



Volume 40 (2010)

Pennsylvania Bulletin
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4-24-2010

April 24, 2010 (Pages 2077-2232)

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PENNSYLVANIA BULLETIN

Volume 40

Number 17

Saturday, April 24, 2010 • Harrisburg, PA

Pages 2077—2232

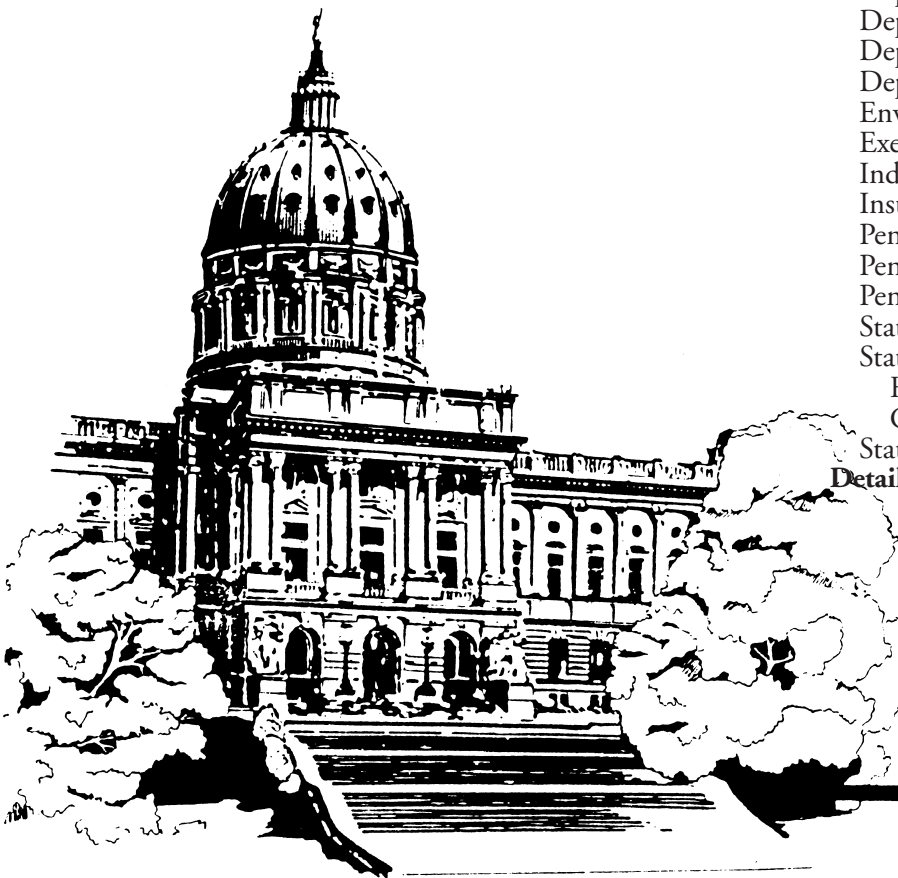
See Part II page 2211
for the Environmental Quality Board's
Dam Safety and Waterway Management

Part I

Agencies in this issue

The Courts
Delaware River Basin Commission
Department of Banking
Department of Environmental Protection
Department of Health
Department of Labor and Industry
Department of Public Welfare
Department of Revenue
Department of Transportation
Environmental Quality Board
Executive Board
Independent Regulatory Review Commission
Insurance Department
Pennsylvania Gaming Control Board
Pennsylvania Municipal Retirement Board
Pennsylvania Public Utility Commission
State Board of Chiropractic
State Board of Social Workers, Marriage and
Family Therapists and Professional
Counselors
State Conservation Commission

Detailed list of contents appears inside.



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**Latest Pennsylvania Code Reporters
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No. 425, April 2010

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PENNSYLVANIA



BULLETIN

(ISSN 0162-2137)

published weekly by Fry Communications, Inc. for the Commonwealth of Pennsylvania, Legislative Reference Bureau, 641 Main Capitol Building, Harrisburg, Pa. 17120, under the policy supervision and direction of the Joint Committee on Documents pursuant to Part II of Title 45 of the Pennsylvania Consolidated Statutes (relating to publication and effectiveness of Commonwealth Documents). Subscription rate \$82.00 per year, postpaid to points in the United States. Individual copies \$2.50. Checks for subscriptions and individual copies should be made payable to "*Fry Communications, Inc.*" Periodicals postage paid at Harrisburg, Pennsylvania.

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CONTENTS

THE COURTS

DISCIPLINARY BOARD OF THE SUPREME COURT	
Notice of administration suspension	2085

EXECUTIVE AGENCIES

DELAWARE RIVER BASIN COMMISSION

Notices	
Meeting and public hearing	2139

DEPARTMENT OF BANKING

Notices	
Actions of applications (2 documents)	2142, 2143
Maximum lawful rate of interest for residential mortgages for the month of May 2010	2144

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Proposed Rulemaking	
Dam safety and waterway management	2211

Notices	
Applications, actions and special notices	2144
Bid opportunity (3 documents)	2190
Board of Coal Mine Safety; change of meeting date	2191
Certificate Program Advisory Committee; meeting cancellation	2191
Pennsylvania Energy Development Authority \$16 million funding opportunity available	2191

DEPARTMENT OF HEALTH

Notices	
Long-term care nursing facilities; requests for exceptions	2191
Newborn Screening and Follow-Up Program Technical Advisory Board meeting	2192
Traumatic Brain Injury Advisory Board meeting ..	2192

DEPARTMENT OF LABOR AND INDUSTRY

Notices	
Uniform Construction Code (UCC) Review and Advisory Council; meeting scheduled	2192

DEPARTMENT OF PUBLIC WELFARE

Proposed Rulemaking	
Revisions to the special allowance for supportive services requirements; Road to Economic Self-sufficiency through Employment and Training (RESET) Program	2111

DEPARTMENT OF REVENUE

Notices	
Pennsylvania Super 7 Terminal-Based lottery game	2192

DEPARTMENT OF TRANSPORTATION

Rules and Regulations	
Intrastate Motor Carrier Safety Requirements	2106

Notices

Application for lease of right-of-way	2193
Finding	2193
Planting and harvesting season under the motor carrier regulations	2193

ENVIRONMENTAL QUALITY BOARD

Proposed Rulemaking	
Clarks Creek, et al.; stream redesignation	2122

EXECUTIVE BOARD

Statements of Policy	
Reorganization of the:	
Department of Transportation	2135
Office of Inspector General	2135
State Civil Service Commission	2135

INDEPENDENT REGULATORY REVIEW COMMISSION

Notices	
Action taken by the Commission	2194
Notice of comments issued	2195
Notice of filing of final rulemakings	2202

INSURANCE DEPARTMENT

Notices	
Application for the merger of Westchester Fire Insurance Company with and into Ace Indemnity Insurance Company	2203
Application and request for a certificate of authority to provide a continuing care retirement community by South Western Alpha Housing and Health Care, Inc.	2203
Insurance coverages or risks eligible for export by Insurance Commissioner	2203
McQuiston Oil; hearing	2204
Review procedure hearings under the Unfair Insurance Practices Act	2204

PENNSYLVANIA GAMING CONTROL BOARD

Rules and Regulations	
Table game general provisions, equipment and Craps and Mini-Craps	2088

PENNSYLVANIA MUNICIPAL RETIREMENT BOARD

Notices	
Hearing scheduled	2205

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Notices	
Service of notice of motor carrier applications	2205
Telecommunications	2206
Telecommunications services	2206
Water service	2206

STATE BOARD OF CHIROPRACTIC

Proposed Rulemaking	
Assistance of unlicensed supportive personnel	2128

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**STATE BOARD OF SOCIAL WORKERS, MARRIAGE
AND FAMILY THERAPISTS AND PROFESSIONAL
COUNSELORS**

Proposed Rulemaking

Licensure by endorsement; hours of supervised clinical experience 2131

STATE CONSERVATION COMMISSION

Notices

Action on Odor Management Plans for concentrated animal operations, and concentrated animal feeding operations and volunteers complying with Pennsylvania's Facility Odor Management Program 2206

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.

4 Pa. Code (Administration)

Adopted Rules

1	8
5	11, 398
6	12, 212, 399
7a	14, 16
241	971
247	972, 973
249	2015

Statements of Policy

9	888, 1406, 1926, 2135
---	-----------------------

22 Pa. Code (Education)

Adopted Rules

4	240
---	-----

25 Pa. Code (Environmental Protection)

Adopted Rules

93	1734
252	1898

Proposed Rules

23	1635
78	623
92	847
92a	847
93	2211
96	876
105	2211
121	703
127	703
129	420
208	1749
250	1297
253	1379
901	1201

40 Pa. Code (Liquor)

Adopted Rules

1	1149
3	1149
5	1149
7	1149
11	1149
13	1149
17	1149

49 Pa. Code (Professional and Vocational Standards)

Adopted Rules

16	250
18	250
25	1404
27	842
33	1082

Proposed Rules

5	1641, 2128
15	623
16	884
18	884
29	440
47	2131
48	2131
49	2131

Statements of Policy

5	1534
---	------

52 Pa. Code (Public Utilities)

Proposed Rules

23	1531
54	1763, 1764
57	1203, 1635
59	1203
62	1764
65	1203
67	1203
76	1764

Statements of Policy

69	1210
----	------

55 Pa. Code (Public Welfare)

Adopted Rules

501	29
-----	----

Proposed Rules

165	2111
-----	------

Statement of Policy

1153	1644
1187	1766
2380	1644
2600	1411
5200	1644
5210	1644
6400	1644
6500	1644

58 Pa. Code (Recreation)

Adopted Rules

61	254
73	257
75	620, 1500
79	1500
111	1503
137	1736
141	1737
147	1739
435a	975, 1082
437a	975
461a	1082
463a	1082
465a	416, 1082
491a	254
501a	1082
521	985, 1156, 1740, 2088
523	2088
527	1156
528	1740
529	844
531	985
533	985
535	1504, 1911
537	985, 2088
539	1740
541	1504
543	1504
545	1504

549 985
 551 1504
 553 1156
 555 1156
 557 1156
 559 1156
 561 1156
 563 1156
 565 1156
 567 1911

Proposed Rules

61 427
 65 427
 69 1530
 75 429
 135 1755
 139 1756
 141 1750, 1752, 1753, 1754
 143 1749, 1754
 147 1761
 433a 434

61 Pa. Code (Revenue)

Adopted Rules
 53 1746

Proposed Rules

119 1916

67 Pa. Code (Transportation)

Adopted Rules
 229 2017
 231 2106

201 Pa. Code (Judicial Administration)

Adopted Rules
 7 19
 19 218

204 Pa. Code (Judicial System General Provisions)

Adopted Rules
 83 513, 1892
 87 700
 89 700
 93 700
 213 513
 221 1997

Proposed Rules

83 1066

231 Pa. Code (Rules of Civil Procedure)

Adopted Rules
 200 19, 518, 1395, 1490
 1000 1395
 1910 413, 586
 3000 19, 700

Proposed Rules

3000 413, 1892

234 Pa. Code (Rules of Criminal Procedure)

Adopted Rules
 1 1396
 2 1397
 5 1068, 1397
 10 1068, 2012

Proposed Rules

5 21

237 Pa. Code (Juvenile Rules)

Adopted Rules
 1 222, 518
 2 222
 3 222, 1073
 4 222
 5 222, 518
 8 1073
 11 222, 518
 13 222
 16 21

246 Pa. Code (Minor Court Civil Rules)

Adopted Rules
 100 1146

Proposed Rules

500 522

249 Pa. Code (Philadelphia Rules)

Unclassified 237, 1075, 1629, 1730, 2013

252 Pa. Code (Allegheny County Rules)

Unclassified 1399

255 Pa. Code (Local Court Rules)

Unclassified 23, 24, 237, 238, 414, 415, 523, 701,
 702, 838, 840, 969, 1079, 1080, 1147, 1403, 1490,
 1498, 1629, 1630, 1632, 1730, 1731, 1732, 1733,
 1893, 1896, 1897, 2014

THE COURTS

DISCIPLINARY BOARD OF THE SUPREME COURT

Notice of Administrative Suspension

Notice is hereby given that the following attorneys have been Administratively Suspended by Order of the Supreme Court of Pennsylvania dated March 3, 2010, under Pennsylvania Rules of Disciplinary Enforcement 219 which requires that all attorneys admitted to practice in any court of this Commonwealth must pay an annual assessment of \$200. The Order became effective April 2, 2010.

Notice with respect to attorneys having Pennsylvania registration addresses, which have been transferred to inactive status by said Order, was published in the appropriate county legal journal.

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Delran, NJ

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Towson, MD

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Laredo, TX

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Attorney Registrar
The Disciplinary Board of the
Supreme Court of Pennsylvania

[Pa.B. Doc. No. 10-714. Filed for public inspection April 23, 2010, 9:00 a.m.]

RULES AND REGULATIONS

Title 58—RECREATION

PENNSYLVANIA GAMING CONTROL BOARD

[58 PA. CODE CHS. 521, 523 AND 537]

Table Game General Provisions, Equipment and Craps and Mini-Craps

The Pennsylvania Gaming Control Board (Board), under its general authority in 4 Pa.C.S. § 1303A (relating to temporary table game regulations) enacted by the act of January 7, 2010 (Act 1) and the specific authority in 4 Pa.C.S. § 1302A(1), (2) and (5) (relating to regulatory authority), adopts temporary regulations in Chapters 521, 523 and 537 (relating to general provisions; table game equipment; and Craps and Mini-Craps) to read as set forth in Annex A. The Board's temporary regulations will be added to Part VII (relating to Gaming Control Board) as part of Subpart K (relating to table games).

Purpose of the Temporary Rulemaking

This temporary rulemaking adds additional definitions, contains standards for gaming chips and plaques, dice, Sic Bo shakers, cards, dealing shoes and automated card shuffling devices and Pai Gow tiles. It also makes one minor amendment to Chapter 537.

Explanation of Chapters 521, 523 and 537

In Chapter 521, definitions of the terms "assistant table games shift manager," "pit manager," "Poker shift manager" and "table games shift manager" have been added to § 521.1 (relating to definitions).

A new Chapter 523 is being added which contains standards and procedures related to the equipment that is necessary to conduct table games. Section 523.1 adds definitions for a number of terms used in this chapter.

Section 523.2 (relating to gaming chips; physical characteristics applicable to all gaming chips, issuance and use, promotional non-gaming chips) sets forth the general design requirements for gaming chips and the process for the review of the designs by the Bureau of Gaming Operations.

Sections 523.3, 523.4, 523.6 and 523.7 establish the detailed specifications which each of these types of chips must meet.

Sections 523.5 and 523.8 (relating to nonvalue chips; permitted uses, inventory and impressment; and additional sets of gaming chips) address the use of nonvalue chips and related inventory requirements and the requirements for back-up sets of gaming chips.

Section 523.9 (relating to gaming plaques; issuance and use, denominations and physical characteristics) contains requirements for plaque design and use, which are similar to the provisions in this chapter related to gaming chips.

Sections 523.10 and 532.11 (relating to exchange and redemption of gaming chips and plaques; and receipt of gaming chips or plaques from a manufacturer or supplier; inventory, security, storage and destruction of chips and plaques) specify the procedures that are to be followed for the redemption of gaming chips and plaques and all of the requirements for the receipt, storage, distribution, inventory and destruction of gaming chips and plaques.

Sections 532.12, 523.13, 523.15, 523.16 and 523.18 set forth the requirements for dice, cards and Pai Gow tiles respectively, in a format that is similar to the format used for the requirements for gaming chips.

Sections 523.14 and 523.17 (related to Sic Bo shaker security procedures; and dealing shoes; automated card shuffling devices) establish the minimum requirements for Sic Bo dice shakers, card dealing shoes and automated card shufflers.

Additionally, one minor revision has been made to § 537.7 (relating to dice retention and selection) to require the sets of dice used for Craps and Mini-Craps to consist of five dice instead of "at least" five dice to make this requirement consistent with the requirements pertaining to dice in Chapter 523.

Affected Parties

Slot machine licensees who elect to become certificate holders will be required to purchase equipment which complies with the standards contained in this rulemaking. Manufacturers of these items will have to meet the specifications set forth in this rulemaking for their products that are offered for sale in this Commonwealth.

The Board will experience increased regulatory demands resulting from this rulemaking associated with the testing, review and approval of the equipment covered by this rulemaking.

Fiscal Impact

Commonwealth

The Board expects that it will experience increased costs related to the testing, review and approval of the equipment covered by this rulemaking used to conduct table games and the review of the internal controls governing the storage and use of this equipment. Because the Board is just starting to receive petitions from slot machine licensees seeking permission to conduct table games, the exact extent of these additional costs are not known. However, the Board does not expect these increased costs to exceed the additional funding provided to the Board under Act 1.

Political Subdivisions

This rulemaking will have no direct fiscal impact on political subdivisions of this Commonwealth. Eventually, host municipalities and counties will benefit from the local share funding that is mandated by Act 1.

Private Sector

This rulemaking will result in additional costs for slot machine licensees who elect to become certificate holders. More specifically, certificate holders will be required to purchase equipment which meets the standards contained in this rulemaking to conduct the table games they elect to offer. While these costs will be significant, they will be offset by the revenues generated from the table games.

General Public

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

Paperwork Requirements

This rulemaking will require certificate holders to develop internal controls and inventory systems governing the use of this equipment.

Effective Date

This temporary rulemaking will become effective upon publication in the *Pennsylvania Bulletin*.

Public Comments

While this rulemaking will be effective upon publication, the Board is seeking comments from the public and affected parties as to how these temporary regulations might be improved. Interested persons are invited to submit written comments, suggestions or objections regarding this temporary 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 #125-116.

Contact Person

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

Regulatory Review

Under 4 Pa.C.S. § 1303A, the Board is authorized to adopt temporary regulations which are not subject to the provisions of: sections 201—205 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201—1208), referred to as the Commonwealth Documents Law; the Regulatory Review Act (71 P. S. §§ 745.1—745.12); and sections 204(b) and 301(10) of the Commonwealth Attorneys Act (71 P. S. §§ 732-204(b) and 732-301(10)). These temporary regulations shall expire 2 years after publication in the *Pennsylvania Bulletin*.

Findings

The Board finds that:

(1) Under 4 Pa.C.S. § 1303A, the temporary regulations are exempt from the requirements of the Regulatory Review Act, sections 201—205 of the Commonwealth Documents Law and sections 204(b) and 301(10) of the Commonwealth Attorney Act.

(2) The adoption of the temporary regulations 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:

(1) The regulations of the Board, 58 Pa. Code Chapters 521, 523 and 537, are amended by amending §§ 521.1 and 537.7 and adding §§ 523.1—523.18 to read as set forth in Annex A.

(2) The temporary regulations are effective April 24, 2010.

(3) The temporary regulations will be posted on the Board's web site and published in the *Pennsylvania Bulletin*.

(4) The temporary regulations shall be subject to amendment as deemed necessary by the Board.

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

GREGORY C. FAJT,
Chairperson

Fiscal Note: 125-116. No. fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART VII. GAMING CONTROL BOARD

Subpart K. TABLE GAMES

CHAPTER 521. GENERAL PROVISIONS

§ 521.1. Definitions.

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

Assistant table games shift manager—An employee of a certificate holder whose primary function is to supervise all of the table games in a licensed facility and who may be authorized to act as the table games shift manager in his absence.

Automated card shuffling device—A software compatible mechanical or electronic contrivance that automatically randomizes playing cards, either continuously or on command, to be utilized for table gaming activity.

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Pit manager—An employee of a certificate holder whose primary function is to supervise all of the table games in one or more gaming pits.

* * * * *

Poker shift manager—An employee of a certificate holder whose primary function is to supervise all of the Poker tables in a Poker room.

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Table games shift manager—An employee of a certificate holder whose primary function is to supervise all of the table game operations in a licensed facility during a shift.

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CHAPTER 523. TABLE GAME EQUIPMENT

Sec.	Definitions.
523.1.	Gaming chips; physical characteristics applicable to all gaming chips, issuance and use, promotional nongaming chips.
523.2.	Value chips; denominations and physical characteristics.
523.3.	Nonvalue chips; physical characteristics.
523.4.	Nonvalue chips; permitted uses, inventory and impressment.
523.5.	Tournament chips.
523.6.	Poker rake chips.
523.7.	Additional sets of gaming chips.
523.8.	Gaming plaques; issuance and use, denominations and physical characteristics.
523.9.	Exchange and redemption of gaming chips and plaques.
523.10.	Receipt of gaming chips or plaques from a manufacturer or supplier; inventory, security, storage and destruction of chips and plaques.
523.11.	Dice; physical characteristics.
523.12.	Dice; receipt, storage, inspections and removal from use.
523.13.	Sic Bo shaker security procedures.
523.14.	Cards; physical characteristics.
523.15.	Cards; receipt, storage, inspections and removal from use.
523.16.	Dealing shoes; automated card shuffling devices.
523.17.	Pai Gow tiles; receipt, storage, inspections and removal from use.
523.18.	

§ 523.1. Definitions.

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

Chip runner—An employee of a certificate holder whose job duties include transporting cash to the Poker room cage or the Poker cashier window at the main cage for dealers or patrons of the Poker room to be exchanged for value chips.

Edge—The surface of a gaming chip across which its thickness can be measured in a perpendicular line from one face to the other.

Edge spot—An identifying characteristic used on the edge of each value chip issued by a certificate holder.

Face—Each of the two surfaces of a gaming chip across which the diameter of the gaming chip can be measured.

Nonvalue chip—A gaming chip which does not contain a denomination on either face which is used for wagering at the game of Roulette.

Primary color—The predominant color used on a value chip.

Secondary color—Any color, other than that value chip's primary color, on the face or edge of the value chip that is used as a contrast to the value chip's primary color.

Tournament chip—A gaming chip used for wagering in a table game tournament or Poker tournament.

Value chip—A gaming chip which contains a denomination on each face.

§ 523.2. Gaming chips; physical characteristics applicable to all gaming chips, issuance and use, promotional nongaming chips.

(a) Each gaming chip issued by a certificate holder must be in the form of a disk.

(b) A gaming chip may not be issued by a certificate holder or utilized in a licensed facility until:

(1) The design specifications of the proposed gaming chip are submitted to and approved by the Bureau of Gaming Operations. The design specifications submitted to the Bureau of Gaming Operations must include a detailed schematic depicting the actual size and, as appropriate, location of the following:

(i) Each face, including any indentations or impressions.

(ii) The edge.

(iii) Any colors, words, designs, graphics or security measures contained on the gaming chip.

(2) A sample of each denomination of gaming chip, manufactured in accordance with its approved design specifications, made available to the Bureau of Gaming Operations for its inspection and approval at the certificate holder's licensed facility.

(c) Each gaming chip issued by a certificate holder shall be designed and manufactured with sufficient graphics or other security measures, including, at a minimum, those items specifically required to appear on the face or edge of a gaming chip under this section and § 523.3 (relating to value chips; denominations and physical characteristics), to prevent, to the greatest extent possible, the counterfeiting of the gaming chip.

(d) A certificate holder may not issue, use or allow a patron to use in its licensed facility any gaming chip that it knows, or reasonably should know, is materially different from the sample of that gaming chip approved by the Bureau of Gaming Operations under this section.

(e) A certificate holder or other person licensed by the Board may not manufacture for, sell to, distribute to or use in any licensed facility outside of this Commonwealth, any gaming chips having the same edge spot and design specifications as those approved for use in a licensed facility in this Commonwealth.

(f) A certificate holder may issue promotional nongaming chips that are prohibited from use in gaming in any licensed facility. The physical characteristics of promotional nongaming chips must be sufficiently distinguishable from approved design specifications of any gaming chip issued by any certificate holder in this Commonwealth to reasonably ensure that the promotional nongaming chips will not be confused with authorized gaming chips. At a minimum, promotional nongaming chips must:

(1) Be unique in terms of size or color.

(2) Have no edge designs used on any gaming chips.

(3) Bear the name of the certificate holder issuing the promotional nongaming chips and language on both faces stating that the promotional nongaming chips have no redeemable value.

§ 523.3. Value chips; denominations and physical characteristics.

(a) Certificate holders may issue and use value chips in denominations of \$1, \$2.50, \$5, \$25, \$100, \$500, \$1,000 and \$5,000 and other denominations approved by the Bureau of Gaming Operations.

(b) The primary color used for each denomination of a value chip must be in accordance with the colors specified in subsection (c). A primary color may not be used as a secondary color on a value chip of another denomination where its use on the edge is reasonably likely to cause confusion as to the chip's denomination when the edge alone is visible.

(c) Each gaming chip manufacturer shall submit sample color disks to the Bureau of Gaming Operations that identify all primary and secondary colors to be used for the manufacture of gaming chips for certificate holders in this Commonwealth. Once a gaming chip manufacturer has received approval for a primary or secondary color, those colors shall be consistently manufactured in accordance with the approved samples. For a primary color to be approved for use, it must visually appear, when viewed either in daylight or under incandescent light, to comply with the following colors:

(1) \$1—White.

(2) \$2.50—Pink.

(3) \$5—Red.

(4) \$25—Green.

(5) \$100—Black.

(6) \$500—Purple.

(7) \$1,000—Fire Orange.

(8) \$5,000—Gray.

(d) Each value chip issued by a certificate holder must contain identifying characteristics that may appear in any location at least once on each face of the gaming chip and are applied in a manner which ensures that each identifying characteristic is clearly visible and remains a permanent part of the gaming chip. These characteristics must be visible to surveillance employees using the licensed facility's surveillance system and, at a minimum, include:

(1) The denomination of the value chip, expressed in numbers.

(2) The name, logo, or other approved identification of the certificate holder issuing the value chip.

(3) The letters "PA" and the name of the city in which the licensed facility is located.

(4) The primary color of the value chip.

(e) In addition to the characteristics specified in subsection (d), each value chip in a denomination of \$25 or more must contain a design or other identifying characteristic that is unique to the gaming chip manufacturer. Upon approval of a particular design or characteristic by the Bureau of Gaming Operations, the gaming chip manufacturer shall thereafter have the exclusive right to use that design or characteristic on any denomination of value chip. The approved unique design or characteristic may be used on all chips manufactured for use in this Commonwealth and may only be changed upon a showing by the gaming chip manufacturer that, despite the change, each value chip in a denomination of \$25 or more must nonetheless be readily identifiable as having been produced by that manufacturer.

(f) Each value chip issued by a certificate holder must contain an edge spot, which:

(1) Is applied in a manner which ensures that the edge spot:

(i) Is clearly visible on the edge and, to the extent required by the Bureau of Gaming Operations, on each face of the value chip.

(ii) Remains a permanent part of the value chip.

(2) Is created by using both:

(i) The primary color of the chip.

(ii) One or more secondary colors.

(3) Includes a design, pattern or other feature that a natural person with adequate training could readily use to identify, when viewed through the surveillance system of the certificate holder, the denomination of the particular value chip when placed in a stack of gaming chips, in the table inventory or in any other location where only the edge of the value chip is visible; provided, however, that the design, pattern or feature created by the primary and secondary colors required under paragraph (2) is sufficient by itself to satisfy the requirements of this paragraph if approved for that purpose by the Bureau of Gaming Operations.

(g) When determining the secondary colors to be used to make the edge spot on a particular denomination of value chip, a certificate holder shall, unless otherwise approved by the Bureau of Gaming Operations, use only those secondary colors that are reasonably likely to differentiate the certificate holder's value chip from the same denomination of value chip issued by any other certificate holder.

(h) If an approved value chip uses a single secondary color, no other certificate holder may use a similar secondary color as the sole secondary color on the same denomination of value chip unless it is used in a different pattern or design approved by the Bureau of Gaming Operations under subsection (f)(3).

(i) If an approved value chip uses a combination of two or more secondary colors, no other certificate holder may use that identical combination of secondary colors on the same denomination of value chip unless it is used in a different pattern or design approved by the Bureau of Gaming Operations under subsection (f)(3).

(j) Any value chip issued by a certificate holder in the denomination of:

(1) Less than \$500, must have a uniform diameter of 1 and 9/16ths inches.

(2) \$500, must have a uniform diameter of 1 and 9/16ths inches or one and 11/16ths inches.

(3) \$1,000 or more must have a uniform diameter of 1 and 11/16ths inches.

(k) Each value chip with a denomination below \$25 must contain at least one anticounterfeiting measure and each value chip with a denomination of \$25 or more must contain at least three anticounterfeiting measures in addition to those items specifically required to appear on the face or edge of a value chip by this section.

§ 523.4. Nonvalue chips; physical characteristics.

(a) Each nonvalue chip utilized in a licensed facility shall be issued solely for the purpose of gaming at Roulette.

(b) Each nonvalue chip issued by a certificate holder must contain identifying characteristics that may appear in any location at least once on each face of the gaming chip and applied in a manner which ensures that each characteristic is clearly visible and remains a permanent part of the gaming chip. The characteristics required under paragraphs (1) and (2) shall be applied in a manner to be visible to surveillance employees using the licensed facility's surveillance system. The identifying characteristics of a nonvalue chip, at a minimum, must include:

(1) The name, logo or other approved identification of the certificate holder issuing the nonvalue chip.

(2) A unique design, insert or symbol that will permit a set of nonvalue chips being used at a particular gaming table to be distinguished from the nonvalue chips being used at every other gaming table in the licensed facility.

(3) The word "Roulette."

(4) Color and design combinations, approved by the Bureau of Gaming Operations, so as to readily distinguish the nonvalue chips of each player at a particular gaming table from:

(i) The nonvalue chips of every other player at the same gaming table.

(ii) The value chips issued by any certificate holder.

(c) Each nonvalue chip issued by a certificate holder must contain an edge spot, which:

(1) Is applied in a manner which ensures that the edge spot:

(i) Is clearly visible on the edge and, to the extent required by the Bureau of Gaming Operations, on each face of the nonvalue chip.

(ii) Remains a permanent part of the nonvalue chip.

(2) Is created by using the colors approved for the face of the particular nonvalue chip under subsection (b)(4) in combination with one or more other colors that provide a contrast with the color on the face of the nonvalue chip and that enable the nonvalue chip to be distinguished from the nonvalue chips issued by any other certificate holder.

(3) Include a design, pattern or other feature approved by the Bureau of Gaming Operations that a natural person with adequate training could readily use to identify, when viewing the nonvalue chip through the surveillance system of the certificate holder, the player to whom the nonvalue chip has been assigned when the nonvalue chip is placed in a stack of gaming chips or in any other location where only the edge of the nonvalue chip is visible; provided, however, that the design, pattern or

feature created by the colors required under paragraph (2) is sufficient by itself to satisfy the requirements of this paragraph if approved for that purpose by the Bureau of Gaming Operations.

§ 523.5 Nonvalue chips; permitted uses, inventory and impressment.

(a) Each nonvalue chip shall be assigned to a particular Roulette table and be issued and used for gaming at that table only. All nonvalue chips utilized at a particular Roulette table must have the same design, insert or symbol as required under § 523.4(b)(2) (relating to nonvalue chips; physical characteristics). A certificate holder or any employee thereof may not allow a patron to remove a nonvalue chip from the Roulette table at which it was issued.

(b) A patron at a Roulette table may not be issued or permitted to game with nonvalue chips that are identical in color and design to any nonvalue chip issued to any other patron at the same table. When a patron purchases nonvalue chips, a nonvalue chip of the same color and design shall be placed in a slot or receptacle attached to the outer rim of the roulette wheel or in another device or location approved by the Bureau of Gaming Operations. At that time, a marker button denoting the value of a stack of 20 nonvalue chips of the same color and design shall be placed in the slot, receptacle or other device. For example, a marker button with 100 imprinted on it would be placed in the receptacle to designate that, during the patron's play on that occasion, the nonvalue chips of that color and design are each worth \$5.

(c) An impressment of the nonvalue chips assigned to each Roulette table shall be completed at least once every 30 days. The certificate holder shall record the results of the impressment in the chip inventory ledger required under § 523.11 (relating to receipt of gaming chips or plaques from a manufacturer or supplier; inventory, security, storage and destruction of chips and plaques) and perform the impressment as follows:

(1) A floorperson or above shall complete a Nonvalue Chip Impressment Form to record missing or excess chips and deliver the form and any excess chips to the main bank or chip bank.

(2) Upon receipt of the Nonvalue Chip Impressment Form, a main bank cashier or chip bank cashier shall, if appropriate, immediately prepare any chips needed to impress the table.

(3) The floorperson or above shall then, if applicable, deliver the nonvalue chips needed to restore the impress to the appropriate Roulette table.

(d) The completed Nonvalue Chip Impressment Form shall be maintained by the accounting department and contain, at a minimum, the following:

- (1) The date and time of preparation.
- (2) The design schematic of the chip including its primary color and the applicable table number.
- (3) The signature of the floorperson or above who completes the Nonvalue Chip Impressment Form and the impressment for the table.
- (4) The signature of the main bank cashier or chip bank cashier who reviewed the Nonvalue Chip Impressment Form and, if necessary, issued the chips to restore the impressment.

(e) Each certificate holder shall record in the chip inventory ledger required under § 523.11 and submit to the Bureau of Gaming Operations, a monthly summary of

the nonvalue chip inventory for each Roulette table. This monthly summary must include, at a minimum, the following information for each nonvalue chip color and design:

- (1) The balance on hand at the beginning of the month.
- (2) The number of nonvalue chips distributed to the Roulette table during the month.
- (3) The number of nonvalue chips returned to inventory during the month.
- (4) The balance on hand at the end of the month.

§ 523.6. Tournament chips.

(a) If a certificate holder conducts table game tournaments, the tournaments shall be conducted using tournament chips.

(b) The identifying characteristics of a tournament chip, at a minimum, must include:

- (1) The name, logo or other approved identification of the certificate holder using the tournament chip.
- (2) The word "Tournament."
- (3) The denomination of the chip.
- (4) The phrase "No Cash Value."
- (5) Color or design combinations, approved by the Bureau of Gaming Operations, to readily distinguish the tournament chips from:

(i) The nonvalue chips used for the play of Roulette at the licensed facility.

(ii) The value chips issued by any certificate holder.

(iii) Poker room rake chips.

(c) Tournament chips shall be stored in a secure area approved by the Bureau of Gaming Operations.

(d) An inventory of all tournament chips to be used in a tournament shall be conducted by the certificate holder prior to the start and after the completion of each tournament. A copy of the inventory report shall be submitted to the Bureau of Gaming Operations no later than 2 days following the conclusion of the tournament.

§ 523.7. Poker rake chips.

(a) To facilitate the collection of the rake, a certificate holder may use Poker rake chips in the Poker room.

(b) Poker rake chips shall only be used by dealers and may only be substituted for value chips that have been collected as part of the rake prior to the rake being placed in the drop box.

(c) Unused Poker rake chips shall be kept by the dealer in the table inventory container.

(d) The denominations that may be used for Poker rake chips are \$2, \$3 or \$4.

(e) The identifying characteristics of a Poker rake chip, at a minimum, must include:

- (1) The name, logo or other approved identification of the certificate holder.
- (2) The words "Poker Rake Chip."
- (3) One of the following denominations: "\$2," "\$3" or "\$4."

(4) Color or design combinations, approved by the Bureau of Gaming Operations, to readily distinguish the Poker rake chips from:

(i) The nonvalue chips used for the play of Roulette at the licensed facility.

(ii) The tournament chips used for tournament play at the licensed facility.

(iii) The value chips issued by any certificate holder.

§ 523.8. Additional sets of gaming chips.

(a) Within 120 days of the commencement of table games at a licensed facility, the certificate holder shall also have at least one approved set of value gaming chips that may be used as a back-up for the \$25, \$100 and \$500 value gaming chips in active use. Each back-up set of value chips maintained for use by a certificate holder must have secondary colors that are different from the secondary colors of the value chips in active use. All back-up sets of value chips must conform to the color and design requirements in this chapter.

(b) Each certificate holder shall have a reserve set of nonvalue chips for each color utilized in the licensed facility with a design insert or symbol different from the nonvalue chips comprising the primary set. All back-up sets of nonvalue chips must conform to the color and design requirements contained in this chapter.

(c) A certificate holder shall notify the Bureau of Gaming Operations within 24 hours of the discovery of counterfeit chips.

(d) The certificate holder shall remove a set of gaming chips in use from active play whenever:

(1) It is believed the licensed facility is taking on multiple counterfeit chips valued at \$25 or more.

(2) Any other impropriety or defect in the utilization of a set of chips makes removal of the chips in active use necessary.

(3) The Board or its Executive Director directs that a set of chips be removed from active use.

(e) An approved back-up set of value chips or a reserve set of nonvalue chips shall be placed into active play whenever an active set is removed.

(f) Whenever a set of chips in active use is removed from play, the certificate holder shall immediately notify the Bureau of Gaming Operations of the removal and the reasons for the removal.

(g) Each set of gaming chips that the Bureau of Gaming Operations approves for use by a certificate holder shall receive a unique and permanent alphabetical designation. This designation shall be assigned by the certificate holder during the design schematic approval process and be used for all inventory procedures required under § 523.11 (relating to receipt of gaming chips or plaques from a manufacturer or supplier; inventory, security, storage and destruction of chips and plaques).

§ 523.9. Gaming plaques; issuance and use, denominations and physical characteristics.

(a) Gaming plaques issued by a certificate holder must be a solid, one-piece object constructed entirely of plastic or other substance approved by the Bureau of Gaming Operations and have no more than six, and at least two, smooth, plane surfaces. At least two of the plane surfaces, each to be known as a face, must be opposite and parallel to each other and identical in shape, which must be either a square, rectangle or ellipse. Other surfaces of a gaming plaque shall be known collectively as the edge.

(b) Gaming plaques may not be issued by a certificate holder or utilized in a licensed facility unless:

(1) The design specifications of the proposed gaming plaque are submitted to and approved by the Bureau of Gaming Operations. The submission must include a detailed schematic depicting the actual size and, as appropriate, location of the following:

(i) Each face.

(ii) The edge.

(iii) Any colors, words, designs, graphics or security measures contained on the gaming plaque including the minimum identifying characteristics in subsection (f).

(2) A sample gaming plaque of each denomination to be used, manufactured in accordance with its approved design specifications, is made available to the Bureau of Gaming Operation for its inspection and approval at the certificate holder's licensed facility.

(3) A system of internal procedures and administrative and accounting controls, governing the distribution, redemption, receipt and inventory of gaming plaques, by serial number, is submitted and approved as part of the certificate holder's internal controls.

(c) The face of a square gaming plaque must have a surface area of at least 9 square inches. The face of a rectangular or elliptical gaming plaque must be no smaller than 3 inches in length by 2 inches in width. In the case of an elliptical gaming plaque, the length and width of the plaque shall be measured at its axes.

(d) A gaming plaque issued by a certificate holder shall be designed and manufactured with sufficient graphics or other security measures to prevent, to the greatest extent possible, the counterfeiting of the gaming plaque.

(e) A certificate holder may issue and use gaming plaques in denominations of \$5,000 or \$10,000 and other denominations approved by the Bureau of Gaming Operations. Each gaming plaque of a specific denomination utilized by a certificate holder must be in a shape and of a size, approved by the Bureau of Gaming Operations, which is identical to the shape and size of all other gaming plaques of that denomination issued by the certificate holder. The size and shape of each denomination of gaming plaque issued by a certificate holder must be readily distinguishable from the size and shape of every other denomination of gaming plaque issued by the certificate holder.

(f) Each gaming plaque issued by a certificate holder must contain identifying characteristics which appear at least once on each face of the gaming plaque and be applied in a manner which ensures that each characteristic is clearly visible to surveillance employees using the licensed facility's surveillance system and remains a permanent part of the gaming plaque. These characteristics, at a minimum, include:

(1) The denomination of the gaming plaque, expressed in numbers of at least 3/8 inch in height.

(2) The name, logo or other approved identification of the certificate holder issuing the gaming plaque.

(3) A unique serial number.

(g) A certificate holder may not issue, use or allow a patron to use in its licensed facility any gaming plaque that it knows, or reasonably should know, is materially different from the sample of that gaming plaque approved by the Bureau of Gaming Operations.

§ 523.10. Exchange and redemption of gaming chips and plaques.

(a) Wagering on table games in a licensed facility shall be conducted with gaming chips or plaques.

(b) Value chips previously issued by a certificate holder, which are not in active use by that certificate holder, may not be used for wagering or any other purpose in a licensed facility and shall only be redeemed at the cashiers' cage or Poker room cage as provided in subsection (h).

(c) Gaming chips or plaques shall be issued to a patron only at the request of the patron and may not be given as change in any transaction other than a gaming transaction. Gaming chips and plaques shall be issued to patrons by:

- (1) Dealers at a banking or nonbanking table game.
- (2) The Poker room cage or the Poker window cashier at the main cage.
- (3) Chip runners to patrons seated at a poker table at which a game is in progress.

(d) Gaming plaques and value chips shall only be redeemed by patrons at the cashiers' cage or Poker room cage.

(e) Except as provided in subsections (k) and (l) and as otherwise may be specifically approved by the Board, each certificate holder shall redeem its gaming chips and plaques only from patrons and may not knowingly redeem gaming chips and plaques from any nonpatron source.

(f) Nonvalue chips shall be presented for redemption only at the Roulette table from which they were issued and may not be redeemed or exchanged at any other location within a licensed facility. When nonvalue chips are presented for redemption, the dealer shall accept them in exchange for an equivalent amount of value chips which may then be used by the patron in gaming or redeemed in the same manner as any other value chip.

(g) A certificate holder shall have the discretion to permit, limit or prohibit the use of value chips in gaming at Roulette in accordance with its Rules Submission submitted under § 521.2 (relating to table games Rules Submission); provided however, that when value chips are in use at Roulette, it shall be the responsibility of the certificate holder and its employees to keep accurate account of the wagers being made with value chips so that the wagers made by one player are not confused with the wagers made by another player at the table.

(h) Each gaming chip and plaque is solely evidence of a debt that the issuing certificate holder owes to the person legally in possession of the gaming chip or plaque, and shall remain the property of the issuing certificate holder. A certificate holder shall have the right at any time to demand that a person in possession of a gaming chip or plaque surrender the gaming chip or plaque for redemption in accordance with subsection (i).

(i) A certificate holder shall redeem promptly its own genuine gaming chips and gaming plaques presented by a patron in person, unless the gaming chips or plaques were obtained or are being used unlawfully. A certificate holder shall redeem its value chips or gaming plaques by:

- (1) Exchanging the value chips or gaming plaques for an equivalent amount of cash.
- (2) Upon request by a patron, exchanging the value chips or gaming plaques for a check issued by the certificate holder in the amount of the value chips or gaming plaques surrendered and dated the day of the redemption.

(j) Notwithstanding subsection (i), if a patron requests by mail to redeem value chips in any amount, a certificate holder may effectuate the redemption in accordance

with internal controls approved by the Board which, at a minimum, must detail procedures for the issuance of a check from the certificate holder and the transfer of the surrendered value chips to the chip bank in a transaction fully supported by proper documentation.

(k) A certificate holder shall accept, exchange, use or redeem only gaming chips or plaques that the certificate holder has issued and may not knowingly accept, exchange, use or redeem gaming chips or plaques, or objects purporting to be gaming chips or plaques, that have been issued by any other certificate holder, except that a certificate holder may accept and redeem:

(1) Gaming chips or plaques issued by another certificate holder from a patron upon the patron's representation that the gaming chips or plaques had been purchased or received as payment in a gaming transaction from an employee of the certificate holder working on the premises of the certificate holder.

(2) Gaming chips issued by any other certificate holder from one of the certificate holder's employees who is authorized to receive gratuities, upon the employee's representation that the chips were received as gratuities in the normal course of the employee's duties while on the premises of the certificate holder.

(l) Employees of a certificate holder who are authorized to receive gaming chips as personal gratuities may redeem the gaming chips at the cashiers' cage or at another secure location in the licensed facility as approved by the Board. Gaming chips redeemed by employees at a noncage employee redemption site shall be exchanged on a daily basis with the cashiers' cage in accordance with procedures approved by the Board.

(m) A certificate holder shall redeem promptly its own genuine value chips and gaming plaques presented to it by any other legally operated certificate holder upon the representation that the value chips and gaming plaques were received or accepted unknowingly, inadvertently or in error or were redeemed in accordance with subsection (k). Each certificate holder shall submit to the Board for approval as part of the certificate holder's internal controls a system for the exchange, with other legally operated certificate holders, of value chips and gaming plaques that:

(1) Are in the certificate holder's possession and that have been issued by any other legally operated certificate holder.

(2) It has issued and that are presented to it for redemption by any other legally operated certificate holder.

(n) Each certificate holder shall post, in a prominent place on the front of the cashiers' cage, any satellite cage and the Poker room cage, a sign that reads as follows:

"Gaming chips or plaques issued by another licensed facility may not be used, exchanged or redeemed in this licensed facility."

§ 523.11. Receipt of gaming chips or plaques from a manufacturer or supplier; inventory, security, storage and destruction of chips and plaques.

(a) When gaming chips or plaques are received from a manufacturer or supplier, the chips or plaques shall be unloaded under the supervision of at least two people, one of whom shall be a supervisor from the finance department and one employee from the security department, and transported to a secure area which is covered by the slot machine licensee's surveillance system. The chips or plaques shall then be opened and checked by at least two

people, one of whom shall be a supervisor from the finance department and one employee from the security department. Any deviation between the invoice accompanying the gaming chips and plaques and the actual chips or plaques received or any defects found in the chips or plaques shall be reported promptly to the Bureau of Gaming Operations.

(b) After checking the gaming chips or plaques received, the certificate holder shall record, in a chip inventory ledger, the assigned alphabetical designation, the denomination of the value chips and gaming plaques received, the number of each denomination, and when applicable the serial numbers, of the value chips and gaming plaques received, the number and description of all nonvalue chips received, the date of the receipt and the signatures of the individuals who checked the chips and plaques. If the gaming chips are not to be put into active use, the ledger must also identify the storage location.

(c) Gaming chips or plaques not in active use shall be stored in one of the following:

(1) A vault located in the main bank or other restricted storage area approved by the Bureau of Gaming Operations.

(2) Locked cabinets in the cashiers' cage.

(d) Gaming chips or plaques may not be stored in the same storage area as dice, cards, Pai Gow tiles or any other gaming equipment.

(e) Whenever any gaming chips or plaques are taken from or returned to an approved storage area, at least two individuals, one of whom shall be a supervisor from the finance department and one employee from the security department, shall be present, and the following information shall be recorded in the chip inventory ledger together with the date and signatures of the individuals involved:

(1) The alphabetical designation and if applicable, any numeric designation.

(2) The number, and when applicable, the serial numbers and dollar amount for each denomination of value chip or gaming plaque removed or returned.

(3) The number and description of the nonvalue chips removed or returned.

(4) The specific storage area being entered.

(5) The reason for the entry into the storage area.

(f) At the end of each gaming day, a certificate holder shall compute and record the unredeemed liability for each denomination of value chips and gaming plaques. At least once every 30 days, each certificate holder shall inventory all sets of value chips and gaming plaques in its possession and record the result of the inventory in the chip inventory ledger. The procedures to be utilized to compute the unredeemed liability and to inventory value chips and gaming plaques shall be submitted as part of the certificate holder's internal controls to the Board for approval. A physical inventory of value chips and gaming plaques not in active use shall only be required annually if the inventory procedures incorporate the sealing of the locked compartment containing the value chips and gaming plaques not in active use.

(g) Prior to the destruction of gaming chips and plaques, the certificate holder shall notify the Bureau of Gaming Operations, in writing, of the date and the location at which the destruction will be performed, the denomination, number, and when applicable, the serial

numbers and amount of value chips and plaques to be destroyed, the description and number of nonvalue chips to be destroyed and a detailed explanation of the method of destruction. Unless otherwise authorized by the Bureau of Gaming Operations, the destruction of gaming chips and plaques shall be carried out in the presence of at least two employees of the certificate holder, one of whom shall be from the finance department of the certificate holder and one of whom shall be from any other mandatory department of the certificate holder. The denomination, number, and when applicable, the serial numbers and amount of value chips and plaques or, in the case of nonvalue chips, the description and number destroyed shall be recorded in the chip inventory ledger together with the signatures of the individuals carrying out the destruction, and the date on which the destruction took place. The certificate holder shall also maintain a written log of the names and license, permit or registration numbers of the employees involved in each destruction, as well as the names and addresses of nonemployees involved.

(h) A certificate holder shall ensure that at all times there is adequate security, as approved by the Bureau of Gaming Operations, for all gaming chips and plaques in the certificate holder's possession.

§ 523.12. Dice; physical characteristics.

(a) Except as otherwise provided in subsection (b), each die used in the play of table games must:

(1) Be formed in the shape of a perfect cube and of a size no smaller than 0.750 of an inch on each side nor any larger than 0.775 of an inch on each side.

(2) Be transparent and made exclusively of cellulose except for the spots, name or logo of the certificate holder and serial number or letters contained thereon.

(3) Have the surface of each of its sides perfectly flat and the spots contained in each side flush with the area surrounding them.

(4) Have all edges and corners perfectly square and forming 90° angles.

(5) Have the texture and finish of each side exactly identical to the texture and finish of all other sides.

(6) Have its weight equally distributed throughout the cube with no side of the cube heavier or lighter than any other side of the cube.

(7) Have the six sides bearing white circular spots from one to six respectively with the diameter of each spot equal to the diameter of every other spot on the die.

(8) Have spots arranged so that:

(i) The side containing one spot is directly opposite the side containing six spots.

(ii) The side containing two spots is directly opposite the side containing five spots.

(iii) The side containing three spots is directly opposite the side containing four spots.

(9) Each spot shall be placed on the die by drilling into the surface of the cube and filling the drilled out portion with a compound which is equal in weight to the weight of the cellulose drilled out and which forms a permanent bond with the cellulose cube, and extend into the cube exactly the same distance as every other spot extends into the cube to an accuracy tolerance of .0004 of an inch.

(10) Have imprinted or impressed thereon a serial number or letters and the name or logo of the certificate holder in whose licensed facility the die is being used.

(b) Dice used in the table game of Pai Gow must comply with subsection (a) except as follows:

(1) Each die must be formed in the shape of a perfect cube and of a size no smaller than .637 of an inch on each side nor any larger than .643 of an inch on each side.

(2) Instead of the name or logo of the certificate holder, a certificate holder may, with the approval of the Bureau of Gaming Operations, have an identifying mark imprinted or impressed on each die.

(3) The spots on each die do not have to be equal in diameter.

§ 523.13. Dice; receipt, storage, inspections and removal from use.

(a) When dice for use in a licensed facility are received from a manufacturer or supplier, the dice shall, immediately following receipt, be unloaded under the supervision of at least two people, one of whom shall be an assistant table games shift manager or above and one employee from the security department, and transported to a secure area which is covered by the slot machine licensee's surveillance system. The boxes of dice shall then be inspected by an assistant table games shift manager or above and one employee from the security department to assure that the seals on each box are intact, unbroken and free from tampering. Boxes that do not satisfy these criteria shall be inspected at this time to assure that the dice contained therein conform to the requirements of this chapter and there is no evidence of tampering. Boxes satisfying these criteria, together with boxes having unbroken, intact and untampered seals shall then be placed for storage in a storage area, the location and physical characteristics of which shall be approved by the Bureau of Gaming Operations.

(b) Dice which are to be distributed to gaming pits or tables for use in gaming shall be distributed from the approved storage area.

(c) The approved storage area must have two separate locks. The security department shall maintain one key and the table games department shall maintain the other key. No person employed by the table games department below an assistant table games shift manager in the organization hierarchy may have access to the table games department key.

(d) Immediately prior to the commencement of each gaming day and at other times as may be necessary, an assistant table games shift manager or above, in the presence of a security department employee, shall remove the appropriate number of dice for that gaming day from the approved storage area.

(e) Envelopes and containers used in this section for dice preinspected at the pit stand or in the approved storage area and for those collected by the security department must be transparent.

(1) The envelopes or containers and the method used to seal them shall be designed or constructed so that any tampering is evident.

(2) The envelopes or containers and seals used shall be approved by the Bureau of Gaming Operations.

(f) Dice shall be inspected and distributed to the gaming tables in accordance with one of the following applicable alternatives:

(1) *Alternative No. 1.*

(i) The assistant table games shift manager or above and the security department employee who removed the

dice from the approved storage area shall distribute sufficient dice directly to the pit manager or above in each pit, or place them in a locked compartment in the pit stand, the keys to which shall be in the possession of the pit manager or above.

(ii) Immediately upon opening a table for gaming, the pit manager or above shall distribute a set of dice to the table. At the time of receipt, a boxperson at each Craps table and the floorperson at each Pai Gow, Sic Bo or Mini-Craps table, in order to ensure that the dice are in a condition to assure fair play and otherwise conform to the requirements of this chapter, shall, in the presence of the dealer, inspect the dice given to him with a micrometer or other instrument approved by the Bureau of Gaming Operations which performs the same function, a balancing caliper, a steel set square and a magnet. These instruments shall be kept in a compartment at each Craps table or pit stand and shall be at all times readily available for use by the casino compliance representatives or other Board employees upon request. The inspection shall be performed on a flat surface which allows the dice inspection to be observed through the slot machine licensee's surveillance system and by any persons in the immediate vicinity of the table.

(iii) Following the inspection required by subparagraph (ii):

(A) For Craps, the boxperson shall, in the presence of a dealer, place the dice in a cup on the table for use in gaming.

(B) For Mini-Craps, the floorperson shall, in the presence of a dealer, place the dice in a cup on the table for use in gaming.

(C) For Sic Bo, the floorperson shall, in the presence of the dealer, place the required number of dice into the shaker and seal or lock the shaker. The floorperson shall then secure the Sic Bo shaker to the table in the presence of the dealer who observed the inspection.

(D) For Pai Gow, the floorperson shall, in the presence of the dealer, place the dice in the Pai Gow shaker.

(iv) The pit manager or above shall place extra dice for the dice reserve in the pit stand. Dice in the pit stand shall be placed in a locked compartment, the keys to which shall be in the possession of the pit manager or above. No dice taken from the pit stand reserve may be used for actual gaming until the dice have been inspected in accordance with subparagraph (ii).

(2) *Alternative No. 2.*

(i) The assistant table games shift manager or above and the security department employee who removed the dice from the approved storage area shall distribute the dice directly to the following certificate holder's employees who will perform the inspection in each pit:

(A) For Craps and Mini-Craps, a boxperson or floorperson in the presence of another boxperson or floorperson, both of whom are assigned the responsibility of supervising the operation and conduct of a Craps or Mini-Craps game.

(B) For Sic Bo and Pai Gow, a floorperson, in the presence of another floorperson, both of whom are assigned the responsibility of supervising the operation and conduct of Sic Bo or Pai Gow games.

(C) For storage of the dice for the dice reserve in the pit stand, to the pit manager or above.

(ii) To ensure that the dice are in a condition to assure fair play and otherwise conform to the requirements of

this chapter, the dice shall be inspected by one of the individuals listed in subparagraph (i)(A) or (B) with a micrometer or other instrument approved by the Bureau of Gaming Operations which performs the same function, a balancing caliper, a steel set square and a magnet. These instruments shall be kept at the pit stand and shall be at all times readily available for use by the casino compliance representatives or other Board employees upon request. The inspection shall be performed on a flat surface which allows the dice inspection to be observed through the slot machine licensee's surveillance system and by any persons in the immediate vicinity of the pit stand.

(iii) After completion of the inspection, the dice shall be distributed as follows:

(A) For Craps and Mini-Craps, the boxperson or floorperson who inspected the dice shall, in the presence of the other boxperson or floorperson who observed the inspection, distribute the dice to the boxperson assigned at each Craps table or to the floorperson assigned at each Mini-Craps table. The Craps boxperson or the Mini-Craps floorperson shall, in the presence of the dealer, place the dice in a cup on the table for use in gaming.

(B) For Sic Bo, the floorperson who inspected the dice shall, in the presence of the other floorperson who observed the inspection, place the required number of dice into the shaker and seal or lock the shaker. The floorperson shall then secure the Sic Bo shaker to the table in the presence of the other floorperson who observed the inspection.

(C) For Pai Gow, the floorperson who inspected the dice shall, in the presence of the other floorperson who observed the inspection, distribute the dice directly to the dealer at each Pai Gow table. The dealer shall immediately place the dice in the Pai Gow shaker.

(iv) The pit manager or above shall place extra sets of dice for the dice reserve in the pit stand, as follows:

(A) Dice in the pit stand shall be placed in a locked compartment, the keys to which shall be in the possession of the pit manager or above.

(B) Except as otherwise provided in subparagraph (v), dice taken from the reserve in the pit stand shall be reinspected by a floorperson or above in the presence of another floorperson or above in accordance with the inspection procedures in subparagraph (ii), prior to their use for actual gaming.

(v) Previously inspected reserve dice may be used for gaming without being reinspected if the dice are maintained in a locked compartment in the pit stand in accordance with the following procedures:

(A) For Craps and Mini-Craps, a set of five dice, after being inspected, shall be placed in a sealed envelope or container. A label that identifies the date of inspection and contains the signatures of those responsible for the inspection shall be attached to the envelope or container.

(B) For Sic Bo, three dice, after being inspected, shall be placed in a sealed envelope or container or sealed or locked in a Sic Bo shaker. A label or seal that identifies the date of inspection and contains the signatures of those responsible for the inspection shall, respectively, be attached to each envelope or container or placed over the area that allows access to open the Sic Bo shaker.

(C) For Pai Gow, a set of three dice, after being inspected, shall be placed in a sealed envelope or container. A label that identifies the date of inspection and

contains the signatures of those responsible for the inspection shall be attached to each envelope or container.

(3) *Alternative No. 3.*

(i) The inspection of dice for all table games shall take place in the approved storage area, in the presence of a floorperson or above, the assistant table games shift manager or above and a security department employee.

(ii) Prior to starting the inspection of the dice, notice shall be provided to the certificate holder's surveillance department.

(iii) The dice shall be inspected by the floorperson or above, the assistant table games shift manager or above or both of these individuals, with a micrometer or any other instrument approved by the Bureau of Gaming Operations which performs the same function, a balancing caliper, a steel set square and a magnet to ensure that the dice are in a condition to assure fair play and otherwise conform to the act and this part. These instruments shall be maintained in the approved storage area and shall be at all times readily available for use by the casino compliance representatives or other Board employees upon request.

(iv) After completion of the inspection, the persons performing the inspection shall seal the dice as follows:

(A) For Craps and Mini-Craps, after each set of five dice are inspected, the dice shall be placed in a sealed envelope or container. A label that identifies the date of the inspection and contains the signatures of those responsible for the inspection shall be attached to each envelope or container.

(B) For Sic Bo, after each set of dice are inspected, three dice shall be sealed or locked in a manual shaker. A seal that identifies the date of the inspection and contains the signatures of those responsible for the inspection shall then be placed over the area that allows access to open the shaker.

(C) For Pai Gow, after each set of three dice are inspected, the dice shall be placed in a sealed envelope, container or shaker. A label that identifies the date of the inspection and contains the signatures of those responsible for the inspection shall be attached to each envelope, container or shaker.

(D) Reserve dice may be placed in individual sealed envelopes or containers. A label that identifies the date of the inspection and contains the signatures of those responsible for the inspection shall be attached to each envelope or container.

(v) At the beginning of each gaming day and at other times as may be necessary, an assistant table games shift manager or above and a security department employee shall distribute the dice as follows:

(A) For Craps and Mini-Craps, the sealed envelopes or containers of dice shall be distributed to a pit manager or above in each Craps or Mini-Craps pit or placed in a locked compartment in the pit stand by an assistant table games shift manager or above. When the sealed dice are distributed to a Craps or Mini-Craps table, a boxperson at a Craps table or a floorperson at a Mini-Craps table, after assuring the seals are intact and free from tampering, shall open the sealed envelope or container, in the presence of a dealer, and place the dice in a cup on the table for use in gaming.

(B) For Sic Bo, the sealed manual shakers shall be distributed to the pit manager or above supervising the game or placed in a locked compartment in the pit stand.

The pit manager or above, after assuring the seal on the shaker is intact and free from tampering shall then secure the manual Sic Bo shaker to the table in a manner approved by the Bureau of Gaming Operations.

(C) For Pai Gow, the sealed envelope or container shall be distributed to a pit manager or above in a Pai Gow pit or placed in a locked compartment in the pit stand. When the sealed dice are distributed to the Pai Gow table by the pit manager or above, a floorperson, after assuring the seal and envelopes or containers are intact and free from tampering, shall open the sealed envelope or container, in the presence of the dealer, and place the dice in the Pai Gow shaker.

(vi) When an envelope or container or seal is damaged, broken or shows indication of tampering, the dice in the envelope, container or shaker may not be used for gaming activity unless the dice are reinspected in accordance with paragraph (1) or (2).

(vii) The pit manager or above shall place extra dice for the dice reserve in the pit stand. Dice in the pit stand shall be placed in a locked compartment, keys to which shall be in the possession of the pit manager or above.

(viii) A micrometer or another instrument approved by the Bureau of Gaming Operations which performs the same function, a balancing caliper, a steel set square and a magnet shall also be maintained in a locked compartment in each pit stand. These instruments shall be at all times readily available for use by the casino compliance representatives or other Board employees upon request.

(ix) The inspection of dice in the approved storage area in accordance with this alternative shall be performed on a flat surface which allows the dice inspection to be observed through the slot machine licensee's surveillance system.

(g) A certificate holder shall remove any dice at any time of the gaming day and file a Dice Discrepancy Report as required under subsection (h) if there is any indication of tampering, flaws or other defects that might affect the integrity or fairness of the game, or at the request of a casino compliance representative.

(h) At the end of each gaming day or at other times as may be necessary, a floorperson or above, other than the individual who originally inspected the dice, shall visually inspect each die that was used for play for evidence of tampering. Evidence of tampering discovered at this time or at any other time shall be immediately reported to the casino compliance representatives by the completion and delivery of a two-part Dice Discrepancy Report and the dice.

(1) Dice showing evidence of tampering shall be placed in a sealed envelope or container.

(i) A label shall be attached to each envelope or container which identifies the table number, date and time the dice were removed and shall be signed by the person assigned to directly operate and conduct the game at that table and the floorperson assigned the responsibility for supervising the operation and conduct of the game.

(ii) A floorperson or above or a security department employee responsible for delivering the dice to the casino compliance representatives shall also sign the label.

(iii) The casino compliance representative receiving the dice shall sign the original and duplicate copy of the Dice Discrepancy Report and retain the original copy. The duplicate copy shall be returned to the pit and main-

tained in a secure place within the pit until collection by a security department employee.

(2) Other dice that were used for play shall be put into envelopes or containers at the end of the gaming day.

(i) A label shall be attached to each envelope or container which identifies the table number, date and time the dice were removed and shall be signed by the person assigned to directly operate and conduct the game at that table and the floorperson assigned the responsibility for supervising the operation and conduct of the game.

(ii) The envelope or container shall be appropriately sealed and maintained within the pit until collection by a security department employee.

(i) Reserve dice in the locked compartment in a pit stand at the end of the gaming day may be:

(1) Collected and transported to the security department for cancellation or destruction.

(2) Returned to the approved storage area.

(3) Retained in the locked compartment in the pit stand.

(j) Reserve dice in the locked compartment in a pit stand at the end of the gaming day that are to be destroyed or cancelled shall be placed in a sealed envelope or container, with a label attached to each envelope or container which identifies the pit stand where the reserve dice were being stored, the date and time the dice were placed in the envelope or container and is signed by the pit manager or above.

(k) At the end of each gaming day or, in the alternative, at least once each gaming day at the same time each day, designated by the certificate holder and approved by the Bureau of Gaming Operations, and at other times as may be necessary, a security department employee shall collect and sign all envelopes or containers of used dice and reserve dice that are to be destroyed or cancelled and transport the dice to the security department for cancellation or destruction. The security department employee shall also collect duplicate copies of Dice Discrepancy Reports, if any.

(l) At the end of each gaming day or, in the alternative, at least once each gaming day at the same time each day, as designated by the certificate holder and approved by the Bureau of Gaming Operations, and at other times as may be necessary, an assistant table games shift manager or above may collect all reserve dice in a locked compartment in a pit stand. If collected, reserve dice shall be returned to the approved storage area; provided, however, that dice which have not been inspected and sealed in accordance with subsection (f)(3) shall, prior to use for actual gaming, be inspected in accordance with subsection (f)(1) or (2).

(m) If the reserve dice are not collected, all dice in the dice reserve shall be reinspected in accordance with one of the alternatives in subsection (f) prior to their use for gaming, except for those dice maintained in a locked compartment in accordance with subsection (f)(2)(v) or (3)(iv).

(n) Certificate holders shall submit to the Bureau of Gaming Operations for approval internal control procedures for:

(1) A dice inventory system which includes, at a minimum, records of the following:

- (i) The balance of dice on hand.
 - (ii) The dice removed from storage.
 - (iii) The dice returned to storage or received from a manufacturer or supplier.
 - (iv) The date of each transaction.
 - (v) The signatures of the individuals involved.
- (2) A reconciliation on a daily basis of the dice distributed, the dice destroyed and cancelled, the dice returned to the approved storage area and, if any, the reserve dice in a locked compartment in a pit stand.

(3) A physical inventory of all dice at least once every 3 months.

(i) This inventory shall be performed by an individual with no incompatible functions and be verified to the balance of dice on hand required under paragraph (1)(i).

(ii) Discrepancies shall immediately be reported to the Bureau of Gaming Operations.

(o) Destruction and cancellation of dice, other than those retained for Board inspection, shall be completed within 72 hours of collection.

(1) Cancellation must occur by drilling a circular hole of at least 1/4 inch in diameter through the center of the die.

(2) Destruction must occur by shredding.

(3) The destruction and cancellation of dice must take place in a secure location in the licensed facility covered by the slot machine licensee's surveillance system, the physical characteristics of which shall be approved by the Bureau of Gaming Operations.

§ 523.14. Sic Bo shaker security procedures.

(a) Manual Sic Bo shakers which have been filled with dice in accordance with § 523.13(f)(3)(iv)(B) (relating to dice; receipt, storage, inspections and removal from use) may only be stored in a locked compartment in the approved storage area. Manual Sic Bo shakers which have not been filled with dice may be stored in a locked compartment in a pit stand. An automated Sic Bo dice shaker which has been filled with dice must be secured to the Sic Bo table at all times. An automated Sic Bo dice shaker which has not been filled with dice may be stored in a locked compartment in a pit stand.

(b) At the end of each gaming day a pit manager or above shall inspect all Sic Bo shakers that have been placed in use for gaming for evidence of tampering. Evidence of tampering discovered at this time shall be immediately reported to the casino compliance representatives. At a minimum, the reports must include:

- (1) The date and time when the tampering was discovered.
- (2) The name and license or permit number of the individual discovering the tampering.
- (3) The table number where the Sic Bo shaker was used.
- (4) The name and license or permit number of the person assigned to directly operate and conduct the game at the Sic Bo table and the supervisor assigned the responsibility for supervising the operation and conduct of the game at the Sic Bo table.

§ 523.15. Cards; physical characteristics.

(a) Cards used to play table games authorized under this subpart, must be in decks of 52 cards with each card

identical in size and shape to every other card in the deck. Nothing in this section prohibits a manufacturer from manufacturing decks of cards with one or more jokers contained therein; provided, however, that the jokers may not be used by the certificate holder in the play of any game unless authorized by the rules of the game.

(b) Each deck must be composed of cards in four suits: diamonds, spades, clubs and hearts.

(c) Each suit shall be composed of 13 cards: ace, king, queen, jack, 10, 9, 8, 7, 6, 5, 4, 3, 2. The face of the ace, king, queen, jack and 10 may contain an additional marking, as approved by the Bureau of Gaming Operations, which will permit a dealer, prior to exposing his hole card at the game of Blackjack, to determine if the value of the hole card gives the dealer a Blackjack.

(d) The backs of each card in a deck must be identical and no card may contain any marking, symbol or design that will enable a person to know the identity of any element printed on the face of the card or that will in any way differentiate the back of the card from any other card in the deck.

(e) The backs of all cards in a deck shall be designed to diminish as far as possible the ability of any person to place concealed markings thereon.

(f) The design to be placed on the backs of cards used by certificate holders must contain the name or logo of the certificate holder and shall be submitted to the Bureau of Gaming Operations for approval prior to use of the design on cards in gaming activity.

(g) Each deck of cards shall be packaged separately or in a set containing the number of decks authorized in this subpart and selected by a certificate holder for use in a particular table game. Each package of cards shall be sealed in a manner approved by the Bureau of Gaming Operations to provide evidence of any tampering with the package. If multiple decks of cards are packaged and sealed in a set, the package must have a label that indicates or contains a window that reveals an adequate description of the contents of the package, including:

- (1) The name of the certificate holder for which the cards were manufactured.
- (2) The type of cards.
- (3) The colors of the backs of the cards.
- (4) The date that the cards were manufactured.
- (5) The total number of cards in the set.

(h) No deck of cards packaged and sealed in a set may be separated from the set for independent use at a table game.

(i) The cards used by a certificate holder for Poker must be:

- (1) Visually distinguishable from the cards used by that certificate holder to play other table games.
- (2) Made of plastic.

(j) Each certificate holder which elects to offer the game of Poker shall be required to have and use on a daily basis at least six visually distinguishable card backings for the cards to be used at the game of Poker. These card backings may be distinguished by different logos, different colors or different design patterns.

§ 523.16. Cards; receipt, storage, inspections and removal from use.

