

# PENNSYLVANIA BULLETIN

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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 GOVERNOR

## Title 4—ADMINISTRATION

### PART I. GOVERNOR'S OFFICE

[ EXECUTIVE ORDER NO. 2010-01 ]

#### Governor's Census 2010 Advisory Panel

January 27, 2010

*Whereas*, every 10 years beginning in 1790 as mandated by the United States Constitution, an Enumeration, now known by law as the Census of Population and Housing, has been taken by the U.S. Government to count all persons and housing units in the United States to reapportion the membership of the U.S. House of Representatives among the States and for other purposes; and

*Whereas*, the next decennial census will be conducted on April 1, 2010; and

*Whereas*, the 2010 Census will be used for Congressional reapportionment and redistricting and for legislative redistricting, such that having a complete and accurate count of Pennsylvania's population is essential for the fair representation of the citizenry in the U.S. Congress, the General Assembly of this commonwealth, and the legislative bodies of local government; and

*Whereas*, individuals, businesses, local governments and nonprofit organizations will rely on census data each and every day for planning and decision making; and

*Whereas*, it is well established that certain households, including low income families with children, Hispanic households and African-American households, have not been counted in the 2000 Census to their fullest extent; and

*Whereas*, the populations that have traditionally been "undercounted" have a significant presence in both urban and rural areas of this commonwealth; and

*Whereas*, the magnitude of the undercount in the 2000 Census is estimated to have exceeded 100,000 persons; and

*Whereas*, billions of dollars of state and federal funds will be distributed on the basis of the population counts, housing and other data in the 2010 Census, including many health care and human services programs that are intended to help low income children and their families; and

*Whereas*, the commonwealth and its local jurisdictions require descriptions of the social and economic characteristics of a geographic area or population group to determine funding needs for water and sewer projects, highways, economic development, job training, schools, and other activities; and

*Whereas*, it is in the best interest of the citizens of the commonwealth that a complete and accurate census count be obtained; and

*Whereas*, to achieve a complete and accurate census count, the commonwealth must support efforts to share address and other geographic information, work with the U.S. Census Bureau on the recruitment of Pennsylvania census workers, develop an effective communications strategy, and implement effective strategies to reach hard-to-count populations and hard-to-enumerate areas; and

*Whereas*, to achieve a complete and accurate census count, it is important to involve representatives of the private and public sectors, Pennsylvania's local governments, and state agencies through the Pennsylvania Census 2010 State Interagency Team.

Now, *Therefore*, I, Edward G. Rendell, Governor of the Commonwealth of Pennsylvania, by virtue of the authority vested in me by the Constitution of this Commonwealth of Pennsylvania and the laws of the commonwealth, do hereby establish the Governor's Census 2010 Advisory Panel (hereinafter referred to as "Panel"), as hereinafter set forth:

1. *Mission.* The mission of the Panel shall be to oversee the implementation of the Commonwealth's Census 2010 Strategic Plan and to recommend methods and policies to facilitate the most complete and accurate census count in the year 2010, including strategies to reach hard-to-count populations and hard-to-enumerate areas.

2. *Functions.* The Panel shall coordinate the commonwealth's involvement in preparing for the decennial census and recommend actions necessary to complete the following:

a. Coordinate the commonwealth's involvement in the U.S. Census Bureau's recruitment of approximately 25,000 Pennsylvanians to assist in a variety of census-related activities.

b. Promote and educate Pennsylvanians regarding the importance of the census.

c. Develop partnerships between the public and private sector to maximize resources used to achieve a complete and accurate count.

d. Implement cooperative arrangements among local governments, non-profit organizations, and other public and private entities to share addresses and other geographic information.

e. Develop and implement effective strategies to reach hard-to-count populations and hard-to-enumerate areas.

3. *Composition.*

a. The Panel shall consist of up to 45 members appointed by the Governor, including representation from business, academia, community and nonprofit organizations, religious communities, health care communities, elected and appointed officials and employees from all levels of government, and the Pennsylvania State Data Center.

b. The Governor will designate a chairperson or chairpersons.

c. The following individuals shall serve as non-voting members:

(1) A representative from the Office of the Governor.

(2) Executive Director of the Governor's Advisory Commission on African-American Affairs.

(3) Executive Director of the Governor's Advisory Commission on Latino Affairs.

(4) Secretary of Community and Economic Development.

(5) Secretary of Education.

(6) Secretary of Labor and Industry.

(7) Secretary of Public Welfare.

(8) Secretary of Health.

(9) Secretary of the Commonwealth.

(10) Secretary of Transportation.

(11) Secretary of Aging and Long Term Care.

(12) Secretary of Agriculture.

(13) Secretary of Banking.

(14) Secretary of Conservation and Natural Resources.

(15) Secretary of General Services.

(16) Secretary of Revenue.

(17) Commissioner of the Pennsylvania State Police.

## THE GOVERNOR

- (18) Chair of the Pennsylvania Commission on Crime and Delinquency.
- (19) Chair of the Pennsylvania Gaming Control Board.
- (20) Executive Director of the Advisory Council on Rural Affairs.
- (21) Chair of the Pennsylvania Human Relations Commission.
- (22) A legislator appointed from each of the four legislative caucuses of the Pennsylvania General Assembly.
- (23) Representatives appointed by the Governor from local government associations representing local governments throughout the commonwealth.
- d. Each member may designate a person to represent him or her on the Panel.
4. *Terms of Membership.*
- a. All members shall be appointed for terms commensurate with the life of the Panel. All members shall serve at the pleasure of the Governor.
- b. Should a vacancy occur on the Panel due to the resignation, disability or death of a member, the Governor will appoint a successor, who shall serve the duration of the unexpired term.
5. *Compensation.* Members of the Panel shall receive no compensation for their service, except that such members may be reimbursed for actual travel and related expenses in accordance with the commonwealth's travel and subsistence regulations.
6. *Reports.* The Panel shall report to the Governor at least twice; once, prior to April 1, 2010, on the status of the commonwealth's activities leading up to the Census 2010; and once prior to the termination of the Panel on recommendations for improving the census process.
7. *Meetings and Communications.* The Panel shall meet monthly between the date of this Executive Order and June 30, 2010, and at least quarterly thereafter during the life of the Panel.
8. *Pennsylvania Census 2010 State Interagency Team.* All agencies under the Governor's jurisdiction and represented on the Panel shall cooperate with and provide assistance as needed to the Panel in performing its functions. The Panel will receive administrative services from the Center for Local Government Services in the Department of Community and Economic Development.
9. *Effective Date.* This Executive Order shall be effective immediately.
10. *Termination Date.* This Executive Order shall terminate on March 1, 2011.



Governor

**Fiscal Note:** 2010-01. No fiscal impact; (8) recommends adoption.

[Pa.B. Doc. No. 10-1382. Filed for public inspection July 30, 2010, 9:00 a.m.]

# THE GENERAL ASSEMBLY

## Recent Actions during the 2010 Regular Session of the General Assembly

The following is a summary of recent actions of the General Assembly during the 2010 Regular Session.

<i>Doc. No.</i>	<i>Date of Action</i>	<i>Bill Number</i>	<i>Printer's Number</i>	<i>Effective Date</i>	<i>Subject Matter</i>
<b>2010 GENERAL ACTS OF REGULAR SESSION ENACTED—ACT 037 through 059</b>					
037	Jun 29	HB0009	PN3939	Immediately	Pennsylvania Conservation Corps—extended expiration date
038	Jul 2	HB0666	PN3940	Immediately	Conveyance—Commonwealth property in the 39th ward of the City of Philadelphia
039	Jul 2	HB0687	PN3902	60 days	Procurement (62 Pa.C.S.)—guaranteed energy savings contracts, contracting procedures and contract provisions
040	Jul 2	HB2253	PN3630	60 days	Sgt. Brett D. Swank Memorial Highway—designation
041	Jul 2	SB0174	PN1950	Immediately	Workforce Development Act—Pennsylvania Workforce Investment Board membership and Pennsylvania Center for Health Careers established
042	Jul 2	SB0492	PN1308	Immediately	Conveyance—Commonwealth property in the City of Corry, Erie County
043	Jul 2	SB0904	PN2029	Immediately	Conveyance—Commonwealth property in West Bradford Township, Chester County and to Waynesburg University in Waynesburg Borough, Greene County
044	Jul 2	SB0928	PN1923	Immediately	Protecting Pennsylvania's Investments Act—enactment
045	Jul 2	SB1074	PN1776	60 days	Prisons and Parole (61 Pa.C.S.)—State and county recording systems for application of restraints to pregnant prisoners or detainees and incarceration of pregnant women
046	Jul 6	SB1042	PN2141	Immediately	Fiscal code—omnibus amendments
047	Jul 7	HB2289	PN4092	Immediately	Capital Budget and Project Itemization Act of 2010-2011—enactment
048	Jul 7	HB2290	PN4090	Immediately	Capital Facilities Debt Enabling Act—appropriation for and limitation on redevelopment assistance capital projects
049	Jul 9	HB0254	PN4076	Immediately	Public Welfare Code—Department of Public Welfare powers, determining whether applicants are veterans, medical assistance payments for institutional care and Statewide quality care assessment
050	Jul 9	HB1186	PN4094	Immediately*	Administrative Code of 1929—omnibus amendments
051	Jul 9	HB1251	PN3869	Immediately*	Insurance Company Law of 1921—omnibus amendments
052	Jul 9	HB1300	PN2702	60 days	Nathan Burnfield Memorial Interchange and Veterans Memorial Gay Street Bridge—designations
053	Jul 9	HB1332	PN4049	60 days	Judicial Code (42 Pa.C.S.)—confidential communications to critical incident stress management team member by law enforcement officers, public safety responders and corrections officers and to peer support member by law enforcement officers

<i>Doc. No.</i>	<i>Date of Action</i>	<i>Bill Number</i>	<i>Printer's Number</i>	<i>Effective Date</i>	<i>Subject Matter</i>
054	Jul 9	HB1859	PN4056	60 days	Game and Wildlife Code (34 Pa.C.S.)—omnibus amendments
055	Jul 9	HB1890	PN3954	Immediately	Conveyance—Commonwealth property in Benner Township, Centre County to the Pennsylvania State University, Pennsylvania Fish and Boat Commission and Pennsylvania Game Commission
056	Jul 9	HB2493	PN4093	Immediately	Pennsylvania Municipal Retirement Law—implementation provisions for Deferred Retirement Option Plans, tax qualified status of Pennsylvania Municipal Retirement System and solicitation of political contributions
057	Jul 9	SB0087	PN1943	Immediately	Expanded applicability of residency status of active duty personnel and their dependents
058	Jul 9	SB0747	PN1897	60 days	Sale of Transportation Lands Act—enactment
059	Jul 9	SB1044	PN1618	Immediately	Prisons and Parole (61 Pa.C.S.)—drug redistribution within correctional facilities
<b>2010 APPROPRIATION ACTS OF REGULAR SESSION ENACTED—ACT 001A through 014A</b>					
001A	Jul 6	HB2279	PN4032	Immediately*	General Appropriation Act of 2010—enactment
002A	Jul 6	HB2280	PN3260	Immediately*	Office of Small Business Advocate—operation
003A	Jul 6	HB2281	PN3261	Immediately*	Bureau of Professional and Occupational Affairs—operation
004A	Jul 6	HB2282	PN3262	Immediately*	Office of Consumer Advocate—operation
005A	Jul 6	HB2283	PN3263	Immediately*	Public School Employees' Retirement Board—administrative expenses, etc.
006A	Jul 6	HB2284	PN3264	Immediately*	State Employees' Retirement Board—administrative expenses, etc.
007A	Jul 6	HB2285	PN4033	Immediately*	Gaming Control Appropriation Act of 2010—enactment
008A	Jul 6	HB2286	PN3265	Immediately*	Department of Labor and Industry and Department of Community and Economic Development—workers' compensation
009A	Jul 6	HB2287	PN3266	Immediately*	Pennsylvania Public Utility Commission—operation
010A	Jul 6	HB2292	PN3268	Immediately*	Pennsylvania State University—education and general expenses, agricultural research and extension services, Pennsylvania College of Technology and debt service
011A	Jul 6	HB2293	PN3269	Immediately*	University of Pittsburgh—appropriations and basis for payments, accounting methods for funds appropriated and certain fiscal information disclosure
012A	Jul 6	HB2294	PN3270	Immediately*	Temple University—appropriations and basis for payments, accounting methods for funds appropriated and certain fiscal information disclosure

<i>Doc. No.</i>	<i>Date of Action</i>	<i>Bill Number</i>	<i>Printer's Number</i>	<i>Effective Date</i>	<i>Subject Matter</i>
013A	Jul 6	HB2295	PN3271	Immediately*	Lincoln University—appropriations and basis for payments, accounting methods for funds appropriated and certain fiscal information disclosure
014A	Jul 6	HB2296	PN4034	Immediately*	University of Pennsylvania—veterinary activities, Center for Infectious Diseases and appropriations and basis for payments, accounting methods for funds appropriated and certain fiscal information disclosure

\* denotes an effective date with exceptions

#### Effective Dates of Statutes

The effective dates specified previously for laws and appropriation acts were contained in the applicable law or appropriation act. Where no date is specified or where the effective date specified is prior to the date of enactment, the effective date is 60 days after final enactment except for statutes making appropriations or affecting budgets of political subdivisions. See 1 Pa.C.S. §§ 1701—1704 (relating to effective dates of statutes).

#### Advance Copies of Statutes

Section 1106 of Title 1 of the *Pennsylvania Consolidated Statutes* provides that the prothonotaries of each county shall file advance copies of statutes in their offices for public inspection until the *Laws of Pennsylvania* are generally available. Section 2406(h) of The Administrative Code of 1929 provides that the Department of General Services (Department) shall distribute advance sheets of the *Laws of Pennsylvania* to each law judge of the courts, to every county and public library of this Commonwealth and to each member of the General Assembly. These copies shall be furnished without charge. The Department shall also mail one copy of each law enacted during any legislative session to any person who pays to it the sum of \$25.

Requests for annual subscriptions for advance copies of statutes should be sent to the State Bookstore, Commonwealth Keystone Building, 400 North Street, Harrisburg, PA 17120-0053, accompanied by a check or money order in the sum of \$25, payable to the “Commonwealth of Pennsylvania.”

ROBERT W. ZECH, Jr.,  
*Director*  
*Legislative Reference Bureau*

[Pa.B. Doc. No. 10-1383. Filed for public inspection July 30, 2010, 9:00 a.m.]

# THE COURTS

## Title 255—LOCAL COURT RULES

### BUCKS COUNTY

#### Electronic Processing Prior to Preliminary Arraignment; MD 1751-2010; Administrative Order No. 59

##### Order

*And Now*, this 15th day of July, 2010, it is hereby ordered and directed that all defendants to be preliminarily arraigned in any Bucks County Magisterial District Court be first processed using Livescan and CPIN technology. Prior to or at the time of the preliminary arraignment, the arresting officer shall provide a copy of the defendant's criminal history to the judge conducting the arraignment.

The foregoing requirement may be waived only in the event of an unusual circumstance, such as a serious medical condition, which would prevent prompt processing.

This Order shall become effective September 1, 2010.

SUSAN DEVLIN SCOTT,  
*President Judge*

[Pa.B. Doc. No. 10-1384. Filed for public inspection July 30, 2010, 9:00 a.m.]

### BUCKS COUNTY

#### Public Access Policy of the United Judicial System Magisterial District Court Records—Fees for Copies; Administrative Order No. 58

##### Order

*And Now*, this 15th day of July, 2010, it is hereby Ordered and Directed pursuant to the Public Access Policy of the United Judicial System Magisterial District Court Records, the following fee schedule is hereby enacted effective July 1, 2010:

Fees:

\$0.25 per page copied

\$8.00 for each quarter (1/4) hour associated with the preparation, copying and re-filing of requested court dockets.

Pre-payment of estimated costs for services may be required at the discretion of the magisterial district court judge.

Fees paid for services are non-refundable.

Each magisterial district court is to establish a reasonable time when their court records are accessible.

All monies generated from the above are to be transferred monthly to the County of Bucks General Fund.

*By the Court*

SUSAN DEVLIN SCOTT,  
*President Judge*

[Pa.B. Doc. No. 10-1385. Filed for public inspection July 30, 2010, 9:00 a.m.]

### CARBON COUNTY

#### Adoption of Local Rule of Juvenile Procedure 340(A) Pre-Adjudicatory Discovery and Inspection; No. CP-13-AD-0000004-2010

##### Administrative Order 15-2010

*And Now*, this 13th day of July, 2010, in order to comply with Pa.R.J.C.P. 121 and 1121 governing the procedure for local rules, it is hereby:

*Ordered and Decreed* that, effective 30 days after publication on the UJS Portal and in the *Pennsylvania Bulletin*, the Carbon County Court of Common Pleas hereby *Adopts* Carbon County Local Rule of Juvenile Procedure 340(A) (Carb.R.J.C.P. 340(A)) governing the Pre-Adjudicatory Discovery and Inspection authorizing a Pre-Adjudicatory Status Conference in juvenile delinquency matters.

The Carbon County District Court Administrator is *Ordered and Directed* to do the following:

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

2. File two (2) certified copies, one (1) CD and the written notification received from the Juvenile Court Procedural Rules Committee with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

3. Publish a copy of the Administrative Order on the UJS Portal at <http://ujportal.pacourts.us/localrules/ruleselection.aspx>.

4. Forward one (1) copy for publication in the *Carbon County Law Journal*.

5. Forward one (1) copy to the Carbon County Law Library.

6. Keep continuously available for public inspection copies of the Order in the Clerk of Courts' Office and the Juvenile Court Office.

*By the Court*

ROGER N. NANOVIC,  
*President Judge*

#### Rule 340(A). Pre-Adjudicatory Discovery and Inspection.

The District Attorney shall conduct a pre-adjudicatory status conference with Defense Counsel and the minor and his/her parents or guardian on all cases that have not resulted in consent decrees or informal adjustments and in which the child is not in detention or emergency shelter care.

At the pre-adjudicatory status conference, the Commonwealth and Defense Counsel shall discuss:

1. the terms and procedures for pre-trial discovery and inspection;

2. the simplification or stipulation of factual issues including the admissibility of evidence;

3. the qualifications of exhibits as evidence to avoid unnecessary delay;

4. the number of witnesses who are to give testimony of a cumulative nature; and



5. the defenses of alibi and insanity, and other matters that may aid in the disposition of the proceedings.

At the end of the status conference, a written stipulation for an admission or hearing or other disposition shall be completed and signed by the District Attorney/Assistant District Attorney, Defense Counsel and the Minor. The original stipulation shall be filed with the Juvenile Court Office.

[Pa.B. Doc. No. 10-1386. Filed for public inspection July 30, 2010, 9:00 a.m.]

## CARBON COUNTY

### Transfer of Juvenile Delinquency/Dependency Filing Functions and Duties of the Clerk of Courts; No. CP-13-AD-000005-2010; No. 10-1902

#### Administrative Order 16-2010

*And Now*, this 13th day of July, 2010, in order to comply with Pa.R.J.C.P. 121 and 1121 governing the procedure for local rules and upon consideration of the Petition filed by William C. McGinley, Carbon County Clerk of Courts, it is hereby

*Ordered and Decreed* that, effective thirty (30) days after publication on the UJS Portal and in the *Pennsylvania Bulletin*, the Court *Reestablishes* that the *Clerk of Courts of Carbon County* be and is hereby relieved from the responsibility of maintaining dockets and original files relating to Juvenile Court delinquency/dependency matters in Carbon County.

*It Is Further Ordered and Decreed* that the *Carbon County Juvenile Court Office* is designated as the *Clerk of Courts* for delinquency matters and the *Carbon County Children and Youth Office* is designated as the *Clerk of Courts* for dependency matters.

*It Is Further Ordered* that personnel, from time to time designated by the *Chief Juvenile Court Officer* of the Carbon County Juvenile Probation Office and the *Children and Youth Administrator II* of the Carbon County Children and Youth Office, be deputized by the *Clerk of Courts* for the performance of the duties enumerated above, including the taking of affidavits and the affixing of the seal of the Court of Common Pleas of Carbon County where the same may be required.

The Carbon County District Court Administrator is *Ordered and Directed* to do the following:

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

2. File two (2) certified copies, one (1) CD and the written notification received from the Juvenile Court Procedural Rules Committee and Criminal Procedural Rules Committee with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

3. Publish a copy of the Administrative Order on the UJS Portal at <http://ujportal.pacourts.us/localrules/ruleselection.aspx>.

4. Forward one (1) copy for publication in the *Carbon County Law Journal*.

5. Forward one (1) copy to the Carbon County Law Library.

6. Keep continuously available for public inspection a copy of the Order in the Clerk of Courts Office, Juvenile Probation Office, Children and Youth Office and Prothonotary.

*By the Court*

ROGER N. NANOVIC,  
*President Judge*

### Petition to Transfer Juvenile Delinquency/Dependency Case Filing Functions and Duties to Carbon County Juvenile Court and Children and Youth Office

The Petition of WILLIAM C. MCGINLEY, Clerk of Courts of Carbon County, Pennsylvania, respectfully represents as follows:

1. The Judicial Code of Pennsylvania, Section 962, provides that each Court of Common Pleas shall have such other sections as may be provided or prescribed by law. See 42 Pa.C.S.A. § 962, effective June 27, 1978.

2. On March 21, 1985, former Clerk of Court Anne Cipko filed a Petition to Transfer Juvenile Case Filing Functions and Duties to Carbon County Youth Services. Former President Judge John P. Lavelle granted the Petition on March 21, 1985 effective January 1, 1985.

3. On May 30, 2002, former President Judge Richard W. Webb amended this Court's March 21, 1985 Order to identify the title of the proper offices and personnel to whom the responsibility of maintaining dockets and original files relating to Juvenile Court has been transferred.

4. The President Judge of Carbon County has charged the CARBON COUNTY JUVENILE COURT OFFICE and the CARBON COUNTY CHILDREN AND YOUTH OFFICE, *inter alia*, with the duty of keeping and maintaining all original pleadings, documents, transcripts and tapes of Court hearings filed in Juvenile Court delinquency/dependency matters, as well as keeping and maintaining a docket of all transactions in the Juvenile Court System in Carbon County.

5. In order to avoid the cost and expense of maintaining duplicate dockets and records in Juvenile Court delinquency/dependency matters, the CLERK OF COURTS hereby WAIVES any and all functions and duties ordinarily performed in the filing, docketing and handling of all original pleadings, transcripts, tapes, and documents in Juvenile Court delinquency/dependency matters in Carbon County, Pennsylvania, pursuant to the Judicial Code, 42 Pa.C.S.A. § 2756(b)(2).

WHEREFORE, your petitioner respectfully requests that an appropriate Order be issued by your Honorable Court confirming the transfer of said functions and duties to the CARBON COUNTY JUVENILE COURT OFFICE and the CARBON COUNTY CHILDREN AND YOUTH OFFICE.

WILLIAM C. MCGINLEY,  
*Clerk of Courts*  
*Carbon County, Pennsylvania*

[Pa.B. Doc. No. 10-1387. Filed for public inspection July 30, 2010, 9:00 a.m.]

## MIFFLIN COUNTY

### In the Matter of Local Rules 58th Judicial District (Mifflin County); No. 02-2010

#### Administrative Order

And Now, this 19th day of July, 2010, with respect to the Mifflin County Local Rules of Court, the Court hereby Orders the following:

The following new Mifflin County Local Rule of Court is hereby *Adopted* and shall become effective thirty (30) days after the publication in the *Pennsylvania Bulletin*.

#### Rule MC117. Magisterial Judicial District Coverage.

##### (1) *Bail, Search and Arrest Warrants*

(a) The on-call magisterial district judge shall be available without unreasonable delay at all times at his or her established office for the purpose of accepting the posting of a defendant's bail. Monetary bail may also be posed outside of regularly scheduled hours at the Mifflin County Correctional Facility. The warden of the correctional facility, or his designee, is authorized to accept bail bonds and deposits as provided in Pa.R.Crim.P. 117, 520, 525 and 535 by having the defendant sign the bail bond, releasing the defendant, and delivering the bail deposit and/or bail bond and the surety information page to the issuing authority or the Mifflin County Clerk of Courts by the close of the next business day.

(b) The on-call magisterial district judge shall be available without unreasonable delay at his or her established office for the issuance of search warrants pursuant to Pa.R.Crim.P. 203 and arrest warrants pursuant to Pa.R.Crim.P. 513. Advanced communication technology may be utilized to submit the warrant application and affidavits and to issue the warrant in accordance with the requirements of the Criminal Rules.

##### (2) *Preliminary Arraignments on Weekdays*

(a) When an individual is placed under arrest and requires preliminary arraignment or processing under Pa.R.Crim.P. 441, 516, 519 and 540:

(i) The individual shall be taken to the Mifflin County Correctional Facility for booking.

(ii) Between the hours of 8:00 a.m. and 11:00 p.m., the on-call magisterial district judge shall be available without unreasonable delay at his or her established office or at the discretion of the magisterial district judge, advanced communication technology may be utilized for the preliminary arraignment.

(iii) Between the hours of 11:00 p.m. and 8:00 a.m. the following day, any individual placed under arrest and requiring preliminary arraignment shall be temporarily detained at the Mifflin County Correctional Facility. The magisterial district judge shall be advised at 8:00 a.m. that the individual has been detained and requires preliminary arraignment. If so directed by the magisterial district judge, personnel of the Mifflin County Correctional Facility shall make such individual available at the video conferencing site by 8:30 a.m., at which time the magisterial district judge shall conduct the preliminary arraignment through the use of advance communication technology or in person if so directed by the magisterial district judge. In the event of technological failure or if directed by the magisterial district judge, the individual shall be transported by officials of the Mifflin County

Correctional Facility, the sheriff, or a Pennsylvania state constable to the office of the magisterial district judge for the preliminary arraignment.

(3) Preliminary Arraignments on Saturdays, Sundays and Holidays

(a) When an individual is placed under arrest and requires preliminary arraignment or processing under Pa.R.Crim.P. 441, 516, 519 and 540:

(i) The individual shall be taken to the Mifflin County Correctional Facility for booking and shall thereafter be temporarily detained pending preliminary arraignment.

(ii) Between the hours of 8:00 a.m. and 11:00 p.m., the on-call magisterial district judge shall be available without reasonable delay at his or her established office or at the discretion of the magisterial district judge, advanced communication technology may be utilized for the preliminary arraignment. The on-call magisterial district judge shall be contacted by personnel of the Mifflin County Correctional Facility at 8:00 a.m., 2:30 p.m. and 10:30 p.m. each day and advised if any individual has been temporarily detained. Any individual so detained shall be promptly preliminarily arraigned through the use of advanced communication technology or in person if so direct by the magisterial district judge.

(iii) Between the hours of 11:00 p.m. and 8:00 a.m. the following day, any individual placed under arrest and requiring preliminary arraignment shall be temporarily detained at the Mifflin County Correctional Facility. Individuals so detained shall be made available at the video conferencing site by 8:30 a.m. the following morning or in person at the discretion of the magisterial district judge. In the event of technological failure or at the direction of the on-call magisterial district judge, the individual shall be transported by officials of the Mifflin County Correctional Facility, the sheriff, or a Pennsylvania state constable to the office of the magisterial district judge for the preliminary arraignment.

(4) Summary Offense Arrest Warrants and Bench Warrants

(a) An individual executing an arrest warrant or a bench warrant in a summary offense shall proceed in accordance with Pa.R.Crim.P. 430 and 431 except as set forth hereafter.

(b) In the event the warrant is executed between 8:00 a.m. and 11:00 p.m. Saturdays, Sundays, and holidays, the individual executing the warrant shall proceed in accordance with paragraph 3.b. above except that any trial must be held in the presence of the defendant unless the defendant consents to the use of advanced communication technology.

(c) In the event the warrant is executed between the hours of 11:00 p.m. and 8:00 a.m. the following day, the individual executing the warrant shall proceed in accordance with paragraph 3.c. above except that any trial must be held in the presence of the defendant unless the defendant consents to the use of advanced communication technology.

(d) If the defendant is under 18 years of age and is unable to pay under Pa.R.Crim.P. 431(B)(1)(c) or Pa.R.Crim.P. 431(C)(1)(d), the defendant shall NOT be temporarily detained in the Mifflin County Correctional Facility, but shall be taken without unnecessary delay before the on-call magisterial district judge to plead on the case. If the defendant pleads guilty, the magisterial district judge shall impose sentence and release the defendant. If the defendant pleads no guilty, the magiste-

rial district judge shall hold an immediate trial. If an immediate trial cannot be given, the Defendant shall be released.

*By the Court*

TIMOTHY S. SEARER,  
*President Judge*

[Pa.B. Doc. No. 10-1388. Filed for public inspection July 30, 2010, 9:00 a.m.]

### WASHINGTON COUNTY

#### Local Court Rule Fee Schedule for Public Access of Official Case Records in the Washington County Magisterial District Courts; No. 2010-1

##### Order

*And Now*, this 8th day of July, in accordance with the Public Access Policy of the Unified Judicial System of Pennsylvania: Official Case Records of the Magisterial District Courts, adopted by the Pennsylvania Supreme Court, *It Is Hereby Ordered* that the attached local rule be effective 30 days after publication in the *Pennsylvania Bulletin*.

DEBBIE O'DELL SENECA,  
*President Judge*

#### Washington County Local Rule 510. Public Access of Official Case Records in the Washington County Magisterial District Courts.

##### 1. Public Request

a. Verbal request for records that are not complex or voluminous are to be completed within 48 hours.

b. Complex or voluminous requests are to be submitted in writing on a form provided by the magisterial district court. These requests are to be completed within ten (10) days.

c. If a court denies a request for access, the denial shall be in writing on a form designed and published by the Administrative Office of Pennsylvania courts. A denial may be appealed in writing to the president judge of the judicial district or president judge's designee within 15 business days of service of the written notification by the magisterial district court. Within 20 business days of receipt of the appeal, the president judge or designee shall make a determination and forward it in writing to the requestor.

##### 2. Fee Schedule

a. The price per page of copy is \$.25.

b. Preparing, copying, and re-filing complex or voluminous requests will be paid at a rate of \$4.25 per 1/4 hour. *(The definition of complex or voluminous requests may vary from court to court depending on factors such as court resources and case load.)*

c. Fees paid for services rendered are nonrefundable.

d. Fees may be waived if the magisterial district judge determines that the requestor is indigent.

e. Fees received pursuant to this Rule shall be remitted to the County of Washington.

[Pa.B. Doc. No. 10-1389. Filed for public inspection July 30, 2010, 9:00 a.m.]

### WASHINGTON COUNTY

#### Local Rules Amendment to L-3129(c)—Notice of Sale—Real Property; No. 2010-1

##### Order

*And Now*, this 8th day of July, 2010; *It Is Hereby Ordered* that the above-stated Washington County Local Civil Rule be amended as follows.

This rule will become effective thirty days after publication in the *Pennsylvania Bulletin*.

*By the Court*

DEBBIE O'DELL SENECA,  
*President Judge*

#### L-3129. Notice of Sale—Real Property.

(c) Execution sales of real property shall be held only in the Sheriff's Office or the meeting room of the Washington County Office Building on the first Friday of each month except August provided, however, that if the first Friday be a holiday, the sale shall be held the following Friday.

[Pa.B. Doc. No. 10-1390. Filed for public inspection July 30, 2010, 9:00 a.m.]

### WASHINGTON COUNTY

#### Local Rules L-810(m)—Washington County Civil Litigation Mediation Program, L-1041.1—Asbestos Litigation, L-1042.1—Professional Liability Mediation; No. 2010-1

##### Order

*And Now*, this 16th day of July, 2010; *It Is Hereby Ordered* that the above-stated Washington County Local Civil Rules be adopted as follows.

These rules will become effective thirty days after publication in the *Pennsylvania Bulletin*.

*By the Court*

DEBBIE O'DELL SENECA,  
*President Judge*

#### Addition to L-810.

(m) Notwithstanding the preceding subsections and L-1042.1—1042.20, the Court may in its discretion set a civil case for an alternative dispute resolution ("ADR") before a private mediator. The method of selection of the private mediator shall be in the discretion of the Court. All parties shall bear equally the costs of any Court-ordered private mediation; provided, however, that the Court will take appropriate steps to assure that no referral to ADR results in an unfair or unreasonable economic burden on any party.

*Note:* When selecting a case for ADR before a private mediator, the Court should consider various criteria, including the nature of the claims involved and their

complexity, whether any of the litigants is *pro se*, the potential for a successful resolution, and the interests of justice.

(1) The method of ADR shall be addressed to the discretion of the private mediator.

(2) The fact that a case is selected for ADR shall not delay the scheduled trial of a case.

(3) Nothing in this rule shall prevent the parties from voluntarily engaging in ADR before a private mediator on their own initiative.

*Explanatory Comment*

This local rule reflects the strong judicial policy in favor of parties voluntarily settling lawsuits expressed by the Supreme Court of Pennsylvania in *Rothman v. Fillette*, 469 A.2d 543 (Pa. 1983). The use of Court-directed ADR processes reduce the expense of litigation and often times leads to a quicker and more satisfying alternative when compared to continuing on a more traditional path of litigation. An ancillary benefit to ADR is the potential of reducing the burden on the finite resources of the Court.

**Rule L-1041.1. Asbestos Litigation.**

(1) Upon filing of a case in asbestos, the Prothonotary shall assign the case to the judge designated by Administrative Order, who shall preside over all proceedings relating to the case. The Prothonotary shall immediately notify the Court Administrator of the filing of an action in asbestos.

(2) All pleadings and proposed orders shall include a caption as follows:

IN THE COURT OF COMMON PLEAS OF  
WASHINGTON COUNTY, PENNSYLVANIA  
CIVIL DIVISION—ASBESTOS

(3) In all asbestos cases, the course of litigation shall be governed by the terms set forth in a case management order (“CMO”).

(a) Any party may present a CMO to the Court for approval within sixty (60) days of the filing of the complaint pursuant to L-200.5. The proposed CMO shall set forth the actual dates on which each stage of the litigation must be completed.

(4) In the absence of a CMO approved by the Court within sixty (60) days from the filing of the complaint, the Court shall enter the following CMO:

IN THE COURT OF COMMON PLEAS OF  
WASHINGTON COUNTY, PENNSYLVANIA  
CIVIL DIVISION—ASBESTOS

Plaintiff(s)	)	
	)	
vs.	)	No.
	)	
Defendants.	)	

**CASE MANAGEMENT ORDER**

AND NOW, this \_\_\_ day of \_\_\_\_\_, 2\_\_\_, it is hereby ORDERED, ADJUDGED, and DECREED that:

1. This Case Management Order (“CMO”) shall govern the litigation in the above-captioned matter.

2. Plaintiff’s Answers to Standard Short Form Interrogatories shall be served on all defense counsel within six (6) months of the date of the filing of the complaint.

3. The parties shall disclose all known fact witnesses within (8) months of the date of the filing of the complaint.

4. Discovery shall be completed within fourteen (14) months of the date of the filing of the complaint.

5. All Motions for Summary Judgment shall be filed within (16) months of the filing of the complaint.

6. Responses to the Motions for Summary Judgment shall be filed within seventeen (17) months of the filing of the complaint.

7. After the responses to the Motions for Summary Judgment have been filed, any party may present a motion for argument date. Arguments for all Motions for Summary Judgment shall be heard on the same day.

8. Plaintiff shall file a pre-trial statement within twenty-one (21) months of the date of the filing of the complaint.

9. Defendant(s) shall file a pre-trial statement within thirty (30) days of the filing of Plaintiff’s pre-trial statement.

10. The pre-trial statements shall contain a narrative statement, a list of any expert witnesses intended to be called at trial, all expert reports, and an assessment of damages. The pre-trial statement shall also include any presently known motions in limine and any legal research, memorandum, or brief in support thereof. Failure to file a motion in limine shall bar a future filing, unless said motion could not be anticipated prior to the filing of the pre-trial statement.

11. This CMO may be modified by agreement of all parties, subject to Court approval, or upon motion of any party for good cause shown.

BY THE COURT:

\_\_\_\_\_  
ASSIGNED JUDGE

(4) Upon the filing of pre-trial statements by all active parties, the Court Administrator shall place the case on the trial list of the assigned judge.

*Note:* This rule abolishes the Certificate of Readiness procedure embodied in L-212.1 for asbestos cases unless otherwise specified in a joint proposed CMO which is approved by the Court.

(5) Within sixty (60) days of the filing of the complaint, defendants shall select an attorney from one of their number to act as lead defense counsel. Lead defense counsel shall promptly file a notice of his or her selection with the Prothonotary.

(a) In the event lead defense counsel ceases to act in that capacity, the defendants shall select a replacement within thirty (30) days. Replacement lead counsel shall promptly file a notice of his or her selection with the Prothonotary.

(6) It is the responsibility of the moving party to file all original Orders with the Prothonotary. Further, the moving party shall serve copies of all Orders upon all counsel of record and any *pro se* litigant. If the Court serves copies of any Order, such service shall be made to counsel for the plaintiff and lead counsel for the defendants, who shall be responsible for providing service upon all counsel of record and any *pro se* litigant.

**PROFESSIONAL LIABILITY MEDIATION**

**1042.1 Scope.**

These rules shall govern mediation in all professional liability cases before the Court.

**1042.12 Selection of cases for mediation.**

a. Upon placement on trial list pursuant to Local Rule 212 either party may petition the court to refer a case to mediation.

(1) The Court may also at its discretion refer a case to mediation once it is placed on the trial list.

(2) The Court shall consider the objection from any party that has not consented to settlement. The Court shall consider the objection of any party that has not consented to settlement provided that such lack of consent shall not prevent the referral of the case to mediation.

b. This rule shall not pertain to any case involving a *pro se* litigant.

**1042.13 Selection of mediator.**

a. The Court Administrator shall maintain a list of no less than three (3) mediators to be selected by the President Judge.

b. The Court shall select the mediator.

c. Unless otherwise agreed, the mediator shall be disqualified if:

(1) The mediator has personal knowledge of disputed evidentiary facts related to the mediation;

(2) The mediator or any attorney with whom the mediator practiced law served as an attorney for the matter in controversy;

(3) The mediator, or anyone with whom the mediator has a close business or familial relationship, has an economic interest in the matter in controversy.

d. The mediator shall disclose any past or present affiliations with any and all parties, including the insurance carriers and/or the M-Care Fund.

**1042.14 Compensation.**

The fee of mediator shall be affixed by the Court. The parties shall bear the costs evenly, unless agreed otherwise by the parties. Mediator shall submit a bill to the parties for time and expenses. Failure to remit payment within twenty (20) days after receipt may result in a rule to show cause why sanctions shall not be imposed.

**1042.15 Submissions to mediator.**

Before the first mediation session, the mediator may require the parties to provide to the mediator confidential and/or pertinent information including, but not limited to, pleadings, discovery responses/production, transcripts, expert reports, and/or any other litigation related documents.

**1042.16 Time frame for conduct of the mediation.**

Unless otherwise agreed to by the parties and the mediator or ordered by the Court, the first mediation

session shall be conducted not later than sixty (60) days from the agreement to mediate or order to mediate.

**1042.17 Attendance and Authority; Sanctions.**

The parties and a representative with authority to enter into a full and complete compromise and settlement of the case on behalf of the parties shall attend the mediation, including trial counsel. A representative of the M(Care) Fund, with full decision making authority, shall attend in person during all mediation sessions. If any of the above individuals or representatives fails to appear at the mediation session without good cause, or appears without full authority, the Court, *sua sponte*, or upon motion, may impose sanctions, including an award of reasonable mediator and attorney's fees and other costs, against the responsible party.

**1042.18 Settlement Agreement; Enforcement.**

Each settlement is to be confirmed in a written settlement agreement, signed by a party or a party representative with authority to sign. A party representative who signs is presumed to have full authority to bind the party. The settlement agreement is enforceable in the same manner as any other written contract and/or by a motion to enforce the settlement agreement.

**1042.19 Confidentiality and Immunity.**

a. Mediation shall be confidential and no record shall be made, except as provided by LR 1042.20 or as ordered by the Court.

b. The mediator shall not be subpoenaed or requested to testify or produce documents by any party in any pending or subsequent litigation arising out of the same or similar matter. Any party, person, or entity that attempts to compel such testimony or production shall be liable and indemnify the mediator and other protected participants for all reasonable costs, fees and expenses. The mediator shall have the same limited immunity as judges pursuant to the applicable law as it relates to Common Pleas Judges.

**1042.20 Report.**

If the case is not settled the mediator shall provide the Court with a detailed report outlining: (1) Plaintiff's final settlement demand; (2) Defendant(s) final settlement offer; (3) The mediator's assessment of liability; (4) The mediator's assessment of damages; (5) The mediator's opinion regarding the potential range of a verdict and settlement value of a case; and (6) The mediator's recommendation regarding settlement of the case.

A copy of the report shall be provided and maintained by the Court Administrator until the case is closed.

[Pa.B. Doc. No. 10-1391. Filed for public inspection July 30, 2010, 9:00 a.m.]

# RULES AND REGULATIONS

## TITLE 40—LIQUOR

### PART I. LIQUOR CONTROL BOARD

#### CHAPTER 5. DUTIES AND RIGHTS OF LICENSEES

##### Subchapter J. MINORS ON LICENSED PREMISES

[Correction]

To enable the codification of the new Subchapter J (relating to responsible alcohol management program), added at 40 Pa.B. 3494 (June 26, 2010), existing § 5.121 (relating to service in establishments primarily serving food) will be renumbered to § 5.321. The text will remain the same.

[Pa.B. Doc. No. 10-1392. Filed for public inspection July 30, 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

[Correction]

The State Board of Certified Real Estate Appraisers (Board) published final-form amendments to Chapter 36 (relating to State Board of Certified Real Estate Appraisal) at 40 Pa.B. 3956. Several of the regulations were adopted as proposed as reflected in the Board's order at 40 Pa.B. 3959, which included amended §§ 36.1—36.3, 36.6, 36.42, 36.51, 36.52 and 36.262 and the addition of § 36.12a. The remaining regulations were adopted as set forth in Annex A, which included the amendment of §§ 36.11—36.13 and 36.54.

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

## Title 52—PUBLIC UTILITIES

### PENNSYLVANIA PUBLIC UTILITY COMMISSION

[ 52 PA. CODE CH. 63 ]

[L-00070188/57-260]

### Abbreviated Procedure for Review of Transfer of Control and Affiliate Filings for Telecommunications Carriers

The Pennsylvania Public Utility Commission (Commission), on April 22, 2010, adopted a final rulemaking order which sets forth amendments to Chapter 63 (relating to telephone service) to streamline transfer of control and affiliate filings by telecommunications carriers.

#### Executive Summary

On April 22, 2010, the Commission adopted an Opinion and Order approving final-form rulemaking for

§§ 63.321—63.326. The rules streamline the time period for reviewing and approving an application for a transfer of control filed with the Commission for a Certificate of Public Convenience under 66 Pa.C.S. §§ 1102 and 1103(a) (the April final-form rulemaking). The April final-form rulemaking addresses a proposed rulemaking issued on October 27, 2007, in the docket (the October Rulemaking Order).

The final-form rulemaking contains revisions from the proposed rulemaking. The revisions respond to Comments and Reply Comments filed by many parties. The final-form rulemaking also adopts suggestions made to the Commission from a Working Group. The Commission convened that group at the suggestion of the Independent Regulatory Review Commission (IRRC) and the parties. The group met starting in June 2008 and filed the last round of responses in November 2009, 4 months before this final-form rulemaking.

The final-form rulemaking establishes time lines for the review and approval of an application that reflect the pace of technological change in the telecommunications industry. Under the current practice, there is no time line for reviewing applications that require a Certificate of Public Convenience under 66 Pa.C.S. §§ 1102 and 1103.

The final-form rulemaking establishes a three-tier structure for reviewing an application and issuing a Certificate of Public Convenience. These are Pro Forma, General Rule and Traditional Review.

Pro Forma review occurs no later than 30 days after notice in the *Pennsylvania Bulletin* and expiration of the protest period. General Rule occurs no later than 60 days after notice in the *Pennsylvania Bulletin* and expiration of the protest period. Traditional Rule review occurs if a formal protest or complaint is filed to any Pro Forma or General Rule application or if an application presents novel issues or is in the public interest.

Pro Forma review applies to applications that do not affect rates or conditions of service or do not involve a transfer greater than 20%. General Rule review applies to applications that also change rates or conditions of service or involve a transfer of control greater than 20%. Traditional Rule review occurs if a protest is filed or if longer review is needed because an application presents new or novel issues.

The final-form rulemaking requires that an application is published in the *Pennsylvania Bulletin* with a 15-day protest period. The notice will notify the public of any reclassification of an application. The final-form rulemaking also provides that the filing of any formal protest or complaint within the protest period will subject an application to the unlimited timeline for review and approval now in place for every application under the existing Traditional Rule.

The final-form rulemaking contains filing requirements that reflect FCC filing mandates or suggestions of the parties. Also, there are Pennsylvania-specific requirements that reflect State law. These include the obligation to demonstrate that an application will affirmatively benefit the public, contain findings concluding that issuance of a Certificate of Public Convenience is warranted, and analyze the impact that an application will have on competition. An applicant must provide a copy and updates to the Commission and the Statutory Advocates.

The final-form rulemaking abandons proposed affiliate interest filing requirements that were aimed at ensuring

compliance with 66 Pa.C.S. §§ 3016(f)(1) and 3019(b)(4) (relating to competitive services; and additional powers and duties). Instead, an applicant must file statements verifying that an application does not violate the prohibition against cross-subsidization and that the application complies with any broadband deployment or universal service commitments.

Public Meeting held  
April 22, 2010

*Commissioners Present:* James H. Cawley, Chairperson;  
Tyrone J. Christy, Vice Chairperson; Wayne E. Gardner;  
Robert F. Powelson

***Rulemaking to Amend Chapter 63 Regulations  
so as to Streamline Procedures for Commission  
Review of Transfer of Control and Affiliate Filings  
for Telecommunications Carriers;  
Doc. No. L-00070188***

***Petition of Level 3 Communications, LLC  
to Amend the Public Utility Commission Regulations  
to Streamline Transfer of Control and Affiliate  
Filing Requirements for Competitive Carriers;  
Doc. No. P-00062222***

**Final Rulemaking Order**

*By the Commission:*

Before the Commission for disposition is a staff recommendation on the final-form rulemaking addressing a proposed rulemaking adopted on September 27, 2007. The proposed rulemaking order granted an earlier Petition of Level 3 Communications, LLC (Level 3). Level 3 sought revision of the Commission's rules and procedures governing transfers of control and affiliate filing requirements under 66 Pa.C.S. §§ 1102(a)(3) and 1103 for telecommunications public utilities, including the ancillary Certificate of Public Convenience evidencing Commission approval of a transfer.

The current regulations are set out as application filing requirements in §§ 5.1, 5.11 and 5.43. Those procedural rules were substantially revised in 2006. The Commission has not revised its practice on reviewing applications for transfer of control other than issuance of a nonbinding Policy Statement issued under 66 Pa.C.S. § 1102(a), and set forth in § 69.901 of our regulations.

*The Proposed Rulemaking.* The proposed rulemaking created a three-tier process for reviewing and approving applications for approval of transfers of control. The applications would be subject to 66 Pa.C.S. § 1102(a) and require issuance of a Certificate of Public Convenience under 66 Pa.C.S. § 1103(a). The first tier was the existing unlimited time span for an application. This was called Traditional Review. The second tier was a General Review. It was a shorter sixty day review and approval period for applications that involved rate changes, changed terms of service, or were a change of control exceeding twenty percent. The third tier was Pro Forma review. This was an even shorter thirty-day review and approval period for applications that did not change rates, that did not change terms of service, or that did not constitute a change of control greater than twenty percent.

Section 63.324 of the proposed rulemaking addresses General Rule review and approval. Section 63.325 of the proposed rulemaking addresses Pro Forma review and approval. The topics in proposed § 63.324(a)—(1) were mirrored in § 63.325(a)—(1).

*The Final-Form Rulemaking.* The final-form rulemaking is promulgated even though some comments

question the need for the regulations. IRRC asked the Commission to explain why this final-form rulemaking is appropriate. The comments of the Office of Consumer Advocate (OCA) and the Office of Small Business Advocate (OSBA) (collectively Statutory Advocates) question whether this regulation is necessary. The Statutory Advocates urged the Commission to abandon the rulemaking.

We adopt the final-form rulemaking to address changes in technology and public utility regulation. The final-form rulemaking reflects suggestions we received after we convened a working group, a group suggested by IRRC and Verizon. Commission staff met with and solicited concrete suggestions from the parties. Meetings were held starting in the Summer of 2008. The final filing was submitted in October 2009 and the final response was filed in November 2009. There was no consensus. The final-form rulemaking addresses areas of disagreement and the comments, particularly from IRRC, for our consideration.

The final-form rulemaking retains three tiers of review but with modifications addressing IRRC's concern for due process, notice, and reclassification. The final-form rulemaking retains the Traditional Rule (current practice in which there is no limit to review), General Rule (review is completed within sixty days), and Pro Forma (review is completed within thirty days).<sup>1</sup> The final-form rulemaking reinstates the twenty percent threshold, will publish every application in the *Pennsylvania Bulletin*, and establish a fifteen day protest period. There is prior consumer notice. Reclassification notice occurs in the *Pennsylvania Bulletin*. The trigger for review and approval now starts with expiration of the protest period.

There are new filing requirements that address comments asking for more detail. The rules publish an application, establish a fifteen day protest period, and will subject an application to Traditional Rule review if a formal protest or complaint is filed. Prior notice must be provided to consumers using a notice developed by the applicant with approval from the Bureau of Consumer Services. Any dispute between the applicant and the Bureau of Consumer Services can be appealed to the Commission mirroring the rules in § 5.44 governing appeals from an action of staff. Commission approval will occur by Secretarial Letter or Order based on a review conducted under § 63.324(h) of material filed in § 63.324(d). This applies to Pro Forma as well.

**Background**

Level 3 filed their Petition to open a Rulemaking on May 31, 2006. Level 3 provided copies to the OCA, OTS, OSBA consistent with § 5.41(c) of the Commission's regulations. Level 3 also provided a copy to Verizon and the PTA as persons affected, consistent with § 5.41(c).

The Level 3 Petition asked the Commission to initiate a rulemaking to streamline the administrative process by which certificated competitive carriers may complete transfers of control and affiliate transactions. Level 3 sought revision to the Commission's regulations arguing that the process imposes unnecessary and burdensome requirements on non-dominant, competitive carriers. Level 3 also contended that the public interest in a competitive environment does not require strict scrutiny of non-dominant carriers' transactions because those carriers lack control over bottleneck facilities and generally lack market power compared to other carriers.

<sup>1</sup> Appendix B contains a chart that summarizes the abbreviated processes for review of these applications.

The Commission's proposed rulemaking addressed acquisitions, diminutions in control, mergers, stock sales or transfers, and transfers of assets of a telecommunications public utility. We also concluded that affiliate interest filings should be addressed.

The Commission published the Proposed Rulemaking Order on February 9, 2008 in the *Pennsylvania Bulletin*, 38 Pa.B. 758. The Commission solicited Comments by April 8, 2008 and Reply Comments by May 8, 2008. Multiple parties submitted Comments and Reply Comments. IRRC submitted comments on June 9, 2009.

### Discussion

#### A. Disposition of IRRC's Comments

IRRC submitted general concerns as well as comments on specific provisions of the proposed rulemaking. IRRC's comments on specific provisions are addressed in more detail in the Extended Discussion of Annex A where we address the Comments and Replies of the other parties on the proposed sections.

This section will address IRRC's general concerns. We do so because those concerns raise basic issues about the need for this regulation. Disposition of those concerns also resolves many of IRRC's more specific comments as well.

*The Need for the Regulation.* IRRC questioned the need for the regulation and asked the Commission to provide information on the average length of time it takes to review applications and the number of applications that would be subject to the proposed three-tier levels of review. IRRC Comments, p. 2.

In response, the Commission notes that five applications seeking Commission approval for transactions in 2006 and 2007 that did not involve changes in rates or terms and conditions of service, that is, Pro Forma transactions, were approved in time spans that ranged from 142 days to 310 days. One of these was litigated but the other four were settled by the parties. PTA Comments, p. 3.

The OCA also submitted a later filing to the working group in November 2009 that responded to a Level 3 filing (*OCA Response*). The *OCA Response* appended a chart supporting a claim that of the 114 applications filed by telephone companies pursuant to 66 Pa.C.S. § 1102 in 2008, two were protested and a hearing was held for one. All other Applications were not protested and there was no hearing. Moreover, the majority of those were decided in less than 90 days. *OCA Response*, pp. 6 and 7.

In this battle of the statistics, we conclude that a two-year span of evidence showing review periods for five applications in 2006 and 2007 support the rulemaking compared to a one-year sample. However, we recognize that these same statistics and staff claims about a decline in the volume of applications could support a different result.

*Complexity of the Regulations and a Working Group.* IRRC provided a summary of the major provisions of the proposed rulemaking. IRRC raised concern about whether the complexity will undermine abbreviated review. IRRC urged the Commission to convene a working group to address the regulations. IRRC Comments, pp. 2 and 3.

The Commission agreed with IRRC and convened a working group on the proposed rulemaking. The working group met from June 2008 through May 2009. The working group solicited filings with suggestions. The last filing was submitted by Level 3 in October 2009. This triggered the OCA Response filed in November 2009. The

Commission concludes that reliance on this working group's contribution, hopefully, has produced a better result compared to sole reliance on Comments and Replies.

*Secretarial Letters.* IRRC asked the Commission to explain how the proposed reliance on Secretarial Letters to approve applications in the proposed rulemaking was consistent with 66 Pa.C.S. § 1103(a). Section 1103(a) of 66 Pa.C.S. mandates that a certificate of public convenience issued in response to an application must be done so by order of the Commission. IRRC Comments, pp. 1 and 2.

The Commission proposes to use Secretarial Letters for streamlined review and approval except in very limited circumstances where an Order may be better. Secretarial Letters may be issued at any time and are not limited to the Commission's public meeting schedule. Pennsylvania caselaw, particularly *West Penn Power v. PaPUC*, 100 A.2d 110, 113 (Pa. Super. Ct. 1953), holds that Secretarial Letters can be equivalent to a final and appealable order of the Commission. We use that approach in light of that precedent.

*Affiliate Interest Agreement Review.* IRRC also questioned whether the extensive proposal for reviewing telecommunications providers' affiliated interest agreements was consistent with 66 Pa.C.S. § 3019(b)(1). Section 3019(b)(1) of 66 Pa.C.S. requires submission of affiliated interest agreements unless the service is declared competitive. Any filing is for notice only and does not require Commission approval. IRRC Comments, p. 3.

Section 3019(b)(4) of 66 Pa.C.S. authorizes the Commission to condition any approval under of 66 Pa.C.S. § 1101(a)(3), the subject of this rulemaking, to ensure there is no reduction in the broadband deployment obligations of the affected property or facilities. Moreover, 66 Pa.C.S. § 3016(f)(1) prohibits a carrier from using revenues from noncompetitive services to subsidize competitive service. The Commission relied on those ongoing mandates to develop a detailed filing and approval requirement.

In response to IRRC's concern, this provision is deleted in its entirety. Instead, the Commission provides a Filing Requirement in §§ 63.324(d) and 63.325(d) that makes an applicant verify that the transaction complies with the cross-subsidization prohibition of 66 Pa.C.S. § 3016(f)(1). An applicant subject to any broadband deployment commitment or Carrier-of-Last-Resort obligation must also verify compliance with those requirements. Finally, an applicant must address competitive impact. These filing statement substitutes address IRRC's concern with new definitions and provisions that tried to do the same thing in § 63.626 and throughout the proposed rulemaking.

*The City of York Standard.* IRRC asked the Commission to explain why the Commission's proposal does not violate the caselaw mandate "that a merger will affirmatively promote the service, accommodation, convenience, or safety of the public in some substantial way" as set out in *Popowsky v. Pa. PUC*, 937 A.2d 1040 (Pa. 2007) and *City of York*, 295 A.2d 825 (Pa. 1972). IRRC Comments, pp. 3 and 4.

Initially, proposed § 63.324(d)(11)(i) and (ii) for General Rule applications and § 63.325(d)(11)(i) and (ii) for Pro Forma applications required the applicant to append a verified statement. The statement would show how the transaction (i) will service the public interest, convenience, and necessity and (ii) describe the general and specific affirmative public benefit to Pennsylvania consumers.



The proposed rule created two separate mandates for two distinct purposes. Sections 63.324(d)(11)(i) and 63.325(d)(11)(i) required the applicant to meet the Certificate of Public Convenience standard of 66 Pa.C.S. § 1103(a). Sections 63.324(d)(11)(ii) and 63.325(d)(11)(ii), respectively, addressed the *City of York* standard.

In response to IRRC's concerns, the final-form rule-making deletes these two sections in their entirety. Instead, the final-form rulemaking at §§ 63.324(d)(11)(i) and 63.325(d)(11)(i) reiterates word-for-word the standard referenced in the comment on the *City of York* standard language applicable to a merger. Sections 63.324(d)(11)(ii) and 63.325(d)(11)(ii) require an applicant to append verifications establishing how the transaction "is necessary or proper for the service, accommodation, convenience, or safety of the public" in order to address the finding mandate set out in 66 Pa.C.S. § 1103(a). Finally, the applicant must provide a verified statement on the transaction's impact on competition. This addresses that legal requirement. These provisions effectively negate the proposed rulemaking addressing market power, market share, or competitive impact.

*Adequate Review Periods for Pro Forma and General Rule Applications.* The next issue IRRC raises is whether the proposed thirty and sixty day review periods for Pro Forma and General Rule applications is sufficient for interested parties to review the filings. IRRC is particularly concerned that very short review periods will simply encourage more formal protests to allow more time for review. IRRC Comments, p. 4.

The final regulations retain the thirty and sixty day review periods in §§ 63.324 and 63.325, respectively. There are four important revisions which address IRRC's concern about adequate review time for participants and inadvertently encouraging the filing of formal protests or complaints to get more review time.

The Commission revised the final-form rulemaking to address IRRC's concerns. Sections 63.324(c) and 63.325(c) require that a copy of an application and update be provided to the Statutory Advocates. Sections 63.324(f)(1) and 63.325(f)(2) publish an application in the *Pennsylvania Bulletin* to provide notice. Sections 63.324(f)(2) and 63.325(f)(2) establish a fifteen day protest period. Sections 63.324(g) and 63.325(g) require prior consumer notice absent a waiver from the Commission. Sections 63.324(f)(3) and 63.325(f)(3) provide that the filing of a formal protest or complaint subjects an application to Traditional review.

Sections 63.324(h)(1)—(4) and 63.325(h)(1)—(4) explain how Commission review is conducted. Sections 63.324(k) and 63.325(k) provide that Commission approval will occur by Secretarial Letter or Order as permitted by Pennsylvania law.

*Incumbent Broadband Deployment and COLR Obligations.* IRRC asked the Commission to explain why applications of an incumbent carrier are treated like those of a competitive carrier. IRRC questioned regulatory parity between incumbent and competitive carriers because incumbents have broadband deployment commitments in 66 Pa.C.S. § 3019(b)(4), and Carrier-of-Last-Resort (COLR) obligations as an Eligible Telecommunications Carrier (ETC) under 47 U.S.C.A. § 214(e)(1) and (2). IRRC Comments, p. 4.

In response to IRRC's concern, the final-form rule-making revises the applicant's filing requirements in §§ 63.624(d) and 63.625(d). Sections 63.324(d)(21) and 63.325(d)(21) require an applicant with a broadband

deployment commitment under State or Federal law to verify compliance with that obligation. Sections 63.324(d)(22) and 63.325(d)(22) require an application with an Eligible Telecommunications Carrier (ETC) obligation to verify compliance with that obligation.

The Commission notes that ETC designation is not, strictly speaking, equivalent to the COLR mandate associated with electric and/or gas utilities. Incumbent or competitive carriers can seek ETC status. The Commission has granted ETC status to incumbent and competitive providers. The FCC granted ETC status for some wireless carriers in Pennsylvania because the Commission was initially reluctant to exercise jurisdiction on those requests. The Commission has since affirmatively decided to make wireless ETC designations as well.<sup>2</sup>

Any Commission or FCC grant of ETC status allows the provider to get Federal universal service support to provide narrowband voice service throughout the service area for which the designation is received. ETC designation requests may, or may not, be equivalent to an incumbent carrier's entire service area depending on the designation. Any carrier can relinquish that designation and the "service area" is equivalent to a "study area" but only for rural carriers. The FCC is actively considering transitioning this ETC support from narrowband voice to broadband as well.

*Consumer Notification.* IRRC expressed concern with the different treatment of prior consumer notices and the filing of formal protests or complaints in Pro Forma applications compared to General Rule transactions. IRRC suggested uniformity. IRRC Comments, pp. 5 and 8.

The final form rules treat every formal protest or complaint as subjecting an application to Traditional review. An applicant must provide prior notice to consumers, a practice consistent with the current rules for Abandonment of Service in § 63.301 et seq. The notice is prepared by the applicant and approved by the Commission's Bureau of Consumer Services (BCS) to ensure that consumers receive an understandable notice and to discourage the filing of formal protests or complaints. An Applicant can appeal any disagreement or determination directly to the Commission.

## B. Disposition of the Parties' Comments and Replies.

As an initial matter, we note that any specific objection or proposal not otherwise addressed in the final rule-making is denied.

### 1. Summary of the Comments and Replies.

*Level 3.* Level 3 supported the proposed regulation. Level 3 particularly supported the solicitation of Comments and Reply Comments following publication in the *Pennsylvania Bulletin*. Level 3 argued that the filing of a formal protest or complaint should not derail abbreviated review because doing so allows the filing party to effectively delay a proceeding for unrelated business or commercial purposes. Level 3 filed suggestions on §§ 63.324 and 63.326 that will be discussed at the appropriate section. Level 3 Comments, pp. 1—3.

