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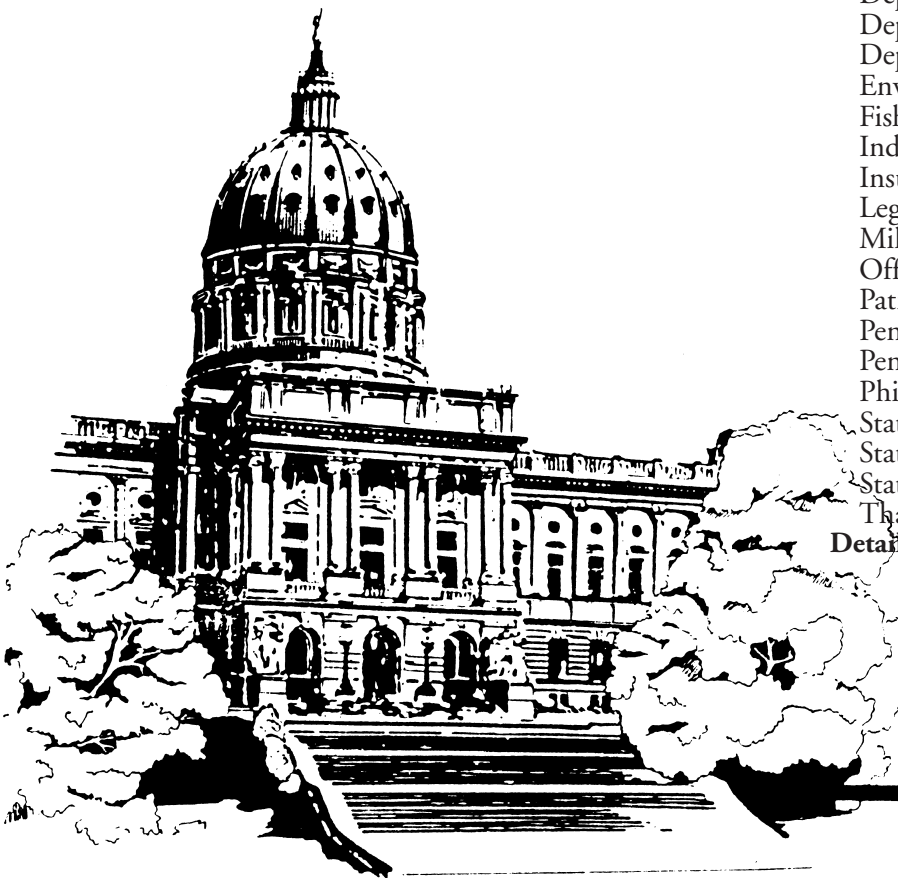
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# PENNSYLVANIA BULLETIN

Volume 40  
Saturday, January 16, 2010 • Harrisburg, PA  
Number 3  
Pages 391—504

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Department of Banking  
Department of Education  
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(Master Transmittal Sheets):**

**No. 422, January 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

The following numerical guide is a list of the chapters of each title of the *Pennsylvania Code* affected by documents published in the *Pennsylvania Bulletin* during 2010.

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# THE GOVERNOR

## Title 4—ADMINISTRATION

### PART I. GOVERNOR'S OFFICE

[ 4 PA. CODE CH. 5 ]

[ EXECUTIVE ORDER NO. 2003-06 ]

### Pennsylvania Commission for Women

April 28, 2008

*Whereas*, over 50 percent of the population of Pennsylvania is female; and

*Whereas*, the need for a strong advocate for the rights of women in all areas of the Commonwealth is no less today than it was upon creation of the Pennsylvania Commission for Women more than a quarter of a century ago; and

*Whereas*, further measures should be taken to increase state efforts to ensure that women have full and equal opportunity to serve in every capacity as citizens of the Commonwealth, free of gender discrimination; and

*Whereas*, women must be informed, educated and advised so that they might better protect themselves, their families and their children.

*Now, Therefore*, I, Edward G. Rendell, Governor of the Commonwealth of Pennsylvania, by virtue of the authority vested in me by the Constitution of the Commonwealth of Pennsylvania and other laws, do hereby reestablish the **Pennsylvania Commission for Women** (hereinafter referred to as "Commission") to perform the powers, duties, and functions set forth herein.



*Governor*

**Fiscal Note:** 2009-16. No fiscal impact; (8) recommends adoption.

#### Annex A

#### TITLE 4. ADMINISTRATION

#### PART I. GOVERNOR'S OFFICE

#### CHAPTER 5. COUNCILS AND COMMITTEES

#### Subchapter F. PENNSYLVANIA COMMISSION FOR WOMEN

#### § 5.63. Terms of membership.

(a) Members will be appointed for terms of 2 years and thereafter until their respective successors are appointed and qualified, but for no longer than 6 months after the conclusion of the 2-year term. A member may be reappointed. All members serve at the pleasure of the Governor.

(b) If a vacancy occurs on the Commission, the Governor will appoint a successor as expeditiously as possible. The successor shall serve a full term limit from the date of appointment.

(c) A member who is absent from two consecutive meetings of the Commission without excuse shall forfeit membership on the Commission.

[Pa.B. Doc. No. 10-92. Filed for public inspection January 15, 2010, 9:00 a.m.]

## PART I. GOVERNOR'S OFFICE

[ 4 PA. CODE CH. 6 ]

[ EXECUTIVE ORDER NO. 2009-01 ]

**Pennsylvania Stimulus Oversight Commission**

March 27, 2009

*Whereas*, the American Recovery and Reinvestment Act (ARRA) will increase federal funds available to the Commonwealth by nearly \$10 billion from February 2009 through September 2011; and

*Whereas*, the Legislature annually appropriates approximately \$16 billion in federal funds received by the Commonwealth; and

*Whereas*, the Commonwealth has a proven track record of effective oversight of these federal funds; and

*Whereas*, the Pennsylvania Legislature enacted Right-to-Know Law legislation that assures citizen access via the internet to grants and contracts more than \$5,000 and enables citizens to request access to related materials associated with the expenditure of Commonwealth funds; and

*Whereas*, existing federal and state laws, regulations, and directives prescribe oversight procedures for how the Commonwealth can procure and enter into contracts or grant agreements and the procedures that must be followed for the release and tracking of any federal funds; these procedures are enumerated by the United States General Accounting Office and the Governmental Accounting Standards Board; and

*Whereas*, the Commonwealth enables citizens to track and review via the internet state contracts and grants made through the Commonwealth's largest environmental and economic development programs; and

*Whereas*, the Commonwealth seeks to ensure that citizens and elected officials can track both the use and impact of these time-limited federal stimulus funds with respect to job creation, job retention, productivity, and sustainability; and

*Whereas*, both the United States Congress and the Pennsylvania Legislature will have appropriated these funds and each body has interest in confirming that the Commonwealth executive branch agencies spend these funds in a manner that complies with all relevant federal and state laws, as does the public at large; and

*Whereas*, the United States Congress and the Pennsylvania Legislature share a common interest with the public to ensure that citizens understand how these funds can be used as well as track both the potential and realized impact of these funds.

*Now, Therefore*, I, Edward G. Rendell, Governor of the Commonwealth of Pennsylvania, by virtue of the authority vested in me by the Constitution of the Commonwealth of Pennsylvania and other laws, do hereby establish the Pennsylvania Stimulus Oversight Commission (hereinafter referred to as the "Commission") as hereinafter set forth.



Governor

**Fiscal Note:** 2009-17. No fiscal impact; (8) recommends adoption.

## Annex A

## TITLE 4. ADMINISTRATION

## PART I. GOVERNOR'S OFFICE

## CHAPTER 6. ADDITIONAL COUNCILS AND COMMITTEES

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COMMISSION

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**§ 6.411. Composition and appointments.**

(a) The Pennsylvania Stimulus Oversight Commission (Commission) shall consist of the following members:

- (1) The Governor or a designee.
- (2) The Commonwealth of Pennsylvania American Recovery and Reinvestment Act (ARRA) Chief Implementation Officer.
- (3) The Commonwealth of Pennsylvania ARRA Chief Accountability Officer.
- (4) One sitting senator designated by the Majority Leader of the Senate of Pennsylvania.
- (5) One sitting senator designated by the Minority Leader of the Senate of Pennsylvania.
- (6) One sitting representative designated by the Majority Leader of the Pennsylvania House of Representatives.
- (7) One sitting representative designated by the Minority Leader of the Pennsylvania House of Representatives.
- (8) One sitting congressperson or a designee appointed by the Pennsylvania members of the Majority Party of the United States House of Representatives.
- (9) One sitting congressperson or a designee appointed by the Pennsylvania members of the Minority Party of the United States House of Representatives.
- (10) Each Pennsylvania United States Senator or a designee.
- (11) One member designated by the United Way of Pennsylvania.
- (12) One member designated by the Pennsylvania AFL-CIO.
- (13) One member designated by the Pennsylvania Chamber of Business and Industry.

(b) The Governor will designate the Chairperson of the Commission.

**§ 6.412. Responsibilities.**

(a) The Pennsylvania Stimulus Oversight Commission (Commission) shall:

- (1) Review the American Recovery and Reinvestment Act (ARRA), including all relevant Federal statutes that define the funding streams associated with ARRA as well as State law to ensure that the Commonwealth is complying with relevant statutes prescribing how the ARRA funds can be spent.
- (2) Review the expectations of the ARRA relating to timelines required for the obligation of ARRA funds, review how the Commonwealth plans to comply with these time lines, evaluate the likelihood that the Commonwealth is meeting the time line requirements, and make recommendations for improvements, if necessary.

(3) Review the Commonwealth's approach to allocating and disbursing these funds, evaluate the degree to which the Commonwealth is minimizing administrative expenses associated with the distribution of the funds, and make recommendations for improvements, if necessary.

(4) Review the Commonwealth's approach to complying with the Federal requirements for tracking and publicly displaying the expenditure of these funds, determine if the Commonwealth is executing this responsibility appropriately, and make recommendations for improvements, if necessary.

(5) Review the Commonwealth's methods of performance tracking and transparency as required by the ARRA, evaluate if the Commonwealth is executing this responsibility appropriately, and make recommendations for improvements, if necessary.

(6) Review the Commonwealth's approach to competing for additional ARRA funds and make recommendations to improve the Commonwealth's ability to succeed in the competitive grant processes, if necessary.

(7) Review the Commonwealth's approach to ARRA grants management and oversight and make recommendations for improvements, if necessary.

(8) Review the Commonwealth's oversight structure for the ARRA efforts and make recommendations to improve the oversight structure, if necessary.

(9) Determine whether new Federal or State legislation or procedures are necessary or would be beneficial to effectively disburse or distribute ARRA resources, if necessary.

(10) Make recommendations to the Governor for additional areas of review to be conducted by the Commission or other relevant Commonwealth entities, if necessary.

(11) Receive copies of all reports submitted to the Federal government pertaining to Commonwealth use of ARRA funds.

(b) The Commission shall establish a schedule of meetings. In addition, meetings may be called by the Governor or the Chairperson.

(c) Meetings of the Commission shall be public.

§ **6.413. Support by State agencies.** The Governor's Office will designate executive branch agencies to provide technical, administrative, and staffing support to the Pennsylvania Stimulus Oversight Commission.

§ **6.414. Cooperation by State agencies.** The Commonwealth of Pennsylvania ARRA Chief Implementation Officer and the Commonwealth of Pennsylvania ARRA Chief Accountability Officer will have the authority to ensure that agencies under the Governor's jurisdiction provide all necessary materials to the Pennsylvania Stimulus Oversight Commission (Commission) and, when necessary, make presentations or otherwise participate in Commission meetings. All agencies under the Governor's jurisdiction shall cooperate with and provide assistance and support as needed by the Commission to carry out its functions effectively.

§ **6.415. Effective date.** This subchapter shall take effect immediately.

§ **6.416. Termination.** This subchapter shall remain in effect until September 30, 2011.

[Pa.B. Doc. No. 10-93. Filed for public inspection January 15, 2010, 9:00 a.m.]

# EXECUTIVE ORDER

## Proposed Economic Development District; 2005-04

July 14, 2005

*Whereas*, there exist in the Commonwealth areas that include deteriorated property, high unemployment, low investment of new capital, underutilized, obsolete or abandoned industrial or commercial structures; and

*Whereas*, among such areas in this Commonwealth are sites in cities of the first class that are deteriorated property because they contain industrial or commercial real property which is abandoned, vacant, undervalued, underutilized, or condemned or they contain economically undesirable land uses; and

*Whereas*, these areas require coordinated efforts by private and public entities to restore property and enable the areas to make significant contributions to the economic and social well-being of the Commonwealth; and

*Whereas*, the City Council of the City of Philadelphia has previously determined that all industrial, commercial, or other business property in the City of Philadelphia (including the property identified in Exhibit A to this Executive Order) is deteriorated property eligible for the tax abatement authorized by Philadelphia Code § 19-1303(3); and

*Whereas*, the Act of December 1, 2004 (P. L. 1750, No. 226), known as the "First Class Cities Economic Development District Act" (the "Act"), provides for the designation of areas as "Economic Development Districts," located in a city of the first class, to provide temporary relief from certain taxes to provide long-term economic viability in these areas; and

*Whereas*, section 301(b) of the Act provides that "[o]n or before July 15, 2005, the Governor may, by executive order, propose the designation of deteriorated property within cities of the first class as economic development districts"; and

*Whereas*, the Governor is promulgating this Executive Order pursuant to Section 301(b) of the Act; and

*Whereas*, the Commonwealth must, in this case, make a prompt economic development decision to address and assist communities that are in vital need of improvement.

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

1. Proposed Economic Development District. The following land is hereby designated as a proposed Economic Development District under the Act:

In the City of Philadelphia, Philadelphia County, as more particularly described on Exhibit A attached hereto.

2. Period of Eligibility. The eligibility period for tax exemptions, deductions, abatements, or credits provided by the Act shall expire December 31, 2018.

3. Other Agencies. All agencies under the Governor's jurisdiction shall cooperate with and provide assistance to the Economic Development District in performing its revitalization functions.

4. Effective Date. This Order shall take effect immediately. Also, this Order rescinds Executive Order 2005-03, dated May 18, 2005.

**EXHIBIT A**  
**LEGAL DESCRIPTION**

ALL THAT CERTAIN tract or parcel of land situate in the 39th Ward of the City of Philadelphia, Commonwealth of Pennsylvania, more particularly bounded and described in accordance with a Survey Plan prepared by Barton & Martin Engineers, a division of Vollmer Associates LLP, dated June 06, 2005, Project Number 200463047 as follows to wit:

Beginning at an interior point, said interior point is located at the following fourteen courses and distances from a monument found on the West side of Broad Street (300' wide) extended, said monument being the southerly intersection of the Southerly right of way line of Now or Formerly Consolidated Rail Corporation with the Southwesterly line of lands of Now or Formerly the Pennsylvania Department of Transportation:

1. South 14 degrees 30 minutes 00 seconds West, a distance of 24 feet to a point;
2. South 75 degrees 30 minutes 00 seconds East, a distance of 1.50 feet to a point;
3. South 14 degrees 30 minutes 00 seconds West, a distance of 30 feet to a point;
4. South 30 degrees 30 minutes 00 seconds East, a distance of 66.47 feet to a point;
5. South 14 degrees 30 minutes 00 seconds West, a distance of 482.85 feet to a point;
6. South 73 degrees 08 minutes 17 seconds East, a distance of 54.11 feet to a point;
7. South 14 degrees 36 minutes 46 seconds West, a distance of 249.15 feet to a point;
8. North 73 degrees 17 minutes 43 seconds West, a distance of 26.42 feet to a point;
9. South 14 degrees 28 minutes 38 seconds West, a distance of 709.37 feet to a point;
10. South 75 degrees 28 minutes 19 seconds East, a distance of 25.48 feet to a point;
11. South 14 degrees 31 minutes 41 seconds West, a distance of 69.25 feet to a point;
12. Southwesterly, by a curve to the left having a radius of 474.00 feet, an arc distance of 124.87 feet, the chord bearing South 06 degrees 58 minutes 53 seconds West, a distance of 124.50 feet to a point;
13. South 00 degrees 33 minutes 56 seconds East, a distance of 1308.88 feet and;
14. North 89 degrees 16 minutes 58 seconds East, a distance of 6334.02 feet to a point;
15. South 00 degrees 00 minutes 00 seconds West, a distance of 60.005 feet to the said point of Beginning and running thence;

1. North 89 degrees 16 minutes 58 seconds East, a distance of 3685.126 feet to a point thence;
2. South 32 degrees 13 minutes 41 seconds West, a distance of 1260.420 feet to a point thence;
3. South 72 degrees 42 minutes 25 seconds West, a distance of 730.649 feet to a point thence;
4. South 87 degrees 25 minutes 47 seconds West, a distance of 991.227 feet to a point thence;
5. North 58 degrees 07 minutes 17 seconds West, a distance of 199.189 feet to a point thence;

6. North 89 degrees 25 minutes 59 seconds West, a distance of 223.450 feet to a point thence;
  7. South 59 degrees 23 minutes 02 seconds West, a distance of 157.287 feet to a point thence;
  8. South 88 degrees 14 minutes 02 seconds West, a distance of 841.404 feet to a point thence;
  9. North 00 degrees 10 minutes 23 seconds West, a distance of 696.607 feet to a point thence;
  10. South 89 degrees 49 minutes 37 seconds West, a distance of 263.816 feet to a point thence;
  11. North 00 degrees 00 minutes 00 seconds East, a distance of 519.599 feet to the point and place of Beginning.
- Containing 85 Acres of land more or less.

*Edward G. Rendell*

Governor

**Fiscal Note:** 2009-14. No fiscal impact; (8) recommends adoption.

[Pa.B. Doc. No. 10-94. Filed for public inspection January 15, 2010, 9:00 a.m.]

### Strategic Development Areas; 2006-10

December 22, 2006

*Whereas*, there exists in this Commonwealth areas of economic distress that require coordinated efforts by private and public entities to enable these areas to make significant contributions to the economic and social well-being of the Commonwealth; and

*Whereas*, Act 151 of 2006, provides that the Governor may designate property within the Commonwealth as Proposed Strategic Development Areas; and

*Whereas*, the Commonwealth must, on occasion, make timely and flexible economic development decisions to address and assist communities that are in vital need of improvement.

*Now, Therefore*, I, Edward G. Rendell, Governor of the Commonwealth of Pennsylvania, by virtue of the authority vested in me by the Constitution of the Commonwealth of Pennsylvania and other laws of the Commonwealth, do hereby proclaim the following site as a Proposed Strategic Development Area as provided by Act 151 of 2006.

1. Proposed SDA site. The following parcel of property is hereby designated by the Governor as a Proposed Strategic Development Area: In the City of Philadelphia, Philadelphia County, a 79.72 acre site having a mailing address of 5501 Whitaker Avenue, Philadelphia, PA 19124, as more fully described in Exhibit A attached hereto and made a part hereof.

2. Definition. For purposes of this Executive Order, Strategic Development Area shall mean "a clearly defined geographic area consisting of deteriorated property as designated by the Governor."

3. Time frame. Each Proposed Keystone Opportunity Improvement Subzone listed above shall be eligible for the tax exemptions, deductions, abatements, or credits provided by Act 151 of 2006 for a period of 15 years from the date of its designation as a Strategic Development Area by the Department of Community and Economic Development.

4. Designation. The Department of Community and Economic Development shall designate the above-described parcel of property as a Strategic Development Area, in accordance with Act 151 of 2006, following the timely submission of completed applications and approvals by each of the political subdivisions located within the parcel.

5. Relationship With Other Agencies. All agencies under the Governor's jurisdiction shall cooperate with and provide assistance to the Strategic Development Area in performing their revitalization functions.

6. Effective Date. This Executive Order shall take effect immediately and shall remain in effect unless revised or rescinded by the Governor.

ALL THOSE CERTAIN three tracts of land situate in the City of Philadelphia being more fully bounded and described as follows:

### Exhibit A

#### Tract 1:

**ALL THAT CERTAIN** lot or piece of ground with the buildings and improvements thereon erected, situated in the Thirty-fifth Ward of the City of Philadelphia, described in accordance with an Official Plan of Property (FF-509) made February 17, 1994 by Joseph P. Muldowney, Surveyor and Regulator of the Eighth Survey District, as follows: BEGINNING at a point on the Northwesterly side of Langdon Street (legally open 60' wide) at the distance of 410.000' Northwestwardly from the Southwesterly side of Godfrey Avenue (legally open 80' wide); thence extending Northwestwardly along a line curving to the left having a radius of 375.000', the arc distance of 256.345' to a point of reverse curve; thence extending Northwestwardly along a line curving to the right having a radius of 275.000' the arc distance of 142.070' to a second point of reverse curve; thence extending Southwestwardly along a line curving to the left having a radius of 50.000', the arc distance of 64.519' to a point of tangency; thence extending South 39 degrees 03 minutes 33 seconds West, the distance of 584.456' to a point of curve; thence extending Southwestwardly along a line curving to the right having a radius of 450.000', the arc distance of 107.730' to a point of reverse curve; thence extending Southwestwardly along a line curving to the left having a radius of 250.000', the arc distance of 59.632' to a point of tangency; thence extending South 39 degrees 06 minutes 33 seconds West, the distance of 267.408' to a point on the Northeasterly right-of-way line of the Philadelphia and Frankford Railroad; thence extending North 34 degrees 26 minutes 01 second West, partly along the said Northeasterly right-of-way line, the distance of 858.760' to a point of intersection of the said Northeasterly right-of-way line of the Philadelphia and Frankford Railroad and the Southeasterly right-of-way line of the Oxford Road Branch of the Connecting Railway; thence extending North 39 degrees 10 minutes 13 seconds East, along the said Southeasterly right-of-way line of the Oxford Road Branch of the Connecting Railway, the distance of 1483 . I 50' to a point; thence extending South 52 degrees 37 minutes 39 seconds East, along the Northeasterly right-of-way line of the said Oxford Road Branch of the Connecting Railway, the distance of 54.205' to a point of angle; thence extending Northeastwardly along the said Southeasterly right-of-way line of the Oxford Road Branch of the Connecting Railway along a line curving to the right having a radius of 11330.552', the arc distance of 1039. I 66' to a point of angle; thence extending Southwestwardly along a line curving to the left having a radius of 903.104' the arc distance of 572.671' to a point of tangency; thence extending South 06 degrees 34 minutes 08 seconds East the distance of 584. 573' to a point; thence extending South 5 2 degrees 18 minutes 07 seconds East, the distance of 10.0 16' to a point on the Northwesterly side and head of Sanger Street (legally open 70' wide); thence extending South 38 degrees 47 minutes 40 seconds West, along the said Northwesterly side and head of Sanger Street, the distance of 70.013' to a point on the said Southwesterly side of Sanger Street; thence extending South 52 degrees 18 minutes 07 seconds East, along the said Southwesterly side of Sanger Street, the distance of 417.757' to a point of intersection with the said Northwesterly side of Langdon Street; thence degrees 47 minutes



40 seconds West, along the said Northwesterly side of Langdon Street, the distance of 54 9. 163' to the first mentioned point and place of beginning. CONTAINING in area 1,960,861 Sq. Ft., more or less, 45.01517 acres, more or less.

**Tract 2:**

**ALL THAT CERTAIN** lot or piece of ground with the buildings and improvements thereon erected, situate in the Thirty-fifth Ward of the City of Philadelphia, and described in accordance with an Official Plan of Property made February 17, 1994 by Joseph P. Muldowney, Surveyor and Regulator of the Eighth Survey District as follows: BEGINNING at a point on the Northwesterly side of Summerdale Avenue (legally open 80 feet wide) which point is measured Northeastwardly along the said Northwesterly side of Summerdale Avenue, and partly crossing the Right of Way (variable width) of the east bound main track of the Philadelphia and Frankford Railroad, the distance of 438.408' from a point of intersection formed by the said Northwesterly side of Summerdale Avenue and the Northeasterly side of Foulkrod Street (legally open 50 feet wide); THENCE extending N 34 degrees 26' 01" W along the Northeasterly side of a Right of Way (variable width) of the Philadelphia and Frankford Railroad, the distance of 565.053' to a point; THENCE continuing along the Southeasterly side of said Right of Way N. 38 degrees 47 minutes, 40 seconds E., the distance of 10.444 feet to a point; THENCE continuing along the Northeasterly side of partly along land to the Northeast referenced as plate 140 N 21 Lot No, 92 Railroad Deed (Deed Book DCC-1956-001-dated May 22,1979) of said Right of Way N. 34 degrees 26 minutes 01 seconds W., the distance of 451.061 feet to a point; THENCE continuing along the Southeasterly side of said Right of Way N. 38 degrees 47 minutes, 40 seconds E., the distance of 15,667 feet to a point; THENCE continuing along the Northeasterly side of said Right of Way N 34 degrees, 26 minutes, 01 seconds W" the distance of 12,142 feet to a point; THENCE extending N 39 degrees 06 minutes 33 seconds E. 1 the distance of 267.408 feet to a point, of curve; THENCE extending Northeasterly along a line curving to the right having a radius of 250,000 feet, the arc distance of 59,632 feet to a point of reverse curve; THENCE extending Northeasterly along a line curving to the left having a radius of 450,000 feet, the arc distance of 101.730 feet to a point of tangency; THENCE extending N 39 degrees, 03 minutes, 33 seconds E" the distance of 584.456 feet to a point of curve; THENCE extending Northeasterly along a curve to the right having a radius of 50,000 feet, the arc distance of 64,519 feet to a point of reverse curve; THENCE extending Southeasterly along a line curving to the left having a radius 01'275,000 feet, the arc distance 0042,070 feet to a second point of reverse curve; THENCE extending Southeasterly along a line curving to the right having a radius of 375,000 feet, the arc distance 01'256345 feet to a point on the Northwesterly side of Langdon Street (legally open 60 feet wide); THENCE extending S, 38 degrees 47 minutes, 40 seconds W, along the said Northwesterly side of Langdon Street the distance of 410,000 feet to a point of intersection with the Southwesterly side of Godfrey Avenue (legally open 80 feet wide); THENCE extending S, 29 degrees 29 minutes 38 seconds E., along the said Southwesterly side of Godfrey Avenue the distance of 501.793 feet to a point; THENCE extending S, 38 degrees 30 minutes 38 seconds W, the distance of 152.4 13 feet to a point; THENCE extending S, 51 degrees 29 minutes, 22 seconds, E., the distance of 105,000 feet to a point on the said Northwesterly side of Summerdale Avenue; THENCE extending S, 38 degrees, 30 minutes, 39 seconds W" along the said Northwesterly side of Summerdale Avenue the distance 01'821.730 feet to the first mentioned point and place of beginning,

**Tract 3:**

**ALL THAT CERTAIN** lot or piece of ground with the buildings and improvements thereon erected, situated in the Thirty-Fifth Ward of the City of Philadelphia, and described in accordance with an official Plan of Property (FF-509) made February 17, 1994 by Joseph P. Muldowney, Surveyor and Regulator of the Eighth Survey District as follows: BEGINNING at a point on the southeasterly side of Whitaker Avenue (legally open

73' wide) which point is measured Northeastwardly along the said Southeasterly side of Whitaker Avenue, and partly crossing the Right of Way (variable width) of the east hound main track of the Philadelphia and Frankford Railroad, the distance of 1545.995' from a point of intersection formed by the said Southeasterly side of Whitaker Avenue and the Northeasterly side of Adams. Avenue legally open variable width, State Route No. 1001); THENCE extending N. 39° 10' 1.3" E, along the said Southeasterly side of Whitaker Avenue, the distance of 984.576' to a point of intersection formed by the said Southeasterly side of Whitaker Avenue and the Northeasterly side of Godfrey Avenue (80' wide); THENCE extending N. 46°1.3' 04" W. along the said Northeasterly side of Godfrey Avenue, the distance of 34.115' to a point; THENCE extending distance of 368.594' to a point; THENCE extending S. 52°37' 39" E. , the distance of 15.010' to a point; THENCE extending N. 39°10' 13"E. , the distance of 38.333' to a point; THENCE extending S. 76°22' 47"E. , the distance of 99.792' to a point; THENCE extending S.52°1.8'07"E. , the distance of 251.694' to a point on the Northwesterly side of the Right of Way (variable width) of the Oxford Road Branch of the Connecting Railway; THENCE extending along the said Northwesterly side of said Right of Way and Southwestwardly along the arc of a circle curving to the left having a radius of 11530.552° the arc distance of 194.837' to a Point of tangency; THENCE continuing long the said northwesterly side of said Right of ay S.39°10' 13"W., the distance of 987.354' to a point; THENCE continuing along the said southwesterly side of said Right of Way S. 47°23' 28"E., the distance of 30.054' to a point; THENCE extending along the land to the southeast held by the Philadelphia Electric Company in Fee and the land to the northwest known as Easement No. 2 for. Subway Purposes (Deed Book JRS #374 Page 157) S. 39°10'13"W., the distance of 337.458' to a point on the Northeasterly side of Right of Way (variable width) of the Philadelphia and Frankford Railroad; THENCE along the said northeasterly side of said Right of Way N.34°26'01"W., the distance of 335.199' to a point; THENCE continuing along the northwesterly side of said Right of Way S38°58' 13"W., the distance of 26.087' to a point; THENCE continuing along the said northeasterly side of said Right of Way N. 34°26' 01"W., the distance of 30.771' to the first mentioned point and place of beginning. Being known as Option "D" on said plan and containing in Area 492,206. Sq. Ft, 11.29951 Acres

*Edmund G. Rendell*

Governor

**Fiscal Note:** 2009-09. No fiscal impact; (8) recommends adoption.

[Pa.B. Doc. No. 10-95. Filed for public inspection January 15, 2010, 9:00 a.m.]

## Strategic Development Area, Butler County; 2007-01

April 24, 2007

*Whereas*, there exists in this Commonwealth areas of economic distress that require coordinated efforts by private and public entities to enable these areas to make significant contributions to the economic and social well-being of the Commonwealth; and

*Whereas*, Article XXIX-C of the Tax Reform Code (herein the Act) provides that the Governor may designate property within the Commonwealth as Proposed Strategic Development Areas; and

*Whereas*, the Commonwealth must, on occasion, make timely and flexible economic development decisions to address and assist communities that are in vital need of improvement.

*Now, Therefore*, I, Edward G. Rendell, Governor of the Commonwealth of Pennsylvania, by virtue of the authority vested in me by the Constitution of the Commonwealth of Pennsylvania and other laws of the Commonwealth, do hereby proclaim the following:

1. Proposed Strategic Development Area site. The following parcel of property is hereby designated as a Proposed Strategic Development Area:

In the Township of Cranberry, Butler County, Pennsylvania a certain tract of land containing 104.766 acres and being more fully bounded and described in Exhibit A attached hereto and incorporated herein.

2. Definition. For purposes of this Executive Order, Strategic Development Area shall have the meaning ascribed to it in the Act.

3. Time frame. The Proposed Strategic Development Area listed above shall be eligible for the tax exemptions, deductions, abatements, or credits provided by the Act and for the period described therein.

4. Designation. The Department of Community and Economic Development shall designate the above-described parcel of property as a Strategic Development Area, in accordance with the Act, following the timely submission of completed applications and approvals as required by the Act.

5. Relationship With Other Agencies. All agencies under the Governor's jurisdiction shall cooperate with and provide assistance to the Strategic Development Area in performing their revitalization functions.

#### EXHIBIT A

#### STRATEGIC DEVELOPMENT AREA DESCRIPTION

All that certain lot or parcel of land situate in the Township of Cranberry, County of Butler, Commonwealth of Pennsylvania, more particularly bounded and described as follows:

Beginning at a point on the easterly right of way line of Cranberry Woods Drive (private), at the southwest corner of an Outparcel of the Revision No. 1 to Cranberry Woods Plan No. 1, recorded in Plan Book Volume 277, Pages 36-37; thence along the southerly line of an Outparcel of the Revision No. 1 to Cranberry Woods Plan No. 1, the following three (3) courses and distances, viz: South 61° 51' 54" East, 302.32' to a point; thence North 89° 02' 46" East, 332.79' to a point; thence North 00° 57' 14" West, 70.00' to a point at the southwest corner of Lot 1B of the Revision No. 1 Knockout Plan of Lots No. 2, recorded in Plan Book Volume 276, Pages 28-29; thence along the southerly line of Lot 1B and Lot 1A of the Revision No. 1 Knockout Plan of Lots No. 2, North 89° 02' 46" East, 237.15' to a point; thence through Rev. Parcel 1 of the Revision No. 1 to Cranberry Woods Plan No. 1, recorded in Plan Book Volume 277, Pages 36-37, South 58° 29' 47" East, 947.59' to a point on the westerly line of property now or formerly The Pittsburgh Association for the Improvement for the Poor; thence along the westerly line of property now or formerly The Pittsburgh Association for the Improvement for the Poor, South 00° 58' 10" East, 89.48' to a point; thence through Rev. Parcel 1 of the Revision No. 1 to Cranberry Woods Plan No. 1, the following nine (9) courses and distances, viz: thence by an arc of a circle deflecting to the left in a southwestwardly direction, having a radius of 3650.00', an arc distance of 309.69' (chord bearing and distance, South 09° 27' 25" West, 309.60') to a point; thence South 07° 01' 34" West, 94.82' to a point; thence by an arc of a circle deflecting to the right in a southwestwardly direction, having a radius of 890.00', an arc distance of 837.41' (chord bearing and distance, South 33° 58' 53" West, 806.86') to a point; thence South 60° 56' 11" West, 340.77' to a point; thence by an arc of a circle deflecting to the left in a southwestwardly direction, having a radius of 400.00', an arc distance of 181.06' (chord bearing and distance, South 47° 58' 09" West, 179.52') to a point; thence by an arc of a circle deflecting to the right in a southwestwardly direction, having a radius of 970.00', an arc distance of 379.66' (chord bearing and distance, South 46° 12' 52" West, 377.24') to a point; thence South 57° 25' 39" West, 339.16' to a point; thence by an arc of a circle deflecting to the right in a southwestwardly direction, having a

radius of 1170.00', an arc distance of 240.89' (chord bearing and distance, South 63° 19' 33" West, 240.46') to a point; thence South 69° 13' 26" West, 311.41' to a point on the easterly right of way line of Cranberry Woods Drive (private); thence along the easterly right of way line of Cranberry Woods Drive (private), the following nine (9) courses and distances, viz: by an arc of a circle deflecting to the right in a northwestwardly direction, having a radius of 370.00', an arc distance of 868.14' (chord bearing and distance, North 43° 33' 32" West, 682.26') to a point; thence North 23° 39' 29" East, 457.29' to a point; thence by an arc of a circle deflecting to the left in a northwardly direction, having a radius of 530.00', an arc distance of 481.63' (chord bearing and distance, North 02° 22' 31" West, 465.23') to a point; thence North 28° 24' 31" West, 137.14' to a point; thence by an arc of a circle deflecting to the right in a northwestwardly direction, having a radius of 470.00', an arc distance of 198.47' (chord bearing and distance, North 16° 18' 40" West, 197.00') to a point; thence North 04° 12' 50" West, 252.73' to a point; thence by an arc of a circle deflecting to the right in a northeastwardly direction, having a radius of 370.00', an arc distance of 491.22' (chord bearing and distance, North 33° 49' 11" East, 455.93') to a point; thence North 71° 51' 12" East, 248.35' to a point; thence by an arc of a circle deflecting to the left in a northeastwardly direction, having a radius of 560.00', an arc distance of 427.30' (chord bearing and distance, North 49° 59' 39" East, 417.01') to the place of beginning.

Contains 4,563,594.75 Sq. Ft. or 104.766 Acres

*Edmund G. Rendell*

Governor

**Fiscal Note:** 2009-10. No fiscal impact; (8) recommends adoption.

[Pa.B. Doc. No. 10-96. Filed for public inspection January 15, 2010, 9:00 a.m.]

## Strategic Development Area, Westmoreland County; 2007-02

April 30, 2007

*Whereas*, there exists in this Commonwealth areas of economic distress that require coordinated efforts by private and public entities to enable these areas to make significant contributions to the economic and social well-being of the Commonwealth; and

*Whereas*, Article XXIX-C of the Tax Reform Code (herein the Act) provides that the Governor may designate property within the Commonwealth as Proposed Strategic Development Areas; and

*Whereas*, the Commonwealth must, on occasion, make timely and flexible economic development decisions to address and assist communities that are in vital need of improvement.

*Now, Therefore*, I, Edward G. Rendell, Governor of the Commonwealth of Pennsylvania, by virtue of the authority vested in me by the Constitution of the Commonwealth of Pennsylvania and other laws of the Commonwealth, do hereby proclaim the following:

1. Proposed Strategic Development Area site. The following parcel of property is hereby designated as a Proposed Strategic Development Area:

In the townships of Sewickley and Hempfield, Westmoreland County, Pennsylvania more fully bounded and described in Exhibit A attached hereto and incorporated herein.

2. Definition. For purposes of this Executive Order, Strategic Development Area shall have the meaning ascribed to it in the Act.

3. Time frame. The Proposed Strategic Development Area listed above shall be eligible for the tax exemptions, abatements, or credits provided by the Act and for the period described therein.

4. Designation. The Department of Community and Economic Development shall designate the above-described parcel of property as a Strategic Development Area, in accordance with the Act, following the timely submission of completed applications and approvals as required by the Act.

5. Relationship With Other Agencies. All agencies under the Governor's jurisdiction shall cooperate with and provide assistance to the Strategic Development Area in performing their revitalization functions.

#### EXHIBIT A

### STRATEGIC DEVELOPMENT AREA DESIGNATION FOR SEWICKLEY AND HEMPFIELD TOWNSHIPS, WESTMORELAND COUNTY, PENNSYLVANIA

All that certain lot or piece of ground situate in the Townships of Sewickley and Hempfield, County of Westmoreland and State of Pennsylvania, bounded and described as follows:

Beginning at the Southwest corner of the within described tract of land at the intersection of the Northern boundary of the proposed relocation of State Route No. 31, with the Right of Way line of the Pennsylvania Railroad; thence by said Right of Way line of the Pennsylvania Railroad, North 27° 47' West, 194.38 feet to line of land now or formerly of David W. Highberger Heirs; thence by said land of the Highberger Heirs, North 58° 31' East, 395.57 feet to land conveyed by Gaynell Highberger Hoke, widow, to Westinghouse Electric Corporation, by deed dated June 11, 1956, recorded in Deed Book 1591, page 542; thence along same and along land formerly of Mary Tomajko Heirs, North 30° 44' West, 469.50 feet to land formerly of Andrew Oravik, et ux; thence along same, South 58° 46' West, 370.19 feet to a point on the Right of Way line of the Pennsylvania Railroad; thence by said Railroad Right of Way, North 27° 47' West, 934.46 feet to a point on land now or formerly of J. M. Powers; thence by same, North 62° 18' East, 322.30 feet to lands formerly of Mary Tomajko Heirs; thence along same, North 30° 44' West, 67.08 feet to land now or formerly of Domenico Brolio; thence along same, North 16° 23' 10" East, 460.51 feet to an old corner post; thence continuing along same, North 39° 56' West, 504.06 feet to an old corner post; thence continuing along same, North 84° 53' 10" West, 635.18 feet to the Right of Way line of the Yukon Branch of the Pennsylvania Railroad; thence by said Railroad Right of Way line, North 27° 47' West, 97.29 feet to a point in Sewickley Creek; thence by said Creek, North 44° 59' 30" East, 448.68 feet to a point on the East bank of said Creek; thence by land now or formerly of George Borkovich, North 7° 07' 10" West, 845.70 feet to a point; thence by land now or formerly of William Hesson, South 81° 37' 10" East, 132.69 feet to a point in a Red Dog Road; thence by said Red Dog Road and by land now or formerly of Caroline Packer, the following four (4) courses and distances: (1) South 4° 57' East, 56.16 feet to a point; (2) South 13° 17' 10" East, 147.96 feet to a point; (3) South 4° 44' 10" West, 109.37 feet to a point; (4) South 24° 46' 20" East, 114.14 feet to a point; thence by said land of Caroline Packer, North 60° 37' 50" East, 742.50 feet to an old corner post; thence by same and land now or formerly of J. W. Wukelich, North 30° 36' 10" West, 542.34 feet to an old corner post; thence by land now or formerly of Westmoreland Coal Company, North 41° 40' 30" East, 329.58 feet to an old corner tree; thence by land now or formerly of M. Row, the following three (3) courses and distances: (1) South 64° 35' East, 54.45 feet to a point; (2) North 75° 19' East, 491.34 feet to a point; (3) South 53° 45' 30" East, 181.49 feet to an old corner post; thence by land now or formerly of David Griffith, South 56° 57' 30" West, 99.50 feet to an old corner post; thence along same, South 49° 45' 30" East, 1,653.73 feet to a point at line of land now or formerly of Thomas Henry; thence along same, South 51° 13' 30" West, 232.07 feet and North 74° 16' 10" East, 576.29 feet to a tree on lands now or formerly of Ross Graham; thence along same, North 40° 45' 10" East, 1,068.10 feet to a point on lands now or formerly of

Harold Hoffman; thence along same, North 70° 30' 20" East, 330 feet and South 85° 43' 40" East, 198 feet to a point on Pennsylvania Legislative Route No. 64117; thence along same, and by land now or formerly of George Rocker, South 23° 11' 30" East, 213.78 feet, South 8° 29' 30" East, 257.18 feet and South 4° 25' 10" West, 62.12 feet to a point; thence leaving said Road and continuing along lands now or formerly of George Rocker and lands now or formerly of Charles Lehmann, South 72° 58' East, 1,502.64 feet to a point; thence continuing along lands now or formerly of Charles Lehmann, North 32° 26' 40" East, 532.49 feet; South 85° 09' 30" East, 195.70 feet and North 23° 19' 10" West, 830.25 feet to land now or formerly of John Anderson; thence along same, South 62° 17' 10" East, 3,123.02 feet to land now or formerly of David Fox; thence along same, South 38° 18' 30" West, 392.58 feet and South 51° 08' 30" East, 1,364.45 feet to a point on Pennsylvania Legislative Route No. 64164 at line of land now or formerly of Oliver Beck; thence along same, South 70° 39' 10" West, 380.97 feet to a point; thence leaving said Road continuing along land now or formerly of Oliver Beck, South 27° 01' 30" East, 1,311.75 feet to land now or formerly of James Sheffler; thence along same, South 70° 33' 50" West, 401.01 feet and South 28° 59' 50" East, 1,271.07 feet to a point in Sewickley Creek; thence by said Creek and the Northerly Right of Way line of Pennsylvania Railroad the following eight (8) courses and distances: (1) North 85° 08' West, 280.25 feet; (2) South 85° 23' West, 450 feet; (3) South 87° 58' West, 535 feet; (4) South 85° 44' West, 795 feet; (5) North 89° 48' West, 258 feet; (6) South 80° 30' West, 210 feet; (7) South 69° 22' West, 141 feet; (8) South 00° 43' East, 210.80 feet; thence by said Sewickley Creek and crossing said Right of Way of the Pennsylvania Railroad and land now or formerly of Alex Soeder, South 3° 59' West, 321.95 feet; thence by lands now or formerly of Alex Soeder, of A. Steck and of W. S. Kelly, and by said Sewickley Creek, the following four (4) courses and distances: (1) South 78° 58' West, 1,018.83 feet; (2) South 86° 38' West, 340.59 feet; (3) North 81° 59' 40" West, 775.56 feet; (4) North 55° 32' 50" West, 479.98 feet to a point; thence by lands now or formerly of J. H. McCune and re-crossing the Right of Way of Pennsylvania Railroad the following two (2) courses and distances: (1) North 6° 49' 10" East, 660 feet, (2) North 50° 36' 50" West, 450.60 feet to a point on Old Pennsylvania Legislative Route No. 64164; thence by same and land formerly of John Fabian, South 80° 07' 40" West, 505.32 feet to a point on land now or formerly of Henry Frank Miller; thence along same, North 60° 56' 20" West, 50.75 feet and North 65° 14' 30" East, 424.63 feet to a point on the Northern boundary of proposed relocation of State Route 31; thence along said boundary line, North 78° 09' West, 302.88 feet to a point; thence along same, by the arc of a circle curving to the right and having a radius of 360.06 feet an arc distance of 229.48 feet to a point; thence along same, North 41° 38' West, 130.69 feet to a point; thence along same, Northeasterly by the arc of a circle curving to the right and having a radius of 45 feet, an arc distance of 112.69 feet to a point on the Southern boundary of the proposed relocation of Pennsylvania Legislative Route No. 64164; thence by said Southern boundary line, South 78° 09' East, 705.60 feet to a point; thence along same, Northeasterly by the arc of a circle, curving to the left, and having a radius of 489.28 feet, an arc distance of 189.13 feet to a point on Pennsylvania Legislative Route No. 64164 at line of lands formerly of John Fabian; thence along same, North 59° 34' 30" East, 168.29 feet to a point thereon at the Northern boundary line of the proposed relocation of Pennsylvania Legislative Route No. 64164 at line of land now or formerly of Henry Frank Miller; thence along same, North 30° 25' 30" West, 30 feet to a point; thence continuing along same, Southwesterly by the arc of a circle curving to the right and having a radius of 429.28 feet, an arc distance of 316.74 feet to a point; thence continuing along same, North 78° 09' West, 1,174.67 feet to a point on Pennsylvania Legislative Route No. 64117 at line of land of Westinghouse Electric Corporation, formerly of Clarence Rhodes; thence along same, South 16° 18' 10" West, 263.43 feet to the Northern boundary of the proposed relocation of State Route 31; thence along same, North 78° 09' West, 752.13 feet to a point; thence continuing along same, Southwesterly by the arc of a circle curving to the left and having a radius

## THE GOVERNOR

of 2,352.01 feet, an arc distance of 1,512.65 feet to a point on the Right of Way line of the Pennsylvania Railroad aforesaid at the place of beginning.

Excepting therefrom and thereout a parcel of land conveyed by Westinghouse Electric Corporation to West Penn Power Company, by deed dated October 17, 1968 and recorded in Deed Book Volume 2007, page 934.

Excepting therefrom and thereout a parcel of ground conveyed by Westinghouse Electric Corporation to Powerex, Inc., by deed dated December 19, 1985 and recorded in Deed Book Volume 2645, page 571.

Excepting therefrom and thereout a parcel of ground conveyed by Westinghouse Electric Corporation to Clarence Hall, et ux., by deed dated June 2, 1959 and recorded in Deed Book Volume 1756, page 257.

Excepting any such portion of the hereinabove described tract of land which may be determined to be situate in the Township of South Huntingdon, Westmoreland County, Pennsylvania.

*Edmund G. Rendell*

*Governor*

**Fiscal Note:** 2009-11. No fiscal impact; (8) recommends adoption.

[Pa.B. Doc. No. 10-97. Filed for public inspection January 15, 2010, 9:00 a.m.]

# THE COURTS

## Title 231—RULES OF CIVIL PROCEDURE

### PART I. GENERAL

[ 231 PA. CODE CH. 1910 ]

#### Amendment of Rule of Civil Procedure 1910.16-2; Civil Procedural Rules; No. 518

##### Order

*Per Curiam:*

*And Now*, this 5th day of January, 2010, upon the recommendation of the Domestic Relations Procedural Rules Committee; the recommendation not having been published for comment as the proposed amendments are perfunctory in nature, pursuant to Pa.R.J.A. No. 103(a)(3):

*It Is Ordered* pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Pennsylvania Rule of Civil Procedure 1910.16-2 is amended as follows.

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

PATRICIA NICOLA,  
*Chief Clerk*

##### Annex A

#### TITLE 231. RULES OF CIVIL PROCEDURE

##### PART I. GENERAL

##### CHAPTER 1910. ACTIONS FOR SUPPORT

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

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

\* \* \* \* \*

##### (c) *Monthly Net Income.*

(1) Unless otherwise provided in these rules, the court shall deduct only the following items from monthly gross income to arrive at net income:

(A) federal, state, and local income taxes;

(B) F.I.C.A. payments (**Social Security, Medicare and Self-Employment taxes**) and non-voluntary retirement payments;

(C) union dues; and

(D) alimony paid to the other party.

\* \* \* \* \*

[Pa.B. Doc. No. 10-98. Filed for public inspection January 15, 2010, 9:00 a.m.]

### PART I. GENERAL

[ 231 PA. CODE CH. 3000 ]

#### Proposed Amendment of Rule 3135 Governing Correction of Sheriff's Deed to Real Property; Proposed Recommendation No. 244

The Civil Procedural Rules Committee proposes that Rule of Civil Procedure 3135 governing the correction of

the sheriff's deed to real property be amended as set forth herein. The proposed recommendation is being submitted to the bench and bar for comments and suggestions prior to its submission to the Supreme Court of Pennsylvania.

All communications in reference to the proposed recommendation should be sent no later than February 26, 2010, to:

Karla M. Shultz, Esquire  
Counsel

Civil Procedural Rules Committee  
601 Commonwealth Avenue  
Suite 6200

P. O. Box 62635  
Harrisburg, PA 17106-2635

or E-Mail to  
civil.rules@pacourts.us

The Explanatory Comment which appears in connection with the proposed recommendation has been inserted by the Committee for the convenience of the bench and bar. It will not constitute part of the rules of civil procedure or be officially adopted or promulgated by the Court.

*By the Civil Procedural Rules Committee*

STEWART L. KURTZ,  
*Chair*

##### Annex A

#### TITLE 231. RULES OF CIVIL PROCEDURE

##### PART I. GENERAL

##### CHAPTER 3000. JUDGMENTS

#### Subchapter D. ENFORCEMENT OF MONEY JUDGMENTS FOR THE PAYMENT OF MONEY

#### Rule 3135. Sheriff's deed to real property. Correc- tion of deed.

(a) When real property is sold in execution and no petition to set aside the sale has been filed, the sheriff, at the expiration of twenty days **but no later than 40 days** after either the filing of the schedule of distribution or the execution sale if no schedule of distribution need be filed, shall execute and acknowledge before the prothonotary a deed to the property sold. The sheriff shall forthwith deliver the deed to the appropriate officers for recording and for registry if required. Confirmation of the sale by the court shall not be required.

**Official Note:** See Rule 3136(a) governing the filing of the schedule of distribution.

(b) If the sheriff has made a defective return of the execution proceeding or has executed a defective deed, including the erroneous description of the real estate, the court upon petition of the purchaser or the purchaser's successors in title may correct the return or deed or order that a new return or deed be executed.

##### Explanatory Comment—2005

Prior to the present amendment, Rule 3135(a) governing execution sales provided in part that "the sheriff, at the expiration of 10 days after the filing of the schedule of distribution, shall execute and acknowledge before the prothonotary a deed to the property sold." There was a gap in the rule because Rule 3136(a) provides that a schedule of distribution need not be filed where the real property is sold to the plaintiff for costs only.



The amended rule eliminates this gap. Where a schedule of distribution is not required, the sheriff must execute and acknowledge the deed [ **within twenty days of** ] **no sooner than twenty days after** the date of the sale.

The rule has also been amended by increasing from ten to 20 days the time in which the sheriff must execute and acknowledge a deed in a sale as to which a schedule of distribution is required to be filed. The uniform 20-day period is therefore applicable in all cases and eliminates potential confusion.

#### Explanatory Comment

The Civil Procedural Rules Committee is proposing the amendment of Rule 3135 in two respects. First, current Rule 3135, which provides for the sheriff to execute a sheriff's deed only at the expiration of 20 days after either the filing of a schedule of distribution or the execution sale, is inconsistent with the 2005 explanatory comment, which advises that where a schedule of distribution is not required, the sheriff must execute and acknowledge the deed within 20 days of the date of the sale. The 2005 explanatory comment was incorrect in that if the sheriff were required to execute the deed within 20 days of the date of the sale where no schedule of distribution is required, there would be no time for the debtor to petition the court before the delivery of the sheriff's deed if the sheriff were to execute the deed immediately after the sale.