(a) When decks of cards are received for use in a licensed facility from a manufacturer or supplier, the

cards shall, immediately following receipt, be unloaded under the supervision of at least two people, one of whom shall be an assistant table games shift manager or above and one employee from the security department, and transported to a secure area which is covered by the slot machine licensee's surveillance system. The boxes of decks of cards shall then be inspected by an assistant table games shift manager or above and one employee from the security department to assure that the seals on each box are intact, unbroken and free from tampering. Boxes that do not satisfy these criteria shall be inspected at this time to assure that the decks of cards contained therein conform to the requirements of this chapter and there is no evidence of tampering. Boxes satisfying these criteria, together with boxes having unbroken, intact and untampered seals shall then be placed for storage in a storage area, the location and physical characteristics of which shall be approved by the Bureau of Gaming Operations. A certificate holder may have separate cabinets or storage areas for decks of cards to be used at the game of Poker; provided, however, the location and physical characteristics of the cabinets or separate storage areas shall be approved by the Bureau of Gaming Operations.

(b) Approved storage areas shall have two separate locks. The security department shall maintain one key and the table games department shall maintain the other key. No person employed by the table games department below an assistant table games shift manager in the organizational hierarchy may have access to the table games department key for the approved storage areas and, if the certificate holder has a separate Poker storage area, no person below a Poker shift manager in the organizational hierarchy may have access to the table games department key to the Poker storage area.

(c) Except as provided in subsection (g), immediately prior to the commencement of each gaming day and at other times as may be necessary, an assistant table games shift manager or above, in the presence of a security department employee, shall remove the appropriate number of decks of cards for that gaming day from the approved storage area. The assistant table games shift manager or above and the security department employee who removed the decks shall distribute sufficient decks to the pit managers or above and, if applicable, to the Poker shift manager. The number of decks distributed must include extra decks that shall be placed in the pit stand for the card reserve. Decks of cards in the pit stand shall be placed in a locked compartment, the keys to which shall be in the possession of the pit managers or above or the Poker shift manager or above.

(d) If the decks are to be inspected at open gaming tables in accordance with subsection (h), the pit manager or above shall distribute the decks to the dealer at each table or the Poker shift manager shall transport the decks to the Poker pit stand for subsequent distribution to the dealer at each Poker table either directly by the Poker shift manager or through the floorperson assigned to supervise the dealer. The distribution of the decks to the Poker tables must comply with § 553.3 (relating to cards; number of decks).

(e) If the decks are to be preinspected and reshuffled at a closed gaming table as permitted under subsection (u), the pit manager or above or Poker shift manager shall deliver the decks to the dealer and the floorperson or above at the closed gaming table where the preinspection and reshuffling shall be performed.

(f) If the decks have already been preinspected, reshuffled, sealed in containers and placed in the card storage area as permitted under subsection (u)(8)(ii) or (v), the assistant table games shift manager or above and a security department employee shall transport the number of sealed containers of cards needed for that gaming day to the gaming pits where the cards will be utilized and lock the containers in the pit stand. A record of the removal of the sealed containers of cards from the approved storage area and the distribution of sealed containers to the gaming pits shall be maintained by the security department in a manner approved by the Bureau of Gaming Operations.

(g) If the decks of cards to be used for Poker for that gaming day are removed from the Poker storage area, the Poker shift manager or above and a security department employee shall, prior to the commencement of each gaming day and at other times as may be necessary, remove the appropriate number of decks from the Poker storage area and distribute the decks in accordance with subsection (d), (e) or (f). The number of decks distributed must include extra decks that shall be placed in the pit stand for the card reserve. Decks of cards in the pit stand shall be placed in a locked compartment, the keys to which shall be in the possession of the Poker shift manager or above.

(h) Except for decks of cards that are preinspected and reshuffled in accordance with subsection (u) or (v), each deck of cards shall be inspected by a dealer and the inspection verified by a floorperson or above prior to the use of the cards on a gaming table. The purpose of the inspection is to assure that the cards specified under § 523.15 (relating to cards; physical characteristics) are actually contained in the deck and that the back of each card is not flawed, scratched or marked in any way that might compromise the integrity or fairness of the game. At a minimum, the card inspection at an open gaming table must require:

(1) Each deck of cards to be sorted into sequence and into suit to verify that all cards are present.

(2) A visual inspection of the back of each card.

(i) If, after inspecting the cards in accordance with subsection (h), the dealer finds that a card is unsuitable for use, a card is missing from the deck or an extra card is found, the following procedures shall be observed:

(1) A pit manager or above or a Poker shift manager shall bring a replacement deck of cards from the card reserve in the pit stand.

(2) The unsuitable deck shall be placed in a sealed envelope or container, identified by table number, date, and time and shall be signed by the dealer and floorperson assigned to that table or above.

(3) The pit manager or above or a Poker shift manager shall maintain the envelope or container in a secure place within the pit until collection by a security department employee.

(j) Envelopes and containers used to hold or transport cards collected by security must be:

(1) Transparent.

(2) Designed or constructed with seals so that any tampering is evident.

(3) Approved by the Bureau of Gaming Operations.

(k) If any cards in a deck are damaged during the course of play, the dealer shall immediately notify a floorperson or above. The floorperson or above shall bring

a new deck of cards to replace the deck with the damaged card or cards from the pit stand.

(1) The damaged deck of cards shall be placed in a sealed envelope, identified by table number, date and time and signed by the dealer and the individual who brought the replacement deck of cards to the table.

(2) The Poker shift manager or pit manager or above shall maintain the envelopes or containers of the damaged cards in a secure place within the pit until collection by a security department employee.

(1) At the end of each gaming day or, in the alternative, at least once each gaming day at the same time each day, as designated by the certificate holder in the certificate holder's internal controls, and at other times as may be required by this subpart, a floorperson or above shall collect all used decks of cards required to be removed from play.

(1) The decks of cards collected shall be placed in a sealed envelope or container. A label shall be attached to each envelope or container which identifies the table number, date and time the decks of cards were collected and shall be signed by the dealer and floorperson assigned to the table.

(2) The Poker shift manager or pit manager or above shall maintain the envelopes or containers in a secure place within the pit until collection by a security department employee.

(m) A certificate holder shall remove any deck of cards at any time during the day if there is any indication of tampering, flaws, scratches, marks or other defects that might affect the integrity or fairness of the game, or at the request of a casino compliance representative or other Board employee.

(n) Extra decks or packaged sets of multiple decks in the card reserve with broken seals shall be placed in a sealed envelope or container, with a label attached to each envelope or container that contains the number of decks or packaged sets of multiple decks, as applicable, included therein, the date and time the decks were placed in the envelope or container and the signature of the floorperson or above for decks used for Poker and the pit manager or above for decks used for all other games.

(o) At the end of each gaming day or, in the alternative, at least once each gaming day at the same time each day, as designated by the certificate holder in its internal controls, and at other times as may be necessary, a security department employee shall collect and sign all envelopes or containers with damaged decks of cards, decks of cards required to be removed that gaming day, and all extra decks in the card reserve with broken seals and shall return the envelopes or containers to the security department.

(p) At the end of each gaming day or, in the alternative, at least once each gaming day at the same time each day, as designated by the certificate holder in its internal controls, and at other times as may be necessary, an assistant table games shift manager or above may collect all extra decks with intact seals in the card reserve. If the certificate holder maintains a separate storage area for Poker cards, a Poker shift manager or above may collect all extra decks in the card reserve for the game of Poker. If collected, all sealed decks shall either be cancelled, destroyed or returned to the storage area.

(q) When the envelopes or containers of used cards and reserve cards with broken seals are returned to the security department, the cards shall be inspected for

tampering, marks, alterations, missing or additional cards or anything that might indicate unfair play.

(1) For cards used in Blackjack, Spanish 21, Baccarat, Midibaccarat or Minibaccarat, the certificate holder shall inspect either:

(i) All decks used during the day.

(ii) A sample of decks selected at random or in accordance with an approved stratification plan, provided that the procedures for selecting the sample size and for assuring a proper selection of the sample have been submitted to and approved by the Bureau of Gaming Operations.

(2) The certificate holder shall also inspect:

(i) Any decks of cards which the Board requested the certificate holder to remove for the purpose of inspection.

(ii) Any decks of cards the certificate holder removed for indication of tampering.

(iii) All cards used for all banked table games other than the games listed in paragraph (1).

(iv) All cards used for Poker.

(3) The procedures for inspecting all decks required to be inspected under this subsection must, at a minimum, include:

(i) The sorting of cards sequentially by suit or utilizing a machine approved by the Bureau of Gaming Operations capable of reading the cards to determine whether any deck contains missing or additional cards.

(ii) The inspection of the backs with an ultra-violet light.

(iii) The inspection of the sides of the cards for crimps, bends, cuts or shaving.

(iv) The inspection of the front and back of all plastic cards for consistent shading and coloring.

(4) If, during the inspection procedures required for cards used in Poker, one or more of the cards in a deck are determined to be unsuitable for continued use, those cards shall be placed in a sealed envelope or container and a two-part Card Discrepancy Report shall be completed in accordance with paragraph (8).

(5) Upon completion of the inspection procedures required in paragraph (2), each deck of cards used in Poker which is determined suitable for continued use shall be placed in sequential order, repackaged and returned to the approved or Poker storage area for subsequent use. The certificate holder shall develop internal control procedures for returning the repackaged cards to the storage area.

(6) An individual performing an inspection shall complete a work order form which details the procedures performed and list the tables from which the cards were removed and the results of the inspection. The individual shall sign the form upon completion of the inspection procedures.

(7) The certificate holder shall submit the training procedures for the employees performing the inspections required under this subsection in its internal controls.

(8) Evidence of tampering, marks, alterations, missing or additional cards or anything that might indicate unfair play discovered during an inspection, or at any other time, shall be immediately reported to the casino compliance representatives by the completion and delivery of a two-part Card Discrepancy Report.

(i) The report must include the decks of cards which are the subject of the report.

(ii) The decks of cards shall be retained by the casino compliance representatives for further inspection.

(iii) The casino compliance representative receiving the cards shall sign the original and duplicate copy of the Card Discrepancy Report and retain the original. The duplicate copy shall be retained by the certificate holder.

(r) Certificate holders shall submit to the Bureau of Gaming Operations for approval internal control procedures for:

(1) A card inventory system, which includes, at a minimum, the records of the following:

(i) The balance of decks of cards on hand.

(ii) The decks of cards removed from storage.

(iii) The decks of cards returned to storage or received from a manufacturer or supplier.

(iv) The date of each transaction.

(v) The signatures of the individuals involved.

(2) A reconciliation, on a daily basis, of the decks of cards distributed, destroyed and cancelled, returned to the storage area, and, if any, the decks of cards in the card reserve.

(3) A physical inventory of all decks of cards at least once every 3 months.

(i) This inventory shall be performed by an individual with no incompatible functions and shall be verified to the balance of decks of cards on hand required in paragraph (1)(i).

(ii) Discrepancies shall immediately be reported to the Bureau of Gaming Operations.

(s) Decks of cards in an envelope or container that are inspected as required under subsection (q) and found to be without any indication of tampering, marks, alterations, missing or additional cards or anything that might indicate unfair play, with the exception of plastic cards used at Poker which are of sufficient quality for reuse, shall be destroyed or cancelled within 72 hours of collection. Cards submitted to the Board shall be destroyed or cancelled within 72 hours of release from the Board.

(1) Destruction of cards must be by shredding.

(2) Cancellation of cards must be by drilling a circular hole of at least 1/4 of an inch in diameter through the center of each card in the deck.

(3) The destruction and cancellation of cards must take place in a secure location in the licensed facility covered by the slot machine licensee's surveillance system, the physical characteristics of which shall be approved by the Bureau of Gaming Operations.

(t) If a deck of plastic cards has been reused 12 or more times and the deck has been determined to be suitable for reuse by the individual performing the inspection procedures required under subsection (q)(3), before the deck shall be reused at a Poker table, the deck shall be inspected by a Poker shift manager or floorperson. A satisfactory inspection shall be documented by the Poker shift manager or floorperson. If the Poker shift manager or floorperson determines that the deck may not be reused, the deck shall be placed in a sealed envelope or container, with a label attached which identifies the date and time the deck was placed in the envelope or container and shall be signed by the Poker shift manager or

floorperson. At the end of the gaming day or at other times as may be necessary, the envelope or container shall be collected by a security department employee and be returned to the security department for destruction or cancellation in accordance with subsection (s).

(u) If a certificate holder elects to preinspect and reshuffle cards at a closed gaming table prior to the delivery of the cards to an open gaming table, the procedures in this subsection shall be performed by a dealer and supervised by a floorperson or above with no concurrent supervisory responsibility for open gaming tables. A schedule of the proposed time and location for the preinspection and reshuffling shall be provided to the casino compliance representatives at least 24 hours prior to commencement of the process. The procedures required under paragraphs (1)—(7) shall be recorded by the surveillance department and each recording shall be retained by the certificate holder at least 7 days.

(1) Upon receipt of the decks of cards in accordance with subsection (e), the dealer shall perform the procedures in paragraphs (2)—(7) independently for each batch of cards that will be sealed in a container in accordance with paragraph (7), with the number of decks of cards in each batch being equal to the number of decks of cards required for the table game in which the decks are intended to be used.

(2) The dealer shall visually inspect the back of each card to assure that it is not flawed, scratched or marked in any way that might compromise the integrity or fairness of the game.

(3) The dealer shall then, either by hand or by using a machine approved by the Bureau of Gaming Laboratory Operations, inspect the front of each card to ensure that all cards are present and that there are no extra cards in the deck.

(4) If, after inspecting the cards, a card is determined to be unsuitable for use, or the deck is missing a card or an extra card is found, the following procedures shall be observed:

(i) The deck containing the unsuitable, missing or extra card shall be placed in a sealed envelope or container which shall be identified by table number, date, and time the deck of cards was placed in the envelope or container and signed by the dealer and floorperson or above performing the preinspection and reshuffle.

(ii) The sealed envelope or container containing the deck containing the unsuitable, missing or extra card shall be maintained by the floorperson or above until collection by a security department employee at the conclusion of the preinspection and reshuffling procedure.

(5) The dealer shall then shuffle the cards by hand or by using an automated card shuffling device.

(6) Upon completion of the preinspection and reshuffling process of the cards in the batch, the dealer and floorperson or above shall complete a two-part Preshuffled/Preinspected Form or other documentation approved by the Bureau of Gaming Operations, which, at a minimum, includes:

(i) The time and date the Preshuffled/Preinspected Form was prepared.

(ii) The number of decks in the batch.

(iii) The table games at which the cards will be utilized.

(iv) The signature of the dealer who preinspected and reshuffled the cards, certifying that the cards were preinspected and reshuffled in accordance with this subsection.

(v) The signature of the floorperson or above who witnessed and verified the preinspection and reshuffling.

(vi) The time, date and gaming table to which the sealed container of cards is subsequently delivered.

(vii) The signature of the floorperson or above who delivers the sealed container of cards to the gaming table in accordance with paragraph (9).

(7) The dealer shall then place the preinspected and reshuffled batch of cards, together with the Reshuffled/Preinspected Form or other documentation, in a clear container that conforms to the requirements of subsection (j) and seal the container with a prenumbered label unique to the container. Procedures for the maintenance and security of unused seals, and the distribution, return and reconciliation of seals used on containers holding preinspected and reshuffled cards shall be included in the certificate holder's internal controls.

(8) The sealed containers of cards shall be transported by either:

(i) A pit manager or above or Poker shift manager to the gaming pit of the gaming tables where the cards will be utilized and locked in the pit stand in accordance with subsection (c).

(ii) An assistant table games shift manager or above and a security department employee to the approved storage area or Poker storage area where the cards shall be placed back into the card inventory and segregated from cards that have not been preinspected and reshuffled. A record of the transport of the sealed containers of cards to the approved storage area shall be maintained by the security department in a manner approved by the Bureau of Gaming Operations.

(9) When the preinspected and reshuffled cards are needed for play, each container of cards shall be delivered by a floorperson or above to an open gaming table. Upon delivery, the floorperson or above shall unseal the container, place the decks of cards on the gaming table in front of the dealer, complete and sign the Reshuffled/Preinspected Form, drop the original Reshuffled/Preinspected Form in a locked box in the gaming pit and forward the copy of the Reshuffled/Preinspected Form to the security department.

(10) The dealer at the gaming table shall then cut the cards in the manner prescribed by the rules governing the particular table game.

(v) A certificate holder may use preinspected and reshuffled decks or batches of decks obtained from a licensed manufacturer or supplier in the same manner as decks or batches of decks that are preinspected and reshuffled under subsection (u) if the licensed manufacturer or supplier has been approved to provide preinspected and reshuffled decks or batches of decks by the Bureau of Gaming Operations.

§ 523.17. Dealing shoes; automated card shuffling devices.

(a) The following words and terms, when used in this section, have the following meanings, unless the context clearly indicates otherwise:

Base plate—The interior shelf of the dealing shoe on which the cards rest.

Face plate—The front wall of the dealing shoe against which the next card to be dealt rests and which typically contains a cutout.

(b) Each manual or automated dealing shoe shall be designed and constructed to maintain the integrity of the game at which the shoe is used and includes, at a minimum, the following features:

(1) At least the first 4 inches of the base plate must be white.

(2) The sides of the shoe below the base plate must:

(i) Be transparent, have a transparent sealed cutout or be otherwise constructed to prevent any object from being placed into or removed from the portion of the dealing shoe below the base plate.

(ii) Permit the inspection of this portion of the shoe.

(3) A stop underneath the top of the face plate that precludes the next card to be dealt from being moved upwards for more than 1/8 inch distance.

(c) For a dealing shoe used in Blackjack, the dealing shoe, in addition to meeting the requirements of subsection (b), must have a mark on the side of the shoe that enables the dealer, after aligning the stack of cards against the shoe in accordance with § 549.6(e) (relating to shuffle and cut of the cards), to insert the cover card in the stack so that approximately one quarter of the stack is behind the cover card.

(d) For a dealing shoe used in Minibaccarat, Midibaccarat or Baccarat, the dealing shoe, in addition to meeting the requirements of subsection (b), must also meet the following specifications:

(1) Have a removable lid that is opaque from the point where it meets the face plate to a point at least 4 inches from the face plate.

(2) The sides and back above the base plate must be opaque.

(3) Have a device within the shoe, which when engaged, prevents the cards from moving backward in the shoe.

(e) A Pai Gow poker dealing shoe, in addition to meeting the requirements of subsection (b), may also contain a device approved by the Bureau of Gaming Operations on the front of the face plate that precludes the players from viewing the next card to be dealt.

(f) An automated card shuffling device may be utilized, in addition to a manual or automated dealing shoe, if the automated card shuffling device has been approved by the Bureau of Gaming Laboratory Operations and the procedures for shuffling and dealing the cards using the automated card shuffling device are submitted and approved as part of the certificate holder's Rules Submission under § 521.2 (relating to table games Rules Submissions).

(g) An automated shuffling device must meet a 95% confidence level using a standard chi-squared test for goodness of fit.

(h) An automated card shuffling device may not provide any information that can be used to aid in the projecting of the outcome of a game, tracking of the cards played and cards remaining to be played, analyzing the probability of the occurrence of an event relating to a game, or analyzing the strategy for playing or betting to be used in a game.

(i) Dealing shoes and automated card shuffling devices in the licensed facility shall be inspected at the beginning of each gaming day by the floorperson assigned to the table prior to cards being placed in them. The purpose of this inspection shall be to assure that there has been no tampering with the shoe or automated card shuffling device.

(j) For gaming tables at which a manual dealing shoe is utilized, the shoe shall be located on the side of the gaming table to the left of the dealer, and the discard rack shall be located on the side of the gaming table to the right of the dealer. For gaming tables at which either an automated card shuffling device or an automated dealing shoe is utilized, the location of the automated card shuffling device or automated dealing shoe shall be approved by the Bureau of Gaming Operations, and the discard rack shall be on the side of the gaming table opposite the automated card shuffling device or automated dealing shoe.

§ 523.18. Pai Gow tiles; receipt, storage, inspections and removal from use.

(a) When sets of tiles to be used at Pai Gow are received from a manufacturer or supplier, the tiles must, immediately following receipt, be unloaded under the supervision of at least two people, one of whom shall be an assistant table games shift manager or above and one employee from the security department, and transported to a secure area which is covered by the slot machine licensee's surveillance system. The boxes of tiles shall then be inspected by the assistant table games shift manager or above and one employee from the security department to assure that the seals on each package are intact, unbroken and free from tampering. Packages that do not satisfy these criteria shall be inspected at this time to assure that the tiles conform to the requirements of this chapter and there is no evidence of tampering. Packages satisfying these criteria, together with packages having unbroken, intact and untampered seals shall then be placed for storage in a storage area, the location and physical characteristics of which shall be approved by the Bureau of Gaming Operations.

(b) Sets of tiles which are to be distributed to gaming pits or tables for use in gaming shall be distributed from the approved storage area.

(c) The approved storage area must have two separate locks. The security department shall maintain one key and the table games department shall maintain the other key. No person employed by the table games department below an assistant table games shift manager in the organization hierarchy may have access to the table games department key.

(d) Immediately prior to the commencement of each gaming day and at other times as may be necessary, an assistant table games shift manager or above, in the presence of a security department employee, shall remove the appropriate number of sets of tiles for that gaming day from the approved storage area.

(e) Envelopes and containers used to hold or transport tiles must be transparent.

(1) The envelopes or containers and the method used to seal the envelopes or containers shall be designed or constructed so that any tampering is evident.

(2) The envelopes or containers and seals shall be approved by the Bureau of Gaming Operations.

(f) The assistant table games shift manager or above shall distribute sufficient sets of tiles to the pit manager or above in each Pai Gow pit.

(1) The pit manager or above shall then distribute the sets of tiles to the dealer at each Pai Gow table, and shall place extra sets of tiles in the reserve in the pit stand.

(2) Sets of tiles in the reserve shall be placed in a locked compartment in the pit stand, keys to which shall be in the possession of the pit manager or above.

(g) If during the course of play any damaged tile is detected, the dealer or a floorperson shall immediately notify the pit manager or above. The pit manager or above shall bring a substitute set of tiles to the table from the reserve in the pit stand to replace the entire set of tiles.

(1) The set of damaged tiles shall be placed in a sealed envelope or container, identified by table number, date and time the tiles were placed in the sealed envelope or container and shall be signed by the dealer and the floorperson responsible for supervising the table or the pit manager or above.

(2) The pit manager or above shall maintain the envelope or container in a secure place within the pit until collection by a security department employee.

(h) The floorperson responsible for supervising the table or the pit manager or above shall collect used tiles which shall be placed in a sealed envelope or container.

(1) A label shall be attached to each envelope or container which identifies the table number, date and time the tiles were placed in the envelope or container and shall be signed by the dealer and the floorperson responsible for supervising the table or the pit manager or above.

(2) The pit manager or above shall maintain the envelopes or containers in a secure place within the pit until collection by a security department employee.

(i) A certificate holder shall remove any tiles at any time of the gaming day if there is any indication of tampering, flaws, scratches, marks or other defects that might affect the integrity or fairness of the game, or at the request of a casino compliance representative or other Board employee.

(1) A label shall be attached to each envelope or container which identifies the table number, date and time the tiles were placed in the envelope or container and shall be signed by the dealer and the floorperson responsible for supervising the table or the pit manager or above.

(2) The pit manager or above shall maintain the envelopes or containers in a secure place within the pit until collection by a security department employee.

(j) Extra sets of tiles in the reserve which have been opened shall be placed in a sealed envelope or container, with a label attached to each envelope or container which identifies the date and time the tiles were placed in the envelope or container and is signed by the pit manager or above.

(k) At the end of each gaming day or at other times as may be necessary, a security department employee shall collect and sign all envelopes or containers with damaged tiles, tiles used during the gaming day, and extra tiles in the reserve which have been opened, and shall return the envelopes or containers to the security department.

(l) At the end of each gaming day or at other times as may be necessary, an assistant table games shift manager may collect all extra sets of tiles in the reserve which

have not been opened. If collected, all unopened sets of tiles shall either be cancelled or destroyed or returned to the approved storage area.

(m) Envelopes or containers of used tiles and reserve sets of tiles which have been opened that are returned to the security department, shall be inspected for tampering, marks, alterations, missing or additional tiles or anything that might indicate unfair play.

(1) The procedures for inspecting sets of tiles must, at a minimum, include the following:

- (i) The sorting of tiles by pairs.
 - (ii) The visual inspection of the sides and back of each tile for tampering, markings or alterations.
 - (iii) The inspection of the sides and back of each tile with an ultra-violet light.
- (2) The individual performing the inspection required by this subsection shall complete a work order form which:
- (i) Details the procedures performed.
 - (ii) Lists the table from which the tiles were removed.
 - (iii) States the results of the inspection.
 - (iv) Contains the signature of the individual who conducted the inspection.

(3) Evidence of tampering, marks, alterations, missing or additional tiles or anything that might indicate unfair play discovered during the inspection, or at any other time, shall be immediately reported to the casino compliance representatives by the completion and delivery of a two-part Tile Discrepancy Report.

(4) The two-part report shall be delivered to the casino compliance representatives along with the tiles. The tiles shall be retained for further inspection by the Board.

(5) The casino compliance representative receiving the tiles shall sign the original and duplicate copies of the report and shall retain the original copy. The duplicate copy shall be retained by the certificate holder.

(n) If after completing the inspection procedures required in subsection (m), it is determined that a complete set of 32 tiles removed from a gaming table is free from tampering, markings or alterations, the set may be returned to the Pai Gow storage area for subsequent gaming use in accordance with procedures approved by the Bureau of Gaming Operations. In no event may individual tiles from different sets be used to make a complete set for subsequent gaming use.

(o) Certificate holders shall submit to the Board for approval, internal control procedures for:

- (1) An inventory system which includes records of at least the following:
 - (i) The balance of sets of tiles on hand.
 - (ii) The sets of tiles removed from storage.
 - (iii) The sets of tiles returned to storage or received from a manufacturer or supplier.
 - (iv) The date of each transaction.
 - (v) The signatures of the individuals involved.

- (2) A reconciliation on a daily basis of:
 - (i) The sets of tiles distributed.
 - (ii) The sets of tiles destroyed and cancelled.
 - (iii) The sets of tiles returned to the approved storage area.
 - (iv) The sets of tiles in the tile reserve in a pit stand.
- (3) A physical inventory of the sets of tiles at least once every 3 months.
 - (i) The inventory shall be performed by an individual with no incompatible functions and shall be verified to the balance of the sets of tiles on hand required in paragraph (1)(i).
 - (ii) Discrepancies shall immediately be reported to the Bureau of Gaming Operations.

(p) Destruction and cancellation of tiles other than those retained for Board inspection, shall be completed within 72 hours of collection. The method of destruction or cancellation shall be approved by the Bureau of Gaming Operations. The destruction and cancellation of tiles must take place in a secure location in the licensed facility covered by the slot machine licensee's surveillance system, the physical characteristics of which shall be approved by the Bureau of Gaming Operations.

CHAPTER 537. CRAPS AND MINI-CRAPS

§ 537.7 Dice retention and selection.

(a) A set of five dice shall be present at the Craps or Mini-Craps table during gaming. Control of the dice at a Craps table, or at a Mini-Craps table with an optional stickperson, shall be the responsibility of the stickperson at the table. Control of the dice at a Mini-Craps table without an optional stickperson shall be the responsibility of the dealer at the table. The stickperson or Mini-Craps dealer shall retain all dice, except those in active play, in a dice cup at the table.

(b) At the commencement of play:

(1) For Craps, the stickperson shall offer the set of dice to the player immediately to the left of the boxperson at the table. If that player rejects the dice, the stickperson shall offer the dice to each of the other players in turn clockwise around the table until one of the players accepts the dice.

(2) For Min-Craps, the dealer or the optional Mini-Craps stickperson shall offer the set of dice to the player immediately to his or her left at the table. If that player rejects the dice, the dealer or stickperson shall offer the dice to each of the other players in turn clockwise around the table until one of the players accepts the dice.

(c) The first player to accept the dice when offered shall become the shooter who shall select and retain two of the dice offered. The remaining dice of the set shall be returned to the dice cup which shall:

- (1) For Craps, be placed immediately in front of the Craps stickperson.
- (2) For Mini-Craps, be placed immediately in front of the Mini-Craps dealer or stickperson.

[Pa.B. Doc. No. 10-715. Filed for public inspection April 23, 2010, 9:00 a.m.]

Title 67—TRANSPORTATION

DEPARTMENT OF TRANSPORTATION

[67 PA. CODE CH. 231]

Intrastate Motor Carrier Safety Requirements

The Department of Transportation (Department), under the authority contained in 75 Pa.C.S. §§ 4704 and 6103 (relating to inspection by police or Commonwealth personnel; and promulgation of rules and regulations by department), adopts amendments to Chapter 231 (relating to intrastate motor carrier safety requirements) to read as set forth Annex A.

Purpose of Chapter

The purpose of Chapter 231 is to prescribe the minimum requirements and qualifications for drivers, vehicles and other matters relating to the intrastate operation of commercial vehicles.

Summary of Comments and Changes in Final Adopted Regulation

The amendments to the regulations were published as a proposed rulemaking at 39 Pa.B. 999 (February 21, 2009). The proposed rulemaking was also submitted to the Independent Regulatory Review Commission (IRRC) and the House and Senate Transportation Committees (Committees) of the Pennsylvania General Assembly.

Comments were received from Officer Thomas Sanders and from IRRC. Officer Sanders noted that the existing language of § 231.2 (relating to scope), indicates that the regulation applies to “vehicles, including motor vehicles and combinations of vehicles, and drivers of motor vehicles engaged in interstate commerce if the registered gross weight of the vehicle or the combination of vehicles exceeds 17,000 pounds.” He indicated that the reference to 17,000 pounds may be confusing and requested that the language under § 231.2 be modified to be consistent with the definition of “motor carrier vehicle” as it appears in the Vehicle Code. The Department agrees that the reference to a vehicle which “exceeds 17,000 pounds” should be removed and was removed in the proposed rulemaking. In its place, the regulation references a “commercial motor vehicle,” the term used and defined in the Federal Motor Carrier Safety Regulations. Accordingly, no change to the proposed rulemaking was necessary to address this concern.

IRRC questioned the propriety of including in the chapter the adoption, as statements of policy, of the interpretations of the Federal Motor Carrier Safety Regulations in § 231.10 (relating to adoption of Interpretation of Federal Motor Carrier Safety Regulations). IRRC pointed out that statements of policy are interpretative and fall outside the regulatory review process. Although similar language is found in the currently existing regulations in § 231.411 (relating to adoption of Interpretations of Federal Motor Carrier Safety Regulations, Federal Highway Administration, United States Department of Transportation) as well as in § 229.17 (relating to adoption of interpretation of Federal Motor Carrier Safety Regulations), the Department has amended the language of § 231.10 to more clearly express its intent that any interpretations issued by the Federal Motor Carrier Safety Administration (FMCSA) should be viewed as guidance under these regulation as well.

The FMCSA Program periodically publishes interpretations of its regulations. The purpose of adopting the interpretations is to ensure that motor carriers, drivers

and law enforcement may rely on the FMCSA interpretations. Additionally, adopting the FMCSA interpretations will enhance the uniform interpretation and implementation of the motor carrier safety regulations in this Commonwealth consistent with its application throughout the rest of the United States.

The FMCSA commented that § 231.8(9) (relating to additions or modification to 49 CFR) of the proposed rulemaking permitted a person 16 years of age or older to operate an articulated farm vehicle. Although 49 CFR 350.341 (relating to what specific variances from the FMCSRs are allowed for State laws and regulations governing motor carriers, CMV drivers, and CMVs engaged in intrastate commerce and not subject to Federal jurisdiction?) provides some specific variances from the Federal Motor Carrier Regulations which are permitted, FMCSA indicated that the provision permitting a person 16 years of age or older to drive an articulated farm vehicle is not consistent with the requirements to participate in the Federal Motor Carrier Safety Assistance Program (MCSAP). The Department amended § 231.8(9) by removing the proposed exemption and renumbering the remaining exemptions.

Similarly, FMCSA commented that a farmer who is transporting hazardous materials is subject to the requirements in 49 CFR Part 385, Subpart E (relating to hazardous materials safety permits). Accordingly, the blanket exemption for farmers in § 231.8(14) would need to be modified. The Department modified the language for the exemption in § 231.8(14) to address the concerns raised by FMCSA.

Subsequent to the close of the comment period, FMCSA notified the Department that the modification in § 231.8(2) to delete the exemption for transportation by the Federal government or an agency established under a compact between states that has been approved by the Congress of the United States was not consistent with the MCSAP requirements. The Federal Motor Carrier Regulations, in 49 CFR 390.3(f)(2) (relating to general applicability), exempt from the regulations “transportation performed by the federal government, a state, or any political subdivision of a state, or an agency established under a compact between states that has been approved by the Congress of the United States[.]” The Department addressed this concern by modifying the language of the regulation.

The Farm Bureau expressed concern regarding the removal of the blanket exemption in the regulation for vehicles and drivers of vehicles that are exempt from registration such as implements of husbandry and farm vehicles. The Farm Bureau indicated that, while it makes sense to require trucking companies to be able to navigate through the myriad of Motor Carrier Regulations, it is unreasonable for farmers to be held to the same standards because farming involves more than just transportation and their transportation activities are sporadic. However, the Farm Bureau also acknowledged that the Department is required to update the regulations to conform with Federal Motor Carrier Regulations.

A MCSAP compliance audit was performed on the Department's intrastate motor carrier regulations. One of the compliance issues raised by the audit was that the Department's blanket exemptions for farmers exceeded the permissible limits under the MCSAP program. This rulemaking adopts all of the parts of the applicable Federal regulations to ensure that the Department adopts all of the exemptions that apply to the farming industry. The regulations are being adopted in this manner so that

if the Federal regulations are amended to create exemptions applicable to the farming industry, the exemptions will automatically be applicable in this State. The method used will ensure that farmers are eligible to take advantage of all applicable exemptions without the Department having to amend the regulation first.

There were two additional changes which are contained in the final-form rulemaking. The first is the removal of a proposed exemption from the requirement to obtain and display a United States Department of Transportation (USDOT) number. Requiring intrastate carriers to obtain and display a USDOT number will allow the Commonwealth to focus resources on those intrastate carriers who pose the greatest safety risk, and utilize existing Federal computer systems and methodologies to accomplish this task. This mechanism will also afford a uniform method for identifying the motor carrier ultimately responsible for the safety and operation of a motor carrier vehicle, which in many instances is not the vehicle registrant or owner.

The USDOT number serves as a unique identifier when collecting and monitoring a company's safety information. While vehicle registration cards list the owner of a vehicle, this individual or entity may or may not ultimately be the person responsible for the safety and operation of the vehicle. The FMCSA maintains a database called Motor Carrier Management Information System (MCMIS), which is a Federally-based central repository of commercial vehicle safety data as well as a National inventory of motor carriers subject to the Federal Motor Carrier Safety Regulations. MCMIS utilizes the USDOT number to track and monitor a motor carrier's activities.

Roadside inspection reports and accident reports for reportable crashes are uploaded to MCMIS and again utilize a carrier's USDOT number and not the owner or registrant of the vehicle. This inspection and accident data is then utilized by the Safety Status Measurement System (SafeStat), which is an automated analysis system that uses crash and inspection data to measure the safety fitness of an individual motor carrier with respect to the rest of the motor carrier population. Carriers are rated in four specific areas: accidents, driver violations, vehicle violations and safety management practices. The system utilizes up to 30 months of this data to perform an overall safety status assessment and assign each carrier a SafeStat score. This score is then utilized by state and Federal enforcement agencies to focus their resources on those carriers posing the greatest safety risk.

The second change was the addition of an exemption from the location of the rear impact guard for dump trucks, used for roadway construction, maintenance or repair, which are owned or registered by State and local governments. The exemption does not authorize the removal of the existing rear impact guard. However, dump trucks used for roadway construction, maintenance or repair may be equipped with equipment needed to apply salt, cinders and other substances to the roadway. The addition of this equipment results in the nonconforming location of the rear impact guards. This amendment will ensure that the Commonwealth and local governments can continue to use dump trucks to apply salt, cinders and other materials to the roadway.

Persons and Entities Affected

These regulations will affect all motor carriers and drivers who operate in interstate commerce.

Fiscal Impact

Implementation of these regulations will not require the expenditure of any additional funds by the Commonwealth or local municipalities. These regulations will not impose any additional costs on the regulated community.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), the Department submitted a copy of the proposed rulemaking, on February 21, 2009, to IRRC and the Committees for review and comment.

In preparing these final-form regulations, the Department has considered all comments received from the public, IRRC and the Committees.

The regulations were deemed approved by the Committees February 24, 2010. IRRC met on February 25, 2010, and approved the final-form regulations.

Effective Date

The Department will make these regulations effective upon publication in final-form.

Sunset Provisions

The Department is not establishing a sunset date for these regulations, since these regulations are required to participate in the Federal MCSAP. The Department, however, will continue to closely monitor these regulations for their effectiveness.

Contact Person

The contact person for technical questions about this final-form rulemaking should be directed to Daryl St. Clair, Bureau of Maintenance and Operations, 400 North Street, 6th Floor, Commonwealth Keystone Building, Harrisburg, PA 17120, (717) 787-6899.

Order

The Department of Transportation orders that:

(a) The regulations of the Department, 67 Pa. Code Chapter 231, are amended by rescinding §§ 231.4—231.6; 231.21—231.25, 231.31, 231.32, 231.41—231.44, 231.61—231.66, 231.71 and 231.81—231.85; 231.101—231.111, 231.121—231.127, 231.131—231.135, 231.141—231.144, 231.151—231.153, 231.161—231.163 and 231.171—231.181; 231.201—231.223, 231.231—231.243, 231.251—231.254, 231.271, 231.272, 231.281—231.299, 231.301 and 231.311—231.314; 231.331 and 231.341—231.347; 231.361—231.367; 231.381—231.392; 231.411; 231.451—231.453; and Appendices (A) and (B); and by amending §§ 231.1—231.3 and by adding §§ 231.7—231.10 to read as set forth in Annex A.

(b) The Secretary of the Department shall submit this order and Annex A hereto to the Office of General Counsel and the Office of Attorney General for approval as to legality and form, as required by law.

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

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

ALLEN D. BIEHLER, P. E.,
Secretary

Fiscal Note: 18-414. No fiscal impact; (8) recommends adoption.

Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 40 Pa.B. 1471 (March 13, 2010).

Annex A

TITLE 67. TRANSPORTATION

PART I. DEPARTMENT OF TRANSPORTATION

Subpart A. VEHICLE CODE PROVISIONS

ARTICLE VIII. ADMINISTRATION AND ENFORCEMENT

CHAPTER 231. INTRASTATE MOTOR CARRIER SAFETY REQUIREMENTS

Subchapter A. General

§ 231.1. General information and requirements.

(a) *Purpose.* This chapter prescribes the minimum requirements and qualifications for drivers, vehicles and other matters relating to the intrastate operation of commercial motor vehicles. Much of this chapter incorporates by reference 49 CFR Parts 382, 385 and 390—396 and the North American Standard Out-of-Service Criteria. Appropriate parts may be obtained from the following:

(1) United States Government Printing Office, Book Store, Room 118, Federal Building, 1000 Liberty Avenue, Pittsburgh, Pennsylvania 15222, (412) 644-2721.

(2) United States Government Printing Office, 100 North 17th Street, Robert Morris Building, Philadelphia, Pennsylvania 19103, (215) 597-0677.

(3) United States Superintendent of Documents, United States Government Printing Office, Washington, D.C. 20402, (202) 655-4000.

(4) Commercial Vehicle Safety Alliance, 1101 17th Street NW, Suite 803, Washington, D.C. 20036.

(b) *Application.*

(1) A motor carrier and its officers, drivers, agents, employees and representatives involved in, or related to, the transportation of intrastate commerce shall comply with this chapter and shall take measures necessary to assure compliance.

(2) Officers, agents, representatives, drivers and employees of motor carriers concerned with the management, maintenance, operation or driving of vehicles engaged in intrastate commerce shall be conversant with, and knowledgeable of, this chapter.

(c) *Title and name changes.* To reconcile differences between this chapter and the incorporated sections of Federal regulations and to effectuate their joint enforcement, except in 49 CFR Part 382 (relating to controlled substances and alcohol use and testing), the following words and terms, unless the context clearly indicates otherwise, shall be substituted for the language of the Federal regulations as follows:

(1) Reference to the Department of Transportation means the Pennsylvania Department of Transportation.

(2) Reference to the Secretary means the Secretary of the Pennsylvania Department of Transportation.

(3) Reference to special agent includes a police officer or a qualified Commonwealth employee.

(4) Reference to Department means the Pennsylvania Department of Transportation.

(5) Reference to school bus means the term as defined in 75 Pa.C.S. § 102 (relating to definitions).

(6) Reference to Director, Office of Bus and Truck Standards and Operations (MC PSD) means Director of the Bureau of Driver Licensing of the Commonwealth.

(7) Reference to State Director or Division Administrator, FMCSA means the Director of the Bureau of Driver Licensing of the Commonwealth.

(8) Reference to Medical Program Specialist, FMCSA field service center means the Medical Unit of the Bureau of Driver Licensing of the Commonwealth.

(d) *Forms and documents.* References to forms in the Federal regulations incorporated by reference shall be replaced by the appropriate forms prescribed by the Department.

§ 231.2. Scope.

(a) Except as otherwise provided, this chapter applies to commercial motor vehicles and school buses engaged in intrastate commerce.

(b) This chapter applies to motor carriers of property or passengers involved in intrastate commerce, whether common carriers, contract carriers or private carriers.

§ 231.3. Definitions.

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

Qualified Commonwealth employee—The term as it is defined in 75 Pa.C.S. § 4102 (relating to definitions).

School bus—The term as defined in 75 Pa.C.S. § 102 (relating to definitions).

§ 231.4. (Reserved).

§ 231.5. (Reserved).

§ 231.6. (Reserved).

§ 231.7 Adoption of portions of 49 CFR by reference.

The Department incorporates by reference the following portions of 49 CFR (relating to transportation), subject to §§ 231.3 and 231.8 (relating to definitions; and additions or modifications to 49 CFR).

(1) Part 382 (relating to controlled substances and alcohol use and testing).

(2) Part 385 (relating to safety fitness procedures).

(3) Part 390 (relating to Federal motor carrier safety regulations; general).

(4) Part 391 (relating to qualifications of drivers and longer combination vehicle (LCV) driver instructors).

(5) Part 392 (relating to driving of commercial motor vehicles).

(6) Part 393 (relating to parts and accessories necessary for safe operation).

(7) Part 395 (relating to hours of service of drivers).

(8) Part 396 (relating to inspection, repair, and maintenance).

§ 231.8 Additions or modifications to 49 CFR.

As stated in § 231.7 (relating to adoption of portions of 49 CFR by reference), this chapter generally incorporates 49 CFR Parts 382, 385, 390, 391, 392, 393, 395 and 396. The following modification, additions and deletions to those parts apply:

(1) The definition of “commercial motor vehicle” in 49 CFR 390.5 (relating to definitions) is modified to read as follows:

Commercial motor vehicle—Any motor vehicle or combination used on a highway in intrastate commerce to

transport passengers or property when the vehicle meets one of the following conditions:

- (i) Has a gross vehicle weight rating or gross combination weight rating, or gross vehicle weight or gross combination weight, of 17,001 pounds or more, whichever is greater.
 - (ii) Is designed or used to transport more than 8 passengers (including the driver) for compensation.
 - (iii) Is designed or used to transport more than 15 passengers, including the driver, and is not used to transport passengers for compensation.
 - (iv) Is a school bus.
 - (v) Is transporting hazardous materials which is required to be placarded in accordance with Department regulations.
- (2) 49 CFR 390.3 (relating to general applicability) is modified by deleting subsection (f)(1).
- (3) 49 CFR 390.3(f)(2) is modified to remove the reference to transportation by a state or any political subdivision of a state.
- (4) 49 CFR 390.19 (relating to motor carrier identification report) is deleted in its entirety.
- (5) 49 CFR 391.2 (relating to general exceptions) is modified to add an exemption for an inspection mechanic who is performing a road test as required under Chapter 175 (relating to vehicle equipment and inspection) from the requirements of 49 CFR Part 391 (relating to qualifications of drivers and longer combination vehicle (LCV) driver instructors).
- (6) 49 CFR 391.2 is modified to add an exemption from the requirements of 49 CFR Part 391 for regularly employed drivers of State and local governments and agencies of State and local government.
- (7) 49 CFR 391.11(b)(4) (relating to general qualifications of drivers) is modified to exempt school bus drivers who are required to comply with the medical regulations in Chapter 71 (relating to school bus drivers).
- (8) 49 CFR Part 391 is modified by adding the following exemption regarding drivers regularly employed as of September 23, 1995, and the parameters for the exemption:
- (i) A regularly employed driver as of September 23, 1995, who cannot meet the physical qualifications requirements of 49 CFR Part 391, will be considered to be qualified to operate in intrastate commerce if certified by the medical examiner and motor carrier in accordance with this section. The driver shall be considered qualified only until the existing unqualifying medical or physical condition significantly worsens or a new unqualifying medical or physical condition develops subsequent to September 23, 1995.
 - (ii) The motor carrier's certification shall be based on a review of the driver's past driving safety record and accident history. The motor carrier's certification shall be on a form prescribed by the Department and shall be valid for a period commensurate with the period of the medical examiner's certificate issued in accordance with this chapter.
 - (iii) A copy of the medical examiner's initial certificate establishing a driver's qualification under this section and annotated in accordance with paragraph (iv), the most current biannual medical examiner's certificate and the most current certification by the employing motor carrier that the driver is qualified to operate in intrastate

commerce shall be maintained in the driver's qualification file for the entire period of the driver's term of employment and for an additional 2 years after termination of employment.

(iv) If the medical examiner determines that the driver is only qualified to drive in intrastate commerce in accordance with subparagraphs (i)—(iii), the medical examiner's certificate required under 49 CFR 391.43 (relating to medical examination; certificate of physical examination) must display the statement "Medically qualified to operate in intrastate commerce only."

(9) 49 CFR 391.11(b)(1) is deleted.

(10) 49 CFR 391.47(e) (relating to resolution of conflicts of medical evaluation) is modified to reference Chapter 491 (relating to administrative practice and procedure) instead of § 386.13(a).

(11) 49 CFR 391.47(f) is modified to read as follows:

(f) Status of driver. Once a petition for review of a decision of the Director of the Bureau of Driver Licensing is submitted, the driver shall be deemed disqualified until such time as the Pennsylvania Secretary of Transportation makes a determination or orders otherwise.

(12) 49 CFR 390.27 (relating to locations of motor carrier safety service centers) is amended to read as follows:

390.27 Address of the Medical Unit of the Bureau of Driver Licensing

The mailing address for the Medical Unit is PENNDOT, Bureau of Driver Licensing, Medical Unit, 1101 South Front Street, 3rd Floor, Harrisburg, PA 17104-2516.

(13) 49 CFR 385.1(d) (relating to purpose and scope) is modified to read as follows:

(d) The provisions of this part apply to all motor carriers subject to the requirements of this subchapter, except nonbusiness private motor carriers of passengers and farmers that do not transport hazardous materials of a type or quantity that requires the commercial motor vehicle to be placarded in accordance with 49 CFR 177.823.

(14) 49 CFR 393.86(b)(1)(IV) (relating to rear impact guards and rear end protection) is amended to add the following sentence: "This location requirement does not apply to dump trucks owned by or registered to the Commonwealth or a political subdivision of this Commonwealth that is used for roadway construction, maintenance or repair."

§ 231.9 Adoption of out-of-service criteria.

The out-of-service criteria contained in the North American Standard Out-of-Service Criteria is incorporated by reference.

§ 231.10 Interpretations of Federal Motor Carrier Safety Regulations.

The Department will be guided by interpretations of the Federal Motor Carrier Safety Regulations issued by the Federal Motor Carrier Safety Administration for those Parts enumerated in § 231.7 (relating to adoption of portions of 49 CFR by reference). Copies of these interpretations may be obtained by contacting the director, bureau of Highway Safety and Traffic Engineering, 400 North Street, P. O. Box 2047, Harrisburg, PA 17105-2047, or through the Federal Motor Carrier Safety Administra-

tion web site: http://www.fmcsa.dot.gov/rules-regulations/administration/fmcsr/fmcsrcguide.aspx?section_type=G.

§§ 231.21—231.25 (Reserved).

§ 231.31 (Reserved).

§ 231.32 (Reserved).

§§ 231.41—231.44 (Reserved).

§§ 231.61—231.66 (Reserved).

§ 231.71 (Reserved).

§§ 231.81—231.85 (Reserved).

§§ 231.101—231.111 (Reserved).

§§ 231.121—231.127 (Reserved).

§§ 231.131—231.135 (Reserved).

§§ 231.141—231.144 (Reserved).

§§ 231.151—231.153 (Reserved).

§§ 231.161—231.163 (Reserved).

§§ 231.171—231.181 (Reserved).

§§ 231.201—231.223 (Reserved).

§§ 231.231—231.243 (Reserved).

§§ 231.251—231.254 (Reserved).

§ 231.271 (Reserved).

§ 231.272 (Reserved).

§§ 231.281—231.299 (Reserved).

§ 231.301 (Reserved).

§§ 231.311—231.314 (Reserved).

§ 231.331 (Reserved).

§§ 231.341—231.347 (Reserved).

§§ 231.361—231.367 (Reserved).

§§ 231.381—231.392 (Reserved).

§ 231.411 (Reserved).

§§ 231.451—231.453 (Reserved).

Appendix (A) (Reserved).

Appendix (B) (Reserved).

[Pa.B. Doc. No. 10-716. Filed for public inspection April 23, 2010, 9:00 a.m.]

PROPOSED RULEMAKING

DEPARTMENT OF PUBLIC WELFARE

[55 PA. CODE CH. 165]

Revisions to the Special Allowance for Supportive Services Requirements; Road to Economic Self-sufficiency through Employment and Training (RESET) Program

Statutory Authority

The Department of Public Welfare (Department) under the authority of sections 201(2), 403(b) and 408(c) of the Public Welfare Code (62 P.S. §§ 201(2), 403(b) and 408(c)) and the Federal Food Stamp regulation in 7 CFR 273.7(d)(4) (relating to work provisions), intends to amend the regulations as set forth in Annex A.

Purpose of Regulation

The purpose of this proposed rulemaking is to enhance program integrity and effectiveness so that funds for special allowances are available to the greatest number of participants with a verifiable and documented need for supportive services. This proposed rulemaking amends regulations pertaining to special allowances for supportive services that the Department provides to individuals who apply for and receive cash assistance or Supplemental Nutrition Assistance Program (SNAP) benefits (formerly known as food stamps). These special allowances are limited to those who agree to participate in or who are participating in approved work or work-related activities. The Department is amending Chapter 165 (relating to Road to Economic Self-sufficiency through Employment and Training (RESET) Program) and Appendix A of this chapter (relating to employment and training special allowances). Appendix A enumerates the types of special allowances for supportive services for which the Department authorizes payment, including the rate and frequency of the payment. This proposed rulemaking also provides that future amendments to Appendix A may be accomplished by publishing a notice in the *Pennsylvania Bulletin*.

This proposed rulemaking accomplishes the objective of maintaining the availability of special allowances in a fiscally responsible and cost effective manner given the current economic and budget crisis. This proposed rulemaking amends both the maximum amount and the frequency for special allowances to maximize scarce resources so that funds for special allowances are available to the greatest number of participants. Under section 408(c) of the Public Welfare Code regarding meeting special needs; and work supports and incentives, the Department is required to "take into account availability, costs and the number of recipients needing services within the geographic area and shall seek to provide essential services to the greatest number of recipients." Future adjustments to the amount of the payment for supportive services will be determined by the Department based on the availability of resources. By maximizing the Commonwealth's scarce resources, this proposed rulemaking complies with State law and ensures that assistance for supportive services is available to the greatest number of participants who verify and document the need for services.

In addition, Appendix A categorizes the type of special allowances into six general categories: public transportation; private transportation; motor vehicle purchase; motor vehicle insurance; clothing; and work, education and training. Each category includes the types of special allowances which may be issued by the Department and the maximum annual or lifetime amount.

Finally, this proposed rulemaking provides for the recoupment or reduction of an overpayment of a Temporary Assistance for Needy Families (TANF) or General Assistance (GA) cash assistance grant to recover a special allowance for supportive services payment. The Department will not use recoupment to recover a special allowance for supportive services payment issued from SNAP funds.

Background

With the enactment of the Deficit Reduction Act of 2005, the TANF program was reauthorized. See Pub. L. No. 109-171. Under the reauthorized TANF program, the Commonwealth is required to increase the work participation rate (WPR) for families or the Commonwealth will face financial penalty of up to \$36 million. To avoid financial penalty, the Department has intensified its efforts to meet the Federal WPR and instituted new initiatives to ensure that all work-eligible individuals participate in approved work or work-related activities. As these participants enroll in employment and training activities or search for or obtain employment, the demand for special allowances for supportive services increases as does the strain on the Commonwealth's fiscal resources.

Further, under the Food, Conservation, and Energy Act of 2008 (Pub. L. No. 110-234), also known as the 2008 U.S. Farm Bill, section 4108 currently allows SNAP employment and training funds to be used to provide support to SNAP only participants who participated in other SNAP work-related activities and obtained employment. These funds allow the Department to provide additional support to these recipients.

Requirements

The following is a summary of the major provisions in the proposed rulemaking:

§ 165.1 (relating to general).

The Department proposes to amend § 165.1(a) by requiring a participant to participate and comply with RESET, including meeting hourly and other work and work-related requirements as specified on the Agreement of Mutual Responsibility (AMR) or Employment Development Plan (EDP). The Department proposes to revise § 165.1(a) and add subsection (d) to clarify that the provisions of this chapter apply to participants who receive TANF and GA cash assistance and that the requirements in §§ 165.41—165.46 (relating to special allowances for supportive services) also apply to participants who receive SNAP only benefits. For SNAP only participants, a special allowance for supportive services may be authorized as determined by the Department only up to the employment start date, with the following exception. SNAP only participants who obtain employment after participating in a SNAP work-related activity may receive special allowances for supportive services not to exceed the types and time frames permitted by Federal law.

The Department proposes to amend subsection (b) to clarify that special allowances for supportive services are made for the least costly item or service which is

available and practical considering the location and hours of scheduled employment or training, and the location of the participant's residence in relation to the provider of the item or service.

§ 165.2 (relating to definitions).

The Department proposes to amend § 165.2 to add the definition of "collateral contact" and "employment and training provider." The Department proposes to define "SNAP only participant" to describe an individual who applies for or receives SNAP only benefits but does not receive cash assistance under TANF or GA programs. The Department proposes to revise the definition of "special allowances for supportive services" by replacing the phrase "to be necessary" with "to be required." This definition is consistent with the revisions to § 165.44 (relating to verification for special allowances for supportive services). Individuals must provide verification that a special allowance for supportive services is required by the employer or education and training provider. The Department also proposes to replace the phrase "prepare for seek, accept or maintain education, employment or training" with the phrase "participate in an approved work or work-related activities."

§ 165.41 (relating to eligibility for special allowances for supportive services).

The Department proposes to revise § 165.41(a) by replacing the language "Cash Assistance or Food Stamp recipient" with the language "participant" for consistency. The Department proposes to delete § 165.41(b) since the requirements of that subsection are incorporated into subsection (a). Consequently, § 165.41(c)—(f) is redesignated as § 165.41(b)—(e). The Department proposes to amend § 165.41(e), formerly designated as § 165.41(f), to provide that special allowances for supportive services may be provided up to a maximum amount and frequency established by the Department in Appendix A.

The Department is amending subsection (b), formerly designated as subsection (c), to clarify that a special allowance is made only to the extent that item or service is not available from either a public or nonprofit source. In addition, the Department is deleting the reference to parental choice since that exception relates to the deleted child care provisions. Those child care provisions are now codified in Chapter 168 (relating to child care).

Because special allowance for supportive services also apply to SNAP only participants, the Department is amending the language in subsection (d), formerly designated as subsection (e), to clarify this intent. In addition, the Department is also amending the same language in § 165.44(b)(1) (relating to verification for special allowances for supportive services) for conformity.

§§ 165.42(a) and (c), 165.44(c) and 165.46(a) (relating to advance provision of special allowances for supportive services; verification for special allowances for supportive services; and types of special allowances for supportive services).

The Department is amending these subsections to delete all references to child care, as the regulations governing child care may be found in Chapter 168.

§ 165.44 (relating to verification for special allowances for supportive services).

The Department is amending the verification requirements in this section to enhance program integrity and effectiveness. Verification of the need for special allowances for supportive services is required prior to authorization. Further, acceptable verification for special allow-

ances may consist of written statements, collateral contacts or completed Departmental forms. If collateral contacts are used, it shall be documented in the participant's file.

The Department proposes to amend § 165.44(a) to clarify that an individual must provide verification that the requested supportive service is required for participation in an approved work or work-related activity or to accept employment.

The Department is also amending subsection (b) to require that the participant must verify actual costs incurred for a reoccurring or nonrecurring special allowance for supportive services. In addition, verification may be required from a participant, a provider of supportive services, or both, to verify that the participant received the approved special allowance for supportive services and that the provider received payment for the amount the participant was eligible to receive.

Finally, the Department is further amending subsection (b) to provide that the Department will process an overpayment referral to recover special allowance for supportive services. Subsection (b) describes circumstances for which a referral may be appropriate.

§ 165.46 (relating to types of special allowances for supportive services).

The Department proposes to delete the provisions of § 165.46(a) that relate to child care for GA recipients because regulations governing child care are found in Chapter 168. The Department is also proposing to delete the provisions relating to incapacitated care. Because the Department is responsible to provide essential services to the greatest number of recipients, the Department is deleting this provision because the use of this type of special allowance is uncommon and resources are limited. As a result of the proposed deletions of subsections (a) and (b), subsections (c) and (d) are redesignated as § 165.46(a)—(c), respectively. Likewise, to maximize the Commonwealth's scarce resources, the special allowances for supportive services provisions relating to moving, relocation, air and long distance rail, lodging and food are also proposed to be deleted. The Department is including a category for motor vehicle insurance, if it is required for an individual to participate in a work or work-related activity, for the actual cost up to \$1,500 in a lifetime. A special allowance for motor vehicle insurance was previously administered by employment and training contractors. In addition, the Department is amending subsection (b)(5) to clarify that a special allowance is not available for reoccurring fees, such as license fees.

The Department also proposes to amend § 165.46 to be consistent with revisions to §§ 165.41 and 165.44. References to "approved education or training activities" are replaced with the phrase "approved work-related activities" or "approved work or work-related activities." Since participants must now verify that supportive services are required to participate in approved work or work-related activities, references to "need for," "needed" or "necessary" supportive services are replaced with the term "required."

The Department proposes to add § 165.46(c) to provide that the Department may amend Appendix A as necessary based on the availability of funding and demand for supportive services. Amendments to Appendix A will be made by publishing a notice in the *Pennsylvania Bulletin*. This process will enable the Department to more efficiently revise Appendix A in response to increases or decreases in available funding, increases in the costs of

goods and services and fluctuations in the number of individuals and families who require and qualify for special allowances for supportive services.

§ 165.91 (relating to restitution).

The Department is amending this section to clarify the Department is proposing to recover TANF-funded special allowance for supportive services overpayments through grant reduction or recoupment. Title II of the Family Support Act of 1988 (Pub. L. No. 100-485) created the Job Opportunities and Basic Skills (JOBS) Training Program. Under the JOBS program, states were prohibited from recovering special allowances for supportive services overpayments through recoupment. Since the JOBS Program was repealed with the enactment of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Pub. L. No. 104-193), states are no longer subject to this prohibition. This proposed revision does not apply to special allowances for supportive services payments issued using SNAP funds.

Appendix A (relating to employment and training special allowances).

The Department is proposing to amend the maximum amount and frequency of payments issued for special allowances. Participants will be offered special allowance payments up to a maximum amount for either an annual or lifetime limit. The Department also proposes to amend Appendix A to clearly show that SNAP only participants may qualify for payment of special allowances for supportive services.

Affected Individuals and Organizations

This proposed rulemaking affects individuals who receive TANF and GA cash assistance who are participating in approved work or work-related activities as specified in an approved Agreement of Mutual Responsibility (AMR). This proposed rulemaking also affects SNAP only participants who participate in approved work or work-related activities according to the provisions of their approved Employment Development Plan (EDP).

Accomplishments and Benefits

This proposed rulemaking will enhance program integrity and effectiveness so that funds for special allowances are available to the greatest number of participants with a verifiable and documented need for supportive services. This proposed rulemaking benefits individuals who receive TANF and GA cash assistance who are participating in approved work or work-related activities. This proposed rulemaking also benefits SNAP only participants who must participate in approved work or work-related activities according to the provisions of their approved EDPs.

In addition, the maximum allowance for the purchase of motor vehicle has been adjusted to reflect a reasonable cost a participant may expect to incur. The Department is also amending the allowance for private transportation from 12¢ per mile to a rate determined by the Department, not to exceed the Commonwealth reimbursement rate for actual cost of gasoline. Further, the Department's proposal to reorganize special allowances into six categories allows participants to choose how to utilize these allowances to best meet their needs.

The Department's rationale for reducing the maximum limit for categories of special allowances is to maximize scarce resources. In addition, this reduction is also based on data collected and maintained by the Department that indicates current maximums established for these particular allowances are higher than actual usage supports.

The proposed rulemaking also permits payment as often as required for approved work or work-related activities up to the maximum limit. Under this proposed rulemaking, individuals may qualify for and receive more than one special allowance for supportive services payment up to the maximum payment.

With the enactment of the Deficit Reduction Act of 2005 (Pub. L. No. 109-171) which reauthorized the TANF program, the onus is on the Commonwealth to increase the work participation rate (WPR) for families or the State will face financial penalty of up to \$36 million. If the State incurs a financial penalty, there will be a reduction of funding available to families. To avoid fiscal sanctions, the Commonwealth has intensified its efforts to meet the Federal WPR and instituted new initiatives to ensure that all work-eligible individuals participate in approved work or work-related activities.

This proposed rulemaking complies with section 408(c) of the Public Welfare Code, which provides that "in establishing time limits and levels of access to transportation and work support, the department shall take into account availability, costs and the number of recipients needing services within the geographic area and shall seek to provide essential service to the greatest number of recipients." By proposing a maximum amount for special allowances and by categorizing special allowances, this rulemaking complies with State law and ensures that assistance to pay for work supports is available to the greatest number of individuals.

Fiscal Impact

The changes in the maximum amount for special allowances have savings which is estimated at \$5.910 million in the first Fiscal Year (FY). Full year implementation savings for the following FY is estimated at \$17.732 million. The changes in the maximum allowance of payment for the purchase of a motor vehicle and mileage reimbursement will result in a cost to the Commonwealth of \$3.711 million in the first FY. Full-year implementation costs the following year is estimated at \$11.133 million. The net result of these changes is an estimated savings of \$2.199 million in the first year with the first full-year savings estimated at \$6.599 million.

Paperwork Requirements

Documentation is required for all types of verification for special allowances for supportive services. Verification of the need for special allowances is required prior to authorization. Further, a participant is also required to verify actual expenses. In addition, a participant and a provider of supportive services also may be required to verify the receipt of supportive services and the amount of payment.

Effective Date

This proposed rulemaking is effective upon final publication in the *Pennsylvania Bulletin*.

Public Comment

Interested persons are invited to submit written comments, suggestions or objections regarding the proposed rulemaking to the Department at the following address: Edward J. Zogby, Director, Bureau of Policy, 4th Floor, Health and Welfare Building, Harrisburg, PA 17105, (717) 787-4081 within 30 calendar days after the date of publication of this proposed rulemaking in the *Pennsylvania Bulletin*. Reference Regulation No. 14-518 when submitting comments.

Persons with a disability who require an auxiliary aid or service may submit comments by using the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

Regulatory Review Act

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on April 12, 2010, the Department submitted a copy of this proposed rulemaking to the Independent Regulatory Review Commission (IRRC) and to the House Committee on Health and Human Services and the Senate Committee on Public Health and Welfare (Committees). In addition to submitting the proposed rulemaking, the Department has provided IRRC and the Committees with a copy of a Regulatory Analysis Form prepared by the Department. A copy of this form is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, if IRRC has any comments, recommendations or objections to any portion of the proposed amendment, it may notify the Department and the Committees within 30 days after the close of the public comment period. The notification shall specify the regulatory review criteria that have not been met. The Regulatory Review Act specifies detailed procedures for review by the Department, the General Assembly and the Governor, of any comments, recommendations or objections raised, prior to final publication of the regulation.

HARRIETT DICHTER,
Acting Secretary

Fiscal Note: 14-518. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 55. PUBLIC WELFARE

PART II. PUBLIC ASSISTANCE MANUAL

Subpart C. ELIGIBILITY REQUIREMENTS

**CHAPTER 165. ROAD TO ECONOMIC
SELF-SUFFICIENCY THROUGH EMPLOYMENT
AND TRAINING (RESET) PROGRAM**

GENERAL RESET PROVISIONS

§ 165.1. General.

(a) A recipient who is not exempt shall participate in **and comply with RESET, including meeting hourly and other work and work-related requirements as specified on the AMR or EDP, unless the recipient establishes good cause.** An exempt individual may volunteer to participate in **[RESET] an approved work or work-related activity and shall comply with the AMR or EDP.** The **[CAO] Department** will inform an applicant and recipient of the rights **[and],** responsibilities **[,]** and services and benefits available to RESET participants. **[A] The Department or its agent will assess the** recipient's ability to meet RESET participation requirements **[will be assessed]** after consultation with the recipient. **[Applicants and recipients shall comply with this chapter.]**

(b) The Department will provide RESET participants **[, to the extent necessary,] with** case management and **[approved] special allowances** for supportive services as **[may be necessary] required to [support participants in becoming] help them become self-sufficient.** **The Department will authorize special allowances for supportive services for the least**

costly item or service which is available and practical considering the location and hours of scheduled employment or training, and the location of the participant's residence in relation to the provider of the item or service. In addition, the Department will provide participants **[will be provided] with or [referred] refer them to [education, training and employment-related] work or work-related** activities designed to break the cycle of welfare dependency. To the extent it deems possible, the Department will identify and promote resources in the public and private sectors that may assist participants to prepare for and obtain employment **[in jobs]** they may realistically be expected to obtain.

(c) **[The Department may, in its discretion, provide employment, education, training, work-related activities or work experience programs to applicants or recipients.]** Nothing in this chapter shall be interpreted as requiring the Department to develop or to offer or to continue to offer employment, education, training, work-related activities or work experience programs.

(d) **This chapter applies to recipients of TANF and GA cash assistance. Sections 165.41—165.46 (relating to special allowances for supportive services) also apply to SNAP only participants as defined in § 165.2 (relating to definitions). For SNAP only participants, a special allowance for supportive services may be authorized as determined by the Department only up to the employment start date, with the following exception. SNAP only participants who obtain employment after participating in a SNAP work-related activity may receive special allowances for supportive services not to exceed the types and time frames permitted by Federal law.**

§ 165.2. Definitions.

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

* * * * *

***Collateral contact*—A method to establish communication or obtain additional information which supports or reinforces information presented to the Department.**

EDP—Employment Development Plan—

(i) An individualized agreement with the Department that is completed by the **[Food Stamp recipient] SNAP only participant** and is based on the individual's skills and abilities.

* * * * *

***Employment and training provider*—An entity funded or approved by the Department, that provides work or work-related skills instruction to enable participants to become self-sufficient.**

* * * * *

***Grant diversion*—The use of all or a portion of a recipient's cash assistance grant and [Food Stamps] SNAP benefits as a wage supplement to an employer.**

* * * * *

Participant—An individual who [is actively engaged] agrees to participate or is participating in a mutually agreed upon [and] approved [education, employment or training related] work or work-related activity.

* * * * *

SNAP—Supplemental Nutrition Assistance Program.

SNAP only participant—An individual who applies for and receives SNAP benefits but does not receive cash assistance under the TANF or GA programs.

Special allowances for supportive services—Payments for items and services [as determined by] the Department determines to be [necessary to enable] required for a participant to [prepare for, seek, accept or maintain education, employment or training] participate in an approved work or work-related activity.

SPECIAL ALLOWANCES FOR SUPPORTIVE SERVICES

§ 165.41. Eligibility for special allowances for supportive services.

(a) A [cash assistance or Food Stamp recipient] participant may receive [certain] special allowances [to pay for in advance or to reimburse costs of] for supportive services, as specified in this chapter, to enable the individual to [prepare for, seek, accept or maintain education, training or employment] participate in an approved work or work-related activity for the number of hours as specified on the AMR or EDP. [Payment for supportive] Supportive services will be [made in advance whenever the payment is needed] provided if required by the individual to [begin or maintain a RESET] participate in an approved work or work-related activity.

(b) [For an individual seeking cash assistance to qualify to receive a special allowance for supportive services, the individual shall be determined eligible for cash assistance, participate in RESET unless exempt and have an approved AMR. For an individual seeking only Food Stamps, to qualify for a special allowance for supportive services, the individual shall comply with an approved EDP. The approved AMR or EDP, whichever is applicable, must specify the activities for which the supportive services will be provided.

(c) [A special allowance for supportive services is made only to the extent that the item or service is not available from another public or non-profit source at no cost to the individual, [does not interfere with parental choice as specified in §§ 165.46(a)(5) and 168.11(b) (relating to types of special allowances for supportive services; and general requirements),] and cannot be met by educational assistance. The activity may not be secondary education or an equivalent level of vocational or technical training, unless the individual is [a] pregnant [female] or a custodial parent.

[(d)] (c) The [CAO] Department will inform the individual, [in writing and] orally and in writing, of the availability of special allowances for supportive ser-

vices at application, [reapplication] redetermination, recertification and whenever the AMR or EDP is developed or revised.

