAPSA) (35 P. S. §§ 10225.101—10225.5102). This policy is available at <http://www.dsf.health.state.pa.us/health/lib/health/dncf-ciunit/nixon.case.pdf>. This represents the official administration policy and, until there is legislative action to address the Nixon case, the Department is bound by the policy enunciated by the Department of Aging, which is responsible for OAPSA. This approach was suggested to the Department by Community Legal Services and we find that is a sound recommendation.

*§ 2800.56. Administrator staffing—Administrator hours*

IRRC commented that the number of hours for an administrator to be present at the facility is excessive and that there is ambiguity in the proposed rulemaking regarding the number of hours that an administrator or a designee shall be physically present at the facility. IRRC asked for an explanation of why the Department is setting stricter standards for ALRs than for other long-term care facilities and noted that other types of long-term care facilities may share an administrator. IRRC also asked the Department to explain how many administrators would be needed for a typical facility to meet the requirements in a typical year and the associated costs. IRRC also requested the Department explain how the administrator requirements will accommodate the need for an administrator to attend offsite training sessions and meetings.

*Response*

The basis for the requirement that an administrator or a designee be present 40 hours per week, with 30 of those hours during normal business hours was the Department's expectation that the acuity needs of the residents in ALRs will be substantially higher than for residents of PCHs. (There was an inadvertent error in the proposed rulemaking that provided that the administrator had to be present at the facility an average of 30 hours per "month" during normal business hours. This has been corrected to require that the administrator be present at least 30 hours per week during normal business hours.)

The Department, however, never intended that an administrator or the administrator designee be present at the facility 24 hours a day, 365 days per year. Instead, the administrator designee is to be available to fill the balance of the required hours per week that an administrator is absent. The Department clarified the language in the final-form rulemaking to reflect that the administrator is able to go offsite for temporary absences, such as vacation and training. During those temporary absences,

the administrator designee is required to be present to fill the required administrator hours in subsection (a). The Department also clarified in the final-form rulemaking that during the administrator's and administrator designee's absences, a direct care staff person shall be in charge of the facility. During those times, the administrator or administrator designee shall be on-call.

In addition to these clarifying amendments, the Department also amended the hourly requirement for administrators to 36 hours per week. The PCH regulations require that administrators be present in the PCH on average at least 20 hours per week. Because of the higher acuity levels anticipated in ALR residents, the Department did not think this was adequate administrative coverage and instead initially set the ALR standard to be 40 hours a week. However, the Department received many comments from industry stakeholders who felt that meeting this requirement would be a challenge. They felt it would be difficult for them to conduct the functions of the position and to attend required training if they had to spend that amount of time at the residence. In response, the requirement was reduced to 36 hours and maintained that this change, coupled with the language added to clarify that administrator designees may provide some of the coverage, address the concerns raised.

Further, in § 2800.11, allowance has been made for administrator-sharing for dually licensed ALRs and PCHs. Finally, in response to the question regarding costs of administrators, the Department provided this information in its analysis in the Regulatory Analysis Form.

*§ 2800.56. Administrator staffing—Administrator designee*

IRRC commented on the provision requiring the same training for an administrator designee as for the administrator. Specifically, IRRC asked why the Department is setting this training requirement.

*Response*

Based on the comments received, the Department amended the language regarding the requirements for an administrator designee. The administrator designee is not required to meet the same training requirements as the administrator. Instead, in the final-form rulemaking, the administrator designee shall meet the qualification and training requirements of a direct care staff person, have 3,000 hours of direct operational responsibility and pass the Department-approved competency-based training test. A number of considerations went into development of this requirement. Industry stakeholders suggested that having 3,000 hours of direct operational experience, which is one criteria for being an ALR administrator in Ohio, would represent sufficient experience to be an ALR administrator designee. The Department accepted this recommendation but, to ensure resident health and safety, chose to add that administrator designees shall also meet direct care staff requirements and pass the Department-approved competency-based training test.

*§ 2800.60. Additional staffing based on the needs of the residents*

IRRC recommended that the level of nursing training for the on-call nurse be specified in the final-form rulemaking.

*Response*

The Department agrees and made the change that the on-call nurse had to be licensed. This would allow either a licensed practical nurse (LPN) or a licensed registered nurse (RN) to fulfill that requirement. The requirements



for licensure of either are in 49 Pa. Code Chapter 21 (relating to State Board of Nursing).

*§ 2800.63. First aid, CPR and obstructed airway training*

IRRC commented that the requirement for “sufficient staff” is vague and does not provide a standard for protection that can be understood and implemented.

*Response*

The Department agrees with the comment and specified a numeric ratio of 1 staff to 35 residents in the final-form rulemaking.

*§ 2800.98. Indoor activity space—Square footage requirements*

*§ 2800.101. Resident living units—Square footage requirements*

*§ 2800.104. Dining room—Square footage requirements*

IRRC questioned why § 2800.101 (relating to resident living units) does not allow for exceptions to the living unit size as specified in Act 56. IRRC further questioned why the Department specified square footage size requirements for indoor activity spaces such as common areas and dining rooms and pointed out that parallel provisions in the PCH regulations do not have this specificity.

*Response*

Written request for a waiver of a specific requirement can be made under § 2800.19 (relating to waivers). Since there is already a section that provides for requesting a waiver of a requirement, the Department did not find it necessary to include a specific waiver subsection within proposed § 2800.101. Nevertheless, in response to IRRC and stakeholder comment, the Department revisited this issue on final-form rulemaking and decided to amend this section to include the same language in Act 56 regarding allowing exception to the size of the living unit to be made at the discretion of the Department. See section 1021(a)(2)(v) of the code.

The Department consulted with the Housing and Finance Agency, which recommended specifying the square footage for the indoor activity and dining room space and the Department found that the recommendations were appropriate since they are clear, measurable and enforceable. Since the Department is directed to “meet or exceed” the standards in the PCH regulations, these square footage requirements build on the PCH regulations in § 2600.98 (relating to indoor activity space) which require that the combined living room or lounge areas must “accommodate all residents at one time.”

*§ 2800.101. Resident living units—Development of square footage requirements*

IRRC questioned how the Department developed the square footage requirements for resident living units. IRRC also asked what study or research was relied upon for determining the minimum square footage selected and how they best implement Act 56. IRRC also asked why these specific square footage requirements are necessary to protect public health, safety and welfare.

*Response*

If an individual resides in an ALR, that individual’s living unit will be that person’s home. The Department finds that the General Assembly, in enacting Act 56, intended that the minimum square footage for living units an ALR must be sufficient for a variety of types of consumers with a variety of needs. To accommodate a home-like atmosphere, including the required living

space, bedroom space and kitchen capacity, the Department determined that adequate square footage would be required.

During the development of the proposed rulemaking, the Department asked for feedback from industry stakeholders and consumers regarding minimum square footage requirements for resident living units. Industry stakeholders argued that the minimum square footage for living units for new facility construction should be 150 square feet and for existing construction, 125 square feet. In contrast, consumers expressed concern that 250 square feet was inadequate, particularly for wheelchair users. Individuals in ALRs, as they age in place or if they have a disability and use a wheelchair, require sufficient room to move about comfortably and to have visitors come to their living units. The Department also surveyed other states as to their square footage requirements for ALRs. A number of states that are at the forefront of the assisted living movement, including Vermont, Iowa, Louisiana, Oregon, Washington and Hawaii, have square footage requirements over 200 square feet for individual living units. The Department also finds that this level of square footage is the direction that the industry is moving towards.

Based on comments and further meetings with stakeholders, the Department decided, however, to reduce the minimum square footage for new construction from the proposed 250 square feet to 225 square feet. The 225 square feet requirement should meet the needs of the residents for adequate space to accommodate both their living needs and mobility needs but also balance the concerns expressed by industry stakeholders related to costs. The Department notes that, according to the survey it conducted regarding square footage, there are PCHs that are interested in pursuing licensure as ALRs that easily meet or exceed the minimum 225 square feet requirement. The Department also specified that if two individuals share a room, the minimum square footage must be 300 square feet in the living unit.

With respect to IRRC’s other comment regarding existing facilities and the square footage requirements, IRRC recommended that the Department identify how many licensed PCHs there are in this Commonwealth and how many meet the proposed minimum standard of 175 square feet in each living unit. Per IRRC’s recommendation, as previously mentioned, in October 2008, the Department conducted a survey of the 1,437 PCHs licensed in this Commonwealth. It received 723 responses to the survey. Using the originally proposed square footage of 175, the Department estimated that there were approximately 220 PCHs that had at least 90% of their rooms that would meet this requirement.

Although the survey results support the minimum square footage requirements in the proposed rulemaking for existing facilities, based on comments and additional meetings with stakeholders, the Department decided, however, to reduce the square footage for existing facilities from the proposed 175 square feet to 160 square feet. Based on survey results, this change will increase the number of PCHs to approximately 243 that had at least 90% of their rooms that would meet this requirement.

This standard should balance the competing interests between existing facilities that want to convert to an ALR and the interests of the consumers and other interested parties who have requested adequate living space for residents of ALRs. The Department also specified that if two individuals share a room, the minimum square footage shall for existing facilities be 210 square feet in

the living unit. Finally, as previously noted, the Department clarified the language in this section to provide that exceptions to the size of the living unit may be made at the discretion of the Department. This mirrors the language in Act 56. See section 1021(a)(2)(v) of the code.

*§ 2800.101. Resident living units—Relationship between square footage, affordability and accessibility*

IRRC asked that the Department explain how it researched and assessed existing licensed PCHs in setting the square footage requirements in the final-form rulemaking for ALRs. It asked the Department to consider the input from the Pennsylvania Health Care Association and the Pennsylvania Association of Non-Profit Homes for the Aging regarding their comment that the square footage proposed by the Department appears high when compared to other states and that some consumers may wish to have a smaller living unit to save money. Also, IRRC requested that the Department explain how the method of specifying square footage will best provide for affordability and accessibility of ALRs for the population of this Commonwealth.

*Response*

The Department assessed existing PCHs in this Commonwealth by conducting a survey, the results of which are previously stated. The Department also received numerous comments from long-term living trade associations and had numerous discussions with them on this topic. In addition to this input, in considering the minimum square footage requirements for ALRs, the Department looked at other states to assess their requirements and found that 11 states (Washington, Oregon, Iowa, Arizona, Wisconsin, West Virginia, Louisiana, Vermont, Kansas, Kentucky and Hawaii) have single room occupancy requirements of 220 or more square feet. The Department finds that many of these states have vibrant assisted living programs and when the Commonwealth's program is underway, it will be in the top 12 states in terms of ALR room size.

*§ 2800.101. Resident living units—Square footage requirements for residences in existence prior to the effective date of the final-form rulemaking*

IRRC asked that the Department determine how many PCHs in existence at the time of the proposed rulemaking that the Department thinks would qualify for the 175 square foot minimum square footage requirement.

*Response*

As previously stated, in October 2008, the Department conducted a survey of the 1,437 PCHs licensed in this Commonwealth which revealed that approximately 220 PCHs had at least 90% of their rooms that would qualify under the 175 square footage requirement. Based on comments from industry stakeholders, the Department chose to decrease the square footage requirement to 160 square feet. Using the same survey results, the Department finds that approximately 243 PCHs had at least 90% of their rooms that would qualify based on the revised square footage requirements.

*§ 2800.101. Resident living units—Evaluation of the feasibility of existing licensed PCHs being able to change their licensure to assisted living*

IRRC commented that it is clear that many existing PCH licensees want to be licensed as ALRs. The Department acknowledged this interest by providing for different square footage for living units for existing facilities. The Department should explain how it researched and assessed existing licensed PCHs in setting the require-

ments in the ALR regulations. IRRC asked how many facilities in existence did the Department determine would qualify as ALRs and how many would not? Also, IRRC asked how these limits would sufficiently meet the needs of ALR residents.

*Response*

Act 56 requires that ALR regulations must meet or exceed the PCH regulations. In anticipation that many existing PCHs would be interested in either converting to ALRs or becoming dually licensed, the Department decided to use the PCH regulations as a framework in which to construct the ALR regulations. Doing that, however, meant balancing the ease with which PCHs could convert to ALRs against the significant differences between the two types of facilities. Much of the Department's research was done by examining the PCH regulations closely and determining which were transferable to ALRs and which were not. The Department then set into place an extensive stakeholder input process to work out differences and, when that was not possible, to use that process to make informed decisions.

Based on the October 2008 survey previously described and using the originally proposed square footage of 175 square feet for existing facilities, the Department estimated that there were approximately 220 PCHs that had at least 90% of their rooms that would meet the square footage requirements. Approximately 243 PCHs had 90% of their rooms that would qualify under a 160 square footage requirement.

In terms of how the number of potentially qualifying PCHs will meet the need in this Commonwealth for ALRs, the Department maintains that this is a good start. As new facilities come on line, this Commonwealth has the potential to grow a healthy home and community-based option for older residents and those persons with disabilities.

*§ 2800.101. Resident living units—Kitchen capacity*

IRRC questioned how the Department came up with the requirements for kitchen capacity for the living units and asked a series of questions about kitchen capacity. First, IRRC questioned why the Department required refrigerators, microwave ovens and bar-type sinks for newly constructed living units when Act 56 only specified that the living units must have "kitchen capacity, which may mean electrical outlets to have small appliances such as a microwave and refrigerator." See section 1021(a)(2)(iv) of the code. IRRC further inquired why microwaves and refrigerators are required for new construction, but not for existing facilities, and also asked how much this requirement increases costs to a resident. If a resident does not wish to use these items, IRRC asked why should the resident pay for them?

IRRC also asked about a discrepancy in the regulations between existing facilities and new construction regarding the removal of appliances based on safety considerations that are included in the new construction requirements but not for existing facilities. As to other required items for a living unit, IRRC questioned the list of required items and asks if residents may opt out of having these items.

*Response*

The Department made several significant changes to the final-form rulemaking with respect to kitchen capacity. In recognition of consumer choice, for both new construction and existing facilities, an ALR will be required to offer the resident the option to have a cooking

appliance or a small refrigerator, or both. If the resident wishes to have a cooking appliance or small refrigerator, or both, the ALR shall provide the appliances, unless the resident wishes to bring his own appliances. For both new construction and existing facilities, the final-form rulemaking provides for the removal of an appliance for resident safety or if the resident chooses to not have the appliance.

As to the costs for new construction, the Department submits that having a bar sink in the living unit is designed so that the resident can exercise maximum choice and have privacy and autonomy in living arrangement. As previously mentioned, the assisted living model of residential living emphasizes resident self-determination and choice. For an individual who chooses to cook his own meals, a small sink is necessary to allow the resident to wash dishes in a separate area. Otherwise, the resident would have to use the bathroom sink to wash dishes. At the same time, the Department is mindful that some residents may no longer wish to cook or have a cooking appliance in their living unit. The resulting language in the final-form rulemaking accomplishes an appropriate balance because it is directed at putting the consumer "in the driver's seat" as to the choice he makes about the accommodations in the living unit. As to existing facilities, the Department adopted the recommendation of industry stakeholders that many existing PCHs provide residents with access to a "country kitchen," which is separate from the facility's kitchen area but near enough to resident bedrooms to allow residents to prepare meals or wash dishes. To minimize costs to existing facilities, the Department adopted this recommendation and finds that it is reasonable to minimize costs to existing facilities that may wish to pursue licensure as an ALR.

As to whether a resident may opt out of having some of the other items listed in § 2800.101(j) and (q), the Department is required by Act 56 to "meet or exceed" the requirements set forth in the PCH regulations. Section 2600.101 require certain furnishings that are intended to protect the dignity, well-being and privacy of residents.

#### § 2800.102. Bathrooms

IRRC recommended deletion of the phrase "applicable local, state and federal laws and guidelines."

#### Response

The Department agrees and deleted this phrase. The requirement for compliance with applicable Federal, State and local laws, ordinances and regulations is already required under § 2800.18 (relating to applicable laws).

#### § 2800.108. Firearms and weapons

IRRC questioned the threshold question of safety of firearms and weapons in an ALR. IRRC recommended allowing a facility to prohibit weapons and to require an ALR to disclose whether it allows firearms and weapons to prospective residents in its admissions procedures and documents. IRRC also recommended that the terms "living area" and "common living area" be reconciled. Finally, IRRC recommended use of consistent terminology to include "firearms, weapons and ammunition" throughout this section.

#### Response

The Office of Attorney General tolled the proposed rulemaking on the basis that the Department initially sought to ban firearms and weapons from ALRs as recommended by industry stakeholders, consumers and other interested parties who advocated a ban on weapons

and firearms. As a result of the Attorney General's comments, the Department modified the proposed rulemaking to require that ALRs, instead, shall have a written policy regarding firearms. In the final-form rulemaking, the Department further clarified that an ALR have a written policy on firearms, weapons and ammunition and that an ALR is not required to permit these items. This policy will be included in the resident handbook so that the prospective resident is fully informed of the ALR's policy in this area.

The Department also made the technical changes recommended by IRRC regarding use of consistent terminology regarding "common living areas" and "firearms, weapons and ammunition" in the final-form rulemaking. The Department decided to continue to use the term "common living area" for conformity since the requirements for PCH use the same language. See § 2600.108 (relating to firearms and weapons).

#### § 2800.131. Fire extinguishers

IRRC questioned why this section exceeded the PCH standard for fire extinguishers and reiterated concerns expressed by commentators as to costs and safety risks associated with having fire extinguishers in each living unit and in each kitchen.

#### Response

The Department amended this section and will require a fire extinguisher for each floor, including walkways and common living areas every 3,000 square feet. This change was recommended jointly to the Department by industry stakeholders, consumers and other interested parties and is a reasonable standard that will protect health and safety of the residents.

#### § 2800.142. Assistance with medical care and supplemental health care services

IRRC questioned the use of the phrase "such approval may not be unreasonably withheld."

#### Response

The Department deleted this language from the final-form rulemaking.

#### § 2800.162. Meals

IRRC questioned what is meant by "appropriate cueing" as it relates to encouraging residents to eat and drink. IRRC commented that the requirement is vague. IRRC also questioned how this would apply to individuals who are cooking and eating in their own living units. IRRC recommended deletion of this provision or relocating it to § 2800.227.

#### Response

The Department concurs with IRRC and other commentators that this issue is more appropriately dealt with based on the individual's support plan in § 2800.227(d) so that it is tailored to individuals who eat their meals either in a congregate setting or individually in their own rooms. As a result, the Department added the language "as indicated in the resident's support plan" in subsection (g) of this section to clarify this requirement.

#### § 2800.171. Transportation

IRRC questioned whether, when a residence provides its own vehicle, all vehicles must be wheelchair accessible and provide for other assistive devices the resident may need.

#### Response

The Department revised this provision after further consultation with stakeholders. The Department clarified



in the final-form rulemaking that if an ALR provides transportation, a minimum of one vehicle furnished by the ALR must be wheelchair accessible and provide room for other assistive equipment residents may need.

§ 2800.225. *Additional assessments*

IRRC questioned why the Department did not include language from § 2600.225(d) from the PCH regulations in the ALR regulations regarding determinations of the resident's need for a higher level of care and referral to an appropriate assessment agency.

*Response*

IRRC correctly points out that Act 56 may limit ALRs from accepting residents with certain conditions and health care needs. However, Act 56 also allows a facility to seek an exception from the Department to allow it to serve individuals with certain "excludable conditions." See section 1057.3(e) and (g) of the code. Since the ALR regulation is distinguishable from the PCH regulations in this regard, the Department did not adopt the language in § 2600.225(d). An individual who may need skilled long-term care services may be served in an ALR according to the individual's preferences and according to whether the ALR wishes to provide this care by seeking an exception from the Department to provide this care. Requiring a higher level of care, therefore, is not a parallel concept for ALRs and PCHs since and ALRs allow for aging in place may serve individuals whose acuity needs change over time, and may, if an exception is granted for an excludable condition, actually serve an individual who would otherwise have to be transferred to a nursing facility. A PCH, however, may not serve an individual who "requires the services in or of a long-term care facility." See section 1001 of the code.

§ 2800.224. *Initial assessment and preliminary support plan*

§ 2800.227. *Development of the final support plan*

IRRC reflected the comments of many commentators who objected to the requirement that a licensed RN had to review and approve a support plan prepared by an LPN.

*Response*

The Department declined to make this change. In both nursing facilities and in home and community-based long-term living programs, RNs must review and approve support plans. Since we expect that ALRs will have residents with higher acuity levels than those in PCHs, the Department determined that use of RN expertise was needed.

§ 2800.228. *Transfer and discharge*

IRRC questioned how this section protects the rights of residents to be treated fairly and properly before a transfer or discharge occurs. IRRC also questioned the reliance on providing notice to an outside agency, in this case, an ombudsman. IRRC commented that it is not clear how the Department would be aware of whether the processes regarding notification of the ombudsman are being carried out in a timely manner. Also, as to the standards for admission or discharge, IRRC pointed out that the Department is required by regulation to establish the standards required for certification that a consumer may not be admitted or retained at an ALR. Finally, IRRC also asked how the Department can guarantee a timely and fair treatment of a consumer appeal.

*Response*

To protect an resident, the grounds for transfer or discharge from an ALR are limited to those specified in

subsection (h). In addition, to ensure a resident is being treated fairly and properly, the Department has specifically detailed the transfer and discharge process, including a 30-day advance written notice to the resident, the resident's family or designated person. This notice must include the specific reason for transfer or discharge, the effective date of the transfer or discharge, the location that the resident will be transferred or discharged to, an explanation of the measures a resident or the resident's designated person can take if they disagree with the decision to transfer or discharge and the name, mailing address, telephone number of the State and local long-term care ombudsman. In addition, the Department added a provision that states that the notice must also provide the resident's transfer or discharge rights, as applicable. To ensure an ALR is abiding by these notice provisions, the Department requires the resident record to include the notice and also the reason for termination of services or transfer of a resident. See § 2800.252 (relating to content of resident records).

The Department agreed with IRRC's comment regarding the certification language regarding transfer or discharge. Therefore, the Department added this language in subsection (i).

The Department, however, is not in the position or granted the authority for establishing "expedited" resident appeals regarding transfer or discharge. The Department does not have jurisdiction under Article X of the code or Act 56 to adjudicate resident appeals. A resident's transfer or discharge is a contract matter between the resident and the ALR and, as such, the Court of Common Pleas has jurisdiction unless other provisions are made in the contract for dispute resolution, such as mediation or arbitration.

§ 2800.229. *Excludable conditions; exceptions*

IRRC asked why the certification language is limited to this section regarding excludable conditions. It stated that it is not clear that certification by a provider for a resident's admission or retention is limited to situations involving the excludable conditions listed in section 1057.3(e) of the code.

*Response*

The Department agrees with IRRC's comment that the certification requirement is not merely limited to excludable conditions and added language to § 2800.22 and § 2800.228 (relating to transfer and discharge) in accordance with Act 56.

*Miscellaneous clarity issues*

IRRC commented that various sections of the regulations provide for forms "as specified by the Department." IRRC further suggested that the Department take advantage of the stakeholder process in the development and content of these forms. IRRC also inquired how the Department will make these forms available.

*Response*

After publication of this final-form rulemaking, the Department intends to work closely with stakeholders during the 6-month interval between the publication date and the effective date of the final-form rulemaking in the development and content of these forms.

*Additional changes to the final-form rulemaking*

In addition to the comments submitted by IRRC and other commentators regarding the proposed rulemaking, as stated previously, the Department received 79 more comments from consumers, industry stakeholders and

other interested parties after the issuance of the draft final-form regulation on June 24, 2009. A number of those changes have been previously addressed. Additional changes were made to the final-form rulemaking based on these comments, including those described as follows.

*Resident rights*

Consumers commented that there are resident rights scattered throughout the regulations and requested that the residents rights be placed in one location.

*Response*

In response to this concern the Department has prepared an Appendix containing the resident rights in the regulations. See Appendix A.

*§ 2800.54. Qualifications of direct care staff persons*

Numerous commentators interpreted this section to mean that every direct care staff person must be able to communicate in all languages to meet the provision that states that they must “be able to communicate in a mode or manner understood by the resident.”

*Response*

The Department’s intent was never to require that staff persons must be able to communicate in all languages. The Department clarified in the final-form rulemaking that strategies that promote interactive communication be developed as part of a resident’s support plan.

*§ 2800.60. Additional staffing based on the needs of the residents*

Numerous industry stakeholders questioned if they would be required to have a licensed nurse on call even if they already have one on staff.

*Response*

To address this concern raised by industry stakeholders, the Department changed this section to allow that a licensed nurse must be on call or in the building.

*§ 2800.171. Transportation*

Many industry stakeholders contended that transportation to medical appointments and social events should not be required unless they are scheduled by the residence. Many also objected that this section did not specify a limit on the distance they would be required to travel.

*Response*

The Department revised subsection (a) to require that residences shall provide or arrange transportation on “a regular weekly basis that permits residents to schedule medical and social appointments within a reasonable local area.” This will allow residences the ability to manage their work schedules while also meeting the needs of residents to get to medical and social appointments. While the Department considered a specific radius of travel, given the differences in access to public transportation and geographical differences in this Commonwealth, specificity was not appropriate. The Department holds that a rule of reasonableness should apply.