Second, Rule 3135 has been amended to provide a set time period within which the sheriff must execute the deed after either the filing of the schedule of distribution or the execution sale if no schedule of distribution is required. Current Rule 3135 only provides a minimum amount of time, that is, 20 days after the filing of the schedule of distribution or the execution sale if no schedule of distribution is required, after which the sheriff is authorized to execute the deed. It sets no future date by which the sheriff must have executed the deed. The proposed amendment establishes a 20 to 40 day window within which the sheriff must execute the deed after either the filing of the schedule of distribution or the sheriff's sale. This time period will ensure that a debtor has sufficient time to petition the court to set aside the sale under Rule 3132, while encouraging the timely execution of the deed by the sheriff.

[Pa.B. Doc. No. 10-99. Filed for public inspection January 15, 2010, 9:00 a.m.]

## Title 255—LOCAL COURT RULES

### BERKS COUNTY

**In Re: Administrative Order Amending Rule of Criminal Procedure 117; Prothonotary No. 09-116; Clerk of Courts No. CP-06-AD-000028-2009**

#### Order

*And Now*, this 28th day of December, 2009, it is *Ordered* that Berks County Rule of Criminal Procedure 117 Coverage: Issuing Warrants; Preliminary Arraignments and Summary Trials; and Setting and Accepting Bail is amended as follows. If is further *Ordered* that the

amended B.R.Crim.P. 117 shall become effective thirty days after publication in the *Pennsylvania Bulletin*.

The District Court Administrator of Berks County is *Ordered* and *Directed* to provide copies to the appropriate entities pursuant to Pa.R.Crim.P. 105:

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

2. Distribute two (2) certified paper copies of this Administrative Order and Local Rule and one (1) computer diskette or CD-ROM containing this Order and Rule to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

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

4. Keep continuously available for public inspection copies of the Administrative Order and Local Rule in the office of the Prothonotary or Clerk of Courts.

*By the Court*

JEFFREY L. SCHMEHL,  
*President Judge*

### BERKS COUNTY RULES OF CRIMINAL PROCEDURE

#### AVAILABILITY OF ISSUING AUTHORITIES

**Rule 117. Coverage: Issuing Warrants; Preliminary Arraignments and Summary Trials; and Setting and Accepting Bail.**

A. All Magisterial District Judge Offices shall be open for business Mondays through Fridays, excluding legal holidays, from 9:00 AM to 5:00 PM unless a change to these business hours is approved by the President Judge. Magisterial District Judges shall be available during these hours for all court business.

B. Reading Central Court, a centralized preliminary hearing court designated as Magisterial District 23-0-02, shall be open every Friday beginning at 8:30 AM until preliminary hearings are completed, excluding legal holidays, in the Berks County Courthouse.

1. The Magisterial District Judge of Magisterial Districts 23-1-02, 23-1-03, 23-1-04, 23-1-05, 23-2-01 and 23-3-09 shall serve in Reading Central Court on a rotating basis in accordance with the schedule prepared by Special Courts Administration. If a Magisterial District Judge is unable to serve when scheduled for whatever reason, it shall be his/her responsibility to find a replacement and to notify Special Courts Administration.

C. The Berks County Central Arraignment Court (BCCAC), an after hours court designated as Magisterial District 23-0-01, shall be open Mondays through Fridays, 6:00 PM to 6:00 AM the following day, each Saturday 9:00 AM to Sunday 6:00 AM, each Sunday 9:00 AM to Monday 6:00 AM, and all legal holidays from 9:00 AM to 6:00 AM the following day.

1. All Magisterial District Judges and/or Senior Magisterial District Judges on temporary assignment in the Twenty-Third Judicial District shall be scheduled in the BCCAC in accordance with the schedule prepared by Special Courts Administration and approved by the President Judge.

2. A Magisterial District Judge or Senior Magisterial District Judge scheduled in the BCCAC shall be available to provide coverage for emergency petitions brought un-

der the Protection from Abuse Act or the Older Adult Protective Services Act, the issuance of search warrants pursuant to Pa.R.Crim.P. 203 and arrest warrants pursuant to Pa.R.Crim.P. 513, accepting bail, and providing the services required by Pa.R.Crim.P. 117(A)(2)(a), (b), (c), and (d). If a Magisterial District Judge is unable to serve when scheduled for whatever reason, it shall be his/her responsibility to find a replacement and to notify Special Courts Administration and the Communications Center.

D. All Magisterial District Judges shall be scheduled for countywide emergency duty in accordance with an emergency duty schedule prepared by Special Courts Administration and approved by the President Judge.

1. The Magisterial District Judge on emergency duty shall provide continuous coverage for the issuance of search warrants pursuant to Pa.R.Crim.P. 203 and arrest warrants pursuant to Pa.R.Crim.P. 513 when the Magisterial District Judge Offices and the Berks County Central Arraignment Court are closed. If a Magisterial District Judge is unable to serve when scheduled for whatever reason, it shall be his/her responsibility to find a replacement and to notify Special Courts Administration and the Communications Center.

E. Magisterial District Judges and the Clerk of Courts shall be authorized to accept bail in accordance with the provisions and subject to the limitations of the Pennsylvania Rules of Criminal Procedure.

[Pa.B. Doc. No. 10-100. Filed for public inspection January 15, 2010, 9:00 a.m.]

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#### LUZERNE COUNTY

**In Re: Judge Michael T. Toole; Judicial Administration; Doc. No. 336**

#### Order

*Per Curiam:*

*And Now*, this 30th day of December, 2009, upon consideration of the entry of a plea of guilty on December

29, 2009, in the United States District Court for the Middle District of Pennsylvania by Judge Michael T. Toole, of the Court of Common Pleas of Luzerne County, the Order of this Court dated December 3, 2009, is hereby amended and the salary and benefits of Judge Michael T. Toole are terminated.

JOHN A. VASKOV,  
*Deputy Prothonotary*

[Pa.B. Doc. No. 10-101. Filed for public inspection January 15, 2010, 9:00 a.m.]

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## DISCIPLINARY BOARD OF THE SUPREME COURT

### Notice of Suspension

Notice is hereby given that Irwin Jay Katz, having been suspended from the practice of law in the State of Delaware for a period of 3 months by Opinion and Order of the Supreme Court of the State of Delaware decided September 24, 2009, the Supreme Court of Pennsylvania issued an Order dated December 29, 2009, suspending Irwin Jay Katz from the practice of law in this Commonwealth for a period of 3 months, effective January 28, 2010. In accordance with Rule 217(f), Pa.R.D.E., since this formerly admitted attorney resides outside the Commonwealth of Pennsylvania, this notice is published in the *Pennsylvania Bulletin*.

ELAINE M. BIXLER,  
*Secretary*  
*The Disciplinary Board of the*  
*Supreme Court of Pennsylvania*

[Pa.B. Doc. No. 10-102. Filed for public inspection January 15, 2010, 9:00 a.m.]

# RULES AND REGULATIONS

## Title 58—RECREATION

### PENNSYLVANIA GAMING CONTROL BOARD

#### [ 58 PA. CODE CH. 465a ]

#### Jackpot and Credit Meter Payouts

The Pennsylvania Gaming Control Board (Board), under its general authority in 4 Pa.C.S. § 1202(b)(30) (relating to general and specific powers) and the specific authority in 4 Pa.C.S. §§ 1207(3) and (5) and 1322 (relating to regulatory authority of board; and slot machine accounting controls and audits), amends Chapter 465a (relating to accounting and internal controls) to read as set forth in Annex A.

#### *Purpose of the Final-Form Rulemaking*

This final-form rulemaking contains a comprehensive rewrite of the Board jackpot payout regulations. It also expands the scope of these regulations to cover credit meter payouts as well as jackpot payouts.

#### *Explanation of Amendments to Chapter 465a*

Since the adoption of amendments to the Board's regulations governing jackpot payouts in October of 2008, the Board has been discussing the need for additional revisions with slot machine licensees. The slot machine licensees argued that portions of the Board's regulations were not needed given the technological advances in slot monitoring systems and that greater flexibility was needed to improve the operational efficiency of jackpot payouts.

Based on the Board's analysis of the slot machine licensees' comments, a review of the technical advances in slot monitoring systems and the Board's experience gained through the oversight of slot machine licensees' current operations, the Board agrees that further amendments are in order.

First, the Board has expanded the scope of § 465a.26 (related to jackpot and credit meter payouts) to include credit meter payouts as well as jackpot payouts. Credit meter payouts are the payment of the value of the credits on a slot machine. Usually, when patrons are done at a slot machine, they will cash out and receive a gaming voucher for the remaining balance on the slot machine. However, sometimes a voucher will not print because of a jam in the slot machine's printer or the printer may be out of paper. At other times, a slot machine may lock up with credits still on the slot machine. For example, slot machines may lock up when there is a power failure at the licensed facility. Whatever the cause, when this occurs, the slot attendants at the licensed facility use the existing jackpot payment procedures to pay the patron the value of the credits on the slot machine. Therefore, the Board has added credit meter payouts to this section.

More specifically, subsection (a) has been amended by adding credit meter payouts and by deleting unnecessary language pertaining to pouch payments which are addressed in subsection (b)(7) and (8).

In subsection (b)(1), the requirement that both a manual and electronic jackpot/credit meter payout slip be prepared has been amended to delete the requirement for a manual form. Given the technical capabilities of today's slot monitoring systems and the verification requirements that will remain in this rulemaking, there simply is no

need for the redundant manual form. Eliminating the requirement for the manual form will significantly reduce the workload of slot attendants related to jackpot and credit meter payouts and will result in quicker payments to patrons.

The existing requirement in subsection (b)(2) has been relocated to subsection (b)(6).

In subsection (b), former paragraphs (3), (4) and (5), which have been renumbered as paragraphs (2), (3) and (4), have been amended to give slot machine licensees greater flexibility as to who they may designate to act as a witness for jackpot or credit meter payouts of various amounts. This will allow slot machine licensees to make more efficient utilization of their personnel and reduce the potential for delays that could occur if there is a large volume of payouts and only a limited number of individuals who can act as a witness. Also, these revisions make it clear that no witness is required for jackpot or credit meter payouts of less than \$1,200.

Former subsection (b)(6) has been deleted because it does not reflect current practices or recognize advances in technology. Many slot machine licensees allow slot attendants to pay jackpots below a certain level directly from funds that the slot attendant carries in his payment wallet. This eliminates the need for the attendant to go to the cashiers' cage to get the cash to pay a jackpot or credit meter payout. Additionally, some slot machine licensees have installed automated jackpot payout machines on their gaming floors which allow a slot attendant to process a jackpot and receive the cash to pay the patron without going to the cashiers' cage.

Former subsection (b)(7) has also been deleted. Because the Board is no longer requiring the use of the two-part manual jackpot payout slips, a provision listing the items that must be on that form is no longer needed.

Former subsection (b)(8), which is now subsection (b)(5) has been amended to slightly revise and clarify the listing of items that will be required to be printed on the electronically generated jackpot/credit meter payout slips.

As previously noted, subsection (b)(6) now contains the provision that was formerly in subsection (b)(2).

Subsection (b)(7), which was formerly subsection (b)(9), sets forth the requirements that will govern the payment of jackpot or credit meter payouts that are made directly from a slot attendant's impress funds. In the existing regulation, a detailed process was set forth, specifying each step in the payment process. However, the Board believes that that process was overly prescriptive and did not give slot machine licensees the flexibility to establish procedures to meet their individual needs. Accordingly, the Board has deleted these requirements and will allow the slot machine licensees to establish their own procedures as part of their internal controls which will be submitted to the Board for approval. What has been added to this subsection is the list of items that must be included on the manual jackpot/credit meter payout slip that must be completed by the slot attendant.

Similarly, the Board has deleted the current subsection (b)(11) which contains a detailed process for the payment of jackpots that are not made from a slot attendant's impress funds. While many of the slot machine licensees use these procedures, the Board believes that keeping these procedures in the Board's regulations is overly prescriptive and does not give slot machine licensees the

flexibility to establish their own procedures. Instead the Board will allow slot machine licensees to establish their payment procedures as part of their internal controls.

Subsection (b)(9) and (10), which was subsection (b)(12) and (13), contains minor clarity changes and in subsection (b)(10), an explicit requirement that an override is required whenever the amount of a jackpot or credit meter payout does not match the amount sent to the slot monitoring system has been added.

Subsection (b)(11) and (12) adds new requirements that slot machine licensees must include procedures for processing voided jackpot/credit meter payout slips and for processing unclaimed taxable jackpots in their internal controls. Additionally, slot machine licensees' procedures for processing unclaimed jackpot or credit meter payouts must include notice to the Board's casino compliance representatives.

Former subsection (b)(14) has been deleted because the procedures related to the internal controls for system overrides are addressed in new subsection (b)(10).

Subsection (b)(13), formerly subsection (b)(15), has been revised to include the list of items that must appear on the three-part manual jackpot or credit meter payout forms that are to be used when the slot machine licensee's slot monitoring system is down. This list is essentially the same as the list of items that must be on the two-part electronic and two-part manual jackpot or credit meter payout forms in subsection (b)(5) and (7), but these forms must have preprinted serial numbers to provide an audit trail. Additionally, the language of this section has been amended to allow equivalent alternatives to using jackpot payout books. This would include the use of "wiz" machines that are currently used by some of the slot machine licensees.

In subsection (b)(14), which was formerly subsection (b)(16), revisions have been made to give slot machine licensees additional operating flexibility. More specifically, slot machine licensees will be able to assign control of the keys to the cabinets where manual jackpot payout books or their equivalent are stored to either the security department or the finance department and employees who have a greater level of authority than a slot supervisor will also be allowed to sign out the jackpot payout books or their equivalent.

Existing paragraphs (17)—(20) and (21) in subsection (b) have all been deleted. These paragraphs contained detailed provisions governing the use of and procedures related to the manual jackpot payout books discussed previously. Again, the Board believes that slot machine licensees should be permitted to tailor their procedures to reflect their particular operations. Accordingly, slot machine licensees will be required to include these procedures in their internal controls.

Finally, subsection (b)(15), which was subsection (b)(22), has been revised to clarify that the notice to surveillance of jackpots or credit meter payout above a certain threshold is to be provided verbally. The threshold for providing this notice has also been increased from \$1,200 to \$5,000. Because of the large number of jackpots between \$1,200 and \$5,000, this requirement was imposing an unreasonable burden on both slot attendants and surveillance personnel. Increasing the threshold will allow the surveillance department to devote more time to its other surveillance duties.

*Comment and Response Summary*

Notice of proposed rulemaking was published at 39 Pa.B. 5022 (August 22, 2009).

The Board received comments from Chester Downs and Marina, LLC (Chester) and Washington Trotting Association, Inc. (WTA). On October 21, 2009, the Independent Regulatory Review Commission (IRRC) also filed comments. These comments were considered by the Board and are discussed as follows.

WTA asked that the regulation be modified to allow the higher level personnel listed in paragraphs (3) and (4) of subsection (b) as verifiers be allowed to prepare and payout jackpots or credit meter payouts at the higher levels (\$10,000 or more) and allow the slot attendant to act as the witness.

The Board concurs with the change requested by WTA. For the higher level jackpots or credit meter payouts, the desired oversight can be achieved by having the slot supervisor, slot shift manager or a higher level employee of the slots department act as the preparer or the verifier. Accordingly, subsection (b)(1), (3) and (4) has been amended to provide the slot machine licensees the flexibility requested.

Chester and IRRC had two clarity concerns with the proposed rulemaking. First, they stated that the regulation is not clear about how jackpots or credit meter payouts in the amounts of \$1,200, \$9,999.99, \$10,000 and \$24,999.99 are to be treated. They were also unsure if the phrase "or other employee holding the same or greater level of authority" applies to just the slot operations department or to all departments.

To address the first concern, the Board has inserted the phrase "equal to or" in subsection (b)(2) and (3).

Concerning the phrase "or other employee holding the same or greater level of authority" in subsection (b)(3) and (4), the Board's intent is to allow the slot machine licensee to use higher level employees from the slots department or other departments to act as the verifier. Depending on the amount and the time of day that the jackpot or credit meter payout occurs, a slot machine licensee might want to involve the director of the marketing department or the chief executive officer. The language in this final-form rulemaking gives slot machine licensees that flexibility.

*Affected Parties*

Slot machine licensees will benefit from the elimination of redundant reporting requirements and from the greater operating flexibility provided by the revisions in this rulemaking. Patrons should experience faster payments of jackpot and credit meter payouts.

*Fiscal Impact*

*Commonwealth*

The final-form rulemaking will have no fiscal impact on the Board or other agencies of the Commonwealth.

*Political Subdivisions*

This final-form rulemaking will have no fiscal impact on political subdivisions of this Commonwealth.

*Private Sector*

Slot machine licensees will experience significant cost savings because the revised jackpot and credit meter payout procedures will require fewer forms, provide greater flexibility and eliminate some of the current requirements that are redundant and no longer needed.

*General Public*

This final-form rulemaking will have no fiscal impact on the general public.

*Paperwork Requirements*

This final-form rulemaking eliminates the requirement that slot machine licensees fill out manual jackpot payout slips in addition to the electronic jackpot payout slips.

*Effective Date*

The final-form rulemaking will become effective Feb. 16, 2010.

*Contact Person*

The contact person for questions about this proposed rulemaking is Richard Sandusky, Director of Regulatory Review at (717) 214-8111.

*Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on August 12, 2009, the Board submitted a copy of the proposed rulemaking, published at 39 Pa.B. 5022, and a copy of the Regulatory Analysis Form to IRRC and to the House Gaming Oversight Committee and the Senate Community, Economic and Recreational Development Committee (Committees).

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

Under section 5.1(j.2) of the Regulatory Review Act (71 P. S. § 745.5.1(j.2)), the final-form rulemaking was deemed approved by the Committees on December 9, 2009. Under section 5.1(e) of the Regulatory Review Act (71 P. S. § 745.5.1(e)), IRRC met on December 10, 2009 and approved the final-form rulemaking.

*Findings*

The Board finds that:

(1) Public notice of intention to adopt this amendment was given under sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202) and the regulations thereunder, 1 Pa. Code §§ 7.1 and 7.2 (relating to notice of proposed rulemaking required; and adoption of regulations).

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

*Order*

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

(a) The regulations of the Board, 58 Pa. Code Chapter 465a, are amended by amending § 465.26 to read as set forth in Annex A.

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

(c) This order shall take effect Feb. 16, 2010.

GREGORY C. FAJT,  
*Chairperson*

*(Editor's Note:* For the text of the order of the Independent Regulatory Review Commission relating to this document, see 39 Pa.B. 7271 (December 26, 2009).)

**Fiscal Note:** Fiscal Note 125-105 remains valid for the final adoption of the subject regulation.

**Annex A****TITLE 58. RECREATION****PART VII. GAMING CONTROL BOARD****Subpart E. SLOT MACHINES AND ASSOCIATED EQUIPMENT****CHAPTER 465a. ACCOUNTING AND INTERNAL CONTROLS****§ 465a.26. Jackpot and credit meter payouts.**

(a) Prior to commencing gaming operations, a slot machine licensee shall establish a comprehensive system of internal controls addressing jackpot and credit meter payouts that are not paid directly from a slot machine. The internal controls shall be submitted to and approved by the Board under § 465a.2 (relating to internal control systems and audit protocols).

(b) The internal control procedures developed and implemented by the slot machine licensee under subsection (a) must, at a minimum, include:

(1) The use of a two-part electronically generated jackpot/credit meter payout slip created by a slot attendant or slot supervisor or higher slot operations department employee, verifying the winning combination of characters or a code corresponding to the winning combination of characters on the slot machine and the amount of the jackpot or credit meter payout based on the observed winning combinations.

(2) A requirement that if the jackpot or credit meter payout is equal to or between \$1,200 and \$9,999.99, a security department member or a slot operations department member other than the preparer, shall sign the jackpot/credit meter payout slip verifying the winning combination of characters or a code corresponding to the winning combination of characters on the slot machine, the amount of the jackpot or credit meter payout and the payment of the jackpot or credit meter payout to the patron.

(3) A requirement that if the jackpot or credit meter payout is equal to or between \$10,000 and \$24,999.99, a security department member, a slot supervisor or other employee holding the same or greater level of authority than a slot supervisor shall sign the jackpot/credit meter payout slip verifying the winning combination of characters or a code corresponding to the winning combination of characters on the slot machine, the amount of the jackpot or credit meter payout and the payment of the jackpot or credit meter payout to the patron. If the two-part electronically generated jackpot/credit meter payout slip required under paragraph (1) is created by a slot supervisor or higher slot operations department employee, the verification required by this paragraph may be completed by a slot attendant, security department member, a slot supervisor or other employee holding the same or greater level of authority than a slot supervisor.

(4) A requirement that if the jackpot or credit meter payout amount is \$25,000 or more, a slot shift manager or other employee holding the same or greater level of authority than a slot shift manager shall sign the jackpot/credit meter payout slip verifying the winning combination of characters or a code corresponding to the winning combination of characters on the slot machine, the amount of the jackpot or credit meter payout and the payment of the jackpot or credit meter payout to the patron. If the two-part electronically generated jackpot/credit meter payout slip required under paragraph (1) is created by a slot shift manager or higher slot operations

department employee, the verification required by this paragraph may be completed by a slot attendant, security department member, a slot supervisor or other employee holding the same or greater level of authority than a slot supervisor.

(5) A requirement that the following information be on all two-part electronically generated jackpot/credit meter payout slips:

(i) The date and time of the jackpot or credit meter payout.

(ii) The asset number of the slot machine on which the jackpot or credit meter payout was registered.

(iii) The winning combination of characters constituting the jackpot or a code corresponding to the winning combination of characters constituting the jackpot.

(iv) The type of win (that is, progressive, jackpot or credit meter payout).

(v) The amount that is to be paid to the winning patron. This amount may, at the slot machine licensee's discretion, be rounded up to the nearest whole dollar.

(vi) A unique number generated by the slot monitoring system.

(vii) The signature or identification code of the preparer.

(viii) The signature or identification code of the witness when the amount is equal to or greater than \$1,200.

(ix) The signature or identification code of the cashier providing the funds to the preparer, if applicable.

(6) A requirement that the two-part electronically generated jackpot/credit meter payout slip not be susceptible to any changes or deletion from the slot monitoring system by any personnel after preparation.

(7) A requirement that whenever a winning patron is paid directly by a slot attendant's imprest fund, a two-part manual jackpot/credit meter payout slip is completed that contains the following information:

(i) The date and time of the jackpot or credit meter payout.

(ii) The asset number of the slot machine on which the jackpot or credit meter payout was registered.

(iii) The winning combination of characters constituting the jackpot or a code corresponding to the winning combination of characters constituting the jackpot.

(iv) The type of win (that is, progressive, jackpot or credit meter payout).

(v) The amount paid to the winning patron. This amount may, at the slot machine licensee's discretion, be rounded up to the nearest whole dollar.

(vi) The signature or identification code of the preparer.

(vii) The signature or identification code of the witness when the amount is equal to or greater than \$1,200.

(8) When jackpot or credit meter payouts are made from slot attendants' imprest funds, procedures for the

replenishment of the imprest funds and the reconciliation process to be used by the slot attendants.

(9) A requirement that the slot machine licensee's accounting department perform, at the conclusion of each gaming day, effective audit procedures over the issuance of jackpot and credit meter payouts including adequate comparisons to the slot monitoring system.

(10) Detailed procedures on the processing of all system overrides or adjustments to jackpot or credit meter payouts. All jackpot or credit meter payouts that do not match the payout amount electronically sent from the slot machine to the slot monitoring system require an override.

(11) Detailed procedures for the processing of all voided jackpot/credit meter payout slips.

(12) Detailed procedures for the processing of unclaimed taxable jackpot payouts. The procedures must include notice to the casino compliance representatives at the licensed facility when an unclaimed taxable jackpot payout or credit meter payout occurs.

(13) Back-up procedures that will be used when the slot monitoring system is offline or an electronic jackpot payout slip can not be created, including the use of a three-part manual jackpot or credit meter payout book or equivalent. The three-part manual jackpot payout book or equivalent must contain preprinted, serial numbered three-part manual jackpot/credit meter payout slips that include the following information:

(i) Preprinted serial numbers.

(ii) The date and time of the jackpot or credit meter payout.

(iii) The asset number of the slot machine on which the jackpot or credit meter payout was registered.

(iv) The amount of the jackpot or credit meter payout.

(v) The method of payment requested by the patron.

(vi) The signature or identification code of the preparer.

(vii) The signature or identification code of the witness when the amount is equal to or greater than \$1,200.

(14) A requirement that the unused manual jackpot payout books or equivalent be maintained in a secured locked cabinet, that the key to the cabinet be controlled by the security department or the finance department and that the manual jackpot payout books or equivalent can only be signed out by a slot supervisor or other employee holding a greater level of authority when the slot monitoring system is offline.

(15) A requirement that the surveillance department be verbally notified of all jackpot or credit meter payouts when the amount of the jackpot or credit meter payout is \$5,000 or more. The surveillance department shall log all calls regarding jackpot or credit meter payouts in the surveillance log.

[Pa.B. Doc. No. 10-103. Filed for public inspection January 15, 2010, 9:00 a.m.]

# PROPOSED RULEMAKING

## ENVIRONMENTAL QUALITY BOARD

[ 25 PA. CODE CH. 129 ]

### Large Appliance and Metal Furniture Surface Coating Processes

The Environmental Quality Board (Board) proposes to amend Chapter 129 (relating to standards for sources) to read as set forth in Annex A.

The proposed rulemaking would amend Chapter 129 to limit emissions of volatile organic compounds (VOCs) from the use and application of coatings and cleaning materials in large appliance and metal furniture surface coating processes. The proposal would add § 129.52a (relating to control of VOC emissions from large appliance and metal furniture surface coating processes) and amend §§ 129.51 and 129.52 (relating to general; and surface coating processes).

This proposal was adopted by the Board at its meeting on November 17, 2009.

#### A. *Effective Date*

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

#### B. *Contact Persons*

For further information, contact Arleen J. Shulman, Chief, Division of Air Resource Management, P. O. Box 8468, Rachel Carson State Office Building, Harrisburg, PA 17105-8468, (717) 772-3436, or Kristen Campfield Furlan, Assistant Counsel, Bureau of Regulatory Counsel, P. O. Box 8464, Rachel Carson State Office Building, Harrisburg, PA 17105-8464, (717) 787-7060. Information regarding submitting comments on this proposal appears in Section J of this preamble. Persons with a disability may use the Pennsylvania AT&T Relay Service by calling (800) 654-5984 (TDD users) or (800) 654-5988 (voice users). This proposal is available electronically through the Department of Environmental Protection's (Department) web site at [www.depweb.state.pa.us](http://www.depweb.state.pa.us) (Select Public Participation).

#### C. *Statutory Authority*

This proposed rulemaking is authorized under section 5 of the Air Pollution Control Act (APCA) (35 P. S. § 4005), which in subsection (a)(1) grants the Board the authority to adopt rules and regulations for the prevention, control, reduction and abatement of air pollution in this Commonwealth, and which in subsection (a)(8) grants the Board the authority to adopt rules and regulations designed to implement the provisions of the Clean Air Act (CAA).

#### D. *Background and Purpose*

The purpose of this proposed rulemaking is to reduce VOC emissions from large appliance and metal furniture surface coating operations. VOCs are a precursor for ozone formation. Ground-level ozone is not emitted directly by surface coatings to the atmosphere, but is formed by a photochemical reaction between VOCs and nitrogen oxides (NOx) in the presence of sunlight. The proposed rulemaking adopts the emission limits and other requirements of the United States Environmental Protection Agency's (EPA's) 2007 Control Techniques Guidelines (CTGs) for large appliance coatings and metal furniture coatings in order to meet Federal CAA requirements.

The EPA is responsible for establishing National Ambient Air Quality Standards (NAAQS) for six criteria pollutants considered harmful to public health and the environment: ozone, particulate matter, NOx, carbon monoxide, sulfur dioxide and lead. The CAA established two types of NAAQS: primary standards, limits set to protect public health; and secondary standards, limits set to protect public welfare, including protection against visibility impairment and from damage to animals, crops, vegetation and buildings. The EPA has established primary and secondary ozone NAAQS to protect public health and welfare.

When ground-level ozone is present in concentrations in excess of the Federal health-based 8-hour NAAQS for ozone, public health and welfare are adversely affected. Ozone exposure correlates to increased respiratory disease and higher mortality rates. Ozone can inflame and damage the lining of the lungs. Within a few days, the damaged cells are shed and replaced. Over a long time period, lung tissue may become permanently scarred, resulting in permanent loss of lung function and a lower quality of life. When ambient ozone levels are high, more people with asthma have attacks that require a doctor's attention or use of medication. Ozone also makes people more sensitive to allergens including pet dander, pollen and dust mites, all of which can trigger asthma attacks.

The EPA has concluded that there is an association between high levels of ambient ozone and increased hospital admissions for respiratory ailments including asthma. While children, the elderly and those with respiratory problems are most at risk, even healthy individuals may experience increased respiratory ailments and other symptoms when they are exposed to high levels of ambient ozone while engaged in activities that involve physical exertion. High levels of ozone also affect animals in ways similar to humans.

In addition to causing adverse human and animal health effects, the EPA has concluded that ozone affects vegetation and ecosystems, leading to reductions in agricultural crop and commercial forest yields by destroying chlorophyll; reduced growth and survivability of tree seedlings; and increased plant susceptibility to disease, pests and other environmental stresses, including harsh weather. In long-lived species, these effects may become evident only after several years or even decades and have the potential for long-term adverse impacts on forest ecosystems. Ozone damage to the foliage of trees and other plants can decrease the aesthetic value of ornamental species used in residential landscaping, as well as the natural beauty of parks and recreation areas. Through deposition, ground-level ozone also contributes to pollution in the Chesapeake Bay. The economic value of some welfare losses due to ozone can be calculated, such as crop yield loss from both reduced seed production and visible injury to some leaf crops, including lettuce, spinach and tobacco, as well as visible injury to ornamental plants, including grass, flowers and shrubs. Other types of welfare loss may not be quantifiable, such as the reduced aesthetic value of trees growing in heavily visited parks.

High levels of ground-level ozone can also cause damage to buildings and synthetic fibers, including nylon, and reduced visibility on roadways and in natural areas. The implementation of additional measures to address ozone air quality nonattainment in this Commonwealth is necessary to protect the public health and welfare, animal and plant health and welfare and the environment.

In July 1997, the EPA established primary and secondary ozone standards at a level of 0.08 parts per million (ppm) averaged over 8 hours. See 62 FR 38855 (July 18, 1997). In 2004, the EPA designated 37 counties in this Commonwealth as 8-hour ozone nonattainment areas for the 1997 8-hour ozone NAAQS see 69 FR 2385 at p. 2393 (April 30, 2004). The areas in which the 1997 standard has been attained are required to have permanent and enforceable control measures to ensure violations do not occur for the next decade. The Commonwealth must demonstrate that the two areas currently not attaining the 1997 standard will meet the 1997 standard as expeditiously as practicable. If these two areas do not attain the standard during the 2009 ozone season, additional reductions will be required.

In March 2008, the EPA lowered the standards to 0.075 ppm averaged over 8 hours to provide even greater protection for children, other at-risk populations and the environment against the array of ozone-induced adverse health and welfare effects. See 73 FR 16436 (March 27, 2008). The EPA is reconsidering the March 2008 ozone NAAQS and on January 7, 2010 announced a proposal to set a more protective 8-hour ozone standard between 0.060 and 0.070 ppm. The final revised ozone NAAQS is expected in August 2010.

There are no Federal statutory or regulatory limits for VOC emissions from large appliance and metal furniture surface coating operations. State regulations to control VOC emissions from large appliance and metal furniture surface coating operations are required under Federal law, however, and will be reviewed by the EPA for whether they meet the "reasonably available control technology" (RACT) requirements of the CAA and its implementing regulations. *Consumer and Commercial Products; Control Techniques Guidelines in lieu of Regulations for Paper, Film, and Foil Coatings; Metal Furniture Coatings; and Large Appliance Coatings*, 72 FR 57215, 57218 (October 9, 2007).

Section 172(c)(1) of the CAA provides that State Implementation Plans (SIPs) for nonattainment areas must include "reasonably available control measures," including RACT, for sources of emissions. 42 U.S.C.A. § 7502(c)(1). Section 182(b)(2) of the CAA provides that for moderate ozone nonattainment areas, states must revise their SIPs to include RACT for sources of VOC emissions covered by a CTG document issued by the EPA prior to the area's date of attainment. 42 U.S.C.A. § 7511a(b)(2). More importantly, section 184(b)(1)(B) of the CAA requires that states in the Ozone Transport Region (OTR), including the Commonwealth, submit a SIP revision requiring implementation of RACT for all sources of VOC emissions in the state covered by a specific CTG. 42 U.S.C.A. § 7511c(b)(1)(B).

Section 183(e) of the CAA directs the EPA to list for regulation those categories of products that account for at least 80% of the VOC emissions from consumer and commercial products in ozone nonattainment areas. 42 U.S.C.A. § 7511b(e). Section 183(e)(3)(C) of the CAA further provides that the EPA may issue a CTG in place of a National regulation for a product category where the EPA determines that the CTG will be "substantially as effective as regulations" in reducing emissions of VOC in ozone nonattainment areas. 42 U.S.C.A. § 7511b(e)(3)(C).

In 1995, the EPA listed large appliance coatings and metal furniture coatings on its section 183(e) list and, in 2007, issued CTGs for these two product categories. See 60 FR 15264 (March 23, 1995) and 72 FR 57215 (October 9, 2007). In the 2007 notice, the EPA determined that the

CTGs would be substantially as effective as National regulations in reducing VOC emissions from these product categories in ozone nonattainment areas. 72 FR at p. 57220.

The CTG provides states with the EPA's recommendation of what constitutes RACT for the covered category. States can use the recommendations provided in the CTG to inform their own determination as to what constitutes RACT for VOC emissions from the covered category. State air pollution control agencies are free to implement other technically sound approaches that are consistent with the CAA requirements and the EPA's implementing regulations or guidelines.

The Department has reviewed the recommendations included in the 2007 CTGs for large appliance and metal furniture coatings for their applicability to the ozone reduction measures necessary for this Commonwealth. The Department has determined that the measures provided in the CTGs for large appliance and metal furniture coatings are appropriate to be implemented in this Commonwealth as RACT for this category.

This rulemaking, if adopted as a final rule, would assist in reducing VOC emissions locally as well as reducing the transport of VOC emissions and ground-level ozone to downwind states. Adoption of VOC emission requirements for large appliance and metal furniture surface coating operations is part of the Commonwealth's strategy, in concert with other OTR jurisdictions, to further reduce transport of VOC ozone precursors and ground-level ozone throughout the OTR to attain and maintain the 8-hour ozone NAAQS. The proposed rulemaking is required under the CAA and is reasonably necessary to attain and maintain the health-based 8-hour ozone NAAQS in this Commonwealth. When final, this rulemaking will be submitted to the EPA as a revision to the SIP.

The concepts of the proposed rulemaking were discussed with the Air Quality Technical Advisory Committee (AQTAC) at its October 30 and December 11, 2008, meetings. The proposed rulemaking was discussed with the AQTAC on May 28, 2009. The AQTAC concurred with the Department's recommendation to present the proposed amendments to the Board for approval for publication as a proposed rulemaking. The Department also consulted with the Citizens Advisory Council on July 21, 2009, and with the Small Business Compliance Advisory Committee on October 22, 2008, and April 22 and July 22, 2009.

#### E. Summary of Regulatory Requirements

The proposed rulemaking would amend § 129.51(a) to extend its coverage to large appliance and metal furniture surface coating processes covered by this proposed rulemaking, as well as to paper, film and foil surface coating processes and flat wood paneling surface coating processes, which are covered in parallel rulemakings. Section 129.51(a) provides an alternative method for owners and operators of facilities to achieve compliance with air emission limits.

The proposed rulemaking would amend § 129.52 by adding subsection (i). Section 129.52 specifies requirements and emission limits for various surface coating



processes. The amendment in this proposed rulemaking would clarify in new subsection (i) that the requirements and limits already specified in § 129.52 for metal furniture coatings, large appliance coatings and paper coatings are superseded by the requirements and limits that will be adopted in this proposed rulemaking and in the proposed rulemaking for paper, film and foil surface coating processes.

One emission limit is expressed in § 129.52 for large appliance coatings and one emission limit is expressed for metal furniture coatings, whereas in the CTGs separate emission limits are expressed for eight different coating types within each of these two categories. Several of the limits in the CTGs are more stringent and several are less stringent than the existing limits expressed in § 129.52. As is explained in the discussion, as follows, regarding Tables I and II (relating to emission limits of VOCs for large appliance surface coatings; and emission limits of VOCs for metal furniture surface coatings), the more stringent limits are adopted in this proposed rulemaking.

The proposed rulemaking would add § 129.52a to regulate VOC emissions from large appliance and metal furniture surface coating processes. The applicability of this new section is described in subsection (a), which establishes that § 129.52a applies to the owner and operator of a large appliance or metal furniture surface coating process if the total actual VOC emissions from all large appliance or metal furniture surface coating operations, including related cleaning activities, at the facility are equal to or greater than 15 pounds (6.8 kilograms) per day or 2.7 tons (2,455 kilograms) per 12-month rolling period, before consideration of controls. The emission limits and other requirements of this section supersede the emission limits and other requirements of § 129.52. Basing the applicability on a 12-month rolling period is generally considered to be more stringent than basing it on a calendar year, as in § 129.52, but is consistent with the CTGs.

Proposed subsection (b) explains that the requirements of § 129.52a supersede the requirements of a RACT permit for VOC emissions from a large appliance or metal furniture surface coating operation already issued to the owner or operator of a source subject to § 129.52a, except to the extent the RACT permit contains more stringent requirements.

Proposed subsection (c) establishes VOC emission limits. Beginning January 1, 2011, a person may not cause or permit the emission into the outdoor atmosphere of VOCs from a large appliance or metal furniture surface coating process, unless: (1) the VOC content of each as applied coating is equal to or less than the limit specified in one of the two tables in § 129.52a; or (2) the overall weight of VOCs emitted to the atmosphere is reduced through the use of vapor recovery, incineration or another method that is acceptable under § 129.51(a). The second option also addresses the overall efficiency of a control system.

Proposed subsection (d) identifies daily records that must be kept to demonstrate compliance with § 129.52a, including records of parameters and VOC content of each coating, thinner, component and cleaning solvent, as supplied, and the VOC content of each as applied coating or cleaning solvent.

Proposed subsection (e) requires that the records be maintained for 2 years and submitted to the Department on request.

Under proposed subsection (f), an owner or operator subject to § 129.52a may not cause or permit the emis-

sion into the outdoor atmosphere of VOCs from the application of large appliance or metal furniture surface coatings, unless the coatings are applied using electrostatic coating, roller coating, flow coating, dip coating (including electrodeposition), high volume-low pressure (HVLP) spray, or brush coating. An owner or operator may use another coating application method if a request is submitted in writing that demonstrates that the method is capable of achieving a transfer efficiency equivalent to or better than that achieved by the other methods listed in subsection (f), and is approved in writing by the Department prior to use.

Proposed subsection (g) exempts stencil coatings, safety-indicating coatings, solid-film lubricants, electric-insulating coatings, thermal-conducting coatings, touch-up and repair coatings and coating applications using hand-held aerosol cans from the VOC coating content limits in Tables I and II of proposed § 129.52a. Subsection (g) also exempts a coating used exclusively for determining product quality and commercial acceptance and other small quantity coatings, if the quantity of coating used does not exceed 50 gallons per year for a single coating and a total of 200 gallons per year for all coatings combined for the facility and if the owner or operator of the facility requests, in writing, and the Department approves, in writing, the exemption prior to use of the coating.

Proposed subsection (h) establishes work practices that an owner or operator of a large appliance or metal furniture surface coating process subject to § 129.52a must comply with for coating-related activities.

Proposed subsection (i) establishes work practices that an owner or operator of a large appliance or metal furniture surface coating process subject to § 129.52a must comply with for cleaning materials.

Proposed Table I establishes emission limits for VOCs for eight types of large appliance surface coatings, expressed in weight of VOC per volume of coating solids (kilograms per liter (kg/l) or pounds per gallon (lb/gal)), as applied. Limits are prescribed for coatings that are baked and coatings that are air dried. The emission limits for the following coating types are taken from the large appliance coatings CTG: *Baked (kg/l and lb/gal)*—“General, one component” and “General, multi-component”; *Air Dried (kg/l)*—“General, one component”; and *Air Dried (lb/gal)*—“General, one component,” “General, multi-component” and “Extreme high gloss.” The emission limits for *Air Dried (kg/l)*—“General, multi-component” and “Extreme high gloss” are taken from both the CTG and the emission limit for “large appliance coatings” in § 129.52, as they are the same in both places. The remaining emission limits are taken from § 129.52 because the limit in § 129.52 is more stringent than the recommended limits in the CTG. Whenever the limit in § 129.52 is the same as or more stringent than the recommended limit in the CTG, the limit in § 129.52 is listed due to the CAA prohibition against backsliding from existing emission control requirements.

Proposed Table II establishes emission limits for VOCs for eight types of metal furniture surface coatings, expressed in weight of VOC per volume of coating solids (kg/l or lb/gal), as applied. Limits are prescribed for coatings that are baked and coatings that are air dried. The emission limits from the following coating types are taken from the metal furniture CTG: *Baked (kg/l and lb/gal)*—“General, one component” and “General, multi-component”; and *Air Dried (kg/l and lb/gal)*—“General, one component,” “General, multi-component” and “Ex-

tre high gloss.” The emission limits for *Baked (kg/l)*—“Extreme high gloss,” “Extreme performance,” “Heat resistant” and “Solar absorbent” are taken from both the CTG and the emission limit for “metal furniture coatings” in § 129.52, as they are the same in both places. The remaining emission limits are taken from § 129.52 because the limit in § 129.52 is more stringent than the recommended limits in the CTG. Whenever the limit in § 129.52 is the same as or more stringent than the recommended limit in the CTG, the limit in § 129.52 is listed due to the CAA prohibition against backsliding from existing emission control requirements.

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

##### *Benefits*

Implementation of the proposed control measure would benefit the health and welfare of the approximately 12 million humans, animals, crops, vegetation and natural areas of this Commonwealth by reducing emissions of VOCs, which are precursors to ground-level ozone air pollution. Although the proposed amendments are designed primarily to address ozone air quality, the reformulation or substitution of coating products to meet the VOC content limits applicable to users may also result in reduction of hazardous air pollutant (HAP) emissions, which are also a serious health threat.

The proposed rulemaking provides as one compliance option that coatings used on or applied to large appliance or metal furniture products manufactured in this Commonwealth meet specified limits for VOC content, usually through substitution of low VOC-content solvents or water for the high VOC-content solvents. The reduced levels of high VOC-content solvents would also benefit water quality through reduced loading on water treatment plants and in reduced quantities of high VOC-content solvents leaching into the ground. Owners and operators of affected large appliance and metal furniture coating process facilities may also reduce VOC emissions through the use of add-on controls, or a combination of complying coatings and add-on controls.

In this Commonwealth approximately four large appliance surface coating operations combine to emit an estimated total of 18.2 tons of VOCs per year; about 16 metal furniture surface coating operations combine to emit an estimated total of 50.33 tons of VOCs per year.

The EPA estimates that implementation of the recommended control options for large appliance coatings processes will result in approximately a 30% reduction in VOC emissions. The maximum anticipated additional annual VOC reductions from the large appliance surface coating facilities as a result of this rulemaking is approximately 5.5 tons (18.2 tons x 30%).

The EPA estimates that implementation of the recommended control options for metal furniture coatings processes will result in approximately a 35% reduction in VOC emissions. The maximum anticipated additional annual VOC reductions from the metal furniture surface coating facilities as a result of this rulemaking is approximately 17.6 tons (50.33 tons x 35%).

##### *Compliance Costs*

The costs of complying with the proposed amendments include the cost of using alternative product formulations, such as low-VOC or water-based coatings, and the cost of using add-on controls. The facility owner or operator would be given the flexibility to choose controls. Based on information provided by the EPA in the large appliance coating CTG, the cost effectiveness of reducing VOC

emissions from large appliance surface coating operations is estimated to be \$500 per ton of VOC reduced. This estimate is based on the use of low VOC-content coatings for control. The estimated annual costs for the owners or operators of the affected large appliance surface coating facilities in this Commonwealth, combined, is \$2,750 (5.5 tons VOC reduced x \$500 per ton reduced).

Similarly, based on information provided by the EPA in the metal furniture coating CTG, the cost effectiveness of reducing VOC emissions from metal furniture surface coating operations is estimated to be \$200 per ton of VOC reduced. This estimate is based on the use of low VOC-content coatings for control. The estimated annual costs for the owners or operators of the affected metal furniture coating facilities in this Commonwealth, combined, is \$3,520 (17.6 tons VOC reduced x \$200 per ton reduced).

The potential total annual costs to the regulated industry of \$2,750 for large appliance surface coating operations and \$3,520 for metal furniture surface coating operations are negligible compared to the improved health and environmental benefits that would be gained from this proposed rulemaking.

The implementation of the work practice requirements for cleaning materials is expected to result in a net cost savings. The recommended work practices should reduce the amount of cleaning materials used by reducing the amount of cleaning materials lost to evaporation, spillage and waste.

##### *Compliance Assistance Plan*

The Department plans to educate and assist the public and regulated community in understanding the newly revised requirements and how to comply with them. This will be accomplished through the Department’s ongoing compliance assistance program.

##### *Paperwork Requirements*

The owners and operators of affected large appliance or metal furniture surface coating operations would be required to keep daily operational records of information for coatings and cleaning solvents sufficient to demonstrate compliance, including identification of materials, VOC content and volumes used. The records must be maintained for 2 years and submitted to the Department upon request. Persons claiming the small quantity exemption or use of exempt coating would be required to keep records demonstrating the validity of the exemption. Persons seeking to comply through the use of add-on controls would be required to meet the applicable reporting requirements specified in Chapter 139 (relating to sampling and testing).

##### G. *Pollution Prevention*

The Federal Pollution Prevention Act of 1990 (42 U.S.C.A. §§ 13101—13109) established a National policy that promotes pollution prevention as the preferred means for achieving State environmental protection goals. The Department encourages pollution prevention, which is the reduction or elimination of pollution at its source, through the substitution of environmentally friendly materials, more efficient use of raw materials and the incorporation of energy efficiency strategies. Pollution prevention practices can provide greater environmental protection with greater efficiency because they can result in significant cost savings to facilities that permanently achieve or move beyond compliance. This proposal has incorporated the following pollution prevention incentives:

The proposed amendments will assure that the citizens and the environment of this Commonwealth experience the benefits of reduced emissions of VOCs and HAPs from large appliance and metal furniture surface coating processes. Although the proposed amendments are designed primarily to address ozone air quality, the reformulation or substitution of coating products to meet the VOC content limits applicable to users may also result in reduction of HAP emissions, which are also a serious health threat. The proposed rulemaking provides as one compliance option that coatings used on or applied to large appliance or metal furniture products manufactured in this Commonwealth meet specified limits for VOC content, usually through substitution of low VOC-content solvents or water for the high VOC-content solvents. The reduced levels of high VOC-content solvents would also benefit water quality through reduced loading on water treatment plants and in reduced quantities of high VOC-content solvents leaching into the ground. Owners and operators of affected large appliance and metal furniture surface coating process facilities may also reduce VOC emissions through the use of add-on controls, or a combination of complying coatings and add-on controls.

#### H. Sunset Review

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

#### I. Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on January 5, 2010, the Department submitted a copy of these proposed amendments to the Independent Regulatory Review Commission (IRRC) and the House and Senate Environmental Resources and Energy Committees (Committees). In addition to submitting the proposed amendments, the Department has provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the Department. A copy of this material is available to the public upon request.

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

#### J. Public Comments

*Written Comments*—Interested persons are invited to submit comments, suggestions or objections regarding the proposed rulemaking to the Environmental Quality Board, P. O. Box 8477, Harrisburg, PA 17105-8477 (express mail: Rachel Carson State Office Building, 16th Floor, 400 Market Street, Harrisburg, PA 17101-2301). Comments submitted by facsimile will not be accepted. Comments, suggestions or objections must be received by the Board by March 22, 2010. Interested persons may also submit a summary of their comments to the Board. The summary may not exceed one page in length and must also be received by the Board by March 22, 2010. The one-page summary will be provided to each member of the Board in the agenda packet distributed prior to the meeting at which the final-form regulation will be considered.

*Electronic Comments*—Comments may be submitted electronically to the Board at RegComments@state.pa.us and must also be received by the Board by March 22, 2010. A subject heading of the proposal and a return name and address must be included in each transmission. If an acknowledgement of electronic comments is not received by the sender within 2 working days, the comments should be retransmitted to the Board to ensure receipt.

#### K. Public Hearings

The Board will hold public hearings in Pittsburgh, Harrisburg and Norristown for the purpose of accepting comments on this proposed rulemaking. The hearings will be held as follows:

- |                             |  |
|-----------------------------|--|
| February 16, 2010<br>1 p.m. | Department of Environmental Protection<br>Southwest Regional Office<br>Waterfront Conference Room A and B<br>400 Waterfront Drive<br>Pittsburgh, PA 15222-4745 |
| February 17, 2010<br>1 p.m. | Department of Environmental Protection<br>Rachel Carson State Office Building<br>Conference Room 105<br>400 Market Street<br>Harrisburg, PA 17105              |
| February 18, 2010<br>1 p.m. | Department of Environmental Protection<br>Southeast Regional Office<br>Delaware Conference Room<br>2 East Main Street<br>Norristown, PA 19401                  |

Persons wishing to present testimony at a hearing are requested to contact the Environmental Quality Board, P. O. Box 8477, Harrisburg, PA 17105-8477, (717) 787-4526, at least 1 week in advance of the hearing to reserve a time to present testimony. Oral testimony is limited to 10 minutes for each witness. Witnesses are requested to submit three written copies of their oral testimony to the hearing Chairperson to aid in transcribing the hearing. Organizations are limited to designating one witness to present testimony on their behalf at each hearing.

Persons in need of accommodations as provided for in the Americans With Disabilities Act of 1990 should contact the Board at (717) 787-4526, or through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD), or (800) 654-5988 (voice users) to discuss how the Board may accommodate their needs.

JOHN HANGER,  
Chairperson

**Fiscal Note:** 7-449. No fiscal impact; (8) recommends adoptions.

#### Annex A

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

#### Subpart C. PROTECTION OF NATURAL RESOURCES

#### ARTICLE III. AIR RESOURCES

#### CHAPTER 129. STANDARDS FOR SOURCES SOURCES OF VOCs

#### § 129.51. General.

(a) *Equivalency.* Compliance with §§ 129.52, 129.52a, 129.52b (**Editor's Note:** The Department proposed to

add § 129.52b at 39 Pa.B. 6460 (November 7, 2009), 129.52c (*Editor's Note: The Department proposed to add § 129.52c at 39 Pa.B. 6061, 6067 (October 17, 2009.)*) and 129.54—129.73 may be achieved by alternative methods if the following exist:

\* \* \* \* \*

(3) Compliance by a method other than the use of a low VOC coating or ink which meets the applicable emission limitation in §§ 129.52, 129.52a, 129.52b, 129.52c, 129.67 and 129.73 [ **(relating to surface coating processes; graphic arts systems; and aerospace manufacturing and rework)** ] shall be determined on the basis of equal volumes of solids.

\* \* \* \* \*

(6) The alternative compliance method is incorporated into a plan approval or operating permit, or both, reviewed by the EPA, including the use of an air cleaning device to comply with § 129.52, § 129.52a, § 129.52b, § 129.52c, § 129.67, § 129.68(b)(2) and (c)(2) or § 129.73.