[(e)] (d) The [CAO shall] Department will assist the participant to obtain supportive services required to participate in [employment, education, training and job search activities, including precomponent activities such as orientation] approved work or work-related activities as specified on an AMR or EDP, with one exception. Supportive services are not available for a SNAP only participant to maintain current employment, except as provided in § 165.1(d) (relating to general).

[(f)] (e) Except as otherwise restricted in this chapter, special allowances for supportive services may be granted [as often as required to enable the individual to participate in an approved education or training activity and once for each job] up to the maximum amount and frequency established by the Department in Appendix A (relating to work and work-related special allowances).

§ 165.42. Advance [payment] provision of special allowances for supportive services.

(a) Special allowances for supportive services [, including child care, shall] will be [paid] provided in advance of the date [that payment is] required by the provider, consistent with the requirements and time frames in § [§] 165.45 [and 168.1(b)(3)] (relating to time frames for authorization of payment of special allowances for supportive services [; and policy on payment of child care]).

* * * * *

[(c) This section does not apply to vendor payments for child care under § 165.46(a)(11)(ii) (relating to types of special allowances for supportive services).]

§ 165.43. Requests for special allowances for supportive services and time frames for eligibility determinations.

(a) The [CAO shall] Department will document an oral or written request for a special allowance for supportive services. A written decision approving or denying the request [shall] will be issued by the [CAO] Department no later than 15-calendar days following the request.

(b) A Notice to Applicant as provided in Chapter 125 (relating to application process), shall be used to inform the [client] individual of the [CAO's] Department's decision on the request for supportive services.

* * * * *

§ 165.44. Verification for special allowances for supportive services.

(a) Verification needed to authorize [payment] special allowances for supportive services.

(1) Before authorizing the [initial payment] special allowance for supportive services, the [CAO shall] Department will determine the following:

(i) Whether the supportive service requested is [**necessary**] required to enable the participant to engage in an approved [**education or training**] work or work-related activity [**or to apply for employment**].

* * * * *

(2) Verification [**of the need for**], including collateral contact, that the special allowances for supportive services is required [**only when it is not readily apparent**] will be provided prior to authorization.

(3) Acceptable verification [**of information need for initial authorization**] consists of collateral [**contracts**] contacts, written statements or completed Departmental forms, obtained from sources such as employers, prospective employers, school officials, **employment and training providers** or providers of supportive services. **If collateral contacts are used, the information will be documented in the participant's file.**

(4) The [**CAO shall**] Department will use collateral contacts whenever necessary to ensure that payment is made in advance of the date that payment is required [**by the provider**].

(b) *Verification needed [**to review continued eligibility**] for reoccurring and nonrecurring special allowances for supportive services.*

(1) The participant's [**continued**] eligibility for a special allowance for a supportive service is reviewed monthly, or more often if [**costs**] expenses are likely to change, at each [**reapplication**] redetermination or recertification, whenever a change in employment or training is reported by the participant or the **employment and training provider**, and whenever the **AMR or EDP** is revised.

[(2) To review the participant's continued eligibility, the CAO shall require verification of] (i) A participant shall verify the actual costs incurred by the participant for the supportive service and [**verification of**] the participant's attendance at [**an education or training activity or at employment**] the approved work or work-related activity. The Department may require that the participant or provider of the supportive service, or both, verify that the participant received the approved special allowance for supportive services and that the provider received payment for the amount the participant was eligible to receive.

[(3)] (ii) When verification provided [**to the CAO**] indicates a change in eligibility, payment of the special allowance to the participant shall be reduced, terminated or increased, as appropriate, upon issuance of a confirming notice to the participant, in accordance with § 133.4(c) (relating to procedures).

(2) The Department will process an overpayment referral to recover a special allowance for supportive services in accordance with § 165.91 (relating to restitution) and Chapter 255 (relating to restitution). Circumstances for which a referral may be appropriate include the following:

(i) The participant was ineligible for cash assistance or SNAP only benefits in the month the Department issued a special allowance for supportive services.

(ii) The participant did not use the special allowance for supportive services for its intended purpose.

(iii) The actual cost of the supportive service was less than the estimated cost of the service.

(iv) The participant provided falsified or erroneous documentation to obtain a special allowance for supportive services.

(v) The participant received a reoccurring special allowance for supportive services when the need no longer existed.

(vi) The participant or provider of supportive services, or both, did not provide verification, such as a receipt, that the supportive services requested were obtained using the special allowance payment.

(viii) The participant did not participate in or comply with RESET, including meeting hourly and other work and work-related requirements as specified on the AMR or EDP.

[(c) *Special requirements related to child care for GA recipients.*

(1) Child care costs shall be verified through a collateral contact by the CAO with the child care provider, by a written statement signed by the provider or on a form specified by the Department.

(2) When a special allowance for child care is authorized based on a collateral contact or a written statement from the provider, verification of the charge for child care on a form specified by the Department shall be submitted to the CAO within 30 days of the first day child care costs were incurred. The CAO shall assist the client, as needed, to obtain a completed verification form from the provider.

(3) Verification of factors other than cost relating to the need for child care shall consist of collateral contacts with, or written statement from, employers, prospective employers, physicians, licensed psychologists, school officials, or training providers or copies of court orders or pay stubs. The client's statement regarding suspected child abuse is acceptable evidence. Information previously verified need not be repeated unless it is subject to change.]

§ 165.45. Time frames for authorization of [**payment of**] special allowances for supportive services.

(a) When verification is obtained or received by the [**CAO**] Department within 5-calendar days following a request for a special allowance for supportive services, **if approved**, the [**CAO shall**] Department will authorize [**payment**] the request no later than 10-calendar days following the date of request.

(b) When verification is obtained or received by the [**CAO**] Department more than 5 days following a request for special allowance for supportive services, the [**CAO shall**] Department will authorize [**payment**] the request no later than 5-calendar days after receipt of the verification.

(c) When the last day for authorization of payment falls on a weekend or holiday, the [**CAO shall**] Depart-

ment will authorize [payment] the request on or before the working day immediately preceding the week-end or holiday.

(d) Authorization [of payment] shall include actually processing the data needed to issue a check, including completing required forms and performing data entry.

(e) The [CAO shall] Department will issue the written decision approving or disapproving the request for a special allowance for a supportive service within the time frame for authorization [of payment] in this section.

(f) [The CAO shall] For payments of special allowances for supportive services, the Department will use the method of payment, such as a county or central issuance, that is best calculated to provide payment to the [client] participant in advance of the date that payment for the supportive service is required by the provider.

§ 165.46. Types of special allowances for supportive services.

(a) [*Child care for GA recipients.*]

(1) Payment for child care is made to enable the caretaker/relative or custodial parent to participate in an approved education or training activity or to apply for employment.

(2) The CAO shall promptly inform an ETP participant who is in need of child care about the following:

(i) The types and locations of child care providers reasonably accessible to the participant.

(ii) The assistance available to help the participant select an appropriate child care provider.

(iii) The assistance available on request to help the participant obtain a child care provider.

(iv) That child care payments shall be paid in advance of the date that payment is required by the provider, consistent with the requirements and time frames in § 165.45 (relating to time frames for authorization of payment of special allowances for supportive services), to ensure that the participant will have access to the child care provider of the participant's choice.

(3) Special allowances for child care are available for the following types of providers, including the following:

(i) Center-based care.

(ii) Group family day care.

(iii) Family day care.

(iv) Department of Education administered day care.

(v) Unregulated care.

(4) Child care payments may be made only to a person or business entity who allows parental access to the child while a child is in care without the need for prior notification and who provides care in accordance with applicable Federal, State and local law.

(5) The caretaker/relative shall have the right to choose from any type of child care that is available

under this chapter and the right to choose any child care provider who meets the requirements of this chapter.

(6) Payments are made for care of a child who is one of the following:

(i) Twelve years of age or younger, living in the home of the parent or caretaker/relative and receiving cash assistance, or who would be eligible to receive cash assistance except for the receipt of SSI or foster care under Title IV-E of the Social Security Act (42 U.S.C.A. §§ 670—677).

(ii) Thirteen years of age or older if it has been verified by a physician or licensed psychologist that the child is not physically or mentally capable of caring for himself or it is verified that the child is under a court order requiring adult supervision, the child is living in the home of the parent or caretaker/relative and is receiving cash assistance, or who would be eligible to receive cash assistance except for the receipt of SSI or foster care under Title IV-E of the Social Security Act.

(7) Payment is made for the eligible cost of child care up to the maximum allowance established by the Department in § 168.1 (relating to policy on payment of child care) or the rate charged the general public, whichever is less, per child. Recipients receiving special allowances for child care before implementation of the maximum allowances continue to receive payment for actual reasonable costs incurred for child care. Eligible costs include charges for days on which the child does not attend due to illness, vacation, or the like. Charges for transporting the child to or from care are included if not levied as a separate charge by the provider.

(8) Payment for providing care of children will not be made to the following persons or business entities owned by:

(i) A biological or adoptive parent of the child.

(ii) A legal guardian of the child.

(iii) A stepparent of the child living in the home.

(iv) Persons receiving TANF as essential persons.

(v) Other members of the budget group of which the child is a member.

(9) Payment for child care shall be made for persons awaiting entry into, or during breaks in, approved education training or employment for one of the following:

(i) Up to 2 weeks.

(ii) Up to 30 days when it is verified that the arrangements would otherwise be lost in the interim period.

(10) Payment of child care shall be reasonably related to the hours of employment or ETP participation, including travel time.

(11) Payment for child care may be made by one of the following:

(i) Direct payment to the recipient when the provider is unregulated or is regulated but is not enrolled in the Department's child care vendor payment system.

(ii) Vendor payment to a regulated provider who has signed the Department's vendor payment agree-

ment and who is enrolled in the Department's child care vendor payment system.

(iii) Restricted endorsement check to the recipient and provider.

(iv) The earned income deductions in §§ 183.94(3) and 183.95(2) (relating to TANF earned income deductions; and GA earned income deductions) for employed clients, except that clients earning wages in a work experience training activity may receive payment for the difference between the child care deduction and the maximum child care allowance established by the Department in § 168.1 when the cost of child care exceeds the deductions in §§ 183.94(3) and 183.95(2).

(12) Child care services are not considered as needed when an unemployed biological or adoptive parent, specified relative or legal guardian is in the home unless that person is physically or mentally incapable of providing care or is involved in education, training, job search or employment related activities, or the child is at risk due to suspected child abuse or the custodial parent is participating in a Single Point of Contact or Department or Department of Education Pregnant and Parenting Youth Program.

(13) Preexpenditure approval is required unless the child care is for a job interview and the client is unable to contact the worker prior to the scheduled interview.

(b) *Care of incapacitated adults.* Payments are made for the eligible costs of nonmedical care up to the maximum rates established for infant care of an incapacitated adult living in the same home if care is required to enable a recipient to participate in an approved education or training activity or to apply for employment and no other sound plan can be made for care of the incapacitated adult. Costs for care of incapacitated adults for maintaining employment are met by the earned income deductions in §§ 183.94(3) and 183.95(2) except that clients earning wages in a training activity, such as work experience, may receive payment for the difference between the deduction for care of an incapacitated adult found in §§ 183.94(3) and 183.95(2) and the actual non-medical cost incurred.

(1) There shall be verification of the person's incapacity and the need for the care.

(2) Payment will be made for the actual cost of care.

(3) Payment for providing care will not be made to the following:

(i) The spouse of an incapacitated person.

(ii) An essential person.

(iii) Other members of the budget group of which the recipient or incapacitated adult is a member.

(4) Preexpenditure approval is required.

(c) *Transportation and related expenses.* [Payments are made for eligible transportation costs incurred due to participation in ETP activities or for accepting employment. Transportation costs under paragraph (1) or (2) for maintaining employment are met by the earned income deductions in §§ 183.94(1) and 183.95(2).] The Department will pay for transportation and related expenses re-

quired for an individual to engage in approved work or work-related activities up to the maximum allowance established in Appendix A (relating to work or work-related special allowances). [Payment is made] Transportation-related allowances are provided for the least costly type of transportation which is available and practical considering the location and hours of scheduled [employment or training] approved work or work-related activity, the [client's] participant's physical condition and the need to transport children to a child care provider. [Payment for transportation-related costs is] Transportation-related allowances are not [made] provided if the activity is secondary education or an equivalent level of vocational or technical training unless the [person] individual is [a] pregnant [female] or a custodial parent.

(1) *Public transportation.* [Payment is made] Public transportation-related allowances are provided for costs incurred for transportation provided by bus, subway, commuter [or long distance] rail, taxi, [air,] paratransit or other recognized modes of transportation.

(i) [Payment] An allowance for public transportation is the actual cost to the [client] participant up to the maximum amount established by the Department in Appendix A (relating to work and work-related special allowances).

(ii) [Except for air or long distance rail travel, preexpenditure approval is not required.] Verification of the need and the cost of transportation is required [within 30 days of the date the transportation expense was incurred].

(2) *Private transportation.* [Payment is made] Private transportation-related allowances are provided for costs incurred for transportation provided by privately owned vehicles, ride sharing and car or van pools.

(i) [Payment for] An allowance for private transportation provided by a vehicle owned by the [client] participant is the mileage rate established by the Department in Appendix A and the actual cost of parking and highway or bridge tolls up to the maximum [monthly] amount established by the Department in Appendix A.

(ii) [For an allowance provided for the client to ride with a volunteer car and driver, the volunteer driver is paid at] An allowance for transportation provided by a volunteer driver or if the participant is permitted to use another person's vehicle is the mileage rate established by the Department in Appendix A [,] and the actual cost of [the] parking and highway or bridge tolls up to the maximum [monthly] amount established by the Department in Appendix A.

(iii) [For an] An allowance provided for transportation by a car or van pool [,] is the [client receives a] participant's proportionate share of the cost up to the maximum [monthly] amount established by the Department in Appendix A. If the [client's] participant's share is a flat fee, the payment is the actual fee [is

used] up to the maximum [monthly] amount established by the Department in Appendix A.

(3) *Motor vehicle purchase or repair.* When there is no other type of practical transportation available or other available transportation is more expensive, a special allowance may be authorized toward the purchase, down payment [to purchase] or repair of a motor vehicle for an individual to [accept a firm job offer, to prevent the loss of current employment, to attend an approved education or training activity or to transport children to day care while the client is employed or participates] participate in an approved [education or training] work or work-related activity.

(i) The maximum total allowance toward a motor vehicle purchase, down payment and repair is limited to [a] the rate and frequency established by the Department in Appendix A.

* * * * *

(4) *Motor vehicle-related expenses.* The cost of a driver's license, State inspection fee, emission control inspection fee, license plates and vehicle registration fee may be authorized for a participant if they are [needed] required for [an individual to accept a firm job offer, to attend an approved education or training activity, or to transport children to day care while the client participates] participation in an approved [education or training] work or work-related activity.

(i) Payment is made for actual cost up to the maximum allowance and frequency established by the Department in Appendix A

* * * * *

(5) [*Moving/relocation costs.* A special allowance may be granted if an individual is relocating to accept a verified offer of gainful, permanent employment and if the individual has not received a moving allowance for any reason within the previous 12 months.

(i) Payment is not made for moves by unlicensed moving companies except as provided for in § 175.23(b)(3)(i)(C) (relating to requirements).

(ii) The maximum allowance toward moving/relocation costs is limited to the rate established by the Department in Appendix A, in a 12-month period. The 12-month period begins with the first authorization of this allowance.

(iii) Preexpenditure approval is required.

(6) *Lodging and food.* A special allowance toward lodging and food may be granted if an individual has to be away from home one or more nights to apply for employment or an approved education or training activity or to attend training.

(i) Payment for lodging will be made for actual costs up to the rates established for Commonwealth employes by the Office of Administration. These rates will be available upon request at the CAO. When lodging cannot be located with a reasonable effort within these rates, the rates may be exceeded. The rate may also be exceeded if the client is required to stay in a specific hotel or motel. A complete explanation of lodging costs in excess of the rate shall be documented in the CAO record.

(ii) Payment for food will be made for each 24-hour period the individual has to be away from home in accordance with the rates established for Commonwealth employes by the Office of Administration and the Office of the Budget. These rates will be available upon request at the CAO. Overnight travel of less than 24 hours will be divided into 6-hour periods and reimbursed at the fractional day allowance rates. An allowance will not be provided for less than 3 hours. Payment will not be made for meals provided by a prospective employer or included as part of registration fees.

(iii) Preexpenditure approval is required.]

Motor vehicle insurance. The cost of motor vehicle insurance may be authorized if the allowance is required for participation in an approved work or work-related activity.

(i) The allowance is provided only to participants who use their own vehicles.

(ii) Payment is made for actual cost up to the maximum allowance established by the Department in Appendix A.

(iii) Preexpenditure approval is required.

[(d)] (b) *Other expenses related to [employment and training] approved work and work-related activities.* Special allowances may be authorized for other items related to [applying for or accepting employment or for participating] participation in approved [education or training] work or work-related activities. Preexpenditure approval is required. The maximum allowances for these items are subject to the rates and frequencies established by the Department in Appendix A.

(1) *Clothing.* [A special allowance may be authorized for street or business] The Department may refer a participant to other public or nonprofit sources that provide clothing and grooming items at no cost. If these sources are not available or do not have appropriate clothing or other required items, the Department may authorize a special allowance for supportive services for clothing and grooming items [needed to make a client presentable to accept a job or to enter an approved education or training activity or specialized clothing, such as uniforms or safety shoes verified by the employer or training provider as needed for the client to work at a job or] required to participate in an approved [education or training] work or work-related activity.

(2) *Tools and other equipment.* A special allowance may be authorized for tools and other equipment [, such as goggles, helmets and wrenches] which an employer, education, employment or training provider [specifies are necessary] requires for [employment or] participation in an approved work or work-related activity but which are not provided by the employer, education, employment or training provider and are not available under Federal, State or other educational grants.

(3) *Books and supplies.* A special allowance may be authorized for books and supplies [, such as pens, pencils, wristwatches or thermometers] that an employer or employment and training provider

requires for a [client] participant to [attend] participate in an approved [education or training] work or work-related activity if these items are not provided by the employer or training provider and are not available under Federal, State or other educational grants.

(4) *Fees.* A special allowance for supportive services may be authorized for a fee [for taking] to take a test such as a high school equivalency test, a test that is a prerequisite for employment [,] or for registration or enrollment fees required for [a client] an individual to enter an approved [education or training course] work or work-related activity. Tuition is not construed to be a fee.

(5) *Union dues and professional fees.* If payment of union dues or professional fees is a condition of employment, a special allowance for supportive services may be [granted] authorized to participants who receive TANF or GA cash assistance for the initial fee

only and for the period up to the date of the [client's] participant's first pay. A special allowance for supportive services may not be issued to pay for reoccurring fees, such as license fees, even if they are necessary for the individual to maintain employment.

(c) *Amendments to Appendix A.* The Department may amend Appendix A as necessary based on availability of funding and demand for supportive services. Revisions will be published as a notice in the *Pennsylvania Bulletin* for recommended codification in Appendix A.

RESTITUTION

§ 165.91. Restitution.

The Cash Assistance provisions of Chapter 255 (relating to restitution) apply except that the provision for recoupment of an overpayment does not apply to special allowances for supportive services issued to SNAP only participants.

APPENDIX A

[EMPLOYMENT AND TRAINING] WORK AND WORK-RELATED SPECIAL ALLOWANCES

<i>[Allowance</i>	<i>Frequency</i>	<i>Maximum Allowance</i>
Child Care	—as required for education, training, job application or job interview	—actual cost subject to the maximum established by the Department, for allowances granted after implementation of the maximum allowances —actual reasonable cost for recipients receiving child care allowances before implementation of the maximum allowances
Care of Incapacitated Adults	—as required for education, training, job application or job interview	—actual cost of nonmedical care up to the maximum rates established for infant care
Transportation		
<u>Public</u>	—no limit on the number of trips for job interviews, education or training activities	—up to \$250 total per month as determined below:
—bus	—for employment, may be authorized for the period up to the date of the first pay	—actual cost except for air and long distance rail travel, which is provided at actual cost at the lowest available rate
—subway		
—commuter rail		
—taxi		
—paratransit		
—air		
—long distance rail		
<u>Private</u>	—no limit on the number of trips for job interviews, education or training activities	—\$.12 per mile plus the actual cost of parking and highway and bridge tolls
—privately owned vehicle	—for employment, may be authorized for the period up to the date of the first pay	
—volunteer car and driver	—same as above	—proportionate share of cost as determined above or flat fee
—car or van pool		
Motor Vehicle Purchase and Repair	—once per job —as required for education or training activities	—actual cost up to \$200 for purchase and repair
Motor Vehicle Related Expenses	—once per job	—actual cost up to \$200.
—driver's license	—as required for education or training activities	
—state inspection fee		
—emission control inspection fee		
—license plates		
—vehicle registration fee		

<i>Allowance</i>	<i>Frequency</i>	<i>Maximum Allowance</i>
Moving/Relocation Costs to Accept Employment	—no more than once in a 12-month period	—actual cost up to \$200.
Lodging	—once for each application or interview for a job —as required for education or training	—actual cost subject to the maximum rate established for Commonwealth employees by the Office of Administration
Food	—once for each application or interview for a job —as required for education or training	—actual cost subject to the maximum rate established for Commonwealth employees by the Office of Administration and the Office of the Budget.
Clothing	—once per job —as required for education or training activities	—actual cost up to \$75.
Tools and Equipment	—once per job —as required for education or training activities	—actual cost up to \$2,000.
Books and Supplies	—as required for education or training activities	—actual cost up to \$500.
Fees	—once per job —as required for education or training activities	—actual cost up to \$250.
Union Dues/Professional Fees	—once per job —may be authorized for the period up to date of the first pay	—actual cost up to \$250.]

<i>Type of Allowance</i>	<i>TANF or GA</i>	<i>Frequency</i>	<i>SNAP Only</i>	<i>Maximum Allowance</i>
<u>PUBLIC TRANSPORTATION RELATED ALLOWANCES</u>				—actual cost up to \$1,500 annually
Transportation <u>Public</u> —bus —subway —commuter rail —taxi —paratransit	—as required for job interviews, work or work-related activities	—as required for job interviews, work or work-related activities	—as required for job interviews, work or work-related activities	
	—for employment, may be authorized for the period up to the date of the first pay	—for employment, may be authorized for the period up to the start date		
<u>PRIVATE TRANSPORTATION RELATED ALLOWANCES</u>				—actual cost up to \$1,500 annually
Transportation <u>Private</u> —privately-owned vehicle —volunteer car and driver	—as required for job interviews, work or work-related activities —for employment, may be authorized for the period up to the date of the first pay	—as required for job interviews, work or work-related activities —for employment, may be authorized for the period up to the start date	—as required for job interviews, work or work-related activities	—mileage reimbursement rate will be set by the Department by notice not to exceed Commonwealth reimbursement rate for actual cost of gasoline, plus the actual cost of parking and highway and bridge tolls
Transportation Car or van pool	—as required for job interviews, work or work-related activities —for employment, may be authorized for the period up to the date of the first pay	—as required for job interviews, work or work-related activities —for employment, may be authorized for the period up to the start date		

<i>Type of Allowance</i>	<i>Frequency</i> <i>TANF or GA</i>	<i>SNAP Only</i>	<i>Maximum Allowance</i>
Motor Vehicle Repair	—as required for work or work-related activities	—as required for work or work-related activities or if required to accept employment	
Motor Vehicle-Related Expenses —driver's license —state inspection fee —emission control inspection fee —license plates —vehicle registration fee	—as required for work or work-related activities	—as required for work or work-related activities or if required to accept employment	
<u>MOTOR VEHICLE PURCHASE</u>	—as required for work or work-related activities	—as required for work or work-related activities or if required to accept employment	—actual cost for one vehicle up to \$1,500 in a lifetime.
<u>MOTOR VEHICLE INSURANCE</u>	—as required for work or work-related activities	—as required for work or work-related activities or if required to accept employment	—actual cost up to \$1,500 in a lifetime.
<u>CLOTHING</u>	—as required for work or work-related activities	—as required for work or work-related activities or if required to accept employment	—required clothing or actual cost of clothing up to \$150 annually
<u>WORK, EDUCATION AND TRAINING RELATED ALLOWANCES</u>			—actual cost up to \$2,000 in a lifetime
Tools and Equipment	—as required for work or work-related activities	—as required for work or work-related activities or if required to accept employment	
Books and Supplies	—as required for work or work-related activities	—as required for work or work-related activities	
Fees	—as required for work or work-related activities	—as required for work or work-related activities or if required to accept employment	
Union Dues/Professional Fees	—may be authorized for the period up to date of first pay	—may be authorized for the period up to the start date	

[Pa.B. Doc. No. 10-717. Filed for public inspection April 23, 2010, 9:00 a.m.]

ENVIRONMENTAL QUALITY BOARD

[25 PA. CODE CH. 93]

Clarks Creek, *et al.*; Stream Redesignations

The Environmental Quality Board (Board) proposes to amend 25 Pa. Code §§ 93.9f, 93.9j, 93.9o and 93.9r to read as set forth in Annex A.

This proposal was adopted by the Board at its meeting of February 16, 2010.

A. *Effective Date*

These proposed amendments are effective upon publication in the *Pennsylvania Bulletin* as final-form rule-making.

B. *Contact Persons*

For further information, contact Roberta Radel, Chief, Bureau of Water Standards and Facility Regulation, 11th Floor, Rachel Carson State Office Building, P. O. Box 8467, 400 Market Street, Harrisburg, PA 17105-8467, (717) 787-9637 or Michelle Moses, Assistant Counsel, Bureau of Regulatory Counsel, 9th Floor, Rachel Carson State Office Building, P. O. Box 8464, Harrisburg, PA 17105-8464, (717) 787-7060. Persons with a disability may use the Pennsylvania AT&T Relay Service by calling (800) 654-5984 (TDD-users) or (800) 654-5988 (voice users). This proposal is available electronically through the Department of Environmental Protection (Department) web site (<http://www.depweb.state.pa.us>).

C. *Statutory and Regulatory Authority*

This proposed rulemaking is being made under the authority of sections 5(b)(1) and 402 of The Clean

Streams Law (35 P. S. §§ 691.5(b)(1) and 691.402), which authorize the Board to develop and adopt rules and regulations to implement the provisions of The Clean Streams Law (35 P. S. §§ 691.1—691.1001), and section 1920-A of The Administrative Code of 1929 (71 P. S. § 510-20), which grants to the Board the power and duty to formulate, adopt, and promulgate rules and regulations for the proper performance of the work of the Department. In addition, section 303 of the Federal Clean Water Act (33 U.S.C. § 1313) sets forth requirements for water quality standards and the Federal regulation in 40 CFR 131.32 (relating to Pennsylvania) sets forth certain requirements for portions of the Commonwealth's antidegradation program.

D. Background of the Proposed Amendments

Water quality standards are in-stream water quality goals that are implemented by imposing specific regulatory requirements (such as treatment requirements, effluent limits, and best management practices (BMPs)) on individual sources of pollution. The Department may identify candidates for redesignation during routine waterbody investigations. Requests for consideration may also be initiated by other agencies. Organizations, businesses or individuals may submit a rulemaking petition to the Board.

The Department considers candidates for High Quality (HQ) or Exceptional Value (EV) Waters and all other designations in its ongoing review of water quality standards. In general, HQ and EV waters must be maintained at their existing quality and permitted activities shall ensure the protection of designated and existing uses.

Existing use protection is provided when the Department determines, based on its evaluation of the best available scientific information, that a surface water attains water uses identified in §§ 93.3 and 93.4 (relating to protected water uses; and Statewide water uses). Examples of water uses protected include the following: Cold Water Fishes (CWF), Warm Water Fishes (WWF), HQ and EV. A final existing use determination is made on a surface water at the time the Department takes a permit or approval action on a request to conduct an activity that may impact surface water. If the determination demonstrates that the existing use is different than the designated use, the water body will immediately receive the best protection identified by either the attained uses or the designated uses. A stream will then be "redesignated" through the rulemaking process to match the existing uses with the designated uses. For example, if the designated use of a stream is listed as protecting WWF but the redesignation evaluation demonstrates that the water attains the use of CWF, the stream would immediately be protected for CWF, prior to a rulemaking. Once the Department determines the water uses attained by a surface water, the Department will recommend to the Board that the existing uses be made "designated" uses, through rulemaking, and be added to the list of uses identified in § 93.9 (relating to designated water uses and water quality criteria).

These streams were evaluated in response to four petitions, as well as requests from the Department's Southcentral Regional Office (SCRO) and the Fish and Boat Commission (Commission), and a corrective amendment by Bureau of Water Standards and Facility Regulation (BWSFR) as follows:

Pine Creek (Schuylkill Co.)—Petition: (Friends of Pine Creek)

Cacoosing Creek (Berks Co.)—SCRO

Unnamed Tributary 00926 to Schuylkill River; locally Spring Mill Run (Montgomery Co.)—Petition: (Steven S. Brown, Chairperson; Whitmarsh Township Environmental Advisory Board)

Unnamed Tributary 28600 to Lackawanna River; locally Clarks Creek (Wayne Co.)—Petition: (Glen Abello)

Unnamed Tributary 07792 to Conestoga River (Lancaster Co.)—Commission

Hammer Creek (Lebanon and Lancaster Co.'s)—Petition: (Heidelberg Township)

Toms Run (Clarion and Forest Co.'s)—Correction (BWSFR)

These regulatory changes were developed as a result of aquatic studies conducted by the BWSFR. The physical, chemical and biological characteristics and other information on these waterbodies were evaluated to determine the appropriateness of the current and requested designations using applicable regulatory criteria and definitions. In reviewing whether waterbodies qualify as HQ or EV waters, the Department considers the criteria in § 93.4b (relating to qualifying as High Quality or Exceptional Value Waters). Based upon the data and information collected on these waterbodies, the Department recommends the Board adopt this proposed regulation as described in this preamble and as set forth in Annex A.

Copies of the Department's stream evaluation reports for these waterbodies are available on the Department's web site or from the contacts whose addresses and telephone numbers are listed in section B.

The following is a brief explanation of the recommendations for each waterbody:

Pine Creek—Pine Creek (stream code 02269) is a tributary to the Little Schuylkill River in the Delaware River drainage basin. The Pine Creek basin is located in Delano, Rush and Ryan Townships in Schuylkill County. The Pine Creek basin is currently designated CWF, MF and was evaluated for redesignation based on a petition submitted by the Friends of Pine Creek. Pine Creek was evaluated for redesignation as EV waters. Candidate station metrics were compared to Pine Creek (01701), which is an EV, MF stream in Berks County. The reference stream (Pine Creek; 01701) is a tributary to Manatawny Creek. The candidate basin failed to meet the 83% comparison standard and as a result does not qualify for either an EV or HQ-CWF use designation under the Department's regulatory criteria (§ 93.4b(b)(1)(v) and (a)(2)(i)(A)). The Department recommends that Pine Creek basin retain its current CWF, MF designation.

Cacoosing Creek—Cacoosing Creek (stream code 01850) is a tributary to Tulpehocken Creek in the Delaware River basin. The Cacoosing Creek basin is located west of Reading in South Heidelberg, Lower Heidelberg and Spring Townships; and the Boroughs of Sinking Spring and Wernersville in Berks County. The only named tributary to Cacoosing Creek is Little Cacoosing Creek and both were inadvertently omitted from Chapter 93. The fish populations of the Cacoosing Creek basin were sampled during various surveys conducted by Department and Commission staff. While the Cacoosing Creek fishery was very diverse and dominated by species commonly associated with cold-water habitats (trout, blacknose and longnose dace, white sucker and mottled sculpin) the Little Cacoosing Creek fishery was dominated by the banded killifish, a warm water species. The Department recommends that the Cacoosing Creek basin (excluding

the Little Cacoosing Creek subbasin) be designated CWF, MF and the Little Cacoosing Creek basin be designated WWF, MF.

Unnamed Tributary 00926 to Schuylkill River, (locally known as Spring Mill Run)—Spring Mill Run is a tributary to the Schuylkill River in the Delaware River Watershed. The candidate basin is a limestone influenced stream located in Whitmarsh Township, Montgomery County. Spring Mill Run is currently designated WWF, MF and was evaluated for redesignation as a Special Protection water-body in response to a petition from Steven S. Brown (Chairperson of the Whitmarsh Township Environmental Advisory Board). Elk Creek (Centre County) was selected as a reference stream because it is a limestone influenced stream that is designated EV, MF in Chapter 93. All stations on Spring Mill Run had biological condition scores less than 83% of the reference station on Elk Creek. This indicates that Spring Mill Run does not qualify for Special Protection designation under the Department's regulatory criterion (§ 93.4b(b)(1)(v)). The Department recommends that the Spring Mill Run basin be redesignated to CWF, MF. This recommendation is based on the cold water fish populations that are found in Spring Mill Run.

Unnamed Tributary 28600 to Lackawanna River, (locally known as Clarks Creek)—Clarks Creek is a tributary to the Lackawanna River in Clinton Township, Wayne County and it is included in the Susquehanna River Watershed. Clarks Creek basin is currently designated CWF, MF, and was evaluated for redesignation as HQ-CWF based on the petition submitted by Glen Abello. Candidate stream metrics were compared to Dimmick Meadow Brook, which is an EV, MF reference stream. This reference stream is a tributary to Sawkill Creek located in Pike County and has comparable drainage area to Clarks Creek. The Department recommends that the protected use designation of Clarks Creek be changed from CWF, MF to EV, MF based on biological condition scores greater than 92% of the reference station score.

Unnamed Tributary 07792 to Conestoga River (UNT Conestoga River)—UNT Conestoga River is a limestone creek which flows through Earl and East Earl Townships in Lancaster County before entering the Conestoga River which is included in the Susquehanna River drainage basin. The Department conducted an evaluation of UNT Conestoga River in response to a request by the Commission. The current Chapter 93 designated use for UNT Conestoga River is WWF, MF. The UNT Conestoga River supports a cold water fishery as indicated by the available physical, benthic macroinvertebrate, and fish data. The Department recommends that the UNT Conestoga River basin be redesignated CWF, MF.

Hammer Creek—Hammer Creek (stream code 07664) is a tributary to Cocalico Creek in the Susquehanna River drainage basin and is located in Cornwall, South Lebanon and Heidelberg Townships in Lebanon County and Penn and Elizabeth Townships in Lancaster County. Hammer Creek basin is characterized by both freestone and limestone/limestone-influenced streams. The candidate section of Hammer Creek basin from its source to the Speedwell Forge Lake Dam is currently designated HQ-CWF, MF and was evaluated for a redesignation to Trout Stocking (TSF) in response to a petition submitted by Heidelberg Township.

Based on the Department's evaluation of the Hammer Creek basin, the following revisions and redesignations are recommended:

The Department has determined the forested and relatively undisturbed nature of the headwaters of the Hammer Creek basin upstream of the second Rexmont Road Crossing justifies retention of the current HQ-CWF designation. Therefore, the Department recommends no change to the designated use above the second Rexmont Road Crossing.

The remaining portion of the upper Hammer Creek basin from the second Rexmont Road crossing downstream to, but not including UNT 07678, was originally and erroneously designated HQ based on a misclassification of the existing use as indicated by water quality evaluations conducted in the mid-1970s. A review of the historical data, recent field surveys and land use reviews does not establish that an HQ existing use was ever realized for that portion of the basin. The current HQ-CWF designated use of this portion of the upper basin cannot be attained by either implementing effluent limits required under the Federal Clean Water Act, or implementing cost-effective and reasonable best management practices (BMPs) for nonpoint source control. The human caused conditions that prevent the attainment of the designated use cannot be remedied to the level needed for HQ-CWF use attainment. The Department recommends that the Hammer Creek basin from the second Rexmont Road crossing downstream to, but not including UNT 07678 be redesignated as CWF.

Walnut Run enters Hammer Creek below the mouth of UNT 07678. The station on Walnut Run had a biological condition score greater than 92% of the EV reference station on Segloch Run (tributary to Furnace Run; Lancaster County). It is recommended that Walnut Run be redesignated as EV, based on the biological condition scoring criteria in § 93.4b(b)(1)(v).

While Department findings indicate that much of the upper Hammer Creek basin (above the confluence with UNT 07678) does not now and never has displayed HQ existing uses, there are some remaining portions of the lower Hammer Creek basin that exhibit better water quality conditions. These reaches of the Hammer Creek basin are: 1) from and including UNT 07678 downstream to Walnut Run; 2) from Walnut Run to the inlet of Speedwell Forge Lake; and 3) UNT 07671, which is a northern tributary to Speedwell Forge Lake. The condition of the lower basin is better than that of the upper portion of Hammer Creek and, even though portions of the lower basin do not currently meet HQ biological condition scoring criteria, a lack of historical information on the lower basin precludes removal of the HQ designation. The Department recommends that the Hammer Creek basin from and including UNT 07678 downstream to the inlet of Speedwell Forge Lake (except Walnut Run) and the basin of UNT 07671 should retain the current HQ-CWF designation.

Speedwell Forge Lake, constructed in 1966, is characterized by the predominance of warm water conditions and it has historically supported a warm water fish community since it was constructed, and it has been managed by the Commission as such. The Department recommends that Speedwell Forge Lake be redesignated as WWF.

The Department recommends that the entire Hammer Creek basin should maintain its current Migratory Fishes (MF) designated use.

Toms Run—In addition to these recommended revisions, the Department proposes a correction to an error that occurred during the 2000 RBI WQS Triennial Review rulemaking. Toms Run is a tributary to the Clarion River

in Forest County. Toms Run basin (except Little Hefren Run) was redesignated from CWF to EV as a result of the French Creek, *et al.* stream redesignations package. The French Creek package was published as a proposed rulemaking at 27 Pa.B. 1449 (March 22, 1997), and as a final rulemaking at 28 Pa.B. 4510 (September 5, 1998). At the same time, the RBI WQS Triennial Review proposed rulemaking was considered and approved by the Board on June 16, 1998, and published at 28 Pa.B. 4431 (August 29, 1998). The RBI WQS Triennial Review intended to eliminate the site specific criteria for Threshold Odor Number (TON), which affected much of the Clarion River basin (§ 93.9r (relating to drainage list R)), including Toms Run. Unfortunately, while drafting the RBI WQS Triennial final rulemaking, the then recent final redesignation for Toms Run basin was not updated, thereby incorrectly reverting the EV designation back to CWF when the RBI WQS Triennial was published as final rulemaking at 30 Pa.B. 6059 (November 18, 2000). Therefore, the Department recommends that Toms Run basin (except Little Hefren Run) be corrected to EV as approved in the French Creek, *et al.* rulemaking. Little Hefren Run basin will remain CWF.

E. *Benefits, Costs and Compliance*

1. *Benefits*—Overall, the Commonwealth, its citizens and natural resources will benefit from these recommended changes because they provide the appropriate level of protection in order to preserve the integrity of existing and designated uses of surface waters in this Commonwealth. Protecting water quality provides economic value to present and future generations in the form of clean water for drinking, recreational opportunities and aquatic life protection. It is important to realize these benefits to ensure opportunity and development continue in a manner that is environmentally, socially and economically sound. Maintenance of water quality ensures its future availability for all uses.

2. *Compliance Costs*—The proposed amendments to Chapter 93 may impose additional compliance costs on the regulated community. These regulatory changes are necessary to improve total pollution control. The expenditures necessary to meet new compliance requirements may exceed that which is required under existing regulations.

Persons conducting or proposing activities or projects must comply with the regulatory requirements relating to designated and existing uses. Persons expanding a discharge or adding a new discharge point to a stream could be adversely affected if they need to provide a higher level of treatment to meet the designated and existing uses of the stream. These increased costs may take the form of higher engineering, construction or operating cost for wastewater treatment facilities. Treatment costs are site-specific and depend upon the size of the discharge in relation to the size of the stream and many other factors. It is therefore not possible to precisely predict the actual change in costs. Economic impacts would primarily involve the potential for higher treatment costs for new or expanded discharges to streams that are redesignated. The initial costs resulting from the installation of technologically advanced wastewater treatment processes may be offset by potential savings from and increased value of improved water quality through more cost-effective and efficient treatment over time.

3. *Compliance Assistance Plan*—The regulatory revisions have been developed as part of an established program that has been implemented by the Department since the early 1980s. The revisions are consistent with

and based on existing Department regulations. The revisions extend additional protection to selected waterbodies that exhibit exceptional water quality and are consistent with antidegradation requirements established by the Federal Clean Water Act and The Clean Streams Law. All surface waters in this Commonwealth are afforded a minimum level of protection through compliance with the water quality standards, which prevent pollution and protect existing water uses.

The proposed amendments will be implemented through the Department's permit and approval actions. For example, the National Pollutant Discharge Elimination System (NPDES) permitting program bases effluent limitations on the use designation of the stream. These permit conditions are established to assure water quality criteria are achieved and designated and existing uses are protected. New and expanded dischargers with water quality based effluent limitations are required to provide effluent treatment according to the water quality criteria associated with existing uses and revised designated water uses.

4. *Paperwork Requirements*—The regulatory revisions should have no direct paperwork impact on the Commonwealth, local governments and political subdivisions, or the private sector. These regulatory revisions are based on existing Department regulations and simply mirror the existing use protection that is already in place for these streams. There may be some indirect paperwork requirements for new or expanding dischargers to streams upgraded to HQ or EV. For example, NPDES general permits are not currently available for new or expanded discharges to these streams. Thus an individual permit, and its associated paperwork, would be required. Additionally, paperwork associated with demonstrating social and economic justification may be required for new or expanded discharges to certain HQ Waters, and consideration of nondischarge alternatives is required for all new or expanded discharges to EV and HQ Waters.

F. *Pollution Prevention*

The water quality standards and antidegradation program are major pollution prevention tools because the objective is to prevent degradation by maintaining and protecting existing water quality and existing uses. Although the antidegradation program does not prohibit new or expanded wastewater discharges, nondischarge alternatives are encouraged, and required when environmentally sound and cost effective. Nondischarge alternatives, when implemented, remove impacts to surface water and reduce the overall level of pollution to the environment by remediation of the effluent through the soil.

G. *Sunset Review*

These proposed amendments 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.

H. *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on April 14, 2010, the Department submitted a copy of the proposed rulemaking to the Independent Regulatory Review Commission (IRRC) and to the Senate and House Environmental Resources and Energy Committees (Committees) for review and comment. In addition to submitting the proposed amendments, IRRC and the Committees have been provided 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 regulations 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 by the Department, the General Assembly and the Governor prior to final-form publication of the regulations.

I. *Public Comments*

Written Comments. Interested persons are invited to submit comments, suggestions or objections regarding the proposed amendments 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 must be received by the Board by June 8,

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 June 8, 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 proposed amendments will be considered. If sufficient interest is generated as a result of this publication, a public hearing will be scheduled at an appropriate location to receive additional comments.

Electronic Comments. Comments may be submitted electronically to the Board at RegComments@state.pa.us. A subject heading of the proposal and return name and address must be included in each transmission. Comments submitted electronically must also be received by the Board by June 8, 2010.

JOHN HANGER,
Chairperson

Fiscal Note: 7-438. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 25. ENVIRONMENTAL PROTECTION
PART I. DEPARTMENT OF ENVIRONMENTAL PROTECTION
Subpart C. PROTECTION OF NATURAL RESOURCES
ARTICLE II. WATER RESOURCES
CHAPTER 93. WATER QUALITY STANDARDS

§ 93.9f. Drainage List F.

Delaware River Basin in Pennsylvania
Schuylkill River

<i>Stream</i>	<i>Zone</i>	<i>County</i>	<i>Water Uses Protected</i>	<i>Exceptions To Specific Criteria</i>
		* * * * *		
5—Plum Creek	Basin, [Unnamed Tributary] UNT at RM 0.45 to Mouth	Berks	CWF, MF	None
4—Cacoosing Creek	Basin, Source to Little Cacoosing Creek	Berks	CWF, MF	None
5—Little Cacoosing Creek	Basin	Berks	WWF, MF	None
4—Cacoosing Creek	Little Cacoosing Creek to Mouth	Berks	CWF, MF	None
3—Tulpehocken Creek	Basin, T 921 to Mouth	Berks	WWF, MF	None
		* * * * *		
3—Valley Creek	Basin	Montgomery-Chester	EV, MF	None
3—UNTs to Schuylkill River	Basins, Valley Creek to [Head of Tide] UNT 00926 at RM 18.9	[Philadelphia] Montgomery	WWF, MF	None
3—Trout Creek	Basin	Montgomery	WWF, MF	None
		* * * * *		
3—Arrowmink Creek	Basin	Montgomery	WWF, MF	None
3—UNT 00926 at RM 18.9 (locally Spring Mill Run)	Basin	Montgomery	CWF, MF	None

<i>Stream</i>	<i>Zone</i>	<i>County</i>	<i>Water Uses Protected</i>	<i>Exceptions To Specific Criteria</i>
3—UNTs to Schuylkill River	Basins, UNT 00926 downstream to Head of Tide	Montgomery-Philadelphia	WWF, MF	None
3—Sawmill Run	Basin	Montgomery	WWF, MF	None
	* * * * *			

§ 93.9j. Drainage List J.

**Susquehanna River Basin in Pennsylvania
Lackawanna River**

<i>Stream</i>	<i>Zone</i>	<i>County</i>	<i>Water Uses Protected</i>	<i>Exceptions To Specific Criteria</i>
				* * * * *
2—Lackawanna River	Main Stem, Confluence East and West Branches to SR 0347 Bridge at Dickson City	Lackawanna	HQ-CWF, MF	None
3—[Unnamed Tributaries] UNTs to Lackawanna River	Basins, Confluence of East and West Branches to [SR 0347 Bridge at Dickson City] Clarks Creek	Susquehanna-Wayne	CWF, MF	None
3—Brace Brook	Basin	Susquehanna	CWF, MF	None
3—UNT 28600 at RM 35.54 (locally Clarks Creek)	Basin	Wayne	EV, MF	None
3—UNTs to Lackawanna River	Basins, Clarks Creek to SR 0347 Bridge at Dickson City	Wayne-Lackawanna	CWF, MF	None
3—Wilson Creek	Basin	Lackawanna	CWF, MF	None
				* * * * *

§ 93.9o. Drainage List O.

**Susquehanna River Basin in Pennsylvania
Susquehanna River**

<i>Stream</i>	<i>Zone</i>	<i>County</i>	<i>Water Uses Protected</i>	<i>Exceptions To Specific Criteria</i>
				* * * * *
2—Wilson Run	Basin	York	WWF, MF	None
2—Conestoga River	[Main Stem] Basin, Source to UNT 07792 at RM 43.05	Lancaster	WWF, MF	None
3—UNT 07792 to Conestoga River at RM 43.05	Basin	Lancaster	CWF, MF	None
2—Conestoga River	Main Stem, UNT 07792 at RM 43.05 to Mouth	Lancaster	WWF, MF	None
3—[Unnamed Tributaries] UNTs to Conestoga River	Basins, UNT 07792 to Mouth	Berks-Lancaster	WWF, MF	None
3—Muddy Creek	Main Stem, Source to Little Muddy Creek	Lancaster	TSE, MF	None
				* * * * *
4—Middle Creek	Basin, Furnace Run to Mouth	Lancaster	WWF, MF	None

<i>Stream</i>	<i>Zone</i>	<i>County</i>	<i>Water Uses Protected</i>	<i>Exceptions To Specific Criteria</i>
4—Hammer Creek	Basin, Source to [Speedwell Forge Lake Dam] second Rexamont Road crossing (downstream of the two former water supply reservoirs)	[Lancaster] Lebanon	HQ-CWF, MF	None
4—Hammer Creek	Basin, second Rexamont Road crossing to but not including UNT 07678 at RM 14.2	Lebanon	CWF, MF	None
4—Hammer Creek	Basin, from and including UNT 07678 downstream to Walnut Run	Lancaster	HQ-CWF, MF	None
5—Walnut Run	Basin	Lancaster	EV, MF	None
4—Hammer Creek	Basin, Walnut Run to inlet of Speedwell Forge Lake	Lancaster	HQ-CWF, MF	None
4—Hammer Creek	Basin, Inlet of Speedwell Forge Lake to UNT 07671 at RM 8.8	Lancaster	WWF, MF	None
5—UNT 07671	Basin	Lancaster	HQ-CWF, MF	None
4—Hammer Creek	Basin, UNT 07671 to Speedwell Forge Lake Dam	Lancaster	WWF, MF	None
4—Hammer Creek	Basin, Speedwell Forge Lake Dam to Mouth	Lancaster	TSF, MF	None

* * * * *

§ 93.9r. Drainage List R.

**Ohio River Basin in Pennsylvania
Clarion River**

<i>Stream</i>	<i>Zone</i>	<i>County</i>	<i>Water Uses Protected</i>	<i>Exceptions To Specific Criteria</i>
4—Henry Run	Basin	Forest	CWF	None
4—Toms Run	Basin, Source to Little Hefren Run	[Forest] Clarion	[CWF] EV	None
5—Little Hefren Run	Basin	Clarion	CWF	None
4—Toms Run	Basin, Little Hefren Run to Mouth	Forest	EV	None
4—Cather Run	Basin	Clarion	HQ-CWF	None

* * * * *

[Pa.B. Doc. No. 10-718. Filed for public inspection April 23, 2010, 9:00 a.m.]

**STATE BOARD
OF CHIROPRACTIC**

[49 PA. CODE CH. 5]

Assistance of Unlicensed Supportive Personnel

The State Board of Chiropractic (Board) proposes to amend its regulations to add § 5.54 (relating to assistance by unlicensed supportive personnel), to read as set forth in Annex A.

Effective Date

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

Statutory Authority

The proposed rulemaking is authorized under sections 302(3) and 601 of the Chiropractic Practice Act (act) (63 P. S. §§ 625.302(3) and 625.601).

Background and Need for the Amendment

Under section 601 of the act, a licensed chiropractor may utilize “the assistance of unlicensed supportive personnel performing under the direct on-premises supervision of a licensed chiropractor.” That section also prohibits a licensed chiropractor from delegating “any activity or duty to such unlicensed individuals which requires formal education or training in the practice of chiropractic or the knowledge and skill of a licensed chiropractor.” This rulemaking is intended to identify the more common

activities and duties that unlicensed supportive personnel may perform under the supervision of a licensed chiropractor and to identify those activities and duties that may not be delegated to supportive personnel. Those activities and duties not listed in the regulation would be permitted or prohibited in accordance with the statutory standard.

Description of the Proposed Amendments

The proposed rulemaking would first define in § 5.54(a) the term “direct supervision” as supervision provided without any intermediate supervision and define the term “unlicensed supportive personnel” as any person not licensed to practice chiropractic who is regularly employed by a chiropractor to assist a chiropractor. The proposed rulemaking would provide in § 5.54(b) that a licensed chiropractor may utilize the assistance of unlicensed supportive personnel as authorized in the regulation and that the chiropractor is professionally responsible for the actions of the supportive personnel. Under proposed § 5.54(f), the chiropractor must be physically on the premises and able to intervene whenever necessary while utilizing the assistance of unlicensed supportive personnel. Under proposed § 5.54(g), supportive personnel must be qualified by training, education or experience to perform any activity or duty that is delegated. Proposed § 5.54(h) would require the licensed chiropractor to make a diagnosis and evaluation, specify the treatment regimen and perform any aspect of the procedure that may not be delegated to unlicensed supportive personnel.

Proposed § 5.54(c) would list those duties and activities that the Board has recognized do not require formal education or training in the practice of chiropractic or the knowledge or skill of a licensed chiropractor and could be performed by unlicensed supportive personnel under the direct on-premises supervision of a licensed chiropractor. Under proposed § 5.54(c)(1), unlicensed supportive personnel could record the patient’s chief complaint and presenting illness or condition; assist the patient in completing office forms; obtain pre-authorization for diagnostic testing; obtain and record the patient’s vital signs; develop x-rays; instruct and monitor therapeutic exercises; help complete a physical activity readiness questionnaire; help prepare the patient for diagnostic studies; assist the chiropractor in performing electrocardiograms; assist in applying a cast, brace, appliance or orthotic; prepare laboratory specimens; perform range of motion testing; perform muscle testing; relay home care instructions to the patient; relay instructions for cast, brace, appliance or orthotic; elicit the patient’s activities of daily living; set up and break down rehabilitation equipment; use rehabilitation equipment; clear rooms and clean/sterilize equipment; maintain the patient file and prepare for therapeutic encounter; perform extremity measurements; perform postural screening; render first aid; and perform therapeutic exercises and activities to include provision of direct one-on-one contact or constant attendance necessary to achieve the desired therapeutic results of the exercise. Because only a chiropractor certified to do so may perform adjunctive procedures, proposed § 5.54(c)(2) would separately list those adjunctive procedure activities or duties that may be performed by unlicensed supportive personnel under the direct on-premises supervision of a licensed chiropractor certified to use adjunctive procedures. Under proposed § 5.54(c)(2), unlicensed supportive personnel could: apply hot packs and cryotherapy; provide the contact required for the provision of whirlpool therapy and perform any necessary setup of equipment; perform electrical stimulation therapy to include provision of the supervision or con-

stant attendance necessary during delivery of the therapy, placement of the electrodes and necessary setup of the electrical stimulation unit; perform ultrasound therapy to include provision of the supervision or constant attendance necessary during delivery of the therapy, actual delivery of the ultrasound therapy, and necessary setup of the ultrasound unit; perform mechanical traction therapy to include provision of the supervision necessary during delivery of the therapy, placement of the patient and necessary setup of the traction unit; perform therapeutic laser therapy to include provision of the supervision or constant attendance necessary during delivery of the therapy, actual delivery of the laser therapy, and necessary setup of the laser therapy unit; and perform other therapeutic modalities classifiable as adjunctive procedures to include provision of the supervision or constant attendance necessary during delivery of the therapy, actual application of the therapy when required, and necessary setup of the laser therapy unit.

Proposed § 5.54(d) would list those duties and activities that the Board has recognized require formal education or training in the practice of chiropractic or the knowledge or skill of a licensed chiropractor and may not be delegated to unlicensed supportive personnel. Under proposed § 5.54(d)(1), unlicensed supportive personnel may not perform chiropractic adjustment or manipulation, evaluate or manage a treatment plan, discharge a patient, order x-rays or other diagnostic tests, refer a patient to another practitioner, or perform venipuncture. Under proposed § 5.54(d)(2), unlicensed supportive personnel may not place needle electrodes.

Because this list is not exhaustive, under proposed § 5.54(e) any activity or duty not listed in the regulation would be evaluated under the terms of section 601 of the act to determine whether the activity or duty could be delegated to unlicensed supportive personnel.

Fiscal Impact and Paperwork Requirements

The proposed regulation will have no adverse fiscal impact on the Commonwealth or its political subdivisions. The regulation will impose no additional paperwork requirements upon the Commonwealth, political subdivisions or the private sector.

Sunset Date

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

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on April 8, 2010, the Board submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Senate Consumer Protection and Professional Licensure Committee and the House Professional Licensure Committee. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey comments, recommendations or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections shall 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.

Public Comment

Interested persons are invited to submit written comments, suggestions or objections regarding this proposed rulemaking to Regulatory Unit Counsel, Department of State, by mail at P. O. Box 2649, Harrisburg, PA 17105-2649, or by email at st-chiropractic@state.pa.us, within 30 days following publication of this proposed rulemaking in the *Pennsylvania Bulletin*. Use reference No. 16A-4316 (assistance by unlicensed supportive personnel), when submitting comments.

KATHLEEN G. McCONNELL, D. C.,
Chairperson

Fiscal Note: 16A-4316. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

CHAPTER 5. STATE BOARD OF CHIROPRACTIC

Subchapter E. MINIMUM STANDARDS OF PRACTICE

§ 5.54. Assistance by unlicensed supportive personnel.

(a) The following words and terms, when used in this section, have the following meanings, unless the context clearly indicates otherwise:

Direct supervision—Supervision without any intermediate supervisory person.

Unlicensed supportive personnel—A person not licensed by the Board to practice chiropractic who is regularly employed by a licensed chiropractor or chiropractic practice to assist one or more licensed chiropractors.

(b) A licensed chiropractor may utilize the assistance of unlicensed supportive personnel as authorized in this section. The chiropractor is professionally responsible for the actions of unlicensed supportive personnel providing assistance under this section.

(c) Performing the activities or duties identified in this subsection does not require formal education or training in the practice of chiropractic or the knowledge and skill of a licensed chiropractor.

(1) A licensed chiropractor may delegate the following activities or duties to unlicensed supportive personnel performing under the chiropractor's direct on-premises supervision:

- (i) Recording patient's chief complaint and presenting illness or condition.
- (ii) Assisting patient in completing office forms.
- (iii) Obtaining preauthorization for diagnostic testing.
- (iv) Obtaining and recording a patient's vital signs.
- (v) Developing x-rays.
- (vi) Instructing and monitoring therapeutic exercises in the office.

(vii) Helping complete physical activity readiness questionnaire.

(viii) Helping prepare patient for diagnostic studies.

(ix) Assisting the chiropractor in performing an electrocardiogram.

(x) Assisting in applying a cast, brace, appliance or orthotic.

(xi) Preparing laboratory specimens.

(xii) Performing range of motion testing.

(xiii) Performing muscle testing.

(xiv) Relaying home care instructions to patients.

(xv) Relaying instructions for cast, brace, appliance or orthotic.

(xvi) Eliciting patient's activities of daily living.

(xvii) Setting up and breaking down rehabilitation equipment.

(xviii) Using rehabilitation equipment.

(xix) Clearing rooms and cleaning or sterilizing equipment.

(xx) Maintaining patient file and preparing for therapeutic encounter.

(xxi) Performing extremity measurements.

(xxii) Performing postural screening.

(xxiii) Rendering first aid.

(xxiv) Performing therapeutic exercises and activities to include provision of direct one-on-one contact or constant attendance necessary to achieve the desired therapeutic results of the exercise.

(2) A licensed chiropractor who is certified to use adjunctive procedures may delegate the following adjunctive procedures activities or duties to unlicensed supportive personnel performing under the chiropractor's direct on-premises supervision:

(i) Applying hot packs and cryotherapy.

(ii) Providing the contact required for the provision of whirlpool therapy and performing any necessary setup of equipment.

(iii) Performing electrical stimulation therapy to include provision of the supervision or constant attendance necessary during delivery of the therapy, placement of the electrodes, and necessary setup of the electrical stimulation unit.

(iv) Performing ultrasound therapy to include provision of the supervision or constant attendance necessary during delivery of the therapy, actual delivery of the ultrasound therapy, and necessary setup of the ultrasound unit.

(v) Performing mechanical traction therapy to include provision of the supervision necessary during delivery of the therapy, placement of the patient and necessary setup of the traction unit.

(vi) Performing therapeutic laser therapy to include provision of the supervision or constant attendance

necessary during delivery of the therapy, actual delivery of the laser therapy, and necessary setup of the laser therapy unit.

(vii) Performing other therapeutic modalities classifiable as adjunctive procedures to include provision of the supervision or constant attendance necessary during delivery of the therapy, actual application of the therapy when required, and necessary setup of the laser therapy unit.

(d) Performing the activities or duties identified in this subsection requires formal education or training in the practice of chiropractic or the knowledge and skill of a licensed chiropractor.

(1) A chiropractor may not delegate the following activities or duties to unlicensed supportive personnel:

- (i) Performing chiropractic adjustment or manipulation.
- (ii) Evaluating or managing a treatment plan.
- (iii) Discharging a patient.
- (iv) Ordering x-rays or other diagnostic tests.
- (v) Interpreting x-rays or other diagnostic tests.
- (vi) Referring a patient to another practitioner.
- (vii) Performing venipuncture.

(2) A chiropractor may not delegate the following adjunctive procedure activities or duties to unlicensed supportive personnel: placing needle electrodes.

(e) Unlicensed supportive personnel may assist a licensed chiropractor by performing an activity or duty not identified in subsection (b) or (c) if the activity or duty does not require formal education or training in the practice of chiropractic or the knowledge and skill of a licensed chiropractor and the unlicensed supportive personnel act in accordance with the other requirements of this section. A chiropractor may not delegate to unlicensed supportive personnel any activity or duty not identified in subsection (b) or (c) if the activity or duty requires formal education or training in the practice of chiropractic or the knowledge and skill of a licensed chiropractor.

(f) An unlicensed supportive person may perform an activity or duty delegated by a chiropractor under this section only while the chiropractor supervising the unlicensed supportive person is physically present on the premises and able to intervene whenever necessary.

(g) A chiropractor may not permit an unlicensed supportive person to perform any activity that the supportive person is not qualified by training, education or experience to perform.

(h) The licensed chiropractor shall make the diagnosis and evaluation, specify the treatment regimen, and perform any aspects of the procedures that may not be delegated to unlicensed supportive personnel.

[Pa.B. Doc. No. 10-719. Filed for public inspection April 23, 2010, 9:00 a.m.]

STATE BOARD OF SOCIAL WORKERS, MARRIAGE AND FAMILY THERAPISTS AND PROFESSIONAL COUNSELORS

[49 PA. CODE CHS. 47, 48 AND 49]

Licensure by Endorsement; Hours of Supervised Clinical Experience

The State Board of Social Workers, Marriage and Family Therapists and Professional Counselors (Board) proposes to amend §§ 47.12c and 47.12d (relating to licensed clinical social worker; and standards for supervisors) and to adopt §§ 47.16, 48.17 and 49.18 (relating to licensure by endorsement), to read as set forth in Annex A.

Statutory authority

The act of July 9, 2008 (P.L. 929, No. 68) (Act 68) amended section 7(d) of the Social Workers, Marriage and Family Therapists and Professional Counselors Act (act), 63 P.S. § 1907(d) to reduce the number of hours of supervised clinical experience required as a condition of licensure as a licensed clinical social worker from 3,600 to 3,000. Act 68 also added section 10.1 to the act (63 P.S. § 1910.1), to establish licensure by endorsement for clinical social workers, marriage and family therapists and professional counselors. Section 4 of Act 68 directs the Board to promulgate regulations to implement the addition of section 10.1 of the act within 3 years of the effective date of the act. The effective date of the act was September 7, 2008. Section 6(2) of the act, (63 P.S. § 1906(2)), authorizes the Board to adopt and, from time to time, revise rules and regulations as may be necessary to carry into effect the provisions of the act.

Background and Purpose

The amendments are required to implement licensure by endorsement for clinical social workers, marriage and family therapists and professional counselors as required under section 10.1 of the act and to amend existing regulations to conform to the recent amendments to the act relating to the number of hours of supervised clinical experience required as a condition of licensure as a licensed clinical social worker.

Description of the Amendments

Hours of Supervised Clinical Experience

The Board proposes to amend § 47.12c(a) to reduce the number of hours of supervised clinical experience from 3,600 to 3,000 hours to conform to the recent amendment to the act. In addition, subsection (b)(2) is proposed to be amended to reduce the number of hours that must be supervised by a licensed clinical social worker or, if the supervision occurred prior to January 1, 2006, by a licensed social worker who practiced as a clinical social worker, from 1,800 hours to no less than 1,500 hours (half of the required hours). Subsection (b)(9) also proportionally reduces the number of hours so that no less than 500 hours and no more than 1,500 may be credited in any 12-month period. These amendments continue the current regulatory scheme, while implementing the reduction in the total number of hours of supervised clinical experience from 3,600 to 3,000 as mandated by the amendment

to the act. The Board also proposes to amend subsection (c) to provide for consideration of those applicants that have already completed more than 1,500 hours of supervised clinical experience within a 12-month period prior to the effective date of these regulations in final form. For those applicants, the Board will credit up to 1,800 hours. This will ensure there will be no adverse impact upon the applicant or loss of credit hours for those hours already completed in compliance with the existing regulations.

Section 47.12d was likewise amended to reflect the decrease from 3,600 to 3,000 of supervised experience.

Licensure by Endorsement

The Board proposes to adopt § 47.16 to set forth requirements for licensure by endorsement for clinical social workers. To qualify for licensure by endorsement, a clinical social worker shall: (1) satisfy the general requirements for licensure; (2) hold a master's degree in social work or social welfare or a doctoral degree in social work from an accredited school of social work; (3) have passed a clinical social work examination acceptable to the Board; (4) hold a clinical social work license that is in good standing from another state; and (5) have completed a minimum of 3,000 hours of supervised clinical experience that conforms to the requirements of the state in which the applicant is licensed.

Section 48.17 would set forth similar requirements for licensure by endorsement of marriage and family therapists. To qualify for licensure by endorsement, a marriage and family therapist shall: (1) satisfy the general requirements for licensure; (2) meet the educational requirements set forth in the act and regulations; (3) hold a marriage and family therapy license in good standing from another state; (4) have completed a minimum of 3,000 hours of supervised clinical experience that conforms to the requirements of the state in which the applicant is licensed; and (5) have been actively engaged in the practice of marriage and family therapy for 5 of the last 7 years immediately preceding the filing of the application for licensure by endorsement.

Finally, § 49.18 would set forth the requirements for licensure by endorsement for professional counselors. To qualify for licensure by endorsement, a professional counselor shall: (1) satisfy the general requirement for licensure; (2) meet the educational requirements set forth in the act and regulations; (3) hold a professional counselor license in good standing from another state; (4) have completed a minimum of 3,000 hours of supervised clinical experience that conforms to the requirements of the state in which the applicant is licensed; and (5) have been engaged in the practice of professional counseling for 5 of the last 7 years immediately preceding the filing of the application for licensure by endorsement.

Fiscal impact and Paperwork Requirements

The proposed amendments will require the Board to create new application forms for licensure by endorsement; however, the proposed amendments should not create additional paperwork for the private sector with the exception of those individuals who apply for licensure by endorsement. The proposed amendments should not result in any additional legal, accounting or reporting requirements for the Commonwealth or the regulated community.

Sunset Date

The Board continuously monitors the effectiveness of its regulations on a fiscal year and biennial basis. Therefore, no sunset date has been assigned.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on April 8, 2010, the Board submitted a copy of these proposed amendments and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Senate Consumer Protection and Professional Licensure Committee and the House Professional Licensure Committee. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey 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 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.

Public Comment

Interested persons are invited to submit written comments, suggestions or objections regarding these proposed amendments to Cynthia K. Montgomery, Regulatory Counsel, State Board of Social Workers, Marriage and Family Therapists and Professional Counselors, P. O. Box 2649, Harrisburg, PA 17105-2649, within 30 days of publication of this proposed rulemaking in the *Pennsylvania Bulletin*. Use reference No. 16A-6916, Licensure by Endorsement; House of Supervised Clinical Experience, when submitting comments.

DONNA A. TONREY, LMFT,
Chairperson

Fiscal Note: 16A-6916. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

CHAPTER 47. STATE BOARD OF SOCIAL WORKERS, MARRIAGE AND FAMILY THERAPISTS AND PROFESSIONAL COUNSELORS

LICENSURE

§ 47.12c. Licensed clinical social worker.

(a) *Conditions for licensure.* To be issued a license to hold oneself out as a licensed clinical social worker, an applicant shall provide proof satisfactory to the Board, that the applicant has met the following conditions:

* * * * *

(5) Completed at least [**3 years or 3,600**] **3,000** hours of supervised clinical experience meeting the criteria in subsection (b) after completion of the master's degree in social work. Supervision for the clinical experience shall be provided by a supervisor as defined in §§ 47.1 and 47.1a (relating to definitions; and qualifications for supervisors).

(b) *Supervised clinical experience.* Experience acceptable to the Board means experience as a supervisee in a setting that is organized to prepare the applicant for the

practice of clinical social work consistent with the applicant's education and training [.], and conforms to the following:

* * * * *

(2) Supervision for the clinical experience shall be provided by a supervisor as defined in §§ 47.1 and 47.1a. However, [1,800] at least 1,500 hours shall be supervised by a supervisor meeting the qualifications in § 47.1a(1) and (3).

* * * * *

(9) The supervised clinical experience shall be completed in no less than 2 years and no more than 6 years, except that [no less than 600] at least 500 hours and no more than [1,800] 1,500 hours may be credited in any 12-month period.

(c) [Supervised clinical experience obtained within 5 years prior to March 2, 2002.

(1) For hours of supervised clinical experience obtained within 5 years prior to March 2, 2002, the applicant shall present evidence of having acquired at least one-half of those hours under the supervision of a clinical social worker. The applicant shall also have acquired hours of supervision at a ratio of 2 hours of supervision per 40 hours of supervised clinical experience, one-half of which may be in group supervision and at least one-half of which shall be provided by a clinical social worker.

(2) Supervised clinical experience obtained under this subsection is not subject to § 47.12d (relating to standards for supervisors).] Supervised clinical experience obtained within any 12-month period prior to _____ (Editor's Note: The blank refers to the effective date of adoption of this proposed rulemaking.). An applicant having completed more than 1,500 hours, but not more than 1,800 hours, of supervised clinical experience in a 12-month period prior to _____ (Editor's Note: The blank refers to the effective date of adoption of this proposed rulemaking.), will be given credit for up to 1,800 hours of supervised clinical experience actually completed during that 12-month period.

§ 47.12d. Standards for supervisors.

Supervisors, and those to whom supervisory responsibilities are delegated, under § 47.12c(a)(5) (relating to licensed clinical social worker) shall comply with the standards in this section. Supervisors will be asked to attest to compliance on the verification of experience form which shall accompany the supervisee's application for licensure. The Board reserves the right to require a supervisor by documentation or otherwise to establish to the Board's satisfaction that compliance occurred.

* * * * *

(6) The supervisor shall be empowered to recommend the interruption or termination of the supervisee's activities in providing services to a client/patient and, if necessary, to terminate the supervisory relationship. Any hours accumulated for activities not approved by the supervisor will not count toward satisfying the [3,600] 3,000 hours of supervised experience.