*§ 2800.53. Qualifications and responsibilities of administrators*

*§ 2800.64. Administrator training and orientation*

Many comments were received from industry stakeholders advocating for the grandfathering of PCH administrators and nursing home administrators as ALR administrators. Many comments were received from others advocating that no grandfathering be allowed.

*Response*

The Department took both of these views into consideration. While recognizing that both PCH administrators and nursing home administrators are in a unique position based on their experience to transition to ALR administrators, they should also be qualified to address the broad range of needs of the populations served by ALRs. Subsequently, §§ 2800.53 and 2800.64 (relating to qualifications and responsibilities of administrators; and administrator training and orientation) have been amended, not to provide for grandfathering, but to allow each of these professionals to meet different sets of qualifications and training requirements while requiring passage of a competency test.

*Regulatory Review Act*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on May 3, 2010, the Department submitted a copy of this final-form rulemaking to IRRC and to the House Committee on Aging and Older Adult Services and the Senate Committee on Public Health and Welfare (Committees) for review and comment.

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

Under section 5.1(j.2) of the Regulatory Review Act (71 P. S. § 745.5a(j.2)), on June 2, 2010, the final-form rulemaking was deemed approved by the Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC met on June 3, 2010, and approved the final-form rulemaking.

*Findings*

The Department finds that:

(1) Public notice of intention to adopt the administrative regulation by this order has been given under sections 201 and 202 of the Commonwealth Documents Law (45 P. S. §§ 1201 and 1202) and the regulations thereunder, 1 Pa. Code §§ 7.1 and 7.2.

(2) Adoption of this final-form rulemaking in the manner provided by this order is necessary and appropriate for the administration and enforcement of the code.

*Order*

The Department, acting under sections 211, 213 and Article X of the code, orders that: (a) The regulations of the Department, 55 Pa. Code Chapter 2800, are amended by adding §§ 2800.1—2800.5, 2800.11—2800.30, 2800.41—2800.44, 2800.51—2800.69, 2800.81—2800.109, 2800.121—2800.133, 2800.141—2800.144, 2800.161—2800.164, 2800.171, 2800.181—2800.191, 2800.201—2800.203, 2800.220—2800.229, 2800.231—2800.239, 2800.251—2800.254 and 2800.261—2800.270 to read as set forth in Annex A.

(b) The Secretary of the Department shall submit this order and Annex A to the Offices of General Counsel and Attorney General for approval as to legality and form as required by law.

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

(d) This order shall take effect January 18, 2011.

HARRIET DICTER,  
Secretary

*(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 40 Pa.B. 3471 (June 19, 2010).)*

**Fiscal Note:** 14-514. (1) General Fund; (2) Implementing Year 2009-10 is \$0; (3) 1st Succeeding Year 2010-11 is \$437,000; 2nd Succeeding Year 2011-12 is \$0; 3rd Succeeding Year 2012-13 is \$0; 4th Succeeding Year 2013-14 is \$0; 5th Succeeding Year 2014-15 is \$0; (4) 2009-10 Program—\$38,115,000; 2008-09 Program—\$34,843,000; 2007-08 Program—\$30,968,000; (7) County Administration Statewide; (8) recommends adoption. Funds have been included in the budget to cover the increase in 2010-11. We expect projected fee revenue will cover any costs in the remaining years.

## **Annex A**

### **TITLE 55. PUBLIC WELFARE**

#### **PART IV. ADULT SERVICES MANUAL**

#### **Subpart E. RESIDENTIAL AGENCIES/FACILITIES SERVICES**

#### **CHAPTER 2800. ASSISTED LIVING RESIDENCES**

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**GENERAL PROVISIONS**

**§ 2800.1. Purpose.**

(a) The purpose of this chapter is to protect the health, safety and well-being of assisted living residents.

(b) Assisted living residences are a significant long-term care alternative to allow individuals to age in place. Residents who live in assisted living residences that meet the requirements in this chapter will receive the assistance they need to age in place and develop and maintain maximum independence, exercise decision-making and personal choice.

**§ 2800.2. Scope.**

(a) This chapter applies to assisted living residences as defined in this chapter, and contains the minimum requirements that shall be met to obtain a license to operate an assisted living residence.

(b) This chapter does not apply to personal care homes, domiciliary care homes, independent living communities or commercial boarding homes.

**§ 2800.3. Inspections and licenses.**

(a) The Department will annually conduct at least one onsite unannounced inspection of each assisted living residence.

(b) Additional announced or unannounced inspections may be conducted at the Department's discretion.

(c) A license will be issued to the legal entity by the Department if, after an investigation by an authorized agent of the Department, the requirements for a license are met.

(d) The assisted living residence shall post the current license, a copy of the current license inspection summary issued by the Department and a copy of this chapter in a conspicuous and public place in the assisted living residence.

**§ 2800.4. Definitions.**

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

*ADL—Activities of daily living*—The term includes eating, drinking, ambulating, transferring in and out of a bed or chair, toileting, bladder and bowel management, personal hygiene, securing health care, managing health care, self-administering medication and proper turning and positioning in a bed or chair.

*Abuse*—The occurrence of one or more of the following acts:

(i) The infliction of injury, unreasonable confinement, intimidation or punishment with resulting physical harm, pain or mental anguish.

(ii) The willful deprivation by the assisted living residence or its staff persons of goods or services which are necessary to maintain physical or mental health.

(iii) Sexual harassment, rape or abuse, as defined in 23 Pa.C.S. Chapter 61 (relating to protection from abuse).

(iv) Exploitation by an act or a course of conduct, including misrepresentation or failure to obtain informed consent which results in monetary, personal or other benefit, gain or profit for the perpetrator, or monetary or personal loss to the resident.

(v) Neglect of the resident, which results in physical harm, pain or mental anguish.

(vi) Abandonment or desertion by the assisted living residence or its staff persons.

*Adult*—An individual who is 18 years of age or older.

*Age in place or aging in place*—Receiving care and services at a licensed assisted living residence to accommodate changing needs and preferences in order to remain in the assisted living residence.

*Agent*—An individual authorized by the Department to enter, visit, inspect or conduct an investigation of an assisted living residence.

*Ancillary staff person*—An individual who provides services for the residents other than direct assistance with activities of daily living. Ancillary staff may include staff who do not provide direct care but who conduct assessment, care planning or care management activities, and who meet the direct care staff qualifications and training requirements. Ancillary staff may also include RNs, LPNs, dietitians, or skilled professionals who meet the requirements of their professional licensure and the direct care staff requirements, if they also provide direct assistance with activities of daily living. Other ancillary staff may include activities planners, housekeepers, cooking staff or facilities staff.

*Appropriate assessment agency*—An organization serving adults who are older or adults with disabilities, such as a county mental health/mental retardation agency, a drug and alcohol agency, an area agency on aging or another human service agency or an individual in an occupation maintaining contact with adults who are older and adults with disabilities, such as medicine, nursing or rehabilitative therapies.

*Area agency on aging*—The local agency designated by the Department of Aging as defined in section 2202-A of The Administrative Code of 1929 (71 P. S. § 581-2).

*Assessment*—An instrument that includes screening of a resident or potential resident to determine whether the resident or potential resident requires the services of an assisted living residence.

*Assisted living residence or residence*—Any premises in which food, shelter, assisted living services, assistance or supervision and supplemental health care services are

provided for a period exceeding 24-hours for four or more adults who are not relatives of the operator, who require assistance or supervision in matters such as dressing, bathing, diet, financial management, evacuation from the residence in the event of an emergency or medication prescribed for self-administration.

*Assisted living residence administrator*—An individual who is charged with the general administration of an assisted living residence, whether or not the individual has an ownership interest in the residence or his function and duties are shared with other individuals.

*Assisted living services*—Services as defined in § 2800.220(b) (relating to service provision).

*Basic cognitive support services*—These services include the following:

- (i) Intermittent cueing.
- (ii) Redirecting.
- (iii) Environmental cues.
- (iv) Measures to address wandering.
- (v) Dementia-specific activity programming.
- (vi) Specialized communication techniques.

*CAM—Complementary and alternative medications*—Practices, substances and ideas used to prevent or treat illness or promote health and well-being outside the realm of modern conventional medicine. Alternative medicine is used alone or instead of conventional medicine. Complementary medicine is used along with or in addition to conventional medicine.

*CPB*—Cognitive, physical, behavioral.

*CPR*—Cardiopulmonary resuscitation.

*Cognitive support services*—

(i) Services provided to an individual who has memory impairments and other cognitive problems which significantly interfere with his ability to carry out ADLs without assistance and who requires that supervision, monitoring and programming be available 24 hours per day, 7 days per week, in order to reside safely in the setting of his choice.

(ii) The term includes assessment, health support services and a full range of dementia-capable activity programming and crisis management.

*Commercial boarding home*—A type of residential living facility providing only food and shelter, or other services normally provided by a hotel, for payment, for individuals who require no services beyond food, shelter and other services usually found in hotel or apartment rental.

*Common living area*—Includes any of the following:

- (i) Dining room.
- (ii) Indoor activity space.
- (iii) Recreational space.
- (iv) Swimming area, if located in the residence.

*Complaint*—A written or oral criticism, dispute or objection presented by or on behalf of a resident to the Department regarding the care, operations or management of an assisted living residence.

*Day*—Calendar day.

*Dementia*—A clinical syndrome characterized by a decline of long duration in mental function in an alert individual. Symptoms of dementia may include memory loss, personality change, chronic wandering and the loss

or diminishing of other cognitive abilities, such as learning ability, judgment, comprehension, attention and orientation to time and place and to oneself.

*Department*—The Department of Public Welfare of the Commonwealth.

*Designated person*—An individual who may be chosen by the resident and documented in the resident's record, to be notified in case of an emergency, termination of service, assisted living residence closure or other situations as indicated by the resident or as required by this chapter. A designated person may be the resident's legal representative or an advocate.

*Designee*—A staff person authorized in writing to act in the administrator's absence.

*Direct care staff person*—A staff person who directly assists residents with activities of daily living, and instrumental activities of daily living and provides services or is otherwise responsible for the health, safety and well-being of the residents.

*Discharge*—Termination of an individual's residency in an assisted living residence.

*Distinct part*—A portion of a building that is visually separated such as a wing or floor, or sections or parts of floors.

*Emergency medical plan*—A plan that ensures immediate and direct access to medical care and treatment for serious injury or illness, or both.

*Financial management*—

(i) An assisted living service requested or required by the resident in accordance with his support plan, which includes taking responsibility for or assisting with paying bills, budgeting, maintaining accurate records of income and disbursements, safekeeping funds and making funds available to the resident upon request.

(ii) The term does not include solely storing funds in a safe place as a convenience for a resident.

*Fire safety expert*—A member of a local fire department, fire protection engineer, Commonwealth-certified fire protection instructor, college instructor in fire science, county or Commonwealth fire school, volunteer trained and certified by a county or Commonwealth fire school, an insurance company loss control representative, Department of Labor and Industry building code inspector or construction code official.

*Health care or human services field*—Includes the following:

- (i) Child welfare services.
- (ii) Adult services.
- (iii) Older adult services.
- (iv) Mental health/mental retardation services.
- (v) Drug and alcohol services.
- (vi) Services for individuals with disabilities.
- (vii) Medicine.
- (viii) Nursing.
- (ix) Rehabilitative services.

(x) Any other human service or occupation that maintains contact with adults who are older or adults and children with disabilities.

*Housekeeping*—The cleaning of the living unit and common living areas. Cleaning of the living unit includes

at least weekly dusting, sweeping, vacuuming, mopping, emptying trash, and cleaning of bathroom, counters, refrigerator and microwave oven, if these appliances are in the resident's living area. Housekeeping for common living areas means keeping them in clean sanitary condition.

*IADL—Instrumental activities of daily living*—The term includes the following activities when done on behalf of a resident:

- (i) Doing laundry.
- (ii) Shopping.
- (iii) Securing and using transportation.
- (iv) Financial management.
- (v) Using a telephone.
- (vi) Making and keeping appointments.
- (vii) Caring for personal possessions.
- (viii) Writing correspondence.
- (ix) Engaging in social and leisure activities.
- (x) Using a prosthetic device.
- (xi) Obtaining and keeping clean, seasonal clothing.

*INRBI*—Intense neurobehavioral rehabilitation after brain injury.

*Informed consent agreement*—A formal, mutually agreed upon, written understanding which:

- (i) Results after thorough discussion among the assisted living residence staff, the resident and any individuals the resident wants to be involved.
- (ii) Identifies how to balance the assisted living residence's responsibilities to the individuals it serves with a resident's choices and capabilities with the possibility that those choices will place the resident or other residents at risk of harm.

*LPN*—Licensed practical nurse.

*Legal entity*—A person, society, corporation, governing authority or partnership legally responsible for the administration and operation of an assisted living residence.

*Legal representative*—An individual who holds a power of attorney, a court-appointed guardian or other person legally authorized to act for the resident.

*License*—A certificate of compliance issued by the Department permitting the operation of an assisted living residence, at a given location, for a specific period of time, for a specified capacity, according to Chapter 20 (relating to licensure or approval of facilities and agencies).

*Licensee*—A person legally responsible for the operations of an assisted living residence licensed in accordance with this chapter.

*Long-term care ombudsman*—A representative of the Office of the State Long-Term Care Ombudsman in the Department of Aging who investigates and seeks to resolve complaints made by or on behalf of individuals who are 60 years of age or older who are consumers of long-term care services. These complaints may relate to action, inaction or decisions of providers of long-term care services, of public agencies, of social service agencies or their representatives, which may adversely affect the health, safety, well-being or rights of these consumers.

*Mobile resident*—

- (i) A resident who is physically and mentally capable of vacating the assisted living residence on the resident's

own power or with limited physical or oral assistance in the case of an emergency, including the capability to ascend or descend stairs if present on the exit path.

(A) Physical assistance means assistance in getting to one's feet or into a wheelchair, walker or prosthetic device.

(B) Oral assistance means giving instructions to assist the resident in vacating the assisted living residence.

(ii) The term includes an individual who is able to effectively operate an ambulation device required for moving from one place to another, and able to understand and carry out instructions for vacating the assisted living residence.

*Neglect*—The failure of an assisted living residence or its staff persons to provide goods or services essential to avoid a clear and serious threat to the physical or mental health of a resident. The failure or omission to provide the care, supervision and services that the assisted living residence has voluntarily, or by contract, agreed to provide and that are necessary to maintain the resident's health, safety and well-being, including assisted living services, food, clothing, medicine, shelter, supervision and medical services. Neglect may be repeated conduct or a single incident.

*OTC*—Over-the-counter or nonprescription.

*Premises*—The grounds and buildings on the same grounds, used for providing services required by residents.

*Protective services unit*—The local area agency on aging unit designated by the Department of Aging to investigate allegations of abuse of adults who are 60 years of age or older and assess the need for protective interventions.

*RN*—Registered nurse.

*Referral agent*—An agency or individual who arranges for or assists, or both, with placement of a resident into an assisted living residence.

*Relative*—A spouse, parent, child, stepparent, stepchild, grandparent, grandchild, brother, sister, half-brother, half-sister, aunt, uncle, niece or nephew.

*Resident*—An adult, unrelated to the legal entity, who resides in an assisted living residence, and who may require assisted living services or supplemental health care services, or both.

*Resident with mobility needs*—An adult who is unable to move from one location to another, has difficulty in understanding and carrying out instructions without the continued full assistance of other individuals or is incapable of independently operating an ambulation device, such as a wheelchair, prosthesis, walker or cane to exit a building.

*Restraint*—A manual, chemical or mechanical device used to limit or restrict the movement or normal function of an individual or a portion of the individual's body.

*SSI*—Supplemental Security Income.

*Secretary*—The Secretary of the Department.

*Special care designation*—A licensed assisted living residence or a distinct part of the residence which is specifically designated by the Department as capable of providing cognitive support services to residents with severe cognitive impairments, including dementia or Alzheimer's disease, in the least restrictive manner to ensure the safety of the resident and others in the residence while maintaining the resident's ability to age in place.



*Specialized cognitive support services*—These services include the following:

- (i) Nonpharmacological interventions.
- (ii) Dining with dignity.
- (iii) Routines and roles.
- (iv) Close of day programming.
- (v) Pain management and person-centered care planning.
- (vi) Implementation and management.

*Staff person*—An individual who works for the assisted living residence for compensation either on payroll or under contract.

*Supplemental health care services*—The provision by an assisted living residence of any type of health care service, either directly or through contractors, subcontractors, agents or designated providers, except for any service that is required by law to be provided by a health care facility under the Health Care Facilities Act (35 P. S. §§ 448.101—448.901).

*Support plan*—A written document that describes for each resident the resident's care, service or treatment needs based on the assessment of the resident, and when the care, service or treatment will be provided, and by whom.

*Third-party provider*—Any contractor, subcontractor, agents or designated providers under contract with the resident or residence to provide services to any resident.

*Transfer*—Movement of a resident within the assisted living residence or to a temporary placement outside the assisted living residence.

*Volunteer*—

- (i) An individual who, of his own free will, and without monetary compensation, provides direct care services for residents in the assisted living residence.
- (ii) The term does not include visitors or individuals who provide nondirect services or entertainment on an occasional basis.

#### **§ 2800.5. Access.**

(a) The administrator, administrator designee or staff person designated under § 2800.56(c) (relating to administrator staffing) shall provide, upon request, immediate access to the residence, the residents and records to:

- (1) Agents of the Department.
- (2) Representatives of the area agency on aging.
- (3) Representatives of the Long-Term Care Ombudsman Program.
- (4) Representatives of the protection and advocacy system for individuals with disabilities designated under the Protection and Advocacy for Individual Rights Program of the Vocational Rehabilitation and Rehabilitation Services Act (29 U.S.C.A. § 794e), the Protection and Advocacy for Individuals with Mental Illness Act (42 U.S.C.A. §§ 10801—10851) and the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C.A. §§ 15041—15043).
- (5) The resident's designated person, if so requested by the resident. The access to records under this paragraph is limited to the records of the resident.

(b) The administrator, administrator designee or staff person designated under § 2800.56(c) shall permit community service organizations and representatives of legal

services programs to have access to the residence during visitation hours or by appointment for the purpose of assisting or informing the residents of the availability of services and assistance. A resident or a resident's designated person if so authorized may decline the services of the community service organization or the legal service program.

### **GENERAL REQUIREMENTS**

#### **§ 2800.11. Procedural requirements for licensure or approval of assisted living residences; special care designation and dual licensure.**

(a) Except for § 20.32 (relating to announced inspections), the requirements in Chapter 20 (relating to licensure or approval of facilities and agencies) apply to assisted living residences.

(b) Before a residence is initially licensed and permitted to open, operate or admit residents, it will be inspected by the Department and found to be in compliance with applicable laws and regulations including this chapter. The Department will reinspect newly licensed residences within 3 months of the date of initial licensure.

(c) After the Department determines that a residence meets the requirements for a license, the Department's issuance or renewal of a license to a residence is contingent upon receipt by the Department of the following fees based on the number of beds in the residence, as follows:

(1) A \$300 license application or renewal fee.

(2) A \$75 per bed fee that may be adjusted by the Department annually at a rate not to exceed the Consumer Price Index. The Department will publish a notice in the *Pennsylvania Bulletin* when the per bed fee is increased.

(d) A person, organization or program may not use the term "assisted living" in any name or written material, except as a licensee in accordance with this chapter. Corporate entities which own subsidiaries that are licensed as assisted living residences may not use the term "assisted living" in any written material to market programs that are not licensed in accordance with this chapter.

(e) Multiple buildings located on the same premises may apply for a single assisted living residence license.

(f) A licensed assisted living residence may submit an application and a \$150 application fee to the Department requesting special care designation. If the Department determines that the residence meets the requirements for special care designation, the residence will be issued a license indicating special care designation.

(g) A licensed personal care home may submit an application to the Department requesting dual licensure if the licensed personal care home and the assisted living residence are collocated in the same building and are each located in a distinct part of the building. If the Department determines that the licensed facility meets all of the requirements of this chapter, the facility will be issued a dual license.

(1) A facility that is dually licensed may not segregate residents or transfer residents from one licensed facility to another based on payment source.

(2) A facility that is dually licensed may request approval from the Department to share the administrator for the two licensed facilities by requesting a waiver of the administrator hourly staffing requirements contained

in § 2800.56 (relating to administrator staffing). The qualifications for a shared administrator must be as set forth in this chapter.

**§ 2800.12. Appeals.**

(a) Appeals related to the licensure or approval of the assisted living residence shall be made in accordance with 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure (GRAPP)).

(b) Appeals related to the licensure or approval of the assisted living residence shall be made by filing a petition within 30 days after service of notice of the action.

(c) Subsection (b) supersedes the appeal period of 1 Pa. Code § 35.20 (relating to appeals from actions of the staff).

**§ 2800.13. Maximum capacity.**

(a) The maximum capacity is the total number of residents who are permitted to reside in the residence at any time. A request to increase the capacity shall be submitted to the Department and other applicable authorities and approved prior to the admission of additional residents. The maximum capacity is limited by physical plant space and other applicable laws and regulations.

(b) The maximum capacity specified on the license may not be exceeded.

**§ 2800.14. Fire safety approval.**

(a) Prior to issuance of a license under this chapter, a written fire safety approval from the Department of Labor and Industry, the Department of Health or the appropriate local building authority under the Pennsylvania Construction Code Act (35 P.S. §§ 7210.101—7210.1103) is required.

(b) If the fire safety approval is withdrawn or restricted, the residence shall notify the Department orally immediately, and in writing, within 48 hours of the withdrawal or restriction.

(c) If a building is structurally renovated or altered after the initial fire safety approval is issued, the residence shall submit the new fire safety approval, or written certification that a new fire safety approval is not required, from the appropriate fire safety authority. This documentation shall be submitted to the Department within 15 days of the completion of the renovation or alteration.

(d) The Department will request additional fire safety inspections by the appropriate agency if possible fire safety violations are observed during an inspection by the Department.

(e) Fire safety approval must be renewed at least every 3 years, or more frequently, if requested by the Department.

**§ 2800.15. Abuse reporting covered by law.**

(a) The residence shall immediately report suspected abuse of a resident served in the residence in accordance with the Older Adult Protective Services Act (35 P.S. §§ 10225.701—10225.707) and 6 Pa. Code §§ 15.21—15.27 (relating to reporting suspected abuse, neglect, abandonment or exploitation) and comply with the requirements regarding restrictions on staff persons.

(b) If there is an allegation of abuse of a resident involving a residence's staff person, the residence shall

immediately develop and implement a plan of supervision or suspend the staff person involved in the alleged incident.

(c) The residence shall immediately submit to the Department's assisted living residence office a plan of supervision or notice of suspension of the affected staff person.

(d) The residence shall immediately notify the resident and the resident's designated person of a report of suspected abuse or neglect involving the resident.

**§ 2800.16. Reportable incidents and conditions.**

(a) A reportable incident or condition includes the following:

(1) The death of a resident.

(2) A physical act by a resident to commit suicide.

(3) An injury, illness or trauma requiring treatment at a hospital or medical facility. This does not include minor injuries such as sprains or minor cuts.

(4) A violation of a resident's rights in §§ 2800.41—2800.44 (relating to resident rights).

(5) An unexplained absence of a resident for 24 hours or more, or when the support plan so provides, a period of less than 24 hours, or an absence of a resident from a special care unit.

(6) Misuse of a resident's funds by the residence's staff persons or legal entity.

(7) An outbreak of a serious communicable disease as defined in 28 Pa. Code § 27.2 (relating to specific identified reportable diseases, infections and conditions).

(8) Food poisoning of residents.

(9) A physical or sexual assault by or against a resident.

(10) Fire or structural damage to the residence.

(11) An incident requiring the services of an emergency management agency, fire department or law enforcement agency, except for false alarms.

(12) A complaint of resident abuse, suspected resident abuse or referral of a complaint of resident abuse to a local authority.

(13) A prescription medication error as defined in § 2800.188 (relating to medication errors).

(14) An emergency in which the procedures under § 2800.107 (relating to emergency preparedness) are implemented.

(15) An unscheduled closure of the residence or the relocation of the residents.

(16) Bankruptcy filed by the legal entity.

(17) A criminal conviction against the legal entity, administrator or staff that is subsequent to the reporting on the criminal history checks under § 2800.51 (relating to criminal history checks).

(18) A termination notice from a utility.

(19) A violation of the health and safety laws under § 2800.18 (relating to applicable laws).

(20) An absence of staff so that residents receive inadequate care as defined by the respective resident's support plan.

(b) The residence shall develop and implement written policies and procedures on the prevention, reporting, notification, investigation and management of reportable incidents and conditions.

(c) The residence shall report the incident or condition to the Department's assisted living residence office or the assisted living residence complaint hotline within 24 hours in a manner designated by the Department. The residence shall immediately report the incident or condition to the resident's family and the resident's designated person. Abuse reporting must also follow the guidelines in § 2800.15 (relating to abuse reporting covered by law).

(d) The residence shall submit a final report, on a form prescribed by the Department, to the Department's assisted living residence office immediately following the conclusion of the investigation.