Level 3 supported the IRRC and Verizon suggestion to convene a stakeholders' meetings. Level 3 would not deny incumbents an opportunity to use abbreviated review but would use Comments and Replies to qualify for that review. Level 3 Reply Comments, pp. 1—3.

<sup>2</sup> *Commission Exercise of Jurisdiction to Designate Wireless Carriers As An Eligible Telecommunications Carrier (ETC) Pursuant 47 U.S.C. § 214(e)(2) of the Telecommunications Act of 1996 (TA-96)*, Docket No. M-00960799 (M-2009-2091317), Secretarial Letter issued on February 26, 2009.

Level 3 disputed the OCA's conclusion that procedural reformation violated applicable law. Level 3 noted the Pennsylvania Supreme Court's conclusion in *Elite Industries v. Pa. PUC*, 832 A.2d 428, 431-432 (Pa. 2003), that the Commission's mandate on regulations is "broad" and the courts defer to Commission regulations so long as they are not "so entirely at odds with fundamental principle so as to be a whim and not an exercise in judgment." Level 3 noted that Pennsylvania law has long considered Secretarial Letters to be equivalent to a final Commission Order. Level 3 disputed OCA's claim that thirty and sixty day review periods are impermissibly short. Level 3 notes that the regulations allow transactions to be reclassified and, moreover, contain substantially more filing requirement at the initial stage of an application. Those requirements bolster the ability to review and grant an application while issuing a Certificate of Public Convenience in a shorter timeframe. This is consistent with 66 Pa.C.S. §§ 1102 and 1103.

Level 3 cited the *Chester Water Authority v. Pa. PUC*, 868 A.2d 384, 390 (Pa. 2005) precedent to refute the OCA's claim that denial of a formal proceeding or hearing whenever a formal protest is filed violated Pennsylvania due process. Level 3 concluded that the same approach can be taken here regarding the formal protests filed by entities other than the Statutory Advocates. This is preferable to the current practice of mandating hearings every time someone files a formal protest or complaint. Level 3 Reply Comments, pp. 5-15. PTA agrees. PTA Reply Comments, p. 19.

*Neutral Tandem.* Neutral Tandem supported the proposed rulemaking. Neutral Tandem was concerned that the Filing Requirements set out in §§ 63.324(d)(12) and 63.325(d)(12) did not include provisions requiring applicants to disclose information about their regulatory compliance, including violations of federal or state law within the last three years; and alleged violations of federal or state law in a currently pending proceeding. Neutral Tandem Comments, pp. 1-4.

*Verizon.* Verizon generally supported the proposed rulemaking. Verizon proposed changes to simplify the rules using definitions in the Public Utility Code. Verizon also claimed that the *City of York*, 295 A.2d 825 (1972) standard, which requires that a merger affirmatively benefit the public, applies only to mergers so language expanding it beyond mergers is inappropriate. Finally, Verizon claimed that provisions which require Commission review and approval of affiliate transactions contradict 66 Pa.C.S. § 3019(b)(1). Verizon Comments, pp. 1-11.

Verizon dismissed the due process concerns raised by OCA, OSBA, and BCAP. Verizon noted that regulatory review of regulated carriers remains a burden, particularly when competitive carriers like cable companies can freely complete the type of transactions contemplated under 66 Pa.C.S. §§ 1102 and 1103 devoid of Commission review. Verizon Reply Comments, pp. 1-4. Verizon saw no basis for allowing competitors to obtain abbreviated review of their applications while denying that same option to incumbents. Verizon also opposed allowing any formal protest or complaint to interfere with a carrier's abbreviated review. Verizon opposed the increased filing requirements given their cost and burden on an applicant. Verizon Reply Comments, pp. 8-11.

*Windstream.* Windstream applauded the Commission's recognition of the need to change the Commission's review and approval process for regulated company transactions. Windstream asked the Commission to eliminate

unlimited review under the Traditional Rule and replace it with a two-track system with strict timelines. Windstream noted that other regulatory agencies have streamlined their review and approval process to sixty to ninety days. Instead, Windstream proposed an additional review period of thirty days to accommodate a hearing. Windstream Comments, pp. 1-16.

*PTA.* PTA endorsed a rapid review process. The PTA noted that other states approve applications with no changes in rates or services much faster than Pennsylvania. PTA was concerned that entities used the Commission's process to file formal protests or complaints to extract some gain from the applicant regardless of the issues raised in a protest or complaint. PTA proposed that no protest or complaint automatically subject an application to longer review. The Commission should examine the interest in the application, the fact-specific basis for the protest, a demonstrated nexus to the transaction, and novel or important issues before the Commission sustains any protest or complaint. The PTA opposed changing the transfer of control threshold from 20% in the Policy Statement to 10% in the proposed rule. The affiliate interest requirements were a possible violation of 66 Pa.C.S. § 3019(b)(1) as well. PTA Comments, pp. 1-12.

PTA noted that the overwhelming number of mergers and acquisitions subject to Chapter 11 do not involve rates or changes in service and would be appropriate for abbreviated review. PTA Reply Comments, pp. 1-20.

*BCAP.* The Broadband Coalition of Pennsylvania (BCAP) proposed abbreviated review only for competitor carriers. BCAP opposed abbreviated review for incumbent applications given their market dominance. BCAP argued that 66 Pa.C.S. § 3011(11) only states that the Commission should, not must, make all regulations equal between incumbent and competitive carriers. BCAP also opposed including "information services" as a filing requirement because those services are beyond the Commission's authority in 66 Pa.C.S. §§ 1102 and 1103. BCAP Comments, pp. 1-24. BCAP opposed distinguishing between "rural" and "nonrural" carriers when it came to Commission review and approval of incumbent applications. BCAP Comments, pp. 24-26.

BCAP asked the Commission to allow abbreviated review for applications that contain proprietary information or seek a protective order. BCAP supported using the definitions set out in Chapter 30. BCAP supported automatically subjecting an application to unlimited Traditional Rule review if a Statutory Advocate filed a formal protest or complaint. BCAP also urged the same treatment for private parties. BCAP Reply Comments, pp. 1-7.

*OCA.* The Consumer Advocate (OCA) filed detailed Comments opposing the rulemaking in its entirety. Alternatively, the OCA proposed a series of limited rules that would be applicable only to competitive carriers. OCA Comments, pp. 1-36. The OCA argued that incumbent carriers should not be able to use abbreviated review because they have Carrier-of-Last-Resort (COLR) obligations under federal law and broadband deployment obligations under 66 Pa.C.S. § 3013(a). The OCA expressed concern that abbreviated review for incumbent applications will undermine those provisions. For those reasons, OCA limits abbreviated review to competitive carriers. OCA Comments, pp. 1-36.

The OCA proposed an alternative that would only be provided to competitive carriers and then only if the Commission persists in this rulemaking as opposed to

complete withdrawal in its entirety. OCA Comments, pp. 29—35. The OCA proposed that all retail and wholesale customers, including interconnected carriers, be provided direct notice unless the interconnection agreement waives that notice requirement. The OCA would require that an application and all the accompanying information be provided to the Statutory Advocates and all affected parties on the same day it is filed with the Commission. The OCA would make applications involving abandonment or other consumer protections ineligible for abbreviated review. OCA Comments, pp. 29—32.

The OCA's Reply Comments opposed the proposed modifications of the carriers and PTA as well. OCA Reply Comments, pp. 1—15.

*OSBA.* The OSBA recognized that the proposed rulemaking will create three levels of review but suggested that all mergers, acquisitions, or similar transactions involving LECs with substantial market shares be subject to Traditional Rule review unless the transaction is unopposed. The OSBA also appended a series of extensive technical amendments to their comments in support of their position. OSBA Comments, pp. 1—24.

The OSBA opposed the PTA's proposals to reduce the filing requirements, rely on competition, and require more specificity in protests or formal complaints because they eliminated review of potential market concentration. The OSBA opposed Verizon's proposals because an intervenor would have to meet a higher showing for their protest yet be deprived of the information needed to meet it. OSBA Reply Comments, pp. 5—7.

#### *The Working Group*

The Commission received comments from the public, industry, the Statutory Advocates and IRRC. In particular, IRRC and other comments urged the Commission to meet with interested stakeholders and resolve concerns about the scope, complexity, limited participation rights of some parties, and the relationship with Chapter 30 before developing the final-form rulemaking.

Commission staff met with stakeholders, particularly industry and the Statutory Advocates, to try and resolve these more contentious issues. Their positions often repeat ones set out in earlier filings. Level 3 did amend its position to support incumbent carrier use of abbreviated review instead of limiting it to only competitive carriers. This was a major concession that aided in developing the final-form rulemaking. It also became evident that there would be no agreement on resolving some particularly contentious issues. These were: (1) What Transactions Are Eligible for Abbreviated Review; (2) Which Carriers are Eligible to use Abbreviated Review; (3) the Effect of a Formal Complaint or Protest; (4) the Reclassification of a Transaction Under Abbreviated Review; and (5) the Commission Process Used to Approve Pro Forma or General Rule transactions.

#### *2. Disposition of the Five Major Issues.*

*Which Transactions Are Eligible for Abbreviated Review.* The final regulations are limited to the acquisitions, mergers, stock sales or transfers, transfers of assets and transfers of control listed in the proposed Purpose. These require submission of an application seeking Commission approval under 66 Pa.C.S. § 1102 and the required Certificate of Public Convenience governed by 66 Pa.C.S. § 1103 evidencing Commission approval of the application. The final-form rulemaking excludes Securities Certificates or similar financial transactions. We prefer to limit the final-form rulemaking to the proposed subjects because there were no extensive objections to these types

of transactions. The final-form rulemaking also excludes Diminution in Control based on the comments.

*Which Carriers Are Eligible for Abbreviated Review.* The final-form rulemaking allows any applicant that is, an incumbent or competitive carrier, to seek abbreviated review of their applications. We recognize the continual assertion that abbreviated review should be limited to competitors or entities that clearly lack market power or control over bottleneck facilities. This assertion is less critical than developing a general rule applicable to all applicants. Abbreviated review for all applicants is preferable to allowing some applicants to get abbreviated review while denying that same relief to others based on current allegations about market power.

Market power is an elusive, complex, and changing term. For example, a current competitor with an overall small Pennsylvania market share may have a considerable market share of available Internet backbone facilities. On the other hand, a large Pennsylvania incumbent may have very little market share in critical Internet backbone facilities. This observation is evident in the variation in the comments on the extent and importance that competition should play in the final-form rulemaking. Compare BCAP Comments, pp. 13—17 (minimal competition) with PTA Reply Comments, pp. 8—13 (competition is robust and thriving).

A final rule should not rest on a preliminary determination about the market power of certain regulated carrier categories, where such a determination will then govern whether a carrier obtains abbreviated review for a change of control application.

Therefore, we conclude that it is more evenhanded to allow every applicant to seek abbreviated review so long as an applicant understands that formal protests or complaints may arise based on allegations of market power. This approach, coupled with published notice of all applications and allowing a protest period, is preferable to imposing detailed upfront filing mandates for some carriers while denying abbreviated review to others.

*The Effect of a Formal Protest or Complaint.* To facilitate abbreviated review, the proposed regulations confined the unlimited time span of the Traditional Rule to applications in which the Statutory Advocates filed a formal protest or review. This limited the ability of others to trigger a Traditional Rule proceeding.

There was substantial opposition to that proposal. The final regulations hold that the filing of any formal protest or complaint by any entity will trigger Traditional Rule review. This is current practice in virtually all other proceedings before the Commission. If, however, the formal protest or complaint does not raise material factual issues, formal evidentiary hearings would not be required as part of Traditional Rule review.<sup>3</sup> We conclude that technology and market changes do not justify departing from that rule for a discrete class of applications.

*Reclassification of a Transaction and Challenges to Reclassifications.* Presently, every application is subject to the unlimited review of the Traditional Rule if a formal protest is filed. The proposed rulemaking continued the Traditional Rule but created two abbreviated review periods for faster review and approval. Most comments do not dispute reclassification although there is considerable disagreement over when the Commission will reclassify and how the applicant should receive notice.

<sup>3</sup> The *Chester Water* decision held that 66 Pa.C.S. § 1103(b) did not require the Commission to hold evidentiary hearings when there were no material factual issues in dispute.

As an initial matter, we adopt IRRC's suggestion that the publication requirements for Pro Forma transactions should mirror those set out for General Rule transactions, that is, publication in the *Pennsylvania Bulletin*. IRRC Comments, p. 8. This means that reclassification and notice must be reconciled with notice published in the *Pennsylvania Bulletin*.

We conclude that any challenge to the reclassification should be filed during the fifteen day protest period following publication. The Commission will address challenges to reclassification during consideration of the application based on whether or not a formal protest or complaint to the application has been filed by any entity.

Under the final-form rulemaking, notice will be published for the reclassification of every application in the *Pennsylvania Bulletin*. A challenge to the Commission's proposed reclassification is not automatically subjected to Traditional Rule review. In cases where the application is reclassified and there is no formal protest or complaint, the Commission or staff will address the challenge during review and approval.

If, however, a formal protest or complaint to the filed transaction is filed in addition to any challenge to the Commission's proposed reclassification, the entire filing will be subject the application to the Traditional Rule. This is consistent with our determination that a filed formal protest or complaint subjects an application to Traditional Rule review. In that case, the reclassification and the formal protest or complaint will be disposed of during the Traditional Rule review.

We do not believe that a challenge standing alone should subject an unprotested Pro Forma or General Rule review to Traditional Rule review. That approach is punitive because a challenge to reclassifying an application becomes tantamount to a formal protest or complaint application even though there is no formal protest or complaint.

*Commission Review and Approval.* Most comments support abbreviated review for Pro Forma and General Rule applications although the OCA did oppose the rulemaking in its entirety. The final-form rulemaking addresses IRRC concerns with notice of a transaction, due process opportunities to participate, and reclassification of an application, and how the Commission approves an application. IRRC Comments, pp. 4—8.

In response to IRRC concerns, we conclude that abbreviated review and approval of an unprotested Pro Forma or General Rule application should be similar although we modify the rules to address IRRC's concerns in several critical ways. First, every application will be now published in the *Pennsylvania Bulletin*. Second, every notice will establish a 15 day protest period. Third, every notice will inform the applicant and the public about any reclassification of an application. Also, consumers will receive prior notice.

The Commission will review and approve an unprotested Pro Forma application in a Secretarial Letter no later than 30 days after expiration of the protest period. Review can be completed quickly because there are no formal protests or complaints, there have been no rate changes, no changes in conditions of service, or the change in control is less than 20%.

The Commission will also review and approve an unprotested General Rule application using the same approach with the only difference being the timing of the approval. The application will be published, there will be a 15 day protest period, and any reclassification will be

contained in the notice. There will also be prior consumer notice. The major difference is that the Commission will review and approve an unprotested General Rule application by a Secretarial Letter at Public Meeting no later than 60 days after the protest period. Review is longer because, although the application is unprotested, the application contains rate changes, a change in the conditions of service, or the change of control exceeds 20%.

### 3. *Disposition of the Ancillary Issues.*

The ancillary issues were: (1) Affiliated Interest filing requirements; (2) the 10% threshold; (3) the Filing Requirements; (4) using a "deemed approved" approach if an application is not approved by a date certain; (5) eligibility of applications with proprietary information or confidential agreements for abbreviated review; and (6) including "information services" and the Herfindahl-Hirschman Index (HHI) test for competition.

*Affiliated Interest Transactions.* The final-form rulemaking deletes proposed § 63.626 in its entirety. Instead, the final-form rulemaking requires two requirements. Sections 63.324(d)(11)(iii) and 63.325(d)(11)(iii) require an applicant to address competitive impact. Sections 63.324(d)(23) and 63.325(d)(23) require an applicant to verify compliance with the prohibition against cross-subsidization under State and Federal law, a prohibition set out in 66 Pa.C.S. § 3016(f)(1).

*The 10% Threshold.* The final regulation retains the twenty percent threshold figure. This provides guidance to all applicants seeking review and approval of a transfer of control better than adherence to an FCC requirement for a discrete class of applicants.

*Revised Filing Requirements.* The Filing Requirements are revised to include Neutral Tandem's suggestion to address regulatory compliance with state and federal law. The Filing Requirements also contain a verified statement in §§ 63.324(d)(11) and 63.325(d)(11) addressing the impact on competition in Pennsylvania.

*Deemed Approved.* The final-form rulemaking abandons the "deemed approved" approach. Final-form regulations in §§ 63.324(k) and 63.325(k) require the Commission to issue a determination based on facts set out in §§ 63.324(d)(11) and 63.325(d)(11).

This includes a holding that a merger will "affirmatively promote the service, accommodation, convenience, or safety of the public in some substantial way" as set out in *Popowsky v. Pa. PUC*, 937 A.2d 1040 (Pa. 2007) and *City of York*, 295 A.2d 825 (Pa. 1972). This includes findings to warrant issuance of a Certificate of Public Convenience in 66 Pa.C.S. § 1103(a) and addressing competitive impact.

The Commission will review an application in §§ 63.324(h)(1)—(4) and 63.325(h)(1)—(4) when determining whether to approve an application in § 63.324(k) or § 63.325(k), respectively.

The Commission will act on an unprotested Pro Forma application no later than 30 days after expiration of the protest period. The Commission will act on an unprotested General Rule application no later than 60 days after expiration of the same protest period. However, a failure by the Commission to meet these deadlines will not result in a transaction being "deemed approved" under these regulations.

*Review of Applications Containing Proprietary Information.* The final regulations do not differentiate between applications with or without proprietary information. The final regulations publish all applications and establish a

protest period of 15 days under § 5.14(d). This reflects IRRC's suggestion that all transactions be treated alike for public notice. Parties seeking access to that information can execute the necessary confidentiality agreement or seek appropriate relief from the Commission. The Statutory Advocates will receive a copy of the proposed transaction and they can execute any confidentiality agreement while the Commission sets the application for publication. This is consistent with BCAP's comments stating that transactions involving proprietary information should not be denied abbreviated review. BCAP Reply Comments, p. 2.

Consequently, there is no need to treat applications with proprietary information differently from applications that do not classify information as proprietary. We agree that there is no need to deny an applicant the opportunity to use abbreviated review simply because their filing may contain proprietary information or require an interested party to execute a confidentiality agreement.

*Inclusion of "Information Services" and the "Herfindahl-Hirschman Index" Competition Test.* The final regulations delete inclusion of Information Services, notwithstanding the increased convergence of telecommunications and information services. This avoids unsettled law on controversial issues. The Commission can revisit this issue later as appropriate.

The final regulations also delete the mandatory Herfindahl-Hirschman Index filing in favor of a general statement in the §§ 63.324(d)(11) and 63.325(d)(11) Filing Requirements. An applicant must address competitive impact to meet that requirement of Pennsylvania law although a general statement is better than requiring an applicant to develop and fund a Herfindahl-Hirschman Index study that may not even interest anyone. That triggers unnecessary expense. Equally important, a party with that concern can file a formal protest or complaint and ensure a detailed consideration under Traditional Rule review. We conclude it is better to examine a detailed concern afterwards instead of imposing a preliminary mandate to prepare a Herfindahl-Hirschman Index filing.

#### Extended Discussion of Annex A

*Section 63.321. Purpose.* The provision details the types of applications for which a telecommunications public utility can seek Commission approval. This provision reflects the Commission's statutory authority to issue a certificate of public convenience evidencing the approval of the type of transactions in this section.

*Objections.* There were no objections.

*Disposition.* The final-form rulemaking eliminates "Affiliate Interest" applications because we abandon that topic. The rules replace "transactions" with the phrase "an application seeking Commission approval." The phrase also uses the general term "applicant" because it is more encompassing than a more limited term for submissions seeking Commission approval under 66 Pa.C.S. § 1102(a) and a Certificate of Public Convenience under 66 Pa.C.S. § 1103. The final-form rulemaking excludes Securities Certificates and Diminution of Control as well.

*Section 63.322. Definitions.*

*Objections.* There were objections to some of the definitions. They are disposed of on a word-by-word basis in this section.

The proposed rulemaking contained definitions for "Affiliated Interest," "Formal Complaint," "Formal Investiga-

tion," "Formal Proceeding," "Incumbent Local Exchange Carrier," "Informal Complaint," "Informal Investigation," "Informal Proceeding," "Party," "Pennsylvania Counsel," "Person," "Staff," "Statutory Advocate," and "Verification." These reflect definitions contained in the Public Utility Code or the Commission's existing regulations in §§ 1.1, 3.1 and 5.1, et seq.

*Objection and Disposition.* There were no objections to these long-standing terms. The final-form rulemaking adopts them as set out in the proposed rulemaking.

The proposed rulemaking set out definitions for "controlling interest" and "diminution in control" as a modified version of definitions set out in the Commission's Policy Statement on Utility Stock Transfers in § 69.901.

*Objection.* The use of a ten percent figure in these terms raised questions. IRRC asked the Commission to explain why the Commission used the ten percent figure as a threshold when the current Policy Statement on Utility Stock Transfers in § 69.901(b)(2) uses a 20% threshold. IRRC Comments, p. 4.

PTA believed that it is a mistake for the Commission to jettison its own rules in favor of simple uniformity with the FCC's 10% rule for regulated telecommunications companies. PTA noted that other Pennsylvania utilities will continue to follow the 20% rule. PTA Comments, p. 11.

*Disposition.* The final regulations delete the proposed ten percent figure and retain the 20% figures set out in the Commission's Policy Statement in § 69.901 et seq. The proposed percent figure reflects the figure used at the FCC in their Streamlined Order but it is not consistent with the Commission guidelines set out in the Policy Statement. The FCC figure would subject a greater number of relatively small transactions to regulatory approval with no discernible public benefit. The Commission supported efforts to mesh state mandates with federal mandates, Proposed Rulemaking Order (October 19, 2007) at 14; however, given the need for abbreviated review and current Commission guidelines, we prefer to use the 20% figure.

*Objection.* Level 3 is concerned about the lack of clarity on how the ten percent figure in the definitions is calculated. Level 3 notes a lack of clarity if the threshold is calculated based on assets and facilities "within Pennsylvania" or if assets and facilities are calculated on a "nationwide" basis. If the calculation is within Pennsylvania, a General Rule review could apply because the threshold is met. If assets and facilities were calculated nationwide, a Pro Forma review could apply as the threshold is not met. Level 3 Comments, pp. 4 and 5.

*Disposition.* On consideration, we agree with Level 3 that clarity is needed albeit limited to the twenty percent figure. The final definition for "controlling interest" will apply "within Pennsylvania" or "nationwide" whichever is larger. This provides certainty and maximizes use of the Pro Forma or General Rule using a twenty percent threshold.

*Objection.* Level 3 also believed that the ten percent threshold should not be used in § 63.324(a)(3) to define diminution of control. Level 3 argues that the lower threshold would burden market transactions and is already covered by provisions addressing direct and indirect transfers of control anyway under § 63.324(a)(2).

*Disposition.* We agree. The final-form rulemaking strikes § 63.324(a)(3) and the definition. The definition appears to burden market transactions. The concern of

that definition is addressed in §§ 63.324(a)(2) and 63.325(a)(2) as a matter of direct and indirect transfers of control. The final-form rulemaking also removes the equivalent provision for Pro Forma review in § 63.235(a)(3) for the same reason. We also delete the proposed 10% threshold and reinstate the current twenty percent guideline figure instead.

*Objection.* IRRC noted that the term “information service” is used in several of these definitions. IRRC asks the Commission to explain why the definitions contain “information service” because at least one Comment thought the term is inappropriate. IRRC Comments, p. 4. BCAP opposed the inclusion of “information services” because those services are beyond the Commission’s authority under 66 Pa.C.S. §§ 1102 and 1103. BCAP Comments, pp. 1–24. BCAP also notes that the term “competitive carrier” is defined only in the definitions section but is not used anywhere in the regulation so it should be deleted. BCAP Comments, p. 22, n. 51. Verizon suggested that the term be removed as well. Verizon Comments, Annex A, p. 3.

*Disposition.* We agree. The final regulations delete reference to “information service” in the definitions and regulations. We do so given the General Assembly’s 2008 enactment of legislation concerning Internet Protocol (IP) enabled services in general and Voice over Internet Protocol (VoIP) in particular P. S. § 2251.1 et seq. The 2008 legislation restricted Commission authority in some areas, particularly the regulation of rates, terms and conditions of retail VoIP or IP-enabled services, although the Commission retained its authority in other areas.<sup>4</sup> Moreover, Federal regulation and legislation in this area are constantly changing. The Commission can revisit this issue if or when that becomes appropriate. The final regulations delete “competitive carrier” given BCAP’s observation.

*Objection.* Verizon proposed reliance on federal law and would limit definitions to Act 183 and the Public Utility Code, particularly for “telecommunications service,” “telecommunications carrier” and “public utility.” PTA and BCAP supported Verizon. PTA Comments, Annex A, pp. 1–3; BCAP Comments, pp. 21–23.

*Disposition.* We disagree. The proposed rulemaking contained definitions that incorporate the very sections cited from the broader Public Utility Code while incorporating ancillary federal definitions that are neither new nor novel. The inclusion of federal definitions is more encompassing and consistent with our deleting terms for matters like information service, dominant market power, predominant market presence, and the Herfindahl-Hirschman Index because they were new or may be beyond our authority.

We recognize the concern that deletion of the proposed definitions for “Dominant Market Power,” the “Herfindahl-Hirschman Index” (HHI), and “Predominant Market Presence” may be inadvisable. However, other comments make a compelling case for eliminating new definitions that create ambiguity even if they reflect current merger guidelines at the FCC<sup>5</sup> and the Department of Justice. We solve the issue by substituting a mandate that an applicant address competitive impact in §§ 63.324(d)(11) and 63.325(d)(11). A party with a greater concern can raise these FCC and U.S. Department of

Justice (U.S. DOJ) principles by filing a formal protest or complaint and raising them in a Traditional Rule review.

The definition of Pro Forma Transaction reflects the FCC’s Streamlined Regulation Order and the Commission Policy Statement on Utility Stock Transfers. There is a new definition that addressed diminutions of the controlling interest of stock based on the 20% rule set out in the Commission’s Policy Statement in § 69.901. This definition also encompassed mundane and repetitive transactions that require an application and a certificate of public convenience but do not involve changes in rates and terms or conditions of service.

*Objection.* IRRC noted that the definitions define Pro Forma Transaction but fail to define General Rule transaction. IRRC Comments, p. 4.

*Disposition.* We agree. The critical difference between a Pro Forma Transaction abbreviated review and a General Rule Transaction abbreviated review turns on whether the application seeking abbreviated review contains rate changes, changes in terms or conditions of service, or whether the transfer of control is twenty percent or less. The final rule inserts a definition of a General Rule Transaction that is consistent with this distinction. The final rule also slightly revised the proposed definition for a Pro Forma Transaction that clearly distinguishes between the two abbreviated review procedures based on the twenty percent threshold for transfers of control. Finally, as noted earlier, “Diminution in control” is eliminated because the final rule eliminates that as well.

*Objection.* Level 3 identifies the lack of definition for two vaguely defined and ambiguous terms in § 63.324(j)(2) for “major acquisition” or “substantial market shares” in the proposed regulations. Level 3 believes that this rule using these undefined terms is unnecessary because the Commission has built safeguards into the process sufficient to ensure that a transaction which raises concerns about major acquisitions or substantial market shares will not escape Commission review. Level 3 proposes definitions if the Commission retains this provision using those undefined terms. Level 3 Comments, pp. 12–13. Verizon and Windstream agree with Level 3. Verizon Comments, p. 8, n. 8; Windstream Comments, Annex A, pp. 17–19.

*Disposition.* We agree. The undefined terms in § 63.324(j)(2) are as unnecessary as the provision, given the relationship between these related revisions in the final-form rulemaking. The same applies to an identical § 63.325(j)(2) provision as well.

The final-form rulemaking contains three revisions resolving this concern. The final-form rulemaking reinstates the long-standing practice that the filing of any formal protest or complaint by any entity triggers a Traditional Rule review. This ameliorates objections to differentiating between the treatment of Non-Statutory Advocate formal protests or complaints compared to those of a Statutory Advocate. The final-form rulemaking also abandons attempts to detail concerns with market power and concerns like market share or major acquisitions, best represented in a proposed mandate to include an Herfindahl-Hirschman Index analysis. Instead, an applicant has to address competitive impact in a filing. Someone with more concerns can file a formal protest or complaint and examine the issue in a Traditional Rule review. The final-form rulemaking deletes a Herfindahl-Hirschman Index mandate consistent with these determinations.

*Objections.* IRRC noted the absence of definitions for “assets” and “customer base” used in § 63.324(a). IRRC

<sup>4</sup> See generally *Palmerton Telephone Company v. Global NAPS South, Inc., et al.*, Docket No. C-2009-2093336, Order entered March 16, 2010.

<sup>5</sup> *Streamlined Regulation Order*, paragraph 28. The FCC carefully distinguishes between applicants that are not dominant with regard to “any service” compared to those that are dominant in one service and not another. This approach apparently reflects Federal definitions of service set out in 47 U.S.C.A. § 153.

asked that both terms be defined. IRRC expressed the same concern for § 63.625(a) as well. IRRC Comments, p. 5. Verizon suggested use of the term applicant as well. Verizon Comments, Annex A, p. 9.

*Disposition.* We agree. The definitions in the final-form rulemaking include a definition for “Assets” and “Customer Base” as well as “applicant” for clarity and consistency.

*Section 63.323. Applicability.* The proposed rulemaking formalized the scope of relief sought in the Level 3 Petition as well as the Comments and Reply Comments of Level 3, Verizon, and the PTA. This provision is consistent with the Commission’s authority to issue a certificate of public convenience granting an application to approve an acquisition, diminution in control, mergers, stock sales or transfers, and transfers of assets or control of a telecommunications public utility under 66 Pa.C.S. §§ 1102(a) and 1103 and 66 Pa.C.S. Chapter 30.

*Objection.* IRRC’s comments recommend amending the regulation to include a reference to a telecommunications public utility’s “affiliated interest” as well. IRRC Comments, p. 4.

*Disposition.* We agree. We also agree with IRRC that there is no need for an extensive provision detailing affiliated interest filing requirements in § 63.626. The Commission deleted that provision given IRRC’s observation that the provision may violate the 66 Pa.C.S. § 3019(b), limitation on affiliated interest agreement review and approval. In addition, the detailed provisions are less effective than a verified statement confirming compliance with the prohibition against cross-subsidization under state and federal law, particularly 66 Pa.C.S. § 3016(f)(1). A verified statement is simply an easier and less expensive way.

*Objection.* The OCA noted that, despite the reference to 66 Pa.C.S. § 102(a)(3), however, the proposed language of § 63.323 does not conform specifically to 66 Pa.C.S. § 1102(a)(3) because it does not include a reference to the applicant’s affiliated interests. The OCA proposes insertion of the clause “and an affiliated interest of a telecommunications public utility” to bring the provision completely within 66 Pa.C.S. § 1102(a)(3). OCA Comments, p. 34; OSBA Comments, p. 7.

*Disposition.* We agree. The proposed rulemaking contained detailed provisions in § 63.326 governing Commission review and approval of affiliated interest transactions. The vast majority of the comments asked the Commission to explain how those detailed provisions were consistent with the language severely limiting Commission review and approval of affiliated interest transactions in 66 Pa.C.S. § 3019(b)(1). The final-form rulemaking removes that section in its entirety to avoid confusing affiliated interest transactions with the Commission’s residual authority to prevent cross-subsidization in 66 Pa.C.S. § 3016(f)(1) and review utility contracts under 66 Pa.C.S. § 2101(a).

We include this language with the caveat that the addition shall not be construed to mandate review and approval in a manner contrary to 66 Pa.C.S. § 3019(b)(1). This addition reflects the Commission’s authority under 66 Pa.C.S. §§ 3019(b)(4), 3016(f)(1).

*Section 63.324. General Rule Transaction.* The proposed rulemaking incorporated the parties’ suggestion that the Commission review mirror federal review by the FCC and the U.S. DOJ. The Commission proposed to complete review and approval of a General Rule transaction within 60 days after publication in the *Pennsylvania Bulletin*.

This reduced the current unlimited review and approval time span under the Traditional Rule.

This provision was modeled on the FCC practice of dating the FCC’s review period from posting at the FCC. In this case, however, web posting is not legal notice in Pennsylvania. The Commission concludes that if a transaction involved changes in conditions of service or rates, legal notice is preferable because it provides for a quicker review on transactions with issues of public concern.

*Section 63.324(a)(1)–(7).* The proposed rulemaking listed the transactions eligible for General Rule review under the 60 day rule. The list is greater than that proposed by the parties. More transactions are included so the Commission can refocus scarce resources on complex, novel, or controversial transactions.

*Objection.* Verizon suggests that, rather than trying to enumerate a list of transactions that might qualify as “general rule transactions,” the Commission could merely refer to the transactions covered by 66 Pa.C.S. § 1102(a)(3) or (4) and preserve its right to reclassify particular transactions as Pro Forma applications or as outside the scope of the abbreviated review for good cause shown. Verizon Comments, pp. 5 and 6.

*Disposition.* The Commission acknowledges Verizon’s point but will not make the revision. A general statement may have the virtue of being more encompassing but we conclude that a list minimizes the filing of formal protests or complaints while providing more clarity and better direction for future applicants.

*Section 63.324(a)(3).* The proposed rulemaking included any dilution in control greater than 10%. This addressed situations in recent mergers in which there was a significant dilution in a public utility’s ownership of stock in the merged or spun-off entity even if there was no loss of control. In those instances, stock ownership was diluted but it never fell below a 51% ownership. In these situations, dilution in voting percentage transfers utility property by reducing but not changing public utility control. These kinds of transactions were included within the regulation because they are transfers of assets even if control is retained.

The proposed rulemaking included telecommunications utility stock transfers within the scope of the regulation and adopted the FCC’s 10% threshold compared to the 20% reflected in the nonbinding Policy Statement. The 10% threshold is based on the 10% relied on by the FCC in the Streamlined Regulation Order<sup>6</sup> and cited by Level 3 in their petition. The proposal also reflects similar decisions by other state regulators on affiliate transactions as well.<sup>7</sup>

*Objection.* Level 3 believed that the transaction described in § 63.324(a)(3) should not be included under the general rule. In most instances, if a party reduces its ownership by 10% or more, it may be adding a new minority owner or an existing owner may be increasing their ownership level. Level 3 believed this rule will have unintended consequences if for example a mutual fund or other investor accumulates more than 10% of the stock of a company on the open market. They do not obtain a board seat or exert any control over the day to day operations of the company. In those circumstances, obtaining approval before that ten percent threshold is impossible. Level 3 Comments, p. 5.

<sup>6</sup> Streamlined Regulation Order, paragraph 30 and n. 65.

<sup>7</sup> In the Matter of the Review of Chapter 4901:1-6, Ohio Administrative Code, Case No. 06-1345-TP-ORD (June 6, 2007), Proposed Rule 4901:1-6-09(D) Affiliate Transactions, p. 48.

*Disposition.* We agree with Level 3. Given our earlier agreement with Level 3's concerns about the definition, we also agree with Level 3 on the need for striking § 63.324(a)(3) and the ancillary definition from the final-form rulemaking. Level 3 presents a cogent argument that inclusion appears to burden market transactions, particularly when the concern in this section is already included within the direct and indirect transfers of control under § 63.324(a)(2). The final-form rulemaking also removes the equivalent provision for Pro Forma review in § 63.235(a)(3) for the same reason and for consistency.

*Section 63.324(a)(6).* The proposed rulemaking included transfers of a customer base within the general rule if there is a change in terms of service or rates. Otherwise, a transfer of a customer base is a Pro Forma Transaction under § 63.325. The Commission was concerned about customer impact and education, particularly in matters involving a change in rates or conditions of service. This is entirely consistent with the FCC's Streamlined Regulation Order and the Commission's current regulations governing Abandonment of Service in §§ 63.301 et seq., particularly § 63.305. The Commission has faced a lot of customer inquiries with transfers of a customer base, particularly where there are changes in rates or conditions of service. The lack of notice may, in the worst case, constitute a form of sanctioned slamming.

*Objections.* Level 3 did not object to the proposal but sought three clarifications. Level 3 notes that a customer base is an "asset" under § 63.324(a)(1) and would be subject to the 10% threshold whereas the § 63.324(a)(6) provision seems to contemplate a complete transfer of the customer base. There is uncertainty about how a partial transfer of a customer base is managed under the rules, particularly which provision will control. Level 3 also seeks to know if the "change in rates" provision includes rate reductions. Finally, Level 3 wants assurances that post-transaction rate changes through company integration would be done as a tariff filing. IRRC Comments, p. 5; Level 3 Comments, pp. 6 and 7.

*Disposition.* We agree with Level 3 on the need to explain the interplay of §§ 63.324(a)(1) and 63.324(a)(6) albeit in a manner consistent with retention of the 20% threshold figure.

The transfer of a customer base without a change in rates or terms of service but exceeding 20% would be a transfer of an asset under § 63.324(a)(1) and subject to General Rule. The same transfer of a customer base without a change in rates or terms of service under § 63.324(a)(6) that is less than 20% would be a transfer of an asset under § 63.325(a)(1) and, as a consequence, it would be subject to Pro Forma review. The critical feature is the presence or absence of a change in rates or terms of service, including rate reductions. It is a change in rates, either an increase or a decrease, that is usually important to consumers. The final-form rulemaking reflects that and, as Level 3 notes, a change following approval of an application would become a tariff issue.

*Section 63.324(b).* *Reclassification of a general rule transaction.* This provision addressed reclassification of a General Rule Transaction.

Section 63.324(b) stated that reclassification would favor a change to a Pro Forma Transaction classification. Section 63.324(b)(1)—(3) governed the new "trigger date" for review if a transaction is reclassified. In all instances, the "trigger date" would be the date the Commission informs the applicant of a reclassification. These provisions provided an applicant with a right of appeal directly

to the Commission, using a process set out in § 5.44 of our rules, if an applicant disputes reclassification.

*Objections.* IRRC recommended that the Statutory Advocates be given notice of any reclassification. IRRC Comments, p. 5. OSBA suggested language emphasizing the reclassification to Pro Forma review. OSBA Comments, Annex A, p. 8.

*Disposition.* In response to IRRC's concern, the final-form rulemaking will publish applications for transfers of control in the *Pennsylvania Bulletin*. This notice allows the public, the Statutory Advocates, and the applicant to file a formal protest or complaint or challenge to a reclassification. That notice will contain any § 63.324(b) or § 63.325(b) reclassification. A reclassification challenge is filed during the fifteen day protest period.

The Commission will address any reclassification challenge involving an unprotested application during review and approval of the application. A challenge to any reclassification involving a protested application subjects the application to the Traditional Rule and, there, the challenge is considered in that review.

We do not think it appropriate to rule that an applicant's challenge to reclassification in an abbreviated review transaction subjects the application to Traditional Rule review in the absence of another filing of a formal protest or complaint that has already made the application a protested application.

*Section 63.324(c).* *Notification requirements for general rule transactions.* The proposed rulemaking contained a revised version of proposals presented by Level 3, Verizon, and the PTA.

Section 63.324(c) proposed that a filing be submitted no later than 60 days before the closing of any transaction. The Commission agreed with Verizon on the need for a viable period to trigger review. The Commission recognized that an applicant seeks approval on or right at the closing, not significantly after. By allowing a filing to occur 45, 30, or 15 days before a closing, the proposed 60 day review period would have extended beyond the closing. The proposed regulation contained a "trigger date" for filing 60 days before closing a transaction. Barring some unforeseen event, an applicant would have had Commission approval on or shortly near their anticipated closing date.

The proposed § 63.324(c)(1)—(4) adopted suggestions from Level 3 and Verizon that a filing be made at the time that any filing is made with the FCC or the U.S. DOJ. This provision also required additional notification on subsequent filings, including providing notice to the statutory advocates and the Commission.

Section 63.324(c)(5) required notifications if the Commission requires it in response to a request. The first would be at the request of a statutory advocate. The second would be at the request of another telecommunications public utility. The third and fourth are at the request of staff or a person or party with a stake in the transaction.

This provision required notification when a party does not file a protest or delay a proceeding but wants to keep abreast about a transaction. This provision provided an alternative to a formal adjudicatory proceeding in limited instances. The Commission proposed a viable and less expensive way of keeping abreast of a proceeding.<sup>8</sup>

<sup>8</sup> Telephone Company in Pennsylvania Eliminates Provisions Restricting Competition to Address Justice Department Concerns, Procompetitive Changes to Rural Incumbent Telephone Company's Settlements with New Entrants Will Deter Misuse of



*Objections.* OSBA wanted the rules to require the application to be served on the Statutory Advocates. OSBA Comments, Annex A, p. 8. Verizon would have deleted most of the filing requirements, limited the notice mandate to only those applications that required a certificate of public convenience, and filed the initial application on the same day as the first filing made with a federal agency. Verizon Comments, pp. 4 and 5. PTA did not think it necessary to require an applicant to respond to requests from the Statutory Advocates, other carriers, the Commission, or the public. PTA Comments, pp. 5 and 6.

*Disposition.* We agree with the OSBA that the Statutory Advocates should be provided copies of the application and any updates. We do not agree that service is required. That unnecessarily increases costs. Service is a legal requirement whereas providing a copy is a notice requirement. We agree with Verizon that an applicant should be allowed to file on the same date that they file with a federal agency. We also agree with Verizon that the term Applicant should be used as opposed to another term. Verizon Comments, Annex A, p. 9.

We disagree that substantial revision in the information requirements is necessary. The purpose of the information is to discourage the filing of formal complaints and protests simply to get information and updates. This keeps the public updated without making a formal filing that would also trigger Traditional Rule review.

*Section 63.324(d). Contents of Notification for General Rule Transactions.* This provision detailed the upfront filing requirements. The list incorporated the filing requirements in § 5.14 of the Commission's rules of administrative practice and procedure to promote consistency and self-contained provisions.

This provision relied on the detailed information requirements the FCC imposed on applicants for streamlined review in the Streamlined Regulation Order. The Commission's review of the Streamlined Regulation Order identified significant information requirements beyond those identified in the comments. The Commission agreed that, in this instance, regulatory uniformity and predictability warranted reliance on these requirements as opposed to unique mandates for the Commission.

Section 63.324(d)(11) listed the affirmative benefits that an applicant must allege in support of an application. This facilitated compliance with the obligation under Pennsylvania law, set out in *City of York v. Pa. PUC*, 295 A.2d 825 (Pa. 1972) and *Popowsky v. Pa. PUC*, 937 A.2d 1040 (Pa. 2007) requiring that a merger demonstrate an affirmative public benefit. This provision allowed the Commission to determine when, and under what circumstances, conditions may be appropriate under Section 1103 to meet this requirement.

*Objection.* IRRC asked the Commission to explain how the regulations complied with the *City of York* standard of review. IRRC Comments, pp. 3 and 4.

*Disposition.* The final regulations reiterate word-for-word the *City of York* standard in § 63.324(d)(11)(i) that will be applicable to a merger or similar transaction. This addresses the concern about not extending that precedent.

Section 63.324(d)(11)(ii) is revised to require an applicant to propose findings sufficient to meet the 66 Pa.C.S. § 1103(a) determination that a Certificate of Public Convenience "is necessary or proper for the service, accommo-

ation, convenience, or safety of the public." This addresses OCA's concern with making findings in a manner that is consistent with the 66 Pa.C.S. § 1103(a) obligation to make findings.

Section 63.324(d)(11)(iii) requires an applicant to append a verified statement on the transaction's impact on competition in Pennsylvania. This effectively negates the need for other filing requirements on competition.

*Objection.* IRRC asked why incumbent carriers and competitive carriers had identical requirements in §§ 63.324(d) and 63.325(d) even though incumbents also had broadband deployment commitments and COLR obligations. IRRC Comments, p. 4.

*Disposition.* The final-form regulations on filing requirements in §§ 63.324(d) and 63.325(d) contains two provisions requiring the applicant to address, as appropriate, their respective broadband deployment commitment in § 63.324(d)(21) and their COLR obligation in § 63.324(d)(22). These requirements are also set out in §§ 63.325(d)(21) and 63.325(d)(22) for Pro Forma applications. They are not limited to "ILECs" for the reasons set out below.

Currently, incumbent carriers have broadband deployment commitments under 66 Pa.C.S. § 3019(b). However, federal developments in pursuit of a National Broadband Plan issued in March 2010 envision reforming the Federal Universal Service Fund (FUSF) to transition support from narrowband voice to deployment of a broadband network.

The proposal to only require incumbent carriers to address any broadband deployment commitment is an older paradigm undergoing rapid change, including current proposals to support broadband deployment commitments using Federal grants and loans. Sections 63.324(d)(21) and 63.325(d)(21) require any applicant with a broadband deployment commitment under state or federal law to address compliance with that commitment in Pennsylvania.

In recognition of IRRC's concern about COLR, the final regulation revised the applicant's filing requirements in §§ 63.624(d)(22) and 63.625(d)(22) to address that concern albeit one required of any applicant with an Eligible Telecommunications Carrier (ETC) status. An applicant with ETC status will have to file a verified statement affirming that they will continue to comply with the requirement.

*Objection.* The OSBA proposed that an applicant provide a verified statement addressing the expected effect on the applicant's capital structure over the next five years. OSBA Comments, pp. 9 and 10 and Annex A, p. 19.

*Disposition.* We agree. The final regulations in §§ 63.324(d)(20) and 63.325(d)(20) include the OSBA proposal. We use the term "applicant" here as well since it is more encompassing and Verizon's suggestion for clarity and consistency.

*Objection.* Neutral Tandem wants the Commission to require an applicant to provide information on their 3-year history of regulatory compliance under State and Federal law in § 63.324(d)(12). Neutral Tandem Comments, p. 3.

*Disposition.* We agree. The final regulations in §§ 63.324(d)(12) and 63.325(d)(12) adopt the proposed revision for clarity and consistency.

*Objection.* Level 3 raised concerns and proposed alternative language for § 63.342(d)(6). Level 3 was concerned

Regulatory Challenges and Benefit Rural Pennsylvania Telephone Customers, United States Department of Justice, Antitrust Division, Press Release 07-448, June 25, 2007 (Pennsylvania Telco Release).

that the § 63.324(d)(6) mandate to describe the geographic area was too broad, confusing, and would consume resources identifying every geographic calling area. Level 3 proposed, instead, a revision that the applicant provide “a summary of the services and service territories” impacted by the application. Level 3 Comments, pp. 7 and 8.

*Disposition.* We agree with Level 3. The final-form rulemaking adopts the proposed language in §§ 63.324(d)(6) and 63.325(d)(6).

*Objections.* Level 3 was concerned about the § 63.324(d)(13) verified statement that every customer received notice. Level 3 thought this inadvisable because it is highly unlikely that individualized notices can be provided, securities law prevent giving notice until a transaction becomes public, and relying on billing inserts will delay the process because those can take up to 60 days. Level 3 proposed that the applicant affirm that “customers will receive” notice. Level 3 Comments, pp. 8 and 9.

IRRC asked how a verified statement that customers received notice for General Rule transactions in § 63.324(d)(13) worked with a § 63.324(g) requirement to provide notice to customers of a rate or terms of service change in consultation with the Commission’s Bureau of Consumer Service. IRRC Comments, pp. 5 and 6.

*Disposition.* We agree with IRRC and Level 3. A verified commitment to providing notice may be more workable for General Rule and Pro Forma abbreviated review applications. However, the Commission remains concerned that customers receive prior notice of an impending transaction, most particularly when the transaction involves a change in rate or terms of service—changes that subject an abbreviated review application to General Rule review. This rule is consistent with § 63.305 of our rules on abandonment of service by a local service provider.

The final regulations require an applicant to provide prior notice to the consumers. This requires an applicant to provide advance notice unless that is not practical, a possibility raised by Level 3. In that case, the applicant can seek a waiver of this requirement under § 1.2. In either instance, the notice is prepared and approved by the applicant and the Bureau of Consumer Services. This ensures that consumers receive an understandable notice that should discourage the filing of formal protests or complaints by a confused consumer. Moreover, any disagreement between an applicant and the Bureau of Consumer Services can be resolved by a direct appeal to the Commission mirroring the procedures set out in our current rule in § 5.44.

This approach is sound because the final-form rulemaking requires publication of an application seeking abbreviated review. Publication, notice, and protest give consumers and the Statutory Advocates information and a time period to decide on future action. Equally important, this will discourage the filing of those formal protests or complaints that will now subject a General Rule or Pro Forma application to Traditional Rule review.

This solution also addresses IRRC’s concern about consistency with the prior notice provisions in § 63.324(g) and the need to explain how the Commission’s Bureau of Consumer Services will do this. Section 63.324(d)(13) required a verified statement that consumers received notice whereas § 63.324(g) mandates the same except for good cause shown. In § 63.324(g), moreover, the applicant must consult with the Commission’s Bureau of Consumer

Services to ensure the language is understandable and that the consumers receive all the relevant information.

Carriers have historically worked with the Bureau of Consumer Services on such notices, whether in advance or after the fact. This best ensures that consumers receive understandable notice about the transaction. This occurred informally.

The final-form rulemaking anticipates that this informal process will continue here. In the unlikely event an applicant and the Commission staff are unable to agree on suitable language or what constitutes relevant information, the applicant can always appeal from staff action under § 5.44 of our rules.

The final-form rulemaking requires an applicant to provide advance notice under §§ 63.324(d)(13) and 63.325(d)(13) consistent with § 63.324(g) unless prior notice is not practical. In that case, a waiver granted under § 1.2 of our rules allows the applicant to provide notice after the fact.

Transactions involving changes in rates or terms of service, particularly a change in their provider due to a transfer of a customer base, are far more compelling matters to consumers than concerns about competitive impact or transactions that may involve rates but not their consumer rates.

*Objection.* PTA expressed its preference for statements as opposed to verified statements. PTA also suggested that a reference to a pending matter in a federal agency occur also by the electronic location. PTA proposed elimination of the verified statements on “market power” in §§ 63.324(d)(11)(iii) and 63.324(d)(18), the verified statements and copies of other Pennsylvania certificates in § 63.324(d)(14), and the verified statements regarding anticipated regulatory action at the Federal level or by other states in § 63.324(d)(17).

*Disposition.* We agree with PTA on § 63.324(d)(18) and that an electronic reference to a pending matter should be provided but not in place of providing a copy.

We disagree with PTA on eliminating verified statements. Verified statements have clearer legal implications compared to statements. Given the importance of the applications and the public interest, the final regulations retain verified statements. We disagree on eliminating a requirement that an applicant provide verified copies of current Pennsylvania certificates. A complete and comprehensive understanding of an applicant’s operations in Pennsylvania is an important consideration. This is the same logic the Commission used for adopting Neutral Tandem’s proposed language on an applicant’s regulatory history as well.

*Objections.* Verizon would eliminate all verified statements going to eligibility for abbreviated review, the *City of York* standard, impacts on competition, and notices to consumers. Verizon Comments, Annex A, pp. 5–8.

*Disposition.* We conclude that retention of the proposed filing requirements, albeit with some modifications, is important for several reasons. The final filing requirement modifies information on the territory covered, deletes reference to undesirable provisions on competitive impact, and gives an applicant the secondary option of providing consumers notice after the fact when prior notice is not practical. The amended requirements now contained in a submitted application greatly assist the Commission and the public in quickly getting pertinent information about a transaction while reducing the filing of formal protests or complaints. Given that the final-

form rulemaking now holds that the filing of a formal protest or complaint subjects abbreviated review applications to Traditional Rule review, the submission of more information earlier is even more important to discourage the filing of formal protests or complaints.

*Section 63.324(e). Continuing Obligations for Notification of General Rule Transactions.* This provision reflected a determination that the Commission must be given updated notice and information about a pending proceeding. This maximized information and furthered the goal of making abbreviated review workable.

*Objections.* Verizon provided several proposed revisions to the applicant's ongoing obligation to keep the Commission and the interested public current on developments elsewhere if they pertain to an application for abbreviated review pending at the Commission. Verizon Comments, Annex A, p. 8.

*Disposition.* We agree with Verizon. The final-form rulemaking is revised to incorporate much of Verizon's suggestion. The final-form rulemaking adopts Verizon's proposal to inform the Statutory Advocates by providing notice and a copy but they do not impose a legal mandate to "serve" a copy. Instead, providing a copy should reduce costs.

*Section 63.324(f). Commission Publication of General Rule Transactions.* This provision incorporated current publication requirements for applications under § 5.14 of the Commission's rules of administrative practice and procedure. The provision requires notice to consumers for transfers of a customer base.

*Objections.* This was a particularly controversial part of the proposed rulemaking because it would allow some formal filings to be treated as "general comments" as opposed to a formal protest or complaint. Moreover, some formal protests or complaints would not warrant a hearing and unlimited review under Traditional Review.

IRRC thought that the proposal that the Commission "may" reclassify a transaction on the filing of a protest "unless shown otherwise for good cause" was vague. IRRC was concerned that the regulation did not identify how a General Rule Transaction would be reclassified. IRRC suggested that the Commission develop criteria used in making a reclassification determination. This concern applied to similar provisions in the Pro Forma proposed regulation in § 63.325(f)(2)(ii). IRRC Comments, pp. 4 and 5.

Some comments, particularly those of the Statutory Advocates and BCAP, raised due process concerns. OSBA Reply Comments, p. 7; OCA Reply Comments, pp. 7—20; BCAP Comments, pp. 17—23. Other comments, particularly those of Level 3, PTA, and Verizon, supported the proposal. They thought the proposal was consistent with due process while reducing the filing of formal protests or complaint for ancillary purposes. They also thought the proposal was entirely consistent with the *Chester Water Authority* holding that the Commission need not have a formal hearing on every formal protest, particularly when there are no material factual issues in dispute. Level 3 Reply Comments, pp. 5—12; PTA Comments, pp. 5—10; PTA Reply Comments, pp. 17—20.

*Disposition.* After careful consideration of this controversial proposal, we conclude that, although the comments raised legitimate concerns, the suggested modifications are unworkable. Accordingly, we will continue our existing practice. The final-form rulemaking continues the

existing practice that the filing of any formal protest or complaint will subject that application to the Traditional Rule.

Section 63.324(f)(2)(iii) is deleted in the final-form rulemaking given that any formal protest or complaint against a Pro Forma or General Rule transaction subjects the transaction to Traditional Rule review. At the same time, however, if the formal protest or complaint does not raise any material factual disputes, the Traditional Rule review need not include evidentiary hearings.

*Section 63.324(g). Telecommunications public utility notice to customers.* Proposed § 63.324(g)(1) required the applicant to prepare and distribute a prior notice to consumers with the approval of the Commission's Bureau of Consumer Services (BCS). BCS involvement was deemed appropriate because the transaction involved changes in conditions of service or rates, items of particular interest to customers. BCS' involvement would ensure a notice understandable to consumers.

Sections 63.324(g)(2)(i)—(iv) would have distinguished between a general comment that did not involve a formal protest and formal protests. Section 63.324(g)(2)(iii) and (iv) distinguished between formal protests filed by a statutory advocate and the formal protests of others.

*Objections.* IRRC raised three concerns and recommended that the Pro Forma Transaction requirements of § 63.325(g)(1)—(2) mirror those of a General Rule Transaction. First, IRRC asked why a Pro Forma application did not require additional customer notice. Second, a formal protest filed to a Pro Forma application would not reclassify a transaction but one filed under the General Rule does. Third, Statutory Advocates' rights to file formal protests is set out for General Rule transactions but is not discussed for a Pro Forma Transaction. IRRC suggested the rules for a Pro Forma Transaction mirror those of a General Rule Transaction. IRRC Comments, pp. 6—8.

IRRC asked the Commission to explain how the requirement for a verified statement affirming prior consumer notice in the filing requirements provision in §§ 63.624(d) and 63.625(d) meshed with provisions dispensing with that same mandate in §§ 63.324(g) and 63.325(g). IRRC also asked if the applicant would have to secure BCS approval and, if so, how that would work. Finally, IRRC asked how disagreements would be solved. IRRC Comments, pp. 5 and 6.

*Disposition.* IRRC raises some valid points. The final-form regulations in §§ 63.324(g)(1) and (2) and 63.325(g)(1) and (2) are consistent with each other. The final-form rulemaking is revised so that the Commission's disposition of a § 63.324(d)(13) mandate for a verified statement on prior notice meshes with §§ 63.324(g) and 63.325(g). The final-form rulemaking now uniformly requires prior notice to consumers. An applicant can seek a waiver under § 1.2 if prior notice is not practical.

An issue arose about the management of consumer notices when there are transfers of a customer base. These transfers occur frequently but have been rarely addressed until now. These transfers often occur with no prior consumer notice let alone consent. The final regulations resolve this problem by reconciling notice with any pressing need for rapid approval. This reasoning applies with equal force to a Pro Forma Transaction in § 63.325(g)(1) and (2).

Moreover, prior notice is consistent with current regulations governing abandonments of service in § 63.301 et seq., particularly § 63.305. A prior notice that is under-

standable to consumers will discourage formal filings and promote abbreviated review. Any disagreements on the notice between an applicant and staff can be resolved with an appeal to the Commission mirroring the rules in § 5.44. Consequently, the final form regulations will require customer notice for a transaction which transfers a customer base, even in the absence of a change in rates or terms of service.

*Section 63.324(h). Commission Review of Transactions Subject to the General Rule.* This provision formalized the Commission's discretionary authority under 66 Pa.C.S. §§ 1102(a)(3) and 1103, particularly when the imposition of conditions for approval of the transactions is in the public interest. Discretion on the matter of conditions was consistent with due process.

*Objections.* The OCA expressed concern that the proposed rulemaking did not make the requisite findings, did not provide time to review the applications, and did not differentiate between incumbent and competitive carriers. The OCA recommended using a process that is open and flexible enough to allow for protests. OCA Comments, pp. 15–19; OCA Reply Comments, pp. 1–23, esp. 4–6. Verizon proposed language revisions to clarify that it is the application, not the transactions, reviewed and approved by the Commission. Verizon Comments, Annex A, p. 9.

*Disposition.* We agree that revisions are appropriate for clarity. The final-form rulemaking is revised to buttress the legal, due process, and notice determinations. The rule in § 63.234(d)(11) lists the findings and allegations that an applicant must show to the Commission to facilitate a consideration of the legal *City of York* standard, reach findings required by 66 Pa.C.S. § 1103 for Certificates of Public Convenience, and comply with the consideration of competitive impact. The Commission's disposition of an application in § 63.324(k) or § 63.325(k) will be done based on a review conducted under § 63.324(h)(1)–(4) or § 63.325(h)(1)–(4), respectively. Any concern with due process is bolstered by revised rules which provide that the filing of a formal protest or complaint will subject the transaction to the unlimited time span of Traditional Rule review. The concern with notice is resolved with rule revisions that mandate publication in the *Pennsylvania Bulletin* and a 15 day protest period.

The final-form regulations in §§ 63.324(d)(11), 63.324(h)(1)–(4), and 63.324(k) requires factual filings, Commission review, and issuance of Commission approval sufficient to meet 66 Pa.C.S. §§ 1102 and 1103(a). This abbreviated review is consistent with those legal standards.

*Section 63.324(i). Formal Protests to a General Rule Transaction.* This provision allowed the filing of a formal protest pursuant to the filing requirements set out in the Commission's Rule of Practice and Procedure.

*Objections and Disposition.* There were no objections to this section. However, the proposed rulemaking refers only to Formal Protests whereas the final regulations address formal protests and complaints based on filed comments. The revision here repeats that for consistency.

*Section 63.324(j). Reclassification of a Transaction from the General Rule.* This provision recognized that some transactions may be reclassified from the General Rule to either a Pro Forma Transaction or a Traditional Rule transaction. The provision also provided that the filing of a general comment or formal complaint or protest was not always tantamount to a formal protest requiring Traditional Rule review.

*Objections.* IRRC was concerned that the time periods in §§ 63.324(j)(1) and 63.325(j)(1) were too short and would encourage formal protests to simply get more time for review. IRRC also questioned why as a matter of equity a different result should hold for the public compared to a Statutory Advocate. IRRC Comments, pp. 4 and 6.

*Disposition.* We agree with IRRC. The final regulations retain the thirty and 60 day review periods for a Pro Forma and General Rule transaction, respectively, with four critical changes.

The final regulations will publish every application in the *Pennsylvania Bulletin*. This addresses concerns with notice and due process.

The notice establishes a 15 day protest period for every application. This addresses concerns with an opportunity to be heard.

The filing of any formal protest or complaint will trigger Traditional Rule review. This addresses the concern with consistent and equitable treatment of any formal protest or complaint by any private or public entity.

Finally, the rules require prior consumer notice. This addresses concerns with consistency between Pro Forma and General Review applications but in a way that minimizes the filing of a formal protest or complaint that would derail that application.

Taken in total, these revisions reduce concerns about the time to review and approve applications while giving all public and parties equal treatment.

*Section 63.324(k). Commission Approval for a General Rule Transaction.* This provision established a 60 day review and approval period for General Rule transactions following publication in the *Pennsylvania Bulletin*.

*Objections.* OCA questioned whether the “deemed approved” status for 60 day General Rule transactions or even a 30-day Pro Forma Transaction met the *City of York* standard or 66 Pa.C.S. §§ 1102 and 1103(a). OCA was concerned that the approval would occur by Secretarial Letter issued within a certain time interval from the date of filing with the Commission. OCA Comments, pp. 1–12; OCA Reply Comments, pp. 1–15.

Level 3 read the “in law and fact” language in §§ 63.324(k)(1) and 63.325(k) as allowing an applicant to close a transaction on the 61st or 31st day, respectively. Level 3 was concerned about interpretations which could require issuance of a Commission approval and the accompanying Certificate of Public Convenience as preconditions to closing a transaction. Level 3 Reply Comments, pp. 10 and 11.