* * * * *

(Editor's Note: The following text is new and has been printed in regular print to enhance readability.)

§ 47.16. Licensure by endorsement.

To be issued a license by endorsement without examination as a licensed clinical social worker, an applicant shall provide proof satisfactory to the Board, that the applicant has met the following conditions:

(1) Satisfied the general requirements for licensure of § 47.12 (relating to qualifications for licensure).

(2) Holds a master's degree in social work or social welfare or a doctoral degree in social work from a school accredited by the Council on Social Work Education. An applicant who is a graduate of a foreign school shall submit to the Board an evaluation of foreign credentials performed by the Council on Social Work Education, which assesses the foreign credentials to be the equivalent of the curriculum policy of an accredited graduate school during the same time period, that is, as meeting the requirements of having earned a master's degree in social work or social welfare from an accredited school.

(3) Passed a clinical social work examination acceptable to the Board. The Board will accept an applicant's examination grades taken in another jurisdiction, as furnished through the professional examination reporting service or from the jurisdiction that administered the examination. The applicant shall demonstrate that the examination taken in the other jurisdiction is similar to the one offered by the Commonwealth, and that the applicant passed the examination with a grade at least equal to the passing grade set by the Commonwealth.

(4) Holds a clinical social work license that is in good standing from another state. The applicant shall provide a letter from the other jurisdiction's licensing authority where the clinical social worker is licensed certifying licensure and reporting any disciplinary history.

(5) Demonstrates to the Board's satisfaction that the applicant has completed a minimum of 3,000 hours of supervised clinical experience that conforms to the requirements of the state in which the applicant is currently licensed.

CHAPTER 48. STATE BOARD OF SOCIAL WORKERS, MARRIAGE AND FAMILY THERAPISTS AND PROFESSIONAL COUNSELORS—LICENSURE OF MARRIAGE AND FAMILY THERAPISTS

LICENSURE

§ 48.17. Licensure by endorsement.

To be issued a license by endorsement without examination as a marriage and family therapist, an applicant shall provide proof satisfactory to the Board, that the applicant has met the following conditions:

(1) Satisfied the general requirements for licensure of § 48.12 (relating to general qualifications for licensure).

(2) Satisfied the educational requirements in section 7(e)(2) of the act (63 P. S. § 1907(e)(2)) and § 48.13(a)(3) (relating to licensed MFT).

(3) Holds a marriage and family therapy license that is in good standing from another state. The applicant shall provide a letter from the other jurisdiction's licensing authority where the marriage and family therapist is licensed certifying licensure and reporting any disciplinary history.

(4) Demonstrates to the Board's satisfaction that the applicant has completed a minimum of 3,000 hours of supervised clinical experience that conforms to the licensure requirements of the state in which the applicant is currently licensed.

(5) Demonstrates to the Board's satisfaction that the applicant has, at a minimum, been actively engaged in the practice of marriage and family therapy for 5 of the last 7 years immediately preceding the filing of the application for licensure by endorsement with the Board.

CHAPTER 49. STATE BOARD OF SOCIAL WORKERS, MARRIAGE AND FAMILY THERAPISTS AND PROFESSIONAL COUNSELORS—LICENSURE OF PROFESSIONAL COUNSELORS

LICENSE

§ 49.18. Licensure by endorsement.

To be issued a license by endorsement without examination as a professional counselor, an applicant shall provide proof satisfactory to the Board, that the applicant has met the following conditions:

(1) Satisfied the general requirements for licensure of § 49.12 (relating to general qualifications for licensure).

(2) Satisfied the educational requirements in section 7(f)(2) of the act (63 P. S. § 1907(f)(2)) and § 49.13(a)(3) (relating to licensed professional counselor).

(3) Holds a professional counselor license that is in good standing from another state. The applicant shall provide a letter from the other jurisdiction's licensing authority where the professional counselor is licensed certifying licensure and reporting any disciplinary history.

(4) Demonstrates to the Board's satisfaction that the applicant has completed a minimum of 3,000 hours of supervised clinical experience that conforms to the requirements of the state in which the applicant is currently licensed.

(5) Demonstrates to the Board's satisfaction that the applicant has, at a minimum, been actively engaged in the practice of professional counseling for 5 of the last 7 years immediately preceding the filing of the application for licensure by endorsement with the Board.

[Pa.B. Doc. No. 10-720. Filed for public inspection April 23, 2010, 9:00 a.m.]

STATEMENTS OF POLICY

Title 4—ADMINISTRATION

PART II. EXECUTIVE BOARD

[4 PA. CODE CH. 9]

Reorganization of the Department of Transportation

The Executive Board approved a reorganization of the Department of Transportation effective April 1, 2010.

The organization chart at 40 Pa.B. 2136 (April 24, 2010) is published at the request of the Joint Committee on Documents under 1 Pa. Code § 3.1(a)(9) (relating to contents of code).

(Editor's Note: The Joint Committee on Documents has found organization charts to be general and permanent in nature. This document meets the criteria of 45 Pa.C.S. § 702(7) (relating to contents of Pennsylvania Code) as a document general and permanent in nature which shall be codified in the Pennsylvania Code.)

[Pa.B. Doc. No. 10-721. Filed for public inspection April 23, 2010, 9:00 a.m.]

PART II. EXECUTIVE BOARD

[4 PA. CODE CH. 9]

Reorganization of the Office of Inspector General

The Executive Board approved a reorganization of the Office of Inspector General effective March 26, 2010.

The organization chart at 40 Pa.B. 2137 (April 24, 2010) is published at the request of the Joint Committee

on Documents under 1 Pa. Code § 3.1(a)(9) (relating to contents of code).

(Editor's Note: The Joint Committee on Documents has found organization charts to be general and permanent in nature. This document meets the criteria of 45 Pa.C.S. § 702(7) (relating to contents of Pennsylvania Code) as a document general and permanent in nature which shall be codified in the Pennsylvania Code.)

[Pa.B. Doc. No. 10-722. Filed for public inspection April 23, 2010, 9:00 a.m.]

PART II. EXECUTIVE BOARD

[4 PA. CODE CH. 9]

Reorganization of the State Civil Service Commission

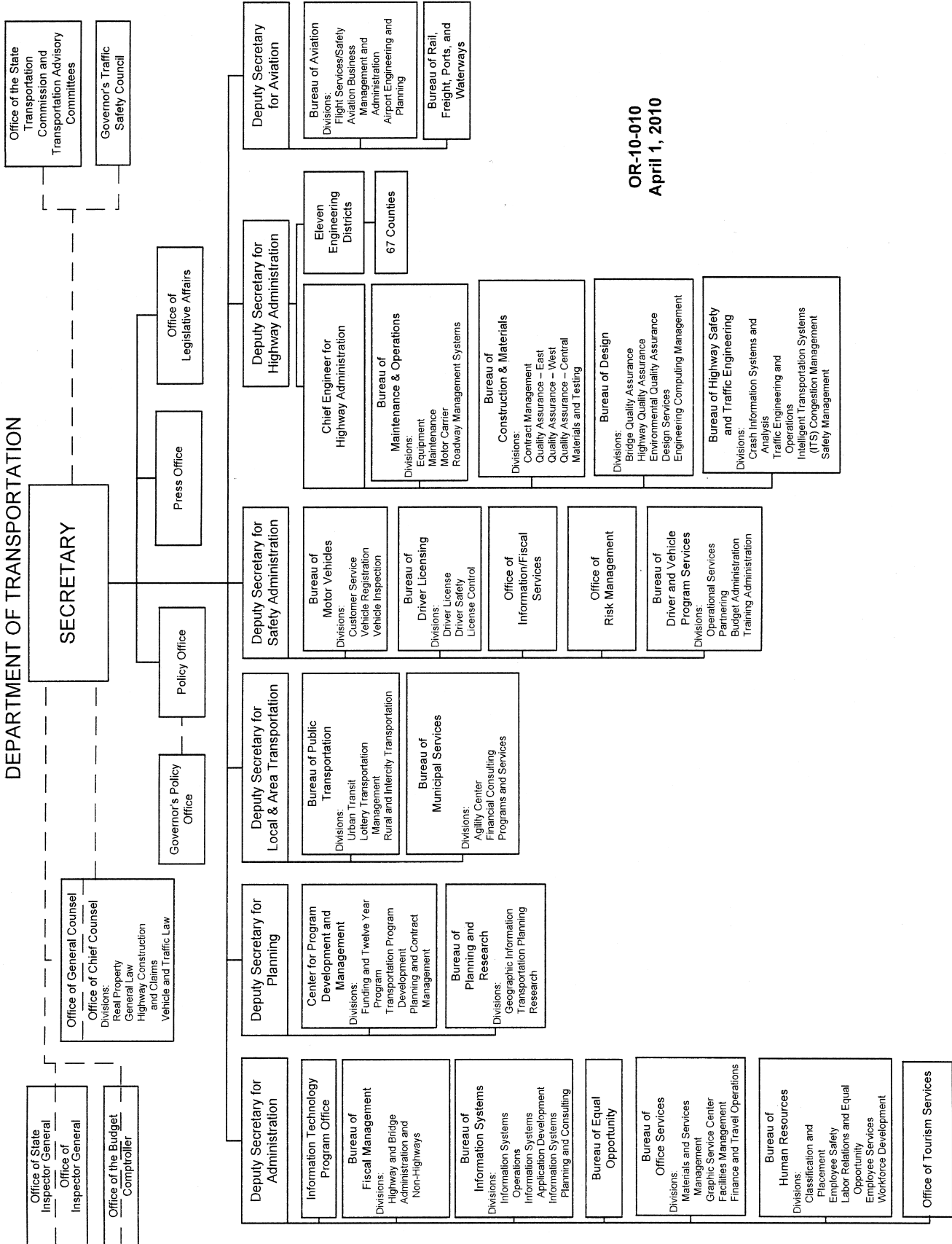
The Executive Board approved a reorganization of the State Civil Service Commission effective April 8, 2010.

The organization chart at 40 Pa.B. 2138 (April 24, 2010) is published at the request of the Joint Committee on Documents under 1 Pa. Code § 3.1(a)(9) (relating to contents of code).

(Editor's Note: The Joint Committee on Documents has found organization charts to be general and permanent in nature. This document meets the criteria of 45 Pa.C.S. § 702(7) (relating to contents of Pennsylvania Code) as a document general and permanent in nature which shall be codified in the Pennsylvania Code.)

[Pa.B. Doc. No. 10-723. Filed for public inspection April 23, 2010, 9:00 a.m.]

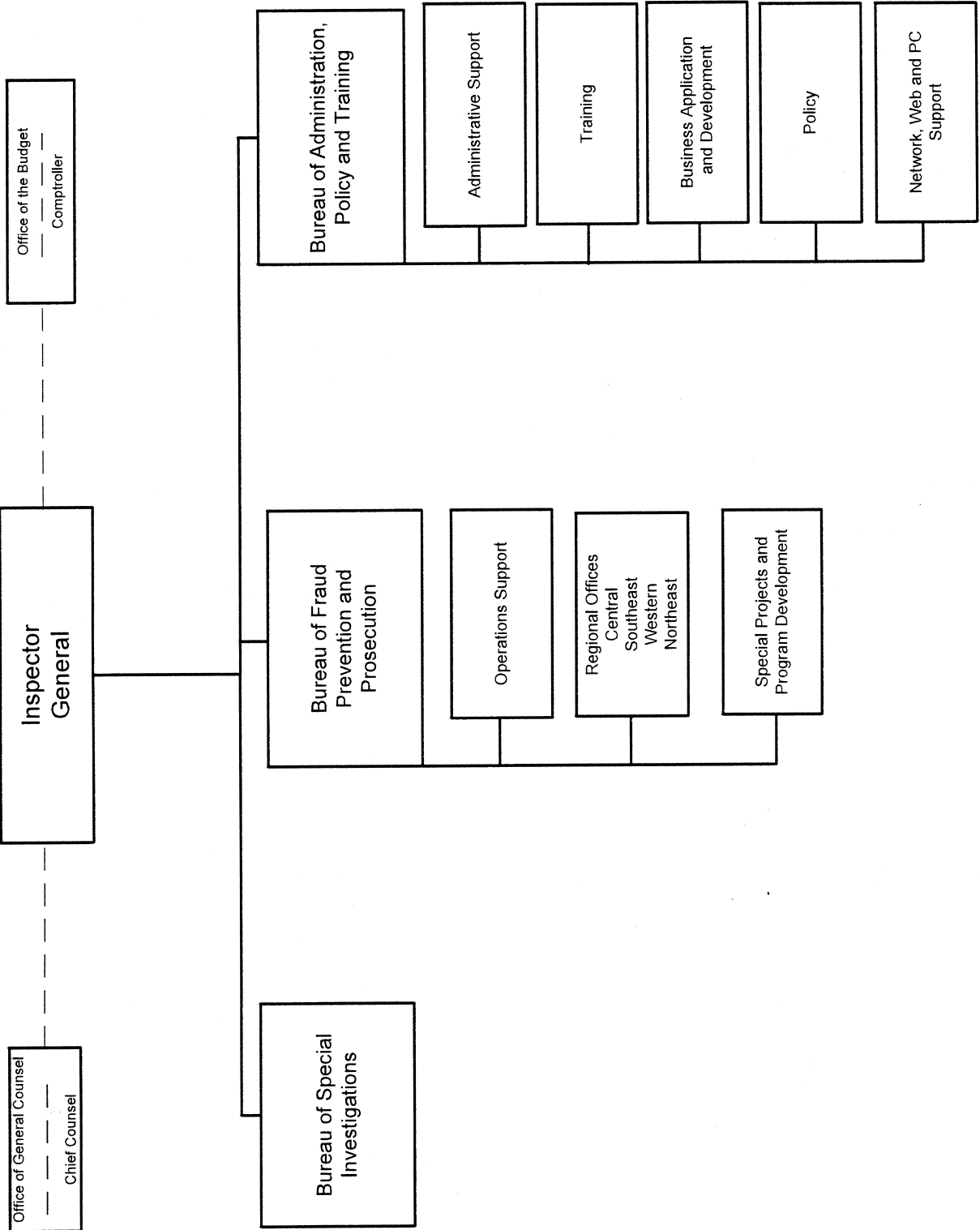
DEPARTMENT OF TRANSPORTATION



OR-10-010
April 1, 2010

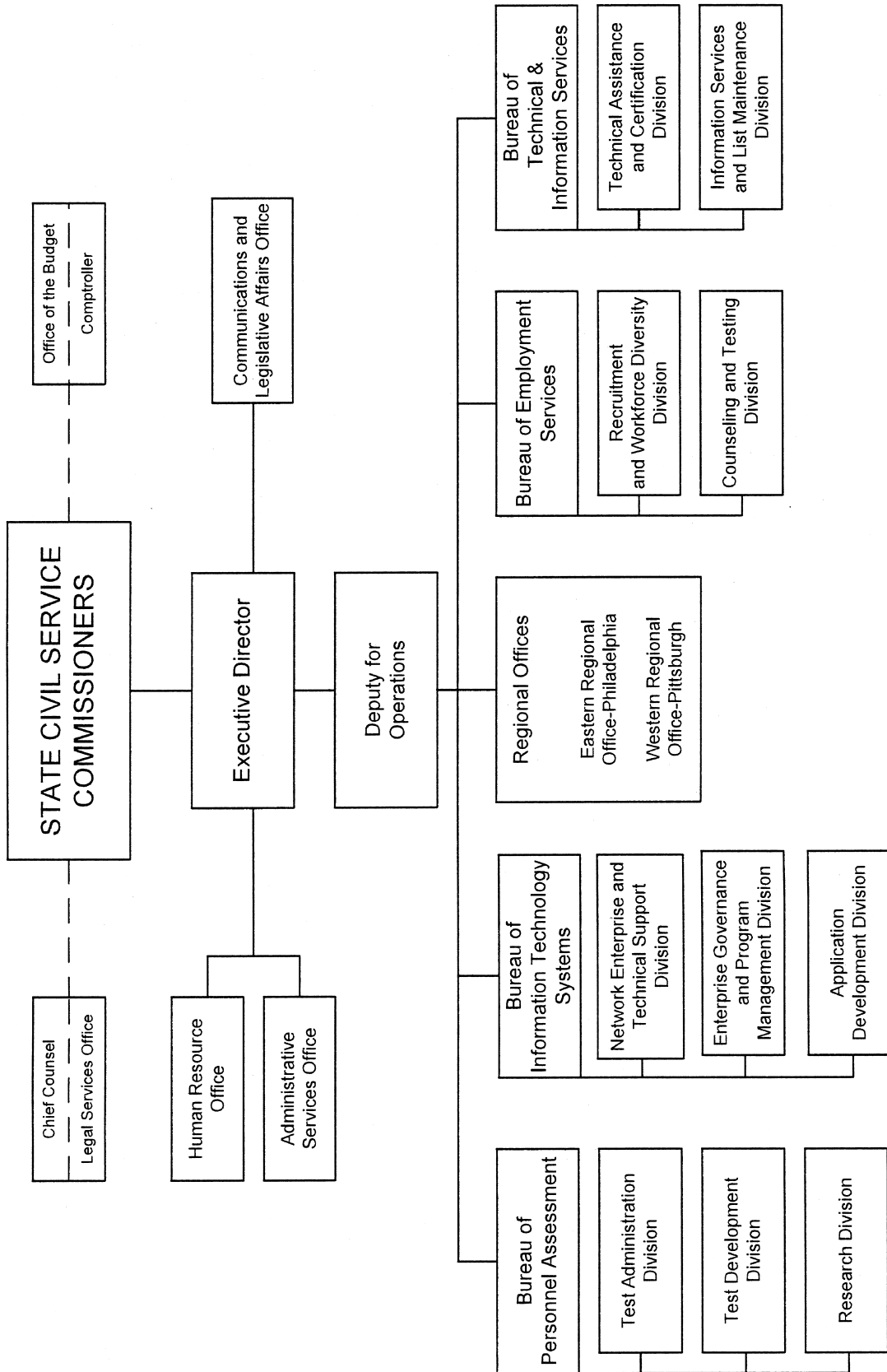
OR-10-009
March 26, 2010

OFFICE OF INSPECTOR GENERAL



OR-10-011
April 8, 2010

STATE CIVIL SERVICE COMMISSION



NOTICES

DELAWARE RIVER BASIN COMMISSION

Meeting and Public Hearing

The Delaware River Basin Commission (Commission) will hold an informal conference followed by a public hearing on Wednesday, May 5, 2010. The hearing will be part of the Commission's regular business meeting. The conference session and business meeting both are open to the public and will be held at the Commission's office building, located at 25 State Police Drive, West Trenton, NJ.

The conference among the commissioners and staff will begin at 10:30 a.m. and will consist of a presentation on the Commonwealth's Total Dissolved Solids (TDS) Strategy by a representative of the Department of Environmental Protection and a presentation on the Delaware River Valley Early Warning System by a representative of the Philadelphia Water Department.

The subjects of the public hearing to be held during the 1:30 p.m. business meeting include the dockets listed as follows:

1. *Cabot Corporation, D-1970-072-4*. An application for the renewal of an existing 0.222 million gallons per day (mgd) discharge from Outfalls Nos. 001 (process wastewater and noncontact cooling water (NCCW)), 002 (stormwater, condensate and NCCW) and 003 (process water treatment system wastewater). The project is located on Swamp Creek at River Mile 92.47—32.3—12.9—12.6 (Delaware River—Schuylkill River—Perkiomen Creek—Swamp Creek), on the border of Douglass Township, Montgomery County, PA and Colebrookdale Township, Berks County, PA.

2. *Gilbertsville Golf Club, D-1999-047-2*. The purpose of this project is to continue to provide up to 12 million gallons per 30 days (mg/30 days) of water for golf course irrigation from existing Wells Nos. 2, 9 and 13, which were installed in the Brunswick Formation. The docket holder augments two ponds from the existing groundwater wells to satisfy the irrigation water demand for the docket holder's golf course. The project is located in the Minster Creek Watershed in the New Hanover Township, Montgomery County, PA and is located in the Southeastern Pennsylvania Ground Water Protected Area (GWPA).

3. *Womelsdorf Sewer Authority, D-1967-084 CP-2*. An application to approve an expansion of the existing Womelsdorf Sewer Authority Wastewater Treatment Plant (WWTP). The WWTP was expanded in 2000 from 0.3 million mgd to 0.475 mgd; however this expansion was never approved by the Commission. The WWTP will continue to discharge to the Tulpehocken Creek, a tributary to the Schuylkill River. The facility is located in Heidelberg Township, Berks County, PA.

4. *Morysville, D-1973-060 CP-2*. An application for approval to increase the Morysville WWTP discharge from 0.25 mgd to 0.32 mgd. The hydraulic design capacity of 0.38 mgd will not be modified. The project will continue

to discharge to Ironstone Creek at River Mile 92.47—54.15—4.0—4.1 (Delaware River—Schuylkill River—Manatawny Creek—Ironstone Creek), in Colebrookdale Township, Berks County, PA.

5. *North Wales Water Authority, D-1986-020 CP-2*. An application for approval of a modification of the North Wales Water Authority WWTP. The applicant proposes to upgrade the existing 0.835 mgd WWTP to include the addition of an activated sludge unit and a chemical feed system. The project includes the transfer of ownership from North Wales Borough to the North Wales Water Authority. The WWTP's hydraulic design rate of 0.835 mgd will remain unchanged. The WWTP will continue to discharge to an unnamed tributary of the Wissahickon Creek, which is a tributary of the Schuylkill River. The facility is located in Upper Gwynedd Township, Montgomery County, PA.

6. *Township of Spring, D-1988-077 CP-2*. An application for approval of the expansion of the Spring Township WWTP. A 1.0 mgd oxidation ditch treatment system utilizing a fixed film contact aeration (packed bed reactor) system is proposed to be added to the existing 1.28 mgd WWTP to expand the plant's hydraulic design capacity from 1.28 mgd to 2.28 mgd. The average annual flow of the expanded plant will be 2.0 mgd. The WWTP will continue to discharge to Cacoosing Creek, a tributary of Tulpehocken Creek, which is a tributary of the Schuylkill River. The facility is located in the Township of Spring, Berks County, PA.

7. *Hilltown Township Water and Sewer Authority, D-1992-020 CP-3*. An application for the renewal of a groundwater withdrawal project to continue the withdrawal of 16.0 mg/30 days to supply the applicant's public water supply system from existing Wells Nos. 2 and 5 and new Well No. 1A. New Well No. 1A was drilled as a replacement well for Well No. 1, which was abandoned due to a casing failure. The applicant requests that the withdrawal from New Well No. 1A be limited to 9.60 mg/30 days. The project is located in the Brunswick and Lockatong Formations in the Pleasant Spring Creek Watershed in Hilltown Township, Bucks County, PA, within the Southeastern Pennsylvania Ground Water Protected Area.

8. *Lyons Borough Municipal Authority, D-1994-080 CP-2*. An application for approval to expand and upgrade the Lyons Borough Municipal Authority WWTP. The hydraulic design flow will increase from 0.2 mgd to 0.3 mgd, and modifications will include the construction of two equalization tanks, a package aeration unit, three gravity filters, an ultra-violet (UV) light disinfection system, a post-aeration tank, a screw press for sludge dewatering, chemical feed systems and a filtration building. The project also includes a request for an increase from 1,000 milligrams per liter (mg/l) to 2,000 mg/l in the Total Dissolved Solids (TDS) effluent limit for the upgraded WWTP. The increase in flow and TDS is anticipated as a result of proposed acceptance of an additional 0.10 mgd of industrial process water from East Penn Manufacturing Company, an industrial wastewater discharger to the WWTP. The WWTP will continue to discharge to Sacony Creek, a tributary of the Maiden Creek, which is a tributary of the Schuylkill River. The project is located in the Borough of Lyons Township, Berks County, PA.

9. *Lower Providence Township Municipal Authority D-1999-021 CP-2.* An application for the renewal of a groundwater withdrawal project to supply up to 3.3 mg/30 days of water to the applicant's golf course from existing Wells Nos. 1 and 2 in the Stockton Formation. The total allocation of groundwater is based on actual metered data and is an increase from the existing allocation of 2.27 mg/30 days. The project is located in the Mine Run and Schuylkill River Watersheds in Lower Providence Township, Montgomery County, PA in the Southeastern Pennsylvania Ground Water Protected Area.

10. *Maidencreek Township Authority, D-2000-028 CP-2.* An application for approval to increase the TDS effluent limit for the Maidencreek WWTP from 1,000 mg/l to 1,500 mg/l. The proposed increase in TDS is a result of additional industrial process water proposed to be discharged to the plant by James Hardie Building Products, an existing industrial wastewater discharger. The average annual flow of the existing WWTP will remain at 0.8 mgd. The plant is hydraulically designed for 1.0 mgd. The WWTP will continue to discharge to Willow Creek, a tributary of Maiden Creek, which is a tributary of the Schuylkill River. The project is located in Ontelaunee Township, Berks County, PA.

11. *East Vincent Municipal Authority, D-2005-007 CP-1.* An application to rerate a 48,800 gallons per day (gpd) sewage treatment plant (STP) to process a maximum monthly flow of 52,800 gpd, while continuing to provide tertiary treatment. The project will continue to serve flows from the built-out residential development known as Bartons Meadows in East Vincent Township, Chester County, PA. The additional 4,000 gpd is needed to handle wet weather related flows due to inflow and infiltration. Following ultraviolet light disinfection, STP effluent will continue to be discharged to subsurface seepage beds in the drainage area of French Creek. The project is located in the Commission Southeastern Pennsylvania Ground Water Protected Area and the Schuylkill River Watershed, off of Sheeder Road just north of its intersection with Pughtown Road.

12. *Upper Makefield Township, D-2007-025 CP-2.* An application for approval of expansion of the Upper Makefield Township Gray Tract WWTP, which was previously approved but not constructed. The applicant seeks approval to expand the proposed plant from the previously approved 20,000 gpd to 55,550 gpd to accommodate an additional service area consisting of the portions of the Melksy Farm and White Farm subdivisions located in Upper Makefield Township. The hydraulic design capacity of the proposed WWTP is to be 70,000 gpd. The WWTP is proposed to discharge to Houghs Creek rather than to the previously-approved location on an unnamed tributary of Houghs Creek. The project is to be located in the Houghs Creek Watershed in Upper Makefield Township, Bucks County, PA, and is located within the drainage area of the section of the nontidal Delaware River known as the Lower Delaware, which is classified as Special Protection Waters.

13. *Artesian Water Company, Inc. D-2007-042 CP-1.* An application for approval of a groundwater withdrawal project to supply up to 25.8 mg/30 days of water to the applicant's public water supply distribution system from new Wells Nos. PW-1 and PW-2 in the Weatherstone

Crossing wellfield. The project is located in the Frederica Formation in the Murderkill River Watershed in Kent County, DE.

14. *Arcelor Mittal Plate, LLC, D-2008-036-1.* An application for approval of an existing surface water and spring water withdrawal of up to 105.8 mg/30 days. The Arcelor Mittal Plate industrial facility withdraws surface water from two intakes and one spring source (West Side Spring). Intake No. 1 is located on the West Branch Brandywine Creek and Intake No. 2 is located on Sucker Run, a tributary of the West Branch Brandywine Creek. The facility is located in the City of Coatesville in Chester County, PA.

15. *Naval Surface Warfare Center, Carderock Division, Ship Systems Engineering Station, D-2009-003 CP-1.* An application for approval of an existing surface water withdrawal of 1,080 mg/30 days. The existing Naval Surface Warfare Center, Carderock Division, Ship Systems Engineering Station currently withdraws surface water from the Philadelphia Navy Reserve Basin, which is connected by a channel and tidally-linked to the Schuylkill River one-half mile upstream of the confluence of the Schuylkill River with the Delaware River. The surface water withdrawal is used for noncontact cooling water. The facility is located in the City of Philadelphia, PA.

16. *Naval Surface Warfare Center, Carderock Division, Ship Systems Engineering Station, D-2009-004 CP-1.* An application to approve an existing noncontact cooling water (NCCW) discharge to the Navy Reserve Basin (Outfall 001) and an existing discharge of process water directly to the Delaware River within Water Quality Zone 4 (Outfall 005). The existing discharges have not been approved by the Commission. The discharge of NCCW from Outfall 001 will increase from 24.0 mgd (existing) to 36.0 mgd as a result of the proposed P-205 Electric Test Drive project and Outfall No. 005 will remain at 0.60 mgd. The Navy Reserve Basin is connected by a channel and tidally-linked to the Schuylkill River one-half mile upstream of the confluence of the Schuylkill River with the Delaware River. The facility is located in the Schuylkill River Watershed in the City of Philadelphia, PA.

17. *Village of Fleischmanns, D-2009-008 CP-1.* An application for approval of a groundwater withdrawal project to supply up to 9.75 mg/30 days of water to the applicant's public water supply system from existing Wells Nos. 2 and 4, rehabilitated Well No. 3, new Well No. 5, and existing Springs Nos. 3, 4 and 5. The allocation is requested to meet existing and projected demands in the project service area. The project is located in the Lower Walter Formation in the Bush Kill Watershed in the Village of Fleischmanns, Delaware County, NY. The site is located within the drainage area of the section of the nontidal Delaware River known as the Upper Delaware, which is designated as Special Protection Waters.

18. *Elwood P. Carey, D-2009-028-1.* An application for approval of an existing groundwater withdrawal project to supply a maximum of 10.8 mg/30 days of water for the applicant's irrigation of approximately 86 acres of corn, soybean and wheat crops. The project well (Well No. 1) is located in the Cheswold Aquifer in the Leipsic River Watershed in Kent County, DE.

19. *State of Delaware Parks and Recreation, D-2009-034 CP-1*. An application to approve an existing surface and groundwater withdrawal of up to 14.0 million gallons per 30 days (mg/30 days) of water for the irrigation of the docket holder's golf course from one existing surface water intake (Intake No. 1) located on an irrigation pond and one existing groundwater production well (Well No. 1). The allocation limits the withdrawal to 7.0 mg/30 days, with a daily restriction of 403,000 gallons per day (gpd) for each source. The project well is located in the Cheswold Formation, and the surface water withdrawal is from a pond located on an unnamed tributary of the Leipsic River in Kent County, DE.

20. *Deb-El Food Products, D-2009-036-1*. An application for approval to construct a 0.05 mgd industrial wastewater treatment plant (IWTP) that will discharge to the Neversink River at River Mile 253.64—28.7 (Delaware River—Neversink River) in the drainage area of the section of the nontidal Delaware River known as the Middle Delaware, which is classified as Special Protection Waters. The IWTP is located in the Town of Thompson, Sullivan County, NY.

21. *Arcelor Mittal Plate, LLC—Conshohocken, D-2009-039-1*. An application for approval of a groundwater and surface water withdrawal project to supply up to 12.96 mg/30 days of groundwater and 45 mg/30 days of surface water to the applicant's industrial process from the existing Q&T Well and existing surface water intake, respectively. The surface water allocation is based on projected peak demands and is less than the requested allocation of surface water. Surface water will be withdrawn from the Schuylkill River in the Schuylkill-Crow Creek Watershed. The well is located in the Elbrook Formation in the Schuylkill-Crow Creek Watershed in Plymouth Township, Montgomery County, PA, within the Southeastern Pennsylvania Ground Water Protected Area.

22. *Village of Buckingham Springs, D-2009-040 CP-1*. An application for approval of an existing 0.1 mgd discharge from the Village of Buckingham Springs (VBS) WWTP. The VBS WWTP will continue to discharge to Mill Creek at River Mile 115.63—23.39—4.95 (Delaware River—Neshaminy Creek—Mill Creek). The VBS WWTP is located in Buckingham Township, Bucks County, PA.

23. *Tobyhanna Army Depot, D-2009-041 CP-1*. An application for approval to modify the treatment process of the existing 0.802 mgd Tobyhanna Army Depot WWTP. The discharge is located at River Mile 183.66—83.5—26.4—1.82 (Delaware River—Lehigh River—Tobyhanna Creek—UNT) within the drainage area of the section of the nontidal Delaware River known as the Lower Delaware, which is classified as Special Protection Waters. The WWTP is located in Coolbaugh Township, Monroe County, PA.

24. *Cedar Glen Lakes Water Company, D-2009-046 CP*. An application for approval of a groundwater withdrawal project to supply up to 7.8 mg/30 days of water to the applicant's public supply distribution system from existing Well No. 2. The project is located in the Kirkwood-Cohansey Formation in the Rancocas Creek Watershed in Manchester Township, Ocean County, NJ.

25. *New Jersey American Water Company—New Egypt System, D-2009-050 CP-1*. An application for approval of

an existing groundwater withdrawal project to supply up to 5.0 mg/30 days of water to the applicant's public water supply system from existing Wells Nos. 1A and 2, which were not previously reviewed by the Commission. The project wells are located in the Englishtown Aquifer in the Crosswicks Creek Watershed in Plumsted Township, Ocean County, NJ.

26. *Kinsley Group Family, LP—Kinsley Shopping Center, D-2010-005-1*. An application for approval to construct and operate the 20,000 gpd Kinsley Shopping Center (KSC) WWTP. Effluent limits for the KSC WWTP will be based upon a 17,770 gpd discharge, the expected 2015 year discharge flow. The WWTP will be located in the Lower SPW drainage area and will discharge to ten (five primary and five reserve) onsite seepage beds in the Weir Creek Watershed near River Mile 183.66—40.88—6.30—6.51—7.40—2.40 (Delaware River—Lehigh River—Pohopoco Creek—Beltzville Reservoir—Pohopoco Creek—Weir Creek) in Chestnuthill Township, Monroe County, PA.

In addition to the standard business meeting items, including adoption of the Minutes of the Commission's March 3, 2010, business meeting; announcements of upcoming meetings and events of interest; a report on hydrologic conditions; a report by the Executive Director; and a report by the Commission's General Counsel, the business meeting will include public hearings and consideration by the Commission of resolutions approving: (a) the Commission's Fiscal Year (FY) 2010-2015 Water Resources Program; and (b) election of the Commission Chair, Vice-Chair and Second-Vice Chair for FY 2011. In addition, the Commissioners will consider adoption of the Commission FY 2011 operating and capital budgets, on which a hearing was conducted during the December 9, 2009, business meeting. An opportunity for public dialogue will be provided at the end of the meeting.

Draft dockets scheduled for public hearing on May 5, 2010, can be accessed through the Notice of Commission Meeting and Public Hearing on the Commission's web site, drbc.net, 10 days prior to the meeting date. Additional public records relating to the dockets may be examined at the Commission's offices. Contact William Muszynski at (609) 883-9500, Ext. 221, with any docket-related questions.

Note that conference items are subject to change and items scheduled for hearing are occasionally postponed to allow more time for the Commission to consider them. Check the Commission's web site, drbc.net, closer to the meeting date for changes that may be made after the deadline for filing this notice.

Individuals in need of an accommodation as provided for in the Americans With Disabilities Act of 1990 who wish to attend the informational meeting, conference session or hearings, should contact the Commission Secretary directly at (609) 883-9500, Ext. 203 or through the Telecommunications Relay Services (TRS) at 711, to discuss how the Commission can accommodate their needs.

PAMELA M. BUSH, Esq.,
Secretary

[Pa.B. Doc. No. 10-724. Filed for public inspection April 23, 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 April 6, 2010.

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

BANKING INSTITUTIONS

Section 112 Acquisitions

<i>Date</i>	<i>Name and Location of Applicant</i>	<i>Action</i>
3-31-2010	Marc D. Lewis, Melvin W. Lewis, and the Lewis family Application for approval to acquire, in the aggregate, up to 18.2% of the common stock of Woodlands Financial Services Company, Williamsport.	Filed

Branch Applications

De Novo Branches

<i>Date</i>	<i>Name and Location of Applicant</i>	<i>Location of Branch</i>	<i>Action</i>
3-30-2010	Allegheny Valley Bank of Pittsburgh Pittsburgh Allegheny Valley	333 Allegheny Avenue Oakmont Allegheny County	Authorization Surrendered
4-2-2010	Northwest Savings Bank Warren Warren County	275 Meadow Drive North Tonawanda Niagara County, NY	Filed
4-2-2010	York Traditions Bank York York County	2170 White Street York York County	Approved

Branch Relocations

<i>Date</i>	<i>Name and Location of Applicant</i>	<i>Location of Branch</i>	<i>Action</i>
3-25-2010	Firsttrust Savings Bank Conshohocken Montgomery County	<i>To:</i> Butler Avenue and County Line Road Chalfont Bucks County <i>From:</i> 4275 County Line Road Chalfont Bucks County	Authorization Surrendered

Branch Discontinuances

<i>Date</i>	<i>Name and Location of Applicant</i>	<i>Location of Branch</i>	<i>Action</i>
4-6-2010	Susquehanna Bank Lititz Lancaster County	100 Sterling Parkway Suite 100 Mechanicsburg Cumberland County (Limited Service Facility)	Approved

SAVINGS INSTITUTIONS

No activity.

CREDIT UNIONS

Community Charter Conversions

<i>Date</i>	<i>Name and Location of Institution</i>	<i>Action</i>
3-25-2010	Norristown Bell Credit Union Blue Bell Montgomery County	Filed

The credit union proposes to amend Article 8 of its Articles of Incorporation to provide the following field of membership: "Persons who live, work, worship, volunteer, attend school in, and businesses and other legal entities located in Montgomery County in the Commonwealth of Pennsylvania."

The Department's web site at www.banking.state.pa.us includes public notices for more recently filed applications.

STEVEN KAPLAN,
Secretary

[Pa.B. Doc. No. 10-725. Filed for public inspection April 23, 2010, 9:00 a.m.]

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 April 13, 2010.

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

BANKING INSTITUTIONS

Holding Company Acquisitions

<i>Date</i>	<i>Name and Location of Applicant</i>	<i>Action</i>
4-1-2010	Drexel Morgan & Co. Holdings Radnor Delaware County Acquisition of 100% of The Haverford Trust Company, Radnor.	Effective

Branch Applications

De Novo Branches

<i>Date</i>	<i>Name and Location of Applicant</i>	<i>Location of Branch</i>	<i>Action</i>
4-9-2010	Susquehanna Bank Lititz Lancaster County	5002 Lincoln Drive West Eversham Township Burlington County, NJ	Filed
4-9-2010	Somerset Trust Company Somerset Somerset County	1739 Lyter Drive Johnstown Cambria County	Approved
4-12-2010	Graystone Tower Bank Lancaster Lancaster County	830 North U.S. Highway 15 Dillsburg York County	Opened

Branch Discontinuances

<i>Date</i>	<i>Name and Location of Applicant</i>	<i>Location of Branch</i>	<i>Action</i>
4-9-2010	Susquehanna Bank Lititz Lancaster County	8000 Sagemore Drive Marlton Burlington County, NJ	Filed

NOTICES

<i>Date</i>	<i>Name and Location of Applicant</i>	<i>Location of Branch</i>	<i>Action</i>
4-12-2010	Northwest Savings Bank Warren Warren County	5850 Meridian Road Gibsonia Allegheny County	Approved

SAVINGS INSTITUTIONS

No activity.

CREDIT UNIONS

Branch Applications

Branch Relocations

<i>Date</i>	<i>Name and Location of Applicant</i>	<i>Location of Branch</i>	<i>Action</i>
4-9-2010	PPL GOLD Credit Union Allentown Lehigh County	<i>To:</i> 4703 Hamilton Boulevard Allentown Lehigh County <i>From:</i> 827 Hausman Road Allentown Lehigh County	Approved

The Department's web site at www.banking.state.pa.us includes public notices for more recently filed applications.

STEVEN KAPLAN,
Secretary

[Pa.B. Doc. No. 10-726. Filed for public inspection April 23, 2010, 9:00 a.m.]

Maximum Lawful Rate of Interest for Residential Mortgages for the Month of May 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 May, 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 such individual owns and which such 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 4.11 to which was added 2.50 percentage points for a total of 6.61 that by law is rounded off to the nearest quarter at 6 1/2%.

STEVEN KAPLAN,
Secretary

[Pa.B. Doc. No. 10-727. Filed for public inspection April 23, 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.—691.1001) and the Federal Clean Water Act.

<i>Location</i>	<i>Permit Authority</i>	<i>Application Type or Category</i>
Section I	NPDES	Renewals
Section II	NPDES	New or amendment
Section III	WQM	Industrial, sewage or animal waste; discharge into groundwater
Section IV	NPDES	MS4 individual permit
Section V	NPDES	MS4 permit waiver
Section VI	NPDES	Individual permit stormwater construction
Section VII	NPDES	NOI for coverage under NPDES general permits

For NPDES renewal applications in Section I, the Department of Environmental Protection (Department) has made a tentative determination to reissue these permits for 5 years, subject to effluent limitations and monitoring and reporting requirements in their current permits, with appropriate and necessary updated requirements to reflect new and changed regulations and other requirements.

For applications for new NPDES permits and renewal applications with major changes in Section II, as well as applications for MS4 individual permits and individual stormwater construction permits in Sections IV and VI, the Department, based upon preliminary reviews, has made a tentative determination of proposed effluent limitations and other terms and conditions for the permit applications. These determinations are published as proposed actions for comments prior to taking final actions.

Unless indicated otherwise, the Environmental Protection Agency (EPA) Region III Administrator has waived the right to review or object to proposed NPDES permit actions under the waiver provision in 40 CFR 123.24(d).

Persons wishing to comment on an NPDES application are invited to submit a statement to the regional office noted before an application within 30 days from the date of this public notice. Persons wishing to comment on a WQM permit application are invited to submit a statement to the regional office noted before the application within 15 days from the date of this public notice. Comments received within the respective comment periods will be considered in the final determinations regarding the applications. Comments should include the name, address and telephone number of the writer and a concise statement to inform the Department of the exact basis of a comment and the relevant facts upon which it is based.

The Department will also accept requests for a public hearing on applications. A public hearing may be held if the responsible office considers the public response significant. If a hearing is scheduled, a notice of the hearing will be published in the *Pennsylvania Bulletin* and a newspaper of general circulation within the relevant geographical area. The Department will postpone its final determination until after a public hearing is held.

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

I. NPDES Renewal Applications

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

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N?</i>
PA0064386 (Industrial Waste)	Permittee: Allentown Terminals Corporation P. O. Box 2621 Harrisburg, PA 17105-2621	Lehigh County Allentown City	Lehigh River 02C	Y
	Facility location: Allentown Petroleum Storage Terminal 1134 North Quebec Street Allentown, PA 18103-1609			
PA0060674 (Sewage)	Camp Lee Mar 450 Route 590 Lackawaxen, PA 18435	Pike County Lackawaxen Township	Unnamed tributary to Lords Creek 1-B	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0088552 (Sew)	Oakbrook Homeowners' Association of Elizabethtown 7 Oakbrook Lane Elizabethtown, PA 17022	Lancaster County West Donegal Township	UNT to Conewago 7-G	Y

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0058161 (Sew)	Penn Sylvan Realty Corporation 5028 Camp Road Mohnton, PA 19540-7723	Berks County Brecknock Township	UNT Rock Run 7-J	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0009725 Industrial Wastewater	Jersey Shore Steel Company P. O. Box 5055 Jersey Shore, PA 17740	Clinton County Pine Creek Township	West Branch Susquehanna River SWP 9B	Y
PA0228150 (Industrial Waste)	Embassy Powdered Metals Airport Road Emporium, PA 15834	Cameron County Emporium Borough	Storm Drain to Driftwood Branch Sinnemahoning Creek SWP 8A	Y
NPDES Permit No.	Van Blarcom Farms and Country View Family Farms, LLC R. D. 2 Box 54A Columbia Cross Road, PA 16914	Bradford County Columbia Township	Wolfe Creek, unnamed tributary to North Branch Sugar Creek; Sugar and Towanda Creeks SWP 4C	N

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

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0029378 (Sewage)	Hawthorn Elementary School 1306 Truittsburg Road Hawthorn, PA 16230	Clarion County Hawthorn Borough	Unnamed Tributary of Redbank Creek 17-C	Y
PA0102130 (Industrial Waste)	Evans City Borough WTP 204 B Jackson Street Evans City, PA 16033	Butler County Evans City Borough	Likens Run 20-C	Y

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

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

PA0053244, SEW, SIC 4952, **Charles Adcock, d/b/a The Valley Queen**, 13 Bennington Place, Newtown, PA 18940. This proposed facility is located in Upper Makefield Township, **Bucks County**.

Description of Proposed Activity: Renewal of an NPDES permit to discharge 1,400 gpd of treated sewage into Houghs Creek.

The receiving stream, Houghs Creek, is in the State Water Plan watershed 2E and is classified for: warm water fishery. The nearest downstream public water supply intake for PA Water Company is located on the Delaware River and is 3.2 miles below the point of discharge.

The proposed effluent limits for Outfall 001 are based on a design flow of 1,400 gpd:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅	25	50
Suspended Solids	30	60
Ammonia (as N)		
(05-01 to 10-31)	8.0	16.0
(11-01 to 04-30)	20.0	40.0
Total Residual Chlorine	0.5	1.2
Fecal Coliform	200 colonies/100 ml; 1,000 #/100 ml	
Dissolved Oxygen	Minimum of 3.0 mg/l at all times	
pH	Within limits of 6.0 to 9.0 Standard Units at all times	

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

1. Responsible Operator.
2. Abandon STP.
3. Remedial Measures.

4. No Stormwater.
5. Necessary Property Rights.
6. Change of Ownership.
7. TRC Minimization.
8. Sewage Sludge Disposal.
9. I-Max Limits.
10. 2/Month Monitoring.
11. Lab. Certification.
12. Fecal Coliform—I-Max Reporting.

PA0027421, Sewage, SIC 4952, **Norristown Municipal Waste Authority**, 235 East Airy Street, 2nd Floor, Norristown, PA 19401. This facility is located in Norristown Municipality, **Montgomery County**.

Description of Proposed Activity: Renewal of NPDES permit to discharge treated sewage effluent from the Norristown Municipality STP to the Schuylkill River. The majority of the time, effluent is discharged only through Outfall 001. Discharge occurs at Outfall 002 only during periods of high influent flow.

A portion of the collection system is combined sanitary and stormwater, and there is one permitted combined sewer overflow, CSO 003, that discharges to Sawmill Run immediately upstream of its confluence with the Schuylkill River.

The receiving streams, the Schuylkill River and Sawmill Run, are in the State Water Plan watershed 3F and are classified for: warm water fishes, aquatic life, water supply and recreation. The Schuylkill River is also classified for migratory fishes. The nearest downstream public water supply intake for the City of Philadelphia is located on the Schuylkill River.

The proposed effluent limits for Outfalls 001 and 002 are based on a design flow of 9.75 mgd:

<i>Parameters</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅				
(05/01-10/31)	20	30		40
(11/01-04/30)	25	40		50
Total Suspended Solids	30	45		60
NH ₃ -N				
(Issuance—Year 2)	20			40
(Year 3—Expiration):				
(05/01-10/31)	10			20
(11/01-04/30)	20			40
Fecal Coliform (col/100 ml)	200			1,000*
Dissolved Oxygen:				
(Issuance—Year 2)	Monitor			
(Year 3—Expiration)	4.0 Minimum			
	5.0 Average			
pH (Standard Units)	6.0 Minimum			9.0
Total Residual Chlorine	0.5			1.6
Total Phosphorus	Monitor			Monitor
Total Copper	Monitor		Monitor	
Total Lead	Monitor		Monitor	
Total Zinc	Monitor		Monitor	
Total Dissolved Solids	1,000			2,500

* Not to exceed 1,000 col/100 ml in greater than 10% of the samples.

The proposed effluent limits for CSO Outfall 003 are based on an overflow event:

<i>Parameters</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅	Monitor		Monitor	
Total Suspended Solids	Monitor		Monitor	
NH ₃ -N	Monitor		Monitor	
Fecal Coliform (col/100 ml)	Monitor		Monitor	
pH (Standard Units)	Monitor, Minimum			Monitor

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

1. Notification of Designation of Responsible Operator.
2. Average Weekly Definition.
3. Remedial Measures if Public Nuisance.
4. No Stormwater to Sewers.
5. Necessary Property Rights.

6. Change of Ownership.
7. Chlorine Minimization.
8. Proper Sludge Disposal.
9. Total Maximum Daily Load (TMDL)/WLA Analysis.
10. WETT at Renewal.
11. Instantaneous Maximum Limitations.
12. Operations and Maintenance Plan.
13. Laboratory Certification.
14. Operator Training.
15. Fecal Coliform Reporting.
16. Condition for Schuylkill River TMDL.
17. Operation and Implementation of a Pretreatment Program.
18. Unpermitted Discharges.
19. CSO Bypass Condition.
20. Bypass Condition for Facilities with High Flow Maintenance Plan.
21. Permit Condition for POTWs with Combined Sewer Overflows.

The EPA waiver is not in effect.

PA0052353, Sewage, **Buckingham Township**, 2380 Durham Road, P. O. Box 413, Buckingham, PA 18912. This facility is located in Buckingham Township, **Bucks County**.

Description of Proposed Activity: Renewal of an NPDES permit to discharge treated sewage from a facility known as Buckingham Village WWTP. This is a seasonal discharge to Mill Creek, from November 1 to April 30. The discharge from this facility is diverted to offsite spray irrigation fields when not discharged to Mill Creek.

The receiving stream, Mill Creek (Stream Code 02596), is in the State Water Plan Watershed 2F and is classified for: CWF, MF. The nearest downstream public water supply intake for AQUA PA, Inc. is located on Neshaminy Creek at Oakford, PA.

The proposed effluent limits for Outfall 001 are based on a seasonal design flow of 236,000 gpd.

<i>Parameters</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅	20	30		40
Total Suspended Solids	30	45		60
Ammonia Nitrogen	10			20
Nitrite + Nitrate as N	Monitor/Report			
Total Kjeldahl Nitrogen	Monitor/Report			
Phosphorus, Total	Monitor/Report			
first 36 months				
after 36 months	2.0			4.0
Total Residual Chlorine				
first 36 months	0.5			1.2
after 36 months	0.26			0.84
Fecal Coliform	200 #/100 ml as a Geometric Mean, nor greater than 1,000 #/100 ml in more than 10% of samples			
pH	Between 6.0 and 9.0 Standard Units at all times			
Dissolved Oxygen				
first 36 months		Minimum of 2.0 mg/l at all times		
after 36 months		Minimum of 3.0 mg/l at all times		

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

1. Designation of Responsible Operator.
2. Remedial Measures if Public Nuisance.
3. No Stormwater to Sewers.
4. Necessary Property Rights.
5. Small Stream Discharge.
6. Optimize Chlorine Dosage.
7. Sewage Sludge Disposal.
8. Submit Data for TMDL/WLA Analysis.
9. I-Max Limits.
10. No Discharge Report.

11. Laboratory Certification.
12. Seasonal Stream Discharge.

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

Application No. PA0082881, Industrial Waste, SIC Code 335, **Alcoa, Inc.**, 201 Isabella Street, Pittsburgh, PA 15212. This facility is located in Lancaster City, **Lancaster County**.

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

The receiving stream, unnamed tributary to Little Conestoga Creek, is in Watershed 7-J, and classified for warm water fishery, water supply, recreation and fish consumption. The nearest downstream public water supply intake is Holtwood Power Plant located on the Susquehanna River, approximately 23 miles downstream. The discharge is not expected to affect the water supply.

The proposed effluent limits for Outfall 001 based on a design flow of 0.482 MGD are:

Parameters	Mass (lb/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
pH			From 6.0 to 9.0 inclusive		
Tetrachloroethylene			0.002	0.003	0.004
Trichloroethylene			0.008	0.013	0.016

The final effluent limits for Outfall 002 based on a design flow of 0.482 MGD are:

Parameters	Mass (lb/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
pH			From 6.0 to 9.0 inclusive		
Tetrachloroethylene			0.002	0.003	0.004
Trichloroethylene			0.008	0.013	0.016

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 in effect.

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

PA0040835, Industrial Waste, SIC Code 0921, **Fish and Boat Commission**, 1735 Shiloh Road, State College, PA 16801-8495. Facility Name: Bellefonte State Fish Hatchery. This existing facility is located in Benner Township, **Centre County**.

Description of Existing Activity: The application is for an amendment of an NPDES permit for an existing discharge of treated Industrial Waste through one outfall (001). The existing permit contains two outfalls (001 and 002). However, treatment upgrades at the facility have combined the two outfalls to one outfall (001). Therefore, this amendment is to change mass loading effluent limits with the new combined outfall 001. No other changes to the permit will be made.

The receiving stream(s), Spring Creek, is located in State Water Plan watershed 9-C and is classified for High Quality Waters-Cold Water Fishes, aquatic life, water supply and recreation. The discharge is not expected to affect public water supplies.

The proposed effluent limits for Outfall 001 are based on a design flow of 7.056 MGD.

Parameters	Mass (lb/day)			Concentration (mg/l)		
	Average Monthly	Daily Maximum	Minimum	Average Monthly	Daily Maximum	Instantaneous Maximum
Flow (MGD)	Report	Report				
pH (S.U.)			6.0			9.0
Dissolved Oxygen				Report		
CBOD ₅	294	588		5.0	10.0	12.5
Total Suspended Solids	353	706		6.0	12.0	15.0
Total Suspended Solids	Report Total Mo	Report Total Annual				
Nitrate-Nitrite as N				Report		
Nitrate-Nitrite as N	Report Total Mo					
Total Nitrogen				Report		

Parameters	Mass (lb/day)			Concentration (mg/l)		
	Average Monthly	Daily Maximum	Minimum	Average Monthly	Daily Maximum	Instantaneous Maximum
Total Nitrogen	Report Total Mo	Report Total Annual				
Ammonia-Nitrogen (lbs/mo)	41	82		0.7	1.4	2.1
Ammonia-Nitrogen	Report Total Mo					
Total Kjeldahl Nitrogen	Report Total Mo			Report		
Total Kjeldahl Nitrogen	7.9	15.6		0.3	0.6	0.75
Dissolved Phosphorus				Report		
Total Phosphorus	Report Total Mo	Report Total Annual				
Total Phosphorus	59	118		1.0	2.0	2.5
Formaldehyde	Report Total Mo	Report Total Annual				
Total Particulate Organic Carbon				Report		
Particulate Organic Carbon						

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

The EPA waiver is not in effect.

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

PA0216445, Sewage, **Paradigm Aerospace Corporation (formerly Helicopter Aviation Services Corporation)**, 226 Airport Road, Mount Pleasant, PA 15666. This application is for renewal of an NPDES permit to discharge treated sewage from Paradigm Aerospace Corporation Sewage Treatment Plant in Bullskin Township, **Fayette County**.

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

Outfall 001: existing discharge, design flow of 0.002 mgd.

Parameter	Concentration (mg/l)			
	Average Monthly	Average Weekly	Maximum Daily	Instantaneous Maximum
CBOD ₅	25			50
Suspended Solids	30			60
Ammonia Nitrogen				
May 1 to Oct 31	10.0			20.0
Nov 1 to Apr 30	30.0			60.0
Fecal Coliform				
May 1 to Sep 30	200/100 ml as a Geometric Mean			
Oct 1 to Apr 30	2,000/100 ml as a Geometric Mean			
Total Residual Chlorine	1.4			3.3
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

PA0030457, Sewage, **The Bauman Family Limited Partnership and Wilber Osterwise**, 100 Forbes Trail Drive, Export, PA 15632-9614. This application is for renewal of an NPDES permit to discharge treated sewage from Forbes Trail Park and Thorn Run Estates STP in Salem Township, **Westmoreland County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Unnamed Tributary to Thorn Run, which are classified as a high-quality cold water fishery with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the Westmoreland Municipal Authority.

Outfall 001: existing discharge, design flow of 0.031 mgd.

Parameter	Concentration (mg/l)			
	Average Monthly	Average Weekly	Maximum Daily	Instantaneous Maximum
CBOD ₅	10			20
Suspended Solids	10			20

Parameter	Concentration (mg/l)			
	Average Monthly	Average Weekly	Maximum Daily	Instantaneous Maximum
Ammonia Nitrogen				
May 1 to Oct 31	3.0			6.0
Nov 1 to Apr 30	9.0			18.0
Phosphorus	2			4
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 5.0 mg/l			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

PA0217123, Sewage, **Indiana County Municipal Service Authority**, 602 Kolter Drive, Indiana, PA 15701. This application is for renewal of an NPDES permit to discharge treated sewage from Plumville STP in South Mahoning Township, **Indiana County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as North Branch Plum Creek, which are classified as a cold water fishery with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the Buffalo Township Municipal Authority.

Outfall 001: existing discharge, design flow of 0.072 mgd.

Parameter	Concentration (mg/l)			
	Average Monthly	Average Weekly	Maximum Daily	Instantaneous Maximum
CBOD ₅	25			50
Suspended Solids	30			60
Ammonia Nitrogen				
May 1 to Oct 31	6.3			12.6
Nov 1 to Apr 30	18.9			37.8
Fecal Coliform				
May 1 to Sep 30	200/100 ml as a Geometric Mean			
Oct 1 to Apr 30	2,000/100 ml as a Geometric Mean			
Dissolved Oxygen	not less than 4.0 mg/l			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

PA0205931, Sewage, **Menallen Township Sewer Authority**, 427 Searights Hebert Road, Uniontown, PA 15401-5137. This application is for renewal of an NPDES permit to discharge treated sewage from Upper Middletown Sewage Treatment Plant in Menallen Township, **Fayette County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Redstone Creek, which are classified as a warm water fishery with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the California Water Company on the Monongahela River.

Outfall 001: existing discharge, design flow of 0.115 mgd.

Parameter	Concentration (mg/l)			
	Average Monthly	Average Weekly	Maximum Daily	Instantaneous Maximum
CBOD ₅	25	37.5		50
Suspended Solids	30	45		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
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

PA0254282, Sewage, **Donald and Joyce Wise**, 290 Sanitarium Road, Washington, PA 15301. This application is for issuance of an NPDES permit to discharge treated sewage from Wise SRSTP in Ambridge Borough, **Washington County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Tenmile 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 Marianna Municipal Water Works.

Outfall 001: new discharge, design flow of 0.0004 mgd.

Parameter	Concentration (mg/l)			
	Average Monthly	Average Weekly	Maximum Daily	Instantaneous Maximum
CBOD ₅	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			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

PA0254002, Sewage, **Target Drilling, Inc.**, 1112 Glacier Drive, Smithton, PA 15479. This application is for issuance of an NPDES permit to discharge treated sewage from Target Drilling Shop STP in Whiteley Township, **Greene County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Dyers Fork, 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 Masontown Municipal Water Works.

Outfall 001: new discharge, design flow of 0.0006 mgd.

Parameter	Concentration (mg/l)			
	Average Monthly	Average Weekly	Maximum Daily	Instantaneous Maximum
CBOD ₅	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
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

PA0038806, Sewage, **Forest Hills Municipal Authority**, 900 Locust Street, P. O. Box 337, St. Michael, PA 15951-0337. This application is for renewal of an NPDES permit to discharge treated sewage from Beautyline Park Sewage Treatment Plant in Adams Township, **Cambria County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Otto Run, which are classified as a cold water fishery with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the Saltsburg Municipal Water Works located on the Conemaugh River.

Outfall 001: existing discharge, design flow of 0.1892 mgd.

Parameter	Concentration (mg/l)			
	Average Monthly	Average Weekly	Maximum Daily	Instantaneous Maximum
CBOD ₅	25	37.5		50
Suspended Solids	30	45		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	1.0			3.3
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

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

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

WQM Permit No. 6710402, Sewerage, **Exelon Generation Company, LLC, Peach Bottom Atomic Power Station**, 1848 Lay Road, Delta, PA 17314. This proposed facility is located in Peach Bottom Township, **York County**.

Description of Proposed Action/Activity: Seeking approval for the construction/operation for: 1) the addition of a bypass on Equalization Tank "A" to support necessary maintenance; and 2) additional aeration equipment on the post aeration tank, to ensure compliance with the proposed NPDES permit dissolved oxygen limit.

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

WQM Permit No. 0210402, Sewerage, **Aleppo Township**, 100 North Drive, Suite 2, Sewickley, PA 15143. This proposed facility is located in Aleppo Township, **Allegheny County**.

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

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

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

WQM Permit No. 2597201, Industrial Waste, **Amendment No. 1, Albion Borough**, 26 Smock Avenue, Albion, PA 16401. This proposed facility is located in Albion Borough, **Erie County**.

Description of Proposed Action/Activity: An Industrial Waste Part II Water Quality Management permit to install a backwash water storage tank at the Gage Road Water Treatment Facility.

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 & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI01461001	11th Fighter Wing PA Air National Guard 2164 McGuire Street Willow Grove ARS, PA 19090-5232	Montgomery	Horsham Township	Unnamed Tributary Park Creek WWF

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

Monroe County Conservation District: 8050 Running Valley Road, Stroudsburg, PA 18360, 570-629-3060.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI024510003	Northampton Community College 3835 Green Pond Road Bethlehem, PA 18020	Monroe	Pocono Township	Tributary to Pocono Creek HQ-CWF, MF

Pike County Conservation District: 556 Route 402, Suite 1, Hawley, PA 18428, 570-226-8220.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI025210003	Grey Towers National Historic Site Attn: Teri Cleeland P. O. Box 188 151 Grey Towers Drive Milford, PA 18337	Pike	Milford Township	Sawkill Creek EV, MF

Southcentral Region: Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI032105008-R	South Middleton School District 4 Forge Road Boiling Springs, PA 17007	Cumberland	South Middleton Township	Yellow Breeches HQ-CWF

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 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>
Future View Farms Jeff Frey 13 Radcliff Road Willow Street, PA 17584	Lancaster	550	558.30	Hogs/Sheep	NA	Renewal

<i>Agricultural Operation Name and Address</i>	<i>County</i>	<i>Total Acres</i>	<i>Animal Equivalent Units</i>	<i>Animal Type</i>	<i>Special Protection Waters (HQ or EV or NA)</i>	<i>Application or Action</i>
Katzmaier Farms 251 Katzmaier Road Montoursville, PA 17754	Lycoming	159.9	348.25	Dairy	NA	Application
Rodney Lane 750 Woodard Road Harrison Valley, PA 16927	Potter	711.9	961.75	Dairy, Swine, Beef	NA	Application

**PUBLIC WATER SUPPLY (PWS)
PERMIT**

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

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

of comments received during the 30-day public comment period.

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

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

Persons with a disability who require an auxiliary aid, service or other accommodations to participate during the 30-day public comment period should contact the office listed before the application. TDD users should contact

the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

SAFE DRINKING WATER

Applications Received under the Pennsylvania Safe Drinking Water Act

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

Application No. 4610509, Public Water Supply.

Applicant **Borough of East Greenville**
Township Upper Hanover
County **Montgomery**
Responsible Official Jennifer Boyer
206 Main Street
East Greenville, PA 18041

Type of Facility PWS
Consulting Engineer Cowan Associates, Inc.
120 Penn-Am Drive
Quakertown, PA 18951

Application Received Date March 12, 2010

Description of Action Replacement of existing filter surface wash system with an air scour system and replacement of the filter media.

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

Application No. 4510501, Public Water Supply.

Applicant **Brodhead Creek Regional Authority**
410 Stokes Avenue
East Stroudsburg, PA

Township or Borough Stroud Township
Monroe County

Responsible Official Kenneth Brown
Manager

Type of Facility Public Water System
Consulting Engineer RKR Hess Associates, Inc.
961 Marcon Boulevard
Allentown, PA

Application Received Date 3/19/10

Description of Action The construction of a well water transmission line, replacement of booster pumps, and the modification of chemical feed systems.

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

Permit No. 0410503, Public Water Supply.

Applicant **Beaver Falls Municipal Authority**
1425 8th Avenue
P. O. Box 400
Beaver Falls, PA 15010

Township or Borough Eastvale Borough

Responsible Official James Riggio
General Manager
Beaver Falls Municipal Authority
1425 8th Avenue
P. O. Box 400
Beaver Falls, PA 15010

Type of Facility Water treatment plant

Consulting Engineer KLH Engineers, Inc.
5173 Campbells Run Road
Pittsburgh, PA 15205

Application Received Date April 6, 2010

Description of Action Installation of chemical feed equipment for the addition of chloramines (chloramination).

MINOR AMENDMENT

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

Application No. 5410502MA, Minor Amendment.

Applicant **The Municipal Authority of the Township of Blythe**
375 Valley Street
New Philadelphia, PA

Township or Borough Cass Township
Schuylkill County

Responsible Official Joseph Turnitza, Chairperson
Type of Facility Public Water System

Consulting Engineer Systems Design Engineering, Inc.
1032 James Drive
Leesport, PA

Application Received Date 3/29/10

Description of Action The upgrade of intake lines, modifications to the pretreatment system, valves and housing.

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

Application No. 5608507GWR, Minor Amendment.

Applicant **Jenner Township**
2058 Lincoln Highway
Boswell, PA 15531

Township or Borough Jenner Township

Responsible Official Keith Barnick
Chairperson
Jenner Township
2058 Lincoln Highway
Boswell, PA 15531

Type of Facility Water treatment system

Consulting Engineer

Application Received Date December 31, 2009

Description of Action Groundwater rule 4-log treatment demonstration.

Application No. 2610502GWR, Minor Amendment.

Applicant **Indian Creek Valley Water Authority**
P. O. Box 486
Indian Head, PA 15446

Township or Borough Saltlick Township

Responsible Official R. Kerry Witt, Manager
Indian Creek Valley Water Authority
P. O. Box 486
Indian Head, PA 15446

Type of Facility Water treatment system

Consulting Engineer

Application Received Date March 31, 2010

Description of Action Groundwater rule 4-log treatment demonstration.

Application No. 5609504GWR, Minor Amendment.

Applicant **Borough of Somerset**
340 West Union Street
Somerset, PA 15501

Township or Borough Somerset Township

Responsible Official Benedict Vinzani
Borough Manager
Borough of Somerset
340 West Union Street
Somerset, PA 15501

Type of Facility Water treatment system

Consulting Engineer

Application Received Date November 3, 2009

Description of Action Groundwater rule 4-log treatment demonstration.

Application No. 0409508GWR, Minor Amendment.

Applicant **Beaver Borough**
469 Third Street
Beaver, PA 15009

Township or Borough Beaver Borough

Responsible Official John Barrett
Beaver Borough
469 Third Street
Beaver, PA 15009

Type of Facility Water treatment system

Consulting Engineer

Application Received Date March 17, 2010

Description of Action Groundwater rule 4-log treatment demonstration.

Application No. 0210503GWR, Minor Amendment.

Applicant **Bay Valley Foods, LLC**
1080 River Avenue
Pittsburgh, PA 15212

Township or Borough City of Pittsburgh

Responsible Official Ken Boersen
Bay Valley Foods, LLC
1080 River Avenue
Pittsburgh, PA 15212

Type of Facility Water treatment system

Consulting Engineer

Application Received Date February 3, 2010

Description of Action Groundwater rule 4-log treatment demonstration.

Application No. 0209525GWR, Minor Amendment.

Applicant **Borough of Sharpsburg**
1611 Main Street
Pittsburgh, PA 15215

Township or Borough Sharpsburg Borough

Responsible Official Roger Milliron
Borough of Sharpsburg
1611 Main Street
Pittsburgh, PA 15215

Type of Facility Water treatment system

Consulting Engineer

Application Received Date November 25, 2009

Description of Action Groundwater rule 4-log treatment demonstration.

Application No. 2610503GWR, Minor Amendment.

Applicant **Spring Valley**
100 Spring Valley Road
Farmington, PA 15437

Township or Borough Wharton Township

Responsible Official Spring Valley
100 Spring Valley Road
Farmington, PA 15437

Type of Facility Water treatment system

Consulting Engineer

Application Received Date March 23, 2010

Description of Action Groundwater rule 4-log treatment demonstration.

Application No. 0210509MA, Minor Amendment.

Applicant **Richland Township Municipal Authority**
2012 Kramer Road
Gibsonia, PA 15044-9632

Township or Borough Valencia Borough
Butler County

Responsible Official George Kane
Chairperson
Richland Township Municipal Authority
2012 Kramer Road
Gibsonia, PA 15044-9632

Type of Facility Water treatment system

Consulting Engineer KLH Engineers, Inc.
5173 Campbells Run Road
Pittsburgh, PA 15205

Application Received Date April 5, 2010

Description of Action Modification to the emergency interconnection with the Adams Township Municipal Authority.

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

Application No. 1605501-MA1, Minor Amendment.

Applicant	Pinebloom Corporation for Wolf's Camping Resort
Township or Borough	Beaver Township Clarion County
Responsible Official	Pete Titley, Owner
Type of Facility	Public Water System
Application Received Date	03/30/2010
Description of Action	Painting steel tanks in water treatment plant and adjustment of the settling tube elevation.

WATER ALLOCATIONS

Applications received under the Act of June 24, 1939 (P.L. 842, No. 365) (35 P.S. §§ 631—641) relating to the Acquisition of Rights to Divert Waters of the Commonwealth

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

WA2-1014, Water Allocations. Richland Township Municipal Authority, 2012 Kramer Road, Gibsonia, PA 15044, Allegheny County. The applicant is requesting an emergency interconnection with the Adams Township Municipal Authority located in Butler County.

HAZARDOUS WASTE TREATMENT, STORAGE AND DISPOSAL FACILITIES

Applications Submitted under the Solid Waste Management Act of July 7, 1980 (P.L. 380, No. 97) (35 P.S. §§ 6018.101—6018.1003) and Regulations to Operate a Hazardous Waste Treatment, Storage or Disposal Facility.

Southeast Region: Regional Solid Waste Manager, 2 East Main Street, Norristown, PA 19401.