(e) If the residence's final report validates the occurrence of the alleged incident or condition, the affected resident and other residents who could potentially be harmed or his designated person shall also be informed immediately following the conclusion of the investigation.

(f) The residence shall keep a copy of the report of the reportable incident or condition.

#### **§ 2800.17. Confidentiality of records.**

Resident records shall be confidential, and, except in emergencies, may not be accessible to anyone other than the resident, the resident's designated person if any, staff persons for the purpose of providing services to the resident, agents of the Department and the long-term care ombudsman without the written consent of the resident, an individual holding the resident's power of attorney for health care or health care proxy or a resident's designated person, or if a court orders disclosure.

#### **§ 2800.18. Applicable laws.**

A residence shall comply with applicable Federal, State and local laws, ordinances and regulations.

#### **§ 2800.19. Waivers.**

(a) A residence may submit a written request for a waiver of a specific requirement contained in this chapter. The waiver request must be on a form prescribed by the Department. The Secretary, or the Secretary's appointee, may grant a waiver of a specific requirement of this chapter if the following conditions are met:

- (1) There is no jeopardy to the residents.
- (2) There is an alternative for providing an equivalent level of health, safety and well-being protection of the residents.
- (3) Residents will benefit from the waiver of the requirement.

(b) Following receipt of a waiver request, the Department will post the waiver request on the Department's website with a 30-day public comment period prior to final review and decision on the requested waiver.

(c) The scope, definitions, applicability or residents' rights, assisted living service delivery requirements, special care designation requirements, staff training requirements, disclosure requirements, complaint rights or procedures, notice requirements to residents or the resident's family, contract requirements, reporting requirements, fire safety requirements, assessment, support plan or service delivery requirements under this chapter may not be waived.

(d) At least 30 days prior to the submission of the completed written waiver request to the Department, the residence shall provide a copy of the completed written waiver request to the affected resident and designated person to provide the opportunity to submit comments to the Department. The residence shall provide the affected resident and designated person with the name, address and telephone number of the Department staff person to submit comments.

(e) The residence shall discuss the waiver request with the affected resident and designated person upon the request of the resident or designated person.

(f) The residence shall notify the affected resident and designated person of the approval or denial of the waiver. A copy of the waiver request and the Department's written decision shall be posted in a conspicuous and public place within the residence.

(g) The Department will review waivers annually to determine compliance with the conditions required by the waiver. The Department may revoke the waiver if the conditions required by the waiver are not met. When the Department revokes a standing waiver from a residence that residence may appeal the revocation consistent with § 2800.12 (relating to appeals).

#### **§ 2800.20. Financial management.**

(a) A resident may manage his personal finances unless the resident has a guardian of his estate.

(b) If the residence provides assistance with financial management or holds resident funds, the following requirements apply:

(1) The residence shall keep a record of financial transactions with the resident, including the dates, amounts of deposits, amounts of withdrawals and the current balance.

(2) Resident funds shall be disbursed during normal business hours within 24 hours of the resident's request.

(3) The residence shall obtain a written receipt from the resident for cash disbursements at the time of disbursement.

(4) Resident funds and property shall only be used for the resident's benefit.

(5) Commingling of resident funds and residence funds is prohibited.

(6) If a residence is holding more than \$200 for a resident for more than 2 consecutive months, the administrator shall notify the resident and offer assistance in establishing an interest-bearing account in the resident's name at a local Federally-insured financial institution. This does not include security deposits.

(7) The legal entity, administrator and staff persons of the residence are prohibited from being assigned power of attorney or guardianship of a resident or a resident's estate.

(8) The residence shall give the resident and the resident's designated person, an itemized account of financial transactions made on the resident's behalf on a quarterly basis.

(9) A copy of the itemized account shall be kept in the resident's record.

(10) The residence shall provide the resident the opportunity to review his own financial record upon request during normal business hours.



**§ 2800.21. Offsite services.**

If services or activities are provided by the residence at a location other than the premises, the residence shall ensure that the residents' support plans are followed and that the health and safety needs of the residents are met.

**§ 2800.22. Application and admission.**

(a) *Documentation.* The following admission documents shall be completed for each resident:

(1) Medical evaluation completed within 60 days prior to admission on a form specified by the Department. The medical evaluation may be completed within 15 days after admission if one of the following conditions applies:

(i) The resident is being admitted directly to the residence from an acute care hospital.

(ii) The resident is being admitted to escape from an abusive situation.

(iii) The resident has no alternative living arrangement.

(2) Assisted living resident initial assessment completed within 30 days prior to admission on a form specified by the Department. The initial assessment may be completed within 15 days after admission subject to § 2800.224 (relating to initial assessment and preliminary support plan).

(3) Preliminary support plan developed within 30 days prior to admission. The preliminary support plan may be completed within 15 days after admission if one of the following conditions applies:

(i) The resident is being admitted directly to the residence from an acute care hospital.

(ii) The resident is being admitted to escape from an abusive situation.

(iii) The resident has no alternative living arrangement.

(4) Final support plan is developed and implemented within 30 days after admission.

(5) Resident-residence contract is completed prior to admission or within 24 hours after admission.

(6) Medical evaluations, resident assessments and support plans may be subsequently updated as needed, but no less frequently than required in §§ 2800.225 and 2800.227 (relating to additional assessments; and development of the final support plan).

(b) *Certification.*

(1) A certification shall be made, prior to admission, that the needs of the potential resident can be met by the services provided by the residence.

(2) The certification shall be made by one of the following persons:

(i) The administrator acting in consultation with the supplemental health care providers.

(ii) The individual's physician or certified registered nurse practitioner.

(iii) The medical director of the residence.

(3) A potential resident whose needs cannot be met by the residence shall be provided with a written decision denying his admission and provide a basis for the denial. The decision shall be confidential and may only be released with the consent of the potential resident or his designated person. The potential resident shall then be referred to a local appropriate assessment agency.

(c) *Supplemental health care.* A potential resident who requires assisted living services but does not currently require assistance in obtaining supplemental health care services may be admitted to the residence, provided the resident is only provided supplemental health care services required or requested by the resident. When supplemental health care services are required, the residence shall develop a preliminary support plan as required in § 2800.224. This subsection applies to residents under any of the following circumstances:

(1) A resident who currently does not require assistance in obtaining supplemental health care services, but who may require supplemental health care services in the future.

(2) A resident who wishes to obtain assistance in obtaining supplemental health care services.

(3) A resident who resides in a residence in which supplemental health care services are available.

(d) *Adults requiring services of a long-term care nursing facility.* Adults requiring the services of a licensed long-term care nursing facility, including those with mobility needs, may reside in a residence, provided that appropriate supplemental health care services are provided those residents and the design, construction, staffing and operation of the residence allows for their safe emergency evacuation.

(e) *Written disclosure.* Upon application for residency and prior to admission to the residence, the licensee shall provide each potential resident or potential resident's designated person with written disclosures that include:

(1) A list of the nonwaivable resident rights.

(2) A copy of the contract the resident will be asked to sign.

(3) A copy of residence rules and resident handbook. The resident handbook shall be approved by the Department.

(4) Specific information about the following:

(i) The services and the core packages that are offered by the residence.

(ii) The cost of those services and of the core packages to the potential resident.

(iii) When a potential resident may require the services offered in a different core package.

(iv) The contact information for the Department.

(v) The licensing status of the most recent inspection reports and instructions for access to the Department's public website for information on the residence's most recent inspection reports.

(vi) The number of living units in the residence that comply with the Americans with Disabilities Act (42 U.S.C.A. §§ 12101—12213).

(vii) Disclosure of any waivers that have been approved for the residence and are still in effect.

**§ 2800.23. Activities.**

(a) A residence shall provide each resident with assistance with ADLs and appropriate cueing for ADLs as indicated in the resident's assessment and support plan.

(b) A residence shall provide each resident with assistance with IADLs and appropriate cueing for IADLs as indicated in the resident's assessment and support plan.

**§ 2800.24. Personal hygiene.**

A residence shall provide the resident with assistance with personal hygiene and appropriate cueing to encour-

age personal hygiene as indicated in the resident's assessment and support plan. Personal hygiene includes one or more of the following:

- (1) Bathing.
- (2) Oral hygiene.
- (3) Hair grooming and shampooing.
- (4) Dressing, undressing and care of clothes.
- (5) Shaving.
- (6) Nail care.
- (7) Foot care.
- (8) Skin care.

**§ 2800.25. Resident-residence contract.**

(a) Prior to admission, or within 24 hours after admission, a written resident-residence contract between the resident and the residence must be in place. The administrator or a designee shall complete this contract and review and explain its contents to the resident and the resident's designated person if any, prior to signature.

(b) The contract shall be signed by the administrator or a designee, the resident and the payer, if different from the resident, and cosigned by the resident's designated person if any, if the resident agrees. The contract must run month-to-month with automatic renewal unless terminated by the resident with 14 days notice or by the residence with 30 days notice in accordance with § 2800.228 (relating to transfer and discharge).

(c) At a minimum, the contract must specify the following:

(1) Each resident shall retain, at a minimum, the current personal needs allowance as the resident's own funds for personal expenditure. A contract to the contrary is not valid. A personal needs allowance is the amount that a resident shall be permitted to keep for his personal use.

(2) A fee schedule that lists the actual amount of charges for each of the assisted living services that are included in the resident's core service package in accordance with § 2800.220 (relating to service provision).

(3) An explanation of the annual assessment, medical evaluation and support plan requirements and procedures, which shall be followed if either the assessment or the medical evaluation indicates the need for another and more appropriate level of care.

(4) The party responsible for payment.

(5) The method for payment of charges for long distance telephone calls.

(6) The conditions under which refunds will be made, including the refund of admission fees and refunds upon a resident's death.

(7) The financial arrangements if assistance with financial management is to be provided.

(8) The residence's rules related to residence services, including whether the residence permits smoking.

(9) The conditions under which the resident-residence contract may be terminated including residence closure as specified in § 2800.228.

(10) A statement that the resident is entitled to at least 30 days advance notice, in writing, of the residence's request to change the contract.

(11) A list of assisted living services or supplemental health care services, or both, to be provided to the resident based on the outcome of the resident's support plan, a list of the actual rates that the resident will be periodically charged for food, shelter and services and how, when and by whom payment is to be made.

(12) Charges to the resident for holding a bed during hospitalization or other extended absence from the residence.

(13) Written information on the resident's rights and complaint procedures as specified in § 2800.41 (relating to notification of rights and complaint procedures).

(d) A residence may not seek or accept payments from an SSI resident in excess of one-half of any funds received by the resident under the Senior Citizens Rebate and Assistance Act (72 P. S. §§ 4751-1—4751-12). If the residence will be assisting the resident to manage a portion of the rent rebate, the requirements of § 2800.20 (relating to financial management) may apply. There may be no charge for filling out this paperwork.

(e) The resident-residence contract must include whether the residence collects a portion of a resident's rent rebate under subsection (d).

(f) If the residence collects a resident's rent rebate under subsection (e), the resident-residence contract must include the following:

(1) The dollar amount or percentage of the rent rebate to be collected.

(2) The residence's intended use of the revenue collected from the rent rebate.

(g) A statement signed by the resident, and the resident's designated person if applicable, at the time of admission, informing the resident that the information required in subsections (e) and (f) is to be kept in the resident's record.

(h) The resident, or a designated person, has the right to rescind the contract for up to 72 hours after the initial dated signature of the contract. The resident shall pay only for the services received. Rescission of the contract must be in writing addressed to the residence.

(i) The residence may not require or permit a resident to assign assets to the residence in return for a life care contract/guarantee. A life care contract/guarantee is an agreement between the legal entity and the resident that the legal entity will provide care to the resident for the duration of the resident's life. Continuing care communities that have obtained a Certificate of Authority from the Insurance Department and have provided a copy of the certificate to the Department are exempt from this requirement.

(j) A copy of the signed resident-residence contract shall be given to the resident and a copy shall be filed in the resident's record.

(k) The service needs addressed in the resident's support plan shall be available to the resident every day of the year.

(l) The resident-residence contract shall identify the assisted living services included in the core service package the individual is purchasing and the total price for those services. Supplemental health care services shall be packaged, contracted and priced separately from the resident-residence contract. Services provided by or contracted for by the residence other than supplemental health care services must be priced separately from the service package in the resident-residence contract.

**§ 2800.26. Quality management.**

(a) The residence shall establish and implement a quality management plan.

(b) The quality management plan must address the periodic review and evaluation of the following, to assure compliance with law and with the relevant standard of care:

(1) The reportable incident and condition reporting procedures.

(2) Complaint procedures.

(3) Staff person training.

(4) Licensing violations and plans of correction, if applicable.

(5) Resident or family councils, or both, if applicable.

(c) The quality management plan must include the development and implementation of measures to address the areas needing improvement that are identified during the periodic review and evaluation.

**§ 2800.27. SSI recipients.**

(a) If a residence agrees to admit a resident eligible for SSI benefits, the residence's charges for actual rent and other services may not exceed the SSI resident's actual current monthly income reduced by the current personal needs allowance.

(b) The administrator or staff persons may not include funds received as lump sum awards, gifts or inheritances, gains from the sale of property or retroactive government benefits when calculating payment of rent for an SSI recipient or for a resident eligible for SSI benefits.

(c) The administrator or staff persons may not seek or accept any payments from funds received as retroactive awards of SSI benefits, but may seek and accept the payments only to the extent that the retroactive awards cover periods of time during which the resident actually resided in the residence and for which full payment has not been received.

(d) The administrator shall provide each resident who is a recipient of SSI, at no charge beyond the amount determined in subsection (a), the following items or services as needed:

(1) Necessary personal hygiene items, such as a comb, toothbrush, toothpaste, soap and shampoo. Cosmetic items are not included.

(2) Laundry services for personal laundry, bed linens and towels, but not including dry cleaning or other specialized services.

(3) Assistance or supervision in ADL or IADL, or both.

(e) Third-party payments made on behalf of an SSI recipient and paid directly to the residence are permitted. These payments may not be used for food, clothing or shelter because to do so would reduce SSI payments. See 20 CFR 416.1100 and 416.1102 (relating to income and SSI eligibility; and what is income). These payments may be used to purchase items or services for the resident that are not food, clothing or shelter.

**§ 2800.28. Refunds.**

(a) If, after the residence gives notice of transfer or discharge in accordance with § 2800.228(b) (relating to transfer and discharge), and the resident moves out of the residence before the 30 days are over, the residence shall give the resident a refund equal to the previously paid charges for rent, assisted living services and supplement-

tal health care services, if applicable, for the remainder of the 30-day time period. The refund shall be issued within 30-days of transfer or discharge. The resident's personal needs allowance shall be refunded within 2 business days of transfer or discharge.

(b) After a resident gives notice of the intent to leave in accordance with § 2800.25(b) (relating to resident-residence contract) and if the resident moves out of the residence before the expiration of the required 14 days, the resident owes the residence the charges for rent and assisted living services and supplemental health care services, or both, for the entire length of the 14-day time period for which payment has not been made.

(c) If no notice is required, as set forth in subsection (d), the resident shall be required to pay only for the nights spent in the residence.

(d) If the residence does not require a written notice prior to a resident's departure, the administrator shall refund the remainder of previously paid charges to the resident within 30 days of the date the resident moved from the residence.

(e) In the event of the death of a resident under 60 years of age, the administrator shall refund the remainder of previously paid charges to the resident's estate within 30 days from the date the living unit is cleared of the resident's personal property. In the event of the death of a resident 60 years of age and older, the residence shall provide a refund in accordance with the Elder Care Payment Restitution Act (35 P. S. §§ 10226.101—10226.107). The residence shall keep documentation of the refund in the resident's record.

(f) Within 30 days of either the termination of service by the residence or the resident's leaving the residence, the resident shall receive an itemized written account of the resident's funds, including notification of funds still owed the residence by the resident or a refund owed the resident by the residence. Refunds shall be made within 30 days of discharge.

(g) Upon discharge of the resident or transfer of the resident, the administrator shall return the resident's funds being managed or stored by the residence to the resident within 2 business days from the date the living unit is cleared of the resident's personal property.

**§ 2800.29. Hospice care and services.**

Hospice care and services that are licensed by the Department of Health as a hospice may be provided in an assisted living residence.

**§ 2800.30. Informed consent process.**

(a) *Initiation of process.*

(1) When a licensee determines that a competent resident's decision, behavior or action creates a dangerous situation and places the competent resident, other residents or staff members at risk of harm by the competent resident's wish to exercise independence in directing the manner in which the competent resident receives care, the licensee may initiate an informed consent process to address the identified risk and to reach a mutually agreed-upon plan of action with the competent resident or the resident's designated person. The initiation of an informed consent process does not guarantee that an informed consent agreement, which is agreeable to all parties, will be reached and executed.

(2) When a competent resident wishes to exercise independence in directing the manner in which the competent resident receives care, the competent resident



may initiate an informed consent process to modify the support plan and attempt to reach a mutually agreed upon plan of action with the licensee.

(3) An incompetent resident shall be eligible for an informed consent agreement only if the resident's legal representative is included in the negotiation of the informed consent agreement and executes the agreement.

(b) *Notification.*

(1) When the licensee chooses to initiate an informed consent process, the provider shall do so by notifying the competent resident and, if applicable, the resident's designated person in writing and orally. The notification must include the contact information for the ombudsman. For incompetent residents, the ombudsman shall be automatically notified by the licensee. Notification shall be documented in the resident's file by the licensee.

(2) When a competent resident chooses to initiate an informed consent negotiation, the competent resident shall do so by notifying the licensee in writing and orally. Notification shall be documented in the competent resident's file by the licensee. When a legal representative for an incompetent resident chooses to initiate an informed consent negotiation, the legal representative shall do so by notifying the licensee in writing or orally. Notification shall be documented in the incompetent resident's file by the licensee.

(c) *Resident's involvement.* A resident who is not incompetent shall be entitled, but is not required, to involve his legal representative and physician, and any other individual the competent resident wants involved, to participate or assist in the discussion of the competent resident's wish to exercise independence and, if necessary, in developing a satisfactory informed consent agreement that balances the competent resident's choices and capabilities with the possibility that the choices will place the resident, other residents or staff members at risk of harm.

(d) *Informed consent meeting.*

(1) In a manner the competent resident can understand, the licensee shall discuss the competent resident's wish to exercise independence in directing the manner in which he receives care. The discussion must relate to the decision, behavior or action that places the competent resident, other residents or staff members at risk of harm and hazards inherent in the resident's action. The discussion must include reasonable alternatives, if any, for mitigating the risk, the significant benefits and disadvantages of each alternative and the most likely outcome of each alternative. In the case of an incompetent resident, the incompetent resident's legal representative shall participate in the discussion.

(2) A resident may not have the right to place other residents or staff members at risk, but, consistent with statutory and regulatory requirements, may elect to proceed with a decision, behavior or action affecting only his own safety or health status, foregoing alternatives for mitigating the risk, after consideration of the benefits and disadvantages of the alternatives including his wish to exercise independence in directing the manner in which he receives care. The licensee shall evaluate whether the competent resident understands and appreciates the nature and consequences of the risk, including the significant benefits and disadvantages of each alternative considered, and then shall further ascertain whether the competent resident is consenting to accept or mitigate the risk with full knowledge and forethought.

(e) *Successful negotiation.* If the parties agree, the informed consent agreement shall be reduced to writing and signed by all parties, including all individuals engaged in the negotiation at the request of the competent resident, and shall be retained in the resident's file as part of the service plan.

(f) *Unsuccessful negotiation.* If the parties do not agree, the licensee shall notify the resident, the resident's legal representative and the individuals engaged in the informed consent negotiation at the request of the resident. The residence shall include contact information on the local ombudsman or the appropriate advocacy organization and whether the licensee will issue a notice of discharge.

(g) *Freedom from duress.* An informed consent agreement must be voluntary and free of force, fraud, deceit, duress, coercion or undue influence, provided that a licensee retains the right to issue a notice of involuntary discharge in the event a resident's decision, behavior or action creates a dangerous situation and places other residents or staff members at risk of harm and, after a discussion of the risk, the resident declines alternatives to mitigate the risk.

(h) *Individualized nature.* An informed consent agreement must be unique to the resident's situation and his wish to exercise independence in directing the manner in which he receives care. The informed consent agreement shall be utilized only when a resident's decision, behavior or action creates a situation and places the resident, other residents or staff members at risk of harm. A licensee may not require execution of an informed consent agreement as a standard condition of admission.

(i) *Liability.* Execution of an informed consent agreement does not constitute a waiver of liability beyond the scope of the agreement or with respect to acts of negligence, tort, products defect, breach of fiduciary duty, contract violation, or any other claim or cause of action. An informed consent agreement does not relieve a licensee of liability for violation of statutory or regulatory requirements promulgated under this chapter nor does it affect the enforceability of regulatory provisions including those provisions governing admission or discharge or the permissible level of care in an assisted living residence.

(j) *Change in resident's condition.* An informed consent agreement must be updated following a significant change in the resident's condition that affects the risk potential to the resident, other residents or staff members.

(k) Either party has a right to rescind the informed consent agreement within 30 days of execution of the agreement.

## RESIDENT RIGHTS

### § 2800.41. Notification of rights and complaint procedures.

(a) Upon admission, each resident and, if applicable, the resident's designated person, shall be informed of resident rights and the right to lodge complaints without intimidation, retaliation or threats of retaliation by the residence or its staff persons against the reporter. Retaliation includes transfer or discharge from the residence.

(b) Notification of rights and complaint procedures shall be communicated in an easily understood manner and in a language understood by or mode of communication used by the resident and, if applicable, the resident's designated person.

(c) The Department's poster of the list of resident's rights shall be posted in a conspicuous and public place in the residence.

(d) A copy of the resident's rights and complaint procedures shall be given to the resident and, if applicable, the resident's designated person, upon admission.

(e) A statement signed by the resident and, if applicable, the resident's designated person acknowledging receipt of a copy of the information specified in subsection (d), or documentation of efforts made to obtain signature, shall be kept in the resident's record.

**§ 2800.42. Specific rights.**

(a) A resident may not be discriminated against because of race, color, religious creed, disability, ancestry, sexual orientation, national origin, age or sex.

(b) A resident may not be neglected, intimidated, physically or verbally abused, mistreated, subjected to corporal punishment or disciplined in any way. A resident must be free from mental, physical, and sexual abuse and exploitation, neglect, financial exploitation and involuntary seclusion.

(c) A resident shall be treated with dignity and respect.

(d) A resident shall be informed of the rules of the residence and given 30 days' written notice prior to the effective date of a new residence rule.

(e) A resident shall have access to a telephone in the residence to make calls in privacy. Nontoll calls must be without charge to the resident.

(f) A resident has the right to receive and send mail.

(1) Outgoing mail may not be opened or read by staff persons unless the resident requests.

(2) Incoming mail may not be opened or read by staff persons unless upon the request of the resident or the resident's designated person.

(g) A resident has the right to communicate privately with and access the local ombudsman.

(h) A resident has the right to practice the religion or faith of the resident's choice, or not to practice any religion or faith.

(i) A resident shall receive assistance in accessing health care services, including supplemental health care services.

(j) A resident shall receive assistance in obtaining and keeping clean, seasonal clothing. A resident's clothing may not be shared with other residents.

(k) A resident and the resident's designated person, and other individuals upon the resident's written approval shall have the right to access, review and request corrections to the resident's record.

(l) A resident has the right to furnish his living unit and purchase, receive, use and retain personal clothing and possessions.

(m) A resident has the right to leave and return to the residence at times consistent with the residence rules and the resident's support plan.

(n) A resident has the right to relocate and to request and receive assistance, from the residence, in relocating to another facility. The assistance must include helping the resident get information about living arrangements, making telephone calls and transferring records.

(o) A resident has the right to freely associate, organize and communicate privately with his friends, family, physician, attorney and other persons.

(p) A resident shall be free from restraints.

(q) A resident shall be compensated in accordance with State and Federal labor laws for labor performed on behalf of the residence. Residents may voluntarily and without coercion perform tasks related directly to the resident's personal space or common areas of the residence.

(r) A resident has the right to receive visitors at any time provided that the visits do not adversely affect other residents. A residence may adopt reasonable policies and procedures related to visits and access. If the residence adopts those policies and procedures, they will be binding on the residence.

(s) A resident has the right to privacy of self and possessions. Privacy shall be provided to the resident during bathing, dressing, changing and medical procedures.

(t) A resident has the right to file complaints, grievances or appeals with any individual or agency and recommend changes in policies, residence rules and services of the residence without intimidation, retaliation or threat of discharge.

(u) A resident has the right to remain in the residence, as long as it is operating with a license, except as specified in § 2800.228 (relating to transfer and discharge).

(v) A resident has the right to receive services contracted for in the resident-residence contract.

(w) A resident has the right to use both the residence's procedures and external procedures to appeal involuntary discharge.

(x) A resident has the right to a system to safeguard a resident's money and property.

(y) To the extent prominently displayed in the written resident-residence contract, a residence may require residents to use providers of supplemental health care services as provided in § 2800.142 (relating to assistance with medical care and supplemental health care services). When the residence does not designate, the resident may choose the supplemental health care service provider. The actions and procedures utilized by a supplemental health care service provider chosen by a resident must be consistent with the residence's systems for caring for residents. This includes the handling and assisting with the administration of resident's medications, and may not conflict with Federal laws governing residents.