\* \* \* \* \*

**§ 129.52. Surface coating processes.**

\* \* \* \* \*

**(i) Beginning January 1, 2011, the requirements and limits for metal furniture coatings, large appliance coatings and paper coatings are superseded by the requirements and limits in §§ 129.52a and 129.52b (*Editor's Note: The Department proposed to add § 129.52b at 39 Pa.B. 6460 (November 7, 2009) (relating to control of VOC emissions from large appliance and metal furniture surface coating processes; and control of VOC emissions from paper, film and foil surface coating processes), respectively.***

\* \* \* \* \*

(*Editor's Note: Section 129.52a is new and printed in regular type to enhance readability.*)

**§ 129.52a. Control of VOC emissions from large appliances and metal furniture surface coating processes.**

(a) *Applicability.* This section applies as follows:

(1) This section applies to the owner and operator of a large appliance or metal furniture surface coating process if the total actual VOC emissions from all large appliance or metal furniture surface coating operations, including related cleaning activities, at the facility are equal to or greater than 15 pounds (6.8 kilograms) per day or 2.7 tons (2,455 kilograms) per 12-month rolling period, before consideration of controls.

(2) The emission limits and other requirements of this section supersede the emission limits and other requirements of § 129.52 (relating to surface coating processes) for large appliance and metal furniture surface coating processes.

(b) *Existing RACT permit.* The requirements of this section supersede the requirements of a RACT permit issued to the owner or operator of a source subject to subsection (a)(1) prior to January 1, 2011, under §§ 129.91—129.95 (relating to stationary sources of NOx and VOCs) to control, reduce or minimize VOCs from a large appliance or metal furniture surface coating operation, except to the extent the RACT permit contains more stringent requirements.

(c) *Emission limits.* Beginning January 1, 2011, a person subject to this section may not cause or permit the emission into the outdoor atmosphere of VOCs from a large appliance or metal furniture surface coating process, unless one of the following limitations is met:

(1) The VOC content of each as applied coating is equal to or less than the limit specified in Table I or Table II (relating to emission limits of VOCs for large appliance surface coatings; and emission limits of VOCs for metal furniture surface coatings).

(i) The VOC content of the as applied coating, expressed in units of weight of VOC per volume of coating solids, shall be calculated as follows:

$$VOC = (W_o)(D_c)/V_n$$

Where:

VOC = VOC content in lb VOC/gal of coating solids

W<sub>o</sub> = Weight percent of VOC (W<sub>v</sub>-W<sub>w</sub>-W<sub>ex</sub>)

W<sub>v</sub> = Weight percent of total volatiles (100%-weight percent solids)

W<sub>w</sub> = Weight percent of water

W<sub>ex</sub> = Weight percent of exempt solvent(s)

D<sub>c</sub> = Density of coating, lb/gal, at 25° C

V<sub>n</sub> = Volume percent of solids of the as applied coating

(ii) The VOC content of a dip coating, expressed in units of weight of VOC per volume of coating solids, shall be calculated on a 30-day rolling average basis using the following equation:

$$VOC_A = \frac{\sum_i (W_{oi} \times D_{ci} \times Q_i) + \sum_J (W_{oJ} \times D_{dJ} \times Q_J)}{\sum_i (V_{ni} \times Q_i)}$$

Where:

VOC<sub>A</sub> = VOC content in lb VOC/gal of coating solids for a dip coating, calculated on a 30-day rolling average basis

W<sub>oi</sub> = Percent VOC by weight of each as supplied coating (i) added to the dip coating process, expressed as a decimal fraction (that is 55% = 0.55)

D<sub>ci</sub> = Density of each as supplied coating (i) added to the dip coating process, in pounds per gallon

Q<sub>i</sub> = Quantity of each as supplied coating (i) added to the dip coating process, in gallons

V<sub>ni</sub> = Percent solids by volume of each as supplied coating (i) added to the dip coating process, expressed as a decimal fraction

W<sub>oJ</sub> = Percent VOC by weight of each thinner (J) added to the dip coating process, expressed as a decimal fraction

D<sub>dJ</sub> = Density of each thinner (J) added to the dip coating process, in pounds per gallon

Q<sub>J</sub> = Quantity of each thinner (J) added to the dip coating process, in gallons

(iii) Sampling and testing shall be done in accordance with the procedures and test methods specified in Chapter 139 (relating to sampling and testing).

(2) The overall weight of VOCs emitted to the atmosphere is reduced through the use of vapor recovery or incineration or another method that is acceptable under § 129.51(a) (relating to general). The overall efficiency of a control system, as determined by the test methods and procedures specified in Chapter 139, may be no less than 90% or may be no less than the equivalent efficiency as calculated by the following equation, whichever is less stringent:

$$O = (1 - E/V) \times 100$$

Where:

V = The VOC content of the as applied coating, in lb VOC/gal of coating solids.

E = The Table I or Table II limit in lb VOC /gal of coating solids.

O = The overall required control efficiency.

(d) *Compliance monitoring procedures.* The owner or operator of a facility subject to this section shall maintain records sufficient to demonstrate compliance with this section. At a minimum, the owner or operator shall maintain daily records of:

(1) The following parameters for each coating, thinner, component and cleaning solvent as supplied:

(i) Name and identification number.

(ii) Volume used.

(iii) Mix ratio.

(iv) Density or specific gravity.

(v) Weight percent of total volatiles, water, solids and exempt solvents.

(vi) Volume percent of solids for each Table I or Table II coating used in the surface coating process.

(2) The VOC content of each coating, thinner, component and cleaning solvent as supplied.

(3) The VOC content of each as applied coating or cleaning solvent.

(e) *Recordkeeping and reporting requirements.* The records required under subsection (d) shall be maintained for 2 years and submitted to the Department on request.

(f) *Coating application methods.* A person subject to this section may not cause or permit the emission into the outdoor atmosphere of VOCs from the application of large appliance or metal furniture surface coatings, unless the coatings are applied using one or more of the following coating application methods:

(1) Electrostatic coating.

(2) Roller coating.

(3) Flow coating.

(4) Dip coating, including electrodeposition.

(5) High volume-low pressure (HVLP) spray.

(6) Brush coating.

(7) Other coating application method, if approved in writing by the Department prior to use.

(i) The coating application method must be capable of achieving a transfer efficiency equivalent to or better than that achieved by the methods listed in paragraphs (1)–(6).

(ii) The request for approval must be submitted in writing.

(g) *Exempt coatings and coating operations.* The VOC coating content limits in Table I and Table II do not apply to the following types of coatings and coating operations:

(1) Stencil coatings.

(2) Safety-indicating coatings.

(3) Solid-film lubricants.

(4) Electric-insulating coatings.

(5) Thermal-conducting coatings.

(6) Touch-up and repair coatings.

(7) Coating applications using hand-held aerosol cans.

(8) A coating used exclusively for determining product quality and commercial acceptance and other small quantity coatings, if the coating meets the following criteria:

(i) The quantity of coating used does not exceed 50 gallons per year for a single coating and a total of 200 gallons per year for all coatings combined for the facility.

(ii) The owner or operator of the facility requests, in writing, and the Department approves, in writing, the exemption prior to use of the coating.

(h) *Work practice requirements for coating-related activities.* The owner or operator of a large appliance or metal furniture surface coating process subject to this section shall comply with the following work practices for coating-related activities:

(1) Store all VOC-containing coatings, thinners and coating-related waste materials in closed containers.

(2) Ensure that mixing and storage containers used for VOC-containing coatings, thinners and coating-related waste materials are kept closed at all times except when depositing or removing these materials.

(3) Minimize spills of VOC-containing coatings, thinners and coating-related waste materials and clean up spills immediately.

(4) Convey VOC-containing coatings, thinners and coating-related waste materials from one location to another in closed containers or pipes.

(i) *Work practice requirements for cleaning materials.* The owner or operator of a large appliance or metal furniture surface coating process subject to this section shall comply with the following work practices for cleaning materials:

(1) Store all VOC-containing cleaning materials and used shop towels in closed containers.

(2) Ensure that mixing and storage containers used for VOC-containing cleaning materials are kept closed at all times except when depositing or removing these materials.

(3) Minimize spills of VOC-containing cleaning materials and clean up spills immediately.

(4) Convey VOC-containing cleaning materials from one location to another in closed containers or pipes.

(5) Minimize VOC emissions from cleaning of storage, mixing and conveying equipment.

**Table I**

**Emission Limits of VOCs for Large Appliance Surface Coatings**

**Weight of VOC per Volume of Coating Solids, as Applied**

Coating Type	Baked		Air Dried	
	kg/l	lb/gal	kg/l	lb/gal
General, One Component	0.40	3.3	0.40	3.3
General, Multi-Component	0.40	3.3	0.55	4.5
Extreme High Gloss	0.55	4.62	0.55	4.5
Extreme Performance	0.55	4.62	0.55	4.62
Heat Resistant	0.55	4.62	0.55	4.62
Metallic	0.55	4.62	0.55	4.62
Pretreatment	0.55	4.62	0.55	4.62
Solar Absorbent	0.55	4.62	0.55	4.62

**Table II**  
**Emission Limits of VOCs for Metal Furniture Surface Coatings**  
**Weight of VOC per Volume of Coating Solids, as Applied**

Coating Type	Baked		Air Dried	
	kg/l	lb/gal	kg/l	lb/gal
General, One Component	0.40	3.3	0.40	3.3
General, Multi-Component	0.40	3.3	0.55	4.5
Extreme High Gloss	0.61	5.06	0.55	4.5
Extreme Performance	0.61	5.06	0.61	5.06
Heat Resistant	0.61	5.06	0.61	5.06
Metallic	0.61	5.06	0.61	5.06
Pretreatment	0.61	5.06	0.61	5.06
Solar Absorbent	0.61	5.06	0.61	5.06

[Pa.B. Doc. No. 10-104. Filed for public inspection January 15, 2010, 9:00 a.m.]

# FISH AND BOAT COMMISSION

[ 58 PA. CODE CHS. 61 AND 65 ]

## Fishing

The Fish and Boat Commission (Commission) proposes to amend Chapters 61 and 65 (relating to seasons, sizes and creel limits; and special fishing regulations). The Commission is publishing this proposed rulemaking under the authority of 30 Pa.C.S. (relating to the Fish and Boat Code) (code).

### A. Effective Date

The proposed rulemaking, if approved on final-form rulemaking, will go into effect immediately upon publication in the *Pennsylvania Bulletin*.

### B. Contact Person

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

### C. Statutory Authority

The proposed amendment to § 61.1 (relating to Commonwealth inland waters) is published under the statutory authority of section 2102(b) of the code (relating to rules and regulations). The proposed amendment to § 65.24 (relating to miscellaneous special regulations) is published under the statutory authority of section 2307(a) of the code (relating to waters limited for specific purposes).

### D. Purpose and Background

The proposed rulemaking is designed to improve, enhance and update the Commission's fishing regulations. The specific purpose of the proposed amendments is described in more detail under the summary of proposals.

### E. Summary of Proposals

(1) *Amendment to § 61.1.* The Commission recently adopted an amendment to § 61.2 (relating to Delaware

River and River Estuary) that reduces the creel limit for American shad on the West Branch and the entire Delaware River mainstem from the confluence of the East and West Branches downstream to the Commodore Barry Bridge from six to three. This change went into effect on January 9, 2010, upon publication of an order at 40 Pa.B. 254.

Upon further review of its regulations, however, the Commission has determined that an amendment to § 61.1 is also needed. This section provides for a daily limit for American shad of six on all inland waters that are not covered by other sections within Chapter 61. Section 61.2, which is applicable only to those Delaware River tributaries from the mouths of the tributaries upstream to the limit of the tidal influence, does not cover large tributaries upriver of the tidal influence, such as the Lackawaxen River in Pike County. It is likely that a limited number of shad enter the larger tributaries upriver of the tidal influence. Currently, the limit for American shad on those Delaware River tributaries is six under § 61.1. The Commission proposes an amendment to this section to reduce the creel limit to three as set forth in Annex A to be consistent with § 61.2.

The Executive Director of the Commission, acting under the authority of § 65.25 (relating to temporary changes to fishing regulations), already has taken immediate action to amend § 61.1 to be consistent with § 61.2. This temporary modification went into effect on January 1, 2010. See 39 Pa.B. 7165 (December 19, 2009).

(2) *Amendment to § 65.24.* On October 26, 2009, Act 40 of 2009 went into effect. This act amends section 2907.2 of the code (relating to Lake Erie fishing permits), to provide that a Lake Erie permit is required to fish in Lake Erie, Presque Isle Bay and their tributaries, including waters that flow into those tributaries, instead of "the Pennsylvania waters of Lake Erie, Presque Isle Bay and their tributaries" only. This amendment requires anglers to procure a Lake Erie fishing permit to fish in Conneaut Creek, Turkey Creek and their tributaries when previously one was not required because although these streams begin in this Commonwealth, they enter Lake Erie in Ohio. Although a Lake Erie permit will be required to fish these streams, Act 40 also provides that proceeds derived from their sale may now be used to fund projects on those waters.

The Commission's regulation in § 65.24 currently provides that a Lake Erie permit is not required on Conneaut Creek, Turkey Creek and their tributaries. To be consistent with the new law, this section must be amended to remove that language.

In addition, the Commission currently applies the seasons, sizes and creels limits applicable to Lake Erie and its tributaries under § 69.12 (relating to seasons, sizes and creel limits—Lake Erie and Lake Erie tributaries) to the portion of Conneaut Creek that flows through Erie County. However, the Commission applies the seasons, sizes and creel limits applicable to Commonwealth inland waters under § 61.1 to the portion of Conneaut Creek and its tributaries that flow through Crawford County except with regard to salmon and steelhead that are addressed in § 65.24. To be consistent with the new law, § 65.24 must be amended to remove the existing language. With this change, the Commission will apply the Lake Erie seasons, sizes and creel limits to the entire length of Conneaut Creek and its tributaries. The Commission is actively developing a viable steelhead fishery in Conneaut Creek by annually stocking smolts. Accordingly, the Commission proposes that § 65.24 be amended to read as set forth in Annex A.

By notice published at 39 Pa.B. 6524 (November 7, 2009), the Executive Director, acting under the authority of § 65.25, already has taken immediate action to rescind these regulations. The temporary modification went into effect on October 26, 2009, and will remain in effect until the Commission, by appropriate action, rescinds the regulations.

**F. Paperwork**

The proposed rulemaking will not increase paperwork and will not create new paperwork requirements.

**G. Fiscal Impact**

The proposed rulemaking will have no adverse fiscal impact on the Commonwealth or its political subdivisions. The proposed rulemaking will impose no new costs on the private sector or the general public.

**H. Public Comments**

Interested persons are invited to submit written com-

ments, objections or suggestions about the proposed rulemaking to the Executive Director, Fish and Boat Commission, P. O. Box 67000, Harrisburg, PA 17106-7000, within 30 days after publication of this notice in the *Pennsylvania Bulletin*. Comments submitted by facsimile will not be accepted.

Comments also may be submitted electronically by completing the form at [www.fishandboat.com/regcom](http://www.fishandboat.com/regcom) ments. If an acknowledgment of electronic comments is not received by the sender within 2 working days, the comments should be retransmitted to ensure receipt. Electronic comments submitted in any other manner will not be accepted.

DOUGLAS J. AUSTEN, Ph.D.,  
*Executive Director*

**Fiscal Note:** 48A-216. No fiscal impact; (8) recommends adoption.

**Annex A**  
**TITLE 58. RECREATION**  
**PART II. FISH AND BOAT COMMISSION**  
**Subpart B. FISHING**  
**CHAPTER 61. SEASONS, SIZES AND CREEL LIMITS**

**§ 61.1. Commonwealth inland waters.**

\* \* \* \* \*

(d) Except as otherwise provided in this subpart, the following seasons, sizes and creel limits apply to inland waters of this Commonwealth and the Youghiogheny Reservoir:

<i>SPECIES</i>	<i>SEASONS</i>	<i>MINIMUM SIZE</i>	<i>DAILY LIMIT</i>
	* * * * *		
AMERICAN SHAD	Open year-round	No minimum	<b>[ 6 ] 3</b>
	* * * * *		

**CHAPTER 65. SPECIAL FISHING REGULATIONS**

**§ 65.24. Miscellaneous special regulations.**

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

<i>County</i>	<i>Name of Water</i>	<i>Special Regulations</i>
	* * * * *	
[ Crawford and Erie	Conneaut Creek E. Branch Conneaut Creek M. Branch Conneaut Creek W. Branch Conneaut Creek Mud Run Stone Run	Salmon and Steelhead: 12:01 a.m. the day after Labor Day until midnight the Thursday before the first Saturday after April 11. Minimum size limit: 15 inches. Daily creel limit: 3 (combined species). Lake Erie fishing permit is not required. ]
[ Crawford	Crazy Run	Salmon and Steelhead: 12:01 a.m. the day after Labor Day until midnight the Thursday before the first Saturday after April 11. Minimum size limit: 15 inches. Daily creel limit: 3 (combined species). Lake Erie fishing permit is not required. ]
	* * * * *	
[ Erie	E. Branch Conneaut Creek Marsh Run Temple Run Turkey Creek	Salmon and Steelhead: 12:01 a.m. the day after Labor Day until midnight the Thursday before the first Saturday after April 11. Minimum size limit: 15 inches. Daily creel limit: 3 (combined species). Lake Erie fishing permit is not required. ]
	* * * * *	

[Pa.B. Doc. No. 10-105. Filed for public inspection January 15, 2010, 9:00 a.m.]

## [ 58 PA. CODE CH. 75 ]

## Fishing

The Fish and Boat Commission (Commission) proposes to amend Chapter 75 (relating to endangered species). The Commission is publishing this proposed rulemaking under the authority of 30 Pa.C.S. (relating to the Fish and Boat Code) (code). The proposed amendments add the northern redbelly dace, northern cricket frog and blue-spotted salamander to the list of endangered species. The proposed amendments also remove the silver chub from the list of endangered species, the mooneye, goldeye and skipjack herring from the list of threatened species and the brook silverside from the list of candidate species.

A. *Effective Date*

The proposed rulemaking, if approved on final-form rulemaking, will go into effect immediately upon publication of an order in the *Pennsylvania Bulletin*.

B. *Contact Person*

For further information on the proposed rulemaking, contact Jason E. Oyler, Esq., P. O. Box 67000, Harrisburg, PA 17106-7000, (717) 705-7810. This proposal is available electronically through the Commission's web site at [www.fish.state.pa.us](http://www.fish.state.pa.us).

C. *Statutory Authority*

The proposed amendments to §§ 75.1, 75.2 and 75.3 (relating to endangered species; threatened species; and candidate species) are published under the statutory authority of section 2305 of the code (relating to threatened and endangered species).

D. *Purpose and Background*

The proposed rulemaking is designed to update, modify and improve the Commission's regulations pertaining to endangered, threatened and candidate species. The specific purpose of the proposed amendments is described in more detail under the summary of proposal.

E. *Summary of Proposal**Proposed Additions to the Endangered Species List*

(1) Northern Redbelly Dace (*Phoxinus eos*). The Northern Redbelly Dace is a small cyprinid. Characterized as a colorful minnow, this dace has a dark olive or brown back with spots and two dark, broad bands on the side. The space between the two bands is cream, reddish or dark. The stomach is cream-colored except in breeding males where the stomach is yellow-orange to red. It occurs in ponds and slow and swampy sections of streams. In this Commonwealth, it appears to be strictly confined to springs, wetlands and sections of waterways impounded by beavers (D. Fischer, personal observation).

The Northern Redbelly Dace's National distribution includes the Atlantic, Great Lakes, Hudson Bay, upper Mississippi, Missouri and Peace-Mackenzie River drainages, from Nova Scotia west to Northwest Territories and British Columbia, south to northern Pennsylvania, Wisconsin, Nebraska, and Colorado (Page and Burr 1991). In this Commonwealth, it was formerly known from Meshoppen Creek, Susquehanna County (Cooper 1983). It currently inhabits the Allegheny River drainage in Erie and Warren Counties (unpublished data). It also occurs adjacent to northwest Pennsylvania in the Brokenstraw Creek

and Conewango Creek drainages in New York (Smith 1985). This species is listed as endangered in Massachusetts.

Only one historic occurrence record—Susquehanna County exists in this Commonwealth (Cope 1862). More recently, five occurrences were documented in 2008: French Creek drainage in Erie and Warren Counties (2) and the Brokenstraw Creek drainage in Warren County (3). Apparently three of these occupied waterways have not been previously surveyed, and surveys on the remaining two did not include the occupied sections or habitat suitable for Northern Redbelly Dace (Raney 1938, Stauffer 1987, Cooper field notes, PFBC unpublished data). The total known lineal occupancy appears to be no more than 10 kilometers.

The Fishes Technical Committee of the Pennsylvania Biological Survey (PABS) reviewed the Heritage rank of the Northern Redbelly Dace and recommended it be changed from Extirpated (SX) to "critically imperiled" (S1)—in the State because of extreme rarity or because of some factors making it especially vulnerable to extirpation from the State. Typically five or fewer occurrences or very few remaining individuals occur in the State (State Rank Definitions 1996). The PABS Committee additionally recommended endangered status based on the previously referenced data and apparent rarity of the species.

The Northern Redbelly Dace was described by Cope (1862) from specimens collected in Meshoppen Creek, Susquehanna County, PA. No specimens have been reported from this Commonwealth since that time, and this taxon was considered extirpated (Cooper 1983). This species was evaluated through the Commission's fish species documentation and objective listing criteria and met Criteria B.3. (Distribution & Trends), that the extent of occupancy in the stream/river is less than 10 miles. Recently discovered populations of this species in north-eastern Erie and northwestern Warren counties justify a change in status from extirpated to endangered. Therefore, the Commission proposes that Northern Redbelly Dace be added to the list of endangered species.

(2) Northern Cricket Frog (*Acris crepitans*). The Northern Cricket Frog is the smallest frog species in this Commonwealth, averaging around 23mm (0.875 inch). This small tree frog is variable in coloration and markings. The dorsal body color can be golden brown, tan, gray or olive and can vary among individuals depending on ground temperature (R. Koval, personal observation). Most often mid-dorsal stripes are present and vary in color from brown to lime green. The most characteristic marking of the Northern Cricket Frog is the V-shaped or dark triangle spot located between the eyes and the well defined longitudinal stripe along the rear surface of the dark dorsal thigh.

Breeding habitats are typically described as permanent bodies of water such as slow-moving streams, ponds, lakes, marshes, bogs and swamps, but breeding sites can also be semipermanent ponds and seasonal forest pools. Often, breeding microhabitats within these larger systems are open-canopied, usually contain emergent vegetation, and contain areas of flat, sparsely vegetated patches along the margins of open water (Bayne 2004, Gibbs et al. 2007, White and White 2002). Upland habitats surrounding breeding habitats are varied but include: floodplain forest, small scrub-shrub islands in impoundments, mature deciduous forest with rocky substrates, mature deciduous forest with sandy substrates and old fields.



The Northern Cricket Frog is known from southeastern New York, south along the Atlantic Coastal states, and west along the Gulf Coast from northwestern Florida to eastern Texas. Southern populations range as far north as Tennessee and Missouri. Isolated populations occur on the Coastal Plain of South Carolina. It is listed as an endangered species in New York and as a species of concern in Ohio.

The Northern Cricket Frog was historically distributed throughout the southeastern and southcentral portions of this Commonwealth with several apparently disjunct populations found in northeastern and southwestern Pennsylvania. Counties of historical occurrence included: Allegheny, Berks, Bucks, Carbon, Chester, Cumberland, Dauphin, Delaware, Franklin, Lebanon, Montgomery, Philadelphia and York. Nearly half of all records were collected from within or near the coastal plain in southern Bucks, Delaware, Montgomery, and Philadelphia Counties. All records considered historical were initially documented before 1983.

The Northern Cricket Frog is apparently extirpated from approximately 92% of historically (initially discovered pre-1983: 34 of 37 locations) documented collection sites. Two of the three historical sites considered extant are included as a “best case scenario” since investigations or surveys have not been conducted for the species at these locations. The species may very well have disappeared from these locations as well. A total of six recent new sites have been initially documented since 1983. Of these sites, 50% (3 of 6) are considered extirpated, and an additional 33% (2 of 6) are located in a heavily disturbed industrial/urbanized landscape making future viability uncertain (these sites are considered extant in this analysis). Presently, of the 43 total sites that have been adequately documented as valid collection locations in this Commonwealth, only 14% (6 of 43) are considered extant. Suitable habitats in the vicinity of all but two of the historical collection locations (single sites in Chester and Franklin Counties have not been investigated since their initial discovery, but are considered extant in this analysis as a best case scenario) have been investigated in the last 15 years, thus documenting a significant (86%) population reduction for this species in this Commonwealth in the last 20 years, which meets listing criterion A.1.: Range Reduction of > 80% in the last 20 years. The Area of Occupancy for Northern Cricket Frog in this Commonwealth is under 4 square miles (Listing Criterion B.2) and severely fragmented (Listing Criterion B.2.a). Additionally, declines are projected in the area of occupancy, area/extent/and or quality of habitat, number of locations or subpopulations, and number of mature individuals (Listing Criterion B.2.b).

The Amphibian and Reptile Technical Committee of PABS reviewed the Heritage rank of the Northern Cricket frog and recommended it be changed to “critically imperiled” (S1)—critically imperiled in the State because of extreme rarity or because of some factors making it especially vulnerable to extirpation from the State. As the species meets Listing Criteria A.1. and B.2., the Committee recommended the status of the Northern Cricket Frog (*Acris crepitans*) be elevated to endangered. Therefore, given the apparent rarity and threats to the Statewide population, and multiple listing criteria met, the Commission proposes that Northern Cricket Frog be added to the list of endangered species.

(3) Blue-Spotted Salamander (*Ambystoma laterale*). The Blue-Spotted Salamander is member of the Ambystomatidae (*mole salamander*) family. They are characterized as a small to medium sized salamander with a pattern of bright blue spots scattered over a grayish-black or black body. They live mostly a terrestrial, fossorial/subterranean existence. Blue-spotted Salamanders require both breeding (aquatic) and nonbreeding (upland) habitats. Breeding habitat consists of hardwood swamps, open marshes, oxbow ponds, ditches, and seasonal forest pools, often within or near floodplains of large streams and rivers (Ruhe unpublished). Nonbreeding habitat can be characterized as deciduous and mixed forests surrounding breeding habitats.

Blue-Spotted Salamanders occur in Southeastern Quebec to Lake Winnipeg, south through the Great Lakes region and New England to northern Indiana and northern New Jersey. The United States portion of this range includes the states of Connecticut, Iowa, Illinois, Indiana, Massachusetts, Maine, Michigan, Minnesota, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Vermont and Wisconsin. Hybrid *A. laterale* populations (in association with *A. jeffersonianum*, *A. texanum*, and *A. tigrinum*) occur throughout the range of this species. The Blue-Spotted Salamander is listed as endangered in Ohio and New Jersey and as a species of concern in New York.

The Blue-spotted Salamander complex (including associated hybrids) is a peripheral species to this Commonwealth with all known populations being found in northern tier counties bordering the states of New Jersey and New York: the Delaware River drainage (Northampton County), and the Allegheny River drainage (McKean County and Warren County).

The Blue-spotted Salamander was not discovered in this Commonwealth until April of 2000. The Blue-spotted Salamander probably did not recently colonize this Commonwealth; rather this species had likely escaped detection due to locations being situated in fairly rural areas and general similarity in appearance to the Jefferson Salamander. This species was not detected during the 7-year long Pennsylvania Herpetological Atlas project.

The Blue-spotted Salamander was first discovered in McKean County (Allegheny River drainage) during the spring of 2000 as part of a distribution-wide survey for the Jefferson Salamander (*Ambystoma jeffersonianum*) and Blue-spotted Salamander complex (Bogart and Klemens 2008, Ruhe unpublished). Two additional populations were subsequently found in Northampton (Delaware River drainage) and Warren (Allegheny River drainage) Counties (Bogart and Klemens 2008, Ruhe unpublished). The Northampton County population was discovered in October 2003, and the Warren County population in October 2008 (Ruhe unpublished).

The known extent of occurrence for the Blue-spotted Salamander in this Commonwealth encompasses an area of under 3 square miles, qualifying the species for listing as endangered under listing criterion B. 1. (Extent of Occurrence < 40 mi<sup>2</sup>). As the Blue-spotted Salamander meets this criterion, the Amphibian and Reptile Technical Committee of PABS recommends that the Blue-spotted Salamander be listed as an endangered species. Therefore, based upon the limited range of the species within this Commonwealth, the small number of known sites and threats to these sites, the Commission proposes that Blue-Spotted Salamander be added to the list of endangered species.

*Proposed Removals from the Endangered, Threatened and Candidate Species Lists*

(1) Silver Chub (*Macrhybopsis storeriana*). The Silver Chub is a small, slender, silvery minnow with large eyes, small mouth, and small, posterior maxillary barbel. It inhabits large rivers and lakes, where it prefers clean sand and gravel substrates. Its Nationwide distribution includes the Lake Erie drainage in Ontario, New York, Pennsylvania, Ohio, and Michigan; Mississippi River basin from Pennsylvania and West Virginia to the Midwest, and south to Gulf Coast drainages from Alabama to Louisiana. In this Commonwealth, they occur in Lake Erie, and in the Allegheny, Monongahela, and Ohio River drainages (Argent & Carline 2005).

The Silver Chub was probably common in all the large rivers in this Commonwealth's portion of the Ohio River drainage prior to European settlement (Trautman 1981). It was abundant in the Monongahela in the late 1800s (Evermann and Bollman 1886). It was apparently extirpated during the early 1900s, when conditions in these rivers were degraded (Ortmann 1909). ORSANCO collected a single specimen in 1957 and eight in 1959 from the lower Allegheny River. Cooper (1983) collected a single specimen from Lake Erie in the vicinity of the mouth of Walnut Creek in 1971.

The Silver Chub is rarely taken in Lake Erie and was considered extirpated in the Ohio River drainage by Gilbert (1985). It was collected in 1986 in the Ohio River and has subsequently been documented in the Monongahela and lower Allegheny as well (unpublished data—California University of Pennsylvania CUP, Ohio River Sanitation Commission (ORSANCO), Pennsylvania State University (PSU), PFBC). It has been collected more often since the early 1990s, with collections ranging from one to 24 specimens (unpublished data—CUP, ORSANCO, PSU, PFBC). Multiple size classes including juveniles have been collected recently in the Ohio River (personal communication, T. Stecko PSU unpublished data 2009).

The Fishes Technical Committee of the PABS reviewed the Heritage rank of the Silver Chub and recommended that it be changed from "critically imperiled" (S1) to "vulnerable-apparently secure" (S3S4) status—uncommon but not rare, and usually widespread in the State. (State Rank Definitions 1996.) The PABS committee additionally recommended "delisting" status based on the previously referenced data and apparent commonality of the species. PABS definition of delisted species—species which were once listed but now cited for delisting (PABS Suggested Status Definitions 2005).

The Silver Chub was listed as endangered based on a limited number of collections and apparent low numbers. Field surveys conducted throughout the historic Commonwealth range since 1990 have documented an expansion in range and population size compared to pre-1990 information. These species were considered extirpated during the first half of the twentieth century; however, recent electrofishing and benthic trawl surveys have documented a more or less continuous distribution throughout the Ohio River and lower reaches of the Monongahela and Allegheny Rivers. Based on recent records, it appears that this species is now fairly widespread in the lock and dam section of the "Three Rivers" (Criswell and Stauffer 2005).

This species was evaluated through the Commission's fish species documentation and objective listing/delisting criteria. Silver Chub now occupy much of their former

range and their population is increasing. Therefore, it no longer meets endangered species listing criteria. Nor does it meet the threatened species listing criteria. Therefore, the Commission proposes that Silver Chub be removed from the list of endangered species.

(2) Mooneye (*Hiodon tergisus*): The Mooneye is a medium-sized, deep-bodied pelagic fish that inhabits large rivers and reservoirs. It is known from the St. Lawrence—Great Lakes drainage (except Lake Superior), Mississippi River and Hudson Bay basins from Quebec to Alberta and south to the Gulf; Gulf Slope drainages from Alabama to Louisiana (Page and Burr 1991). In this Commonwealth, it occurs in the Monongahela and Ohio Rivers, and the lock and dam section of the Allegheny River, and formerly occurred in Lake Erie (Fowler 1940, Cooper 1983).

Lessueur's original 1818 description of this species, based in part on specimens collected in Pittsburgh, is apparently the only historic record from the Ohio River drainage in the State (Cooper 1985). In Lake Erie, it was collected in 1920 near Erie, PA (UMMZ 55667). The Mooneye was common in Ohio waters before 1900, but has decreased greatly since, and is rarely taken in Lake Erie (Trautman 1981). It was probably fairly common in this Commonwealth before 1900 as well but was apparently extirpated during the early 1900s when conditions in these rivers were degraded. Its recent recolonization is undoubtedly a result of improved water quality (Criswell and Stauffer 2005).

The Mooneye was collected in 1987 in the Allegheny River and since has been collected as far upriver as River Mile 60 and has subsequently been documented in the Monongahela and lower Ohio Rivers as well (unpublished data—CUP, ORSANCO, PSU, PFBC). It has been collected more often since the early 1990s, with collections ranging from 1—22 specimens (unpublished data—CUP, ORSANCO, PSU, PFBC).

The Fishes Technical Committee of PABS reviewed the Heritage rank of the Mooneye and recommended that it be changed from "imperiled-vulnerable" (S2S3) to "apparently secure" (S4) status—uncommon but not rare, and usually widespread in the state. Usually more than 100 occurrences (State Rank Definitions 1996). The PABS committee additionally recommended "delisting" status based on the above referenced data and apparent commonality of the species.

The Mooneye was listed as threatened based on a limited number of collections and apparent low numbers. Field surveys conducted throughout the historic Commonwealth range since 1990 have documented a significant expansion in range and population size compared to pre-1990 information. The Mooneye was considered extirpated from the State, with no collections reported between 1920 and 1987 (Cooper 1985, unpublished data); however, recent electrofishing and gillnet surveys have documented a more or less continuous distribution throughout the Ohio River and lower reaches of the Monongahela and Allegheny Rivers. This species was evaluated through the Commission's fish species documentation and objective listing/delisting criteria. The Mooneye no longer meets the threatened species listing criteria as its distribution and population is increasing in this Commonwealth.

Enough information is available to make the determination that it is secure in the State at present and to justify removal from the list of threatened and endangered fishes. Therefore, the Commission proposes that the Mooneye be removed from the list of threatened species.

(3) Goldeye (*Hiodon alosoides*). Similar in shape and form to the Mooneye, the Goldeye inhabits large turbid rivers and the silty shallows of large lakes. It is known from tributaries to James Bay in Quebec and Ontario; Arctic, Missouri, Mississippi, and Ohio River drainages from Northwest Territories to Pennsylvania and south to Louisiana (Page and Burr 1991). In this Commonwealth, the Goldeye was known from the Ohio River Basin.

The historic distribution of Goldeye within this Commonwealth is difficult to determine. Fowler (1911 & 1919) reported collections from the Beaver River (1 specimen) and the Youghiogheny River (2 specimens) made by Edward D. Cope, presumably in the 1860s or 1870s. Trautman (1981) reported that in Ohio it was far more numerous in the Ohio River below Portsmouth than in the industrially polluted upper Ohio River near the Pennsylvania State line, and remained fairly common there during the period 1955-1980. However, no recent records exist in this Commonwealth.

The Fishes Technical Committee of PABS reviewed the Heritage rank of the Mooneye and recommended it be changed to "extirpated" (SX) status—believed to be extirpated from the state (State Rank Definitions 1996). The PABS committee additionally recommended "delisting" status based on the previously referenced data and lack of contemporary collections of the species.

The Goldeye was listed as threatened based on a limited number of collections and apparent low numbers. Field surveys conducted throughout the Ohio River basin during the last 110 years have not yielded a known collection of Goldeye supported by a preserved voucher specimen. These surveys include increasingly intensive efforts using multiple methodologies implemented by multiple scientific entities.

At this time, enough information is available to make the determination that the Goldeye is presumed extirpated from this Commonwealth and to justify its removal from the list of threatened fishes. Therefore, the Commission proposes that Goldeye be removed from the list of threatened species.

(4) Skipjack Herring (*Alosa chrysochloris*). The Skipjack Herring is a streamlined, laterally compressed herring with a large mouth and protruding lower jaw, inhabiting open waters of medium to large rivers and reservoirs. It is known from the Hudson Bay drainage (Red River) and Mississippi River basin from Minnesota south to the Gulf of Mexico, and from southwestern Pennsylvania to South Dakota, Nebraska, Kansas, Oklahoma, and Texas Gulf Slope drainages from Florida to Texas (Page and Burr 1991). In this Commonwealth, it is known from the Ohio, Monongahela and Allegheny River basins.

Early accounts indicated that the Skipjack Herring was evidently uncommon in this Commonwealth. Rafinesque (1820) stated that it seldom went as far upriver as Pittsburgh. Trautman (1981) reported that rivermen occasionally took individuals between Marietta, OH, and the Pennsylvania State line. Fowler (1919) reported an occurrence from the Conemaugh River, Indiana County, that he thought was likely a Skipjack Herring. However, Fowler (1940) also reported this species from Blair County, a questionable record at best. Cooper (1985) considered it extirpated and thought it possible that the species never had been collected from the Commonwealth. It was occasionally collected in this Commonwealth's portion of the Ohio River during the mid-1980's and has continued to increase in numbers (unpublished data).

Recent records show the Skipjack Herring is well distributed and taken regularly in the Ohio and Monongahela Rivers (Criswell and Stauffer 2005; Unpublished data—ORSANCO, PSU, PFBC, CUP).

The Fishes Technical Committee of PABS reviewed the Heritage rank of the Skipjack Herring and recommended it be changed to "apparently secure" (S4) status—uncommon but not rare, and usually widespread in the State; usually more than 100 occurrences (State Rank Definitions 1996). The PABS Committee additionally recommended "delisting" status based on the previously referenced data and apparent commonality of the species.

The Skipjack Herring was listed as threatened based on a limited number of collections and apparent low numbers. Field surveys conducted throughout the historic Commonwealth range since the 1990s have documented an expansion in range and population size compared to pre-1990 information. The Skipjack Herring was considered extirpated until the mid-1980s; however, recent electrofishing and gillnet surveys have documented a more or less continuous distribution throughout the Ohio River and lower reaches of the Monongahela and Allegheny Rivers. This species was evaluated through the Commission's fish species documentation and objective listing/delisting criteria. The Skipjack Herring now occupy their former range (widespread in the Ohio and Monongahela and increasing in the Allegheny) and the population is increasing in this Commonwealth. They no longer meet the threatened species listing criteria. Therefore, the Commission proposes that Skipjack Herring be removed from the list of threatened species.

(5) Brook Silverside (*Labidesthes sicculus*): The Brook Silverside is a slender, elongate fish with a nearly straight dorsal profile anteriorly, including a flattened head. It inhabits lakes and sluggish sections of large streams and rivers, where it occurs primarily in schools near the surface in open water, often over substrates of silt, sand, or mud. The Brook Silverside is known from the St. Lawrence-Great Lakes drainage (except Lake Superior), and Mississippi River basin from southern Quebec to eastern Minnesota and south to Louisiana; Atlantic and Gulf drainages from South Carolina to Texas. It has been introduced elsewhere (Page and Burr 1991). In this Commonwealth, it is known from the Ohio River and Lake Erie drainages in western part of State (Cooper 1983).

Little historical information on abundance is available for this Commonwealth. Trautman (1981) reported that in Ohio the brook silverside was abundant and distributed throughout the state prior to 1900 but was severely reduced and many populations were extirpated. He identified the chief factor causing this decline as increased turbidity levels. Since this species is generally detected during surveys targeting other fishes in this Commonwealth, comprehensive data on distribution and abundance is lacking. It probably declined significantly in our western rivers, as did many other fishes, and is now rebounding there.

In the last 25 years, collection records indicate that the Brook Silverside is locally common in larger water bodies, especially lakes and impounded sections of large rivers. It is collected regularly in the Allegheny, Monongahela, and Ohio Rivers, French Creek and tributaries, Shenango River and its tributaries, and major impoundments, and Lake Erie (CUP, ORSANCO, PSU, PFBC).

The Fishes Technical Committee of PABS reviewed the Heritage rank of the Brook Silverside and recommended

it be changed to “apparently secure” (S4) status—uncommon but not rare, and usually widespread in the State. Usually more than 100 occurrences (State Rank Definitions 1996). The PABS Committee additionally recommended “delisting” status based on the previously referenced data and apparent commonality of the species in this Commonwealth.

The Brook Silverside was listed as a candidate species in this Commonwealth based on a limited number of collections and apparent low numbers. Recent field surveys conducted throughout the historic Pennsylvania range have documented a significant expansion in range and population size compared to pre-1990 information. This species was evaluated through the Commission’s fish species documentation and objective listing/delisting criteria. The Brook Silverside population and distribution is increasing, such that they no longer meet the candidate species listing criteria.

Enough information is available to determine that it is secure in the State at present and to justify Brook Silverside’s removal from the list of candidate fishes. Therefore, the Commission proposes that Brook Silverside be removed from the list of candidate species.

The Commission accordingly proposes that §§ 75.1, 75.2 and 75.3 be amended to read as set forth in Annex A.

F. Paperwork

The proposed rulemaking will not increase paperwork and will create no new paperwork requirements.

G. Fiscal Impact

The proposed rulemaking will have no direct adverse fiscal impact on the Commonwealth or its political subdivisions. The proposed rulemaking will impose no new direct costs on the private sector or the general public. The direct regulatory significance of designating a species as endangered or threatened is limited to prohibiting persons from taking, catching, killing or possessing these species in this Commonwealth. Because none of the species that are proposed for listing have any commercial or recreational significance because of their rarity, there are no direct fiscal impacts from providing these protections.

With respect to listings previously proposed by the Commission, the private sector and regulated community have asserted that the designation of certain species as endangered or threatened may have indirect fiscal impacts on them and the Commonwealth because of impacts on permitting decisions by the Department of Environmental Protection and other agencies. If an endangered species is found in an area slated for development, applicants for permits may be required to conduct additional studies or adjust the project to avoid adverse impacts on these species and their habitat. These are fiscal impacts resulting from regulatory and statutory authorities other than those under the aegis of the Commission.

H. Public Comments

Interested persons are invited to submit written comments, objections or suggestions about the proposed rulemaking to the Executive Director, Fish and Boat Commission, P. O. Box 67000, Harrisburg, PA 17106-7000, within 30 days after publication of this notice in the *Pennsylvania Bulletin*. Comments submitted by facsimile will not be accepted.

Comments also may be submitted electronically by completing the form at [www.fishandboat.com/reg](http://www.fishandboat.com/reg) comments. If an acknowledgment of electronic comments is not received by the sender within 2 working days, the comments should be retransmitted to ensure receipt. Electronic comments submitted in any other manner will not be accepted.

DOUGLAS J. AUSTEN, Ph.D.,  
*Executive Director*

**Fiscal Note:** 48A-215. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART II. FISH AND BOAT COMMISSION

Subpart B. FISHING

CHAPTER 75. ENDANGERED SPECIES

§ 75.1. Endangered species.

\* \* \* \* \*

(b) *Fish*. The following species are endangered:

\* \* \* \* \*

(8) [ **Silver chub, *Macrhybopsis storeriana*** ]  
**Northern redbelly dace, *Phoxinus eos***.

\* \* \* \* \*

(c) *Reptiles and amphibians*. The following species are endangered:

\* \* \* \* \*

(9) **Northern Cricket Frog, *Acris crepitans***.

(10) **Blue-spotted Salamander, *Ambystoma laterale***.

\* \* \* \* \*

§ 75.2. Threatened species.

\* \* \* \* \*

(b) *Fish*. The following species are threatened:

\* \* \* \* \*

(2) [ **Skipjack herring, *Alosa chrysochloris***.

(3) **Goldeye, *Hiodon alosoides***.

(4) **Mooneye, *Hiodon tergisus***.

(5) ] **Bigmouth shiner, *Notropis dorsalis***.

[ (6) ] (3) **Southern redbelly dace, *Phoxinus erythrogaster***.

[ (7) ] (4) **Spotted sucker, *Minyterma melanops***.

[ (8) ] (5) **Brindled madtom, *Noturus miurus***.

[ (9) ] (6) **Bluebreasted darter, *Etheostoma camurum***.

[ (10) ] (7) **Spotted darter, *Etheostoma maculatum***.

[ (11) ] (8) **Tippecanoe darter, *Etheostoma tippecanoe***.

[ (12) ] (9) **Gilt darter, *Percina evides***.

\* \* \* \* \*

§ 75.3. Candidate species.

\* \* \* \* \*

(b) *Fishes*.

\* \* \* \* \*

(8) [ **Brook silverside, *Labidesthes sicculus***

(9) ] Brook stickleback, *Culaea inconstans*.

\* \* \* \* \*

[Pa.B. Doc. No. 10-106. Filed for public inspection January 15, 2010, 9:00 a.m.]

## PENNSYLVANIA GAMING CONTROL BOARD

[ 58 PA. CODE CH. 433a ]

### Principal Licensing Amendments

The Pennsylvania Gaming Control Board (Board), under the general authority in 4 Pa.C.S. § 1202(b)(30) (relating to general and specific powers) and the specific authority in 4 Pa.C.S. § 1202(b)(9) and (23) and §§ 1311.1 and 1326 (relating to licensing of principals; and license renewals), proposes to amend Chapter 433a to read as set forth in Annex A.

#### *Purpose of the Proposed Rulemaking*

The proposed rulemaking amends Chapter 433a (relating to principal licenses). These amendments revise and update this chapter to improve its clarity and eliminate or reduce some of the requirements to obtain a principal license.

#### *Explanation of Amendments to Chapter 433a*

In § 433a.1 (relating to definitions), the definitions of “officer” and “principal affiliate” have been amended to include individuals who may have an ability to influence or direct matters related to the operations of a slot machine licensee.

In § 433a.2 (relating to officers and directors of licensees), a number of changes have been made to improve the clarity of the existing licensing requirements. References to applicants for licenses have been deleted. While principals of applicants will be required to file principal applications as part of the application process for an applicant for a license, they do not have to hold a license as a precondition for an applicant to apply for a license. Similar revisions have been made in the other sections in this chapter for the same reason.

Subsection (b) has been revised to apply to all licensees, not just slot machine licensees, eliminating the need for the existing requirements in subsection (c) regarding licensees other than slot machine licensees. As a result of the amendments to subsection (b), subsection (c) has been revised so that it now addresses the licensing requirements for officers and directors of subsidiary of a slot machine licensee.

Subsection (d) has been deleted. It is no longer needed because of the change to the definition of “officer” in § 433a.1. The waiver provisions in subsections (e) and (g) of the current regulation are also being deleted and have been replaced with a new subsection (d) (formerly subsection (f)) which provides an exemption from licensure for outside directors of a public traded corporation. This will eliminate the paperwork required by the waiver request process for these directors who typically have no significant involvement with the operations of a licensee.

New subsections (e) and (f) have been added to address the filing requirements of new officers and directors. Under subsection (e), most new directors or officers will be allowed to commence their duties upon appointment

and will only be required to file a completed Multi Jurisdictional Personal History Disclosure Form and the Pennsylvania Supplement to the Multi Jurisdictional Personal History Disclosure Form within 30 days of performing any duties or exercising any powers as an officer or director. However, an officer or director of a privately held slot machine licensee, privately held licensed management company or privately held principal affiliate of a slot machine licensee or licensed management company may not perform any duties or exercise any powers of an officer or director prior to being granted temporary authorization from the Bureau of Licensing. The Bureau of Licensing may grant temporary authorization to a new officer or director of a privately held entity if the individual has submitted a completed Multi Jurisdictional Personal History Disclosure Form, a completed Pennsylvania Supplement to the Multi Jurisdictional Personal History Disclosure Form, and fingerprints in a manner prescribed by the Bureau of Investigation and Enforcement. The more restrictive provisions for directors or officers of these privately held entities have been imposed because of the potential threat to the integrity of gaming and the lack of any other regulatory oversight of these entities.

New § 433a.3 (relating to interests in licensees held by individuals) has been reorganized. Subsection (a) now requires individuals who meet the criteria contained in this subsection to both apply for and obtain a principal license before acquiring an interest in a slot machine or management company licensee. In subsection (b), individuals acquiring an interest in other licensees will only be required to file a principal application before acquiring the interest; however, under subsection (c), if the individual does not obtain a principal license, the individual must divest the interest. The more rigorous requirements related to interests in slot machine or management company licensees are in recognition of the greater potential threat to the integrity of gaming from the acquisition of an interest in a slot machine or management company licensee as opposed to other licensees.

New subsections (d) and (e) establish new principal licensing requirements for individuals seeking to acquire a direct or indirect ownership interest of 20% or more in licensees other than slot machine or management company licensees. Under subsection (d), these individuals will be required to file a completed principal application and a Notification of a Change in Control of a Licensee form at least 30 days prior to the acquisition. This will allow the Bureau of Licensing to review the acquisition before it actually takes place. Additionally, under subsection (e) the Board may require that the individual successfully complete the licensing process prior to completing the acquisition. This is being done to ensure the suitability of these individuals prior to their acquisition of a controlling interest in these licensees.

New subsections (f), (g) and (h) provide higher thresholds for principal licensing for interests acquired in publicly traded corporations and exempted private investment funds. This is because of the more limited ability of these acquisitions to affect the operations of a licensee. Finally, the existing subsection (g), which is now subsection (i) still retains the Board’s ability to require any individual to obtain a principal license if the Board determines licensure to be appropriate.

New section 433a.4 (relating to interests in licensees held by entities) has been reorganized in the same manner as § 433a.3. Subsection (a) addresses entities acquiring an interest in a slot machine or management

company licensee and subsection (b) addresses entities acquiring an interest in other licensees. Subsections (c), (d), (e), (f) and (g) also mirror the provisions in § 433a.3(c), (d), (e), (f) and (g). Subsection (h) (formerly subsection (f)) has been amended to improve its clarity and existing subsection (g) has been deleted because it no longer applies. Existing subsection (h), which is now subsection (i), has been revised to make it consistent with the revisions to § 433a.3(i).

Section 433a.5 (relating to institutional investors) has been revised to reduce the filing requirements imposed on institutional investors. Under subsection (a), institutional investors that meet the criteria in paragraphs (1) and (2) will be allowed to file an Institutional Investor Notice of Ownership instead of being required to file an application for a principal licensee. Additionally, the Board has deleted the existing provisions related to waivers because they are not needed.

In § 433a.6 (relating to lenders and underwriters), references to applicants for a license have been deleted for the reasons previously discussed. Existing subsection (c) has been deleted and replaced with new text that includes specific criteria pertaining to when a lender will not be required to be licensed as a principal. Additionally, a new subsection (d) has been added which sets forth the circumstances under which the purchaser of debt issued by a licensee will not be required to be licensed as a principal. Subsection (e) (formerly subsection (d)) has been revised to make it consistent with the requirements in new subsection (d). These revisions will make it easier for lenders to determine whether or not they will be required to be licensed as principals.

In § 433a.7 (relating to trusts), existing subsections (a), (b) and (c) have been revised and rearranged to mirror the requirements in §§ 433a.3(a) and (b) and 433a.4(a) and (b) so that trusts will be treated in the same manner as an individual or other entity. The new subsection (c) is a reformatted version of the current subsection (d). Subsections (d) and (e) mirror the language of subsections (c) and (f) in §§ 433a.3 and 433a.4.

*Affected Parties*

This rulemaking will affect officers and directors of licensees; individuals, entities, institutional investors and trusts which hold an interest in a licensee; and lending institutions and other purchasers who hold debt of a licensee. It will provide greater clarity regarding who must be licensed as a principal and eliminate the need for some of these entities to be licensed as principals.

*Fiscal Impact*

*Commonwealth*

There will be no significant increase or decrease in regulatory costs for the Board or other State agencies as a result of this rulemaking. This is because the Board recovers the costs associated with licensing activities from the applicants for licenses.