*Disposition.* We understand the concerns and addressed them. The final rule in §§ 63.324(k) and 63.325(k) provides that the Commission will act by Secretarial Letter or Order following a review conducted under § 63.324(h)(1)–(4) or § 63.325(h)(1)–(4), respectively. However, although the Commission fully expects that these time frames for approval will be met, the Commission's time frames for review and approval are directory in nature; as such, in the absence of Commission approval within these time frames, the application is not deemed to be approved.

The rules publish an application, establish a 15 day protest period, and hold that the filing of any formal protest or complaint will subject a General Review transaction to Traditional Rule review. This final rule timelines

may be longer than the one envisioned in the proposed rule. However, the same timeline is also considerably shorter than the unlimited time span for Traditional Rule review.

*Section 63.324(l). Limitations on general rule transactions.* This concluding provision addresses bankruptcy and the possible misuse of a Pro Forma Transaction.

*Objections and Disposition.* There were no objections to this provision.

*Section 63.325. Requirements for a telecommunications public utility seeking Commission approval of a Pro Forma Transaction subject to 66 Pa.C.S. §§ 1102(a)(3) and 1103.* This provision addresses pro forma changes when a carrier or public utility undergoes restructurings that also require a certificate of public convenience.

*Section 63.325(a). Pro Forma Transactions.* This provision provided that Pro Forma review and approval applied to an application that did not change conditions of service or rates or did not reduce an applicant's control by more than 10%. Since there is no change in rates or service conditions, the public interest in these applications is typically far less than an application involving rates or conditions of service.

*Section 63.325(b). Reclassification of a Pro Forma transaction.* This provision mirrored the Section 63.324(b) provision addressing reclassification of a General Rule Transaction. In this case, however, the reclassification would have been to either the General Rule classification or Traditional review.

*Objections.* IIRC recommended that the Statutory Advocates be given notice of any reclassification. IIRC Comments, p. 5.

*Disposition.* As discussed earlier, the final-form rule-making will publish applications for transfers of control in the *Pennsylvania Bulletin* to provide notice. That notice informs the public, the Statutory Advocates, and the applicant of the transaction and any reclassification. That notice also provides any entity an opportunity to file a formal protest or complaint.

We conclude that any challenge to the reclassification should be filed during the 15 day protest period established in the notice. The Commission will address challenges to reclassification during consideration of the application based on whether or not a formal protest or complaint has been filed by any entity.

A challenge to the Commission's reclassification of an unprotested application will not automatically subject the application to Traditional Rule review. In those cases, the Commission or staff will address any reclassification challenge during review and approval of the application. But, a challenge to a protested application will be reviewed during consideration of the application under Traditional Rule review. This is consistent with our determination that a protested Pro Forma or General Rule application will subject the protested application to Traditional Rule review.

*Section 63.325(c). Notification Requirements for Pro Forma Transactions.* This provision mirrored the provision in § 63.324(c) for notification. The reasoning here was similar to the reasoning there. A simultaneous notice requirement to the Commission and the Statutory Advocates or others was considered to be a cost-effective way to keep interested parties informed while keeping a transaction on track. This was expected to minimize formal protests to an application just to stay informed.

*Objections.* OSBA recommended that the application be served on the Statutory Advocates. OSBA Comments, Annex A, p. 16. Verizon advocated deletion of most of the filing requirements. Verizon Comments, pp. 12 and 13. PTA suggested replacing the list in § 63.325(c) with a cite to § 63.624(c). PTA Comments, p. 13.

*Disposition.* For the reason discussed above, we agree that the Statutory Advocates should be provided copies of the application and any updates. We do not agree that service is required. That unnecessarily increases costs since service is a legal requirement whereas providing a copy is a notice requirement.

We disagree that substantial revision in the information update requirements is necessary. The purpose of the update mandate is to discourage the filing of formal complaints and protests to get updates on a proceeding. This is even more important now that the filing of any formal protest or complaint will reclassify an abbreviated Pro Forma application to Traditional Rule review. This keeps the public updated while discouraging a formal protest or complaint to get information.

*Section 63.325(d). Content of notification for Pro Forma Transaction.* This provision mirrored § 63.324(d) on filing requirements. This provided the same list of filing information for abbreviated review, albeit as a Pro Forma Transaction. The final-form rulemaking adopts the revisions set forth in § 63.325(d) similar to § 63.324(d).

*Objections and Disposition.* The objections to § 63.325(d) were like those to § 63.324(d). The final-form regulation in § 63.325(d) mirror § 63.324(d).

*Section 63.325(e). Continuing obligations for notification of Pro Forma Transactions.* This provision mirrored the § 63.324(e) provisions for General Rule transactions. This provision essentially required an applicant to keep the Commission informed about subsequent developments in other jurisdictions pertaining to the transaction pending at the Commission.

*Objections and Disposition.* The final-form regulation in § 63.325(e) mirror those for § 63.324(d) for similar reasons.

*Section 63.325(f). Commission publication of Pro Forma Transaction.* This provision addresses Commission publication about Pro Forma Transactions. The proposed requirements were different from those for General Rule review in § 63.324(f). Pro Forma Transactions are more mundane and involve no changes in conditions of service or rates compared to General Rule transactions.

Section 63.325(f)(1)–(3) no longer required publication in the *Pennsylvania Bulletin* nor was there a formal protest period. The Secretary had the discretion, not the obligation, to post a transaction on the Commission's website. The Secretary also had the discretion to solicit general comments.

*Objections.* IIRC suggested that the word "may" be replaced by the word "will" to promote certainty. IIRC thought this would remove uncertainty on how the Commission and the regulated community would know when the thirty period expired. IIRC also thought that posting on the Commission's website would further notice. IIRC Comments, p. 7. The objections to § 63.325(f) mirror those set out and addressed in § 63.324(f).

*Disposition.* We agree with IIRC's concerns, particularly about posting some applications on the website while publishing others in the *Pennsylvania Bulletin*. The final-form rulemaking addresses that concern by publishing every application in the *Pennsylvania Bulletin* and

establishing a uniform fifteen day protest period. The final-form regulation in § 63.325(f) are similar to those set out in § 63.324(f) for similar reasons.

*Section 63.325(g). Telecommunications public utility notice to customers.* This provision addressed information the applicant provided to customers. These transactions, unlike their counterpart in § 63.324(g), did not involve changes in service conditions or rates. The proposed regulation authorized the applicant to prepare and distribute a prior notice to the customers but need not do so if it were not practical. This approach ensured public notice in a way that did not undermine abbreviated review.

*Objections and Disposition.* IRRC was concerned about the differences in the notice requirements and the treatment of formal protests or complaint for a Pro Forma Transaction compared to General Rule transactions. IRRC suggested that the requirements for Pro Forma Transactions mirror those for General Rule transactions review the reference to § 5.14. IRRC Comments, p. 8.

*Disposition.* We agree with IRRC. The final-form regulation in § 63.325(g) mirror those for § 63.324(g). We also note that the reference to § 5.14 includes § 5.14(c) and (d). The rules in § 5.14(c) on protests contain a reference to § 5.53, a section that sets a 60 day default period for filing a protest unless the notice determines otherwise. Section 5.14(d) establishes a 15 day default period for filing a formal complaint. The final-form rulemaking requires a uniform 15 day period to file a formal protest or complaint. This meshes §§ 5.14(c), 5.14(d), and 5.53.

*Section 63.325(h). Commission Review of Pro Forma Transactions.* This provision formalized the Commission's discretionary authority under 66 Pa.C.S. §§ 1102(a)(3) and 1103, particularly regarding the imposition of conditions when they are needed to justify approving a transaction as in the public interest.

*Objections and Disposition.* The objections to § 63.325(h) mirror those already raised and addressed in § 63.324(h). The major concerns were compliance with the *City of York* standard and 66 Pa.C.S. §§ 1102(a) and 1103(a), sufficient notice provided to consumers, and ensuring the Commission's authority to impose conditions when necessary. These issues arose here even though the rules address transfers when there was no change in rate or conditions of service. Other concerns focused on due process and notice. The final-form rulemaking contains changes similar to § 63.324(h).

*Section 63.325(i). Protests to a Transaction Subject to the General Rule.* This provision explains how to file a formal protest or complaint. There were no objections.

*Section 63.325(j)(1) and (2). Removal of a transaction as a Pro Forma Transaction.* This provision recognized that some transactions may be reclassified.

*Objections and Disposition.* The objections to § 63.325(j)(1) and (2) mirrored those in § 63.324(j)(1) and (2). Although that section addressed applications with changes in rates or service conditions and this provision did not, IRRC's concern with consistency warrants rules that are consistent even if these transactions have no changes in rates or conditions of service. The final-form regulations in § 63.324(j)(1) and (2) do that.

*Section 63.325(k). Commission approval for a Pro Forma Transaction.* This provision established the process for reviewing and approving pro forma transactions.

Sections 63.325(k)(1)—(3) detailed the mechanics. Section 63.325(k)(1) provided that the Commission will issue a Secretarial Letter or order approving a transaction. Section 63.325(k)(2) recognized that staff may need a longer review period, reclassify a transaction, or take other action deemed appropriate. Section 63.325(k)(3) provided that final staff action shall be taken in writing and be subject to an appeal of staff which shall be stated in the writing informing the applicant of the decision.

*Objections and Disposition.* The objections in this provision mirror similar objections for § 63.324(k)(1)—(3). The final-form regulation in § 63.325(k)(1)—(3) mirror disposition of the objections to § 63.324(k)(1)—(3).

*Section 63.325(l). Limitations on Pro Forma transactions.* This concluding provision addresses bankruptcy and the possible misuse of a Pro Forma Transaction.

Section 63.325(l)(1) excludes bankruptcy proceedings from Pro Forma treatment. Bankruptcy filing requirements are addressed in the Commission's regulations at

*Sections 1.61 and 1.62.* There is no compelling reason to revisit that provision.

*Objections and Disposition.* There were no objections to these provisions.

Section 63.325(l)(2) prohibits a carrier or public utility from using this Pro Forma provision to abandon existing conditions of service, like payment dates and penalty provisions, or embed a rate change in an otherwise seamless transaction. This is consistent with the FCC's Streamlined Regulation Order.<sup>9</sup>

*Objections.* IRRC noted that this provision is lacking in the accompanying provision at § 63.324(l) for General Review transactions. IRRC Comments, p. 8.

*Disposition.* IRRC is correct. The proposed rulemaking contained this provision to prevent misuse of a Pro Forma Transaction as compared to a General Rule transaction. Pro Forma transactions do not involve changes in rates or conditions of service. This provision ensures that an applicant with a transaction involving a change in rates or conditions of service cannot file that transaction as a Pro Forma Transaction instead of filing it as a General Rule or Traditional Rule transaction. If that were to occur and the filing were approved, this provision provides a backstop for subsequent action.

*Section 63.326. Approval of contracts between a carrier or public utility and an affiliated interest under sections 2101(a) and 3019(b) and 3106(f)(1) of Chapter 30.*

The proposed rulemaking was intended to codify the Commission's residual authority over affiliated interest agreements to ensure that they do not cross-subsidize competitive services in violation of 66 Pa.C.S. § 3016(f)(1), as well as the Commission residual authority over utility contracts.

*Objections.* There was substantial opposition to this provision as contrary to 66 Pa.C.S. § 3019(b)(1). Section 3019(b)(1) of 66 Pa.C.S. limits the Commission's review and approval authority over affiliated interest agreements to noncompetitive services. Moreover, 66 Pa.C.S. § 3019(b)(1) provides that any filing must be for notice only and that the Commission is not authorized to approve the agreement.

<sup>9</sup> Streamlined Regulation Order, paragraph 52.

*Disposition.* Although the provision was intended to implement other provisions of residual Commission authority to prevent cross-subsidization, we delete the provision in its entirety.

*Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on January 30, 2008, the Commission submitted a copy of the notice of proposed rulemaking, published at 38 Pa.B. 758 (February 9, 2008), to IRRC and to the House Committee on Consumer Affairs, the Senate Committee on Consumer Protection and Professional Licensure (Committees) for review and comment.

Under section 5(b.1) 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.

The final-form rulemaking was deemed approved by the Committees on June 16, 2010. Under section 5(c) of the Regulatory Review Act, IRRC met on June 17, 2010, and approved the final-form rulemaking.

Accordingly, under 66 Pa.C.S. §§ 502, 1102, 1103, 2101—2107 and 3019, sections 201 and 202 of the act of July 31, 1968 (P.L. 769, No. 240) (45 P.S. §§ 1201 and 1202), known as the Commonwealth Documents Law, and the regulations promulgated thereunder, section 204(b) of the Commonwealth Attorneys Act (71 P.S. § 732.204(b)) and section 745.5 of the Regulatory Review Act, the Commission adopts as final the regulations set forth in Annex A; *Therefore,*

*It Is Ordered That:*

1. The Secretary shall submit this order and Annex A to the Office of the Attorney General for review as to form and legality and to the Governor’s Budget Office for review of fiscal impact.
2. The Secretary shall certify this order and Annex A for review by IRRC and the Committees.
3. The Secretary shall certify this order and Annex A with the Legislative Reference Bureau to be published in the *Pennsylvania Bulletin* as final following review and approval by IRRC and the Committees.
4. Upon final approval by IRRC, the Bureau of Fixed Utility Services shall have delegated authority to: (a) reclassify transactions when publishing notice of a submitted application and review; and (b) review and act on an uncontested Pro Forma transaction subject to § 5.44 of the Commission’s rules of administrative practice and procedure.
5. The regulations of the Commission, 52 Pa. Code Chapter 63, are amended by adding §§ 63.321—63.325 to read as set forth in Annex A.

ROSEMARY CHIAVETTA,  
*Secretary*

*(Editor’s Note:* The proposal to add § 63.326, included in the proposed rulemaking published at 38 Pa.B. 758, has been withdrawn by the Commission.)

*(Editor’s Note:* For the text of the order of the Independent Regulatory Review Commission relating to this document, see 40 Pa.B. 3753 (July 3, 2010).)

**Fiscal Note:** Fiscal Note 57-260 remains valid for the final adoption of the subject regulations.

**Annex A**

**TITLE 52. PUBLIC UTILITIES**  
**PART I. PUBLIC UTILITY COMMISSION**  
**Subpart C. FIXED SERVICE UTILITIES**  
**CHAPTER 63. TELEPHONE SERVICE**

**Subchapter O. ABBREVIATED PROCEDURES FOR REVIEW AND APPROVAL OF TRANSFER OF CONTROL FOR TELECOMMUNICATIONS PUBLIC UTILITIES**

Sec.	
63.321.	Purpose.
63.322.	Definitions.
63.323.	Applicability.
63.324.	Commission approval of a general rule transaction subject to 66 Pa.C.S. §§ 1102(a)(3) and 1103.
63.325.	Commission approval of a pro forma transaction subject to 66 Pa.C.S. §§ 1102(a)(3) and 1103.

**§ 63.321. Purpose.**

This subchapter establishes cost-effective review and approval periods that abbreviate the traditional unlimited time for approving an application seeking Commission approval of an acquisition, merger, stock sales or transfers, transfer of assets or transfer of control of a telecommunications public utility requiring a certificate of public convenience under 66 Pa.C.S. § 1102(a)(3) (relating to enumeration of acts requiring certificate).

**§ 63.322. Definitions.**

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

*Applicant*—A carrier, incumbent local exchange carrier, or telecommunications public utility seeking Commission review and approval of a transaction under 66 Pa.C.S. §§ 1102 and 1103 (relating to enumeration of acts requiring certificate; and procedure to obtain certificates of public convenience).

*Assets*—Property of all kinds, real and personal, tangible and intangible, including patents and causes of action which belong to an applicant as defined in this section under State and Federal law.

*Carrier*—An entity defined as a “public utility” in 66 Pa.C.S. § 102 (relating to definitions) or defined as a “public utility” in 66 Pa.C.S. § 102 and certificated by the Commission under 66 Pa.C.S. § 1102(a).

*Controlling interest*—An interest, held by a person or group acting in concert, which enables the beneficial holder or holders to control 20% or more, either within this Commonwealth or Nationwide, whichever is larger, of the voting interest in the telecommunications public utility or its parent, regardless of the remoteness of the holder or holders or the transaction. A contingent right may not be included.

*Customer base*—An asset of an applicant consisting of all or a portion of the customers served by the applicant.

*Formal complaint*—The term as defined in § 1.8 (relating to definitions) of the Commission’s rules of practice and procedure.

*Formal investigation*—The term as defined in § 1.8 of the Commission’s rules of practice and procedure.

*Formal proceeding*—The term as defined in § 1.8 of the Commission’s rules of practice and procedure.

*General rule transaction*—A transaction resulting in a change in rates or conditions of service or which, taken

together with all previous internal corporate restructurings, changes the applicant's controlling interest greater than 20%.

*Incumbent local exchange carrier*—A local exchange carrier as defined in section 3(26) of the Telecommunications Act of 1934 (47 U.S.C.A. § 153) or a local exchange telecommunications company as defined in 66 Pa.C.S. § 3012 (relating to definitions) including a certificated carrier under 66 Pa.C.S. § 1102(a).

*Informal complaint*—The term as defined in § 1.8 of the Commission's rules of practice and procedure.

*Informal investigation*—The term as defined in § 1.8 of the Commission's rules of practice and procedure.

*Informal proceeding*—The term as defined in § 1.8 of the Commission's rules of practice and procedure.

*Party*—The term as defined in § 1.8 of the Commission's rules of practice and procedure.

*Pennsylvania legal counsel*—The attorney of record appearing before the Commission as required under §§ 1.21 and 1.22 (relating to appearance; and appearance by attorney or certified legal intern) of the Commission's rules of practice and procedure.

*Person*—The term as defined in § 1.8 of the Commission's rules of practice and procedure.

*Pro forma transaction*—A transaction that is seamless to the customer and does not result in a change in rates or conditions of service which, taken together with all previous internal corporate restructurings, does not change the applicant's controlling interest greater than 20%.

*Staff*—The term as defined in § 1.8 of the Commission's rules of practice and procedure.

*Statutory advocate*—The term as defined in § 1.8 of the Commission's rules of practice and procedure.

*Telecommunications public utility*—An entity that provides telecommunications service as defined in section 3(46) of the Telecommunications Act of 1934 or 66 Pa.C.S. § 3012 or as a carrier.

*Verification*—The term as defined in § 1.8 of the Commission's rules of practice and procedure.

### § 63.323. Applicability.

This subchapter applies to an applicant and the affiliate of an applicant seeking Commission approval for an acquisition, merger, stock sales or transfers, transfer of assets or transfer of control of an applicant requiring a certificate of public convenience under 66 Pa.C.S. § 1102(a)(3) (relating to enumeration of acts requiring certificate) or approval of a contract between public utilities and affiliates.

### § 63.324. Commission approval of a general rule transaction subject to 66 Pa.C.S. §§ 1102(a)(3) and 1103.

(a) *General rule transactions.* The following transactions of an applicant involving a change in conditions of service or rates that seek Commission approval for acquisition, merger, stock sales or transfers, transfer of assets or transfer of control of an applicant require notification to the Commission and approval by the Commission as a general rule transaction:

(1) A transaction resulting in the transfer of 20% or more of the assets of an applicant.

(2) A transaction resulting in the transfer of 20% or more of the direct or indirect control of an applicant.

(3) A transaction requiring a certificate of public convenience issued under 66 Pa.C.S. § 1102(a) (relating to enumeration of acts requiring certificate).

(4) A transaction subject to evaluation under the statement of policy on transfer of control. See § 69.901 (relating to utility stock transfer under 66 Pa.C.S. § 1102(a)(3)).

(5) A transaction that transfers the customer base of an applicant and involves a change in conditions of service or rates.

(6) A transaction subjected to this subchapter by decision of the Commission, including a transaction no longer classified as a general rule transaction by the Commission.

(b) *Reclassification of a general rule transaction.* When an applicant seeks review and approval of a transaction as a general rule transaction and the Commission reclassifies the general rule transaction, the Commission will notify the applicant of the reclassification by notice published in the *Pennsylvania Bulletin*. An applicant may file a challenge to the reclassification during the protest period established by the notice. If a formal protest or complaint to the transaction is filed, the challenge will be reviewed as part of a traditional rule review proceeding. If no formal protest or complaint to the transaction is filed, the challenge will be reviewed by the Commission as part of the review of the transaction.

(c) *Notification requirements for general rule transactions.* Notification of a general rule transaction shall be filed with the Commission on the date of filing with a Federal regulatory agency seeking Federal approval of a general rule transaction or no later than 60 days prior to the closing of a transaction subject to this subchapter, whichever is longer. The applicant filing the notification shall comply with the Commission's rules of practice and procedure governing applications. (See §§ 5.11—5.14 (relating to applications).) The applicant shall clearly state that the application is a general rule transaction and provide a copy of the application to the Commission and the statutory advocates. An applicant shall provide an updated copy of any subsequent filings to the Commission and the statutory advocates in the following circumstances:

(1) Filing with the Federal Communications Commission (FCC) of an application seeking approval of the transaction (FCC application).

(2) Filing of a notice with the United States Department of Justice (U.S. DOJ) under the Hart-Scott-Rodino Antitrust Improvements Act (15 U.S.C.A. §§ 15c—15h, 18a and 66) (HSR Filing).

(3) Filing by an applicant of a pleading responding to a formal or informal complaint, investigation, or proceeding undertaken by the FCC or the U.S. DOJ or other State or Federal regulatory agency involving the transaction.

(4) Filing required by the Commission from an applicant in response to a notification by the Commission that simultaneous notification is appropriate to protect the public interest.

(5) Filing required by the Commission from an applicant in response to a request by any of the following:



- (i) A request by a statutory advocate.
- (ii) A request by a carrier with a certificate of public convenience obtained under 66 Pa.C.S. § 1102(a) for a copy.

- (iii) A request by the Commission or staff for a copy.
- (iv) A request by a person or party for a copy.

(d) *Content of notification for general rule transactions.* In addition to the information required under § 5.12 (relating to contents of applications) of the Commission's rules of practice and procedure, a general rule transaction must contain the following information:

(1) The name, address and telephone number of each party or applicant to the transaction.

(2) The government, state or territory under the laws of which each corporate or partnership applicant to the transaction is organized.

(3) The name, title, post office address and telephone number of the officer or contact point, including legal counsel in this Commonwealth, to whom correspondence concerning the transaction is to be addressed.

(4) The name, address, citizenship and principal place of business any person, party or entity that directly or indirectly owns more than 20% of the equity of the applicant, and the percentage of equity owned by each of those entities (to the nearest 1%).

(5) A summary description of the transaction.

(6) A summary of the services and the service territories in this Commonwealth that will be affected by the transaction.

(7) A verified statement as to how the transaction fits into one or more of the categories subject to the general rule for notification.

(8) Identification of other transactions related to the transaction.

(9) A verified statement whether the transaction warrants special consideration because either party to the transaction is facing imminent business failure.

(10) Identification of a separately filed waiver request sought in conjunction with the transaction.

(11) A verified statement containing facts and allegations establishing:

(i) For a merger or similar transaction, how the transaction will affirmatively promote the service, accommodation, convenience, or safety of the public in some substantial way as required by State law.

(ii) Findings that approval for a transaction subject to 66 Pa.C.S. § 1103(a) (relating to procedure to obtain certificates of public convenience) is necessary or proper for the service, accommodation, convenience, or safety of the public.

(iii) The impact of the transaction on competition.

(12) A verified statement affirming that the applicant is in compliance with Commission obligations and filings and a listing of all State and Federal proceedings when:

(i) Within the 3-year period prior to filing the application, the applicant was found to have violated either State or Federal requirements.

(ii) Within the 3-year period prior to filing the application, the applicant is alleged to have violated either State or Federal requirements.

(13) A verified statement affirming that customers received prior notice. Notice shall be accomplished using a notice approved by the Commission's Bureau of Consumer Services (BCS). Any disagreement between the applicant and BCS shall be addressed by an appeal from an action of staff mirroring the process in § 5.44 (relating to petitions for appeal from actions of the staff) of the Commission's rules of practice and procedure.

(14) A verified statement containing a copy of any Commonwealth utility certificates held by the applicant.

(15) A verified statement on the effect of the transaction on existing Commonwealth tariffs. If applicable or in response to a request from staff, an applicant shall provide a red-line document identifying changes in existing Commonwealth tariffs before and after the transaction for which the applicant seeks approval from the Commission.

(16) A verified statement on the transaction's effect on the existing affiliate interest agreements of the applicant.

(17) A verified statement establishing that no State or Federal regulatory agency is expected to undertake an informal or formal investigation, complaint or proceeding relating to the transaction.

(18) Organizational charts showing the effect on the applicant's organization before and after the transaction.

(19) A copy of the application filed at the FCC or a notice filed with the U.S. DOJ, if any, including the electronic location on the agency's web site.

(20) A verified statement setting forth the expected public effect of the transaction on the capital structure of the applicant over the next 5 years.

(21) For an applicant subject to a broadband deployment commitment under Federal or State law, a verified statement affirming that the applicant is in compliance with that commitment.

(22) For an applicant with eligible telecommunications carrier status under Federal and State law, a verified statement affirming that the applicant is in compliance with the law and that the applicant will continue to be in compliance with the law.

(23) A verified statement affirming that the transaction complies with the prohibition against cross-subsidization imposed under Federal and State law.

(e) *Continuing obligations for notification of general rule transactions.* When a Commission or Federal proceeding related to a transaction that is the subject of the general rule transaction is pending, the applicant to the transaction shall file with the Commission and provide to the statutory advocates copies of all procedural motions, public responses to discovery, and orders or other actions addressing or terminating the proceeding. The applicant shall supplement the application with any FCC or U.S. DOJ public notice issued concerning the transaction.

(f) *Commission publication and reclassification of general rule transactions.*

(1) The Secretary will publish notice of a general rule transaction in the *Pennsylvania Bulletin*. The Secretary may post notice of the general rule transaction on the Commission's web site.

(2) Any notice will contain a 15-day formal protest period established under § 5.14(d) (relating to applications requiring notice) of the Commission's rules of practice and procedure. A formal protest or complaint

shall constitute a formal protest under § 5.14 of the Commission's rules of practice and procedure and subject the transaction to traditional rule review.

(g) *Applicant notice to customers.*

(1) *General rule transactions involving a change in conditions of service or rates.* An applicant shall prepare and distribute prior notice to the customers of a general rule transaction involving a change in conditions of service or rates with the approval of the BCS. Notice to the customers shall occur prior to Commission approval unless circumstances make distribution prior to approval impractical. Any disagreement between the applicant and BCS shall be addressed by an appeal from an action of staff mirroring § 5.44 of the Commission's rules of practice and procedure.

(2) *Transfers of customer base subject to the general rule.*

(i) A transaction transferring a customer base involving a change in conditions of service or rates shall require prior notice to the customer base prepared with the approval of the BCS. Any disagreement between the applicant and BCS shall be addressed by an appeal from an action of staff mirroring § 5.44 of the Commission's rules of practice and procedure.

(ii) A timely formal protest or complaint to the transfer of a customer base involving a change in conditions of service or rates shall constitute a formal protest under § 5.14 of the Commission's rules of practice and procedure.

(h) *Commission review of transactions subject to the general rule.* The Commission retains the discretion to make inquiries and, after notice and opportunity to be heard, take action to protect the public interest, including:

(1) For a merger or similar transaction, ensuring that the transaction will affirmatively promote the service, accommodation, convenience, or safety of the public in some substantial way as required by State law.

(2) Findings that a transaction subject to 66 Pa.C.S. § 1103(a) is necessary or proper for the service, accommodation, convenience, or safety of the public.

(3) Addressing the impact of the transaction on competition.

(4) The imposition of conditions on approval of the transaction when deemed necessary or proper under 66 Pa.C.S. § 1103.

(i) *Formal protests and complaints to a general rule transaction.* A protest filed to a general rule transaction must comply with the Commission's rules of practice and procedure. (See Subpart A (relating to general provisions).)

(j) *Reclassification of a transaction from the general rule.* The Commission will reclassify an application for approval of a general rule transaction in the following circumstances:

(1) The filing of a formal protest or complaint.

(2) The filing involves an acquisition, merger or other transaction that raises novel or important issues.

(3) The Commission determines that reclassification is necessary to protect the public interest.

(k) *Commission approval for a general rule transaction.* The Commission will issue a Secretarial letter or order after review of an unprotested application subject to this

subchapter determining if the application is in the public interest and consistent with 66 Pa.C.S. §§ 1102(a) and 1103(a) no later than 60 days after expiration of the protest period established in the public notice in the *Pennsylvania Bulletin*.

(1) The Commission will determine, for a merger or similar transaction, whether the transaction affirmatively promotes the service, accommodation, convenience, or safety to the public in some substantial way.

(2) The Commission will make findings whether a transaction subject to 66 Pa.C.S. § 1103(a) is necessary for the service, accommodation, convenience, or safety of the public and state whether the Commission will issue a certificate of public convenience authorizing the transaction under 66 Pa.C.S. §§ 1102(a) and 1103.

(3) The Commission will address the impact of the general rule transaction on competition.

(4) The Commission will determine whether to impose conditions deemed necessary or proper under 66 Pa.C.S. § 1103 in conjunction with a determination on approving a general rule transaction.

(5) The Commission or staff may extend the review and approval period, reject the filing or transaction, remove a transaction from the general transaction rule or take other action deemed appropriate to protect the public interest.

(6) A staff action will be in writing and inform the applicant of the right of appeal. An appeal from an action of staff shall be governed by the procedures governing appeals from an action of staff under § 5.44 of the Commission's rules of practice and procedure.

(l) *Limitations on general rule transactions.*

(1) *Bankruptcy proceedings.* General rule transactions related to bankruptcy remain subject to §§ 1.61 and 1.62 (relating to matters before other tribunals) of the Commission's rules of practice and procedure.

(2) *Scope of general rule transactions.* A general rule transaction may not operate to permit an applicant to circumvent an obligation by doing or refraining from doing anything that an applicant must do or cannot do.

**§ 63.325. Commission approval of a pro forma transaction subject to 66 Pa.C.S. §§ 1102(a)(3) and 1103.**

(a) *Pro forma transactions.* The following transactions of an applicant not involving a change in conditions of service or rates that seek Commission approval for acquisition, merger, stock sales or transfers, transfer of assets or transfer of control of an applicant require notification to the Commission and approval by the Commission as a pro forma transaction:

(1) A transaction resulting in the transfer of less than 20% of the assets of an applicant.

(2) A transaction resulting in the transfer of less than 20% of the direct or indirect control of an applicant.

(3) A transaction requiring a certificate of public convenience issued under 66 Pa.C.S. § 1102(a) (relating to enumeration of acts requiring certificate).

(4) A transaction subject to evaluation under the statement of policy on transfer of control, § 69.901 (relating to utility stock transfer under 66 Pa.C.S. § 1102(a)(3)).

(5) A transaction that transfers the customer base of an applicant and does not involve a change in conditions of service or rates.

(6) A transaction subjected to this subchapter by decision of the Commission, including a pro forma transaction no longer classified as a pro forma transaction by the Commission.

(b) *Reclassification of a pro forma transaction.* When an applicant seeks review and approval of a transaction as a pro forma transaction and the Commission reclassifies the pro forma transaction, the Commission will notify the applicant of the reclassification by notice published in the *Pennsylvania Bulletin*. An applicant may file a challenge to the reclassification during the protest period established by the notice. If a formal protest or complaint to the transaction is filed, the challenge will be reviewed as part of a traditional rule review proceeding. If no formal protest or complaint to the transaction is filed, the challenge will be reviewed by the Commission as part of the review of the transaction.

(c) *Notification requirements for pro forma transactions.* Notification of a pro forma transaction shall be filed with the Commission on the date of filing with a Federal regulatory agency seeking Federal approval of a pro forma transaction or no later than 30 days prior to the closing of a pro forma transaction subject to this subchapter, whichever is longer. The applicant filing the notification shall comply with the Commission's rules of practice and procedure governing applications. The applicant shall clearly state that the application is a pro forma transaction and provide a copy of the application to the Commission and the statutory advocates. An applicant shall provide an updated copy of any subsequent filings to the Commission and the statutory advocates in the following circumstances:

(1) Filing with the Federal Communications Commission (FCC) of an application seeking approval of the transaction (FCC application).

(2) Filing of a notice with the United States Department of Justice (U.S. DOJ) pursuant to the Hart-Scott-Rodino Antitrust Improvements Act (15 U.S.C.A. §§ 15c—15h, 18a and 66) (HSR Filing).

(3) Filing by an applicant of a pleading responding to a formal or informal complaint, investigation, or proceeding undertaken by the FCC or the U.S. DOJ or other State or Federal regulatory agency involving the transaction.

(4) Filing required by the Commission from an applicant in response to a notification by the Commission that simultaneous notification is appropriate to protect the public interest.

(5) Filing required by the Commission from an applicant in response to a request by any of the following:

- (i) A request by a statutory advocate.
- (ii) A request by a carrier with a certificate of public convenience obtained under 66 Pa.C.S. § 1102(a) for a copy.
- (iii) A request by the Commission or staff for a copy.
- (iv) A request by a person or party for a copy.

(d) *Content of notification for pro forma transactions.* In addition to the information required under § 5.12 (relating to contents of applications) of the Commission's rules of practice and procedure, a pro forma transaction must contain the following information:

(1) The name, address and telephone number of each party or applicant to the transaction.

(2) The government, state or territory under the laws of which each corporate or partnership applicant to the transaction is organized.

(3) The name, title, post office address and telephone number of the officer or contact point, including Pennsylvania legal counsel in this Commonwealth, to whom correspondence concerning the transaction is to be addressed.

(4) The name, address, citizenship and principal place of business of any person, party or entity that directly or indirectly owns more than 20% of the equity of the applicant, and the percentage of equity owned by each of those entities (to the nearest 1%).

(5) A summary description of the transaction.

(6) A summary of the services and the service territories in this Commonwealth that will be affected by the transaction.

(7) A verified statement as to how the transaction fits into one or more of the categories subject to the pro forma rule.

(8) Identification of other transactions related to the transaction.

(9) A verified statement whether the transaction warrants special consideration because either party to the transaction is facing imminent business failure.

(10) Identification of a separately filed waiver request sought in conjunction with the transaction.

(11) A verified statement of facts and allegations establishing:

(i) For a merger or similar transaction, how the transaction will affirmatively promote the service, accommodation, convenience, or safety of the public in some substantial way as required by State law.

(ii) Findings that approval for a transaction subject to 66 Pa.C.S. § 1103(a) (relating to procedure to obtain certificates of public convenience) is necessary or proper for the service, accommodation, convenience, or safety of the public.

(iii) The impact of the transaction on competition.

(12) A verified statement affirming that the applicant is in compliance with Commission obligations and filings and a listing of all State and Federal proceedings when:

(i) Within the 3-year period prior to filing the application, the applicant was found to have violated either State or Federal requirements.

(ii) Within the 3-year period prior to filing the application, the applicant is alleged to have violated either State or Federal requirements.

(13) A verified statement affirming that customers received prior notice. Notice shall be accomplished using a notice approved by the Commission's Bureau of Consumer Services (BCS). Any disagreement between the applicant and BCS shall be addressed by an appeal from an action of staff mirroring § 5.44 (relating to petitions for appeal from actions of the staff) of the Commission's rules of practice and procedure.

(14) A verified statement containing a copy of any Commonwealth utility certificates held by the applicant.

(15) A verified statement on the effect of the transaction on existing Commonwealth tariffs. If applicable or in

response to a request from staff, an applicant shall provide a red-line document identifying changes in existing Commonwealth tariffs before and after the transaction for which the applicant seeks approval from the Commission.

(16) A verified statement on the transaction's effect on the existing affiliate interest agreements of the applicant.

(17) A verified statement establishing that no State or Federal regulatory agency is expected to undertake an informal or formal investigation, complaint or proceeding relating to the transaction.

(18) Organizational charts showing the effect on the applicant's organization before and after the transaction.

(19) A copy of the application filed at the FCC or a notice filed with the U.S. DOJ, if any, including the electronic location on the agency's web site.

(20) A verified statement setting forth the expected public effect of the transaction on the capital structure of the applicant over the next 5 years.

(21) For an applicant subject to a broadband deployment commitment under Federal or State law, a verified statement affirming that the applicant is in compliance with that commitment.

(22) For an applicant with eligible telecommunications carrier status under Federal and State law, a verified statement affirming that the applicant is in compliance with the law and that the applicant will continue to be in compliance with the law.

(23) A verified statement affirming that the transaction complies with the prohibition against cross-subsidization imposed under Federal and State law.

(e) *Continuing obligations for notification of pro forma transactions.* When a Commission or Federal proceeding related to a transaction that is the subject of the pro forma transaction is pending, the applicant seeking approval of a pro forma transaction shall file with the Commission and provide to the statutory advocates copies of all procedural motions, public responses to discovery, and orders or other actions addressing or terminating the proceeding. The applicant shall supplement the application with any FCC or U.S. DOJ public notice issued concerning the transaction.

(f) *Commission publication and reclassification of pro forma transactions.*

(1) The Secretary will publish notice of a pro forma transaction in the *Pennsylvania Bulletin*. The Secretary may post notice of the pro forma transaction on the Commission's web site.

(2) A notice will contain a 15-day formal protest period established under § 5.14(d) (relating to applications requiring notice) of the Commission's rules of practice and procedure. A formal protest or complaint shall constitute a formal protest under § 5.14 of the Commission's rules of practice and procedure and shall subject the transaction to traditional rule review.

(g) *Applicant notice to customers.*

(1) *Pro forma transactions with no change in conditions of service or rates.* An applicant shall prepare and distribute prior notice to the customers of a pro forma transaction involving no change in conditions of service or rates with the approval of the BCS. Any disagreement between the applicant and BCS shall be addressed by an appeal from an action of staff mirroring § 5.44 of the Commission's rules of practice and procedure.

(2) *Transfers of customer base subject to the pro forma rule.*

(i) A transaction transferring a customer base involving no change in conditions of service or rates shall require prior notice to the customer base prepared with the approval of the BCS. Any disagreement between the applicant and BCS shall be addressed by an appeal from an action of staff mirroring § 5.44 of the Commission's rules of practice and procedure.

(ii) A timely formal protest or complaint to the transfer of a customer base involving no change in conditions of service or rates shall constitute a formal protest under § 5.14 of the Commission's rules of practice and procedure.

(h) *Commission review of pro forma transactions.* The Commission retains the discretion to make inquiries and, after notice and opportunity to be heard, take action to protect the public interest, including:

(1) For a merger or similar transaction, ensuring that the transaction will affirmatively promote the service, accommodation, convenience, or safety of the public in some substantial way as required by State law.

(2) Findings that a transaction subject to 66 Pa.C.S. § 1103(a) is necessary or proper for the service, accommodation, convenience, or safety of the public.

(3) Addressing the impact of the transaction on competition.

(4) The imposition of conditions on approval of the transaction when deemed necessary or proper under 66 Pa.C.S. § 1103.

(i) *Formal protests and complaints to a pro forma transaction.* A protest filed to a pro forma transaction must comply with the Commission's rules of practice and procedure.

(j) *Reclassification of a transaction.* The Commission will reclassify an application for approval of a pro forma transaction in the following circumstances:

(1) The filing of a formal protest or complaint.

(2) The filing involves an acquisition, merger or other transaction that raises novel or important issues.

(3) The Commission determines that reclassification is necessary to protect the public interest.

(k) *Commission approval for a pro forma transaction.* The Commission will issue a Secretarial letter or order after review of an unprotested transaction subject to this subchapter determining if the application is in the public interest and consistent with 66 Pa.C.S. §§ 1102(a) and 1103(a) no later than 30 days after expiration of the protest period established in the public notice in the *Pennsylvania Bulletin*.

(1) The Commission will determine for a merger or similar transaction whether the transaction affirmatively promotes the service, accommodation, convenience, or safety of the public in some substantial way.

(2) The Commission will make findings whether a transaction subject to 66 Pa.C.S. § 1103(a) is necessary for the service, accommodation, convenience, or safety of the public and state whether the Commission will issue a certificate of public convenience authorizing the transaction under 66 Pa.C.S. §§ 1102(a) and 1103.

(3) The Commission will address the impact of the pro forma transaction on competition.

(4) The Commission will determine whether to impose conditions deemed necessary or proper under 66 Pa.C.S. § 1103 in conjunction with a determination to approve a pro forma transaction.

(5) The Commission or staff may extend the consideration period, reject the filing or transaction, remove a transaction from the pro forma rule or take other action deemed appropriate to protect the public interest.

(6) A staff action will be in writing and inform the applicant of the right of appeal. An appeal from an action of staff shall be governed by the procedures governing appeals from an action of staff under § 5.44 of the Commission's rules of practice and procedure.

(1) *Limitations on pro forma transactions.*

(1) *Bankruptcy proceedings.* Pro forma changes related to bankruptcy remain subject to §§ 1.61 and 1.62 (relating to matters before other tribunals) of the Commission's rules of practice and procedure.

(2) *Scope on pro forma transactions.* A pro forma transaction may not operate to permit an applicant to abandon a condition of service or rate. A pro forma transaction may not operate to permit an applicant to circumvent an obligation by doing or refraining from doing anything that an applicant must do or cannot do.

[Pa.B. Doc. No. 10-1393. Filed for public inspection July 30, 2010, 9:00 a.m.]

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# PROPOSED RULEMAKING

## DELAWARE RIVER BASIN COMMISSION

[ 25 PA. CODE CH. 901 ]

### Amendments to the Water Quality Regulations, Water Code and Comprehensive Plan to Update Water Quality Criteria for Toxic Pollutants in the Delaware Estuary and Extend These Criteria to Delaware Bay

*Summary:* The Delaware River Basin Commission (Commission or DRBC) will hold a public hearing to receive comments on proposed amendments to the Commission's Water Quality Regulations, Water Code and Comprehensive Plan to update many of the Commission's stream quality objectives (also called water quality criteria) for human health and aquatic life for toxic pollutants in the Delaware Estuary (the Commission's Water Quality Zones 2—5) and to extend application of the criteria to Delaware Bay (the Commission's Water Quality Zone 6). The proposed changes will bring the Commission's criteria for toxic pollutants into conformity with current guidance published by the United States Environmental Protection Agency (EPA) and provide a more consistent regulatory framework for managing the tidal portion of the main stem Delaware River.

*Dates:* The public hearing will take place on Thursday, September 23 at 2:30 p.m. and will continue on that day until all those who wish to testify are afforded an opportunity to do so. Written comments will be accepted through 5 p.m. on Friday, October 1, 2010.

*Addresses:* The public hearing will take place in the Goddard Room at the Commission's office building, located at 25 State Police Drive, West Trenton, NJ. Driving directions are available on the Commission's web site, [www.drbc.net](http://www.drbc.net). Do not rely on Internet mapping services as they may not provide accurate directions to this location.

Written comments may be submitted by e-mail to [regs@drbc.state.nj.us](mailto:regs@drbc.state.nj.us); by fax to Regulations at (609) 883-9522; by United States Mail to Regulations c/o Commission Secretary, DRBC, P. O. Box 7360, West Trenton, NJ 08628-0360; or by private mail carrier to Regulations c/o Commission Secretary, DRBC, 25 State Police Drive, West Trenton, NJ 08628-0360. In all cases, include the commenter's name, address and affiliation if any in the comment and include "Water Quality Criteria" in the subject line.

*Further Information, Contact:* The current rule and the full text of the proposed amendments are posted on the Commission's web site, [www.drbc.net](http://www.drbc.net), along with the report entitled "Water Quality Criteria for Toxic Pollutants for Zones 2—6 of the Delaware Estuary: Basis and Background Document" (DRBC, June 2010) and a set of PowerPoint slides presented to the Commission at the latter's public meeting on December 9, 2009, by the Chair of the Commission's Toxics Advisory Committee. Hard copies of these materials may be obtained for the price of postage by contacting Paula Schmitt at (609) 883-9500, Ext. 224. For questions about the technical basis for the rule, contact Dr. Ronald MacGillivray at (609) 477-7252. For queries about the rulemaking process, contact Pamela Bush at (609) 477-7203.

### Supplementary Information

#### Background

At the request of the states of Delaware, New Jersey and Pennsylvania, which border the Delaware Estuary (hereinafter, the Estuary States), the Commission in 1996 adopted water quality criteria for human health and aquatic life for Water Quality Zones 2—5 (Trenton, NJ to Delaware Bay) of the main stem Delaware River and the tidal portions of its tributaries for a set of pollutants that included the list of Priority Pollutants published by the EPA in accordance with section 307 of the Federal Clean Water Act (CWA); other pollutants for which EPA had published National recommended criteria in accordance with section 304(a) of the CWA; and additional pollutants for which one or more of the Estuary States had adopted criteria. See 40 CFR 401.15 (consisting of a list of 65 toxic pollutants, including categories of pollutants, for which effluent limitations are required in accordance with section 307(a)(1) of the Clean Water Act, 33 U.S.C. § 1317(a)(1)); Appendix A of 40 CFR Part 423 (consisting of a list of 129 "Priority Pollutants," individual chemicals and forms of chemicals for which EPA has established national criteria); and 33 U.S.C. § 1314(a) (providing for criteria development and publication by EPA).

Managing an interstate waterway that is simultaneously an industrial and commercial hub, a source of drinking water for urban and suburban populations in three states and a fragile tidal ecosystem is a complex task. After nearly 15 years of applying uniform human health and aquatic life criteria in the Delaware Estuary, the Commission has determined that maintaining a uniform set of criteria in a single regulatory code is an essential predicate to measuring and managing the ecological health of this vital interstate resource.

Since 1996, EPA has updated its guidance for the development of human health water quality criteria and its list of national recommended water quality criteria for many toxic pollutants to reflect advances in scientific knowledge. Although the states have independently amended some of their criteria to conform to the current guidance and national recommended criteria, the Commission has not yet done so. The result is that many of the Commission's estuary toxics criteria are not currently consistent with state criteria, best available science, or current EPA guidance. Moreover, because the Bay and Estuary comprise a single tidal system in which each water quality zone is at times downstream and at times upstream of the adjacent zone or zones, regulators, dischargers and other stakeholders have determined that they are ill-served by excluding the Bay from application of uniform criteria in the Estuary. Amending the criteria at this time is necessary to restore consistency and fairness in the regulation of discharges, to facilitate coordination among State and Federal programs and to continue to ensure that regulation of water quality in the shared interstate waters of the Estuary and Bay is based on the best science available.

The proposed amendments to the Commission's human health and aquatic life criteria for the Estuary and Bay were developed by the Commission's standing Toxics Advisory Committee (TAC), comprised of representatives of the four basin states—Delaware, New Jersey, New York and Pennsylvania—and members of the academic, agricultural, public health, industrial and municipal sectors and nongovernmental environmental community. The

TAC in 2007 adopted as its objectives: (a) evaluating recent data and current methodologies for establishing water quality criteria for toxic pollutants; and (b) developing recommendations for revising the Commission's 1996 criteria to reflect current science and risk assessment procedures and provide for consistency across interstate waters. The TAC's recommendations were formally presented to the Commissioners at a public meeting on December 9, 2009 by then TAC Chair, Christopher S. Crockett of the Philadelphia Water Department. Dr. Crockett's PowerPoint presentation is available on the Commission's web site.

*No Change Proposed to Criteria for PCBs and Taste and Odor.* The amendments proposed by the Commission in this rulemaking do not include changes to the Commission's criteria for polychlorinated biphenyls (PCBs), currently listed in Table 6 (criteria for carcinogens) and Table 7 (criteria for systemic toxicants) of Article 3 of the Commission's Water Quality Regulations and Water Code, or to the criteria to protect the taste and odor of ingested water and fish, set forth in Table 4 of the same Article. The Commission initiated a separate rulemaking in August of 2009 to update its human health criteria for carcinogenic effects for PCBs in the Delaware Estuary (see 74 FR 41100). The comment period for that proposal ended on October 19, 2009, and the Commission has not yet approved a final rule. The current PCB criteria will continue in effect pending completion of the Commission's separate rulemaking for PCBs. The Commission's Toxics Advisory Committee has not yet taken up the matter of revisions to the criteria to protect taste and odor.

*Proposed Changes.* The Commission's criteria for human health and aquatic life in the Delaware Estuary are listed in tables 3 and 5—7 of section 3.30 "Interstate Streams—Tidal" of the Water Quality Regulations and Water Code. In addition to extending these criteria to Water Quality Zone 6, two major types of changes to the criteria are proposed: (1) compounds are proposed to be added to or deleted from the four tables; and (2) numeric criteria for many of the compounds currently listed in the tables are proposed to be revised. In addition, to assist users sub-headings have been added for categories of pollutants (metals, pesticides, etc.) and the sequence of the parameters has been modified to arrange them within these categories. Minor changes for consistency in spelling and capitalization are also proposed. The additions, deletions and criteria changes are proposed in order to make the list of regulated compounds consistent with current EPA guidance and to ensure the criteria are uniform throughout the shared waters. The Basis and Background Document cited previously sets forth in detail the policies and technical assumptions on which the TAC relied in developing the revised criteria.

The proposed changes to tables 3 and 5—7 are described briefly as follows:

For Table 3, "Maximum Contaminant Levels MCLs ["MCLs"] to be Applied as Human Health Stream Quality Objectives in Zones 2 and 3":

- Antimony, Cadmium, 1,2-Dichloropropane, Ethylbenzene and 1,2,4-Trichlorobenzene are proposed to be removed because the proposed updates to Table 7 (criteria for systemic toxicants) would establish the Commission's criteria for these compounds more stringent than the MCLs.
- Nickel is proposed to be removed because the MCL for nickel was withdrawn by the EPA.

- Chromium (total) is proposed to be replaced by Chromium III for consistency with current EPA guidance.

- Current MCL values for Beryllium, Copper, Lead, alpha-BHC, beta-BHC, 2,4-Dichloro-phenoxyacetic acid (2,4-D), Methoxychlor, Toxaphene, Dioxin (2,3,7,8-TCDD), 2,4,5-Trichloro-phenoxypropionic acid (2,4,5-TP-Silvex), Benzene, Carbon Tetrachloride, 1,2-Dichloroethane, 1,1-Dichloroethylene, Dichloromethane (methylene chloride), Tetrachloroethylene (PCE), Toluene, 1,1,1-Trichloroethane, 1,1,2-Trichloroethane, Trichloroethylene, Vinyl Chloride, Benzo(a)pyrene, Asbestos, Bis(2-Ethylhexyl) Phthalate, Flouride, Nitrate and Pentachlorophenol are proposed to be added because these MCL values were developed by EPA after 1996 in accordance with the Safe Drinking Water Act, 42 U.S.C.A. § 1412g-1(b).

As to Table 5 "Stream Quality Objectives for Toxic Pollutants for the Protection of Aquatic Life," Table 6 "Stream Quality Objectives for Carcinogens" and Table 7 "Stream Quality Objectives for Systemic Toxicants," nearly all of the freshwater and marine criteria are proposed to be updated to conform to current EPA guidance, resulting in minor changes in most instances and substantial changes in some. Most but not all of the proposed criteria are more stringent than the existing criteria.

Proposed changes to Table 6 (criteria for carcinogens) also include the following:

- Beryllium and 1,1-Dichloroethene are proposed to be removed because EPA no longer lists these compounds as carcinogens.
- 1,1,1,2-Tetrachloroethane is proposed to be removed because it is no longer recommended by the EPA for water quality criteria development.
- Arsenic, beta-BHC, N-Nitrosodi-N-butylamine, N-Nitrosodiethylamine, and N-Nitrosopyrrolidine are proposed to be added because EPA and an Estuary State have adopted criteria for them.
- Dinitrotoluene mixture (2, 4 and 2, 6) is proposed to be replaced by 2, 4-Dinitrotoluene to be consistent with current EPA guidance.

- Hexachlorobutadiene is proposed to be moved to Table 6 (criteria for carcinogens) from Table 7 because its toxicity is based on carcinogenicity.

Proposed changes to Table 7 (criteria for systemic toxicants) also include the following:

- 1,1,1,2-Tetrachloroethane is proposed to be removed because it is no longer recommended by the EPA for water quality criteria development.
- Chromium (Total), Methylmercury, alpha-Endosulfan, beta-Endosulfan, Endosulfan Sulfate, Endrin Aldehyde, Benzene, 2-Chloronaphthalene, Cyanide, 2-Methyl-4,6-dinitrophenol, Pentachlorobenzene, 1,2,4,5-Tetrachlorobenzene, 2,4,5-Trichlorophenol, and Vinyl Chloride are proposed to be added to Table 7 because EPA and an Estuary State adopted criteria for them.
- DDT is proposed to be replaced with "DDT and Metabolites (DDD and DDE)" to conform to current EPA guidance relating to the systemic toxicity of DDT and its degradation products, DDD and DDE. DDT, DDD and DDE, which are also deemed to be carcinogens, continue to be listed individually in Table 6.
- Hexachlorobutadiene has been moved from Table 7 to Table 6 because its toxicity is based on carcinogenicity.

• The column identifying EPA classifications is proposed to be removed from Table 7 because this information is not needed for application of the criteria for systemic toxicants. Detailed information on derivation of the criteria, including EPA classifications, is presented in the Basis and Background Document posted on the Commission's web site.

*Extension of Criteria to Delaware Bay (Zone 6).* A new section 3.10.6C.11. is proposed to be added to make tables 3—7 of Article 3 of the Water Quality Regulations and Water Code applicable to Water Quality Zone 6, Delaware Bay.

It is proposed to amend the Water Quality Regulations and Water Code as follows:

Material proposed to be added to the Water Code and Water Quality Regulations is printed in bold face and material proposed to be deleted is enclosed in brackets [ ] and printed in bold face. Asterisks indicate ellipsis of rule text retained without changes. Explanatory text is printed in ordinary style face and enclosed in brackets [ ].

### Section 3.30 Interstate Streams—Tidal.

\* \* \* \* \*

#### 3.30.2 Zone 2.

\* \* \* \* \*

[Amend Tables 3, 5, 6 and 7 following subsection 3.30.2 as indicated to update current criteria and remove and add compounds.]

**TABLE 3: MAXIMUM CONTAMINANT LEVELS TO BE APPLIED AS HUMAN HEALTH STREAM QUALITY OBJECTIVES IN ZONES 2 AND 3 OF THE DELAWARE RIVER ESTUARY.**

<i>Parameter</i>	<i>Maximum Contaminant Level (µg/l)</i>
<b>Metals</b>	
[ Antimony ]	[ 6 ]
Arsenic	[ 50 ] 10
Barium	[ 2.0 mg/l ] 2000
<b>Beryllium</b>	4
[ Cadmium ]	[ 5 ]
Chromium [ (total) ] (trivalent)	100
<b>Copper</b>	1300
[ Nickel ]	[ 100 ]
<b>Lead</b>	15
Selenium	50
<b>Pesticides/PCBs</b>	
<b>alpha-BHC</b>	0.2
<b>beta-BHC</b>	0.2
gamma-BHC (Lindane)	[ 0.2 ] 2
<b>2,4-Dichloro-phenoxyacetic acid (2,4-D)</b>	70
<b>Methoxychlor</b>	40
<b>Toxaphene</b>	3
<b>Dioxin (2,3,7,8-TCDD)</b>	0.00003
<b>2,4,5 Trichloro-phenoxypropionic acid (2,4,5-TP-Silvex)</b>	50
<b>Volatile Organic Compounds (VOCs)</b>	
<b>Benzene</b>	5
<b>Carbon Tetrachloride</b>	5
<b>1,2-Dichloroethane</b>	5
<b>1,1-Dichloroethylene</b>	7
[ 1,2-trans-Dichloroethene ] 1,2-trans-Dichloroethylene	100
<b>Dichloromethane (methylene chloride)</b>	5
[ 1,2-Dichloropropane ]	[ 5 ]
[ Ethylbenzene ]	[ 700 ]
<b>Tetrachloroethylene (PCE)</b>	5
<b>Toluene</b>	1000



<i>Parameter</i>	<i>Maximum Contaminant Level (µg/l)</i>
Total Trihalomethanes	[ 100 ] 80
[ 1,2,4-Trichlorobenzene ]	[ 70 ]
1,1,1-Trichloroethane	200
1,1,2-Trichloroethane	5
Trichloroethylene	5
Vinyl Chloride	2
<b>Polycyclic Aromatic Hydrocarbons (PAHs)</b>	
Benzo(a)Pyrene	0.2
<b>Other Compounds</b>	
Asbestos	7 million fibers/L
Bis(2-Ethylhexyl) Phthalate	6
Fluoride	4,000
Nitrate	10,000
Pentachlorophenol	1
Dioxin (2,3,7,8-TCDD)	0.00003

\* \* \* \* \*

**TABLE 5: STREAM QUALITY OBJECTIVES FOR TOXIC POLLUTANTS FOR THE PROTECTION OF AQUATIC LIFE IN THE DELAWARE RIVER ESTUARY.**

<i>Parameter</i>	<i>Freshwater Objectives (µg/l)</i>		<i>Marine Objectives (µg/l)</i>	
	<i>Acute</i>	<i>Chronic</i>	<i>Acute</i>	<i>Chronic</i>
	Metals [ (Values indicated are total recoverable; See Section 3.10.3.C.2. for form of metal) ]			
Aluminum <sup>a,b</sup>	750	87	[ - ] NA	[ - ] NA
Arsenic (trivalent) <sup>c</sup>	[ 360 ] 340	[ 190 ] 150	69	36
Cadmium <sup>c</sup>	[ e <sup>(1.128*LN(Hardness)-3.828)</sup> ] 0.651*EXP(1.0166*LN(hardness)-3.924)	[ e <sup>(0.7852*LN(Hardness)-3.49)</sup> ] 0.651*EXP(0.7409*LN(hardness)-4.719)	[ 43 ] 40	[ 9.3 ] 8.8
Chromium (trivalent) <sup>c</sup>	[ e <sup>(0.8190*LN(Hardness)+3.688)</sup> ] 0.277*EXP(0.819*LN(hardness)+3.7256)	[ e <sup>(0.8190*LN(Hardness)+1.561)</sup> ] 0.277*EXP(0.819*LN(hardness)+0.6848)	[ - ] NA	[ - ] NA
Chromium (hexavalent) <sup>c</sup>	16	11	1,100	50
Copper <sup>c</sup>	[ e <sup>(0.9422*LN(Hardness)-1.464)</sup> ] 0.908*EXP(0.9422*LN(hardness)-1.7)	[ e <sup>(0.8545*LN(Hardness)-1.465)</sup> ] 0.908*EXP(0.8545*LN(hardness)-1.702)	[ 5.3 ] 4.8	[ 3.4 ] NA
Lead <sup>c</sup>	[ 48 ] 38	[ 16 ] 5.4	[ 220 ] 210	[ 8.5 ] NA
Mercury <sup>c</sup>	[ 2.4 ] 1.4	[ 0.012 ] 0.77	[ 2.1 ] 1.8	[ 0.025 ] 0.94
Nickel <sup>c</sup>	[ e <sup>(0.846*LN(Hardness)+3.3612)</sup> ] 0.846*EXP(0.846*LN(hardness)+2.255)	[ e <sup>(0.846*LN(Hardness)+1.1645)</sup> ] 0.846*EXP(0.846*LN(hardness)+0.0584)	[ 75 ] 64	[ 8.3 ] 22
Selenium <sup>a</sup>	20	5.0	[ 300 ] 290	71
Silver <sup>c</sup>	[ e <sup>(1.72*LN(Hardness)-6.52)</sup> ] 0.85*EXP(1.72*LN(hardness)-6.59)	[ - ] NA	[ 2.3 ] 1.9	[ - ] NA
Zinc <sup>c</sup>	[ e <sup>(0.8473*LN(Hardness)+0.8604)</sup> ] 0.95*EXP(0.8473*LN(hardness)+0.884)	[ e <sup>(0.8473*LN(Hardness)+0.7614)</sup> ] 0.95*EXP(0.8473*LN(hardness)+0.884)	[ 95 ] 90	[ 86 ] 81
<b>Pesticides/PCBs</b>				
Aldrin	[ 1.5 ] 3	[ - ] NA	[ 0.65 ] 1.3	[ - ] NA

## PROPOSED RULEMAKING

Parameter	Freshwater Objectives ( $\mu\text{g/l}$ )		Marine Objectives ( $\mu\text{g/l}$ )	
	Acute	Chronic	Acute	Chronic
gamma—BHC (Lindane)	[ 1.0 ] 0.95	[ 0.08 ] NA	[ 0.08 ] 0.16	[ - ] NA
Chlordane	[ 1.2 ] 2.4	0.0043	[ 0.045 ] 0.09	0.004
Chlorpyrifos (Dursban)	0.083	0.041	0.011	0.0056
DDT and metabolites (DDE & DDD) <sup>a</sup>	[0.55] 1.1	0.001	[ 0.065 ] 0.13	0.001
Dieldrin	[ 1.25 ] 0.24	[ 0.0019 ] 0.056	[ 0.355 ] 0.71	0.0019
Endosulfan <sup>e</sup>	[ 0.11 ] 0.22	0.056	[ 0.017 ] 0.034	0.0087
Endrin	[ 0.09 ] 0.86	[ 0.0023 ] 0.036	[ 0.019 ] 0.037	0.0023
Heptachlor	[ 0.26 ] 0.52	0.0038	[ 0.027 ] 0.053	0.0036
<b>Heptachlor Epoxide</b>	<b>0.52</b>	<b>0.0038</b>	<b>0.053</b>	<b>0.0036</b>
Parathion	0.065	0.013	[ - ] NA	[ - ] NA
PCBs (Total)	1.0	0.014	5.0	0.03
Toxaphene	0.73	0.0002	0.21	0.0002
<b>Other Compounds</b>				
Cyanide [ (total) ] (free)	22	5.2	[ 1.0 ] 2.7	[ - ] 1
Pentachlorophenol	$e^{(1.005*\text{pH}-4.83)}$	$e^{(1.005*\text{pH}-5.29)}$	13	7.9
<b>Indicator Parameters</b>				
Whole Effluent Toxicity	0.3 Toxic Units <sub>acute</sub>	1.0 Toxic Units <sub>chronic</sub>	0.3 TU <sub>a</sub>	1.0 TU <sub>c</sub>

Footnotes to Table 5:

<sup>a</sup>Total recoverable criteria<sup>b</sup>Aluminum criteria listed are restricted to waters with pH between 6.5 and 9.0.<sup>c</sup>Dissolved criteria<sup>d</sup>Criteria apply to DDT and its metabolites (i.e., the total concentration of DDT and its metabolites should not exceed this value).<sup>e</sup>Values were derived from data for endosulfan and are most appropriately applied to the sum of alpha-endosulfan and beta-endosulfan.