(z) The resident has the right to choose his primary care physician.

**§ 2800.43. Prohibition against deprivation of rights.**

(a) A resident may not be deprived of his rights.

(b) A resident's rights may not be used as a reward or sanction.

(c) Waiver of any resident right shall be void.

**§ 2800.44. Complaint procedures.**

(a) Prior to admission, the residence shall inform the resident and the resident's designated person of the right to file and the procedure for filing a complaint with the Department's Assisted Living Residence Licensing Office,

local ombudsman or protective services unit in the area agency on aging, the Disability Rights Network or law enforcement agency.

(b) The residence shall permit and respond to oral and written complaints from any source regarding an alleged violation of resident rights, quality of care or other matter without retaliation or the threat of retaliation.

(c) If a resident indicates that he wishes to make a written complaint, but needs assistance in reducing the complaint to writing, the residence shall assist the resident in writing the complaint.

(d) The residence shall ensure investigation and resolution of complaints. The residence shall designate the staff person responsible for receiving complaints and determining the outcome of the complaint. The residence shall keep a log of all complaints and the outcomes of the complaints.

(e) Within 2 business days after the submission of a written complaint, a status report shall be provided by the residence to the complainant. If the resident is not the complainant, the resident and the resident's designated person shall receive the status report unless contraindicated by the support plan. The status report must indicate the steps that the residence is taking to investigate and address the complaint.

(f) Within 7 days after the submission of a written complaint, the residence shall give the complainant and, if applicable, the designated person, a written decision explaining the residence's investigation findings and the action the residence plans to take to resolve the complaint. If the resident is not the complainant, the affected resident shall receive a copy of the decision unless contraindicated by the support plan. If the residence's investigation validates the complaint allegations, a resident who could potentially be harmed or his designated person shall receive a copy of the decision, with the name of the affected resident removed, unless contraindicated by the support plan.

(g) The telephone number of the Department's Assisted Living Residence Licensing Office, the local ombudsman or protective services unit in the area agency on aging, the Disability Rights Network, the local law enforcement agency, the Commonwealth Information Center and the assisted living residence complaint hotline shall be posted in large print in a conspicuous and public place in the residence.

(h) Nothing in this section may affect in any way the right of the resident to file suit or claim for damages.

#### STAFFING

##### § 2800.51. Criminal history checks.

(a) Criminal history checks shall be in accordance with the Older Adult Protective Services Act (35 P.S. §§ 10225.101—10225.5102), and 6 Pa. Code Chapter 15 (relating to protective services for older adults).

(b) The hiring policies shall be in accordance with the Department of Aging's Older Adult Protective Services Act policy as posted on the Department of Aging's web site.

##### § 2800.52. Staff hiring, retention and utilization.

Hiring, retention and utilization of staff persons shall be in accordance with the Older Adult Protective Services Act (35 P.S. §§ 10225.101—10225.5102), 6 Pa. Code Chapter 15 (relating to protective services for older adults) and other applicable regulations.

##### § 2800.53. Qualifications and responsibilities of administrators.

(a) The administrator shall have one of the following qualifications:

(1) A license as an RN from the Department of State and 1 year, in the prior 10 years, of direct care or administrative experience in a health care or human services field.

(2) An associate's degree or 60 credit hours from an accredited college or university in a human services field and 1 year, in the prior 10 years, of direct care or administrative experience in a health care or human services field.

(3) An associate's degree or 60 credit hours from an accredited college or university in a field that is not related to human services and 2 years, in the prior 10 years, of direct care or administrative experience in a health care or human services field.

(4) A license as an LPN from the Department of State and 1 year, in the prior 10 years, of direct care or administrative experience in a health care or human services field.

(5) A license as a nursing home administrator from the Department of State and 1 year, in the prior 10 years, of direct care or administrative experience in a health care or human services field.

(6) With the exception of administrators qualified under § 2600.53(a)(5) (relating to qualifications and responsibilities of administrators), experience as a personal care home administrator, if the following requirements are met:

(i) Employed as a personal care home administrator for 2 years prior to January 18, 2011.

(ii) Completed the administrator training requirements and pass the Department-approved competency-based training test in § 2800.64 (relating to administrator training and orientation) by January 18, 2012.

(b) The administrator shall be 21 years of age or older.

(c) The administrator shall be responsible for the administration and management of the residence, including the health, safety and well-being of the residents, implementation of policies and procedures and compliance with this chapter.

(d) The administrator shall have the ability to provide assisted living services or to supervise or direct the work to provide assisted living services.

(e) The administrator shall have knowledge of this chapter.

(f) The administrator shall have the ability to comply with applicable laws, rules and regulations, including this chapter.

(g) The administrator shall have the ability to maintain or supervise the maintenance of financial and other records.

(h) At all times the administrator shall be free from a medical condition, including drug or alcohol addiction that would limit the administrator from performing duties with reasonable skill and safety.

##### § 2800.54. Qualifications for direct care staff persons.

(a) Direct care staff persons shall have the following qualifications:



(1) Be 18 years of age or older, except as permitted in subsection (d).

(2) Have a high school diploma, GED or active registry status on the Pennsylvania nurse aide registry.

(3) Be free from a medical condition, including drug or alcohol addiction, that would limit direct care staff persons from providing necessary assisted living services with reasonable skill and safety.

(4) Be able to communicate in a mode or manner understood by the resident. Strategies that promote interactive communication on the part of direct care staff and individual residents shall be developed in accordance with the resident's final support plan under § 2800.227(e) (relating to development of the final support plan).

(b) A volunteer who performs or provides ADLs shall meet the direct staff person qualifications and training requirements specified in this chapter.

(c) A resident receiving assisted living services who voluntarily performs tasks in the residence will not be considered a volunteer under this chapter.

(d) Food services or housekeeping staff may be 16 or 17 years of age.

**§ 2800.55. Portability of staff training.**

A staff person who transfers to another licensed residence, or from a licensed personal care home shall be given credit for any completed hours of training that are required on an annual basis, provided however, that the staff person shall complete any additional training required by this chapter for assisted living residence direct care staff.

**§ 2800.56. Administrator staffing.**

(a) Except for temporary absences under subsection (b), the administrator shall be present in the residence an average of 36 hours or more per week, in each calendar month. At least 30 hours per week must be during normal business hours.

(b) If the administrator is unavailable to meet the hourly requirements in subsection (a) due to a temporary absence, the administrator shall assign an administrator designee in writing to supervise the residence during the administrator's temporary absence. The administrator designee shall meet the following requirements:

(1) Have 3,000 hours of direct operational responsibility for a senior housing facility, health care facility, residential care facility, adult daily living facility or other group home licensed or approved by the Commonwealth.

(2) Pass the Department-approved competency-based administrator training test under § 2800.64(a)(3) (relating to administrator training and orientation).

(3) Meet the qualification and training requirements of a direct care staff person under §§ 2800.54 and 2800.65 (relating to qualifications for direct care staff persons; and staff orientation and direct care staff person training and orientation).

(c) The administrator shall assign a staff person in writing to supervise the residence during the administrator's or administrator designee's absence. The staff person shall meet the qualification and training requirements of a direct care staff person under §§ 2800.54 and 2800.65.

(d) During the administrator's and administrator designee's absence, the administrator or administrator designee shall be on-call.

**§ 2800.57. Direct care staffing.**

(a) At all times one or more residents are present in the residence, a direct care staff person who is 21 years of age or older shall be present in the residence. The direct care staff person may be the administrator if the administrator provides direct care services.

(b) Direct care staff persons shall be available to provide at least 1 hour per day of assisted living services to each mobile resident.

(c) Direct care staff persons shall be available to provide at least 2 hours per day of assisted living services to each resident who has mobility needs.

(d) At least 75% of the assisted living service hours specified in subsections (b) and (c) shall be available during waking hours.

**§ 2800.58. Awake staff persons.**

Direct care staff persons on duty in the residence shall be awake at all times.

**§ 2800.59. Multiple buildings.**

For a residence with multiple buildings on the same premises regardless of the distance between buildings, the direct care staffing requirements in § 2800.57 (relating to direct care staffing) apply at all times residents are present in the residence.

**§ 2800.60. Additional staffing based on the needs of the residents.**

(a) Staffing shall be provided to meet the needs of the residents as specified in the resident's assessment and support plan. Residence staff or service providers who provide services to the residents in the residence shall meet the applicable professional licensure requirements.

(b) The staffing level in this chapter is minimum only. The Department may require additional staffing as necessary to protect the health, safety and well-being of the residents. Requirements for additional staffing will be based on the resident's assessment and support plan, the design and construction of the residence and the operation and management of the residence.

(c) Additional staff hours, or contractual hours, shall be provided as necessary to meet the transportation, laundry, food service, housekeeping and maintenance needs of the residents.

(d) In addition to the staffing requirements in this chapter, the residence shall have a licensed nurse available in the building or on call at all times. The licensed nurse shall be either an employee of the residence or under contract with the residence.

(e) The residence shall have a dietician on staff or under contract to provide for any special dietary needs of a resident as indicated in his support plan.

**§ 2800.61. Substitute personnel.**

When regularly scheduled direct care staff persons are absent, the administrator shall arrange for coverage by substitute personnel who meet the direct care staff qualifications and training requirements as specified in §§ 2800.54 and 2800.65 (relating to qualifications for direct care staff persons; and staff orientation and direct care staff person training and orientation).

**§ 2800.62. List of staff persons.**

The administrator shall maintain a current list of the names, addresses and telephone numbers of staff persons including substitute personnel and volunteers.

**§ 2800.63. First aid, CPR and obstructed airway training.**

(a) For every 35 residents, there shall be at least one staff person trained in first aid and certified in obstructed airway techniques and CPR present in the residence at all times to meet the needs of the residents.

(b) Current training in first aid and certification in obstructed airway techniques and CPR shall be provided by an individual certified as a trainer by a hospital or other recognized health care organization.

(c) Licensed, certified and registered medical personnel meet the qualifications in subsection (a) and are exempt from the training requirements in subsections (a) and (b).

(d) A staff person who is trained in first aid or certified in obstructed airway techniques or CPR shall provide those services in accordance with his training, unless the resident has a do not resuscitate order.

**§ 2800.64. Administrator training and orientation.**

(a) Prior to initial employment as an administrator, a candidate shall successfully complete the following:

(1) An orientation program approved and administered by the Department.

(2) A 100-hour standardized Department-approved administrator training course. The training provided for in § 2800.69 (relating to additional dementia-specific training) shall be in addition to the 100-hour training course.

(3) A Department-approved competency-based training test with a passing score.

(b) The standardized Department-approved administrator training course specified in subsection (a)(2) must include the following:

- (1) Fire prevention and emergency preparedness.
- (2) Medication procedures, medication effects and side effects, universal precautions and personal hygiene.
- (3) Certification in CPR and obstructed airway techniques and training in first aid.
- (4) Assisted living services.
- (5) Local, State and Federal laws and regulations pertaining to the operation of a residence.
- (6) Nutrition, food handling and sanitation.
- (7) Recreation.
- (8) Care for residents with mental illness.
- (9) Resident rights.
- (10) Care for residents with cognitive and neurological impairments and other special needs.
- (11) Care for residents with mental retardation.
- (12) Community resources, social services and activities in the community.
- (13) Staff supervision and staff person training including developing orientation and training guidelines for staff.
- (14) Budgeting, financial recordkeeping and resident records including:
  - (i) Writing, completing and implementing initial assessments, annual assessments and support plans.
  - (ii) Resident-residence contracts.
- (15) Gerontology.
- (16) Abuse and neglect prevention and reporting.

(17) Cultural competency.

(18) Infection control.

(19) Training specific to the resident composition.

(20) Training on person-centered care, informed consent, aging in place and the availability of services to support aging in place.

(21) Incident management and incident reporting.

(22) The requirements of this chapter.

(c) An administrator shall have at least 24 hours of annual training relating to the job duties. The Department-approved administrator training course specified in subsection (a) fulfills the annual training requirement for the first year.

(d) Annual training shall be provided by Department-approved training sources listed in the Department's assisted living residence training resource directory or by an accredited college or university, courses approved for credit by National Continuing Education Review Service/ National Association of Boards of Examiners of Long-Term Care Administrators or the Bureau of Professional and Occupational Affairs in the Department of State.

(e) An administrator who has successfully completed the training in subsections (a)—(d) shall provide written verification of successful completion to the Department's Assisted Living Residence Licensing Office.

(f) A record of training including the individual trained, date, source, content, length of each course and copies of certificates received shall be kept.

(g) A licensed nursing home administrator who is employed as an administrator prior to January 18, 2011, is exempt from the qualification and training requirements under §§ 2800.53 and 2800.64 (relating to qualifications and responsibilities of administrators; and administrator training and orientation) if the administrator continues to meet the applicable licensing requirements. A licensed nursing home administrator hired as an administrator after January 18, 2011, shall complete and pass the Department-approved assisted living administrator competency-based test.

**§ 2800.65. Staff orientation and direct care staff person training and orientation.**

(a) Prior to or during the first work day, direct care staff persons and other staff persons including ancillary staff persons, substitute personnel and volunteers shall have an orientation in general fire safety and emergency preparedness that includes the following:

- (1) Evacuation procedures.
- (2) Staff duties and responsibilities during fire drills, as well as during emergency evacuation, transportation and at an emergency location, if applicable.
- (3) The designated meeting place outside the building or within the fire-safe area in the event of an actual fire.
- (4) Smoking safety procedures, the residence's smoking policy and location of smoking areas, if applicable.
- (5) The location and use of fire extinguishers.
- (6) Smoke detectors and fire alarms.
- (7) Telephone use and notification of emergency services.

(b) Direct care staff persons shall complete an initial orientation approved by the Department before providing direct care to residents.

(c) Direct care staff persons shall be certified in first aid and CPR before providing direct care to residents.

(d) A sufficient number of direct care staff persons shall be certified in obstructed airway techniques to meet the staff to resident ratios under § 2800.63(a) (relating to first aid, CPR and obstructed airway training) before providing direct care to residents.

(e) Within 40 scheduled working hours, direct care staff persons, ancillary staff persons, substitute personnel and volunteers shall have an orientation training that includes the following:

(1) Resident rights.

(2) Emergency medical plan.

(3) Mandatory reporting of abuse and neglect under the Older Adult Protective Services Act (35 P. S. §§ 10225.101—10225.5102).

(4) Reporting of reportable incidents and conditions.

(5) Safe management techniques.

(6) Core competency training that includes the following:

(i) Person-centered care.

(ii) Communication, problem solving and relationship skills.

(iii) Nutritional support according to resident preference.

(f) Ancillary staff persons shall have a general orientation to their specific job functions as it relates to their position prior to working in that capacity.

(g) Direct care staff persons may not provide unsupervised assisted living services until completion of 18 hours of training in the following areas:

(1) Training that includes a demonstration of job duties, followed by supervised practice.

(2) Successful completion and passing the Department-approved direct care training course and passing of the competency test.

(3) Initial direct care staff person training to include the following:

(i) Safe management techniques.

(ii) Assisting with ADLs and IADLs.

(iii) Personal hygiene.

(iv) Care of residents with mental illness, neurological impairments, mental retardation and other mental disabilities.

(v) The normal aging-cognitive, psychological and functional abilities of individuals who are older.

(vi) Implementation of the initial assessment, annual assessment and support plan.

(vii) Nutrition, food handling and sanitation.

(viii) Recreation, socialization, community resources, social services and activities in the community.

(ix) Gerontology.

(x) Staff person supervision, if applicable.

(xi) Care and needs of residents with special emphasis on the residents being served in the residence.

(xii) Safety management and hazard prevention.

(xiii) Universal precautions.

(xiv) The requirements of this chapter.

(xv) The signs and symptoms of infections and infection control.

(xvi) Care for individuals with mobility needs, such as prevention of decubitus ulcers, incontinence, malnutrition and dehydration, if applicable to the residents served in the residence.

(xvii) Behavioral management techniques.

(xviii) Understanding of the resident's assessment and how to implement the resident's support plan.

(xix) Person-centered care and aging in place.

(h) Direct care staff persons shall have at least 16 hours of annual training relating to their job duties. The training required in § 2800.69 (relating to additional dementia-specific training) shall be in addition to the 16 hour annual training.

(i) Training topics for the annual training for direct care staff persons must include the following:

(1) Medication self-administration training.

(2) Instruction on meeting the needs of the residents as described in the assessment tool, medical evaluation and support plan.

(3) Care for residents with dementia, cognitive and neurological impairments.

(4) Infection control and general principles of cleanliness and hygiene and areas associated with immobility, such as prevention of decubitus ulcers, incontinence, malnutrition and dehydration.

(5) Assisted living service needs of the resident.

(6) Safe management techniques.

(7) Care for residents with mental illness or mental retardation, or both, if the population is served in the residence.

(j) Direct care staff persons, ancillary staff persons, substitute personnel and regularly scheduled volunteers shall be trained annually in the following areas:

(1) Fire safety completed by a fire safety expert or by a staff person trained by a fire safety expert. Videos prepared by a fire safety expert are acceptable for the training if accompanied by an onsite staff person trained by a fire safety expert.

(2) Emergency preparedness procedures and recognition and response to crises and emergency situations.

(3) Resident rights.

(4) The Older Adult Protective Services Act (35 P. S. §§ 10225.101—10225.708).

(5) Falls and accident prevention.

(6) New population groups that are being served at the residence that were not previously served, if applicable.

(k) If a staff person has completed the required initial direct care staff person training within the past year as a direct care staff person at another residence, the requirement for initial direct care staff person training in this section does not apply if the staff person provides written verification of completion of the training.

(l) A record of training including the staff person trained, date, source, content, length of each course and copies of any certificates received, shall be kept.



**§ 2800.66. Staff training plan.**

- (a) A staff training plan shall be developed annually.
- (b) The plan must include training aimed at improving the knowledge and skills of the residence's direct care staff persons in carrying out their job responsibilities. The staff training plan must include the following:
  - (1) The name, position and duties of each direct care staff person.
  - (2) The required training courses for each staff person.
  - (3) The dates, times and locations of the scheduled training for each staff person for the upcoming year.
  - (c) Documentation of compliance with the staff training plan shall be kept.

**§ 2800.67. Training institution registration.**

- (a) An institution and the course of study offered by an educational institution, association, professional society or organization for the purpose of educating and qualifying applicants for certification as assisted living residence administrators shall be registered and approved by the Department prior to offering the course of study.
- (b) An application for registration of an institution and approval of a course of study shall be submitted to the Department on a form provided by the Department and include the following information:
  - (1) The full name, address, telephone number, facsimile number and electronic mail address of the prospective training provider, each instructor and the program coordinator.
  - (2) The training objectives, instructional materials, content and teaching methods to be used and the number of clock hours.
  - (3) The recommended class size.
  - (4) The attendance certification method.
  - (5) Proof that each course instructor is certified by the Department to conduct administrator training.
  - (6) The subject that each instructor will teach and documentation of the instructor's academic credentials, instructional experience and work experience to teach the subject.
  - (7) The location of the training site, which shall accommodate the number of anticipated participants.
- (c) A request to amend a Department-approved course of study shall be submitted for the Department's review and approval prior to implementation of a change in the course of study.
- (d) The training institution shall issue a training certificate to each participant who successfully completes the Department-approved course and passes the competency test. Each training certificate must indicate the participant's name, the name of the training institution, the date and location of the training and the number of clock hours completed for each training topic.

**§ 2800.68. Instructor approval.**

- (a) Training for assisted living residence administrators provided by an individual who is not certified as an instructor by the Department will not be considered valid training.
- (b) To receive the Department's certification as an approved instructor for assisted living residence administrators, an instructor shall successfully complete the Department's train-the-trainer course. The train-the-

trainer course is designed to provide and reinforce basic training skills, including the roles and responsibilities of the trainer, training methodology, the use of instructional aids and recordkeeping.

- (c) An instructor shall demonstrate competent instructional skills and knowledge of the applicable topic and meet the Department's qualifications for the topic being taught.

- (d) An instructor is subject to unannounced monitoring by the Department while conducting training.

- (e) The Department will establish approval standards that include the following:

- (1) The mechanism to measure the quality of the training being offered.
- (2) The criteria for selecting and evaluating instructors, subject matter and instructional materials.
- (3) The criteria for evaluating requests to amend a course.
- (4) The criteria for evaluating the effectiveness of each course.
- (5) The instructor qualifications for each subject being taught.
- (f) The Department may withdraw approval under the following conditions:

- (1) Failure to follow the approved curriculum.
- (2) Lack of trainer competency.
- (3) A pattern of violations of this chapter by a residence conducting the training.

**§ 2800.69. Additional dementia-specific training.**

Administrative staff, direct care staff persons, ancillary staff persons, substitute personnel and volunteers shall receive at least 4 hours of dementia-specific training within 30 days of hire and at least 2 hours of dementia-specific training annually thereafter in addition to the training requirements of this chapter.

**PHYSICAL SITE****§ 2800.81. Physical accommodations and equipment.**

- (a) The residence shall provide or arrange for physical site accommodations and equipment necessary to meet the health and safety needs of a resident with a disability and to allow safe movement within the residence and exiting from the residence.

- (b) Wheelchairs, walkers, prosthetic devices and other apparatus used by residents must be clean, in good repair and free of hazards.

**§ 2800.82. Poisons.**

- (a) Poisonous materials shall be stored in their original, labeled containers.

- (b) Poisonous materials shall be stored separately from food, food preparation surfaces and dining surfaces.

- (c) Poisonous materials shall be kept locked and inaccessible to residents unless all of the residents living in the residence are able to safely use or avoid poisonous materials.

**§ 2800.83. Temperature.**

- (a) The indoor temperature, in areas used by the residents, must be at least 70° F when residents are present in the residence.

(b) A residence in existence prior to January 18, 2011, shall provide central air conditioning. If central air conditioning is not feasible or is cost prohibitive, window air conditioning units shall be provided. The residence shall submit justification to the Department for the use of window air conditioning units.

(c) For new construction after January 18, 2011, the residence shall provide central air conditioning.

**§ 2800.84. Heat sources.**

Heat sources, such as steam and hot heating pipes, water pipes, fixed space heaters, hot water heaters and radiators exceeding 120° F that are accessible to the resident must be equipped with protective guards or insulation to prevent the resident from coming in contact with the heat source.

**§ 2800.85. Sanitation.**

(a) Sanitary conditions shall be maintained.

(b) There may be no evidence of infestation of insects or rodents in the residence.

(c) Trash shall be removed from the premises at least once a week.

(d) Trash in kitchens and bathrooms shall be kept in covered trash receptacles that prevent the penetration of insects and rodents.

(e) Trash outside the residence shall be kept in covered receptacles that prevent the penetration of insects and rodents.

(f) For a residence serving 9 or more residents that is not connected to a public sewer system, there shall be a written sanitation approval for its sewage system by the sewage enforcement official of the municipality in which the residence is located.

**§ 2800.86. Ventilation.**

(a) All areas of the residence that are used by the resident shall be ventilated. Ventilation includes an operable window, air conditioner, fan or mechanical ventilation that ensures airflow.

(b) A bathroom that does not have an operable, outside window must be equipped with an exhaust fan for ventilation.

**§ 2800.87. Lighting.**

The residence's rooms, hallways, interior stairs, outside steps, outside doorways, porches, ramps, evacuation routes, outside walkways and fire escapes must be lighted and marked to ensure that residents, including those with vision impairments, can safely move through the residence and safely evacuate.

**§ 2800.88. Surfaces.**

(a) Floors, walls, ceilings, windows, doors and other surfaces must be clean, in good repair and free of hazards.

(b) The residence may not use asbestos products for renovations or new construction.

(c) If asbestos is found in a residence or contained in any part of the residence, the residence shall have a certification from an asbestos remediation company that the residence is safe for residents and that the asbestos does not pose a risk.

**§ 2800.89. Water.**

(a) The residence must have hot and cold water under pressure in each bathroom, kitchen and laundry area to accommodate the needs of the residents in the residence.

(b) Hot water temperature in areas accessible to the resident may not exceed 120° F.

(c) A residence that is not connected to a public water system shall have a coliform water test at least every 3 months, by a Department of Environmental Protection-certified laboratory, stating that the water is below maximum contaminant levels. A public water system is a system that provides water to the public for human consumption, which has at least 15 service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year.

(d) If the water is found to be above maximum contaminant levels, the residence shall conduct remediation activity to reduce the level of contaminants to below the maximum contaminant level. During remediation activity, an alternate source of drinking water shall be provided to the residents.

(e) The residence shall keep documentation of the laboratory certification, in addition to the results and corrections made to ensure safe water for drinking.

**§ 2800.90. Communication system.**

(a) The residence shall have a working, noncoin operated, landline telephone that is accessible in emergencies and accessible to individuals with disabilities.

(b) For a residence serving nine or more residents, there shall be a system or method of communication such as an intercom, public address, pager or cell phone system that enables staff persons to immediately contact other staff persons in the residence for assistance in an emergency.