*Political Subdivisions*

This proposed rulemaking will have no fiscal impact on political subdivisions of the Commonwealth.

*Private Sector*

Overall, this proposed rulemaking should result in a slight reduction in the number of applications for a principal license from the affected groups listed in this preamble.

*General Public*

This proposed rulemaking will have no fiscal impact on the general public.

*Paperwork Requirements*

This proposed rulemaking will reduce the number of applications that are filed for principal licenses and allow some institutional investors to file the shorter Institutional Investor Notice of Ownership form.

*Effective Date*

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

*Public Comments*

Interested persons are invited to submit written comments, suggestions or objections regarding the proposed rulemaking, within 30 days after the date of publication in the *Pennsylvania Bulletin* to Richard Sandusky, Director of Regulatory Review, Pennsylvania Gaming Control Board, P. O. Box 69060, Harrisburg, PA 17106-9060, Attention: Public Comment on Regulation #125-108.

*Contact Person*

The contact person for questions about this proposed rulemaking is Richard Sandusky, Director of Regulatory Review, at (717) 214-8111.

*Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on January 6, 2010, the Board submitted a copy of this proposed rulemaking and a copy of the Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the House Gaming Oversight Committee and the Senate Community, Economic and Recreational Development Committee. A copy of this material is available to the public upon request and is available on the Board's web site at [ww.w.pgcb.state.pa.us](http://ww.w.pgcb.state.pa.us).

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

GREGORY C. FAJT,  
*Chairperson*

**Fiscal Note:** 125-108. No fiscal impact; (8) recommends adoption.

**Annex A**

**Title 58. RECREATION**

**PART VII. GAMING CONTROL BOARD**

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

**CHAPTER 433a. PRINCIPAL LICENSES**

**§ 433a.1. Definitions.**

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

\* \* \* \* \*

*Officer*—A president, chief executive officer, chief operating officer, secretary, treasurer, principal legal officer, principal compliance officer, principal financial officer, [ **comptroller,** ] principal accounting officer, chief engineer or technical officer of a manufacturer, [ **or** ] principal slot operations officer of a slot machine licensee, **senior surveillance and audit executives of an intermediary or holding company of a slot machine licensee** and any person routinely performing corresponding functions with respect to an entity whether incorporated or unincorporated.

*Principal affiliate*—

(i) An intermediary or holding company of an applicant or licensee.

(ii) A general partner of a limited partnership that is an applicant or licensee.

(iii) A general partner of a limited partnership that is an intermediary or holding company of an applicant or licensee.

\* \* \* \* \*

*Registered investment adviser*—An investment adviser [ **that has** ] registered with the SEC under the Investment Advisers Act of 1940 (15 U.S.C.A. §§ 80b-1—80b-21).

*Registered investment company*—An investment company [ **that has** ] registered with the SEC under the Investment Company Act of 1940 (15 U.S.C.A. §§ 80a-1—80a-64).

\* \* \* \* \*

§ 433a.2. [ **Directors or officers** ] **Officers and directors of licensees.**

(a) Each officer and director of [ **an applicant or** ] a licensee shall be licensed as a principal.

(b) Each officer and director of an intermediary [ **,** **subsidiary** ] or holding company of a [ **slot machine applicant or** ] licensee shall be licensed as a principal.

(c) Each officer and director of [ **an intermediary or holding company of a licensed supplier, licensed manufacturer, licensed manufacturer designee, licensed junket enterprise or licensed management company** ] a subsidiary of a slot machine licensee shall be licensed as a principal.

(d) [ **The senior surveillance or internal audit executives of a holding or intermediate company which has authority to direct the operations of a slot machine licensee shall be licensed as a principal if the most senior executive in the reporting line reports directly to the independent audit committee of the board of directors of the holding or intermediary company**

(e) Notwithstanding subsection (b), an officer or director of a publicly traded intermediary or holding company of a slot machine applicant or licensee, who is not a member of the audit committee, may request that the Board waive his requirement to be licensed as a principal if he is not actively involved in the affairs of the slot machine applicant or licensee. The waiver request shall be submitted on a Principal/Key Employee Waiver Form, and require that the officer or director certify that he is not actively involved in the affairs of the slot machine applicant or licensee.

(f) ] Notwithstanding [ **subsection (c)** ] subsection (a) or (b), an outside director of a publicly traded [ **intermediary or holding company of a licensed supplier, licensed manufacturer, licensed manufacturer designee, licensed junket enterprise or licensed management company** ] corporation, who is [ **not** ] neither a member of the audit committee [ **or** ] nor chairperson of the board of directors of the [ **intermediary or holding company** ] publicly traded corporation will not be required to be licensed as a principal unless the Board determines that the licensure of the individual is necessary to protect the integrity of gaming in this Commonwealth.

[ (g) Notwithstanding subsection (c), an officer of a publicly traded intermediary or holding company of a licensed supplier, licensed manufacturer, licensed manufacturer designee, licensed junket enterprise or licensed management company may request that the Board waive the requirement to be licensed as a principal if the officer is not actively involved in the affairs of the applicant or licensee. The waiver request shall be submitted on a Principal/Key Employee Waiver Form and require that the officer certify that he is not actively involved in the affairs of the applicant or licensee. ]

(e) Except as provided in subsection (f), an officer or director required to be licensed under this section shall submit a completed Multi Jurisdictional Personal History Disclosure Form and the Pennsylvania Supplement to the Multi Jurisdictional Personal History Disclosure Form within 30 days of performing any duties or exercising any powers as an officer or director.

(f) An officer or director of a privately held slot machine licensee, privately held licensed management company or privately held principal affiliate of a slot machine licensee or licensed management company may not perform any duties or exercise any powers of an officer or director prior to being granted temporary authorization from the Bureau of Licensing. The Bureau of Licensing may grant temporary authorization to a new officer or director of a privately held entity if the individual has submitted a completed Multi Jurisdictional Personal History Disclosure Form, a completed Pennsylvania Supplement to the Multi Jurisdictional Personal History Disclosure Form, and fingerprints in a manner prescribed by the Bureau of Investigation and Enforcement.

§ 433a.3. [ **Individual ownership** ] **Interests in licensees held by individuals.**

(a) An individual [ **who has a direct ownership interest in, or has a right to any profit, distribution or benefit directly from, an applicant or licensee shall be licensed as a principal.** ] shall apply for and obtain a principal license from the Board prior to possessing any of the following:

(1) A direct ownership interest in a slot machine or management company licensee.

(2) A 1% or greater indirect ownership interest in a slot machine or management company licensee. An ownership interest that is held indirectly by an individual through one or more intervening entities

will be determined by successive multiplication of the ownership percentages for each link in the vertical chain.

(3) A right to receive a payment from a slot machine licensee based directly or indirectly on the earnings, profits or receipts from the slot machines and associated equipment for use or play in this Commonwealth.

(4) A right or ability to control or influence the management or policies of a slot machine licensee.

(b) An individual who [ , directly or indirectly, has the power to control or direct the management or policies of an applicant or licensee shall be licensed as a principal ] possesses any of the interests or rights in paragraphs (1)—(3) shall apply for and obtain a principal license. An individual may possess any of the interests or rights in paragraphs (1)—(3) if the individual notifies the Board and submits a completed application to the Board in accordance with § 433a.8 (relating to principal applications) prior to acquiring the interest or right.

(1) A direct ownership interest of 1% or more in a licensed manufacturer, licensed supplier, licensed manufacturer designee or licensed junket enterprise.

(2) A 1% or greater indirect ownership interest in a licensed manufacturer, licensed supplier, licensed manufacturer designee or licensed junket enterprise. An ownership interest that is held indirectly by an individual through one or more intervening entities will be determined by successive multiplication of the ownership percentages for each link in the vertical chain.

(3) A right or ability to control or influence the management or policies of a licensed manufacturer, licensed supplier, licensed manufacturer designee or licensed junket enterprise.

(c) [ An individual who has a direct ownership interest in, or has a right to any profit, distribution or benefit directly from, an intermediary or holding company of a slot machine applicant or licensee shall be licensed as a principal ] An individual who has acquired an interest or right set forth in subsection (b)(1)—(3) prior to being licensed, whose application is denied or withdrawn shall divest the interest or right.

(d) [ An individual that has a 1% or greater indirect ownership interest in an applicant or licensee shall be licensed as a principal. An ownership interest that is held indirectly by an individual through one or more intervening entities will be determined by successive multiplication of the ownership percentages for each link in the vertical chain. ] An individual seeking to acquire a direct or indirect ownership interest of 20% or greater in a licensed manufacturer, licensed supplier, licensed manufacturer designee or licensed junket enterprise shall submit the following, at least 30 days prior to acquiring the ownership interest:

(1) A notification of a Change in Control of a Licensee Form.

(2) A completed principal application.

(e) Notwithstanding [ any provision to the contrary in this section, an individual who holds less than 5% of the voting securities of an applicant or licensee or an intermediary or holding company of an applicant or licensee that is a publicly traded company will not be required to be licensed as a principal ] subsection (d), the Board may require an individual to obtain a principal license prior to acquiring a direct or indirect ownership interest of 20% or greater in a licensed manufacturer, licensed supplier, licensed manufacturer designee or licensed junket enterprise.

(f) [ Each individual who is a grantor, trustee or beneficiary of a trust that is required to be licensed as a principal under this chapter shall be licensed as a principal ] Notwithstanding subsections (a) and (b), an individual whose ownership interest in a licensee consists of less than 5% of the voting securities of a publicly traded corporation will not be required to be licensed as a principal.

(g) Notwithstanding subsections (a) and (b), an individual who indirectly owns less than 5% of the voting securities of a publicly traded corporation through one or more privately held entities will not be required to be licensed as a principal.

(h) Notwithstanding subsections (a) and (b), an individual who holds an indirect ownership interest of less than 5% in a licensee through a private investment fund that has been exempted from licensure under § 433a.4(e) (relating to interests in licensees held by entities) will not be required to be licensed as a principal.

[ (g) The ] (i) Notwithstanding any provision in this section, the Board may require any individual who has [ a ] any financial interest in [ , or receives an economic benefit from, ] an applicant or licensee to be licensed as a principal.

§ 433a.4. [ Entity ownership ] Interests in licensees held by entities.

(a) An [ intermediary, subsidiary or holding company of an applicant or licensee ] entity shall [ be licensed as a principal. ] apply for and obtain a principal license prior to possessing any of the following:

(1) A direct ownership interest in a slot machine or management company licensee.

(2) A 1% or greater indirect ownership interest in a slot machine or management company licensee. An ownership interest that is held indirectly by an entity through one or more intervening entities will be determined by successive multiplication of the ownership percentages for each link in the vertical chain.

(3) A right to receive a payment from a slot machine or management company licensee based directly or indirectly on the earnings, profits or receipts from the slot machines and associated equipment for use or play in this Commonwealth.



(4) A right or ability to control or influence the management or policies of a slot machine or management company licensee.

(b) An entity that [ , indirectly or directly, has the power to control or direct the management or policies of an applicant or licensee shall be licensed as a principal ] possesses any of the interests or rights in paragraphs (1)—(3) shall apply for and obtain a principal license. An entity may possess any of the interests or rights in paragraphs (1)—(3) if the entity notifies the Board and submits a completed application to the Board in accordance with § 433a.8 (relating to principal applications) prior to acquiring the interest or right.

(1) A direct ownership interest of 1% or more in a licensed manufacturer, licensed supplier, licensed manufacturer designee or licensed junket enterprise.

(2) A 1% or greater indirect ownership interest in a licensed manufacturer, licensed supplier, licensed manufacturer designee or licensed junket enterprise. An ownership interest that is held indirectly by an individual through one or more intervening entities will be determined by successive multiplication of the ownership percentages for each link in the vertical chain.

(3) A right or ability to control or influence the management or policies of a licensed manufacturer, licensed supplier, licensed manufacturer designee or licensed junket enterprise.

(c) An entity that has [ a direct ownership interest in, or has a right to any profit, distribution or benefit directly from, an applicant or licensee shall be licensed as a principal ] acquired an interest or right set forth in subsection (b)(1)—(3) prior to being licensed, whose application is denied or withdrawn shall divest his interest or right.

(d) An entity [ that has a direct ownership interest in, or has a right to any profit, distribution or benefit directly from, an intermediary, subsidiary or holding company of a slot machine applicant or licensee, shall be licensed as a principal. ] seeking to acquire a direct or indirect ownership interest of 20% or greater in a licensed manufacturer, licensed supplier, licensed manufacturer designee or licensed junket enterprise shall submit the following, at least 30 days prior to acquiring the ownership interest:

(1) A notification of a Change in Control of a Licensee Form.

(2) A completed principal application.

(e) [ An entity that has an indirect ownership interest of 5% or greater in an applicant or licensee shall be licensed as a principal. An ownership interest that is held indirectly by an entity through one or more intervening entities will be determined by successive multiplication of the ownership percentages for each link in the vertical chain ] Notwithstanding subsection (d), the Board may require an entity to obtain a principal license prior to acquiring a direct or indirect ownership interest of

20% or greater in a licensed manufacturer, licensed supplier, licensed manufacturer designee or licensed junket enterprise.

(f) Notwithstanding subsections (a) and (b), an entity whose ownership interest in a licensee consists of less than 5% of the voting securities of a publicly traded corporation will not be required to be licensed as a principal.

(g) Notwithstanding subsections (a) and (b), an entity that indirectly owns less than 5% of the voting securities of a publicly traded corporation through one or more privately held entities will not be required to be licensed as a principal.

[ (f) ] (h) Notwithstanding [ subsection (e) ] subsections (a) and (b), a private investment fund [ , including its feeder funds, that has an indirect ownership interest in an applicant or licensee, shall be exempt from obtaining ] and its related management entities will not be required to be licensed as a principal [ license ] if the following apply:

(1) [ Neither the ] The private investment fund [ , nor the investors in the private investment fund have any voting rights or any other power ] has no voting rights in licensee and does not possess any other right or ability to control or to influence the [ applicant or ] licensee.

\* \* \* \* \*

(3) [ No investor in the private investment fund has a right to redeem his interest in the private investment fund within 2 years of the purchase of the interest ] Each individual who has an indirect ownership or beneficial interest of 5% or greater in the licensee through the private investment fund applies for and obtains a principal license.

(4) Each individual [ and entity that ] who has the ability to control or influence the management of the private investment fund [ is licensed as ] applies for and obtains a principal license.

\* \* \* \* \*

[ (g) A private investment fund that does not qualify for the exemption under subsection (f) solely on the basis that it fails to satisfy paragraph (3), may still qualify for an exemption from licensure if the private investment fund satisfies the other conditions under subsection (f) and its indirect ownership interest in the applicant or licensee is less than 10%.

(h) [ (i) Notwithstanding any provision to the contrary in this section, the Board may require any entity that has [ a ] any financial interest in [ , or receives any economic benefit from, an applicant or ] a licensee to be licensed as a principal.

§ 433a.5. Institutional investors.

(a) [ Notwithstanding any provision to the contrary in this chapter, an ] An institutional investor may file an Institutional Investor Notice of Ownership with the Bureau of Licensing, in lieu of applying for principal licensure required under this chapter, if:

(1) **The institutional investor [ that ] owns or beneficially owns more than 5% but less than 15% of the outstanding voting securities of a publicly traded corporation that is an intermediary or holding company of [ an applicant for or ] a holder of a manufacturer license, manufacturer designee license, supplier license, management company license or junket enterprise license [ will not be required to be licensed as a principal if the following conditions are satisfied: ] and has filed and remains eligible to file a statement of beneficial ownership on Schedule 13G with the SEC as a result of the institutional investor's ownership interest in the publicly traded corporation.**

[ (1) **The institutional investor or the applicant or licensee files a notice with the Board containing a description of the institutional investor's interests. ]**

(2) **The institutional investor [ has filed a Schedule 13G with the SEC, and the institutional investor continues to be eligible to file the Schedule 13G ] owns or beneficially owns more than 5% but less than 10% of the outstanding voting securities of a publicly traded corporation that is an intermediary or holding company of a slot machine licensee and has filed and remains eligible to file a statement of beneficial ownership on Schedule 13G with the SEC as a result of the institutional investor's ownership interest in the publicly traded corporation.**

[ (b) **Notwithstanding any provision to the contrary in this chapter, an institutional investor that owns less than 10% of the outstanding voting securities of an intermediary or holding company of a slot machine licensee or applicant shall be eligible to be receive a waiver from the requirements of licensure from the Board by filing a Principal Waiver-Entity Form. The waiver request must include, at a minimum, a certification by the institutional investor stating that the institutional investor has no present involvement in, and no intention of influencing or affecting the affairs of, the slot machine applicant or licensee or an intermediary or holding company of the slot machine applicant or licensee and will give the Board 30 days notice if the institutional investor intends to do so.**

(c) **Notwithstanding subsection (b), an institutional investor that has been granted a waiver shall be permitted to vote on matters put to the vote of the outstanding security holders.**

(d) **A holding company of an institutional investor may file a notice or waiver request on behalf of its institutional investor subsidiaries provided that the holding company does not own more than 5% or more of the securities of the intermediary or holding company of the applicant or licensee.**

(e) **A registered investment adviser or a holding company of a registered investment adviser may file a notice or waiver request, when permitted, on behalf of the registered investment companies that hold securities beneficially owned by the registered investment adviser. ]**

#### **§ 433a.6. Lenders and underwriters.**

(a) **Each lender and underwriter of a slot machine, manufacturer or supplier [ applicant or ] licensee shall be licensed as a principal.**

(b) **Notwithstanding subsection (a), a lender that is a bank or lending institution which makes a loan to a slot machine, manufacturer or supplier [ applicant or ] licensee in the ordinary course of business [ is ] will not be required to be licensed as a principal. The Board may require a bank or lending institution to provide information or other assurances to verify its eligibility for this exemption.**

(c) **[ An underwriter or lender of an intermediary, subsidiary or holding company of a slot machine applicant or licensee shall be required to be licensed as a principal if the Board determines that the suitability of the underwriter or lender is at issue and is necessary to consider a pending application for a slot machine license. ] A lender to an intermediary or holding company of a slot machine licensee shall be required to be licensed as a principal unless all of the following apply:**

(1) **The lender is in the business of providing debt or equity capital to individuals or enterprises.**

(2) **The lender's loan to the intermediary or holding company of a slot machine licensee is in the ordinary course of its business.**

(3) **The lender does not have the ability to control or otherwise influence the affairs of the intermediary or holding company of a slot machine licensee or the slot machine licensee.**

(d) **A person who acquires a debt instrument issued by a licensed supplier, licensed manufacturer, slot machine licensee or intermediary or holding company of a slot machine licensee in a secondary market shall not be required to be licensed as a principal if:**

(1) **The person does not have any right or ability to control or influence the affairs of the applicant or licensee.**

(2) **The person's acquisition of the debt instrument is in the ordinary course of business and is not part of a plan or scheme to avoid the requirements of this section.**

(e) **Notwithstanding any provision to the contrary in this section, the Board may require the licensure of any [ lender or underwriter of an applicant or ] person who holds a debt instrument issued by a licensee or any holding or intermediary company or subsidiary of [ an applicant or ] a licensee if the Board has reason to believe that the [ lender or underwriter ] person would not satisfy the character requirements of section 1310(a) of the act (relating to slot machine license application character requirements).**

#### **§ 433a.7. Trusts.**

(a) **A trust or similar business entity [ that holds a direct ownership interest in an applicant or licensee must be licensed as a principal. ] shall apply for and obtain a principal license prior to possessing any of the following:**

(1) **A direct ownership interest in a slot machine licensee.**

(2) A 1% or greater indirect ownership interest in a slot machine licensee. An ownership interest that is held indirectly by an individual through one or more intervening entities will be determined by successive multiplication of the ownership percentages for each link in the vertical chain.

(3) A right to receive a payment from a slot machine licensee based directly or indirectly on the earnings, profits or receipts from the slot machines and associated equipment for use or play in this Commonwealth.

(4) A right or ability to control or influence the management or policies of a slot machine licensee.

(b) A trust or similar business entity [ that holds a 1% or greater indirect ownership interest in an applicant or licensee must be licensed as a principal. An ownership interest that is held indirectly by an entity through one or more intervening entities will be determined by successive multiplication of the ownership percentages for each link in the vertical chain. ] shall notify the Board and submit an application to the Board in accordance with § 433a.8 (relating to principal applications) prior to possessing any of the following:

(1) A direct ownership interest of 1% or more in a licensed manufacturer, licensed supplier, licensed manufacturer designee, management company licensee or junket enterprise licensee.

(2) A 1% or greater indirect ownership interest in a licensed manufacturer, licensed supplier, licensed manufacturer designee, management company licensee or junket enterprise licensee. An ownership interest that is held indirectly by an individual through one or more intervening entities will be determined by successive multiplication of the ownership percentages for each link in the vertical chain.

(3) A right or ability to control or influence the management or policies of a licensed manufacturer, licensed supplier, licensed manufacturer designee, management company licensee or junket enterprise licensee.

(c) [ A trust or similar business entity that receives any payment, percentage or share of revenue, profits or receipts directly from an applicant or licensee must be licensed as a principal.

(d) A trust or similar business entity will not be issued a principal license unless each [ Each trustee, grantor and beneficiary, including a minor child beneficiary, [ has been granted a principal license ] of a trust required to be licensed as a principal under this section shall be required to be licensed as a principal.

(e) Notwithstanding [ any provision to the contrary in this section ] subsection (a), a trust [ will not be required to be licensed as a principal if the holdings of the trust consist of less than 5% of the voting securities of a publicly traded company ] whose ownership interest in a licensee consists of less than 5% of the voting securities of a publicly traded company will not be required to be licensed as a principal.

(f) Notwithstanding any provision to the contrary in this section, the Board may require any trust that has any financial interest in a licensee to be licensed as a principal.

[Pa.B. Doc. No. 10-107. Filed for public inspection January 15, 2010, 9:00 a.m.]

## STATE BOARD OF PODIATRY

[ 49 PA. CODE CH. 29 ]  
Continuing Education

[Correction]

A typographical error occurred in the Fiscal Note for the proposed rulemaking which appeared at 39 Pa.B. 7107, 7108 (December 19, 2009).

The correct version of the Fiscal Note is as follows:

**Fiscal Note:** 16A-4410. No fiscal impact; (8) recommends adoption.

The remainder of the document was accurate as printed.

[Pa.B. Doc. No. 09-2314. Filed for public inspection December 18, 2009, 9:00 a.m.]

# NOTICES

## DEPARTMENT OF AGRICULTURE

### Order of Quarantine; Firewood

#### *Recitals*

A. The Plant Pest Act (act) (3 P. S. §§ 258.1—258.27) empowers the Department of Agriculture (Department) to take various measures to detect, contain and eradicate plant pests in this Commonwealth.

B. The powers granted the Department under section 21 of the act (3 P. S. § 258.21) include the power to establish quarantines to prevent the spread of plant pests within this Commonwealth.

C. Under its responsibilities under the act, the Department issued an Order of Quarantine published at 37 Pa.B. 3454 (July 21, 2007), placing restrictions on the circumstances under which firewood may be imported into this Commonwealth.

D. The July 2, 2007, Quarantine Order exempted kiln-dried, packaged firewood clearly marked with the producer's name and address and labeled as "Kiln Dried" and/or USDA Certified are exempt from the firewood importation prohibition.

E. The Department believes it is reasonable to *expand* the exemption allowing the importation of certain kinds of packaged firewood to include heat-treated or fumigated firewood, as well.

F. The reasons for this Quarantine Order remain the same as set forth in the referenced July 2, 2007, Quarantine Order.

#### *Order*

Under authority of section 21 of the act (3 P. S. § 258.21) the Department hereby orders the following:

1. The July 2, 2007, Quarantine Order, published at 37 Pa.B. 3454, is hereby rescinded and supplanted by this Order. This Order is substantively identical to that earlier order, except for the expansion of the exemption

allowing the importation of certain types of packaged firewood described in Paragraph No. 3.

2. The movement of firewood of all types and species into this Commonwealth is prohibited. Firewood includes all wood, processed or unprocessed, coniferous or hardwood, meant for use in a campfire or other outdoor or indoor fire. This prohibition does not apply to the transportation of sawlogs, pulpwood or wood chips to facilities for processing into lumber, paper or manufactured wood products.

Examples of circumstances under which firewood from out-of-State is brought into this Commonwealth include instances where firewood is transported to public and private campgrounds by campers, or to sporting events and other events where travelers camp outdoors; or to activities such as Civil War reenactments where wood is used for cooking and evening campfires; or as bulk firewood sold by the truckload or some other volume of measure (cord, face cord, rick, and the like), or as firewood purchased for indoor residential use.

3. Kiln-dried, heat treated or fumigated, packaged firewood clearly marked with the producer's name and address and labeled as Kiln-dried, Heat Treated, Fumigated and/or USDA certified is exempt from the provisions of this quarantine order.

4. Persons found in violation of this quarantine order will face the potential of summary criminal prosecution and a fine of not more than \$300 for each offense, or a civil penalty of up to \$20,000, or both.

5. The Department will consult with USDA, other state agencies and the Pennsylvania State University Cooperative Extension with respect to the most efficacious measures to survey for and detect ALB, EAB and other wood-feeding insects to slow the spread or eradicate these pests.

6. This quarantine is effective as of December 31, 2009, and shall remain in effect until repealed by subsequent order.

RUSSELL C. REDDING,  
*Secretary*

[Pa.B. Doc. No. 10-108. Filed for public inspection January 15, 2010, 9:00 a.m.]

## DEPARTMENT OF BANKING

### Actions on Applications

The Department of Banking (Department), under the authority contained in the act of November 30, 1965 (P. L. 847, No. 356), known as the Banking Code of 1965; the act of December 14, 1967 (P. L. 746, No. 345), known as the Savings Association Code of 1967; the act of May 15, 1933 (P. L. 565, No. 111), known as the Department of Banking Code; and the act of December 19, 1990 (P. L. 834, No. 198), known as the Credit Union Code, has taken the following action on applications received for the week ending January 5, 2010.

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

## NOTICES

## BANKING INSTITUTIONS

## Incorporations

<i>Date</i>	<i>Name and Location of Applicant</i>	<i>Action</i>
12-31-2009	New American Bank Philadelphia Philadelphia County	Withdrawn
12-31-2009	Bank of Pittsburgh Wexford Allegheny County	Withdrawn

## Conversions

<i>Date</i>	<i>Name and Location of Applicant</i>	<i>Action</i>
12-28-2009	<i>From:</i> Washington Federal Savings Bank Washington Washington County <i>To:</i> Washington Financial Bank Washington Washington County  Conversion from a Federally-chartered stock savings association to a Pennsylvania State-chartered stock savings bank. Washington Financial Bank is a wholly-owned subsidiary of WFSB, Inc., Washington, a thrift holding company already in existence, which is a wholly-owned subsidiary of WFSB Mutual Holding Company, Washington, a mutual holding company already in existence.	Effective

**Branch offices operated by Washington Financial Bank:**

160 East Pike Street Canonsburg Washington County	220 Main Street Hickory Washington County
3616 Washington Road McMurray Washington County	430 Valley Brook Road McMurray Washington County
98 East Wylie Avenue Washington Washington County	1500 West Chestnut Street Washington Washington County
255 Murtland Avenue Washington Washington County	

## Branch Applications

## De Novo Branches

<i>Date</i>	<i>Name and Location of Applicant</i>	<i>Location of Branch</i>	<i>Action</i>
12-21-2009	Manor Bank Manor Westmoreland County	799 SR 130 Trafford Westmoreland County	Opened

## SAVINGS INSTITUTIONS

## Branch Applications

## De Novo Branches

<i>Date</i>	<i>Name and Location of Applicant</i>	<i>Location of Branch</i>	<i>Action</i>
1-4-2010	ESSA Bank & Trust Stroudsburg Monroe County	5580 Crawford Drive Bethlehem Northampton County	Filed
1-4-2010	ESSA Bank & Trust Stroudsburg Monroe County	5020 PA Route 873 Schnecksville Lehigh County	Filed

## CREDIT UNIONS

## Consolidations, Mergers, and Absorptions

<i>Date</i>	<i>Name and Location of Applicant</i>	<i>Action</i>
12-31-2009	First Choice Federal Credit Union New Castle Lawrence County	Effective
	Merger of New Castle Postal Employees Credit Union, New Castle, with and into First Choice Federal Credit Union, New Castle.	

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

STEVEN KAPLAN,  
*Secretary*

[Pa.B. Doc. No. 10-109. Filed for public inspection January 15, 2010, 9:00 a.m.]

### Maximum Lawful Rate of Interest for Residential Mortgages for the Month of February 2010

The Department of Banking (Department), under the authority contained in section 301 of the act of January 30, 1974 (P. L. 13, No. 6) (41 P. S. § 301), determines that the maximum lawful rate of interest for residential mortgages for the month of February, 2010, is 6 1/2%.

The interest rate limitations under the State's usury statute were preempted to a great extent by Federal law, the Depository Institutions Deregulation and Monetary Control Act of 1980 (Pub. L. No. 96-221). Further preemption was instituted with the signing of Pub. L. No. 96-399, which overrode State interest rate limitations on any individual who finances the sale or exchange of residential real property which the individual owns and which the individual occupies or has occupied as his principal residence.

Each month the Department is required by State law to compute and announce the ceiling rate on residential mortgages in this Commonwealth. This maximum rate is determined by adding 2.50 percentage points to the yield rate on long-term government bonds as published by the Federal Reserve Board and/or the United States Treasury. The latest yield rate on long-term government securities is 3.99 to which was added 2.50 percentage points for a total of 6.49 that by law is rounded off to the nearest quarter at 6 1/2%.

STEVEN KAPLAN,  
*Secretary*

[Pa.B. Doc. No. 10-110. Filed for public inspection January 15, 2010, 9:00 a.m.]

## DEPARTMENT OF EDUCATION

### Application of John J. Grogan for Reinstatement of Teaching Certificates; Doc. No. RE 09-04 Hearing

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

and Practices Commission (Commission) will consider the application of John J. Grogan for reinstatement of his teaching certificates.

On or about October 22, 2009, John J. Grogan filed an application for reinstatement of his teaching certificates under section 16 of the act (24 P. S. § 2070.16), 1 Pa. Code §§ 35.1 and 35.2 (relating to applications). Under section 16 of the act, the Department of Education on December 16, 2009, advised the Commission that it did not oppose the application for reinstatement.

In accordance with the act, 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure), the Commission will appoint a hearing examiner to serve as presiding officer to conduct such proceedings and hearings as might be necessary, and to prepare a proposed report to the Commission containing findings of fact, conclusions of law and a recommended decision on the application.

Interested parties desiring to participate in these hearing procedures must file a notice of intervention or a petition to intervene in accordance with 1 Pa. Code §§ 35.23 and 35.24 (relating to protest) or 1 Pa. Code §§ 35.27—35.32 (relating to intervention) within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

Notices and petitions to intervene and protest shall be filed with Carolyn Angelo, Executive Director, Professional Standards and Practices Commission, 333 Market Street, Harrisburg, PA 17126-0333, on or before 4 p.m. on the due date prescribed by this notice. Persons with a disability, who wish to attend the hearings and require an auxiliary aid, service or other accommodation to participate, should contact Suzanne B. Markowicz at (717) 787-6576 to discuss how the Commission may best accommodate their needs.

CAROLYN ANGELO,  
*Executive Director*

[Pa.B. Doc. No. 10-111. Filed for public inspection January 15, 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

*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>
PA0088021 (Sew)	Dennis C. Christman Christman Lake 183 Christman Road Lenhartsville, PA 19534-9177	Berks County Windsor Township	Unt Maiden Creek 3B	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>
PA0033821 (Sewage)	Pymatuning Ecology Lab 11758 Fries Road Linesville, PA 16424	Crawford County North Shenango Township	Pymatuning Reservoir Shenango River 20-A	Y
PA0103543 (Sewage)	Pithole Museum 14118 Pitthole Road Pleasantville, PA 16341	Venango County Cornplanter Township	UNT to Pithole Creek 16-E	Y

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

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

**Application No. PA 0020621**, Sewage, **Borough of Waynesboro**, 57 East Main Street, Waynesboro, PA 17268. This facility is located in Waynesboro Borough, **Franklin County**.

Description of activity: The application is for renewal of an NPDES permit for an existing discharge of treated sewage.

The receiving stream, UNT to East Branch Antietam Creek, is in Watershed 13-C, and classified for cold water fishery, water supply, recreation, and fish consumption. The nearest downstream public water supply intake for Bruswick is located on the Potomac River, approximately 10 miles downstream. The discharge is not expected to affect the water supply.

The proposed interim effluent limits for Outfall 001 for a design flow of 1.6 MGD are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub>	25	40	50
Total Suspended Solids	30	45	60
NH <sub>3</sub> -N			
(5-1 to 10-31)	4.5		9.0
(11-1 to 4-30)	13.5		27
Total Copper	0.053		0.132
Total Residual Chlorine	0.5		1.6
Total Phosphorus	Monitor & Report		
Dissolved Oxygen	Minimum of 5.0 at all times		
pH	From 6.0 to 9.0 inclusive		
Fecal Coliform			
(5-1 to 9-30)	200/100 ml as a geometric average		
(10-1 to 4-30)	2,000/100 ml as a geometric average		

The proposed final effluent limits for Outfall 001 for a design flow of 1.6 MGD are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub>	25	40	50
Total Suspended Solids	30	45	60
NH <sub>3</sub> -N			
(5-1 to 10-31)	4.5		9.0
(11-1 to 4-30)	13.5		27
Total Copper	0.053		0.132
Total Residual Chlorine	0.36		1.17
Total Phosphorus	Monitor & Report		
Dissolved Oxygen	Minimum of 5.0 at all times		
pH	From 6.0 to 9.0 inclusive		
Fecal Coliform			
(5-1 to 9-30)	200/100 ml as a geometric average		
(10-1 to 4-30)	2,000/100 ml as a geometric average		

**Chesapeake Bay Requirements**

	<i>Concentration (mg/L)</i>		<i>Mass (lbs)</i>
	<i>Monthly Average</i>	<i>Monthly</i>	<i>Annual</i>
Ammonia-N	Report	Report	Report
Kjeldahl-N	Report	Report	XXX
Nitrate-Nitrite as N	Report	Report	XXX
Total Nitrogen	Report	Report	Report



## NOTICES

	<i>Concentration (mg/L)</i>		<i>Mass (lbs)</i>
	<i>Monthly Average</i>	<i>Monthly</i>	<i>Annual</i>
Total Phosphorus	Report	Report	Report
Net Total Nitrogen	XXX	Report	29,223
Net Total Phosphorus	XXX	Report	3,896

You may make an appointment to review the Department of Environmental Protection's files on this case by calling the File Review Coordinator at 717-705-4732.

The EPA waiver is not in effect.

**Application No. PA 0022543**, Sewage, **Borough of Bally**, 425 Chestnut Street, P. O. Box 217, Bally Borough, PA 19503-0217. This facility is located in Washington Township, **Berks County**.

Description of activity: The application is for renewal of an NPDES permit for existing discharge of treated sewage.

The receiving stream, West Branch of Perkiomen Creek, is in Watershed 3-E, and classified for cold water fishery, water supply, recreation, and fish consumption. The nearest downstream public water supply intake for Philadelphia Suburban Water Authority is located on the Perkiomen Creek, approximately 20 miles downstream. The discharge is not expected to affect the water supply.

The proposed interim effluent limits for Outfall 001 for a design flow of 0.5 MGD are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub>	25	40	50
Total Suspended Solids	30	45	60
NH <sub>3</sub> -N			
(5-1 to 10-31)	6		12
(11-1 to 4-30)	18		36
Total Phosphorus	1.0		2.0
Total Residual Chlorine	0.41		1.3
Dissolved Oxygen		Minimum of 5.0 at all times	
pH		From 6.0 to 9.0 inclusive	
Fecal Coliform			
(5-1 to 9-30)		200/100 ml as a geometric average	
(10-1 to 4-30)		2,000/100 ml as a geometric average	

The proposed interim effluent limits for Outfall 002 are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub>	25	40	50
Total Suspended Solids	30	45	60
NH <sub>3</sub> -N			
(5-1 to 10-31)	10		20
(11-1 to 4-30)	20		40
Total Phosphorus	1.0		2
Total Residual Chlorine	0.66		2.0
Stream Flow at Start of Discharge	Report		
Stream Flow at End of Discharge	Report		
Duration of Discharge	Report		
Dissolved Oxygen		Minimum of 5.0 at all times	
pH		From 6.0 to 9.0 inclusive	
Fecal Coliform			
(5-1 to 9-30)		200/100 ml as a geometric average	
(10-1 to 4-30)		2,000/100 ml as a geometric average	

The proposed final effluent limits for Outfall 001 for a design flow of 0.5 MGD are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub>	25	40	50
Total Suspended Solids	30	45	60
NH <sub>3</sub> -N			
(5-1 to 10-31)	6		12
(11-1 to 4-30)	18		36
Total Phosphorus	0.5		1.0
Total Residual Chlorine	0.41		1.3
Dissolved Oxygen		Minimum of 5.0 at all times	
pH		From 6.0 to 9.0 inclusive	

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Fecal Coliform (5-1 to 9-30) (10-1 to 4-30)		200/100 ml as a geometric average 2,000/100 ml as a geometric average	

The proposed final effluent limits for Outfall 002 are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub>	25	40	50
Total Suspended Solids	30	45	60
NH <sub>3</sub> -N (5-1 to 10-31) (11-1 to 4-30)	10 20		20 40
Total Phosphorus	0.5		1.0
Total Residual Chlorine	0.5		1.6
Stream Flow at Start of Discharge	Report		
Stream Flow at End of Discharge	Report		
Duration of Discharge	Report		
Dissolved Oxygen		Minimum of 5.0 at all times	
pH		From 6.0 to 9.0 inclusive	
Fecal Coliform (5-1 to 9-30) (10-1 to 4-30)		200/100 ml as a geometric average 2,000/100 ml as a geometric average	

Major Special Conditions

A 0.5 mg/l average monthly total phosphorus concentration and 2.08 pound per day average monthly total phosphorus mass loading are limits required for the Borough of Bally's discharge per the Green Lane Reservoir TMDL.

You may make an appointment to review the Department of Environmental Protection's files on this case by calling the File Review Coordinator at 717-705-4732.

The EPA waiver is not in effect.

**Application No. PA 0088404, Concentrated Animal Feeding Operation (CAFO), Kulp Family Dairy, R. D. 2, Box 142B, Martinsburg, PA 16662.**

Kulp Family Dairy, LLC has submitted an NPDES permit renewal application for the Kulp Family Dairy, an existing dairy operation with its headquarters in North Woodbury Township, **Blair County**. The CAFO is situated near Clover Creek, Little Juniata River and Elk Run which are classified as high quality cold water fishery, warm water fishery and warm water fishery, respectively. The farm maintains an average animal population of approximately 3,651 animal equivalent units consisting of 1,910 milk cows, 240 dry cows, 120 bred heifers, 850 pre-bred heifers and 470 calves. There are six liquid manure storage facilities on the farm, three clay lined manure storage impoundments and three concrete storage structures. A release or discharge to waters of this Commonwealth under normal operating conditions is not expected. Normal operating conditions are defined as conditions below a 25-year, 24-hour storm event.

The Department of Environmental Protection's (Department) has conducted administrative and technical reviews of the application. Based on the preliminary review and application of lawful standards and regulations, the Department has made a tentative determination to issue the NPDES permit for the operation subject to the terms and conditions and monitoring and reporting requirements specified in the permit. The permit application and draft permit are on file at the Southcentral Regional Office of the Department. You may make an appointment to review the Department's files by calling the File Review Coordinator at 717-705-4732.

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

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

**PA0020788, Sewage, Borough of Derry, 114 East Second Avenue, Derry, PA 15627.** This application is for renewal of an NPDES permit to discharge treated sewage from Derry Borough STP in Derry Borough, **Westmoreland County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as McGee Run, 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 Municipal Authority of Buffalo Township.

*Outfall 001:* existing discharge, design flow of 0.654 mgd.

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
CBOD <sub>5</sub> May 1 to Oct 31 Nov 1 to Apr 30	20 25	30 37.5		40 50

Parameter	Concentration (mg/l)			
	Average Monthly	Average Weekly	Maximum Daily	Instantaneous Maximum
Suspended Solids	30	45		60
Ammonia Nitrogen				
May 1 to Oct 31	2.0	3.0		4.0
Nov 1 to Apr 30	5.5	8.3		11.0
Fecal Coliform				
May 1 to Sep 30	200/100 ml as a geometric mean			
Oct 1 to Apr 30	2,000/100 ml as a geometric mean			
Total Residual Chlorine	0.1			0.3
Dissolved Oxygen	not less than 6.0 mg/l			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

**PA0097047**, Sewage, **Redevelopment Authority of Westmoreland County**, 2 North Main Street, Greensburg, PA 15601. This application is for renewal of an NPDES permit to discharge treated sewage from Nike Site No. 37 Shaner Heights STP in Sewickley Township, **Westmoreland County**.

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

*Outfall 001*: existing discharge, design flow of 0.008 mgd.

Parameter	Concentration (mg/l)			
	Average Monthly	Average Weekly	Maximum Daily	Instantaneous Maximum
CBOD <sub>5</sub>	25			50
Suspended Solids	30			60
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
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.

**PA0094617**, Sewage, **Tim and Tina Strickland**, 2 Rose Garden, Smithfield, PA 15478. This application is for renewal of an NPDES permit to discharge treated sewage from Strickland Estates Mobile Home Park STP in Georges Township, **Fayette County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Unnamed Tributary of York Run, 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 Dunkard Valley Joint Municipal Authority.

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

Parameter	Concentration (mg/l)			
	Average Monthly	Average Weekly	Maximum Daily	Instantaneous Maximum
CBOD <sub>5</sub>	10			20
Suspended Solids	25			50
Ammonia Nitrogen				
May 1 to Oct 31	4.0			8.0
Nov 1 to Apr 30	6.0			12.0
Fecal Coliform				
May 1 to Sep 30	200/100 ml as a geometric mean			
Oct 1 to Apr 30	2,000/100 ml as a geometric mean			
Total Residual Chlorine	0.07			0.15
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.

**PA0034185**, Sewage, **Dean R. Hurlbut**, 4751 Kendor Drive, Lower Burrell, PA 15068-9506. This application is for renewal of an NPDES permit to discharge treated sewage from High Meadows MHP STP in Allegheny Township, **Westmoreland County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Unnamed Tributary of the Allegheny River, 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 Clearview Water Supply Company.

*Outfall 001*: existing discharge, design flow of 0.026 mgd.

Parameter	Concentration (mg/l)			
	Average Monthly	Average Weekly	Maximum Daily	Instantaneous Maximum
CBOD <sub>5</sub>	25			50
Suspended Solids	30			60
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
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.

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

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

**WQM Permit No. 1509412**, Sewerage, **East Marlborough Township**, 721 Unionville Road, Kenneth Square, PA 19348. This proposed facility is located in East Marlborough Township, **Chester County**.

Description of Action/Activity: Upgrade of existing pump station to serve the expansion of Unionville High School.

**WQM Permit No. 0907406**, Sewerage, **Amendment, Upper Makefield Township**, 1076 Eagle Road, Newtown, PA 18940. This proposed facility is located in Upper Makefield Township, **Bucks County**.

Description of Action/Activity: Amendment to the original WWTF.

**WQM Permit No. 4609410**, Sewerage, **Berks—Montgomery Municipal Authority**, 13 Municipal Drive, P. O. Box 370, Gilbertsville, PA 19525-0370. This proposed facility is located in Douglass Township, **Montgomery County**.

Description of Action/Activity: Upgrade of an existing sanitary sewer interceptor system.

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

**WQM Permit No. 4509405**, Sewerage, **The Borough of Stroudsburg**, 700 Sarah Street, Stroudsburg, PA 18360. This proposed facility is located in the Borough of Stroudsburg, **Monroe County**.

Description of Proposed Action/Activity: Expansion and upgrade of the Borough of Stroudsburg wastewater treatment facility (Brodhead Creek Regional Facility) to increase the capacity from 2.5 MGD to 4.5 MGD, including a new outfall to McMichael Creek.

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

**WQM Permit No. 2809405**, Sewerage, **John A. Beiler, Jr.**, 8512 Newburg Road, Newburg, PA 17240. This proposed facility is located in Lurgan Township, **Franklin County**.

Description of Proposed Action/Activity: Seeking approval for the construction/operation of a small flow sewage treatment system to serve their single family residence located on South Robin Glen Drive.

**WQM Permit No. 0609404**, Sewerage, **Township of Spring**, 2850 Windmill Road, Reading, PA 19608. This proposed facility is located in Spring Township, **Berks County**.

Description of Proposed Action/Activity: Seeking approval to upgrade the current plant to NPDES requirements and expand the plant to Act 537 needs.

**WQM Permit No. 2109201, Industrial Waste, Land O' Lakes, Inc.**, 405 Park Drive, Carlisle, PA 17015. This proposed facility is located in South Middleton Township, **Cumberland County**.

Description of Proposed Action/Activity: Seeking approval for a new discharge forcemain from Land O'Lakes' existing industrial WWTP to Mountain Creek is proposed to replace the existing forcemain. The location of the new forcemain outfall will be roughly 2,500 feet upstream of the existing outfall (which is along the lesser east branch of Mountain Creek) and about 400 feet upstream of the point where the creek bifurcates.

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

**WQM Permit No. 4208402**, Sewerage, **Amendment No. 1, Norwich Township**, 3853 West Valley Road, Smethport, PA 16749. This proposed facility is located in Norwich Township, **McKean County**.

Description of Proposed Action/Activity: To amend/modify the initial design of the low pressure sewer collection system based pump specification changes.

**WQM Permit No. 1001401**, Sewerage, **Amendment No. 1, Prospect Borough**, 159 Monroe Street, Prospect, PA 16052. This proposed facility is located in Franklin Township, **Butler County**.

Description of Proposed Action/Activity: An amendment of a permit for the installation of automation improvements/modifications to an existing in-line flow equalization tank located in Prospect Borough.

**IV. NPDES Applications for Stormwater Discharges from Municipal Separate Storm Sewer Systems (MS4)****V. Applications for NPDES Wavier Stormwater Discharges from Municipal Separate Storm Sewer Systems (MS4)****VI. NPDES Individual Permit Applications for Discharges of Stormwater Associated with Construction Activities**

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

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI01 1509042	201 Cosart Road, LLC 322 A Street Wilmington, DE 19801	Chester	Pennsbury Township	Brandywine Creek WWF, MF

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

*Lehigh County Conservation District: Lehigh Agriculture Center, Suite 102, 4184 Dorney Park Road, Allentown, PA 18104, 610-391-9583.*

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI023909021	Jaindl Land Co. Attn: David Jaindl 3150 Coffeetown Road Orefield, PA 18069	Lehigh	Upper Macungie Township	Tributary to Iron Run HQ-CWF, MF

*Carbon County Conservation District: 5664 Interchange Road, Lehighton, PA 18235-5114, 610-377-4894.*

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI021309005	Phase III Environmental Attn: Mr. Steve Hunts 405 Watson Park Boulevard Lehighton, PA 18235	Carbon	Palmerton Borough	Lehigh River TSF, MF

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

*Washington County Conservation District, 602 Courthouse Square, Washington, PA 15301, (724-228-6774).*

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI056309002	Department of Transportation District 12 825 North Gallatin Avenue Ext. Uniontown, PA 15401	Washington	Somerset and South Strabane Townships	Little Chartiers Creek HQ-WWF

**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)

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

This notice provides information about agricultural operations that have submitted nutrient management plans (NMPs) for approval under the act of July 6, 2005 (Act 38 of 2005, 3 Pa.C.S. §§ 501—522) (hereinafter referred to as Act 38), and that have or anticipate submitting applications for new, amended or renewed NPDES permits, or Notices of Intent (NOIs) for coverage under a general permit, for CAFOs, under 25 Pa. Code Chapter 92. This notice is provided in accordance with 25 Pa. Code Chapter 92 and 40 CFR Part 122, implementing The Clean Streams Law (35 P. S. §§ 691.1—691.1001) and the Federal Clean Water Act.

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

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

The address for the SCC is Agriculture Building, Room 407, 2301 North Cameron Street, Harrisburg, PA 17110.

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

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

<i>Agricultural Operation Name and Address</i>	<i>County</i>	<i>Total Acres</i>	<i>Animal Equivalent Units</i>	<i>Animal Type</i>	<i>Special Protection Waters (HQ or EV or NA)</i>	<i>Renewal/New</i>
Eugene Nolt 143 Kuntz Road New Holland, PA 17557	Lancaster	73.6	614.98	Hogs, beef	None	Renewal

**PUBLIC WATER SUPPLY (PWS) PERMIT**

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

Persons wishing to comment on a permit application are invited to submit a statement to the office listed before the application within 30 days of this public notice. Comments received within the 30-day comment period will be considered in the formulation of the final determinations regarding the application. Comments should include the name, address and telephone number of the writer and a concise statement to inform the Department of Environmental Protection (Department) of the exact basis of a comment and the relevant facts upon which it is based. A public hearing may be held after consideration of comments received during the 30-day public comment period.

Following the comment period, the Department will make a final determination regarding the proposed permit. Notice of this final determination will be published in the *Pennsylvania Bulletin* at which time this determination may be appealed to the Environmental Hearing Board.

The permit application and any related documents are on file at the office listed before the application and are available for public review. Arrangements for inspection and copying information should be made with the office listed before the application.

Persons with a disability who require an auxiliary aid, service or other accommodations to participate during the 30-day public comment period should contact the office listed before the application. TDD users should contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

**SAFE DRINKING WATER**

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

*Central Office: Bureau Director, Water Standards and Facility Regulation, P. O. Box 8467, Harrisburg, PA 17105-8467.*

**Permit No. 9996491**, Public Water Supply.

Applicant	<b>Nestle Waters North America, Inc.</b>
Township or Borough	Hollis, ME
Responsible Official	Brian Boucher Quality Assurance Manager
Type of Facility	Out-of-State Bottled Water System
Application Received Date	December 11, 2009
Description of Action	Applicant requesting a permit amendment to use a new spring water source (Cold Spring) located in Poland Spring, ME. Bottled water to be sold in the Commonwealth under the brand names: Poland Spring Natural Spring Water, Deer Park Natural Spring Water, and Ice Mountain Natural Spring Water.

**Permit No. 9996558**, Public Water Supply.

Applicant	<b>Nestle Waters North America, Inc.</b>
Township or Borough	Stanwood, MI
Responsible Official	John Mill, Quality Control Manager
Type of Facility	Out-of-State Bottled Water System
Application Received Date	December 23, 2009
Description of Action	Applicant requesting Department of Environmental Protection approval to use a new spring water source (White Pine Springs) located in Evart, MI. The following bottled water brands are to be sold in the Commonwealth: Ice Mountain Natural Spring Water, Ice Mountain Distilled Water, Ice Mountain Drinking Water, Ice Mountain Fluoridated Water for Kids and Gerber Purified Water.

**Permit No. 9996217**, Public Water Supply.

Applicant **Nestle Waters North America, Inc.**

Township or Borough Poland Spring, ME

Responsible Official Jim Savoie  
Quality Control Manager

Type of Facility Out-of-State Bottled Water System

Application Received Date December 11, 2009

Description of Action Applicant requesting Department of Environmental Protection approval to use a new spring water source (Cold Spring) located at Denmark/Fryeburg, ME. Bottled water to be sold in the Commonwealth under the brand names; Deer Park Natural Spring Water, Ice Mountain Natural Spring Water, Poland Spring Natural Spring Water, Poland Spring Sparkling Spring Water and Poland Spring Distilled Water.

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

**Application No. 0909523**, Public Water Supply.

Applicant **Pennsylvania-American Water Company**

Township Lower Makefield

County **Bucks**

Responsible Official David R. Kaufman  
800 West Hersheypark Drive  
Hershey, PA 17033

Type of Facility PWS

Consulting Engineer Pennsylvania-American Water Company  
4 Wellington Boulevard  
Wyomissing, PA 19610

Application Received Date December 2, 2009

Description of Action Reviewing of disinfection of water supplies to assure maximum safety to the consumer.