PAD980550412. Lonza, Inc., Lonza Riverside Facility, 900 River Road, Conshohocken, PA 19428-2647. This application is for the 10-year renewal of the captive hazardous waste RCRA Part B permit for the Lonza Riverside Facility located in Upper Merion Township, **Montgomery County.** The current Part B permit expires on October 3, 2010. Application was received by the Southeast Regional Office on April 7, 2010.

MUNICIPAL WASTE GENERAL PERMITS

Application received under the Solid Waste Management Act (35 P.S. §§ 6018.101—6018.1003); the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P.S. §§ 4000.101—4000.1904); and Municipal Waste Regulations for a General Permit to Operate Municipal Waste Processing Facilities and the Beneficial Use of Municipal Waste.

Southcentral Regional Office: Waste Management Program, 909 Elmerton Avenue, Harrisburg, PA 17110-8200.

General Permit Application No. WMGMO27SC002. Creative Fuels, LLC, 720 Laurel Street, Reading, PA 19602.

The Southcentral Regional Office, Waste Management Program has received an application for a determination of applicability (DOA) under Municipal Waste General Permit No. WMGM027 for the Creative Fuels, LLC located at 720 Laurel Street, Reading, PA 19602. This DOA is for the acceptance and beneficial use of alternative fuel material to be used at Evergreen Community Power, 800 South Street, Reading, PA 19602. The application for DOA was determined to be administratively complete by the Southcentral Regional Office on April 8, 2010.

Comments concerning the application should be directed to John Oren, Facilities Manager, Southcentral Regional Office, 909 Elmerton Avenue, Harrisburg, PA 17110-8200. Persons interested in obtaining more information about the general permit application may contact the Waste Management Program, 717-705-4706. TDD users may contact the Department of Environmental Protection through the Pennsylvania AT&T Relay Service, (800) 654-5984. Public comments must be submitted within 60 days of this notice and may recommend revisions to, and approval or denial of the application.

OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE

Applications renewed under the Solid Waste Management Act (35 P.S. §§ 6018.101—6018.1003), the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P.S. §§ 4000.101—4000.1904) and Regulations to Operate Solid Waste Processing or Disposal Area or Site.

Southcentral Region: Regional Solid Waste Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

Permit Application No. 301333. Waste Recovery Solutions, Inc. located in Jackson Township, **Lebanon County.** The Department of Environmental Protection (Department) has reviewed the application for permit renewal for the operation of Waste Recovery Solutions, issued in accordance with Article V of the Solid Waste Management Act, 35 P.S. §§ 6018.101, *et seq.* The Department deems the Permit Renewal administratively complete.

Comments concerning the application should be directed to Anthony Rathfon, Program Manager, Southcentral Regional Office. Persons interested in obtaining more information about the general permit application may contact the Southcentral Regional Office, 717-705-4706. TDD users may contact the Department through the Pennsylvania AT&T Relay Service, (800) 654-5984. Public comments must be submitted within 60 days of this notice and may recommend revisions to, and approval or denial of the application.

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.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745. Contact: M. Gorog and B. Hatch, Environmental Engineer Managers—Telephone: 412-442-4163/5226.

30-00072H: Consol PA Coal Co., LLC (1000 Consol Energy Drive, Canonsburg, PA 15317) for expansion inclusive of conveyors and storage silos and an increase of both raw coal and clean coal storage at Bailey Preparation Plant in Richhill Township, **Greene County**.

65-00354A: Sunoco Partners Marketing & Terminals, LP (5733 Butler Street, Pittsburgh, PA 15201) for installation of vapor recovery unit at Delmont Terminal in Salem Township, **Westmoreland County**.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481. Contact: Mark Gorog, New Source Review Chief—Telephone: 814-332-6940.

10-325A: Butler VA Medical Center (325 New Castle Road, Butler, PA 16001), for three (3) existing 25.4 mmBtu/hr capacity gas and No. 2 fuel oil fired boilers at their facility in Butler Township, **Butler County**.

62-017S: United Refining Company (15 Bradley Street, Warren, PA 16365), for the modification of several existing sources to produce reduced benzene gasoline (meet EPA's MSAT II fuel requirements) in Warren City, **Warren County**. This is a Title V facility.

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

54-399-045: Silberline Manufacturing Co., Inc. (130 Lincoln Drive, Tamaqua, PA 18252) for modification of their existing aluminum pigment manufacturing process to add additional equipment with controls at their facility in Rush Township, **Schuylkill County**.

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

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

46-0200C: John Middleton Co. (418 West Church Road, King of Prussia, PA 19406) for modification of existing sources for a tobacco conditioning and flavoring process, and the additions of a new specialty process and a 700 hp (29.0 mmBtu/hr) natural gas-fired boiler, at their facility in Upper Merion Township, **Montgomery County**. As a result of potential emissions of VOCs, the facility is a State-only facility, with restrictions or controls. The Plan Approval and Operating Permit will contain recordkeeping requirements and operating restrictions designed to keep the facility operating within all applicable air quality requirements.

23-0115: Camden Iron and Metal (1500 East 2nd Street, Eddystone, PA 19022) for installation of a metal recycling operation used to shred automobiles and other metals into small recyclable pieces in Eddystone Borough, **Delaware County**. The plan approval is for a non-Title V facility and will consist of an electric motor driven shredding chamber (where the scrap will be ripped and torn by a series of rotating hammers), followed by a series of high-sided conveyor belts for the separation of the various metal and non-metal pieces, and an air classifier to collect and control the emissions of Particulate Matter (PM). Potential emissions of PM are projected to be 9.24 tons/yr from the shredding operation, stockpiles and transfer points. PM emissions will be controlled using water spray (fogging system) at the hammermill and transfer points and an air classifier with an air interlock at the end of the separation stage for any small lightweight materials. Traffic will be limited to paved areas, which shall be wetted and/or swept to assist in fugitive dust control. The plan approval will include monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

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

35-322-010A: Alliance Sanitary Landfill, Inc. (398 South Keyser Avenue, Taylor, PA 18517) for several administrative changes to the conditions of an issued plan approval No. 35-322-010. The Department of Environ-

mental Protection (Department) has approved and issued a Plan approval No. 35-322-010, dated July 7, 2009, with conditions for the installation and operation of two (2) enclosed landfill gas flares and one (1) open candle flare. Subsequent to the issuance of the Plan Approval, the company has discussed the conditions of the Plan Approval with the Department and has requested administrative changes to the conditions to improve the clarity of the conditions and its consistency with the Department's BAT guidance. This action does not represent any additional waste being introduced into the landfill, or an expansion of the landfill, merely the administrative changes in permit conditions. No additional gas is being generated since the gas generation is based on the size and volume of the landfill. The company has proposed no other changes. Alliance Sanitary Landfill is a major facility subject to Title V permitting requirements. The volatile organic compound (VOC) emissions from the landfill will be controlled by enclosed landfill gas flares and will continue to be less than 50 tons per year. The Plan Approval and Operating Permit will contain additional recordkeeping and operating restrictions designed to keep the facility operating within all applicable air quality requirements.

39-309-076: Lafarge North America, Inc. (5160 Main Street, Whitehall, PA 18052) for installation and operation of a Dry Absorbent Addition (DAA) system and a Selective Non-Catalytic Reduction (SNCR) system for the

control of SO₂ and NOx emissions from Kiln Nos. 2 and 3 at the facility in Whitehall Township, **Lehigh County**.

In accordance with 25 Pa. Code §§ 127.44(b) and 127.424(b), the Department of Environmental Protection (Department) intends to issue a Plan Approval No. 39-309-076 to Lafarge North America, Inc., 5160 Main Street, Whitehall, PA 18052, for their plant located in Whitehall Township, Lehigh County. The facility currently operates under Title V Operating Permit No. 39-00011. This plan approval will be incorporated into the Title V Operating Permit through an administrative amendment at a later date, and the action will be published as a notice in the *Pennsylvania Bulletin*.

Plan Approval No. 39-309-076 is for the installation and operation of a Dry Absorbent Addition (DAA) system and a Selective Non-Catalytic Reduction (SNCR) system for the control of SO₂ and NOx emissions from Kiln Nos. 2 and 3 at the facility. The proposed changes do not physically alter the kilns in any way, do not impact kiln production capacity, and do not result in an increase in kiln production or emissions. The proposed changes will enable the installation of additional kiln air pollution control equipment and implement enforceable reductions in sulfur dioxide (SO₂) and nitrogen oxide (NOx) emissions from each kiln. The company will be limited to the following emissions limitations after installation of these systems.

	<i>Kiln No. 2</i> 30-Day Rolling Average	<i>Kiln No. 3</i> 30-Day Rolling Average	<i>Facility-Wide</i> 12-Month Rolling Average
NOx	2.58 lb/ton of clinker	2.92 lb/ton of clinker	2.03 lb/ton of clinker
SO ₂	4.06 lb/ton of clinker	3.19 lb/ton of clinker	2.59 lb/ton of clinker

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

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

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

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

Identification of the proposed permit No. 39-309-076

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

A public hearing may be held, if the Department, in its discretion, decides that such a hearing is warranted based on the comments received. All persons submitting comments or requesting a hearing will be notified of the decision to hold a hearing by publication in the newspaper or the *Pennsylvania Bulletin* or by telephone, where the Department determines such notification is sufficient.

Written comments or requests for a public hearing should be directed to Raymond Kempa, P. E., Environmental Group Manager, Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711, Phone 570-826-2531 within 30 days after publication date.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745. Contact: B. Hatch, Environmental Engineer Managers—Telephone: 412-442-4163/5226.

32-00393B: Prime Metals & Alloys, Inc. (101 Innovation Drive, P. O. Box 194, Lucernemines, PA 15754) to allow the continued construction and initial operation of a specialty steel plant in Center Township, **Indiana County**.

In accordance with 25 Pa. Code §§ 127.44—127.46, the Department of Environmental Protection (Department) intends to issue Air Quality Plan Approval: PA-32-00393B to allow the continued construction and initial operation of a specialty steel plant located in Center Township, Indiana County. The facility will produce up to 55,000 tons of metal ingots annually. Air contamination sources proposed at the facility include four electric induction furnaces, one argon-oxygen decarburization (AOD) vessel, four natural gas-fired annealing boxes, two natural gas-fired ladle pre-heaters, ingot and pig pouring, slag handling, and a parts washer. Best available technology (BAT) for the proposed sources includes the incorporation of particulate matter (PM) and opacity emission limits, testing, monitoring, recordkeeping, and reporting requirements, and work practice standards from Title 25 of the Pennsylvania Code and 40 CFR Part 60, Subpart AAA (for the AOD vessel). BAT also includes the use of fabric

filters to control PM emissions from ingot and pig pouring, the induction furnaces and the AOD vessel. Potential emissions from the proposed facility are estimated to be 23.63 tons of PM, 9.35 tons of carbon monoxide (CO), 5.21 tons of nitrogen oxides (NO_x), 0.48 ton of volatile organic compounds (VOC) and 0.03 ton of sulfur oxides (SO_x) per year. Once compliance with the Plan Approval is demonstrated, the applicant will subsequently apply for a State Only Operating Permit in accordance with 25 Pa. Code, Subchapter F.

Those who wish to provide the Department with additional written information that they believe should be considered prior to the issuance of the Plan Approval may submit the information to Alan Binder, Department of Environmental Protection, 400 Waterfront Drive, Pittsburgh, PA, 15222. Each written comment must contain the following:

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

Identification of the proposed Plan Approval (specify the Plan Approval number).

Concise statements regarding the relevancy of the information or objections to issuance of the Plan Approval.

All comments must be received prior to the close of business 30 days after the date of this publication.

For additional information you may contact Alan Binder at 412-442-4168.

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.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481. Contact: Matthew Williams, Facilities Permitting Chief—Telephone: 814-332-6940.

10-00001: AK Steel Corp. (P. O. Box 832, Butler, PA 16003) for a Title V Operating Permit Re-issuance to operate a steel manufacturing facility in Butler Township, **Butler County**. The facility is a major stationary source as defined in Title I, Part D of the Clean Air Act Amendments due to the facility's potential to emit NO_x, Particulate Matter and VOC emissions.

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

45-00002: Rock Tenn Co. (Paper Mill Road, Delaware Water Gap, PA 18327) for a renewal Title V Operating Permit for a paperboard mill in Smithfield Township, **Monroe County**. Sources at the facility include two (2) combustion boilers, maintenance building heaters, paper coating process, two (2) emergency fire pumps. These sources have the potential to emit major quantities of regulated pollutants above Title V emission thresholds. The proposed Title V Operating Permit contains all applicable requirements including Federal and State regulations. In addition, monitoring, recordkeeping and reporting conditions regarding compliance with all applicable requirements are included.

Intent to Issue Operating Permits under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter F.

Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19428. Contact: Janine Tulloch-Reid, Facilities Permitting Chief—Telephone: 484-250-5920.

09-00182: Armoloy Company of Philadelphia (1105 Miller Avenue, Croydon, PA 19028) for operation of their facility in Bristol Township, **Bucks County**. This action is a renewal of the permit for a non-Title V (Natural Minor) facility. The facility is a basic manufacturing industry, specializing in various types of electroplating, plating, anodizing and finishing of metals products. There are no proposed changes to equipment or operating conditions. The permit will continue to include monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

09-00050: Hanson Aggregates BMC, Inc. (825 Swamp Road, Penns Park, PA 18943) for operation of their asphalt plant facility in Wrightstown Township, **Bucks County**. This action is a renewal of the permit for a non-Title V (Synthetic Minor) facility. The facility consists of a Gencor asphalt plant and a recycled asphalt pavement (RAP) plant. There are no proposed changes to equipment or operating conditions. The permit will continue to include monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

46-00168: Moss Rehab Einstein (60 East Township Line Road, Elkins Park, PA 19027) for a renewal permit to remove an exempt generator for a non-Title V (State-only) facility in Cheltenham Township, **Montgomery County**. NO_x emissions are electively capped to less than 25 tons per year. An exempt generator (Onan 230 kW) has been removed from the facility and has been replaced with a new exempt generator (Detroit Diesel 400 kW). Source ID 106 and Source ID 107-Exempt Generators, have been added to Section A (Site Inventory) and Section D (Source Level) of the renewal permit to include applicable requirements to exempt generators. The renewal permit will include monitoring, recordkeeping and reporting requirements designed to keep the facility within all applicable air quality requirements.

09-00134: Reed Minerals (905 Steel Road South, Fairless Hills, PA 19030) for operation of their facility in Falls Township, **Bucks County**. This action is a renewal of the permit for a non-Title V (Natural Minor) facility. The facility operates a coal slag roofing granules plant. There are no proposed changes to equipment or operating conditions. The permit will continue to include monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

09-00077: Exelon Generation Company—Pennsbury Power Production Plant (1414 Bordentown Road, Morrisville, PA 19067) for a non-Title V Facility, State-only, Synthetic Minor Operating Permit in Morrisville, Falls Township, **Bucks County**. The permit is for operation of two (2) combustion turbines that convert landfill gas into electric power when the demand is high. This action is a renewal of the State-only Operating Permit. The initial permit was issued on 8-15-2005. The permit will include monitoring, recordkeeping, reporting and work practice standards designed to keep the facility operating within all applicable air quality requirements.

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

40-00107: Allegheny Energy Supply, LLC (800 Cabin Hill Drive, Greensburg, PA 15601) a State-only (Synthetic Minor) operating permit for a natural gas fired combustion turbine at their facility in Hunlock Township, **Luzerne County**. The permittee is taking limitations on operating hours, NO_x emissions, fuel type, and control device usage to maintain Synthetic Minor status. The State-only (Synthetic Minor) operating permit includes emissions, monitoring, recordkeeping, reporting, testing and additional conditions designed to ensure compliance with all applicable Federal and State air pollution control requirements.

40-00111: CEI Anthracite, Inc. (603 South Church Street, Hazleton, PA 18201) for operation of a coal processing operation and associated air cleaning devices at their facility in the City of Hazleton, **Luzerne County**. This facility is currently operating under Operating Permit 40-305-028. 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.

48-00079: Lehigh Valley Crematory, Inc. (301 Front Street, Hellertown, PA 18055) for funeral service and crematories operation in Hellertown Borough, **Northampton County**. This is a renewal of the State-only Natural Minor operating permit for this facility. The State-only operating permit includes emissions, work practice standards and testing, monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

39-00061: Electro Chemical Engineering and Manufacturing Company (750 Broad Street, Emmaus, PA 18049) for coating and engraving facility in Emmaus Borough, **Lehigh County**. This is an initial State-only Synthetic Minor a operating permit for this facility. The State-only operating permit includes emissions, work practice standards and testing, monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110. Contact: Thomas J. Hanlon, Chief, East Permitting Section—Telephone: 717-705-4862 or Daniel Husted, Chief, West Permitting Section—Telephone: 814-949-7935.

22-03028: Linda B. Corson—Dauphin Animal Crematory (885 Allegheny Street, Dauphin, PA 17018-9758) for operation of their existing animal crematory in Middle Paxton Township, **Dauphin County**. This is a permit renewal of their existing State-only operating permit. The State-only operating permit will include monitoring, recordkeeping, reporting requirements, emission restrictions and work practice standards designed to keep the facility operating within all applicable air quality requirements.

22-05050: Dauphin Meadows, Inc.—Waste Management (425 Perinton Parkway, Fairport, NY 14450) for their closed landfill controlled by an enclosed ground flare in Washington Township, **Dauphin County**. This is a renewal of the State-only operating permit issued in 2005.

38-03051: Trinity Alloys, Inc. (200 East Richland Avenue, Myerstown, PA 17067) for operation of a secondary aluminum production facility in Myerstown Borough, **Lebanon County**. The facility is subject to 40 CFR Part 63, Subpart RRR—National Emission Standards for Hazardous Air Pollutants for Secondary Aluminum Production. The State-only operating permit will include emission limits and work practice standards along with monitoring, recordkeeping and reporting requirements to ensure the facility complies with the applicable air quality requirements.

28-03050: Bri Mar Manufacturing, LLC—South Main Street Plant (1080 South Main Street, Chambersburg, PA 17201-3240) for renewal of a natural minor operating permit issued in November 2005 for a paint booth in the Borough of Chambersburg, **Franklin County**.

67-03052: BIMAX Inc.—Springfield Plant (158 Industrial Road, Glen Rock, PA 17327-8626) for renewal of a natural minor operating permit issued in November 2005 in Springfield Township, **York County**.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745. Contact: Barbara Hatch, Facilities Permitting Chief—Telephone: 412-442-4174.

65-00817: IA Construction Corp. (P.O. Box 290, Homer City, PA 15748) for operation of hot mix asphalt plant facility in City of Lower Burrell, **Westmoreland County**. This is a State-only Operating Permit Renewal.

65-00354A: Sunoco Partners Marketing & Terminals, LP (5733 Butler Street, Pittsburgh, PA 15201) for installation of vapor recovery unit at Delmont Terminal in Salem Township, **Westmoreland County**.

30-00174: CNX Gas Company, LLC (200 Evergreene Drive, Waynesburg, PA 15370) for operation of CNX's McQuay Compressor Station in Center Township, **Greene County**. This is a new State-only Operating Permit.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481. Contact: Matthew Williams, New Source Review Chief—Telephone: 814-332-6940.

16-00149: Clarion Laminates, LLC (301 Fiberboard Road, Shippensburg, PA 16254-4811) for issuance of a natural minor permit to operate a hard surface floor coverings manufacturing facility in Paint Township, **Clarion County**. The facility's major emission sources include thermal oil heater, 8 direct fired space heaters, laminating and saw line 1, Laminating and saw line 2, profiling 1, profiling 2 and crystal clean degreaser unit. The facility is natural minor because the emission from the facility is less than Title V threshold limits.

24-00145: GE Thermometrics, Inc. (967 Windfall Road, St. Marys, PA 15857), for a Synthetic Minor Operating Permit issuance to operate an electronic resistor manufacturing facility, in the City of St. Marys, **Elk County**. This facility had previously been permitted as a Title V Operating Permit but has reduced emissions sufficiently to no longer be classified as a major source of emissions.

25-00337: Custom Engineering Co. (2800 McClelland Avenue, Erie, PA 16510-2544) for re-issuance of a Natural Minor Permit to operate a fabricated metal products manufacturing facility in the City of Erie, **Erie County**. The significant sources are natural gas combustion units (heaters), burntable torch cutting (2 tables), paint booth, rust preventive (hand application) and paint booth. The

emission from the facility is less than Title V threshold limits. Thus, the facility is natural minor.

33-00172: Original Fuels, Inc.—Grange Lime & Stone (883 St. Jacobs Church Street, Punxsutawney, PA 15767) for a Natural Minor Operating Permit for operation of the facility's air contamination source consisting of: a 623 bhp diesel-fired generator, a 575 bhp diesel-fired generator, and a 200 ton per hour stone processing plant including 2 crushers, 2 screens and 9 conveyors in Perry Township, **Jefferson 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

Parameter	30-Day Average	Daily Maximum	Instantaneous Maximum
Iron (Total)	1.5 to 3.0 mg/l	3.0 to 6.0 mg/l	3.5 to 7.0 mg/l
Manganese (Total)	1.0 to 2.0 mg/l	2.0 to 4.0 mg/l	2.5 to 5.0 mg/l
Suspended solids	10 to 35 mg/l	20 to 70 mg/l	25 to 90 mg/l
Aluminum (Total)	0.75 to 2.0 mg/l	1.5 to 4.0 mg/l	2.0 to 5.0 mg/l
pH ¹		greater than 6.0; less than 9.0	
Alkalinity greater than acidity ¹			

¹ 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.

30841317 and NPDES Permit # PA0213527, Consol PA Coal Company, LLC, (P. O. Box J, 1525 Pleasant Grove Road, Claysville, PA 15323), to revise the permit for the Enlow Fork Mine in Morris, East Finley and South Franklin Townships, **Washington County** for an overhead power line right-of-way to install power to the E22 Airshaft. No additional discharges. Application received: November 23, 2009.

17041301 and NPDES Permit # PA0235628, Rosebud Mining Company, (301 Market Street, Kittanning, PA 16201), to renew the permit for the Penfield Mine in Huston Township, **Clearfield County** and related NPDES permit. No additional discharges. Application received: March 15, 2010.

Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, 814-472-1900.

11990103 and NPDES No. PA0235091. Paul F. Becker Coal Company, P. O. Box 332, Duncansville, PA 16635, revision of an existing bituminous surface mine to change the land use from forestland to unmanaged natural habitat in Elder Township, **Cambria County**, affecting 21.2 acres. Receiving stream(s): unnamed tributary to Brubaker Run classified for the following use(s): cold water fishery. There are no potable water supply intakes within 10 miles downstream. Application received: March 30, 2010.

32890109 and NPDES No. PA0598640. Keystone Coal Mining Corporation, P. O. Box 219, Shelocta, PA 15774, permit renewal for the continued operation and restoration of a bituminous surface and auger mine in Blacklick Township, **Indiana County**, affecting 18.4 acres. Receiving stream(s): Aultmans Run classified for the following use(s): trout stocked fishery. There are no potable water supply intakes within 10 miles downstream. Application received: April 1, 2010.

56753119 and NPDES No. PA0607622. Jenners, Inc., P. O. Box 171, Shelocta, PA 15774, revision of an existing bituminous surface and auger mine to change land use from forestland to pastureland in Jenner Township, **Somerset County**, affecting 485.9 acres. Receiving stream(s): unnamed tributaries to Quemahoning and Hoffman Creeks classified for the following use(s): cold water fishery. The first downstream potable water supply

intake from the point of discharge is Cambria Somerset Authority Quemahoning SWI. Application received: April 1, 2010.

Greensburg District Mining Office: Armbrust Professional Center, 8205 Route 819, Greensburg, PA 15601, 724-925-5500.

26960101 and NPDES Permit No. PA0201600. Daniel J. Patterson (20 Elizabeth Drive, Smithfield, PA 15478). Application received for transfer of permit currently issued to Patterson Coal Company for continued operation and reclamation of a bituminous surface mining site located in Georges Township, **Fayette County**, affecting 48 acres. Receiving streams: unnamed tributaries to York Run to York Run to Georges Creek to Monongahela River, classified for the following uses: warm water fishes and navigation. There are no downstream potable water supply intakes within ten miles from the point of discharge. Transfer application received: April 1, 2010.

Knox District Mining Office: P. O. Box 669, 310 Best Avenue, Knox, PA 16232-0669, 814-797-1191.

61100102 and NPDES Permit No. PA0258857. K & A Mining (P. O. Box 288, Grove City, PA 16127) Commencement, operation and restoration of a bituminous strip operation in Scrubgrass Township, **Venango County** affecting 23.8 acres. Receiving streams: Unnamed tributaries to Allegheny River, classified for the following uses: WWF. The first downstream potable water supply intake from the point of discharge is Emlenton Water Company. Application received: April 5, 2010.

10100101 and NPDES Permit No. PA0258865. Amerikohl Mining, Inc. (202 Sunset Drive, Butler, PA 16001) Commencement, operation and restoration of a bituminous strip in Karns City Borough and Fairview Township, **Butler County** affecting 47.1 acres. Receiving streams: Unnamed tributaries to South Branch Bear Creek, classified for the following uses: WWF. There are no potable surface water supply intakes within 10 miles downstream. Application received: April 5, 2010.

1475-10100101-E-1. Amerikohl Mining, Inc. (202 Sunset Drive, Butler, PA 16001) Application for a stream encroachment to conduct support activities within 100 feet of unnamed tributary No. 2 to South Branch Bear Creek in Karns City Borough and Fairview Township, **Butler County**. Receiving streams: Unnamed tributaries to South Branch Bear Creek, classified for the following uses: WWF. There are no potable surface water supply intakes within 10 miles downstream. Application received: April 5, 2010.

1475-10100101-E-2. Amerikohl Mining, Inc. (202 Sunset Drive, Butler, PA 16001) Application for a stream encroachment to conduct support activities within 100 feet of unnamed tributary No. 4 to South Branch Bear

Creek in Karns City Borough and Fairview Township, **Butler County**. Receiving streams: Unnamed tributaries to South Branch Bear Creek, classified for the following uses: WWF. There are no potable surface water supply intakes within 10 miles downstream. Application received: April 5, 2010.

10000103 and NPDES Permit No. PA0241776. Seneca Landfill, Inc. (P. O. Box 1080, Mars, PA 16046) Renewal of an existing bituminous strip, sandstone and shale removal operation in Jackson and Lancaster Townships, **Butler County** affecting 281.1 acres. Receiving streams: Unnamed tributary to Connoquenessing Creek, classified for the following: WWF. There are no potable surface water supply intakes within 10 miles downstream. Application received: April 8, 2010.

16050108 and NPDES Permit No. PA0257958. Neiswonger Construction, Inc. (17592 Route 322, Strattanville, PA 16258) Renewal of an existing bituminous strip operation in Clarion Township, **Clarion County** affecting 58.3 acres. Receiving streams: Unnamed tributary A of Brush Run to Brush Run, classified for the following: CWF. There are no potable surface water supply intakes within 10 miles downstream. Application for reclamation only. Application received: April 8, 2010.

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, 570-621-3118.

54783702R5 and NPDES Permit No. PA0593010. Reading Anthracite Company, (P. O. Box 1200, Pottsville, PA 17901), renewal of an existing anthracite coal refuse disposal, refuse reprocessing and preparation plant operation in New Castle, Cass and Norwegian Townships, **Schuylkill County** affecting 512 acres, receiving stream: West Branch Schuylkill River. Application received: March 18, 2010.

54-305-012GP12. Reading Anthracite Company, (P. O. Box 1200, Pottsville, PA 17901), application to renew a coal preparation plant whose pollution control equipment is required to meet all applicable limitations, terms and conditions of General Permit, BAQ-GPA/GP-12 on Surface Mining Permit No. 54783702R5 in New Castle, Cass and Norwegian Townships, **Schuylkill County**. Application received: April 5, 2010.

54050101R. Park Mine Coal Company, (294 Pine Creek Drive, Orwigsburg, PA 17961), renewal of an existing anthracite surface mine and coal refuse reprocessing operation in Mahanoy Township, **Schuylkill County** affecting 602.0 acres, receiving stream: none. Application received: April 8, 2010.

Noncoal Applications Received

Effluent Limits—The following effluent limits will apply to NPDES permits issued in conjunction with a noncoal mining permit:

Parameter	Table 2		
	30-day Average	Daily Maximum	Instantaneous Maximum
Suspended solids	10 to 35 mg/l	20 to 70 mg/l	25 to 90 mg/l
Alkalinity exceeding acidity* pH*		greater than 6.0; less than 9.0	

* The parameter is applicable at all times.

A settleable solids instantaneous maximum limit of 0.5 ml/l applied to surface runoff resulting from a precipitation event of less than or equal to a 10-year 24-hour event. If coal will be extracted incidental to the extraction of noncoal minerals, at a minimum, the technology-based effluent limitations identified under coal applications will apply to discharges of wastewater to streams.

Knox District Mining Office: P. O. Box 669, 310 Best Avenue, Knox, PA 16232-0669, 814-797-1191.

4673SM13. John D. Anderson (P. O. Box 676, Warren, PA 16365) Revision to an existing large sand and gravel operation to add 4.8 acres in Pine Grove Township, **Warren County**. Total acreage will be 33.3 acres. Receiving streams: North Branch Akeley Run, classified for the following use: CWF. There are no potable surface water supply intakes within 10 miles downstream. Application received: April 5, 2010.

Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, 814-342-8200.

59040301 and NPDES No. PA0243868. Paul T. Hall (18759 Route 287, Tioga, PA 16946). Renewal of the NPDES Permit for discharges of treated mine drainage from a quarry operation in Lawrence Township, **Tioga County** affecting 9.6 acres. Receiving streams: Daily Creek tributary to the Tioga River classified for Warm Water Fisheries. Application received: March 25, 2010.

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, 570-621-3118.

09070301C. Haines & Kibblehouse, Inc., (P. O. Box 196, Skippack, PA 19474), correction to an existing quarry operation to update the wetland mitigation plan in Hilltown Township, **Bucks County** affecting 83.0 acres, receiving stream: unnamed tributary to North Branch Neshaminy Creek, classified for the following use: warm water fishery. Application received: April 5, 2010.

7475SM5C4 and NPDES Permit No. PA0223522. ESSROC Cement Corp., (Route 248 and Easton Road, Nazareth, PA 18064), renewal of NPDES Permit for discharge of treated mine drainage from a quarry operation in Nazareth Borough, Upper and Lower Nazareth Townships, **Northampton County**, receiving stream: unnamed tributary to Schoeneck Creek, classified for the following use: warm water fishery. Application received: April 7, 2010.

FEDERAL WATER POLLUTION CONTROL ACT, SECTION 401

The following permit applications, requests for Environmental Assessment approval and requests for 401 Water Quality Certification have been received by the Department of Environmental Protection (Department). Section 401 of the Federal Water Pollution Control Act (FWPCA) (33 U.S.C.A. § 1341) requires the State to certify that the involved projects will not violate the applicable provisions of sections 301—303, 306 and 307 of the FWPCA (33 U.S.C.A. §§ 1311—1313, 1316 and 1317) as well as relevant State requirements. Persons objecting to ap-

proval 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

Northeast Region: Watershed Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, Telephone 570-826-2511.

E40-709. Department of Transportation, Engineering District 4-0, 55 Keystone Industrial Park, Dunmore, PA 18512, in City of Hazleton and Hazle Township, Luzerne County, U.S. Army Corps of Engineers, Philadelphia District.

To place 0.04 acre of fill in a *de minimis* area of EV wetlands and to construct and maintain dual, 27-inch reinforced concrete pipe culverts within a tributary to Dreck Creek (HQ-CWF, MF). The project is part of the Broad Street Betterment Project and is located along SR 0093 (Broad Street), Segment 0024, just west of the intersection of the SR 0424 (Arthur Gardner Parkway) and SR 0093 (Hazleton, PA Quadrangle Latitude: 40° 56' 27"; Longitude: -75° 56' 55").

E40-707. Mr. John J. Brogan, 711 Birkbeck Street, Freeland, PA 18224, in Foster Township, Luzerne County, U.S. Army Corps of Engineers, Philadelphia District.

To construct and maintain two secondary clarifier structures, a blower building, an ultraviolet disinfection building, and two stormwater outfall structures within the floodway of Pond Creek (HQ-CWF). The first outfall consists of a Type DW endwall with R-riprap, and the second outfall consists of a flared end section, and an R-riprap. The purpose of the project is for the expansion of the Borough of Freeland Municipal Wastewater Treatment Plant. The project is located on the east side of

Birkbeck Street several hundred feet north of its intersection with Arthur Street, approximately 2.4 miles north of the intersection of SR 940 and SR 2051 (Freeland, PA Quadrangle Latitude: 41° 1' 38"; Longitude: -75° 53' 38") in Foster Township, Luzerne County.

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

E02-1634. U.S. Coast Guard Civil Engineering Unit Cleveland, 1240 East 9th Street, Room 2179, Cleveland, OH 44199-2060. To operate existing dock and construct a new floating dock in Osborne Borough, Allegheny County, Pittsburgh ACOE District (Ambridge, PA Quadrangle N: 5.55 inches; W: 6.65 inches, Latitude: 40° 31' 50"; Longitude: 80° 10' 22"). The applicant proposes to operate and maintain the existing dock and to construct and maintain a new floating dock 220.0 feet long by 9.0 feet wide in the channel and along the right bank of the Ohio River (WWF) for the purpose of providing safe and efficient mooring for USCGC Osage. The project is located approximately 4,200.0 feet upstream from the Sewickley Bridge and will impact approximately 220.0 linear feet of stream channel.

E63-624. Peters Township Sanitary Authority, 111 Bell Drive, McMurray, PA 15317. To construct and maintain concrete arch culvert in Peters Township, Washington County, Pittsburgh ACOE District (Canonsburg, PA Quadrangle N: 5.00 inches; W: 1.8 inches, Latitude: 40° 16' 38"; Longitude: 80° 8' 13"). To construct and maintain a 52-foot long, 20-foot wide by 7-foot high natural bottom concrete arch culvert having a 3-ft wide by 1-foot deep low flow channel in an unnamed tributary to the Chartiers Creek (WWF). The project includes realignment of 140 linear feet of the stream at both approaches of the proposed structure. To construct and maintain two utility line stream crossings and modification to one suspended crossing and to construct and maintain an outfall structure located in said stream and another outfall structure in the Little Chartiers Creek (WWF). To place and maintain fill associated with the access road and structures in the floodplain of an unnamed tributary to Chartiers Creek. The purpose of the project is to construct the Donaldson's Crossroads Water Pollution Control Plant.

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

E10-459. Regional Industrial Development Corporation of Southwest PA, 425 Sixth Avenue, Suite 500, Pittsburgh, PA 15219-1822. Thorn Hill Industrial Park Development, in Cranberry Township, Butler County, ACOE Pittsburgh District (Mars, PA Quadrangle N: 40° 40' 17.11"; W: 80° 6' 33.52").

The applicant is proposing to construct and maintain continued development of the existing 925-acre Thorn Hill Industrial Park west and adjacent to SR 76 (Turnpike) involving encroachments on the following parcels:

Lower Parcel

Stream Enclosures:

1. UNT Brush Creek S-8, 16' w by 7' 10" h by 90' l—concrete arch/embankment fill and 40' l, rock apron/bank protection, 130 LF permanent impact, 40° 40' 40.095" N; 80° 6' 24.214" W

Wetland Impacts:

1. Wetland JLY-11 by culvert and fill, 16' w by 7' 10" h by 90' l—concrete arch/embankment fill and 40' l rock

apron/bank protection, 0.18 acre permanent impact, 40° 40' 40.095" N; 80° 6' 24.214" W

2. Wetland JLY-11 by embankment fill, 0.24 acre permanent impact, 40° 40' 34.745" N; 80° 6' 20.258" W

3. Wetland JLY-16 by embankment fill (partial), 0.24 acre permanent impact, 40° 40' 36.869" N; 80° 6' 16.337" W

4. Wetland JLY-11 by embankment fill, 0.51 acre permanent impact, 40° 40' 39.835" N; 80° 6' 19.469" W

Floodway Encroachments:

1. UNT Brush Creek S-8 by embankment fill, 360 LF, 40° 40' 36.162" N; 80° 6' 21.829" W

2. Brush Creek by borrow/waste excavation, 300 LF, 40° 40' 38.888" N; 80° 6' 15.926" W

Parcel 539

Wetland Impacts:

1. Wetland CEC-539-A by embankment fill, 0.21 acre permanent impact, 40° 40' 37.727" N; 80° 7' 09.907" W

2. Wetland CEC-539-C by embankment fill, 0.03 acre, 40° 40' 33.835" N; 80° 7' 07.588" W

Stream Fill:

1. UNT Brush Creek CECStream A (i), 564 LF, permanent impact, 40° 40' 36.191" N; 80° 7' 08.379" W

Parcel 544

Wetland Impact:

1. Wetland JLY-12 by embankment fill, 0.26 acre permanent impact, 40° 40' 46.982" N; 80° 7' 07.879" W

The project includes:

1. construction and maintenance of associated utility line crossings and stormwater outfalls on various parcels with associated temporary and permanent stream and wetland impacts,

2. construction and maintenance of 150 linear feet of vegetative stabilization and rock riprap protection of Brush Creek of Brush Creek on the Lower Parcel

3. construction and maintenance of mitigation wetlands (0.90 acre PEM and 1.52 acre PSS)

Brush Creek and UNTs Brush Creek are classified as warm water fisheries. The project proposes to permanently impact 2.92 acres of wetland (0.90 acre PEM and 0.76 acre PSS) The Thorn Hill Industrial Park is located in Marshall Township, Allegheny County and Cranberry Township, Butler County. Approximately 80% of the 925 acres of the industrial park have been developed since 1971. There are approximately 125 undeveloped acres in Allegheny County and 80 undeveloped acres in Butler County.

E02-1635, Regional Industrial Development Corporation of Southwest PA, 425 Sixth Avenue, Suite 500, Pittsburgh, PA 15219-1822. Thorn Hill Industrial Park Development, in Marshall Township, **Allegheny County**, ACOE Pittsburgh District (Mars and Baden, PA Quadrangle N: 40° 40' 17.11"; W: 80° 6' 33.52").

The applicant is proposing to construct and maintain continued development of the existing 925 acre Thorn Hill Industrial Park west and adjacent to SR 76 (Turnpike) involving encroachments on the following parcels:

Parcel 25

Wetland Impacts:

1. Wetland CJW-1 by a fill associated with a stormwater outfall (25A), 0.005 acre permanent impact, 40° 40' 22.302" N; 80° 6' 30.376" W

2. Wetland CJW-1 by a fill associated with stormwater outfall (25B), 0.005 acre permanent impact, 40° 40' 23.351" N; 80° 6' 28.761" W

Parcel 56

Wetland Impacts:

1. Wetland CJW-4 by embankment fill, 0.30 acre permanent impact, 40° 39' 41.140" N; 80° 5' 48.384" W

Parcel 63R

Wetland Impacts:

1. Wetland CJW-4 by embankment fill, 0.24 acre permanent impact, 40° 39' 42.640" N; 80° 5' 50.909" W

Parcel 65

Wetland Impacts:

1. Wetland CJW-10 by embankment cut/fill, 0.35 acre permanent impact, 40° 39' 47.984" N; 80° 6' 07.098" W

Stream Enclosure:

1. UNT Brush Creek KDR-9 (intermittent), 15' by 110' CPP extension, 109 LF permanent impact, 40° 39' 42.037" N; 80° 6' 09.506" W

Parcel 66

Culverts:

1. UNT Brush Creek KDR-2 (p), 15' w by 6' h by 55' l box culvert and 20' l rock apron/bank protection, 75 LF permanent impact, 40° 39' 43.856" N; 80° 6' 14.481" W

2. UNT Brush Creek KDR-2 (p), channel change and 15' w by 6' h by 70' l box culvert and 20' l rock apron/bank protection, 90 LF permanent impact, 40° 39' 43.825" N; 80° 6' 11.558" W

Parcel 69

Wetland Impacts:

1. Wetland CJW-6 by embankment fill, 0.11 acre permanent impact, 40° 39' 46.651" N; 80° 6' 00.694" W

2. Wetland CJW-4 by a wall and embankment fill, 0.21 acre permanent impact, 40° 39' 47.448" N; 80° 5' 56.340" W

Parcel B Rev

Culverts:

1. UNT Brush Creek, KDR-15, 7' 7" w by 4' 10" h by 60' l conc elliptical culvert and 15' l rock apron/bank protection, 75 LF permanent impact, 40° 40' 20.794" N; 80° 7' 02.870" W

2. Wetland CJW-32 by culvert 7' 7" w by 4' 10" h by 60' l conc elliptical culvert and 15' l rock apron/bank protection, 0.04 acre permanent impact, 40° 40' 20.794" N; 80° 7' 02.870" W

Mitigation Area Impacts

Parcel 56

Channel Change:

1. UNT Brush Creek KDR-26, channel fill, 162 LF of permanent impact, 40° 39' 37.521" N; 80° 5' 44.737" W

Parcels 56 and 63

Floodway Excavation for a Mitigation Site:

1. Brush Creek floodway, mitigation site excavation (cut only), 1,200 LF of permanent impact, 40° 39' 43.675" N; 80° 5' 47.463" W

Parcel 63R

Floodway Excavation for a Mitigation Site:

1. Brush Creek streambank/floodway, mitigation site cut, riprap ford, rock channel protection, 100 LF of permanent impact, 40° 39' 47.940" N; 80° 5' 49.529" W

The project includes:

1. construction and maintenance of associated utility line crossings and stormwater outfalls on various parcels with associated temporary and permanent stream and wetland impacts,

2. construction and maintenance of 200 linear feet of vegetative stabilization and rock riprap protection of

Brush Creek on Parcel 56 and 150 linear feet of vegetative stabilization and rock riprap protection of a UNT Brush Creek on Parcels 63R and 69,

3. construction and maintenance of culverts in UNT Brush Creek KDR-12 and UNT Brush Creek KDR-4 having drainage areas less than 100 acres and having lengths of 70 feet and 60 feet respectively and

4. construction and maintenance of mitigation wetlands (0.065 acre PEM, 0.42 acre PSS, 0.39 acre PFO and 0.27 POW)

Brush Creek and UNTs Brush Creek are classified as warm water fisheries. The project proposes to permanently impact 1.26 acres of wetland (0.065 acre PEM, 0.21 acre PSS, 0.13 acre PFO and 0.27 POW). The Thorn Hill Industrial Park is located in Marshall Township, Allegheny County and Cranberry Township, Butler County. Approximately 80% of the 925 acres of the industrial park have been developed since 1971. There are approximately 125 undeveloped acres in Allegheny County and 80 undeveloped acres in Butler County.

ACTIONS

**THE CLEAN STREAMS LAW AND THE FEDERAL CLEAN WATER ACT
FINAL ACTIONS TAKEN FOR NATIONAL POLLUTION DISCHARGE
ELIMINATION SYSTEM (NPDES) PERMITS AND WATER QUALITY
MANAGEMENT (WQM) PERMITS**

The Department of Environmental Protection (Department) has taken the following actions on previously received applications for new, amended and renewed NPDES and WQM permits, applications for permit waivers and Notices of Intent (NOI) for coverage under general permits. This notice is provided in accordance with 25 Pa. Code Chapters 91 and 92 and 40 CFR Part 122, implementing provisions of The Clean Streams Law (35 P. S. §§ 691.1—691.1001) and the Federal Clean Water Act.

<i>Location</i>	<i>Permit Authority</i>	<i>Application Type or Category</i>
Section I	NPDES	Renewals
Section II	NPDES	New or amendment
Section III	WQM	Industrial, sewage or animal wastes; discharges to groundwater
Section IV	NPDES	MS4 individual permit
Section V	NPDES	MS4 permit waiver
Section VI	NPDES	Individual permit stormwater construction
Section VII	NPDES	NOI for coverage under NPDES general permits

Sections I—VI contain actions related to industrial, animal or sewage wastes discharges, discharges to groundwater and discharges associated with municipal separate storm sewer systems (MS4), stormwater associated with construction activities and concentrated animal feeding operations (CAFOs). Section VII contains notices for parties who have submitted NOIs for coverage under general NPDES permits. The approval for coverage under general NPDES permits is subject to applicable effluent limitations, monitoring, reporting requirements and other conditions set forth in each general permit. The approval of coverage for land application of sewage sludge or residential septage under applicable general permit is subject to pollutant limitations, pathogen and vector attraction reduction requirements, operational standards, general requirements, management practices and other conditions set forth in the respective permit. Permits and related documents, effluent limitations, permitting requirements and other information are on file and may be inspected and arrangements made for copying at the contact office noted before the action.

Persons aggrieved by an action may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania AT&T Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

For individuals who wish to challenge an action, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

I. NPDES Renewal Permit Actions

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

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0063924 (Sewage)	Department of Conservation and Natural Resources Delaware Canal State Park Teddy Roosevelt Picnic Area 11 Lodi Hill Road Upper Black Eddy, PA 18972-9540	Northampton County Williams Township	Delaware River 2D	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0008036 (Industrial Waste)	Ingersoll Rand Athens Plant 101 North Main Street Athens, PA 18810	Bradford County Athens Borough	Chemung River 4-B	Y
PA0036846 (Sewage)	New Berlin Municipal Authority STP P. O. Box 473 New Berlin, PA 17855	Union County New Berlin Borough	Penns Creek SWP 6A	Y
PA0113751 (Industrial Waste)	(Former) TRW Valve Plant 601 East Market Street Danville, PA 17821	Montour County Danville Borough	Susquehanna River SWP 5E	Y
PA0009032 (Industrial Waste)	Former GTE Products Corporation Facility Old Route 220 Muncy, PA 17756	Lycoming County Muncy Township	West Branch Susquehanna River SWP 10D	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N</i>
PA0025755 Sewage	Freeport Borough 414 Market Street Freeport, PA 16229	Armstrong County Freeport Borough	Buffalo Creek	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0001791	Osram Sylvania Products, Inc. 816 Lexington Avenue Warren, PA 16365	Warren County City of Warren	Allegheny River 16-B	Y

II. New or Expanded Facility Permits, Renewal of Major Permits and EPA Nonwaived Permit Actions

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

NPDES Permit No. PA0011541, Industrial Waste, **Sunoco Partners Marketing & Terminals, LP**, 4041 Market Street, Aston, PA 19014. This proposed facility is located in Darby Township, **Delaware County**.

Description of Proposed Action/Activity: Approval for the renewal to discharge stormwater from the Darby Creek Tank Farm area to the Darby Creek in Watershed 3G.

NPDES Permit No. PA0058297, Sewage, **Casimir and Suzanne Wolanin**, 331 Echo Valley Lane, Newtown Square, PA 19073. This proposed facility is located in Newtown Township, **Delaware County**.

Description of Proposed Action/Activity: Approval for the renewal to discharge 500 gpd of treated sewage to Lewis Run in Watershed 3-G.

NPDES Permit No. PAG040066, Sewage, **Villa Building Co., Inc.**, 3720 Skipview Lane, Collegeville, PA 19426. This proposed facility is located in West Rockhill Township, **Bucks County**.

Description of Proposed Action/Activity: Approval for the renewal to discharge 500 gpd of treated sewage to East Branch Perkiomen Creek in Watershed 3-E.

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

PA0233897, Non-Municipal, SIC 4952, **Wade J. Robbins**, 273 Paradise Lane, Julian, PA 16844. This proposed facility is located in Huston Township, **Centre County**.

Description of Proposed Activity: The SFTF will allow the repair of an existing onlot disposal system and replacement of an existing holding tank. The SFTF will serve an existing lodge (an eight bedroom residence generating approximately 900 gpd) and a garage to be converted into a four bedroom residence (500 gpd) on a 788 acre lot.

The receiving stream, Unnamed Tributary to Bald Eagle Creek, is in the State Water Plan watershed 9C and is classified for: CWF, MF. The nearest downstream public water supply intake for PA American Water Company is located on West Branch Susquehanna River and is 95 miles below the point of discharge.

The proposed effluent limits for Outfall 001 are based on a design flow of 0.0020 mgd.

Parameter	Mass (lb/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum mg/l
Flow (MGD)	Report				
CBOD ₅			10		20
TSS			10		20
TRC			0.5		1.17
Fecal Coliform (5/1 - 9/30)	200 colonies/100 ml as a geometric mean, nor greater than 1,000 colonies/100 ml in more than 10% of the samples tested				
(10/1 - 4/30)	2,000 colonies/100 ml as a geometric mean				
pH (Std. Units)	6.0 to 9.0 at all times				

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

NPDES Permit No. PA0263656, Sewerage, **Daniel H. Preston**, 100 3rd Lane, Kane, PA 16735. This proposed facility is located in Sergeant Township, **McKean County**.

Description of Proposed Action/Activity: Issuance of a new NPDES permit for discharge of treated sewage from a Small Flow Treatment Facility.

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

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

WQM Permit No. 1410401, Sewerage, SIC 4952, **Wade J. Robbins**, 273 Paradise Lane, Julian, PA 16844. This proposed facility is located in Huston Township, **Centre County**.

Description of Proposed Action/Activity: The SFTF will allow the repair of an existing onlot disposal system and replacement of an existing holding tank. The SFTF will serve an existing lodge (an eight bedroom residence generating approximately 900 gpd) and a garage to be converted into a four bedroom residence (500 gpd) on a 788 acre lot.

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

WQM Permit No. 1109401, Sewerage, **Pegasus Sewer Authority**, 1296 Clapboard Road, Johnstown, PA 15904-7502. This proposed facility is located in Conemaugh Township, **Cambria County**.

Description of Proposed Action/Activity: Permit issuance for the construction and operation of sanitary sewers, grinder pump-pressure sewer systems and Hornet Avenue Pump Station modifications to serve the area of East Side/Frankstown Road, Roberts Road and Cover Hill.

WQM Permit No. 6510404, Sewerage, **Municipal Authority of Washington Township**, 285 Pine Run Church Road, Apollo, PA 15613. This proposed facility is located in Washington Township, **Westmoreland County**

Description of Proposed Action/Activity: Permit issuance for the construction and operation of sanitary sewers, a new pump station and force main to serve Upper Pine Run Watershed, and the Westmoreland Business and Industrial Park.

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

WQM Permit No. 2072402, Sewerage, **Amendment No. 1, Thomas P. Buie, d/b/a Springhill Estates MHP**, 11822 West Lake Road, East Springfield, PA 16441. This proposed facility is located in Spring Township, **Crawford County**.

Description of Proposed Action/Activity: Issuance of permit for installation of a new septic tank and surface sand filters, to service an existing malfunctioning sewage treatment facility septic system to service a 19 residential mobile home park.

WQM Permit No. 4209404, Sewerage, **Daniel H. Preston**, 100 3rd Lane, Kane, PA 16001. This proposed facility is located in Sergeant Township, **McKean County**.

Description of Proposed Action/Activity: Issuance of a single Residence Sewage Treatment Plant.

WQM Permit No. WQG018739, Sewerage, **Eugene and Melissa Riley**, 321 Shoffstall Road, Brookville, PA 15825. This proposed facility is located in Oliver Township, **Jefferson County**.

Description of Proposed Action/Activity: Issuance of a single Residence Sewage Treatment Plant.

IV. NPDES Stormwater Discharges from MS4 Permit Actions**V. NPDES Waiver Stormwater Discharges from MS4 Actions****VI. NPDES Discharges of Stormwater Associated with Construction Activities Individual Permit Actions**

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

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI01 1509033	Mr. Matthew J. Mullen 600 Thorncroft Drive West Chester, PA 19380	Chester	East Goshen Township	Ridley Creek HQ-TSF
PAI01 151001	Side By Side Construction 3025 Washington Road McMurray, PA 15317	Chester	East Nantmeal Township	East Branch Brandywine Creek HQ-TSF-MF

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

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI025204005R	Goodwin Excavating, Inc. 1186 Owego Turnpike Honesdale, PA 18431	Pike	Palmyra Township	Decker 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 & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI032210001	Michael Keiser Department of Transportation Engineering District 8-0 2140 Herr Street Harrisburg, PA 17103	Dauphin	Williams Township	Wiconisco Creek WWF

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

Somerset County Conservation District, 6024 Glades Pike, Suite 103, Somerset, PA 15501, (814-445-4652).

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI055609001	Turnpike Commission P. O. Box 67676 Harrisburg, PA 17106-7676	Somerset	Jefferson and Lincoln Townships	UNT to Crab Run HQ-CWF Laurel Hill Creek Basin

VII. Approvals to Use NPDES and/or Other General Permits

The EPA Region III Administrator has waived the right to review or object to this permit action under the waiver provision 40 CFR 123.23(d).

List of NPDES and/or Other General Permit Types

PAG-1	General Permit for Discharges From Stripper Oil Well Facilities
PAG-2	General Permit for Discharges of Stormwater Associated With Construction Activities (PAR)
PAG-3	General Permit for Discharges of Stormwater From Industrial Activities
PAG-4	General Permit for Discharges From Small Flow Treatment Facilities
PAG-5	General Permit for Discharges From Gasoline Contaminated Ground Water Remediation Systems
PAG-6	General Permit for Wet Weather Overflow Discharges From Combined Sewer Systems (CSO)
PAG-7	General Permit for Beneficial Use of Exceptional Quality Sewage Sludge by Land Application
PAG-8	General Permit for Beneficial Use of Nonexceptional Quality Sewage Sludge by Land Application to Agricultural Land, Forest, a Public Contact Site or a Land Reclamation Site
PAG-8 (SSN)	Site Suitability Notice for Land Application Under Approved PAG-8 General Permit Coverage
PAG-9	General Permit for Beneficial Use of Residential Septage by Land Application to Agricultural Land, Forest, or a Land Reclamation Site
PAG-9 (SSN)	Site Suitability Notice for Land Application Under Approved PAG-9 General Permit Coverage

PAG-10	General Permit for Discharge Resulting from Hydrostatic Testing of Tanks and Pipelines
PAG-11	(To Be Announced)
PAG-12	Concentrated Animal Feeding Operations (CAFOs)
PAG-13	Stormwater Discharges from Municipal Separate Storm Sewer Systems (MS4)

*General Permit Type—PAG-2**Facility Location:*

<i>Municipality & County</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water / Use</i>	<i>Contact Office & Phone No.</i>
New Britain Township Bucks County	PAG200 0909094	Line Lexington Mennonite Church 80 Hilltown Pike P. O. Box 217 Line Lexington, PA 18932	Unnamed Tributary West Branch Neshaminy Creek WWF-MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
Valley Township Chester County	PAG200 1504103-R	DHLP-Oakcrest, LP 435 Devon Park Drive Suite 613 Wayne, PA 19087	Unnamed Tributary to Sucker Run, Rock Run and West Branch Brandywine Creek WWF-TSF-MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
Thornbury Township Delaware County	PAG0200 231001	Cheyney University 1837 University Circle Cheyney, PA 19319	Chester Creek TSF-MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
Upper Gwynedd Township Montgomery County	PAG0200 4608046-1	Upper Gwynedd Township P. O. Box 1 Parkside Place West Point, PA 19486	Wissahickon Creek TSF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
Montgomery Township Montgomery County	PAG200 4609077	General Hancock Partnership 2312 North Broad Street Lansdale, PA 18915	Unnamed Tributary Little Neshaminy Creek WWF-MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
Upper Dublin Township Montgomery County	PAG0200 4609111	Paul Coyle 510 Kane Drive Ambler, PA 19002	Rose Creek TSF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
Lower Providence Township Montgomery County	PAG0200 4607159	North Grange, LLC 1505 Skippack Pike Blue Bell, PA 19422	Skippack Creek TSF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
Upper Moreland Township Montgomery County	PAG0200 4610012	Willow Mill Development 204 Harding Avenue Bellmawr, NJ	Pennypack Creek TSF-MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
City of Philadelphia Philadelphia County	PAG0201 511008	CSX Transportation, Inc. 500 Water Street Jacksonville, FL 32202	Schuylkill River WWF-MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
Middle Smithfield Township Monroe County	PAG2004509002	East Stroudsburg Borough Attn: James Phillips P. O. Box 303 East Stroudsburg, PA 18301	Sambo Creek CWF, MF	Monroe County Conservation District 570-629-3060
Lower Paxton Township Dauphin County	PAG2002210005	Eastern Development & Planning, Inc. 7300 Derry Street Harrisburg, PA 17111	Beaver Creek WWF	Dauphin County Conservation District 1451 Peters Mountain Road Dauphin, PA 17018 717-921-8100

<i>Facility Location: Municipality & County</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water / Use</i>	<i>Contact Office & Phone No.</i>
Lower Paxton Township Dauphin County	PAG2002209037	Cider Press Associates, LLC 474 Mt. Sidney Road Lancaster, PA 17602	Beaver Creek WWF	Dauphin County Conservation District 1451 Peters Mountain Road Dauphin, PA 17018 717-921-8100
Londonderry Township Dauphin County	PAG2002210006	R.E. Wright 13 Para Avenue Hershey, PA 17033	Swatara Creek WWF	Dauphin County Conservation District 1451 Peters Mountain Road Dauphin, PA 17018 717-921-8100
Hamiltonban Township Adams County	PAG2000109010	Robert Gordon Hamiltonban Township Board of Supervisors P. O. Box 526 Fairfield, PA 17325	Middle Creek CWF	Adams County Conservation District 670 Old Harrisburg Road Suite 201 Gettysburg, PA 17325 717-334-0636
Mt. Pleasant Township Adams County	PAG2000110004	Christine Smith Conewago Resources, LP 660 Edgegrove Road Hanover, PA 17331	UNT to South Branch Conewago Creek—UNT to Swift Run WWF-WWF	Adams County Conservation District 670 Old Harrisburg Road Suite 201 Gettysburg, PA 17325 717-334-0636
South Annville Township Lebanon County	PAG2003809005	Dennis L. Hess 575 Trail Road Hummelstown, PA 17036	Quittapahilla Creek- Bachman Run TSF	Lebanon County Conservation District 2120 Cornwall Road Suite 5 Lebanon, PA 17042 717-272-3908 Ext. 4
North Lebanon Township Lebanon County	PAG2002804034-R	Scott Burkholder Landmark Homes 1737 West Main Street Ephrata, PA 17522	Tulpehocken Creek TSF-MF	Lebanon County Conservation District 2120 Cornwall Road Suite 5 Lebanon, PA 17042 717-272-3908 Ext. 4
Hampden Township Cumberland County	PAG2002105018-R	Richard Yingst Rey, Inc. 4712 Smith Street Harrisburg, PA 17109	Conodoguinet Creek WWF	Cumberland County Conservation District 310 Allen Road Carlisle, PA 17013 717-240-7812
Hampden Township Cumberland County	PAG2002105055-R	Classic Communities Jim Halbert 2151 Linglestown Road Suite 300 Harrisburg, PA 17110	Sears Run— Conodoguinet Creek WWF	Cumberland County Conservation District 310 Allen Road Carlisle, PA 17013 717-240-7812
Todd Township Huntingdon County	PAG2003110001	Steve A. Berzansky 18614 New Fording Road Broad Top, PA 16621	Great Trough Creek TSF	Huntingdon County Conservation District 10605 Raystown Road Suite A Huntingdon, PA 16652-9603 814-627-1627
Conewago Township York County	PAG2006704044-R	John Huenki Cornerstone Development Group 200 Bailey Drive Suite 202 Stewartstown, PA 17363	UNT to Little Conewago Creek TSF	York County Conservation District 118 Pleasant Acres Road York, PA 17402-8984 717-840-7430

*Facility Location:
Municipality &
County*Maidencreek
Township
Berks County

Permit No.

PAG2000610002

*Applicant Name &
Address*James Hollenbach
Hollenbach Construction
166 Holly Road
Boyertown, PA 19512*Receiving
Water / Use*Willow Creek
CWF*Contact Office &
Phone No.*Berks County
Conservation District
1238 County
Welfare Road
Suite 200
Leesport, PA 19533-9710
610-372-4657
Ext. 201Ontelaunee
Township
Berks County

PAG2000609058

Craig Strunk
Schuylkill Valley
Middle School District
929 Lakeshore Drive
Leesport, PA 19533-8631Lake Ontelaunee—
Maiden Creek
WWFBerks County
Conservation District
1238 County
Welfare Road
Suite 200
Leesport, PA 19533-9710
610-372-4657
Ext. 201Bern Township
Berks County

PAG2000604121

Robert Wolfe
1042 Hilltop Road
Leesport, PA 19522Plum Creek
WWF-MFBerks County
Conservation District
1238 County
Welfare Road
Suite 200
Leesport, PA 19533-9710
610-372-4657
Ext. 201Irvona Borough
Clearfield County

PAG2001709013

Department of
Transportation
District 2-0
P. O. Box 342
Clearfield, PA
16830-0342Clearfield Creek
WWFClearfield County
Conservation District
650 Leonard Street
Clearfield, PA 16830
(814) 765-2629City of Williamsport
Lycoming County

PAG2004110004

George Hutchinson
155 Phillips Park Drive
South Williamsport,
PA 17702Lycoming Creek
WWF
West Branch
Susquehanna River
WWFLycoming County
Conservation District
542 County Farm Road
Suite 202
Montoursville, PA 17754
(570) 433-3003Allegheny County
Kilbuck Township

PAG02050210001

Mark Goldsmith
Wal-Mart Real Estate
Business Trust
2001 SE 10th Street
Bentonville, AR
72716-0550Ohio River and
Tom's Run
WWFAllegheny County
Conservation District
Lexington
Technology Park
Building 1
Suite 102
400 North
Lexington Avenue
Pittsburgh, PA 15208
412-241-7645Butler County
Adams and
Middlesex
Townships

PAG02001005002R

Timothy Kelly
Meredith
Properties, LLC
147 Link Road
Slippery Rock, PA 16057UNT to Glade Run
WWFButler County
Conservation District
724-284-5270*General Permit Type—PAG-3**Facility Location:
Municipality &
County*Northampton
Borough
Northampton
County

Permit No.

PAR702213

*Applicant Name &
Address*Northampton Generating
Company, LP
1 Horwith Drive
Northampton, PA 18067*Receiving
Water / Use*Hokendauqua Creek
CWF*Contact Office &
Phone No.*DEP—NERO
2 Public Square
Wilkes-Barre, PA 18711
570-826-2511

<i>Facility Location: Municipality & County</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water / Use</i>	<i>Contact Office & Phone No.</i>
Jackson Township Susquehanna County	PAR212235	Geo. Schofield Co., Inc. 181 Snake Hill Road Jackson, PA 18825	Tunkhannock Creek CWF	DEP—NERO 2 Public Square Wilkes-Barre, PA 18711 570-826-2511
Banks Township Carbon County	PAR602230	Hazleton Oil and Environmental, Inc. 300 Tamaqua Street Hazleton, PA 18201	Catawissa Creek CWF	DEP—NERO 2 Public Square Wilkes-Barre, PA 18711 570-826-2511
Lebanon County Myerstown Borough	PAR203564 (transfer)	Revstone Industries T Castings Holdings, LLC 640 South Cherry Street Myerstown, PA 17067	Tulpehocken Creek TSF 3C	DEP—SCRO—WQ 909 Elmerton Avenue Harrisburg, PA 17110 717-705-4707
North Fayette Township Allegheny County	PAR506113	Deep Valley Coal & Disposal, Inc. 711 Old Steubenville Pike Oakdale, PA 15071	UNT of Pinkertons Run	Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 412-442-4000
Hampton Township Allegheny County	PAR156101	PPG Industries, Inc. One PPG Place Pittsburgh, PA 15272	Tributary of Pine Creek	Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 412-442-4000
City of Johnstown Cambria County	PAR806235	Rolling-Frito Lay Sales, LP 408 Inverhaddon Trail Bel Air, MD 21014	St. Clair Run	Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 412-442-4000
Cumberland Township Greene County	PAR806227	Cumberland Township 100 Municipal Road Carmichaels, PA 15320	UNT of Muddy Creek	Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 412-442-4000
Oliver Township Jefferson County	PAG049568	Eugene and Melissa Riley 321 Shoffstall Road Brookville, PA 15825	Unnamed tributary to Lick Run 17-C	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 814/332-6942

General Permit Type—PAG-5

<i>Facility Location: Municipality & County</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water / Use</i>	<i>Contact Office & Phone No.</i>
Donegal Township Westmoreland County	PAG056245	OCI, Inc. P. O. Box 899 2561 Memorial Boulevard Connellsville, PA 15425	Minnow Run	Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh PA 15222-4745 (412) 442-4000

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

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

Persons aggrieved by any action may appeal under section 517 of Act 38, section 4 of the Environmental Hearing Board Act (35 P.S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to Administrative Agency Law) to the Environmental Hearing Board, Second Floor, Rachael Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania AT&T Relay Service at (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*. Copies of the appeal form and the Board’s rules of practice and procedure may be obtained from the Board. The appeal form and the Board’s rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

For individuals who wish to challenge an action, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for pro bono representation. Call the Secretary of the Board at (717) 787-3483 for more information.

CAFO PUBLIC NOTICE SPREADSHEET—ACTIONS

<i>Agricultural Operation Name and Address</i>	<i>County</i>	<i>Total Acres</i>	<i>Animal Equivalent Units</i>	<i>Animal Type</i>	<i>Special Protection Waters (HQ or EV or NA)</i>	<i>Approved or Disapproved</i>
Larry Dull, Sr. 3260 Sunnyside Road Manheim, PA 17545	Lancaster	108	278.4	Broilers	NA	Approved

NUTRIENT MANAGEMENT PLAN—PUBLIC NOTICE SPREADSHEET—ACTIONS

<i>Agricultural Operation Name and Address</i>	<i>County</i>	<i>Total Acres</i>	<i>Animal Equivalent Units</i>	<i>Animal Type</i>	<i>Special Protection Waters (HQ or EV or NA)</i>	<i>Application or Action</i>
Lakeland Dairy 272 Angel Road New Wilmington, PA 16142	Mercer and Lawrence	658	1,155	Dairy	NA	Action

**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 Management Program Manager, 2 East Main Street, Norristown, PA 19401.

Permit No. 1509516, Public Water Supply.
 Applicant **Superior Water Company**
 1885 Swamp Pike
 Gilbertsville, PA 19525
 Township North Coventry
 County **Chester**
 Type of Facility PWS
 Consulting Engineer Entech Engineering, Inc.
 4 South Fourth Street
 P. O. Box 32
 Reading, PA 19603
 Permit to Construct February 16, 2009
 Issued

Permit No. 1510505, Public Water Supply.
 Applicant **West Fallowfield Christian School**
 795 Fallowfield Road
 Atglen, PA 19310
 Township West Fallowfield
 County **Chester**
 Type of Facility PWS
 Consulting Engineer Whitehill Consulting Engineers
 763 Conowingo Road
 Quarryville, PA 17566
 Permit to Construct February 25, 2010
 Issued

Permit No. 2310502, Public Water Supply.
 Applicant **Aqua Pennsylvania, Inc.**
 762 West Lancaster Avenue
 Bryn Mawr, PA 19010
 Township Tinicum
 County **Delaware**
 Type of Facility PWS
 Consulting Engineer C.E.T. Engineering Services, Inc.
 1240 North Mountain Road
 Harrisburg, PA 17112
 Permit to Construct February 12, 2010
 Issued

Permit No. 1510502, Public Water Supply.
 Applicant **Mr. William Ross**
 762 West Lancaster Avenue
 Bryn Mawr, PA 19010
 Township Willistown
 County **Chester**
 Type of Facility PWS
 Consulting Engineer Aqua Services, Inc.
 762 West Lancaster Avenue
 Bryn Mawr, PA 19010
 Permit to Construct January 26, 2010
 Issued

Operations Permit 0910508 issued to **Warminster Municipal Authority** 415 Gibson Avenue, Warminster, PA 18974.

(**PWSID No. 1090069**) Warminster Township, **Bucks County** on 03/09/2010, for the operation of Facilities approved under construction permit No. 0908513 for operation of the Well No. 26.

Operations Permit 1510506 issued to Owen J. Roberts School District, 901 Ridge Road, Pottstown, PA 19465.

(**PWSID No. 1150866**) South Coventry Township, **Chester County** on 03/18/2010, for the operation of Facilities approved under construction permit No. 1508505 for operation of the Nitrate Treatment at Warwick Administration Building.

Southcentral Region: Water Supply Management Program Manager; 909 Elmerton Avenue, Harrisburg, PA 17110.

Permit No. 2209510, Public Water Supply.
 Applicant **Steelton Borough Authority**
 Municipality Steelton Borough
 County **Dauphin**
 Responsible Official John M. DeSanto
 Municipal Division Manager
 123 North Front Street
 Steelton, PA 17113
 Type of Facility Installation of a new transmission main from the filter plant to the distribution system, modifications to the raw water pump house, filter syphon system, clarifiers and replacement of the filter media.
 Consulting Engineer Paul J. Navarro, P. E.
 Navarro & Wright Consulting Engineers, Inc.
 151 Reno Avenue
 New Cumberland, PA 17070
 Permit to Construct 4/6/2010
 Issued:

Permit No. 2209514 MA, Minor Amendment, Public Water Supply.
 Applicant **Middletown Borough Authority**
 Municipality Middletown Borough
 County **Dauphin**
 Responsible Official Peter Pappas, Chairperson
 60 West Emaus Street
 Middletown, PA 17057
 Type of Facility Installation of additional chlorine contact piping at Well Nos. 1, 3, 4 and 6.
 Consulting Engineer Peter Lusardi, P. E.
 CET Engineering Services
 1240 North Mountain Road
 Harrisburg, PA 17112
 Permit to Construct 4/12/2010
 Issued:

Permit No. 3809503 MA, Minor Amendment, Public Water Supply.
 Applicant **Fredericksburg Sewer & Water Authority**
 Municipality Bethel Township
 County **Lebanon**

Responsible Official James A. Heisey
Authority Chairperson
113 East Main Street
P. O. Box 161
Fredericksburg, PA 17026

Type of Facility Construction permit for
construction of a 1.0 million
gallon finished water storage
tank.