**§ 2800.91. Emergency telephone numbers.**

Telephone numbers for the nearest hospital, police department, fire department, ambulance, poison control, local emergency management and assisted living residence complaint hotline shall be posted on or by each telephone with an outside line.

**§ 2800.92. Windows and screens.**

Windows, including windows in doors, must be in good repair and securely screened when doors or windows are open.

**§ 2800.93. Handrails and railings.**

(a) Each ramp, interior stairway, hallway and outside steps must have a well-secured handrail.

(b) Each porch must have a well-secured railing.

**§ 2800.94. Landings and stairs.**

(a) Interior and exterior doors that open directly into a stairway and are used for exit doors, resident areas and fire exits must have a landing, which is a minimum of 3 feet by 3 feet.

(b) Interior stairs, exterior steps and ramps must have nonskid surfaces.

(c) Stairs must have strips for those with vision impairments.

**§ 2800.95. Furniture and equipment.**

Furniture and equipment must be in good repair, clean and free of hazards.

**§ 2800.96. First aid kit.**

(a) The residence shall have a first aid kit in each building on the premises that includes nonporous disposable gloves, antiseptic, adhesive bandages, gauze pads, thermometer, adhesive tape, scissors, breathing shield,

eye coverings and tweezers. The residence shall have an automatic external defibrillation device located in each building on the premises.

(b) Staff persons shall know the location of the first aid kit.

(c) The first aid kit must be in a location that is easily accessible to staff persons.

**§ 2800.97. Elevators and stair glides.**

Each elevator and stair glide must have a certificate of operation from the Department of Labor and Industry or the appropriate local building authority in accordance with 34 Pa. Code Chapter 405 (relating to elevators and other lifting devices).

**§ 2800.98. Indoor activity space.**

(a) The residence shall have at least two indoor wheelchair accessible common rooms for all residents for activities such as reading, recreation and group activities. One of the common rooms shall be available for resident use at any time, provided the use does not affect or disturb others.

(b) The residence shall have at least one furnished living room or lounge area for residents, their families and visitors. The combined living room or lounge areas must accommodate all residents at one time. There must be at least 15 square feet per living unit for up to 50 living units. There must be a total of 750 square feet if there are more than 50 living units. These rooms or areas must contain tables, chairs and lighting to accommodate the residents, their families and visitors.

(c) The residence shall have a working television and radio available to residents in a living room or lounge area.

**§ 2800.99. Recreation space.**

The residence shall provide regular access to outdoor and indoor recreation space and recreational items, such as books, newspapers, magazines, puzzles, games, cards and crafts.

**§ 2800.100. Exterior conditions.**

(a) The exterior of the building and the building grounds or yard must be in good repair and free of hazards.

(b) The residence shall ensure that ice, snow and obstructions are removed from outside walkways, ramps, steps, recreational areas and exterior fire escapes.

**§ 2800.101. Resident living units.**

(a) A residence shall provide a resident with the resident's own living unit unless the conditions of subsection (c) are met.

(b) The following conditions apply to a residence:

(1) For new construction of residences after January 18, 2011, each living unit for a single resident must have at least 225 square feet of floor space measured wall-to-wall, excluding bathrooms and closet space. If two residents share a living unit, there must be a total of 300 square feet in the living unit. Exceptions to the size of the living unit may be made at the Department's discretion.

(2) For facilities in existence prior to January 18, 2011, each living unit must have at least 160 square feet measured wall to wall, excluding bathrooms and closet space. If two residents share a living unit, there must be

a total of 210 square feet in the living unit. Exceptions to the size of the living unit may be made at the Department's discretion.

(3) Each living unit must have a telephone jack and individually controlled thermostats for heating and cooling.

(4) The doors in living units, including entrance doors, must be accessible or adaptable for wheelchair use.

(c) Two residents may voluntarily agree to share one living unit provided that the agreement is in writing and contained in each of the resident-residence contract of those residents. A licensee may not require residents to share a living unit. The maximum number of residents in any living unit shall be two residents.

(d) Kitchen capacity requirements are as follows:

(1) *New construction.* For new construction of residences after January 18, 2011, the kitchen capacity, at a minimum, must contain a cabinet for food storage, a small bar-type sink with hot and cold running water and space with electrical outlets suitable for small appliances such as a microwave oven and a small refrigerator.

(i) Upon entering the assisted living residence, the resident or his designated person shall be asked if the resident wishes to have a cooking appliance or small refrigerator, or both. The cooking appliance or small refrigerator, or both, shall be provided by the residence if desired by the resident or his designated person. If the resident or the designated person wishes to provide his own cooking appliance or small refrigerator, or both, it shall meet the residence's safety standards.

(ii) An appliance shall be designed so it can be disconnected and removed for resident safety or if the resident chooses not to have the appliance within his living unit.

(2) *Existing facilities.* Facilities that convert to residences after January 18, 2011, must meet the following requirements related to kitchen capacity:

(i) The residence shall provide space with electrical outlets suitable for small appliances, such as a microwave oven and small refrigerator.

(A) Upon entering the assisted living residence, the resident or his designated person shall be asked if the resident wishes to have a cooking appliance or small refrigerator, or both. The cooking appliance or small refrigerator, or both, shall be provided by the residence if desired by the resident or his designated person. If the resident or his designated person wishes to provide his own cooking appliance or small refrigerator, or both, it must meet the residence's safety standards.

(B) An appliance shall be designed so it can be disconnected and removed for resident safety or if the resident chooses not to have the appliance within his living unit.

(ii) The residence shall provide access to a sink for dishes, a stovetop for hot food preparation and a food preparation area in a common area. A common resident kitchen may not include the kitchen used by the residence staff for the preparation of resident or employee meals, or the storage of goods.

(e) Ceiling height in each living unit must be an average of at least 7 feet.

(f) Each living unit must have at least one window with direct exposure to natural light.

(g) A resident's bedroom in the living unit shall be used only by the occupying resident unless two consenting adult residents agree to share a bedroom and the requirements of subsection (c) are met.



(h) Each living unit must have a door with a lock, except where a lock in a unit under a special care designation would pose a risk or be unsafe. The administrator shall maintain a master key that can open all locks in the event of an emergency.

(i) A resident shall have access to his living unit at all times.

(j) Each resident shall have the following in the living unit:

(1) A bed with a solid foundation and fire retardant mattress that is in good repair, clean and supports the resident. An exception will be permitted for residents who wish to provide their own mattresses.

(2) A chair for each resident that meets the resident's needs.

(3) Pillows, bed linens and blankets that are clean and in good repair.

(4) A storage area for clothing that includes a chest of drawers and a closet or wardrobe space with clothing racks or shelves accessible to the resident.

(5) A bedside table or a shelf.

(6) A mirror.

(7) An operable lamp or other source of lighting that can be turned on at bedside.

(8) If a resident shares a bedroom with another resident, the items specified in paragraphs (4)—(7) may be shared with one other resident.

(k) Cots and portable beds are prohibited.

(l) Bunk beds or other raised beds that require residents to climb steps or ladders to get into or out of bed are prohibited.

(m) A living unit may not be used as an exit from or used as a passageway to another part of the residence unless in an emergency situation.

(n) The living unit must have walls, floors and ceilings, which are finished, clean and in good repair.

(o) In living units with a separate bedroom, there must be a door on the bedroom.

(p) Space for storage of personal property shall be provided in a dry, protected area.

(q) There must be drapes, shades, curtains, blinds or shutters on the living unit windows. Window coverings must be clean, in good repair, provide privacy and cover the entire window when drawn.

(r) Each living unit must be equipped with an emergency notification system to notify staff in the event of an emergency.

#### § 2800.102. Bathrooms.

(a) There must be one functioning flush toilet in the bathroom in the living unit.

(b) There must be at least one sink and wall mirror in the bathroom of the living unit.

(c) There must be at least one bathtub or shower in the bathroom of the living unit.

(d) Toilet and bath areas in the living unit must have grab bars, hand rails or assist bars. Bathtubs and showers must have slip-resistant surfaces.

(e) Privacy in the living unit must be provided for toilets, showers and bathtubs by partitions or doors.

Bathroom doors in a double occupancy living unit must be lockable by the resident, unless contraindicated by the support plan.

(f) An individual towel, washcloth and soap shall be provided for each resident unless the resident provides his own supplies of these items.

(g) Individual toiletry items including toothpaste, toothbrush, shampoo, deodorant, comb and hairbrush shall be made available to residents who are not recipients of SSI. If the residence charges for these items, the charges shall be indicated in the resident-residence contract. Availability of toiletry items for residents who are recipients of SSI is specified in § 2800.27(d)(1) (relating to SSI recipients).

(h) Toilet paper shall be provided for every toilet.

(i) Bar soap or a dispenser with soap shall be provided within reach of each bathroom sink. Bar soap, however, is not permitted when a living unit is shared unless there is a separate bar clearly labeled for each resident sharing the living unit.

(j) Towels and washcloths shall be in the possession of the resident in the resident's living unit unless the resident has access to the residence's linen supply.

(k) Use of a common towel is prohibited.

(l) Shelves or hooks for the resident's towel and clothing shall be provided.

(m) A residence shall have at least one public restroom that is convenient to common areas and wheelchair accessible.

(n) Each bathroom must be equipped with an emergency notification system to notify staff in the event of an emergency.

#### § 2800.103. Food service.

(a) A residence shall have access on the grounds to an operable kitchen with a refrigerator, sink, stove, oven, cooking equipment and cabinets or shelves for storage. If the kitchen is not in the residence, the residence shall have a kitchen area with a refrigerator, cooking equipment, a sink and food storage space.

(b) Kitchen surfaces must be of a nonporous material and cleaned and sanitized after each meal.

(c) Food shall be protected from contamination while being stored, prepared, transported and served.

(d) Food shall be stored off the floor.

(e) Food served and returned from an individual's plate may not be served again or used in the preparation of other dishes. Leftover food shall be labeled and dated.

(f) Food requiring refrigeration shall be stored at or below 40° F. Frozen food shall be kept at or below 0° F. Thermometers are required in refrigerators and freezers.

(g) Food shall be stored in closed or sealed containers.

(h) Food shall be thawed either in the refrigerator, microwave oven, under cool water or as part of the cooking process.

(i) Outdated or spoiled food or dented cans may not be used.

(j) Eating, drinking and cooking utensils shall be washed, rinsed and sanitized after each use by a method specified in 7 Pa. Code Chapter 46, Subchapter D (relating to equipment, utensils and linens).

**§ 2800.104. Dining room.**

(a) An assisted living residence shall have an accessible common dining space outside the resident living units. A dining room area must be equipped with tables and chairs and able to accommodate the maximum number of residents scheduled for meals at any one time. There must be at least 15 square feet per person for residents scheduled for meals at any one time.

(b) Dishes, glassware and utensils shall be provided for eating, drinking, preparing and serving food. These utensils must be clean, and free of chips and cracks. Plastic and paper plates, utensils and cups for meals may not be used on a regular basis.

(c) Condiments shall be available at the dining table.

(d) Adaptive eating equipment or utensils shall be available, if needed, to assist residents in eating at the table.

(e) Breakfast, midday and evening meals shall be served to residents in a dining room except in the following situations:

(1) Service in the resident's living unit shall be available at no additional charge when the resident is unable to come to the dining room due to illness.

(2) When room service is available in a residence, a resident may choose to have a meal served in the resident's living unit. This service shall be provided at the resident's request and may not replace daily meals in a dining room.

**§ 2800.105. Laundry.**

(a) Laundry service for bed linens, towels and personal clothing shall be provided by the residence, at no additional charge, to residents who are recipients of or eligible applicants for SSI benefits. Laundry service does not include dry cleaning.

(b) Laundry service for bed linens, towels and personal clothing for the residents who are not recipients of SSI shall be provided by the residence unless otherwise indicated in the resident-residence contract. If a residence provides laundry facilities, there may not be a prohibition against residents doing their own laundry.

(c) The supply of bed linens and towels must be sufficient to ensure a complete change of bed linen and towels at least once per week.

(d) Bed linens and towels shall be changed at least once every week and more often as needed to maintain sanitary conditions.

(e) Clean linens and towels shall be stored in an area separate from soiled linen and clothing.

(f) Measures shall be implemented to ensure that residents' clothing are not lost or misplaced during laundering or cleaning. The resident's clean clothing shall be returned to the resident within 24 hours after laundering.

(g) To reduce the risks of fire hazards, lint shall be removed from the lint trap and drum of clothes dryers after each use. Lint shall be cleaned from the vent duct and internal and external ductwork of clothes dryers according to the manufacturer's instructions.

**§ 2800.106. Swimming areas.**

If a residence operates a swimming area, the following requirements apply:

(1) Swimming areas shall be operated in accordance with applicable laws and regulations.

(2) Written policy and procedures to protect the health, safety and well-being of the residents shall be developed and implemented.

**§ 2800.107. Emergency preparedness.**

(a) The administrator shall have a copy and be familiar with the emergency preparedness plan for the municipality in which the residence is located.

(b) The residence shall have written emergency procedures that include the following:

(1) Contact information for each resident's designated person.

(2) The residence's plan to provide the emergency medical information for each resident that ensures confidentiality.

(3) Contact telephone numbers of local and State emergency management agencies and local resources for housing and emergency care of residents.

(4) Means of transportation in the event that relocation is required.

(5) Duties and responsibilities of staff persons during evacuation, transportation and at the emergency location. These duties and responsibilities shall be specific to each resident's emergency needs.

(6) Alternate means of meeting resident needs in the event of a utility outage.

(c) The residence shall maintain at least a 3-day supply of nonperishable food and drinking water for residents.

(d) The written emergency procedures shall be reviewed, updated and submitted annually to the local emergency management agency.

**§ 2800.108. Firearms and weapons.**

(a) A residence shall have a written policy regarding firearms, weapons and ammunition where these items are on the premises or in possession of any resident or staff member. A residence is not required to permit firearms, weapons and ammunition.

(b) The policy must include, at a minimum, procedures regarding the safety, access and use of firearms, weapons and ammunition.

(c) Firearms, weapons and ammunition shall be permitted on the licensed premises of a residence only when the following conditions are met:

(1) Firearms and weapons shall be contained in a locked cabinet located in a place other than the residents' living unit or in a common living area.

(2) Ammunition shall be contained in a locked area separate from firearms and weapons, and located in a place other than the residents' living unit or in a common living area.

(3) The key to the locked cabinet containing the firearms, weapons and ammunition shall be in the possession of the administrator or a designee.

(4) The administrator or designee shall be the only individual permitted to open the locked cabinet containing the firearms and weapons and the locked area containing the ammunition.

(d) If a firearm, weapon or ammunition is the property of a resident, there shall be a written policy and procedures regarding the safety, access and use of firearms, weapons and ammunition. A resident may not take a firearm, weapon or ammunition out of the locked cabinet into the common living area.

**§ 2800.109. Pets.**

(a) The residence rules must specify whether the residence permits pets on the premises.

(b) Cats and dogs present at the residence shall have a current rabies vaccination. A current certificate of rabies vaccination from a licensed veterinarian shall be kept.

(c) Pets that are accessible to the residents shall be in good health and nonaggressive to the residents.

(d) If a residence has additional charges for pets, the charges shall be included in the resident-residence contract.

(e) A residence shall disclose to applicants whether pets are permitted and present in the residence.

**FIRE SAFETY**

**§ 2800.121. Unobstructed egress.**

(a) Stairways, hallways, doorways, passageways and egress routes from living units and from the building must be unlocked and unobstructed.

(b) Except as provided in § 2800.101 (relating to resident living units), doors used for egress routes from living units and from the building may not be equipped with key-locking devices, electronic card operated systems or other devices which prevent immediate egress of residents from the building, unless the residence has written approval or a variance from the Department of Labor and Industry, the Department of Health or the appropriate local building authority.

**§ 2800.122. Exits.**

Unless otherwise regulated by the Department of Labor and Industry, the Department of Health or the appropriate local building authority, all buildings must have at least two independent and accessible exits from every floor, arranged to reduce the possibility that both will be blocked in an emergency situation.

**§ 2800.123. Emergency evacuation.**

(a) Exit doors must be equipped so that they can be easily opened by residents from the inside without the use of a key or other manual device that can be removed, misplaced or lost.

(b) Copies of the emergency procedures as specified in § 2800.107 (relating to emergency preparedness) shall be posted in a conspicuous and public place in the residence and a copy shall be kept.

(c) For a residence serving nine or more residents, an emergency evacuation diagram of each floor showing corridors, line of travel to exit doors and location of the fire extinguishers and pull signals shall be posted in a conspicuous and public place on each floor.

(d) If the residence serves one or more residents with mobility needs above or below grade level of the residence, there shall be a fire-safe area, as specified in writing within the past year by a fire safety expert, on the same floor as each resident with mobility needs.

**§ 2800.124. Notification of local fire officials.**

The residence shall notify the local fire department in writing of the address of the residence, location of the living units and bedrooms and the assistance needed to evacuate in an emergency. Documentation of notification shall be kept.

**§ 2800.125. Flammable and combustible materials.**

(a) Combustible and flammable materials may not be located near heat sources or hot water heaters.

(b) Combustible materials shall be inaccessible to residents.

**§ 2800.126. Furnaces.**

(a) A professional furnace cleaning company or trained maintenance staff person shall inspect furnaces at least annually. Documentation of the inspection shall be kept.

(b) Furnaces shall be cleaned according to the manufacturer's instructions. Documentation of the cleaning shall be kept.

**§ 2800.127. Space heaters.**

(a) Portable space heaters are prohibited.

(b) Nonportable space heaters must be well vented and installed with permanent connections and protectors.

**§ 2800.128. Supplemental heating sources.**

(a) The use of kerosene burning heaters is prohibited.

(b) Wood and coal burning stoves shall be used only if a local fire department or other municipal fire safety authority, professional cleaning company or trained maintenance staff person inspects and approves them annually. Wood and coal burning stoves that are used as a regular heating source shall be cleaned every year according to the manufacturer's instructions. Documentation of wood and coal burning stove inspections and cleanings shall be kept.

(c) Wood and coal burning stoves must be securely screened or equipped with protective guards while in use.

**§ 2800.129. Fireplaces.**

(a) A fireplace must be securely screened or equipped with protective guards while in use.

(b) A fireplace chimney and flue shall be cleaned when there is an accumulation of creosote. Written documentation of the cleaning shall be kept.

(c) A fireplace chimney and flue that is used must be serviced annually and written documentation of the servicing shall be kept.

**§ 2800.130. Smoke detectors and fire alarms.**

(a) There shall be an operable automatic smoke detector located in each living unit.

(b) Smoke detectors and fire alarms must be of a type approved by the Department of Labor and Industry, the appropriate local building authority or local fire safety expert, or listed by Underwriters Laboratories.

(c) If the residence serves nine or more residents, there shall be at least one smoke detector on each floor interconnected and audible throughout the residence or an automatic fire alarm system that is interconnected and audible throughout the residence.

(d) If one or more residents or staff persons are not able to hear the smoke detector or fire alarm system, a signaling device approved by a fire safety expert shall be used and tested so that each resident and staff person with a hearing impairment will be alerted in the event of a fire.

(e) Smoke detectors and fire alarms shall be tested for operability at least once per month. A written record of the monthly testing shall be kept.

(f) If a smoke detector or fire alarm becomes inoperative, repair shall be completed within 48 hours of the time the detector or alarm was found to be inoperative.



(g) The residence's emergency procedures must indicate the procedures that will be immediately implemented until the smoke detector or fire alarms are operable.

(h) In residences housing five or more residents with mobility needs, the fire alarm system shall be directly connected to the local fire department or 24-hour monitoring service approved by the local fire department, if this service is available in the community.

**§ 2800.131. Fire extinguishers.**

(a) There shall be at least one operable fire extinguisher with a minimum 2-A rating for each floor, including public walkways and common living areas every 3,000 square feet, the basement and attic.

(b) If the indoor floor area on a floor including the basement or attic is more than 3,000 square feet, there shall be an additional fire extinguisher with a minimum 2-A rating for each additional 3,000 square feet of indoor floor space.

(c) A fire extinguisher with a minimum 2A-10BC rating shall be located in each kitchen of the residence. The kitchen extinguisher must meet the requirements for one floor as required in subsection (a).

(d) Fire extinguishers must be listed by Underwriters Laboratories or approved by Factory Mutual Systems.

(e) Fire extinguishers shall be accessible to staff persons. Fire extinguishers shall be kept locked if access to the extinguisher by a resident could cause a safety risk to the resident. If fire extinguishers are kept locked, each staff person shall be able to immediately unlock the fire extinguisher in the event of a fire emergency.

(f) Fire extinguishers shall be inspected and approved annually by a fire safety expert. The date of the inspection shall be on the extinguisher.

**§ 2800.132. Fire drills.**

(a) An unannounced fire drill shall be held at least once a month.

(b) A fire safety inspection and fire drill conducted by a fire safety expert shall be completed annually. Documentation of this fire drill and fire safety inspection shall be kept.

(c) A written fire drill record must include the date, time, the amount of time it took for evacuation, the exit route used, the number of residents in the residence at the time of the drill, the number of residents evacuated, the number of staff persons participating, problems encountered and whether the fire alarm or smoke detector was operative.

(d) Residents shall be able to evacuate the entire building to a public thoroughfare, or to a fire-safe area designated in writing within the past year by a fire safety expert within the period of time specified in writing within the past year by a fire safety expert. For purposes of this subsection, the fire safety expert may not be a staff person of the residence.

(e) A fire drill shall be held during sleeping hours once every 6 months.

(f) Alternate exit routes shall be used during fire drills.

(g) Fire drills shall be held on different days of the week, at different times of the day and night, not routinely held when additional staff persons are present and not routinely held at times when resident attendance is low.

(h) Residents shall evacuate to a designated meeting place away from the building or within the fire-safe area during each fire drill.

(i) A fire alarm or smoke detector shall be set off during each fire drill.

(j) Elevators may not be used during a fire drill or a fire.

**§ 2800.133. Exit signs.**

The following requirements apply for a residence serving nine or more residents:

(1) Signs bearing the word "EXIT" in plain legible letters shall be placed at all exits.

(2) Access to exits shall be marked with readily visible signs indicating the direction to travel.

(3) Exit sign letters must be at least 6 inches in height with the principal strokes of letters at least 3/4 inch wide.

**RESIDENT HEALTH**

**§ 2800.141. Resident medical evaluation and health care.**

(a) A resident shall have a medical evaluation by a physician, physician's assistant or certified registered nurse practitioner documented on a form specified by the Department, subject to the provisions of § 2800.22 (relating to application and admission). The evaluation must include the following:

(1) A general physical examination by a physician, physician's assistant or nurse practitioner.

(2) Medical diagnosis including physical or mental disabilities of the resident, if any.

(3) Medical information pertinent to diagnosis and treatment in case of an emergency.

(4) Special health or dietary needs of the resident.

(5) Allergies.

(6) Immunization history.

(7) Medication regimen, contraindicated medications, medication side effects and the ability to self-administer medications.

(8) Body positioning and movement stimulation for residents, if appropriate.

(9) Health status.

(10) Mobility assessment, updated annually or at the Department's request.

(11) An indication that a tuberculin skin test has been administered with negative results within 2 years; or if the tuberculin skin test is positive, the result of a chest X-ray. In the event a tuberculin skin test has not been administered, the test shall be administered within 15 days after admission.

(12) Information about a resident's day-to-day assisted living service needs.

(b) A resident shall have a medical evaluation:

(1) At least annually.

(2) If the medical condition of the resident changes prior to the annual medical evaluation.

**§ 2800.142. Assistance with medical care and supplemental health care services.**

(a) Each residence shall demonstrate the ability to provide or arrange for the provision of supplemental health care services in a manner protective of the health,

safety and well-being of its residents utilizing employees, independent contractors or contractual arrangements with other health care facilities or practitioners licensed, registered or certified to the extent required by law to provide the service.

(b) The residence shall assist the resident to secure medical care and supplemental health care services.

(1) The residence shall permit a resident to select or retain his primary care physician.

(2) To the extent prominently displayed in the written admission agreement, a residence may require residents to use providers of supplemental health care services approved or designated by the residence.

(3) The residence shall document the resident's need for the medical care, including updating the resident's assessment and support plan.

(c) If a resident refuses routine medical or dental examination or treatment, the refusal and the continued attempts to educate and inform the resident about the need for medical care shall be documented in the resident's record.

(d) If a resident has a serious medical or dental condition, reasonable efforts shall be made to obtain consent for treatment from the resident or the resident's designated person.

(e) The residence shall assist the resident to secure preventative medical, dental, vision and behavioral health care as requested by a physician, physician's assistant or certified registered nurse practitioner.

**§ 2800.143. Emergency medical plan.**

(a) The residence shall have a written emergency medical plan that includes the following:

(1) The hospital or source of health care that will be used in an emergency. This shall be the resident's choice, if possible.

(2) Emergency transportation to be used.

(3) An emergency staffing plan.

(b) The following current emergency medical and health information shall be available at all times for each resident and shall accompany the resident when the resident needs emergency medical attention:

(1) The resident's name and birth date.

(2) The resident's Social Security number.

(3) The resident's medical diagnosis.