**Application No. 5109507**, Public Water Supply.

Applicant **Culligan Store Solutions, LLC**

Township City of Philadelphia

County **Philadelphia**

Responsible Official Jeanne Cantu  
1030 Lone Oak Road  
Suite 110  
Eagan, MN 55121-2251

Type of Facility PWS

Consulting Engineer Culligan Store Solutions, LLC  
1030 Lone Oak Road  
Suite 110  
Eagan, MN 55121-2251

Application Received Date December 2, 2009

Description of Action A drinking water system for processing using the following methods: Particle filtrations, carbon adsorption, reverse osmosis and ultraviolet light.

**Application No. 4609527**, Public Water Supply.

Applicant **Aqua Pennsylvania, Inc.**

Township Whitemarsh

County **Montgomery**

Responsible Official Joseph Thurwanger  
762 West Lancaster Avenue  
Bryn Mawr, PA 19010-3489

Type of Facility PWS

Consulting Engineer C.E.T.  
1240 North Mountain Road  
Harrisburg, PA 17112

Application Received Date November 30, 2009

Description of Action Construction of a new station, including new submersible well pumps and new pitless adapters.

**Application No. 1509513**, Public Water Supply.

Applicant **Avon Grove Charter School**

Township Kemblesville

County **Chester**

Responsible Official Randy S. Eddinger  
1697 Swamp Pike  
Gilbertsville, PA 19525

Type of Facility PWS

Consulting Engineer Ruby Engineering  
3605 Island Club Drive  
Unit #9  
North Port, FL 34288-6611

Application Received Date November 30, 2009

Description of Action Nitrate selective anion resin installed to reduce drinking water nitrates below the EPA primary health standard.

**Application No. 1509509**, Public Water Supply.

Applicant **Pennsylvania-American Water Company**

Township Caln

County **Chester**

Responsible Official David R. Kaufman  
4 Wellington Boulevard  
Suite 2  
Wyomissing, PA 19610

Type of Facility PWS

Consulting Engineer Hatch Mott MacDonald  
27 Bleeker Street  
Milburn, NJ 07041-1008

Application Received Date August 13, 2009

Description of Action Interconnection with  
Downingtown Municipal Water  
Authority, including water main  
and pump station.

**Application No. 2309506**, Public Water Supply.

Applicant **Aqua Pennsylvania, Inc.**  
Township Nether Providence  
County **Delaware**  
Responsible Official Marc A. Lucca  
762 West Lancaster Avenue  
Bryn Mawr, PA 19010-3402  
Type of Facility PWS  
Consulting Engineer Hatch Mott MacDonald  
27 Bleeker Street  
Millburn, NJ 07041-1008  
Application Received Date July 24, 2009

Description of Action Construction of a new residuals  
treatment facility to improve  
dewatering of residuals at the  
Crum Creek Water Treatment  
Plant.

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

**Application No. 1709506—Construction**, Public Water Supply.

Applicant **Clearfield Municipal Authority**  
Township or Borough Lawrence Township  
County **Clearfield**  
Responsible Official Jeffrey S. Williams  
Official Manager  
Clearfield Municipal Authority  
107 East Market Street  
Clearfield, PA 16830  
Type of Facility Public Water  
Supply—Construction  
Consulting Engineer Mark V. Glenn, P. E.  
Gwin, Dobson & Foreman, Inc.  
3121 Fairway Drive  
Altoona, PA 16602  
Application Received December 24, 2009

Description of Action Addition of an ultraviolet light to  
the Moose Creek Water  
Treatment Facility's disinfection  
process and the addition of  
fluoridation to the water  
treatment process.

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

**Application No. 2509503**, Public Water Supply.

Applicant **Albion Borough**  
Township or Borough Albion Borough  
**Erie County**  
Responsible Official Scott Cleaver  
Borough Council President

Consulting Engineer August E. Maas, P. E.  
Hill Engineering, Inc.  
8 Gibson Street  
North East, PA 16401

Application Received Date 12/22/2009

Description of Action Additions/upgrades to the Gage  
Road Water Plant including  
chlorination system, pressure  
filters, sequestering agent and  
chlorine contact pipeline.

## LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

PREAMBLE 1

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**Acknowledgment of Notices of Intent to Remediate Submitted under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908).**

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Sections 302—305 of the Land Recycling and Environmental Remediation Standards Act (act) require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* an acknowledgment noting receipt of Notices of Intent to Remediate. An acknowledgment of the receipt of a Notice of Intent to Remediate is used to identify a site where a person proposes to, or has been required to, respond to a release of a regulated substance at a site. Persons intending to use the Background Standard, Statewide Health Standard, the Site-Specific Standard or who intend to remediate a site as a special industrial area must file a Notice of Intent to Remediate with the Department. A Notice of Intent to Remediate filed with the Department provides a brief description of the location of the site, a list of known or suspected contaminants at the site, the proposed remediation measures for the site and a description of the intended future use of the site. A person who demonstrates attainment of one, a combination of the cleanup standards or who receives approval of a special industrial area remediation identified under the act will be relieved of further liability for the remediation of the site for any contamination identified in reports submitted to and approved by the Department. Furthermore, the person shall not be subject to citizen suits or other contribution actions brought by responsible persons not participating in the remediation.

Under sections 304(n)(1)(ii) and 305(c)(2) of the act, there is a 30-day public and municipal comment period for sites proposed for remediation using a Site-Specific Standard, in whole or in part, and for sites remediated as a special industrial area. This period begins when a summary of the Notice of Intent to Remediate is published in a newspaper of general circulation in the area of the site. For the sites identified, proposed for remediation to a Site-Specific Standard or as a special industrial area, the municipality within which the site is located may request to be involved in the development of the remediation and reuse plans for the site if the request is made within 30 days of the date specified. During this comment period, the municipality may request that the person identified as the remediator of the site develop and implement a public involvement plan. Requests to be involved and comments should be directed to the remediator of the site.



For further information concerning the content of a Notice of Intent to Remediate, contact the environmental cleanup program manager in the Department regional office before which the notice appears. If information concerning this acknowledgment is required in an alternative form, contact the community relations coordinator at the appropriate regional office. TDD users may telephone the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

The Department has received the following Notices of Intent to Remediate:

*Southeast Region: Environmental Cleanup Program Manager, 2 East Main Street, Norristown, PA 19401.*

**Evelyn Sanders Townhomes Phase II**, City of Philadelphia, **Philadelphia County**. Scott McGoldrick, Penn Environmental & Remediation, 2755 Bergey Road, Hatfield, PA 19440, Christine Paul, Women's Community Revitalization Project, 407 Fairmount Avenue, Philadelphia, PA 19123 on behalf of Christine Paul, Evelyn Sanders 2, LP, 407 Fairmount Avenue, Philadelphia, PA 19123 has submitted a Notice of Intent to Remediate. Soil at the site has been impacted with the release of lead, inorganic. The future use of the site will remain the same. A summary of the Notice of Intent to Remediate was reported to have been published in *The Philadelphia News* on November 23, 2009.

**(Updated) Frazer Shop Center**, East Whiteland Township, **Chester County**. Phil Gray, Phoenix GeoEnvironmental, LLC, 445 Bethlehem Pike, Colmar, PA 18915 on behalf of Michael Stapler, Metropol Properties, LP, P. O. Box 1189, Frazer, PA 19355 has submitted a Notice of Intent to Remediate. Groundwater and soil at the site has been impacted with the release of chlorinated solvent. The future use of the site will remain the same.

**(Revised) 10 Dewberry Lane**, Bristol Township, **Bucks County**. Jason Plucinski, REPSG, Inc., 6901 Kingessing Avenue, Philadelphia, PA 19142, Mark Kuczynski, REPSG, Inc., 6901 Kingessing Avenue, Philadelphia, PA 19142 on behalf of Cynthia Herrera, 10 Dewberry Lane, Levittown, PA 19055, Francis Drenzo, 10 Dewberry Lane, Levittown, PA 19055, Christine Dimmig, State Farm Fire and Casualty Company, 1 State Farm Drive, Concordville, PA 19331 has submitted a Notice of Intent to Remediate. Soil at the site has been impacted with the release of No. 2 fuel oil. The site is currently developed a single residential property, which will remain the intended use of the site in the future.

**Nueva Esperanza**, City of Philadelphia, **Philadelphia County**. Jason Plucinski, REPSG, 6901 Kingessing Avenue, Suite 201, Philadelphia, PA 19142, Susan Shourds, REPSG, 6901 Kingessing Avenue, Suite 201, Philadelphia, PA 19142 on behalf of Arthur Haywood, 4261 Corporation, 4261 North 5th Street, Philadelphia, PA 19140 has submitted a Notice of Intent to Remediate. Soil and groundwater at the site has been impacted with the release of chlorinated solvents. The future use of the site will remain the same.

**Suramna Residence**, Newtown Township, **Bucks County**. Richard D. Trimpi, Trimpi Associates, Inc., 1635 Old Plains Road, Pennsburg, PA 18073, Alice Hoffman, State Farm Insurance Company, P. O. Box 11, Concordville, PA 19331 on behalf of Stephan Saurman, 81 Vera Avenue, Newtown, PA 18940 has submitted a Notice of Intent to Remediate. Soil at the site has been impacted with the release of No. 2 fuel oil. The future use of the site will be residential. A summary of the Notice of Intent to Remediate was reported to have been published in *The Bucks County Courier Times* on November 17, 2009.

**Colonial Heritage Trailer Park**, Doylestown Township, **Bucks County**. Staci Cottone, P. O. Box 370, Blue Bell, PA 19422 has submitted a Notice of Intent to Remediate. Soil at the site has been impacted with the release of No. 2 fuel oil. The future use of the site will remain residential.

**FDR Park Recreation Maintenance Building**, City of Philadelphia, **Philadelphia County**. Leslie Thurman, BT Environmental Health Safety Consultants, Inc., 3984 Penn Avenue, Sinking Spring, PA 19608, Michael Bendetti, BT Environmental Health & Safety Consultants, Inc., 3984 Penn Avenue, Sinking Spring, PA 19608 has submitted a Notice of Intent to Remediate. Groundwater at the site has been impacted with the releases of No. 2 fuel oil. The future use of the site will be the same.

**Heilweil Parcel B**, City of Philadelphia, **Philadelphia County**. Raymond Scheinfeld, P.G., Weston Solutions, Inc., 2 International Plaza, Suite 540, Philadelphia, PA 19113, Michael J. McCartney, City of Philadelphia, Division of Aviation, Philadelphia International Airport, Terminal E, Philadelphia, PA 19153 on behalf of Paul Masciantonio, Esq., 1806 Callowhill Street, Philadelphia, PA 19130 has submitted a Notice of Intent to Remediate. Groundwater and soil has been impacted with the release of chlorinated solvents. The future use of the property is anticipated to be for Philadelphia International Airport related commercial uses.

**3222—3258 H Street**, City of Philadelphia, **Philadelphia County**. Michelle Flowers, REPSG, Inc., 6901 Kingessing Avenue, Suite 201, Philadelphia, PA 19142, Mark Kuczynski, REPSG, Inc., 6901 Kingessing Avenue, Suite 201, Philadelphia, PA 19142 on behalf of Steve Culbertson, Impact Services Corporation, 1952 East Allegheny Avenue, Philadelphia, PA 19134 has submitted a Notice of Intent to Remediate. Groundwater at the site has been impacted the release of lead and No. 2 fuel oil. The future use of the site will be residential development.

**375 Commerce Drive**, Upper Dublin Township, **Montgomery County**. Thomas Jones, Penn Environmental & Remediation, Inc., 2755 Bergey Road, Hatfield, PA 19440 on behalf of Marc Weinberg, Weinberg Gamily Trust, 803 Camarillo Road, Suite C, Camarillo, CA 93012 has submitted a Notice of Intent to Remediate. Groundwater at the site has been impacted with the release of chlorinated solvents. The proposed future use of the property, following redevelopment, will be for nonresidential commercial offices.

**Crisop Property**, Horsham Township, **Montgomery County**. Richard D. Trimpi, Trimpi Associates, Inc., 1635 Old Plains Road, Pennsburg, PA 18073, Christine Dimmig, State Farm Insurance Company, P. O. Box 13, Concordville, PA 19331 on behalf of Francis and Judith Crispo, 302 Park Road, Amber, PA 19002 has submitted a Notice of Intent to Remediate. Soil at the site has been impacted with the release of No. 2 fuel oil. The future use of the site will be residential. A Notice of Intent to Remediate was reported to have been published in *The Intelligencer* on December 18, 2009.

*Northeast Region: Ronald S. Brezinski, Environmental Cleanup Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.*

**Hoffman Residence**, 9 North Hand Street, Tower City Borough, **Schuylkill County**. Jeffrey Wynn, Patriot Environmental Management, LLC, P. O. Box 629, Douglassville, PA 19518 has submitted a Notice of Intent to Remediate (on behalf of his client, Carl Hoffman, 9 North Hand Street, Tower City, PA 17980), concerning the

remediation of soil found to have been impacted by No. 2 fuel oil as a result of a release from a ruptured storage tank that was accidentally overfilled during a home heating oil delivery. The applicant proposes to remediate the site to meet the Statewide Health Standard. The intended future use of the property is to remain residential. A summary of the Notice of Intent to Remediate is expected to be published in a local newspaper serving the general area sometime in the near future.

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

**Double Tree Convention Center Garage**, City of Reading, **Berks County**. Hafer Environmental Services, Inc., P. O. Box 4418, Reading, PA 91606, on behalf of Reading Parking Authority, 613 Franklin Street, Reading, PA 19602, submitted a Notice of Intent to Remediate site soils contaminated with petroleum hydrocarbons from an unregulated underground storage tank. The site is being developed as a parking garage and will be remediated to the Site-Specific Standard.

**Utz Quality Foods**, Hanover Borough, **York County**. GEI Consultants, Inc., 18000 Horizon Way, Mount Laurel, NJ 08054, on behalf of Utz Quality Foods, Inc., 900 High Street, Hanover, PA 17331, submitted a Notice of Intent to Remediate site soils and groundwater contaminated with gasoline from unregulated underground storage tanks. The site will remain commercial/industrial and will be remediated to the Site-Specific Standard.

## AIR QUALITY

### PLAN APPROVAL AND OPERATING PERMIT APPLICATIONS

#### NEW SOURCES AND MODIFICATIONS

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

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

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

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

notice will be published in the *Pennsylvania Bulletin* at least 30 days prior the date of the hearing.

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

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

### PLAN APPROVALS

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

*Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481. Contact: Mark Gorog, New Source Review Chief—Telephone: 814-332-6940.*

**10-284E: Seneca Landfill, Inc.** (421 Hartmann Road, Evans City, PA 16033) for modification of plan approval 10-284D conditions with regards to start-up, shutdown and ceramic media curing procedures associated with the thermal oxidizer in Jackson Township, **Butler County**. This is a Title V facility.

**10-359B: Keystone Midstream Services, LLC** (10355 Westmoor Drive, Suite 250, Westminster, CO 80021-2579) for expansion of a natural gas processing facility at the former Rex Energy site in Forward Township, **Butler County**.

**43-182B: John Maneely Co.—Wheatland Tube Division** (One Council Avenue, P. O. Box 608, Wheatland, PA 16161-0608) for installation of a zinc metallizer unit and associated dust collector at their facility in Wheatland Borough, **Mercer County**. This is a Title V facility.

### 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.**

*Department of Public Health, Air Management Services: 321 University Avenue, Philadelphia, PA 19104. Contact: Edward Braun, Chief—Telephone: 215-685-9476.*

**V04-011: Temple University—Health Sciences Campus** (3401 North Broad Street, Philadelphia, PA 19140) for operation of a hospital, college, university and professional school in the City of Philadelphia, **Philadelphia County**. The Title V facility's air emission sources include the following: three (3) 74.6 MMBtu/hr boilers firing natural-gas (NG) or #6 fuel oil; one (1) 1.01 MMBtu/hr boiler firing NG or #2 fuel oil; one (1) 0.0947 MMBtu/hr boiler firing NG; four (4) fire pumps, each rated 250 kilowatt (kw) or less, firing #2 fuel oil; three (3) emergency generators, each rated 250 kw or less, firing natural gas; five (5) emergency generators, each rated 746 kw or greater, firing #2 fuel oil; and (10) emergency generators, each rated less than 500 kw, firing #2 fuel oil.

The operating permit will be reissued under the Pennsylvania Code Title 25, Philadelphia Code Title 3 and Air

Management Regulation XIII. Permit copies and other supporting information are available for public inspection at AMS, 321 University Ave., Philadelphia, PA 19104. For further information, contact Mr. Edward Wiener (215) 685-9426.

Persons wishing to file protest or comments on the above operating permit must submit the protest or comments within 30 days from the date of this notice. Any protests or comments filed with AMS must include a concise statement of the objections to the permit issuance and the relevant facts upon which the objections are based. Based upon the information received during the public comment period, AMS may modify the operating permit or schedule a public hearing. The hearing notice will be published in the *Pennsylvania Bulletin* and a local newspaper at least thirty days before the hearing.

**Intent to Issue Operating Permits under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter F.**

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

**40-00009: Vertellus Health & Specialty Products, LLC** (Route 611, P. O. Box 730, Delaware Water Gap, PA 18327) for manufacturing Industrial Organic Chemical in Delaware Water Gap Borough, **Monroe County**. The proposed State Only Operating Permit contains applicable requirements for emissions limitations, monitoring, recordkeeping, reporting, and work practice standards used to maintain facility compliance with Federal and State air pollution regulations.

**39-00079: Bridesburg Foundry Co.** (P. O. Box 269, Front and Grape Streets, Whitehall, PA 18052-0269) for operation of a copper foundry melt department in Whitehall Township, **Lehigh County**. This facility is currently operating under Operating Permit 39-308-002A. All permit requirements shall be included in the new State-Only (Natural Minor) Operating Permit for this facility. This Operating Permit shall include emission restrictions, monitoring, recordkeeping, and reporting requirements designed to ensure this facility complies with all applicable air quality regulations.

*Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745. Contact: Barbara Hatch, Facilities Permitting Chief—Telephone: 412-442-4174.*

**03-00050: Creekside Mushrooms, Ltd.** (1 Moonlight Drive, Worthington, PA 16262-9730) for operation of Mushroom Production at Worthington Plant in West Franklin Township, **Armstrong County**. This is a State Only Operation Permit Renewal.

*Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481. Contact: Matthew Williams, New Source Review Chief—Telephone: 814-332-6940.*

**25-00954: National Fuel Gas Supply Corp.—Summit Station** (520 Robison Road, Summit Township, PA) for a Synthetic Minor Permit to operate a natural gas compressor station in Summit Township, **Erie County**.

**COAL AND NONCOAL MINING  
ACTIVITY APPLICATIONS**

Applications under the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.19a); the

Noncoal Surface Mining Conservation and Reclamation Act (52 P. S. §§ 3301—3326); The Clean Streams Law (35 P. S. §§ 691.1—691.1001); the Coal Refuse Disposal Act (52 P. S. §§ 30.51—30.66); The Bituminous Mine Subsidence and Land Conservation Act (52 P. S. §§ 1406.1—1406.21). Mining activity permits issued in response to such applications will also address the applicable permitting requirements of the following statutes: the Air Pollution Control Act (35 P. S. §§ 4001—4015); the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003).

The following permit applications to conduct mining activities have been received by the Department of Environmental Protection (Department). A copy of the application is available for inspection at the District Mining Office indicated above each application. Where a 401 Water Quality Certification is needed for any aspect of a particular proposed mining activity, the submittal of the permit application will serve as the request for the certification.

Written comments or objections, or requests for an informal conference, or a public hearing, as applicable, on a mining permit application may be submitted by any person or any officer or head of any Federal, State or local government agency or authority to the Department at the address of the district mining office indicated above each application within 30 days of this publication, or within 30 days after the last publication of the applicant's newspaper advertisement, as provided by 25 Pa. Code §§ 77.121—77.123 and 86.31—86.34.

Written comments or objections related to a mining permit application should contain the name, address and telephone number of persons submitting comments or objections; application number; and a statement of sufficient detail to inform the Department on the basis of comment or objection and relevant facts upon which it is based.

Requests for an informal conference, or a public hearing, as applicable, on a mining permit application, as provided by 25 Pa. Code §§ 77.123 or 86.34, must contain the name, address and telephone number of the requestor; the application number; a brief summary of the issues to be raised by the requestor at the conference; and a statement whether the requestor desires to have the conference conducted in the locality of the proposed mining activities.

When a National Pollutant Discharge Elimination System (NPDES) number is listed, the mining activity permit application was accompanied by an application for an individual NPDES permit. The Department has made a tentative determination to issue the NPDES permit in conjunction with the mining activity permit, but the issuance of the NPDES permit is contingent upon the approval of the associated mining activity permit.

For coal mining activities, NPDES permits, when issued, will contain effluent limits that do not exceed the technology-based effluent limitations. The proposed limits are listed in Table 1.

For noncoal mining activities, the proposed limits are found in Table 2. Discharges from noncoal mines located in some geologic settings (for example, in the coal fields) may require additional effluent limits. If additional effluent limits are needed for an NPDES permit associated with a noncoal mining permit, then the permit description below specifies the parameters. The limits will be in the ranges specified in Table 1.

More restrictive effluent limitations, restrictions on discharge volume, or restrictions on the extent of mining that may occur, will be incorporated into an NPDES permit when necessary for compliance with water quality standards and antidegradation requirements (in accordance with 25 Pa. Code Chapters 91—96).

The procedures for determining the final effluent limits, using a mass-balance equation or model, are found in Technical Guidance Document 362-0600-001, NPDES Program Implementation—Memorandum of Understanding Concerning Water Quality Management, NPDES Program Implementation and Related Matters. Other specific factors to be considered include public comments and Total Maximum Daily Loads (TMDLs).

Persons wishing to comment on an NPDES permit application should submit a statement to the Department at the address of the district mining office indicated previously each application within 30 days of this public notice. Comments received within the comment period will be considered in the final determinations regarding

the NPDES permit applications. Comments must include the name, address and telephone number of the writer and a concise statement to inform the Department of the exact basis of a comment and the relevant facts upon which it is based.

The Department will also accept requests or petitions for a public hearing on NPDES permit applications, as provided in 25 Pa. Code § 92.61. The request or petition for a public hearing shall be filed within 30 days of this public notice and shall contain the name, address, telephone number and the interest of the party filing the request, and shall state the reasons why a hearing is warranted. A public hearing may be held if the Department considers the public interest significant. If a hearing is scheduled, a notice of the hearing on the NPDES permit application will be published in the *Pennsylvania Bulletin* and a newspaper of general circulation within the relevant geographical area. In the case where a public hearing is held, the Department will consider comments from the public hearing in the final determination on the NPDES permit application.

#### *Coal Applications Received*

**Effluent Limits**—The following range of effluent limits will apply to NPDES permits issued in conjunction with the associated coal mining activity permit and, in some cases, noncoal mining permits:

*Table 1*

<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.*

**11991301 and NPDES Permit # PA0215210, Rosebud Mining Company**, (301 Market Street, Kittanning, PA 16201), to renew the permit for the Twin Rocks Mine in Blacklick Township, **Cambria County** and related NPDES permit. No additional discharges. Application received November 30, 2009.

**30810703 and NPDES Permit # PA0092894, Consol PA Coal Company**, (P. O. Box J, 1525 Pleasant Grove Road, Claysville, PA 15323), to revise the permit for the Bailey Coal Refuse Disposal Areas No. 1 and No. 2 in Richhill Township, **Greene County** to add acreage and two new NPDES discharge points to install facilities for fine coal slurry injection into Bailey Mine including a slurry pipeline and associated boreholes. Coal Refuse Disposal Acres Proposed 129.2. Receiving streams: Tributary 32706 to Owens Run and Unnamed Tributary 8 to Owens Run, both classified for the following use: WWF. Application received October 14, 2009.

*Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, 814-472-1900.*

**56980102 and NPDES No. PA0234681, Hoffman Mining, Inc.**, P. O. Box 130, Friedens, PA 15541, revision of an existing bituminous surface and auger mine to change land use from woodland and wildlife habitat to unmanaged natural habitat in Shade Township, **Somerset County**, affecting 92.7 acres. Receiving stream(s): unnamed tributary to Oven Run classified for the following use(s): cold water fishery. There are no potable water supply intakes within 10 miles downstream. Application received December 18, 2009.

**56000103 and NPDES No. PA0235245, Hoffman Mining, Inc.**, P. O. Box 130, Friedens, PA 15541, revision of an existing bituminous surface and auger mine to change land use from woodland and wildlife habitat to unmanaged natural habitat in Shade Township, **Somerset County**, affecting 111.4 acres. Receiving stream(s): unnamed tributary to Oven Run to Stonycreek River classified for the following use(s): cold water fishery, warm water fishery. There are no potable water supply intakes within 10 miles downstream. Application received December 18, 2009.

**56010103 and NPDES No. PA0248789, Hoffman Mining, Inc.**, P. O. Box 130, Friedens, PA 15541, revision of an existing bituminous surface and auger mine to change land use from woodland and wildlife habitat to unmanaged natural habitat in Shade Township,

**Somerset County**, affecting 95.5 acres. Receiving stream(s): unnamed tributaries to/and Oven Run classified for the following use(s): cold water fishery. There are no potable water supply intakes within 10 miles downstream. Application received December 18, 2009.

*Greensburg District Mining Office: Armbrust Professional Center, 8205 Route 819, Greensburg, PA 15601, 724-925-5500.*

**26090106 and NPDES Permit No. PA0251844. Amerikohl Mining, Inc.** (1384 State Route 711, Stahlstown, PA 15687). Application for commencement, operation and reclamation of a bituminous surface mine, located in Springfield Township, **Fayette County**, affecting 194 acres. Receiving streams: unnamed tributaries to Indian Creek and Indian Creek, classified for the following use: CWF. There is no potable water supply intake within 10 miles downstream from the point of discharge. Application received: December 23, 2009.

*Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, 814-342-8200.*

**17030113 and NPDES No. PA0243591. Rob Holland Enterprises, Inc.** (52 Holland Lane, Curwensville, PA 16833) transfer of an existing bituminous surface mine with an insignificant permit boundary correction and permit renewal from Kenneth K. Rishel and Sons, Inc. (1229 Turnpike Avenue, Clearfield, PA 16830). This site is

located in Lawrence Township, **Clearfield County** and affects 47.9 acres. Receiving stream(s): Montgomery Creek to the West Branch Susquehanna River classified for the following uses: Cold Water Fishery and Warm Water Fishery. There are no potable water supply intakes within 10 miles downstream. Application received March 9, 2009.

**17880126 and NPDES No. PA0116599. Waroquier Coal Co.** (P. O. Box 128, Clearfield, PA 16830), permit renewal and revision to conduct mining operations within 100 feet of Township Road T-564 of an existing bituminous surface and auger mining permit located in Lawrence Township, **Clearfield County** affecting 295.4 acres. Receiving stream(s): unnamed tributaries to the West Branch Susquehanna River classified for the following use(s): Cold Water Fishery. There are no potable water supply intakes within 10 miles downstream. Application received October 30, 2009.

*Noncoal Applications Returned*

*Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, 570-621-3118.*

**40860302T2. 4P Realty, LP**, (309 Main Street, Blakely, PA 18447), transfer of an existing quarry operation from Janet Beccaria in Lake Township, **Luzerne County** affecting 564.0 acres, receiving stream: none. Application received: August 6, 2008. Application denied: December 31, 2009.

*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.

*Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, 814-472-1900.*

**Permit No. 5074SM3 and NPDES Permit No. PA0121126. Valley Quarries**, P. O. Box 2009, Chambersburg, PA 17201, renewal of NPDES Permit, Greene Township, **Franklin County**. Receiving stream(s): Conococheague Creek classified for the following use(s): cold water fisheries. There are no potable water supply intakes within 10 miles downstream. Application received December 21, 2009.

*Greensburg District Mining Office: Armbrust Professional Center, 8205 Route 819, Greensburg, PA 15601, 724-925-5500.*

**3372SM24A and NPDES Permit No. PA0591963. Hanson Aggregates BMC, Inc.** (2200 Springfield Pike, Connellsville, PA 15425). NPDES renewal application to an existing large noncoal surface mine, located in Bullsken Township, **Fayette County**, affecting 451.8

acres. Receiving streams: unnamed tributaries to Polecat Hollow and Breakneck Runs, 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: December 23, 2009.

**26990301 and NPDES Permit No. PA0202584. Vanderbilt Aggregates, LLC** (P. O. Box 125, Uniontown, PA 15401). NPDES renewal application to an existing large noncoal surface mine, located in Dunbar and Vanderbilt Borough Townships, **Fayette County**, affecting 297 acres. Receiving streams: unnamed tributaries to Dickerson Run, classified for the following use: WWF. There is no potable water supply intake within 10 miles downstream from the point of discharge. Renewal application received: December 23, 2009.

*Knox District Mining Office: P. O. Box 669, 310 Best Avenue, Knox, PA 16232-0669, 814-797-1191.*

**61830608. James T. Morrison** (292 John Diamond Road, Franklin, PA 16323) Transfer of an existing large sandstone operation from James J. Morrison Construction in Cranberry Township, **Venango County** affecting 12.0 acres. Receiving streams: Unnamed tributary to the Allegheny River, classified for the following uses: CWF. There are no potable surface water supply intakes within 10 miles downstream. Application received: December 24, 2009.

## 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.*

**E06-650: Fiorino Grande**, 2213 Quarry Road, West Lawn, PA 19609, Cumru Township, **Berks County**, ACOE Philadelphia District.

To construct and maintain: (1) a 6.0 inch depressed, 84.0 foot long, 10-foot by 5-foot concrete box culvert in an unnamed tributary to the Schuylkill River (WWF); (2) a 6.0 inch depressed, 86.0 foot long, 30-inch diameter RCP culvert pipe with an 8-inch diameter DIP water line utility crossing, an 8-inch diameter PVC sanitary sewer line utility crossing and a 15-inch RCP storm sewer utility crossing in and across an unnamed tributary to the Schuylkill River (WWF); and (3) an 8-inch diameter DIP water line utility line crossing and an 8-inch diameter PVC sewer line across an unnamed tributary to the Schuylkill River temporarily impacting 950.0 square feet

(0.0218 acre) of PEM wetlands (Reading, PA Quadrangle N: 8.1 inches; W: 3.2 inches, Latitude: 40° 17' 40"; Longitude: 75° 53' 52"), for the purpose of creating a residential and commercial subdivision in Cumru Township, Berks County.

*Northcentral Region: Watershed Management Program Manager, 208 West Third Street, Williamsport, PA 17701, 570-327-3636.*

**E17-457. Department of Transportation, Engineering District 2-0**, 1924 Daisy Street Extension, Clearfield, PA 16830. SR 0879, Section A07 Bridge Replacement over Surveyor Run in Goshen and Girard Townships, **Clearfield County**, ACOE Baltimore District (Leontes, PA Quadrangle Latitude: 41° 04' 26"; Longitude: 78° 19' 37").

The applicant proposes to remove the existing bridge structure, construct, operate and maintain a new reinforced concrete box culvert. The existing structure is a three span concrete box beam bridge with a total span of 130 ft, skew of 90°, average underclearance of 35 ft and a roadway width of 38 ft. The proposed structure is a 16 x 13 ft reinforced concrete box culvert. The box culvert will be depressed one foot and include standard fish baffles. The box culvert will be attached to the adjacent railroad bridge using a tapered cast-in-place end-section. Surveyor Run is classified as a Cold Water Fishery and is affected by acid mine drainage. The project will permanently impact 82 ft of Surveyor Run, due to the box culvert placement, and temporarily impact 20 ft in channel alignment work. Stream impacts will be mitigated through the Clearwater Conservancy. No wetlands will be impacted by this project.

**E17-458. Department of Transportation, Engineering District 2-0**, 1924 Daisy Street Extension, Clearfield, PA 16830. SR 0053, Section A08 Bridge Replacement over Clearfield Creek in Irvona Borough, **Clearfield County**, ACOE Baltimore District (Irvona, PA Quadrangle Latitude: 41° 04' 26"; Longitude: 78° 19' 37").

The applicant proposes to remove the existing bridge structure, construct, operate and maintain a new three span welded plate girder bridge. The existing structure is a two span pony truss bridge with a total span of 222 ft, skew of 30°, and an average underclearance of 12.57 ft. The proposed structure will be constructed upstream of the existing structure. The proposed structure is a three span welded plate girder bridge with a total span of 350 ft, skew of 30°, and an average underclearance of 16.6ft. The roadway grade will be raised approximately four feet to accommodate future adjacent Levee work. Clearfield Creek is classified as a Warm Water Fishery. The project proposes to temporarily impact 0.01 acre of wetland and will not permanently impact any jurisdictional wetlands. Additionally, mid-channel gravel bars will be removed to an elevation previously permitted under the Irvona Levee project.

**E60-204. Department of Transportation, Engineering District 3-0**, P. O. Box 218, Montoursville, PA 17754-0218. SR 0015, Section 110 Roadway Widening Project, Union Township, **Union County**, ACOE Baltimore District (Northumberland, PA Quadrangle N: 40° 54' 08"; W: 76° 50' 54").

Department of Transportation, Engineering District 3-0 proposes to upgrade the existing four lane roadway to a five lane roadway with a center turning lane. The roadway upgrades will include the replacement of the adjacent storm sewer system. The project will permanently impact 0.04 acre of wetland and relocate the

associated drainage system. The existing drainage system is 513 ft and the proposed is 507 ft. This project will not require mitigation. The project is located in Union Township, **Union County**.

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

**E02-1625. Allegheny County Sanitary Authority (ALCOSAN)**, 3300 Preble Avenue, Pittsburgh, PA 15233. To replace a stream enclosure and enclose stream and install an inlet and outlet in Stowe and Kennedy Townships and McKees Rocks Borough, **Allegheny County**, Pittsburgh ACOE District (Pittsburgh West, PA Quadrangle N: 17.25 inches; W: 10.89 inches, Latitude: 40° 28' 12"; Longitude: 80° 4' 42"). The applicant proposes to replace and maintain approximately 5,000 feet of 48" stream enclosure with a 60" HDPE stream enclosure, and to enclose approximately 190' of stream, and to install and inlet and outfall structure and other appurtenant works, on Pine Hollow Run, (5,100' of impact, WWF)

Deweyville Run (115' of impact, WWF) Chartiers Creek (20' of impact, WWF) and an Unnamed Tributary to Pine Hollow Run (20' of impact, WWF) all for the purpose of separating the sanitary sewer system from the storm sewer system.

#### DAM SAFETY

*Central Office: Bureau of Waterways Engineering, 400 Market Street, Floor 3, P. O. Box 8554, Harrisburg, PA 17105-8554.*

**D24-044EA. Bendigo State Park**, 533 State Park Road, Johnsonburg, PA 15845-0016. Project proposes to breach and remove Bendigo Dam across East Branch Clarion River (HQ-CWF) for the purpose of eliminating a threat to public safety and restoring the stream to a free flowing condition. The project will restore approximately 1,300 feet of stream channel. The dam is located approximately 1,600 feet northwest of the intersection of Bendigo (SR 1004) and Bendigo State Park Roads (Wilcox, PA Quadrangle Latitude: 41° 31' 41"; Longitude: -78° 37' 47").

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## ACTIONS

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### 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.

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**I. NPDES Renewal Permit Actions**


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

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PAG2003605001R	Cornerstone Development Group One Market Way East York, PA 17401	Lancaster Township Lancaster County	UNT Conestoga River WWF	Y
PA0021865 (Sew)	Borough of Adamstown in Lancaster County 98 Lancaster Avenue Adamstown, PA 19501-0546	Lancaster County East Cocalico Township	Little Muddy Creek 7J	Y
PA0021717 (Sew)	Marietta-Donegal Joint Authority P. O. Box 167 Marietta, PA 17547	Lancaster County Marietta Borough	Susquehanna River 7G	Y
PA0070424 (Sew)	Caernarvon Township Municipal Sewer Authority P. O. Box 291 Morgantown, PA 19543	Berks County Caernarvon Township	Conestoga River 7J	Y

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

<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>
PA0252778 Sewage	Ricky G. and Rebecca J. Niemic 5821 Somerset Pike Boswell, PA 15531	Somerset County Jenner Township	UNT of South Fork Bens Creek	Y

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


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

**NPDES Permit No. PA0070483**, Industrial Waste, **Grand Central Sanitary Landfill, Inc.**, 1963 Pen Argyl Road, Pen Argyl, PA 18072. This proposed facility is located in Plainfield Township, **Northampton County**.

Description of Proposed Action: Issuance of an NPDES Permit, renewal.

**NPDES Permit No. PAS602206**, Industrial Stormwater, **Sibum's Auto Parts**, 932 Analomink Road, East Stroudsburg, PA 18301. This proposed facility is located in Stroud Township, **Monroe County**.

Description of Proposed Action/Activity: Issuance of an NPDES Industrial Stormwater Permit for an existing auto parts facility.

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

**NPDES Permit No. PA0081191, Amendment No. 2**, Sewage, **Ms. Laura Choi, Permits and License Agent**, Two North Riverside Plaza, Suite 800, Chicago, IL 60606-2682. This proposed facility is located in West Cornwall Township, **Lebanon County**.

Description of Proposed Action/Activity: Transfer of Permit for MHC PA Dutch Country LP.

**NPDES Permit No. PA0081710, Amendment No. 2**, Sewage, **Ms. Laura Choi**, Permits and License Agent, Two North Riverside Plaza, Suite 800, Chicago, IL 60606-2682. This proposed facility is located in Pequea Township, **Lancaster County**.

Description of Proposed Action/Activity: Transfer of Permit for MHC Circle M LP.

**NPDES Permit No. PA0082228, Amendment No. 1**, Sewage, **Hill Acres Mobile Home Park, LLC**, P. O. Box 251, Morgantown, PA 19543. This proposed facility is located in Rapho Township, **Berks County**.

Description of Proposed Action/Activity: Transfer of Permit.

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

**NPDES Permit No. PA0263451**, Industrial Waste, **Superior Well Service**, 1560 North Perry Highway, Fredonia, PA 16124-2714. This proposed facility is located in Fredonia Borough, **Mercer County**.

Description of Proposed Action/Activity: Issuance of a New NPDES permit for discharge of treated industrial waste and stormwater. This is a minor discharge.



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


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

**WQM Permit No. 2209405**, Sewage, **Swatara Township Authority**, 599 Eisenhower Boulevard, Harrisburg, PA 17111-2355. This proposed facility is located in Swatara Township, **Lancaster County**.

Description of Proposed Action/Activity: Permit approval for the construction of sewerage facilities consisting of replacement of 1,300 feet of an 8-inch gravity collection system with a 10-inch gravity collection system.

**WQM Permit No. WQG02010903**, Sewage, **Oxford Township**, 780 Hanover Street, P. O. Box 86, New Oxford, PA 17350-0086. This proposed facility is located in Oxford Township, **Adams County**.

Description of Proposed Action/Activity: Construction/operation of pump station/sewer extension to serve the Summerfield subdivision flows going to the Oxford Township sanitary sewer collection system.

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

**WQM Permit No. 3209402**, Sewerage, **Indiana Borough**, 80 North Eighth Street, Indiana, PA 15701. This proposed facility is located in Indiana Borough, **Indiana County**.

Description of Proposed Action/Activity: Permit issuance for the construction and operation of an interceptor sewer line.

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

**WQM Permit No. 1009403**, Sewerage, **Winfield Township**, 194 Brose Road, Cabot, PA 16023. This proposed facility is located in Winfield Township, **Butler County**.

Description of Proposed Action/Activity: Issuance of a construction/operation of sewerage wastewater facilities.

**WQM Permit No. 1001401**, Sewerage, **Amendment No. 1, Prospect Borough**, 159 Monroe Street, Prospect, PA 16052. This proposed facility is located in Franklin Township, **Butler County**.

Description of Proposed Action/Activity: Issuance of an amended permit for the installation of automation improvements/modifications to an existing in-line flow equalization tank located in Prospect Borough.

**WQM Permit No. 3773412**, Sewerage, **Amendment No. 1, Norman J. Cutri, d/b/a Twilight Mobile Home Park**, 1324 South Shore Drive, #601, Erie, PA 16505. This existing facility is located in Mahoning Township, **Lawrence County**.

Description of Proposed Action/Activity: Issuance of an amended permit for the addition of a sodium aluminate chemical feed to remove phosphorus from the Sewage Treatment Plant wastewater to meet the current effluent limitations in the new NPDES permit.

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**IV. NPDES Stormwater Discharges from MS4 Permit Actions**


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**V. NPDES Waiver Stormwater Discharges from MS4 Actions**


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**VI. NPDES Discharges of Stormwater Associated with Construction Activities Individual Permit Actions**


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

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI023909008	Kelly A. and Matthew S. Stubits 3608 East Grant Street Slatington, PA 18080	Lehigh	Heidelberg Township	Tributary to Jordan Creek HQ-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>
PAI036706005-1	Stuart Widom Conective Mid Merit, LLC P. O. Box 6066 92 DC 72 Newark, DE 19714	York	Peach Bottom Township	Susquehanna River Watershed 7-I WWF

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

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI061009002	Winfield Township 194 Brose Road Cabot PA 16023	Butler	Winfield and Buffalo Townships	Little Buffalo Creek HQ-TSF

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**VII. Approvals to Use NPDES and/or Other General Permits**


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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).

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**List of NPDES and/or Other General Permit Types**


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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>
Richland Township Bucks County	PAG200 0909041	Steeple Run, LP c/o AmeriCorp Homes One South State Street Newtown, PA 18940	Morgan Creek TSF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
Wrightstown Township Bucks County	PAG200 0904131-1-R	Toll Brothers, Inc. 250 Gibraltar Road Horsham, PA 19428	Newtown Creek TSF-MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
New Hope Borough Bucks County	PAG200 0908035	Scannapieco Development Corp. 400 South River Road New Hope, PA 18938	Rabbit Run TSF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
East Fallowfield Township Chester County	PAG200 1509033	Doutrich Homes 333 Lincoln Highway East Parkasie, PA 17562	Sucker Run WWF-MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
East Brandywine Township Chester County	PAG200 1504014-R	Gambone Brothers Dev. Co. 1030 West Germantown Pike P. O. Box 287 Trooper, PA 19409	Unnamed Tributary Beaver Creek TSF-MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
City of Chester Delaware County	PAG2-02- 2309023	Delaware County Regional Water Quality Control Authority 100 East Fifth Street Chester, PA 19016-0999	Delaware 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>
Worcester Township Montgomery County	PAG2-02- 4609063	Rotelle Development Company 219 Nianatic Road Barto, PA 19514	Zacharias Creek TSF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
Lower Pottsgrove Township Montgomery County	PAG2-02- 4608139	Valley Forge Properties, LP 910 Germantown Pike Plymouth Meeting, PA 19462	Hartenstine Creek WWF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
Susquehanna Township Dauphin County	PAG2002209041	Custer Development Company 2805 Old Post Road Suite 200 Harrisburg, PA 17110	Paxton Creek WWF	Dauphin County Conservation District 1451 Peters Mountain Road Dauphin, PA 17018 717-921-8100
Susquehanna Township Dauphin County	PAG2002209040	Stan Custer 2901 Linglestown Road, LLC 2805 Old Post Road Harrisburg, PA 17110	Paxton Creek WWF	Dauphin County Conservation District 1451 Peters Mountain Road Dauphin, PA 17018 717-921-8100
North Codorus Township York County	PAG2006709050	Robert L. Inners, II PH Glatfelter Company 228 South Main Street Spring Grove, PA 17362	West Branch Codorus Creek WWF	York County Conservation District 118 Pleasant Acres Road York, PA 17402-8984 717-840-7430
Logan Township Blair County	PAG2000705002-R	Kettle Creek Partners, LP 301 Plum Creek Road P. O. Box 34 Roaring Spring, PA 16673	UNT to Sandy Run CWF	Blair County Conservation District 1407 Blair Street Hollidaysburg, PA 16648 814-696-0877, Ext. 5
Peach Bottom Township York County	PAG2006708069	Grimmel Farms, Inc. 3855 Federal Hill Road Jarrettsville, MD 21084	UNT to Broad Creek CWF	York County Conservation District 118 Pleasant Acres Road York, PA 17402-8984 717-840-7430
Manheim Township York County	PAG2006709049	Loren D. Riebling 5191 Wood Mill Road Glennville, PA 17329	Codorus Creek—Gunpowder Falls WWF	York County Conservation District 118 Pleasant Acres Road York, PA 17402-8984 717-840-7430
Ontelaunee Township Berks County	PAG2000609058	Linda King 425 Kindt Corner Road Shoemakersville, PA 19555	Maidencreek WWF	Berks County Conservation District 1238 County Welfare Road Suite 200 Leesport, PA 19533-9710 610-372-4657, Ext. 201
Harris Township Centre County	PAG2001406025(1)	Galen Dreibelbis Hawk Ridge Subd 65 Blue Course Drive Suite C1 State College, PA 16803	UNT to Spring Creek CWF	Centre County Conservation District 414 Holmes Avenue, Suite 4 Bellefonte, PA 16823 (814) 355-6817

<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>
City of Williamsport Lycoming County	PAG2004109009	Williamsport Sanitary Authority 253 West 4th Street Williamsport, PA 17701	West Branch of Susquehanna River WWF/MF	Lycoming County Conservation District 542 County Farm Road Suite 202 Montoursville, PA 17754 (570) 433-3003
Wellsboro Borough Tioga County	PAG2005909009	Steve Kramer Laurel Health System 32 Central Avenue Wellsboro, PA 16901	Morris Creek CWF	Tioga County Conservation District 50 Plaza Lane Wellsboro, PA 16901 (570) 724-1801, Ext. 3
Delmar Township Tioga County	PAG2005909012	Mary Worthington GROW, Inc. 114 Main Street Wellsboro, PA 16901	UNT to Baldwin Run WWF	Tioga County Conservation District 50 Plaza Lane Wellsboro, PA 16901 (570) 724-1801, Ext. 3
Cambria County Cambria Township	PAG2001109014	Dr. Vincent DiLeo Central Cambria School District 208 School House Road Ebensburg, PA 15931	UNT South Branch Blacklick Creek CWF	Cambria County Conservation District 814-472-2120
Cranberry Township Butler County	PAG2001009014	Dave Sarver Sampson-Morris Group 2500 Eldo Road Suite Monroeville, PA 15146	Coal Run Creek WWF Brush Creek WWF	Butler County Conservation District 724-284-5270
Huntingdon County Borough of Broad Top City	PAG2093109007	Bureau of Abandoned Mine Reclamation Cambria Office 286 Industrial Park Road Ebensburg, PA 15931-4119	Unnamed Tributary to Shoup Run to Raystown Branch Juniata River WWF	Department of Environmental Protection Cambria Office 286 Industrial Park Road Ebensburg, PA 15931-4119 814-472-1800

*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>
South Whitehall Township Lehigh County	PAR602245	South Whitehall Auto Salvage 2000 Minnich Road Allentown, PA 18104	Unnamed feeder to Jordan Creek TSF, MF	DEP—NERO 2 Public Square Wilkes-Barre, PA 18711 570-826-2511
Upper Saucon Township Lehigh County	PAR802215	Pitt Ohio Express, LLC 15 27th Street Pittsburgh, PA 15222	Unknown tributary to Saucon Creek CWF	DEP—NERO 2 Public Square Wilkes-Barre, PA 18711 570-826-2511
Mt. Pleasant Township Westmoreland County	PAR806230	UPS Freight 1000 Semmes Avenue Richmond, VA 23224	Sherrick Run	Southwest Regional Office: Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 412-442-4000

<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>
Quemahoning Township Somerset County	PAR606158	Kantner Iron and Steel, Inc. 365 Bassett Road Hooversville, PA 15936	Stonycreek River	Southwest Regional Office: Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 412-442-4000
Midland Borough Beaver County	PAR206133	WHEMCO—Steel Castings, Inc. 12th Street Midland, PA 15059	Ohio River	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

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

**Operations Permit #1509515** issued to **Pennsylvania American Water Company**, 800 West Hersheypark Drive, Hershey, PA 17033.

**(PWSID #1150166)** East Vincent Township, **Chester County** on December 14, 2009, for the operation of Facilities approved under construction permit #1509512 for operation of new chlorine contact piping at Royersford Well 4.

**Operations Permit #0909524** issued to **Springtown Water Authority**, P. O. Box 469, Springtown, PA 18081.

**(PWSID #1090064)** Springfield Township, **Bucks County** on April 1, 2009, for the operation of Facilities approved under construction permit #0908502 for the operation of the authority's 150,000-gallon water storage standpipe.

**Operations Permit #1509514** issued to **2 Maplewood Mobile Home Park**, 205 South Caln Road, Coatesville, PA 19320.

**(PWSID #1150017)** West Brandywine Township, **Chester County** on December 1, 2009, for the operation of Facilities approved under construction permit #1506506 for the operation of Corrosion Control Treatment at Maplewood Mobile Home Park.

**Operations Permit #0909525** issued to **Plumstead Township**, 5186 Stump Road, P. O. Box 387, Plumsteadville, PA 18949.

**(PWSID #1090136)** Plumstead Township, **Bucks County** on October 27, 2009, for the operation of Facilities approved under construction permit #0909506 for the upgrade to Country Green Wells MT-1 and MT-2.

**Operations Permit #0909526** issued to **Plumstead Township**, 5186 Stump Road, P. O. Box 387, Plumsteadville, PA 18949.

**(PWSID #1090136)** Plumstead Township, **Bucks County** on October 27, 2009, for the operation of Facilities approved under construction permit #0909507 for the upgrade to Summer Hill Wells 5, 6 and 7.

**Operations Permit #0909527** issued to **Plumstead Township**, 5186 Stump Road, P. O. Box 387, Plumsteadville, PA 18949.

**(PWSID #1090136)** Plumstead Township, **Bucks County** on October 27, 2009, for the operation of Facilities approved under construction permit #0909508 for the upgrade to Cabin Run Wells 2 and 3.

**Operations Permit #0909528** issued to **Plumstead Township**, 5186 Stump Road, P. O. Box 387, Plumsteadville, PA 18949.

(PWSID #1090136) Plumstead Township, **Bucks County** on October 27, 2009, for the operation of Facilities approved under construction permit #0909509 for the upgrade to Durham Ridge North Branch Wells NB-2 and NB-3.

**Operations Permit #0909529** issued to **Bedminster Municipal Authority**, 432 Elephant Road, Perkasie, PA 18944.

(PWSID #1090104) Bedminster Township, **Bucks County** on December 8, 2009, for the operation of Facilities approved under construction permit #0909514 for sequestering Iron and Manganese at Wells A, E, 2 and 9.

*Southcentral Region: Water Supply Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.*

**Operations Permit** issued to: **Pine Manor, LLC**, 7220029, Londonderry Township, **Dauphin County** on 1/4/2010 for the operation of facilities approved under Construction Permit No. 2208502.

**Operations Permit** issued to: **City of Lancaster**, 7360058, Manor Township, **Lancaster County** on 12/29/2009 for the operation of facilities approved under Construction Permit No. 3608516 E.

**Operations Permit** issued to: **Municipal Authority of the Borough of Lewistown**, 4440010, Juniata Terrace Borough, **Mifflin County** on 12/22/2009 for the operation of facilities approved under Construction Permit No. 4409501 MA.

**Operations Permit** issued to: **Grier School**, 4310022, Warriors Mark Township, **Huntingdon County** on 12/30/2009 for the operation of facilities approved under Construction Permit No. 3109502 MA.