Criteria for cadmium, chromium (trivalent), copper, nickel, silver and zinc are hardness-dependent and are expressed as the dissolved form (see Section 3.10.3.C.2. on form of metal).

**TABLE 6: STREAM QUALITY OBJECTIVES FOR CARCINOGENS FOR THE DELAWARE RIVER ESTUARY.**

Parameter	EPA class	Freshwater Objectives ( $\mu\text{g/l}$ )		Marine Objectives ( $\mu\text{g/l}$ )
		Fish & Water Ingestion	Fish Ingestion Only	Fish Ingestion Only
<b>Metals</b>				
<b>Arsenic</b>	<b>A</b>	<b>0.017</b>	<b>0.061</b>	<b>0.061</b>
<b>[ Beryllium ]</b>		<b>[ 0.00767 ]</b>	<b>[ 0.132 ]</b>	<b>[ 0.0232 ]</b>
<b>Pesticides/PCBs</b>				
Aldrin	B2	[ 0.00189 ] 0.000049	[ 0.0226 ] 0.000050	[ 0.00397 ] 0.000050
Alpha—BHC	B2	[ 0.00391 ] 0.0026	[ 0.0132 ] 0.0049	[ 0.00231 ] 0.0049
<b>beta—BHC</b>	<b>C</b>	<b>0.0091</b>	<b>0.017</b>	<b>0.017</b>
Chlordane	B2	[ 0.000575 ] 0.00080	[ 0.000588 ] 0.00081	[ 0.000104 ] 0.00081
DDD	B2	[ 0.00423 ] 0.00031	[ 0.00436 ] 0.00031	[ 0.000765 ] 0.00031
DDE	B2	[ 0.00554 ] 0.00022	[ 0.00585 ] 0.00022	[ 0.00103 ] 0.00022
DDT	B2	[ 0.000588 ] 0.00022	[ 0.000591 ] 0.00022	[ 0.000104 ] 0.00022
Dieldrin	B2	[ 0.000135 ] 0.000052	[ 0.000144 ] 0.000054	[ 0.0000253 ] 0.000054
Heptachlor	B2	[ 0.000208 ] 0.000079	[ 0.000214 ] 0.000079	[ 0.0000375 ] 0.000079
Heptachlor Epoxide	B2	[ 0.000198 ] 0.000039	[ 0.000208 ] 0.000039	[ 0.0000366 ] 0.000039

Parameter	EPA class	Freshwater Objectives (µg/l)		Marine Objectives (µg/l)
		Fish & Water Ingestion	Fish Ingestion Only	Fish Ingestion Only
PCBs (Total)	B2	0.0000444	0.0000448	0.0000079
Toxaphene	B2	[ 0.000730 ] 0.00028	[ 0.000747 ] 0.00028	[ 0.000131 ] 0.00028
<b>Volatile Organic Compounds (VOCs)</b>				
Acrylonitrile	B1	[ 0.0591 ] 0.051	[ 0.665 ] 0.25	[ 0.117 ] 0.25
Benzene	A	[ 1.19 ] 0.61	[ 71.3 ] 14	[ 12.5 ] 14
Benzidine	A	[ 0.000118 ] 0.000086	[ 0.000535 ] 0.00020	[ 0.000094 ] 0.00020
Bromoform	B2	[ 4.31 ] 4.3	[ 164.0 ] 140	[ 28.9 ] 140
Bromodichloromethane	B2	[ 0.559 ] 0.55	[ 55.7 ] 17	[ 9.78 ] 17
Carbon Tetrachloride	B2	[ 0.254 ] 0.23	[ 4.42 ] 1.6	[ 0.776 ] 1.6
Chlorodibromomethane	C	[ 0.411 ] 0.40	[ 27.8 ] 13	[ 4.88 ] 13
Chloroform	B2	[ 5.67 ] 5.7	[ 471.0 ] 470	[ 82.7 ] 470
3,3-Dichlorobenzidine	B2	[ 0.0386 ] 0.021	[ 0.0767 ] 0.028	[ 0.0135 ] 0.028
1,2-Dichloroethane	B2	[0.383] 0.38	[98.6] 37	[17.3] 37
<b>[ 1,1-Dichloroethene ]</b>	C	[ 0.0573 ]	[ 3.20 ]	[ 0.562 ]
<b>1,2-Dichloropropane</b>	<b>B2</b>	<b>0.50</b>	<b>15</b>	<b>15</b>
1,3-Dichloropropene	B2	[ 87.0 ] 0.34	[ 14.1 ] 21	[ 2.48 ] 21
<b>Dichloromethane</b> (Methylene chloride)	B2	[ 4.65 ] 5	[ 1,580 ] 590	[ 277 ] 590
<b>[ Tetrachloroethene ]</b> <b>Tetrachloroethylene</b>	B2	[ 0.80 ] 0.69	[ 8.85 ] 3.3	[ 1.55 ] 3.3
<b>[ 1,1,1,2-Tetrachloroethane ]</b>	C	[ 1.29 ]	[ 29.3 ]	[ 5.15 ]
1,1,2,2-Tetrachloroethane	C	[ 0.172 ] 0.17	[ 10.8 ] 4.0	[ 1.89 ] 4.0
1,1,2-Trichloroethane	C	[ 0.605 ] 0.59	[ 41.6 ] 16	[ 7.31 ] 16
<b>[ Trichloroethene ]</b> <b>Trichloroethylene</b>	B2	[ 2.70 ] 2.5	[ 80.7 ] 30	[ 14.2 ] 30
Vinyl Chloride	A	[ 2.00 ] 0.025	[ 525.0 ] 2.4	[ 92.9 ] 2.4
<b>Polycyclic Aromatic Hydrocarbons (PAHs)</b>				
Benz[a]anthracene	B2	[ 0.00171 ] 0.0038	[ 0.00177 ] 0.18	[ 0.00031 ] 0.18
Benzo[b]fluoranthene	B2	[ 0.000455 ] 0.038	[ 0.000460 ] 0.18	[ 0.000081 ] 0.18
Benzo[k]fluoranthene	B2	[ 0.000280 ] 0.38	[ 0.000282 ] 1.8	[ 0.000049 ] 1.8
Benzo[a]pyrene	B2	[ 0.0000644 ] 0.0038	[ 0.0000653 ] 0.018	[ 0.0000115 ] 0.018
Chrysene	B2	[ 0.0214 ] 3.8	[ 0.0224 ] 18	[ 0.00394 ] 18
Dibenz[a,h]anthracene	B2	[ 0.0000552 ] 0.0038	[ 0.0000559 ] 0.018	[ 0.0000098 ] 0.018
Indeno[1,2,3-cd]pyrene	B2	[ 0.0000576 ] 0.038	[ 0.0000576 ] 0.18	[ 0.0000101 ] 0.18
<b>Other Compounds</b>				
Bis (2-chloroethyl) ether	B2	[ 0.0311 ] 0.03	[ 1.42 ] 0.53	[ 0.249 ] 0.53
Bis (2-ethylhexyl) phthalate	B2	[ 1.76 ] 1.2	[ 5.92 ] 2.2	[ 1.04 ] 2.2
<b>[ Dinitrotoluene mixture (2,4 &amp; 2,6) ]</b> <b>2,4-Dinitrotoluene</b>	B2	[ 17.3 ] 0.11	[ 1420 ] 3.4	[ 249 ] 3.4
1,2-Diphenylhydrazine	B2	[ 0.0405 ] 0.036	[ 0.541 ] 0.2	[ 0.095 ] 0.2
Hexachlorobenzene	B2	[ 0.000748 ] 0.00028	[ 0.000775 ] 0.00029	[ 0.000136 ] 0.00029
<b>Hexachlorobutadiene</b>	C	[ 0.445 ] 0.44	[ 49.7 ] 18	[ 8.72 ] 18

## PROPOSED RULEMAKING

Parameter	EPA class	Freshwater Objectives ( $\mu\text{g/l}$ )		Marine Objectives ( $\mu\text{g/l}$ )
		Fish & Water Ingestion	Fish Ingestion Only	Fish Ingestion Only
Hexachloroethane	C	[ 1.95 ] 1.4	[ 8.85 ] 3.3	[ 1.56 ] 3.3
Isophorone	B2	[ 36.3 ] 35	[ 2590 ] 960	[ 455 ] 960
<b>N-Nitrosodi-N-butylamine</b>	<b>B2</b>	<b>0.0063</b>	<b>14</b>	<b>14</b>
N-Nitrosodi-N-methylamine	B2	[ 0.000686 ] 0.00069	[ 8.12 ] 3.0	[ 1.43 ] 3.0
<b>N-Nitrosodiethylamine</b>	<b>B2</b>	<b>0.0008</b>	<b>1.24</b>	<b>1.24</b>
N-Nitrosodi-N-phenylamine	B2	[ 4.95 ] 3.3	[ 16.2 ] 6	[ 2.84 ] 6
N-Nitrosodi-N-propylamine	B2	[ 0.00498 ] 0.0050	[ 1.51 ] 0.51	[ 0.265 ] 0.51
<b>N-Nitrosopyrrolidine</b>	<b>B2</b>	<b>0.016</b>	<b>34</b>	<b>34</b>
Pentachlorophenol	B2	[ 0.282 ] 0.27	[ 8.16 ] 3.0	[ 1.43 ] 3.0
Dioxin (2,3,7,8-TCDD)	NA	[ $1.3 \times 10^{-8}$ ] 0.000000005	[ $1.4 \times 10^{-8}$ ] 0.0000000051	[ $2.4 \times 10^{-9}$ ] 0.0000000051
2,4,6-Trichlorophenol	B2	[ 2.14 ] 1.4	[ 6.53 ] 2.4	[ 1.15 ] 2.4

TABLE 7: STREAM QUALITY OBJECTIVES FOR SYSTEMIC TOXICANTS FOR THE DELAWARE RIVER ESTUARY

Parameter	[ EPA Class ]	Freshwater Objectives ( $\mu\text{g/l}$ )		Marine Objectives ( $\mu\text{g/l}$ )
		Fish & Water Ingestion	Fish Ingestion Only	Fish Ingestion Only
<b>Metals</b>				
Antimony		[ 14.0 ] 5.6	[ 4,310 ] 640	[ 757 ] 640
Arsenic	[ A ]	[ 9.19 ] *	[ 73.4 ] NA	[ 12.9 ] NA
Beryllium	[ B2 ]	[ 165 ] *	[ 2,830 ] 42	[ 498 ] 42
Cadmium		[ 14.5 ] 3.4	[ 84.1 ] 16	[ 14.8 ] 16
Chromium (trivalent)		[ 33,000 ] *	[ 673,000 ] 380,000	[ 118,000 ] 380,000
[ Hexavalent ] Chromium (hexavalent)	[ A ]	[ 166 ] 92	[ 3,370 ] NA	[ 591 ] NA
<b>Chromium (Total)</b>		NA	750	750
Mercury		[ 0.144 ] 0.050	[ 0.144 ] 0.051	[ 0.144 ] 0.051
<b>Methylmercury</b>		<b>0.3 mg/kg fish tissue</b>	<b>0.3 mg/kg fish tissue</b>	<b>0.3 mg/kg fish tissue</b>
Nickel		[ 607 ] 500	[ 4,580 ] 1,700	[ 805 ] 1,700
Selenium		[ 100 ] 170	[ 2,020 ] 4,200	[ 355 ] 4,200
Silver		[ 175 ] 170	[ 108,000 ] 40,000	[ 18,900 ] 40,000
Thallium		[ 1.70 ] 0.24	[ 6.20 ] 0.47	[ 1.10 ] 0.47
Zinc		[ 9110 ] 7,400	[ 68700 ] 26,000	[ 12100 ] 26,000
<b>Pesticides/PCBs</b>				
Aldrin	[ B2 ]	[ 0.96 ] 0.025	[ 11.5 ] 0.025	[ 2.03 ] 0.025
gamma-HC (Lindane)		[ 7.38 ] 0.98	[ 24.9 ] 1.8	[ 4.37 ] 1.8
Chlordane	[ B2 ]	[ 0.0448 ] 0.14	[ 0.0458 ] 0.14	[ 0.00805 ] 0.14
<b>DDT and Metabolites (DDD and DDE)</b>	[ B2 ]	[ 0.100 ] 0.037	[ 0.100 ] 0.037	[ 0.0176 ] 0.037
Dieldrin	[ B2 ]	[ 0.108 ] 0.041	[ 0.115 ] 0.043	[ 0.020 ] 0.043
[ Endosulfan ]		[ 111 ]	[ 239 ]	[ 42.0 ]
<b>alpha-Endosulfan</b>		<b>62</b>	<b>89</b>	<b>89</b>
<b>Beta-Endosulfan</b>		<b>62</b>	<b>89</b>	<b>89</b>
<b>Endosulfan Sulfate</b>		<b>62</b>	<b>89</b>	<b>89</b>
Endrin	[ D ]	[ 0.755 ] 0.059	[ 0.814 ] 0.060	[ 0.143 ] 0.060

Parameter	[ EPA Class ]	Freshwater Objectives (µg/l)		Marine Objectives (µg/l)
		Fish & Water Ingestion	Fish Ingestion Only	Fish Ingestion Only
<b>Endrin Aldehyde</b>		<b>0.29</b>	<b>0.30</b>	<b>0.30</b>
Heptachlor	[ B2 ]	[ 0.337 ] 0.18	[ 0.344 ] 0.18	[ 0.060 ] 0.18
Heptachlor Epoxide	[ B2 ]	[ 0.0234 ] 0.0046	[ 0.0246 ] 0.0046	[ 0.00433 ] 0.0046
Total PCBs	[ B2 ]	0.00839	0.00849	0.00149
<b>Volatile Organic Compounds (VOCs)</b>				
Acrolein		[ 320 ] 6.1	[ 780 ] 9.3	[ 137 ] 9.3
<b>Benzene</b>		*	3,100	3,100
Bromoform	[ B2 ]	[ 682 ] 650	[ 25,900 ] 9,600	[ 4,560 ] 9,600
Bromodichloromethane	[ B2 ]	[ 693 ] 680	[ 69,000 ] NA	[ 12,100 ] NA
Dibromochloromethane	[ C ]	[ 690 ] 680	[ 46,600 ] 21,000	[ 8,190 ] 21,000
Carbon Tetrachloride	[ B2 ]	[ 23.1 ] *	[ 402 ] 150	[ 70.6 ] 150
Chloroform	[ B2 ]	[ 346 ] 68	[ 28,700 ] 2,100	[ 5,050 ] 2,100
Chlorobenzene	[ D ]	[ 677 ] 130	[ 20,900 ] 1,600	[ 3,670 ] 1,600
[ 1,1-Dichloroethene ] 1,1-Dichloroethylene	[ C ]	[ 309 ] *	[ 17,300 ] 7,100	[ 3,040 ] 7,100
[ 1,2-trans-Dichloroethene ] 1,2-trans-Dichloroethylene		[ 696 ] 140	[ 136,000 ] 10,000	[ 23,900 ] 10,000
1,3-Dichloropropene	[ B2 ]	[ 10.4 ] 1,000	[ 1,690 ] 63,000	[ 297 ] 63,000
Ethylbenzene		[ 3,120 ] 530	[ 28,700 ] 2,100	[ 5,050 ] 2,100
Methyl Bromide		[ 49.0 ] 47	[ N/A ] 1,500	[ N/A ] 1,500
Methylene Chloride	[ B2 ]	[ 2,090 ] *	[ 710,000 ] 260,000	[ 125,000 ] 260,000
1,1,2-Trichloroethane	[ C ]	[ 138 ] *	[ 9,490 ] 3,600	[ 1,670 ] 3,600
[ Tetrachloroethene ] Tetrachloroethylene		[ 318 ] *	[ 3,520 ] 1,300	[ 618 ] 1,300
[ 1,1,1,2-Tetrachloroethane ]	[ C ]	[ 1,000 ]	[ 22,400 ]	[ 3,940 ]
Toluene		[ 6,760 ] 1,300	[ 201,000 ] 15,000	[ 35,400 ] 15,000
<b>Polycyclic Aromatic Hydrocarbons (PAHs)</b>				
Anthracene	[ D ]	[ 4,110 ] 8,300	[ 6,760 ] 40,000	[ 1,190 ] 40,000
Fluoranthene		[ 296 ] 130	[ 375 ] 140	[ 65.8 ] 140
Fluorene	[ D ]	[ 730 ] 1,100	[ 1,530 ] 5,300	[ 268 ] 5,300
Pyrene	[ D ]	[ 228 ] 830	[ 291 ] 4,000	[ 51.1 ] 4,000
<b>Other Compounds</b>				
Acenaphthene		[ 1,180 ] 670	[ 2,670 ] 990	[ 469 ] 990
Benzidine	[ A ]	[ 81.8 ] 59	[ 369 ] 140	[ 64.9 ] 140
Bis (2-chloroisopropyl) ether		[ 1,390 ] 1,400	[ 174,000 ] 65,000	[ 30,600 ] 65,000
Bis (2-ethylhexyl) phthalate	[ B2 ]	[ 492 ] *	[ 1,660 ] 620	[ 291 ] 620
Butylbenzyl phthalate	[ C ]	[ 298 ] 1,500	[ 520 ] 1,900	[ 91.4 ] 1,900
<b>2-Chloronaphthalene</b>		1,000	1,600	1,600
2-Chlorophenol		[ 122 ] 81	[ 402 ] 150	[ 70.6 ] 150
<b>Cyanide</b>		140	140	140
Dibutyl Phthalate	[ D ]	[ 2,710 ] 2,000	[ 12,100 ] 4,500	[ 2,130 ] 4,500
1,2-Dichlorobenzene	[ D ]	[ 2,670 ] 420	[ 17,400 ] 1,300	[ 3,060 ] 1,300
1,3-Dichlorobenzene	[ D ]	[ 414 ] 420	[ 3,510 ] 1,300	[ 617 ] 1,300

Parameter	[ EPA Class ]	Freshwater Objectives (µg/l)		Marine Objectives (µg/l)
		Fish & Water Ingestion	Fish Ingestion Only	Fish Ingestion Only
1,4-Dichlorobenzene		[ 419 ] 63	[ 3,870 ] 190	[ 677 ] 190
2,4-Dichlorophenol		[ 92.7 ] 77	[ 794 ] 290	[ 139 ] 290
Diethyl Phthalate	[ D ]	[ 22,600 ] 17,000	[ 118,000 ] 44,000	[ 20,700 ] 44,000
Dimethyl Phthalate	[ D ]	[ 313,000 ] 270,000	[ 2,990,000 ] 1,100,000	[ 526,000 ] 1,100,000
2,4-Dimethylphenol		[ 536 ] 380	[ 2,300 ] 850	[ 403 ] 850
2,4-Dinitrophenol		[ 70 ] 69	[ 14,300 ] 5,300	[ 2,500 ] 5,300
2,4-Dinitrotoluene		[ 69.2 ] 68	[ 5670 ] 2,100	[ 996 ] 2,100
Hexachlorobenzene	[ B2 ]	[ 0.958 ] 0.35	[ 0.991 ] 0.36	[ 0.174 ] 0.36
[ Hexachlorobutadiene ]	[ C ]	[ 69.4 ]	[ 7,750 ]	[ 1,360 ]
Hexachlorocyclopentadiene		[ 242 ] 40	[ 17,400 ] 1,100	[ 3,050 ] 1,100
Hexachloroethane	[ C ]	[ 27.3 ] 20	[ 124 ] 46	[ 21.7 ] 46
Isophorone	[ C ]	[ 6,900 ] 6,700	[ 492,000 ] 180,000	[ 86,400 ] 180,000
<b>2-Methyl-4,6-dinitrophenol</b>		13	280	280
Nitrobenzene	[ D ]	[ 17.3 ] 17	[ 1,860 ] 690	[ 327 ] 690
<b>Pentachlorobenzene</b>		1.4	1.5	1.5
Pentachlorophenol		[ 1,010 ] *	[ 29,400 ] 11,000	[ 5,160 ] 11,000
Phenol		[ 20,900 ] 10,000	[ 4,620,000 ] 860,000	[ 811,000 ] 860,000
<b>1,2,4,5-Tetrachlorobenzene</b>		0.97	1.1	1.1
1,2,4-Trichlorobenzene	[ D ]	[ 255 ] 35	[ 945 ] 70	[ 166 ] 70
<b>2,4,5-Trichlorophenol</b>		1,800	3,600	3,600
<b>Vinyl Chloride</b>		*	10,000	10,000

\* The MCL for this compound applies in Zones 2 and 3 and is listed in Table 3. Objectives for "Fish Ingestion Only" listed for this compound apply in Zones 4, 5, and 6.

\* \* \* \* \*

**3.30.6 Zone 6.**

\* \* \* \* \*

[Add the following text immediately following sub-section 3.30.6C.10. and preceding sub-section 3.30.6D.]

**11. Toxic Pollutants.**

**a. Applicable criteria to protect the taste and odor of ingested water and fish are presented in Table 4.**

**b. Applicable freshwater stream quality objectives for the protection of aquatic life are presented in Table 5.**

**c. Applicable freshwater stream quality objectives for the protection of human health are presented in Tables 6 and 7.**

Dated: July 7, 2010

PAMELA M. BUSH,  
Secretary

**Fiscal Note:** Fiscal Note 68-55. No fiscal impact; (8) recommends adoption.

**Annex A**

**TITLE 25. ENVIRONMENTAL PROTECTION  
PART V. DELAWARE RIVER BASIN COMMISSION  
CHAPTER 901. GENERAL PROVISIONS**

**§ 901.2. Comprehensive Plan and water quality.**

The Comprehensive Plan regulations as set forth in 18 CFR Part 401, Subpart A ([ 2008 ] 2010) and the Water Code and Water Quality Standards as set forth in 18 CFR Part 410 ([ 2008 ] 2010) are hereby incorporated by reference and made a part of this title.

[Pa.B. Doc. No. 10-1394. Filed for public inspection July 30, 2010, 9:00 a.m.]

# STATEMENTS OF POLICY

## Title 4—ADMINISTRATION

### GOVERNOR’S OFFICE

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

#### Executive Orders, Management Directives and Other Issuances of the Directives Management System Indexed for Reference Purposes

The Index of Issuances is being updated to reflect changes since 39 Pa.B. 4760 (August 8, 2009). This amendment adds new issuances, amends and rescinds others. Recipients of publications listed in this index should be kept informed of the status of these publications.

NAOMI WYATT,  
*Secretary of Administration*

*(Editor’s Note:* This Index of Issuances is published under 1 Pa. Code § 3.1(a)(9) (relating to contents of Code). This document meets the criteria of 45 Pa.C.S. § 702(7) (relating to contents of Pennsylvania Code) as a document general and permanent in nature which shall be codified in the *Pennsylvania Bulletin*.)

This manual provides a complete listing of issuances, specified in Title 4 of the *Pennsylvania Code* § 1.2, from the Governor’s Office and from agencies under the Governor’s jurisdiction, except proclamations and press releases, that are intended for distribution to two or more agencies following the procedures for publication of issuances in Management Directive 210.1, Directives Management System.

Effective January 2010, this manual is updated semi-annually for publication on the Office of Administration’s web site. The manual will be amended to reflect the latest issuances, and published annually in Title 4 of the *Pennsylvania Code* § 1.4 at the end of each fiscal year.

This amendment updates the index for all executive orders, management directives, and manuals issued, amended, and rescinded between July 1, 2009 and June 30, 2010.

Individuals should subscribe to receive e-Alerts to receive notification of published issuances. For questions regarding the Directives Management System, contact OA, EB-DMS.

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This manual replaces, in its entirety, Manual 210.3 dated July 21, 2009. This manual includes all new and amended issuances through June 30, 2010.

#### How to Use Index:

- Executive orders are by year of issuance.
- Management directives and manuals are numbered in sequence by category (e.g., Financial Management) and subcategory (e.g., Payroll).
- All documents preceded by the letter “M” are manuals.
- Documents that have been rescinded are indicated as rescinded.
- Amendments are presented as complete documents that incorporate all changes since the last issuance.
- Revisions which generally affect older issuances are pen and ink changes or replacement pages and affect only those parts of an issuance being changed. Therefore the issuance changed by a revision will be in more than one document because there will be original issuance and any revision.

**Fiscal Note:** M210.3 Amended. No fiscal impact; (8) recommends adoption.

### Annex A

#### TITLE 4. ADMINISTRATION

#### PART I. GOVERNOR’S OFFICE

#### CHAPTER 1. AGENCY OPERATION AND ORGANIZATION

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220.10	Processing Automated Mail .....	Rescinded/Obsolete 5/8/2006	
220.11	Preservation of Commonwealth Deeds .....	5/3/2006	
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M220.3	Computer Printing .....	Rescinded/Obsolete 5/25/2005	
<b>Travel and Expenses</b>			
230.6	Travel Expenses of Job Applicants .....	4/30/1997	
230.7	Remittance of Witness Fees .....	5/24/2007	
230.9	Acquisition and Payment of Travel Services .....	Rescinded by MD230.10—7/1/2009	
230.10	Travel and Subsistence Allowances .....	6/17/2009—Effective 7/1/2009	
230.11	Use of Pittsburgh and Erie Convention Centers by State Agencies ...	Rescinded/Obsolete 2/10/2006	
230.13	Commonwealth Corporate Card Program .....	Rescinded by MD230.10—7/1/2009	

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230.14	Foreign Areas Subsistence Allowances . . . . .	Rescinded by MD230.10—7/1/2009	
230.15	Continental United States High Cost Subsistence Allowances . . . . .	Rescinded by MD230.10—7/1/2009	
230.16	Using E-ZPass in Commonwealth Vehicles . . . . .	Rescinded/Obsolete 2/10/2006	
230.17	Commonwealth Office of Travel Operations . . . . .	3/28/2007	
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M230.1	Commonwealth Travel Procedures Manual . . . . .	6/17/2009—Effective 7/1/2009	
<b>Information Technology Management</b>			
240.7	Submission of Changes to the Commonwealth Telephone Directory . .	8/18/2008	
240.11	Commonwealth Wireless Communication Policy . . . . .	10/8/2004	
240.12	Commonwealth of Pennsylvania Mobile Devices Security Policy . . . .	12/29/2008	
245.12	Implementation of the Data Center Project Plan . . . . .	7/1/1997	
245.13	Strategic Direction for Information Technology Investments . . . . .	2/8/2006	
245.14	Wireless Antenna Tower Management . . . . .	Rescinded by MD245.15—6/24/2010	
245.15	Pennsylvania Statewide Radio Network . . . . .	6/24/2010	
245.16	Pennsylvania Justice Network (JNET) Governance Structure . . . . .	3/7/2006	
245.17	Commonwealth of Pennsylvania Public Safety Communications Council . . . . .	Rescinded by MD245.15—6/24/2010	
245.18	IT Administrator Acceptable Use, Auditing and Monitoring, Incident Notification, and Response Policies and Procedures . . . . .	2/7/2006	
245.19	Enterprise Technology Security Council . . . . .	5/3/2006	
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M245.2	State Computer Maintenance Contract for Terminals, Microcomputers, Printers, and Other Related Peripheral Equipment . . . . .	Rescinded/Obsolete 10/18/2005	
M245.4	Policy for Personal Computers and Networks (PCs/LANs) . . . . .	Rescinded/Obsolete 11/2/2005	
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M260.1	Manual For Space Utilization . . . . .	3/11/2004	
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305.2	Standard Check Endorsement Procedure . . . . .	5/22/2009	
305.3	Responsibilities of Comptroller Operations . . . . .	3/19/1997	
305.4	Payments to Counties . . . . .	5/24/2000	
305.5	Cash Management . . . . .	5/22/2009	
305.6	Withholding Payments to Municipalities ( <i>Act No. 166 of 1978</i> ) . . . . .	5/1/1997	
305.7	Interest Penalties for Late Payments . . . . .	5/11/2009	
305.8	Commonwealth Bank Accounts and Special Banking Services . . . . .	6/11/1997	
305.9	Use of Forms STD-419/419L, Refund of Expenditures, and STD-420/C420/420L, Transmittal of Revenue, When Unaccompanied by Remittances . . . . .	Rescinded by MD305.11—5/22/2009	

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305.10	Receipt of Federal Funds by Wire Transfer .....	1/23/1989	
305.11	Depositing Checks, Money Orders and Cash .....	5/22/2009	
305.12	Accounting, Reporting, and Cash Management of Federal Grants and Contracts .....	1/25/1999	
305.13	Use of Forms STD-419/419L, Refund of Expenditures, and STD-420/C420/420L, Transmittal of Revenue, When Accompanied by Remittances .....	Rescinded by MD305.11—5/22/2009	
305.14	Identifying Payments to Local Governments and Other Subrecipients .....	Rescinded by MD305.21—6/13/2003	
305.15	Processing and Distributing Returned Checks .....	8/30/1989	
305.16	Lobbying Certification and Disclosure .....	7/3/2003	
305.17	Preparation and Use of Form STD-417, Adjustment Memorandum From Department of Revenue to Treasury Department .....	Rescinded by MD305.11—5/22/2009	
305.18	Obtaining Authority for Electronic Approval of Commonwealth Voucher Transmittals .....	Rescinded/Obsolete—8/24/2006	
305.19	Identification of Boards, Commissions, and Councils .....	8/15/1997	
305.20	Grant Administration .....	5/26/2000	
305.21	Payments to Local Governments and Other Subrecipients .....	9/23/2005	
305.22	Commonwealth Business License Information Exchange Program ...	4/13/2006	
<b>Accounting</b>			
310.1	Fiscal Guidelines for Federal Reimbursement of Disaster Related Expenditures .....	1/5/1983	
310.3	Encumbering and Lapsing of Appropriations .....	5/4/1998.....	1
310.7	Report of Lapse (STD-292) .....	Rescinded/Obsolete	2/10/2006
310.8	Postage Due Procedures .....	1/8/1987	
310.9	Purpose and Use of Restricted Receipt and Restricted Revenue Accounts .....	11/20/1978	
310.10	Collection, Requests for Compromise, and Write-Off of Delinquent Claims .....	8/29/1996	
310.11	Payment and Financial Reporting Requirements for Non-Preferred Appropriations .....	1/19/1982.....	1
310.12	Refunding Erroneously Collected Fees and Charges .....	4/30/1982	
310.13	Generally Accepted Accounting Principles (GAAP) .....	6/13/1995	
310.14	Fixed Asset Accounting and Reporting .....	Rescinded/Obsolete	2/10/2006
310.14	General Capital Asset and Other Fixed Asset Accounting and Reporting in SAP .....	2/3/2003	
310.15	Agency Federal ID Numbers .....	6/7/1996	
310.16	Advancement Account Balances .....	8/21/1987	
310.17	Accounting for Payments of Federal Funds to Subrecipients .....	Rescinded by MD305.21—6/13/2003	
310.19	Accounting for Disbursement of Funds for Interagency Agreements, Memorandums of Understanding, and Notifications of Subgrant; Accounting for the Subgranting of Federal, Federal Matching Funds, or State Funds Between Commonwealth Agencies .....	9/4/1997	
310.20	Charging Equipment Expenditures to Federal Programs .....	8/31/1994	
310.21	Master Lease Tracking System .....	4/21/1995	
310.22	Central Vendor Information System .....	Rescinded/Obsolete	6/17/2006
310.23	Commonwealth Purchasing Card Program .....	5/11/2009	
310.24	Accepting Debit/Credit Cards for Commonwealth Revenues .....	9/3/2008	
310.25	Transfers of Revenue or Expenses in SAP .....	12/5/2002	



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310.27	Month-End Closing Processes . . . . .	12/14/2005	
310.28	Use of One-Time Vendor Records in SAP . . . . .	6/16/2006	
310.29	Using Value (Service) Date in SAP . . . . .	6/10/2009	
310.30	Pennsylvania Electronic Payment Program (PEPP) . . . . .	5/22/2009	
310.31	Purchase Order Receiving, Invoice Processing and Invoice Reconciliation Processes . . . . .	5/11/2009	
310.32	Voyager Fleet Card Invoice Processing for Agencies Using SAP . . . . .	7/20/2009	
310.33	Processing Electronic Invoices in SAP . . . . .	8/21/2009	
310.34	Use of Agency-Level Dun & Bradstreet Data Universal Numbering System (DUNS) Numbers in Applications for Federal Grants and Cooperative Agreements . . . . .	9/18/2009	
310.36	Identifying, Recording, and Reporting Computer Software as a Capital Asset . . . . .	12/10/2009	
<b>Manuals.</b>			
M310.1	Agency Operated Advancement Accounts . . . . .	8/11/1999	
M310.2	Definitions of Major and Minor Objects of Expenditures . . . . .	8/26/1998 . . . . .	1
M310.3	Manual of Accounting . . . . .	7/17/1996	
M310.4	Fixed Asset Accounting System . . . . .	Rescinded/Obsolete	2/10/2006
M310.10	Revenue and Receipts Accounting Subsystem . . . . .	Rescinded/Obsolete	2/10/2006
M310.11	Budget Control Subsystem . . . . .	Rescinded/Obsolete	2/10/2006
M310.12	General Ledger Subsystem . . . . .	Rescinded/Obsolete	2/10/2006
M310.13	Project Accounting Subsystem . . . . .	Rescinded/Obsolete	2/10/2006
M310.14	Grant Accounting Subsystem . . . . .	Rescinded/Obsolete	2/10/2006
M310.15	Commitment and Expenditure Control Subsystem . . . . .	Rescinded/Obsolete	2/10/2006
M310.16	ICS Information System (IIS) Terminal Operators Manual . . . . .	Rescinded/Obsolete	2/10/2006
<b>Payroll</b>			
315.1	Calculation and Payment of Statutory Salaries . . . . .	2/18/2010	
315.6	Employees' Requests for Additional State or Federal Income Tax Withholding . . . . .	1/6/1981	
315.7	Employee Payroll Deductions for Credit Unions . . . . .	6/1/1989 . . . . .	1-2-3
315.8	Restitution of Overpayments . . . . .	10/1/1997	
315.9	Withholding of Delinquent Local Taxes from Employees' Paychecks . .	11/4/1996	
315.10	Recording and Reporting of Wage, Overtime, Shift Differential, and Short-Term Leave Without Pay . . . . .	Rescinded/Obsolete	2/10/2006
315.11	Distribution and Retention of Payroll Deduction Authorization Documents . . . . .	4/24/1980	
315.13	Payments of Wages, Salary, Benefits, and Travel Expenses to Survivors of Deceased Employees . . . . .	8/19/1996	
315.14	Charges for State Employees Residing or Subsisting in Commonwealth Facilities . . . . .	5/29/1997	
315.15	Withholding of Pennsylvania Higher Education Assistance Agency Loans from Employee Paychecks . . . . .	8/28/2008	
315.16	Payment of Annuitant Medical and Hospital Benefits . . . . .	9/10/1997	
315.17	Direct Deposit of Pay Program . . . . .	10/20/2000 . . . . .	1
315.18	Delivery of Payroll Checks to Employees . . . . .	11/28/1990	
315.19	Check Distribution Codes . . . . .	9/20/1993	
315.20	Taxability of the Use of State-Provided Vehicles . . . . .	11/17/2008	

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315.21	Deductions for U.S. Savings Bonds . . . . .	11/7/1985	
315.22	Preparation and Filing of Federal Forms 1099 and 1096 . . . . .	1/3/1995	
315.23	Processing Employee's Withholding Allowance Certificate (W-4) . . . . .	2/9/1988	
315.25	Pennsylvania Personal Income Tax . . . . .	9/12/1988	
315.26	Backup Withholding on Missing and/or Incorrect Taxpayer Identification Numbers . . . . .	1/24/1994 . . . . .	1
315.27	Recoupment of Conversion Pay Amounts . . . . .	5/4/1992	
315.28	Taxability of State-Provided Parking . . . . .	6/18/2008	
315.29	Mailing SAP-Generated Checks . . . . .	12/5/2002	

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M315.1	Municipal Tax Rate Schedules . . . . .	Rescinded by Rev. 3—4/1/2002	
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325.2	Audit Inquiry Relative to Agency Litigation, Claims, and Assessments . . . . .	9/12/2008	
325.3	Performance of Audit Responsibilities . . . . .	8/27/2009	
325.4	Agency Annual Audit Plan . . . . .	Rescinded/Obsolete 5/10/2010	
325.5	State Level Single Audit Costs . . . . .	8/17/2009	
325.6	Auditing Computer-Based Systems . . . . .	8/17/2009	
325.7	Implementation of the Commonwealth's State-Level Single Audit Process . . . . .	8/20/2009	
325.8	Remedies for Recipient Noncompliance with Audit Requirements . . . . .	8/17/2009	
325.9	Processing Audits of Federal Pass-Through Funds . . . . .	8/20/2009	
325.10	Review of Auditor General, Treasury, Legislative Budget and Finance Committee, and Other Audit Reports . . . . .	8/27/2009	

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410.10	Guidelines for Investigating and Resolving Internal Discrimination Complaints . . . . .	2/21/2008	
410.11	Commonwealth's Equal Employment, Outreach, and Employment Counseling Program . . . . .	5/8/1997	

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M410.3	Guidelines for Equal Employment Opportunity Plans and Programs . . . . .	12/18/2007	
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505.1	Employee Furlough Policy . . . . .	2/16/2006	
505.2	Salaried Complement Management System . . . . .	12/1/2006	
505.4	Salaried Complement Control . . . . .	2/18/1982 . . . . .	1
505.7	Personnel Rules . . . . .	9/1/2009	
505.8	Transmittal of Personnel Action Notifications . . . . .	4/2/1998	
505.9	Standard Abbreviations for Use With the Compensation Plan and SAP R/3 System . . . . .	3/11/2004	
505.11	Emergency Assignments of Employees During Emergencies . . . . .	6/17/1998	
505.12	Annual List of Employees . . . . .	6/26/2001	
505.15	Employee Mobility Information Program . . . . .	10/3/2007	
505.17	Furlough of Employees on Work-Related Disability Leave . . . . .	Rescinded/Obsolete 2/1/2008	
505.18	Maintenance, Access, and Release of Employee Information . . . . .	2/14/2003	

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505.21	Office Hours.....	1/19/2000	
505.22	State Employee Assistance Program.....	4/2/2003	
505.23	Employee Recognition Program .....	1/23/2007	
505.25	Substance Abuse in the Workplace .....	11/29/2004	
505.26	HIV/AIDS and Other Bloodborne Infections/Diseases in the Workplace .....	3/18/2005	
505.27	<i>The Worker and Community Right to Know Act (P. L. 734, No. 159) ..</i>	8/3/1993	
505.28	Family Care Account Program .....	10/11/2005	
505.30	Prohibition of Sexual Harassment in Commonwealth Work Settings.....	6/19/2002.....	1
505.31	Domestic Violence and the Workplace .....	5/31/2004	
505.32	Governor's Awards for Excellence .....	10/29/2009	
505.33	Working From Home During Emergencies Including a Pandemic Influenza Event .....	8/20/2007	
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M505.2	Personnel Management Review .....	7/9/1997	
M505.3	State Employee Assistance Program.....	11/29/2004	
M505.4	Personnel Records Retention and Disposition Schedule .....	12/7/1998	
M505.5	Commercial Driver License Drug and Alcohol Testing and Licensing Requirements Administrative Manual.....	5/30/2002	
M505.6	An Agency Guide to Workplace Violence Prevention and Response ...	5/28/2002	
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515.2	Transfer of Employees From One Agency to Another.....	6/16/2000	
515.3	Classified Service Emergency Appointments .....	9/3/2008	
515.4	Seniority Rights of Commonwealth Employees .....	7/12/2006	
515.10	Selection and Appointment to Non-Civil Service Positions.....	2/16/2006	
515.12	Confidential Employees .....	9/28/2004	
515.15	Identification, Employment, and Education Verification Checks .....	6/13/1997	
515.16	Appointment to Senior Level Positions .....	2/14/2006	
515.17	Computer Systems Intern Program.....	Rescinded by MD580.38—10/8/2004	
515.18	Supplementary Employment.....	7/7/1998	
515.19	Accounting Intern Program.....	Rescinded by MD580.38—10/8/2004	
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520.3	Unclassified Codes and Titles.....	6/16/2003	
520.4	Position Classification Post-Audits .....	11/16/1999	
520.5	Centralized Job Control System.....	12/1/2006	
520.6	Processing of Reclassification Actions.....	1/23/2007	
520.7	Development and Validation of Job Standards.....	10/16/2006	
520.8	Pay Action Effective Dates for Changes to Position Classifications and the Classification Plan.....	1/23/2007	
520.9	Appointments Above the Minimum.....	3/5/1998	

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525.6	Advances on Salaries or Wages Earned . . . . .	8/29/1996	
525.11	Dual Employment . . . . .	2/10/1997	
525.12	Reinstatement of Discharged Employees . . . . .	9/21/1979	
525.13	Maintenance of Weighted Salaries . . . . .	9/28/2001	
525.15	Overtime . . . . .	2/10/1997	
525.16	Physicians and Related Occupations Quality Assurance Program . . . . .	2/14/2006	
525.17	Internal Revenue Service Levies on Wages, Salary, and Other Income or Payments . . . . .	6/28/1991	
525.20	Implementation & Maintenance of Local Service Tax . . . . .	10/10/2008	
<b>Manual.</b>			
M525.2	Commonwealth Pay Plan . . . . .	Rescinded by M210.3—3/12/2004	
<b>Benefits</b>			
530.1	Agency Employee Services Coordinators . . . . .	5/16/2006	
530.2	Sick Leave Without Pay, Parental Leave Without Pay, and Family Care Leave Without Pay . . . . .	3/12/2008	
530.3	State Employee Combined Appeal for New Employees and Employees on Inter-Agency Transfers . . . . .	1/18/1996	
530.4	State Paid Benefits While on Sick, Parental, or Family Care Leave Without Pay . . . . .	3/11/2008	
530.8	<i>Motor Vehicle Financial Responsibility Law</i> . . . . .	7/22/1997	
530.9	Social Security Records . . . . .	10/9/1997	
530.10	Administrative Leave to Compete in International and World Championships . . . . .	7/23/1996	
530.11	Benefit Rights of Permanent and Temporary Employees . . . . .	7/25/2006	
530.15	Disability Benefits, Related Pay Status Options, and Retired Employee Health Program (REHP) Effective Dates . . . . .	7/8/1997	
530.17	Partial and Full Day Closings of State Offices . . . . .	5/25/2010	
530.18	Benefit Rights of Furloughed Employees . . . . .	8/27/2009	
530.20	State Paid Benefits While on Cyclical Leave Without Pay . . . . .	7/8/1997	
530.21	Paid Absence for Blood Donation . . . . .	4/8/2010	
530.22	Unemployment Compensation, Noncovered Employment—"Major Nontenured Policymaking or Advisory Positions" . . . . .	11/20/1996	
530.23	State Employee Combined Appeal . . . . .	12/2/2009	
530.24	Retired Employees Health Program Eligibility Requirements . . . . .	4/7/2009	
530.26	Military Leaves of Absence . . . . .	9/3/2008	
530.27	Leave Related Policies for Employees Excluded From Earning Leave and Leave Service Credit . . . . .	2/7/1997	
530.28	Pennsylvania Employees Benefit Trust Fund (PEBTF) . . . . .	9/14/2004	
530.29	Commuter Benefits Program . . . . .	5/20/2009	
530.30	Sick, Parental and Family Care Absence Policy . . . . .	12/14/2007	
530.31	Workplace Safety and Health Program . . . . .	9/29/2008	
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M530.2	Injury Leave Manual . . . . .	11/29/2001 . . . . .	1
M530.3	Group Life Insurance Program Administrative Manual . . . . .	6/26/2001	

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M530.4	Commonwealth of Pennsylvania Highlights of State Employee Benefits . . . . .	8/1/2004	
M530.7	Absence Program . . . . .	4/23/2009	
M530.9	Unemployment Compensation Insurance . . . . .	12/7/1998	
M530.14	Unemployment Compensation and the Supervisor . . . . .	3/1/1982	
M530.15	State Police Health Program/State Police Supplemental Benefits Program Administrative Manual . . . . .	6/5/2001 . . . . .	1-2
M530.16	Temporary Clerical Pool Agency User Manual . . . . .	10/1/1999	
M530.17	Temporary Clerical Pool Employee Handbook . . . . .	10/1/1999	
M530.18	The Benefits of a "Healthy" Sick Leave Balance . . . . .	11/1/1997	
M530.19	Leave Without Pay and Injury Leave Processing Instructions . . . . .	Rescinded/Obsolete	2/1/2008
M530.20	Commonwealth of Pennsylvania Employee Benefits . . . . .	Rescinded by M210.3—	03/18/2005
<b>Training</b>			
535.1	Employee Training and Development . . . . .	2/9/2000	
535.2	Physicians and Related Occupations Specialty Board Certification Payments . . . . .	2/21/2006	
535.3	Out-Service Training . . . . .	11/16/1999	
535.4	Use of State Work Program and Public Services Trainee Classes . . . . .	2/16/1984	
535.5	Use of Trainee Classes in the Classified Service . . . . .	10/8/2004	
535.6	Commonwealth Management Development Program . . . . .	2/9/2000	
535.7	Annual Agency Training Plan and Report . . . . .	7/8/1999	
535.9	Physical and Information Security Awareness Training . . . . .	10/3/2006	
<b>Performance Evaluations</b>			
540.7	Employee Performance Review . . . . .	3/5/2002	
<b>Retirement</b>			
570.1	State Employees' Retirement System, Duties of Departments and Agencies . . . . .	5/8/2006	
570.2	Use of Form SERS-147 to Elect Membership in Full Coverage Retirement Group . . . . .	Rescinded/Obsolete	11/28/2005
570.5	Employer Contributions Required on the Purchase of Previously Uncredited State Service . . . . .	4/9/2006	
570.6	Optional Membership in State Employees' Retirement System . . . . .	2/22/2006	
570.7	Credited State Service . . . . .	Rescinded/Obsolete	11/28/2005
570.8	Reinstatement of Dismissed or Furloughed Employees Into the State Employees' Retirement System . . . . .	4/3/2006	
570.9	Reinstatement Into the State Employees' Retirement System of Employees Furloughed or Otherwise Terminated and Reemployed . . . . .	2/17/2006	
570.10	Final Average Salary—Part-Time Service, State Employees' Retirement System . . . . .	Rescinded/Obsolete	11/28/2005
570.11	Changes to Retirement and Personnel/Payroll System and Collection of Arrears Balances . . . . .	3/23/2006	
570.12	Refusal of Recall From Furlough—Termination of Interest on Retirement Contributions . . . . .	2/17/2006	
570.13	State Employees' Retirement System, Regional Field Offices . . . . .	5/30/2007	
570.14	Deferred Compensation Program . . . . .	3/25/2005	
570.15	Public Employee Pension Forfeiture Act No. 1978-140 . . . . .	6/6/2006	

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M570.3	State Employees' Retirement System Counselors' Manual . . . . .	Rescinded/Obsolete	1/31/2001
<b>Civil Service</b>			
580.2	Civil Service Availability Survey/Interview Notice . . . . .	1/21/2009	
580.6	Tabulation of Classified Service Employees . . . . .	6/16/2006	
580.8	Classified Service Probationary Periods. . . . .	10/5/2004	
580.10	Rights of Certified Eligibles in the Classified Service . . . . .	5/16/1986	
580.11	Documentation of Classified Service Personnel Actions . . . . .	6/27/2006	
580.12	Recruitment for Classified Service Positions . . . . .	3/28/2007	
580.13*	Report of Personnel Transactions for Non-State Employees . . . . .	8/18/1987	
580.15	Selective Certification of Classified Service Eligibles. . . . .	6/26/1990	
580.16	Provisional Employment in the Classified Service . . . . .	11/16/2006	
<b>* Special Distribution</b>			
580.18	Pennsylvania Residency Requirements for the Classified Service . . . . .	2/15/2005	
580.19	Promotion in the Classified Service Without Examination. . . . .	8/31/2009	
580.21	Veterans' Preference on Classified Service Employment Lists. . . . .	5/5/2008	
580.23	Resignation From and Reinstatement to the Classified Service . . . . .	3/12/1990	
580.24	Promotion of Employees in Unskilled Positions Into the Classified Service . . . . .	9/14/2006	
580.25	Political Activities of Classified Service Employees . . . . .	9/30/1992	
580.26	Transfer or Reassignment of Classified Service Employees . . . . .	6/29/2010	
580.27	Limited Appointments to Positions Exempted from the Classified Service Pursuant to <i>Section 3(c)(4), Civil Service Act</i> . . . . .	10/28/2009	
580.28	Reallocation to a Lower Class in the Classified Service . . . . .	2/27/1990	
580.29	Rapid Promotion Examinations in the Classified Service. . . . .	Rescinded/Obsolete	5/17/2006
580.30	Classified Service Leave Without Pay and Return Rights . . . . .	3/24/1986	
580.31	Classified Service Temporary Appointments. . . . .	8/14/2006	
580.32	Substitute Employment in the Classified Service . . . . .	10/24/2006	
580.33	Reproductions of Documents for Classified Service Personnel Actions	4/30/2009	
580.34	Removal of Eligibles for Certification or Appointment in the Classified Service. . . . .	3/19/2010	
580.35	Employees Placed in the Classified Service by Position Reallocation .	3/29/1988	
580.36	Engineering Intern Program . . . . .	Rescinded by MD580.38—	10/8/2004
580.37	Promotion by Appointment of Unclassified Service Employees Into the Classified Service . . . . .	5/5/2008	
580.38	Use of Intern Job Titles in the Classified Service . . . . .	10/8/2004	
<b>Manuals.</b>			
M580.1	Certification of Eligibles for the Classified Service. . . . .	4/7/1997	
M580.2	Furlough of Classified Service Employees Not Covered by Labor Agreements . . . . .	6/22/2007	
<b>Labor Relations</b>			
590.1	Labor Relations. . . . .	11/27/2007	
590.2	Confidential Positions and Employees . . . . .	3/8/2006	
590.3	Deduction of Union Dues/Fair Share Fees . . . . .	5/22/2006	
590.5	Guidelines to be Followed During Legal or Illegal Strikes . . . . .	5/25/2006	

<b>Management Directives and Manuals</b>		<b>Date of Original Or Latest Amendment</b>	<b>Current Revisions</b>
590.7	Labor Relations-Grievance Administration.....	6/8/2006	
590.8	Classification Grievance Processing .....	3/30/2006	

**Manual.**

M590.2	Digest of Commonwealth Employee Classification Arbitration Cases.....	Rescinded/Obsolete	11/25/2005
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**SUPPLIES, SERVICES, AND EQUIPMENT****Supplies and Equipment Acquisition/Disposition**

610.4	Procedures for Purchasing Goods and Services Not Exceeding \$1,500 Through Advancement Accounts .....	11/17/1983	
610.15	Master Lease Program .....	Rescinded by MD610.15 R1—7/26/2004	
(Revision No. 1 to 610.15 is rescinded upon publication of M210.3, Index of Issuances dated 3/18/2005.)			

**Manuals.**

M610.1	General Services Commodity Distribution Center Catalog.....	Rescinded/Obsolete	7/14/2005
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**Automotive Services**

615.1	Temporary Assignment of Commonwealth Automotive Fleet Vehicles.	1/6/2006	
615.2	Motor Vehicle Liability Insurance and Accident Reporting.....	6/17/1996	
615.3	Rates and Billing for Motor Vehicles of the Commonwealth Automotive Fleet .....	10/12/2005	
615.6	License Plates for Commonwealth-Owned Vehicles .....	6/30/1997	
615.7	Repairs, Maintenance, and Payment for Services .....	10/12/2005	
615.8	Use of State Automobiles .....	3/26/1980	
615.9	Permanent Assignment of Commonwealth Automotive Fleet Vehicles	10/12/2005	
615.11	Use and Condition Inspections of Commonwealth-Owned Motor Vehicles.....	Rescinded/Obsolete	04/28/2006
615.12	Motor Vehicle Authorization List .....	5/1/2006	
615.13	Emission Control Program-Commonwealth Automotive Fleet Vehicles .....	9/26/1997	
615.14	Repairs and Maintenance, Commonwealth Automotive Fleet .....	Rescinded by MD615.7—	10/12/2005
615.15	Vehicle Parking License Agreements .....	10/26/2006	

**Commodity Standards**

620.1	Coal Sampling and Reporting.....	10/4/2005	
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**Buildings, Property, and Real Estate**

625.1	Repairs, Alterations, and Improvements to Commonwealth Buildings Under the Direct Supervision of the Department of General Services.....	10/4/2004	
625.2	Inventory of Commonwealth Real Property .....	9/16/2008	
625.3	Moving Employee Household Goods and Commonwealth Property ...	3/14/1996	
625.4	Enforcement of Fire and Panic Regulations .....	3/27/1991	
625.5	Reporting Surplus Real Property.....	5/6/1996	
625.6	Leasehold Improvements .....	5/1/2009	
625.7	Use of Form STD-291, Request for Lease Action and Budget Approval.....	11/6/1997	
625.8	Contracting for Bargaining Unit Work.....	2/25/1994	

<b>Management Directives and Manuals</b>		<b>Date of Original Or Latest Amendment</b>	<b>Current Revisions</b>
625.9	Payment of Contractors and Design Professionals for Agency-Funded Construction Projects Undertaken by the Department of General Services. . . . .	3/9/2001	
625.10	Card Reader and Emergency Response Access to Certain Capitol Complex Buildings and Other State Office Buildings . . . . .	1/30/2008	
<b>Bonds and Insurance</b>			
630.1	Agency Insurance Coordinators . . . . .	10/2/1987	
630.2	Reporting of Employee Liability Claims . . . . .	4/28/1998	
<b>COMMONWEALTH PROGRAMS</b>			
<b>Protection and Safety</b>			
720.2	Wage Standards Picketing . . . . .	2/3/1977	
720.3	Emergency Evacuation Plans at Commonwealth Facilities . . . . .	Rescinded by MD205.38—7/31/2009	
720.4	Safety and Loss Prevention Program . . . . .	10/2/1987	
720.5	Energy Conservation and Electrical Devices in Commonwealth-Owned or Leased Buildings . . . . .	7/25/2008	
720.6	Call Trace Procedures for Threatening, Harassing, and Nuisance Telephone Calls . . . . .	9/28/2005	
720.7	Bomb Threats and Suspicious Packages . . . . .	11/1/2004	

[Pa.B. Doc. No. 10-1395. Filed for public inspection July 30, 2010, 9:00 a.m.]

## Title 7—AGRICULTURE

### DEPARTMENT OF AGRICULTURE

#### [ 7 PA. CODE CH. 28b ]

#### Commercial Kennel Exercise of Nursing Mothers

The Department of Agriculture (Department), under the general authority in section 901 of the Dog Law (act) (3 P. S. § 459-901), adds statements of policy in Chapter 28b (relating commercial kennel exercise of nursing mothers) to read as set forth in Annex A.

##### *Scope*

These statements of policy apply to “commercial kennels” licensed by the Department’s Bureau of Dog Law Enforcement, as defined in section 102 of the act (3 P. S. § 459-102).

##### *Purpose*

The purpose of these statements of policy is to provide direction to commercial kennel owners regarding the requirements of exercise for nursing mothers in commercial kennels.

##### *Background*

The purpose of these statements of policy is to clarify the commercial kennel exercise provisions of the act and provide direction to commercial kennel owners regarding the requirements of exercise for nursing mothers in commercial kennels.

##### *Discussion*

Section 207(i) of the act (3 P. S. § 459-207(i)) establishes certain commercial kennel housing standards for dogs over 12 weeks of age, including exercise area requirements. However, section 207(i)(6)(viii) of the act

defines a separate exercise requirement for nursing mother dogs as follows: “Nursing bitches and puppies shall be exercised separately from other dogs.” Dogs 12 weeks of age and under, that is puppies, are not subject to any of the exercise area requirements of section 207(i) of the act. This is consistent with provisions elsewhere in the act requiring that nursing mother dogs must be housed separately with their puppies. See section 207(h)(4) of the act.

To address any potential uncertainty created by the absence of specific standards for the “separate” exercise required for nursing mothers, the Department established these statements of policy for exercise of nursing mothers in commercial kennels.

##### *Summary of Major Features*

There are three requirements established by these statements of policy.

The first requirement is that the nursing mother be provided daily access to an exercise area meeting the applicable requirements of the act.

The second requirement is that the kennel owner, as part of the annual kennel license application process, set forth a plan to provide daily exercise to nursing mothers.

The third requirement is that a failure to adhere to the plan set forth by the kennel owner may be considered material misrepresentation and may constitute grounds for revocation or refusal of the kennel license.

##### *Fiscal Impact*

##### *Commonwealth*

These statements of policy will not have additional fiscal impact on the Department. The Department is already required to review kennel license applications and inspect kennels for compliance with the act and the



regulations. The addition of a plan and enforcement thereof will not create any significant administrative or enforcement costs for the Department.

*Political subdivisions*

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

*Private sector*

The act already requires that commercial kennel owners provide exercise for the nursing mother and therefore, these statements of policy, which merely clarify the extent and manner of the exercise, do not create additional costs not already imposed by the act.

*General public*

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

*Paperwork Requirements*

The Department will have to develop one additional section to the kennel license application; however, it will not create significant cost. In addition, it will not significantly extend the review period of a kennel license application.

*Effective Date*

These statements of policy will be effective immediately upon publication in the *Pennsylvania Bulletin*.

*Sunset Date*

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

RUSSELL C. REDDING,  
Secretary

(*Editor's Note:* Title 7 of the *Pennsylvania Code* is amended by adding statements of policy in §§ 28b.1—28b.3 to read as set forth in Annex A.)

**Fiscal Note:** 2-172. No fiscal impact; (8) recommends adoption.

**Annex A**

**TITLE 7. AGRICULTURE**

**PART II. DOG LAW ENFORCEMENT BUREAU**

**CHAPTER 28b. COMMERCIAL KENNEL  
EXERCISE OF NURSING MOTHERS—  
STATEMENT OF POLICY**

Sec.	
28b.1.	Requirement for commercial kennels.
28b.2.	Plan.
28b.3.	Grounds for revocation or refusal.

**§ 28b.1. Requirement for commercial kennels.**

The Bureau of Dog Law Enforcement will consider a kennel owner to be compliant with the requirements of section 207(i)(6)(viii) of the Dog Law (3 P.S. § 459-207(i)(6)(viii)) if the nursing mother is provided daily access to an exercise area meeting all of the requirements of section 207(i)(6)(ii), (iii), (iv), (v), (vi), (vii), (viii) and (ix) of the Dog Law.

**§ 28b.2. Plan.**

As part of the annual kennel application, the kennel owner applying for a license shall set forth a plan to provide a nursing mother with the opportunity for daily exercise while housed with her puppies.

**§ 28b.3. Grounds for revocation or refusal.**

The failure to adhere to the plan set forth in the annual kennel application may be considered a material misrepresentation under section 211(a)(1) and (2) of the Dog Law (3 P.S. § 459-211(a)(1) and (2)), and may be grounds for the revocation or refusal of a kennel license under section 211(a) of the Dog Law.

[Pa.B. Doc. No. 10-1396. Filed for public inspection July 30, 2010, 9:00 a.m.]

# NOTICES

## DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT

### Approvals Under Act 46 of 2010

Notice is hereby given that all permits or other authorizations described below and granted or in effect after December 31, 2008, and expiring prior to July 2, 2013, are automatically extended until July 2, 2013, by virtue of the enactment of Act 46 of 2010, which Act shall govern the authority, scope and procedures related to such extensions, to wit:

All approvals, agreements, permits, including a building permit or construction permit, or other authorizations or decisions allowing a development or construction project to proceed; or relating to or affecting development, granted pursuant to a statute, regulation or ordinance adopted by a municipality including those issued under the following statutes:

- 37 Pa.C.S. (relating to historical and museums);
- 53 Pa.C.S. (relating to municipalities generally);
- 68 Pa.C.S. Pt. II, Subpt. B (relating to condominiums);
- 68 Pa.C.S. Pt. II, Subpt. C (relating to cooperatives);
- 68 Pa.C.S. Pt. II, Subpt. D (relating to planned communities);
- The act of March 7, 1901 (p.l.20, no.14), referred to as the Second Class City Law, as it relates to development and construction;
- The Act of April 9, 1929 (p.l.177, no.175), known as the Administrative Code of 1929;
- The Act of June 23, 1931 (p.l.932, no.317), known as the Third Class City Code, as it relates to development and construction;
- The Act of June 24, 1931 (p.l.1206, no.331), known as the First Class Township Code, as it relates to development and construction;
- The Act of May 1, 1933 (p.l.103, no.69), known as the Second Class Township Code, as it relates to development and construction;
- The Act of June 22, 1937 (p.l.1987, no.394), known as the Clean Streams Law;
- The Act of June 1, 1945 (p.l.1242, no.428), known as the State Highway Law, as it relates to the issuance of highway occupancy permits which are regulated under 67 Pa. Code Ch. 441 (relating to access to and occupancy of highways by driveways and local roads) or which are affected by other laws or regulations;
- The Act of April 21, 1949 (p.l.665, no.155), known as the First Class City Home Rule Act as it relates to development and construction;
- The Act of July 28, 1953 (p.l.723, no.230), known as the Second Class County Code;
- The Act of August 9, 1955 (p.l.323, no.130), known as the County Code;

- The Act of July 15, 1957 (p.l.901, no.399), known as the Optional Third Class City Charter Law, as it relates to development and construction;
- The Act of May 16, 1923 (p.l.207, no.153), referred to as the Municipal Claim and Tax Lien Law;
- The Act of January 24, 1966 (1965 p.l.1535, no.537), known as the Pennsylvania Sewage Facilities Act;
- The Act of February 1, 1966 (1965 p.l.1656, no.581), known as the Borough Code, as it relates to development and construction;
- The Act of July 31, 1968 (p.l.805, no.247), known as the Pennsylvania Municipalities Planning Code (MPC);
- The Act of July 9, 1971 (p.l.206, no.34), known as the Improvement of Deteriorating Real Property or Areas Tax Exemption Act;
- The Act of October 4, 1978 (p.l.851, no.166), known as the Flood Plain Management Act;
- The Act of October 4, 1978 (p.l.864, no.167), known as the Storm Water Management Act;
- The Act of November 26, 1978 (p.l.1375, no.325), known as the Dam Safety and Encroachments Act;
- The Act of November 10, 1999 (p.l.491, no.45), known as the Pennsylvania Construction Code Act;
- The Act of December 20, 2000 (p.l.724, no.99), known as the Municipal Code and Ordinance Compliance Act;
- The Act of June 22, 2001 (p.l.390, no.29), known as the Conservation and Preservation Easements Act;
- The act of May 16, 2002 (p.l.315, no.46), known as the Community Services Block Grant Act;
- Soil erosion and sediment control plans approved by a local soil conservation district under 25 Pa. Code Ch. 102 (relating to erosion and sediment control);
- The National Historic Preservation Act (public law 89-665, 80 stat. 915), to the extent the Commonwealth has been empowered to administer, approve or otherwise authorize activities under that Act; and
- The Federal Water Pollution Control Act (62 stat. 1155, 33 USC § 1251 et seq.), to the extent the Commonwealth has been empowered to administer, approve or otherwise authorize activities under that Act.