(4) The resident's physician's name and telephone number.

(5) Current medication, including the dosage and frequency.

(6) A list of allergies.

(7) Other relevant medical conditions.

(8) Insurance or third party payer and identification number.

(9) A power of attorney for health care or health care proxy, if applicable.

(10) The resident's designated person with current address and telephone number.

(11) Personal information and related instructions regarding advance directives, do not resuscitate orders or organ donation, if applicable.

(12) A speech, hearing or vision need which requires accommodation or awareness, such as written communication or American sign language.

(13) A language need which requires accommodation or awareness, such as an interpreter of translation.

**§ 2800.144. Use of tobacco.**

(a) A residence may permit smoking tobacco in a designated smoking room of the residence.

(b) The residence rules must specify whether the residence is designated as smoking or nonsmoking.

(c) A residence that permits smoking inside or outside of the residence shall develop and implement written fire safety policy and procedures that include the following:

(1) Proper safeguards inside and outside of the residence to prevent fire hazards involved in smoking, including providing fireproof receptacles and ashtrays, direct outside ventilation, no interior ventilation from the smoking room through other parts of the residence, extinguishing procedures, fire resistant furniture both inside and outside the residence and fire extinguishers in the smoking rooms.

(2) Location of a smoking room or outside smoking area a safe distance from heat sources, hot water heaters, combustible or flammable materials and away from common walkways and exits.

(3) Prohibition of the use of tobacco during transportation by the residence.

(d) Smoking outside of the smoking room is prohibited.

**NUTRITION**

**§ 2800.161. Nutritional adequacy.**

(a) Meals shall be offered that meet the recommended dietary allowances established by the United States Department of Agriculture.

(b) At least three nutritionally well-balanced meals shall be offered daily to the resident. Each meal shall include an alternative food and drink item from which the resident may choose.

(c) Additional portions of meals and beverages at meal-times shall be available for the resident.

(d) A resident's special dietary needs as prescribed by a physician, physician's assistant, certified registered nurse practitioner or dietitian shall be met. Documentation of the resident's special dietary needs shall be kept in the resident's record.

(e) Dietary alternatives shall be available for a resident who has special health needs or religious beliefs regarding dietary restrictions.

(f) Drinking water shall be available to the resident at all times.

(g) Between-meal snacks and beverages shall be available at all times for each resident, unless medically contraindicated as documented in the resident's support plan.

(h) Residents have the right to purchase groceries and prepare their own food in addition to the three meal plan required in § 2800.220(b) (relating to service provision) in their living units unless it would be unsafe for them to do so consistent with their support plan.

**§ 2800.162. Meals.**

(a) There may not be more than 15 hours between the evening meal and the first meal of the next day. There

may not be more than 6 hours between breakfast and lunch, and between lunch and supper. This requirement does not apply if a resident's physician has prescribed otherwise.

(b) When a resident misses a meal, food adequate to meet daily nutritional requirements shall be available and offered to the resident.

(c) Menus, stating the specific food being served at each meal, shall be prepared for 1 week in advance and shall be followed. Weekly menus shall be posted 1 week in advance in a conspicuous and public place in the residence.

(d) Past menus of meals that were served, including changes, shall be kept for at least 1 month.

(e) A change to a menu shall be posted in a conspicuous and public place in the residence and shall be accessible to a resident in advance of the meal. Meal substitutions shall be made in accordance with § 2800.161 (relating to nutritional adequacy).

(f) A resident shall receive adequate physical assistance with eating or be provided with appropriate adaptive devices, or both, as indicated in the resident's support plan.

(g) Appropriate cueing shall be used to encourage and remind residents to eat and drink, as indicated in the resident's support plan.

#### **§ 2800.163. Personal hygiene for food service workers.**

(a) Staff persons, volunteers and residents involved in the storage, preparation, serving and distributing of food shall wash their hands with hot water and soap prior to working in the kitchen areas and after using the bathroom.

(b) Staff persons, volunteers and residents shall follow sanitary practices while working in the kitchen areas.

(c) Staff persons, volunteers and residents involved with the storage, preparation, serving and distributing of food shall be in good health.

(d) Staff persons, volunteers and residents who have a discharging or infected wound, sore, lesion on hands, arms or any exposed portion of their body may not work in the kitchen areas in any capacity.

#### **§ 2800.164. Withholding or forcing of food prohibited.**

(a) A residence may not withhold meals, beverages, snacks or desserts as punishment. Food and beverages may be withheld in accordance with prescribed medical or dental procedures.

(b) A resident may not be forced to eat food.

(c) If a resident refuses to eat or drink continuously during a 24-hour period, the resident's primary care physician and the resident's designated person shall be immediately notified.

(d) If a resident has a cognitive impairment that affects the resident's ability to consume adequate amounts of food and water, a staff person shall encourage and remind the resident to eat and drink.

### **TRANSPORTATION**

#### **§ 2800.171. Transportation.**

(a) A residence shall be required to provide or arrange for transportation on a regular weekly basis that permits

residents to schedule medical and social appointments within a reasonable local area.

(b) The following requirements apply whenever staff persons or volunteers of the residence provide transportation for the resident:

(1) The occupants of the vehicle shall be in an appropriate safety restraint at all times the vehicle is in motion.

(2) The driver of a vehicle shall be 18 years of age or older and possess a valid driver's license.

(3) The driver of the residence vehicle cannot be a resident.

(4) At least one staff member transporting or accompanying the residents shall have completed the initial new hire direct care staff person training as specified in § 2800.65 (relating to staff orientation and direct care staff person training and orientation).

(5) The vehicle must have a first aid kit with the contents as specified in § 2800.96 (relating to first aid kit). The inclusion of an automatic external defibrillation device in a vehicle is optional.

(6) During vehicle operations, the driver may only use a hands-free cellular telephone.

(7) Transportation must include, when necessary, an assistant to the driver who assists the driver to escort residents in and out of the residence and provides assistance during the trip.

(c) The residence shall maintain current copies of the following documentation for each of the residence's vehicles used to transport residents:

(1) Vehicle registration.

(2) Valid driver's license for vehicle operator.

(3) Vehicle insurance.

(4) Current inspection.

(5) Commercial driver's license for vehicle operator if applicable.

(d) If a residence supplies its own vehicles for transporting residents to and from medical and social appointments, a minimum of one vehicle used for this purpose shall be accessible to resident wheelchair users and any other assistive equipment the resident may need.

(1) The residence shall schedule a pick-up time to transport the resident to the medical or social appointment. The residence shall make every reasonable effort to pick-up the resident within 15 minutes before or after the scheduled pick-up time.

(2) The resident may not be dropped off at the medical or social appointment more than 1 hour prior to the time of the appointment.

(3) The residence shall make every reasonable effort to pick-up a resident from a medical appointment no later than 1 hour after the medical appointment.

(4) The residence shall make every reasonable effort to pick-up a resident from a social appointment no later than 1 hour after the end of the social appointment.

(e) If a residence arranges for transportation for residents to and from medical and social appointments the following apply:

(1) The residence shall schedule a pick-up time for the resident to be transported to the medical or social appointment. The residence shall make every reasonable



effort for a resident to be picked-up within 15 minutes before or after the scheduled pick-up time.

(2) The residence shall make every reasonable effort for a resident to not be dropped off at the medical or social appointment more than 1 hour prior to the time of the appointment.

(3) The residence shall make every reasonable effort for a resident to be picked-up from the medical appointment no later than 1 hour after the medical appointment.

(4) The residence shall make every reasonable effort for a resident to be picked-up from the social appointment no later than 1 hour after the end of the social appointment.

### MEDICATIONS

#### § 2800.181. Self-administration.

(a) A residence shall provide residents with assistance, as needed, with medication prescribed for the resident's self-administration. This assistance includes helping the resident to remember the schedule for taking the medication, storing the medication in a secure place and offering the resident the medication at the prescribed times.

(b) If assistance includes helping the resident to remember the schedule for taking the medication, the resident shall be reminded of the prescribed schedule. Appropriate cueing shall be used to remind residents to take their medication.

(c) The resident's assessment shall identify if the resident is able to self-administer medications as specified in § 2800.227(e) (relating to development of the final support plan). A resident who desires to self-administer medications shall be assessed by a physician, physician's assistant or certified registered nurse practitioner regarding the ability to self-administer and the need for medication reminders.

(d) If the resident does not need assistance with medication, medication may be stored in a resident's living unit for self-administration. Medications stored in the resident's living unit shall be kept in a safe and secure location to protect against contamination, spillage and theft. The residence shall provide a lockable storage unit for this purpose.

(e) To be considered capable to self-administer medications, a resident shall:

- (1) Be able to recognize and distinguish his medication.
- (2) Know how much medication is to be taken.
- (3) Know when medication is to be taken.

(f) The resident's record shall include a current list of prescription, CAM and OTC medications for each resident who is self-administering his medication.

#### § 2800.182. Medication administration.

(a) A residence shall provide medication administration services for a resident who is assessed to need medication administration services in accordance with § 2800.181 (relating to self-administration) and for a resident who chooses not to self-administer medications.

(b) Prescription medication that is not self-administered by a resident shall be administered by one of the following:

(1) A physician, licensed dentist, licensed physician's assistant, RN, certified registered nurse practitioner, LPN or licensed paramedic.

(2) A graduate of an approved nursing program functioning under the direct supervision of a professional nurse who is present in the residence.

(3) A student nurse of an approved nursing program functioning under the direct supervision of a member of the nursing school faculty who is present in the residence.

(4) A staff person who has completed the medication administration training as specified in § 2800.190 (relating to medication administration training) for the administration of oral; topical; eye, nose and ear drop prescription medications; insulin injections and epinephrine injections for insect bites or other allergies.

(c) Medication administration includes the following activities, based on the needs of the resident:

- (1) Identify the correct resident.
- (2) If indicated by the prescriber's orders, measure vital signs and administer medications accordingly.
- (3) Remove the medication from the original container.
- (4) Crush or split the medication as ordered by the prescriber.
- (5) Place the medication in a medication cup or other appropriate container, or in the resident's hand.
- (6) Place the medication in the resident's hand, mouth or other route as ordered by the prescriber, in accordance with the limitations specified in subsection (b)(4).
- (7) Complete documentation in accordance with § 2800.187 (relating to medication records).

#### § 2800.183. Storage and disposal of medications and medical supplies.

(a) Prescription medications, OTC medications and CAM shall be kept in their original labeled containers and may not be removed more than 2 hours in advance of the scheduled administration. Assistance with insulin and epinephrine injections and sterile liquids shall be provided immediately upon removal of the medication from its container.

(b) Prescription medications, OTC medications, CAM and syringes shall be kept in an area or container that is locked. This includes medications and syringes unless kept in the resident's living unit.

(c) Prescription medications, OTC medications and CAM stored in a refrigerator shall be kept in an area or container that is locked unless the resident has the capacity to store the medications in the resident's own refrigerator in the resident's living unit.

(d) Only current prescription, OTC medications, sample and CAM for individuals living in the residence may be kept in the residence.

(e) Prescription medications, OTC medications and CAM shall be stored in an organized manner under proper conditions of sanitation, temperature, moisture and light and in accordance with the manufacturer's instructions.

(f) Prescription medications, OTC medications and CAM that are discontinued, expired or for residents who are no longer served at the residence shall be destroyed in a safe manner according to the Department of Environmental Protection and Federal and State regulations. When a resident permanently leaves the residence, the resident's medications shall be given to the resident, the designated person, if any, or the person or entity taking responsibility for the new placement on the day of departure from the residence.

(g) Subsections (a) and (e) do not apply to a resident who self-administers medication and stores the medication in his living unit.

**§ 2800.184. Labeling of medications.**

(a) The original container for prescription medications must be labeled with a pharmacy label that includes the following:

- (1) The resident's name.
- (2) The name of the medication.
- (3) The date the prescription was issued.
- (4) The prescribed dosage and instructions for administration.
- (5) The name and title of the prescriber.

(b) If the OTC medications and CAM belong to the resident, they must be identified with the resident's name.

(c) Sample prescription medications must have written instructions from the prescriber that include the components specified in subsection (a).

**§ 2800.185. Accountability of medication and controlled substances.**

(a) The residence shall develop and implement procedures for the safe storage, access, security, distribution and use of medications and medical equipment by trained staff persons.

(b) At a minimum, the procedures must include:

- (1) Documentation of the receipt of controlled substances and prescription medications.
- (2) A process to investigate and account for missing medications and medication errors.
- (3) Limited access to medication storage areas.

(4) Documentation of the administration of prescription medications, OTC medications and CAM for residents who receive medication administration services or assistance with self-administration. This requirement does not apply to a resident who self-administers medication without the assistance of a staff person and stores the medication in his living unit.

(5) To the extent indicated in the resident's support plan, the residence shall obtain prescribed medication for residents and keep an adequate supply of resident medication on hand at all times.

**§ 2800.186. Prescription medications.**

(a) Each prescription medication must be prescribed in writing by an authorized prescriber. Prescription orders shall be kept current.

(b) Prescription medications shall be used only by the resident for whom the prescription was prescribed.

(c) Changes in medication may only be made in writing by the prescriber, or in the case of an emergency, an alternate prescriber, except for circumstances in which oral orders may be accepted by nurses in accordance with regulations of the Department of State. The resident's medication record shall be updated as soon as the residence receives written notice of the change.

**§ 2800.187. Medication records.**

(a) A medication record shall be kept to include the following for each resident for whom medications are administered:

- (1) Resident's name.
- (2) Drug allergies.
- (3) Name of medication.
- (4) Strength.
- (5) Dosage form.
- (6) Dose.
- (7) Route of administration.
- (8) Frequency of administration.
- (9) Administration times.
- (10) Duration of therapy, if applicable.
- (11) Special precautions, if applicable.
- (12) Diagnosis or purpose for the medication, including pro re nata (PRN).
- (13) Date and time of medication administration.
- (14) Name and initials of the staff person administering the medication.

(b) The information in subsection (a)(13) and (14) shall be recorded at the time the medication is administered.

(c) If a resident refuses to take a prescribed medication, the refusal shall be documented in the resident's record and on the medication record. The refusal shall be reported to the prescriber within 24 hours, unless otherwise instructed by the prescriber. Subsequent refusals to take a prescribed medication shall be reported as required by the prescriber.

(d) The residence shall follow the directions of the prescriber.

**§ 2800.188. Medication errors.**

(a) Medication errors include the following:

- (1) Failure to administer a medication.
- (2) Administration of the wrong medication.
- (3) Administration of the wrong amount of medication.
- (4) Failure to administer a medication at the prescribed time.
- (5) Administration to the wrong resident.
- (6) Administration through the wrong route.

(b) A medication error shall be immediately reported to the resident, the resident's designated person and the prescriber.

(c) Documentation of medication errors and the prescriber's response shall be kept in the resident's record.

(d) There shall be a system in place to identify and document medication errors and the residence's pattern of error.

(e) There shall be documentation of the follow-up action that was taken to prevent future medication errors.

**§ 2800.189. Adverse reaction.**

(a) If a resident has a suspected adverse reaction to a medication, the residence shall immediately consult a physician or seek emergency medical treatment. The resident's designated person shall be notified, if applicable.

(b) The residence shall document adverse reactions, the prescriber's response and any action taken in the resident's record.

**§ 2800.190. Medication administration training.**

(a) A staff person who has successfully completed a Department-approved medications administration course that includes the passing of the Department's performance-based competency test within the past 2 years may administer oral; topical; eye, nose and ear drop prescription medications and epinephrine injections for insect bites or other allergies.

(b) A staff person is permitted to administer insulin injections following successful completion of a Department-approved medications administration course that includes the passing of a written performance-based competency test within the past 2 years, as well as successful completion of a Department-approved diabetes patient education program within the past 12 months.

(c) A record of the training shall be kept including the staff person trained, the date, source, name of trainer and documentation that the course was successfully completed.

**§ 2800.191. Resident education.**

The residence shall educate the resident of the right to question or refuse a medication if the resident believes there may be a medication error. Documentation of this resident education shall be kept.

**SAFE MANAGEMENT TECHNIQUES**

**§ 2800.201. Safe management techniques.**

The residence shall use positive interventions to modify or eliminate a behavior that endangers the resident himself or others. Positive interventions include improving communications, reinforcing appropriate behavior, redirection, conflict resolution, violence prevention, praise, deescalation techniques and alternative techniques or methods to identify and defuse potential emergency situations.

**§ 2800.202. Prohibitions.**

The following procedures are prohibited:

(1) Seclusion, defined as involuntary confinement of a resident in a room or living unit from which the resident is physically prevented from leaving, is prohibited. This does not include the admission of a resident in a secured dementia care unit in accordance with § 2800.231 (relating to admission).

(2) Aversive conditioning, defined as the application of startling, painful or noxious stimuli, is prohibited.

(3) Pressure point techniques, defined as the application of pain for the purpose of achieving compliance, is prohibited.

(4) A chemical restraint, defined as use of drugs or chemicals for the specific and exclusive purpose of controlling acute or episodic aggressive behavior, is prohibited. A chemical restraint does not include a drug ordered by a physician or dentist to treat the symptoms of a specific mental, emotional or behavioral condition, or as pretreatment prior to a medical or dental examination or treatment.

(5) A mechanical restraint, defined as a device that restricts the movement or function of a resident or portion of a resident's body, is prohibited. Mechanical restraints include geriatric chairs, handcuffs, anklets, wristlets, camisoles, helmet with fasteners, muffs and mitts with fasteners, poseys, waist straps, head straps, papoose boards, restraining sheets, chest restraints and other types of locked restraints. A mechanical restraint does not include a device used to provide support for the

achievement of functional body position or proper balance that has been prescribed by a medical professional as long as the resident can easily remove the device or the resident or his designee understands the need for the device and consents to its use.

(6) A manual restraint, defined as a hands-on physical means that restricts, immobilizes or reduces a resident's ability to move his arms, legs, head or other body parts freely, is prohibited. A manual restraint does not include prompting, escorting or guiding a resident to assist in the ADLs or IADLs.

**§ 2800.203. Bedside rails.**

(a) Bedside rails may not be used unless the resident can raise and lower the rails on his own. Bedside rails may not be used to keep a resident in bed. Use of any length rail longer than half the length of the bed is considered a restraint and is prohibited. Use of more than one rail on the same side of the bed is not permitted.

(b) Half-length rails are permitted only if the following conditions are met:

(1) The resident's assessment or support plan, or both, addresses the medical symptoms necessitating the use of half-length rails and the health and safety protection necessary in order to safely use half-length rails.

(2) The residence has attempted to use less restrictive alternatives.

(3) The resident or legal representative consented to the use of half-length rails after the risk, benefits and alternatives were explained.

**SERVICES**

**§ 2800.220. Service provision.**

(a) *Services.* The residence shall provide assisted living services as specified in subsection (b). The residence shall offer and provide the core service packages specified in subsection (c). The residence shall provide or arrange for the provision of supplemental health care services as specified in subsection (e). Other individuals or agencies may furnish services directly or under arrangements with the residence in accordance with a mutually agreed upon charge or fee between the residence, resident and other individual or agency. These other services shall be supplemental to the assisted living services provided by the residence and do not supplant them.

(b) *Assisted living services.* The residence shall, at a minimum, provide the following services:

(1) Nutritious meals and snacks in accordance with §§ 2800.161 and 2800.162 (relating to nutritional adequacy; and meals).

(2) Laundry services in accordance with § 2800.105 (relating to laundry).

(3) A daily program of social and recreational activities in accordance with § 2800.221 (relating to activities program).

(4) Assistance with performing ADLs and IADLs in accordance with §§ 2800.23 and 2800.24 (relating to activities; and personal hygiene).

(5) Assistance with self-administration of medication or medication administration as indicated in the resident's assessment and support plan in accordance with §§ 2800.181 and 2800.182 (relating to self-administration; and medication administration).



(6) Housekeeping services essential for the health, safety and comfort of the resident based upon the resident's needs and preferences.

(7) Transportation in accordance with § 2800.171 (relating to transportation).

(8) Financial management in accordance with § 2800.20 (relating to financial management).

(9) 24-hour supervision, monitoring and emergency response.

(10) Activities and socialization.

(11) Basic cognitive support services as defined in § 2800.4 (relating to definitions).

(c) *Core service packages.* The residence shall, at a minimum, provide the following core service packages:

(1) *Independent Core Package.* This core package shall be provided to residents who do not require assistance with ADLs. The services must include the following:

(i) 24-hour supervision, monitoring and emergency response.

(ii) Nutritious meals and snacks in accordance with §§ 2800.161 and 2800.162.

(iii) Housekeeping services essential for the health, safety and comfort of the resident based upon the resident's needs and preferences.

(iv) Laundry services in accordance with § 2800.105.

(v) Assistance with unanticipated ADLs for a defined recovery period.

(vi) A daily program of social and recreational activities in accordance with § 2800.221.

(vii) Basic cognitive support services as defined in § 2800.4.

(2) *Enhanced Core Package.* This core package shall be available to residents who require assistance with ADLs. The services must include the following:

(i) The services provided in the basic core package under paragraph (c)(1)(i)—(vii).

(ii) Assistance with ADLs and unanticipated ADLs for an undefined period of time.

(iii) Transportation in accordance with § 2800.171.

(iv) Assistance with self-administration of medication or medication administration as indicated in the resident's assessment and support plan in accordance with §§ 2800.181 and 2800.182.

(d) *Opt-out.* If a resident wishes not to have the residence provide a service under subsection (c)(1)(ii)—(iv), the resident-residence contract must state the following:

(1) The service not being provided.

(2) The corresponding fee schedule charge adjustment that takes into account the reduction in service.

(e) *Supplemental health care services.* The residence shall provide or arrange for the provision of supplemental health care services, including, but not limited to, the following:

(1) Hospice services.

(2) Occupational therapy.

(3) Skilled nursing services.

(4) Physical therapy.

(5) Behavioral health services.

(6) Home health services.

(7) Escort service if indicated in the resident's support plan or requested by the resident to and from medical appointments.

(8) Specialized cognitive support services as defined in § 2800.4.

#### **§ 2800.221. Activities program.**

(a) The residence shall develop a program of daily activities designed to promote each resident's active involvement with other residents, the resident's family and the community and provide the necessary space and equipment for the activities in accordance with §§ 2800.98 and 2800.99 (relating to indoor activity space; and recreation space). The residence shall offer the opportunity for the residents' active participation in the development of the daily activities calendar.

(b) The program must be based upon individual and group interests and provide social, physical, intellectual and recreational activities in a planned, coordinated and structured manner and shall encourage active participation in the community at large.

(c) The week's daily activity calendar shall be posted in advance in a conspicuous and public place in the residence. The residence shall provide verbal cueing and reminders of activities, their start times and locations within the residence.

#### **§ 2800.222. Community social services.**

Residents shall be encouraged and assisted in the access to and use of social services in the community which may benefit the resident, including a county mental health and mental retardation program, a drug and alcohol program, a senior citizens center, an area agency on aging or a home health care agency.

#### **§ 2800.223. Description of services.**

(a) The residence shall have a current written description of services and activities that the residence provides including the following:

(1) The scope and general description of the services and activities that the residence provides.

(2) The criteria for admission and discharge.

(3) Specific services that the residence does not provide, but will arrange or coordinate.

(b) The residence shall develop written procedures for the delivery and management of services from admission to discharge.

#### **§ 2800.224. Initial assessment and preliminary support plan.**

(a) *Initial assessment.*

(1) The administrator, administrator designee, or LPN, under the supervision of an RN, or an RN shall complete the initial assessment.

(2) An individual shall have a written initial assessment that is documented on the Department's assessment form within 30 days prior to admission unless one of the conditions contained in paragraph (3) apply.

(3) A resident shall have a written initial assessment that is documented on the Department's assessment form within 15 days after admission if one of the following conditions applies:

(i) The resident is being admitted directly to the residence from an acute care hospital.

(ii) The resident is being admitted to escape from an abusive situation.

(iii) The resident has no alternative living arrangement.

(4) A residence may use its own assessment form if it includes the same information as the Department's assessment form.

(5) The written initial assessment must, at a minimum include the following:

(i) The individual's need for assistance with ADLs and IADLs.

(ii) The mobility needs of the individual.

(iii) The ability of the individual to self-administer medication.

(iv) The individual's medical history, medical conditions, and current medical status and how they impact or interact with the individual's service needs.

(v) The individual's need for supplemental health care services.

(vi) The individual's need for special diet or meal requirements.

(vii) The individual's ability to safely operate key-locking devices.

(viii) The individual's ability to evacuate from the residence.

(b) An initial assessment will not be required to commence supplemental health care services to a resident of a residence under any of the following circumstances:

(1) If the resident was not receiving the services at the time of the resident's admission.

(2) To transfer a resident from a portion of a residence that does not provide supplemental health care services to a portion of the residence that provides such service.

(3) To transfer a resident from a personal care home to a residence licensed by the same operator.

(c) *Preliminary support plan.*

(1) An individual requiring services shall have a written preliminary support plan developed within 30 days prior to admission to the residence unless one of the conditions contained in paragraph (2) applies.