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

**Permit No. 1709503—Construction**, Public Water Supply.

Applicant	<b>Clearfield Municipal Authority</b>
Township or Borough	Lawrence Township
County	<b>Clearfield</b>
Responsible Official	Jeffrey Williams, Manager Clearfield Municipal Authority 107 East Market Street Clearfield, PA 16830
Type of Facility	Public Water Supply—Construction
Consulting Engineer	James Potopa, P. E. Gwin Dobson & Foreman 3121 Fairway Drive Altoona, PA 16602
Permit Issued Date	January 5, 2010
Description of Action	Approves the Goshen Church West project, including approximately 26,500 LF of 8-inch diameter ductile iron piping, a pressure reducing vault and a 150,000 gallon welded steel finished water storage tank.

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

**Operations Permit** issued to: **Municipal Authority of the Borough of Derry**, 620 Chestnut Street, Derry, PA 15627, (PWSID #5650049) Derry Borough, **Westmore-**

**land County** on December 28, 2009, for the operation of facilities approved under Construction Permit # 4871-A9.

**Permit No. 5609503MA, Minor Amendment.** Public Water Supply.

Applicant	<b>Conemaugh Township Municipal Authority</b> Box 429 113 South Main Street Davidsville, PA 15928
Borough or Township	Paint and Quemahoning Townships
County	<b>Somerset</b>
Type of Facility	Blough waterline
Consulting Engineer	The EADS Group, Inc. 450 Aberdeen Drive Somerset, PA 15501
Permit to Construct Issued	December 31, 2009

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

**Operations Permit** issued to **Erie City Water Authority**, PWSID No. 6250028, City of Erie, **Erie County**, January 5, 2010, for the operation of the Johnson Reservoirs, as approved under construction permit 8875-W-T1-MA3, issued June 24, 2009.

**SEWAGE FACILITIES ACT PLAN APPROVAL**

**Plan Approvals Granted under the Pennsylvania Sewage Facilities Act (35 P. S. § 750.5)**

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

*Plan Location:* on Harney Road in Germany Township, Adams County.

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Germany Township	P. O. Box 121 Littlestown, PA 17340	Adams County

*Plan Description:* The approved plan provides for the renovation of an existing dwelling into a 52 seat restaurant. The development will generate an estimated 1,054 gpd of wastewater tributary to a sandmound with advanced pre-treatment, including denitrification. The name of the project is Stevens Restaurant and the Department of Environmental Protection (Department) code # is B3-01916-186-2. The Department's review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal. Any required NPDES Permits or WQM Permits must be obtained in the name of the municipality, authority or owner as appropriate.

**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:

*Southeast Region: Environmental Cleanup Program Manager, 2 East Main Street, Norristown, PA 19401.*

**Quick Residence**, City of Philadelphia, **Philadelphia County**. Jeremy Bolyn, Environmental Maintenance Company, Inc., 1420 East Mermaid Lane, Glenside, PA 19038 on behalf of Gloria Quici, 5706 Florence Avenue, Philadelphia, PA 19143 has submitted a 90 day Final Report concerning remediation of site soil contaminated with No. 2 fuel oil. The report is intended to document remediation of the site to meet the Statewide Health Standard.

**5500 Germantown Avenue**, City of Philadelphia, **Philadelphia County**. Bill Schmidt, Pennoni Associates, Inc., 3001 Market Street, Philadelphia, PA 19104 on behalf of Marc Guerin, Citizen Bank of Pennsylvania, 1701 JFK Boulevard, Philadelphia, PA 19103 has submitted a Final Report concerning remediation of site groundwater contaminated with No. 2 fuel oil. The report is intended to document remediation of the site to meet the Statewide Health Standards.

**Saurman Residence**, Newtown Township, **Bucks County**. Richard D. Trimpi, Trimpi Associates, Inc., 1635 Old Plains Road, Pennsburg, PA 18073, Alice Hoffman, State Farm Insurance Company, P. O. Box 11, Concordville, PA 19331 on behalf of Stephen Saurman, 81 Vera Avenue, Newtown, PA 18940 has submitted a Final Report concerning remediation of site soil contaminated

with No. 2 fuel oil. The report is intended to document remediation of the site to meet the Statewide Health Standards.

**Chaddsford Collision**, City of Philadelphia, **Philadelphia County**. Steven F. Coe, Brown Environmental Services Corporation, 301 South State Street, Suite S201, Newtown, PA 18940, Roman Iwskiw, Brown Environmental Services Corporation, 301 South State Street, Suite S201, Newtown, PA 18940 has submitted a Remedial Investigation/Risk Assessment and Cleanup Plan concerning remediation of site soil and groundwater contaminated with lead, unleaded gasoline. The report is intended to document remediation of the site to meet the Site-Specific Standards.

**Rossi Residence**, Abington Township, **Montgomery County**. Jeremy Bolyn Environmental Maintenance Company, Inc., 1420 East Mermaid Lane, Glenside, PA 19038 on behalf of Donald Rossi, 1341 Red Ramble Road, Rydale, PA 19034 has submitted a 90-day Final Report concerning remediation of site soil contaminated with No. 2 fuel oil. The report is intended to document remediation of the site to meet the Statewide Health Standard.

**Crispo Property**, Horsham Township, **Montgomery County**. Richard D. Trimpi, Trimpi Associates, Inc., 1635 Old Plains Road, Pennsburg, PA 18073, Christine Dimming, State Farm 38-P931-770, P. O. Box 13, Concordville, PA 19331 on behalf of Francis Crispo, 302 Park Road, Ambler, PA 19002 has submitted a Final Report concerning remediation of site soil contaminated with No. 2 fuel oil. The report is intended to document remediation of the site to meet the Statewide Health Standard.

**Trans Material 0.46 Parcel**, City of Philadelphia, **Philadelphia County**. Christopher Ward, RT Environmental Services, Inc., Pureland Complex, Suite 306, 510 Heron Drive, P. O. Box 521, Bridgeport, NJ 08014 on behalf of Senya Isayeff, CIRR-Keystone Community Alliance-West Goshen, 550 Union Street, West Chester, PA 19382 has submitted a Final Report concerning remediation of site groundwater contaminated with chlorinated solvents. The report is intended to document remediation of the site to meet the Background Standards.

*Northeast Region: Ronald S. Brezinski, Regional Environmental Cleanup Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.*

**Regan Property**, 56 Flintlock Trail, Tobyhanna Township, **Monroe County**. Paul Martino, Pennoni Associates, Inc., One Drexel Plaza, 3001 Market Street, Philadelphia, PA 09104-2897 has submitted a Final Report (on behalf of his client, Christian Regan, 13 N. Morgan Avenue, Havertown, PA 19083), concerning the remediation of soils found to have been impacted by No. 2 fuel oil as a result of a leaking aboveground storage tank. The report was submitted to document attainment of the Statewide Health Standard. A public notice regarding the submission of the Final Report was published in *The Pocono Record* on November 18, 2009.

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

**Gichner Shelter Systems, Inc.**, York Township, **York County**. Synergy Environmental, Inc., 155 Railroad Plaza, 1st Floor, Royersford, PA 19468, on behalf of Dallastown Realty II, LLC, 490 East Locust Street, Dallastown, PA 17313, submitted a Final Report concerning site soils and groundwater contaminated with Inorganics, VOCs, SVOCs and PAHs. The report is in-

tended to document remediation of the site to meet the Residential Statewide Health Standard.

**Priefert Logistics I-81 Diesel Fuel Spill**, Southampton Township, **Franklin County**. Taylor GeoServices, Inc., 38 Bishop Hollow Road, Suite 200, Newtown Square, PA 19073, on behalf of Priefert Logistics, 2630 South Jefferson, Mount Pleasant, TX 75455 and Department of Transportation, Maintenance District 8-3, 619 North Franklin Street, Chambersburg, PA 17201, submitted a Final Report concerning remediation of site soils contaminated with diesel fuel from a ruptured saddle tank. The report was submitted within 90 days of the release and is intended to document remediation of the site to meet the Residential Statewide Health Standard. Future use of the site is residential.

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

**462 Lafferty Hollow Road**, Foster Township, **McKean County**. The Palmerton Group, 6296 Fly Road, East Syracuse, NY 13057 on behalf of Pennzoil-Quaker State Company, 700 Milam Street, Houston, TX 77002 has submitted a Final Report concerning remediation of site soil contaminated with 1,3,4-trimethylbenzene, 1,2,4-trimethylbenzene, and 1,3,5-trimethylbenzene. The Final Report is intended to document remediation of the site to meet the Statewide Health Standard.

**Wolfs Head Prop South Parcel OLD**, Borough of Sugarcreek, **Venango County**. URS Corporation, 501 Holiday Drive, Suite 300, Pittsburgh, PA 15220 on behalf of Pennzoil-Quaker State Company, 910 Louisiana OSP 687, Houston, TX 77002 has submitted a Site Characterization (Remedial Investigation)/Risk Assessment Report concerning remediation of site soil and site groundwater contaminated with SPL, VOC, SVOC, and inorganic compounds. The report is intended to document remediation of the site to meet the Site-Specific Standard.

## LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

### UNDER ACT 2, 1995

#### PREAMBLE 3

**The Department has taken action on the following plans and reports under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908).**

Provisions of 25 Pa. Code § 250.8, administration of the Land Recycling and Environmental Remediation Standards Act (act), require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* a notice of final actions on plans and reports. A final report is submitted to document cleanup of a release of a regulated substance at a site to one of the remediation standards of the act. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis of selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed and summaries of sampling methodology and analytical results which demonstrate that the remediation has attained the cleanup standard selected. Plans and reports required by provisions of the act for compliance with selection of remediation to a Site-Specific Standard, in addition to a final report, include a remedial investigation report, risk assessment report and cleanup plan. A remedial investigation report

includes conclusions from the site investigation, concentration of regulated substances in environmental media, benefits of refuse of the property and, in some circumstances, a fate and transport analysis. If required, a risk assessment report describes potential adverse effects caused by the presence of regulated substances. If required, a cleanup plan evaluates the abilities of potential remedies to achieve remedy requirements. A work plan for conducting a baseline remedial investigation is required by provisions of the act for compliance with selection of a special industrial area remediation. The baseline remedial investigation, based on the work plan, is compiled into the baseline environmental report to establish a reference point to show existing contamination, describe proposed remediation to be done and include a description of existing or potential public benefits of the use or reuse of the property. The Department may approve or disapprove plans and reports submitted. This notice provides the Department's decision and, if relevant, the basis for disapproval.

For further information concerning the plans and reports, contact the Environmental Cleanup Program manager in the Department regional office before which the notice of the plan or report appears. If information concerning a final report is required in an alternative form, contact the Community Relations Coordinator at the appropriate regional office. TDD users may telephone the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

The Department has received the following plans and reports:

*Southeast Region: Environmental Cleanup Program Manager, 2 East Main Street, Norristown, PA 19401.*

**Mark II Associates, Inc. Property**, Folcroft Borough, **Delaware County**. Terrance O'Reilly, TriState Environmental Management Services, Inc., 368 Dunksferry Road, Philadelphia, PA 19020, Eduard Eichen, The OAK Group, Inc., Waterfront Technology Center, 200 Federal Street, Suite 300, Camden, NJ 08103, on behalf of Cynthia Ray, Mark II Associates, Inc., 266 South 23rd Street, Philadelphia, PA 19103 has submitted a Remedial Investigation/Final Report concerning the remediation of site groundwater contaminated with chlorinated solvents. The Remedial Investigation/Final Report was disapproved by the Department of Environmental Protection on December 7, 2009.

**The Hake Building**, Eddystone Borough, **Delaware County**. Richard Werner, Environmental Consulting, Inc., 500 West Washington Street, Suite 375, Norristown, PA 19401 on behalf of Frank Hake, Hake HQ, LP, 1380 Wisteria Drive, Malvern, PA 19355 has submitted a Final Report concerning the remediation of site soil and groundwater contaminated with chlorinated solvents. The Final report demonstrated attainment of the Statewide Health and Background Standards and was approved by the Department of Environmental Protection on December 17, 2009.

**MA Bruder & Sons**, City of Philadelphia, **Philadelphia County**. David R. Kerschner, P.G., KU Resource, Inc., 22 South Linden Street, Duquesne, PA 15110 on behalf of Kenneth H. Stroebel, The Sherwin-Williams Company, 101 Prospect Avenue, N.W. Cleveland, OH 44115-1075 has submitted a Final Report concerning the remediation of site soil and groundwater contaminated with other organics. The Final report did not demonstrate attainment of the Statewide Health Standard and was disapproved by the Department of Environmental Protection on December 22, 2009.



**Florence Titus Elementary**, Warrington Township, **Bucks County**. Daniel Lewis, Spotts, Steven and McCoy, Inc., 1047 North Park Road, Reading, PA 10610-0307 on behalf of Michael Nickerson, Central Bucks School District, 320 West Swamp Road, Doylestown, PA 18901-2359 has submitted a Final Report concerning the remediation of site soil contaminated with No. 2 fuel oil. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department of Environmental Protection on December 3, 2009.

**USPS Truck Terminal Annex**, City of Philadelphia, **Philadelphia County**. Christopher Orzechowski, P.G., Keating Environmental Management, Inc., 123 John Robert Thomas Drive, Exton, PA 19341, Brad A. Molotsky, Brandywine Cira South, LP, 555 East Lancaster Avenue, Suite 100, Radnor, PA 19087 on behalf of Kyle Rosato, University of Pennsylvania, 3101 Walnut Street, Philadelphia, PA 19104 has submitted a Final Report concerning the remediation of site soil and ground contaminated with chlorinated solvents. The Final Report demonstrated attainment of the Site-Specific Standard and was approved by the Department of Environmental Protection on December 23, 2009.

**Uptown Worthington**, East Whiteland Township, **Chester County**. Jeff Walsh, Penn Environmental & Remediation, Inc., 2755 Bergey Road, Hatfield, PA 19440 on behalf of Guy Wolfington, Malvern Hill Associates, LP, 2701 Renaissance Blvd., Fourth Floor, King of Prussia, PA 193406 has submitted a Final Report concerning the remediation of site groundwater contaminated with used motor oil. The Final Report demonstrated attainment of the Statewide Health Standards and was approved by the Department of Environmental Protection on December 17, 2009.

**Linfield Industrial Park**, Limerick Township, **Montgomery County**. Jim LaReginak Herbert Rowland & Grubick, Inc., 1820 Linglestown Road, Harrisburg, PA 17110, Brenda O'Donnell Herbert Rowland & Grubick, Inc., 1820 Linglestown Road, Harrisburg, PA 17110 on behalf of Eugene Ostrecicher, Linfield Industrial Park, 527 Bedford Avenue, Brooklyn, NY 11211 has submitted a Final Report concerning the remediation of site soil contaminated with leaded gasoline. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department of Environmental Protection on December 8, 2009.

*Northeast Region: Ronald S. Brezinski, Environmental Cleanup Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.*

**Braden Airpark**, 3800 Sullivan Trail, Forks Township, **Northampton County**. Thomas Martinelli, JMT Environmental Technologies, Inc., P.O. Box 22044, Lehigh Valley, PA 18002 submitted a Final Report (on behalf of his client, Lehigh-Northampton Airport Authority, 3311 Airport Road, Allentown, PA 18109-3040), concerning the remediation of soil found to have been impacted by aviation gas as a result of a release during an airplane crash. The report documented attainment of the Statewide Health Standard and was approved on December 17, 2009. The report was originally submitted within 90 days of the release.

**Aden Property**, 1828 Valley Forge Road, South Whitehall Township, **Lehigh County**. Gregg J. Walters and Mark W. Ellis, MEA, Inc., 1365 Ackermanville Road, Bangor, PA 18013 submitted a Final Report (on behalf of their clients, LaRoy and Ruth Aden, 1828 Valley Forge Road, Allentown, PA 18104), concerning the remediation

of soil found to have been impacted by No. 2 fuel oil as a result of a release from a leaking pressure gauge from a furnace/275-gallon aboveground storage tank system. The report documented attainment of the Statewide Health Standard and was approved on December 17, 2009.

**Sarah Cohen Residence**, 620 Carbon Street, Freeland Borough, **Luzerne County**. David A. Everitt, III and Mark W. Ellis, MEA, Inc., 1365 Ackermanville Road, Bangor, PA 18013 submitted a Final Report (on behalf of their client, Sarah Cohen, 620 Carbon Street, Freeland, PA 18224), concerning the remediation of soil found to have been impacted by No. 2 fuel oil as a result of a release from an aboveground storage tank that had a broken fitting. The report documented attainment of the Statewide Health Standard and was approved on December 17, 2009.

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

**49 West Chestnut Street Property**, City of Lancaster, **Lancaster County**. Environmental Standards, Inc., P.O. Box 810, Valley Forge, PA 19482, on behalf of City of Lancaster, P.O. Box 1599, 120 North Duke Street, Lancaster, PA 17608, submitted a Final Report concerning remediation of site groundwater contaminated with leaded and unleaded gasoline. The Final Report demonstrated attainment of the Residential Statewide Health Standard and was approved by the Department of Environmental Protection on December 29, 2009.

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

**Pennzoil Rouseville Refinery (Former Rouseville Refinery—Plant 2)**, Cornplanter Township, **Venango County**. URS Corporation, 501 Holiday Drive, Building #4, Suite 300, Pittsburgh, PA 15220 on behalf of Pennzoil-Quaker State Company, 12700 Northborough Drive, 300 E-11, Houston, TX 77067 and Honeywell, Inc., has submitted a Risk Assessment/Remedial Investigation Report concerning the remediation of site soil contaminated with separate phase petroleum liquids and petroleum refining related constituents including, but not limited to, Benzene, Toluene, Ethyl Benzene, Xylenes, Cumene, Methyl tert-Butyl Ether, Naphthalene, 1,2,4 Trimethylbenzene, 1,3,5 Trimethylbenzene, Fluorene, Anthracene, Phenanthrene, Pyrene, Benzo(a)anthracene, Chrysene, Benzo(a)pyrene, Benzo(g,h,i)perylene, Dibenzofuran, 1,2,3 Trichloropropane, 1,1,2,2-Tetrachloroethane, Arsenic, Iron, Thallium, Lead and site groundwater contaminated with separate phase petroleum liquids and petroleum refining related constituents including, but not limited to, Benzene, Toluene, Ethyl Benzene, Xylenes, Cumene, Methyl tert-Butyl Ether, Naphthalene, 1,2,4 Trimethylbenzene, 1,3,5 Trimethylbenzene, Fluorene, Anthracene, Phenanthrene, Pyrene, Benzo(a)anthracene, Chrysene, Benzo(a)pyrene, Benzo(g,h,i)perylene, Arsenic, Iron, Lead. The Risk Assessment/Remedial Investigation Report was approved by the Department of Environmental Protection on December 30, 2009.

#### OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE

**Permits Approved 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.**

*Northeast Region: Regional Solid Waste Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.*

**Permit Application No. 100022. Chrin Brothers Sanitary Landfill**, Chrin Brothers Sanitary Landfill, Inc., 635 Industrial Drive, Easton, PA 18042. A Permit Renewal approval authorizing the continued operation of this municipal waste landfill located in Williams Township, **Northampton County**. The approval authorizes the extension of their permit to continue operations at the Chrin Brothers Sanitary Landfill until January 6, 2020. The Permit Renewal was issued by the Regional Office on December 28, 2009.

## AIR QUALITY

**General Plan Approval and Operating Permit Usage Authorized under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127 to construct, modify, reactivate or operate air contamination sources and associated air cleaning devices.**

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

**54-329-006GP9: R.E. Pierson Construction Co.** (P. O. Box 430, Woodstown, NJ 08098-0430) on December 29, 2009, to install and operate a portable I/C engine at their site at Middleport Materials in Walker Township, **Schuylkill County**.

**54-329-007GP9: R.E. Pierson Construction Co.** (P. O. Box 430, Woodstown, NJ 08098-0430) on December 29, 2009, to install and operate three (3) portable I/C engines at their site at Middleport Materials in Walker Township, **Schuylkill County**.

**54-310-048GP3: R.E. Pierson Construction Co.** (P. O. Box 430, Woodstown, NJ 08098-0430) on December 29, 2009, to install and operate a portable crushing operation at their site at Middleport Materials in Walker Township, **Schuylkill County**.

**54-310-049GP3: R.E. Pierson Construction Co.** (P. O. Box 430, Woodstown, NJ 08098-0430) on December 29, 2009, to install and operate a portable crushing operation at their site at Middleport Materials in Walker Township, **Schuylkill County**.

**58-310-022GP3: Damascus 535 Quarry & Stone Products, LLC** (R. R. 3, Box 324A-1, Montrose, PA 18801) on December 31, 2009, to construct and operate a Portable Crushing Operation with watersprays at their site in Silver Lake Township, **Susquehanna County**.

**58-329-011GP9: Damascus 535 Quarry & Stone Products, LLC** (R. R. 3, Box 324A-1, Montrose, PA 18801) on December 31, 2009, to installation and operate Diesel I/C Engines at their site in Silver Lake Township, **Susquehanna County**.

**58-310-021GP3: Damascus 535 Quarry & Stone Products, LLC** (R. R. 3, Box 324A-1, Montrose, PA 18801) on December 30, 2009, to construct and operate a Portable Crushing Operation with watersprays at their site in Middletown Township, **Susquehanna County**.

**58-329-010GP9: Damascus 535 Quarry & Stone Products, LLC** (R. R. 3, Box 324A-1, Montrose, PA 18801) on December 30, 2009, to install and operate Diesel I/C Engines at the site in Middletown Township, **Susquehanna County**.

**58-399-007GP5: Chief Gathering, LLC** (6051 Wallace Road Ext., Suite 210, Wexford, PA 15090) on December 29, 2009, to construct and operate of a Natural Gas Dehydration Facility at the site located in Springville Township, **Susquehanna County**.

**58-399-005GP5: Appalachia Midstream Services, LLC** (6100 North Western Avenue, P. O. Box 54382, Oklahoma City, OK 73154-1382) on December 31, 2009, to construct and operate a Natural Gas Dehydration Facility at their site in Auburn Township, **Susquehanna County**.

*Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745. Contact: Barb Hatch, Environmental Engineer Managers—Telephone: 412-442-4163/5226.*

**GP5-65-00934A: Kreibel Minerals, Inc.** (P. O. Box 765, Clarion, PA 16214) on December 23, 2009, to operate one natural gas compressor engine and one natural gas dehydrator at their Lynn Compressor Station on Simpson Hollow Road, East Huntingdon 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.**

*Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110. Contact: William R. Weaver, New Source Review Chief—Telephone: 717-705-4702.*

**67-03041E: County Line Quarry, Inc.** (S. Front Street, Wrightsville, PA 17368) on December 29, 2009, to construct a new crushing plant in Wrightsville Borough, **York County**.

*Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481. Contact: Mark Gorog, New Source Review Chief—Telephone: 814-332-6940.*

**43-011F: Greenville Metals, Inc.** (99 Crestview Drive Ext, Transfer, PA 16154) on December 23, 2009, to modify plan approval 43-011E to include the Drying Tube (Source 201) being controlled by the new baghouse (C205) in Pymatuning Township, **Mercer County**. This is a Title V facility.

**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.**

*Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110. Contact: William R. Weaver, New Source Review Chief—Telephone: 717-705-4702.*

**28-05002B: Letterkenny Army Depot** (1 Overcash Avenue, Chambersburg, PA 17201-4150) on January 4, 2010, for their paint booth in Letterkenny Township, **Franklin County**. This plan approval was extended.

**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.**

*Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110. Contact: William R. Weaver, New Source Review Chief—Telephone: 717-705-4702.*

**28-05031: Chambersburg Borough** (100 South 2nd Street, Chambersburg, PA 17201-2512) on December 30, 2009, for operation of two peak shaving stations to supply electrical power to their township and utility grids in Chambersburg Borough, **Franklin County**. This is a renewal of the State-only operating permit.

**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.**

*Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110. Contact: William R. Weaver, New Source Review Chief—Telephone: 717-705-4702.*

**38-05037: Zimmerman Chair Shop** (1486 Colebrook Road, Lebanon, PA 17042-9507) on December 23, 2009, for their wood furniture manufacturing operations in North Cornwall Township, **Lebanon County**. This State-only operating permit was modified to cap the actual and potential VOC emissions to less than 25 tons per year.

**De Minimis Emissions Increases Authorized under 25 Pa. Code § 127.449.**

*Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19404. Contact: Janine Tulloch-Reid, Facilities Permitting Chief—Telephone: 484-250-5920.*

**TVOP-23-00003: ConocoPhillips Co., Trainer Refinery** (4101 Post Road, Trainer, PA 19061) a facility located in Trainer Borough, **Delaware County**. The facility's major emission points include varies refinery processes that emit major levels of nitrogen oxides (NO<sub>x</sub>), carbon monoxide (CO), sulfur oxides (SO<sub>x</sub>), particulate matter (PM), and Volatile Organic Compounds (VOCs).

ConocoPhillips will install about 200 feet of pipe to connect the existing light components pump to the existing blender railcar loading rack. This change allows ConocoPhillips to load light component blendstock into rail cars. This change is necessary due to the Energy Independence & Security Act of 2007 (EISA) that mandates an increasing volume of renewable fuels into the nation's fuel supply. The loading losses caused by loading to the railcars are collected and routed to the main flare. The de minimis emission rate increases due to this change are: 0.14 tons/yr VOC, 0.36 tons/yr CO, 0.07 tons/yr NO<sub>x</sub>, and 0.003 tons/yr SO<sub>x</sub>.

The emissions shall be calculated using loading losses equations and the industrial flare emission factors from the US EPA AP-42 document. The permit includes monitoring, recordkeeping, and reporting requirements designed to keep the facility within all applicable air quality requirements.

## **ACTIONS ON COAL AND NONCOAL MINING ACTIVITY APPLICATIONS**

**Actions on applications under the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.19a); the Noncoal Surface Mining Conservation and Reclamation Act (52 P. S. §§ 3301—3326); The Clean Streams Law (35 P. S. §§ 691.1—691.1001); the Coal Refuse Disposal Con-**

**trol 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*

*Greensburg District Mining Office: Armbrust Professional Center, 8205 Route 819, Greensburg, PA 15601, 724-925-5500.*

**63813210 and NPDES Permit No. PA0615129. Pennsylvania Coal Reclamation, Inc.** (P. O. Box 136, 619 Millers Run Road, Cuddy, PA 15031). Permit renewed for continued operation and reclamation of a bituminous surface mining/coal refuse reprocessing site located in Deemston Borough, **Washington County**, affecting 53.3 acres. Receiving streams: unnamed tributary to Ten Mile Creek to the Monongahela River. Application received: October 6, 2009. Renewal issued: December 28, 2009.

*Knox District Mining Office: P. O. Box 669, 310 Best Avenue, Knox, PA 16232-0669, 814-797-1191.*

**16040104 and NPDES Permit No. PA0242608. Reichard Contracting, Inc.** (212 Olean Trail, New Bethlehem, PA 16242). Renewal of an existing bituminous strip operation in Porter Township, **Clarion County** affecting 62.8 acres. Receiving streams: Unnamed tributaries of Leatherwood Creek and Long Run. This renewal is issued for reclamation only. Application received: November 13, 2009.

*Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, 814-342-8200.*

**17080117 and NPDES No. PA0257010. Beth Contracting, Inc.** (815 Rock Run Road, Glen Campbell, PA 15742). Commencement, operation and restoration of a bituminous surface coal operation in Burnside Township, **Clearfield County** affecting 148.0 acres. Receiving stream(s): Rock Run and West Branch Susquehanna River, classified for the following uses: Cold Water Fishery and Warm Water Fishery, respectively. There are no potable water supply intakes within 10 miles downstream. Application received December 8, 2008. Permit issued December 15, 2009.

*Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, 570-621-3118.*

**54753035R4 and NPDES Permit No. PA0595608. N & L Coal Company,** (R. R. 2, Box 24A, Shamokin, PA 17872), renewal of an existing anthracite surface mine operation in West Mahanoy Township, **Schuylkill County** affecting 103.16 acres, receiving stream: Mahanoy Creek. Application received: March 17, 2006. Renewal issued: January 4, 2010.

### **ABANDONED MINE RECLAMATION**

*Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, Telephone (814) 472-1815.*

Primacy Bond Forfeiture PBF 56793078.3  
Contract Awarded

Location Stoneycreek Township  
Somerset County  
Pennsylvania

Description	Act 181 WHS Coal Company— Brant Site SMP# 56793078
Contractor	Commonwealth Contracting, Inc. P. O. Box 66 135 Mine Road Boswell, PA 15531
Amount	\$128,400.00
Date of Award	December 30, 2009

### 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*

*Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, 570-621-3118.*

**46094123. KGA Drilling & Blasting, Inc.** (1250 Conshohocken Road, Conshohocken, PA 19428), construction blasting for Regal Oaks pump station and sanitary sewer project in Upper Pottsgrove Township, **Montgomery County** with an expiration date of June 30, 2010. Permit issued December 28, 2009.

**36094192. MD Drilling and Blasting, Inc.** (88 Goldledge Avenue, Suite 2, Auburn, NH 03032), construction blasting for Holtwood Redevelopment Project/new PPL Power Plant in Martic Township, **Lancaster County** with an expiration date of May 31, 2012. Permit issued December 29, 2009.

**48094112. American Rock Mechanics, Inc.** (7531 Chestnut Street, Zionsville, PA 18092), construction blasting for Millrace Phase 4 in Palmer Township and Tatamy Borough, **Northampton County** with an expiration date of December 31, 2010. Permit issued December 31, 2009.

**58094109. Meshoppen Blasting, Inc.** (P. O. Box 127, Meshoppen, PA 18630), construction blasting for Masso Well site in Auburn Township, **Susquehanna County** with an expiration date of January 31, 2010. Permit issued December 31, 2009.

**59094110. Meshoppen Blasting, Inc.** (P. O. Box 127, Meshoppen, PA 18630), construction blasting for Masso Borrow Pit in Auburn Township, **Susquehanna County** with an expiration date of January 31, 2010. Permit issued December 31, 2009.

### FEDERAL WATER POLLUTION CONTROL ACT SECTION 401

The Department of Environmental Protection (Department) has taken the following actions on previously received permit applications, requests for Environmental Assessment approval and requests for Water Quality Certification under section 401 of the Federal Water Pollution Control Act (FWPCA) (33 U.S.C.A. § 1341).

Except as otherwise noted, the Department has granted 401 Water Quality Certification certifying that the construction and operation described will comply with the applicable provisions of sections 301—303, 306 and 307 of

the FWPCA (33 U.S.C.A. §§ 1311—1313, 1316 and 1317) and that the construction will not violate applicable Federal and State water quality standards.

Persons aggrieved by an action may appeal, under section 4 of the Environmental Hearing Board Act (35 P.S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania AT&T Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

For individuals who wish to challenge an action, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

**Actions on applications for the following activities filed under the Dam Safety and Encroachments Act (32 P.S. §§ 693.1—693.27), section 302 of the Floodplain Management Act (32 P.S. § 679.302) and The Clean Streams Law (35 P.S. §§ 691.1—691.702) and Notice of Final Action for Certification under section 401 of the FWPCA (33 U.S.C.A. § 1341).**

*Permits, Environmental Assessments and 401 Water Quality Certifications Issued:*

#### WATER OBSTRUCTIONS AND ENCROACHMENTS

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

**E09-940. Department of Transportation**, 7000 Geardes Boulevard, King of Prussia, PA 19406, Haycock Township, **Bucks County**, ACOE Philadelphia District.

To remove the existing Sawmill Road Bridge and to construct and maintain in its place an approximately 28-foot long, 20-foot wide, and approximately 2.75-foot high box culvert across Kimples Creek (TSF).

The site is located approximately 1,100 feet west of the intersection of Sawmill and Old School Roads in Haycock Township, Bucks County (Quakertown, PA USGS Quadrangle N: 20.5 inches; W: 2.25 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)).

**E23-451. Corinthian Yacht Club of Philadelphia**, P. O. Box 366, Essington, PA 19029-0366, Tincin Township **Delaware County**, ACOE Philadelphia District.

To construct and maintain the following Water Obstruction and Encroachment activities along Delaware River

(WWF/MF) associated with the proposed Marina improvements at the Corinthian Yacht Club of Philadelphia:

1) To remove portions of the existing upriver deteriorated solid fill crib structure.

2) To construct and maintain the proposed upriver pier, extending approximately 320 feet from the shoreline. The pier is 25-foot wide which widens out to 150-foot at the tee-head. The proposed 65-foot long pier will be supported by H-pile bents placed at 25-foot center to center. Two boat hoists will be installed at each end of the tee-head.

3) To construct and maintain the proposed 78-foot long, 15-foot wide fixed pier. The proposed timber pile bents will be supported at 10-foot center to center.

4) To install and maintain the proposed floating dock system consisting of:

- One 6-foot wide access boat ramp
- One 4-foot wide pedestrian ramp
- One 150-foot long, 8-foot wide main floating dock
- Three 80-foot long, 8-foot wide floating docks
- Two 50-foot long, 8-foot wide tee heads
- Three 21-foot long, 4-foot wide finger piers
- Sixteen 20-foot long, 10-foot wide floating dingy docks
- Ten 14-inch diameter timber piles will be utilized in installation of this floating dock.

5) To construct and maintain an approximately 90-foot long, 20-foot wide boat ramp.

6) To construct and maintain the proposed 144-foot long, 8-foot wide fixed pier and associated plastic sheet piling along the existing bulkhead.

The project is located along Delaware River in Tinicum Township, Delaware County (Bridgeport, PA-NJ USGS Quadrangle Latitude: N 39° 51' 38"; Longitude: W 75° 18' 24").

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)).

**E46-1036. David's Bridal**, 1001 Washington Street, Conshohocken, PA 19428, Whitmarsh Township, **Montgomery County**, ACOE Philadelphia District.

To construct and maintain an approximately 225-foot long, 3.75-foot high seawall levee along the Schuylkill River (WWF and MF) associated with the proposed David's Bridal parking lot modification project. The work also includes the construction and maintenance of an outfall structure.

The project is located approximately 570 feet southeast of the intersection of Elm and Lee Streets in Whitmarsh Township, Montgomery County (Norristown, PA USGS Quadrangle N: 13.41 inches; W: 5.14 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)).

**E46-1046. Montgomery County Planning Commission**, Montgomery Courthouse, 1 Montgomery Plaza, Swede and Airy Streets, Norristown, POA 19401, Upper Providence Township, **Montgomery County**, ACOE Philadelphia District.

To perform the following Water Obstruction and Encroachment activities along the Schuylkill River and

Canal (WWF, MF) associated with the existing Schuylkill River Trail and Canal Towpath restoration project:

1. To maintain the surface of the existing 8-foot wide towpath and trail.

2. To rehabilitate and maintain the spillway between the Canal and the Schuylkill River. This work includes the construction and maintenance of a steel footbridge over the spillway.

3. To rehabilitate and maintain the substructure of the existing Red Bridge over an unnamed tributary to the Schuylkill River.

4. To stabilize and maintain segments of the banks of the Canal and the River.

The project commences at the Bridge Street Bridge over the Canal and ends approximately at the intersection of Providence and Langford Roads in Upper Providence Township, Montgomery County (Phoenixville, PA USGS Quadrangle N: 1.01 inches; W: 00.00 inch).

The issuance of this permit also constitutes approval of a Water Quality Certification under Section 401 of the Federal Water Pollution Control Act (33 U.S.C.A. § 1341(a)).

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

**E50-245: Vincent G. Dick, Jr.**, 610 Pisgah State Road, Shermans Dale, PA 17090, Carroll Township, **Perry County**, ACOE Baltimore District.

To construct and maintain a 6.75-foot by 4.92-foot metal arch pipe culvert in an unnamed tributary to Sherman Creek (WWF) for the purpose of constructing a driveway for a single-family dwelling located at a point just east of the intersection of Pisgah State and Barrick Hill Roads (Shermans Dale, PA Quadrangle N: 10.75 inches; W: 8.75 inches, Latitude: 40° 18' 33"; Longitude: 77° 11' 16") in Carroll Township, Perry County.

*Northwest Region: Watershed Management Program Manager, 230 Chestnut Street, Meadville, PA 16335.*

**E33-236, Brookville Borough**, 18 Western Avenue, Suite A, Brookville, PA 15825-1540. Borough of Brookville Membrane Water Treatment Facility, **Jefferson County**, ACOE Pittsburgh District (Brookville, PA Quadrangle N: 41° 10' 19"; W: -79° 04' 34").

The applicant proposes to construct a 1.5 MGD water treatment facility involving to construct and maintain a water intake structure on North Fork Creek consisting of two 1.15' diameter screened stainless steel intake pipes, concrete debris deflector and a water line crossing of a UNT of North Fork Creek approximately 1,000' upstream of Brookville Waterworks Dam (D33-003). Project includes stormwater outfalls to North Fork Creek. North Fork Creek and UNT North Fork Creek are perennial streams classified as High Quality Cold Water Fisheries.

#### 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.*

12/10/09 REV

ESCGP-1 No.: ESX09-059-0011 Revision

Applicant Name: EQT Production

Contact Person: Hanna McCoy

Address: 625 Liberty Avenue, Suite 1700

City: Pittsburgh State: PA Zip Code: 15222

County: Greene Township(s): Morgan

Receiving Stream(s) and Classifications: Castile Run (WWF), other

12/16/09

ESCGP-1 No.: ESX09-051-0044

Applicant Name: Atlas Resources, LLC

Contact Person: Jeremy Hirtz

Address: 800 Mountain View Drive

City: Smithfield State: PA 15478

County: Fayette Township(s): Bullskin

Receiving Stream(s) and Classifications: Irish Run-WWF, other

12/10/09

ESCGP-1 No.: ESX069-059-0057

Applicant Name: Coal Gas Recovery, LLC

Contact Person: Joanne Reilly

Address: 158 Portal Road, P. O. Box 1020

City: Waynesburg State: PA Zip Code: 15370

County: Greene Township(s): Wayne

Receiving Stream(s) and Classifications: UNT to Roberts Run; UNT to Calico Run, Calico Run, other

12/9/09

ESCGP-1 No.: ESX09-125-0068

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): North Franklin

Receiving Stream(s) and Classifications: UNT to Chartiers Creek, other

12/18/09

ESCGP-1 No.: ESX09-059-0061

Applicant Name: Atlas Resources, LLC

Contact Person: Jeremy Hirtz

Address: 800 Mountain View Drive

City: Smithfield State: PA 15478

County: Greene Township(s): Greene and Monongehela

Receiving Stream(s) and Classifications: UNT to Whiteley Creek, other

12/9/09

ESCGP-1 No.: ESX09-063-0009

Applicant Name: Atlas Resources, LLC

Contact Person: Jeremy Hirtz

Address: 800 Mountain View Drive

City: Smithfield State: PA Zip Code: 15478

County: Indiana Township(s): Burnside and Montgomery

Receiving Stream(s) and Classifications: Powell Run, other

12/28/09 REV

ESCGP-1 No.: ESX09-125-0040 Revision

Applicant Name: Range Resources—Appalachia, LLC

Contact Person: Carla Suszkowski

Address: 380 Southpointe Boulevard, Suite 300

City: Canonsburg State: PA 15317

COUNTY Washington Township(s): Amwell

Receiving Stream(s) and Classifications: UNT to Bane Creek, other

## STORAGE TANKS

### SITE-SPECIFIC INSTALLATION PERMITS

**The following Storage Tank Site-Specific Installation Permits, under the authority of the Storage Tank Spill Prevention Act (35 P. S. §§ 6021.304, 6021.504, 6021.1101 and 6021.1102) and under 25 Pa. Code Chapter 245, Subchapter C, have been issued by the Bureau of Waste Management, Director, P. O. Box 8763, Harrisburg, PA 17105-8763.**

<i>SSIP Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Tank Type</i>	<i>Tank Capacity</i>
10-62-005	United Refining Company 15 Bradley Street Warren, PA 16365-3299 Attn: Mr. Michael S. Roudybush	Warren	City of Warren	1 AST storing Isomerate	5,118,106 gallons

## SPECIAL NOTICES

### Notice of Certification to Perform Radon-Related Activities in this Commonwealth

In the month of November 2009, the Department of Environmental Protection, under the Radon Certification Act (63 P. S. §§ 2001—2014) and regulations promulgated thereunder at 25 Pa. Code Chapter 240, has certified the persons listed to perform radon-related activities in this Commonwealth. The period of certification is 2 years. For a complete list of persons currently certified to perform radon-related activities in this Commonwealth and for information as to the specific

testing devices that persons certified for testing or laboratory are certified to use, contact the Bureau of Radiation Protection, Radon Division, P. O. Box 8469, Harrisburg, PA 17105-8469, (800) 23RADON.

<i>Name</i>	<i>Address</i>	<i>Type of Certification</i>
A'nS Company, Inc.	P. O. Box 1145 Mechanicsburg, PA 17055	Testing
Stephen Beloyan	2 Field Court Wrightstown, NJ 08562	Testing
Francis Butler, Jr.	20 Thornridge Road Springfield, PA 19064	Testing
Ben Chamberlin	393 Chestnut Drive Boiling Springs, PA 17007	Testing
Darren Cocca Intelaspect, LLC	374 Cedar Waxwing Drive Warrington, PA 18976	Mitigation
Michael Conroy	201 Faculty Road Duncannon, PA 17020	Testing
Kevin Crane Crane Enterprises, Inc.	419 West 4th Street Suite 1 Williamsport, PA 17701	Testing
James DeBellis	2700 Cumberland Avenue Mount Penn, PA 19606	Mitigation
Chris Duphily	113 Fall Court Dingmans Ferry, PA 18328	Testing
Christopher Ford	2450 Brookdale Avenue Abington, PA 19001	Testing
Larry Grove	929 South High Street Suite 169 West Chester, PA 19382	Testing
Robert Haushalter, Jr. Volz Environmental Services, Inc.	1200 Gulf Lab Road Pittsburgh, PA 15238	Testing
Paul Inman	1615 C State Street East Petersburg, PA 17520	Testing
Mark Johnson	112 Salix Drive Bellefonte, PA 16823	Testing
Mark Kenschak	507 Waltham Lane Perkasie, PA 18944	Testing
John LoMonaco	102 Mink Lane Greentown, PA 18426	Testing
Richard D. Malin	2075 Haymaker Road Monroeville, PA 15146	Testing
John Mallon, Jr. Radon Detection & Control	P. O. Box 419 South Heights, PA 15081	Testing & Mitigation
Frank Marsico	5156 Kylock Road Mechanicsburg, PA 17055	Mitigation
Robert Raishart	778 Armel Hollow Road Latrobe, PA 15650	Testing
Keith Roe	1510 Gary Street Bethlehem, PA 18018	Testing
John Rogers	1129 Old Eagle Road Lancaster, PA 17601	Testing
Kenneth Schutter	117 Dennis Lane Phoenixville, PA 19460	Testing

*Greensburg District Mining Office: Armbrust Professional Center, 8205 Route 819, Greensburg, PA 15601, 724-925-5500.*

Notice is hereby given that the Department of Environmental Protection (Department) (Greensburg District Mining Office, 8205 Route 819, Greensburg, PA 15601-7515; Phone: 724-925-5500) will hold a Public Hearing and Informal Conference for all interested persons wishing to make oral comments or to submit written comments on Purco Coal, Inc. (22 Van Vooris Lane, Monongahela, PA 15063) request for the issuance of NPDES application #0251674 located in Stewart Township, Fayette County, Purco has proposed to construct a passive treatment system and discharge treated wastewater while implementing best management practices in the course of their proposed surface mining activity. The receiving stream for the proposed treatment area is Jonathan Run to the Youghiogheny River. Chapter 93.4c(b)(1) lists

Jonathan Run as an Exceptional Value stream. The public notice for the application was published in the *Daily Courier* on May 5, 12, 19 and 26, 2009 and in the *Pennsylvania Bulletin* on July 11, 2009.

On February 22, 2010, a Public Hearing will be held at 1 p.m., at the Ohiopyle Stewart Community Center located at 15 Sherman Street, Ohiopyle, PA 15470.

The issues raised by the persons requesting the hearing include the determination of effluent limits, and antidegradation requirements.

The meeting will be divided into three sessions. The first will be a Department presentation of the permit application review process which will include site specific information on the proposed application. The second session will be an open house session where anyone will be able to discuss their concerns with the individual reviewers. And the third session will be a formal Public Hearing.

The rules of the public hearing session follow:

- 1) Please be prepared to sign in if you intend to speak in the hearing phase of the meeting.
- 2) The speakers will be called to speak in chronologic order from the sheet.
- 3) Each speaker will have 5 minutes to speak.
- 4) Each speaker will approach a podium or similar accommodation where they will speak in front of the audience.
- 5) The Department will not answer questions at the public hearing portion of the meeting.
- 6) Only one speaker may speak at a time.
- 7) A stenographer will be provided to record the speaker's comments for the record.

Further information can be obtained by contacting the Greensburg District Mining Office. Written comments will be received during the 7 day comment period after the hearing.

The draft effluent NPDES limits are technology based. These are high end limits based on the chart as follows:

*Effluent Limits*—The NPDES permit will be subject to, at a minimum, the following technology-based effluent limitations for discharges of wastewater to streams:

<i>Parameter</i>	<i>30-Day Average</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>
Iron (total)	0.05 mg/l	0.10 mg/l	0.13 mg/l
Manganese (total)	0.10 mg/l	0.20 mg/l	0.25 mg/l
Aluminum (total)	0.23 mg/l	0.46 mg/l	0.58 mg/l
Suspended solids	35 mg/l	70 mg/l	90 mg/l
pH*		greater than 6.0; less than 9.0	
Alkalinity greater than acidity*			

\* The parameter is applicable at all times.

If you are a person with a disability wishing to attend this meeting and require an auxiliary aid, service or other accommodation to participate, call (724) 925-5500 and ask for Cathy Hillman, ADA Coordinator to discuss how your needs may be best accommodated. If needed, you may use the Pennsylvania AT&T Relay Service by calling (800) 654-5984 (TDD Users) or (800) 654-5988 (Voice Users) and request that your call be relayed to Cathy Hillman at (724) 925-5500.

The application, plans and other data are available at the Department of Environmental Protection, Greensburg District Office, Armbrust Professional Center, 8205 Route 819, Greensburg, PA 15601. For an appointment at the Greensburg District Office, call (724) 925-5500. Thomas Kovalchuk, Chief Permits and Technical Services Department of Environmental Protection.

[Pa.B. Doc. No. 10-112. Filed for public inspection January 15, 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 "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 "Draft Technical Guidance" 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.

#### *Technical Guidance—Minor Revision*

DEP ID: 550-2501-101. Title: Guidelines for Submitting Oil and Gas Well Bonds. Description: Technical Guidance



550-2501-101 sets forth instruction to bond applicants and financial guarantors for submitting proper documents and financial instruments for oil and gas well bonds. The guidance has been in effect since April 16, 2001. The Department is amending the version of the guidance posted on the Department's web site to incorporate changes to the forms entitled "Department Requirements for Execution of Bond Instruments" and "Guidelines for Submission of Collateral Letters of Credit." The revisions to the "Department Requirements for Execution of Bond Instruments" include bank officer signature clarifications; power-of-attorney requirements for surety company Agent signatures; and removal of unnecessary footnotes for bank by-laws. The revisions to the "Guidelines for Submission of Collateral Letters of Credit" include removal of the outdated wording for preprinted letters of credit in the Standard Letter section; and deletion of the overpayment litigation language in the Pennsylvania Financial Institution section. This action is intended to improve the public's understanding to available information and does not in any way affect the policies and procedures outlined in the April 16, 2001 guidance.

Effective date: January 16, 2010.

JOHN HANGER,  
Secretary

[Pa.B. Doc. No. 10-113. Filed for public inspection January 15, 2010, 9:00 a.m.]

### Pennsylvania's Climate Change Advisory Committee

The Department of Environmental Protection (Department) announces the following meetings of Pennsylvania's Climate Change Advisory Committee (Committee):

Tuesday, January 12, 2010, from 10 a.m. to 3 p.m.  
Thursday, March 18, 2010, from 10 a.m. to 3 p.m.  
Thursday, May 20, 2010, from 10 a.m. to 3 p.m.  
Thursday, July 15, 2010, from 10 a.m. to 3 p.m.  
Thursday, September 16, 2010, from 10 a.m. to 3 p.m.  
Thursday, November 18, 2010, from 10 a.m. to 3 p.m.

The Committee meetings will be held in Room 105 of the Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA 17105.

The Committee advises the Department regarding implementation of the provisions of the Pennsylvania Climate Change Act of 2008 (Act 70). The priorities for this Committee include developing pathways for implementation of greenhouse gas reductions; evaluating economic opportunities for mitigation strategies that were quantified in the Pennsylvania Climate Change Action Plan; and identifying goals for adaptation to climate change.

Questions concerning these meetings should be directed to Kim Hoover, Office of Energy and Technology Deployment, P. O. Box 8772, Harrisburg, PA 17105-8772, (717) 772-5161, [khoover@state.pa.us](mailto:khoover@state.pa.us).

Persons in need of accommodations as provided for in the Americans With Disabilities Act of 1990 should contact Kim Hoover at (717) 772-5161, or through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

JOHN HANGER,  
Secretary

[Pa.B. Doc. No. 10-114. Filed for public inspection January 15, 2010, 9:00 a.m.]

## DEPARTMENT OF HEALTH

### Approval of Drugs Which May Be Used by Certain Optometrists

Under the Optometric Practice and Licensure Act (act) (63 P. S. §§ 244.1—244.12), and specifically as the act was amended by the act of December 16, 2002 (P. L. 1950, No. 225) (Act 225), the Secretary of Health (Secretary) has the authority to approve drugs for use in the practice of optometry as the "practice of optometry" is defined in Act 225. The State Board of Optometry sent the Secretary a letter on November 16, 2009, and requested that the Secretary approve the use of the following drugs. Act 225 requires that the Secretary, within 90 days of the receipt of the list of drugs, and in consultation with the Physician General, approve or disapprove for good cause each drug. The Secretary has found good cause to approve the use of the following drugs in the practice of optometry:

- Bepotastine Besilate ophthalmic solution;
- Difluprednate ophthalmic emulsion;
- Ganciclovir ophthalmic, gel formulation only;
- Lidocaine HCL ophthalmic, gel formulation only.

The approval of the use of these drugs is effective upon publication of this notice in the *Pennsylvania Bulletin*.

Persons with a disability who require an alternative format of this notice (for example, large print, audiotope or Braille) should contact Janice Staloski, Director, Bureau of Community Program Licensure and Certification, 132 Kline Plaza, Suite A, Harrisburg, PA 17104, (717) 783-8665, for speech and/or hearing impaired persons V/TT (717) 783-6514, or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

EVERETTE JAMES,  
Secretary

[Pa.B. Doc. No. 10-115. Filed for public inspection January 15, 2010, 9:00 a.m.]

### Notice to Public of Proposed Lead-Based Paint Hazard Control Action Located Within the Floodplain

The purpose of this notice is to notify the public that the Department of Health is proposing to use Federal funds under the HUD Lead-Based Paint Hazard Control Grant Program within a FEMA designated 100-year floodplain. The proposed program would involve lead hazard control/reduction activities and associated minor rehabilitation on residential properties within the city limits of Johnstown, Harrisburg and the Counties of Allegheny and Fayette. The target areas contain floodplains and project sites could be located within Flood Zones A, AE, A1-A30 or A99 as designated by the FEMA Flood Insurance Rate Maps.

*Project:* Lead Hazard Control Program, Grant Number PALHB0440-09, \$3,070,000 award, Period of Performance: January 1, 2010—December 31, 2012.

*Purpose:* Funds will be used to provide assistance to income-eligible occupants to make units, which includes privately owned rental units as well as owner-occupied units, lead safe, with a priority on units occupied by families with children under age six. Units will be made

lead-safe through lead inspections, risk assessments and lead hazard control, including temporary relocation during hazard control work. Lead hazard control work will be completed through the use of interim controls or hazard abatement.

*Location:* See target area description.