Consulting Engineer Jeffrey D. Steckbeck
Steckbeck Engineering Assoc.
279 North Zinns Mill Road
Lebanon, PA 17042

Permit to Construct 4/12/2010
Issued:

Operations Permit issued to **Bloomfield Borough Water Authority**, 7500012, New Bloomfield Borough, **Perry County** on 4/8/2010 for the operation of facilities approved under Construction Permit No. 5004502.

Operations Permit issued to **West Earl Water Authority**, 7360143, West Earl Township, **Lancaster County** on 4/12/2010 for the operation of facilities approved under Construction Permit No. 3608523.

Operations Permit issued to **City of Lancaster**, 7360058, Manheim Township, **Lancaster County** on 3/31/2010 for the operation of facilities approved under Construction Permit No. 3608524.

Operations Permit issued to **Morgan Corporation**, 3060815, Caernarvon Township, **Berks County** on 4/12/2010 for the operation of facilities approved under Construction Permit No. 0609511 MA.

Operations Permit issued to **Pennsylvania American Water Company**, 3060088, Exeter Township, **Berks County** on 4/5/2010 for the operation of facilities approved under Construction Permit No. 0609518 MA.

Operations Permit issued to **Pennsylvania American Water Company**, 3060069, Spring Township, **Berks County** on 4/6/2010 for the operation of facilities approved under Construction Permit No. 0609519 MA.

Operations Permit issued to **The Municipal Authority of the Township of East Hempfield**, 7360063, East Hempfield Township, **Lancaster County** on 4/8/2010 for the operation of facilities approved under Construction Permit No. 3610505 MA.

Operations Permit issued to **Middletown Borough Authority**, 7220038, Middletown Borough, **Dauphin County** on 4/12/2010 for the operation of facilities approved under Construction Permit No. 2209511 MA.

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

Permit No. Minor Amendment (7/1/2005)—Operation, Public Water Supply.

Applicant **Mahoning Township Municipal Authority**

Township or Borough Mahoning Township

County **Montour**

Responsible Official Thomas Mertz, Chairperson
Mahoning Township
Municipal Authority
1101 Bloom Road
Danville, PA 17821

Type of Facility Public Water Supply—Operation

Consulting Engineer N/A

Permit Issued Date April 7, 2010

Description of Action Operation of the new booster chlorination facility, located on Red Lane, serving the Woods of Welsh Development.

Permit No. Minor Amendment (9/10/1999)—Operation, Public Water Supply.

Applicant **Mahoning Township Municipal Authority**

Township or Borough Mahoning Township

County **Montour**

Responsible Official Thomas Mertz, Chairperson
Mahoning Township
Municipal Authority
1101 Bloom Road
Danville, PA 17821

Type of Facility Public Water Supply—Operation

Consulting Engineer N/A

Permit Issued Date April 7, 2010

Description of Action Operation of the upgraded Route 11 booster pump station and meter pit.

Permit No. Minor Amendment—Construction, Public Water Supply.

Applicant **United Water Pennsylvania, Inc.**

Township or Borough South Centre Township

County **Columbia**

Responsible Official Mr. John Hollenbach
United Water Pennsylvania, Inc.
4211 East Park Circle
Harrisburg, PA 17111

Type of Facility Public Water Supply—Construction

Consulting Engineer Arthur Saunders, P. E.
United Water Pennsylvania, Inc.
4211 East Park Circle
Harrisburg, PA 17111

Permit Issued Date April 13, 2010

Description of Action Rehabilitation of the 200,000 gallon Espy elevated finished water storage, including repainting of the tank interior and exterior and completing upgrades.

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

Permit No. 3007226-MA8, Public Water Supply.

Applicant **Zelienople Borough**

Township or Borough Zelienople Borough

County **Butler County**

Type of Facility Public Water Supply

Consulting Engineer Tom L. Thompson, P. E.

Permit to Construct 04/09/2010
Issued

Permit No. 3709503, Public Water Supply.
 Applicant **Scottview Terrace
 Mobile Home Park**
 Township or Borough Scott Township
 County **Lawrence County**
 Type of Facility Public Water Supply
 Consulting Engineer Brian K. Rogers, P. E.
 Permit to Construct 04/12/2010
 Issued

Permit No. 7223-T1-MA4, Public Water Supply.
 Applicant **Erie City Water Works**
 Township or Borough Erie City
 County **Erie County**
 Type of Facility Public Water Supply
 Consulting Engineer Craig Bauer, P. E.
 Permit to Construct 04/13/2010
 Issued

Operations Permit issued to **Jay Township Water Authority**, PWSID No. 6240005, Jay Township, **Elk County**, April 9, 2010; Permit No. 2493501-MA6, for the use of polyaluminum chloride for coagulation and a polyorthophosphate blend for general corrosion control. This operations permit is issued in response to multiple inspections conducted by Department of Environmental Protection personnel, and represents a change in manufacturer/product name for the Polyaluminum Chloride and liquid phosphate blend.

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:

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Antis Township	909 North Second Street Bellwood, PA 16617	Blair County

Plan Description: The approved plan provides for construction of a Small Flow Treatment Facility for the nine acre property owned by Chad Swogger. The proposed sewage flows are 400 gallons per day with a discharge to Sugar Run. The Department of Environmental Protection's review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal. Any required NPDES Permits or WQM Permits must be obtained in the name of the municipality or authority as appropriate.

HAZARDOUS SITES CLEAN-UP UNDER THE ACT OF OCTOBER 18, 1988

Notice of Proposed settlement under HSCA/CERCLA

Limerick Township, Montgomery County

The Department of Environmental Protection (Department), under the authority of the Hazardous Sites Cleanup Act 35 P. S. §§ 6020.101—6020.1305 (HSCA), and the Comprehensive Environmental Response, Com-

pensation, and Liability Act (CERCLA), 42 U.S.C. § 9601 *et seq.*, has entered into a proposed Settlement Agreement with Stanley Black & Decker, Inc. and Teleflex Incorporated regarding the Turtle Creek HSCA Site (Turtle Creek Site) in Limerick Township, Montgomery County, PA.

The Turtle Creek Site involves a plume of groundwater contamination associated with two properties located at 640 North Lewis and 508 North Lewis Roads in Royersford, PA. The groundwater contamination consists primarily of volatile organic compounds (VOCs) stemming from certain manufacturing operations at the two identified properties which has impacted adjacent residential areas in Limerick Township.

Under the terms and conditions of the Settlement Agreement, Stanley Black & Decker, Inc. and Teleflex Incorporated will: (1) supply carbon filters or bottled water to residents with contamination levels at or above one-half of the standards established by the USEPA under the Safe Drinking Water Act during an interim period; (2) design and construct a public water line to residents with wells exhibiting contamination at or above one-half of the Safe Drinking Water Act Standards; (3) complete any and all soils and/or groundwater remediation consistent with the Department's Land Recycling and Environmental Remediation Standards Act; and (4) reimburse the Department for response costs incurred at the Site. The Department has lodged the Settlement Agreement with the Commonwealth Court for notice and public comment.

This notice is provided under 35 P. S. § 6020.1113. The Settlement Agreement may be examined from 8 a.m. to 4 p.m. at the Department's offices at 2 East Main Street, Norristown, PA by contacting either Megan Harkins at 484-250-5721 or Anderson Lee Hartzell at 484-250-5866. A public comment period on the Settlement Agreement will extend for a period of 60 days from the date of this notice. Interested persons may submit written comments regarding the Settlement Agreement to the Department by submitting them to Megan Harkins at the above address.

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 re-

ports, 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:

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

Verdelli Farms Property, Hummelstown Borough, **Dauphin County**. Herbert, Rowland & Grubic, Inc., 1820 Linglestown Road, Harrisburg, PA 17110, on behalf of Verdelli Realty, P. O. Box 133, Hummelstown, PA 17036, submitted a Final Report concerning remediation of site soils contaminated with No. 2 fuel oil from an underground storage tank. The Report is intended to document remediation of the site to meet the Residential Statewide Health Standard. Groundwater will be addressed in a separate report.

Northcentral Region: Environmental Cleanup Program Manager, 208 West Third Street, Williamsport, PA 17701.

Bolton Metal Products formerly Cerro Metal Products-North Yard, Spring Township, **Centre County**. Chambers Environmental Group, Inc., 629 East Rolling Ridge Drive, Bellefonte, PA 16823 on behalf of The Marmon Group, LLC, 181 West Madison Street, Chicago, IL 60602 has submitted a Remedial Investigation Report concerning remediation of site soil and groundwater contaminated with trichloroethylene (TCE). The Report is intended to document remediation of the site to meet the Site-Specific Standard.

Bolton Metal Products formerly Cerro Metal Products-Plant 1. Spring Township, **Centre County**. Chambers Environmental Group, Inc., 629 East Rolling Ridge Drive, Bellefonte, PA 16823 on behalf of The Marmon Group, LLC, 181 West Madison Street, Chicago, IL 60602 has submitted a Remedial Investigation Report concerning remediation of site soil and groundwater contaminated with trichloroethylene (TCE) that contained polychlorinated biphenyls (PCBs) Aroclor 1248. The Report is intended to document remediation of the site to meet the Site-Specific Standard.

Bolton Metal Products formerly Cerro Metal Products-Plant 4. Spring Township, **Centre County**. Chambers Environmental Group, Inc., 629 East Rolling Ridge Drive, Bellefonte, PA 16823 on behalf of The Marmon Group, LLC, 181 West Madison Street, Chicago, IL 60602 has submitted a Remedial Investigation Report concerning remediation of site groundwater contaminated with hydraulic oil that contained polychlorinated

biphenyls (PCBs) Aroclor 1248. The Report is intended to document remediation of the site to meet the Site-Specific Standard.

Bolton Metal Products formerly Cerro Metal Products-South Spring, Eastern Hillside, and South Yard. Spring Township, **Centre County**. Chambers Environmental Group, Inc., 629 East Rolling Ridge Drive, Bellefonte, PA 16823 on behalf of The Marmon Group, LLC, 181 West Madison Street, Chicago, IL 60602 has submitted a Remedial Investigation Report concerning site soil contaminated with metals. The Report is intended to document remediation of the site to meet the Site-Specific Standard.

Clearfield Former MGP Site. Clearfield Borough, **Clearfield County**. The Mahfood Group, 250 Millers Run Road, Bridgeville, PA 15017 on behalf of UGI Utilities, Inc., 2525 North 12th Street, Reading, PA 19605 has submitted a Risk Assessment/Cleanup Plan concerning remediation of site soil and groundwater contaminated with polycyclic aromatic hydrocarbons (PAHs) and benzene, toluene, ethylbenzene, and xylenes (BTEX). The Report is intended to document remediation of the site to meet the Site-Specific Standard.

Lock Haven Bald Eagle St. Former MGP Site, City of Lock Haven, **Clinton County**. The Mahfood Group, 260 Millers Run Road, Bridgeville, PA 15017 on behalf of UGI Utilities, Inc., 2525 North 12th Street, Suite 360, Reading, PA 19612 has submitted a Remedial Investigation Report concerning remediation of site groundwater contaminated with benzene, toluene, ethylbenzene, and xylenes (BTEX) and polycyclic aromatic hydrocarbons (PAHs). The 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 circum-

stances, 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.

Cornell Residence, Northampton Township, **Bucks County**. Thomas Hippensteal, Envirosearch Consultants, Inc., P. O. Box 940, Springhouse, PA 19477 on behalf of Joanne Cornell, 247 Mallard Road, Holland, PA 18966 has submitted a Final Report concerning the remediation of site groundwater and soil contaminated with No. 2 fuel oil. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department of Environmental Protection on June 23, 2009.

Morrell Plaza, City of Philadelphia, **Philadelphia County**. William Schmidt, Pennoni Associates, Inc., 3001 Market Street, Philadelphia, PA 19104 on behalf of Gerald Pouncey, MAG II, Morrell Plaza, LP, 3343 Peachtree Road, N.E. Atlanta, GA 30326 has submitted a Final Report concerning the remediation of site groundwater and soil contaminated with chlorinated solvents. The Final Report demonstrated attainment of the Statewide Health Standard and was approved or disapproved by the Department of Environmental Protection on August 10, 2009.

Ward Residence, East Goshen Township, **Chester County**. Michael Sarcinello, Aquaterra Technologies, Inc., P. O. Box 744, West Chester, PA 19381 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 March 26, 2010.

Mac & Sam, Inc., Clifton Height Borough, **Delaware County**. Richard Werner, Environmental Consulting, Inc., 500 East Washington Street, Suite 375, Norristown, PA 19401 on behalf of James Salmon, Clifton Heights Community and Economic Development, P. O. Box 83, Clifton Heights, PA 19018 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 March 24, 2010.

Specialty Produce & Service Inc. Bedminster Township, **Bucks County**. Jeremy Bolyn Environmental Maintenance Company, Inc., 142- East Mermaid Lane, Glenside, PA 19038 on behalf of Fred Prozzillo, Specialty Products & Services, Inc., 6626 Easton Road, Pipersville, PA 18947 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 March 25, 2010.

Wawa Property, East Brandywine Township, **Chester County**. Matt Brainard, GES, Inc., 440 Creamery Way, Suite 500, Exton, PA 19341 on behalf of Matt Winters, Wawa, Inc., 260 West Baltimore Pike, Wawa, PA 19063 has submitted a 90 day Final Report concerning the remediation of site soil contaminated with No. 2 fuel oil. The 90 day Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department of Environmental Protection on March 26, 2010.

SC Loveland Piers 66 69 N, City of Philadelphia, **Philadelphia County**. Craig Herr, RT Environmental Services, Inc., 215 West Church Road, King of Prussia, PA 19406 on behalf of James Anderson, Berks Street Corporation, 6958 Torresdale Avenue, Philadelphia, PA 19135 has submitted a Final Report concerning the remediation of site soil and groundwater contaminated with inorganic. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department of Environmental Protection on March 30, 2010.

Sloan Residence, Solebury Township, **Bucks County**. John Van Wagenen, Coventry Environmental Associates, Inc., 991 Ridge Road, Bucktown, PA 19465 has submitted a Final Report concerning the remediation of site soil and groundwater contaminated with unleaded gasoline. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department of Environmental Protection on March 18, 2010.

Umbria Street Property, City of Philadelphia, **Philadelphia County**. Paul Martino, Pennoni Associates, Inc., 3001 Market Street, Philadelphia, PA 19104, Bill Schmidt, Pennoni Associates, Inc., 3001 Market Street, Philadelphia, PA 19104, on behalf of David Stubbs, Stubbs Enterprises, Inc., 371 Pelham Road, Philadelphia, PA 19119 has submitted a Clean Plan/Remedial Investigation Report concerning the remediation of site groundwater and soil contaminated with PAH, PCE, chlorinated solvents and metals. The Clean Plan/Remedial Investigation Report was disapproved by the Department of Environmental Protection on June 15, 2009.

Dudko Residence, Upper Salford Township, **Montgomery County**. Staci Cottone, J&J Spill Services and Supplies, Inc., P. O. Box 370, Blue Bell, PA 19422 on behalf of Peter Dudko, 3030 Barndt Road, Telford, PA 18969 has submitted a 90 day 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 March 22, 2010.

Northeast Region: Ronald S. Brezinski, Regional Environmental Cleanup Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.

Bethlehem Commerce Center—Lot 14, 1805 East 4th Street, Bethlehem City, **Northampton County**. Kenneth G. Robbins, HDR Engineering, Inc., 1720 Spillman Drive, Suite 280, Bethlehem, PA 18015-2165 submitted a Cleanup Plan (on behalf of her client, Lehigh Valley Industrial Park, Inc., 1720 Spillman Drive, Suite 150, Bethlehem, PA 18015-2164), concerning the remediation of soils found to have been impacted by inorganics, VOCs and SVOCs as a result of historical manufacturing operations at the site. The Report met the requirements of the Site-Specific Standard for soils and was approved by Central Office on March 17, 2010.

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

Jeff Steinbach Property, Derry Township, **Mifflin County**. ATC Associates, Inc., 101 Allegheny Street, Suite 2B, Hollidaysburg, PA 16648, on behalf of Jeff Steinbach, 26 North Mann Avenue, Yeagertown, PA 17099, submitted a Final Report concerning remediation of site soils and groundwater contaminated with No. 2 heating oil. The Final Report demonstrated attainment of the Residential Statewide Health Standard, and was approved by the Department of Environmental Protection on April 7, 2010.

Northcentral Region: Environmental Cleanup Program Manager, 208 West Third Street, Williamsport, PA 17701.

McLeod Express, LLC I-80 Accident Site, White Deer Township, **Union County**. Northridge Group Inc., 1172 Ridge Road, Northumberland, PA 17857 on behalf of McLeod Express, LLC, 5002 Cundiff Court, Decatur, IL 62526 has submitted a Final Report within 90 days of the release concerning remediation of site soil contaminated with diesel fuel. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department of Environmental Protection on April 8, 2010.

Southwest Region: Environmental Cleanup Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

Pangburn Seep (former), Forward Township, **Allegheny County**. D'Appolinia Engineering, 275 Center Road, Monroeville, PA 15146 on behalf of Reserve Coal Properties Company, 1800 Washington Road, Pittsburgh, PA 15241 had submitted a Final Report concerning the remediation of site soil and groundwater contaminated with inorganics and other organics. The Final Report was approved by the Department of Environmental Protection on January 14, 2010. An Environmental Covenant has been executed for the Site.

1215 Federal Street, City of Pittsburgh, **Allegheny County**. American Geosciences, Inc., 3925 Reed Boulevard, Suite 400, Murrysburg, PA 15668 on behalf of Andrew Stewart, The Silk and Stewart Development Group, 5812 Darlington Road, Pittsburgh, PA has submitted a Risk Assessment and Cleanup Plan concerning remediation of site soil and groundwater contaminated with chlorinated solvents and other organics. The Risk Assessment and Cleanup Plan was approved by the Department of Environmental Protection on April 1, 2010.

Rosedale Tract KOZ and Lower Ore Yard KOZ, City of Johnstown, **Cambria County**. L. Robert Kimball & Associates, 615 West Highland Avenue, P. O. Box 1000, Ebensburg, PA 15931 on behalf of the Johnstown Redevelopment Authority, 401 Washington Street, 4th Floor, Johnstown, PA 15901 has re-submitted a previously withdrawn Cleanup Plan concerning the remediation of site soil contaminated with heavy metals.

Northwest Region: Environmental Cleanup Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

Former Universal-Rundle Corporation, Taylor Township, **Lawrence County**. ENVIRON Corporation, 214 Carnegie Center, Princeton, NJ 08540-6284 on behalf of Mr. Reed Beidler, 1235 Hartrey Avenue, Evanston, IL 60202 has submitted a Remediation Investigation/Final Report concerning the remediation of site soils contaminated with acenaphthene, acenaphthylene, acetone, anthracene, arsenic, barium and compounds, benzene, benzo[a]anthracene, benzo[a]pyrene, benzo[b]fluoranthene, benzo[ghi]perylene, benzo[k]fluoranthene, bis[2-ethylhexyl]phthalate, cadmium, chromium (III), chrysene, copper, free cyanide, dibenzo[a,h]anthracene, ethyl benzene, fluoranthene, fluorene, indeno[1,2,3-cd]pyrene, lead, mercury, naphthalene, nickel, pyrene, selenium, silver, styrene, tetrachloroethylene (PCE), toluene, xylenes (total), zinc and compounds and site groundwater contaminated with bis[2-ethylhexyl]phthalate, bromodichloromethane, cadmium, carbon disulfide, chloroform, cumene, free cyanide, dibromomethane, dichloroethylene, cis-1,2-dichloroethylene, fluorene, lead, 2-methylnaphthalene, alpha methylstyrene, nickel, phenanthrene, selenium, styrene, tetrachloroethylene (PCE), toluene and zinc compounds. The Remedial Investigation/Final Report demonstrated attainment of the Site-Specific Standard and was approved by the Department of Environmental Protection on April 7, 2010.

Salem Tube, Pymatuning Township, **Mercer County**. Environmental Remediation & Recovery, Inc., 4250 Route 6N, Edinboro, PA 16412 on behalf of Salem Tube, Inc., 951 Fourth Street, Greenville, PA 16125 has submitted a Remedial Investigation Report concerning the remediation of site soil and site groundwater contaminated with trichloroethylene (TCE) and its degradation products, including cis 1-2 dichloroethene and vinyl chloride. The Remedial Investigation Report was approved by the Department of Environmental Protection on April 9, 2010.

RESIDUAL WASTE GENERAL PERMITS

Permits Renewed under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003); the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904); and Residual Waste Regulations for a General Permit to Operate Residual Waste Processing Facilities and the Beneficial Use of Residual Waste other than Coal Ash.

Central Office: Division of Municipal and Residual Waste, Rachel Carson State Office Building, 14th Floor, 400 Market Street, Harrisburg, PA 17105-8472.

General Permit Number WMGR121. TerrAqua Resource Management, LLC, 1000 Commerce Park Drive, Williamsport, PA 17701-5475. General Permit Number WMGR121 authorizes chemical and physical processing of raw gas well flow-back and produced water ("frac" water), generated during hydraulic fracturing and extraction of natural gas from the Marcellus Shale geologic formation to be used as makeup water for further hydraulic fracturing and extraction of natural gas at drilling and production operations in the Marcellus Shale. The permit was issued by Central Office on April 7, 2010.

Persons interested in reviewing the general permit may contact Scott E. Walters, General Permits/Beneficial Use Section, Division of Municipal and Residual Waste, Bureau of Waste Management, P. O. Box 8472, Harrisburg,

PA 17105-8472, 717-787-7381. TDD users may contact the Department of Environmental Protection through the Pennsylvania AT&T Relay Service, (800) 654-5984.

Northcentral Region: Regional Solid Waste Manager, 208 West Third Street, Williamsport, PA 17701.

General Permit No. WMGR038NC007. Recycling Environmental Group, Inc., 125 Railroad Street, Moosic, PA 18507. Recycling Environmental Group, Inc. is doing business as Booth and Son's Tire and Iron in Hemlock Township, **Columbia County**. This facility is a waste tire processing facility in which whole tires are shredded into various sizes and sold to end-users. The permit was issued by Northcentral Regional Office on April 5, 2010.

Persons interested in reviewing the general permit may contact Lisa D. Houser, P.E., Facilities Manager, Williamsport Regional Office, 208 West Third Street, Suite 101, Williamsport, PA 17701, (570) 327-3740. TDD users may contact the Department of Environmental Protection through the Pennsylvania AT&T Relay Service, (800) 654-5984.

REGISTRATION FOR GENERAL PERMIT—RESIDUAL WASTE

Registration Approved under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003); the Residual Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904); and Residual Waste Regulations for a General Permit to Operate Residual Waste Processing Facilities and/or the Beneficial Use of Residual Waste Other Than Coal Ash.

Central Office: Division of Municipal and Residual Waste, Rachel Carson State Office Building, 14th Floor, 400 Market Street, Harrisburg, PA 17105-8472.

Registration Under General Permit No. WMGR 090R057. Wilson Paving, Inc., 480 West Old York Road, Carlisle, PA 17013-7503.

General Permit Number WMGR090 authorizes the processing and beneficial use of reclaimed asphalt pavement (RAP) materials as a roadway construction material. Central Office approved this registration for coverage under the general permit on April 9, 2010.

Persons interested in obtaining more information, or obtaining copies of the general permit may contact C.D. Vu, General Permits and Beneficial Use Section, Division of Municipal and Residual Waste, Bureau of Waste Management, Rachel Carson State Office Building, P. O. Box 8472, Harrisburg, PA 17105-8472, 717-787-7381. TDD users may contact the Department of Environmental Protection through the Pennsylvania AT&T Relay Service, (800) 654-5984.

AIR QUALITY

General Plan Approval and Operating Permit Usage Authorized under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127 to construct, modify, reactivate or operate air contamination sources and associated air cleaning devices.

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

GP9-23-0009: Diamond Materials, LLC. (924 South Heald Street, Wilmington, DE 19801) on April 12, 2010,

to operate a diesel/No. 2 fuel-fired internal combustion units in Concord Township, **Delaware County**.

GP3-23-0020: Diamond Materials, LLC. (924 South Heald Street, Wilmington, DE 19801) on April 12, 2010, to operate a portable nonmetallic mineral processing plant in Concord Township, **Delaware County**.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745. Contact: Barb Hatch, Environmental Engineer Managers—Telephone: 412-442-4163/5226.

GP5-30-00190: Chief Gathering, LLC, Greene County, Columbia Rice Compressor Station (6051 Wallace Road Ext., Suite 210, Wexford, PA 15090) for the new facility to include a Caterpillar 1,340 bhp compressor engine, a Caterpillar 670 bhp compressor engine, one 0.375 mmBtu/hr glycol dehydrator reboiler and one 12.0 mmscf/d glycol dehydrator in Gilmore Township, **Greene County**.

GP-3-56-00310: PBS Coals, Inc. (P. O. Box 260, Friedens, PA 15541) on March 31, 2010, to allow the installation and operation of one Portable Nonmetallic Mineral Processing Plant, rated at 200 tons per hour, at their Blue Lick No. 4 Surface Mine, off Bluelick Road, in Brothersvalley Township, **Somerset County**.

GP-9-56-00310: PBS Coals, Inc. (P. O. Box 260, Friedens, PA 15541) on March 31, 2010, to allow installation and operation of Three (3) Diesel Fuel-Fired Internal Combustion Engines, One (1) of 300-bhp, One (1) of 110-bhp and One (1) of 48.8-bhp, to power equipment in One (1) Portable Nonmetallic Mineral Processing Plant, at the Blue Lick No. 4 Surface Mine, off Bluelick Road, in Brothersvalley Township, **Somerset County**.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481. Contact: Mark Gorog, New Source Review Chief—Telephone: 814-332-6940.

GP1-24-150A: Horizon Wood Products (624 Shelvey Summit, Kersey, PA 15846) on March 30, 2010, to operate a natural gas fired boiler (BAQ-GPA/GP-1) in Fox Township, **Elk County**.

GP14-25-1026A: A. Brugger and Sons Funeral Home, LLP (845 East 38th Street, Erie, PA 16504) on March 26, 2010, to operate a human cremation unit (BAQ-GPA/GP-14) in the City of Erie, **Erie County**.

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

39-323-006GP4: Victaulic Co. (P. O. Box 31, Easton, PA 18044-0031) on March 31, 2010, to install and operate a new Burn Off Oven at their site in Alburty's Borough, **Lehigh County**.

39-302-196GP1: Sacred Heart Hospital (421 Chew Street, Allentown, PA 18102-3490) on March 31, 2010, to operate a three (3) York Shipley Boilers at their site in Allentown, **Lehigh County**.

Plan Approvals Issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and regulations in 25 Pa. Code Chapter 127, Subchapter B relating to construction, modification and reactivation of air contamination sources and associated air cleaning devices.

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

09-0211: Pennridge School District (1228 North 5th Street, Perkasie, PA 18944) on April 8, 2010, to install three (3) 12.4 mmBtu/hr hot water boilers at an existing facility in East Rockhill Township, **Bucks County**. The boilers will use natural gas and No. 2 fuel oil. The facility will comply with good air pollution control practices, monitoring and recordkeeping procedures designed to keep the facility operating within all applicable air quality requirements.

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

39-332-001: B. Braun Medical, Inc. (901 Marcon Boulevard, Allentown, PA 18109) on March 23, 2010, to re-activate an ETO sterilizer (source 109) at their existing facility in Hanover Township, **Lehigh County**.

54-399-044: Future Power PA (72 Glenmaura National Boulevard, Moosic, PA 18507) on April 2, 2010, to construct and operate an Anthracite Coal fired IGCC (Integrated Gas Combined Cycle) plant with controls at their facility in Porter and Frailey Townships, **Schuylkill County**.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110. Contact: Thomas J. Hanlon, Chief, East Permitting Section—Telephone: 717-705-4862 or Daniel Husted, Chief, West Permitting Section—Telephone: 814-949-7935.

67-05114B: BAE Systems Land & Armaments, LP (P. O. Box 15512, York, PA 17405-1512) on April 6, 2010, for surface coating operations at their facility in West Manchester Township, **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.

25-035B: Molded Fiber Glass (55 Fourth Avenue, Union City, PA 16438) on April 5, 2010, to install two (2) reaction injection molding presses at their facility in Union City Borough, **Erie County**. This is a Title V facility.

37-121A: Flowline Division of Markovitz Enterprises, Inc. (1400 New Butler Road, P. O. Box 7027, New Castle, PA 16107-7027) on March 29, 2010, for plan approval to replace existing vapor degreaser unit at their facility in Shenango Township, **Lawrence County**.

67-05020A: Exelon Generation Co., LLC (1848 Lay Road, Delta, PA 17314-9032) on March 30, 2010, for a modification of Boiler B, at their power plant in Peach Bottom Township, **York County**.

Plan Approval Revisions Issued including Extensions, Minor Modifications and Transfers of Ownership under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code §§ 127.13, 127.13a and 127.32.

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

09-0010A: TEVA Pharmaceuticals USA, Inc. (650 Cathill Road, Sellersville, PA 18960) on April 7, 2010, to operate the new granulation department suite in West Rockhill Township, **Bucks County**.

09-0198: Mount Materials, LLC (427 South White Horse Pike, Berlin, NJ 08009) on April 6, 2010, for minor modification of a Portable Nonmetallic Mineral Processing Plant in Falls Township, **Bucks County**. Diesel-Fired Internal Combustion Engines are used to power the processing equipment. Raw, asphalt-brick-concrete materials are processed into Dense Graded Aggregate (DGA). The only pollutant of concern from the proposed operation is PM emissions, which will be controlled by a water spray dust suppression system. The Plan Approval contains recordkeeping and operating restrictions designed to keep the facility operating within the allowable emissions and all applicable air quality requirements.

09-0203: AE Polysilicon Corp. (150 Roebling Road, Fairless Hills, PA 19030) on April 3, 2010, for the minor modification of the Plan Approval No. 09-0203 for the removal of stack testing conditions for overall removal of hydrogen chloride gases in the Process Scrubber System (Source ID No. C100), addition of language limiting the level of scrubber solution in the separator tank associated with the Process Scrubber System with conditions for monitoring and recording the liquid level in the tank, and the change of allowable pH values from 13 to 13.4 to assure the concentration of sodium hydroxide in the scrubber solution is greater than 1% by weight. The facility is currently under construction and is in Falls Township, **Bucks County**.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110. Contact: Thomas J. Hanlon, Chief, East Permitting Section—Telephone: 717-705-4862 or Daniel Husted, Chief, West Permitting Section—Telephone: 814-949-7935.

06-05105A: Green Gas-Pioneer Crossing Energy, LLC (2809 Boston Street, Suite 340, Baltimore, MD 21224-4849) on April 6, 2010, to modify their Plan Approval for their facility in Exeter Township, **Berks County**.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745. Contact: M. Gorog and B. Hatch, Environmental Engineer Managers—Telephone: 412-442-4163/5226.

32-00040B: RRI Energy Wholesale Generation, LLC (121 Champion Way, Suite 200, Canonsburg, PA 15317) on April 11, 2010, to extend a plan approval with an expiration date of October 11, 2010, to allow for continued temporary operation of the sources covered under plan approval PA-32-00040B at the RRI Energy Seward Generating Station, in East Wheatfield Township, **Indiana County**. The plan approval has been extended.

26-00579A: Tri-State Bio Fuels, LLC (Thompson Recovery Road, Lemont Furnace, PA 15456) on April 1, 2010, for a plan approval extension with an expiration date of October 1, 2010, at their Lemont Pellet Plant, a wood pellet manufacturing plant in North Union Township, **Fayette County**. The plan approval has been extended.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481. Contact: Mark Gorog, New Source Review Chief—Telephone: 814-332-6940.

24-131M: SGL Carbon, LLC (900 Theresia Street, St. Marys, PA 15857) on April 30, 2010, to construct a new CVD Reactor 8 (Source 7104) and associated scrubber system (C7104), in the City of Saint Marys, **Elk County**. This is a CAM source. This is Title V facility.

Title V Operating Permits Issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter G.

Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401. Contact: Janine Tulloch-Reid, Facilities Permitting Chief—Telephone: 484-250-5920.

15-00037: Oberthur Technologies (523 James Hance Court, Exton, PA 19341) on April 12, 2010, to operate credit and security card manufacturing in West Whiteland Township, **Chester County**. This action is a renewal of the Title V Operating Permit. The initial permit was issued on December 10, 1999. No new sources are being added under this permit renewal. The facility shall continue to be subject to a Plantwide Applicability Limit (PAL) of 47.895 tons per 12-month rolling period for VOC. The facility is not subject to Compliance Assurance Monitoring (CAM) pursuant to 40 CFR Part 64. The operating permit will contain requirements to keep the facility operating within all applicable air quality requirements for this source.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110. Contact: Thomas J. Hanlon, Chief, East Permitting Section—Telephone: 717-705-4862 or Daniel Husted, Chief, West Permitting Section—Telephone: 814-949-7935.

06-05112: WBLF Acquisition Co., LLC (455 Popular Neck Road, Birdsboro, PA 19508) on April 1, 2010, for their municipal solid waste landfill in Cumru Township, **Berks County**.

06-05002: Lehigh Cement Co. (537 Evansville Road, Fleetwood, PA 19522-8541) on March 30, 2010, to modify their Title V Operating Permit at their facility in Maiden creek Township, **Berks County**.

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.

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

48-00053: Lifetime Doors, Inc. (4111 Kesslerville Road, Easton, PA 18040-6633) a State-only Operating Permit for manufacturing of wood doors, in Easton City, **Northampton County**.

40-00054: Barletta Materials & Construction, Inc. (P. O. Box 550, Tamaqua, PA 18252) on April 3, 2010, to operate a batch asphalt plant and rock crushing operation and associated air cleaning devices in Nescopeck Township, **Luzerne County**. This is a renewal of the State-only Synthetic Minor Operating Permit. The State-only operating permit includes emissions, work practice stan-

dards and testing, monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

54-00037: Copperhead Chemical Co., Inc. (120 River Road, Tamaqua, PA 18252) on March 30, 2010, to re-issue a State-only (Natural Minor) Operating Permit for operation of two (2) boilers, an acetone recovery system, and a pharmaceutical manufacturing process in Walker Township, **Schuylkill County**.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110. Contact: Thomas J. Hanlon, Chief, East Permitting Section—Telephone: 717-705-4862 or Daniel Husted, Chief, West Permitting Section—Telephone: 814-949-7935.

01-03017: Premier Chemicals, LLC (300 Barr Harbor Drive, Suite 250, West Conshohocken, PA 19428-2998) on April 1, 2010, for their mineral ore milling facility located in Menallen Township, **Adams County**. This is a renewal of the State-only operating permit.

67-05106: Donsco, Inc. (P. O. Box 2001, Wrightsville, PA 17368-0040) on April 7, 2010, for their foundry in Wrightsville Borough, **York County**. This is a renewal of the existing operating permit.

67-05107: Crown Cork & Seal Co. USA, Inc. (1650 Broadway, Hanover, PA 17331-8118) on April 6, 2010, for their facility in Penn Township, **York County**. This is a renewal of the existing 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: Thomas J. Hanlon, Chief, East Permitting Section—Telephone: 717-705-4862 or Daniel Husted, Chief, West Permitting Section—Telephone: 814-949-7935.

06-05037: McConway & Torley, LLC (109 48th Street, Pittsburgh, PA 15201-2755) on March 26, 2010, for their steel melting process in Kutztown Borough, **Berks County**. This is an administrative amendment to incorporate plan approval No. 06-05037G.

06-05037: McConway & Torley, LLC (109 48th Street, Pittsburgh, PA 15201-2755) on March 26, 2010, for their steel melting process in Kutztown Borough, **Berks County**. This is an administrative amendment to incorporate plan approval No. 06-05037G.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745. Contact: Barbara Hatch, Facilities Permitting Chief—Telephone: 412-442-4174.

04-00724: DCP Midstream, LP (370 17th Street, Suite 2500, Denver, CO 80202) on April 17, 2010, for an Administrative Amendment to change the name of the Responsible Official Contact of the Midland Propane Terminal to Joseph Kuchinski, VP Operations, North. The Midland Propane Terminal is located in Industry Borough, **Beaver County**.

ACTIONS ON COAL AND NONCOAL MINING ACTIVITY APPLICATIONS

Actions on applications under the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.19a); the Noncoal Surface Mining Conservation and Reclamation Act (52 P. S. §§ 3301—3326); The Clean Streams Law (35 P. S. §§ 691.1—691.1001); the Coal Refuse Disposal Control Act (52 P. S. §§ 30.51—30.66); and The Bituminous Mine Subsidence and Land Conservation Act (52 P. S. §§ 1406.1—1406.21). The final action on each application also constitutes action on the request for 401 Water Quality Certification and the NPDES permit application. Mining activity permits issued in response to the applications will also address the application permitting requirements of the following statutes: the Air Quality Control Act (35 P. S. §§ 4001—4015); the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003).

Coal Applications Returned

Greensburg District Mining Office: Armbrust Professional Center, 8205 Route 819, Greensburg, PA 15601, 724-925-5500.

02090101 and NPDES Permit No. PA0251585. Neiswonger Construction, Inc. (17592 Route 322, Strattanville, PA 16258). Application for land use change at a bituminous surface/auger mining site located in Jefferson Hills Borough, **Allegheny County**, affecting 79.9 acres. Receiving streams: unnamed tributary to the Monongahela River. Application received: January 19, 2010. Application returned: April 7, 2010.

Coal Permits Actions

Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, 814-472-1900.

56060108 and NPDES No. PA0249921. Future Industries, Inc., P. O. Box 157, Meyersdale, PA 15552, permit renewal for the continued operation and restoration of a bituminous surface mine in Brothersvalley Township, **Somerset County**, affecting 98.3 acres. Receiving stream(s): unnamed tributaries to and Millers Run classified for the following use(s): cold water fishery. There are no potable water supply intakes within 10 miles downstream. Application received: January 27, 2010. Permit issued: April 8, 2010.

56040104 and NPDES No. PA0249599. AMFIRE Mining Company, LLC, One Energy Place, Suite 7500, Latrobe, PA 15650, permit renewal for reclamation only of a bituminous surface and auger mine in Jenner Township, **Somerset County**, affecting 100.2 acres. Receiving stream(s): unnamed tributaries to and Flat Run, unnamed tributaries to and Gum Run, Roaring Run, Quemahoning Creek and Stonycreek River classified for the following use(s): cold water fishery. The first downstream potable water supply intake from the point of discharge is Quemahoning Reservoir. Application received: January 15, 2010. Permit issued: April 8, 2010.

Greensburg District Mining Office: Armbrust Professional Center, 8205 Route 819, Greensburg, PA 15601, 724-925-5500.

03830116 and NPDES Permit No. PA0599727. Bedrock Mines, LP (111 Freeport Road, Pittsburgh, PA 15215). Permit renewed for continued operation and

reclamation of a bituminous surface/auger mining site located in Kittanning Township, **Armstrong County**, affecting 830 acres. Receiving streams: unnamed tributaries of Mill Run to Cowanshannock Creek to the Allegheny River. Application received: February 4, 2010. Renewal issued: April 7, 2010.

Knox District Mining Office: P. O. Box 669, 310 Best Avenue, Knox, PA 16232-0669, 814-797-1191.

61090103 and NPDES Permit No. PA0258784. Ben Hal Mining Company (389 Irishtown Road, Grove City, PA 16127) Commencement, operation and restoration of a bituminous strip operation in Irwin Township, **Venango County** affecting 58.5 acres. Receiving streams: Two unnamed tributaries to North Branch Slippery Rock Creek. Application received: August 21, 2009. Permit Issued: April 8, 2010.

Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, 814-342-8200.

17990112 and NPDES No. PA0238350. Forcey Coal, Inc. (P. O. Box 225, Madera, PA 16661). Permit renewal for the continued operation and restoration of a bituminous surface mine located in Bigler Township, **Clearfield County** affecting 128.0 acres. Receiving streams: Banian Run (Cold Water Fishery), to Clearfield Creek (Warm Water Fishery) to the West Branch of the Susquehanna River (Warm Water Fishery). There are no potable water supply intakes within 10 miles downstream. Application received: February 8, 2010. Permit issued: April 1, 2010.

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, 570-621-3118.

54-305-014GP12. Waste Management & Processors, Inc., (P. O. Box K, Frackville, PA 17931), general operating permit to operate a coal preparation plant on Surface Mining Permit No. 54080201 in Port Carbon, Palo Alto and Mechanicsburg Boroughs, **Schuylkill County**. Application received: March 2, 2010. Permit issued: April 8, 2010.

54840206R5. William Penn Breaker, Inc., (46 Public Square, Suite 600, Wilkes-Barre, PA 18701), renewal of an existing coal refuse reprocessing operation for reclamation activities only in West Mahanoy Township, **Schuylkill County** affecting 164.3 acres, receiving stream: none. Application received: September 2, 2009. Renewal issued: April 9, 2010.

Noncoal Permits Actions

Greensburg District Mining Office: Armbrust Professional Center, 8205 Route 819, Greensburg, PA 15601, 724-925-5500.

26990301 and NPDES Permit No. PA0202584. Vanderbilt Aggregates, LLC (P. O. Box 125, Uniontown, PA 15401-1328). NPDES Renewal issued for continued reclamation of a noncoal surface mining site located in Dunbar Township and Vanderbilt Borough, **Fayette County**, affecting 297 acres. Receiving streams: unnamed tributaries to Dickerson Run to Dickerson Run to Youghiogheny River. Application received: December 23, 2009. NPDES Renewal issued: April 7, 2010.

Knox District Mining Office: P. O. Box 669, 310 Best Avenue, Knox, PA 16232-0669, 814-797-1191.

37990302. Cemex, Inc. (840 Gessner, Suite 1400, Houston, TX 77024) Renewal of existing NPDES No. PA0241547 in Shenango and Wayne Townships, **Lawrence County**. Receiving streams: Unnamed tributaries to Snake Run and unnamed tributaries to the

Beaver River. Application received: February 8, 2010. Permit Issued: April 7, 2010.

16100801. Dave's Tiltbed Service (96 Dave's Storage Lane, Clarion, PA 16214) Commencement, operation and restoration of a small shale operation in Clarion Township, **Clarion County** affecting 2.0 acres. Receiving streams: Unnamed tributary to Brush Run and unnamed tributary to the Clarion River. Application received: February 23, 2010. Permit Issued: April 8, 2010.

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, 570-621-3118.

7775SM12C6 and NPDES Permit No. PA0223573. Highway Materials, Inc., (1750 Walton Road, Blue Bell, PA 19422), renewal of NPDES Permit for discharge of treated mine drainage from a quarry operation in Alsace Township, **Berks County**, receiving stream: unnamed tributary to Laurel Run. Application received: February 19, 2010. Renewal issued: April 6, 2010.

58090826. David Compton, (R. R. 1, Box 1080, Hop Bottom, PA 18824), commencement, operation and restoration of a quarry operation in Apolacon Township, **Susquehanna County** affecting 5.0 acres, receiving stream: none. Application received: November 4, 2009. Permit issued: April 8, 2010.

8073SM4A2C9 and NPDES Permit No. PA0594849. Reading Materials, Inc., (P. O. Box 1467, Skippack, PA 19474), renewal of NPDES Permit for discharge of treated mine drainage from a quarry operation in Lower Pottsgrove Township, **Montgomery County**, receiving stream: Sanatoga Creek. Application received: February 18, 2010. Renewal issued: April 9, 2010.

ACTIONS ON BLASTING ACTIVITY APPLICATIONS

Actions on applications under the Explosives Acts of 1937 and 1957 (43 P.S. §§ 151—161); and 25 Pa. Code § 211.124 (relating to blasting activity permits). Blasting activity performed as part of a coal or noncoal mining activity will be regulated by the mining permit for that coal or noncoal mining activity.

Blasting Permits Actions

Greensburg District Mining Office: Armburst Professional Center; 8205 Route 819, Greensburg, PA 15601, 724-925-5500.

65104002. Westmoreland Waste, LLC (111 Conner Lane, Belle Vernon, PA 15012). Blasting activity permit for construction to add cells S2 and S3 to the Sanitary Landfill, located in Rostraver Township, **Westmoreland County**. The expected duration of blasting is nine months. Permit issued: April 7, 2010.

65104003. Wampum Hardware Co. (636 Paden Road, New Galilee, PA 16141). Blasting activity permit for construction of the Delmont Compressor Station Project, located in Delmont Borough, **Westmoreland County**. The expected duration of blasting is four months. Permit issued: April 7, 2010.

30104003. Wampum Hardware Co. (636 Paden Road, New Galilee, PA 16141). Blasting activity permit for construction of the CNX Gas Well Project, located in Morris Township, **Greene County**. The expected duration of blasting is four months. Permit issued: April 7, 2010.

02104001. Waste Management, Inc. (600 Thomas Street, Monroeville, PA 15146). Blasting activity permit

for construction of the Monroeville Landfill cell, located in Monroeville Township, **Allegheny County**. The expected duration of blasting is one year. Permit issued: April 8, 2010.

Knox District Mining Office: P. O. Box 669, 310 Best Avenue, Knox, PA 16232-0669, 814-797-1191.

42104008. Conquest Seismic Services (504 1st Center, Horseheads, NY 14845) Blasting Activity Permit for seismic exploration in Hamlin, Sergeant, Jones and Wetmore Townships, **McKean** and **Elk Counties**. This blasting activity permit will expire on November 30, 2010. Application received: March 30, 2010. Permit Issued: April 5, 2010.

42104006. Minard Run Oil Company (609 South Avenue, P. O. Box 18, Bradford, PA 16701-3977) Blasting Activity Permit for stone removal in Lafayette Township, **McKean County**. This blasting activity permit will expire on July 1, 2010. Application received: March 29, 2010. Permit Issued: April 5, 2010.

33104003. Tidelands Geophysical Company (101 East Park Boulevard, Suite 955, Plano, TX 75074) Blasting Activity Permit for seismic exploration in Pine Creek, Warsaw, Winslow and Washington Townships, **Jefferson County**. This blasting activity permit will expire on December 31, 2010. Permit Issued: April 8, 2010.

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, 570-621-3118.

67104107. Geological Technologies, Inc., (P. O. Box 70, Falling Waters, WV 25419), construction blasting for Hanover Gateway in Hanover Borough, **York County** with an expiration date of November 30, 2010. Permit issued: April 6, 2010.

09104102. Eastern Blasting Co., Inc., (1292 Street Road, New Hope, PA 18938), construction blasting for Plumstead Chase in Plumstead Township, **Bucks County** with an expiration date of April 1, 2011. Permit issued: April 7, 2010.

FEDERAL WATER POLLUTION CONTROL ACT SECTION 401

The Department of Environmental Protection (Department) has taken the following actions on previously received permit applications, requests for Environmental Assessment approval and requests for Water Quality Certification under section 401 of the Federal Water Pollution Control Act (FWPCA) (33 U.S.C.A. § 1341).

Except as otherwise noted, the Department has granted 401 Water Quality Certification certifying that the construction and operation described will comply with the applicable provisions of sections 301—303, 306 and 307 of the FWPCA (33 U.S.C.A. §§ 1311—1313, 1316 and 1317) and that the construction will not violate applicable Federal and State water quality standards.

Persons aggrieved by an action may appeal, under section 4 of the Environmental Hearing Board Act (35 P.S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania AT&T Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal

form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

For individuals who wish to challenge an action, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

Actions on applications for the following activities filed under the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27), section 302 of the Floodplain Management Act (32 P. S. § 679.302) and The Clean Streams Law (35 P. S. §§ 691.1—691.702) and Notice of Final Action for Certification under section 401 of the FWPCA (33 U.S.C.A. § 1341).

Permits, Environmental Assessments and 401 Water Quality Certifications Issued:

WATER OBSTRUCTIONS AND ENCROACHMENTS

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

E22-551: Lower Swatara Township, 1499 Spring Garden Drive, Middletown, PA 17057, Lower Swatara Township, **Dauphin County**, ACOE Baltimore District.

The applicant proposes to:

1. construct and maintain a 128-foot long, 20-foot wide by 9-foot high box culvert with baffles, depressed 1.0 foot into the streambed of an unnamed tributary to Susquehanna River (Steelton, PA Quadrangle Latitude: 40° 11' 57"; Longitude: -76° 45' 23", N: 13.5 inches; W: 0.8 inch);

2. construct and maintain a 60-foot long, 19-foot wide by 9-foot high box culvert with baffles, depressed 1.0 foot into the streambed of an unnamed tributary to Susquehanna River (Steelton, PA Quadrangle Latitude: 40° 11' 58"; Longitude: -76° 45' 21", N: 13.8 inches; W: 0.8 inch);

3. construct and maintain a 32-foot long, 20-foot wide by 9-foot high box culvert with baffles, depressed 1.0 foot into the streambed of an unnamed tributary to Susquehanna River (Steelton, PA Quadrangle Latitude: 40° 11' 55"; Longitude: -76° 45' 19", N: 13.5 inches; W: 0.6 inch);

4. remove 465.0 feet of dual 60-inch diameter Reinforced Concrete Pipe culverts and construct and maintain 292.0 feet of open stream with floodplain bench (Steelton, PA Quadrangle Latitude: 40° 11' 58"; Longitude: -76° 45' 20", N: 13.5 inches; W: 0.7 inch); and

5. construct and maintain 16 outfall structures discharging to an unnamed tributary to the Susquehanna River along the proposed Meade Avenue corridor (Steelton, PA Quadrangle Latitude: 40° 11' 58"; Longitude: -76° 45' 20", N: 13.5 inches; W: 0.7 inch).

The purpose of the project is to extend Meade Avenue to SR 230, providing improved access to the Linden

Centre Property, the SARAA property, Hunter Lane and University Drive, involving regulated activities in Lower Swatara Township, Dauphin County.

E36-862: Little Conestoga Creek Stream Restoration, Derek Reese, President, Little Conestoga Watershed Alliance, P. O. Box 6355, Lancaster, PA 17607, Manor and Lancaster Townships, **Lancaster County**, ACOE Baltimore District.

To restore and stabilize 3,800.0 linear feet of the Little Conestoga Creek (WWF) including the construction and maintenance of seven J-hook rock vanes, six cross rock vanes, one half rock vane, four root wads, four cover logs, a 20-foot herbaceous/forested riparian buffer width along both sides of the creek and random boulder placements utilizing Fluvial Geomorphology (FGM), in and along the Little Conestoga Creek (WWF) for the purpose of restoring stable channel geometry, stabilizing the streambanks, improve flood storage capacity, and improve fish habitat at a point just north of the intersection of Clover Hill Road and West Ridge Drive within the property of the Conestoga Country Club (Lancaster, PA Quadrangle 4.5-inches North; 15.0 inches West, Latitude: 40° 01' 28.09" N; Longitude: 76° 21' 14.92" W) in Manor and Lancaster Townships and Millersville Borough, Lancaster County.

E22-552: Department of Transportation, Engineering District 8-0, 2140 Herr Street, Harrisburg, PA 17103-1699, Williams Township, **Dauphin County**, ACOE Baltimore District.

The applicant proposes to: (1) raze the existing SR 0209 RC T-Beam bridge, having three spans, a width of 29.8 feet, a total span of 118.5 feet, and an underclearance of 11.8 feet over Wiconisco Creek (WWF); (2) construct and maintain a two-span PS Box Beam bridge, having a width of 51.8 feet, a total span of 127.4 feet, and an underclearance of 11.8 feet, carrying SR 0209 over Wiconisco Creek (WWF); (3) permanently relocate 92.0 linear feet of an unnamed tributary (UNT) to Wiconisco Creek (WWF); (4) perform maintenance activities on an existing 48-inch diameter RCP culvert in a UNT to Wiconisco Creek (WWF) and construct and maintain an 8-foot extension of the existing 48-inch diameter RCP culvert; and (5) permanently impact 0.03 acre of PEM wetland in Williams Township, Dauphin County (Tower City, PA Quadrangle N: 15.0 inches; W: 11.6 inches, Latitude: 40° 34' 58"; Longitude: 76° 35' 1") all for the purpose of providing a new bridge that is functionally and structurally adequate, and improve safety by introducing a dedicated left turn lane for southbound SR 0209 traffic turning into the adjacent Williams Valley School complex. The amount of wetland impact is considered a de minimus impact of 0.03 acre, and wetland replacement is not required.

Northcentral Region: Watershed Management Program Manager, 208 West Third Street, Williamsport, PA 17701, 570-327-3636.

E17-456. Shelly Oil and Gas, Inc., 900 Allegheny Avenue, Avonmore, PA 15618-9748. Shelly Oil and Gas Fleming Natural Gas Pipeline Project, Bell and Brady Townships, **Clearfield County**, ACOE Pittsburgh District (Mahaffey, PA Quadrangle Latitude: 40° 59' 52.5"; Longitude: 78° 44' 36.8").

Shelly Oil and Gas, Inc. proposes to construct, operate, repair and maintain a natural gas pipeline that require encroachment of the following of four (4) Exceptional Value wetlands and four (4) High Quality-Cold Water Fishery streams:

<i>Permit ID</i>	<i>Activity</i>	<i>Resource</i>	<i>Water Quality</i>	<i>Latitude</i>	<i>Longitude</i>
Wetland 1	Pipeline Crossing	Tributary Beech Run	EV	40° 59' 40.9"	78° 44' 33.55"
Wetland 2	Pipeline and Road Crossing	Tributary Beech Run	EV	40° 59' 38.9"	78° 44' 31.8"
Wetland 3	Pipeline Crossing	Tributary Beech Run	EV	40° 59' 37.5"	78° 44' 30.6"
Wetland 4	Pipeline Crossing	Tributary Laurel Branch Run	EV	40° 39' 52.37"	78° 44' 38.23"
Watercourse 1	Pipeline Crossing	Tributary Beech Run	HQ-CWF	40° 59' 41.0"	78° 44' 33.6"
Watercourse 2	Pipeline Crossing	Beech Run	HQ-CWF	40° 59' 50.0"	78° 44' 41.3"
Watercourse 3	Pipeline Crossing	Tributary Laurel Branch Run	HQ-CWF	40° 59' 52.04"	78° 44' 38.7"
Watercourse 4	Pipeline Crossing	Tributary Laurel Branch Run	HQ-CWF	40° 59' 53.5"	78° 44' 36.8"

All in-stream construction, repair and maintenance work shall be conducted in dry work conditions by boring, dam and pumping, fluming or diverting stream flow around work areas. Since Beech and Laurel Branch Runs are wild trout fisheries, no construction or future repair work shall be done in or along the stream channels between October 1 and December 31 without prior written approval from the Fish and Boat Commission. This permit also authorizes the construction, operation, maintenance and removal of temporary stream diversions, flumes, cofferdams, roadways and causeways necessary for pipeline construction and repair. Both the 0.09-acre of wetland and 10-feet of watercourse impacts incurred for activities authorized herein shall be temporary. The project is located along the northwestern and western right-of-way of Beech Run Road (T-336) approximately at the intersection of 5 Ponds and Beech Run Roads.

Northwest Region: Watershed Management Program Manager, 230 Chestnut Street, Meadville, PA 16335.

E33-240, Department of Transportation, District 10-0, 2550 Oakland Avenue, Indiana, PA 15701. Pine Creek Township, **Jefferson County**, ACOE Pittsburgh (Brookville, PA Quadrangle N: 41° 09' 10"; W: 79° 03' 10").

To remove the existing bridge and to construct and maintain a steel multi girder bridge having two normal spans of 61 feet and a minimum underclearance of 13.35 feet on a 70° skew with the alignment shifted approximately 30 feet downstream across Sandy Lick Creek on SR 2023, Section 551, Segment 0270, Offset 2862 approximately 200 feet south of SR 322.

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.

Northcentral Region: Oil and Gas Management Program Manager, 208 West Third Street, Williamsport, PA 17701.

ESCGP-1 # ESX10-117-0068
 Applicant Name East Resources, Inc.
 Contact Person Mr. Jefferson Long
 Address 301 Brush Creek Road
 City, State, Zip Warrendale, PA 15086
 County Tioga
 Township(s) Liberty Township
 Receiving Stream(s) and Classification(s) UNT to Brion Creek/Susquehanna River Basin
 Secondary—Roaring Branch—Lycoming Creek to West Branch Susquehanna

ESCGP-1 # ESX10-117-0072
 Applicant Name East Resources, Inc.
 Contact Person Mr. Jefferson Long
 Address 301 Brush Creek Road
 City, State, Zip Warrendale, PA 15086
 County Tioga
 Township(s) Liberty Township
 Receiving Stream(s) and Classification(s) Salt Spring Run/West Branch Susquehanna River Basin
 Roaring Branch

ESCGP-1 # ESX10-117-0073
 Applicant Name East Resources, Inc.
 Contact Person Mr. Jefferson Long
 Address 301 Brush Creek Road
 City, State, Zip Warrendale, PA 15086
 County Tioga

Township(s) Deerfield Township
Receiving Stream(s) and Classification(s) UNT to Crooked
Creek
Secondary—Crooked Creek

ESCGP-1 # ESX10-015-0082
Applicant Name East Resources, Inc.
Contact Person Mr. Jefferson Long
Address 301 Brush Creek Road
City, State, Zip Warrendale, PA 15086
County Bradford
Township(s) Canton Township
Receiving Stream(s) and Classification(s) Beech Flats
Creek/Lackawanna River Basin
Secondary—Beech Flats Creek to Towanda Creek

ESCGP-1 # ESX10-117-0069
Applicant Name East Resources, Inc.
Contact Person Mr. Jefferson Long
Address 301 Brush Creek Road
City, State, Zip Warrendale, PA 15086
County Tioga
Township(s) Charleston Township
Receiving Stream(s) and Classification(s) UNT to Charles-
ton Creek
Secondary—UNT to Wilson Creek

ESCGP-1 # ESX10-117-0074
Applicant Name East Resources, Inc.
Contact Person Mr. Jefferson Long
Address 301 Brush Creek Road
City, State, Zip Warrendale, PA 15086
County Tioga
Township(s) Rutland and Sullivan Townships
Receiving Stream(s) and Classification(s) UNT to Elk Run

ESCGP-1 # ESX10-015-0084
Applicant Name Talisman Energy, Inc.
Contact Person Eric Potter
Address 337 Daniel Zenker Drive
City, State, Zip Horseheads, NY 14845
County Bradford
Township(s) Columbia Township
Receiving Stream(s) and Classification(s) UNT to North
Branch Sugar Creek

ESCGP-1 # ESX10-015-0079
Applicant Name Talisman Energy, Inc.
Contact Person Eric Potter
Address 337 Daniel Zenker Drive
City, State, Zip Horseheads, NY 14845
County Bradford
Township(s) Wells Township
Receiving Stream(s) and Classification(s) Mill Creek

ESCGP-1 # ESX10-015-0085
Applicant Name Talisman Energy, Inc.
Contact Person Eric Potter
Address 337 Daniel Zenker Drive
City, State, Zip Horseheads, NY 14845
County Bradford
Township(s) Canton Township
Receiving Stream(s) and Classification(s) Alba Creek and
tributary to Alba Creek

ESCGP-1 # ESX10-081-0017
Applicant Name Anadarko Marcellus Midstream, LLC
Contact Person Bertha Nefe
Address P. O. Box 1330
City, State, Zip Houston, TX 77251-1330
County Lycoming
Township(s) Cascade Township
Receiving Stream(s) and Classification(s) Slacks Run

ESCGP-1 # ESX10-081-0018
Applicant Name Range Resources—Appalachia, LLC
Contact Person Carla Suszkowski
Address 380 Southpointe Boulevard, Suite 300
City, State, Zip Canonsburg, PA 15317
County Lycoming
Township(s) Cummings Township
Receiving Stream(s) and Classification(s) Little Dog Run,
UNT to Second Fork Larry's Creek

ESCGP-1 # ESX10-117-0060
Applicant Name East Resources
Contact Person Mr. Jefferson Long
Address 301 Brush Creek Road
City, State, Zip Warrendale, PA 15086
County Tioga
Township(s) Richmond and Covington Townships
Receiving Stream(s) and Classification(s) North Elk Run,
UNT to North Elk Run, Elk Run, UNT to Elk Run

ESCGP-1 # ESG09-117-0034
Applicant Name Ultra Resources, Inc.
Contact Person Belinda Salinas
Address 304 Inverness Way South, Suite 295
City, State, Zip Englewood, CO 80112-5828
County Potter and Tioga Counties
Township(s) West Branch Township (Potter); Elk
Township (Tioga)
Receiving Stream(s) and Classification(s) Elk Run
Secondary—Maynard Hollow, Hubers Hollow

ESCGP-1 # ESX10-015-0086
Applicant Name Talisman Energy, Inc.
Contact Person Mr. Eric Potter
Address 337 Daniel Zenker Drive
City, State, Zip Horseheads, NY 14845
County Bradford
Township(s) Columbia Township
Receiving Stream(s) and Classification(s) UNT to Sugar
Creek (TSF/MF)

ESCGP-1 # ESX10-015-0087
Applicant Name Chief Oil & Gas, LLC
Contact Person Michael Hritz
Address 6051 Wallace Road, Suite 210
City, State, Zip Wexford, PA 15090
County Bradford
Township(s) Burlington Township
Receiving Stream(s) and Classification(s) UNT to
Bailey Run

ESCGP-1 # ESX10-079-0002
Applicant Name EnCana Oil & Gas (USA), Inc.
Contact Person Brenda Linster
Address Republic Square, 370 17th Street, Suite 1700
City, State, Zip Denver, CO 80202
County Luzerne
Township(s) Fairmount Township
Receiving Stream(s) and Classification(s) Kitchen Creek
Secondary—Maple Run

SPECIAL NOTICES

Proposed Action on a Request for Bond Reduction

Proposed action on a request for a bond reduction under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003) and regulations to operate a residual waste facility.

Persons wishing to comment on the proposed action are invited to submit a statement to the Regional Office indicated as the office responsible, within 30 days from the date of this public notice. Comments received within

this 30-day period will be considered in the formulation of the final determination regarding this proposal. Responses should include the name, address and telephone number of the writer; and a concise statement to inform the Regional Office of the exact basis of any comment and the relevant facts upon which it is based. A public hearing may be held if the Regional Office considers the public response significant.

Following the 30-day comment period and/or public hearing, the Department of Environmental Protection will make a final determination regarding the proposed bond action. Notice of this determination will be published in the *Pennsylvania Bulletin* at which time this determination may be appealed to the Environmental Hearing Board.

Intent to Reduce Bond

Regional Office: Regional Manager, Waste Management, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

ID No. 301127, Tecumseh Redevelopment, Inc., Riders Disposal Area, Iron Street, Johnstown, PA 15901, East Taylor Township, Cambria County. On March 30, 2010, the Department of Environmental Protection (Department) received a request for a bond reduction from Tecumseh for its closed residual waste landfill (Site 4) at its Riders Disposal Area. The Department has reviewed the request and has determined that it is consistent with 25 Pa. Code § 287.341.

Southwest Regional Office, Water Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

Categorical Exclusion

Location: Belle Vernon Municipal Authority, 10 Main Street, Belle Vernon, PA 15012, Belle Vernon Borough, Fayette County.

Description: The Pennsylvania Infrastructure Investment Authority which administers Pennsylvania's State Revolving Fund is intended to be the funding source for this project. The Authority proposes to modify the existing sewage treatment plant and pump station.

The Department of Environmental Protection's (Department) review of the project and the information received has not identified any significant, adverse environmental impact resulting from this proposal. The Department hereby categorically excludes this project from the State Environmental Review Process.

[Pa.B. Doc. No. 10-728. Filed for public inspection April 23, 2010, 9:00 a.m.]

Bid Opportunity

OSM 10(6838)101.1, Abandoned Mine Land Reclamation Project, Lake Arthur South, Muddy Creek Township, Butler County. The principal items of work and approximate quantities include mobilization and demobilization; clearing and grubbing; dewatering and diversion and care of water; 429,000 cubic yards of grading; 320 cubic yards of ditch excavation; 900 square yards of high velocity erosion control mulch blanket; 140 square yards of rock lining with filter material; 100 linear feet of 15-inch diameter smooth interior; 100 linear feet of corrugated polyethylene pipe; 775 linear feet of subsurface drain; wetland mitigation; and 47.5 acres of seeding. This bid issues April 23, 2010, and bids will be opened on

May 20, 2010, at 2 p.m. Bid documents cost \$10 per set and will not be mailed until payment has been received. This project is financed by the Federal Government under the authority given it by Pub. L. No. 95-87 dated August 3, 1977, The Surface Mining Control and Reclamation Act of 1977, and is subject to that Law, and to the Federal Grant for this project. Contact the Construction Contracts Section at (717) 787-7820 or joelmiller@state.pa.us for more information on this bid.

JOHN HANGER,
Secretary

[Pa.B. Doc. No. 10-729. Filed for public inspection April 23, 2010, 9:00 a.m.]

Bid Opportunity

OSM 14(0883)101.1, Abandoned Mine Land Reclamation Project, Orviston, Curtin Township, Centre County. The principal items of work and approximate quantities include mobilization and demobilization; clearing and grubbing; 114,500 cubic yards of grading; 650 linear feet of subsurface drain; 3,800 each of tree planting; and 3.8 acres of seeding. This bid issues April 23, 2010, and bids will be opened on May 20, 2010, at 2 p.m. Bid documents cost \$10 per set and will not be mailed until payment has been received. This project is financed by the Federal Government under the authority given it by Pub. L. No. 95-87 dated August 3, 1977, The Surface Mining Control and Reclamation Act of 1977, and is subject to that Law, and to the Federal Grant for this project. Contact the Construction Contracts Section at (717) 787-7820 or joelmiller@state.pa.us for more information on this bid.

JOHN HANGER,
Secretary

[Pa.B. Doc. No. 10-730. Filed for public inspection April 23, 2010, 9:00 a.m.]

Bid Opportunity

OSM 32(2804)101.1, Abandoned Mine Reclamation Project, Deckers Point Southwest, East Mahoning and Grant Townships, Indiana County. The principal items of work and approximate quantities include mobilization and demobilization; clearing and grubbing; 80,961 cubic yards of grading area No. 1; 83,613 cubic yards of grading area No. 2; removal and disposal of solid waste and 10.9 acres of seeding. This bid issues April 23, 2010, and bids will be opened on May 20, 2010, at 2 p.m. Bid documents cost \$10 per set and will not be mailed until payment has been received. This project is financed by the Federal Government under the authority given it by Pub. L. No. 95-87 dated August 3, 1977, The Surface Mining Control and Reclamation Act of 1977, and is subject to that Law, and to the Federal Grant for this project. Contact the Construction Contracts Section at (717) 787-7820 or joelmiller@state.pa.us for more information on this bid.

JOHN HANGER,
Secretary

[Pa.B. Doc. No. 10-731. Filed for public inspection April 23, 2010, 9:00 a.m.]

Board of Coal Mine Safety; Change of Meeting Date

The June 16, 2010, meeting of the Board of Coal Mine Safety has been rescheduled. The meeting will now take place on June 23, 2010, in the Fayette County Health Center, Uniontown, PA.

Questions concerning the meetings can be directed to Allison D. Gaida at (724) 439-7289 or agaida@state.pa.us. The agenda and meeting materials for the meeting will be available through the Public Participation Center on the Department of Environmental Protection's (Department) web site at <http://www.depweb.state.us> (DEP Keywords: "Public Participation, Participate").

Persons in need of accommodations as provided for in the Americans With Disabilities Act of 1990 should contact Allison Gaida directly at (724) 439-7289, 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. 10-732. Filed for public inspection April 23, 2010, 9:00 a.m.]

Certification Program Advisory Committee; Meeting Cancellation

The Certification Program Advisory Committee (Committee) meeting scheduled for Wednesday, June 2, 2010, at 10 a.m. has been cancelled.

Questions concerning the next scheduled meeting of the Committee can be directed to Cheri Sansoni at (717) 772-5158 or csansoni@state.pa.us. The agenda and meeting materials for the Committee meeting on September 16, 2010, will be available through the Public Participation Center on the Department of Environmental Protection's (Department) web site at www.depweb.state.pa.us.

Persons in need of accommodations as provided for in the Americans With Disabilities Act of 1990 should contact the Department at (717) 772-5158 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. 10-733. Filed for public inspection April 23, 2010, 9:00 a.m.]

Pennsylvania Energy Development Authority \$16 Million Funding Opportunity Available

Secretary Hanger announces that on April 30, 2010, the Pennsylvania Energy Development Authority (PEDA) will open a \$16 million solicitation for innovative, advanced energy projects and for businesses interested in locating their advanced energy operations in this Commonwealth.

For purposes of this financial assistance opportunity, eligible projects may include solar energy; wind; low-impact hydropower; geothermal; biologically derived methane gas, including landfill gas; biomass; fuel cells; coal-mine methane; waste coal; integrated gasification combined cycle; demand management measures, includ-

ing recycled energy and energy recovery, energy efficiency and load management; and clean, alternative fuels for transportation.

Under this solicitation, PEDA may award financial assistance in the form of grants of up to \$1 million. Funding for projects may be used for capital equipment, construction associated with capital projects and land acquisition.

For grants under this solicitation, the following entities are eligible to apply: corporations, partnerships, associations and other legal business entities; nonprofit corporations; Pennsylvania colleges and universities; Pennsylvania municipalities; and any public corporation, authority or body whatsoever.

This is a competitive solicitation and funding will be determined by vote of the Board of Directors. Guidelines may be viewed and downloaded from the PEDA web site at www.depweb.state.pa.us, Keyword "PEDA" on or after April 30, 2010. Applications must be submitted online and will be available on April 30, 2010, at www.grants.dcnr.state.pa.us. Applications will be accepted from April 30, 2010, through 4 p.m. June 15, 2010.