(2) A resident requiring services shall have a written preliminary support plan developed within 15 days after admission if one of the following conditions applies:

(i) The resident is being admitted directly to the residence from an acute care hospital.

(ii) The resident is being admitted to escape from an abusive situation.

(iii) Any other situation where the resident has no alternative living arrangement.

(3) The written preliminary support plan must document the dietary, medical, dental, vision, hearing, mental health or other behavioral care services that will be made available to the individual, or referrals for the individual to outside services if the individual's physician, physician's assistant or certified registered nurse practitioner, determine the necessity of these services. This requirement does not require a residence to pay for the cost of these medical and behavioral care services. The preliminary

support plan must document the assisted living services and supplemental health care services, if applicable, that will be provided to the individual.

(4) The preliminary support plan shall be documented on the Department's support plan form.

(5) A residence may use its own support plan form if it includes the same information as the Department's support plan form. An LPN, under the supervision of an RN, or an RN shall review and approve the preliminary support plan.

(6) An individual's preliminary support plan must document the ability of the individual to self-administer medications or the need for medication reminders or medication administration and the ability of the resident to safely operate key-locking devices.

(7) An individual shall be encouraged to participate in the development of the preliminary support plan. An individual may include a designated person or family member in making decisions about services.

(8) Individuals who participate in the development of the preliminary support plan shall sign and date the preliminary support plan.

(9) If an individual or designated person is unable or chooses not to sign the preliminary support plan, a notation of inability or refusal to sign shall be documented.

(10) The residence shall give a copy of the preliminary support plan to the resident and the resident's designated person.

#### **§ 2800.225. Additional assessments.**

(a) The administrator or administrator designee, or an LPN, under the supervision of an RN, or an RN shall complete additional written assessments for each resident. A residence may use its own assessment form if it includes the same information as the Department's assessment form. Additional written assessments shall be completed as follows:

(1) Annually.

(2) If the condition of the resident significantly changes prior to the annual assessment.

(3) At the request of the Department upon cause to believe that an update is required.

(b) The assessment must, at a minimum include the following:

(1) The resident's need for assistance with ADLs and IADLs.

(2) The mobility needs of the resident.

(3) The ability of the resident to self-administer medication.

(4) The resident's medical history, medical conditions, and current medical status and how these impact or interact with the individual's service needs.

(5) The resident's need for supplemental health care services.

(6) The resident's need for special diet or meal requirements.

(7) The resident's ability to safely operate key-locking devices.

#### **§ 2800.226. Mobility criteria.**

(a) The resident shall be assessed for mobility needs as part of the resident's assessment.

(b) If a resident is determined to have mobility needs as part of the resident's initial or annual assessment, specific requirements relating to the care, health and safety of the resident shall be met immediately.

(c) The administrator or the administrator designee shall notify the Department within 30 days after a resident with mobility needs is admitted to the residence and compile a monthly list of when a resident develops mobility needs.

**§ 2800.227. Development of the final support plan.**

(a) Each resident requiring services shall have a written final support plan developed and implemented within 30 days after admission to the residence. The final support plan shall be documented on the Department's support plan form.

(b) A residence may use its own support plan form if it includes the same information as the Department's support plan form. An LPN, under the supervision of an RN, shall review and approve the final support plan.

(c) The final support plan shall be revised within 30 days upon completion of the annual assessment or upon changes in the resident's needs as indicated on the current assessment. The residence shall review each resident's final support plan on a quarterly basis and modify as necessary to meet the resident's needs.

(d) Each residence shall document in the resident's final support plan the dietary, medical, dental, vision, hearing, mental health or other behavioral care services that will be made available to the resident, or referrals for the resident to outside services if the resident's physician, physician's assistant or certified registered nurse practitioner, determine the necessity of these services. This requirement does not require a residence to pay for the cost of these medical and behavioral care services. The final support plan must document the assisted living services and supplemental health care services, if applicable, that will be provided to the resident.

(e) The resident's final support plan must document the ability of the resident to self-administer medications or the need for medication reminders or medication administration and the ability of the resident to safely operate key-locking devices. Strategies that promote interactive communication on the part of and between direct care staff and individual residents shall also be included in the final support plan.

(f) A resident shall be encouraged to participate in the development and implementation of the final support plan. A resident may include a designated person or family member in making decisions about services.

(g) Individuals who participate in the development of the final support plan shall sign and date the support plan.

(h) If a resident or designated person is unable or chooses not to sign the final support plan, a notation of inability or refusal to sign shall be documented.

(i) The final support plan shall be accessible by direct care staff persons at all times.

(j) A resident or a designated person has a right to request the review and modification of his support plan.

(k) The residence shall give a copy of the final support plan to the resident and the resident's designated person. The final support plan shall be attached to or incorporated into and serve as part of the resident-residence contract.

**§ 2800.228. Transfer and discharge.**

(a) The facility shall ensure that a transfer or discharge is safe and orderly and that the transfer or discharge is appropriate to meet the resident's needs. This includes ensuring that a resident is transferred or discharged with all his medications, durable medical equipment and personal property. The residence shall permit the resident to participate in the decision relating to the relocation.

(b) If the residence initiates a transfer or discharge of a resident, or if the legal entity chooses to close the residence, the residence shall provide a 30-day advance written notice to the resident, the resident's family or designated person and the referral agent citing the reasons for the transfer or discharge. This shall be stipulated in the resident-residence contract.

(1) The 30-day advance written notice must be written in language in which the resident understands, or performed in American Sign Language or presented orally in a language the resident understands if the resident does not speak standard English. The notice must include the following:

(i) The specific reason for the transfer or discharge.

(ii) The effective date of the transfer or discharge.

(iii) The location to which the resident will be transferred or discharged.

(iv) An explanation of the measures the resident or the resident's designated person can take if they disagree with the residence decision to transfer or discharge which includes the name, mailing address, and telephone number of the State and local long-term care ombudsman.

(v) The resident's transfer or discharge rights, as applicable.

(2) Prior to initiating a transfer or discharge of a resident, the residence shall make reasonable accommodation for aging in place that may include services from outside providers. The residence shall demonstrate through support plan modification and documentation the attempts to resolve the reason for the transfer or discharge. Supplemental services may be provided by the resident's family, residence staff or private duty staff as agreed to by the resident and the residence. This shall be stipulated in the resident-residence contract.

(3) Practicable notice, rather than a 30-day advance written notice is required if a delay in transfer or discharge would jeopardize the health, safety or well-being of the resident or others in the residence, as certified by a physician or the Department. This may occur when the resident needs psychiatric services or is abused in the residence, or the Department initiates closure of the residence.

(c) A residence shall give the Department written notice of its intent to close the residence, at least 60 days prior to the anticipated date of closing.

(d) A residence may not require a resident to leave the residence prior to 30 days following the resident's receipt of a written notice from the residence regarding the intended closure of the residence, except when the Department determines that removal of the resident at an earlier time is necessary for the protection of the health, safety and well-being of the resident.

(e) The date and reason for the transfer or discharge, and the destination of the resident, if known, shall be recorded in the resident record and tracked in a transfer



and discharge tracking chart that the residence shall maintain and make available to the Department.

(f) If the legal entity chooses to voluntarily close the residence or if the Department has initiated legal action to close the residence, the Department working in conjunction with appropriate local authorities, will offer relocation assistance to the residents. Except in the case of an emergency, each resident may participate in planning the transfer, and shall have the right to choose among the available alternatives after an opportunity to visit the alternative residences. These procedures apply even if the resident is placed in a temporary living situation.

(g) Within 30 days of the residence's closure, the legal entity shall return the license to the Department.

(h) The only grounds for transfer or discharge of a resident from a residence are for the following conditions:

(1) If a resident is a danger to himself or others and the behavior cannot be managed through interventions, services planning or informed consent agreements.

(2) If the legal entity chooses to voluntarily close the residence, or a portion of the residence.

(3) If a residence determines that a resident's functional level has advanced or declined so that the resident's needs cannot be met in the residence under § 2800.229 (relating to excludable conditions; exceptions) or within the scope of licensure for a residence. In that case, the residence shall notify the resident and the resident's designated person. The residence shall provide justification for the residence's determination that the needs of the resident cannot be met. In the event that there is no disagreement related to the transfer or discharge, a plan for other placement shall be made as soon as possible by the administrator in conjunction with the resident and the resident's designated person, if any. If assistance with relocation is needed, the administrator shall contact appropriate local agencies, such as the area agency on aging, county mental health/mental retardation program or drug and alcohol program, for assistance. The administrator shall also contact the Department.

(4) If meeting the resident's needs would require a fundamental alteration in the residence's program or building site, or would create an undue financial or programmatic burden on the residence.

(5) If the resident has failed to pay after reasonable documented efforts by the residence to obtain payment.

(6) If closure of the residence is initiated by the Department.

(7) Documented, repeated violation of the residence rules.

(8) A court has ordered the transfer or discharge.

(i) If grounds for transfer or discharge is based upon subsection (h)(1) or (3), a certification from one of the following individuals shall be required to certify in writing that the resident can no longer be retained in the residence:

(1) The administrator acting in consultation with supplemental health care providers.

(2) The resident's physician or certified registered nurse practitioner.

(3) The medical director of the residence.

**§ 2800.229. Excludable conditions; exceptions.**

(a) *Excludable conditions.* Except as provided in subsection (b), a residence may not admit, retain or serve an individual with any of the following conditions or health care needs:

(1) Ventilator dependency.

(2) Stage III and IV decubiti and vascular ulcers that are not in a healing stage.

(3) Continuous intravenous fluids.

(4) Reportable infectious diseases, such as tuberculosis, in a communicable state that requires isolation of the individual or requires special precautions by a caretaker to prevent transmission of the disease unless the Department of Health directs that isolation be established within the residence.

(5) Nasogastric tubes.

(6) Physical restraints.

(7) Continuous skilled nursing care 24 hours a day.

(b) *Exception.* The residence may submit a written request to the Department on a form provided by the Department for an exception related to any of the conditions or health care needs listed in subsection (a) or (e) to allow the residence to admit, retain or serve an individual with one of those conditions or health care needs, unless a determination is unnecessary as set forth in subsection (e).

(c) *Submission, review and determination of an exception request.*

(1) The administrator of the residence shall submit the exception request. The exception request must be signed and affirmed by an individual listed in subsection (d) and accompanied by a support plan which includes the residence accommodations for treating the excludable condition requiring the exception request. Proposed accommodations must conform with the provisions contained within the resident-residence contract.

(2) The Department will review the exception request in consultation with a certified registered nurse practitioner or a physician, with experience caring for the elderly and disabled in long-term living settings.

(3) The Department will respond to the exception request in writing within 5 business days of receipt.

(4) The Department may approve the exception request if the following conditions are met:

(i) The exception request is desired by the resident or applicant.

(ii) The resident or applicant will benefit from the approval of the exception request.

(iii) The residence demonstrates to the Department's satisfaction that the residence has the staff, skills and expertise necessary to care for the resident's needs related to the excludable condition.

(iv) The residence demonstrates to the Department's satisfaction that any necessary supplemental health care provider has the staff, skills and expertise necessary to care for the resident's needs related to the excludable condition.

(v) The residence provides a written alternate care plan that ensures the availability of staff with the skills and expertise necessary to care for the resident's needs related to the excludable condition in the event the supplemental health care provider is unavailable.

(5) The Department will render decisions on exception requests on a case-by-case basis and not provide for facility-wide exceptions.

(d) *Certification providers.* The following persons may certify that an individual with an excludable condition may not be admitted or retained in a residence:

(1) The administrator acting in consultation with supplemental health care providers.

(2) The individual's physician or certified registered nurse practitioner.

(3) The medical director of the residence.

(e) *Departmental exceptions.* A residence may admit, retain or serve an individual for whom a determination is made by the Department, upon the written request of the residence, that the individual's specific health care needs can be met by a provider of assisted living services or within a residence, including an individual requiring:

(1) Gastric tubes, except that a determination will not be required if the individual is capable of self-care of the gastric tube or a licensed health care professional or other qualified individual cares for the gastric tube.

(2) Tracheostomy, except that a determination will not be required if the individual is independently capable of self-care of the tracheostomy.

(3) Skilled nursing care 24 hours a day, except that a determination will not be required if the skilled nursing care is provided on a temporary or intermittent basis.

(4) A sliding scale insulin administration, except that a determination will not be required if the individual is capable of self-administration or a licensed health care professional or other qualified individual administers the insulin.

(5) Intermittent intravenous therapy, except that a determination will not be required if a licensed health care professional manages the therapy.

(6) Insertions, sterile irrigation and replacement of a catheter, except that a determination will not be required for routine maintenance of a urinary catheter, if the individual is capable of self-administration or a licensed health care professional administers the catheter.

(7) Oxygen, except that a determination will not be required if the individual is capable of self-administration or a licensed health care professional or other qualified individual administers the oxygen.

(8) Inhalation therapy, except that a determination will not be required if the individual is capable of self-administration or a licensed health care professional or other qualified individual administers the therapy.

(9) Other types of supplemental health care services that the administrator, acting in consultation with supplemental health care providers, determines can be provided in a safe and effective manner by the residence.

(10) For purposes of paragraphs (1), (4), (7) and (8), a "qualified individual" means an individual who has been determined by a certification provider listed under subsection (d) to be capable of care or administration under paragraphs (1), (4), (7) and (8).

(f) *Request for exception by resident.* Nothing herein prevents an individual seeking admission to a residence or a resident from requesting that the residence apply for an exception from the Department for a condition listed in this section for which an exception must be granted by the Department. The residence's determination on

whether or not to seek such an exception shall be documented on a form supplied by the Department.

(g) *Record.* A written record of the exception request, the supporting documentation to justify the exception request and the determination related to the exception request shall be kept in the records of the residence. The information required by this subsection shall also be kept in the resident's record.

(h) *Decisions.* The residence shall record the following decisions made on the basis of this section.

(1) Admission denials.

(2) Transfer or discharge decisions that are made on the basis of this section.

## SPECIAL CARE UNITS

### § 2800.231. Admission.

(a) *Special care units.* This section and §§ 2800.232—2800.239 apply to special care units. These provisions are in addition to the other provisions of this chapter. A special care unit is a residence or portion of a residence that provides one or both of the following:

(1) Specialized care and services for residents with Alzheimer's disease or dementia in the least restrictive manner consistent with the resident's support plan to ensure the safety of the resident and others in the residence while maintaining the resident's ability to age in place.

(i) Admission of a resident shall be in consultation with the resident's family or designated person.

(ii) Prior to admission other service options that may be available to a resident shall be considered.

(2) Intense neurobehavioral rehabilitation for residents with severely disruptive and potentially dangerous behaviors as a result of brain injury in the least restrictive manner consistent with the resident's rehabilitation and support plan to ensure the safety of the resident and others in the residence.

(i) Each resident of a special care unit for INRBI shall have a rehabilitation and support plan that supports independence and promotes recovery and thereby discharge to a less restrictive setting.

(ii) Special care units for INRBI shall provide for each resident to age in place.

(iii) Admission of a resident shall be in consultation with the resident or potential resident and, when appropriate, the resident's designated person or the resident's family, or both.

(iv) Prior to admission other less restrictive service options that may be available to a resident or potential resident shall be considered.

(b) *Medical evaluation.* A resident or potential resident shall have a medical evaluation by a physician, physician's assistant or certified registered nurse practitioner, documented on a form provided by the Department, within 60 days prior to admission.

(1) Documentation for a special care unit for residents with Alzheimer's disease or dementia must include the resident's diagnosis of Alzheimer's disease or dementia and the need for the resident to be served in a special care unit.

(2) Documentation for a special care unit for INRBI must include the resident's or potential resident's diagnosis of brain injury and need for residential services to be provided in a special care unit for INRBI. The evaluation must include visual function, hearing, swallowing, mobility and hand function.

(c) *Preadmission screening.*

(1) *Special care unit for residents with Alzheimer's disease or dementia.*

(i) A written cognitive preadmission screening completed in collaboration with a physician or a geriatric assessment team and documented on the Department's cognitive preadmission screening form shall be completed for each resident within 72 hours prior to admission to a special care unit.

(ii) A geriatric assessment team is a group of multidisciplinary specialists in the care of adults who are older than conducts a multidimensional evaluation of a resident and assists in developing a support plan by working with the resident's physician, designated person and the resident's family to coordinate the resident's care.

(2) *Special care unit for INRBI.*

(i) A written CPB preadmission screening completed in collaboration with a physician, neuropsychologist or cognitive, physical, behavioral assessment team and documented on the Department's CPB preadmission screening form shall be completed for each resident or potential resident within 72 hours prior to admission to a special care unit for INRBI.

(ii) A cognitive, physical, behavioral specialist with brain injury experience shall assist in developing a rehabilitation and support plan by working with the resident's physician, neuropsychologist and, when appropriate, the resident's designated person or the resident's family, or both to develop the resident's rehabilitation and support plan. This plan must include a high level of nursing and behavioral supervision, medication management, occupational therapy, cognitive therapy, behavioral therapy, vocational services, support for social reentry, and a personalized treatment plan.

(d) *Resident admission to special care unit.* Each resident record must have documentation that the resident or potential resident and, when appropriate, the resident's designated person or the resident's family have agreed to the resident's admission or transfer to the special care unit.

(e) *Additional assessments.*

(1) In addition to the requirements in § 2800.225 (relating to additional assessments), residents of a special care unit for Alzheimer's disease or dementia shall also be assessed quarterly for the continuing need for the special care unit for Alzheimer's disease or dementia.

(2) In addition to the requirements in § 2800.225, residents of a special care unit for INRBI shall also be assessed at least semiannually or more frequently as necessary to assure the continuing need for residence in the special care unit for INRBI.

(f) *Additional resident in special care unit.* A spouse, friend or family member who does not have a primary diagnosis of Alzheimer's disease or dementia or brain injury may reside in the special care unit if desired by the resident or his designated person.

(1) The spouse, friend or family member shall have a medical evaluation by a physician, physician's assistant or certified registered nurse practitioner, documented on a

form provided by the Department within 60 days prior to admission to the residence or 15 days after admission to the residence.

(2) The spouse, friend or family member shall have access to and be able to follow directions for the operation of the key pads or other lock-releasing devices to exit the special care unit.

(g) *Disclosure of services.* The resident-residence contract specified in § 2800.25 (relating to resident-residence contract) must also include a disclosure of services, admission and discharge criteria, change in condition policies, special programming and costs and fees.

(h) *Alzheimer's disease or dementia.* When the residence holds itself out to the public as providing services or housing for individuals with Alzheimer's disease or dementia, the residence shall disclose to individuals and provide materials that include the following:

(1) The residence's written statement of its philosophy and mission which reflects the needs of individuals with Alzheimer's disease or dementia.

(2) A description of the residence's physical environment and design features to support the functioning of individuals with Alzheimer's disease or dementia.

(3) A description of the frequency and types of individual and group activities designed specifically to meet the needs of individuals with Alzheimer's disease or dementia.

(4) A description of the security measures provided by the residence.

(5) A description of the training provided to staff regarding provision of care to individuals with Alzheimer's disease or dementia.

(6) A description of availability of family support programs and family involvement.

(7) The process used for assessment and establishment of a plan of services for the individual, including methods by which the plan of services will remain responsive to changes in the individual's condition.

(i) *Special care unit for INRBI.* When an assisted living residence holds itself out to the public as a special care unit for INRBI, the residence shall disclose and provide materials to individuals and, when appropriate, the individual's designated person or the individual's family, or both, that include the following information:

(1) The residence's written statement of its philosophy and mission which reflects the needs of individuals with brain injury for intense neurobehavioral rehabilitation and support.

(2) A description of the residence's physical environment and design features that support and promote the functioning and rehabilitation of individuals who need INRBI.

(3) A description of the types of individual and group activities that have been designed specifically to meet the requirements of the rehabilitation and support plans of specific residents with brain injury.

(4) A description of the security measures provided by the residence.

(5) A description of the credentials and experience required and the training provided to staff regarding the provision of rehabilitation and support for individuals who require INRBI.



(6) A description of availability of family support programs, family education programs, and family involvement.

(7) The process used for assessment and establishment of a plan of services for the resident, including methods by which the plan of services will remain responsive to progress in the resident's recovery.

(j) *Residents who wander.* The residence shall identify measures to address individuals with Alzheimer's disease or dementia or with INRBI who have tendencies to wander.

(k) *Individuals with INRBI.* The residence with a special care unit for INRBI shall identify measures to address individuals who require INRBI who have problems that may actually impede rehabilitation such as:

- (1) Anger.
- (2) Self-control.
- (3) Aggression toward others.
- (4) Self-injury.
- (5) Deficient judgment and problem solving due to cognitive deficits.
- (6) Frequent agitation.
- (7) Prolonged confusional state.
- (8) Seizure disorders and related behavioral problems.
- (9) Significant memory and learning problems.
- (10) Disruption of sleep and wake cycles.
- (11) Problems with attention.
- (12) Filtering and focusing.
- (13) Emergence of mental health problems or exacerbation of preexisting mental health issues.
- (14) Emergence of substance abuse problems or exacerbation of preexisting substance abuse issues.
- (15) Other cognitive and behavioral problems which have or would prevent successful completion of traditional rehabilitation programs.

(l) *Professionals caring for individuals requiring INRBI.* The residence with a special care unit for INRBI shall identify at a minimum the following professionals with expertise in providing care for individuals requiring INRBI.

- (1) Onsite behavioral specialist.
- (2) Onsite cognitive rehabilitation therapist.
- (3) A consulting psychiatrist; a consulting neuropsychologist.
- (4) A consulting neuropsychiatrist or psychiatrist for prescribing and monitoring the psychiatric medications that may be needed for residents with behavioral health issues.

#### § 2800.232. Environmental protection.

(a) The residence shall provide exercise space, both indoor and outdoor.

(b) No more than two residents may occupy a living unit regardless of its size. A living unit must meet the requirement in § 2800.101 (relating to resident living units), as applicable. Kitchen facilities may not be included in a living unit located in a special care unit for INRBI.

(c) The residence shall provide space for dining, group and individual activities and visits.

(d) The residence shall provide a full description of the measures implemented to enhance environmental awareness, minimize environmental stimulation and maximize independence of the residents in public and private spaces based on the needs of the individuals being served.

(e) The residence with a special care unit for INRBI shall identify the process used to assure conformity of the individual resident's living unit to the ongoing rehabilitation recommendations of the neuropsychologist and the cognitive physical, emotional behavioral assessment team as expressed in the current rehabilitation and support plan.

#### § 2800.233. Doors, locks and alarms.

(a) Doors equipped with key-locking devices, electronic card operated systems or other devices that prevent immediate egress are permitted only if there is written approval from the Department of Labor and Industry, Department of Health or appropriate local building authority permitting the use of the specific locking system.

(b) A residence shall have a statement from the manufacturer, specific to that residence, verifying that the electronic or magnetic locking system will shut down, and that all doors will open easily and immediately when one or more of the following occurs:

(1) Upon a signal from an activated fire alarm system, heat or smoke detector.

(2) Power failure to the residence.

(3) Overriding the electronic or magnetic locking system by use of a key pad or other lock-releasing device.

(c) If key-locking devices, electronic card systems or other devices that prevent immediate egress are used to lock and unlock exits, directions for their operation shall be conspicuously posted near the device.

(d) Doors that open onto areas such as parking lots, or other potentially unsafe areas, shall be locked by an electronic or magnetic system.

(e) Fire alarm systems must be interconnected to the local fire department, when available, or a 24-hour monitoring service approved by the local fire department.

#### § 2800.234. Resident care.

(a) *Support or rehabilitation plan.*

(1) Within 72 hours of the admission, or within 72 hours prior to the resident's admission to the special care unit, a support plan shall be developed, implemented and documented in each resident's record.

(2) For individuals being admitted into a special care unit for INRBI, a rehabilitation plan shall be developed, implemented and documented in the resident record. This rehabilitation plan and the individual's support plan shall be based on the CPB preadmission assessment and other available records and information.

(b) *Plan requirements.*

(1) The support plan and if applicable, the rehabilitation plan must identify the resident's physical, medical, social, cognitive and safety needs.

(2) The rehabilitation and support plan for residents of a special care unit for INRBI must identify the residents' emotional and behavioral needs.

(c) *Responsible individual.* The support plan and if applicable, the rehabilitation plan must identify the individual responsible to address the resident's needs.

(d) *Review of plans.*

(1) The support plan for a resident of a special care unit for residents with Alzheimer's disease or dementia shall be reviewed, and if necessary, revised at least quarterly and as the resident's condition changes.

(2) The support plan and rehabilitation plan for a resident of a special care unit for INRBI shall be reviewed, and if necessary, revised at least monthly and as the resident's condition changes.

(e) *Resident involvement in development of plan.* The resident, the resident's designated person or the resident's family shall be involved in the development and the revisions of the support plan and if applicable, the rehabilitation plan.

**§ 2800.235. Discharge.**

(a) If the residence initiates a discharge or transfer of a resident, or the legal entity chooses to close the residence, the administrator shall give a 30-day advance written notice to the resident, the resident's designated person and the referral agent citing the reasons for the discharge or transfer. This requirement shall be stipulated in the resident-residence contract signed prior to admission to the special care unit.