This notice is being made on behalf of every county; city of the first class, second class, second class A, and third class; borough; first class township; second class township; home rule municipality; and, to the extent required by this Act, any other agency, board or authority created by the above with the authority to issue approvals, as required by Section 1607-1 of Act 46 of 2010.

GEORGE E. CORNELIUS,  
*Secretary*

[Pa.B. Doc. No. 10-1397. Filed for public inspection July 30, 2010, 9:00 a.m.]

**Consolidated Plan; 2009 Annual Performance and Evaluation Report**

The Department of Community and Economic Development (Department) is preparing its Consolidated Annual Performance and Evaluation Report (CAPER) on the progress and accomplishments made during 2009 in implementing the Commonwealth's Consolidated Plan for Federal Fiscal Years 2009-2013. This document must be submitted to, and approved by, the United States Department of Housing and Urban Development (HUD) for the Commonwealth and organizations within this Commonwealth to receive funding under most HUD housing and community development programs. The Consolidated Plan creates a unified strategy for housing and community development programs, as well as the necessary linkages for building successful neighborhoods and communities.

The Commonwealth has allocated funds under several programs, namely Community Development Block Grant, HOME Investment Partnerships Program, Emergency Shelter Grant and Housing Opportunities for Persons with AIDS. The CAPER discusses accomplishments in relation to goals and objectives identified in the Action Plan of the Consolidated Plan.

The CAPER assesses the goals and objectives of this strategic plan; how the Commonwealth is affirmatively furthering fair and affordable housing; the activities of the Continuum of Care; as well as how resources in community development and housing are being leveraged.

*Citizen Comments*

Any individual or organization may provide written comments regarding the CAPER. The report will be available for review at [www.newpa.com](http://www.newpa.com) or for more information, call (717) 787-5327. Comments will be accepted about funded activities, community development, housing, the content of the CAPER and the process by which public input is gathered. The Commonwealth encourages public participation in this process.

Written comments will be accepted until 5 p.m. on August 23, 2010, and should be sent to Lauren Atwell, Department of Community and Economic Development, Center for Community Financing, Commonwealth Keystone Building, 400 North Street, 4th Floor, Harrisburg, PA 17120-0225.

AUSTIN BURKE,  
*Secretary*

[Pa.B. Doc. No. 10-1398. Filed for public inspection July 30, 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
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.*

<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>
PA0051632 (Industrial Waste)	Easton Suburban Water Authority 3700 Hartley Avenue Easton, PA 18043	Northampton County City of Easton	Delaware River 01F	Y
PAS142202 (Stormwater)	Packaging Corporation of America 7451 Centronia Road Allentown, PA 18106	Lehigh County Upper Macungie Township	Iron Run 2-C	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N?</i>
PA0085405 (SEW)	Baladerry Inn, LP 40 Hospital Road Gettysburg, PA 17325	Adams County Cumberland Township	UNT Rock Creek 13-D	Y
PA0087271 (IW)	East Petersburg Borough— Koser Road Spring Facility P. O. Box 176 East Petersburg, PA 17520	Lancaster County Manheim Township	UNT Little Conestoga Creek 7-J	Y
PA0083844 (IW)	East Petersburg Borough— Greystone Road Nitrate Reduction Facility P. O. Box 176 East Petersburg, PA 17520	Lancaster County East Petersburg Borough	Little Conestoga Creek 7-J	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>
PA0008915 (Industrial Waste)	OSRAM SYLVANIA Products, Inc.—Wellsboro Plant 1 Jackson Street Wellsboro, PA 16901	Tioga County Wellsboro Borough	Charleston Creek 9-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>
PA0221783	Crystal Springs MHP 201 Crystal Lane Slippery Rock, PA 16057-1805	Butler County Mercer Township	Unnamed Tributary to McDonald Run 20-C	Y
PA0209929	Dennis Stefanak 69 Romain Road Pulaski, PA 16143-1215	Mercer County Shenango Township	Unnamed Tributary to the Shenango River 20-A	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.*

**PA0057690**, Industrial Waste, SIC Code 3731, **Aker Philadelphia Shipyard**, 2100 Kitty Hawk Avenue, Philadelphia, PA 19112-1808. Facility Name: Aker Philadelphia Shipyard. This existing facility is located in Philadelphia City, **Philadelphia County**.

Description of Existing Activity: The application is for an amendment of an NPDES permit for an existing discharge of treated Industrial Waste.

The receiving stream(s), Delaware and Schuylkill Rivers, is located in State Water Plan watershed 3-F and 3-J and is classified for Warm Water Fishes and Migratory Fishes, aquatic life, water supply and recreation. The discharge is not expected to affect public water supplies.

The proposed effluent limits for Outfall 012 are based on groundwater, stormwater and river return water:

Parameters	Mass (lb/day)			Concentration (mg/l)		
	Average Monthly	Daily Maximum	Instantaneous Minimum	Average Monthly	Daily Maximum	Instantaneous Maximum
Flow (GPM)	Report	XXX	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0	XXX	XXX	9.0
Total Suspended Solids	XXX	XXX	XXX	100	200	250
Oil and Grease	XXX	XXX	XXX	15	XXX	30
Total Copper	XXX	XXX	XXX	Report	Report	XXX
Total Iron	XXX	XXX	XXX	Report	Report	XXX
Total Lead	XXX	XXX	XXX	Report	Report	XXX
Total Zinc	XXX	XXX	XXX	Report	Report	XXX
1,2-Dichloroethane	XXX	XXX	XXX	Report	Report	XXX
Tetrachloroethylene	XXX	XXX	XXX	Report	Report	XXX
Trichloroethylene	XXX	XXX	XXX	Report	Report	XXX
PCBs (Dry Weather) (pg/L)	XXX	XXX	XXX	XXX	Report	XXX

The proposed effluent limits for Outfall 019, 021 and 047 based on stormwater runoffs:

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

The proposed effluent limits for Outfall 022—024, 026, 027, 029, 030 and 032 based on stormwater runoffs:

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

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

1. Wet-Berthing Notification.
2. BAT Effluent Guidelines.
3. No Chemical Addition.
4. Change of Ownership.
5. Sludge Disposal.

6. TMDL/WLA Analysis.
7. I-Max.
8. Laboratory Certification.
9. DRBC's PCB and PMP.
10. 85% Removal.
11. Revoking and Modifications.
12. Drydock No. 5 Sealant Requirement.
13. Flooding and Dewatering.
14. Stormwater Outfalls.

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.

**PA0026867**, Sewage, SIC 59, **Abington Township**, 1176 Old York Road, Abington, PA 19001-3713. This proposed facility is located in Upper Dublin Township, **Montgomery County**.

Description of Proposed Activity: Renewal of an NPDES permit to discharge 3.91-MGD of treated sanitary sewage from a facility located at 1000 Fitzwatertown Road, Roslyn, PA 19001-4008.

The receiving stream, Sandy Run, is in the State Water Plan watershed 3F (Lower Schuylkill) and is classified for: TSF, aquatic life, water supply and recreation. The nearest downstream public water supply intake for the City of Philadelphia-Queen Lane Intake is located on the Schuylkill River.

The proposed effluent limits for Outfall 001 are based on a design flow of 3.91-MGD:

<i>Parameters</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Instantaneous Maximum</i>
CBOD <sub>5</sub>					
(05-01 to 10-31)	245	367	7.5	11.25	15
(11-01 to 04-30)	489	734	15	22.5	30
Total Suspended Solids	978	1,467	30	45	60
Ammonia as N					
(05-01 to 10-31)	23		0.72		1.44
(11-01 to 04-30)	70		2.16		4.32
Phosphorus as P			Monitor/Report		Monitor/Report
Orthophosphate-P	60		1.85		3.70
Nitrite + Nitrate as N			Monitor/Report		
Aluminum, Total			Monitor/Report		
Fecal Coliform			200#/100 ml as a Geometric Mean, nor greater than 1,000 #/100 ml in more than 10% of samples		
Dissolved Oxygen			Minimum of 7.0 at all times		
pH			Within limits of 6.0 to 9.0 Standard Units		

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

1. Designation of Responsible Operator.
2. Remedial Measures if Public Nuisance.
3. No Stormwater to Sewers.
4. Acquire Necessary Property Rights.
5. Small Stream Discharge.
6. Change of Ownership.
7. UV Disinfection.
8. Proper Sludge Disposal.
9. TMDL/WLA Analysis.
10. WET Tests Required for Renewal.
11. Instantaneous Maximum Limits.
12. Requirements Applicable to Stormwater Outfalls.
13. Operations and Maintenance Plan.
14. Laboratory Certification.
15. Copper/Water Effects Ratio.

The EPA waiver is not in effect.

**PA0043818**, Industrial Waste, SIC 5622, **Waste Management Disposal Services of Pennsylvania, Inc.**, 1000 New Ford Mill Road, Morrisville, PA 19067. This proposed facility is located in Falls Township, **Bucks County**.

Description of Proposed Activity: Renewal of an NPDES permit to discharge 0.1 MGD of treated wastewater and 0.3 MGD of treated wastewater after construction of the new LTP into the Delaware River.

The receiving stream, Delaware River Estuary Zone 2, is in the State Water Plan watershed 2E and is classified for: warm water fishery. The nearest downstream public water supply intake for U.S. Steel is located on the Delaware River and is 0.5 mile below the point of discharge.

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

Discharge Parameter	Effluent Limitations				
	Mass Units (lbs/day)		Concentration (mg/L)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
Flow (MGD)	0.10				
BOD <sub>5</sub>	21.5	43.4	26.0	52.0	65.0
BOD <sub>5</sub> % Removal			DRBC Requirement 95%		
Total Suspended Solids			DRBC Requirement 85%		
Total Suspended Solids	25.0	50.0	30	60	75
Total Dissolved Solids	15,929	16,680	19,100	20,000	25,000
Ammonia (as N)	29.2	58.4	35.0	70.0	87.5
CBOD <sub>20</sub>	30.0	60.0			
Oil and Grease	12.5		15	30	30
True Color (Pt-Co)					1,500
Fecal Coliform			#200/100 ml		#1,000/100 ml
Temperature (° F)			Monitor/Report		
pH (STD Units)			Within Limits of 6.0 to 9.0 Standard Units at all times		
Total Organic Nitrogen			Monitor/Report	Monitor/Report	
Nitrate and Nitrite Nitrogen			Monitor/Report	Monitor/Report	
Total Residual Chlorine			0.500	1.000	1.200
Antimony, Total	0.380	0.760	0.450	0.900	1.130
Arsenic, Total	0.042	0.084	0.050	0.100	0.125
Beryllium	0.0042	0.0084	0.050	0.010	0.0125
Boron (Influent)	Monitor/Report	Monitor/Report	Monitor/Report	Monitor/Report	Monitor/Report
Boron (Effluent)	Monitor/Report	Monitor/Report	Monitor/Report	Monitor/Report	Monitor/Report
Boron (% Removal)	Monitor/Report	Monitor/Report			
Chromium, Hex.			Monitor/Report	Monitor/Report	
Chromium, Total	0.084	0.084	0.100	0.100	0.125
Cadmium, Total	0.0042	0.0084	0.005	0.010	0.0125
Aluminum, Total	0.230	0.460	0.275	0.550	0.680
Cobalt, Total	0.042	0.084	0.050	0.100	0.125
Iron, Total	2.090	4.180	2.500	5.000	6.300
Barium	0.085	0.170	0.100	0.200	0.250
Mercury	0.0016	0.0032	0.0019	0.0038	0.0047
Nickel	0.250	0.500	0.300	0.600	0.750
Silver			Monitor/Report	Monitor/Report	
Cyanide, Total	0.085	0.170	0.100	0.200	0.250
Vanadium			Monitor/Report	Monitor/Report	
Phenol			0.050	0.100	0.125
Thallium	0.085	0.170	0.100	0.200	0.250
Copper, Total	0.042	0.084	0.050	0.100	0.125
Lead, Total	0.030	0.060	0.036	0.072	0.90
Manganese	0.850	1.700	1.000	2.000	2.500
Zinc, Total	0.250	0.500	0.300	0.600	0.750
Chloroform			0.010	0.020	0.025
Chloromethane			0.100	0.200	0.250
Methylene Chloride			0.100	0.200	0.250
Toluene			0.050	0.100	0.125
Butyl Benzyl Phthalate			0.010	0.020	0.025
2-Chloronaphthalene			0.010	0.020	0.025
Diethyl Phthalate			0.025	0.050	0.063

<i>Discharge Parameter</i>	<i>Effluent Limitations</i>				
	<i>Mass Units (lbs/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>
Lindane			0.010	0.020	0.025
Isophorone			0.050	0.100	0.125
Bromoform			Annual Average		6.480
Total Halomethanes			0.540		
			Annual Average		0.324
Acetone			0.109	0.218	0.273
2-Butanone			0.210	0.420	0.525
1,2,3-Trichloropropane			0.100	0.200	0.250
Xylene			0.010	0.020	0.025
1-Propanol			0.550	1.100	1.350
2-Propanol			0.540	1.080	1.350
4'-4 DDT			0.00004	0.00008	0.0001
Pentachlorophenol			Monitor/Report	Monitor/Report	
Total Phenols			0.270	0.540	0.680
Tetrahydrofuran			0.025	0.050	0.063
P-Cresol			0.050	0.100	0.125
2-Hexanone			0.015	0.030	0.037
4-Methyl-2-Pentanone			0.015	0.030	0.037
Dibromomethane			0.010	0.020	0.025
1,1,1-Trichloroethane			0.100	0.200	0.250
1,2-Trans Dichloroethylene			0.030	0.060	0.075
Benzene			0.050	0.100	0.125
1-1 Dichloroethane			0.090	0.180	0.230
Chlorobenzene			0.050	0.100	0.125
DI-N-Butyl Phthalate			0.830	1.660	2.080
1,2 Dichloroethane			Monitor/Report	Monitor/Report	
Tetrachloroethylene			Monitor/Report	Monitor/Report	
Trichloroethylene			Monitor/Report	Monitor/Report	
Toxicity (Toxics Unit Chronic)				Monitor/Report	
PCBs				Monitor/Report	

The proposed effluent limitations for the following parameters for Outfall 001 are based on a discharge flow of 0.3 MGD:

<i>Discharge Parameter</i>	<i>Effluent Limitations</i>				
	<i>Mass Units (lbs/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)	0.30				
BOD <sub>5</sub>	44.2	88.4	18.0	36.0	45.0
BOD <sub>5</sub> % Removal			DRBC Requirement 95%		
Total Suspended Solids	75.0	50.0	30	60	75
TSS (% Removal)	90%				
Total Dissolved Solids			15,000	20,000	25,000
Ammonia (as N)	12.26	25.0	4.9	10.0	15.0
CBOD <sub>20</sub>	30.0	60.0			
Oil and Grease	37.5	75.0	15	30	30
True Color (Pt-Co)					100
Fecal Coliform			#200/100 ml		1,000/100 ml
Temperature (° F)			Monitor/Report		
pH (STD Units)			Within Limits of 6.0 to 9.0 Standard Units at all times		
Total Organic Nitrogen			Monitor/Report	Monitor/Report	
Total Kjeldahl Nitrogen			Monitor/Report	Monitor/Report	



Discharge Parameter	Mass Units (lbs/day)		Effluent Limitations		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Concentration (mg/L) Instantaneous Maximum
Nitrate and Nitrite Nitrogen			Monitor/ Report	Monitor/ Report	
Total Phosphorus as P			Monitor/ Report	Monitor/ Report	
Total Residual Chlorine			0.5	1.0	1.2
Antimony, Total	1.13	2.26	0.450	0.900	1.130
Arsenic, Total	0.375	0.750	0.150	0.300	0.375
Beryllium	0.0125	0.0250	0.005	0.010	0.0125
Boron (Influent)	Monitor/ Report	Monitor/ Report	Monitor/ Report	Monitor/ Report	Monitor/ Report
Boron (Effluent)	Monitor/ Report	Monitor/ Report	Monitor/ Report	Monitor/ Report	Monitor/ Report
Boron (% Removal)	≥10 %				
Chromium, Total	0.375	0.750	0.150	0.300	0.375
Cadmium, Total	0.0125	0.0250	0.005	0.010	0.0125
Aluminum, Total	0.688	1.376	0.275	0.550	0.680
Cobalt, Total	0.125	0.250	0.050	0.100	0.125
Iron, Total	6.25	12.50	2.500	5.000	6.300
Barium	0.250	0.500	0.100	0.200	0.250
Mercury	0.001	0.002	0.0004	0.0008	0.0010
Nickel	0.500	1.000	0.200	0.400	0.500
Silver	0.025	0.050	0.010	0.020	0.025
Cyanide, Total	0.125	0.250	0.050	0.100	0.125
Vanadium	0.125	0.250	0.050	0.100	0.125
Phenol	0.0375	0.065	0.015	0.026	0.037
Copper, Total	0.125	0.250	0.050	0.100	0.125
Lead, Total	0.090	0.180	0.036	0.072	0.090
Manganese	2.50	5.00	1.000	2.000	2.500
Zinc, Total	0.275	0.500	0.110	0.200	0.250
Total Halomethanes			Annual Average 0.027		0.324
Chloroform			0.010	0.020	0.025
Chloromethane			0.100	0.200	0.250
Methylene Chloride			0.100	0.200	0.250
Toluene			0.050	0.100	0.125
Benzene			0.036	0.072	0.090
Butyl Benzyl Phthalate	0.025	0.050	0.010	0.020	0.025
2-Chloronaphthalene	0.025	0.050	0.010	0.020	0.025
Diethyl Phthalate	0.0625	0.125	0.025	0.050	0.063
Lindane	0.0250	0.050	0.010	0.020	0.025
Isophorone	0.125	0.250	0.050	0.100	0.125
Acetone	0.273	0.546	0.109	0.218	0.273
2-Butanone	0.525	1.050	0.210	0.420	0.525
1,2,3-Trichloropropane	0.250	0.500	0.100	0.200	0.250
Xylene			0.010	0.020	0.025
1-Propanol	1.376	2.752	0.550	1.100	1.350
2-Propanol	1.350	2.700	0.540	1.080	1.350
4'-4 DDT	0.000008	0.000016	0.000003	0.000006	0.000008
Total Phenols	0.675	1.351	0.270	0.540	0.680
Tetrahydrofuran	0.0625	0.125	0.025	0.050	0.063
P-Cresol	0.035	0.0625	0.014	0.025	0.035
2-Hexanone	0.0375	0.0750	0.015	0.030	0.037
4-Methyl-2-Pentanone	0.0375	0.0750	0.015	0.030	0.037
Dibromomethane	0.0250	0.0500	0.010	0.020	0.025
1,1,1-Trichloroethane	0.250	0.500	0.100	0.200	0.250
1,2-Trans-Dichloroethylene	0.075	0.150	0.030	0.060	0.075
1-1 Dichloroethane	0.225	0.450	0.090	0.180	0.230
Benzoic Acid	0.177	0.300	0.071	0.120	0.150
α-terpineol	0.040	0.082	0.016	0.033	0.040
1,2 Dichloroethane			Monitor/ Report	Monitor/ Report	
Tetrachloroethylene			Monitor/ Report	Monitor/ Report	

Discharge Parameter	Mass Units (lbs/day)		Effluent Limitations		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
			Concentration (mg/L)		
Trichloroethylene			Monitor/Report	Monitor/Report	
Toxicity (Toxics Unit Chronic)				Monitor/Report	
PCBs, Total				Monitor/Report	
Tritium			Monitor/Report	Monitor/Report	
Chlorodane			Monitor/Report	Monitor/Report	
Heptachlor			Monitor/Report	Monitor/Report	
4-4' DDD	0.000008	0.000016	0.000003	0.000006	0.000008
4-4' DDE	0.000008	0.000016	0.000003	0.000006	0.000008
Benzidine			Monitor/Report	Monitor/Report	
Chlordane			Monitor/Report	Monitor/Report	
Dieldrin			Monitor/Report	Monitor/Report	
Heptachlor			Monitor/Report	Monitor/Report	
Heptachlor Epoxide			Monitor/Report	Monitor/Report	
Toxaphene			Monitor/Report	Monitor/Report	

\* Shall not exceed in more than 10% of samples.

The proposed effluent limitations for the following stormwater outfalls are follows:

Outfall	Latitude	Longitude	Which Receives Stormwater From:
003	40° 09' 08"	74° 46' 12"	Capped Landfill Areas
004	40° 08' 55"	74° 46' 22"	Active Landfill Areas
005	40° 09' 08"	74° 46' 10"	Capped Landfill Area
006	40° 08' 14"	74° 46' 08"	Parking Lot and Maintenance
009	40° 08' 30"	74° 46' 04"	Impervious Area of IWTP
010	40° 08' 34"	74° 46' 59"	Capped Landfill Areas
011	40° 08' 31"	74° 45' 25"	Sedimentation Basin No. 2 for 80-Acre Eastern Expansion
012	40° 08' 23"	74° 45' 47"	Capped Landfill Area

Discharge Parameter	Effluent Limitations (mg/l)	
	Average Annual	Maximum Daily
C-Biochemical Oxygen Demand (5 Day)	Monitor/Report	Monitor/Report
Total Dissolved Solids (TDS)	Monitor/Report	Monitor/Report
Oil and Grease	Monitor/Report	Monitor/Report
pH	Monitor/Report	Monitor/Report
Lead (Total)	Monitor/Report	Monitor/Report
Total Organic Carbon (TOC)	Monitor/Report	Monitor/Report
Chromium (Total)	Monitor/Report	Monitor/Report
Barium (Total)	Monitor/Report	Monitor/Report
Cadmium (Total)	Monitor/Report	Monitor/Report
Mercury (Total)	Monitor/Report	Monitor/Report
Selenium (Total)	Monitor/Report	Monitor/Report
Silver (Total)	Monitor/Report	Monitor/Report
Ammonia	Monitor/Report	Monitor/Report
Arsenic (Total)	Monitor/Report	Monitor/Report
Cyanide (Total)	Monitor/Report	Monitor/Report
Nitrate plus Nitrite as Nitrogen	Monitor/Report	Monitor/Report
Iron (Dissolved)	Monitor/Report	Monitor/Report

<i>Discharge Parameter</i>	<i>Effluent Limitations (mg/l)</i>	
	<i>Average Annual</i>	<i>Maximum Daily</i>
Magnesium (Total)	Monitor/Report	Monitor/Report
Magnesium (Dissolved)	Monitor/Report	Monitor/Report

The EPA waiver is in effect.

Other Requirements:

1. Effective Disinfection.
2. Remedial Measures.
3. Department Rights to Modify the Permit.
4. BOD<sub>5</sub> % Removal.
5. Certain Test Methods for Pollutants.
6. Change in Ownership.
7. TRC Minimization.
8. Proper Sludge Disposal.
9. Annual Average Definition.
10. TMDL/WLA Analysis.
11. Toxicity—Chronic Monitoring.
12. I-Max Sampling Requirements.
13. 2/Month Sampling Requirements.
14. Stormwater Outfalls Requirements.
15. TRC/THMs Monitoring Requirements.
16. Total THMs Definition.
17. Grab Sample Definition.
18. Monitoring of Untreated Leachate Quality and Quantity.
19. Control of Stormwater Runoff.
20. Management of Leachate Discharge Rate.
21. Removal of 100% Pollutant of Outside DRBC Area Waste.
22. DRBC Pollutant Loading and Recordkeeping Requirements Clause.
23. Permit Reopener Clause.
24. PCBs Minimization Plan.

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

**PA0082589**, Sewage, SIC Code 4952, **Fairview Township York County**, 599 Lewisberry Road, New Cumberland, PA 17070-2399. Facility Name: Fairview Township Southern STP. This existing facility is located in Fairview Township, **York County**.

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

The receiving stream(s), unnamed tributary to Fishing Creek is located in State Water Plan watershed 7-E 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 0.50 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>Weekly Average</i>	<i>Instantaneous Maximum</i>
Flow (MGD)	Report	Report	XXX	XXX	XXX	XXX
pH	XXX	XXX	6.0	XXX	XXX	9.0
Dissolved Oxygen	XXX	XXX	5.0	XXX	XXX	XXX
Total Residual Chlorine	XXX	XXX	XXX	0.19	XXX	0.63
CBOD <sub>5</sub>	104	167	XXX	25	40	50
		Weekly Average				
BOD <sub>5</sub>						
Raw Sewage Influent	Report	Report	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>Weekly Average</i>	<i>Instantaneous Maximum</i>
Total Suspended Solids	Report	Report	XXX	Report	XXX	XXX
Raw Sewage Influent	125	187	XXX	30	45	60
Total Suspended Solids		Weekly Average				
Fecal Coliform (CFU/100 ml)						
May 1 - Sep 30	XXX	XXX	XXX	200	XXX	XXX
				Geometric Mean		
Oct 1 - Apr 30	XXX	XXX	XXX	2,000	XXX	XXX
				Geometric Mean		
Ammonia-Nitrogen						
May 1 - Oct 31	6.2	XXX	XXX	1.5	XXX	3.0
Nov 1 - Apr 30	18.7	XXX	XXX	4.5	XXX	9.0
Total Phosphorus	8.3	XXX	XXX	2.0	XXX	4.0
Total Copper	0.067	XXX	XXX	0.016	XXX	0.04
Total Zinc	0.54	XXX	XXX	0.13	XXX	0.32

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>Concentration (mg/l)</i>	
	<i>Monthly</i>	<i>Annual</i>	<i>Minimum</i>	<i>Monthly Average</i>	<i>Maximum</i>
Ammonia-N	Report	Report		Report	
Kjeldahl-N	Report			Report	
Nitrate-Nitrite as N	Report			Report	
Total Nitrogen	Report	Report		Report	
Total Phosphorus	Report	Report		Report	
Net Total Nitrogen (Interim)	Report	Report			
Net Total Nitrogen (Final)	Report	9,132			
Net Total Phosphorus (Interim)	Report	Report			
Net Total Phosphorus (Final)	Report	1,218			

\* This permit contains conditions which authorize the permittee to apply nutrient reduction credits to meet the Net Total Nitrogen and the Net Total Phosphorus effluent mass limits, under the Department of Environmental Protection's (Department) Trading of Nutrients and Sediment Reduction Credits Policy and Guidelines (Document No. 392-0900-001, December 30, 2006). The condition includes the requirement to report the application of these credits in Supplemental Discharge Monitoring Reports (DMRs) submitted to the Department.

\* The compliance date for Net Total Nitrogen and Net Total Phosphorus will begin on October 1, 2012. Since these reporting requirements are annual loads, the reporting on compliance with the annual limitations will be required to be reported on the Supplemental DMR—Annual Nutrient Summary by November 28, 2013. This facility is required to monitor and report for Net Total Nitrogen and Net Total Phosphorus from the effective date of the permit until September 30, 2012.

\*\* Total Annual Ammonia Load will be required to be reported on the Supplemental DMR—Annual Nutrient Summary by November 28, 2010.

You may make an appointment to review the Department's files on this case by calling the File Review Coordinator at 717.705.4732.

The EPA waiver is not in effect.

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

**PA0024325**, Sewage, SIC Code 4952, **Muncy Borough Municipal Authority Lycoming County**, Muncy, PA 17756. Facility Name: Muncy Borough Municipal Authority Sewer System STP. This existing facility is located in Muncy Creek Township, **Lycoming County**.

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

The receiving stream(s), Unnamed Stream and West Branch Susquehanna River, is located in State Water Plan watershed 10-C and 10-D and is classified for Warm Water Fishes, aquatic life, water supply and recreation. The discharge is not expected to affect public water supplies.

The proposed effluent limits for Outfall 001 are based on a design flow of 1.4 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	0.5	XXX	1.6
CBOD <sub>5</sub>	292	467	XXX	25	40	50
Total Suspended Solids	350	525	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	XXX	XXX	XXX	Report	XXX	XXX
Total Phosphorus	XXX	XXX	XXX	XXX	XXX	XXX
Total Copper	XXX	XXX	XXX	XXX	Report Daily Maximum	XXX

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

<i>Parameters</i>	<i>Mass (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	25,570			
Net Total Phosphorus (Interim)	Report	Report			
Net Total Phosphorus (Final)	Report	3,409			

\* This permit contains conditions which authorize the permittee to apply nutrient reduction credits to meet the Net Total Nitrogen and the Net Total Phosphorus effluent mass limits, under the Department of Environmental Protection's (Department) Trading of Nutrients and Sediment Reduction Credits Policy and Guidelines (Document No. 392-0900-001, December 30, 2006). The condition includes the requirement to report the application of these credits in Supplemental Discharge Monitoring Reports (DMRs) submitted to the Department.

\* The compliance date for Net Total Nitrogen and Net Total Phosphorus will begin on October 1, 2010. Since these reporting requirements are annual loads, the reporting on compliance with the annual limitations will be required to be reported on the Supplemental DMR—Annual Nutrient Summary by November 28, 2011. This facility is required to monitor and report for Net Total Nitrogen and Net Total Phosphorus from the effective date of the permit until September 30, 2010.

\*\* Total Annual Ammonia Load will be required to be reported on the Supplemental DMR—Annual Nutrient Summary by November 28, 2011.

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

- 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 stormwater to the sanitary sewers.
  - E. Requires whole effluent toxicity test submission with next renewal application.
- IV. Stormwater Requirements with BMPs.
- V. Requires management and reporting of biosolids within the treatment process.

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

The EPA waiver is not in effect.

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

**PA0090140**, Sewage, **Clymer Borough Municipal Authority**, 470 Adams Street, Clymer, PA 15278-1156. This application is for renewal of an NPDES permit to discharge treated sewage from Clymer STP in Clymer Borough, **Indiana County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Two Lick 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 Pennsylvania-American Water Company-Indiana.

*Outfall 001*: existing discharge, design flow of 0.24 mgd.

Parameter	Concentration (mg/l)			
	Average Monthly	Average Weekly	Maximum Daily	Instantaneous Maximum
CBOD <sub>5</sub>	25	37.5		50
Suspended Solids	30	45		60
Ammonia Nitrogen				
May 1 to Oct 31	7.0	10.5		14.0
Nov 1 to Apr 30	Monitor and Report			
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			3.3
Dissolved Oxygen	not less than 3.0 mg/l			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

**PA0093785**, Sewage, **Williamhouse, LLC**, 1 Wedding Lane, Scottdale, PA 15683. This application is for renewal of an NPDES permit to discharge treated sewage from Williamhouse STP in Upper Tyrone Township, **Fayette County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Unnamed Tributary to Jacobs 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 McKeesport Municipal Water Authority.

*Outfall 001*: existing discharge, design flow of 0.14 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	3.5			7.0
Nov 1 to Apr 30	10.5			21.0
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			
Dissolved Oxygen	not less than 5 mg/l			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

**PA0030350**, Sewage, **Indian Lake Borough**, 1301 Causeway Drive, Central City, PA 15926. This application is for renewal of an NPDES permit to discharge treated sewage from Lakewood Sewage Treatment Plant in Indian Lake Borough, **Somerset County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Indian Lake—Clear Run Branch, which are classified as a cold 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 Indian Lake Borough.

*Outfall 001*: existing discharge, design flow of 0.012 MGD.

Parameter	Concentration (mg/l)			
	Average Monthly	Average Weekly	Maximum Daily	Instantaneous Maximum
CBOD <sub>5</sub>	25			50
Suspended Solids	30			60

Parameter	Concentration (mg/l)			
	Average Monthly	Average Weekly	Maximum Daily	Instantaneous Maximum
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	1.4			3.3
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)**

*Northeast Region: Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18701-1915.*

**WQM Permit No. 4510402**, Sewerage, **Middle Smithfield Township**, 25 Municipal Drive, East Stroudsburg, PA 18302. This proposed facility is located in Middle Smithfield Township, **Monroe County**.

Description of Proposed Action/Activity: This project involves an extension to, and the addition of, a new sanitary sewer pump station to the Middle Smithfield Township existing sanitary sewer system on SR 209.

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

**WQM Permit No. 3810402**, Sewerage, **Borough of Palmyra**, 325 South Railroad Street, Palmyra, PA 17078. This proposed facility is located in Palmyra Borough, **Lebanon County**.

Description of Proposed Action/Activity: Seeking permit approval for upgrades to their Main Pumping Station, Pumping Stations Nos. 1—3.

**WQM Permit No. 2810403**, Sewerage, **John M. Lee**, 14547 Paxton Run Road, Shippensburg, PA 17257. This proposed facility is located in Lurgan Township, **Franklin County**.

Description of Proposed Action/Activity: Seeking approval for the construction of a Small Flow Treatment Facility.

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

**WQM No. 5510201**, CAFO Operation, SIC 1213, **Ideal Family Farms, LLC, Gerald Stauffer**, P. O. Box 215, Selinsgrove, PA 17870-0215. This proposed facility is located at 89 BP Finishing Lane, Beavertown, PA 17813, in Beaver Township, **Snyder County**.

Description of Proposed Activity: Ideal Family Farms, LLC proposes to install an anaerobic digester to produce and utilize methane gas at their Beavertown Finishing CAFO from liquid hog manure and food waste. Proposed facilities include a reinforced concrete digester tank and associated transfer tanks.

**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.*

NPDES Permit No.	Applicant Name & Address	County	Municipality	Receiving Water/Use
PAI01 151017	West Bradford Township 1385 Campus Drive Downingtown, PA 19335	Chester	West Bradford Township	East and West Branches Brandywine Creek WWF-MF Broad Run EV-MF
PAI01 151018	West Vincent Associates, Inc. 707 Eagleview Boulevard Exton, PA 19341	Chester	West Vincent Township	Birch Run EV Black Horse Creek HQ-TSF
PAI01 151019	The Hankin Group 707 Eagleview Boulevard P. O. Box 562 Exton, PA 19341	Chester	Uwchland and Upper Uwchlan Townships	Shamona Creek HQ-TSF Pickering Creek HQ-TSF March Creek HQ-TSF-MF

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI01511003	Philadelphia Regional Port Authority 3460 North Delaware Avenue Philadelphia, PA 19134 and Department of General Services Room 603 North Office Building Harrisburg, PA 17125	Philadelphia	City of Philadelphia	Delaware River WWF-MF

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

*Northampton County Conservation District: 14 Gracedale Avenue, Greystone Building, Nazareth, PA 18064-9211, 610-746-1971.*

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI024809009(1)	UGI Development Co. 1 Meridian Boulevard Suite 2C01 Wyomissing, PA 19610	Northampton	Forks Township	Bushkill Creek HQ-CWF, MF

*Pike County Conservation District: 556 Route 402, Suite 1, Hawley, PA 18428, 570-226-8220.*

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI025210005	Bryan and Barabara Siegfried 103 Siegfried Drive Newfoundland, PA 18445	Pike	Greene Township	Bridge Creek to Wallenpaupack Creek HQ-CWF, MF

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

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI024510008	Department of Transportation District 5-0	1002 Hamilton Street Allentown, PA 18101	Tobyhanna and Tunkhannock Townships	UNT Tobyhanna Creek HQ-CWF, MF

*Southcentral Region: Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.*

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI030708001(1)	Jonathan Baker Chestnut Flats Wind, LLC Ten Penn Center 1801 Market Street Suite 2700 Philadelphia, PA 19103	Blair	Logan Township	Mill, Scotch Gap, Kittanning and Little Laurel Runs HQ, CWF-WWF-CWF-TSF

## 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)

## 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 in-

clude 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. 4610516, Public Water Supply.

Applicant	<b>Saint Gabriel's Hall</b>
Township	Lower Providence
County	<b>Montgomery</b>
Responsible Official	Andy Tihansky P. O. Box 7280 Audubon, PA 19407
Type of Facility	PWS
Consulting Engineer	Environmental Engineering & Management Associates, Inc. P. O. Box 232 Kulpsville, PA 19443
Application Received Date	June 15, 2010
Description of Action	Installation of corrosion control treatment equipment.

##### Application No. 4610517, Public Water Supply.

Applicant	<b>Audubon Water Company</b>
Township	Lower Providence
County	<b>Montgomery</b>
Responsible Official	J. H. Russell 2650 Eisenhower Drive Norristown, PA 19403
Type of Facility	PWS
Consulting Engineer	Evans Mill Environmental, LLC P. O. Box 735 Uwchland, PA 19480
Application Received Date	June 17, 2010
Description of Action	Installation of metering pump and tank to feed blended phosphate to sequester manganese.

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

##### Permit No. Public Water Supply.

Applicant	<b>Borough of East Brady</b> 502 Ferry Street Suite 15 East Brady, PA 16028
Township or Borough	East Brady Borough

County	<b>Clarion</b>
Responsible Official	Barbara Mortimer, President
Type of Facility	Community Water Supply
Consulting Engineer	Peg Novello, Gibson-Thomas Engineering Co., Inc.
Application Received Date	July 14, 2010
Description of Action	Water treatment plant and water supply well, addition of well No. 3.

### MINOR AMENDMENT

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

#### Application No. 4010503MA, Minor Amendment.

Applicant	<b>Aqua Pennsylvania, Inc.</b> Barrett System 1 Aqua Way White Haven, PA
Township or Borough	Exeter Township <b>Luzerne County</b>
Responsible Official	Patrick R. Burke
Type of Facility	Public Water System
Consulting Engineer	CET Engineering Services 1240 North Mountain Road Harrisburg, PA
Application Received Date	6/1/10
Description of Action	The construction of a new well station, chlorination and contact pipeline for the Barrett Well.

## 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:

*Northeast Region: Ronald S. Brezinski, Environmental Cleanup Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.*

**Former Gary Gray Property**, 5830 River Road/103 Deming Road, Upper Mount Bethel Township, **Northampton County**. Keith A. Valentine and Christopher T. Kotch, Barry Isett & Associates, Inc., P. O. Box 147, 85 SR, 100 Kressler Lane, Trexlertown, PA 18087 have submitted a Notice of Intent to Remediate (on behalf of their client, Voltaix, LLC, 197 Meister Avenue, Branchburg, NJ 08876), concerning the remediation of soil found to have been impacted by arsenic as a result of historical operations at the site, which included the storage of vintage vehicles (for example, fire engines) and other vintage equipment. The future use of the property is to house a production plant, warehouse and office building. The applicant proposes to remediate the site to meet the Residential Statewide Health Standard for soil. A summary of the Notice of Intent to Remediate was published in *The Morning Call* on May 29, 2010.

**Pesotine Residence**, 92 Rear Main Street, Jenkins Township, **Luzerne County**. Dean Crusiani and Martin Gilgallon, Pennsylvania Tectonics, Inc., 826 Main Street, Peckville, PA 18452 have submitted a Notice of Intent to Remediate (on behalf of their client, Christopher Pesotine, 92 Rear Main Street, Inkerman, PA 18640), concerning the remediation of soil found to have been impacted by No. 2 fuel oil as a result of a release from a nonregulated 250-gallon aboveground storage tank. The future use of the property is will remain residential. The applicant proposes to remediate the site to meet the Residential Statewide Health Standard for soil. A summary of the

Notice of Intent to Remediate is expected to be published in a local newspaper serving the general area sometime in the near future.

#### **HAZARDOUS WASTE TREATMENT, STORAGE & DISPOSAL FACILITIES**

**Applications received, withdrawn, denied or returned under the Solid Waste Management Act of July 7, 1980 (P. L. 380, No. 97) (35 P. S. §§ 6018.101—6018.1003) and Regulations to Operate a Hazardous Waste Treatment, Storage or Disposal Facility.**

*Southeast Region: Regional Solid Waste Manager, 2 East Main Street, Norristown, PA 19401.*

**PAD002312791. Sunoco, Inc. (R&M)**, 1735 Market Street, Suite LL, Philadelphia, PA 19103, **Philadelphia County**. This Class 1 permit modification application is requesting the approval to change the permittee's legal name from "Sunoco Chemicals, Inc." to "Sunoco, Inc. (R&M)" for the Sunoco, Inc. (R&M)—Frankford Plant, an existing facility operating under Part B RCRA hazardous waste permit and located at 4698 Margaret Street, Philadelphia, PA 19137 in the City of Philadelphia. Application was received by the Southeast Regional Office on May 19, 2010.

#### **RESIDUAL WASTE GENERAL PERMITS**

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

*Central Office: Division of Municipal and Residual Waste, Rachel Carson State Office Building, 14th Floor, 400 Market Street, Harrisburg, PA 17105-8472.*

**General Permit Number WMGR047. Harsco Minerals**, 359 North Pike Road, Sarver, PA 16055-8633. General Permit Number WMGR047 authorizes beneficial use of stainless steel slag for use as an agricultural liming agent. Harsco Minerals has requested modification of the general permit to add the use of stainless steel slag as an ingredient in mine grout. The application for major modification of General Permit Number WMGR047 was received by Central Office on January 19, 2010.

Comments concerning the application should be directed to Scott E. Walters, General Permits/Beneficial Use Section, Division of Municipal and Residual Waste, Bureau of Waste Management, P. O. Box 8472, Harrisburg, PA 17105-8472, 717-787-7381. TDD users may contact the Department of Environmental Protection through the Pennsylvania AT&T Relay Service, (800) 654-5984. Public comments must be submitted within 60 days of this notice and may recommend revisions to, and approval or denial of the application.

**General Permit Application Number WMGR125. Hazleton Creek Properties, LLC**, Route 924 Mined Lands, City of Hazleton, PA 18201. The application is for processing and beneficial use of dry flue gas desulfurization (FGD) gypsum and coal ash. The proposed processing is limited to blending and water conditioning. The application was found to be administratively complete by Central Office on July 16, 2010.

A public informational meeting on General Permit Application Number WMGR125 will be held by the Department of Environmental Protection (Department) from 7 p.m.—9 p.m. on Tuesday, August 31, 2010, at the Hazleton High School Auditorium, 1601 West 23rd Street, Hazleton, PA 18202.

Comments concerning the application should be directed to Scott E. Walters, General Permits/Beneficial Use Section, Division of Municipal and Residual Waste, Bureau of Waste Management, P. O. Box 8472, Harrisburg, PA 17105-8472, 717-787-7381. TDD users may contact the Department through the Pennsylvania AT&T Relay Service, (800) 654-5984. Public comments must be received by the Department by September 29, 2010, and may recommend revisions to, and approval or denial, of the application.

#### **OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE**

**Application Received under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003), the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904) and Regulations to Operate Solid Waste Processing or Disposal Area or Site.**

*Southeast Region: Regional Solid Waste Manager, 2 East Main Street, Norristown, PA 19401.*

**Permit Application No. 101567. Construction Demolition Recycling, Inc.**, 1060 Industrial Boulevard, Southampton, PA 18966. This application is for a 10-year renewal to continue operation at the Construction Demolition Recycling, Inc., an existing municipal and construction/demolition waste processing facility located in Upper Southampton Township, **Bucks County**. The application was received by the Southeast Regional Office on July 7, 2010.

### **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 to 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.**

*Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745. Contact: M. Gorog and B. Hatch, Environmental Engineer Managers—Telephone: 412-442-4163/5226.*

**63-00957: Green Holdings Enlow, Inc.** (1221 Avenue of the Americas, Suite 4200, New York, NY 10020) for installation of a methane abatement system on mine shaft exhaust air from the Consol Pennsylvania Coal Company, LLC, Enlow Fork Mine in Morris Township, **Washington 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.*

**09-0187A: Sims Metal Management** (300 South Steel Road, Morrisville, PA 19067) for installation of two scrap metal conveyor lines for the recovery of nonferrous wire and nonferrous fines at an existing metal recycling facility in Falls Township, **Bucks County**. The fines recovery line will have two cyclone separators used to capture additional recyclable metals from the automobile shredding operation that has been previously permitted. Potential emissions of Total Suspended Particulate matter emissions are estimated to increase by 1.11 tons per year. The plan approval will include monitoring, recordkeeping and reporting 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.*

**07-05042A: Blair County Regional Digester—BCRD, LLC** (Cross Cove Road, Martinsburg, PA 16662) for construction of an anaerobic manure digester process at their processing facility in North Woodbury Township, **Blair County**. This process will include the construction of three 2,223 brake horsepower biogas fired internal combustion engines with associated 1,600 kW generators, two biosolids belt dryers, a No. 2 oil fired emergency generator, and a No. 2 oil or natural gas fired 300 horsepower start up boiler. The air contaminant emissions generated from the operation of the engines will be controlled by the installation of selective catalytic reduction and a CO oxidation catalyst. The air contaminant emissions generated from the operation of the belt dryers will be controlled by the installation of a packed tower scrubber. A gas conditioning flare and an emergency flare will also be installed at their processing facility. The project will result in the emission of approximately 8.6 tons per year of nitrogen oxides, 24.5 tons per year of volatile organic compounds, 57.0 tons per year of carbon monoxide, 6.7 tons per year of sulfur dioxide and 18.3 tons per year of particulate matter. The engines will be subject to 40 CFR Part 60, Subpart JJJJ—Standards of Performance for Stationary Spark Ignition Internal Combustion Engines and 40 CFR Part 63, Subpart ZZZZ—National Emission Standards for Hazardous Air Pollutants for Stationary Reciprocating Internal Combustion Engines. The plan approval will include emission limits, monitoring, recordkeeping, work practices and reporting requirements designed to keep the sources 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.*

**14-00016A: Penns Valley Area School District** (4528 Penns Valley Road, Spring Mills, PA 16875) for construction of a 9.70 mmBtu/hr, Challenger Energy Systems model CCU409-W, wood-fired boiler and a multi-clone collector to control particulate matter emissions from the boiler. The boiler is proposed to generate hot water for domestic heating for an educational complex that includes the elementary and intermediate school and the junior and senior high school buildings in Penn Township, **Centre County**.

The Department of Environmental Protection's (Department) review of the information submitted by Penns Valley Area 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; 10.62 tons of nitrogen oxides, 6.8 tons of carbon monoxide, 0.7 ton of volatile organic compounds, 1.1 tons of sulfur oxides and 8.5 tons of total particulate matter (filterable and condensable). Additionally, total HAP emissions will not exceed 1.18 tons in any 12 CMP. To demonstrate compliance with ton per 12 CMP

emissions limitations, Penns Valley Area 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—0.25 lb/mmBtu  
carbon monoxide—0.16 lb/mmBtu  
particulate matter—0.20 lb/mmBtu

In addition to the emission limitations listed previously, the following is a summary of the types of conditions the Department intends to place in Plan Approval 14-00016A 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, Department of Environmental Protection, Air Quality Program, Northcentral Regional Office, 208 West Third Street, Suite 101, Williamsport, PA 17701, 570-327-3648 within 30 days of the publication date for this notice.

*Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745. Contact: B. Hatch, Environmental Engineer Managers—Telephone: 412-442-4163/5226.*

**63-00936C: Mark West Liberty Midstream & Resources, LLC** (Tower 2, Suite 700, 1515 Arapahoe Street, Denver, CO 80202) for installation of one new stabilizer with a depropanizer and a 148 mmBtu/hour hot oil heater and one new additional 200 MMscf/day depropanizer with a 7.6 mmBtu/hour regenerator heater at the Houston Gas Plant, at PA-519 West between Houston and Westland, PA in Chartiers Township, **Washington County**.

In accordance with 25 Pa. Code §§ 127.44(b) and 127.45, the Department of Environmental Protection intends to issue Minor Source Plan Approval to allow the installation of one new stabilizer with a depropanizer and a 148 mmBtu/hour hot oil heater and one new additional 200 MMscf/day depropanizer with a 7.6 mmBtu/hour regenerator heater at the Houston Gas Plant, located off of PA-519 West between Houston and Westland, PA in Chartiers Township, Washington County. Best Available Technology at the facility will be met by use of an Ultra Blue burner manufactured by Callidus Technologies for the stabilizer, operation in conformance with manufacturer recommendations and good operating practices.

Annual emissions from the proposed facility are estimated to be 39.55 tons of NO<sub>2</sub>, 42.70 tons of CO, 21.32 tons of VOC, 2.65 tons of PM10 and emissions of 0.40 ton of all HAPs combined. The proposed process units are subject to the applicable requirements of 25 Pa. Code

Chapter 127, related to construction, modification, reactivation and operation of sources, 40 CFR Part 60, Subpart KKK, related to equipment leaks from onshore natural gas processing plants. The Plan Approval contains appropriate emission limitations, testing, monitoring, recordkeeping, reporting requirements and work practice standards.

### 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.

*Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401. Contact: Janine Tulloch-Reid, Facilities Permitting Chief—Telephone: 484-250-5920.*

**46-00036: Morris Road Investors, LP—formerly known as Visteon Systems, LLC** (2750 Morris Road, Lansdale, PA 19446) for renewal of the Title V Operating Permit and also administratively amend the permit for change of ownership in Worcester Township, **Montgomery County**. The current permit was issued on 06-28-2005. The facility is used for office and warehouse space. As a result of potential emissions of NOx and VOCs, the facility is a major stationary source as defined in Title I, Part D of the Clean Air Act Amendments, and is therefore subject to the Title V permitting requirements adopted in 25 Pa. Code Chapter 127, Subchapter G. The Title V Operating Permit will contain Compliance Assurance Monitoring (CAM) conditions pursuant to 40 CFR Part 64. The renewal contains all applicable requirements including monitoring, recordkeeping and reporting.

*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.*

**36-05005: Wellborn Holdings, Inc.—Luxury Custom Cabinetry Group Plant** (215 Diller Avenue, New Holland, PA 17557) for operation of their custom cabinetry plant in Earl Township, **Lancaster County**. This action is a renewal of the Title V Operating Permit issued in September of 2005.

#### Intent to Issue Operating Permits under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter F.

*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.*

**21-05042: Pennsy Supply, Inc.** (1001 Paxton Street, Harrisburg, PA 17105) for operation of a limestone quarry and asphalt plant at their facility in Silver Spring Township, **Cumberland County**. This action is a renewal of the State-only operating permit issued in 2005. The permit renewal will contain all of the emission limits and work practice standards along with all monitoring, recordkeeping and reporting requirements from the previous permit to ensure the facility complies with the applicable air quality regulations.

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

**41-00035: Dynamic Surface Applications, Ltd.** (373 Village Road, Pennsdale, PA 17756) for their facility located in Muncy Township, **Lycoming County**. The facility's main source includes one McCarter, Inc. manufactured electrically operated BJ mixer. The facility has the potential to emit sulfur oxides (SOx), nitrogen oxides (NOx), carbon monoxide (CO), particulate matter (PM10), volatile organic compounds (VOCs) and hazardous air pollutants (HAPs) below the major emission thresholds. The proposed operating permit contains all applicable requirements including Federal and State regulations. In addition, monitoring, recordkeeping and reporting conditions regarding compliance with all applicable requirements are included.

**41-00066: Sunoco, Inc. (R&M)** (1109 Milton Avenue, Syracuse, PA 13204) for their facility located in Armstrong Township, **Lycoming County**. The facility's main source includes a soil vapor extraction system. The facility has the potential to emit sulfur oxides (SOx), nitrogen oxides (NOx), carbon monoxide (CO), particulate matter (PM10), volatile organic compounds (VOCs), and hazardous air pollutants (HAPs) below the major emission thresholds. The proposed operating permit contains all applicable requirements including Federal and State regulations. In addition, monitoring, recordkeeping and reporting conditions regarding compliance with all applicable requirements are included.

*Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481. Contact: Matthew Williams, New Source Review Chief—Telephone: 814-332-6940.*

**43-00260: Mercer Area School District—High School** (545 West Butler Street, Mercer, PA 16137) for a Natural Minor Permit to operate one coal fired boiler, two natural gas fired boilers, one hot water heater and one emergency diesel generator in Mercer Borough, **Mercer County**. The facility is natural minor because the emission of pollutants is less than the Title V threshold limits.

**43-00276: Mercer Area School District—Elementary School** (301 Lamor Road, Mercer, PA 16137) for a Natural Minor Permit to operate two coal and gas fired boilers, one hot water heater and one new diesel fueled emergency generator in Mercer Borough, **Mercer County**. The facility is natural minor because the emission of pollutants from the facility is less than Title V emission threshold.

### 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 descrip-

tion 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*

<i>Parameter</i>	<i>30-Day Average</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>
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.*

**30841307 and NPDES Permit No. PA0213438, Emerald Coal Resources, LP**, (158 Portal Road, P. O. Box 1020, Waynesburg, PA 15370), to revise the permit for the Emerald Mine No. 1 in Franklin Township, **Greene County** to add surface activity site acres to install fourteen ventilation boreholes and associated access roads. Coal Refuse Disposal Support Acres Proposed 11.35. No additional discharges. Application received: March 26, 2010.

*Greensburg District Mining Office: Armbrust Professional Center, 8205 Route 819, Greensburg, PA 15601, 724-925-5500.*

**26060104 and NPDES Permit No. PA0250929. Amerikohl Mining, Inc.** (1384 SR 711, Stahlstown, PA 15687). Revision application for land use change from forestland to post-mining land use of unmanaged natural habitat to an existing bituminous surface mine, located in Luzerne and German Townships, **Fayette County**, affecting 90 acres. Receiving streams: Antram Run and the Monongahela River, classified for the following use: WWF. The potable water supply intakes within 10 miles downstream from the point of discharge: Southwestern PA Water Authority and Tri-County Joint Municipal Authority. Application received: July 12, 2010.

**26090103 and NPDES Permit No. PA0251704. T & B Excavating, Inc.** (P. O. Box 337, McClellandtown, PA 15458). Application received to transfer permit currently issued to Patterson Coal Company for continued operation and reclamation of a bituminous surface mining site located in German Township, **Fayette County**, affecting 58.1 acres. Receiving streams: unnamed tributaries to Dunlap Creek to Monongahela River, classified for the following uses: warm water fishes and navigation. There are no potable water supply intakes within ten miles downstream from the point of discharge. Transfer application received: June 28, 2010.

**03970110 and NPDES Permit No. PA0202134. GLR Mining, Inc.** (P. O. Box 105, Clymer, PA 15728). Renewal application for reclamation only of a bituminous surface mine, located in Valley Township, **Armstrong County**, affecting 27.4 acres. Receiving stream: unnamed tributary to Cowanshannock Creek, 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: July 2, 2010.

**30793024 and NPDES Permit No. PA0117650. Beazer East, Inc.** (c/o Three Rivers Management, Inc., Oxford Center, Suite 3000, Pittsburgh, PA 15219). NPDES renewal application for continued treatment of a bituminous surface mine, located in Morgan Township, **Greene County**, affecting 327.7 acres. Receiving streams: unnamed tributaries to South Fork Ten Mile and South Fork Ten Mile Creeks, 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: July 12, 2010.

*Knox District Mining Office: P. O. Box 669, 310 Best Avenue, Knox, PA 16232-0669, 814-797-1191.*

**16100104 and NPDES Permit No. PA0258911. RFI Energy, Inc.** (P. O. Box 162, Sligo, PA 16255) Commencement, operation and restoration of a bituminous strip operation in Licking Township, **Clarion County** affecting 182.0 acres. Receiving streams: Unnamed tributaries to the Clarion River, classified for the following Statewide uses: CWF. There are no potable surface water supply intakes within 10 miles downstream. This application includes a land use change from forestland and pastureland or land occasionally cut for hay to unmanaged natural habitat on the C & K Coal Company tract. Application received: July 6, 2010.

*Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, 814-342-8200.*

**17980104 and NPDES No. PA0237922. Swisher Contracting, Inc.** (P. O. Box 1223, Clearfield, PA 16830). Renewal of an existing bituminous surface mine operation located in Lawrence Township, **Clearfield County** affecting 84.0 acres. This renewal includes a request to revise the baseline pollution load for pre-existing Subchapter F discharge MP14. Receiving stream(s): unnamed tributary to Moose Creek, Moose Creek and Orr's Run classified for the following use(s): Cold Water Fisheries. There are no potable water supply intakes within 10 miles downstream. Application received: May 14, 2010.

*Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, 570-621-3118.*

**40100201. Susquehanna Haul & Drilling, LLC**, (249 Harland Street, Exeter, PA 18643), commencement, operation and restoration of an anthracite coal refuse reprocessing operation in Salem Township and Shickshinny Borough, **Luzerne County** affecting 25.0 acres, receiving stream: Paddy Run, classified for the following use: cold water fishery. Application received: June 6, 2010.

**54803204R5. Gilberton Coal Company**, (10 Gilberton Road, Gilberton, PA 17934), renewal of an existing anthracite coal refuse reprocessing operation in Butler and Conyngham Townships and Ashland Borough, **Schuylkill and Columbia Counties** affecting 24.6 acres, receiving stream: none. Application received: July 8, 2010.

**54763209R5. Gilberton Coal Company**, (10 Gilberton Road, Gilberton, PA 17934), renewal of an existing anthracite coal refuse reprocessing and surface mine operation in Butler Township and Ashland Borough, **Schuylkill County** affecting 109.0 acres, receiving stream: none. Application received: July 8, 2010.

*Noncoal Applications Received*

*Effluent Limits*—The following effluent limits will apply to NPDES permits issued in conjunction with a noncoal mining permit:

Parameter	Table 2		
	30-day Average	Daily Maximum	Instantaneous Maximum
Suspended solids	10 to 35 mg/l	20 to 70 mg/l	25 to 90 mg/l
Alkalinity exceeding acidity* pH*		greater than 6.0; less than 9.0	

\* The parameter is applicable at all times.

A settleable solids instantaneous maximum limit of 0.5 ml/l applied to surface runoff resulting from a precipitation event of less than or equal to a 10-year 24-hour event. If coal will be extracted incidental to the extraction of noncoal minerals, at a minimum, the technology-based effluent limitations identified under coal applications will apply to discharges of wastewater to streams.

*Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, 814-342-8200.*

**59880301 and NPDES No. PA0116327. Michael R. Ackley** (323 Beechwood Lake Road, Westfield, PA 16950). Application received for a transfer of permit currently issued to Jill D. Cross for continued operation and reclamation of a noncoal surface mine located in Clymer Township, **Tioga County** affecting 4.4 acres. Receiving stream(s): Mill Creek to Cowanesque River classified for Trout Stocked Fisheries. Application received: June 25, 2010.

*Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, 570-621-3118.*

**6174SM5A2C10 and NPDES Permit No. PA0594423. Meckley's Limestone Products, Inc.**, (1543 SR 225, Herndon, PA 17830), renewal of NPDES Permit for discharge of treated mine drainage from a quarry operation in Lower Mahanoy and Jordan Townships, **Northumberland County**, receiving stream: Upper Fiddler Run, classified for the following use: warm water fishery. Application received: July 9, 2010.

## FEDERAL WATER POLLUTION CONTROL ACT, SECTION 401

The following permit applications, requests for Environmental Assessment approval and requests for 401 Water Quality Certification have been received by the Department of Environmental Protection (Department). Section 401 of the Federal Water Pollution Control Act (FWPCA) (33 U.S.C.A. § 1341) requires the State to certify that the involved projects will not violate the applicable provisions of sections 301—303, 306 and 307 of the FWPCA (33 U.S.C.A. §§ 1311—1313, 1316 and 1317) as well as relevant State requirements. Persons objecting to approval of a request for certification under section 401 of the FWPCA or to the issuance of a Dam Permit, Water Obstruction and Encroachment Permit or the approval of an Environmental Assessment must submit comments, suggestions or objections within 30 days of the date of this notice, as well as questions, to the regional office noted before the application. Comments should contain the name, address and telephone number of the person commenting, identification of the certification request to which the comments or objections are addressed and a concise statement of comments, objections or suggestions including the relevant facts upon which they are based.

The Department may conduct a fact-finding hearing or an informal conference in response to comments if deemed necessary. Individuals will be notified, in writing, of the time and place of a scheduled hearing or conference concerning the certification request to which the comment, objection or suggestion relates. Maps, drawings and other data pertinent to the certification request are available for inspection between 8 a.m. and 4 p.m. on each working day at the regional office noted before the application.