All affected and interested agencies, groups and persons are encouraged to participate in this decision-making process for the proposed action in the floodplain. Written comments for consideration by the Commonwealth may be sent to Faith Blough or Cynthia Dundas, Program Administrators at the Department of Health, Bureau of Family Health, Division of Child and Adult Health Services, Health and Welfare Building, 7th Floor, East Wing, 625 Forster Street, Harrisburg, PA 17120. Only written comments mailed to the previous address will be accepted and must be received on or before January 25, 2010.

Information regarding the United States Department of Housing and Urban Development's regulations concerning floodplain management may be obtained by contacting: Karen Griego-West, Program Environmental Clearance Officer, Office of Healthy Homes and Lead Hazard Control, United States Department of HUD, 611 West 6th Street, Suite 805, Los Angeles, CA 90017, phone (213) 534-2458 (this is not a toll-free number). Hearing or speech challenged individuals may access this number through TTY by calling the toll-free Federal Information Relay Service at (800) 877-8339. E-mail: Karen.m.griego-west@hud.gov.

Persons with a disability who require an alternate format of this document (for example, large print, audiotape, Braille), or who wish to comment in an alternate format and seek assistance to do so, should contact Faith Blough or Cynthia Dundas, Public Health Program Administrators, Bureau of Family Health, Division of Child and Adult Health Services, Health and Welfare Building, 7th Floor, East Wing, 625 Forster Street, Harrisburg, PA 17120 at the address listed previously or (717) 772-2762, or for speech and/or hearing impaired persons V/TT (717) 783-6514, or the Pennsylvania AT&T Relay Service at (800) 654-5984.

EVERETTE JAMES,  
*Secretary*

[Pa.B. Doc. No. 10-116. Filed for public inspection January 15, 2010, 9:00 a.m.]

## DEPARTMENT OF LABOR AND INDUSTRY

### Maximum Pennsylvania Workers' Compensation Payable

Based upon the Statewide Average Weekly Wage, as determined by the Department of Labor and Industry for the fiscal year ending June 30, 2009, the maximum compensation payable under sections 105.1 and 105.2 to the Workers' Compensation Act (77 P.S. §§ 25.1 and 25.2), shall be \$845 per week for injuries occurring on and after January 1, 2010. For purposes of calculating the

update to payments for medical treatment rendered on and after January 1, 2010, the percentage increase in the Statewide Average Weekly Wage is 1.1%.

SANDI VITO,  
*Secretary*

[Pa.B. Doc. No. 10-117. Filed for public inspection January 15, 2010, 9:00 a.m.]

## DEPARTMENT OF PUBLIC WELFARE

### Changes to State Supplementary Payment Levels

The purpose of this notice is to announce the Department of Public Welfare's (Department) changes to the State Supplementary Payments (SSP) levels codified at 55 Pa. Code Chapter 299, Appendix A (relating to SSP payment levels) under 55 Pa. Code § 299.37 (relating to SSP payment level changes) and 20 CFR 416.2096 and 416.2097.

The Social Security Administration (SSA) established Supplemental Security Income (SSI) payment amounts as a national minimum assistance standard which does not take into account the differences in the cost of living throughout the country. States have the option to provide additional assistance through the SSP program to address these differences.

The Commonwealth opted to provide the SSP to eligible individuals. SSI recipients receive a separate SSI payment from SSA and an SSP benefit from the Commonwealth. Due to state budget limitations, the amount budgeted for SSP for State Fiscal Year (FY) 2009-2010 will not be enough to cover projected payments at the current pay rates. Further, the number of people who qualify for SSP has increased from 353,301 in July 2009 to approximately 362,383 anticipated for June 2010. Therefore, SSP payments that are administered by the Department for individuals and couples residing in independent living arrangements and households of another, will be reduced by the amounts set forth in Appendix A of this section. These decreased SSP payment levels are effective February 2010.

Based on the directive from the Governor and the General Assembly, the SSP for domiciliary care home was increased by \$45 effective October 1, 2007, and the SSP for personal care home was increased by \$45 effective July 1, 2006. All SSI recipients continue to be automatically eligible for Medical Assistance.

#### *Fiscal Impact*

Savings is estimated at \$9.403 million in FY in 2009-2010 with full-year implementation savings estimated at \$22.931 million in FY 2010-2011.

#### *Public Comment*

Interested persons are invited to submit written comments regarding this notice to the Department at the following address: Edward J. Zogby, Bureau of Policy, Room 431, Health and Welfare Building, Harrisburg, PA 17105, or at ezogby@state.pa.us. Comments received within 30 days will be reviewed and considered for any subsequent revision of the notice.

Persons with a disability who require an auxiliary aid or service may submit comments using the Pennsylvania

AT&T Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

ESTELLE B. RICHMAN,  
*Secretary*

**Fiscal Note:** 14-NOT-629. No fiscal impact; (8) recommends adoption.

**Annex A**

**TITLE 55. PUBLIC WELFARE**

**PART II. PUBLIC ASSISTANCE MANUAL**

**Subpart I. OTHER INCOME MAINTENANCE PROGRAMS**

**CHAPTER 299. SUPPLEMENTAL SECURITY INCOME PROGRAM AND STATE SUPPLEMENTARY PAYMENT PROGRAM  
GENERAL PROVISIONS FOR STATE-ADMINISTERED OPTIONAL SSP**

**§ 299.37. SSP payment level changes.**

Revisions to the SSP payment levels will be published as a notice in the *Pennsylvania Bulletin* for codification in Appendix A.

**APPENDIX A  
SSP Payment Levels**

	<i>Individual</i>	<i>Couple</i>
Residing in an Independent Living Arrangement	\$22.10	\$33.30
Residing in the Household of Another	\$25.53	\$38.44
Residing in a Domiciliary Care Home	\$434.30	\$947.40
Residing in a Personal Care Home	\$439.30	\$957.40

[Pa.B. Doc. No. 10-118. Filed for public inspection January 15, 2010, 9:00 a.m.]

**DEPARTMENT OF  
TRANSPORTATION**

**Bureau of Highway Safety and Traffic Engineering;  
Manual on Uniform Traffic Control Devices**

The Department of Transportation (Department), Bureau of Highway Safety and Traffic Engineering, under the authority contained in section 6103 of the Vehicle Code, 75 Pa.C.S. § 6103(c), gives notice that:

1) On December 16, 2009, the Manual on Uniform Traffic Control Devices (MUTCD) 2009 Edition Final Rule was published by the Federal Highway Administration in the *Federal Register*. The effective date of the Final Rule is January 15, 2010.

2) In accordance with 23 CFR 655.603(b)(3), States or other Federal agencies that have their own MUTCDs or Supplements shall revise these MUTCDs or supplements to be in substantial conformance with changes to the National MUTCD within 2 years of the effective date of the Final Rule for the changes. Substantial conformance of such State or other Federal agency MUTCDs or supplements shall be as defined in 23 CFR 655.603(b)(1).

3) 67 Pa. Code § 212.2(b) provides that, in accordance with section 6103(d) of the Vehicle Code, 75 Pa.C.S. § 6103(d), if the MUTCD is amended or modified by the Federal Highway Administration (FHWA), the amend-

ment will take effect on the effective date specified by the FHWA unless the Department publishes a notice in the *Pennsylvania Bulletin* stating that the amendment or modification will not apply.

4) The Department has determined that the MUTCD 2009 Edition includes a significant number of changes from the previous MUTCD 2003 Edition that will require considerable review.

5) To ensure that a comprehensive review of the MUTCD 2009 Edition can be performed without disruption to the regulated community that must comply with 67 Pa. Code Chapter 212 when installing and maintaining traffic control devices on public streets, highways, bikeways, and private roads open to public traffic, the Department gives notice that the amendments and modifications in the MUTCD 2009 Edition will not apply until such time as a comprehensive review can be accomplished and further Notice in the *Pennsylvania Bulletin* can be given regarding the new amendments and modifications.

6) Until such further notice is provided in the *Pennsylvania Bulletin*, the provisions of the MUTCD 2003 Edition shall continue to provide the standards applicable in this Commonwealth under 67 Pa. Code Chapter 212.

ALLEN D. BIEHLER, P. E.,  
*Secretary*

[Pa.B. Doc. No. 10-119. Filed for public inspection January 15, 2010, 9:00 a.m.]

**INDEPENDENT  
REGULATORY REVIEW  
COMMISSION**

**Notice of Comments Issued**

Section 5(g) of the Regulatory Review Act (71 P. S. § 745.5(g)) provides that the Independent Regulatory Review Commission (Commission) may issue comments within 30 days of the close of the public comment period. The Commission comments are based upon the criteria contained in section 5.2 of the Regulatory Review Act (71 P. S. § 645.5b).

The Commission has issued comments on the following proposed regulation. 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 withdraw.

<i>Reg. No.</i>	<i>Agency/Title</i>	<i>Close of the Public Comment Period</i>	<i>IRRC Comments Issued</i>
7-440	Environmental Quality Board Erosion and Sediment Control and Stormwater Management 39 Pa.B. 5131 (August 29, 2009)	11/30/09	12/30/09

**Environmental Quality Board**  
**Regulation #7-440 (IRRC #2783)**  
**Erosion and Sediment Control and**  
**Stormwater Management**  
**December 30, 2009**

We submit for your consideration the following comments on the proposed rulemaking published in the August 29, 2009 *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 (EQB) to respond to all comments received from us or any other source.

**1. Whether the regulation represents a policy decision of such a substantial nature that it requires legislative review. (71 P.S. § 745.5b(b)(4))**

In a letter dated November 30, 2009, Majority Chairperson of the House Environmental Resources and Energy Committee, Representative George, provided extensive comment expressing his "grave concern" with the proposed permit-by-rule option and calls upon the EQB to "remove it in its entirety."

Individual letters were submitted by legislators in favor of riparian forest buffers, but requesting rigorous review of permits. These legislators include three members of the House Environmental Resources and Energy Committee, Representatives Houghton, Santarsiero and Vitali, along with Representatives Freeman, Grucela, Josephs, Lentz, McIlvaine Smith and Vereb. Representative Eachus also commented in support of riparian forest buffers.

In addition, a joint letter dated December 9, 2009, was submitted and signed by 18 members of the House of Representatives recommending that the EQB "withdraw this regulation in its entirety." That letter was signed by Representative Hutchinson, Republican Chairperson of the House Environmental Resources and Energy Committee, five members of the House Environmental Resources and Energy Committee, Representatives Pyle, Causer, Vulakovich, Everett and Gabler, and by House of Representative members Stern, Oberlander, Stevenson, Kauffman, Roae, Cox, Swanger, Metcalfe, Brooks, Rock, Helm and Sonney. They state a general concern that the proposed regulation will hinder development and increase the costs to design and implement projects. In regard to riparian forest buffers, they "believe this would be a major shift in policy which would in effect, amount to a taking of property without legislative oversight or approval." They are also concerned with the provisions for permit-by-rule, the effect on renewal of National Pollutant Discharge Elimination System (NPDES) permits and the increase of fees.

Senator Mary Jo White, Chairperson of the Senate Environmental Resources and Energy Committee, commented in favor of the permit-by-rule, opposing riparian forest buffers and requesting more information on the proposed fees.

In our determination of whether a regulation is in the public interest, the Commission must consider the criterion of "Whether the regulation represents a policy decision of such a substantial nature that it requires legislative review." (71 P.S. § 745.5b(b)(4))

Despite the environmental benefits and preservation of the Commonwealth's natural resources envisioned by the

proposed regulation, the regulation proposed by the EQB raises very significant concern regarding this criterion because its requirements:

- Are of interest to a total of 30 members of the Pennsylvania Senate and House of Representatives, most of whom oppose provisions in the regulation. Included among the legislators raising concerns are the leadership of the Senate and House Environmental Resources and Energy Committees.
- Impose significant costs and operational burdens on other state agencies;
- Significantly affect business, industry and farming in the Commonwealth;
- Raise significant problems and potential litigation relating to property ownership including land use, leases, rights of way, easements and maintenance;
- Increase operating costs and rates for electric and gas utility services and potentially affect their reliability;
- Impose requirements for perpetuity; and
- Impose significant economic impacts that appear to not have been considered by the EQB in its description of costs.

We acknowledge both the intent to enhance environmental protection and the public comments submitted in support of the regulation. At the same time, the EQB has not fully contemplated the regulation's impact beyond its environmental benefit. Our specific concern relates to the breadth of the issues raised by commentators. Provisions in the EQB's proposal significantly affect a multitude of persons, entities and their interests. For these reasons, we believe the regulation represents a policy decision of such a substantial nature that it requires legislative review. To satisfy this criterion, we recommend that the EQB submit this regulation, along with a full and balanced explanation of its impacts, for legislative consideration before proceeding with a final-form regulation.

**2. Economic or fiscal impacts of the regulation. (71 P.S. § 745.5b(b)(1))**

In the Preamble, the EQB describes extensive outreach in the development of this regulation in the section titled, "Public Participation and Outreach." The Preamble also includes a section titled, "Compliance Costs" which states:

These regulatory revisions should not result in significant increased compliance costs for persons proposing or conducting earth disturbance activities. Moderate increased costs may be incurred due to: increased permit application fees for activities requiring permits; PCSM [Post Construction Stormwater Management] Plan licensed professional oversight and preparation of record drawings; and long-term operation and maintenance of PCSM facilities.

Generally, there may be cost savings as a result of eliminating the outdated and unnecessary requirements, while increasing the protection of this Commonwealth's valuable water resources. Additionally, the emphasis in the proposed rulemaking on nonstructural "low-impact" stormwater management approaches should result in lower long-term operation and management costs. The permit-by-rule may provide the regulated community cost savings through a new permitting option that provides a definitive timeframe for review and determination of coverage.

Despite the public outreach conducted in developing this regulation, the EQB's evaluation of compliance costs is, by and large, discredited and contradicted by the comments submitted by other state agencies, associations and individual businesses. Many of these entities are listed by the EQB as stakeholders and part of its outreach in developing the proposed regulation. These public comments describe extensive impacts from the regulation. We strongly recommend that the EQB work directly with all of the commentators to explore and address economic and fiscal impact. The EQB should present its findings in the final-form regulation so that the public, state government, local government, the legislature and this Commission can evaluate the full impact of the costs imposed by the regulation in considering whether the final-form regulation is in the public interest.

*Direct and indirect costs to the Commonwealth and to its political subdivisions*

The direct and indirect costs to the Commonwealth must be evaluated. The Department of Transportation and the Department of Conservation and Natural Resources commented on their respective concerns with the regulation. As discussed, the Public Utility Commission is also affected by this regulation. We also believe there will be an impact on local government that was not fully evaluated.

The Department of Transportation comments are extensive, stating, among many issues, that the regulation will increase their agency's costs due to several provisions. Those concerns include the scope of the regulation, the effect on many miles of roadways along streams, forced purchase of land or acquisition of conservation easements, increased design and construction costs, the requirement for maintenance in perpetuity, site stabilization requirements, cover types required, studies, delays caused by required meetings, maintenance of roadways and bridges, potential increase in the length of bridges to accommodate required buffer areas and multiple permit fees.

Based on the impacts described by the Department of Transportation, we believe it is reasonable to conclude that there are similar impacts on any political subdivision that owns, builds and maintains roads along streams. We question, for example, how many miles of local roadways would be affected by the regulation and how that may affect local governments who must comply with the regulation's requirements. This information is needed for a full evaluation of the regulation's impact on local government.

The Department of Conservation and Natural Resources commented that permit fees may affect the viability of a project and that it is concerned it will not have the time or staffing resources to fulfill the requirement of Section 102.14(e)(5)(iv) that requires Department of Conservation and Natural Resources approval.

Additionally, while it did not comment, the Public Utility Commission would be affected by the proposed regulation. Costs for riparian forest buffers will be passed on to utility ratepayers according to the comment of the Energy Association of Pennsylvania. There are also safety, reliability and indirect cost concerns because the riparian forest buffer requirements contradict existing safety requirements that require utilities to keep gas and electric lines clear of woody brush.

The direct and indirect costs to the Commonwealth and its political subdivisions must be fully evaluated. The findings of this evaluation must be included with the submittal of the final-form regulation.

*Direct and indirect costs to the private sector*

The direct and indirect costs to the private sector must be evaluated. Many cost issues were raised by commentators, including, in alphabetical order:

- Energy Association of Pennsylvania,
- Marcellus Shale Committee,
- PennAg Industries Association,
- Pennsylvania Builders Association,
- Pennsylvania Chamber of Business and Industry,
- Pennsylvania Coal Association,
- Pennsylvania Farm Bureau,
- Pennsylvania Forest Products Association,
- Pennsylvania Oil and Gas Association, and
- Pennsylvania Waste Industries, Inc.

Among the many concerns raised, cost issues related to riparian forest buffers, burdensome permit-by-rule requirements, a multitude of property issues (for example, restriction of land use without compensation, leases, land acquisition, retroactive application of the regulation, the effect on agriculture in general and the effect on use of agricultural land), maintenance and restriction in perpetuity, studies, meetings, the definition of "animal heavy use areas," distinction from nutrient management regulations, permit fees, returning streams to "existing use," possible lack of public notice of stream classifications and the impact on the state forest industry. These public comments describe extensive direct and indirect costs to the private sector. The EQB must fully evaluate these costs. The findings of this evaluation must be included with the submittal of the final-form regulation.

*Adverse effects on prices of goods and services and competition*

Related to the direct and indirect costs is the effect on prices of goods, services and competition. There were many comments by associations whose ultimate concern is the effect on their businesses. The Energy Association of Pennsylvania stated costs would be passed on to ratepayers. Pennsylvania Waste Industries, Inc. outlined costs that would be passed on to consumers. The price of farm products would be affected if farmers lose the use of lands, and furthermore continue to pay taxes on that land. The Pennsylvania Builders Association stated the regulation would affect development. The Pennsylvania Forest Products Association commented that the regulation threatens the future viability of the state's forest products economy. The Pennsylvania Coal Association commented that if the regulation is applied to its members it would suffer a competitive disadvantage from coal produced in other states. The EQB should fully evaluate the effect of the regulation on the prices of goods, services and competition in Pennsylvania. The findings of this evaluation must be included with the submittal of the final-form regulation.

*Nature of required reports, forms or other paperwork and the estimated cost of their preparation; Nature and estimated cost of legal and consulting services*

There were many comments relating to these criteria. The comments include general concerns, such as the planning and implementation of earth disturbance activities could become an avenue for third-party attacks on any plan, implying increased legal costs. There are concerns with confusion and possible duplication between erosion and sediment control plans and post construction

stormwater plans. Commentators questioned the relationship between proposed Chapter 102 and existing regulations in other chapters. The comments include concerns with details such as the change of wording from a “stormwater event” to “measurable rainfall.” The regulation also includes requirements for preparation of plans by trained persons, evaluation of thermal impact, inspection reports, monitoring records, studies, meetings and oversight. Under Section 102.7(k), a licensed professional or designees must be onsite during critical stages of implementation of a Post Construction Stormwater Management (PCSM) Plan. The EQB should evaluate the costs imposed by the requirements that will require legal and consulting services. The EQB should also evaluate the cost of reports, forms and paperwork required to comply with the regulation.

In summary, relating to the criterion of economic and fiscal impact, the EQB should fully evaluate the compliance costs of the regulation described by the commentators along with any other impacts. The EQB should use this evaluation to present a comprehensive, accountable review of the persons and entities impacted by the final-form regulation and the costs imposed by the final-form regulation. We will review and consider these impacts in our determination of whether the final-form regulation is in the public interest.

**3. Need for the regulation; Protection of the public health, safety and welfare and the effect on the Commonwealth’s natural resources. (71 P. S. § 745.5b(b)(2) and (3)(iii))**

The Preamble states that:

... Since 1972, earth disturbance activities related to agricultural plowing and tilling, as well as, non-agricultural earth disturbance activities have been regulated under this chapter by requiring persons to develop, implement and maintain BMPs [best management practices].

The proposed amendments elaborated in this preamble, incorporate specific language which enhance requirements related to agriculture; clarify existing requirements for accelerated E & S control; incorporate updated Federal requirements; update permit fees; codify PCSM requirements; add requirements related to riparian forest buffers; and introduce a permit-by-rule option.

Several commentators challenged the need for the rulemaking. Commentators stated that existing regulation has been sufficient to protect Pennsylvania’s waters from erosion, sediment and stormwater. While the regulation may represent an upgrade of protection, the EQB should explain the specific problems the regulation addresses. For example, is there a documented widespread erosion, sediment control and stormwater problem that demonstrates the need for the regulation? The EQB should provide an explanation of the need for this regulation.

Additionally, the Department of Transportation requested an exemption provision for purposes of protecting the public safety on roadways. The Department of Transportation also contends that over time, a riparian forest buffer may produce large trees and debris that could block streams and flood roadways. The EQB should evaluate these concerns, explain the balance of protecting the environment versus the public safety of roadways, and amend the regulation as appropriate.

**4. Water Resources Advisory Committee Issues.**

The Water Resources Advisory Committee asked the EQB to solicit input on three issues. We commend the Water Resources Advisory Committee for the cogency of the three key issues it raised. The Water Resources Advisory Committee understood and anticipated the controversy of these three issues: permit-by-rule, long-term maintenance of PCSM and riparian forest buffers. For example, virtually the full spectrum of interested parties who commented on the permit-by-rule provision found the EQB’s proposal to be fatally flawed either in its protection of the environment or in its practicality for a potential permit holder. Given this insightful guidance, we request an explanation of what factors caused the EQB to override its advisory committee and move forward with the regulation without further consideration of these issues. We will consider the EQB’s response as part of our determination of whether the final-form regulation is in the public interest.

*Scope of the permit-by-rule*

It is clear from the comments of the Environmental Protection Agency, legislators and the public that these parties find the permit-by-rule, as proposed by the EQB, not acceptable to protect the environment or useful to potential permit holders. Majority Chairperson of the House Environmental Resources and Energy Committee, Representative Camille “Bud” George provided extensive comments on why the proposed permit-by-rule is not acceptable. Several other committee members and legislators also questioned this provision. The EPA commented that the permit-by-rule does not satisfy the Clean Water Act unless it meets 40 CFR 122.41. Many public comments in general support of the regulation also included opposition to the permit-by-rule provision. Entities who would actually be the permit holders find that the permit-by-rule has devolved to such a point that the attendant restrictions, conditions and timeframes have all but eliminated its usefulness. We recommend deleting the permit-by-rule provisions.

*Responsibility for long-term PCSM operation and maintenance*

In its Preamble, the EQB states that “assignment of long-term O & M responsibility for PCSM has been, and continues to be, a challenging issue for the Department [of Environmental Protection] and the regulated community.” The public comment on this regulation has raised a multitude of complex considerations including economic impact on projects, economic impact on land owners, subsurface leases, rights of way and many other considerations. Some commentators raised a reasonable question as to why there even needs to be long-term operation and maintenance for many projects that restore the soil to its pre-disturbance condition. The EQB should explain the need for long-term maintenance, why it is reasonable to extend it beyond soil stabilization on the project site and how the final-form regulation represents a legally viable, economical, reasonable and feasible assignment of responsibility.

*Mandatory Riparian Forest Buffers*

While riparian forest buffers may present a very good solution from an environmental perspective, as proposed by the EQB these buffers clearly raise many issues of cost, reasonableness and practicality. Based on public comment, including the Department of Transportation, the economic impact of riparian forest buffers has not been properly developed, represented or addressed. It raises issues that are in some cases indistinguishable

from the issues raised with long-term PCSM operation and maintenance including economic impact on projects, economic impact on land owners, land ownership rights, subsurface leases, rights of way, land use taking without compensation and many other considerations. We also question why this particular BMP rises to the level of regulation while the many other BMPs do not. The EQB should explain the need for riparian forest buffers in regulation and why they are mandated in certain circumstances over other potential BMPs. It should also provide a full explanation of their impact including the impact on state government, local government, land owners, lease holders, utilities, and taxes.

##### **5. Relationship of Chapter 102 to other regulations, decisions and laws.**

Several comments included concerns about the relationship of Chapter 102 to other chapters in Department of Environmental Protection (DEP) regulation including Chapters 78, 92, 93 and 105. The Pennsylvania Coal Association does not believe Chapter 102 applies to its members' operations because their operations are regulated by DEP's Bureau of Mining and Reclamation. In its comments on Section 102.4(b)(6) and 102.8(h), the Pennsylvania Chamber of Business and Industry lists several decisions by the Environmental Hearing Board. These decisions emphasize the importance of the relationship between different chapters under DEP regulation. Additionally, the Pennsylvania Oil and Gas Association cites an exemption of oil and gas activities from NPDES permitting in the Federal Energy Policy Act of 2005.

The EQB should explain how it considered decisions by the Environmental Hearing Board in the development of this regulation. The EQB should also explain how the regulated community, DEP and the Environmental Hearing Board can properly distinguish Chapter 102 from or integrate Chapter 102 with other chapters of regulation under DEP. It should add language to Chapter 102 to more clearly explain its relationship to or distinguish its requirements from other chapters.

##### **6. Public comment and the need for an advanced notice of final rulemaking.**

More than 1,300 comments were submitted in support of the regulation citing improved environmental benefits from requirements such as buffers. At the same time, many of those supportive comments included opposition to the permit-by-rule provisions. Additionally, the proposed regulation raised many serious concerns from legislators, state agencies and trade associations on a broad range of issues. Should the EQB wish to proceed, we suggest that prior to submittal of a final-form regulation, the EQB allow for public comment on its amended final-form regulation in the form of an advanced notice of final rulemaking. This will allow the EQB to discover and address remaining concerns with the regulation prior to submittal of a final-form regulation.

##### **7. Section 102.1. Definitions.—Need; Reasonableness; Clarity.**

###### *Agricultural plowing or tilling activity*

Subsection (ii) states the term includes “no-till cropping methods.” What specifically are “no-till cropping methods”? Also, Subsection (ii) is confusing because it includes “no-tilling” under the defined term “tilling activity.” Also, the term “agricultural plowing and tilling” is used to describe exemptions throughout the regulation, including for example, Section 102.4(b). Therefore, “no-tilling” should be grouped together with the other activities. However, the EQB should consider replacing the term

“agricultural plowing and tilling activities” with another term that is clearer, but still encompasses the same activities.

###### *Animal heavy use area*

Several commentators believe this definition needs to be clarified regarding entrances and pathways used by animals to access keeping areas. The EQB should review this definition to evaluate the areas it needs to include and amend the definition as appropriate.

###### *BMPs—Best management practices*

The EQB has added the phrase “before, during, and after earth disturbance activities.” The addition of the phrase “after the earth disturbance activity” is open ended, particularly as it relates to earlier phrases such as “manage stormwater” and “reclaim and restore the quality of waters.” The EQB should explain why and how long BMPs must continue after earth disturbance activities.

###### *Diversion*

The word “offsite” may not be needed and would limit “diversions” to waters “offsite.” There may be instances when the clean runoff water comes from onsite. The EQB should explain the need for the word “offsite.”

###### *E & S Plan—Erosion and Sediment Control Plan*

The wording is amended from “identifying” BMPs to requiring “both drawings and a narrative that identifies” BMPs. Are drawings and a narrative needed for all plans? The EQB should explain the intent of this change and how the regulated community is expected to comply with it.

Additionally, the amended definition ends with “before, during and after earth disturbance activities.” Given the definition of “earth disturbance activities” why is it necessary to include the word “before”? Also, given the requirements under Post Construction Stormwater Plans, why is it necessary for the E & S Plan to address erosion and sediment after earth disturbance activities, particularly after the soil is stabilized? How long after the earth disturbance must the plan address?

###### *Intermittent stream*

This definition is not clear. What specifically is the meaning of the phrase “composed primarily of substrates associated with flowing water”? What degree of composition does “primarily” imply? Are “substrates associated with flowing water” specific types of soil and rock? Also, could the flow come from surface runoff and not groundwater discharges? The EQB should review this definition for clarity.

###### *Licensed Professionals*

We question the general description of “professional engineer” in that professional engineers cover a broad range of specialties, including electrical and mechanical engineers. We recommend limiting professional engineers to those who have the appropriate expertise.

###### *Nondischarge alternative*

There are two vague phrases in this definition. First, the phrase “preexisting stormwater volume” is not clear. Why is the word “preexisting” needed and what does it imply?

Second, it is not clear what standard is imposed by the phrase “environmentally sound and cost-effective.” The definition should clearly describe what constitutes a nondischarge alternative.

*Perennial stream*

What specifically is the meaning of the phrase “composed primarily of substrates associated with flowing waters”? What degree of composition does “primarily” imply? Are “substrates associated with flowing waters” specific types of soil and rock? The EQB should review this definition for clarity.

*Point source*

The Environmental Protection Agency (EPA) commented on concern with Subsection (iii), which excludes sheet flow. The EQB should review and comply with EPA’s concern.

*PPC Plan—Preparedness, Prevention and Contingency Plan*

What degree of “external factors” must a PPC plan accommodate?

*Riparian forest buffer*

There are four clarity concerns in this definition. First, it is not clear how the phrase “permanent vegetation” can be consistent with the phrase “natural state.” Natural acts, such as fires, floods and wildlife activities, destroy vegetation. Would the phrase “permanent area for natural vegetation” be clearer and sufficient?

Second, how can the standard of “predominantly native trees, shrubs and forbs” be measured?

Third, what is meant by the phrase “maintained in a natural state”? A “natural state” implies an area that is not “maintained.” Should the word “protected” be used rather than “maintained”?

Finally, the definition is vague because it does not specify what is meant by the alternative phrase “or sustainably managed.” If riparian forest buffers include management in anything other than a natural state, the regulation should clearly state what BMPs meet the alternative to “sustainably manage” a riparian forest buffer.

*Road Maintenance activities*

This term is defined in existing regulation as “Earth disturbance activities within the existing road cross-section, such as grading and repairing existing unpaved road surfaces, cutting road banks, cleaning or clearing drainage ditches and other similar activities.” The term is used in the proposed regulation throughout Section 102.5. The Department of Transportation believes this definition is too vague and requests clarification. The EQB should review this definition for clarity.

*Surface waters*

Why is this definition needed in addition to the existing definition of “waters of this Commonwealth”? Having two very similar definitions can be confusing. The EQB should explain why both are needed and the difference that is intended between them.

**8. Section 102.2. Scope and purpose.—Clarity; Reasonableness.**

The Pennsylvania Chamber of Business and Industry, along with other commentators, asked for clarification regarding the scope of post construction stormwater management where the project is restored to preconstruction conditions. The EQB should add language to this section describing when an entity has satisfied the requirements of Chapter 102.

The Pennsylvania Coal Association commented with its interpretation that “mining activities permitted under the

Pennsylvania Department of Environmental Protection, Bureau of Mining and Reclamation need not obtain an Erosion and Sediment Control Permit. . . .” If this is the EQB’s intent, we recommend adding language to this section explaining that intent.

**9. Section 102.4. Erosion and sediment control requirements.—Reasonableness; Need; Implementation procedures; Clarity.***Animal heavy use area*

The phrase “animal heavy use area” is added throughout Subsections (a) and (b). The EQB should explain the need to regulate animal heavy use areas and the reasonableness of the requirements.

*Implementation procedures*

Paragraph (b)(4) specifies requirements using the words “maximize” and “minimize” for requirements. These provisions are subjective. We question how these vague requirements can be met or implemented consistently by conservation districts. How can a conservation district discern at what point it must seek DEP approval of the proposed activity? We recommend that the EQB review this provision and amend it so that the requirements can be discerned from the regulation.

*Reclaim and restore*

Subparagraph (b)(4)(v) requires an earth disturbance activity, to the extent practicable, to “protect, maintain, reclaim and restore the quality of water . . . .” A commentator believes this could be read to place responsibility for water quality restoration on a project that did not cause the degradation. We agree that the words “reclaim and restore” imply either that the earth disturbance was allowed to be conducted incorrectly or that a higher duty is placed on the permit holder than may be reasonable. The same concern applies to Sections 102.8(b)(9) and 102.11(a)(2). The EQB should amend these provisions or explain why they are reasonable.

*Volume and rate of runoff*

Clause (b)(5)(iv) requires an E & S Plan to include the volume and rate of runoff. Since volume and rate are relative to rainfall, the regulation should include what rainfall parameters are to be used in this determination.

*Measurable rainfall*

Clause (b)(5)(x) deletes the phrase “measurable rainfall event” and replaces it with “stormwater event.” Commentators believe that “measurable rainfall event” is clearly understood and should be retained. The EQB should explain the need for the amendment.

The Energy Association of Pennsylvania requests that the EQB consider the nature of its multi-mile linear projects in relation to storms and inspections. The Department of Transportation has similar projects. We agree that inspection on a weekly basis after each stormwater event may be impractical in relation to these “linear” projects that may cover many miles, but only be several feet wide. The EQB should consider amending this provision to accommodate the types of projects described by the commentators.

In addition, a commentator questions the need for the requirement to complete a “written report documenting each inspection.” Would only requiring documentation of the inspections be sufficient?

*Thermal impacts*

Clause (b)(5)(xiii) requires an evaluation of the potential for thermal impacts to surface waters from earth



disturbance activities. Commentators state there is no guidance on how to meet this requirement. One commentator believes that rather than an evaluation they should only be required to identify the potential for thermal impacts. We recommend that the regulation clearly state what evaluation of thermal impacts will be acceptable to DEP.

*Reports and records available at the site*

In relation to Paragraph (b)(7), the Energy Association of Pennsylvania commented asking for flexibility on maintaining the E & S Plan, inspection reports and monitoring records onsite. It requests that the records be allowed to be kept electronically at a remote office. There is a similar requirement for agricultural operations in Paragraph (a)(8). The EQB should explain why records are needed onsite and consider allowing electronic records offsite.

**10. Section 102.5. Permit requirements.—Need; Reasonableness; Economic impact; Feasibility; Clarity.**

*Applicability of permit requirements*

Commentators, including the Home Builders Association of Southeastern Pennsylvania, appear to be confused as to whether they are affected by permit requirements. Paragraphs (a)(1) and (2) require a person to obtain “an individual NPDES permit or coverage under a general NPDES permit or NPDES permit-by-rule.” We recommend that the EQB review the permit requirements and make it clear to readers of the regulation whether they must obtain a permit and if so, what type.

*Oil and gas activities and exemptions*

The exemptions at the beginning of Paragraphs (a)(1) and (2) and Subsection (d) do not include the oil and gas industries. Commentators believe the oil and gas industries are exempt under the Clean Water Act. On the other hand, the Pennsylvania Council of Trout Unlimited commented in support of permitting oil and gas development. The EQB should explain why the exemption is not included in these provisions or add this exemption to these provisions.

Additionally, the Pennsylvania Oil and Gas Association requests clarification of Subsection (c) regarding whether it requires a general E & S permit. The EQB should make this amendment or explain why it is not needed.

*Preconstruction meeting*

Subsection (e) states “. . . a preconstruction meeting is required unless the permittee has been notified otherwise in writing by the Department or conservation district.” The Department of Transportation commented that this may overload DEP staff and delay projects. The EQB should explain the need for this meeting and how it would impact the timeline for completing a project.

*Long-term maintenance of the PCSM Plan*

Subsection (f) states:

A person proposing earth disturbance activities requiring a permit or permit coverage under this chapter shall be responsible to ensure implementation and long-term operation and maintenance of the PCSM Plan.

The Pennsylvania Builders Association and others commented on two concerns with this provision. First, who specifically is “a person proposing earth disturbance activity”? We agree that this needs to be made clear. For example, if a person contracts with a developer, is the

owner or developer responsible? We recommend that this provision clearly state who bears responsibility.

Our second concern, upon consideration of public comments, is with the requirement for “long-term operation and maintenance of the PCSM Plan.” This provision is vague and potentially unreasonable and cost prohibitive. What does the EQB mean by “long-term”? Who determines what “operation and maintenance” will be required? Can responsibility be transferred to another entity such as a local government? What if the party assigned responsibility is no longer in business? What if the PCSM plan for a property works as it was designed, but is later compromised by storm water from development elsewhere in the watershed? Until these concerns can be made clear and answerable, the person responsible cannot know what responsibility is assigned to them. Further, if these phrases are meant to be for perpetuity, Subsection (f) would essentially prohibit any activity because its risk and liabilities might be too great. The EQB should amend Subsection (f) to make it clear, but must also explain how Subsection (f) is feasible, reasonable, and how it would be implemented.

*Applicability of exemption in Subsection (i)*

Subsection (i) provides an exemption from an E & S Permit and NPDES Permit for activities covered by a permit under section 404 of the Clean Water Act. While supportive of this exemption, the Department of Transportation’s comments list four clarifications it seeks on the application of this exemption. We will review the EQB’s response in our consideration of whether the final-form regulation is in the public interest.

**11. Section 102.6. Permit application and fees.—Economic impact; Reasonableness; Need; Clarity.**

*Pennsylvania Natural Diversity Inventory*

Paragraph (a)(2) is amended to replace the Pennsylvania Natural Diversity Inventory (PNDI) with the Pennsylvania Natural Heritage Program (PNHP). The EQB should explain why this amendment was made and why the PNHP is the best resource for this information.

*PPC Plan (Preparedness, Prevention and Contingency Plan)*

Paragraph (a)(3) requires “a person . . . to prepare and implement a PPC plan . . .” The Department of Transportation commented that PPC Plans are prepared and implemented by contractors and not the person proposing the activity by a permit application. The Department of Transportation asked for an amendment stating the PPC Plan is a condition of the permit rather than a permit application requirement. We recommend that the EQB clarify this paragraph.

*Permit fees*

Commentators subject to these fees commented that the fees are excessive, particularly compared to the current fees. The Department of Transportation requested an exemption as the proposed fees would impose an estimated cost of \$300,000 to \$500,000 per year. Several legislators also commented that the fees may be excessive. A commentator also requested a multi-level fee structure that matches the fee to the size of the project. The EQB should explain how it calculated the fees in Subsection (b) and why they are appropriate.

*Complete applications or NOI (Notice Of Intent)*

Paragraph (c)(2) does not state how long DEP may take to make its determination and send notification. We note that this same provision only allows 60 days for the

applicant to make an application complete. We recommend requiring DEP to determine that an application is complete within a specified time frame. We also recommend that the regulation specify what happens if DEP does not meet that time frame.

Additionally, Paragraph (c)(2) only allows DEP to determine an application or NOI is incomplete. Can this function also be performed by a conservation district?

**12. Section 102.7. Permit Termination.—Reasonableness; Economic impact; Clarity.**

*Written acknowledgement of an NOT (Notice Of Termination)*

Subsection (c) states:

Until the permittee has received written acknowledgement [of] an NOT, the permittee will be responsible for compliance with the permit terms and conditions including operation and maintenance . . . .

Commentators are concerned that this action is open-ended and, without a response from DEP within a reasonable time, a person could be held responsible for unreasonable costs long after a project is completed. We agree that DEP should be required to respond in a reasonable time frame.

Also, the EQB should review the sentence quoted above and fix the grammatical error in the final-form regulation.

**13. Section 102.8. PCSM requirements.—Economic impact; Need; Reasonableness; Clarity.**

*“Or other Department permit that requires compliance with this Chapter”*

Relating to Subsection (a), the Pennsylvania Chamber of Business and Industry commented that the phrase “or other Department permit that requires compliance with this chapter” is extremely broad and would encompass many projects. It suggests that Subsection (a) be limited to earth disturbances that require an NPDES permit. We agree and recommend that the EQB amend this provision accordingly.

*Minimize and maximize*

Subsection (b) uses the vague terms “minimize” and “maximize.” These requirements are subjective. For example, under Paragraph (7) there could be considerable disagreement over whether a plan would “minimize soil compaction.” We recommend replacing these provisions with quantifiable standards.

*Utilize other measures or controls*

Paragraph (b)(8) is vague. It follows seven requirements and considerations, including Paragraphs (2) and (3) which require the plan to minimize stormwater runoff and volume. We also question why the concept of pollutants is included and what it implies. We recommend deleting Paragraph (8) or that it be amended to provide a specific standard for compliance.

*A person trained and experienced in PCSM design methods and techniques*

Subsection (e) is nonregulatory language. It imposes no definable level of expertise. It should either be deleted in its entirety or replaced with specific credentials for a person to design PCSM Plans.

*Other supporting documentation*

Subsection (f) states a PCSM Plan must contain “other supporting documentation.” How will a person know how

to comply with this requirement? We recommend deleting this phrase or providing detail in the regulation specifying what other information is required.

*Immediate surrounding area*

Paragraph (f)(1) requires a description of the “immediate surrounding area.” This is a vague requirement. The regulation should provide specific guidance on how far from the project the topographic features must be described.

*Limitations of the soils and geologic formations*

Paragraph (f)(2) requires a PCSM Plan to include “limitations of the soils and geologic formations.” Without a context to what is considered a “limitation,” the regulation is not clear. We recommend that the EQB amend this paragraph for clarity.

*Past land uses*

Paragraph (f)(3) requires the characteristics of “past, present and proposed land uses.” Why is the past use relevant and needed, and how far into the “past” must a plan go to comply? We recommend deleting the requirement for the characteristics of past land uses.

*Supporting calculations and plan drawings*

In subsection (f), Paragraph (8) requires “supporting calculations,” and Paragraph (9) requires “plan drawings.” The regulation should specify what supporting calculations and plan drawings are required.

*“Long-term operation and maintenance schedule and inspection which provides for inspections” and “effective and efficient operation”*

Paragraph (f)(10) requires a “long term operation and maintenance schedule which provides for inspection” and this schedule is “to ensure effective and efficient operation.” Both of these phrases are vague. What is “long-term”? Who does the inspections? What standards are to be used to determine “effective and efficient operation”? Paragraph (10) needs to be rewritten to establish binding norms for how it can be complied with and who is responsible for the requirements.

We further question the economic impact of Paragraph (f)(10). The EQB should include an estimate of the cost for long-term maintenance and inspection of PCSM Plans.

*Thermal impacts*

Similar to E & S Plans, Paragraph (f)(14) requires PCSM Plans to include an evaluation of the potential for thermal impacts to surface waters from earth disturbance activities. Commentators state there is no guidance on how to meet this requirement. One commentator believes that rather than an evaluation, they should only be required to identify the potential for thermal impacts. We recommend that the regulation clearly state what evaluation of thermal impacts will be acceptable to DEP.

*Costs to comply with Subsection (g)*

The Department of Transportation cited several specific concerns with the costs imposed by Subsection (g) and the effect of the requirements, including Paragraphs (1), (2) and (3). The Department of Transportation has provided suggested alternatives. The Pennsylvania Builders Association believes the provisions in Clauses (g)(2)(i) and (ii) are not reasonable and should be modified. The EQB should review these concerns and consider amendments to decrease costs and ease compliance. Also, the EQB should review Clauses (g)(2)(i) and (ii) and explain why they are needed.

The Department of Transportation also requests an exception to Subsection (g) to cover instances when standards may not be satisfied due to health, safety and welfare issues. The EQB should include this exception or explain why it is not needed.

*Require additional information or BMPs*

Paragraph (g)(6) is a broad provision that allows DEP to require additional information or additional BMPs. Why is this provision needed? How can a demand made under this provision be appealed?

*Resubmittal of a PCSM Plan*

Subsection (i) states:

Upon complaint or site inspection, the Department or conservation district may require that the PCSM Plan be submitted for review and approval to ensure compliance with this chapter.

Subsection (i) is redundant with Subsection (j). We recommend deleting Subsection (i).

*Cost and Redundancy of Subsections (k) and (l)*

Subsection (k) requires a licensed professional to be onsite during “critical stages” of implementation. The phrase “critical stages” is vague. Also, we question what phases of implementation are not critical. The regulation should state the specific periods a licensed professional must be onsite.

In addition, the requirement for a licensed professional to be onsite will be costly. The EQB should explain what need this serves and how much it will cost.

Finally, Subsection (l) requires a licensed professional to certify that the project was constructed properly. Why are both Subsections (k) and (l) needed?

*Record drawings*

Commentators stated that record drawings required in Subsection (l) are not applicable to all earth disturbance activities. The EQB should amend the language in Subsection (l) to only require record drawings if they were required to meet another requirement.

*Responsibility of the landowner and covenants*

Subsection (m) states the operation and maintenance of PCSM BMPs shall be “the responsibility of the landowner” and the deed for the property shall contain a covenant that runs with the land. The EQB should explain the need to regulate post construction activity to such a degree as to require deed amendments and covenants. The EQB should also explain how this is a viable way to protect the environment given the inherent presumption that all landowners can afford to maintain and rectify any failure of a BMP for perpetuity.

The Department of Transportation commented that its projects are along the roadway and within a right of way, and covenants could pose problems for future improvement of roadways. Therefore, the Department of Transportation requests an exemption. The EQB should either include an exemption or explain why it is not needed.

Additionally, the Pennsylvania Builders Association suggests that this provision instead require an easement. The EQB should consider using easements.

**14. Section 102.11. General requirements.—Clarity. Mimic**

Under Paragraph (a)(2), a person is required to “. . . maintain PCSM BMPs to mimic preconstruction stormwater runoff conditions . . . .” The word “mimic” is

vague. It implies a subjective imitation. We recommend replacing the word “mimic” so that the regulation sets a definable standard.

**15. Section 102.14 Riparian forest buffer requirements.—Need; Economic impact; Reasonableness; Feasibility; Clarity.**

*Need, reasonableness, and economic and fiscal impact*

This section requires riparian forest buffers for many earth disturbance activities. It encompasses all earth disturbances within 150 feet of EV waters and all permit-by-rule activities. Riparian forest buffers may be required by DEP and upgrades to existing riparian forest buffers may be needed. The rest of the subsections include management requirements, permanent protection and reporting requirements. Commentators believe this section is unjustifiably burdensome and ignores other BMPs. We also question why this BMP is needed in regulation while others are not. The EQB should explain the need for and reasonableness of Section 102.14. In addition, the EQB should explain the full economic impact of this provision and explain why it is cost effective.

*Specific activities and areas affected*

There are six concerns with Subsection (a). First, commentators are confused about which activities are affected. For example, the Department of Transportation requests four clarifications. The EQB should amend Subsection (a) to clearly identify the activities affected.

Second, Clause (a)(1)(ii) includes all permit-by-rule activities regardless of the circumstances. Why did the EQB include all permit-by-rule activities in all circumstances? In addition to evaluating the economic impact, the EQB should justify the need for and reasonableness of riparian forest buffers for all permit-by-rule activities.

Third, Paragraph (a)(1) also raises concern with its application to roadway, gas line and electric transmission line projects. The “boundary” of these projects is narrow and can be miles in length. Under Paragraph (a)(1), these projects would come within 150 feet of multiple rivers, streams, creeks, lakes, ponds and reservoirs. Several commentators question how it would be feasible to incorporate riparian forest buffers for this type of project. We agree that the impact of Paragraph (a)(1) is quite significant for these projects and may limit them. The EQB should explain how it considered this type of project in development of the regulation and why this provision is reasonable for these projects.

Fourth, the Energy Association of Pennsylvania commented that the requirements for riparian forest buffers would contradict safety and reliability of gas lines and electric lines. Gas lines and electric lines need to remain clear of trees and other woody plants. The EQB should consider the applicability of Section 102.14 to these projects and consider exempting them from the exclusive use of riparian forest buffers as a BMP.

Fifth, the Department of Transportation requests an exemption for public health and safety. It states that planting trees close to streams can, over time, become a source of flooding from large debris. We presume this concern would also apply to local governments who maintain roadways. The EQB should add an exception for public health and safety concerns.

Finally, Subsection (a) provides no allowance or recognition of other BMPs. As commentators stated, activities can occur in dense populations or along cliffs that would not be feasible for a riparian forest buffer. Why is a

riparian forest buffer the exclusive BMP that can be used for activities that fall under Subsection (a)?

*Other approvals that may require a buffer*

Paragraph (a)(2) states:

A riparian forest buffer may be required to be incorporated within the boundaries of a project site in accordance with this section by other rules, regulations, order, permit or other approval of the Department.

Paragraph (a)(2) is vague and its purpose is not clear. Under what circumstances will DEP require a riparian forest buffer rather than other BMPs? It appears this could be used as a de facto disapproval of a permit by imposing high costs on a project, even if that is not the EQB's intent. The EQB should either delete this paragraph or justify why it is needed.

*Existing buffer composition and existing site enhancement*

Paragraph (a)(4) states:

An existing riparian forest buffer must: meet the requirements of subsection (d); consist predominantly of native trees and shrubs that provide at least 60% uniform canopy cover; noxious weeds and invasive species must be removed or controlled to the extent possible.

Paragraph (a)(5) is similar. These provisions go well beyond erosion and sediment control and stormwater management. These provisions impose retroactive regulation on existing buffers and costs. The Pennsylvania Coal Association asked if existing buffers will be grandfathered. We question the feasibility of expecting every landowner with an existing riparian forest buffer to invest the time and resources to analyze and upgrade their buffers.

In addition, the provisions are vague by requiring, but not specifying how to comply with requirements for "predominantly" native species, "at least 60% uniform canopy cover" and control of noxious weeds and invasive species "to the extent possible." How can these requirements be reasonably enforced?

We recommend deleting Paragraphs (a)(4) and (5). If they are maintained, the EQB needs to justify why they are needed and provide a fully detailed analysis of how many acres of land they affect in Pennsylvania and the costs they impose.

*Buffer establishment*

Paragraph (a)(6) states:

On sites with no native woody vegetation, a riparian forest buffer shall be established in accordance with this chapter.

This would require an upgrade over existing land use. We question why a permit holder who will temporarily disturb the soil would be required to then upgrade an area beyond its preconstruction condition. The EQB should delete Paragraph (a)(6) or explain the need for it.

*Plan submission*

Paragraph (a)(8) requires submission of a "plan for riparian forest buffer management." It is not clear what is required in the plan, other than it is supposed to describe how the plan will meet the requirements of this section. The regulation should set forth what an acceptable plan must include.

*Average minimum widths*

The Department of Transportation says it cannot comply with Subsection (d) due to ownership and rights issues. The Pennsylvania Chamber of Business and Industry, among others, strongly objects and describes the requirements as unreasonable and unachievable. Several commentators also question why Subsection (d) requires buffers on both sides of streams. The EQB should explain reasonableness of these provisions and how to comply with these provisions without incurring significant and perhaps prohibitive costs.

Additionally, it is not clear what "impaired waters" are in Paragraph (d)(2). The EQB should define this term.

*Management requirements*

Paragraph (e)(1) states:

Both existing and newly established riparian forest buffers, including wetlands and floodplains, shall be managed and maintained to enhance and maximize the unique value of these resources.

This is nonregulatory language and it should be deleted. Alternatively, this provision should be replaced with an enforceable standard.

Paragraph (e)(2) is vague by requiring, but not specifying how to comply with requirements for "predominantly" native species, "at least 60% uniform canopy cover" and control of noxious weeds and invasive species "to the extent possible." The EQB should amend this provision to state clear compliance standards and how to meet them.

The EQB should provide a cost estimate for complying with the five year requirement in Paragraph (e)(2).

Paragraph (e)(3) severely restricts land use in a riparian forest buffer. We agree with commentators that these restrictions will deter landowners from allowing any earth disturbances on their property because they will lose the use of their land. We recommend that the EQB review and reconsider the viability of riparian forest buffers in relation to the prohibitions listed in Paragraph (e)(3).

We have two concerns with Paragraph (e)(5). First, the Department of Conservation and Natural Resources is concerned that it may not be able to handle the volume of approvals required by Clause (iv). The EQB should explain why its regulation requires the Department of Conservation and Natural Resources approval for timber harvesting within riparian forest buffers.

Our second concern is that Clause (v) is unclear in allowing "passive recreational activities." What specifically are passive recreational activities?

*Permanent protection of riparian forest buffers*

Paragraph (f)(1) states:

Existing and newly established riparian forest buffers including access easements must be protected in perpetuity through deed restriction, conservation easement, local ordinance or permit conditions.

It appears that the requirement for protection in perpetuity goes far beyond protecting against erosion and sediment control and possibly stormwater management. We agree with commentators that this requirement is onerous for landowners and may require land acquisition by the permit holder. The EQB should explain how this requirement to protect the buffer in perpetuity is feasible, why it is reasonable to require protection in perpetuity and the cost it will impose on permittees and landowners.