JOHN HANGER,
Secretary

[Pa.B. Doc. No. 10-734. Filed for public inspection April 23, 2010, 9:00 a.m.]

DEPARTMENT OF HEALTH

Long-Term Care Nursing Facilities; Requests for Exceptions

The following long-term care nursing facility is seeking an exception to 28 Pa. Code § 211.3(a) (relating to oral and telephone orders).

Sweden Valley Manor
1028 East Second Street
Coudersport, PA 16915
ID 455402

This request is on file with the Department of Health (Department). Persons may receive a copy of a request for exception by requesting a copy from the Division of Nursing Care Facilities, Room 526, Health and Welfare Building, Harrisburg, PA 17120, (717) 787-1816, fax (717) 772-2163, ra-paexcept@state.pa.us.

Persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division at the address listed previously.

Comments received by the Department within 15 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of the request and/or provide comments to the Department and require an auxiliary aid, service or other accommodations to do so, should contact V/TT (717) 783-6514 for speech and/or hearing impaired persons, or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

EVERETTE JAMES,
Secretary

[Pa.B. Doc. No. 10-735. Filed for public inspection April 23, 2010, 9:00 a.m.]

Newborn Screening and Follow-Up Program Technical Advisory Board Meeting

The Newborn Screening and Follow-up Technical Advisory Board provides recommendations, guidance and support to the Department of Health regarding the responsibility for the planning, evaluation, modification and management of the Statewide Newborn Child Screening and Follow-up Program under the Newborn Child Testing Act (35 P. S. § 621—625). The Newborn Screening and Follow-up Program Technical Advisory Board will hold a public meeting on Tuesday, May 11, 2010, at the National Civil War Museum located at 1 Lincoln Circle at Reservoir Park, Harrisburg, PA 17103. Driving directions can be found on the National Civil War Museum web site at <http://www.nationalcivilwarmuseum.org>. The meeting is scheduled from 10 a.m. to 3 p.m.

For additional information or for persons with a disability who desire to attend the meeting and require auxiliary aid, service or other accommodation to do so, contact Carolyn K. Ellison, Public Health Program Manager, Newborn Screening and Follow-up Program, Division of Newborn Screening and Genetics at (717) 783-8143. Speech and/or hearing impaired persons should use V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

This meeting is subject to cancellation without notice.

EVERETTE JAMES,
Secretary

[Pa.B. Doc. No. 10-736. Filed for public inspection April 23, 2010, 9:00 a.m.]

Traumatic Brain Injury Advisory Board Meeting

The Traumatic Brain Injury Advisory Board, established under the Federal Traumatic Brain Injury Act of 1996 (42 U.S.C.A. 300d-52), will hold a public meeting on Thursday, May 6, 2010. The meeting will be held in the large conference room of the Community Center, which is located on the 2nd Floor, Giant Food Store, 2300 Linglestown Road, Harrisburg, PA 17110, from 10 a.m. to 3 p.m.

For additional information, or for persons with a disability and desire to attend the meeting and require an auxiliary aid, service or other accommodation to do so, contact Naomi Zeiset, Administrative Assistant, Division of Child and Adult Health Services at (717) 772-2762, or for speech and/or hearing impaired persons contact V/TT (717) 783-6514, or the Pennsylvania AT&T Relay Service at (800) 654-5984.

This meeting is subject to cancellation without notice.

EVERETTE JAMES,
Secretary

[Pa.B. Doc. No. 10-737. Filed for public inspection April 23, 2010, 9:00 a.m.]

DEPARTMENT OF LABOR AND INDUSTRY

Uniform Construction Code (UCC) Review and Advisory Council; Meeting Scheduled

Wednesday, May 26, 2010
10 a.m.—5 p.m.
Department of Labor and Industry
651 Boas Street, Room E-100
Harrisburg, PA 17121

Additional information concerning the meeting may be found on the Department of Labor and Industry's web site at www.dli.state.pa.us. Scroll down and click on the link for UCC Review and Advisory Council.

Questions concerning this may be directed to Edward Leister at (717) 783-6304.

SANDI VITO,
Secretary

[Pa.B. Doc. No. 10-738. Filed for public inspection April 23, 2010, 9:00 a.m.]

DEPARTMENT OF REVENUE

Pennsylvania Super 7 Terminal-Based Lottery Game

Under the State Lottery (72 P. S. §§ 3761-101—3761-314) and 61 Pa. Code § 875.1 (relating to creation), the Secretary of Revenue hereby provides public notice of the termination of the Pennsylvania Super 7 terminal-based lottery game rules which were published at 39 Pa.B. 1273—1276 (March 7, 2009), effective April 28, 2010.

In accordance with section 6(e) of the game rules (relating to prizes available to be won and determination of prize winners), which appeared at 39 Pa.B. 1276, the Secretary of Revenue hereby announces that in the event no ticket is sold containing the winning numbers necessary to claim the jackpot category prize for the final Pennsylvania Super 7 drawing to take place on April 27, 2010, the allocation of prize money will be as follows:

All jackpot category prize money will be shared proportionately by winners of the second, third and fourth prize categories. Each of these prize categories will be allocated a proportion of the jackpot category prize money equal to the proportion of sales normally allocated to that prize category. Money allocated to each of these prize categories will be divided equally by the number of plays on tickets determined by the Lottery to be entitled to claim a prize in that prize category. In no case will the amount of the prize paid be less than the holder of a winning ticket would be entitled to without application of this provision.

The following chart indicates the percentage of the winnings pool to be paid for the second, third and fourth category prizes if there is a winner of the jackpot category prize for the April 27, 2010 Pennsylvania Super 7 drawing and the percentage of the winnings pool to be paid for the second, third and fourth category prizes if there is not a winner of the jackpot category prize for the April 27, 2010 Pennsylvania Super 7 drawing:

Percentage Of The Winnings Pool, After Deduction Of The Fifth Category Prize, To Be Paid In Prizes If There Is A Winner Of The Jackpot Category Prize For The April 27, 2010 Drawing.

Percentage Of The Winnings Pool, After Deduction Of The Fifth Category Prize, To Be Paid In Prizes If There Is Not A Winner Of The Jackpot Category Prize For The April 27, 2010 Drawing.

Tickets Containing the Following in One Single Play

All 7 Winning Numbers (Jackpot Category Prize)	48.16%	0.0%
6 Winning Numbers (Second Category Prize)	13.42%	25.89%
5 Winning Numbers (Third Category Prize)	21.81%	42.06%
4 Winning Numbers (Fourth Category Prize)	16.61%	32.05%

For the purposes of calculation of a prize to be paid under this provision the calculation shall be rounded down so that prizes can be paid in multiples of \$.50.

C. DANIEL HASSELL,
Secretary

[Pa.B. Doc. No. 10-739. Filed for public inspection April 23, 2010, 9:00 a.m.]

DEPARTMENT OF TRANSPORTATION

Application for Lease of Right-of-Way

The Department of Transportation (Department) under the authority contained in 67 Pa. Code § 495.4(d) (relating to application procedure), gives notice that an application to lease highway right-of-way has been submitted to the Department by the Port Authority of Allegheny County, seeking to lease highway right-of-way located at 1860 SR 286 (also known as Golden Mile Highway), Plum Borough, Allegheny County, containing 0.762 acre, adjacent to SR 286 for the purpose of a park and ride facility.

Interested persons are invited to submit, within 30 days from the publication of this notice in the *Pennsylvania Bulletin*, written comments, suggestions and/or objections regarding the approval of this application to H. Daniel Cessna, P. E., District Executive, Engineering District 11-0, 45 Thoms Run Road, Bridgeville, PA 15017.

Questions regarding this application or the proposed use may be directed to Michael Sudar, District Property Manager, 45 Thoms Run Road, Bridgeville, PA 15017, (412) 429-4830.

ALLEN D. BIEHLER,
Secretary

[Pa.B. Doc. No. 10-740. Filed for public inspection April 23, 2010, 9:00 a.m.]

Finding Lancaster County

Under section 2002(b) of The Administrative Code of 1920 (71 P. S. § 512(b)), the Director of the Bureau of Design makes the following finding:

The Department of Transportation (Department) is planning to close and remove the at-grade crossing of the Amtrak Railroad corridor on Newcomer Road in Rapho Township, Lancaster County. The project will require

minor amounts of right-of-way and temporary easements from the Heller Farmstead and the Pennsylvania Railroad/Keystone Corridor (now Amtrak) that are eligible for the National Register of Historic Places and, therefore qualify as section 2002 resources.

In accordance with section 2002 of Pennsylvania Act 120 establishing the Department, a "Determination of Section 4(f) *De Minimis* Use Section 2002 No Adverse use" has been prepared to evaluate the potential environmental impacts caused by the subject project. The document is available in the CE/EA Expert System.

Based upon studies, there is no feasible and prudent alternative to the proposed action and section 106 of the Historic Preservation Act studies have determined that there are No Historic Properties Affected by the project as planned.

The environmental, economic, social and other effects of the proposed project as enumerated in section 2002 of The Administrative Code of 1929 have been considered. It has been concluded that there is no feasible and prudent alternative to the project as designed, and all reasonable steps have been taken to minimize such effects.

BRIAN G. THOMPSON, P. E.,
Director
Bureau of Design

[Pa.B. Doc. No. 10-741. Filed for public inspection April 23, 2010, 9:00 a.m.]

Planting and Harvesting Season under the Motor Carrier Regulations

Section 395.1 of the Federal Motor Carrier Safety Regulations provides an exemption from the hours of service, driver logs and employer recordkeeping requirements for drivers transporting agricultural commodities or farm supplies for use on the farm within 100 air miles of the farm when the transportation is conducted during the planting and harvesting season as determined by the state in which the farm is located. (49 CFR 395.1(k)) Section 395.1 has been adopted in the Commonwealth and applies to interstate and intrastate motor carrier

transportation under 67 Pa. Code Chapters 229 and 231 (relating to interstate motor carrier safety requirements; and intrastate motor carrier safety requirements). In 1996, the planting and harvesting season in this Commonwealth was determined to be March 1 to November 30, based upon the recommendation of then Secretary of Agriculture Charles C. Brosius.

In consultation with current Secretary of Agriculture, Russell C. Redding, it has been determined that the planting and harvesting season in this Commonwealth is January 1 to December 31 inclusive. This determination reflects the current nature of modern production agriculture today in this Commonwealth. Moreover, this determination will make the planting and harvesting season in this Commonwealth consistent with that in the adjacent states of New York, New Jersey, Maryland and West Virginia.

ALLEN D. BIEHLER, P. E.,
Secretary

[Pa.B. Doc. No. 10-742. Filed for public inspection April 23, 2010, 9:00 a.m.]

INDEPENDENT REGULATORY REVIEW COMMISSION

Action Taken by the Commission

The Independent Regulatory Review Commission met publicly at 10 a.m., Thursday, April 8, 2010, and announced the following:

Regulations Deemed Approved Under Section 5(g) of the Regulatory Review Act—Effective April 7, 2010

State Board of Dentistry #16A-4620: Clinical Examinations (amends 49 Pa. Code Chapter 33)

Action Taken—Regulations Approved:

Pennsylvania Gaming Control Board #125-91: Preliminary Provisions; Onsite Shopkeepers Certification, Labor Organizations; and Slot Machine Licenses (amends 58 Pa. Code §§ 438a.3, 441a.12 and 441a.13)

Pennsylvania Gaming Control Board #125-106: Employee Credentials, Design Standards and Internal Controls (amends 58 Pa. Code Chapters 435a, 461a, 465a, 467a and 501a)

Approval Order

Public Meeting held
April 8, 2010

Commissioners Voting: Arthur Coccodrilli, Chairperson; George D. Bedwick, Vice Chairperson; S. David Fineman, Esq.; Silvan B. Lutkewitte, III; John F. Mizner, Esq.

*Pennsylvania Gaming Control Board—
Preliminary Provisions; Onsite Shopkeepers Certification,
Labor Organizations; and Slot Machine Licenses;
Regulation No. 125-91 (#2708)*

On July 16, 2008, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the Pennsylvania Gaming Control Board

(Board). This rulemaking amends 58 Pa. Code Sections 438a.3, 441a.12 and 441a.13. The proposed regulation was published in the July 26, 2008 *Pennsylvania Bulletin* with a 30-day public comment period. The final-form regulation was submitted to the Commission on March 4, 2010.

This final-form regulation replaces the permitting requirements for individuals in labor organizations with registration requirements; and adds filing requirements for agreements that involve \$500,000 or more per year.

We have determined this regulation is consistent with the statutory authority of the Board (§ 1202 (b)(30) of the Pennsylvania Race Horse Development and Gaming Act (Act)) (4 Pa.C.S. § 1202(b)(30) and related provisions of the Act) and the intention of the General Assembly. Having considered all of the other criteria of the Regulatory Review Act, we find promulgation of this regulation is in the public interest.

By Order of the Commission:

This regulation is approved.

Approval Order

Public Meeting held
April 8, 2010

Commissioners Voting: Arthur Coccodrilli, Chairperson; George D. Bedwick, Vice Chairperson; S. David Fineman, Esq.; Silvan B. Lutkewitte, III; John F. Mizner, Esq.

*Pennsylvania Gaming Control Board—
Employee Credentials, Design Standards and Internal
Controls; Regulation No. 125-106 (#2803)*

On October 6, 2009, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the Pennsylvania Gaming Control Board (Board). This rulemaking amends 58 Pa. Code Chapters 435a, 461a, 465a, 467a and 501a. The proposed regulation was published in the October 17, 2009 *Pennsylvania Bulletin* with a 30-day public comment period. The final-form regulation was submitted to the Commission on March 4, 2010.

This final-form rulemaking amends provisions related to the display of Board-issued credentials and permits the use of non-fixed seating for slot machines. It also makes a number of other changes that improve clarity or add flexibility to the Board's existing regulations.

We have determined this regulation is consistent with the statutory authority of the Board (§ 1202 (b)(30) of the Pennsylvania Race Horse Development and Gaming Act (Act)) (4 Pa.C.S. § 1202(b)(30) and related provisions of the Act) and the intention of the General Assembly. Having considered all of the other criteria of the Regulatory Review Act, we find promulgation of this regulation is in the public interest.

By Order of the Commission:

This regulation is approved.

ARTHUR COCCODRILLI,
Chairperson

[Pa.B. Doc. No. 10-743. Filed for public inspection April 26, 2010, 9:00 a.m.]

Notice of Comments Issued

Section 5(g) of the Regulatory Review Act (71 P. S. § 745.5(g)) provides that the 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 regulations. The agency must consider these comments in preparing the final-form regulation. The final-form regulation must be submitted within 2 years of the close of the public comment period or it will be deemed withdrawn.

<i>Reg. No.</i>	<i>Agency/Title</i>	<i>Close of the Public Comment Period</i>	<i>IRRC Comments Issued</i>
7-443	Environmental Quality Board National Pollutant Discharge Elimination System (NPDES) Permitting, Monitoring and Compliance 40 Pa.B. 847 (February 13, 2010)	3/15/10	4/14/10
16A-4929	State Board of Medicine Behavior Specialist 40 Pa.B. 884 (February 13, 2010)	3/15/10	4/14/10
7-451	Environmental Quality Board Water Quality Standards Implementation 40 Pa.B. 876 (February 13, 2010)	3/15/10	4/14/10

Environmental Quality Board Regulation #7-443 (IRRC #2819)

National Pollutant Discharge Elimination System (NPDES) Permitting, Monitoring and Compliance

April 14, 2010

We submit for your consideration the following comments on the proposed rulemaking published in the February 13, 2010 *Pennsylvania Bulletin*. Our comments are based on criteria in section 5.2 of the Regulatory Review Act (71 P. S. § 745.5b). Section 5.1(a) of the Regulatory Review Act (71 P. S. § 745.5a(a)) directs the Environmental Quality Board (EQB) to respond to all comments received from us or any other source.

1. Basis and support for the calculation of fee amounts.—Economic impact; Fiscal impact; Lesser standards for small sources; Reasonableness; Implementation procedures; Clarity.

Fee Amounts

This regulation increases existing fees and creates new fees. The fees are listed in Sections 92a.28 and 92a.62. The EQB provided an explanation of the fees in the Preamble which, in part, states:

The Commonwealth has long subsidized the costs of administering the NPDES program and the associated regulation of point source discharges of treated wastewater, but this is no longer financially feasible or environmentally appropriate. The proposed fee structure will cover only the Commonwealth's share of the cost of administering the NPDES permit program (about 40% of the total cost, with the other 60% covered by Federal grant). The proposed fees are still only a minor cost element compared to the cost of operating a sewage or industrial wastewater treatment facility. The artificially low fees that have been charged have been increasingly at odds with the Department's emphasis on Pollution Prevention and nondischarge alternatives. The proposed fee structure will better align the revenue stream with the true cost of point source discharges to surface waters,

from both management and environmental standpoints. The sliding-scale fee structure assures that smaller facilities, which may be more financially constrained and also have a lower potential environmental impact, are assessed the lowest fees. The Department's proposal to provide for a permit-by-rule for discharges from SRSTPs [Single-Residence Sewage Treatment Plants], and the application of pesticides under §§ 92a.24 and 92a.25 relieves some permittees of any fee.

The comments on the proposed regulation include the following:

- Some commentators questioned whether the fees are "reasonable," citing the requirement for "reasonable filing fees" in 35 P. S. § 91.6.
- Based on the EQB's explanation, commentators raised issues with the number of employees required to run the program, the efficiency of the dollars expended and the accountability of the expenditures.
- The fees will impose costs on systems that are already experiencing cost increases for mandated system and treatment process improvements from programs such as the Chesapeake Bay Tributary Strategy and the United States Environmental Protection Agency.
- The fees will shift the cost burden of the programs from state government to local government.

Contrary to most comments on the proposed fees, one commentator states the proposed regulation "would appropriately end the Commonwealth's subsidizing the costs of administering the NPDES program by placing those costs on the people and entities who hold NPDES permits and discharge wastewater pursuant to them."

The Preamble provides general information on the activities the fees will cover. However, we agree with many commentators that the EQB has not provided enough detail regarding the calculation of the dollar amount of each fee. Consequently, we are unable to fully determine whether each fee is a fair representation of the activities it covers. We recommend that the EQB provide

with the final-form regulation the fully detailed calculation of each fee to establish that the fees are reasonable.

Mining activity

Related to the fees for industrial waste, a commentator questions whether treated mine drainage could be classified as a “mining activity” rather than a discharge of industrial waste. The EQB should clarify fees relating to treated mine drainage.

Exclusion for agencies of the Commonwealth

The Pennsylvania Department of Transportation (PennDOT) requests explicit exclusion from the fee provisions for agencies of the Commonwealth. PennDOT cites other regulations that exclude them from paying fees. The EQB should explain why it did not exclude PennDOT from the fee provisions in the new Chapter 92a.

2. Description of amendments in the Preamble.—Reasonableness; Clarity.

Several commentators have noted that the Preamble does not describe all of the sections in the regulation. We agree that several descriptions are missing. For the final-form regulation’s Preamble, the EQB should describe each section of the final-form regulation.

3. Section 92a.2. Definitions.—Reasonableness; Clarity.

Immediate

In our review of the regulation, we found the term “immediate” used only in Subsection 92a.41(b). Therefore, we recommend incorporating this time limitation into that section rather than defining “immediate” in Section 92a.2. In addition, the EQB should explain how the time limit is reasonable.

“Minor amendment” and “Major amendment”

A commentator believes the definition of “minor amendment” does not include everything that could be a minor amendment and requests some discretion in that determination. Another commentator questioned why a change of ownership or operational control is not included as a “minor amendment.”

We believe the distinction sought by the commentators is important because there is a direct relationship established in the regulation between the definitions of “minor amendment” and “major amendment.” As a result, what is not included in the definition of “minor amendment” by default is a “major amendment.” The EQB should review the public comments and consider whether the list in the definition of “minor amendment” is inclusive of all actions the EQB will consider to be minor amendments. Consequently, the EQB should also consider whether amendments to the definition of “major amendment” are also needed.

New source

A commentator states that this definition should include the full definition in 40 CFR 122.2, by adding subsection (b) of the Federal definition. The EQB should explain why 40 CFR 122.2(b) was not included.

Schedule of compliance

This definition is identical in both existing Section 92.1 and proposed Section 92a.2. Therefore, the EQB has continued the use of its current definition. A commentator suggests that the definition should be amended to include the phrase “in a permit” to be consistent with the federal definition in 40 CFR 122.2. The EQB should explain why it did not include the phrase “in a permit.”

Significant biological treatment

Based on our review of the regulation, we could only find the term “significant biological treatment” used in Subsection 92a.47(a). Therefore, we recommend incorporating this definition into that section rather than defining it in Section 92a.2.

In addition, commentators believe the definition is overly restrictive or implies the exclusion of other treatment approaches or methods. The EQB should explain why its definition of “significant biological treatment” is appropriate.

4. Section 92a.3. Incorporation of Federal regulations by reference.—Statutory authority; Need; Reasonableness; Clarity.

Future amendments and supplements thereto

Subsections (a) and (b) incorporate by reference the federal NPDES regulations, “including all appendices, future amendments and supplements thereto. . . .” While the Department of Environmental Protection (Department) may impose requirements already mandated by the federal government, the incorporation by reference of future, and consequently unknown, requirements may be an improper delegation of the agency’s statutory authority. Further, new obligations may be imposed without members of the regulated community and other parties having the opportunity for public comment as provided for in the Commonwealth Documents Law and the Regulatory Review Act. Additionally, section 1.6 of the PA Code and *Bulletin Style Manual* provides:

A rule adopting a code, standard or regulation by reference does not include subsequent amendments, rescissions or editions. If an agency wishes to incorporate subsequent amendments, rescissions or editions, the agency **must explicitly** do so by amendment of its existing rules or by rescinding its existing rules and promulgating new rules. [Emphasis added.]

Therefore, the Department should delete the phrase “future amendments and supplements thereto” in reference to incorporating the federal regulations.

“Applicable and not contrary” and “In the event of a conflict”

A commentator questions the clarity of Subsections (a) and (c) stating this language creates ambiguity over the fundamental question of which law or regulation applies. Consistent with our comment above regarding future amendments, the regulation should incorporate only existing, known federal provisions. Therefore, we question the need for language in Subsections (a) and (c) stating the incorporation by reference is to the extent that these provisions are “applicable and not contrary to the law of the Commonwealth” and “In the event of a conflict between Federal and regulatory provisions of the Commonwealth, the provision expressly set out in this chapter shall be applied unless the Federal provision is more stringent.” The EQB should explain the need for these phrases and how the reader of the regulation can reasonably determine their meaning.

5. Section 92a.5. Prohibitions.—Reasonableness, Economic impact.

Commentators note that existing Paragraph 92.73(8) states that

A permit will not be issued, modified, renewed or reissued under any of the following conditions: . . . (8) For a sanitary sewer overflow, except as provided for in the Federal regulations.

In comparison, the new provision in Subsection 92a.5(b) does not include the phrase “except as provided in federal regulations.” Commentators believe this may exclude provisions such as 40 CFR 122.41(m)(4)(i)(A)—(C) which provide exceptions for a treatment system bypass. We recommend that the EQB explain why the phrase “except as provided in federal regulations” is no longer needed, particularly since it relates to federal regulations which would appear to be consistent with this rulemaking.

6. Section 92a.8. Confidentiality of information.—Possible conflict with statutes or existing regulations; Clarity.

Consistency with existing regulations

Subsection (a) incorporates 40 CFR 122.7(b) by reference, which states:

(b) Applicable to State programs, see Sec. 123.25. Claims of confidentiality for the following information will be denied:

- (1) The name and address of any permit applicant or permittee;
- (2) Permit applications, permits, and effluent data.

However, Subsection (b) of the proposed regulation implies a broader scope of confidentiality than Subsection (a) by stating:

The Department may protect any information, other than effluent data, contained in NPDES forms, or other records, reports or plans pertaining to the NPDES permit program as confidential upon a showing by any person that the information is not a public record for the purposes of section 607 of the State Act (35 P. S. § 691.607). . . .

Subsections (a) and (b) appear to be inconsistent regarding what information can be considered confidential. For example, a request for confidentiality of a permit or permit application must be denied under Subsection (a), but it appears that under Subsection (b) it may be possible for the Department to grant confidentiality for that same information. The EQB should reconcile these subsections.

Consistency with statute

In addition to the above concern, a commentator believes Subsection (b) is inconsistent with the Clean Streams Law (35 P. S. § 691.607), which states that “all papers, records and documents of the Department, and applications for permits pending before the Department shall be public records open to inspection,” with an exception for the chemical and physical analysis of coal. The commentator points specifically to language in the second sentence of Subsection (b) which states “. . . and those that are confidential commercial information or methods or processes entitled to protection as trade secrets under State or Federal law.” The EQB should provide an explanation and clarification in the regulation regarding what State or Federal law, in addition to the Clean Streams Law, will be considered in regard to confidentiality of information.

7. Section 92a.12. Treatment requirements.—Economic impact.

PennDOT questions how the requirements of Subsection (d) will be applied. PennDOT explains that Subsection (d), by including Chapter 102, could retroactively require post construction controls on existing roadways. The EQB should explain how it will apply this provision and why it is reasonable to include Chapter 102 in Subsection (d).

8. Section 92a.21. Application for a permit.—Clarity.

Subsection (a) lists provisions of 40 CFR 122.21 that are incorporated by reference, but concludes with the phrase “except as required by the Department.” The phrase “except as required by the Department” is broad and infers the Department may unilaterally change the requirements of the federal regulation outside the regulatory review process. This would allow changes without notice and review by the public, regulated community, legislature or the Commission. We recommend deleting the phrase “except as required by the Department.”

9. Sections 92a.24. Permit-by-rule for SRSTPs. And 92a.25 Permit-by-rule for application of pesticides.—Consistency with statute.

A commentator believes the permit-by-rule allowed in both of these sections violates the definition of “permit” in 40 CFR § 122.2. The EQB should explain how these sections are consistent with the federal definition of “permit.”

10. Section 92a.26. New or increased discharges, or changes of waste streams.—Economic impact; Reasonableness.

Treatment standards

A commentator is concerned that the notification of facility expansion or process modifications required in Subsection (a) could trigger a Department determination that the discharge must meet tertiary treatment standards. We agree that the Department should be notified of a facility expansion or process modification. However, Subsection (a) is directed toward the process that occurs after the discharge changes.

The EQB should explain how it will review the notification after the increased discharge begins. If the notification can result in more stringent requirements, the EQB should explain how the owner of a facility can have a facility expansion or process modification reviewed for its implications prior to the investment so that the owner has the opportunity to explore alternatives.

Facility expansion or process modification

A commentator lists other factors that could result in increases of permitted pollutants, such as adding another shift at a manufacturing plant or changing the chemicals used in the process. Neither of these changes would meet the condition of a facility expansion or process modification. The EQB should review Subsection (a) to determine if other factors beyond facility expansions or modifications should be considered in determining whether the Department should be notified of increases of permitted pollutants.

60-day notice

Subsection (a) requires a 60-day notice. However, the regulation should specifically state what action starts the 60-day time period.

Department action

Subsection (a) requires Department approval in writing for increases of pollutants or new discharges. The regulation does not specify when the Department will respond which could delay needed changes to discharges or waste streams. The regulation should include a time period within which the Department will respond.

11. Section 92a.36. Cooling water intake structures.—Implementation procedure; Reasonableness; Feasibility.

Several commentators stated the Federal government is in the process of amending the Federal requirements

relating to cooling water intake structures. They cite particular concerns with the implementation of Best Technology Available (BTA) requirements that are still under development. The commentators believe that until BTA is clearly defined in the new Federal rule, the EQB should not move forward with this section. In light of the public comments, the EQB should explain how the public was provided with the opportunity to provide effective comments and how this provision will be reasonably implemented.

12. Section 92a.38. Department action on NPDES permit applications.—Consistency with statute; Reasonableness; Economic impact.

Applicable

Paragraph (a)(2) requires an application to be consistent with “other applicable statutes and regulations administered by the Commonwealth,” and “if applicable, river basin commission requirements created by interstate compact.” There are two concerns with these phrases.

First, the scope of these provisions cannot be determined. Who determines what is “applicable”? The phrases quoted above do not provide the reader with the information needed to comply with the regulation. We recommend either deleting these phrases or amending them to provide specific compliance requirements.

Second, because the scope of the above quoted phrases cannot be determined, we recommend that the EQB explain its authority to enforce “other applicable statutes and regulations administered by the Commonwealth.” Also, the EQB should explain its authority over “river basin commission requirements created by interstate compact.”

Renewal of permits

Subsection (b) provides for the review of permit applications and the Department’s consideration of local and county plans and zoning ordinances. A commentator questions how the review of a permit renewal will be conducted in relation to Subsection (b). We agree that while these reviews may be appropriate for a new facility, there is a legitimate question as to how this would apply to existing facilities applying for renewal of a permit. The EQB should amend this provision to explain how a permit renewal will be reviewed.

13. Section 92a.41. Conditions applicable to all permits.—Feasibility; Reasonableness; Need; Economic impact; Implementation procedures.

Proposed Subsection (c) states:

The discharger may not discharge floating materials, oil, grease, scum, sheen and substances that produce color, taste, odors, turbidity or settle to form deposits.

P. H. Glatfelter Company (Glatfelter) commented that it has invested tens of millions of dollars over decades to comply with the requirements related to color in its NPDES permit under existing regulations. Glatfelter’s numerical limit for color and a timeline for compliance were established as a result of litigation in both the Environmental Hearing Board and Federal district court. Glatfelter believes the proposed regulation “institutes an outright ban that is not technically achievable by many facilities in Pennsylvania . . .” and observes the limitation is “frankly unnecessary considering that many waters of the Commonwealth have considerable natural color.” Glatfelter suggests that Subsection (c) begin with the phrase “[E]xcept as may be set forth explicitly in this

permit” to allow for a variance for all of the parameters specified in proposed Subsection (c).

In addition to Glatfelter, several other commentators took issue with the EQB’s explanation and support for the amendment from existing regulation explained in the Preamble. Some commentators request that the EQB maintain existing language which allows “amounts sufficient to be inimical to the water uses” found in existing Section 92.51.

We believe the commentators have outlined a significant change from existing regulation of water quality. While we agree that the phrase “inimical to the water uses” is vague and should be made clearer, we question the effect and basis for the proposed language which imposes a ban on all of these parameters in discharges. Based on the comments and the Preamble, it does not appear that the proposed language was developed to address specific violations or damage occurring to the environment. To the contrary, via NPDES permit, the Department has for many years allowed Glatfelter to meet a different standard than what is proposed in Subsection (c) for color. Therefore, we request a detailed explanation of why Subsection (c), as proposed, is reasonable, feasible and necessary. In addition, we request an explanation of the direct and indirect costs imposed on permit holders to meet Subsection (c) and how many permits would be either invalidated or would not be renewable under Subsection (c).

14. Section 92a.47. Sewage permit.—Need; Reasonableness; Economic impact.

In the Preamble, the EQB states the following relating to compliance costs:

The proposed rulemaking addresses wastewater treatment facilities, including industrial wastewater treatment facilities, POTWs, and other facilities that treat sanitary wastewater. The treatment requirements of the NPDES regulation affect operational costs to some extent, but the proposed rulemaking does not include any new broad-based treatment requirements that would apply to most facilities. The compliance costs of the proposed rulemaking for most facilities is limited to the revised application and annual fees.

To the contrary, commentators believe Section 92a.47 imposes many changes to existing requirements that will pose major economic challenges for sewage treatment systems across the State. Commentators concerns include:

- Subsection (a) does not include key variance provisions from 40 CFR 133 that allow for modification of effluent limits.
- There is no indication the EQB has conducted a detailed legal, technical and economic analysis of these changes.
- Environmental Hearing Board decisions do not provide justification for eliminating variances.
- No rationale has been provided for changing effluent standards in Paragraphs (a)(4) and (5). In addition, these provisions are now more stringent and less flexible than current requirements. The existing provision that triggers a violation when “more than 10% of the samples tested” exceed a limit should be included.
- Why was Paragraph (a)(8) added for Total Residual Chlorine?
- Why does a discharge under Subsection (b) require tertiary treatment? Why is the existing approach not adequate?

- Subsections (b) and (c) establish mandatory new technology-based tertiary treatment standards that exceed current Pennsylvania water quality standards.

- It appears that effluent trading will not be allowed. We find this comment to be significant in relation to the EQB's ongoing proposed regulation #7-451 (IRRC #2821) "Water Quality Standards Implementation."

- The proposed regulation imposes expensive and unnecessary treatment standards.

- These revisions could pose major technical and economic challenges along with major compliance and enforcement problems for many sewage treatment systems across the State.

- It is not clear what is meant by "significant biological treatment" therefore what is included and excluded.

The EQB should better explain the need to amend existing requirements. The EQB should include a full evaluation of the costs imposed by the amendments and explain why the costs imposed are justified.

In addition, the EQB should explain how this regulation is consistent with regulation #7-451 (IRRC #2821) "Water Quality Standards Implementation," which addresses nutrient credit trading related to nutrient and sedimentation pollution in the Chesapeake Bay.

15. Section 92a.48. Industrial waste permit.—Need; Reasonableness; Economic impact.

Similar to the comment above on Section 92a.47, commentators believe the changes to Section 92a.48 are significantly more drastic than depicted by the EQB in the Preamble. Their concerns include:

- Discharge parameters, such as BOD5 and TSS, would require as much as a 97% reduction compared to existing regulation and permits.

- The EQB's generalization of industrial waste is not valid for all industrial point source categories.

- It is evident the EQB has not fully considered the economic impact of the proposed regulation, as required by 35 P. S. § 691.5(a)(5). There is no indication the EQB has conducted a detailed legal, technical and economic analysis of these changes.

- The EQB should re-evaluate the specific discharges causing violations rather than changing the standards for all industrial waste discharges.

- The TSS and BOD5 limits could cause some power plants to use more water.

The EQB should better explain the need to amend existing requirements. In addition, the EQB should provide a full evaluation of the costs imposed by the amendments and explain why the costs imposed are justified.

16. Section 92a.50. CAAP.—Clarity; Economic impact; Reasonableness.

Paragraph (d)(3) requires the use of "the most sensitive analytic method available." It is not clear how to meet this standard. Furthermore, it could require the use of expensive or elaborate equipment that may not be available or even developed yet. The regulation should clearly state what reasonable methods are acceptable.

17. Section 92a.52. Variances.—Implementation procedure; Clarity; Reasonableness.

This provision states:

Any new or amended Federal regulation enacted after November 18, 2000, which creates a variance to existing NPDES permitting requirements is not incorporated by reference.

The EQB should explain how this provision relates to and is consistent with Section 92a.3. The EQB should also explain the need for this section.

18. Section 92a.54. General permits.—Effect on this Commonwealth's resources.

Threatened or endangered species

The United States Department of the Interior commented that Subsection (a) should also prohibit discharges to waters that support Federal or State listed threatened or endangered species. The EQB should explain whether this protection is needed in addition to the other protections listed in Subsection (a).

Denial of coverage

Paragraph (e)(3) states:

The applicant has failed and continues to fail to comply or has shown a lack of ability or intention to comply with a regulation, permit, 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.

19. Section 92a.82. Public notice of permit applications and draft permits.—Protection of the public health

A commentator noted that the regulation does not include the existing requirement in Section 92.61(a)(6) to identify the following:

The location of the nearest downstream potable water supply considered in establishing proposed effluent limitations under this title, or a finding that no potable water supply will be affected by the proposed discharge.

Why is this provision no longer needed?

—
State Board of Medicine
Regulation #16A-4929 (IRRC #2820)
Behavior Specialist
April 14, 2010

We submit for your consideration the following comments on the proposed rulemaking published in the February 13, 2010 *Pennsylvania Bulletin*. Our comments are based on criteria in section 5.2 of the Regulatory Review Act (71 P. S. § 745.5b). Section 5.1(a) of the Regulatory Review Act (71 P. S. § 745.5a(a)) directs the State Board of Medicine (Board) to respond to all comments received from us or any other source.

1. Section 18.521. Purpose.—Protection of public health, safety and welfare; Reasonableness; Conflict with existing regulations.

Subsection 635.2(g)(1) of Act 62 of 2008 (Act) (40 P. S. § 764h(g)(1)) requires the Board to promulgate regula-

tions “providing for the licensure or certification of behavior specialists.” Several commentators believe the public would be better served if the Board required “licensure” instead of “certification.” They contend that certifying behavior specialists to treat under the coverage of the Act without first requiring them to be licensed will create a regulatory conflict for health plans. These commentators feel that certification is a lesser standard than licensure and will cause issues with the contracting of behavior specialists by insurance companies. Why did the Board decide to require certification of behavior specialists instead of licensure of behavior specialists?

2. Section 18.522. Definitions.—Clarity.

All of the defined terms are direct quotations from the Act, and each one provides an exact citation to the same definition in the Act. If the Board intends to use the exact definitions from the Act, they should cite the sections and not repeat the definitions in the regulation. If the Board intends to clarify the statutory definitions consistent with the language and intent of the Act, then a citation to the Act is not required.

Subsection 635.2(f)(15) of the Act (40 P. S. § 764h(f)(15)) defines the term “treatment plan.” The proposed regulation does not, even though the term is used in the body of the regulation in Subsection 18.524(b). We recommend that this term be defined or cited as described above.

3. Section 18.523. Application for certification as behavior specialist.—Clarity.

Applicants under Subsection (a) will be required to submit “all necessary supporting documents.” This term is unclear. The list of the documentation that will be required should be included in the final-form regulation.

Under Subsection (b), after the Board receives an application, how long will it take to certify the application and notify the applicant of its findings? This time frame should be included in the final-form regulation.

Subsection (d) is a partial paraphrase of the requirements of Subsection 635.2(g)(3) of the Act (40 P. S. § 764h(g)(3)). It does not include a provision from the statute that defines the term “convicted.” Since this term is used in the regulation, we suggest that the provision be included in the final-form rulemaking.

4. Section 18.524. Criteria for certification as behavior specialist.—Consistency with statute; Clarity.

This section establishes the criteria for certification as a behavior specialist. We have two general concerns with this section. First, Subsection 635.2(g)(2) of the Act (40 P. S. § 764h(g)(2)) lists five criteria to be used when evaluating an applicant’s qualifications for certification as a behavior specialist. This section of the regulation lists four of the five criteria. Why did the Board exclude the statutory criterion pertaining to good moral character?

Second, what documentation will the Board require to verify that all the requirements contained in this section have been met? The final-form regulation should specify the required documentation.

In Subsection (a), several commentators, including the House Professional Licensure Committee, asked for additional guidance on what major fields of study would be included in “another related field.” We suggest that the Board clarify what that means in the final-form regulation.

Subsection (b) and Subsection 635.2(g)(2)(iii) of the Act (40 P. S. § 764h(g)(2)(iii)) require at least “. . . one year experience involving functional behavior assessments.” A commentator suggests that the Board clarify that at least one year of experience must involve functional behavior assessments for persons under 21 because the statute only mandates coverage of services to persons under 21. The Board should consider clarifying the experience requirement as suggested by the commentator.

Subsection (c) and Subsection 635.2(g)(2)(iv) of the Act (40 P. S. § 764h(g)(2)(iv)) require 1,000 hours in direct clinical experience. How will this be verified? In addition, the House Professional Licensure Committee requests that the experience be “direct” experience and not obtained in “. . . passive approaches, i.e. only watching videotapes. . . .” What criteria will the Board use to determine if a person’s experience is suitable? We suggest that the final-form rulemaking set forth what qualifies as “direct clinical experience.”

Subsection (d) and Subsection 635.2(g)(2)(v) of the Act (40 P. S. § 764h(g)(2)(v)) reference “relevant training programs.” Neither the number of hours nor the qualifications of the people giving the training is specified. To assist the regulatory community with complying with this regulation, we suggest that the Board provide the standards it will use in making the determination that an applicant has “completed relevant training programs” in the final-form regulation.

5. Section 18.525. Renewal of certification as behavior specialist.—Protection of public health, safety and welfare; Clarity.

Several commentators, including the House Professional Licensure Committee, have recommended that the Board add continuing education requirements to the certification renewal process. How can the Board ensure that the public health, safety and welfare are adequately protected without a continuing education requirement?

Subsection (c) includes the phrase “in a manner prescribed by the Board.” To improve clarity, we suggest that the regulation specify the manner in which certification must be renewed.

6. Section 18.526. Inactive status of certification as behavior specialist.—Statutory Authority; Protection of public health, safety and welfare.

Subsection (d) would allow a certificate holder to retroactively reactivate an expired certification. Several commentators have concerns with reactivating a certification retroactively. They believe that it would allow a behavior specialist with a lapsed certification to seek insurance reimbursement for services provided while the certificate was lapsed. They also believe a person with a lapsed certificate should not be allowed to practice because there is no authority to sanction a non-certified Board specialist. The Preamble to the proposed rulemaking explains why the Board has taken this approach to the reactivation of certifications. What is the Board’s statutory authority for this approach? How can the Board ensure that the health, safety and welfare of the public are adequately protected if the behavior specialists with lapsed certifications are allowed to practice?

7. Miscellaneous Clarity.

- Existing Subsection 16.11(c) has only 9 registrations listed and enumerated. However, the new category of Behavior Specialist is listed as (c)(12). For clarity, Behavior Specialists should be listed as (c)(10).

- The fees associated with certification of Behavior Specialists are found at proposed Subsection 16.13(k). Existing Subsections (a) through (h) pertain to fees for specific medical professionals, while Subsections (i) and (j) are general fees that apply to all medical professions listed in § 16.13. We suggest listing the fees at existing Subsection (i) and moving the text of Subsection (i) to (j) and Subsection (j) to the new (k).

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**Environmental Quality Board
Regulation #7-451 (IRRC #2821)
Water Quality Standards Implementation
April 14, 2010**

We submit for your consideration the following comments on the proposed rulemaking published in the February 13, 2010 *Pennsylvania Bulletin*. Our comments are based on criteria in section 5.2 of the Regulatory Review Act (71 P. S. § 745.5b). Section 5.1(a) of the Regulatory Review Act (71 P. S. § 745.5a(a)) directs the Environmental Quality Board (Board) to respond to all comments received from us or any other source.

Section 96.8. Use of offsets and tradable credits from pollution reduction activities in the Chesapeake Bay watershed.—Fiscal impact; Effect on natural resources; Feasibility; Reasonableness; Implementation procedure; Clarity.

General

The proposed regulation is one new section with ten subsections and codifies a document entitled “Final Trading of Nutrient and Sediment Reduction Credits—Policy and Guidelines” (No. 392-0900-001), which was issued by the Department of Environmental Protection (DEP) in December 2006. Commentators identified several concerns throughout the proposed regulation. Many of the concerns are similar in that it appears the transition from a policy and guidance document to a regulation may be incomplete.

The Preamble states: “The proposed rulemaking will provide clear and certain standards for nutrient credit trading in this Commonwealth. . . .” Commentators disagree. They claim the regulation, like the existing policy document, does not contain clear and concise criteria. They contend that it creates ambiguity by allowing DEP to readjust best management practice efficiencies, thresholds, ratios, and other factors. Participation in this program is voluntary. It is also beneficial because it reduces pollution at lower costs. However, the rules governing the trading market must be consistent and predictable to encourage investment and participation. Therefore, the Board and DEP need to work with stakeholders to develop greater specificity in the criteria, procedures and standards in the final-form regulation.

Credits and offsets

Commentators have expressed concern with the Board’s similar treatment of the term “credit” and “offset” throughout the proposed regulation. They assert that there are fundamental differences between the two, and the two terms should not be treated identically. For example, commentators noted that “offsets” are already incorporated into National Pollutant Discharge Elimination System (NPDES) permits and are not subject to certification, registration or verification as outlined in this proposed regulation. The Board needs to explain the differences and similarities between the two. In addition, the procedures for certification and verification or ap-

proval processes for credits and offsets need to be clearly delineated in the final-form regulation.

Timetables and notification

Provisions in the proposed regulation refer to eligibility determinations, credit certifications, verifications or other types of decisions to be made by DEP. What are the timetables for such actions? How will affected parties be notified? Will the DEP provide written notice? To increase predictability for buyers and sellers, the Board should address these questions in the final-form regulation.

Subsection (a) Definitions.

Baseline—

Commentators, including the Pennsylvania Farm Bureau, Pennsylvania Municipal Authorities Association (PMAA), and Nutrient Trading Subcommittee of DEP’s Agricultural Advisory Board, expressed concerns with this definition. There appears to be confusion as to how the total maximum daily load (TMDL) will impact a “baseline.” In addition, it is unclear what is included in the term “similar allocation” which is used in Paragraph (ii) of this definition and in Subsection (d)(2)(ii). We recommend that DEP work with stakeholders to address these concerns. The Board should utilize greater detail in setting forth its intent in the final-form regulation.

Credit reserve

The need for the phrase “and to provide liquidity in the market” in this definition is unclear. Why would the Commonwealth want to manage “liquidity” in a market and how has DEP determined that the credit reserve will be properly sized to achieve that liquidity? The Board needs to provide an explanation or delete it from the final-form regulation.

Delivery ratio

This definition contains the phrase “defined compliance point.” However, it is not clear what this is referring to. For clarity, this phrase should be defined in the final-form regulation.

DMR—Discharge monitoring report

According to existing definitions in Section 92.1, a DMR is the same as an NPDES reporting form. Why are two different terms used for the same form?

Edge of segment ratio

Commentators questioned the use of the term “groundwater” in this definition. It is unclear whether this ratio could provide accurate information about a pollutant moving through both surface runoff and groundwater flows. The Board should provide an explanation or improve the definition in the final-form regulation.

Tradable load

This definition ends with the phrase “a level of reduction activities identified by the Department [DEP] as reasonably attainable.” What criteria and process will be used by DEP in determining what is “reasonably attainable”?

Subsection (c) Methodology.

Subsection (c)(6) includes the sentence “The Department may also rely on other published or peer-reviewed scientific sources.” How will the regulated community know what these sources are? Will DEP publish a list in the *Pennsylvania Bulletin*?

Subsection (d) Eligibility requirements for the Chesapeake Bay.

In order to generate credits and offsets, Subsection (d)(1) requires that generators “demonstrate a reduction

in pollutant loads beyond . . . any threshold established by the Department.” How will the generators know what this threshold is? This threshold should be set forth in the final-form regulation.

In its comments, PMAA contends that the language in Subsection (d)(2)(ii), together with the definition of “baseline,” will unnecessarily limit the ability of point sources to generate credits while still meeting local TMDL reduction requirements. The Board should provide an explanation, or if necessary, modify this provision to promote additional pollution reduction.

Subsection (d)(3)(ii) allows DEP to establish other threshold requirements to protect the Chesapeake Bay. Will these other requirements be promulgated as regulations? If not, how will generators know what these requirements are? We note that requirements that are not contained in law or a promulgated regulation are not enforceable by the Board or DEP. Similar concerns apply to Subsections (d)(5) and (e)(3)(v).

What is the appeals process for someone under Subsection (d)(6)? It should be cross-referenced or set forth in the final-form regulation.

Subsection (e) Certification requirements for the Chesapeake Bay.

Subsection (e)(2)(i)(D) states the “implementation of the pollutant reduction activity must be verified to the extent acceptable to the Department. . . .” What is “the extent acceptable” to DEP? There is a reference to Paragraph (4) and the “verification plan” but it is unclear how the “extent acceptable” is identified. Also, Paragraph (2)(i)(D) appears to be unnecessary since verification is covered in Paragraph (4).

Subsection (e)(3)(vi) sets forth the level at which the sum of all credits may not exceed. It then contains the phrase “. . . unless otherwise revised by the Department.” Will this be done via regulation? If not, how will generators know what the new levels are? We note that requirements not contained in law or promulgated regulations cannot be enforced.

Subsection (f) Registration requirements for the Chesapeake Bay.

In Subsection (f)(2)(ii), what are “basic contract elements”? This term should be defined. Is there a basic model contract or list of basic contract contents for which DEP will be establishing? If so, it should be set forth in the final-form regulation.

Subsection (g) Use of credits and offsets to meet NPDES permit requirements related to the Chesapeake Bay.

Paragraph (5) begins with this sentence: “Permittees are responsible for enforcing the terms of their credit and offset contracts, when needed to ensure compliance with their permit.” The expectations of this sentence are unclear. What enforcement tools will be available to permittees? In addition, PMAA expressed serious reservations about this paragraph and indicated that it may significantly reduce involvement in the trading program. The Board should explain its intent, and avoid language that will unnecessarily deter entry into the trading market.

Miscellaneous Clarity

Provisions in the proposed regulation include general references to other laws and regulations. Examples of these provisions include:

- Subsection (a), definition of “baseline,” Paragraph (i);
- Subsections (b)(5) and (6);
- Subsections (d)(4)(i) and (ii); and
- Subsections (h)(1) and (4).

Our concern with such general references is exemplified by Subparagraph (i) in the definition of “baseline” which includes this phrase “. . . which must be implemented to meet current environmental laws and regulations related to the pollutant for which credits or offsets are generated.” Subsection (a) also defines “pollutant” as “nutrients and sediment,” and “nutrients” are defined as “nitrogen and phosphorus.” Therefore, there should be specific citations to the laws and regulations related to three specific pollutants. All general references to other applicable laws and regulations should be replaced with specific citations in the final-form regulation.

ARTHUR COCCODRILLI,
Chairperson

[Pa.B. Doc. No. 10-744. Filed for public inspection April 23, 2010, 9:00 a.m.]

Notice of Filing of Final Rulemakings

The Independent Regulatory Review Commission (Commission) received the following regulations. They are rescheduled to be considered on the date noted. The Commission’s public meetings are held at 333 Market Street, 14th Floor, Harrisburg, PA at 10 a.m. To obtain a copy of the regulation, interested parties should first contact the promulgating agency. If a copy cannot be obtained from the promulgating agency, the Commission will provide a copy or a copy can be obtained on the web site, www.irrc.state.pa.us.

Final-Form

<i>Reg. No.</i>	<i>Agency/Title</i>	<i>Received</i>	<i>Public Meeting</i>
7-419	Environmental Quality Board Control of NOx Emissions from Cement Kilns	4/12/10	5/13/10
7-420	Environmental Quality Board Control of NOx Emissions from Glass Melting Furnaces	4/12/10	5/13/10
16-50	Department of State Biennial Filing Fee	4/13/10	6/3/10

Final-Omit

<i>Reg. No.</i>	<i>Agency/Title</i>	<i>Received</i>	<i>Public Meeting</i>
19-12	Department of Corrections Inmate Correspondence	4/7/10	5/13/10

ARTHUR COCCODRILLI,
Chairperson

[Pa.B. Doc. No. 10-745. Filed for public inspection April 23, 2010, 9:00 a.m.]

INSURANCE DEPARTMENT

Application for the Merger of Westchester Fire Insurance Company with and into Ace Indemnity Insurance Company

An application has been received requesting approval of the merger of Westchester Fire Insurance Company, a stock fire insurance company organized under the laws of the State of New York, with and into ACE Indemnity Insurance Company, a stock casualty insurance company organized under the laws of the Commonwealth. The filing was made under the requirements set forth under the Insurance Holding Companies Act of 1921 (40 P. S. §§ 991.1401—991.1413); Business Corporation Law (15 Pa.C.S. §§ 1921—1932); and the GAA Amendments Act of 1990 (15 P. S. §§ 21101—21208).

Persons wishing to comment on the merger are invited to submit a written statement to the Insurance Department (Department) within 7 days from the date of this issue of the *Pennsylvania Bulletin*. Each written statement must include name, address and telephone number of the interested party; identification of the application to which the statement is addressed; and a concise statement with sufficient detail and relevant facts to inform the Department of the exact basis of the statement. Written statements should be directed to Cressinda Bybee, Company Licensing Division, Insurance Department, 1345 Strawberry Square, Harrisburg, PA 17120, fax (717) 787-8557, cbybee@state.pa.us.

JOEL SCOTT ARIO,
Insurance Commissioner

[Pa.B. Doc. No. 10-746. Filed for public inspection April 23, 2010, 9:00 a.m.]

Application and Request for a Certificate of Authority to Provide a Continuing Care Retirement Community by South Western Alpha Housing and Health Care, Inc.

South Western Alpha Housing and Health Care, Inc. has applied for a Certificate of Authority to operate a Continuing Care Retirement Community at Avalon Springs Nursing Center in Mercer, PA. The initial filing was received on April 13, 2010, and was made under the requirements set forth under the Continuing Care Provider Registration and Disclosure Act (40 P. S. §§ 3201—3325).

Persons wishing to comment on the grounds of public or private interest to the issuance of a Certificate of Authority are invited to submit a written statement to the Insurance Department (Department) within 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 to inform the Department of the exact basis of the statement. Written statements should be directed to Steven L. Yerger, Insurance Department, 1345 Strawberry Square, Harrisburg, PA 17120, fax (717) 787-8557 or syerger@state.pa.us.

JOEL SCOTT ARIO,
Insurance Commissioner

[Pa.B. Doc. No. 10-747. Filed for public inspection April 23, 2010, 9:00 a.m.]

Insurance Coverages or Risks Eligible for Export by Insurance Commissioner

Under section 1604(2)(ii) of The Insurance Company Law of 1921 (40 P. S. § 991.1604(2)(ii)), the Insurance Commissioner declares the following insurance coverages to be generally unavailable in the authorized market at the present, and thus exportable, and hereby adopts the following export list. Accordingly, for those insurance coverages which are included on the export list, a diligent search among insurers admitted to do business in this Commonwealth is not required before placement of the coverages in the surplus lines market.

Export List

Amusements

- Amusement Parks and their Devices
- Animal Rides
- Recreational and Sporting Events
- Special Short Term Events
- Theatrical Presentations

Aviation

- Fixed Base Operations
- Bridge and Tunnel Contractors (liability only)
- Chemical Spray and/or Drift
- Crane and Rigging Contractors (liability and physical damage only)
- Crop Dusters (aircraft liability and aircraft hull coverage only)
- Day Care Centers Liability, including Sexual Abuse Coverage
- Demolition Contractors Liability
- Firework Sales/Manufacturing
- Flood Insurance not provided under Federal Flood Insurance
- Fuel and Explosive Haulers (excess auto liability and auto physical damage only)
- Guides and Outfitters (liability only)
- Hazardous Waste Haulers (excess auto liability and auto physical damage only)
- Hazardous Waste Storage and Disposal (liability only)
- Hunting Clubs
- Kidnapping, Ransom and Extortion Insurance
- Liquor Liability (monoline)
- Medical Malpractice Liability with or without related General Liability Coverages
- Nursing Home Liability with or without other Affiliated Elder Care Services

Products Liability (monoline) for the Manufacturing of:

- Aircraft and Component Parts
- Automotive and Component Parts
- Farm and Industrial Equipment
- Firearms
- Medical Equipment
- Petrochemicals
- Pharmaceuticals

Products Recall (monoline) for the Manufacturing of:

- Aircraft and Component Parts
- Automotive and Component Parts
- Farm and Industrial Equipment
- Firearms
- Medical Equipment
- Petrochemicals
- Pharmaceuticals

Railroad, including Consultants, Contractors and Suppliers

- Real-Estate Environmental Impairment Coverage

Security/Detective/Patrol Agencies
Taxicab Liability
Vacant Properties

This list becomes effective on the date of its publication in the *Pennsylvania Bulletin* and supersedes the list published at 39 Pa.B. 2511 (May 16, 2009), and shall remain in effect until superseded by a subsequent list as published in the *Pennsylvania Bulletin*.

Questions regarding the Export List may be directed to Cressinda E. Bybee, Office of Corporate and Financial Regulation, 1345 Strawberry Square, Harrisburg, PA 17120, (717) 783-2144, fax (717) 787-8557, cbybee@state.pa.us.

JOEL SCOTT ARIO,
Insurance Commissioner

[Pa.B. Doc. No. 10-748. Filed for public inspection April 23, 2010, 9:00 a.m.]

McQuiston Oil; Hearing

Appeal of McQuiston Oil under the Storage Tank and Spill Prevention Act; Underground Storage Tank Indemnification Fund; USTIF File No. 2006-0130(S); Doc. No. UT10-04-003

The proceedings in this matter will be governed by 2 Pa.C.S. §§ 501—508 and 701—704 (relating to Administrative Agency Law); 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure); and any other relevant procedure provisions of law.

A prehearing telephone conference shall be held on May 27, 2010, at 10 a.m. A hearing shall occur on June 10, 2010, at 10 a.m. in the Administrative Hearings Office, Room 200, Capitol Associates Building, 901 North Seventh Street, Harrisburg, PA 17102. Motions preliminary to those at hearing, protests, petitions to intervene, notices of appearance or notices of intervention, if any, must be filed with the Hearings Administrator at the previously listed address on or before May 14, 2010. Answers to petitions to intervene, if any, shall be filed on or before May 26, 2010.

On or before May 14, 2010, each party shall file with the Administrative Hearings Office a prehearing statement which shall contain: (1) a comprehensive statement of undisputed facts to be stipulated between the parties; (2) a statement of additional contended facts; (3) names and address of witnesses along with the specialties of experts to be called; (4) a list of documents to be used at the hearing; (5) special evidentiary or other legal issues; and (6) the estimated time for the party's case. Contemporaneously with service of the prehearing statement on the opposing party, each party shall supply the other with a copy of any report generated by an expert witness designated on the prehearing statement. Any report subsequently received from a party's expert witness prior to hearing shall be supplied to the other party within 2 business days. Copies of expert reports need not be filed with the Administrative Hearings Office. Experts will be permitted to testify only on matters substantially contemplated by reports supplied to the other party in accordance with this paragraph.

Persons with a disability who wish to attend the previously-referenced administrative hearing and require an auxiliary aid, service or other accommodation to

participate in the hearing, contact Donna R. Fleischauer, Human Resources Director, at (717) 705-4194.

JOEL SCOTT ARIO,
Insurance Commissioner

[Pa.B. Doc. No. 10-749. Filed for public inspection April 23, 2010, 9:00 a.m.]

Review Procedure Hearings under the Unfair Insurance Practices Act

The following insured has requested a hearing as authorized by section 8 of the Unfair Insurance Practices Act (40 P. S. § 1171.8) in connection with their companies' termination of the insureds' policies. The administrative hearing will be held in the Insurance Department's regional offices in Harrisburg, PA. Failure by an appellant to appear at a scheduled hearing may result in dismissal with prejudice.

The following hearing will be held in the Administrative Hearings Office, Capitol Associates Building, Room 200, 901 North Seventh Street, Harrisburg, PA 17102.

Appeal of Bryon and Peggy Grim; file no. 10-183-85511; Westfield Insurance Company; Doc. No. P10-04-006; May 26, 2010, 1 p.m.

Parties may appear with or without counsel and offer relevant testimony and/or other relevant evidence. Each party must bring documents, photographs, drawings, claims files, witnesses, and the like, necessary to support the party's case. A party intending to offer documents or photographs into evidence shall bring enough copies for the record and for each opposing party.

In some cases, the Insurance Commissioner (Commissioner) may order that the company reimburse an insured for the higher cost of replacement insurance coverage obtained while the appeal is pending.

Reimbursement is available only when the insured is successful on appeal and may not be ordered in all instances. If an insured wishes to seek reimbursement for the higher cost of replacement insurance, the insured must produce documentation at the hearing which will allow comparison of coverages and costs between the original policy and the replacement policy.

Following the hearing and receipt of the stenographic transcript, the Commissioner will issue a written order resolving the factual issues presented at the hearing and stating what remedial action, if any, is required. The Commissioner's Order will be sent to those persons participating in the hearing or their designated representatives. The Order of the Commissioner may be subject to judicial review by the Commonwealth Court.

Persons with a disability who wish to attend the previously-referenced administrative hearing and require an auxiliary aid, service or other accommodation to participate in the hearing, contact Donna R. Fleischauer, Human Resources Director, at (717) 705-4194.

JOEL SCOTT ARIO,
Insurance Commissioner

[Pa.B. Doc. No. 10-750. Filed for public inspection April 23, 2010, 9:00 a.m.]

PENNSYLVANIA MUNICIPAL RETIREMENT BOARD

Hearing Scheduled

A hearing has been scheduled, as authorized by 53 Pa.C.S. §§ 881.101—888.413 (relating to Pennsylvania Municipal Retirement Board), in connection with the Pennsylvania Municipal Retirement Board's (Board) denial of Claimant's requests concerning the indicated accounts.

The hearing will be held before a hearing examiner at the Pennsylvania Municipal Retirement Board, 1010 North 7th Street, Suite 301, Eastgate Center, Harrisburg, PA 17102

June 24, 2010 Edward Kachmarek 10 a.m.
(Disability)

Persons with a disability, who wish to attend the previously-listed hearing, and require an auxiliary aid, service or other accommodation to participate in the proceedings should contact Tina Eisenhart at (717) 787-2065 to discuss how the Board may best accommodate their needs.

Parties may appear with or without counsel and offer relevant testimony or evidence to support their respective positions. The hearings will be held in accordance with the requirements of 2 Pa.C.S. §§ 501—508 and 701—704 (relating to Administrative Agency Law). Under 16 Pa. Code § 91.1, (relating to applicability of general rules), procedural matters will be in conformance with 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure) unless specific exemption is granted.

JAMES B. ALLEN,
Secretary

[Pa.B. Doc. No. 10-751. Filed for public inspection April 23, 2010, 9:00 a.m.]

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Service of Notice of Motor Carrier Applications

The following temporary authority and/or permanent authority applications for the right to render service as a common carrier or contract carrier in this Commonwealth have been filed with the Pennsylvania Public Utility Commission. Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). A protest shall indicate whether it applies to the temporary authority application, the permanent authority application, or both. 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 May 10, 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.

Application of the following for approval to begin operating as common carriers for transportation of persons as described under the application.

A-2010-2168965. Nancy Carroll Keener, t/a Keener Transportation (4259 Delta Road, Airville, York County, PA 17032)—persons, in paratransit service, limited to persons whose personal convictions prevent them from owning or operating motor vehicles, from points in York County, to points in Pennsylvania, and return.

Application of the following for amendment to the certificate of public convenience approving the operation of motor vehicles as common carriers for transportation of persons as described under the application.

A-2010-2168756. Cranberry Taxi, Inc. (910 Sheraton Drive, Mars, Butler County, PA 16046), a corporation of the Commonwealth—amendment to its common carrier certificate which grants the right inter alia to transport persons, by motor vehicle upon call or demand in the County of Butler; *So As To Permit*: persons upon call or demand in the County of Allegheny.

Application of the following for amendment to the certificate of public convenience approving the operation of motor vehicles as common carriers for transportation of household goods by transfer of rights as described under the application.

A-2010-2165814. Jack Trieir, Inc. (140 Marble Drive, Lancaster, Lancaster County, PA 17601)—household goods in use, from points in the City of Lebanon, Lebanon County, and within 10 miles by the usually traveled highways of the limits of said city, to points in Pennsylvania, and vice versa, which is to be a transfer of all rights authorized under the certificate issued at A-00097607, F.1, Am-A to T. H. Heilig, Inc., subject to the same rights and conditions.

Applications of the following for the approval of the right and privilege to discontinue/abandon operating as common carriers by motor vehicle and for cancellation of the certificate of public convenience as described under each application.

A-2010-2168969. Robert L. Coon, t/a Robert L. Coon Taxi (9018 Route 949, Sigel, Jefferson County, PA 15860)—discontinuance of service and cancellation of its certificate—persons, upon call or demand, in the City of Brooksville, Jefferson County, and 20 airline miles from the borders of said city. *Attorney*: John C. Dennison, II, 293 Main Street, Brookville, PA 15825.

A-2010-2169697. Empire International, LTD. (225 Meadowlands Parkway, Secaucus, Hudson County, NJ 07094)—for the discontinuance of service and cancellation of its certificate as a common carrier, persons in limousine service, between points in the Counties of Bucks, Chester, Delaware, Montgomery, and the City and County of Philadelphia, and from points in said City and Counties, to points in Pennsylvania, and return.

JAMES J. McNULTY,
Secretary

[Pa.B. Doc. No. 10-752. Filed for public inspection April 23, 2010, 9:00 a.m.]

Telecommunications

A-2010-2170011. Windstream Pennsylvania, LLC and IDT America, Corp. Joint petition of Windstream Pennsylvania, LLC and IDT America, Corp. for approval of amendment No. 1 to the interconnection agreement under section 252(e) of the Telecommunications Act of 1996.

Windstream Pennsylvania, LLC and IDT America, Corp., by its counsel, filed on April 9, 2010, at the Pennsylvania Public Utility Commission (Commission), a joint petition for approval of amendment No. 1 to the interconnection agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days after the date of publication of this notice. Copies of the Windstream Pennsylvania, LLC and IDT America, Corp. joint petition are on file with the Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

JAMES J. McNULTY,
Secretary

[Pa.B. Doc. No. 10-753. Filed for public inspection April 23, 2010, 9:00 a.m.]

Telecommunications Services

A-2010-2169862; A-2010-2169878; A-2010-2169880; and A-2010-2169883. Blue Ridge Digital Phone Company. Application of Blue Ridge Digital Phone Company for approval to offer, render, furnish or supply telecommunications services to the public as a competitive local exchange carrier in the service territories of: Windstream D&E, Inc., Frontier Communications Pennsylvania, LLC, North Penn Telephone Company and The United Telephone Company of Pennsylvania, LLC, d/b/a CenturyLink.

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 May 10, 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: Blue Ridge Digital Phone Company

Through and By Counsel: Pamela C. Polacek, Esq., McNees Wallace & Nurick, LLC, 100 Pine Street, P. O. Box 1166, Harrisburg, PA 17108, (717) 232-8000, fax (717) 237-5300

JAMES J. McNULTY,
Secretary

[Pa.B. Doc. No. 10-754. Filed for public inspection April 23, 2010, 9:00 a.m.]

Water Service

A-2010-2169734 and A-2010-2169738. Pennsylvania American Water Company and Birch Acres Waterworks, Inc. Joint application of Pennsylvania American Water Company (PAWC) and Birch Acres Waterworks, Inc. (Birch Acres) for approval of: 1) the transfer, by sale, of the water works property and rights of the Birch Acres Waterworks, Inc. to PAWC; 2) the commencement by PAWC of water service to the public in portions of Smithfield Township, Monroe County, presently being served by the Birch Acres Waterworks, Inc; 3) the right of PAWC to record the expenses incidental to the acquisition consistent with the Uniform System of Accounts for Class A Water Utilities, National Association of Regulatory Utility Commissioners; and 4) the abandonment by Birch Acres Waterworks, Inc. of all water service to the public.

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 May 10, 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: Pennsylvania American Water Company
Birch Acres Waterworks, Inc.

Through and By Counsel: Velma A. Redmond, Esquire, Susan Simms Marsh, Esquire, Seth A. Mendelsohn, Esquire, 800 West Hersheypark Drive, Hershey, PA 17033

JAMES J. McNULTY,
Secretary

[Pa.B. Doc. No. 10-755. Filed for public inspection April 23, 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 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>
Skull Hill Dairy 1056 Rake Road Mohrsville, PA 19541	Berks County Center Township	146.4	Layers	New	Approved
F & M Farms, LLC Jacobsburg Road Wind Gap, PA 18091	Northampton County Bushkill Township	240	Horse	New	Approved
Brian Ford 1740 Noss Road Honeygrove, PA 17035	Juniata County Tuscarora Township	119.3	Layers	New	Approved
Round Hill Dairy 6105 Carlisle Pike East Berlin, PA 17316	Adams County Reading Township	0—manure storage only	Dairy	New	Approved

JOHN HANGER,
Secretary

[Pa.B. Doc. No. 10-756. Filed for public inspection April 23, 2010, 9:00 a.m.]

PROPOSED RULEMAKING

ENVIRONMENTAL QUALITY BOARD

[25 Pa. Code Ch. 105]

Dam Safety and Waterway Management

The Environmental Quality Board (Board) proposes to amend 25 Pa. Code, Chapter 105 (relating to Dam Safety and Waterway Management). The proposed amendments address the findings from an audit of the Dam Safety Program (Program) by the Auditor General's office, clarify existing sections, as well as amend outdated sections.

This proposal was adopted by the Board at its meeting of February 16, 2010.

A. *Effective Date*

These amendments will go into effect upon publication in the *Pennsylvania Bulletin* as final-form rulemaking.

B. *Contact Persons*

For further information, contact Dennis R. Dickey, P. E., Chief, Division of Dam Safety, P. O. Box 8554, Rachel Carson State Office Building, Harrisburg, PA 17105-8554, (717) 772-5951; or Marylou Barton, 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 (Department) web site at <http://www.dep.state.pa.us>.

C. *Statutory Authority*

The proposed rulemaking is being made under the authority of section 5 of the Dam Safety and Encroachments Act (35 P. S. § 693.5), which grants the Board the authority to adopt regulations and standards for the design, construction, operation, monitoring, maintenance, modification, repair and removal of dams and reservoirs, water obstructions and encroachments as are necessary and proper to carry out the purposes of the act, and sections 1917-A and 1920-A of The Administrative Code of 1929 (71 P. S. §§ 510-17 and 510-20).

D. *Background and Purpose*

The purpose of the proposed rulemaking package is to amend the Department's Dam Safety and Waterway Management regulations to address the findings of a recent audit of the Program by the Auditor General's office and to incorporate amendments to strengthen the Program. The Board proposes to amend its regulations to address the concerns of the Program and issues raised in the audit. The proposed rulemaking package will amend numerous sections within Chapter 105 to address Program concerns and address the audit findings by clarifying existing sections and amending outdated sections. The protection of the public will be improved by providing the Commonwealth the financial wherewithal to remove or otherwise modify unsafe or deficient high-hazard dams that are abandoned by the owner or when owners refuse to make necessary safety improvements. The protection of the public will also be improved by the clarification of

engineering design requirements necessary for the proper design and construction of dams.