Persons with a disability who wish to attend a hearing and require an auxiliary aid, service or other accommodation to participate in the proceedings should contact the

specified program. TDD users should contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

**Applications received under the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27) and section 302 of the Floodplain Management Act (32 P. S. § 679.302) and requests for certification under section 401(a) of the Federal Water Pollution Control Act (33 U.S.C.A. § 1341(a)).**

### WATER OBSTRUCTIONS AND ENCROACHMENTS

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

**E67-881: Hopewell Township Board of Supervisors**, P. O. Box 429, Stewartstown, PA 17262, Hopewell Township, **York County**, ACOE Baltimore District.

The applicant proposes to remove an existing structure and to: (1) construct and maintain a 34.0-foot long, 1.0-foot depressed with baffles, 10.0-foot by 5.5-foot, reinforced concrete box culvert in an unnamed tributary of Ebaughs Creek (CWF), with depressed rip-rap aprons extending 5.0 feet upstream and 5.0 feet downstream for the purpose of improving safety standards; (2) remove an existing structure and construct and maintain a 62.0-foot long, 1.0-foot depressed with baffles, 12.0-foot by 4.5-foot, reinforced concrete box culvert in an unnamed tributary of Ebaughs Creek (CWF), with depressed rip-rap aprons extending 5.0 feet upstream and 5.0 feet downstream for the purpose of improving safety standards; and (3) remove an existing structure and construct and maintain a 32.0-foot long, 1.0-foot depressed with baffles, 10.0-foot by 4.0-foot, reinforced concrete box culvert in an unnamed tributary of Ebaughs Creek (CWF), with depressed rip-rap aprons extending 5.0 feet upstream and 5.0 feet downstream for the purpose of improving safety standards. The project is located on Shaw Road between the High Street and Bridgeview Road intersections (Stewartstown, PA Quadrangle N: 1.8 inches; W: 17.5 inches, Latitude: 39° 45' 39.71"; Longitude: 76° 36' 16.37") in Hopewell Township, York County.

*Northcentral Region: Watershed Management Program Manager, 208 West Third Street, Williamsport, PA 17701, 570-327-3636.*

**E18-454. Department of Conservation and Natural Resources, Bureau of Forestry**, P. O. Box 8451, Harrisburg, PA 17105-8451. Trout Run Road Embankment Erosion Repair, in Leidy Township, **Clinton County**, ACOE Baltimore District (Hammersly Fork, PA Quadrangle N: 41° 26' 35.6"; W: 77° 55' 45.9").

To construct and maintain a bank stabilization project consisting of: 1) a 150-foot long R-7 riprap footer; 2) a 80-foot by 9-foot deep by 12-foot high gabion basket retaining wall with a 1:9.5 slope; 3) R-7 riprap bank protection above the wall to the edge of Trout Run Road; 4) a rock deflector vane upstream of the gabion baskets; and 5) a 20-foot long channel change just upstream of the baskets to help keep the bank stabilization area drier, all of which is located 1 mile on Trout Run Road from Kettle Creek Park Road.

#### Correction: From E18-545 to E18-454

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

**E32-494. Department of Transportation, District 10**, 2550 Oakdale Avenue, P. O. Box 429, Indiana, PA



15701. To replace two lane bridge in Fuffington and East Wheatfield Townships, **Indiana County**, Pittsburgh ACOE District (New Florence, PA Quadrangle N 16.7 inches; W 0.2 inch, Latitude: 40° 46' 19"; Longitude: 79° 8' 33"). The applicant proposes to remove the existing SR 403 two lane, 21 ft wide, two span bridge having a total length of 155 ft, and having a minimum underclearance of 15 ft; construct and maintain adjacent to and downstream a two lane 32 ft wide, two span bridge having a total length of 160 ft with an underclearance of 12.5 ft; for construction and demolition construct and remove temporary causeways; and construct and maintain associated stormwater outfalls over and in Blacklick Creek (TSF) with a drainage area of 139 square miles.

**ENVIRONMENTAL ASSESSMENTS**

*Cambria District: Environmental Program Manager,*

*286 Industrial Park Road, Ebensburg, PA 15931-4119.*

**EA3309-002. Department of Environmental Protection**, Bureau of Abandoned Mine Reclamation, Cambria Office, 286 Industrial Park Road, Ebensburg, PA 15931. Abandoned Mine Land Reclamation Project, in Clover Township, **Jefferson County**, Pittsburgh ACOE District.

The applicant proposes to backfill an abandoned surface mine, which includes a total of 3,950 linear feet of dangerous highwalls. The project will include the backfilling of 0.73 acre of PEM wetlands that have developed within the open surface mine pits. Of the 0.73 acre, 0.6 acre are AMD-impacted. The applicant proposes 0.13 acre of replacement wetland (Portersville Quadrangle N: 12.0 inches; W: 16.0 inches).

**ACTIONS**

**THE CLEAN STREAMS LAW AND THE FEDERAL CLEAN WATER ACT  
FINAL ACTIONS TAKEN FOR NATIONAL POLLUTION DISCHARGE  
ELIMINATION SYSTEM (NPDES) PERMITS AND WATER QUALITY  
MANAGEMENT (WQM) PERMITS**

The Department 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**

*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>
PA0021563 (Sew)	Gettysburg Borough Municipal Authority 59 East High Street P. O. Box 3307 Gettysburg, PA 17325	Adams County Gettysburg Borough	Rock Creek 13-D	Y
PA0086525 (Sew)	Centre Township Municipal Authority Kingsgate Subdivision 449 Bucks Hill Road Mohrsville, PA 19541-9340	Berks County Centre Township	UNT to Irish Creek 3-B	Y
PA0081876 (Sew)	Audubon Park, Inc. 322 South Hanover Street Carlisle, PA 17013	York County Monaghan Township	UNT to Yellow Breeches Creek 7-E	Y
PA0083283 (Sew)	Arthur G. Bruaw, Jr. Bruaw Mobile Home Park P. O. Box 277 St. Thomas, PA 17252	Perry County Watts Township	UNT to Susquehanna River 6-C	Y
PA0080489 (Sew)	New Buffalo Restaurant, Inc. 3298 Susquehanna Trail Duncannon, PA 17020-7108	Perry County Watts Township	UNT to Susquehanna River 6-C	Y
PA0087785 (Sew)	Charles C. Powell 200 Trenton Street Cambridge, MD 21613-2407	Blair County Woodbury Township	Frankstown Branch Juniata River 11-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>
PA0000356 (Industrial Waste)	PA American Water Company 800 West Hersheypark Drive Hershey, PA 17033	Jefferson County Gaskill Township	East Branch Mahoning Creek 17-D	Y

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

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

**NPDES Permit No. PA0261441**, Sewage, **Playful Pups Retreat, LLC**, 950 North Milton Grove Road, Elizabethtown, PA 17022. This proposed facility is located in Mount Joy Township, **Lancaster County**.

Description of Proposed Action/Activity: Authorization to discharge to an unnamed tributary to Conewago Creek in Watershed 7-G.

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

**NPDES Permit No. PA0254177**, Sewage, **William and Georgette Jones**, 19 Tanglewood Lane, Ruffsdale, PA 15679. This proposed facility is located in Sewickley Township, **Westmoreland County**.

Description of Proposed Action/Activity: Permit issuance to discharge treated wastewater.

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

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

**WQM Permit No. 0510404**, Sewerage, **Hyndman Borough Municipal Authority**, P. O. Box 445, Hyndman, PA 15545. This proposed facility is located in Hyndman Borough, **Bedford County**.

Description of Proposed Action/Activity: Authorization for the construction/operation of a new 575' of 12" diameter interceptor from Manhole No. 3 to Manhole No. 1.

**WQM Permit No. 0197403, Amendment 09-1**, Sewage, **Gettysburg Borough Municipal Authority**, 59 East High Street, P. O. Box 3307, Gettysburg, PA 17325. This proposed facility is located in Gettysburg Borough, **Adams County**.

Description of Proposed Action/Activity: Permit amendment approval for the construction and modification of sewage facilities consisting of a treatment plant expansion from 2.45 MGD to 3.0 MGD. A new Sequencing Batch Reactor (SBR) is proposed to handle the increase in flow. Portions of the existing treatment system will be modified to accommodate the new SBR units. In addition, modifications to the existing Oxidation Ditch Treatment System will be made to provide biological nutrient reduction. Effluent filters are also proposed as part of this project. The filters will be installed when needed to meet the effluent limits.

**WQM Permit No. 3610402**, Sewage, **Playful Pups Retreat, LLC**, 950 North Milton Grove Road, Elizabethtown, PA 17022. This proposed facility is located in Mount Joy Township, **Lancaster County**.

Description of Proposed Action/Activity: Permit approval for the construction/operation of sewage facilities consisting of a small flow treatment facility with septic tank, peat filter and UV disinfection with discharge to unnamed tributary to Conewago Creek.

**WQM Permit No. 6709202**, Industrial Waste, **PPL Brunner Island, LLC**, 2 North Ninth Street, Allentown, PA 18101-1139. This proposed facility is located in East Manchester Township, **York County**.

Description of Proposed Action/Activity: Approval for the construction of industrial wastewater facilities consisting of two treatment trains with each train containing an influent mix tank, flocculator-clarifier unit and effluent mix tank. Also included in the IWTP are two sludge storage and treatment basins, an effluent recycle tank and two filter belt press units housed within a new building.

**WQM Permit No. 2177201**, Industrial Waste, **Boyd Diller, Inc.**, 6820 Wertzville Road, Enola, PA 17025-1032. This proposed facility is located in Hampden Township, **Cumberland County**.

Description of Proposed Action/Activity: Permit amendment approval for the modification/operation of industrial wastewater facilities consisting of an addition of fine bubble diffusers to reduce ammonia nitrogen levels and "Big Bubba" filters to reduce manganese levels.

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

**WQM Permit No. 5609001**, Industrial Waste, **Klejka Dairy**, 381 Deans Road, Somerset, PA 15501. This proposed facility is located in Somerset Township, **Somerset County**.

Description of Proposed Action/Activity: Permit issuance for the construction and operation of manure storage and transfer facility.

**WQM Permit No. 0210401**, Sewerage, **Findlay Township Municipal Authority**, P. O. Box 409, 1271 Route 30, Clinton, PA 15026. This proposed facility is located in Findlay Township, **Allegheny County**.

Description of Proposed Action/Activity: Permit issuance for the construction and operation of sanitary sewer trunk line, collection sewer and appurtenances.

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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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*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 1506010-A1	Immaculata University 1145 King Road Immaculata, PA 19345	Chester	East Whiteland Township	Valley Creek EV-MF
PAI01 151007	Malvern Preparatory School 418 South Warren Avenue Malvern, PA 19355-2707	Chester	Malvern Borough	Crum Creek HQ-CWF
PAI01 151014	Kimberton Meadows Development, LLC 110 North Phoenixville Pike Malvern, PA 19355	Chester	East Pikeland Township	Stony Run HQ-TSF

*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>
PAI024509009	HJP Park & Open Space Commission P. O. Box 213 Reeders, PA 18352	Monroe	Jackson and Pocono Townships	Tributary to Pocono Creek HQ-CWF, MF Rocky Run HQ-CWF, MF

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI025409004	H & S Investment Properties P. O. Box 160 St. Clair, PA 17970	Schuylkill	East Norwegian Township	Tributary to Mill Creek CWF, MF

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

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI000110001	Frank A. Gerhardt GFTB Partners, LP 6375 Chambersburg Road Fayetteville, PA 17222-8303	Adams	Franklin Township	Clear Run HQ-MF
PAI034410002	Valley View Haven, d/b/a Malta Home Retirement Community 2105 East Main Street P. O. Box 9299 Belleville, PA 17004-9299	Mifflin	Granville Township	Minehart Run HQ-CWF-MF

## 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>
Warminster Township Bucks County	PAG0200 0909033	886 York Road, LP 5 Daniel Road East Fairfield, NJ 07004	Little Neshaminy Creek WWF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
Plumstead Township Bucks County	PAG0200 091011	Michael Noftsker 6102 Point Pleasant Pike Doylestown, PA 18902	North Branch Neshaminy Creek WWF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900

## NOTICES

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<i>Facility Location: Municipality &amp; County</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water / Use</i>	<i>Contact Office &amp; Phone No.</i>
Falls Township Bucks County	PAG0200 0907141-1	International Salt Company 655 Northern Boulevard P. O. Box 540 Clarks Summit, PA 18411	Delaware River WWF-MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
Northampton Township Bucks County	PAG0200 091026	Township of Northampton 55 Township Road Richboro, PA 18954	Neshaminy Creek WWF-MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
West Bradford Township Chester County	PAG0200 1504120-R	GIM PA Lenders, LP Two Liberty Place 50 South 16th Street Suite 2600 Philadelphia, PA 19102	Unnamed Tributary West Branch Brandywine Creek WWF-MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
Lower Oxford Township Chester County	PAG0200 1504016-R	Woodstone Homes 70 Pottstown Pike P. O. Box 814 Uwchlan, PA 19480	Unnamed Tributary Leech Run TSF-MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
Penn Township Chester County	PAG0200 1506005-A1	Chester County School Authority 455 Boot Road Downingtown, PA 19335	West Branch White Clay Creek TSF-MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
Limerick Township Montgomery County	PAG0200 4610016	RD Sheppard Realty 584 Main Street Schwenksville, PA 19473	Perkiomen Creek TSF-MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
New Hanover Township Montgomery County	PAG0200 4603158R	Windlestrae Associates 1030W Germantown Pike Fairview Village, PA 19409	Unnamed Tributary Minister Creek TSF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
Springfield Township Montgomery County	PAG0200 4610026	9425 Stenton Avenue, LP 1415 Bethlehem Pike Flourtown, PA 19031	Wissahickon Creek TSF-MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
Skippack Township Montgomery County	PAG0200 4608121	Gigliotti Squirrel Hill Associates One Summit Suite 301 Langhorne, PA 19047	East Branch Perkiomen Creek TSF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
Collegeville Borough Montgomery County	PAG0200 4610024	Ursinus College 601 Main Street Collegeville, PA 19426	Unnamed Tributary Perkiomen Creek TSF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
Whitemarsh Township Montgomery County	PAG0200 4610020	National Label Co., Inc. 2025 Joshua Road Lafayette Hill, PA 19444	Spring Mill Creek WWF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
Upper Merion Township Montgomery County	PAG0200 4610022	YSC Real Estate, LP 3811 West Chester Pike Newtown Square, PA 19073	Schuylkill River 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>
Sugarloaf Township Luzerne County	PAG20040090215	Sheetz, Inc. Attn: Brian K. Soyka 5700 Sixth Avenue Altoona, PA 16602	Tributary to Little Nescopeck Creek CWF, MF	Luzerne County Conservation District 570-674-7991
Wilkes-Barre City Luzerne County	PAG2004010003	The Housing Development Corporation of Northeastern Pennsylvania Attn: Eugene Brady 163 Amber Lane Wilkes-Barre, PA 18703	Susquehanna River WWF, MF	Luzerne County Conservation District 570-674-7991
Lehigh Township Northampton County	PAG2004810003	Greenock Investors Group, LLC Attn: Tom Killeen 840 Eldridge Road Fairless Hills, PA 19030	Bertsch Creek CWF, MF	Northampton County Conservation District 610-746-1971
East Stroudsburg Borough Monroe County	PAR10S029R(2)	University Properties East Stroudsburg University Attn: William C. Hibschman 200 Prospect Street East Stroudsburg, PA 18301	Brodhead Creek TSF, MF	Monroe County Conservation District 570-629-3060
Wheatfield and Rye Townships Perry County	PAG2035010007	James Corl 43 Ramsey Hollow Road Beech Creek, PA 16822	Fishing Run—Shermans Creek WWF	Perry County Conservation District P. O. Box 36 31 West Main Street New Bloomfield, PA 17068 717-582-5119
West Manheim Township York County	PAG2006705021-R	Paul Berkentine Stone Ridge Development 1500 Baltimore Pike Hanover, PA 17331	UNT to West Branch Codorus Creek WWF	York County Conservation District 118 Pleasant Acres Road York, PA 17402-8984 717-840-7430
Fairview Township York County	PAG2006704138-R	Curtis Varner S&A Homes, Inc. 2121 Old Gatesburg Road Suite 200 State College, PA 16803	Big Springs Run TSF	York County Conservation District 118 Pleasant Acres Road York, PA 17402-8984 717-840-7430
East Manchester Township York County	PAG2006705070-R	Vas-Land, Inc. 336 West King Street Lancaster, PA 17603	Hartman Run WWF	York County Conservation District 118 Pleasant Acres Road York, PA 17402-8984 717-840-7430
Shrewsbury Borough York County	PAG2006705017-R	Phil Robinson Heathcote Glen, LP 18147 Amanda Drive New Freedom, PA 17349	UNT to Trout Run/ WWF	York County Conservation District 118 Pleasant Acres Road York, PA 17402-8984 717-840-7430
Carroll Township York County	PAG2006705048-R	United States Home Corp., d/b/a Lennar Robert Jacoby 10211 Wincopin Circle Suite 180 Columbia, MD 21044	Yellow Breeches Creek CWF	York County Conservation District 118 Pleasant Acres Road York, PA 17402-8984 717-840-7430
Penn Township York County	PAG2006710012	Penn Township 20 Wayne Avenue Hanover, PA 17331	Oil Creek—UNT to Oil Creek WWF	York County Conservation District 118 Pleasant Acres Road York, PA 17402-8984 717-840-7430

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<i>Facility Location: Municipality &amp; County</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
Watts Township Perry County	PAG2035010005	Robert H. Snyder 237 Notch Road Duncannon, PA 17020	UNT to Susquehanna River WWF	Perry County Conservation District P. O. Box 36 31 West Main Street New Bloomfield, PA 17068 717-582-5119
Oxford Township Adams County	PAG2000105010-R	Randy Test C.W. Test Builder, Inc. 1235 Abbottstown Pike Hanover, PA 17331	UNT to South Branch Conewago Creek WWF	Adams County Conservation District 670 Old Harrisburg Road Suite 201 Gettysburg, PA 17325 717-334-0636
Liberty Township Adams County	PAG2000103030-R	Allen Beckett Brick Point Construction, Inc. 2716 Emmitsburg Road Gettysburg, PA 17325	Marsh Creek— Middle Creek CWF	Adams County Conservation District 670 Old Harrisburg Road Suite 201 Gettysburg, PA 17325 717-334-0636
Granville Township Mifflin County	PAG2004410002	Dave Knox Locust Campground & RV Park P. O. Box 338 Lewistown, PA 17044	Juniata River WWF-MF	Mifflin County Conservation District 20 Windmill Hill #4 Burnham, PA 17009 717-248-4695
Antrim, Hamilton, Fannett and St. Thomas Townships Franklin County	ESCGP12810801	John Long Dominion Transmission 445 West Main Street Clarksburg, WV 26301	Marsh Run—Back Creek—Dry Run WWF, MF-TSF, MF-CWF, MF	Franklin County Conservation District 185 Franklin Farm Lane Chambersburg, PA 17201 717-264-5499
Antrim Township Franklin County	PAG2002810010	David Riegsecker Cedar Grove Mennonite Church 13343 Williamsport Pike Greencastle, PA 17225	UNT to Conococheague Creek WWF-MF	Franklin County Conservation District 185 Franklin Farm Lane Chambersburg, PA 17201 717-264-5499
Montgomery Township Franklin County	PAG2002804048-R	Taylor Oliver Oliver Homes 19733 Leitersburg Pike Hagerstown, MD 21742	West Branch Conococheague Creek TSF-MF	Franklin County Conservation District 185 Franklin Farm Lane Chambersburg, PA 17201 717-264-5499
Washington Township Franklin County	PAG2002810007	Julia Klein 1740 La Fontaine Court Beverly Hills, CA 90210	East Branch Antietam Creek CWF	Franklin County Conservation District 185 Franklin Farm Lane Chambersburg, PA 17201 717-264-5499
Conewago Township York County	PAG2006705063-R	Canal Road Associates, LLC 474 Mt. Sidney Road Lancaster, PA 17602	Locust Run TSF	York County Conservation District 118 Pleasant Acres Road York, PA 17402-8984 717-840-7430

<i>Facility Location: Municipality &amp; County</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water / Use</i>	<i>Contact Office &amp; Phone No.</i>
Dover Township York County	PAG2006705038-R	Michael Barshinger 655 Owen Road York, PA 17403	UNT to Fox Run TSF	York County Conservation District 118 Pleasant Acres Road York, PA 17402-8984 717-840-7430
Jackson Township York County	PAG006705020-R	Randy Test C.W. Test Builder, Inc. 1235 Abbottstown Pike Hanover, PA 17331	Little Conewago Creek WWF	York County Conservation District 118 Pleasant Acres Road York, PA 17402-8984 717-840-7430
Shrewsbury Township York County	PAG2006709051	Roy Smith Shrewsbury Gospel Temple 713 West Forrest Avenue Glen Rock, PA 17327	UNT to Trout Run WWF	York County Conservation District 118 Pleasant Acres Road York, PA 17402-8984 717-840-7430
Cambria County Richland Township	PAG02001110005	Dr. Andrew Garbarino KIDCO, LLP 1322 Eisenhower Boulevard Johnstown, PA 15904	UNT to Stonycreek River CWF	Cambria County Conservation District 401 Candlelight Drive Suite 221 Ebensburg, PA 15931 814-472-2120
Fayette County North Union, South Union and Menallen Townships	PAG2002605009-R	Turnpike Commission Frank Kempf P. O. Box 67676 Harrisburg, PA 17106-7676	Redstone Creek UNT to Lick Run WWF	Fayette County Conservation District 10 Nickman Plaza Lemont Face, PA 15456 724-438-4497
Fayette County South Union Township	PAG2002610010	Judith Lynn-Craig 606 Wills Road Connellsville, PA 15425	UNT to Lick Run WWF	Fayette County Conservation District 10 Nickman Plaza Lemont Face, PA 15456 724-438-4497
Washington County Canonsburg Borough	PAG2006305031-R	Maronda Homes, Inc. 202 West Park Drive Pittsburgh, PA 15275	Brush Run WWF	Washington County Conservation District 602 Courthouse Square Washington, PA 15301 724-228-6774
Washington County Canonsburg Borough	PAG2006305032-R	Maronda Homes, Inc. 202 West Park Drive Pittsburgh, PA 15275	Brush Run WWF	Washington County Conservation District 602 Courthouse Square Washington, PA 15301 724-228-6774
Washington County Peters Township	PAG2006310014	Health Care REIT, Inc. 5106 Maryland Way Brentwood, TN 37027	UNT to Chartiers Creek WWF	Washington County Conservation District 602 Courthouse Square Washington, PA 15301 724-228-6774



<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>
Springfield Township Mercer County	PAG02 43 06 014(1)	Mark S. Goldsmith Walmart Stores East LP 3001 South East 10th Street Bentonville, AR 72716-0550	Black Run CWF	Mercer County Conservation District 724-662-2242

*General Permit Type—PAG-3*

<i>Facility Location: Municipality &amp; County</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
East Deer Township Allegheny County	PAR216126	Pittsburgh Glass Works 150 Ferry Street Creighton, PA 15030-1101	Allegheny River	Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 412-442-4000
Harmar Township Allegheny County	PAR216172	PPG Industries, Inc. 400 Guys Run Road P. O. Box 11472 Cheswick, PA 15024-9464	Rawlins Run	Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 412-442-4000

**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**

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

**Permit No. 5989508-T1—Transfer**, Public Water Supply.

Applicant	<b>Pleasant Village MHP</b>
Township or Borough	Putnam Township
County	<b>Tioga</b>
Responsible Official	Michael S. Geiser, Member Effective MHP, LLC 3215 Stein Lane Lewisburg, PA 17837
Type of Facility	Public Water Supply—Operation
Consulting Engineer	William S. Bray, P. E. Civil Engineering P. O. Box 535 Wellsboro, PA 16901
Permit Issued Date	July 14, 2010
Description of Action	Transfer of ownership of a PWS permit that authorizes operation of the well source known as Well 1 and the facilities iron and manganese treatment, disinfection, and transmission lines.

*Northwest Region: Watershed Management Program Manager, 230 Chestnut Street, Meadville, PA 16335.*

**Wellhead Protection Program Approval** issued to the Greenville Municipal Water Authority, 44 Clinton

Street, Greenville, PA 16125, PWSID No. 6430037, Greenville Borough, **Mercer County** on July 13, 2010.

### WATER ALLOCATIONS

**Actions taken on applications received under the act of June 24, 1939 (P. L. 842, No. 365) (35 P. S. §§ 631—641) relating to the acquisition of rights to divert waters of this Commonwealth**

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

**WA 01-1025, Water Allocations. Mason Dixon Utilities, Inc., Adams County.** The applicant was granted the right to withdraw a maximum 205,000 gpd on an annual (365 day) basis, 500,000 gpd on a thirty-day basis and 2,000,000 gpd on a peak day basis from Marsh Creek at proposed new intake. Permit Issued: May 25, 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:*

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Cranberry Township	2525 Rochester Road Suite 400 Cranberry Township, PA 16066	Butler

*Plan Description:* The approved plan provides for construction of a new interceptor sewer that parallels existing Interceptor No. 1. The existing sewer is adjacent to Brush Creek and is situated west of the Turnpike (I-76). The plan further evaluates the expansion needed at the existing Brush Creek Water Pollution Control Facility within the next 10 years. 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:* on the west side of Burnt Mill Road at McClays Mill Road.

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Southampton Township	P. O. Box 352 Shippensburg, PA 17257	Franklin

*Plan Description:* The approved plan, in the name of Ron Sailhamer, provides for a Small Flow Treatment Facility to serve a new residence on Lot No. 4, and a future small flow treatment facility to serve the existing residence on Lot No. 4 if the existing onlot system malfunctions. Both small flow treatment facilities are planned to discharge directly into Middle Spring Creek via an easement on Lot No. 5. Previous planning documents had proposed to discharge to a wetland area on the east side of Burnt Mill Road, but this proposal was changed in favor of discharging directly to the creek. 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 owner.

## 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 (Department) to publish in the *Pennsylvania Bulletin* a notice of submission of plans and reports. A final report is submitted to document cleanup of a release of a regulated substance at a site to one of the act's remediation standards. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis for selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed and summaries of sampling analytical results which demonstrate that remediation has attained the cleanup standard selected. Submission of plans and reports, other than the final report, 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:

*Northeast Region: Ronald S. Brezinski, Environmental Cleanup Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.*

**Former Gary Gray Property**, 5830 River Road/103 Deming Road, Upper Mount Bethel Township, **Northampton County**. Keith A. Valentine and Christopher T. Kotch, Barry Isett & Associates, Inc., P. O. Box 147, 85 SR, 100 Kressler Lane, Trexlertown, PA 18087 have submitted a Final Report (on behalf of their client, Voltaix, LLC, 197 Meister Avenue, Branchburg, NJ 08876), concerning the remediation of soil found to have been impacted by arsenic as a result of historical operations at the site, which included the storage of vintage

vehicles (for example, fire engines) and other vintage equipment. The Report was submitted to document attainment of the Residential Statewide Health Standard for soil. A public notice regarding the submission of the Final Report was published in *The Morning Call* on May 29, 2010.

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

**East Penn Manufacturing Company**, Richmond Township, **Berks County**. AECOM Technical Services, Inc., 2 Market Plaza Way, Mechanicsburg, PA 17055, on behalf of East Penn Manufacturing Company, Inc., P. O. Box 147, Lyon Station, PA 19536, has submitted a combined Remedial Investigation Report and Cleanup Plan for the remediation of site soils and groundwater at the Western Ore Pit which are contaminated with inorganics. The site is being remediated to a Site-Specific Standard.

## LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

### UNDER ACT 2, 1995

#### PREAMBLE 3

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**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).**

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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:

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

**Double Tree Convention Center Garage**, City of Reading, **Berks County**. Hafer Environmental Services, Inc., P. O. Box 4418, Reading, PA 19606, on behalf of the Reading Parking Authority, 613 Franklin Street, Reading, PA 19602, submitted a combined Remedial Investigation and Final Report concerning remediation of site soils contaminated with petroleum hydrocarbons from an unregulated underground storage tank. The combined Report demonstrated attainment of the Site-Specific Standard, and was approved by the Department of Environmental Protection on July 13, 2010.

**Miller & Nolt Properties**, Newport Borough, **Perry County**. Marshall, Miller & Associates, 3913 Hartzdale Drive, Suite 1306, Camp Hill, PA 17011, on behalf of Minuteman Spill Response, Inc., P. O. Box 10, Mifflinville, PA 18631; Keystone Oil Products Corporation, 1600 Hummel Avenue, Camp Hill, PA 17011; Anne and Lawrence Miller, 357 North 4th Street, Newport, PA 17074, and Lorie and Stephen Nolt, 359 North 4th Street, Newport, PA 17074, submitted a Final Report concerning remediation of site soils contaminated with No. 2 fuel oil from a ruptured aboveground storage tank. The 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 July 15, 2010.

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

**Makdad Ind. Supply Co.** (former Keystone Refrigeration), Sandy Township, **Clearfield County**, ATC Associates, Inc., 101 Allegheny Street, Suite 2B, Holidaysburg, PA 16648 on behalf of Roger McCoy, 245 Mountain Road, Port Matilda, PA 16870 has submitted a Final Report concerning the remediation of site soil contaminated with benzene, Ethylbenzene, naphthalene, 1,2,4-TMB and 1,3,5-TMB. The Final Report demonstrated attainment of the Site-Specific Standard and was approved by the Department of Environmental Protection on July 12, 2010.

**UGI-Penn Natural Gas—Danville Holder/Regulator Station**, Danville Borough, **Montour County**. Stantec Consulting, 400 Davis Drive, Suite 400, Plymouth Meeting, PA 19462 on behalf UGI Penn Natural Gas, 100 Kachel Boulevard, P. O. Box 12677, Reading, PA 19612-2677 has submitted a Remedial Investigation Report concerning the remediation of site soil contaminated with arsenic, antimony and lead. The Remedial Investigation Report was approved by the Department of Environmental Protection on July 14, 2010.

**UGI Mount Carmel Former MGP Site**, Mount Carmel Borough, **Northumberland County**. Haley & Aldrich, Inc., 299 Cherry Hill Road, Suite 105, Parsippany, NJ 07054-1124 on behalf of UGI Central Penn Gas, 2525 North 12th Street, Suite 380, Reading, PA 19612 has submitted a Cleanup Plan concerning remediation of site soil and groundwater contaminated with inorganic compounds, polycyclic aromatic hydrocarbons and other organic compounds. The Cleanup Plan was approved by the Department of Environmental Protection on July 15, 2010.

### RESIDUAL WASTE GENERAL PERMITS

**Permits Renewed 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, Floor 14, 400 Market Street, Harrisburg, PA 17105-8472.*

**General Permit Application No. WMGR119. Eureka Resources, LLC**, 301 Charles Street, South Williamsport, PA 17702. General Permit Numbered WMGR119 is for the processing of wastewater (that is, flow back gas well water-frac water) from various Marcellus Shale gas drilling operations at the Eureka Resources, LLC wastewater treatment facility, located in the City of Williamsport, **Lycoming County**. The processed wastewater will be beneficially used in the extraction of natural gas from various Marcellus Shale gas drilling operations. On an emergency basis only, the processed wastewater will be discharged, to the Williamsport Sewer Authority, in accordance with its existing National Pollutant Discharge Elimination System (NPDES) permit. This residual waste general permit was issued by the Central Office on July 14, 2010.

Persons interested in reviewing the general permit may contact C. D. Vu, General Permits and Beneficial Use Section, Division of Municipal and Residual Waste, Bureau of Waste Management, P. O. Box 8472, Harrisburg, PA 17105-8472, (717) 787-7381. TDD users may contact the Department of Environmental Protection through the Pennsylvania AT&T Relay Service, (800) 654-5984.

### AIR QUALITY

**General Plan Approval and Operating Permit Usage Authorized under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127 to construct, modify, reactivate or operate air contamination sources and associated air cleaning devices.**

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

**GP2-23-0226: Sunoco Partners Marketing & Terminals, LP** (1818 Market Street, Suite 1500, Philadelphia, PA 19103) on July 15, 2010, to operate a storage tank for volatile organic liquids in Darby Township, **Delaware County**.

**GP1-46-0240: United States Department of Agriculture—USDA** (600 East Mermaid Lane, Wyndmoor, PA 19038) on July 20, 2010, to operate a dual-fuel fired boiler Springfield Township, **Montgomery 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.*

**GP9-22-03013: Pinnacle Health Hospitals** (218 South Second Street, Harrisburg, PA 17104) on July 16, 2010, for a diesel fired engine at the Harrisburg Hospital in Harrisburg City, **Dauphin County**. This is a renewal of the general permit.

**GP3-67-BR-10-01: Brandenburg Industrial Service Co.** (2217 Spillman Drive, Bethlehem, PA 18015) on July 16, 2010, for a portable crushing plant consisting of a crusher and conveyor at the Harley Davidson facility in York City, **York County**.

**GP11-67-BR-10-01: Brandenburg Industrial Service Co.** (2217 Spillman Drive, Bethlehem, PA 18015) on July 16, 2010, for a nonroad compression ignition engine to power crushing equipment at the Harley Davidson facility in York City, **York County**.

**GP7-36-03118: ITP of USA, Inc.** (200 South Chestnut Street, Elizabethtown, PA 17022) on July 13, 2010, for four sheetfed offset lithographic printing presses in Elizabethtown Borough, **Lancaster County**. This is a renewal of the GP7.

**GP14-28-03001: Kelso Cornelius Funeral Home, Ltd.** (725 Norland Avenue, Chambersburg, PA 17201-4211) on July 7, 2010, for a human crematory in Chambersburg Borough, **Franklin County**.

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

**GP5-08-299C: Appalachia Midstream Services, LLC** (P. O. Box 54368, Oklahoma City, OK 73154) on May 12, 2010, to construct and operate one 70 million standard cubic feet per day glycol dehydrator equipped with a 0.5 million Btu per hour natural gas-fired reboiler and a 3.5 million Btu per hour natural gas-fired line heater under the General Plan Approval and/or General Operating Permit for Natural Gas, Coal Bed Methane or Gob Gas Production or Recovery Facilities (BAQ-GPA/GP-5) at the Evanckick Station in Asylum Township, **Bradford County**.

**GP3-08-310: M.R. Dirt, Inc.** (R. R. 2, Box 147, Towanda, PA 18848) on May 18, 2010, to construct and operate a portable nonmetallic mineral crusher and associated water spray dust suppression system under the General Plan Approval and/or General Operating Permit for Portable Nonmetallic Mineral Processing Plants (BAQ-PGPA/GP-3) at the Ober 2 Quarry facility in Asylum Township, **Bradford County**.

**GP9-08-310: M.R. Dirt, Inc.** (R. R. 2, Box 147, Towanda, PA 18848) on May 18, 2010, to construct and operate one Caterpillar Model C9 CLJ04853 diesel-fired engine with a rating of 351 brake horsepower (bhp) under the General Plan Approval and/or General Operating Permit BAQ-GPA/GP-9: Diesel or No. 2 fuel-fired Internal Combustion Engines, at the Ober 2 Quarry facility in Asylum Township, **Bradford County**.

**GP1-41-627A: Clean Streams, LLC** (409 Boot Road, Downingtown, PA 19335) on June 7, 2010, for the con-

struction and operation of two 8.639 million Btu per hour, natural gas-fired boilers under the General Plan Approval and Operating Permit for Small Gas and No. 2 Oil Fired Combustion Units (BAQ-GPA/GP-1) at a facility located in Old Lycoming Township, **Lycoming County**.

**GP3-08-314: Cole Construction, Inc.** (P. O. Box 158, Nichols, NY 13812) on June 16, 2010, to construct and operate a portable nonmetallic mineral crusher and screener with associated water spray dust suppression system under the General Plan Approval and/or General Operating Permit for Portable Nonmetallic Mineral Processing Plants (BAQ-PGPA/GP-3) at the Peck Hill Quarry facility in Windham Township, **Bradford County**.

**GP9-08-314: Cole Construction, Inc.** (P. O. Box 158, Nichols, NY 13812) on June 16, 2010, to construct and operate one 217 bhp John Deere diesel-fired engine and one 100 bhp Deutz diesel-fired engine under the General Plan Approval and/or General Operating Permit BAQ-GPA/GP-9: Diesel or No. 2 fuel-fired Internal Combustion Engines, at the Peck Hill Quarry facility in Windham Township, **Bradford County**.

**GP5-08-04C: Chief Gathering, LLC** (6051 Wallace Road Ext., Suite 210, Wexford, PA 15090) on June 21, 2010, for the modification of the existing 65 MMscf/day glycol dehydrator with 1.0 mmBtu/hr reboiler to increase the natural-gas throughput to 75 MMscf/day under the General Plan Approval and/or General Operating Permit for Natural Gas, Coal Bed Methane or Gob Gas Production or Recovery Facilities (BAQ-GPA/GP-5) at the Bradford Compressor Station in West Burlington Township, **Bradford County**.

**GP3-59-191A: Contract Crushing, Inc.** (26 Beaver Street, Cogan Station, PA 17728) on June 9, 2010, to construct and operate a portable nonmetallic mineral crusher with associated water spray dust suppression system and portable nonmetallic mineral screen pursuant to the General Plan Approval and/or General Operating Permit for Portable Nonmetallic Mineral Processing Plants (BAQ-PGPA/GP-3) at the Hanson—Blossburg facility in Liberty Township, **Tioga County**.

**GP9-59-191A: Contract Crushing, Inc.** (26 Beaver Street, Cogan Station, PA 17728) on June 9, 2010, to construct and operate one Caterpillar Model C-9 diesel-fired engine with a rating of 300 horsepower (hp) and one Caterpillar Model 3054C diesel-fired engine with a rating of 99 hp under the General Plan Approval and/or General Operating Permit BAQ-GPA/GP-9: Diesel or No. 2 fuel-fired Internal Combustion Engines, at the Hanson—Blossburg facility located in Liberty Township, **Tioga County**.

**GP24-49-00007-2: Cherokee Pharmaceuticals, LLC** (100 Avenue C, P. O. Box 367, Riverside, PA 17868) on June 14, 2010, to authorize the construction and operation of point sources that handle/process pharmaceutical products under the General Plan Approval for Pharmaceutical and Specialty Chemical Production (BAQ-GPA-24) located in Riverside Borough, **Northumberland County**.

**GP5-59-190A: Talisman Energy USA, Inc.** (337 Daniel Zenker Drive, Horseheads, NY 14845) on June 25, 2010, to construct and operate a glycol dehydration unit and a 0.65 million Btu per hour reboiler under the General Plan Approval and/or General Operating Permit for Natural Gas, Coal Bed Methane or Gob Gas Production or Recovery Facilities (BAQ-GPA/GP-5) at the Jackson Dehydrator Station in Lawrence Township, **Tioga County**.

**GP5-08-15: Talisman Energy USA, Inc.** (337 Daniel Zenker Drive, Horseheads, NY 14845) on July 1, 2010, for the construction and operation of twelve 1,380 bhp Caterpillar model G3516B four-stroke, ultra-lean-burn, natural gas-fired compressor-engines each equipped with Miratech model IQ-26-12-EHI oxidation catalysts and two Natco tri-ethylene glycol dehydrators each rated at 60 Mscf/day with regenerators (0.375 mmBtu/hr) under the General Plan Approval and/or General Operating Permit for Natural Gas, Coal Bed Methane or Gob Gas Production or Recovery Facilities (BAQ-GPA/GP-5) at the Putnam Compressor Station in Armenia Township, **Bradford County**.

**GP5-59-206A: Mainesburg GS, LP** (500 North Capital of Texas Highway, Building 3, Suite 100, Austin, TX 78746) on July 1, 2010, to assume operation of a 203 bhp natural gas-fired compressor engine equipped with an oxidation catalyst and one 3 MMscf/day glycol dehydrator equipped with a 0.075 mmBtu/hr heater and to construct and operate two natural gas-fired compressor engines each rated at 1,340 bhp and one 30 MMscf/day glycol dehydrator equipped with a 0.75 mmBtu/hr heater under the General Plan Approval and/or General Operating Permit for Natural Gas, Coal Bed Methane or Gob Gas Production or Recovery Facilities (BAQ-GPA/GP-5) at the Mainesburg Compressor Station in Sullivan Township, **Tioga County**.

**GP5-59-207A: East Resources, Inc.** (301 Brush Creek Road, Warrendale, PA 15086) on June 22, 2010, for the construction and operation of three 1,340 bhp Caterpillar model G3516 TALE four-stroke, lean-burn, natural gas-fired compressor engines and two Natco triethylene glycol dehydrators each rated at 20 Mscf/day with regenerators (0.275 mmBtu/hr) under the General Plan Approval and/or General Operating Permit for Natural Gas, Coal Bed Methane or Gob Gas Production or Recovery Facilities (BAQ-GPA/GP-5) at the Matz Compressor Station in Chatham Township, **Tioga County**.

**GP5-41-629A: Pennsylvania General Energy Co., LLC** (120 Market Street, Warren, PA 16365) on July 7, 2010, for the construction and operation of three 1,340 bhp Caterpillar model G3516 TALE four-stroke, lean-burn, natural gas-fired compressor engines and two Natco triethylene glycol dehydrators each rated at 25 Mscf/day with regenerators (0.200 mmBtu/hr) under the General Plan Approval and/or General Operating Permit for Natural Gas, Coal Bed Methane or Gob Gas Production or Recovery Facilities (BAQ-GPA/GP-5) at the Ramsey Road Compressor Station in Cummings Township, **Lycoming County**.

**GP5-08-305A: Chief Gathering, LLC** (6051 Wallace Road Ext., Suite 210, Wexford, PA 15090) on July 15, 2010, for the construction and operation of two natural gas-fired compressor engines rated at 1,340 brake-horsepower, each equipped with catalytic converters, one 750,000 Btu per hour glycol dehydrator and one 1,500,000 Btu per hour glycol dehydrator under the General Plan Approval and/or General Operating Permit for Natural Gas, Coal Bed Methane or Gob Gas Production or Recovery Facilities (BAQ-GPA/GP-5) at the Cuddy Compressor Station in Monroe Township, **Bradford County**.

**GP5-08-319: Chief Gathering, LLC** (6051 Wallace Road Ext., Suite 210, Wexford, PA 15090) on July 15, 2010, for the construction and operation of five natural gas-fired compressor engines rated at 1,340 brake-horsepower, three of which are equipped with catalytic converters, and two 750,000 Btu per hour glycol dehydrators under the General Plan Approval and/or General

Operating Permit for Natural Gas, Coal Bed Methane or Gob Gas Production or Recovery Facilities (BAQ-GPA/GP-5) at the God Compressor Station in Monroe Township, **Bradford County**.

*Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745. Contact: Barb Hatch, Environmental Engineer Managers—Telephone: 412-442-4163/5226.*

**GP5-65-00879D: Range Resources-Appalachia, LLC** (380 Southpoint Boulevard, Canonsburg, PA 15317) on July 16, 2010, received a GP-5 authorization for continued operation of a natural gas production facility at their Unity Compressor Station in East Huntingdon Township, **Westmoreland County**.

**GP5-32-00407: XTO Energy, Inc.** (810 Houston Street, Fort Worth, TX 76102) on July 16, 2010, to construct and operate one natural gas compressor engine at their Ernest Compressor Station in Rayne Township, **Indiana County**.

**GP5-65-01005C: RW Gathering, LLC** (100 Tower Center, Suite 130, Canonsburg, PA 15317) on June 28, 2010, to construct and operate one replacement natural gas compressor engine and to operate one existing natural gas compressor engine at their Bergman Road Compressor Site also referred to as the Ecker Compressor Station on Bergman Road, Derry Township, **Westmoreland County**.

**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.**

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

**09-0075B: Dunmore Corp.** (145 Wharton Road, Bristol, PA 19007) on July 14, 2010, to install a regenerative thermal oxidizer at an existing plastic film and coating facility in Bristol Township, **Bucks County**. This thermal oxidizer will replace the currently permitted catalytic oxidizer. Facility-wide VOC and HAP emissions will remain the same as they are controlled through a previously permitted Permanent Total Enclosure and this oxidizer. NOx emissions are estimated to increase by a maximum of 2.15 tons to 6.03 tons per year due to the increased fuel usage in this larger oxidizer. The plan approval will include monitoring, recordkeeping and reporting 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.*

**41-00080A: Chief Gathering, LLC** (6051 Wallace Road Ext., Suite 210, Wexford, PA 15090-7386) on June 10, 2010, to construct two natural gas-fired compressor engines each equipped with oxidation catalysts at the Canoe Run Compressor Station located in Mifflin Township, **Lycoming County**.

**47-00005A: Geisinger Medical Center** (Geisinger Medical Center, 100 North Academy Avenue, Danville, PA 17822-2455) on June 17, 2010, for the construction of a combined heat and power combustion turbine at their facility located in Mahoning Township, **Montour County**.

**59-00004F: Ward Manufacturing, LLC** (117 Gulick Street, P. O. Box 9, Blossburg, PA 16912-0009) on July 7, 2010, for the construction of a tumbler blast cleaning and peening machine at the Blossburg Borough, **Tioga County** facility.

**59-00004D: Ward Manufacturing, LLC** (117 Gulick Street, P. O. Box 9, Blossburg, PA 16912-0009) on July 8, 2010, for the construction of a natural gas/propane-fired Samsco wastewater evaporator at the Blossburg Borough, **Tioga County** facility.

*Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745. Contact: Mark Gorog and Barb Hatch, Environmental Engineer Managers—Telephone: 412-442-4163/5226.*

**65-00630B: Mine Safety Appliances (MSA) Co.** (P. O. Box 426, Pittsburgh, PA 15230-0426) on July 14, 2010, to authorize the construction and temporary operation of additional air contamination sources and controls associated with a proposed respirator mask manufacturing operation consisting of washing, cleaning and bonding of lenses to rubber mask blanks at the MSA Murrysville facility, at 3880 Meadowbrook Road, Murrysville, **Westmoreland 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.*

**09-0084A: Grand View Hospital** (700 Lawn Avenue, Sellersville, PA 18960) on July 15, 2010, to operate three boilers in West Rockhill Township, **Bucks County**.

**46-0158B: Coloron, Inc.** (415 Moyer Boulevard, West Point, PA 19486) on July 15, 2010, to operate a new Glatt fluid bed dryer in Upper Gwynedd Township, **Montgomery 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.*

**06-03134: Dietrich Specialty Processing, LLC** (61 Vanguard Drive, Reading, PA 19606) on July 14, 2010, to modify the Plan Approval for three spray drying systems in Exeter Township, **Berks County**. The plan approval was extended.

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

**08-00003H: CraftMaster Manufacturing, Inc.** (P. O. Box 311, Shiner Road, Towanda, PA 18848) on June 30, 2010, to extend the submittal deadline for the required VOC stack test protocol of the Line 2 Refiners and First Stage Dryers/Felter Operations and Line 2 Press. The required test protocol shall be submitted on or before August 5, 2010, at the facility in Wysox Township, **Bradford County**.

**08-00003G: CraftMaster Manufacturing, Inc.** (P. O. Box 311, Shiner Road, Towanda, PA 18848) on June 30, 2010, to extend the authorization to exhaust the refiner reject emissions from Source IDs 141P and 142P to

scrubbers (IDs D41 and E42) on a temporary basis to December 27, 2010, at the facility in Wysox Township, **Bradford County**.

**08-00003F: CraftMaster Manufacturing, Inc.** (P. O. Box 311, Shiner Road, Towanda, PA 18848) on June 30, 2010, to extend the authorization to operate two regenerative thermal oxidizers; one on the Line 1 pressurized refiners and first stage dryers, and one on the line 2 pressurized refiners and first stage dryers, each preceded by a water dropout box on a temporary basis to December 27, 2010, at the facility in Wysox Township, **Bradford County**.

**08-00003E: CraftMaster Manufacturing, Inc.** (P. O. Box 311, Shiner Road, Towanda, PA 18848) on June 30, 2010, to extend the authorization to operate a regenerative thermal oxidizer on the Die Form Tempering Kiln on a temporary basis to January 1, 2011, at the facility in Wysox Township, **Bradford County**.

**18-315-001: First Quality Tissue, LLC** (904 Woods Avenue, Lock Haven, PA 17745-3431), on July 1, 2010, to extend the authorization to operate a paper towel and tissue manufacturing facility on a temporary basis to December 28, 2010, at the facility in Castanea Township, **Clinton County**.

*Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745. Contact: M. Gorog and B. Hatch, Environmental Engineer Managers—Telephone: 412-442-4163/5226.*

**63-00549A: Arden landfill, Inc.** (625 Cherrington Parkway, Moon Township, PA 15108) on July 8, 2010, for an extension of the Plan Approval for the construction and temporary operation of a gas to energy plant located at Arden Landfill, Chartiers Township, **Washington County**. The Plan Approval has been extended.

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**Title V Operating Permits Issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter G.**

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

**53-0008: National Fuel Gas Supply Corp.** (P. O. Box 2081, Erie, PA 16512-2081) on June 8, 2010, for renewal of their Title V Operating Permit for their East Fork Compressor Station in Wharton Township, **Potter County**.

**53-0003: National Fuel Gas Supply Corporation** (P. O. Box 2081, Erie, PA 16512-2081) on June 8, 2010, for renewal of their Title V Operating Permit for their Ellisburg Compressor Station in Allegany Township, **Potter County**.

*Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481. Contact: Matthew Williams, Facilities Permitting Chief—Telephone: 814-332-6940.*

**25-00541: Penn-Union Corp.** (229 Waterford Street, Edinboro, PA 16412-2381) on July 16, 2010, to re-issue the Title V Operating Permit at their facility in Edinboro Borough, **Erie County**. The facility manufactures current-carrying wiring devices. The facility's major emission sources include degreasing boiler, a batch cold cleaning degreaser, electric induction furnaces, rotary casting unit, manual casting line, push out furnace, sand return/mixing unit, deslagging ladles, shot blast (West Wheelabrators C and D) and miscellaneous natural gas

usage. The facility is a major facility due to its potential to emit perchloroethylene and VOCs. This facility is not subject to compliance assurance monitoring because individual source's precontrolled emission does not exceed the Title V emission threshold.

**43-00196: General Electric Transportation Systems** (1503 West Main Street Extension, Grove City, PA 16127-2513) on July 8, 2010, re-issued the Title V Operating Permit to operate a facility that manufactures and rebuilds diesel engines for locomotives and other applications in Pine Township, **Mercer County**. The primary emission sources include two natural gas fired boilers, three paint booths, diesel engine test cells, a diesel fire pump, cleaning operations and miscellaneous natural gas combustion.

**62-00032: Ellwood National Forge Irvine** (1 Front Street, Irvine, PA 16329-1801) on July 7, 2010, issued an administrative amendment to the Title V Operating Permit to incorporate the conditions from Plan Approvals 62-032D and 62-032F (which superseded Plan Approvals 62-032B and 62-032E) for the Iron and Steel Forging Facility located in Brokenstraw Township, **Warren County**.

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**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.**

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*Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401. Contact: Janine Tulloch-Reid, Facilities Permitting Chief—Telephone: 484-250-5920.*

**15-00049: Taylor Industries, Inc.** (35 Anderson Road, Parkerford, PA 19457) on July 14, 2010, for a non-Title V Facility, State-only, Synthetic Minor Operating Permit in East Coventry Township, **Chester County**. Taylor Industries, Inc. is a manufacturer of quality marble fixtures (that is, lavatory tops, showers, tubs and whirlpools) for the home. The facility's primary emission sources are two Gelcoat Spray Booths, five mixers, a casting (molding) area and two Resin Storage Tanks (cap. 4,500 gallon each). This action is a renewal of the State-only Operating Permit. The initial permit was issued on 7-5-2005. The permit will include monitoring, recordkeeping, reporting and work practice standards designed to keep the facility operating within all applicable air quality requirements.

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

**39-00061: Electro Chemical Engineering and Manufacturing Co.** (750 Broad Street, Emmaus, PA 18049) on July 19, 2010, for coating and engraving facility in Emmaus Borough, **Lehigh County**. This is a State-only Synthetic Minor operating permit for this facility. The State-only operating permit includes emissions, work practice standards and testing, monitoring, recordkeeping and reporting 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.*

**01-05025: Valley Quarries, Inc.** (P. O. Box J, Chambersburg, PA 17201-0809) on June 29, 2010, for the stone crushing and asphalt plant in Cumberland Township, **Adams County**. This is a renewal of the State-only operating permit.

*Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745. Contact: Barbara Hatch, Facilities Permitting Chief—Telephone: 412-442-4174.*

**11-00511: Forest Hills School District** (P. O. Box 158, Sidman, PA 15955) on July 15, 2010, to operate two No. 2 fuel oil-fired boilers rated at 8 mmBtu/hr each and one No. 2 fuel oil-fired emergency generator at their middle school located in Croyle Township, **Cambria County**. This is a renewal of the State-only operating permit issued in 2004.

**11-00102: Forest Hills School District** (P. O. Box 158, Sidman, PA 15955) on July 15, 2010, to operate four No. 2 fuel oil-fired boilers rated at 7 mmBtu/hr each and three emergency generators at their high and elementary schools in Adams Township, **Cambria County**. This is a renewal of the State-only operating permit issued in 2004.

*Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481. Contact: Matthew Williams, Facilities Permitting Chief—Telephone: 814-332-6940.*

**43-00348: American Cap Company, LLC**, 17 Church Plant (15 Church Street, Wheatland, PA 16161) on July 15, 2010, to issue a Natural Minor Operating Permit to operate an activated carbon manufacturing facility, in Wheatland Borough, **Mercer County**. The facility's primary emission sources are the three activated carbon manufacturing furnaces. The emissions of criteria pollutants from this facility are below major source levels.

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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.*

**09-00010: TEVA Pharmaceuticals USA, Inc.** (650 Cathill Road, Sellersville, PA 18960) on July 14, 2010, in West Rockhill Township, **Bucks County**. This permit was revised to incorporate Plan Approvals 09-0010A and 09-0010B concerning operation of a Vector Fluid Bed Processor into the State-only Operating Permit. The permit was also revised to remove a duplicate source involving the S-8 Fluid Bed Processor. This Administrative Amendment of the State-only Operating Permit was issued in accordance with the Air Pollution Control Act (35 P. S. §§ 4001—4014) and 25 Pa. Code § 127.50.

**46-00169: Constantia Collmar, Inc.** (92 County Line Road, Colmar, PA 18915) on July 20, 2010, for an Administrative Amendment to State-only (Synthetic Minor) Operating No. 46-00169 for their facility in Hatfield Township, **Montgomery County**. The Administrative Amendment replaces a work practice requirement for the automatic parts washing system with two new work practice requirements. The Administrative Amendment is issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code § 127.450.

*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.*

**06-05002: Lehigh Cement Co., LLC** (537 Evansville Road, Fleetwood, PA 19522-8541) on July 14, 2010, for the cement manufacturing facility in Maiden Creek Township, **Berks County**. This Title V Operating Permit was administratively amended due to a name change.

**67-03007: Cooper Tools, LLC** (3990 East Market Street, York, PA 17402-2769) on July 13, 2010, for their chain manufacturing facility in Springettsbury Township, **York County**. This State-only operating permit was administratively amended due to a name change.

**22-05054: Highspire Terminals Corp.** (P. O. Box 2621, Harrisburg, PA 17105-2621) on July 12, 2010, for the gasoline terminal in Lower Swatara Township, **Dauphin County**. This State-only operating permit was administratively amended due to a name change.

*Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481. Contact: Matthew Williams, Facilities Permitting Chief—Telephone: 814-332-6940.*

**10-00281: II VI Manufacturing Saxonburg Plant** (375 Saxonburg Boulevard, Saxonburg, PA 16056-9430), on July 7, 2010, to issue an administrative amendment to the State-only Operating Permit to incorporate the plan approval conditions for 10-0281M for the facility in Clinton Township, **Butler County**.

## ACTIONS ON COAL AND NONCOAL MINING ACTIVITY APPLICATIONS

**Actions on applications under the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.19a); the Noncoal Surface Mining Conservation and Reclamation Act (52 P. S. §§ 3301—3326); The Clean Streams Law (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

*California District Office: 25 Technology Drive, Coal Center, PA 15423, 724-769-1100.*

**17041301 and NPDES Permit No. PA0235628, Rosebud Mining Company**, (301 Market Street, Kittanning, PA 16201), to renew the permit for the Penfield Mine in Huston Township, **Clearfield County** and related NPDES permit. No additional discharges. Application received: March 15, 2010. Permit issued: July 15, 2010.

**26081601 and NPDES Permit No. NA, Foundation PA Coal Terminal, LLC**, (P. O. Box 1020, 158 Portal Road, Waynesburg, PA 15370), to operate the LaBelle Site in Luzerne Township, **Fayette County** a coal prepara-



tion plant with a related NPDES permit as a coal/bulk material transloading facility. Surface Acres Proposed 56.8. Receiving streams: Monongahela River and an Unnamed Tributary to the Monongahela River, both classified for the following use: WWF. The first downstream potable water supply intake from the point of discharge is PA American Water Company, Monongahela River intake. Application received: June 20, 2008. Permit issued: July 16, 2010.

**03851303 and NPDES Permit No. PA0213462, McVile Mining Company,** (301 Market Street, Kittanning, PA 16201-1504), to revise the permit for the Clementine Mine in North Buffalo and South Buffalo Townships, **Armstrong County** to add underground permit and subsidence control plan area acres. Underground Acres Proposed 4,174.0, Subsidence Control Plan Acres Proposed 4,174.0. No additional discharges. Application received: September 15, 2009. Permit issued: July 16, 2010.

*Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, 814-342-8200.*

**17813182 and NPDES No. PA0609692. Penn Coal Land, Inc.** (P. O. Box 68, Boswell, PA 15581). Renewal of an existing bituminous surface mine located in Decatur Township, **Clearfield County** affecting 125.8 acres. Receiving stream(s): unnamed tributary of Big Run (Cold Water Fishery) to Big Run (Cold Water Fishery), to Moshannon Creek (High Quality Cold Water Fishery), to the West Branch of the Susquehanna River (Cold Water Fishery). There are no potable water supply intakes within 10 miles downstream. Application received: March 3, 2010. Permit issued: July 6, 2010.

**17930124 and NPDES No. PA0219649. RES Coal, LLC** (224 Grange Hall Road, P. O. Box 228, Armagh, PA 15920). Renewal of an existing bituminous surface mine located in Woodward and Decatur Townships, **Clearfield County** affecting 346.0 acres. Receiving stream(s): unnamed tributaries to Little Beaver Run to the North Branch of Morgan Run classified for the following use(s): Cold Water Fisheries. Application received: April 9, 2010. Permit issued: July 6, 2010.

**17990122 and NPDES No. PA0242772. AMFIRE Mining Co., LLC** (One Energy Place, Latrobe, PA 15650). Renewal of an existing bituminous surface mine located in Brady and Bloom Townships, **Clearfield County** affecting 107.2 acres. Receiving stream(s): unnamed tributaries of Little Anderson Creek to Anderson Creek, unnamed tributary to Bell Run, unnamed tributary to Irish Run classified for the following use(s): Cold Water Fisheries. Application received: April 2, 2010. Permit issued: July 6, 2010.

**17743165 and NPDES No. PA0127574. RES Coal, LLC** (224 Grange Hall Road, P. O. Box 228, Armagh, PA 15920). Renewal of an existing bituminous surface mine located in Boggs Township, **Clearfield County** affecting 164.4 acres. Receiving stream(s): Clearfield Creek (Cold Water Fishery) to the West Branch of the Susquehanna River (Warm Water Fishery). Application received: December 21, 2009. Permit issued: July 9, 2010.

**17030121 and NPDES No. PA0243671. AMFIRE Mining Co, LLC** (One Energy Place, Latrobe, PA 15650). Renewal of an existing bituminous surface and auger mine located in Penn Township, **Clearfield County** affecting 43.2 acres. Receiving stream(s): unnamed tributary to Bell Run and Bell Run classified for Cold Water Fisheries. Application received: April 15, 2010. Permit issued: July 9, 2010.

**17930120 Energy Resources, Inc.** (P. O. Box 259, Brockway, PA 15824-0259). Permit renewal for reclamation only of a bituminous surface mine located in Lawrence Township, **Clearfield County** affecting 82.8 acres. Permit issued: July 14, 2010.

**17900118. Sky Haven Coal, Inc.** (5510 State Park Road, Penfield, PA 15849). Permit renewal for reclamation only of a surface mine located in Lawrence Township, **Clearfield County** affecting 52.9 acres. Permit issued: July 14, 2010.

*Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, 570-621-3118.*

**54840209R5 and NPDES Permit No. PA0224804. Mazaika Coal Company,** (689 Fairview Road, Tamaqua, PA 18252), renewal of an existing anthracite coal refuse reprocessing and processing operation in Rush Township, **Schuylkill County** affecting 24.0 acres, receiving stream: Little Schuylkill River. Application received: September 16, 2009. Renewal issued: July 13, 2010.

**54840209C3 and NPDES Permit No. PA0224804. Mazaika Coal Company,** (689 Fairview Road, Tamaqua, PA 18252), correction to an existing anthracite coal refuse reprocessing and processing operation to add NPDES Permit for discharge of treated mine drainage in Rush Township, **Schuylkill County**, receiving stream: Little Schuylkill River. Application received: October 2, 2009. Correction issued: July 13, 2010.

**54030102C and NPDES Permit No. PA0224324. Timber Coal Company,** (P. O. Box 188, Sacramento, PA 17968), correction to an existing anthracite surface mine and refuse disposal operation to increase the permitted acres from 300.0 to 316.7 acres in Hegins and Porter Townships, **Schuylkill County**, receiving stream: East Branch Rausch Creek. Application received: February 17, 2010. Correction issued: July 13, 2010.

**54840205R5. Hegins Mining Company,** (290 Swatara Road, Tremont, PA 17981), renewal of an existing anthracite coal refuse reprocessing and processing operation in Reilly Township, **Schuylkill County** affecting 63.6 acres, receiving stream: none. Application received: February 17, 2010. Renewal issued: July 13, 2010.