Paragraph (f)(2) requires the boundary of the buffer to be clearly marked. The EQB should state in the regulation what is acceptable marking and its cost.

**16. Section 102.15. Permit-by-rule for low impact projects with riparian forest buffers.—Economic impact; Reasonableness; Clarity.**

*Permit-by-rule exclusions*

Paragraph (b)(4) is an exclusion that states:

The earth disturbance is being proposed or conducted by a person who has failed and continues to fail to comply or has shown a lack of ability or intention to comply with a regulation, permit and schedule of compliance or order issued by the Department.

This provision is not clear. For example, if a person was cited for past violations, there would be a record of that event and an ability to appeal the result. However, this provision penalizes the person for “lack of ability or intention to comply.” How will this provision be enforced and how can an action taken under it be appealed? The EQB should explain the intent of this provision, its reasonableness and how it would be enforced.

*Permit conditions*

The Department of Transportation cited several specific concerns with provisions in Subsection (c) that are similar to its concerns with Subsection 102.8(g) relating to meadow requirements, hydrologic routing analysis, pre-submission checklists. We recommend that the EQB consider the concerns raised by the Department of Transportation and make amendments as appropriate.

*Written E & S Plan, PCSM Plan and PPC Plan*

Under Subsection (f), the registrant develops the PPC Plan. The Department of Transportation commented that this is inappropriate for contract jobs because the Department of Transportation cannot control the contractor's use of these materials. We recommend that the EQB clarify this paragraph.

**17. Section 102.22. Site stabilization.—Economic impact; Reasonableness.**

*Temporary stabilization*

Paragraph (b)(1) states:

Upon temporary cessation of an earth disturbance activity or any stage or phase of an activity where a cessation of earth disturbance activities will exceed 3 days, the site shall be immediately seeded, mulched, or otherwise protected from accelerated erosion and sedimentation pending future earth disturbance activities.

The Department of Transportation commented that it could have some extremely large areas that would not be active for three days and this requirement would be impractical and costly. The Pennsylvania Chamber of Business and Industry commented that this requirement would include holiday weekends and observes grass germination takes 10 days. We recommend that the EQB explain why coverage after 3 days is needed.

ARTHUR COCCODRILLI,  
*Chairperson*

[Pa.B. Doc. No. 10-120. Filed for public inspection January 15, 2010, 9:00 a.m.]

## INSURANCE DEPARTMENT

### Application for Approval to Acquire Control of AF&L Insurance Company and Senior American Life Insurance Company

AF&L Holdings, LLC has filed an application to acquire control of AF&L Insurance Company, a Pennsylvania domiciled stock casualty insurance company, and its subsidiary Senior American Life Insurance Company, a Pennsylvania domiciled stock life insurance company. The filing was made under the requirements set forth under the Insurance Holding Companies Act of 1921 (40 P. S. §§ 991.1402—991.1413).

Persons wishing to comment on the acquisition are invited to submit a written statement to the Insurance Department (Department) within 30 days from the date of this issue of the *Pennsylvania Bulletin*. Each written statement must include name, address and telephone number of the interested party; identification of the application to which the statement is addressed; and a concise statement with sufficient detail and relevant facts to inform the Department of the exact basis of the statement. Written statements should be directed to Robert Brackbill, Company Licensing Division, Insurance Department, 1345 Strawberry Square, Harrisburg, PA 17120, fax (717) 787-8557 or e-mail rbrackbill@state.pa.us.

JOEL SCOTT ARIO,  
*Insurance Commissioner*

[Pa.B. Doc. No. 10-121. Filed for public inspection January 15, 2010, 9:00 a.m.]

### Eligible Surplus Lines Insurer List

In accordance with section 1605(b) of The Insurance Company Law of 1921 (40 P. S. § 991.1605(b)), the Insurance Department hereby publishes the most recent Eligible Surplus Lines Insurer List. This list replaces in its entirety the Eligible Surplus Lines Insurer List as of July 21, 2009, published at 39 Pa.B. 4657 (August 1, 2009).

Person with any questions concerning this notice, contact Robert Brackbill, Chief, Company Licensing Division, Insurance Department, 1345 Strawberry Square, Harrisburg, PA 17120, (717) 787-2735.

JOEL SCOTT ARIO,  
*Insurance Commissioner*

As of Wednesday, January 6, 2010

Key No.	Company Name	Statutory Home Address
48123	ACE EUROPEAN GROUP LIMITED	100 LEADENHALL STREET LONDON, Great Britain EC3A 3BP

<i>Key No.</i>	<i>Company Name</i>	<i>Statutory Home Address</i>
10512	ADMIRAL INSURANCE COMPANY	1209 ORANGE STREET WILMINGTON, DE 19801
10513	ADRIATIC INSURANCE COMPANY	314 EAST THAYER AVENUE BISMARCK, ND 58501
38980	AIG EXCESS LIABILITY INSURANCE COMPANY, LTD.	2711 CENTERVILLE ROAD SUITE 400 WILMINGTON, DE 19808
67489	AIX SPECIALTY INSURANCE COMPANY	103 FOULK ROAD SUITE 202 WILMINGTON, DE 19803
48099	ALLIANZ GLOBAL CORPORATE & SPECIALTY AG	KONIGINASTRASSE 28 MUNICH, Germany D80802
10516	ALLIANZ UNDERWRITERS INSURANCE COMPANY	2350 EMPIRE AVENUE BURBANK, CA 915043350
10535	ALLIED WORLD ASSURANCE COMPANY (U.S.) INC.	2711 CENTERVILLE ROAD SUITE 400 WILMINGTON, DE 19808
10519	AMERICAN EMPIRE SURPLUS LINES INSURANCE COMPANY	1209 ORANGE STREET WILMINGTON, DE 19801
10520	AMERICAN EQUITY INSURANCE COMPANY	2401 WEST PEORIA AVENUE PHOENIX, AZ 85029
36855	AMERICAN HEALTHCARE SPECIALTY INSURANCE COMPANY	425 W. CAPITOL AVENUE SUITE 1800 LITTLE ROCK, AR 72201
63828	AMERICAN MODERN SURPLUS LINES INSURANCE COMPANY	7000 MIDLAND BLVD AMELIA, OH 451022607
18146	AMERICAN SAFETY INDEMNITY COMPANY	201 ROBERT S. KERR AVENUE OKLAHOMA CITY, OK 731024267
10522	AMERICAN WESTERN HOME INSURANCE COMPANY	600 BANK OF OKLAHOMA PLAZA OKLAHOMA CITY, OK 73102
10524	APPALACHIAN INSURANCE COMPANY	1301 ATWOOD AVENUE JOHNSTON, RI 029190500
33748	ARCH EXCESS & SURPLUS INSURANCE COMPANY	10909 MILL VALLEY ROAD OMAHA, NE 68145
10587	ARCH SPECIALTY INSURANCE COMPANY	10909 MILL VALLEY ROAD OMAHA, NE 68145
81107	ARIEL REINSURANCE COMPANY LTD	5TH FLOOR VICTORIA PLACE HAMILTON, Bermuda HM 11
10588	ARROWOOD SURPLUS LINES INSURANCE COMPANY	2711 CENTERVILLE ROAD SUITE 400 WILMINGTON, DE 19808
51442	ASPEN INSURANCE UK LIMITED	30 FENCHURCH STREET LONDON, ENGLAND, United Kingdom
35611	ASPEN SPECIALTY INSURANCE COMPANY	316 NORTH FIFTH STREET BISMARCK, ND 58502
22348	ASSICURAZIONI GENERALI S.p.A.	PIAZZA DUCA DEGLI ABRUZZI, 2 TRIESTE, Italy 34132
22349	ASSOCIATED ELECTRIC & GAS INSURANCE SERVICES LIMITED	THE MAXWELL ROBERTS BUILDING 4TH FLOOR HAMILTON, Bermuda HM11
10525	ASSOCIATED INTERNATIONAL INSURANCE COMPANY	TEN PARKWAY NORTH DEERFIELD, IL 60015
41586	ATLANTIC CASUALTY INSURANCE COMPANY	400 COMMERCE COURT GOLDSBORO, NC 27534

<i>Key No.</i>	<i>Company Name</i>	<i>Statutory Home Address</i>
10526	AUDUBON INDEMNITY COMPANY	C/O CORPORATION SERVICE COMPANY 506 SOUTH PRESIDENT STREET JACKSON, MS 39201
22371	AVIVA INTERNATIONAL INSURANCE LIMITED	ST. HELEN'S 1 UNDERSHAFT LONDON, Great Britain EC3P3DQ
41562	AXA CORPORATE SOLUTIONS ASSURANCE	4 RUE JULES LEFEBVRE PARIS, France 75009
59554	AXIS SPECIALTY EUROPE LIMITED	MOUNT HERBERT COURT 34 UPPER MOUNT STREET DUBLIN, Ireland 2
10536	AXIS SPECIALTY INSURANCE COMPANY	ONE STATE STREET SUITE 1700 HARTFORD, CT 06103
10592	AXIS SURPLUS INSURANCE COMPANY	303 WEST MADISON SUITE 500 CHICAGO, IL 60606
75458	BERKLEY REGIONAL SPECIALITY INSURANCE COMPANY	1209 ORANGE STREET WILMINGTON, DE 198011120
63055	BERKSHIRE HATHAWAY INTERNATIONAL INSURANCE LIMITED	BIRCHIN COURT FOURTH FLOOR LONDON, Great Britain EC3V 9DU
22369	BRITISH AVIATION INSURANCE COMPANY LIMITED	FITZWILLIAM HOUSE 10 ST. MARY'S AXE LONDON, Great Britain EC3ABEQ
10528	CANAL INDEMNITY COMPANY	400 EAST STONE AVENUE GREENVILLE, SC 29601
48319	CAPITOL SPECIALTY INSURANCE CORPORATION	1600 ASPEN COMMONS MIDDLETON, WI 53562
64641	CATLIN INSURANCE COMPANY (UK) LIMITED	3 MINSTER COURT MINCING LANE LONDON, United Kingdom EC3R 7DD
63239	CATLIN SPECIALTY INSURANCE COMPANY	160 GREENTREE DRIVE SUITE 101 DOVER, DE 19904
10529	CENTENNIAL CASUALTY COMPANY	2200 WOODCREST PLACE SUITE 200 BIRMINGHAM, AL 35209
10531	CENTURY SURETY COMPANY	465 N CLEVELAND AVENUE WESTERVILLE, OH 43082
10521	CHARTIS SPECIALTY INSURANCE COMPANY	300 SOUTH RIVERSIDE PLAZA SUITE 2100 CHICAGO, IL 606066613
10532	CHUBB CUSTOM INSURANCE COMPANY	C/O CORPORATION SERVICE COMPANY 1209 ORANGE STREET WILMINGTON, DE 198011120
72782	CINCINNATI SPECIALTY UNDERWRITERS INSURANCE COMPANY (THE)	BRANDYWINE VILLAGE 1807 NORTH MARKET STREET WILMINGTON, DE 198024810
18617	CLARENDON AMERICA INSURANCE COMPANY	601 EWING STREET SUITE C-8 PRINCETON, NJ 09650
10533	COLONY INSURANCE COMPANY	8720 STONEY POINT PARKWAY SUITE 300 RICHMOND, VA 23235

<i>Key No.</i>	<i>Company Name</i>	<i>Statutory Home Address</i>
10582	COLONY NATIONAL INSURANCE COMPANY	8720 STONEY POINT PARKWAY SUITE 300 RICHMOND, VA 23235
10534	COLUMBIA CASUALTY COMPANY	CNA PLAZA CHICAGO, IL 60685
22388	COMMONWEALTH INSURANCE COMPANY	595 BURRARD STREET SUITE 1500 BOX 49115 BENTALL TOWER THREE VANCOUVER, V7X 1G4
74670	COMPANION SPECIALTY INSURANCE COMPANY	51 CLEMSON ROAD COLUMBIA, SC 29229
52712	CRANBROOK INSURANCE COMPANY	2301 E.LAMAR BOULEVARD 5TH FLOOR ARLINGTON, TX 76006
37372	CRUM & FORSTER SPECIALTY INSURANCE COMPANY	2999 NORTH 44TH STREET SHITE 250 PHOENIX, AZ 85018
66658	CUMIS SPECIALTY INSURANCE COMPANY, INC.	2000 HERITAGE WAY WAVERLY, IA 50677
10600	DARWIN SELECT INSURANCE COMPANY	320 WEST CAPITAL STREET SUITE 1000 LITTLE ROCK, AR 722013525
37001	DISCOVER SPECIALTY INSURANCE COMPANY	200 NORTH LASALLE STREET CHICAGO, IL 60661
10541	EMPIRE INDEMNITY INSURANCE COMPANY	630 NE 63RD STREET OKLAHOMA CITY, OK 73105
63338	ENDURANCE AMERICAN SPECIALTY INSURANCE COMPANY	767 THIRD AVENUE FIFTH FLOOR NEW YORK, NY 10017
10542	ESSEX INSURANCE COMPANY	1209 ORANGE STREET WILMINGTON, DE 19801
10543	EVANSTON INSURANCE COMPANY	TEN PARKWAY NORTH DEERFIELD, IL 60015
10544	EVEREST INDEMNITY INSURANCE COMPANY	CORPORATION TRUST CENTER 1209 ORANGE STREET WILMINGTON, DE 19801
10545	EXECUTIVE RISK SPECIALTY INSURANCE COMPANY	82 HOPMEADOW STREET SIMSBURY, CT 060707683
10547	FIREMAN'S FUND INSURANCE COMPANY OF OHIO	312 WALNUT STREET SUITE 1100 CINCINNATI, OH 45202
10548	FIRST FINANCIAL INSURANCE COMPANY	528 SOUTH FIFTH STREET SUITE 210 SPRINGFIELD, IL 627011822
10549	FIRST MERCURY INSURANCE COMPANY	ONE SOUTH WACKER DRIVE SUITE 2740 CHICAGO, IL 60606
10550	FIRST SPECIALTY INSURANCE CORPORATION	237 EAST HIGH STREET JEFFERSON CITY, MO 65102
18477	GEMINI INSURANCE COMPANY	CORPORATION TRUST CENTER 1209 ORANGE STREET WILMINGTON, DE 19801
10552	GENERAL SECURITY INDEMNITY COMPANY OF ARIZONA	2338 W. ROYAL PALM ROAD SUITE J PHOENIX, AZ 85021
10554	GENERAL STAR INDEMNITY COMPANY	695 EAST MAIN STREET P. O. BOX 10354 STAMFORD, CT 069042354



<i>Key No.</i>	<i>Company Name</i>	<i>Statutory Home Address</i>
10555	GENESIS INDEMNITY INSURANCE COMPANY	316 NORTH FIFTH STREET BISMARCK, ND 58501
58119	GEOVERA SPECIALTY INSURANCE COMPANY	4820 BUSINESS CENTER DRIVE SUITE 200 FAIRFIELD, CA 94534
44715	GLENCOE INSURANCE LIMITED	RENAISSANCE HOUSE, 8 EAST P. O. BOX HM 2527 HAMILTON, Bermuda HM GX
73754	GNV CUSTOM INSURANCE COMPANY	200 MADISON AVENUE NEW YORK, NY 100163904
10556	GOTHAM INSURANCE COMPANY	919 THIRD AVENUE 10TH FLOOR NEW YORK, NY 10022
10514	GREAT AMERICAN E & S INSURANCE COMPANY	THE CORPORATION TRUST COMPANY 1209 ORANGE STREET WILMINGTON, DE 19801
10518	GREAT AMERICAN FIDELITY INSURANCE COMPANY	THE CORPORATION TRUST COMPANY 1209 ORANGE STREET WILMINGTON, DE 19801
10540	GREAT AMERICAN PROTECTION INSURANCE COMPANY	580 WALNUT STREET CINCINNATI, OH 45204
22412	GREAT LAKES REINSURANCE (UK) PLC	PLANTATION PLAN 30 FENCHURCH STREET LONDON, United Kingdom EC3M 3AJ
36489	GUILFORD INSURANCE COMPANY	528 SOUTH FIFTH STREET SUITE 210 SPRINGFIELD, IL 627011822
10557	GULF UNDERWRITERS INSURANCE COMPANY	ONE TOWER SQUARE HARTFORD, CT 06183
66133	HCC SPECIALTY INSURANCE COMPANY	201 ROBERT S. HERR AVENUE OKLAHOMA, OK 73102
78247	HISCOX SPECIALTY INSURANCE COMPANY INC.	416 SOUTH SECOND STREET GENEVA, IL 601340520
44169	HOMELAND INSURANCE COMPANY OF NEW YORK	1000 WOODBURY ROAD SUITE 403 WOODBURY, NY 11797
10559	HOUSTON CASUALTY COMPANY	13403 NORTHWEST FREEWAY HOUSTON, TX 77040
37373	HUDSON SPECIALTY INSURANCE COMPANY	17 STATE STREET 29TH FLOOR NEW YORK, NY 10004
10560	ILLINOIS EMCASCO INSURANCE COMPANY	717 MULBERRY STREET DES MOINES, IA 503093872
10561	ILLINOIS UNION INSURANCE COMPANY	525 WEST MONROE STREET CHICAGO, IL 60631
10562	INDIAN HARBOR INSURANCE COMPANY	CT CORPORATION SYSTEM 314 EAST THAYER AVENUE BISMARCK, ND 58501
10563	INEX INSURANCE EXCHANGE	216 WEST JACKSON BOULEVARD SUITE 975 CHICAGO, IL 60606
75461	INFRASSURE, LTD	UETLIBERGSTRASSE 134A P. O. BOX 5089 ZURICH, Switzerland CH8045

<i>Key No.</i>	<i>Company Name</i>	<i>Statutory Home Address</i>
28076	INTERNATIONAL INSURANCE CO OF HANNOVER, LTD	L'AVENIR OPLADEN WAY, BRACKNELL BERKSHIRE, Great Britain UK RG12 OPH
10564	INTERSTATE FIRE & CASUALTY COMPANY	33 WEST MONROE CHICAGO, IL 60603
70118	IRONSHORE INSURANCE LTD.	SWAN BUILDING 26 VICTORIA STREET HAMILTON, Bermuda HM12
10596	IRONSHORE SPECIALTY INSURANCE COMPANY	C/O LOW & CHILDERS P.C. SUITE 250 PHOENIX, AZ 85018
10566	ITT PACIFIC INSURANCE COMPANY	ONE HARTFORD PLAZA HARTFORD, CT 06155
10546	JAMES RIVER INSURANCE COMPANY	52 EAST GAY STREET COLUMBUS, OH 43215
75297	LANCASHIRE INSURANCE COMPANY	MINTFLOWER PLACE 8 PAR-LA-VILLE ROAD HAMILTON, Bermuda HM 08
80046	LANCASHIRE INSURANCE COMPANY (UK) LIMITED	LEVEL 11, VITRO 60, FENCHURCH STREET LONDON, United Kingdom EC3M 4AD
8967	LANDMARK AMERICAN INSURANCE COMPANY	201 ROBERT KERR AVENUE SUITE 600 OKLAHOMA CITY, OK 731024267
10567	LANDMARK INSURANCE COMPANY	2730 GATEWAY OAKS DRIVE SUITE 100 SACRAMENTO, CA 95833
45576	LANTANA INSURANCE LTD.	RENAISSANCE HOUSE 8-12 EAST BROADWAY HAMILTON, Bermuda HM 19
10569	LEXINGTON INSURANCE COMPANY	2711 CENTERVILLE ROAD SUITE 400 WILMINGTON, DE 19808
22415	LIBERTY MUTUAL INSURANCE EUROPE LIMITED	3RD FLOOR, TWO MINSTER COURT MINCING LANE LONDON, United Kingdom EC3R 7YE
18457	LIBERTY SURPLUS INSURANCE CORPORATION	175 BERKELEY STREET BOSTON, MA 02117
22416	LLOYD'S (UNDERWRITERS AT)	ONE LIME STREET LONDON, Great Britain EC3M7HA
22417	LONDON AND EDINBURGH INSURANCE COMPANY LIMITED	8 SURREY STREET NORWICH NR1 3NG ENGLAND, Great Britain EC3M5BT
45736	MAIDEN SPECIALTY INSURANCE COMPANY	C/O CT CORPORATION SYSTEM 150 FAYETTEVILLE STREET RALEIGH, NC 27601
22418	MARINE INSURANCE COMPANY LIMITED	ST MARKS COURT. CHART WAY HORSHAM, WEST SUSSEX ENGLAND, Great Britain RH 12 1XL
22455	MARKEL INTERNATIONAL INSURANCE COMPANY LIMITED	THE MARKEL BUILDING 49 LEADENHALL STREET LONDON, Great Britain EC3A2EA
10570	MAX SPECIALTY INSURANCE COMPANY	1209 ORANGE STREET WILMINGTON, DE 19801

<i>Key No.</i>	<i>Company Name</i>	<i>Statutory Home Address</i>
10527	MAXUM INDEMNITY COMPANY	1209 ORANGE STREET WILMINGTON, DE 19801
69016	MEDICAL MUTUAL LIABILITY INSURANCE SOCIETY OF MARYLAND	225 INTERNATIONAL CIRCLE HUNT VALLEY, MD 21030
75542	MERCHANTS NATIONAL INSURANCE COMPANY	250 MAIN STREET BUFFALO, NY 14202-4188
75518	MITSUI SUMITOMO INSURANCE COMPANY (EUROPE) LIMITED	6TH FLOOR—NEW LONDON HOUSE 6 LONDON STREET LONDON, United Kingdom EC3R 7LP
10553	MONTPELIER U.S. INSURANCE COMPANY	115 SOUTHWEST 89TH STREET OKLAHOMA CITY, OK 73139
10571	MT. HAWLEY INSURANCE COMPANY	9025 N. LINDBERGH DRIVE PEORIA, IL 61615
10572	NAMIC INSURANCE COMPANY, INC.	3601 VINCENNES ROAD INDIANAPOLIS, IN 46268
10573	NATIONAL FIRE & MARINE INSURANCE COMPANY	3024 HARNEY STREET OMAHA, NE 68131-3580
10574	NAUTILUS INSURANCE COMPANY	7233 E. BUTHERUS DRIVE SCOTTSDALE, AZ 85260
10575	NAVIGATORS SPECIALTY INSURANCE COMPANY	ONE PENN PLAZA 55TH FLOOR NEW YORK, NY 10119-0002
75182	NAXOS INSURANCE COMPANY	2711 CENTERVILLE ROAD SUITE 400 WILMINGTON, DE 19808
10537	NOETIC SPECIALTY INSURANCE COMPANY	111 S. WACKER DRIVE CHICAGO, IL 60606-4410
10576	NORTH AMERICAN CAPACITY INSURANCE COMPANY	650 ELM STREET MANCHESTER, NH 03101-2524
79123	NORTH LIGHT SPECIALTY INSURANCE COMPANY	2775 SANDERS ROAD NORTHBROOK, IL 60062-7127
10584	NORTH POINTE CASUALTY INSURANCE COMPANY	10199 SOUTHSIDE BLVD BUILDING 1 JACKSONVILLE, FL 32256
10577	NORTHFIELD INSURANCE COMPANY	1270 OFFICE PLAZA DRIVE WEST DES MOINES, IA 50266
10578	NUTMEG INSURANCE COMPANY	ONE HARTFORD PLAZA HARTFORD, CT 06155
22421	OCEAN MARINE INSURANCE COMPANY LIMITED	ST. HELEN'S 1 UNDERSHAFT LONDON, Great Britain EC3P3DQ
10579	OLD REPUBLIC UNION INSURANCE COMPANY	307 NORTH MICHIGAN AVENUE CHICAGO, IL 60601
75544	OMEGA US INSURANCE, INC	C/O THE CORPORATION TRUST COMPANY 1209 ORANGE STREET WILMINGTON, DE 19801
58179	PENN-PATRIOT INSURANCE COMPANY	526 KING STREET ALEXANDRIA, VA 22314
74667	PRIME INSURANCE COMPANY	303 WEST MADISON #2075 CHICAGO, IL 60606
23150	PRINCETON EXCESS AND SURPLUS LINES INSURANCE COMPANY	2711 CENTERVILLE ROAD SUITE 400 WILMINGTON, DE 19808

<i>Key No.</i>	<i>Company Name</i>	<i>Statutory Home Address</i>
44436	PROASSURANCE SPECIALTY INSURANCE COMPANY, INC.	100 BROOKWOOD PLACE SUITE 500 BIRMINGHAM, AL 35209
10583	PROFESSIONAL UNDERWRITERS LIABILITY INSURANCE COMPANY	2180 SOUTH 1300 EAST SUITE 650 SALT LAKE CITY, UT 84106
75543	PROTECTIVE SPECIALTY INSURANCE COMPANY	1099 NORTH MERIDIAN STREET INDIANAPOLIS, IN 46204
22449	QBE INSURANCE (EUROPE) LIMITED	PLANTATION PLACE 30 FENCHURCH STREET LONDON, Great Britain EC3M 3BD
47448	QBE SPECIALTY INSURANCE COMPANY	314 EAST THAYER AVENUE BISMARCK, ND 58501
53074	QUANTA SPECIALTY LINES INSURANCE COMPANY	10 WEST MARKET STREET SUITE 450 INDIANAPOLIS, IN 46204
70898	REPUBLIC-VANGUARD INSURANCE COMPANY	2394 E. CAMELBACK ROAD PHOENIX, AZ 85016
10603	ROCKHILL INSURANCE COMPANY	2999 NORTH 44TH STREET SUITE 250 PHOENIX, AZ 85018
10589	SAFECO SURPLUS LINES INSURANCE COMPANY	SAFECO PLAZA 1001 FOURTH AVENUE SEATTLE, WA 98154
10590	SAVERS PROPERTY AND CASUALTY INSURANCE COMPANY	700 WEST 47TH STREET KANSAS CITY, MO 64112-1802
10591	SCOTTSDALE INSURANCE COMPANY	ONE NATIONWIDE PLAZA COLUMBUS, OH 43215
44276	SENECA SPECIALTY INSURANCE COMPANY	2999 NORTH 44TH STREET SUITE 250 PHOENIX, AZ 850187256
33514	SIRIUS INTERNATIONAL INSURANCE CORPORATION	BIRGER JARISGATAN 57B STOCKHOLM, Sweden SE 113 96
10565	SPECIALTY SURPLUS INSURANCE COMPANY	1 KEMPER DRIVE LONG GROVE, IL 60049-0001
10593	ST. PAUL SURPLUS LINES INSURANCE COMPANY	2711 CENTERVILLE ROAD SUITE 400 WILMINGTON, DE 19808
79898	STARR SURPLUS LINES INSURANCE COMPANY	500 WEST MONROE STREET 26TH FLOOR CHICAGO, IL 60661
10594	STEADFAST INSURANCE COMPANY	SUITE 202 32 LOOCKERMAN SQUARE DOVER, DE 19904
22453	SWISS RE INTERNATIONAL SE	2A, RUE ALBERT BORSCHETTE LUXEMBOURG, Luxembourg L1246
73071	TOKIO MARINE EUROPE INSURANCE LIMITED	150 LEADENHALL STREET LONDON, United Kingdom EC3V 4TE
40659	TORUS SPECIALTY INSURANCE COMPANY	1209 ORANGE STREET WILMINGTON, DE 19801-1120
10597	TRAVELERS EXCESS AND SURPLUS LINES COMPANY	ONE TOWER SQUARE HARTFORD, CT 06183
54486	TT CLUB MUTUAL INSURANCE LIMITED	90 FENCHURCH STREET LONDON, United Kingdom ECM 4ST

<i>Key No.</i>	<i>Company Name</i>	<i>Statutory Home Address</i>
10598	TUDOR INSURANCE COMPANY	50 WASHINGTON STREET KEENE, NH 03431
10599	U. S. UNDERWRITERS INSURANCE COMPANY	316 NORTH FIFTH STREET SIXTH FLOOR BISMARCK, ND 58501
44120	UNITED NATIONAL CASUALTY INSURANCE COMPANY	5253 HOHMAN AVENUE PO BOX 1150 HAMMOND, IN 46320
10558	UNITED NATIONAL SPECIALTY INSURANCE COMPANY	411 EAST WISCONSIN AVENUE SUITE 700 MILWAUKEE, WI 53202
64798	UNITED SPECIALTY INSURANCE COMPANY	160 GREENTREE DRIVE SUITE 101 DOVER, DE 19904
79945	VALIANT SPECIALTY INSURANCE COMPANY	BRANDYNE VILLAGE 1807 NORTH MARKET STREET WILMINGTON, DE 19802
10605	VOYAGER INDEMNITY INSURANCE COMPANY	260 INTERSTATE NORTH CIRCLE NW ATLANTA, GA 30339
10607	WESTCHESTER SURPLUS LINES INSURANCE COMPANY	500 COLONIAL CENTER PARKWAY SUITE 200 ROSWELL, GA 30076
10608	WESTERN HERITAGE INSURANCE COMPANY	9200 E. PIMA CENTER PKWY SUITE 350 SCOTTSDALE, AZ 85258
10610	WESTERN WORLD INSURANCE COMPANY	50 WASHINGTON STREET KEENE, NH 03431
49219	WILSHIRE INSURANCE COMPANY	702 OBERLIN ROAD RALEIGH, NC 276050800
70201	WIND RIVER REINSURANCE COMPANY, LTD	PURVIS HOUSE VICTORIA PLACE HAMILTON, Bermuda HM 10
10604	XL SELECT INSURANCE COMPANY	1209 ORANGE STREET WILMINGTON, DE 19801
10611	ZC SPECIALTY INSURANCE COMPANY	400 WEST 15TH STREET SUITE 710 AUSTIN, TX 78701

[Pa.B. Doc. No. 10-122. Filed for public inspection January 15, 2010, 9:00 a.m.]

### 2009 Workers' Compensation Security Fund Assessment; Notice No. 2010-01

[Correction]

An error appeared in the notice at 40 Pa.B. 126. The Insurance Department Number was inadvertently omitted from the heading. The remainder of the notice is correct as follows:

The Act of July 1, 1937, P. L. 2532, No. 470, as amended 2000, (77 P. S. §§ 1051—1066), referred to as the Pennsylvania Workers' Compensation Security Fund Act (Act) was amended revising, *inter alia*, the assessment procedures of the Workers' Compensation Security Fund (Fund).

Section 1059 of the Act states, "If due to the payment of liabilities or claims, the balance of the fund is reduced

below \$500,000,000, the department shall require contributions to maintain the actuarial soundness of the fund and to restore, in a timely manner, the balance of the fund to a level at or above \$500,000,000." As of December 31, 2008, the Fund balance was \$469.7 million. Therefore, an assessment is required. The amount of the 2009 assessment will be 1% of your company's Pennsylvania 2008 net written workers' compensation premiums.

Section 165.7(b) of the regulations states, "Every carrier, doing the business of workers' compensation insurance in the Commonwealth, will be assessed, based on a prorata share of the total amount of net-written premiums of workers' compensation insurance reported as written in the previous calendar year's annual statement." Section 1054 of the Act defines net written premiums, "For the purposes of this act, "net written premi-

ums” shall mean gross written premiums, less return premiums on policies returned not taken and on policies cancelled.”

An invoice of your company’s pro rata share of the assessment is enclosed with a due date of March 31, 2010. If additional information is required, contact Laura S. Keller, Claims Manager, Workers’ Compensation Security Fund, 901 North 7th Street, Harrisburg PA 17102, (717) 783-8093.

JOEL SCOTT ARIO,  
*Insurance Commissioner*

[Pa.B. Doc. No. 10-37. Filed for public inspection December 31, 2009, 9:00 a.m.]

## LEGISLATIVE REFERENCE BUREAU

### Documents Filed But Not Published

The Legislative Reference Bureau (Bureau) accepted the following documents during the preceding calendar month for filing without publication under 1 Pa. Code § 3.13(b) (relating to contents of *Bulletin*). The Bureau will continue to publish on a monthly basis either a summary table identifying the documents accepted during the preceding calendar month under this subsection or a statement that no documents have been received. For questions concerning or copies of documents filed, but not published, call (717) 783-1530.

#### *Governor’s Office*

Management Directive No. 310.36—Identifying, Recording, and Reporting Computer Software as a Capital Asset, Dated December 10, 2009.

Management Directive No. 530.23—State Employee Combined Appeal, Amended December 2, 2009.

Administrative Circular No. 09-17—Safety Guidelines for Live Holidays Trees and Decorations, Dated November 23, 2009.

Administrative Circular No. 09-18—Due Dates for Identifying, Recording, and Reporting Intangible Capital Assets, Dated December 10, 2009.

Administrative Circular No. 09-19—Computation of Interest Penalties, Act 1982-266 Amended, Dated December 22, 2009.

MARY JANE PHELPS,  
*Director*  
*Pennsylvania Code and Bulletin*

[Pa.B. Doc. No. 10-123. Filed for public inspection January 15, 2010, 9:00 a.m.]

## MILK MARKETING BOARD

### Hearing and Presubmission Schedule for All Milk Marketing Areas; Over-Order Premium

Under the Milk Marketing Law (31 P. S. § 700j-101—700j-1302), the Milk Marketing Board (Board) will conduct a public hearing for Milk Marketing Areas 1—6 on February 16, 2010, at 10 a.m. in Room 202 of the Agriculture Building, 2301 North Cameron Street, Harrisburg, PA.

The purpose of the hearing is to receive testimony and exhibits concerning a change in the formula for calculating the over-order premium as set out in Official General Order A-893.

The staff of the Board is deemed to be a party to this hearing, and the attorney representing staff is deemed to have entered his appearance. Other persons who wish to present evidence may be included on the Board’s list of parties by: (1) having their attorney file with the Board on or before 12 p.m. on January 20, 2010, a notice of appearance substantially in the form prescribed by 1 Pa. Code § 31.25 (relating to form of notice of appearance); or (2) if unrepresented by counsel, filing with the Board on or before 12 p.m. on January 20, 2010, notification of their desire to be included as a party. Parties may indicate in their notices of appearance if alternate means of service, that is, e-mail or fax, are acceptable. Notices of appearance filed electronically should be directed to [deberly@state.pa.us](mailto:deberly@state.pa.us).

The parties shall observe the following requirements for advance filing of witness information and exhibits. The Board may exclude witnesses or exhibits of a party that fails to comply with these requirements. In addition, the parties shall have available in the hearing room at least 20 additional copies made available for the use of nonparties attending the hearing.

1. By 4 p.m. on January 20, 2010, the petitioner shall file with the Board, in person or by mail, one original and eight copies and ensure receipt by all other parties of one copy of:

a. A list of witnesses who will testify for the petitioner, along with a statement of the subjects concerning which each witness will testify. A witness who will be offered as an expert shall be so identified, along with the witness’s area or areas of proposed expertise. For expert witnesses there shall also be filed a statement of the substance of the facts and opinions to which the expert is expected to testify and a summary of the grounds for each opinion.

b. Each exhibit to be presented, including testimony to be offered in written form.

2. By 4 p.m. on February 3, 2010, each responding party shall file and serve as set forth in paragraph 1 information concerning rebuttal witnesses and copies of rebuttal exhibits.

3. By 4 p.m. on February 10, 2010, parties shall file and serve as set forth in paragraph 1 information concerning surrebuttal witnesses and copies of surrebuttal exhibits.

The Board may exclude witnesses or exhibits of a party that fails to comply with the previous requirements. In addition, the parties shall have available in the hearing room at least 20 additional copies made available for the use of nonparties attending the hearing.

Parties that wish to offer in evidence documents on file with the Board, public documents, or records in other proceedings before the Board, or wish the Board to take official notice of facts, shall comply with, respectively, 1 Pa. Code § 35.164, § 35.165, § 35.167 or § 35.173. Whenever these rules require production of a document as an exhibit, copies shall be provided to each Board member and to all other parties; in addition, at least 20 copies shall be available for distribution to nonparties attending the hearing.

Requests by parties for Board staff to provide data pertinent to the hearing shall be made in writing and received in the Board office by 12 p.m. on February 5, 2010.

The filing address for the Board is Milk Marketing Board, Room 110, Agriculture Building, 2301 North Cameron Street, Harrisburg, PA 17110.

KEITH BIERLY,  
*Secretary*

[Pa.B. Doc. No. 10-124. Filed for public inspection January 15, 2010, 9:00 a.m.]

## OFFICE OF GENERAL COUNSEL

### Workers' Compensation Counsel—Commonwealth of Pennsylvania, Governor's Office of General Counsel

The Commonwealth of Pennsylvania, Governor's Office of General Counsel (OGC) is seeking to review qualifications from legal service providers to provide innovative, cost-effective outside counsel services to OGC and its agency clients (principally the Governor's Office of Administration and the Department of Labor and Industry) for workers' compensation matters. A Request for Qualifications and Proposals has been posted at the OGC web site at [www.ogc.state.pa.us](http://www.ogc.state.pa.us). Responses to that Request are due by 4 p.m. (Eastern Standard Time) on Wednesday, February 10, 2010. OGC will reject as nonresponsive all submissions received after this date and time. OGC expects to make all future appointments for workers' compensation engagements only to law firms identified and qualified through this evaluative process and thus strongly encourages any and all interested law firms which currently perform workers' compensation legal services for the Commonwealth, or are interested in doing so, to participate to ensure consideration of their qualifications to provide (or continue providing) such outside counsel services.

BARBARA ADAMS,  
*General Counsel*

[Pa.B. Doc. No. 10-125. Filed for public inspection January 15, 2010, 9:00 a.m.]

## PATIENT SAFETY AUTHORITY

### Public Meeting

The Patient Safety Authority (Authority), established by section 303 of the Medical Care Availability and Reduction of Error Act (40 P. S. § 1303.303), enacted on March 20, 2002, announces a meeting of the Authority's Board to be held at the Harrisburg Area Community College, One HACC Drive, Harrisburg, PA at 10 a.m. on Tuesday, January 26, 2010.

Individuals having questions regarding this meeting, which is open to the public, should contact the Authority at (717) 346-0469.

MICHAEL C. DOERING,  
*Executive Director*

[Pa.B. Doc. No. 10-126. Filed for public inspection January 15, 2010, 9:00 a.m.]

## PENNSYLVANIA PUBLIC UTILITY COMMISSION

### Gas Service

**A-2009-2150005. UGI Central Penn Gas, Inc.** Application of UGI Central Penn Gas, Inc. for approval to begin to offer, render, furnish or supply gas utility service to the public in the additional territory of the Borough of Portland in Northampton County, PA.

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 February 1, 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:* UGI Central Penn Gas, Inc.

*Through and By Counsel:* Kent D. Murphy, Esquire,  
460 North Gulph Road, King of Prussia, PA 19406

JAMES J. McNULTY,  
*Secretary*

[Pa.B. Doc. No. 10-127. Filed for public inspection January 15, 2010, 9:00 a.m.]

### Petition for Rescission; Doc. No. C-00019560

On November 13, 2009, Norfolk Southern Railway Company (Norfolk Southern) filed a Petition for Rescission of the Pennsylvania Public Utility Commission's (Commission) June 12, 1975 Order regarding prevention of run outs in the 400 and 500 classification yards of Conway Yard in Beaver County, PA. In its Petition, Norfolk Southern requests that the Commission rescind or amend its June 12, 1975 Order, Doc. No. 19560, to eliminate the requirement that Norfolk Southern use skates to prevent run outs, and allow Norfolk Southern to reassign the skatemen to other positions. Alternatively, Norfolk Southern requests that the Commission amend the June 12, 1975 Order to permit the placement and removal of skates by pull-out crews and other Norfolk Southern personnel, and allow Norfolk Southern to reassign the skatemen to other positions. A copy of Norfolk Southern's Petition is available at the Commission or through the Commission's web site, <http://www.puc.state.pa.us>.

Comments to Norfolk Southern's Petition may be filed within 20 days of the date of publication of this notice. Comments should be filed with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265.

JAMES J. McNULTY,  
*Secretary*

[Pa.B. Doc. No. 10-128. Filed for public inspection January 15, 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 February 1, 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-2009-2149966. Supreme Transportation, Inc.** (406 East Marshall Street, Norristown, Montgomery County, PA 19401), a corporation of the Commonwealth, persons in limousine service from points in Montgomery and Chester Counties to points in Pennsylvania, and return, excluding services that are under the jurisdiction of the Philadelphia Parking Authority.

**A-2009-2150004. SMZ Ventures, Inc., t/a Medical Transport Services (MTS)** (403 Jefferson Avenue, Tyrone, Blair County, PA 16686), a corporation of the Commonwealth, persons in paratransit service, primarily in stretchers and wheelchairs, between points in Blair, Centre and Huntingdon Counties.

**A-2009-2150228. 4 Way Traffic, LLC** (36 Osage Road, Claymont, DE 19703), a corporation of the State of Delaware and a registered limited liability company with the Commonwealth, persons in paratransit service, from points in the City and County of Philadelphia to points in Pennsylvania, and return.

**A-2010-2150857. MED Express Ambulance, Inc., t/a MED Express Ambulance** (7442 Rockwell Avenue, Philadelphia, PA 19111)—a corporation of the Commonwealth, persons, in paratransit service, from points in the City and County of Philadelphia, to points in Pennsylvania, and return. *Attorney:* Robert W. Small, Berlinger & Small, Suite 200, 1494 Old York Road, Abington, PA 19001.

**A-2010-2151021. Bensalem Transport, Inc., t/a Diamond Cab Company** (3300 State Road, Bensalem, Bucks County, PA 19020)—a corporation of the Commonwealth, persons, upon call or demand, in the Townships of Bensalem, Bristol, Falls, Lower Makefield, Lower Southampton, Middletown, and the Boroughs of Bristol, Hulmeville, Langhorne, Langhorne Manor, Morrisville, Penndel and Tullytown, all in Bucks County, excluding service that is under the jurisdiction of the Philadelphia Parking Authority. *Attorney:* Rana M. Taj, Taj & Taj, Suite 206, The Constitution Building, 1950 Street Road, Bensalem, PA 19020.

**A-2010-2151052. American Life Ambulance, LLC** (3580 Progress Drive, No. O, Bensalem, Bucks County, PA 19020)—a limited liability company of the Commonwealth, persons, in paratransit service, between points in the Counties of Bucks, Philadelphia and Montgomery.

Applications of the following for the approval of the right and privilege to *discontinue/abandon operating as common carriers by motor vehicle and for cancellation of the certificate of public convenience as described under each application.*

**A-2009-2150022. Louis A. Galzerano, III, t/d/b/a Galzerano Limo Service** (430 Radcliffe Street, Bristol, Bucks County, PA 19007), for discontinuance of service and cancellation of its Certificate as a common carrier, by motor vehicle, authorizing the transportation of persons in limousine service, for Louis A. Galzerano, II Funeral Home, between points in the Borough of Bristol, Bucks County, and from points in the said borough to other points in Bucks County, and vice versa and for Galzerano Funeral Homes which are located in the City and County of Philadelphia, between points in the City and County of Philadelphia; subject to the following condition: that the service authorized is limited to the transportation of persons attending funerals or in funeral processions.

**A-2010-2150794. Pocono Limousine Service, Inc.,** (Route 611 N, P. O. Box 340, Mt. Pocono, Monroe County, PA 18344) a corporation of the Commonwealth—for the discontinuance of service and cancellation of its certificate as a common carrier, by motor vehicle, authorizing the transportation of persons in airport transfer service from points in the County of Monroe, and within an airline distance of ten statute miles of the limits thereof, to airport facilities within the said territory, and from points in said territory, to the Wilkes-Barre/Scranton Airport, located in the Township of Pittston, Luzerne County, the Allentown-Bethlehem-Easton Airport, located in the Township of Hanover, Lehigh County, and the Philadelphia International Airport located in the City and County of Philadelphia and the Township of Tinicum, Delaware County, and vice versa.

*Pennsylvania Public Utility Commission, Bureau of Transportation and Safety v. Thomas J. Melick;*  
*Doc. No. C-2009-2127131*

#### COMPLAINT

The Pennsylvania Public Utility Commission (Commission) is a duly constituted agency of the Commonwealth of Pennsylvania empowered to regulate public utilities within the Commonwealth. The Commission has delegated its authority to initiate proceedings which are prosecutory in nature to the Bureau of Transportation and Safety and other bureaus with enforcement responsibilities. Pursuant to that delegated authority and Section 701 of the Public Utility Code, the Bureau of Transportation and Safety Prosecutory Staff hereby represents as follows:

1. That Thomas J. Melick, Respondent, maintains his principal place of business at 4727 Hatfield Street, Pittsburgh, PA 15201-2911.

2. That Respondent was issued a Certificate of Public Convenience by this Commission on March 1, 1977, at Application Docket No. A-00099994.

3. That Respondent reported zero PA PUC intrastate revenue for calendar years 2006 and 2007. On March 30, 2009, this Commission received Respondent's 2008 Assessment Report, which was signed by Thomas J. Melick, owner of the company. It also reported zero PA PUC regulated intrastate revenue. Therefore, Respondent abandoned or discontinued service without having first submitted a letter to this Commission containing a statement that the service is no longer being rendered.



4. That Respondent, by failing to submit a letter to this Commission prior to abandoning or discontinuing service, violated 52 Pa. Code § 3.381(a)(5) and 66 Pa.C.S. § 1102(a)(2) and, by failing to maintain adequate, efficient and safe service and facilities, violated 66 Pa.C.S. § 1501.

Wherefore, the Bureau of Transportation and Safety Prosecutory Staff hereby requests that the Commission revoke Respondent's Certificate of Public Convenience at A-00099994.

Respectfully submitted,

Wendy J. Keezel, Chief of Enforcement  
Motor Carrier Services & Enforcement Division  
Bureau of Transportation and Safety  
P. O. Box 3265  
Harrisburg, PA 17105-3265

#### VERIFICATION

I, Wendy J. Keezel, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect to be able to prove the same at any hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: \_\_\_\_\_

Wendy J. Keezel, Chief of Enforcement  
Motor Carrier Services and Enforcement  
Bureau of Transportation and Safety

#### NOTICE

A. You must file an Answer within twenty days of the date of service of this Complaint. The date of service is the mailing date, as indicated at the top of the Secretarial

Cover Letter for this Complaint and Notice, 52 Pa. Code § 1.56(a). An Answer is a written explanation of circumstances wished to be considered in determining the outcome. The Answer shall raise all factual and legal arguments that you wish to claim in your defense and must include the reference number of this Complaint. Your Answer must be verified and the original and three copies sent to:

James J. McNulty, Secretary  
Pennsylvania Public Utility Commission  
P. O. Box 3265  
Harrisburg, PA 17105-3265

B. If you fail to answer this Complaint within twenty days, a Secretarial Letter will be issued which imposes a penalty, including the revocation of your Certificate of Public Convenience.

C. If you file an Answer which admits or fails to deny the allegations of the Complaint, a Secretarial Letter will be issued which imposes a penalty, including the revocation of your Certificate of Public Convenience.

D. If you file an Answer which contests the Complaint, the matter will be assigned to an Administrative Law Judge for hearing and decision.

E. If you have questions regarding this Complaint, or if you would like an alternative format of this Complaint for persons with disabilities, please contact the Compliance Office at (717) 787-1227.

JAMES J. McNULTY,  
Secretary

[Pa.B. Doc. No. 10-129. Filed for public inspection January 15, 2010, 9:00 a.m.]

## PHILADELPHIA REGIONAL PORT AUTHORITY

### Condensed Statement of Changes in Net Assets

June 30, 2009 and 2008  
AUDITED

	<i>Year to Date June 30, 2009</i>	<i>Year to Date June 30, 2008</i>
Total Revenues	\$ 7,070,460	\$ 6,078,628
Total Operating Expenses	\$ 25,271,069	\$ 25,133,392
Operating Gain (Loss)	\$ (18,200,609)	\$ (19,054,764)
Net Nonoperating Revenues (Expenses)	\$ 11,833,347	\$ 11,203,665
(Loss) Gain Before Capital Grants	\$ (6,367,262)	\$ (7,851,099)
Capital Grants and Appropriations	\$ 70,337,647	\$ 45,918,376
Change in Net Assets	\$ 63,970,385	\$ 38,067,277
Net Assets, Beginning of Year	\$ 90,083,951	\$ 52,016,674
Net Assets, End of Year	\$ 154,054,336	\$ 90,083,951

JAMES T. McDERMOTT, Jr.,  
Executive

[Pa.B. Doc. No. 10-130. Filed for public inspection January 15, 2010, 9:00 a.m.]

# STATE BOARD OF BARBER EXAMINERS

**Bureau of Professional and Occupational Affairs v. Jeffrey L. Nelson; Doc. No. 1022-42-2008**

On August 21, 2009, Jeffrey L. Nelson, License No. BO-432236, of York, York County, was ordered to pay a civil penalty of \$500 because he operated a barber shop without a license.

Individuals may obtain a copy of the adjudication by writing to David Markowitz, Board Counsel, State Board of Barber Examiners, P. O. Box 2649, Harrisburg, PA 17105-2649.

This adjudication and order represents the State Board of Barber Examiner’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.

L. ANTHONY SPOSSEY,  
*Chairperson*

[Pa.B. Doc. No. 10-131. Filed for public inspection January 15, 2010, 9:00 a.m.]

# STATE CONSERVATION COMMISSION

**Action on Odor Management Plans for Concentrated Animal Operations, and Concentrated Animal Feeding Operations and Volunteers Complying with Pennsylvania’s Facility Odor Management Program**

The State Conservation Commission has taken the following actions on previously received applications for odor management plans under 3 Pa.C.S. §§ 501—522 (relating to nutrient management and odor management).

Persons aggrieved by any action may appeal under 3 Pa.C.S. § 517 (relating to appealable actions), section 4 of the Environmental Hearing Board Act (35 P.S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to Administrative Agency Law) to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania AT&T Relay Service at (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*. Copies of the appeal form and the Board’s rules of practice and procedure may be obtained from the Board. The appeal form and the Board’s rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

For individuals who wish to challenge an action, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, therefore individuals interested in challenging this action should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for pro bono representation. Call the Secretary of the Board at (717) 787-3483 for more information.

### Odor Management Plan—Public Notice Spreadsheet—Actions

<i>Ag Operation Name, Address</i>	<i>County/ Township</i>	<i>Animal Equivalent Units</i>	<i>Animal Type</i>	<i>New or Amended</i>	<i>Action Taken</i>
Jonas Hershberger 492 Evergreen Road Luthersburg, PA 15848	Clearfield County Brady Township	71.3	Veal	New	12/8/2009

JOHN HANGER,  
*Secretary*

[Pa.B. Doc. No. 10-132. Filed for public inspection January 15, 2010, 9:00 a.m.]

# THADDEUS STEVENS COLLEGE OF TECHNOLOGY

## Request for Bids

Thaddeus Stevens College of Technology is soliciting proposals for Bid Proposal 09-0005 for trash and garbage removal from the main campus and branch campus. Bid documents can be obtained from Nancy Froeschle, Thaddeus Stevens College, 750 East King Street, Lancaster, PA 17602, (717) 299-7787, fax (717) 391-3557 or froeschle@stevenscollege.edu.

DR. WILLIAM E. GRISCOM,  
*President*

[Pa.B. Doc. No. 10-133. Filed for public inspection January 15, 2010, 9:00 a.m.]

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## Request for Bids

Thaddeus Stevens College of Technology is soliciting bids for Bid Proposal 09-0006 for 15 passenger van rental (approximately 4,000 miles) and van shuttle service between main campus and branch campus (approximately 100 hours per week during the school year). Bid documents can be obtained from Nancy Froeschle, Thaddeus Stevens College of Technology, 750 East King Street, Lancaster, PA 17602, (717) 299-7787, fax (717) 391-3557 or froeschle@stevenscollege.edu.

DR. WILLIAM E. GRISCOM,  
*President*

[Pa.B. Doc. No. 10-134. Filed for public inspection January 15, 2010, 9:00 a.m.]

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