(b) If a resident of a special care unit for INRBI, or when appropriate, the resident's designated person or the resident's family, request discharge to another facility, another assisted living residence or an independent living arrangement, transition services shall be provided by the special care unit.

**§ 2800.236. Training.**

(a) Each direct care staff person working in a special care unit for residents with Alzheimer's disease or dementia shall have 8 hours of initial training within the first 30 days of the date of hire and a minimum of 8 hours of annual training related to dementia care and services, in addition to the 16 hours of annual training specified in § 2800.65 (relating to staff orientation and direct care staff person training and orientation).

(b) The training for each direct care staff person working in a special care unit for residents with Alzheimer's disease or dementia at a minimum must include the following topics:

- (1) An overview of Alzheimer's disease and related dementias.
- (2) Managing challenging behaviors.
- (3) Effective communications.
- (4) Assistance with ADLs.
- (5) Creating a safe environment.

(c) Each direct care staff person working in a special care unit for INRBI shall have 8 hours of initial training within the first 30 days of the date of hire and a minimum of 8 hours of annual training related to brain injury, in addition to the 16 hours of annual training specified in § 2800.65 and any continuing education required for professional licensing.

(d) The training for each direct care staff person working in a special care unit for INRBI in addition to subsection (b)(3), (4) and (5), must at a minimum include the following topics:

(1) An overview of brain injury including the common cognitive, physical and behavioral effects.

(2) Understanding and managing challenging behaviors which follow from the cognitive, physical and behavioral effects of brain injury.

(3) Tailoring activities and interactions to provide individualized rehabilitation and support in accordance with the resident's rehabilitation and support plan.

(4) Coaching and cueing, interactive problem solving, promoting the initiation of self-soothing activities, and timing the fading of supports.

**§ 2800.237. Program.**

(a) The following types of activities shall be offered at least weekly to residents of a special care unit for residents with Alzheimer's disease or dementia:

- (1) Gross motor activities, such as dancing, stretching and other exercise.
- (2) Self-care activities, such as personal hygiene.
- (3) Social activities, such as games, music and holiday and seasonal celebrations.
- (4) Crafts, such as sewing, decorations and pictures.
- (5) Sensory and memory enhancement activities, such as review of current events, movies, story telling, picture albums, cooking, pet therapy and reminiscing.
- (6) Outdoor activities, as weather permits, such as walking, gardening and field trips.

(b) Resident participation for residents of a special care unit for residents with Alzheimer's disease or dementia in general activity programming shall:

- (1) Be voluntary.
- (2) Respect the resident's age and cognitive abilities.
- (3) Support the retention of the resident's abilities.

(c) The rehabilitation and support plans of the residents in a special care unit for INRBI will determine the types and frequency of the individual and group activities to be offered.

**§ 2800.238. Staffing.**

Each resident in a special care unit shall be considered to be a resident with mobility needs under § 2800.57(c) (relating to direct care staffing).

**§ 2800.239. Application to Department.**

(a) The legal entity shall submit an application to the Department at least 60 days prior to the following:

- (1) Opening a special care unit.
- (2) Adding a special care unit to an existing residence.
- (3) Increasing the maximum capacity in an existing unit.
- (4) Changing the locking system, exit doors or floor plan of an existing unit.

(b) The Department will inspect and approve the special care unit prior to operation or change. The requirements of this chapter shall be met prior to operation.

(c) The following documents shall be included in the application specified in subsection (a):

- (1) The name, address and legal entity of the residence.
- (2) The name of the administrator of the residence.
- (3) The maximum capacity of the residence.
- (4) The requested resident population of the special care unit.
- (5) A building description.
- (6) A unit description.
- (7) The type of locking system.
- (8) Policy and procedures to be implemented for emergency egress and resident elopement.
- (9) A sample of a 2-week staffing schedule.
- (10) Verification of completion of additional training requirements.
- (11) The operational description of the special care unit locking system of the doors.
- (12) The manufacturer's statement regarding the special care unit locking system.
- (13) A written approval or a variance permitting locked exit doors from the Department of Labor and Industry, the Department of Health or the appropriate local building authority.
- (14) The name of the municipality or 24-hour monitoring service maintaining the interconnection with the residence's fire alarm system.
- (15) A sample plan of care and service for the resident addressing the resident's physical, medical, social, cognitive and safety needs for the residents.
- (16) The activity standards.
- (17) The complete medical and cognitive preadmission assessment that is completed upon admission and reviewed and updated annually.
- (18) A consent form agreeing to the resident's placement in the special care unit, to be signed by the resident or the resident's designated person.
- (19) A written agreement containing full disclosure of services, admission and discharge criteria, change in condition policies, services, special programming, costs and fees.
- (20) A description of environmental cues being utilized.
- (21) A general floor plan of the entire residence.
- (22) A specific floor plan of the special care unit, outside enclosed area and exercise space.

#### **RESIDENT RECORDS**

##### **§ 2800.251. Resident records.**

- (a) A separate record shall be kept for each resident.
- (b) The entries in a resident's record must be permanent, legible, dated and signed by the staff person making the entry.
- (c) The residence shall use standardized forms to record information in the resident's record.
- (d) Separate resident records shall be kept on the premises where the resident lives.

(e) Resident records shall be made available to the resident and the resident's designated person during normal working hours. Resident records shall be made available upon request to the resident and the resident's designated person.

##### **§ 2800.252. Content of resident records.**

Each resident's record must include the following information:

- (1) Name, gender, admission date, birth date and Social Security number.
- (2) Race, height, weight at time of admission, color of hair, color of eyes, religious affiliation, if any, and identifying marks.
- (3) A photograph of the resident that is no more than 2 years old.
- (4) A language, speech, hearing or vision need which requires accommodation or awareness of during oral or written communication.
- (5) The name, address, telephone number and relationship of a designated person to be contacted in case of an emergency.
- (6) The name, address and telephone number of the resident's physician or source of health care.
- (7) The current and previous 2 years' physician's examination reports, including copies of the medical evaluation forms.
- (8) A list of prescribed medications, OTC medications and CAM.
- (9) Dietary restrictions.
- (10) A record of incident reports for the individual resident.
- (11) A list of allergies.
- (12) Documentation of health care services and orders, including orders for the services of visiting nurse or home health agencies.
- (13) The initial assessment, the preliminary support plan and the most current version of the annual assessment.
- (14) A final support plan.
- (15) Applicable court order, if any.
- (16) The resident's medical insurance information.
- (17) The date of entrance into the residence, relocations and discharges, including the transfer of the resident to other residences owned by the same legal entity.
- (18) An inventory of the resident's personal property as voluntarily declared by the resident upon admission and voluntarily updated.
- (19) An inventory of the resident's property entrusted to the administrator for safekeeping.
- (20) The financial records of residents receiving assistance with financial management.
- (21) The reason for termination of services or transfer of the resident, the date of transfer and the destination.
- (22) Copies of transfer and discharge summaries from hospitals, if available.



(23) If the resident dies in the residence, a copy of the official death certificate.

(24) Signed notification of rights, grievance procedures and applicable consent to treatment protections specified in § 2800.41 (relating to notification of rights and complaint procedures).

(25) A copy of the resident-residence contract.

(26) A termination notice, if any.

(27) A record relating to any exception request under § 2800.229 (relating to excludable conditions; exceptions).

(28) Ongoing resident progress notes.

**§ 2800.253. Record retention and disposal.**

(a) The resident's entire record shall be maintained for a minimum of 3 years following the resident's death, discharge from the residence or until any audit or litigation is resolved.

(b) Records shall be destroyed in a manner that protects confidentiality.

(c) The residence shall keep a log of resident records destroyed on or after January 18, 2011. This log must include the resident's name, record number, birth date, admission date and discharge date.

(d) Records required under this chapter that are not part of the resident records shall be kept for a minimum of 3 years or until any audit or litigation is resolved.

**§ 2800.254. Record access and security.**

(a) Records of active and discharged residents shall be maintained in a confidential manner, which prevents unauthorized access.

(b) Each residence shall develop and implement policy and procedures addressing record accessibility, security, storage, authorized use and release and who is responsible for the records.

(c) Resident records shall be stored in locked containers or a secured, enclosed area used solely for record storage and be accessible at all times to the administrator, the administrator's designee, or the nurse involved in assessment and support plan development and upon request, to the Department or representatives of the area agency on aging.

**ENFORCEMENT**

**§ 2800.261. Classification of violations.**

(a) The Department will classify each violation of this chapter into one of three categories as described in paragraphs (1)—(3). A violation identified may be classified as Class I, Class II or Class III, depending upon the severity, duration and the adverse effect on the health and safety of residents.

(1) *Class I.* Class I violations have resulted in or have a substantial probability of resulting in death or serious mental or physical harm to a resident.

(2) *Class II.* Class II violations have a substantial adverse effect upon the health, safety or well-being of a resident.

(3) *Class III.* Class III violations are minor violations, which have an adverse effect upon the health, safety or well-being of a resident.

(b) The Department's guidelines for determining the classification of violations are available from the Department.

**§ 2800.262. Penalties and corrective action.**

(a) The Department will assess a penalty for each violation of this chapter.

(b) Penalties will be assessed on a daily basis from the date on which the citation was issued until the date the violation is corrected, except in the case of Class II and Class III violations.

(c) In the case of a Class II violation, assessment of the penalty will be suspended for 5 days from the date of citation to permit sufficient time for the residence to correct the violation. If the residence fails to provide proof of correction of the violation to the Department within the 5-day period, the fine will be retroactive to the date of citation. The Department may extend the time period for good cause.

(d) The Department will assess a penalty of \$20 per resident per day for each Class I violation. Each Class I violation shall be corrected within 24 hours.

(e) The Department will assess a minimum penalty of \$5 per resident per day, up to a maximum penalty of \$15 per resident per day, for each Class II violation.

(f) There is no monetary penalty for Class III violations unless the residence fails to correct the violation within 15 days. Failure to correct a Class III violation within the 15-day period may result in a penalty assessment of up to \$3 per resident per day for each Class III violation retroactive to the date of the citation.

(g) If a residence is found to be operating without a license, a penalty of \$500 will be assessed. After 14 days, if the residence operator cited for operating without a license fails to file an application for a license, the Department will assess an additional \$20 for each resident for each day during which the residence operator fails to apply.

(h) A residence charged with a violation of this chapter or Chapter 20 (relating to licensure or approval of facilities and agencies) has 30 days to pay the assessed penalty in full.

**§ 2800.263. Appeals of penalty.**

(a) If the residence that is fined intends to appeal the amount of the penalty or the fact of the violation, the residence shall forward the assessed penalty, not to exceed \$500, to the Secretary for placement in an escrow account with the State Treasurer. A letter appealing the penalty shall be submitted with the assessed penalty. This process constitutes an appeal.

(b) If, through an administrative hearing or judicial review of the proposed penalty, it is determined that no violation occurred or that the amount of the penalty shall be reduced, the Secretary will, within 30 days, remit the appropriate amount to the legal entity together with interest accumulated on these funds in the escrow deposit.

(c) Failure to forward payment of the assessed penalty to the Secretary within 30 days will result in a waiver of the right to contest the fact of the violation or the amount of the penalty.

(d) After an administrative hearing decision that is adverse to the legal entity, or a waiver of the administrative hearing, the assessed penalty amount will be made

payable to the "Commonwealth of Pennsylvania." It will be collectible in a manner provided by law for the collection of debts.

(e) If a residence liable to pay the penalty neglects or refuses to pay the penalty upon demand, the failure to pay will constitute a judgment in favor of the Commonwealth in the amount of the penalty, together with the interest and costs that may accrue on these funds.

**§ 2800.264. Use of fines.**

(a) Money collected by the Department under this section will be placed in a special restricted receipt account.

(b) Money collected will be used first to defray the expenses incurred by residents relocated under this chapter.

(c) The Department will use money remaining in this account to assist with paying for enforcement of this chapter. Fines collected will not be subject to 42 Pa.C.S. § 3733 (relating to deposits into account).

**§ 2800.265. Review of classifications.**

Semiannually, the Department will review the standard guidelines for the classification of violations and evaluate the use of these guidelines. This review is to ensure the uniformity and consistency of the classification process.

**§ 2800.266. Revocation or nonrenewal of licenses.**

(a) The Department will temporarily revoke the license of a residence if, without good cause, one or more Class I violations remain uncorrected 24 hours after the residence has been cited for the violation.

(b) The Department will temporarily revoke the license of a residence if, without good cause, one or more Class II violations remain uncorrected 15 days after the citation.

(c) Upon the revocation of a license in the instances described in subsections (a) and (b), or if the residence continues to operate without applying for a license as described in § 2800.262(h) (relating to penalties and corrective action), residents shall be relocated.

(d) The revocation of a license may terminate upon the Department's determination that its violation is corrected.

(e) If, after 3 months, the Department does not issue a new license for a residence, the prior license is revoked under section 1087 of the Public Welfare Code (62 P.S. § 1087).

(1) Revocation or nonrenewal under this section will be for a minimum of 5 years.

(2) A residence, which has had a license revoked or not renewed under this section, will not be allowed to operate, staff or hold an interest in a residence which applies for a license for 5 years after the revocation or nonrenewal.

(f) If a residence has been found to have Class I violations on two or more separate occasions during a 2-year period without justification, the Department will revoke or refuse to renew the license of the residence.

(g) The power of the Department to revoke or refuse to renew or issue a license under this section is in addition

to the powers and duties of the Department under section 1026 of the Public Welfare Code (62 P.S. § 1026).

**§ 2800.267. Relocation of residents.**

(a) If the relocation of residents is due to the failure of the residence to apply for a license, the Department will offer relocation assistance to the residents. This assistance will include each resident's involvement in planning the relocation, except in the case of an emergency. Each resident shall have the right to choose among the available alternatives after an opportunity to visit the alternative residences. These procedures will occur even if the residents are placed in a temporary living situation.

(b) A resident will not be relocated if the Secretary determines in writing that the relocation is not in the best interest of the resident.

**§ 2800.268. Notice of violations.**

(a) The administrator shall give each resident and the resident's designated person written notification of a Class I violation within 24 hours of the citation.

(b) The administrator shall give each resident and the resident's designated person oral or written notification of a Class I or Class II violation, as defined in § 2800.261 (relating to classification of violations), which remains uncorrected for 5 days after the date of citation.

(c) If a Class II violation remains uncorrected within 5 days following the citation, the administrator shall give written notice of the violation to each resident and the resident's designated person on the 6th day from the date of the citation.

(d) The Department will provide immediate written notification to the appropriate long-term care ombudsman of Class I violations, and notification of Class II violations which remain uncorrected 5 days after the date of citation.

**§ 2800.269. Ban on admissions.**

(a) The Department will ban new admissions to a residence:

(1) That has been found to have a Class I violation.

(2) That has been found to have a Class II violation that remains uncorrected without good cause 5 days after being cited for the violation.

(3) Whose license has been revoked or nonrenewed.

(b) The Department may ban new admissions to a residence that has been found to have a repeated Class II violation within the past 2 years.

(c) A ban on admissions will remain in effect until the Department determines that the residence has corrected the violation, and after the correction has been made, has maintained regulatory compliance for a period of time sufficient to permit a conclusion that the compliance will be maintained for a prolonged period.

**§ 2800.270. Correction of violations.**

The correction of a violation cited under section 1086 of the Public Welfare Code (62 P.S. § 1086) does not preclude the Department from issuing a provisional license based upon the same violation.

Appendix A

**Assisted Living Resident Rights:  
During Residency and During Discharge or Termination of Residency**

*The following are assisted living resident rights, including the notification of a resident's designated person:*

**General Requirements**

1	The resident, or a designated person, has the right to rescind the contract for up to 72 hours after the initial dated signature of the contract.	§ 2800.25(h) Resident-residence contract
2	Either party has a right to rescind the informed consent agreement within 30 days of execution of the agreement.	§ 2800.30(k) Informed consent process

**Resident Rights**

3	Upon admission, each resident and, if applicable, the resident's designated person, shall be informed of resident rights and the right to lodge complaints without intimidation, retaliation or threats of retaliation by the residence or its staff persons against the reporter. Retaliation includes transfer or discharge from the residence.	§ 2800.41(a) Notification of rights and complaint procedures
4	Notification of rights and complaint procedures shall be communicated in an easily understood manner and in a language understood by or mode of communication used by the resident, and if applicable, the resident's designated person.	§ 2800.41(b) Notification of rights and complaint procedures
5	The Department's poster of the list of resident's rights shall be posted in a conspicuous and public place in the residence.	§ 2800.41(c) Notification of rights and complaint procedures
6	A copy of the resident's rights and complaint procedures shall be given to the resident and, if applicable, the resident's designated person upon admission.	§ 2800.41(d) Notification of rights and complaint procedures
7	A statement signed by the resident and, if applicable, the resident's designated person acknowledging receipt of a copy of the information specified in subsection (d), or documentation of efforts made to obtain signature, shall be kept in the resident's record.	§ 2800.41(e) Notification of rights and complaint procedures
8	A resident may not be discriminated against because of race, color, religious creed, disability, ancestry, sexual orientation, national origin, age or sex.	§ 2800.42(a) Specific rights
9	A resident may not be neglected, intimidated, physically or verbally abused, mistreated, subjected to corporal punishment or disciplined in any way. A resident must be free from mental, physical, and sexual abuse and exploitation, neglect, financial exploitation and involuntary seclusion.	§ 2800.42(b) Specific rights
10	A resident shall be treated with dignity and respect.	§ 2800.42(c) Specific rights
11	A resident shall be informed of the rules of the residence and given 30 days written notice prior to the effective date of a new residence rule.	§ 2800.42(d) Specific rights
12	A resident shall have access to a telephone in the residence to make calls in privacy. Nontoll calls must be without charge to the resident.	§ 2800.42(e) Specific rights
13	A resident has the right to receive and send mail. 1. Outgoing mail may not be opened or read by staff persons unless the resident requests. 2. Incoming mail may not be opened or read by staff persons unless the resident requests.	§ 2800.42(f)(1) & (2) Specific rights
14	A resident has the right to communicate privately with and access the local ombudsman.	§ 2800.42(g) Specific rights
15	A resident has the right to practice the religion or faith of the resident's choice, or not to practice any religion or faith.	§ 2800.42(h) Specific rights
16	A resident shall receive assistance in accessing health care services, including supplemental health care services.	§ 2800.42(i) Specific rights



17	A resident shall receive assistance in obtaining and keeping clean, seasonal clothing. A resident's clothing may not be shared with other residents.	§ 2800.42(j) Specific rights
18	A resident and the resident's designated person, and other individuals upon the resident's written approval shall have the right to access, review and request corrections to the resident's record.	§ 2800.42(k) Specific rights
19	A resident has the right to furnish his living unit and purchase, receive, use and retain personal clothing and possessions.	§ 2800.42(l) Specific rights
20	A resident has the right to leave and return to the residence at times consistent with the residence rules and the resident's support plan.	§ 2800.42(m) Specific rights
21	A resident has the right to relocate and to request and receive assistance, from the residence, in relocating to another facility. The assistance must include helping the resident get information about living arrangements, making telephone calls and transferring records.	§ 2800.42(n) Specific rights
22	A resident has the right to freely associate, organize and communicate privately with his friends, family, physician, attorney and other persons.	§ 2800.42(o) Specific rights
23	A resident shall be free from restraints.	§ 2800.42(p) Specific rights
24	A resident shall be compensated in accordance with State and Federal labor laws for labor performed on behalf of the residence. Residents may voluntarily and without coercion perform tasks related directly to the resident's personal space or common areas of the residence.	§ 2800.42(q) Specific rights
25	A resident has the right to receive visitors at any time provided that the visits do not adversely affect other residents. A residence may adopt reasonable policies and procedures related to visits and access. If the residence adopts those policies and procedures, they will be binding on the residence.	§ 2800.42(r) Specific rights
26	A resident has the right to privacy of self and possessions. Privacy shall be provided to the resident during bathing, dressing, changing and medical procedures.	§ 2800.42(s) Specific rights
27	A resident has the right to file complaints, grievances or appeals with any individual or agency and recommend changes in policies, residence rules and services of the residence without intimidation, retaliation or threat of discharge.	§ 2800.42(t) Specific rights
28	A resident has the right to remain in the residence, as long as it is operating with a license, except as specified in § 2800.228 (relating to transfer and discharge).	§ 2800.42(u) Specific rights
29	A resident has the right to receive services contracted for in the resident-residence contract.	§ 2800.42(v) Specific rights
30	A resident has the right to use both the residence's procedures and external procedures to appeal involuntary discharge.	§ 2800.42(w) Specific rights
31	A resident has the right to a system to safeguard a resident's money and property.	§ 2800.42(x) Specific rights
32	To the extent prominently displayed in the written resident-residence contract, a residence may require residents to use providers of supplemental health care services as provided in § 2800.142 (relating to assistance with medical care and supplemental health care services). When the residence does not designate, the resident may choose the supplemental health care services provider. The actions and procedures utilized by a supplemental health care service provider chosen by a resident must be consistent with the residence's systems for caring for residents. This includes the handling and assisting with the administration of resident's medications, and shall not conflict with Federal laws governing residents.	§ 2800.42(y) Specific rights
33	The resident has the right to choose his primary care physician.	§ 2800.42(z) Specific rights
34	A resident may not be deprived of his rights.	§ 2800.43(a) Prohibition against deprivation of rights
35	A resident's rights may not be used as a reward or sanction.	§ 2800.43(b) Prohibition against deprivation of rights

36	Waiver of any resident right shall be void.	§ 2800.43(c) Prohibition against deprivation of rights
37	Prior to admission, the residence shall inform the resident and the resident's designated person of the right to file and the procedure for filing a complaint with the Department's Assisted Living Residence Licensing Office, local ombudsman or protective services unit in the area agency on aging, the Disability Rights Network or law enforcement agency.	§ 2800.44(a) Complaint procedures
38	The residence shall permit and respond to oral and written complaints from any source regarding an alleged violation of resident rights, quality of care or other matter without retaliation or the threat of retaliation.	§ 2800.44(b) Complaint procedures
39	If a resident indicates that he wishes to make a written complaint, but needs assistance in reducing the complaint to writing, the residence shall assist the resident in writing the complaint.	§ 2800.44(c) Complaint procedures
40	The residence shall ensure investigation and resolution of complaints. The residence shall designate the staff person responsible for receiving complaints and determining the outcome of the complaint. The residence shall keep a log of all complaints and the outcomes of the complaints.	§ 2800.44(d) Complaint procedures
41	Within 2 business days after the submission of a written complaint, a status report shall be provided by the residence to the complainant. If the resident is not the complainant, the resident and the resident's designated person shall receive the status report unless contraindicated by the support plan. The status report must indicate the steps that the residence is taking to investigate and address the complaint.	§ 2800.44(e) Complaint procedures
42	Within 7 days after the submission of a written complaint, the residence shall give the complainant and, if applicable, the designated person, a written decision explaining the residence's investigation findings and the action the residence plans to take to resolve the complaint. If the resident is not the complainant, the affected resident shall receive a copy of the decision unless contraindicated by the support plan. If the residence's investigation validates the complaint allegations, a resident who could potentially be harmed or his designated person shall receive a copy of the decision, with the name of the affected resident removed, unless contraindicated by the support plan.	§ 2800.44(f) Complaint procedures
43	The telephone number of the Department's Assisted Living Residence Licensing Office, the local ombudsman or protective services unit in the area agency on aging, the Disability Rights Network, the local law enforcement agency, the Commonwealth Information Center and the assisted living residence complaint hotline shall be posted in large print in a conspicuous and public place in the residence.	§ 2800.44(g) Complaint procedures
44	Nothing in this § 2800.44 (relating to complaint procedures) shall affect in any way the right of the resident to file suit or claim for damages.	§ 2800.44(h) Complaint procedures

**Nutrition**

45	Residents have the right to purchase groceries and prepare their own food in addition to the three meal plan required in § 2800.220 (b) (relating to service provision) in their living units unless it would be unsafe for them to do so consistent with their support plan.	§ 2800.161(h) Nutritional adequacy
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**Medications**

46	The residence shall educate the resident of the right to question or refuse a medication if the resident believes there may be a medication error. Documentation of this resident education shall be kept.	§ 2800.191 Resident Education
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**Services**

47	A resident or a designated person has a right to request the review and modification of his support plan.	§ 2800.227(j) Development of the final support plan
48	If the legal entity chooses to voluntarily close the residence or if the Department has initiated legal action to close the residence, the Department working in conjunction with appropriate local authorities, will offer relocation assistance to the residents. Except in the case of an emergency, each resident may participate in planning the transfer, and shall have the right to choose among the available alternatives after an opportunity to visit the alternative residences. These procedures apply even if the resident is placed in a temporary living situation.	§ 2800.228(f) Transfer and discharge

**Enforcement**

49	If the relocation of residents is due to the failure of the residence to apply for a license, the Department will offer relocation assistance to the residents. This assistance will include each resident's involvement in planning the relocation, except in the case of an emergency. Each resident shall have the right to choose among the available alternatives after an opportunity to visit the alternative residences. These procedures will occur even if the residents are placed in a temporary living situation.	§ 2800.267(a) Relocation of residents
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