#### *Noncoal Permits Actions*

*Knox District Mining Office: P. O. Box 669, 310 Best Avenue, Knox, PA 16232-0669, 814-797-1191.*

**42090805. Lois A. Baker** (1821 Champlin Hill Road, Turtlepoint, PA 16750) Commencement, operation and restoration of a small flagstone operation in Annin Township, **McKean County** affecting 2.0 acres. Receiving streams: Unnamed tributary to Annin Creek. Application received: November 24, 2009. Permit Issued: July 14, 2010.

**27102802. Passauer Excavation, Inc.** (P. O. Box 304, West Hickory, PA 16370) Commencement, operation and restoration of a small noncoal operation in Harmony Township, **Forest County** affecting 5.0 acres. Receiving streams: Unnamed tributary to the Allegheny River. Application received: June 7, 2010. Permit Issued: July 15, 2010.

*Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, 814-342-8200.*

**08102804. DeCristo, Inc.** (R. R. 1, Box 1600, Canton, PA 17724), commencement, operation and restoration of a small noncoal shale and sandstone operation in Leroy Township, **Bradford County** affecting 2.0 acres. Receiving

ing stream(s): Unnamed Tributary to Towanda Creek to Susquehanna River. Application received: March 22, 2010. Permit issued: July 9, 2010.

**08040811. Vasquez Stone** (R. R. 1, Box 1654, Laceyville, PA 18623). Transfer of an existing small noncoal bluestone operation from Carolyn L. Wheaton in Tuscarora Township, **Bradford County** affecting 1.0 acres. Receiving stream(s): Unnamed Tributary to Tuscarora Creek. Application received: November 5, 2009. Permit issued: July 13, 2010.

**18102803 Benson W. Probst** (668 German Road, Lock Haven, PA 17745), commencement, operation and restoration of a small noncoal shale operation in Dunnstable Township, **Clinton County** affecting 1.0 acres. Receiving stream(s): Big Plum Run to Susquehanna River. Application received: April 16, 2010. Permit issued: July 9, 2010.

**18102802 Benson W. Probst** (668 German Road, Lock Haven, PA 17745), commencement, operation and restoration of a small noncoal shale operation in Dunnstable Township, **Clinton County** affecting 1.0 acres. Receiving stream(s): Big Plum Run to Susquehanna River. Application received: March 25, 2010. Permit issued: July 9, 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.*

**02104003. Controlled Demolition, Inc.** (2737 Merymans Mill Road, Phoenix, MD 31131). Blasting activity permit for the demolition of the Turnpike Bridge over the Allegheny River, located in Harmar Township, **Allegheny County**. The duration of blasting is expected to last 17 days. Blasting permit issued: July 12, 2010.

**02104004. KESCO, Inc.** (P. O. Box 95, Addrian, PA 16210). Blasting activity permit for the construction of the Cobble Stone Site Development, located in Ohio Township, Allegheny River. The duration of blasting is expected to last six months. Blasting permit issued: July 14, 2010.

**65104007. Precision Geophysical, Inc.** (2695 SR 83 South, Millersburgh, OH 44654). Blasting activity permit for seismic exploration to the Latrobe Job, located in Derry, Unity and Ligonier Townships, **Westmoreland County**. The duration of blasting is expected to last 6 months. Blasting permit issued: July 14, 2010.

*Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, 814-342-8200.*

**08104112. Austin Powder Northeast, LLC** (25800 Science Park Drive, Beachwood, OH 44122). Blasting for the King water impoundment site-water holding site located in Towanda Township, **Bradford County**. Permit issued: July 8, 2010. Permit expires: July 6, 2011.

**08104113. Holbert Explosives, Inc.** (237 Mast Hope Plank Road, Lackawaxen, PA 18435). Blasting for a drill pad for Duane Well Site Chesapeake Gas located in

LeRoy Township, **Bradford County**. Permit issued: July 15, 2010. Permit expires: July 14, 2011.

**17104008. CGG Veritas Land (US), Inc.** (10300 Town Park Drive, Houston, TX 77072). Seismic exploration blasting—Centre 3D—located in Karthaus, Covington, Cooper and Graham Townships, **Clearfield County**. Permit issued: July 14, 2010. Permit expires: July 31, 2011.

**14104004. CGG Veritas Land (US), Inc.** (10300 Town Park Drive, Houston, TX 77072). Seismic exploration blasting—Centre 3D—located in Burnside, Snow Shoe, Union, Boggs, Curtain and Liberty Townships, **Centre County**. Permit issued: July 14, 2010. Permit expires: December 31, 2011.

**17104009. River Valley Energy Services** (Box 1038, Grimshaw, Alberta T0H 1W0). Seismic exploration blasting—Clearfield River Valley 3D—located in Goshen and Girard Townships, **Clearfield County**. Permit issued: July 14, 2010. Permit expires: December 31, 2010.

**18104001. CGG Veritas Land (US), Inc.** (10300 Town Park Drive, Houston, TX 77072). Seismic exploration blasting—Centre 3D—located in West Keating, Beech Creek, Noyes, Grugan and Chapman Townships, **Clinton County**. Permit issued: July 14, 2010. Permit expires: December 31, 2011.

**53104005. Pennsylvania General Energy Co, LLC** (120 Market Street, Warren, PA 16365). Blasting for a drill pad and stone pit for roads on site located in Pleasant Valley Township, **Potter County**. Permit issued: July 7, 2010. Permit expires: July 1, 2011.

*Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, 570-621-3118.*

**09104107. Austin Powder Northeast, LLC** (25800 Science Park Drive, Cleveland, OH 44122), construction blasting for ECMS 47395 SR 202 Section 721 in Warrington and Warwick Townships and Chalfont Borough, **Bucks County** with an expiration date of May 24, 2011. Permit issued: July 13, 2010.

**36104142. ME Drilling & Blasting**, (P. O. Box 279, Auburn, NH 03032), construction blasting for Harvest Presbyterian Church in West Lampeter Township, **Lancaster County** with an expiration date of July 7, 2011. Permit issued: July 13, 2010.

**46104108. American Rock Mechanics, Inc.**, (7531 Chestnut Street, Zionsville, PA 18092), construction blasting for Country View in Salford Township, **Montgomery County** with an expiration date of July 6, 2011. Permit issued: July 13, 2010.

**46104109. Hayduk Enterprises, Inc.**, (257 Riverside Drive, Factoryville, PA 18419), construction blasting for Wegmans Liberty Project in Upper Merion Township, **Montgomery County** with an expiration date of July 7, 2011. Permit issued: July 13, 2010.

**46104110. ME Drilling & Blasting**, (P. O. Box 279, Auburn, NH 03032), construction blasting for Regency at Providence in Upper Providence Township, **Montgomery County** with an expiration date of July 7, 2011. Permit issued: July 13, 2010.

**46104111. ME Drilling & Blasting**, (P. O. Box 279, Auburn, NH 03032), construction blasting for St. Eleanor Parish School in Collegeville Borough, **Montgomery County** with an expiration date of July 7, 2011. Permit issued: July 13, 2010.

**58104032. John Brainard**, (3978 SR 2073, Kingsley, PA 18826), construction blasting for the Adams Well Site

in Harford Township, **Susquehanna County** with an expiration date of August 30, 2010. Permit issued: July 14, 2010.

**58104033. John Brainard**, (3978 SR 2073, Kingsley, PA 18826), construction blasting for the Petty 1H and 2H Well Site and Tank Farm in Dimock Township, **Susquehanna County** with an expiration date of August 30, 2010. Permit issued: July 14, 2010.

**67104113. Keystone Blasting Service**, (15 Hopeland Road, Lititz, PA 17543), construction blasting for Walk Lee Holsteins manure pit in Paradise Township, **York County** with an expiration date of August 30, 2010. Permit issued: July 14, 2010.

**45104115. Explosive Services, Inc.**, (7 Pine Street, Bethany, PA 18431), construction blasting for Penn Estates in Stroud and Pocono Townships, **Monroe County** with an expiration date of July 31, 2011. Permit issued: July 15, 2010.

**45104116. Explosive Services, Inc.**, (7 Pine Street, Bethany, PA 18431), construction blasting for County Club of the Poconos in Middle Smithfield Township, **Monroe County** with an expiration date of July 31, 2011. Permit issued: July 15, 2010.

**45104117. Explosive Services, Inc.**, (7 Pine Street, Bethany, PA 18431), construction blasting for New Ventures Park in Tobyhanna Township, **Monroe County** with an expiration date of July 31, 2011. Permit issued: July 15, 2010.

**64104107. Explosive Services, Inc.**, (7 Pine Street, Bethany, PA 18431), construction blasting for Wal-lenpaupack Estates in Paupack Township, **Wayne County** with an expiration date of July 31, 2011. Permit issued: July 15, 2010.

**36104143. Keystone Blasting Service**, (15 Hopeland Road, Lititz, PA 17543), construction blasting for Amos Glick manure pit in Upper Leacock Township, **Lancaster County** with an expiration date of August 30, 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.

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**Actions on applications for the following activities filed under the Dam Safety and Encroachments Act (32 P.S. §§ 693.1—693.27), section 302 of the 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

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

**E15-798. Department of Transportation**, 7000 Geerdes Boulevard, King of Prussia, PA 19406-1525, West Nottingham Township, **Chester County**, ACOE Philadelphia District.

To remove the existing Lees Road Bridge and to construct and maintain, in its place, an approximately 28-foot long, 45-foot wide and approximately 4.3-foot minimum high single span prestressed concrete bridge across Black Run (TSF, MF).

The site is located approximately 150 feet south of the intersection of Sand Hill and Lees Roads (SR 3014) in West Nottingham Township, Chester County (Rising Sun, PA USGS Quadrangle N: 22.5 inches; W: 8.85 inches).

The issuance of this permit also constitutes approval of a Water Quality Certification under Section 401 of the Federal Water Pollution Control Act (33 U.S.C.A. § 1341(a)).

**E46-953. Montgomery County**, 55 East Marshall Street, Norristown, PA 19401-4818, Lower Salford Township, **Montgomery County**, ACOE Philadelphia District.

To reissue the Permit No. E46-953 which authorized the construction and maintenance of a new bridge adjacent to and upstream of an existing deteriorated bridge (County Bridge No. 147) carrying Freeman School Road over East Branch of Perkiomen Creek (TSF). The proposed bridge will be a single-span composite steel structure with a span of 129 feet, 10 inches, a total roadway width of 36 feet, 3 inches, underclearance of 10 feet, 9 inches and a skew of 70°. This permit also authorized the operation and maintenance of the existing bridge consisting of a single-span with a span of 112 feet, roadway width 17 feet, underclearance of 10 feet, 3 inches, and the skew of 90°. The existing bridge has been repaired and will be retained to serve as part of the Township Trail System. Work will also include 280 linear feet of R-8 riprap scour protection along both bridges. The site is

located about 200 feet southwest of the intersection of Indian Creek and Freeman School Roads (Perkiomenville, PA USGS Quadrangle N: 5.4 inches; W: 4.88 inches).

The issuance of this permit also constitutes approval of a Water Quality Certification under Section 401 of the Federal Water Pollution Control Act (33 U.S.C.A. § 1341(a)).

**E15-802. Caln Township**, 253 Municipal Drive, Thorndale, PA 19372-0149, Caln Township, **Chester County**, ACOE Philadelphia District.

To construct and maintain a proposed sidewalk along the 100 year floodplain of Valley Run (CWF, MF) between Lincoln Highway and G.O. Carlson Boulevard. This work includes the modification of Barley Sheaf Road Bridge over Valley Run to accommodate the new sidewalk. The site is located along Barley Sheaf Road, between Lincoln Highway and G.O. Carlson Boulevard (Coatesville, PA USGS Quadrangle N: 21.5 inches; W: 3.27 inches).

The issuance of this permit also constitutes approval of a Water Quality Certification under Section 401 of the Federal Water Pollution Control Act (33 U.S.C.A. § 1341(a)).

**E23-482. Conoco Phillips Company, Trainer Refinery**, 4101 Post Road, Trainer, PA 19061, Marcus Hook Borough, **Delaware County**, ACOE Philadelphia District.

To construct and maintain five new pipe racks of 32-foot by 60-foot Modules, which will be supported by 22 30-inch diameter piles at their existing dock facility (E23-035) located along the Delaware River. The site is located at Conoco Phillips Trainer Refinery near the intersection of Market Street and Post Road (SR 0013) (Marcus Hook, PA USGS Quadrangle N: 5.6 inches; W: 1.5 inches).

The issuance of this permit also constitutes approval of a Water Quality Certification under Section 401 of the Federal Water Pollution Control Act (33 U.S.C.A. § 1341(a)).

**E51-226. Philadelphia Water Department**, 1101 Market Street, ARAMARK Tower, 2nd Floor, Philadelphia, PA 19107-2994, City of Philadelphia, **Philadelphia County**, ACOE Philadelphia District.

To perform the following water obstruction and encroachment activities within Venice Island which is situated between the Schuylkill River (WWF, MF) and the Manayunk Canal:

a. To construct and maintain a 3-million-gallon off-line storage tank to capture combined sewer overflows (CSOs).

b. To place fill within the 100-year floodway at two locations, approximately 12,781 and 11,850 cubic yards respectively, to facilitate construction of two proposed buildings. Work will also involve the removal of approximately 931 cubic yards of fill in the floodway in the general vicinity.

c. To construct and maintain two stormwater outfalls, measuring 15 and 18-inches in diameter, to the Schuylkill River.

d. To construct and maintain three utility line crossings which include one water line crossing at the Cotton Street Bridge and two aerial crossings.

This project is located approximately 1,000 feet east of the intersection Main Street and Shurs Avenue (Delaware

Avenue) (Germantown, PA USGS Quadrangle N: 4.15 inches; W: 13.4 inches) in the City and County of Philadelphia.

The issuance of this permit also constitutes approval of a Water Quality Certification under Section 401 of the Federal Water Pollution Control Act (33 U.S.C.A. § 1341(a)).

*Northcentral Region: Watershed Management Program Manager, 208 West Third Street, Williamsport, PA 17701, 570-327-3636.*

**E14-532. Bush Landscaping**, 3156 Marengo Road, Port Matilda, PA 16870. Half Moon Valley Llama Farm, in Halfmoon Township, **Centre County**, ACOE Baltimore District (Port Matilda, PA Quadrangle N: 40° 46' 11"; W: 78° 2' 25").

To construct and maintain BMPs to reduce excess water flow across the heavy use area of Half Moon Valley Llama Farm, with the following controls: 1) On the left bank two riprapped aprons for barn roof gutter runoff and two riprapped aprons for existing vegetated swale outlets; 2) sculpt and revegetate two existing vegetated swales to provide better drainage through the pasture in the left floodway; 3) maintain an existing 4-foot wide by 50-foot long wooden pedestrian bridge with a 6.5 foot underclearance across the 15 foot wide Half Moon Creek; 4) two geo-thermally heated 5-foot diameter 2-foot high concrete and metal watering troughs in the left floodway; 5) 750 linear feet of fence proposed within the 100-year floodway, located 1/2 mile south on Marengo Road from SR 550. This permit was issued under Section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

**E53-430. Coudersport Borough Authority**, 201 South West Street, Coudersport, PA 16915-1047. Water Main Relocation Project, Coudersport Borough, **Potter County**, ACOE Pittsburgh District (Coudersport, PA Quadrangle Latitude: 41° 46' 45.2"; Longitude: 78° 01' 11.3").

The applicant proposes to construct, operate and maintain an eight inch diameter public water supply pipeline crossing beneath the Allegheny River to accommodate relocation of the Fourth Street Bridge. Installation of the water supply pipeline shall be accomplished by either standard boring or directional drilling beneath the Allegheny River, which also serves as the Coudersport Borough Flood Control Project. The water supply pipeline shall be installed at a maximum depth below the flood control channel, so that flood control structure is not comprised. The project is located approximately 500-feet east off the Fourth Street and SR 0049 intersection. This permit application was issued under Section 105.13(e) "Small Projects." A permit issued for this application will also include 401 Water Quality Certification.

**E53-431. Coudersport Area Municipal Authority**, 201 South West Street, Coudersport, PA 16915-1047. Water Main Relocation Project, Coudersport Borough, **Potter County**, ACOE Pittsburgh District (Coudersport, PA Quadrangle Latitude: 41° 46' 45.2"; Longitude: 78° 01' 11.3").

The applicant proposes to construct, operate and maintain a 12-inch diameter public sanitary sewer line crossing beneath the Allegheny River to accommodate relocation of the Fourth Street Bridge. Installation of the sanitary sewer shall be accomplished by boring beneath the Allegheny River, which also serves as the Coudersport Borough Flood Control Project. The sanitary sewer line and its 18-inch diameter steel encasement shall be in-

stalled at a maximum depth below the flood control channel, so that flood control structure is not comprised. The project is located approximately 500-feet east of Fourth Street and SR 0049 intersection. This permit application was issued under Section 105.13(e) "Small Projects." A permit issued for this application will also include 401 Water Quality Certification.

**E59-494. William Dobron**, P. O. Box 187, Point Pleasant, PA 18950. Water Obstruction and Encroachment Joint Permit, in Clymer Township, **Tioga County**, ACOE Susquehanna River Basin District (Asaph, PA Quadrangle N: 41° 51' 21.9"; W: 77° 29' 19").

To construct and maintain a bridge having a span of 36 feet, width of 16 feet and an underclearance of 4.3 feet over Jemison Creek (WWF). The bridge is located off Boardman Road, 3.3 miles southwest of the intersection with SR 0249 in Clymer Township, Tioga County. This project proposes to permanently impact 16 linear feet of Jemison Creek, which is designated a Warm Water Fishery and impact 0.25 acre jurisdictional wetlands. This permit was issued under Section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

#### 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.*

6/16/2010  
 ESCGP-1 No.: ESX10-125-0056  
 Applicant Name: Atlas Energy Resources, LLC  
 Contact:  
 Address: 800 Mountain View Drive  
 City: Smithfield State: PA Zip Code: 15478  
 County: Washington Township(s):  
 Receiving Stream(s) and Classifications: UNT 40764 to Little Daniels Run, other

06/28/2010  
 ESCGP-1 No.: ESX09-051-0034 Major Revision  
 Applicant Name: Atlas Energy Resources, LLC  
 Contact Person: Jeremy Hirtz  
 Address: 800 Mountain View Drive  
 City: Smithfield State: PA Zip Code: 15748  
 County: Fayette Township(s): Georges  
 Receiving Stream(s) and Classifications: UNT to York Run, WWF, other

06/22/2010  
 ESCGP-1 No.: ESX09-051-0043 Major Revision  
 Applicant Name: Atlas Energy Resources, LLC  
 Contact Person:  
 Address: 800 Mountain View Drive  
 City: Smithfield State: PA Zip Code: 15478  
 County: Fayette Township(s): Redstone  
 Receiving Stream(s) and Classifications: UNT to Saltlick Run, other

06/18/2010  
 ESCGP-1 No.: ESX10-059-0044 Major Revision  
 Applicant Name: Energy Corp of America  
 Contact Person: Seth Burdette  
 Address: 1380 Route 286 Highway East, Suite 221  
 City: Indiana State: PA Zip Code: 15701  
 County: Greene Township(s): Cumberland  
 Receiving Stream(s) and Classifications: South Branch Muddy Creek (WWF), other

06/10/2010  
 ESCGP-1 No.: ESX10-059-0023 Major Revision  
 Applicant Name: Equitrans, LP, d/b/a Equitrans Gathering  
 Contact Person:  
 Address: 625 Liberty Avenue, Suite 1700  
 City: Pittsburgh State: PA Zip Code: 15222-3114  
 County Greene Township(s): Morris, Morgan, Washington  
 Receiving Stream(s) and Classifications: UNT to Browns and Ruff Creek and Craynes Run, HQ and other

7/1/2010  
 ESCGP-1 No.: ESX10-129-0016  
 Applicant Name: Atlas Energy Resources, LLC  
 Contact Person:  
 Address: 800 Mountain View Drive  
 City: Smithfield State: PA Zip Code: 15478  
 County: Westmoreland Township(s): Salem  
 Receiving Stream(s) and Classifications: UNT to Whitehorn Creek, other

06/10/2010  
 ESCGP-1 No.: ESX09-005-0008 Major Revision  
 Applicant Name: EQT Production  
 Contact Person: Todd Klaner  
 Address: 455 Racetrack Road, Suite 101  
 City: Washington State: PA Zip Code: 15301  
 County: Armstrong Township(s): Plum Creek  
 Receiving Stream(s) and Classifications: Sugar and Fagley Runs (WWF), other

6/18/2010  
 ESCGP-1 No.: ESX10-059-0043  
 Applicant Name: Atlas Resources, LLC  
 Contact Person: Jeremy Hirtz  
 Address: 800 Mountain View Drive  
 City: Smithfield State: PA Zip Code: 15478  
 County: Greene Township(s): Center  
 Receiving Stream(s) and Classifications: Tributary of Clear Run, High Quality

7/1/2010

ESCGP-1 No.: ESX10-125-0057  
 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): Cross Creek  
 Receiving Stream(s) and Classifications: UNT to South Fork Cross Creek, HQ

6/22/10

ESCGP-1 No.: Esx10-005-0007  
 Applicant Name: Exco Resources (PA), LLC  
 Contact Person: Larry sanders  
 Address: 3000 Ericsson Drive, Suite 200  
 City: Warrendale State: PA Zip Code: 15086  
 County: Armstrong Township(s): Cowanshannock  
 Receiving Stream(s) and Classifications: UNT to Cowanshannock Creek, other

6/24/10

ESCGP-1 No.: ESX10-059-0045  
 Applicant Name: CNX Gas Company, LLC  
 Contact: Daniel Bitz  
 Address: 200 Evergreene Drive  
 City: Waynesburg State: PA Zip Code: 15370  
 County: Greene Township(s): Morris  
 Receiving Stream(s) and Classifications: Patterson Creek, HQ

6/22/10

ESCGP-1 No.: ESX10-051-0017  
 Applicant Name: Burnett Oil Company, Inc.  
 Contact Person: Bart Walker  
 Address: 601 Technology Drive  
 City: Canonsburg State: PA Zip Code: 15317  
 County: Fayette Township(s): Georges  
 Receiving Stream(s) and Classifications: York Run, WWF, other

6/30/2010

ESCGP-1 No.: ESX10-051-0019  
 Applicant Name: Atlas Resources, LLC  
 Contact Person: Jeremy Hirtz  
 Address: 800 Mountain View Drive  
 City: Smithfield State: PA Zip Code: 15478  
 County: Fayette Township(s): Luzerne  
 Receiving Stream(s) and Classifications: UNT to Wallace Run, other

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

ESCGP-1 # ESX10-015-0156

Applicant Name Appalachia Midstream Services, LLC  
 Contact Person Patrick Myers  
 Address 100 1st Center  
 City, State, Zip Horseheads, NY 14845  
 County Bradford  
 Township(s) Burlington Township  
 Receiving Stream(s) and Classification(s) UNTs to Sugar Creek

ESCGP-1 # ESX10-117-0143

Applicant Name East Resources, Inc.  
 Contact Person Jefferson Long  
 Address 301 Brush Creek Road  
 City, State, Zip Warrendale, PA 15086  
 County Tioga  
 Township(s) Middlebury Township  
 Receiving Stream(s) and Classification(s) North Run/  
 Susquehanna River Basin in PA  
 Secondary—Crooked Creek

ESCGP-1 # ESX10-117-0140

Applicant Name Seneca Resources Corp.  
 Contact Person Doug Kepler  
 Address 51 Zents Boulevard  
 City, State, Zip Brookville, PA 15825  
 County Tioga  
 Township(s) Covington Township  
 Receiving Stream(s) and Classification(s) Tributary of Elk Run, Elk Run

ESCGP-1 # ESX10-117-0146

Applicant Name East Resources Management  
 Contact Person Jefferson Long  
 Address 190 Thorn Hill Road  
 City, State, Zip Warrendale, PA 15086  
 County Tioga  
 Township(s) Deerfield Township  
 Receiving Stream(s) and Classification(s) UNT to Yarnell Brook/Tioga River Basin  
 Secondary—Yarnell Brook, Cowanesque and Tioga Rivers

ESCGP-1 # ESX10-081-0040

Applicant Name XTO Energy, Inc.  
 Contact Person Bernhardt Kissel  
 Address 395 Airport Road  
 City, State, Zip Indiana, PA 15701  
 County Lycoming  
 Township(s) Franklin Township  
 Receiving Stream(s) and Classification(s) German Run, Little Muncy Creek  
 Secondary—Muncy Creek

ESCGP-1 # ESX10-127-0008

Applicant Name Hess Corporation  
 Contact Person Eugene Linscomb  
 Address 500 Dallas Street  
 City, State, Zip Houston, TX 77002  
 County Wayne  
 Township(s) Scott Township  
 Receiving Stream(s) and Classification(s) Tarbox Brook

ESCGP-1 # ESX10-015-0179

Applicant Name Chesapeake Appalachia, LLC  
 Contact Person Eric Haskins  
 Address 101 North Main Street  
 City, State, Zip Athens, PA 18810  
 County Bradford  
 Township(s) Terry Township  
 Receiving Stream(s) and Classification(s) UNT  
 Susquehanna River  
 Secondary—Susquehanna River

ESCGP-1 # ESX10-015-0175

Applicant Name Chesapeake Appalachia, LLC  
 Contact Person Eric Haskins  
 Address 101 North Main Street  
 City, State, Zip Athens, PA 18810  
 County Bradford  
 Township(s) Albany Township  
 Receiving Stream(s) and Classification(s) Beaver Run and UNT to Ladds Creek  
 Secondary—Ladds Creek

ESCGP-1 # ESX10-015-0177

Applicant Name Appalachia Midstream Services, LLC  
 Contact Person Patrick Myers  
 Address 100 1st Center  
 City, State, Zip Horseheads, NY 14845  
 County Bradford  
 Township(s) Herrick Township  
 Receiving Stream(s) and Classification(s) Billings Creek, UNTs to Billings Creek, Susquehanna Watershed

ESCGP-1 # ESX10-115-0028  
 Applicant Name Cabot Oil and Corp.  
 Contact Person Jeffrey Keim  
 Address Five Penn Center West, Suite 401  
 City, State, Zip Pittsburgh, PA 15276  
 County Susquehanna  
 Township(s) Bridgewater Township  
 Receiving Stream(s) and Classification(s) Meshoppen  
 Creek, UNT to Snake Creek

ESCGP-1 # ESX10-015-0178  
 Applicant Name Chesapeake Appalachia, LLC  
 Contact Person Eric Haskins  
 Address 101 North Main Street  
 City, State, Zip Athens, PA 18810  
 County Bradford  
 Township(s) Sheshequin Township  
 Receiving Stream(s) and Classification(s) UNT of Bullard  
 Creek  
 Secondary—Bullard Creek

ESCGP-1 # ESX10-015-0180  
 Applicant Name Chesapeake Appalachia, LLC  
 Contact Person Eric Haskins  
 Address 101 North Main Street  
 City, State, Zip Athens, PA 18810  
 County Bradford  
 Township(s) Wysox Township  
 Receiving Stream(s) and Classification(s) Wysox Creek

ESCGP-1 # ESX10-081-0041  
 Applicant Name Anadarko E&P Company, LP  
 Contact Person Bertha Nefe  
 Address P. O. Box 1330  
 City, State, Zip Houston, TX 77251-1330  
 County Lycoming  
 Township(s) Cogan House Township  
 Receiving Stream(s) and Classification(s) Wendell Run  
 and UNT to Larry's Creek

ESCGP-1 # ESX10-027-0009  
 Applicant Name Anadarko Marcellus Midstream LLC  
 Contact Person Bertha Nefe  
 Address P. O. Box 1330  
 City, State, Zip Houston, TX 77251-1330  
 County Centre  
 Township(s) Boggs, Curtin and Snow Shoe Townships  
 Receiving Stream(s) and Classification(s) UNT to Council  
 Run, Hayes Run and Beech Creek

ESCGP-1 # ESCGP1-53-10-801  
 Applicant Name Dominion Transmission  
 Contact Person Kevin P. Zink  
 Address 5094 Route 349  
 City, State, Zip Westfield, PA 16950  
 County Potter  
 Township(s) Harrison Township  
 Receiving Stream(s) and Classification(s) Marsh Creek  
 and North Branch Cowanesque River, other  
 Correction: Was entered in the *Pennsylvania Bulletin* on  
 07/13/10 as Application. It should be in Actions.

*Northwest Region: Oil and Gas Program Manager, 230  
 Chestnut Street, Meadville, PA 16335.*

ESCGP-1 #ESX09-031-0005  
 Applicant Name EQT Production—Burns Farm Pad  
 Contact Person Todd Klaner  
 Address 225 North Shore Drive  
 City Pittsburgh State PA Zip Code 15212  
 County Clarion Township(s) Licking  
 Receiving Stream(s) and Classification(s) Licking Creek—  
 CWF

ESCGP-1 #ESX10-123-0002  
 Applicant Catalyst Energy—Day West Development  
 Contact Douglas Jones  
 Address 800 Cranberry Woods Drive  
 Cranberry Township PA 16066  
 County Warren Township(s) Brokenstraw  
 Receiving Stream(s) and Classification(s) Telick Run,  
 other

ESCGP-1 #ESX10-019-0012  
 Applicant Rex Energy—Yellow Creek Project Phase III, R.  
 Knauf Gathering Pipeline  
 Contact Bradley Batterson  
 Address 476 Rolling Ridge Drive  
 State College PA 16801  
 County Butler Township(s) Connoquenessing  
 Receiving Stream(s) and Classification(s) Connoqueness-  
 ing Creek (WWF)

ESCGP-1 #ESX10-083-00169  
 Applicant Minard Run Oil Company—Warrant 3714 West  
 Contact W.E. Bulmer  
 Address P. O. Box 18, 609 South Avenue  
 Bradford PA 16701  
 County McKean Township(s) Corydon  
 Receiving Stream(s) and Classification(s) Hammond Run,  
 UNT of Hammond Run (HQ, CWF)

ESCGP-1 #ESX10-065-0010  
 Applicant Flatirons Development—Dannic 3  
 Contact Todd Huey  
 Address 303 East 17th Avenue  
 Denver CO 80203  
 County Jefferson Township(s) Snyder  
 Receiving Stream(s) and Classification(s) Rattlesnake  
 Creek (HQ)

ESCGP-1 #ESX09-065-0003  
 Applicant Exco Resources PA, Inc.—Morris Pad  
 Contact Larry Sanders  
 Address 300 Ericsson Drive, Suite 200  
 Warrendale PA 15086  
 County Jefferson Township(s) Henderson  
 Receiving Stream(s) and Classification(s) UNT of East  
 Branch Mahoning Creek (HQ CWF); UNT Stump Creek  
 (CWF)

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## SPECIAL NOTICES

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### Advertisement for Facility Qualification Requests

In accordance with Act 101 and Section 272 of the PA Solid Waste Rules and Regulations (as amended), the County of Northampton is seeking waste disposal capacity for municipal waste (MSW) for a minimum of 5 years, with an option to extend said capacity for an additional 5 years, for a total of 10 years. Northampton County is soliciting responses to qualify facilities that could provide all, or some of the processing/disposal capacity for the County generated MSW, beginning on or after July 30, 2010.

Copies of the Northampton County's Facility Qualification Request (FQR) may be obtained from the Northampton County Department of Community & Economic Development, Northampton County Government Center, 669 Washington Street, Easton, PA 18042, (610) 559-3200, Ext. 4. Electronic forms are available by e-mail from [tdittmar@northamptoncounty.org](mailto:tdittmar@northamptoncounty.org). Responses must be made on the Submittal Form and in accordance with the Instructions to Respondents provided in the FQR. The respondent must submit the original and three copies to

the address listed previously, Attention Thomas Dittmar, by 3 p.m. EST on August 20, 2010. Qualified facilities will receive formal notification of their selection after review and evaluation of responses by the Northampton County SWAC at its scheduled meeting.

Northampton County reserves the right to reject any or all responses and to waive any informality in the solicitation process.

#### CATEGORICAL EXCLUSION

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

**Location: Rochester Borough Sewer Authority, P. O. Box 563, Rochester, PA 15074, Rochester Borough, Beaver County.**

*Description:* The Pennsylvania Infrastructure Investment Authority which administers Pennsylvania's State Revolving Fund is intended to be the funding source for this project.

The Authority proposes to separate some of its combined sewers and repair defects in some of its combined sewers to reduce wet weather overflows and comply with the Department of Environmental Protection's (Department) Consent Order and Agreement. Construction will occur adjacent to existing sewers.

The Department's review of the project and the information received has not identified any significant, adverse environmental impact resulting from this proposal. The Department hereby categorically excludes this project from the State Environmental Review Process.

[Pa.B. Doc. No. 10-1399. Filed for public inspection July 30, 2010, 9:00 a.m.]

#### Availability of Technical Guidance

Technical guidance documents are available on the Department of Environmental Protection's (Department) web site at <http://www.depweb.state.pa.us> (DEP Keywords: "eLibrary"). The "Technical Guidance Final Documents" heading is the link to a menu of the various Department bureaus where each bureau's final technical guidance documents are posted. The "Technical Guidance Draft Documents" heading is the link to the Department's draft technical guidance documents.

The Department will continue to revise its nonregulatory documents, as necessary, throughout 2010.

#### *Ordering Paper Copies of Department Technical Guidance*

The Department encourages the use of the Internet to view and download technical guidance documents. When this option is not available, persons can order a paper copy of any of the Department's draft or final technical guidance documents by contacting the Department at (717) 783-8727.

In addition, bound copies of some of the Department's documents are available as Department publications. Check with the appropriate bureau for more information about the availability of a particular document as a publication.

#### *Changes to Technical Guidance Documents*

Following is the current list of recent changes. Persons who have questions or comments about a particular

document should call the contact person whose name and phone number is listed with each document.

#### *Draft Technical Guidance—Substantive Revision*

DEP ID: 562-2000-705. Title: Mining Contract Operator Approval. Description: This Technical Guidance Document addresses contract operator approvals for coal and industrial mineral mining permits, describing the methods to be utilized by the Bureau of Mining and Reclamation for evaluating and tracking contract operators. The mining acts require that applicants and their related parties (including contractors) be in compliance with the acts, rules, regulations, permits or licenses of the Department in order to be eligible to receive permit or license approvals. Comments: Written and electronic comments should be submitted to: Bruce A. Carl, Bureau of Mining and Reclamation, P. O. Box 8461, Harrisburg, PA 17105-8461 or [brcarl@state.pa.us](mailto:brcarl@state.pa.us). Comments submitted by facsimile will not be accepted. Comments must be received by the Department by August 30, 2010. Contact: Questions regarding the draft technical guidance document should be directed to Bruce A. Carl, [brcarl@state.pa.us](mailto:brcarl@state.pa.us) or (717) 787-5015.

Effective date: Upon publication of notice as final in the *Pennsylvania Bulletin*.

#### *Final Technical Guidance—Substantive Revision:*

DEP ID: 563-2000-610. Title: Validating Abandoned Underground Mine Maps and Establishing Barrier Pillars. Description: The purpose of this guidance is to improve mine safety and underground mine permitting by establishing methods and procedures to be used: (1) when assembling, presenting and evaluating information establishing boundary lines of adjacent underground mines located near active underground mines; (2) to ensure complete and well documented mine maps; (3) to promote modern and consistent mine surveying techniques; (4) to ensure that adequate safety barrier pillars are properly delineated and maintained; and (5) to minimize potential for accidental breakthroughs into adjacent underground mine workings by facilitating coordination between mine safety and environmental permitting staff.

This guidance was revised to include the updates made to the Bituminous Coal Mine Safety Act, the updating of several definitions, the addition and updating of all references to the Bituminous Coal Mine Safety Act, the changing of all references to the Bureau of Deep Mine Safety to Bureau of Mine Safety, the removal of all references to specific application modules as well as Appendix A (Bituminous Underground Mine Application, Module 22), Appendix B (Anthracite Underground Mine Application, Module 16), and Appendix C (Noncoal Underground Mine Application, Module 15), and the renaming of Appendix D (Mine Map Information Source Checklist) to Appendix A (Mine Map Information Source Checklist). Contact: Questions regarding this technical guidance document should be directed to Gregory Shuler, P. G. at (717) 783-1199 or [gshuler@state.pa.us](mailto:gshuler@state.pa.us).

Effective date: Upon publication of notice as final in the *Pennsylvania Bulletin*.

JOHN HANGER,  
*Secretary*

[Pa.B. Doc. No. 10-1400. Filed for public inspection July 30, 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 § 205.20(d)(f) (relating to resident bedrooms).

South Fayette Nursing Center  
252 Main Street  
P. O. Box 298  
Markleysburg, PA 15459

This request is on file with the Department of Health (Department). Persons may receive a copy of a request for exception by requesting a copy from the 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.

Persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division at the address listed previously.

Comments received by the Department within 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. 10-1401. Filed for public inspection July 30, 2010, 9:00 a.m.]

### Nationally Recognized Accrediting Bodies Acceptable to the Department

Under section 2121 of The Insurance Company Law of 1921 (40 P. S. § 991.2121) and 28 Pa. Code § 9.761(c) (relating to provider credentialing), the Department of Health (Department), Bureau of Managed Care, is publishing the following list of Nationally recognized accrediting bodies whose standards relating to credentialing of health care providers are acceptable to the Department.

The National Committee for Quality Assurance (NCQA)

Plans meeting the standards of this entity will be considered to meet the Department's regulations regarding managed care organizations in 28 Pa. Code Chapter 9, Subchapter L (relating to credentialing).

Persons with a disability who require an alternative format of this notice (for example, large print, audiotape, Braille) should contact JoAnn Cheeseman, Director, Division of Quality Review, Bureau of Managed Care, Department of Health, Room 912, Health and Welfare Building, 7th and Forster Streets, Harrisburg, PA 17120, (717) 787-5193, or for speech and/or hearing impaired persons

V/TT (717) 783-6154, or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

EVERETTE JAMES,  
*Secretary*

[Pa.B. Doc. No. 10-1402. Filed for public inspection July 30, 2010, 9:00 a.m.]

### Traumatic Brain Injury Advisory Board Meeting

The Traumatic Brain Injury Advisory Board, established under section 1252 of the Federal Traumatic Brain Injury Act of 1996 (42 U.S.C.A. § 300d-52), will hold a public meeting on Thursday, August 5, 2010, from 10 a.m. to 3 p.m. in the large conference room of the Community Center, 2nd Floor, Giant Food Store, 2300 Linglestown Road, Harrisburg, PA 17110.

For additional information, or for persons with a disability who wish to attend the meeting and require an auxiliary aid, service or other accommodation to do so, contact Naomi Zeiset, Administrative Assistant, Division of Child and Adult Health Services at (717) 772-2762, or for speech and/or hearing impaired persons contact V/TT (717) 783-6514, or the Pennsylvania AT&T Relay Service at (800) 654-5984.

This meeting is subject to cancellation without notice.

EVERETTE JAMES,  
*Secretary*

[Pa.B. Doc. No. 10-1403. Filed for public inspection July 30, 2010, 9:00 a.m.]

## DEPARTMENT OF LABOR AND INDUSTRY

### Reversal of Prevailing Wage Act Debarment

The Prevailing Wage Appeals Board issued an order on July 15, 2010, reversing the Secretary's December 30, 2009, order debarring NavTech, Inc., Brenda Watson and Roger Watson. Effective July 15, 2010, NavTech Inc., Brenda Watson and Roger Watson may be awarded public work contracts.

SANDI VITO,  
*Secretary*

[Pa.B. Doc. No. 10-1404. Filed for public inspection July 30, 2010, 9:00 a.m.]

## DEPARTMENT OF REVENUE

### Pennsylvania Lottery's Jumbo Bucks '10 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 Jumbo Bucks '10.

2. *Price:* The price of a Pennsylvania Lottery's Jumbo Bucks '10 instant lottery game ticket is \$5.

3. *Play Symbols:* Each Pennsylvania Lottery's Jumbo Bucks '10 instant game ticket will contain one play area featuring a "WINNING NUMBERS" area and a "YOUR NUMBERS" area. The play symbols and their captions located in the "WINNING NUMBERS" area are: 1 (ONE), 2 (TWO), 3 (THREE), 4 (FOUR), 5 (FIVE), 6 (SIX), 7 (SEVEN), 8 (EIGHT), 9 (NINE), 10 (TEN), 11 (ELEVN), 12 (TWLV), 13 (THRTN), 14 (FORTN), 15 (FIFTN), 16 (SIXTN), 17 (SVNTN), 18 (EGHTN), 19 (NINTN), 20 (TWENT), 21 (TWYONE), 22 (TWYTWO), 23 (TWYTHR), 24 (TWYFOR) 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), Bill (BILL) symbol and a JUMBO (JUMBO) symbol.

4. *Prize Symbols:* The prize symbols and their captions located in the "YOUR NUMBERS" area are: \$5<sup>00</sup> (FIV DOL), \$10<sup>00</sup> (TEN DOL), \$20<sup>00</sup> (TWENTY), \$25<sup>00</sup> (TWY FIV), \$50<sup>00</sup> (FIFTY), \$100 (ONE HUN), \$500 (FIV HUN), \$1,000 (ONE THO), \$20,000 (TWY THO) and \$100,000 (ONEHUNTHO).

5. *Prizes:* The prizes that can be won in this game are: \$5, \$10, \$20, \$25, \$50, \$100, \$500, \$1,000, \$20,000 and \$100,000.

6. *Approximate Number of Tickets Printed For the Game:* Approximately 7,200,000 tickets will be printed for the Pennsylvania Lottery's Jumbo Bucks '10 instant game.

7. *Determination of Prize Winners:*

(a) Holders of tickets upon which any one of the "WINNING 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 "WINNING NUMBERS" play symbols matches any of the "YOUR NUMBERS" play symbols and a prize symbol of \$20,000 (TWY THO) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$20,000.

(c) Holders of tickets upon which any one of the "WINNING 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.

(d) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a JUMBO (JUMBO) symbol, and a prize symbol of \$50<sup>00</sup> (FIFTY) appears in four of the "prize" areas and a prize symbol of \$100 (ONE HUN) appears in eight of the "prize" areas, on a single ticket, shall be entitled to a prize of \$1,000.

(e) Holders of tickets upon which any one of the "WINNING NUMBERS" play symbols matches any of the "YOUR NUMBERS" play symbols and a prize symbol of \$500 (FIV HUN) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$500.

(f) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a JUMBO (JUMBO) symbol, and a prize symbol of \$20<sup>00</sup> (TWENTY) appears in five of the "prize" areas, a prize symbol of \$50<sup>00</sup> (FIFTY) appears in six of the "prize" areas and a prize symbol of \$100 (ONE HUN) appears in one of the "prize" areas, on a single ticket, shall be entitled to a prize of \$500.

(g) Holders of tickets upon which any one of the "WINNING 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.

(h) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a JUMBO (JUMBO) symbol, and a prize symbol of \$5<sup>00</sup> (FIV DOL) appears in ten of the "prize" areas and a prize symbol of \$25<sup>00</sup> (TWY FIV) appears in two of the "prize" areas, on a single ticket, shall be entitled to a prize of \$100.

(i) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a JUMBO (JUMBO) symbol, and a prize symbol of \$5<sup>00</sup> (FIV DOL) appears in six of the "prize" areas, a prize symbol of \$10<sup>00</sup> (TEN DOL) appears in five of the "prize" areas and a prize symbol of \$20<sup>00</sup> (TWENTY) appears in one of the "prize" areas, on a single ticket, shall be entitled to a prize of \$100.

(j) Holders of tickets upon which any one of the "WINNING 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.

(k) Holders of tickets upon which any of the "YOUR NUMBERS" play symbols is a Bill (BILL) symbol, on a single ticket, shall be entitled to a prize of \$50.

(l) Holders of tickets upon which any one of the "WINNING 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.

(m) Holders of tickets upon which any one of the "WINNING 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.

(n) Holders of tickets upon which any one of the "WINNING 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.

(o) Holders of tickets upon which any one of the "WINNING 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.

8. *Number and Description of Prizes and Approximate Odds:* The following table sets forth the approximate

number of winners, amounts of prizes and approximate odds of winning:

*When Any Of Your Numbers Match Any Of The Winning Numbers, Win With Prize(s) Of:*

	Win:	Approximate Odds Are 1 In:	Approximate No. Of Winners Per 7,200,000 Tickets
\$5	\$5	8.57	840,000
\$5 × 2	\$10	30	240,000
\$10	\$10	30	240,000
\$5 × 4	\$20	200	36,000
\$10 × 2	\$20	200	36,000
\$20	\$20	150	48,000
\$5 × 5	\$25	300	24,000
(\$10 × 2) + \$5	\$25	200	36,000
\$20 + \$5	\$25	200	36,000
\$25	\$25	300	24,000
\$5 × 10	\$50	600	12,000
\$25 × 2	\$50	600	12,000
\$50 w/BILL	\$50	85.71	84,000
\$50	\$50	600	12,000
JUMBO w/(\$5 × 6) + (\$10 × 5) + \$20	\$100	1,091	6,600
JUMBO w/(\$5 × 10) + (\$25 × 2)	\$100	1,091	6,600
\$20 × 5	\$100	4,000	1,800
\$25 × 4	\$100	4,000	1,800
(\$50 w/BILL) + \$50	\$100	1,091	6,600
\$100	\$100	1,714	4,200
JUMBO w/(\$20 × 5) + (\$50 × 6) + \$100	\$500	20,000	360
\$50 × 10	\$500	40,000	180
(\$50 w/BILL) + (\$50 × 9)	\$500	20,000	360
\$100 × 5	\$500	40,000	180
\$500	\$500	24,000	300
JUMBO w/(\$50 × 4) + (\$100 × 8)	\$1,000	30,000	240
\$500 × 2	\$1,000	30,000	240
\$1,000	\$1,000	30,000	240
\$20,000	\$20,000	360,000	20
\$100,000	\$100,000	720,000	10

Get A "BILL" (BILL) symbol, win \$50 automatically.

Get A "JUMBO" (JUMBO) symbol, win all 12 prizes shown automatically.

Prizes, including top prizes, are subject to availability at the time of purchase.

9. *Retailer Incentive Awards:* The Lottery may conduct a separate Retailer Incentive Game for retailers who sell Pennsylvania Lottery's Jumbo Bucks '10 instant game tickets. The conduct of the game will be governed by 61 Pa. Code § 819.222 (relating to retailer bonuses and incentive).

10. *Unclaimed Prize Money:* For a period of 1 year from the announced close of Pennsylvania Lottery's Jumbo Bucks '10 instant game, prize money from winning Pennsylvania Lottery's Jumbo Bucks '10 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 Jumbo Bucks '10 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.

11. *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.

12. *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 Jumbo Bucks '10 instant game or through normal communications methods.

C. DANIEL HASSELL,  
Secretary

[Pa.B. Doc. No. 10-1405. Filed for public inspection July 30, 2010, 9:00 a.m.]

### Pennsylvania Treasure 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 Treasure.

2. *Price:* The price of a Pennsylvania Treasure instant lottery game ticket is \$2.

3. *Play Symbols:* Each Pennsylvania Treasure instant lottery game ticket will contain one play area featuring a "WINNING NUMBERS" area and a "YOUR NUMBERS" area. The play symbols and their captions located in the "WINNING NUMBERS" area are: 1 (ONE), 2 (TWO), 3 (THREE), 4 (FOUR), 5 (FIVE), 6 (SIX), 7 (SEVEN), 8

(EIGHT), 9 (NINE), 10 (TEN), 11 (ELEVN), 12 (TWLV), 13 (THRTN), 14 (FORTN), 15 (FIFTN), 16 (SIXTN), 17 (SVNTN), 18 (EGHTN), 19 (NINTN) and 20 (TWENT). The play symbols and their captions located in the "YOUR NUMBERS" area are: 1 (ONE), 2 (TWO), 3 (THREE), 4 (FOUR), 5 (FIVE), 6 (SIX), 7 (SEVEN), 8 (EIGHT), 9 (NINE), 10 (TEN), 11 (ELEVN), 12 (TWLV), 13 (THRTN), 14 (FORTN), 15 (FIFTN), 16 (SIXTN), 17 (SVNTN), 18 (EGHTN), 19 (NINTN), 20 (TWENT), Key (KEY) symbol and a Moneybag (MNYBAG) symbol.

4. *Prize Symbols:* The prize symbols and their captions located in the "YOUR NUMBERS" area are: \$1.<sup>00</sup> (ONE DOL), \$2.<sup>00</sup> (TWO DOL), \$4.<sup>00</sup> (FOR DOL), \$5.<sup>00</sup> (FIV DOL), \$10.<sup>00</sup> (TEN DOL), \$20.<sup>00</sup> (TWENTY), \$40.<sup>00</sup> (FORTY), \$50.<sup>00</sup> (FIFTY), \$100 (ONE HUN), \$250 (TWOHUNFTY), \$1,000 (ONE THO), \$2,500 (TWYFIVHUN) and \$25,000 (TWYFIVTHO).

5. *Prizes:* The prizes that can be won in this game are: \$1, \$2, \$4, \$5, \$10, \$20, \$40, \$50, \$100, \$250, \$1,000, \$2,500 and \$25,000. The player can win up to 10 times on a ticket.

6. *Approximate Number of Tickets Printed For the Game:* Approximately 7,200,000 tickets will be printed for the Pennsylvania Treasure instant lottery game.

7. *Determination of Prize Winners:*

(a) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches either of the "WINNING NUMBERS" play symbols and a prize symbol of \$25,000 (TWYFIVTHO) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$25,000.

(b) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches either of the "WINNING NUMBERS" play symbols and a prize symbol of \$2,500 (TWYFIVHUN) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$2,500.

(c) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches either of the "WINNING NUMBERS" play symbols and a prize symbol of \$1,000 (ONE THO) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$1,000.

(d) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches either of the "WINNING NUMBERS" play symbols and a prize symbol of \$250 (TWOHUNFTY) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$250.

(e) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Key (KEY) symbol, and a prize symbol of \$250 (TWOHUNFTY) appears under the Key (KEY) symbol, on a single ticket, shall be entitled to a prize of \$250.

(f) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Moneybag (MNYBAG) symbol, and a prize symbol of \$100 (ONE HUN) appears under the matching Moneybag (MNYBAG) symbol, on a single ticket, shall be entitled to a prize of \$200.

(g) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches either of the "WINNING 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.

(h) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Key (KEY) symbol, and a prize symbol of \$100 (ONE HUN) appears under the Key (KEY) symbol, on a single ticket, shall be entitled to a prize of \$100.

(i) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Moneybag (MNYBAG) symbol, and a prize symbol of \$40.<sup>00</sup> (FORTY) appears under the matching Moneybag (MNYBAG) symbol, on a single ticket, shall be entitled to a prize of \$80.

(j) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches either of the "WINNING NUMBERS" play symbols and a prize symbol of \$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.

(k) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Key (KEY) symbol, and a prize symbol of \$50.<sup>00</sup> (FIFTY) appears under the Key (KEY) symbol, on a single ticket, shall be entitled to a prize of \$50.

(l) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches either of the "WINNING NUMBERS" play symbols and a prize symbol of \$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.

(m) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Key (KEY) symbol, and a prize symbol of \$40.<sup>00</sup> (FORTY) appears under the Key (KEY) symbol, on a single ticket, shall be entitled to a prize of \$40.

(n) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Moneybag (MNYBAG) symbol, and a prize symbol of \$20.<sup>00</sup> (TWENTY) appears under the Moneybag (MNYBAG) symbol, on a single ticket, shall be entitled to a prize of \$40.

(o) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches either of the "WINNING 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.

(p) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Key (KEY) symbol, and a prize symbol of \$20.<sup>00</sup> (TWENTY) appears under the Key (KEY) symbol, on a single ticket, shall be entitled to a prize of \$20.

(q) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Moneybag (MNYBAG) symbol, and a prize symbol of \$10.<sup>00</sup> (TEN DOL) appears under the Moneybag (MNYBAG) symbol, on a single ticket, shall be entitled to a prize of \$20.

(r) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches either of the "WINNING 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.

(s) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Key (KEY) symbol, and a prize symbol of \$10<sup>00</sup> (TEN DOL) appears under the Key (KEY) symbol, on a single ticket, shall be entitled to a prize of \$10.

(t) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Moneybag (MNYBAG) symbol, and a prize symbol of \$5<sup>00</sup> (FIV DOL) appears under the Moneybag (MNYBAG) symbol, on a single ticket, shall be entitled to a prize of \$10.

(u) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches either of the "WINNING NUMBERS" play symbols and a prize symbol of \$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.

(v) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Key (KEY) symbol, and a prize symbol of \$5<sup>00</sup> (FIV DOL) appears under the Key (KEY) symbol, on a single ticket, shall be entitled to a prize of \$5.

(w) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches either of the "WINNING NUMBERS" play symbols and a prize symbol of \$4<sup>00</sup> (FOR DOL) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$4.

(x) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Key (KEY) symbol, and a prize symbol of \$4<sup>00</sup> (FOR DOL) appears under the Key (KEY) symbol, on a single ticket, shall be entitled to a prize of \$4.

(y) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Moneybag (MNYBAG) symbol, and a prize symbol of \$2<sup>00</sup> (TWO DOL) appears under the Moneybag (MNYBAG) symbol, on a single ticket, shall be entitled to a prize of \$4.

(z) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches either of the "WINNING NUMBERS" play symbols and a prize symbol of \$2<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.

(aa) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Key (KEY) symbol, and a prize symbol of \$2<sup>00</sup> (TWO DOL) appears under the Key (KEY) symbol, on a single ticket, shall be entitled to a prize of \$2.

(bb) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Moneybag (MNYBAG) symbol, and a prize symbol of \$1<sup>00</sup> (ONE DOL) appears under the Moneybag (MNYBAG) symbol, on a single ticket, shall be entitled to a prize of \$2.

(cc) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches either of the "WINNING NUMBERS" play symbols and a prize symbol of \$1<sup>00</sup> (ONE DOL) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$1.

8. *Number and Description of Prizes and Approximate Odds:* The following table sets forth the approximate number of winners, amounts of prizes and approximate odds of winning:

<i>When Any Of Your Numbers Match Either Winning Number, Win With Prize(s) Of:</i>	<i>Win:</i>	<i>Approximate Odds Are 1 In:</i>	<i>Approximate No. Of Winners Per 7,200,000 Tickets</i>
\$1 x 2	\$2	50	144,000
\$1 w/MONEYBAG	\$2	37.50	192,000
\$2 w/KEY	\$2	42.86	168,000
\$2	\$2	37.50	192,000
\$1 x 4	\$4	75	96,000
\$2 w/MONEYBAG	\$4	50	144,000
\$4 w/KEY	\$4	75	96,000
\$4	\$4	75	96,000
\$1 x 5	\$5	75	96,000
(\$2 w/MONEYBAG) + \$1	\$5	150	48,000
\$5 w/KEY	\$5	150	48,000
\$5	\$5	150	48,000
\$1 x 10	\$10	500	14,400
\$2 x 5	\$10	500	14,400
\$5 x 2	\$10	500	14,400
\$5 w/MONEYBAG	\$10	375	19,200
\$10 w/KEY	\$10	500	14,400
\$10	\$10	375	19,200
\$4 x 5	\$20	1,500	4,800
\$5 x 4	\$20	1,500	4,800
\$10 x 2	\$20	1,500	4,800
\$10 w/MONEYBAG	\$20	500	14,400
\$20 w/KEY	\$20	750	9,600
\$20	\$20	500	14,400
(\$4 x 5) + (\$5 x 4)	\$40	2,000	3,600
\$5 x 8	\$40	2,000	3,600
\$10 x 4	\$40	2,000	3,600
\$20 x 2	\$40	2,000	3,600
\$20 w/MONEYBAG	\$40	2,000	3,600

When Any Of Your Numbers Match  
Either Winning Number, Win With  
Prize(s) Of:

	Win:	Approximate Odds Are 1 In:	Approximate No. Of Winners Per 7,200,000 Tickets
\$40 w/KEY	\$40	2,000	3,600
\$40	\$40	2,000	3,600
(\$4 × 5) + (\$10 × 3)	\$50	3,000	2,400
\$5 × 10	\$50	3,000	2,400
(\$20 w/MONEYBAG) + (\$5 × 2)	\$50	3,000	2,400
\$50 w/KEY	\$50	3,000	2,400
\$50	\$50	3,000	2,400
\$20 × 5	\$100	6,000	1,200
(\$40 w/MONEYBAG) + (\$10 × 2)	\$100	6,000	1,200
\$50 × 2	\$100	6,000	1,200
\$100 w/KEY	\$100	6,000	1,200
\$100	\$100	6,000	1,200
\$50 × 5	\$250	60,000	120
(\$100 w/MONEYBAG) + (\$10 × 5)	\$250	60,000	120
\$250 w/KEY	\$250	60,000	120
\$250	\$250	60,000	120
\$100 × 10	\$1,000	120,000	60
\$250 × 4	\$1,000	120,000	60
\$1,000	\$1,000	120,000	60
\$250 × 10	\$2,500	360,000	20
(\$1,000 × 2) + (\$100 × 5)	\$2,500	360,000	20
\$2,500	\$2,500	360,000	20
\$2,500 × 10	\$25,000	1,440,000	5
\$25,000	\$25,000	1,440,000	5

Get a "KEY" (KEY) symbol, win the prize shown under it automatically.

Get a "MONEYBAG" (MNYBAG) symbol, win double the prize shown under it automatically.

Prizes, including top prizes, are subject to availability at the time of purchase.

9. *Retailer Incentive Awards:* The Lottery may conduct a separate Retailer Incentive Game for retailers who sell Pennsylvania Treasure instant lottery game tickets. The conduct of the game will be governed by 61 Pa. Code § 819.222 (relating to retailer bonuses and incentive).

10. *Unclaimed Prize Money:* For a period of 1 year from the announced close of Pennsylvania Treasure, prize money from winning Pennsylvania Treasure instant lottery game tickets will be retained by the Secretary for payment to the persons entitled thereto. If no claim is made within 1 year of the announced close of the Pennsylvania Treasure instant lottery game, the right of a ticket holder to claim the prize represented by the ticket, if any, will expire and the prize money will be paid into the State Lottery Fund and used for purposes provided for by statute.

11. *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.

12. *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 Treasure or through normal communications methods.

C. DANIEL HASSELL,  
Secretary

[Pa.B. Doc. No. 10-1406. Filed for public inspection July 30, 2010, 9:00 a.m.]

## DEPARTMENT OF STATE

### Pennsylvania League of Conservative Voters; Amended Cease and Desist Order

The Cease and Desist Order published (40 Pa.B. 4042) as follows:

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). The Pennsylvania League of Conservative Voters may be subject to administrative fines of up to \$1,000 per violation and \$100 for each day the violation continues. The order shall take effect immediately.

Individuals may obtain a copy of the 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. 10-1407. Filed for public inspection July 30, 2010, 9:00 a.m.]

# DEPARTMENT OF TRANSPORTATION

## Finding Franklin County

Under section 2002(b) of The Administrative Code of 1929 (71 P.S. § 512(b)), the Director of the Bureau of Design makes the following written finding:

The Federal Highway Administration (FHWA) and the Department of Transportation (Department) are planning the replacement of the existing bridge carrying SR 4007 (Back Road) over the Narrows Branch of Tuscarora Creek in Fannett Township, Franklin County.

The existing two-span, stone masonry, closed spandrel arch bridge, built in 1832, was determined to be eligible for the National Register of Historic Places during the Statewide bridge survey. The continued failure of the walls has led to a repair consisting of the removal of earthen fill over the arch barrels and the incremental placement of concrete within the confines of the arch barrels and spandrel walls. The bonding of the concrete and spandrel walls consequently has rendered rehabilitation of the bridge not feasible without resulting in further damage to the structure. The masonry arch spans have numerous random cracks in the gunite coating with exposed wire mesh. In 1981, the bridge abutments and pier were underpinned with concrete. A section of the spandrel wall over the center pier on the north side was repaired in-kind after it collapsed in 1996. The bridge has been repaired many times. It is no longer prudent and feasible to rehabilitate the bridge. Replacement of the SR 4007 (Back Road) over the Narrows Branch of Tuscarora Creek will constitute a use of the Section 2002 resource.

In accordance with section 2002 of The Administrative Code of 1929 establishing the Department, a Level-2 Categorical Exclusion Evaluation (CEE) has been developed for the subject project along with a Nationwide/Programmatic Section 4(f) Evaluation for Projects that Necessitate the Use of Historic Bridges form to evaluate the potential environmental impacts caused by the subject project. The document also serves as the Section 2002 Evaluation. The approved documents are available in the CE/EA Expert System. The environmental, economic, social and other effects of the proposed project as enumerated in section 2002 of The Administrative Code of 1929 have been considered.

Based upon studies, there is no feasible and prudent alternative to the use of the Section 2002 resource for the proposed action. Mitigation measures will be taken to minimize harm as stipulated in the Level-2 CEE.

BRIAN G. THOMPSON, P. E.,  
*Director*  
*Bureau of Design*

[Pa.B. Doc. No. 10-1408. Filed for public inspection July 30, 2010, 9:00 a.m.]

# ENVIRONMENTAL HEARING BOARD

## Indian Run Village, LLC v. DEP; EHB Doc. No. 2010-113-K

Indian Run Village, LLC has appealed the issuance by the Department of Environmental Protection of an NPDES permit to Indian Run Village, LLC for a facility in West Brandywine Township, Chester County.

A date for the hearing on the appeal has not yet been scheduled.

The appeal is filed with the Environmental Hearing Board (Board) at its office on the Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, and may be reviewed by any interested party on request during normal business hours. If information concerning this notice is required in an alternative form, contact the Secretary to the Board at (717) 787-3483. TDD users may telephone the Board through the Pennsylvania AT&T Relay Service at (800) 654-5984.

Petitions to intervene in the appeal may be filed with the Board by interested parties under 25 Pa. Code § 1021.81 (relating to intervention). Copies of the Board's rules of practice and procedure are available upon request from the Board.

THOMAS W. RENWAND,  
*Chairperson*

[Pa.B. Doc. No. 10-1409. Filed for public inspection July 30, 2010, 9:00 a.m.]

# INDEPENDENT REGULATORY REVIEW COMMISSION

## Action Taken by the Commission

The Independent Regulatory Review Commission (Commission) met publicly at 10 a.m., Thursday, July 15, 2010, and announced the following:

*Action taken—regulations approved:*

State Board of Nursing #16A-5136: Biennial Renewal Fee (amends 49 Pa. Code §§ 21.5, 21.147, 21.253 and 21.705)

State Real Estate Commission #16A-5615: Initial Licensure Fees (amends 49 Pa. Code § 35.203)

Department of Labor and Industry #12-76: Propane and Liquefied Petroleum Gas (amends 34 Pa. Code Chapter 13)

Department of Public Welfare #14-512: Individual Support Plan for Individuals with Mental Retardation (amends 55 Pa. Code Chapters 2380, 2390, 6400 and 6500)

State Employees' Retirement Board #31-7: Priority of Taxation, Attachment and Assignment of Funds (amends 4 Pa. Code Chapter 247)

State Board of Veterinary Medicine #16A-5723: Biennial Renewal Fees (amends 49 Pa. Code § 31.41)

—————  
**Approval Order**

Public Meeting held  
July 15, 2010

*Commissioners Voting:* Arthur Coccodrilli, Chairperson; George D. Bedwick, Vice Chairperson; S. David Fine-man, Esq.; Silvan B. Lutkewitte, III; John F. Mizner, Esq., by Phone

*State Board of Nursing—  
Biennial Renewal Fees;  
Regulation No. 16A-5136 (#2809)*

On December 7, 2009, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the State Board of Nursing (Board). This rulemaking amends 49 Pa. Code Sections 21.5, 21.147, 21.253, and 21.705. The proposed regulation was published in the December 19, 2009 *Pennsylvania Bulletin* with a 30-day public comment period. The final-form regulation was submitted to the Commission on June 10, 2010.

This regulation raises biennial renewal fees for registered nurses, practical nurses, certified registered nurse practitioners and dietitian-nutritionists.

We have determined this regulation is consistent with the statutory authority of the Board (63 P. S. § 221.2(b)) and the intention of the General Assembly. Having considered all of the other criteria of the Regulatory Review Act, we find promulgation of this regulation is in the public interest.

*By Order of the Commission:*

This regulation is approved.

—————  
**Approval Order**

Public Meeting held  
July 15, 2010

*Commissioners Voting:* Arthur Coccodrilli, Chairperson; George D. Bedwick, Vice Chairperson; S. David Fine-man, Esq.; Silvan B. Lutkewitte, III; John F. Mizner, Esq., by Phone

*State Real Estate Commission—  
Initial Licensure Fees;  
Regulation No. 16A-5615 (#2810)*

On December 7, 2009, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the State Real Estate Commission. This rulemaking amends 49 Pa. Code Section 35.203. The proposed regulation was published in the December 19, 2009 *Pennsylvania Bulletin* with a 30-day public comment period. The final-form regulation was submitted on May 25, 2010.

This regulation amends the State Real Estate Commission's existing two-tiered fee structure to a single tier fee structure so that it can process on-line applications.

We have determined this regulation is consistent with the statutory authority of the State Real Estate Commission (63 P. S. § 455.407) and the intention of the General Assembly. Having considered all of the other criteria of the Regulatory Review Act, we find promulgation of this regulation is in the public interest.

*By Order of the Commission:*

This regulation is approved.

—————  
**Approval Order**

Public Meeting held  
July 15, 2010

*Commissioners Voting:* Arthur Coccodrilli, Chairperson; George D. Bedwick, Vice Chairperson; S. David Fine-man, Esq.; Silvan B. Lutkewitte, III; John F. Mizner, Esq., by Phone

*Department of Labor and Industry—  
Propane and Liquefied Petroleum Gas;  
Regulation No. 12-76 (#2775)*

On July 9, 2009, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the Department of Labor and Industry (Department). This rulemaking amends 34 Pa. Code Chapter 13. The proposed regulation was published in the July 25, 2009 *Pennsylvania Bulletin* with a 30-day public comment period. The final-form regulation was submitted to the Commission on June 8, 2010.

This regulation implements the Propane and Liquefied Petroleum Gas Act of 2002 relating to the storage, transfer, sale and use of liquefied petroleum gas.

We have determined this regulation is consistent with the statutory authority of the Department (35 P. S. §§ 1329.16 and 1329.5(a)) and the intention of the General Assembly. Having considered all of the other criteria of the Regulatory Review Act, we find promulgation of this regulation is in the public interest.

*By Order of the Commission:*

This regulation is approved.

—————  
**Approval Order**

Public Meeting held  
July 15, 2010

*Commissioners Voting:* Arthur Coccodrilli, Chairperson; George D. Bedwick, Vice Chairperson; S. David Fine-man, Esq.; Silvan B. Lutkewitte, III; John F. Mizner, Esq., by Phone

*Department of Public Welfare—  
Individual Support Plan for  
Individuals with Mental Retardation;  
Regulation No. 14-512 (#2687)*

On April 16, 2008, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the Department of Public Welfare (Department). This rulemaking amends 55 Pa. Code Chapters 2380, 2390, 6400 and 6500. The proposed regulation was published in the April 26, 2008 *Pennsylvania Bulletin* with a 30-day public comment period. The final-form regulation was submitted to the Commission on May 27, 2010.

We have determined this regulation is consistent with the statutory authority of the Department (62 P. S. §§ 911 and 1021) and the intention of the General Assembly. Having considered all of the other criteria of the Regulatory Review Act, we find promulgation of this regulation is in the public interest.



By Order of the Commission:

This regulation is approved.

**Approval Order**

Public Meeting held  
July 15, 2010

Commissioners Voting: Arthur Coccodrilli, Chairperson; George D. Bedwick, Vice Chairperson; S. David Fine- man, Esq.; Silvan B. Lutkewitte, III; John F. Mizner, Esq., by Phone

State Employees' Retirement Board—  
Priority of Taxation, Attachment and  
Assignment of Funds;  
Regulation No. 31-7 (#2689)

On April 18, 2008, the Independent Regulatory Review Commission (Commission) received this proposed regula- tion from the State Employees' Retirement Board (Board). This rulemaking amends 4 Pa. Code Chapter 247. The proposed regulation was published in the May 3, 2008 *Pennsylvania Bulletin* with a 30-day public comment period. The final-form regulation was submitted to the Commission on June 2, 2010.

This final-form rulemaking adds a new section to the Board's regulations pertaining to benefits. The new sec- tion sets priorities among conflicting demands of forfei- tures, attachments and assignments on members' retire- ment benefits authorized under the State Employees' Retirement Code.

We have determined this regulation is consistent with the statutory authority of the Board (71 Pa.C.S.A. § 5902(h)) and the intention of the General Assembly. Having considered all of the other criteria of the Regula- tory Review Act, we find promulgation of this regulation is in the public interest.

By Order of the Commission:

This regulation is approved.

**Approval Order**

Public Meeting held  
July 15, 2010

Commissioners Voting: Arthur Coccodrilli, Chairperson; George D. Bedwick, Vice Chairperson; S. David Fine- man, Esq.; Silvan B. Lutkewitte, III; John F. Mizner, Esq., by Phone

State Board of Veterinary Medicine—  
Biennial Renewal Fees;  
Regulation No. 16A-5723 (#2788)

On September 2, 2009, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the State Board of Veterinary Medicine (Board). This rulemaking amends 49 Pa. Code § 31.41. The proposed regulation was published in the September 19, 2009 *Pennsylvania Bulletin* with a 30-day public comment period. The final-form regulation was submitted to the Commission on March 11, 2010. At its April 22, 2010 public meeting, the Commission voted to disapprove the final-form regulation. On June 7, 2010, the Board submitted its report containing the revised final-form regulation to the Commission.

This final-form rulemaking provides for incremental biennial license renewal fee increases for veterinarians and veterinary technicians.

We have determined this regulation is consistent with the statutory authority of the Board (63 P. S. § 485.13(a)) and the intention of the General Assembly. Having con- sidered all of the other criteria of the Regulatory Review Act, we find promulgation of this regulation is in the public interest.

By Order of the Commission:

This regulation is approved.

ARTHUR COCCODRILLI,  
Chairperson

[Pa.B. Doc. No. 10-1410. Filed for public inspection July 30, 2010, 9:00 a.m.]

**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.

Reg. No.	Agency/Title	Close of the Public Comment Period	IRRC Comments Issued
57-273	Pennsylvania Public Utility Commission Default Service Regulations 40 Pa.B. 2267, May 1, 2020	6/15/10	7/15/10
7-457	Environmental Quality Board Ambient Water Quality Criterion; Chloride (CH) 40 Pa.B. 2246, May 1, 2010	6/15/10	7/15/20
12-74	Department of Labor and Industry Unemployment Compensation; Employee Provisions 40 Pa.B. 2643, May 22, 2010	6/21/10	7/21/10

<i>Reg. No.</i>	<i>Agency/Title</i>	<i>Close of the Public Comment Period</i>	<i>IRRC Comments Issued</i>
12-78	Department of Labor and Industry Unemployment Compensation; Administration 40 Pa.B. 2639, May 22, 2010	6/21/10	7/21/10
16A-4931	State Board of Medicine Perfusionist 40 Pa.B. 2652, May 22, 2010	6/21/10	7/21/10
16A-5320	State Board of Osteopathic Medicine Perfusionist 40 Pa.B. 2660, May 22, 2010	6/21/10	7/21/10

**Pennsylvania Public Utility Commission  
Regulation #57-273 (IRRC #2837)**

**Default Service Regulations**

**July 15, 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 (RRA) (71 P. S. § 745.5b). Section 5.1(a) of the Regulatory Review Act (71 P. S. § 745.5a(a)) directs the Pennsylvania Public Utility Commission (Commission) to respond to all comments received from us or any other source.

**1. Need for the regulation.**

This proposed rulemaking amends the Commission's existing default service regulations found at 52 Pa. Code §§ 54.181—54.189. The Commission contends that the rulemaking is needed to align the existing regulations with Act 129 of 2008 (Act 129). Act 129 amended Pennsylvania's Electric Generation Customer Choice and Competition Act (Competition Act) (66 Pa.C.S.A. §§ 2801, et seq.) and the manner in which default service providers must purchase electricity for non-shopping customers.

In the Preamble to this proposal, the Commission notes that "the proposed regulations generally adopt Act 129 procurement requirements verbatim." In addition, the Commission is seeking comment on 16 questions and how Act 129 should be interpreted "to ensure adequate and reliable service at the least cost to customers over time, and on how the proposed regulations should be revised to reflect the interpretation recommended by the person filing the comments." The Office of Consumer Advocate has noted that "the Commission's questions identify the critical issues that must be answered before finalizing any changes to the existing regulation." Listed below are examples of the questions:

- What is meant by "least cost to customers over time?"
- What time frame should the Commission use when evaluating whether a DSP's procurement plan produces the least cost to customers over time?
- Which approach to supply procurement—a managed portfolio approach or a full requirements approach—is more likely to produce the least cost to customers over time?
- What is a "prudent mix" of spot, long-term, and short-term contracts?
- Does a "prudent mix" mean that the contracts are diversified and accumulated over time?

• Should there be qualified parameters on the prudent mix? For instance, should the regulations preclude a DSP from entering into all of its long-term contracts in one year?

• Should the DSP be restricted to entering into a certain percentage of contracts per year?

• Is the "prudent mix" standard a different standard for each different customer class?

We note that extensive comments and reply comments were filed on the proposed rulemaking and the vast majority of the comments and reply comments focused on the 16 questions, not the text of the rulemaking.

We are concerned with the approach the Commission has taken for the promulgation of this rulemaking. We believe the Commission should have posed the 16 questions to the regulated community, accepted comments on those questions, drafted a proposed rulemaking based on the feedback received, and then commenced the formal rulemaking process. Under the approach taken by the Commission, the regulated community, the designated standing committees and the Independent Regulatory Review Commission (IRRC) will not have an opportunity to see or provide comment on the Commission's interpretation of Act 129 and the procurement of electricity for non-shopping customers.

Act 129 does not require the Commission to promulgate revised default service regulations within a specific time period. In addition, the statutory language of the Competition Act and Act 129 would take precedence over the Commission's existing default service regulations. We acknowledge that some commentators support the Commission's approach to promulgating this rulemaking because it provides flexibility to the Commission and electric distribution companies as they work to implement procurement plans. However, we believe the purpose of a regulation is for an agency to exercise its delegated legislative authority to create a mandatory standard of conduct to fill in the gaps that are often present in statutes.

Since this proposed rulemaking uses, to a large degree, verbatim language from Act 129, we do see the value of promulgating the regulation in this form and at this time. We recommend the Commission withdraw the proposed rulemaking, evaluate the feedback provided by the various segments of the regulated community on the 16 questions, in order to draft a proposed regulation that does more than simply recite the Act 129 revisions, and reintroduce the rulemaking to the regulatory review process as a new proposed rulemaking. This would allow all parties involved with the rulemaking the opportunity to review the Commission's interpretation of Act 129 and

to provide feedback on that language. If the Commission proceeds with its current approach for promulgating this rulemaking, interested parties will not see meaningful regulatory language until the rulemaking is submitted in final-form.

If the Commission does not withdraw the proposed regulation as suggested, we suggest that an Advanced Notice of Final Rulemaking be developed and shared with the commentators. This would allow the interested parties to provide feedback on the language that may become a permanent regulation. 2

## 2. Determining whether the regulation is in the public interest.

Section 5.2 of RRA (71 P. S. § 745.5b) directs IRRC to determine whether a regulation is in the public interest. When making this determination, the Commission considers criteria such as economic or fiscal impact and reasonableness. The Commission also considers the information a promulgating agency is required to provide under § 745.5(a) in the Regulatory Analysis Form (RAF).

The Commission has provided valuable information, such as the statutory and regulatory history of the Competition Act, Act 129 and the existing default service regulations in the Preamble to the proposed rulemaking. However, the Commission's responses to questions on the RAF are lacking and accordingly prevent IRRC from determining whether the regulation is in the public interest. For example, the RAF asks the following questions: "Describe who and how many people will be adversely affected by the regulation. How are they affected?" and "How does this regulation compare with those of other states?" The Commission answered the first question in the following manner: "No one should be adversely affected by the regulations" and did not respond to the second question. If the regulation is submitted in final-form, we ask the Commission to provide more detailed responses to all questions in the RAF, as required by § 745.5(a) of the RRA, and as provided by the Commission when the original default service regulations were promulgated several years ago.

## 3. Comments on Annex A of the proposed rulemaking.—Possible conflict or duplication of statutes or existing regulations; Reasonableness; Need; Clarity and lack of ambiguity.

If the Commission does not withdraw the proposal, we offer the following comments on the text of the rulemaking.

### *"Prevailing market prices" versus "least cost to customers over time"*

As noted by the Commission in the Preamble to this proposal, "Act 129 explicitly repealed the prevailing market prices standard, and declared instead that the utilities' generation service must be designed to ensure adequate and reliable service at the least cost to customers over time." Some commentators have suggested that the phrase "prevailing market price" be replaced with the phrase "at the least cost to customers over time" throughout the entirety of the Commission's default service regulations. Another commentator believes that replacing the prevailing market price standard with the least cost standard in every instance would not be appropriate. We ask the Commission to identify every section of its existing default service regulations that uses the phrase "prevailing market price" and explain why it decided to retain that phrase.

### *Section 54.184. Default service provider obligations.*

We have two concerns with this section. First, a commentator has noted that the new language added to Subsection (a) does not acknowledge that other entities may be assigned to the default service provider role. The commentator is also concerned with new language that contemplates keeping the electric distribution company as the default service provider until 100 percent customer migration is reached. In the Preamble to the final-form regulation, we ask the Commission for a more detailed explanation of why this language was included in the rulemaking.

Second, to be consistent with 66 Pa.C.S.A §§ 2807(e)(3.1)(III)(A) and (B), the word "or" should be added at the end of Subsection (c)(3)(i).

### *Section 54.186. Default service procurement and implementation plans.*

Subsection (e) pertains to the Commission's evaluation of a default service provider's procurement plan. A commentator believes that language should be added to Subsection (1) referencing the fact that the procurement process was competitive. They believe this language is needed to keep the procurement process open and transparent and consistent with the Competition Act. They raise a similar concern with § 54.188(d)(1). Has the Commission considered adding language to the rulemaking to reflect the fact that the procurement process must be competitive?

### *Section 54.187. Default service rate design and the recovery of reasonable costs.*

We have four concerns with this section. First, to be consistent with 66 Pa.C.S.A § 2807(e)(3.8), the word "or" should be included at the end of (a)(1).

Second, 66 Pa.C.S.A. § 2807(e)(3.9) states that a default service provider "shall" have the right to recover costs pursuant to a reconcilable automatic adjustment clause. However, Subsection (b) states that costs "may" be recovered through those mechanisms. Commentators believe this change conflicts with the Competition Act. What is the reason for this deviation from the statutory language? We suggest that the final-form regulation be amended to be consistent with Competition Act.

Third, the proposed rulemaking amends Subsection (b) to incorporate the language of 66 Pa.C.S.A. § 2807(e)(3.9). A commentator has noted that some words appear to be missing before the phrase "all reasonable costs" in the first sentence. The missing words are, "on a full and current basis." What is the reason for excluding these words from the rulemaking?

Fourth, Subsection (i) has been amended to state, in part, that "Default service rates shall be adjusted on a quarterly basis..." A commentator believes that this language should be amended to mirror 66 Pa.C.S.A. § 2807(e)(7) to state that "Default service rates shall be adjusted *no more frequently than* on a quarterly basis..." (Emphasis added). We agree with the commentator and suggest that the regulation be amended accordingly. The commentator has the same concern with § 54.188(f) of the existing regulation and suggests that a similar change be made to this section of the rulemaking.

**Environmental Quality Board  
Regulation #7-457 (IRRC #2841)**

**Ambient Water Quality Criterion; Chloride (Ch)**

**July 15, 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.

**Section 93.7. Specific water quality criteria.**

This rulemaking amends Subsection (a) and Table 3 of the Board's regulations by adding numeric limits for chloride. The amendments include a four-day average for chloride of 230 mg/l and a one-hour average standard of 860 mg/l. The chloride standards included in the proposed rulemaking are the current national chloride criteria for the protection of aquatic life recommended by the United States Environmental Protection Agency in its 1988 publication *Ambient Water Quality Criteria for Chloride* (1988 criteria). We have five concerns that relate to the criteria contained in the Regulatory Review Act.

*Reasonableness*

Commentators representing business and industry and commentators representing environmental interests have questioned the reasonableness of basing the new chloride criteria on the 1988 criteria. The commentators have argued that better and more recent scientific studies prove that the 1988 criteria are flawed. Commentators representing environmental interests are especially concerned about the recent efforts to extract natural gas from the Marcellus Shale formation, the large volumes of wastewater that extraction requires, and the various compounds containing chloride that may be in the wastewater. They do not believe the 1988 criteria adequately protect Pennsylvania waterways and aquatic life from the potential harms of Marcellus Shale wastewater.

We agree that basing the new criteria on outdated data when more recent data is available is not reasonable. Given the amount of opposition to the inclusion of the 1988 criteria in this rulemaking, we recommend the Board withdraw the proposed rulemaking and reevaluate the current state of scientific and technological knowledge of chloride and the effects it has on Pennsylvania's waterways and aquatic life. We encourage the Board to work with the various segments of the regulated community to develop a regulatory package that reflects the most recent science, adequately protects Pennsylvania's waterways and aquatic life, and keeps Pennsylvania business and industry competitive with the surrounding states.

If the Board does not withdraw the rulemaking, we recommend that it issue an Advanced Notice of Final Rulemaking to fully vet the changes that may be made to the regulation. This would provide the regulated community an opportunity to provide input on the scientific basis for the chloride standards, review any changes that have been made to the rulemaking, evaluate the impact it would have, and provide the Board with additional feedback.

*Economic or fiscal impact of the regulation*

Commentators representing business and industry in Pennsylvania have serious concerns with the potential

fiscal impact of this regulation throughout the Commonwealth. They correctly note that the Regulatory Analysis Form (RAF) and the Preamble provide little analysis on the impact the regulation will have on the regulated community.

While we acknowledge the Board's attempt to quantify the cost of treating wastewater using several techniques, a detailed analysis of the overall fiscal impact the rulemaking could have throughout Pennsylvania is lacking. In fact, the Board has stated in Section 17 of the RAF that the fiscal savings and costs to the regulated community are "not measurable." Without a more detailed fiscal analysis, this Commission is unable to determine if the regulation is in the public interest. For example, what are the capital costs and annual operation and maintenance costs associated with installing the facilities needed to treat wastewater? What are the costs for the increased monitoring required by the rulemaking? What are the costs of dealing with treatment residuals? We urge the Board to work with the regulated community to calculate the full fiscal impact the regulation will have throughout the Commonwealth, not just the per gallon cost for treating wastewater that was included with this proposal.

In the Preamble and RAF submitted with the final-form rulemaking, we request the Board provide a detailed fiscal impact analysis taking into consideration the above-noted concerns of commentators and this Commission.

*Possible conflict with statutes*

According to the Board, this rulemaking is being promulgated, in part, under Sections 5(b)(1) and 402 of the Clean Streams Law (Law) (35 P. S. §§ 691.5(b)(1) and 691.402). While we do not question the Board's authority under these provisions, we do question whether the regulation is consistent with Section 5(a) of the Law (35 P. S. § 691.5(a)). That section of the Law requires the following factors to be considered, where applicable, when adopting rules and regulations:

1. Water quality management and pollution control in the watershed as a whole;
2. The present and possible future uses of particular waterways;
3. The feasibility of combined or joint treatment facilities;
4. *The state of scientific and technological knowledge;* and
5. *The immediate and long-range economic impact upon the Commonwealth and its citizens.* (Emphasis added)

Commentators believe the rulemaking is inconsistent with the fourth and fifth provision of Section (5)(a) of the Law. In regard to the fourth provision, and as noted above, commentators believe that the science associated with the 1988 criteria is outdated, no longer accurate, and not specific to Pennsylvania waterways and aquatic life. In regard to the fifth provision, and as noted above, commentators believe that the Board has failed to properly analyze the economic impact the regulation will have on industry in Pennsylvania.

If the Board does not withdraw the regulation as suggested, we ask for a more detailed explanation of why the science behind the 1988 criteria is valid and appropriate for Pennsylvania. This explanation should include discussion of the various studies of the science included with the comments submitted on the rulemaking. In addition, the Board should explain how and why the

material submitted with the proposal adequately analyzes the immediate and long-range economic impact of the regulation on Pennsylvania.

*Need; Possible conflict with existing regulations*

Some commentators have argued that there is no need for the rulemaking. They argue that the Board's adoption of the final regulation pertaining to total dissolved solids (Board regulation #7-446, titled "Wastewater Treatment Requirements" (TDS regulation)) is more stringent than this rulemaking. Once the TDS regulation is formally promulgated, what is the need for this rulemaking? Will it conflict with the TDS regulation in any way?

In addition, the Board has stated that the rulemaking is needed for "protection of aquatic life due to increasing concerns about the Statewide impact of natural gas extractions from the Marcellus Shale formation." What is the Board's rationale for imposing this new standard on industry not involved with natural gas extraction from the Marcellus Shale formation? What problems will be fixed by imposing the rulemaking on all industries in Pennsylvania?

*Implementation procedures*

Under questions 15 and 16 of the RAF, the Board has indicated that persons proposing "new or expanded activities or projects which result in impacts to the waters of the Commonwealth" will be affected by the rulemaking. Several commentators disagree with this statement and believe that "all NPDES permit holders will be subject to the regulation." Will this rulemaking affect all NPDES permit holders? In the final-form regulation, the Board should clarify what qualifies as "new or expanded activities or projects."

*Adverse effects on prices of goods and services, productivity or competition*

Under question 25 of the RAF, the Board has explained that other states, including Virginia, West Virginia and New Jersey have already adopted the 1988 criteria. The Board believes that the proposed amendments will not put Pennsylvania at a competitive disadvantage to other states. Commentators disagree with the Board's position on this matter. They believe that competitors in other states will not be required to comply with similar standards and this will put Pennsylvania businesses at a competitive disadvantage with other states.

We ask the Board to provide a more detailed description of how this regulation compares to other states. In particular, we ask the Board to identify all the states that use the 1988 criteria. For the states that do use the 1988 criteria, are there any exceptions to how those standards are implemented? Are the standards implemented in the same way as proposed in Pennsylvania?

**Department of Labor and Industry  
Regulation #12-74 (IRRC #2846)**

**Unemployment Compensation; Employee  
Provisions**

**July 21, 2010**

We submit for your consideration the following comments on the proposed rulemaking published in the May 22, 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 Department of Labor and Industry (Department) to respond to all comments received from us or any other source.

**1. Section 65.41. Filing methods.—Reasonable-  
ness; Implementation procedures; Clarity.**

*Subsection (a)*

This subsection allows an application for benefits to be filed in one of four ways: by phone, via the internet, by mail or by facsimile machine. Subsection (b) allows a claim for compensation to be made by phone or via the internet. Why doesn't Subsection (b) allow claims for compensation to be made by mail or facsimile machine?

*Subsections (d) and (e)*

Subsections (a), (b) and (c) of this section specify acceptable methods for filing applications for benefits, claims for compensation and how filing dates will be determined. The requirements of these subsections establish a binding norm for both the regulated community and the Department. We believe the language in Subsections (d) and (e) inappropriately deviates from that binding norm. Subsection (d) would allow the Department to prescribe additional methods for filing applications and claims and would allow the Department to designate the date on which the application or claim is filed. Subsection (e) would allow the Department to suspend the use of the filing methods for various reasons. If the Department wants to change the filing methods and how filing dates will be determined, that must be done through the rulemaking process. Therefore, the Department should delete Subsections (d) and (e).

If these subsections are not deleted, we ask the Department why Subsection (e) references Subsections (a), (b) and (d), but does not reference Subsection (c).

**2. Section 65.43a. Extended filing.—Reasonable-  
ness; Implementation procedures.**

Subsection (e) lists reasons for which extended filing will be allowed. A commentator has stated that extended filing should be allowed for people with limited English proficiency and has suggested that language barriers be specifically listed in this subsection. We recognize that one of the reasons in which extended filing would be allowed is, "Other, if the claimant makes all reasonable and good faith efforts to file timely but is unable to do so through no fault of the claimant." However, it is unclear whether a person with limited English proficiency could be granted an extension based on the reason quoted above. The Department should consider addressing limited English proficiency in the final-form regulation.

**3. Section 65.73. Full-time work.—Reasonable-  
ness; Implementation procedures.**

Subsection (a) explains how a claimant's full-time work will be determined. A commentator believes that Subsections (a)(2) and (3) work to the disadvantage of the claimant and questions how the provisions could be administered. In the Preamble to the final-form regulation, we ask the Department to explain the rationale for these provisions and how it will implement them.

**Department of Labor and Industry  
Regulation #12-78 (IRRC #2847)**

**Unemployment Compensation; Administration**

**July 21, 2010**

We submit for your consideration the following comments on the proposed rulemaking published in the May 22, 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 Department of Labor and Industry (Department) to respond to all comments received from us or any other source.

**1. Section 61.12. Reimbursable items.—Clarity.**

The amended language in Subsection (a) states, in part, that an individual “who is entitled to reimbursement . . . may be paid compensation and expenses by the Department.” We recognize the fact that the language being deleted from this subsection includes the use of the words “entitled” and “may.” However, it is our understanding that individuals subject to the provisions of this section are not necessarily “entitled” to be paid compensation and expenses, but may be eligible to be paid compensation and expenses. We suggest that the final-form regulation be amended to reflect the fact that the payment of compensation and expenses is authorized, but not mandated in every situation.

**2. Section 61.25. Confidentiality of information and fees.—Consistency with federal law; Need; Implementation procedures; Clarity.**

*Subsection (a)*

This subsection addresses rules for confidentiality of unemployment compensation information. We have three concerns.

First, a commentator has stated, that under current practice, information obtained by an applicant during an unemployment compensation proceeding is often used in other legal forums. The commentator questions whether such “rediscovery” is permitted under Section 61.25, noting that Subsections (a)(2)(ii), (a)(4)(ii) and (a)(5) are unclear. The Department should clarify its intent on this issue and revise the regulation accordingly.

Second, under Subsection (a)(3)(ii), two commentators recommend that language be added to allow disclosure of information to “the claimant’s or employer’s representative.” Commentators are concerned that without this language advocates representing claimants at hearings will have difficulty accessing case files. The Department should add this language in the final-form regulation, or explain why it should not be included.

Third, a commentator has noted that obtaining releases from claimants for unemployment compensation information can be difficult and impedes access to needed information. It was noted that federal regulations on this topic allow release of unemployment compensation to an “agent” under certain circumstances. However, in order for this provision to be operable, it must be authorized by state law. Are these releases already permitted by statute? Would the Unemployment Compensation Law permit the Department to adopt the approach allowed by 20 CFR 605?

*Subsection (b)*

This subsection pertains to the fees that may be charged to a person seeking documents or information. It states the following:

*Fees.* Except as provided in section 702 of the law (43 P. S. § 862), the Department or the Board may charge a fee to a person seeking documents or information from the Department or the Board. The fee will be an amount sufficient to compensate the Department or the Board for the costs to process the request and, if the requested documents or information are available, the cost to provide the documents and information. The amount of the fee will be calculated by the Department within its discretion.

We have three concerns.

First, it is unclear as to what the Department or Board is charging for. What type of documentation or information would require the charging of a fee? For example, will a person be charged for making a telephone inquiry?

Second, the last sentence of this section is not regulatory language and does not set a binding norm. A regulation has the full force and effect of law and the last sentence does not establish a standard that could be predicted by the regulated community. We recommend that the amount of any fee that may be charged be included in the final-form rulemaking.

Finally, a commentator has pointed out that, under Federal regulation, “grant funds may be used to pay costs associated with any disclosure of UC information if not more than an incidental amount of staff time and no more than nominal processing costs are involved in making the disclosure.” See 20 CFR 603.8(b). If the Department receives grant funds, how will the Federal regulation work in conjunction with this subsection?

**3. Miscellaneous clarity.**

- Under § 61.1, the Department is amending the definition of “Bureau” from “The Bureau of Employment Security of the Commonwealth” to “The Department.” Throughout the rulemaking, the term “Bureau” is being replaced by the term “Department.” We note that the term “Department” is already defined in § 61.1. What is the need for the revised definition of “Bureau”? We recommend the Department delete this term.

—  
**State Board of Medicine  
Regulation #16A-4931 (IRRC #2848)**

**Perfusionist**

**July 21, 2010**

We submit for your consideration the following comments on the proposed rulemaking published in the May 22, 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 Medicine (Board) to respond to all comments received from us or any other source.

**1. Comments of the House Professional Licensure Committee.—Consistency with statute; Reasonableness; Protection of the public welfare; Implementation procedure; Clarity.**

On June 23, 2010, the House Professional Licensure Committee (Committee) voted to submit the following comments to the Board:

- The Committee brings to the Board’s attention that proposed Regulation 16A-4931 was published in the May 22, 2010 issue of the *Pennsylvania Bulletin*, approximately 101 days past the eighteen (18) months from the effective date of Act 19 of 2008.

- The Committee requests an explanation as to how the Board will enforce Section 13.3 (a) of the Act. It reads: “[T]wo years after the effective date of this section, it shall be unlawful for any person to hold himself out to the public as a perfusionist or to practice or offer to practice perfusionist unless the person holds a valid, current license issued by the board or the State Board of Osteopathic Medicine.” What happens in the likely circumstance that final rulemaking does not occur before August 11, 2010?

- The Committee requests an explanation of how the Board is notified when a temporary graduate perfusionist fails the Nationally-recognized certifying agency's certification examination upon which failure the license expires.

- The Committee brings to the Board's attention that in § 18.535(c), Application for temporary provisional perfusionist license, there is a reference to an application for certification as a perfusionist. Act 19 of 2008 which amended the Medical Practice Act of 1985 provides for the licensure of perfusionists not certification.

- The Committee recommends that, for consistency, language referring to various jurisdictional entities read "another state (even though, Commonwealth is used), U.S. territory or possession, the District of Columbia or another country" with similar descriptions for the courts.

- The Committee requests an explanation as to how continuing education other than category I credit hours are quantified since it can include, in particular, reading or viewing medical journals, audio-visual, or other educational materials, participation in electronic forums.

- The Committee questions why "working as a clinical or didactic instructor in an accredited school of perfusion" should earn continuing education credit. How many hours can be earned? Can a full-time instructor complete the entire amount of continuing education by working as a clinical or didactic instructor?

- The Committee requests a rationale for not allowing some minimum amount of surplus continuing education credits from being carried over into the next biennial registration period.

- The Committee requests an explanation as to how the Board will handle the implementation of Section 13.3(g) of the Medical Practice Act of 1985. It permits licensure of an applicant who was not a graduate of an accredited program prior to 1981, but met the then-current eligibility requirements for certification as a certified clinical perfusionist and subsequently was certified within two years of the effective date of the Act which basically creates a "grandfather clause." Act 19 became effective on August 11, 2008, and the statutory two years expire on August 11, 2010. The time frame for notice and issuing licenses to those who may wish to take advantage of this opportunity is closing in quickly.

We will review the Board's responses to these issues in our determination of whether the final regulation is in the public interest.

## 2. Section 18.534. Application for temporary graduate perfusionist license.—Clarity.

### *Supervision*

Section 18.534 does not include the statutory requirement for supervision under 63 P. S. § 422.13c(h)(1)(ii) which states, "... authorization to practice perfusion is granted only under supervision and direction of a perfusionist licensed under this act." We recommend including this limitation in the regulation.

### *Cross-reference*

Paragraph (b)(1) cross-references "section 13.3(h)(1)(i) of the act (63 P. S. § 422.13c(h)(1)(i)." This cross-reference does not appear to be broad enough. Did the Board intend to require the applicant to satisfy several requirements included in 63 P. S. § 422.13c(h)(1), or only the single requirement in Subparagraph (i) relating to examination?

## 3. Section 18.536. Registration of temporary emergency perfusionist service.—Statutory authority; Consistency with statute; Clarity.

*"Another state, the District of Columbia or a territory of the United States"*

The phrase "... another state, the District of Columbia or a territory of the United States..." is used in the statute (63 P. S. § 422.13c(j)(1)). The statute also uses the phrase "out-of-State" in 63 P. S. § 422.13c(j)(1)(i), (2) and (3). The regulation uses the phrase "out-of-State" in Subsections (a), (b) and (d). We question whether the phrase "out-of-State" could be misinterpreted to allow licenses from other countries, whereas the phrase "another state, the District of Columbia or a territory of the United States" provides clearer direction. For clarity, the Board should consider using the phrase "another state, the District of Columbia or a territory of the United States" throughout this section of the regulation.

### *Electronic means*

The statute (63 P. S. § 422.13c(j)(1)(i) and (ii)) provides for submittal "by electronic means." The regulation, and in particular Subsection (b), does not include this statutory provision. How will an applicant submit, and how will the Board accept or reject submissions by electronic means? Given the circumstances that would necessitate an emergency exemption, we recommend that the Board include in the regulation its interpretation of submittal by electronic means.

### *"A one-time emergency perfusionist service"*

Under 63 P. S. § 422.13c(j)(1), a perfusionist licensed in another state, the District of Columbia or a territory of the United States "may provide a one-time emergency perfusionist service in this Commonwealth..." Subsection (c) of the regulation states services are not limited to "a single procedure or single patient or group of related patients." The Board should explain how the regulation is consistent with the statutory language.

## 4. Miscellaneous Clarity.

- Section 18.535(a) concludes with the phrase "temporary **graduate** perfusionist license." This should be corrected to "temporary **provisional** perfusionist license."

- In Paragraph 18.537(a)(3), the word "trail" should be corrected to "trial."

- The first sentence of Paragraph 18.538(a)(1) should be reviewed for clarity.

- The word "earning" should be replaced with "earned" in Paragraph 18.540(c)(2).

## State Board of Osteopathic Medicine Regulation #16A-5320 (IRRC #2849)

### Perfusionist

July 21, 2010

We submit for your consideration the following comments on the proposed rulemaking published in the May 22, 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 Osteopathic Medicine (Board) to respond to all comments received from us or any other source.

## 1. Comments of the House Professional Licensure Committee.—Consistency with statute; Reasonableness; Protection of the public welfare; Implementation procedure; Clarity.

On June 23, 2010, the House Professional Licensure Committee (Committee) voted to submit the following comments to the Board:

- The Committee brings to the Board's attention that proposed Regulation 16A-5320 was published in the May 22, 2010 issue of the *Pennsylvania Bulletin*, approximately 101 days past the eighteen (18) months from the effective date of Act 20 of 2008.

- The Committee requests an explanation as to how the Board will enforce Section 13.3 (a) of the Act. It reads: "[T]wo years after the effective date of this section, it shall be unlawful for any person to hold himself out to the public as a perfusionist or to practice or offer to practice perfusion unless the person holds a valid, current license issued by the board or the State Board of Medicine." Act 20 became effective on August 11, 2008, and the statutory two years expire on August 11, 2010.

- The Committee requests an explanation of how the Board is notified when a temporary graduate perfusionist fails the Nationally-recognized certifying agency's certification examination upon which failure the license expires.

- The Committee brings to the Board's attention that in § 25.615(c), Application for temporary provisional perfusionist license, there is a reference to an application for certification as a perfusionist. Act 20 of 2008 which amended the Osteopathic Medical Practice Act of 1978 provides for the licensure of perfusionists not certification.

- The Committee recommends that, for consistency, language referring to various jurisdictional entities read "another state (even though, Commonwealth is used), U.S. territory or possession, the District of Columbia or another country" with similar descriptions for the courts.

- The Committee requests an explanation as to how continuing education other than category I credit hours are quantified since it can include, in particular, reading or viewing medical journals, audio-visual, or other educational materials, participation in electronic forums.

- The Committee questions why "working as a clinical or didactic instructor in an accredited school of perfusion" should earn continuing education credit. How many can be earned? Can a full-time instructor complete the entire amount of continuing education by working as a clinical or didactic instructor?

- The Committee requests a rationale for not allowing some minimum amount of surplus continuing education credits from being carried over into the next biennial renewal period.

- The Committee requests an explanation as to how the Board will handle the implementation of Section 13.3(g) of the Osteopathic Medical Practice Act. It permits licensure of an applicant who was not a graduate of an accredited program prior to 1981, but met the then-current eligibility requirements for certification as a certified clinical perfusionist and subsequently was certified within two years of the effective date of the Act which basically creates a "grandfather clause." The Act 20 became effective on August 11, 2008 and the statutory two years expire on August 11, 2010. The time frame for notice and issuing licenses to those who may wish to take advantage of this opportunity is closing in quickly.

We will review the Board's responses to these issues in our determination of whether the final regulation is in the public interest.

**2. Section 25.814. Application for temporary graduate perfusionist license.—Clarity.**

### *Supervision*

Section 25.814 does not include the statutory requirement for supervision under 63 P. S. § 271.13c(h)(2) which states, "... authorization to practice perfusion is granted only under the supervision and direction of a perfusionist licensed under this act." We recommend including this limitation in the regulation.

### *Cross-reference*

Paragraph (b)(1) cross-references "section 13.3(h)(1)(i) of the act (63 P. S. § 271.13c(h)(1)(i))." This cross-reference does not appear to be correct. Did the Board intend to require the applicant to satisfy several requirements included in 63 P. S. § 271.13c(h)?

**3. Section 25.816. Registration of temporary emergency perfusionist service.—Statutory authority; Consistency with statute; Clarity.**

*"Another state, the District of Columbia or a territory of the United States"*

The phrase "... another state, the District of Columbia or a territory of the United States..." is used in the statute (63 P. S. § 271.13c(j)(1)). The statute also uses the phrase "out-of-State" in 63 P. S. § 271.13c(j)(1)(i), (2) and (3). The regulation uses the phrase "out-of-State" in Subsections (a), (b) and (d). We question whether the phrase "out-of-State" could be misinterpreted to allow licenses from other countries, whereas the phrase "another state, the District of Columbia or a territory of the United States" provides clearer direction. For clarity, the Board should consider using the phrase "another state, the District of Columbia or a territory of the United States" throughout this section of the regulation.

### *Electronic means*

The statute (63 P. S. § 271.13c(j)(1)(i) and (ii)) provides for submittal "by electronic means." The regulation, and in particular Subsection (b), does not include this statutory provision. How will an applicant submit, and how will the Board accept or reject submissions by electronic means? Given the circumstances that would necessitate an emergency exemption, we recommend that the Board include in the regulation its interpretation of submittal by electronic means.

*"A one-time emergency perfusionist service"*

Under 63 P. S. § 271.13c(j)(1), a perfusionist licensed in another state, the District of Columbia or a territory of the United States "may provide a one-time emergency perfusionist service in this Commonwealth..." Subsection (c) of the regulation states services are not limited to "a single procedure or single patient or group of related patients." The Board should explain how the regulation is consistent with the statutory language.

### **4. Miscellaneous Clarity.**

- Section 25.815(a) concludes with the phrase "temporary graduate perfusionist license." This should be corrected to "temporary provisional perfusionist license."

- The first sentence of Paragraph 25.818(a)(1) should be reviewed for clarity.

- The word "earning" should be replaced with "earned" in Paragraph 25.820(c)(2).

ARTHUR COCCODRILLI,  
*Chairperson*

[Pa.B. Doc. No. 10-1411. Filed for public inspection July 30, 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

Reg. No.	Agency/Title	Received	Public Meeting
6-322	State Board of Education Academic Standards and Assessment	7/16/10	8/19/10
7-451	Environmental Quality Board Water Quality Standards Implementation	7/16/10	8/19/10
7-443	Environmental Quality Board National Pollutant Discharge Elimination System (NPDES) Permitting, Monitoring and Compliance	7/16/10	8/19/10
7-444	Environmental Quality Board Outdoor Wood-Fired Boilers	7/16/10	8/19/10

ARTHUR COCCODRILLI,  
*Chairperson*

[Pa.B. Doc. No. 10-1412. Filed for public inspection July 30, 2010, 9:00 a.m.]

## INSURANCE DEPARTMENT

### Aetna Health, Inc.; Small Group—Adjusted Community Rating; Applicability—Group Size of Less than 51; Rate Filing

On July 8, 2010, the Insurance Department (Department) received a filing from Aetna Health, Inc. requesting approval to adjust its small group rates. Groups that renew in the fourth quarter 2010 will see an average annual rate increase of 3.6%. Groups that renew in the first quarter 2011 will see an average annual rate increase of 1.0%. Groups that renew in the second quarter 2011 will see an average annual rate increase of 5.0%. Groups that renew in the third quarter 2011 will see an average annual rate increase of 9.2%. Note that these increases may vary, depending on the specific characteristics of a group.

The filing will affect approximately 2,700 members and generate additional revenue of approximately \$1.6 million annually. An effective date of October 1, 2010, is requested.

Unless formal administrative action is taken prior to October 14, 2010, the subject filing may be deemed approved by operation of law.

A copy of the filing is available on the Department's web site at [www.ins.state.pa.us](http://www.ins.state.pa.us). Under the Quick Links section, click on the link "Rate Filings Published in the PA Bulletin."

Copies of the filing are also available for public inspection, by appointment, during normal working hours at the Department's Harrisburg Office.

Interested parties are invited to submit written comments, suggestions or objections to Cherri Sanders-Jones, Insurance Department, Insurance Product Regulation, Room 1311, Strawberry Square, Harrisburg, PA 17120,

[csandersjo@state.pa.us](mailto:csandersjo@state.pa.us) within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

JOEL SCOTT ARIO,  
*Insurance Commissioner*

[Pa.B. Doc. No. 10-1413. Filed for public inspection July 30, 2010, 9:00 a.m.]

### Allstate Insurance Company; Homeowners; Rate Revision; Rate Filing

On July 12, 2010, the Insurance Department (Department) received from Allstate Insurance Company a filing for a rate level change for homeowners insurance.

The company requests an overall 4.4% increase amounting to \$8,557,222 annually, to be effective October 18, 2010, for new business and December 2, 2010, for renewal business.

Unless formal administrative action is taken prior to August 11, 2010, the subject filing may be deemed approved by operation of law.

A copy of the filing is available on the Department's web site at [www.insurance.pa.gov](http://www.insurance.pa.gov). To access the filing, under "How to Find..." click on "View Current Rate Filings."

Interested parties are invited to submit written comments, suggestions or objections to Michael McKenney, Insurance Department, Office of Insurance Product Regulation, 1311 Strawberry Square, Harrisburg, PA 17120, [mmckenney@state.pa.us](mailto:mmckenney@state.pa.us) within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

JOEL SCOTT ARIO,  
*Insurance Commissioner*

[Pa.B. Doc. No. 10-1414. Filed for public inspection July 30, 2010, 9:00 a.m.]

### Application for Approval of Proposed Merger of National Safety Life Insurance Company with and into Columbian Life Insurance Company

Columbian Life Insurance Company, an Illinois domiciled stock life insurance company, has filed an application for approval to merge with National Safety Life Insurance Company, a domestic stock life insurance company, with Columbia Life Insurance Company surviving the merger. The filing was made under Article XIV of The Insurance Company Law of 1921 (40 P. S. §§ 991.1401—991.1413); 15 Pa.C.S. §§ 1921—1932 (relating to merger, consolidation, share exchanges and sale of assets) and the GAA Amendments Act of 1990 (15 P. S. §§ 21101—21208).

Persons wishing to comment on the merger 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 and relevant facts to inform the Department of the exact basis of the statement. Written statements should be directed to Robert Brackbill, Company Licensing Division, Insurance Department, 1345 Strawberry Square, Harrisburg, PA 17120, fax (717) 787-8557 or rbrackbill@state.pa.us.

JOEL SCOTT ARIO,  
*Insurance Commissioner*

[Pa.B. Doc. No. 10-1415. Filed for public inspection July 30, 2010, 9:00 a.m.]

### Erie Insurance Exchange; Private Passenger Automobile; Rate and Rule Revisions; Rate Filing

On July 16, 2010, the Insurance Department (Department) received from Erie Insurance Exchange a rate and rule filing for its new Rate Protection Endorsement.

This endorsement is available only on Erie Insurance Exchange policies which provide coverage for at least one private passenger type vehicle with a model year of at least 1990. If the Rate Protection Endorsement is added to the policy, the policy's premium will be modified and the modified premium will only change if one or more of the following changes occur:

1. Change to the location where an insured vehicle is principally garaged.
2. Addition, deletion, or replacement of an auto.
3. Addition or deletion of a licensed driver in the household.
4. Addition or deletion of coverage.
5. Changes to a limit, deductible, tort selection, multi-policy status, accident prevention course status or payment plan.

If none of the previous changes occur, the modified annual policy premium will remain the same.

Unless formal administrative action is taken prior to September 14, 2008 the subject filing may be deemed approved by operation of law.

A copy of the filing is available on the Department's web site at [www.insurance.pa.gov](http://www.insurance.pa.gov). To access the filing, under "How to Find..." click on "View Current Rate Filings."

Interested parties are invited to submit written comments, suggestions or objections to Michael McKenney, Insurance Department, Office of Insurance Product Regulation, 1311 Strawberry Square, Harrisburg, PA 17120, [mmckenney@state.pa.us](mailto:mmckenney@state.pa.us) within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

JOEL SCOTT ARIO,  
*Insurance Commissioner*

[Pa.B. Doc. No. 10-1416. Filed for public inspection July 30, 2010, 9:00 a.m.]

## PENNSYLVANIA PUBLIC UTILITY COMMISSION

### Electric Transmission

**A-2010-2187540 and A-2010-2187542. Trans-Allegheny Interstate Line Company (TrAILCo).** Application of Trans-Allegheny Interstate Line Company (TrAILCo) for approval for the siting and construction of a 138 kV transmission line and related facilities collectively, the Osage-Whiteley Line Facilities or Project, along with the power to exercise Eminent Domain, in portions of Dunkard, Perry and Whiteley Townships, Greene County in southwestern Pennsylvania.

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 September 20, 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:* Trans-Allegheny Interstate Line Company (TrAILCo)

*Through and By Counsel:* W. Edwin Ogden, Alan Michael Seltzer, Ryan, Russell, Ogden & Seltzer P.C., 1150 Berkshire Boulevard, Suite 210, Wyomissing, PA 19610

Randall B. Palmer, Assistant General Counsel, Allegheny Energy, Inc., 800 Cabin Hill Drive, Greensburg, PA 15601-1689

ROSEMARY CHIAVETTA,  
*Secretary*

### Notice

This is to inform you that an Initial Prehearing Conference on the previously-captioned case will be held as follows:

*Date:* Tuesday, September 28, 2010  
*Time:* 10 a.m.  
*Location:* 2nd Floor Hearing Room—  
Pittsburgh Parties  
Piatt Place  
Suite 220  
301 Fifth Avenue  
Pittsburgh, PA 15222

*Location:* Hearing Room 2—  
Harrisburg Parties  
Plaza Level  
Commonwealth Keystone Building  
400 North Street  
Harrisburg, PA

*Presiding:* Administrative Law  
Judge Katrina Dunderdale  
Piatt Place  
Suite 220  
301 5th Avenue  
Pittsburgh, PA 15222  
Telephone: (412) 565-3550  
Fax: (412) 565-5692

Persons with a disability who wish to attend the prehearing, the Pennsylvania Public Utility Commission (Commission) may be able to make arrangements for their special needs. Call the scheduling office at the Commission at least 5 business days prior to the prehearing to submit a request.

For those who require an interpreter to participate in the hearings, the Commission will make every reasonable effort to have an interpreter present. Call the scheduling office at the Commission at least 10 business days prior to the hearing to submit a request.

- Scheduling Office: (717) 787-1399
- Pennsylvania AT&T Relay Service number for persons who are deaf or hearing-impaired: (800) 654-5988

[Pa.B. Doc. No. 10-1417. Filed for public inspection July 30, 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 16, 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-2010-2188609. Dennis M. Pipkin, II, d/b/a Pip's Transport** (321 East Loudon Street, Philadelphia, Philadelphia County, PA 19120), for the right to begin to transport, as a common carrier, by motor vehicle, persons in paratransit service, from points in Philadelphia to Pennsylvania State Correctional Facilities: Houtzdale (Clearfield County), Cresson (Cambria County), Pine Grove (Indiana County), Huntingdon and Smithfield

(Huntingdon County) and Rockview (Centre County), and return.

**A-2010-2189005. T. M. McDermott & Co., Inc.** (900 Vista Drive, West Chester, Chester County, PA 19380)—a corporation of the Commonwealth, to begin to transport, as a common carrier, by motor vehicle, persons, in limousine service, from points in the Counties of Chester, Delaware and Montgomery, to points in Pennsylvania, and return; excluding that service under the jurisdiction of the Philadelphia Parking Authority.

### Application of the following for the approval of the *transfer of stock as described under the application.*

**A-2010-2188860. Hi Line Limousine Service, Inc.**, a corporation of the Commonwealth (1800 Bayberry Road, Suite 905, Huntingdon Valley, Montgomery County, PA 19006)—for the approval of the transfer of 33 1/3 shares of issued and outstanding shares held by Miriam Krit to Inna Friedman (16.66 shares) and Paula Szejman (16.66 shares).

### Application 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 the application.*

**A-2010-2188628. Galil Moving & Storage, Inc.** (111 Linnet Street, Bayonne, Hudson County, NJ 07002), a corporation of the State of New York, for the discontinuance of service and cancellation of its Certificate of Public Convenience, as a contract carrier of household goods in use, for REO Allegiance, Inc., between points in Pennsylvania. *Attorney:* Joel B. Albert, Esquire, 2 Bala Plaza, Suite 716, Bala Cynwyd, PA 19004.

ROSEMARY CHIAVETTA,  
*Secretary*

[Pa.B. Doc. No. 10-1418. Filed for public inspection July 30, 2010, 9:00 a.m.]

### Telecommunications

**A-2010-2188784. Verizon Pennsylvania, Inc. and Dynalink Communications, Inc.** Joint petition of Verizon Pennsylvania, Inc. and Dynalink Communications, Inc. for approval of an interconnection agreement under section 252(e) of the Telecommunications Act of 1996.

Verizon Pennsylvania, Inc. and Dynalink Communications, Inc., by its counsel, filed on July 15, 2010, at the Pennsylvania Public Utility Commission (Commission), a joint petition for approval of an interconnection agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days after the date of publication of this notice. Copies of the Verizon Pennsylvania, Inc. and Dynalink Communications, Inc. joint petition are on file with the Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

ROSEMARY CHIAVETTA,  
Secretary

[Pa.B. Doc. No. 10-1419. Filed for public inspection July 30, 2010, 9:00 a.m.]

### Telecommunications Services

**A-2010-2187730; A-2010-2187731; A-2010-2187734; A-2010-2187736; A-2010-2187738; A-2010-2187739; A-2010-2187753; A-2010-2187755; A-2010-2187757; A-2010-2187761; A-2010-2187767; A-2010-2187769; A-2010-2187770; A-2010-2187772; A-2010-2187775; A-2010-2187778; A-2010-2187783; A-2010-2187785; A-2010-2187787; A-2010-2187789; A-2010-2187791; A-2010-2187793; A-2010-2187795; A-2010-2187798; A-2010-2187801; A-2010-2187804; A-2010-2187806; A-2010-2187808; A-2010-2187810; A-2010-2187813; A-2010-2187814; A-2010-2187815; A-2010-2187818; A-2010-2187822; A-2010-2187823; A-2010-2187828; A-2010-2187829.** **NextGen Communications, Inc.** Application of NextGen Communications, Inc. for approval to offer, render, furnish or supply telecommunications services as a competitive local exchange carrier to the public in this Commonwealth in the service territories of: Armstrong Telephone Company—North; Armstrong Telephone Company PA; Bentleyville Communications Corp.; Citizens Telephone of Kecksburg; Citizens Communications, d/b/a Citizens Telephone of NY; Consolidated Communications of Pennsylvania Company; Frontier Communications of Breezewood, LLC; Frontier Communications of Canton, LLC; Frontier Communications Commonwealth Telephone Company, LLC; Frontier Communications of Pennsylvania, LLC; Frontier Communications of Lakewood, LLC; Frontier Communications of Oswayo River, LLC; Hancock Telephone Company; Hickory Telephone Company; Ironton Telephone Company; Lackawaxen Telecommunications Services, Inc.; Laurel Highland Telephone Company; Marianna & Scenery Hill Telephone Company; North Penn Telephone Company; North-Eastern PA Telephone Company; Palmerton Telephone Company; Pennsylvania Telephone Company; Pymatuning Independent Telephone Company; South Canaan Telephone Company; TDS—Deposit Telephone Company, Inc.; TDS—Mahanoy & Mahantango Telephone Company; TDS—Sugar Valley Telephone Company; United Telephone Company of PA, d/b/a CenturyLink; Venus Telephone Corporation; Verizon North, Inc.; Verizon Pennsylvania, Inc.; West Side Telephone Company; Windstream Pennsylvania, LLC; Windstream Buffalo Valley Telephone Company; Windstream Conestoga Telephone Company; Windstream D & E Telephone Company; Yukon Waltz Telephone Company.

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 16, 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:* NextGen Communications, Inc.

*Through and By Counsel:* Daniel P. Delaney, Esq., Jessica Leigh Wray, Esq., K & L Gates, LLP, 17 North Second Street, 18th Floor, Harrisburg, PA 17101-1507

ROSEMARY CHIAVETTA,  
Secretary

[Pa.B. Doc. No. 10-1420. Filed for public inspection July 30, 2010, 9:00 a.m.]

## PHILADELPHIA REGIONAL PORT AUTHORITY

### Request for Bids

The Philadelphia Regional Port Authority (PRPA) will accept sealed bids for Project No. 10-080.1, On-Call Roof Investigation & Repairs at PRPA Piers until 2 p.m. on Thursday, August 26, 2010. The bid documents can be obtained from the PRPA web site [www.philaport.com](http://www.philaport.com) and will be available August 3, 2010. PRPA is an equal opportunity employer. Contractors must comply with all applicable EOE laws.

A mandatory prebid job site meeting will be held August 12, 2010, 10 a.m. at PRPA, 3460 North Delaware Avenue, 2 Floor, Philadelphia, PA 19134. Bidders must provide to the Procurement Department in writing (24 hours prior to the meeting), the names of individuals that will be attending. Fax them to (215) 426-6800, Attn: Procurement Department.

JAMES T. McDERMOTT, Jr.,  
Executive Director

[Pa.B. Doc. No. 10-1421. Filed for public inspection July 30, 2010, 9:00 a.m.]

## STATE BOARD OF EDUCATION

### Academic Standards for Reading, Writing, Speaking and Listening and Mathematics

Acting under authority granted to it by Article XXVI-B of the Public School Code of 1949 (24 P. S. §§ 26-2601-B—26-2606-B), the State Board of Education (Board) on July 1, 2010, by unanimous public vote, formally approved amendments to 22 Pa. Code Chapter 4 (relating to academic standards and assessment) that will revise academic standards in Reading, Writing, Speaking and Listening and Mathematics, with full implementation of the revised standards required by July 1, 2013. See <http://www.pde.state.pa.us>.

Through these amendments, the Board has adopted a uniform set of academic standards in English language arts and mathematics developed through the "Common Core State Standards Initiative." The Common Core initiative is coordinated by the National Governors Association (NGA) and the Council of Chief State School Officers to provide a clear framework to prepare the nation's children for college and the workforce.

The Board's action moves the standards revision process forward using the Common Core State Standards in English Language Arts (ELA) and Mathematics publicly released on June 2, 2010. Since the release of the Common Core standards, 27 states (as of July 21) have adopted the Common Core standards, and the NGA expects that approximately 40 states will take action by September 2010. The kindergarten through 12th grade standards draw from best practices Nationally (including this Commonwealth's nearly 20-year history of standards-based education reform) and international benchmarking to set learning goals aligned with expectations for success in college, career and the global economy. Under the amended regulation, students enrolled in public schools in this Commonwealth (including public charter schools) will be expected to demonstrate achievement on these standards beginning in the 2013-2014 school year.

The Board's adoption of the Common Core ELA and Mathematics standards also maximizes the Commonwealth's prospects for success in receiving funding under Phase 2 of the Race to the Top (RTTT) Fund program initiated by the United States Department of Education (see 74 FR 59688 (November 18, 2009) and 75 FR 19496 (April 14, 2010)) as part of its administration of the State Fiscal Stabilization Fund established by Title XIV of the American Recovery and Reinvestment Act of 2009 (Pub. L. No. 111-5, 123 Stat. 115). Under the RTTT Fund program, a state must adopt Common Core standards August 2, 2010, to maximize its score in this competitive grant program. See 74 FR 59688, 59802 and 75 FR 19496, 19503. The Board's action on July 1, 2010, meets this RTTT Fund program criteria. If successful in its application for RTTT funding, the Commonwealth would receive up to approximately \$400 million to advance a comprehensive school reform agenda.

The Board adopted its amendments to 22 Pa. Code Chapter 4 as a final-omitted rulemaking under section 204(3) of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. § 1204(3)), known as the Commonwealth Documents Law (CDL). The rulemaking has been reviewed and approved by the Governor's Office of Planning and Policy, the Office of the Budget and the Office of General Counsel. The Board also has submitted the final-omitted rulemaking to the Office of Attorney General, the Education Committees of the Senate and House of Representatives and the Independent Regulatory Review Commission for review under the Regulatory Review Act (71 P. S. §§ 741.1—745.12), the CDL and the Commonwealth Attorneys Act (71 P. S. §§ 732-101—732-560). The Board will formally publish the final-omitted rulemaking in the *Pennsylvania Bulletin* following the conclusion of regulatory review.

Interested persons may contact Adam Schott, Executive Director of the State Board of Education, 333 Market

Street, Harrisburg, PA 17126-0333, (717) 783-6808 or adschott@state.pa.us.

ADAM A. SCHOTT,  
*Executive Director*

[Pa.B. Doc. No. 10-1422. Filed for public inspection July 30, 2010, 9:00 a.m.]

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## STATE BOARD OF MEDICINE

### Bureau of Professional and Occupational Affairs v. Clement I. Momah, MD; Doc. No. 2119-49-09

On July 1, 2010, Clement I. Momah, MD, license no. MD049919L, of Laurel, MD, had his Pennsylvania license indefinitely suspended based on disciplinary action taken against his license by the proper licensing authority of another state.

Individuals may obtain a copy of the final order by writing to Sabina I. Howell, Board Counsel, State Board of Medicine, P. O. Box 2649, Harrisburg, PA 17105-2649.

This final order represents the State Board of Medicine's (Board) final decision in this matter. It may be appealed to the Commonwealth Court of Pennsylvania by the filing of a petition for review with that court in accordance with the Pennsylvania Rules of Appellate Procedure. Individuals who take an appeal to the Commonwealth Court, must serve the Board with a copy of their petition for review. The Board contact for receiving service of the appeals is the previously-named Board Counsel.

CAROL E. ROSE, MD,  
*Chairperson*

[Pa.B. Doc. No. 10-1423. Filed for public inspection July 30, 2010, 9:00 a.m.]

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## TOWNSHIP OF EDMONT

### Approvals Under Act 46 of 2010

The Township of Edgmont, Delaware County, Pennsylvania, in accordance with Act 46 of 2010 (the "Act"), publishes this notice that Approvals granted by the Township which fall within the Extension Period are subject to the Automatic Suspension provisions of the Act, as applicable.

SAMANTHA REINER,  
*Township Manager*

[Pa.B. Doc. No. 10-1424. Filed for public inspection July 30, 2010, 9:00 a.m.]