In summary, the Board proposes to incorporate these amendments into the Dam Safety and Waterway Management regulations (25 Pa. Code Chapter 105) to clarify and make existing regulations easier to understand and amend outdated sections.

The draft proposed amendments were submitted to the Water Resources Advisory Committee (WRAC) on April 8, 2009, and July 15, 2009. The proposed amendments were approved by WRAC on July 15, 2009.

E. *Summary of Regulatory Requirements*

The proposed amendments address the findings from an audit of the Program by the Auditor General's office, clarify existing sections, as well as amend outdated sections. There are no companion Federal regulations.

§ 105.13a. *Complete applications.*

This section was previously § 105.19, but was moved to new § 105.13a in an effort to keep the application-requirement sections together. Minor revisions were made to this section.

§ 105.13b. *Proof of financial responsibility.*

This section was previously § 105.20, but was moved to new § 105.13b in an effort to keep the application requirements together. The following changes were made to this section:

- Proof of financial responsibility will now be required for all existing Hazard Potential Category 1 and Category 2 dams. The current regulation only requires proof of financial responsibility when a permit is issued for a dam. This change will ensure that sufficient funds are available for the continued operation and maintenance during the lifetime of all existing Hazard Potential Category 1 and Category 2 dams.

- The Department may, upon review, request an increase in the amount of the bond or other legal device noted in § 105.13b(a)(3) as necessary to ensure that sufficient funds are available for continued operation and maintenance during the lifetime of the facility. The Department may not increase this amount more than once every 10 years unless the facility is being modified by permit.

§ 105.41. *Notices and reports.*

This section was amended to require, for dams, a preconstruction meeting between the permittee, the Department, the contractor and the engineer responsible for construction supervision, at least 15 days but not more than 30 days prior to the commencement of construction unless a different time is established by the Department.

§ 105.42(a). *Terms and conditions of Department permits and approvals.*

This section was amended to eliminate the requirement for the permittee to sign the permit, certifying acceptance of the terms and conditions of the permit, and returning a signed copy of the permit to the Department. The permittee is still required to sign an acknowledgement form, provided by the Department, acknowledging the terms, conditions, restrictions and covenants in the permit. This eliminates a duplication of the permittee signing both the

permit and acknowledgement form and streamlines the permit issuance process. The permit will now be effective upon the Department signing the permit and sending it to the permittee.

§ 105.43. *Time limits.*

This section was amended for dams as follows:

- The Dam Permit or other Department approval for construction or modification will not have a completion date.

- If the work authorized has not commenced on or before December 31 of the 5th year following permit issuance or other Department approval, the Department must be notified 6 months prior to the anticipated commencement of work so that the project design can be reassessed and reauthorized.

- During the design reassessment, the Department may require revisions to the design due to changes in site conditions, dam classification, new technology or revisions to this Chapter.

- If, at any time, the permittee or owner decides not to perform the work, the Department must be notified in writing and the Dam Permit or Department approval will become void.

§ 105.81. *Permit applications for construction and modification of dams and reservoirs.*

This section was rewritten to more clearly outline the information that needs to be submitted with the application to better inform the regulated community of the information required.

§ 105.82. *Permit applications for operation and maintenance of existing dams and reservoirs.*

This section was rewritten to more clearly outline the information that needs to be submitted with the application to better inform the regulated community of the information required.

§ 105.88. *Dam permit issuance.*

This new section explains the issuance of a dam permit. The Department will now issue a permit for construction upon approval of application for a new dam or modification of an existing dam. Upon satisfactory completion of work, the Department will issue an operation and maintenance permit for the dam.

§ 105.89. *Letters of Amendment and Letters of Authorization for modification of dams and reservoirs.*

This new section explains the use of a Letter of Amendment and Letter of Authorization for authorizing the modification of a dam or reservoir where a permit is not required. Also, it outlines the information required to be submitted for review and approval of the authorization.

§ 105.91(b). *Classification of dams and reservoirs.*

This section was amended to add a fourth Hazard Potential Category to eliminate confusion of existing regulations Category 2 High and Category 2 Non-High and to bring the Hazard Potential Category designation in line with the revision that is expected in the National Dam Safety Program. The revision is as follows:

<i>Category</i>	<i>Population at Risk</i>	<i>Economic Loss</i>
1.	Substantial (Numerous homes or small businesses or a large business or school.)	Excessive such as extensive residential, commercial, or agricultural damage, or substantial public inconvenience.
2.	Few (A small number of homes or small businesses.)	Appreciable such as limited residential, commercial, or agricultural damage, or moderate public inconvenience.
3.	None expected (No permanent structures for human habitation or employment.)	Significant damage to private or public property and short duration public inconvenience such as damage to storage facilities or loss of critical stream crossings.
4.	None expected (No permanent structures for human habitation or employment.)	Minimal damage to private or public property and no significant public inconvenience.

§ 105.97. *Stability of structures.*

This section was expanded to explain the conditions under which the dam must be demonstrated to be stable.

§ 105.98. *Design flood criteria.*

This section was amended to more clearly explain how the spillway design flood is determined.

§ 105.107. *Final Inspection.*

This section was added to require a final inspection with the permittee or owner, the permittee or owner's supervising engineer, and the Department's field representative at the completion of work to construct a new dam or the modification of an existing dam.

§ 105.108. *Completion certification and project costs.*

§ 105.109. *As-built plans.*

These two new sections were a part of old § 105.107. These sections were added and rewritten to better explain the requirements and the information that needs to be submitted at the completion of work to construct a new dam or to modify an existing dam.

§ 105.111. *Commencement of storage of water, fluid or semifluid.*

This section was expanded to better explain the requirements which must be met prior to the commencement of storage of water, fluid or semifluid behind a newly constructed or modified dam.

§ 105.134. *EAP.*

This section was rewritten to more accurately explain the requirements and steps in developing an emergency action plan (EAP) needed in protecting the public in the event of a dam emergency. Some of the changes are:

- Prior to submitting the EAP for review or approval, the permittee or owner shall schedule a meeting with the county emergency management coordinators for those counties affected by the dam's failure.

- Each submission of the EAP shall be signed by the dam owners, the dam operators, and the county emergency management coordinators for those counties affected by the dam's failure signifying concurrence with the EAP.
- The EAP shall be prepared in accordance with the most recent EAP guidelines developed by the Department and the Pennsylvania Emergency Management Agency (PEMA).
- Upon approval of the EAP, the permittee or owner shall provide a copy of the signed approved EAP to the municipal emergency management agencies and the emergency response agencies listed in the EAP.
- Within 60 days of the date of the Department's approval letter, the permittee or owner shall provide the Department a written statement certifying that a signed approved copy of the EAP has been provided to each municipal emergency management agency and to each emergency response agency listed in the EAP.
- Within 60 days of the date of the Department's approval letter, the permittee or owner shall provide the Department a written statement certifying that the notices have been posted in the locations listed in the EAP. The permittee or owner shall certify in each subsequent annual inspection report that the notices remain posted or were reposted in the locations listed in the EAP.
- The EAP shall be reviewed and updated every 5 years or the frequency interval indicated in the most recent EAP guidelines developed by the Department and PEMA.
- The Department may require the EAP be updated, as necessary, if there is a new owner or operator of the dam, if changes occur in the downstream inundation area, or if there is a change in the Hazard Potential Category.

F. *Benefits, Costs and Compliance*

Benefits

The proposed amendments will clarify existing regulations, making them easier for the regulated community to understand and to better assure proper planning, design, construction, operation, maintenance and monitoring of dams and reservoirs to protect the health, safety, welfare and property of the public and protect the water quality and natural regime of watercourses.

The proposed rulemaking package is to amend the Department's Dam Safety and Waterway Management regulations to address the findings of a recent audit of the Program by the Auditor General's office and to incorporate amendments to strengthen the program. The audit highlighted regulatory changes to improve the Program. The Board proposes to amend its regulations to address the concerns of the Program and issues raised in the audit. The proposed rulemaking package will amend numerous sections within Chapter 105 to address Program concerns and address the audit findings by clarifying existing sections and amending outdated sections. The protection of the public will be improved by providing the Commonwealth the financial wherewithal to remove or otherwise modify unsafe or deficient high-hazard dams that are abandoned by their owner or when owners refuse to make necessary safety improvements. The protection of the public will also be improved by the clarification of engineering design requirements necessary for the proper design and construction of dams.

Compliance Costs

The regulations will apply to any owner or operator of a dam. There are approximately 2,333 owners of 3,256 dams that are affected by the existing regulations. The following table shows a breakdown of the ownership type:

<i>Ownership</i>	<i>New Hazard Potential Category</i>			
	<i>Category 1</i>	<i>Category 2</i>	<i>Category 3</i>	<i>Category 4</i>
County Owned	78	0	2	22
Municipally Owned	183	10	38	331
Privately Owned	340	73	221	1,685
State Owned	89	5	17	162

- Category 1: Substantial population at risk, 10 or more people, or numerous small businesses or a large business or school.
- Category 2: Few people at risk, less than 10 people or a small number of small businesses.
- Category 3: No population at risk, but significant damage to private or public property and short duration public inconvenience.
- Category 4: No population at risk and only minimal damage to private or public property and no significant public inconvenience

The only additional cost in the proposed revisions to the regulation is for providing proof of financial responsibility. Proof of financial responsibility will be required from private individuals or businesses who own an existing Hazard Potential Classification Category 1 or Category 2 dam. The proof of financial responsibility shall be a bond or other legal device of a form acceptable to the Department, payable to the Commonwealth, which guarantees proper construction, repair, operation and maintenance,

inspection and monitoring, and removal, if necessary, of the facility. The cost is derived from an engineering estimate for the removal of the dam, and is dam-specific based on the size and type (earthfill, concrete, stone masonry, and the like) of dam. The proof of financial responsibility can be met by providing the Department with a Surety Bond or a Collateral Bond secured by a Negotiable Bond, Cash, Certified Check, Cashier's Check, Treasurer's Check, Irrevocable Letter of Credit or Certificate of Deposit. The amount of the bond or other legal device could range from \$25,000 to \$200,000 per dam. This would be the actual cost to the owner if they used a Negotiable Bond, Cash, Certified Check, Cashier's Check, Treasurer's Check or Certificate of Deposit. If the owner provides a Surety Bond or Irrevocable Letter of Credit the actual cost would range from \$250 to \$4,000 annually. Because most of the privately owned dams are generally on the smaller side, the amount of the bond and annual maintenance cost will be toward the lower end of the range. Businesses regulated by the Public Utility Commission (PUC) need only provide a certificate of public

convenience from the PUC to meet the proof of financial responsibility requirement. Ownership of the dam by a governmental agency meets the requirement to provide proof of financial responsibility. If this amendment is not approved, the cost to the Commonwealth could be significant. When no bond or other legal device is in place, the Commonwealth would be responsible, at its expense, to take corrective actions. This would be necessary when a dam hazard emergency develops and the owner is unwilling or unable to take corrective actions necessary to prevent dam failure and potential loss of life downstream.

Compliance Assistance Plan

No financial assistance is necessary. Dam owners affected by the revisions will be advised by letter advising of the changes and how they can comply with the changes. Because most of the revisions are for clarification purposes there will be little effect on the dam owner.

Paperwork Requirements

The only additional paperwork required would be that required to obtain the necessary proof of financial responsibility. This is not an annual requirement as the amount needed for proof of financial responsibility is updated every 10 years.

G. Pollution Prevention (if applicable)

Pollution prevention is not applicable.

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 April 14, 2010, the Department submitted a copy of these proposed amendments to the Independent Regulatory Review Commission (IRRC) and to 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 amendments 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 publication of the regulations.

J. Public Comments

Written Comments—Interested persons are invited to submit comments, suggestions or objections regarding the proposed regulations 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 May 24, 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 May 24, 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 regulations 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 May 24, 2010. A subject heading of the proposal and a return name and address must be included in each transmission.

JOHN HANGER,
Chairperson

Fiscal Note: 7-452. No fiscal impact; (8) recommends adoption.

Annex A

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

Subpart C. PROTECTION OF NATURAL RESOURCES

ARTICLE II. WATER RESOURCES

CHAPTER 105. DAM SAFETY AND WATERWAY MANAGEMENT

**Subchapter A. GENERAL PROVISIONS
GENERAL**

§ 105.1. Definitions.

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

* * * * *

Archaeological site—A known site of archaeological significance based on the Comprehensive State Plan for Conservation of Archaeological Resources. The Comprehensive State Plan is available from the Historic and Museum Commission [, **Bureau of Historic Preservation, Box 1026, Harrisburg, Pennsylvania 17108**].

* * * * *

Contributory drainage area—Area upstream of a proposed or existing dam, water obstruction or encroachment that contributes runoff to a watercourse.

* * * * *

Dam—An artificial barrier, together with its appurtenant works, constructed for the purpose of impounding or storing water or [**another**] other fluid or semifluid, or a refuse bank, fill or structure for highway, railroad or other purposes which does or may impound water or [**another**] other fluid or semifluid.

* * * * *

EAP—Emergency Action Plan—A formal document that identifies potential emergency conditions at a dam and specifies preplanned actions to be followed to minimize property damage and loss of life.

(i) The EAP contains procedures and information to assist the dam owner in issuing early warning and notification messages to responsible downstream emergency management authorities of the emergency situation.

(ii) The EAP also contains inundation maps to show the emergency management authorities of the critical areas for action in case of an emergency.

* * * * *

Flowage easements—An acquired right of use of another person’s land for water temporarily or permanently impounded by a dam or backwater from the installation, operation and maintenance of a water obstruction or encroachment.

* * * * *

Hydrologic and hydraulic analysis—

(i) A study of the effects of an encroachment or water obstruction on the flow carrying capacity of a watercourse.

(ii) A study determining the watershed runoff into a dam and reservoir and the resulting routed outflow from the dam and its spillway structures.

Incremental dam breach analysis—A process to determine the highest runoff event during which a dam failure would cause a threat to life, health, property or the environment in areas below the dam in excess of the threat level caused by the same runoff event with no dam failure.

* * * * *

Letter of Amendment for dams—A letter from the Department amending an existing Dam Permit for major maintenance, repair or improvement projects which do not involve modification to the top-of-dam elevation or modification of the normal pool reservoir elevation.

Letter of Authorization for dams—A letter from the Department approving major maintenance, repair or improvement projects which do not involve modification to the top-of-dam elevation or modification of the normal pool reservoir elevation of a dam which has not been previously permitted by the Department and meets the waiver of permit requirements under § 105.12(b)(1) or (2) (relating to waiver of permit requirements).

* * * * *

Limited Power and Water Supply Act—The act of June 14, 1923 (P. L. 700, No. 293) (32 P. S. §§ 621-625); and the act of June 14, 1923 (P. L. 704, No. 294) (32 P. S. §§ 591-600), regarding Limited Power Permits and Limited Water Supply Permits from the Water Supply Commission of Pennsylvania and the conditions thereof, to the flooding and use by holders of Limited Power Permits of lands owned by the Commonwealth, to the unlawful use for water or steam power developments of dams and changes in streams hereafter constructed or made otherwise than under Limited Power Permits, and to proceedings for the enforcement of this act.

Maintenance dredging—[Dredging conducted as part of construction of a dam, water obstruction or encroachment, and periodic] Periodic dredging conducted to accomplish one or more of the following purposes:

* * * * *

(iv) Restoring the natural or previously permitted reservoir capacity

(v) Restoring flood protection projects to original design dimensions.

Major dam design revision—A revision to a previously approved or permitted dam design which requires either the Department’s review or model-

ing of a revised hydrologic and hydraulic analysis of the dam and reservoir’s capacity to pass or store, or both, the required spillway design flood; the Department’s review or modeling of an analysis to determine the ability of the dam’s spillway or decant to dewater after runoff events; or the Department’s review or modeling of a stability analysis of the revised dam design.

Maximum credible earthquake—A seismic event with a 2% probability of exceedance in 50 years.

* * * * *

PMF—Probable maximum flood—The flood that may be expected from the most severe combination of critical meteorologic and hydrologic conditions that are reasonably possible in an area. The PMF is derived from the probable maximum precipitation (PMP) as determined on the basis of the most recent data [obtained] available from the National Oceanographic and Atmospheric Administration (NOAA).

* * * * *

Person—

(i) A natural person, partnership, association, corporation, public utility, municipality, municipal authority, political subdivision of [the] this Commonwealth, receiver or trustee, firm, estate and a department, board, commission or authority of the Commonwealth or other legal entity which is recognized by law as the subject of rights and duties.

(ii) Whenever used in a section prescribing and imposing a penalty or sanction, the term includes the members of an association and the officers of a corporation, municipality or municipal authority.

* * * * *

Practicable alternative—An alternative is practicable if it is available and capable of being carried out after taking into consideration construction cost, existing technology and logistics. An area not presently owned by the applicant which could reasonably be obtained, utilized, expanded or managed to fulfill the basic purpose of the project will be considered as a practicable alternative.

* * * * *

Reservoir filling plan—A plan that sets a schedule for the initial filling of the reservoir behind a new dam or the refilling of a reservoir after the rehabilitation of an existing dam.

* * * * *

Spillway—A device which safely conveys the design flood of a dam without endangering [its] the dam’s safety or integrity.

* * * * *

Wild trout streams—A stream [classified] identified as supporting naturally reproducing trout populations by the Fish and Boat Commission under 58 Pa. Code § 57.11 (relating to listing of wild trout streams).

For a list of wild trout streams, **contact** the Fish and Boat Commission [**can be contacted at: Fish Commission, Bureau of Fisheries, Division of Fisheries Management, 450 Robinson Lane, Bellefonte, Pennsylvania 16823-9616**], **www.fish.state.pa.us**.

§ 105.4. Delegations to local agencies.

* * * * *

(b) [**No**] A delegation may be made of the authority to issue permits for a water obstruction or encroachment constructed, owned or maintained by the Commonwealth, a political subdivision or a public utility. Delegations may be made of the powers to inspect and monitor the activities, if the Department retains final authority to approve or disapprove permits, and concurrent authority to inspect, monitor and enforce the act.

* * * * *

(d) A delegation agreement [**shall**] **will**:

* * * * *

(e) A permit for a water obstruction or encroachment issued by a delegated agency is subject to review by the Department, unless the right of review is waived by the Department. A permit issued by a delegated agency shall become effective 30 days following the receipt of notice by the Department of issuance, unless the permit is disapproved by the Department or an appeal is filed with the Department under section 17 of the act [(32 P. S. § 693.17)].

* * * * *

PERMIT APPLICATIONS

§ 105.11. Permit requirements.

* * * * *

(d) A permit issued by the Department after July 1, 1979, for the construction and operation of a water obstruction or encroachment [**shall**] **will** incorporate authorization for normal repairs and maintenance of permitted structures conducted within the original specifications for the water obstruction or encroachment. A repair or maintenance involving modification of the water obstruction or encroachment from its original specifications and a repair or reconstruction involving a substantial portion of the structure shall require the prior written permit of the Department under subsection (a).

(e) A [**dam,**] water obstruction or encroachment or modification thereof, constructed or authorized pursuant to the terms of a permit issued under this chapter prior to October 12, 1991, [**shall**] **will** be deemed to comply with the construction permit requirements of this subchapter. These projects [**shall**] **must**, after October 12, 1991, comply with the operating, maintenance, monitoring and other requirements of this chapter.

(f) A dam or modification thereof, constructed or authorized pursuant to the terms of a permit issued under this chapter prior to _____, will be deemed to comply with the construction permit requirements of this subchapter. These projects **must**, after _____, comply with the operating, maintenance, monitoring and other requirements of this chapter. (*Editor's Note: The blanks refer to the effective date of adoption of this proposed rulemaking.*)

§ 105.12. Waiver of permit requirements.

* * * * *

(b) The requirements for a permit for existing structures or activities, as provided in section 6(c) of the act (32 P. S. § 693.6(c)), are waived for the following structures or activities, if construction was completed prior to July 1, 1979. If the Department upon complaint or investigation finds that a structure or activity which is eligible for a waiver, has a significant effect upon safety or the protection of life, health, property or the environment, the Department may require the owner of the structure or activity to apply for and obtain a permit under this chapter.

* * * * *

(2) A dam which the Department determines, on the basis of preliminary data submitted by the applicant, is of Size Classification C and Hazard Potential Classification [**3**] **4**, as defined in § 105.91 (relating to classification of dams and reservoirs) and does not have a significant effect on coastal resources or an adverse impact on the environment.

* * * * *

§ 105.13. Permit applications—information and fees.

* * * * *

(d) An application for a permit shall be accompanied by information, maps, plans, specifications, design analyses, test reports and other data specifically required [**by**] **under** this chapter and additional information as required by the Department to determine compliance with this chapter.

(1) For all permit applications, except small projects, this information [**shall include**] **includes**, but is not limited to, the following:

(i) A *site plan*. A site plan [**shall**] **must** include:

* * * * *

(ii) A *location map*. The location map [**shall**] **must** be of a scale factor of 1:24000 (standard U.S.G.S. Topographic Map). The location map [**shall**] **must** show all natural features including the names and boundaries of regulated waters of this Commonwealth, natural areas, wildlife sanctuaries, natural landmarks, political boundaries, locations of public water supplies and other geographical or physical features including cultural, archeological and historical landmarks within 1 mile of the site. U.S.G.S. maps may be reviewed at County Conservation District Offices or obtained by writing to: United States Geological Survey Map Distribution, Box 25286 Federal Center, Denver, CO 80225.

* * * * *

(iv) *Color photographs*. Color photographs of the proposed site shall be submitted. The photos [**shall**] **must** accurately depict the project area and provide a relative scale of the project to the surrounding area and a map showing the location and orientation of each photograph.

* * * * *

(e) A permit application for small projects located in streams or floodplains shall be accompanied by the following information. This permit application may not be used for projects located in wetlands. If upon review the Department determines that more information is required to determine whether a small project will have an insignificant impact on safety and protection of life, health, property or the environment, the Department may

require the applicant to submit additional information and processing fees required [**by**] **under** this chapter.

(1) *A site plan.* A site plan [**shall**] **must** include:

* * * * *

(5) *Color photographs.* Color photographs of the proposed site shall be submitted. The photos [**shall**] **must** accurately depict the project area and provide a relative scale of the project to the surrounding area and a map showing the location and orientation of each photograph.

(f) Except for small projects, an application for a permit under this chapter shall be accompanied by proof of an application for an Earth Disturbance Permit or an erosion and sedimentation control plan for activities in the stream and earthmoving activities. The plan [**shall**] **must** conform to [**the**] requirements [**contained**] in Chapter 102 (relating to erosion and sediment control) and [**shall**] **must** include a copy of a letter from the conservation district in the county where the project is located indicating that the district has reviewed the erosion and sediment control plan of the applicant and considered it to be satisfactory, if applicable. Earthmoving activities, including small projects, shall be conducted pursuant to an earth disturbance plan.

* * * * *

§ 105.13a. Complete applications.

(a) An application for a permit is complete when the necessary information is provided and requirements under the act and this chapter have been satisfied by the applicant.

(b) When the Department determines that an application is incomplete or contains insufficient information, it will notify the applicant in writing. The applicant shall have 60 days from the date of the Department's letter to complete the application or the Department will consider the application to be withdrawn. Requests for a specific extension shall be submitted by the applicant in writing. The applicant will be notified in writing when an application is considered withdrawn. If the applicant chooses to reapply for a permit, a new complete application and fee will be required.

§ 105.13b. Proof of financial responsibility.

For continued operation and maintenance of all existing Hazard Potential Category 1 or Category 2 dams, as classified in § 105.91 (relating to classification of dams and reservoirs), and water obstructions or encroachments, which present a substantial potential risk to life or property; and as a requirement for approval of a permit under this chapter for a Hazard Potential Category 1 or Category 2 dam, and water obstruction or encroachment, which presents a substantial potential risk to life or property, the Department will require proof of financial responsibility or security assuring the proper construction, repair, operation and maintenance, inspection and monitoring and removal, if necessary, of the facility.

(1) As proof of responsibility or security, the Department may require one or more of the following:

(i) A certificate of public convenience from the Public Utility Commission if the owner of the proposed facility is subject to regulation under 66 Pa.C.S. (relating to Public Utility Code).

(ii) Ownership or management of the facility by an agency of the Federal, State, county or municipal government or of an interstate compact.

(iii) A bond or other legal device of a form acceptable to the Department, payable to the Commonwealth, which guarantees proper construction, repair, operation and maintenance, inspection and monitoring, and removal, if necessary, of the facility. The amount of bond or legal device must be sufficient to cover the costs of entry, repair, correction, operation, maintenance, inspection, monitoring or removal of the facility by the Commonwealth in the event of failure of the owner to comply with orders of the Department, terms and conditions of the permit, this chapter and the act and section 302 of the Flood Plain Management Act (32 P. S. § 679.302).

(2) The Department may, upon review, request an increase in the amount of the bond or other legal device noted in paragraph (1)(iii) as necessary to ensure that sufficient funds are available. The Department may not increase this amount more than once every 10 years unless the facility is being modified by permit.

(3) This chapter applies to already existing permits issued for a Hazard Potential Category 1 or Category 2 dam. The owner of an already existing permitted Hazard Potential Category 1 or Category 2 dam shall satisfy the requirements of this section by ____ (*Editor's Note: The blank refers to a date 5 years after the effective date of adoption of this proposed rulemaking.*).

§ 105.14. Review of applications.

* * * * *

(b) In reviewing a permit application under this chapter [**for construction or substantial modification of a dam or reservoir, water obstruction or encroachment,**] the Department will use the following factors to make a determination of impact:

(1) Potential threats to life [**or**], property **or the environment** created by the dam, water obstruction or encroachment.

* * * * *

(3) The effect of the dam, water obstruction or encroachment on the property or riparian rights of owners [**above, below**] **upstream, downstream** or adjacent to the project.

(4) The effect of the dam, water obstruction or encroachment on regimen and ecology of the watercourse or other body of water, water quality, stream flow, fish and wildlife, aquatic habitat, instream and downstream uses and other significant environmental factors. **In reviewing permit applications, existing and designated uses will be maintained and protected.**

* * * * *

(6) Compliance by the dam, water obstruction or encroachment with applicable laws administered by the Department, the Fish and Boat Commission and river basin commissions created by interstate compact.

* * * * *

(8) Present conditions and the effects of reasonably foreseeable future development within the affected water-

shed [above] upstream and [below] downstream of the dam, water obstruction or encroachment:

* * * * *

§ 105.15. Environmental assessment.

(a) A person may not construct, operate, maintain, modify, enlarge or abandon the following categories of structures or activities until an [environmental assessment] Environmental Assessment has been approved in writing by the Department. The [environmental assessment shall] Environmental Assessment must be on a form provided by the Department and [shall] include the following information:

* * * * *

(3) For dams located in, along or projecting into an exceptional value water as defined in Chapter 93 (relating to water quality standards) for which a permit is not otherwise required under this chapter, the Department will base its evaluation on the information required by the factors included in [§ 95.1] Chapter 93 (relating to [general requirements] water quality standards) and §§ 105.13(d) and 105.14(b) and the following information submitted by the applicant:

* * * * *

(b) For structures or activities where water quality certification is required under section 401 of [The] the Clean Water Act (33 U.S.C.A. § 1341), an applicant requesting water quality certification under section 401 shall prepare and submit to the Department for review, an environmental assessment containing the information required by subsection (a) for every dam, water obstruction or encroachment located in, along, across or projecting into the regulated water of this Commonwealth.

* * * * *

§ 105.19. [Complete applications] (Reserved).

[(a) An application for a permit is not complete until the necessary information and requirements under the act and this chapter, including proof of financial responsibility, have been satisfied by the applicant.

(b) When the Department determines that an application is incomplete or contains insufficient information to determine compliance with this chapter, it will notify the applicant in writing. The applicant shall then have 60 days to complete the application or the Department will consider the application to be withdrawn by the applicant. Requests for a specific extension may be sought by the applicant in writing. The applicant will be notified in writing when an application is considered withdrawn. When an application is considered withdrawn, the Department will close the application file and take no further action to review the file, unless the applicant requests the file to be reopened after submitting the previously identified information to complete the application and a new fee. Fees will not be refunded after an application is withdrawn.]

§ 105.20. [Proof of financial responsibility] (Reserved).

[(a) Prior to the approval of a permit under this chapter for construction or modification of a dam, water obstruction or encroachment which may

present a substantial potential risk to life or property, the Department will require proof of financial responsibility or security for continued operation and maintenance during the lifetime of the facility. Dams, water obstructions or encroachments which may be subject to the proof of financial responsibility include, but are not limited to, Category 1 dams, Hazard Potential Classification, as defined in § 105.91 (relating to classification of dams and reservoirs) stream enclosures, bridges, levees, fills and floodwalls.

(b) As proof of responsibility or security, the Department may require one or more of the following:

(1) A certificate of public convenience from the Pennsylvania Public Utility Commission if the owner of the proposed facility is subject to regulation under 66 Pa.C.S. (relating to the Public Utility Code).

(2) Ownership or management of the facility by an agency of the Federal, State, county or municipal government or of an interstate compact.

(3) A bond or other legal device of a form acceptable to the Department, payable to the Commonwealth, which guarantees proper construction, repair, operation and maintenance, inspection and monitoring, and removal if necessary of the facility. The amount of bond or legal device shall be sufficient to cover the costs of entry, repair, correction, operation, maintenance, inspection, monitoring or removal of the facility by the Commonwealth in the event of failure of the owner to comply with orders of the Department, terms and conditions of the permit, this chapter and the act and section 302 of the Flood Plain Management Act (32 P. S. § 679.302).]

§ 105.20a. Wetland replacement criteria.

(a) Wetlands replacement [shall] must meet the following general criteria:

* * * * *

PERMIT ISSUANCE, TRANSFER AND REVOCATION

§ 105.21. Criteria for permit issuance and denial.

(a) In addition to the other requirements of this chapter, a permit application will not be approved unless the applicant demonstrates that the following conditions are met:

* * * * *

(2) The proposed project or action complies with the standards and criteria of this title and with other laws administered by the Department, the Fish and Boat Commission and river basin commissions created by interstate compact.

* * * * *

(5) The applicant has not been found to be in continuing violation of this title or other laws administered by the Department, the Fish and Boat Commission, or a river basin commission created by interstate compact, including, but not limited to, a violation of an adjudication and order, agreement, consent order or decree, whether or not the applicant's violation resulted in an order or civil penalty assessment.

(6) The applicant has submitted adequate proof of financial responsibility, if required under § [105.20] 105.13b (relating to proof of financial responsibility).

(b) A permit issued under this chapter shall be subject to the general and special conditions regarding construction, operation, maintenance, inspection and monitoring of a project or action that the Department may deem necessary to assure compliance with the requirements and purposes of this chapter, the act, the Flood Plain Management Act (32 P. S. §§ 679.101—679.601) and other laws administered by the Department, the Fish and Boat Commission and river basin commissions created by interstate compact.

(c) The Department may not issue a permit to operate and maintain a dam, water obstruction or encroachment constructed without a permit unless one of the following is met:

(1) The Department determines that the structure or activity complies with the standards and criteria of this title, including replacement in accordance with § 105.20a (relating to wetland replacement criteria), and with other laws administered by the Department, the Fish and Boat Commission and river basin commissions created by interstate compact.

* * * * *

§ 105.23. Compliance with other applicable statutes.

Receipt of a permit under [the provisions of] this chapter [shall] does not relieve the permittee of the obligation of complying with Federal, interstate compact and State laws, regulations and standards applicable to the construction, operation or maintenance of the dam or water obstruction.

§ 105.25. Transfer of permits.

(a) A permit [may] must be transferred [to a new owner if there is a change of ownership of the dam, water obstruction or encroachment.] or notification provided to the Department as follows:

(1) If the owner and permittee are the same person and there is a change in ownership, the permit must be transferred to the new owner of the dam, water obstruction or encroachment.

(2) If the owner and permittee are not the same person and there is a change of permittee, but not ownership of the dam, water obstruction or encroachment, the permit must be transferred to the new permittee.

(3) If the owner and permittee are not the same person and there is a change in ownership, but not permittee of the dam, water obstruction or encroachment, the change in ownership must be reported by the permittee to the Department in writing within 30 days.

(b) A permit [may] will only be transferred [only] upon application to and approval by the Department. An application for transfer shall be submitted [upon] on forms provided by the Department.

* * * * *

(d) The new [owner] permittee shall expressly agree to abide by the permit conditions and shall, if applicable:

(1) Provide the Department with proof of financial responsibility [and] or security in accordance with § [105.20] 105.13b (relating to proof of financial responsibility).

* * * * *

(f) Upon receipt of the approved application for transfer, the applicant shall affix the approved application for transfer to the original permit. The approved application for transfer shall become part of, and remain affixed to, the original permit [, until the Department issues a new permit]. The Department may prepare a new permit to replace worn or obsolete documents.

§ 105.26. Revocation and suspension of permits.

(a) Failure to comply with a provision of this chapter, an order of the Department, or a term or condition of a permit issued under this chapter, or the submission of false or misleading information on a permit application, will be cause for the Department to revoke or suspend a permit.

(b) The Department will issue to the permittee a written notice of the suspension or revocation of a permit. The notice shall be subject to the procedure for appeal and hearing before the [Environmental Hearing Board] EHB as provided [by] under section 24 of the act (32 P. S. § 693.24); section 503(b) of the Flood Plain Management Act (32 P. S. § 679.503(b)); section 1921-A of The Administrative Code of 1929 (71 P. S. § 510-21), and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law).

SUBMERGED LANDS OF THE COMMONWEALTH—LICENSES AND ANNUAL CHARGES

§ 105.31. Property rights.

(a) Except as provided in §§ 105.32 and 105.33 (relating to projects—proper purpose; and licenses for public service corporations), [no] a permit issued under this chapter may not give real or personal property rights nor grant exclusive privileges; nor may it be construed to grant or confer a right, title, easement or interest in, to or over lands belonging to [this] the Commonwealth.

(b) [No] A permit for a dam, water obstruction or encroachment to occupy submerged lands of the Commonwealth will not be issued by the Department until the applicant has first obtained one of the following:

* * * * *

§ 105.34. Navigation and public trust.

[No] An easement, right-of-way, lease or license will not be granted by the Department if it may adversely affect navigation or significantly impair the right in lands of the public held in trust by [this] the Commonwealth.

§ 105.35. Charges for use and occupation of submerged lands of this Commonwealth.

* * * * *

(c) Charges may not be imposed under section 15 of the act or section 514 of The Administrative Code of 1929 for the following categories of activities and structures:

* * * * *

(4) A project or activity constructed, owned or operated by a political subdivision of [the] this Commonwealth which provides potable water supply, sewage disposal or other similar services necessary for public health and

welfare, or in connection with a service for which no fees or charges other than general taxes are imposed.

* * * * *

(e) This section does not apply to a crossing contiguous to or in a State park or State forest lands. Easements for the crossings shall be administered in accordance with section 514 of The Administrative Code of 1929 and the park and forest land management practices of the Department of Conservation and Natural Resources.

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CONSTRUCTION REQUIREMENTS AND PROCEDURES

§ 105.41. Notices and reports.

(a) [The] Except for work authorized under §§ 105.12(a), 105.64 and Subchapter L (relating to waiver of permit requirements; emergency permits; and general permits), the permittee shall [notify the Department, in writing, of the proposed time for commencement of work at least 15 days prior to the commencement of construction.] meet the following:

(1) For permits or approvals issued for water obstructions or encroachments, requirements to provide notice of commencement of work and status reports, if any, shall be identified in conditions of the permit or by order of the Department.

(2) For permits or approvals issued for dams, a preconstruction meeting between the permittee, the Department, the contractor and the engineer responsible for construction supervision, must be conducted at least 15 days but not more than 30 days prior to the commencement of construction unless a different time is established by the Department. Thereafter, a detailed report on the status of construction must be submitted monthly to the Department of Environmental Protection, Division of Dam Safety, until construction has been completed.

(b) The Department may require submission of [the] additional reports, as it deems necessary, on the status of construction.

§ 105.42. [Acknowledgment of] Terms and conditions of Department permits and approvals.

(a) [Upon receipt of a permit, the permittee shall sign the permit thereby expressly certifying the permittee's acceptance of, and agreement to comply with, the terms and conditions of the permit. The permittee shall return a signed copy of the permit to the Department. The permit will not be effective until the signed copy of the permit is received by the Department.

(b) [The permittee or owner shall fully inform the engineer or contractor responsible for the supervision and conduct of work of the terms, conditions, restrictions and covenants covered by a permit, letter of amendment, letter of authorization, or other Department approval issued under this chapter [of the terms, conditions, restrictions and covenants of the permit].

[(c)] (b) Prior to the commencement of construction, the permittee or owner shall file [with the Department in writing, on a form provided by the Department,

a statement] an acknowledgment form provided by the Department, signed by the permittee or owner and [an individual responsible for the supervision or conduct of the construction work] other project personnel, as specified on the form, acknowledging [and accepting the general and special conditions contained] the terms, conditions, restrictions and covenants in the permit and, required by the Department, for a Letter of Amendment or Letter of Authorization. Unless the acknowledgment [and acceptance have] form has been completed and filed, the permit or other Department approval is void.

[(d)] (c) A copy of the permit or other Department approval and the acknowledgment [shall] form must be available at the work site for inspection upon request by an officer or agent of the Department or another Federal, State, county or municipal agency.

§ 105.43. Time limits.

(a) The Department will set time limits for the commencement and completion of work under a permit and may set time limits for the commencement and completion of work under a Letter of Amendment or Letter of Authorization issued under this chapter that it deems reasonable and appropriate to carry out the purposes of this chapter.

(b) [If] For water obstruction and encroachments, if the [work] construction is not completed on or before the dates [set by the Department] established in the permit, unless extended by the Department in writing, the permit shall become void without further notification [being required] by the Department.

(c) For dams, unless otherwise stated, if work authorized by the dam permit or other Department approval has not commenced on or before December 31 of the 5th year following permit issuance or other Department approval, the permittee or owner shall notify the Department 6 months prior to the anticipated commencement of work so that the project design can be reassessed and reauthorized in writing. During the design reassessment, the permittee or owner may be required to make revisions due to changes in site conditions, dam classification, new technology or revisions to this chapter. At any time if the permittee or owner does not intend to perform the work, the Department shall be notified in writing and the Dam Permit or Department approval will become void without further notification by the Department.

§ 105.44. Implementation of work according to specifications.

(a) Work undertaken under a permit or other Department approval issued under this chapter [shall] must be conducted in accordance with the maps, plans, profiles and specifications as approved by the Department.

(b) [No changes] Changes in the maps, plans, profiles and specifications for work covered by a permit or other Department approval which would affect the waterway area or structural stability of the project may not be made except with the written approval of the Department. Upon written approval by the Department, the changes shall become part of the permit.

(c) The Department will have the right during the progress of work to require changes or modifications in

the maps, plans, profiles and specifications for work covered under a permit **or other Department approval** it may determine are necessary and proper to protect public health, public safety and the environment.

§ 105.45. Inspections by the Department.

Work, structures and land covered under a permit **or other Department approval** issued under this chapter shall at all times be subject to inspection by representatives of the Department **and its authorized agents**, and the permittee **or owner** shall allow representatives of the Department **and its authorized agents** to enter a property, premises or place associated with the [permit] **permitted or approved project** for the purposes of the inspection.

§ 105.46. Implementation of erosion and sedimentation control plans.

(a) During the construction of a dam, water obstruction or encroachment, the permittee **or owner** shall follow the erosion and [sedimentation] **sediment** control plan prepared in accordance with Chapter 102 (relating to erosion and sediment control) and submitted [with and approved] as part of [his] the application.

(b) Construction [shall] **must** be done in a manner [so as] to minimize erosion of banks and bed of the stream and disturbance of the regimen of the stream.

§ 105.47. Removal of [structures] **dams and removal or abandonment of water obstructions and encroachments.**

(a) If construction work has not been completed within the time specified in the permit **or other Department approval** and the time limit specified in the permit has not been extended in writing by the Department or if a permit has been revoked for any reason, the permittee **or owner** shall, at his own expense and in a manner that the Department may prescribe, remove all or any portion of the work as the Department requires and restore the [water course and floodplain] **regulated waters of this Commonwealth** to their former condition.

(b) Prior to discontinuing use or abandonment, the permittee **or owner** of a [structure] **water obstruction or encroachment** covered by this chapter, [regardless of whether or not it was constructed under a permit from this Department or its predecessors,] shall remove all or part of the facility and take other actions as [are] necessary to protect safety and the environment in accordance with a permit **or other approval** issued by the Department.

(c) **The owner of a dam covered by this chapter, shall remove all or part of the facility and take other actions as necessary to protect safety and the environment in accordance with a permit or other approval issued by the Department.**

OPERATION, MAINTENANCE AND INSPECTION

§ 105.51. Operation and maintenance.

The permittee or owner of a dam, water obstruction or encroachment shall operate and maintain the facility and appurtenant structures in a safe condition in accordance with permit terms and conditions [and], the provisions of this chapter, **and Operation and Maintenance Manual as required by the Department** so that the facility cannot imperil life, health, safety or property located above or below the facility.

§ 105.52. [Inspection] (Reserved).

[**Regardless of the date of construction of a dam, water obstruction or encroachment or whether or not it was permitted by the Department or its predecessors, it shall be the duty of the permittee or owner of a dam, water obstruction or encroachment to evaluate the safety of the facility and appurtenant structures and to modify the facility in accordance with the permit requirements of § 105.11 (relating to permit requirements) to ensure protection of life and property in accordance with changed conditions and current safety criteria.**]

§ 105.53. Inspections by permittees or owners and inspection reports.

(a) The permittee or owner of a dam, water obstruction or encroachment shall inspect the facility and appurtenant works according to the following schedule:

(1) Dams, reservoirs and their appurtenant works shall be inspected at least once every 3 months.

(2) For **Hazard Potential** Category 1 dams and Category 2 dams as classified in § 105.91 (relating to classification of dams and reservoirs) [, which are defined as high hazard dams in § 105.1 (relating to definitions),] annual reports regarding the condition of the dam, [certified by a registered professional engineer] **affixed with the seal of a registered professional engineer and certification, which reads "This is to certify that the above dam has been inspected and the following are the results of the inspection."**, shall be submitted to the Department on or before December 31 of each year. More frequent reports of dam conditions may be required by the Department if in its discretion conditions indicate the reports are necessary to assure adequate protection of health, safety and property.

* * * * *

(4) The **permittee or owner** of a water obstruction or encroachment shall conduct periodic inspections to ensure the safe operation, monitoring and maintenance of the facility in accordance with this title, terms and conditions of the permit and approved operating or monitoring plans.

(5) The **permittee or owner** shall retain records of the inspections, including records of actions taken to correct conditions found in the inspections. Copies of the records shall be provided to the Department on request.

(6) The Department may, through terms and conditions of the permit or by request at any time, require the **permittee or owner** to submit certified reports regarding the condition of the facility to the Department.

(7) [In] **For water obstructions and encroachments, in lieu of inspections conducted by the permittee or owner and certified reports submitted by the permittee or owner, the Department may accept reports of equivalent inspections conducted and prepared by governmental agencies. In addition, the Department may accept equivalent inspection reports certified by the permittee or owner and submitted to other governmental agencies.**

(b) **Regardless of the date of construction of a dam, water obstruction or encroachment or whether or not it was permitted by the Department or its predecessors, it shall be the duty of the permittee or owner of a dam, water obstruction or encroachment to evaluate the safety of the facility**

and appurtenant structures and to modify the facility in accordance with the permit requirements of § 105.11 (relating to permit requirements) to ensure the protection of life and property with respect to changed conditions and current safety criteria. If structural or operation modifications are required as a result of the inspection findings, the permittee or owner shall apply for a permit, or request an amendment to an existing permit to perform the modifications.

INVESTIGATION AND CORRECTION OF UNSAFE CONDITIONS—EMERGENCY PROCEDURES

§ 105.61. Procedures for investigations.

The Department may, if it finds there is reasonable cause to suspect the existence of conditions adversely affecting the safety of a dam, water obstruction or encroachment, **or the environment**, order the owner to conduct investigations, studies, tests and analyses that may be required to properly evaluate the safety of the structure. The investigations, studies, tests and analyses shall be accomplished under the supervision of a registered professional engineer, experienced in the design, construction, operation and maintenance of the facilities and approved by the Department, and shall be accomplished in accordance with methods the Department may prescribe. Failure to **conduct the ordered investigations, studies, tests and analyses** and provide the investigation results **of the activities** to the Department on request will constitute adequate grounds for revocation or suspension of a permit.

§ 105.63. Emergency procedures.

* * * * *

(b) The permittee or owner of a dam or reservoir shall immediately notify the Department and responsible emergency management authorities in adjacent and downstream communities of conditions which may indicate a potential dam hazard emergency **in accordance with § 105.135 (relating to dam hazard emergencies)** including [, **but not limited to,**] one or more of the following conditions:

- (1) [**Sliding of upstream or downstream slopes or abutments contiguous to the dam.**
- (2) **Sudden subsidence of the crest of the dam.**
- (3) **Longitudinal or transverse cracking of the crest of the dam.**
- (4) **Unusual release of water from the downstream face or toe of the dam.**
- (5) **Other unusual conditions at the downstream slope of the dam.**
- (6) **Significant landslides in the reservoir area.]**

The lake or pond level is at or near the top of the dam and water is flowing, or about to flow, over the top of the dam.

(2) **The overflow pipe or spillway is damaged, or clogged with debris or ice, which is resulting in a rapid rise in the lake or pond level.**

(3) **The primary or emergency spillway is experiencing heavy flows which are causing severe erosion to the spillway or the dam embankment.**

(4) **Any structural movement or failure of the concrete (masonry) spillway or the spillway abutment walls.**

(5) **Any sloughing or sliding of the dam embankment's upstream or downstream slope. Also, earth slides in the spillway channel, either upstream or downstream of the dam's crest, which could impede the flow in the spillway.**

(6) **Subsidence, sinkholes or cracks found in any part of the dam embankment or abutting slopes.**

(7) **Any new discharge of water is observed through the dam embankment or abutting slopes, adjacent to any conduit outlets, or under the dam, which appears as a boil along the downstream toe. If a discharge occurs and the water is cloudy or muddy in color, then a very serious problem exists.**

(8) **Other conditions, which the owner's engineer knows are a concern for the dam's safety.**

(c) In case of emergency, telephone calls should be directed to the **Public Safety Answering Point (PSAP)—911, the Pennsylvania Emergency Management Agency at (717) [783-8150 or] 651-2001 or 800-424-7312 and the Department's emergency number at (717) 787-4343 or (800) 541-2050.**

§ 105.64. Emergency [permit] permits.

The Department may issue emergency permits if it finds that immediate remedial action is necessary to alleviate an imminent threat to life, property or the environment.

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(4) [**If the municipality in which the emergency occurs has waived notice, the emergency permit is effective immediately. If notice has not been waived by the municipality, the emergency permit is effective 30 days after notice is sent to the municipality in which the emergency occurred.**] The emergency permit will expire in [**30**] **60 days after the effective date of the permit unless extended in writing by the Department.**

(5) **The permittee shall notify the affected municipality of the issuance of an emergency permit as soon as possible and provide a follow-up notice in writing to the affected municipality within 48 hours from the issuance of the emergency permit.**

[*(Editor's Note: The act of August 14, 1991 (P. L. _____, No. 35) supersedes the first two sentences of § 105.64(4).*]

**Subchapter B. DAMS AND RESERVOIRS
GENERAL PROVISIONS**

§ 105.71. Scope.

Except as provided in §§ 105.3 and 105.12 (relating to scope; and waiver of permit requirements), this subchapter governs the construction, [**alteration, enlargement, repair, maintenance,**] operation [**and removal**] , **maintenance, and modification** of a dam or reservoir regulated under the act.

PERMITS, LETTERS OF AMENDMENTS AND LETTERS OF AUTHORIZATIONS

§ 105.81. Permit applications for construction and modification of dams and reservoirs.

(a) In addition to the information required [**by**] **under §§ 105.13, 105.13a, 105.13b and 105.15 [(relating to permit applications—information and fees)], per-**

mit applications under this subchapter for the construction or modification of dams and reservoirs [shall give] must provide the following information:

(1) [The name and address of the applicant.] Reports and data detailing the conduct and results of investigations and tests necessary to determine the safety, adequacy and suitability of design, including:

(i) Data concerning subsoil and rock foundation conditions.

(ii) Data concerning exploratory pits, drilling, coring and tests to determine seepage rates.

(iii) Data concerning the strength tests necessary to measure the physical properties and behavior of foundations and embankment materials at the dam or reservoir site.

(iv) Data concerning the geology of the dam site or reservoir area, indicating possible hazards such as faults, weak seams and joints.

(v) Data concerning availability and quality of construction materials.

(vi) A "Dam Stability Report" as required under § 105.97 (relating to stability of structure).

(vii) Other information as may be necessary to determine the safety, adequacy and suitability of the design, including the design calculations for the dam, which shall be made available to the Department on request.

(2) [The location, type, size, height and purpose of the proposed dam and reservoir and appurtenant works] Site plan and cross sectional views required under § 105.13(d)(1)(i) (relating to permit applications-information and fees).

(3) Construction plans, specifications and design reports in sufficient detail to evaluate the safety, adequacy and suitability of the proposed dam, reservoir and appurtenant works.

(4) A schedule indicating proposed commencement and completion dates for construction.

(5) For projects involving storage of fluids or semifluids other than water, information concerning the chemical content, viscosity and other pertinent physical characteristics of the fluid or semifluid impounded.

[(4) The storage capacity and reservoir surface areas for normal pool and maximum high water.

(5) Plans] (6) An instrumentation plan including justification and design for [purposed] the installation of permanent monitoring instruments to measure the performance of [performance by instrument installations in] the dam [, including the purposes of the instrumentation]. If no instrumentation is considered necessary, [reasons for this judgment may] justification shall be [stated] provided.

[(6)] (7) [As accurately as may be readily obtained, the area] A hydrologic and hydraulic analysis, submitted as a separate report, which includes:

(i) The size, shape and characteristics of the drainage basin [, pertinent rainfall and streamflow].

(ii) Current precipitation data and precipitation distribution information as required by the Department.

(iii) Streamflow records [, and flood].

(iv) Flood flow records and estimates.

(v) An incremental dam breach analysis, storage capacity and reservoir surface area for normal pool and maximum storage elevations.

(vi) Other hydrologic and hydraulic determinations necessary for the design and operation of the dam.

[(7)] (8) [The proposed time for commencement and anticipated completion of construction] For existing dams, copies of the structure's most recent inspection reports.

[(8)] (9) [The method and schedule of operation of the dam including an emergency warning system and operation plan] EAP if required under § 105.134 (relating to [emergency action plan] EAP).

[(9) Plans for control of erosion and water pollution during the anticipated construction operations including plans for adequate measures to limit the erosion of the soil from exposed slopes after completion of construction. The plans shall indicate that adequate control measures will be taken during construction to protect the quality of stream flow below the project site. The application shall include a copy of a letter from the conservation district in the county where the project is located indicating that the district reviewed the erosion and sediment control plan of the applicant and considers it to be satisfactory.]

* * * * *

(11) An Operation and Maintenance Manual for the dam as required under § 105.131 (relating to operation, maintenance and monitoring).

(12) Other information the Department may require.

(b) [The application shall be accompanied by a design report, construction plans and specifications, in sufficient detail to evaluate the safety, adequacy and suitability of the proposed work.

(c) The applicant shall conduct and submit the results of the investigations and tests as the Department, in its judgment, believes are necessary to determine the safety, adequacy and suitability of design, including but not limited to:

(1) Data concerning subsoil and rock foundation conditions and the materials entering into the construction of the dam or reservoir.

(2) Data concerning exploratory pits, drilling, coring and tests to determine seepage rates.

(3) Data concerning the strength tests necessary to measure the physical properties and behavior of foundation and embankment materials at the dam or reservoir site.

(4) Data concerning the geology of the dam or reservoir area, indicating possible hazards such as faults, weak seams and joints.

(5) Data concerning availability and quality of construction materials.

(6) Other information as may be necessary, including the design calculations for the dam, which shall be made available to the Department on request.

(d) Plans and specifications and the results of tests or investigations shall be prepared under the supervision of and certified by a registered professional engineer experienced in dam design and construction and assisted by qualified engineers, geologists and other specialists, when necessary.]

The Department may waive specific information requirements of this section in writing, if the Department finds that specific information is not necessary to review the application.

§ 105.82. Permit applications for operation and maintenance of existing dams and reservoirs.

(a) In addition to information required [by] under §§ 105.13 [and 105.14], 105.13b and 105.15 (relating to permit applications—information and fees; [and review of applications] proof of financial responsibility; and environmental assessment), a permit application for the operation and maintenance of existing dams and reservoirs [shall give] must provide the following information:

(1) [The name and address of the applicant] Site plan and cross sectional views required under § 105.13 (d)(1)(i).

(2) [The location,] “As built” construction plans, specifications and design reports not already on file with the Department, which show the type, size, height and [purpose] other pertinent dimensions and features of the existing dam and reservoir and appurtenant works.

* * * * *

(4) [The storage capacity and reservoir surface areas for normal pool and maximum high water.

(5)] A description of facilities and plans for monitoring the performance of the dam.

[(6) Information on the area] (5) A hydrologic and hydraulic analysis, submitted as a separate report, which includes:

(i) The size, shape and characteristics of the drainage basin [, rainfall and stream flow].

(ii) Current precipitation data and precipitation distribution information as required by the Department.

(iii) Streamflow records [, and flood].

(iv) Flood flow records and estimates [, when available].

(v) An incremental dam breach analysis, storage capacity and reservoir surface area for normal pool and maximum storage elevations.

(vi) Other relative hydrologic and hydraulic information that may be available.

[(7)] (6) Information [readily] available regarding the foundation, embankment stability, specifications and construction of the dam.

[(8) The method and schedule of operation of the dam, if deemed necessary by the Department.]

(7) A manual which includes plans for the operation and maintenance of the dam in accordance with § 105.131 (relating to operation, maintenance and monitoring).

[(9)] (8) The [emergency warning plan] EAP for the dam or reservoir, if completed, or work plan to prepare and submit an emergency [warning] action plan in accordance with § [§ 105.131 and] 105.134 (relating to [operation and monitoring plans; and emergency action plan] EAP).

[(10)] (9) Proof of title or flowage easements for land areas below the top of the dam elevation that is subject to inundation.

[(11)] (10) Reports of the most recent inspections of the dam conducted by the owner or by the State or Federal government agencies.

[(12)] (11) Other information as the Department may require.

* * * * *

§ 105.88. Dam permit issuance.

(a) Upon the Department’s review and approval of the dam permit application for the construction or modification of a dam in accordance with § 105.81 (relating to permit applications for construction and modification of dams and reservoirs), the Department will issue a dam construction permit.

(b) For newly constructed or modified dams permitted under subsection (a), the Department will issue a dam operation and maintenance permit after the following conditions have been met:

(1) Meeting the requirements of §§ 105.107—105.109 (relating to final inspection; completion certification and project costs; and as-built plans) by the owner or permittee.

(2) Acceptance of construction or modification by the Department.

(c) Upon the Department’s review and approval of the dam permit application for operation and maintenance of existing dams in accordance with § 105.82 (relating to permit applications for operation and maintenance of existing dams and reservoirs), the Department will issue a dam operation and maintenance permit.

§ 105.89. Letters of Amendment and Letters of Authorization for modification of dams and reservoirs.

(a) Projects which do not modify top of dam elevation, normal pool elevation, or normal operation of the pool level may be authorized by Letter of Amendment when the dam has an existing permit or by Letter of Authorization when the dam meets § 105.12(b) (relating to waiver of permit requirements). The permittee or owner shall provide the following information:

(1) Reports and data detailing the conduct and results of investigations and tests necessary to determine the safety, adequacy and suitability of design, including:

(i) Data concerning subsoil and rock foundation conditions.

(ii) Data concerning exploratory pits, drilling, coring and tests to determine seepage rates.

(iii) Data concerning the strength tests necessary to measure the physical properties and behavior of foundations and embankment materials at the dam or reservoir site.

(iv) Data concerning the geology of the dam site or reservoir area, indicating possible hazards such as faults, weak seams and joints.

(v) Data concerning availability and quality of construction materials.

(vi) A "Dam Stability Report" as required under § 105.97 (relating to stability of structures).

(vii) Other information as may be necessary to determine the safety, adequacy and suitability of the design, including the design calculations for the dam, which shall be made available to the Department on request.

(2) In addition to the site plan and cross sectional views required under § 105.13(d)(1)(i) (relating to permit applications—information and fees), construction plans, specifications and design reports in sufficient detail to evaluate the safety, adequacy and suitability of the proposed dam, reservoir and appurtenant works, and a schedule indicating proposed commencement and completion dates for construction.

(3) For projects involving storage of fluids or semifluids other than water, information concerning the chemical content, viscosity and other pertinent physical characteristics of the fluid or semi-fluid impounded.

(4) Plans for proposed permanent monitoring of performance by instrument installations in the dam, including the purposes of the instrumentation. If no instrumentation is considered necessary, reasons for this engineering judgment shall be stated.

(5) A hydrologic and hydraulic analysis, submitted as a separate report, which includes the following:

(i) The size, shape and characteristics of the drainage basin.

(ii) Current precipitation data and precipitation distribution information as required by the Department.

(iii) Streamflow records.

(iv) Flood flow records and estimates.

(v) An incremental dam breach analysis, storage capacity and reservoir surface area for normal pool and maximum storage elevations.

(vi) Other hydrologic and hydraulic determinations necessary for the design and operation of the dam.

(6) For an existing dam, copies of the structure's most recent inspection reports.

(7) An EAP if required under § 105.134 (relating to EAP).

(8) A manual documenting the operation and maintenance procedures for the dam.

(9) For projects impacting wetlands or exceptional value waters, or if the project requires 401 water quality certification, environmental assessment approval will be required under § 105.15 (relating to environmental assessment).

(b) The Department may waive the specific information requirements of this section in writing, if upon review of the request for Letter of Amendment or Letter of Authorization, the Department finds that specific information is not necessary to approve the project.

CLASSIFICATION AND DESIGN CRITERIA FOR APPROVAL OF CONSTRUCTION, OPERATION, MODIFICATION AND MAINTENANCE

§ 105.91. Classification of dams and reservoirs.

(a) A dam or reservoir shall be classified in accordance with [size] **Size Category** and the [hazard potential] **Hazard Potential Category** which might occur in the event of an operational or structural failure. In approving a [hazard potential] classification, the Department will consider, without limitation:

* * * * *

(b) **Size Category** will be determined by either storage or height of structure, whichever results in the higher category. **Hazard Potential Category** will be determined by either loss of life or economic loss, whichever results in the higher category. The following shall be the [classifications] categories and descriptions as used in this subchapter:

SIZE [CLASSIFICATION*] CATEGORY

[Class] Category	Impoundment Storage (Acre Feet)	Dam Height (Feet)
	A	
B	Less than 50,000 but greater than 1000	Less than 100 but greater than 40
C	Equal to or less than 1000	Equal to or less than 40

[*Note: Size classification may be determined by either storage or height of structure, whichever gives the higher category.]

HAZARD POTENTIAL [CLASSIFICATION] CATEGORY

[Extent of Development]

Category	[Loss of Life] Population at Risk	Economic Loss
	1	

Excessive such as [() extensive residential, commercial, or agricultural [and] damage, or substantial public inconvenience [)].

<p>Category</p> <p>2</p> <p>3</p> <p>[3] 4</p>	<p>[Loss of Life] Population at Risk</p> <p>Few (A small number of homes or small businesses.)</p> <p>[Few (no rural communities or urban developments and no more than a small number of habitable structures)] None expected (no permanent structures for human habitation or employment.)</p> <p>None expected (no permanent structure for human habitation or employment.)</p>	<p><i>Economic Loss</i></p> <p>Appreciable such as limited residential, commercial, or agricultural damage, or moderate public inconvenience.</p> <p>[Appreciable] Significant [()] damage to private or public property and short duration public inconvenience [)] such as damage to storage facilities or loss of critical stream crossings.</p> <p>Minimal [(undeveloped or occasional structures with no significant effect on public inconvenience)] damage to private or public property and no significant public inconvenience.</p>
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require submission of models utilizing current acceptable methodologies to demonstrate this capability without excessive erosion and failure of the spillway system.

(b) Each spillway [shall] must include a satisfactory means of dissipating the energy flow at its outlet to assure conveyance of flow without endangering the safety and integrity of the dam or the natural environment of the stream.

(c) Each spillway floor slab must be provided with adequate drainage, anchors, or drainage and anchors to be stable against uplift.

§ 105.96. Outlet works.

(a) Dams [shall] must include a device to [permit] allow the complete draining of the reservoir [within a reasonable period of time as determined by the Department] unless the Department determines that an outlet works is not feasible for a specific dam. At minimum, the device must be sized to pass a minimum of 70% of the highest mean monthly inflow at the site plus the capacity to drain the top 2 feet of reservoir storage below normal pool in 24 hours. The Department may require an increased size to provide for the integrity of the dam and to protect life and property with an adequate margin of safety.

(b) In determining the reasonable time period for drainage of the reservoir, the dam owner, the dam owner's engineer, and the Department may consider, without limitation, the following factors:

* * * * *

(c) Under normal conditions, the maximum rate of drawdown for reservoirs impounded by earthfill dams should not exceed 1 foot per day without prior approval by the Department. Under emergency conditions, the maximum rate of partial or complete drawdown of reservoirs must be approved by the Department, when feasible.

(d) Each outlet works [shall] must include upstream closure, trashrack, and a means of dissipating the energy of flow at its outlet to assure conveyance of flow without endangering the safety and integrity of the dam or the natural environment of the stream.

§ 105.97. Stability of [structure] structures.

(a) Dams [shall] must be structurally sound and [shall] be constructed of sound and durable materials. The [completed] structure [shall] must be stable [under all probable conditions of operation] during and at the completion of construction.

(b) [In reviewing the stability of a structure, the Department may consider, without limitation, the following] As part of the permit application for the construction or modification of a dam, the design engineer shall submit to the Department, under professional seal and certification, a report entitled "Dam Stability Report" which clearly demonstrates to the Department that the requirements of subsection (a) have been satisfied. At a minimum, this report must address the following considerations:

* * * * *

§ 105.92. Foundations.

(a) The foundation of a dam or reservoir [shall] must be stable under all probable conditions.

(b) In analyzing the stability of the foundation of a proposed or existing dam or reservoir, the applicant shall consider [all of] the following factors:

(1) The seismic forces and liquefaction potential at the site.

(2) The [shearing] shear strength of the foundation.

(3) Settlement [and], subsidence, and carbonate karst solution features, such as sinkholes and solution channels.

(4) [Leakage, permeability and solubility] Seepage potential through the soil and rock components of the foundation.

(5) The dispersive characteristics of the soil foundation and borrow areas.

§ 105.93. Design stress.

In the construction of dams and reservoirs, allowable stresses [shall] must conform to the current standards accepted by the engineering profession.

§ 105.94. Spillways.

(a) Every dam [shall] must be provided with a spillway system which is capable of safely conveying the design flood, as provided in § 105.98 (relating to design flood criteria), of the dam without endangering the safety or integrity of the dam. The Department may

(2) [The] A stability analysis based on the properties of the structure's materials and on the seismic forces and [hydraulic forces] seepage conditions affecting the structure.

* * * * *

(c) Earthfill dams must be demonstrated to be stable for the following conditions:

(1) Normal pool with steady-state seepage conditions with a factor of safety of 1.5.

(2) Maximum pool with steady-state seepage conditions with a factor of safety of 1.4.

(3) Sudden drawdown from normal pool conditions with a factor of safety of 1.2.

(4) Normal pool with steady-state seepage conditions under seismic forces produced by the maximum credible earthquake with a factor of safety of 1.1.

(5) Completion of construction with no pool with a factor of safety of 1.3.

(d) Gravity dams must be demonstrated to be stable for the following conditions:

(1) Normal pool with appropriate uplift pressures, ice loads and silt loads with a factor of safety of 2.0.

(2) Maximum pool with appropriate uplift pressures and silt loads with a factor of safety of 1.7.

(3) Normal pool with appropriate uplift pressures and silt loads under seismic forces produced by the maximum credible earthquake with a factor of safety of 1.3.

(e) For gravity dams, the overturning stability is acceptable when the resultant of all forces acting on the dam is located as follows:

(1) Within the middle third of the structure for normal pool conditions.

(2) Within the middle half of the structure for maximum pool conditions.

(3) Within the structure for earthquake conditions.

(f) For gravity dams, the foundation bearing pressures must be less than or equal to the allowable for no pool, normal pool and maximum pool conditions and less than 133% of the allowable for earthquake conditions.

(g) The factors of safety for earthfill dams or gravity dams must be the higher of:

(1) The factors of safety in subsections (c) and (d).

(2) The factors of safety in the most recent Engineering Manuals developed by the United States Army Corps of Engineers relating to stability of dam structures.

§ 105.98. Design flood criteria.

[(a)] The discharge capacity or storage capacity, or both, [shall] must be capable of safely accommodating the recommended design flood for the [size and hazard potential classification of the dam as determined by] dam as classified under § 105.91 (relating to classification of dams and reservoirs). The [design flood is intended to represent the largest flood that need

be considered in the evaluation of a given project. When a range of] design flood [is indicated, the magnitude that most closely relates to the size and hazard potential shall be selected. Design flood criteria shall be as indicated in the following table:] must be determined by an incremental dam breach analysis. The minimum required design storm duration is 24 hours. When considered appropriate by the Department, engineering judgment may be used to determine the design flood within the design flood range indicated below for dams of Hazard Potential Category 3 or 4. The classification or damage, or both, resulting from dam failure will determine the design flood within the design flood range.

[Size and Hazard Potential]

Classification	Design Flood Range
[A-1, A-2, B-1]	[PMF]
A-3, [B-2, C-1] B-3	1/2 PMF to PMF
[B-3, C-2] A-4, B-4, C-3	100 year to 1/2 PMF
[C-3] C-4	50 year to 100 year frequency

[(b) The Department may, in its discretion, require consideration of a minimum design flood for a class of dams or reservoirs in excess of that set forth in subsection (a) when it can be demonstrated that the design flood requirement is necessary and appropriate to provide for the integrity of the dam or reservoir and to protect life and property with an adequate margin of safety.

(c) The Department may, in its discretion, consider a reduced design flood for a class of dams or reservoirs when it can be demonstrated that the design flood provides for the integrity of the dam or reservoir and protects life and property with an adequate margin of safety.]

CONSTRUCTION REQUIREMENTS AND PROCEDURES

§ 105.101. [Notices and reports] (Reserved).

[At least 15 days prior to commencement of construction, the permittee shall notify the Department, in writing, of the proposed time for commencement of work. Thereafter, a detailed report on the status of construction shall be submitted monthly to the Department of Environmental Resources; Division of Dam Safety; Post Office Box 2357, Harrisburg, Pennsylvania 17120, until construction work has been completed.]

§ 105.102. Personnel and supervision.

(a) Work [shall] must be conducted under the oversight and supervision of a [competent] professional engineer approved by the Department [, and the]. The professional engineer or [a competent] Department-approved representative shall be on the work site during significant construction activities until the completion of the dam.

(b) The permittee or owner shall file with the Department, at least 15 days prior to the commencement of construction, a statement setting forth the name [of the contractors conducting the work authorized by the permit and the names and employers of personnel

responsible for the supervision of construction.] and employer, including contact information, of the following:

(1) The professional engineer responsible for oversight and supervision of construction.

(2) Representatives of the professional engineer.

(3) Contractors conducting the work authorized by the permit, Letter of Amendment or Letter of Authorization as required by the Department.

§ 105.103. Weather and ground conditions.

(a) No earth or other embankment material [which is] may be covered, placed, compacted, or graded when in a frozen condition [may be covered or placed in embankments].

* * * * *

§ 105.104. Removal and disposal of vegetation.

(a) Work shall be conducted in [such] a manner [as] to minimize the destruction of or damage to trees and other vegetation on and adjacent to the construction site.

(b) Vegetation cleared and removed from the site shall be disposed of in accordance with [all] applicable laws and regulations.

§ 105.106. Activities and facilities on the construction site.

Activities and facilities on the construction site [shall] must be conducted and operated in [such] a manner [as] to avoid pollution of the air and waters of this Commonwealth and in accordance with applicable laws and the provisions of this title.

§ 105.107. [Completion certificate and final plans] Final inspection.

[(a) Within 30 days after the completion of work authorized by permit issued under this subchapter, the permittee shall file with the Department a certified statement signed by the supervising engineer and by the permittee that work has been performed in accordance with the terms and conditions of the permit; with the approved maps, plans, profiles and specifications; and with applicable laws and the provisions of this title.

(b) Within 90 days after the completion of work, the permittee shall file with the Department a set of final "as built" plans for the project, showing changes from the original plans and specifications.]

Within 10 days after the completion of work on a dam authorized by the Department, the permittee or owner shall schedule a final project inspection with the Department. The final inspection must include the permittee or owner, the permittee or owner's supervising engineer, and the Department's field representative. Upon conclusion of this final inspection, the Department's field representative will present the permittee or owner with a list of any deficient items, if necessary. A follow-up final inspection may be required by the Department. At the discretion of the Department, the final inspection may be waived for projects authorized by Letter of Amendment or Letter of Authorization.

§ 105.108. Completion, certification and project costs.

Within 30 days after the final inspection or within 30 days of completion of the work if the final inspection is waived by the Department, the permittee or owner shall file with the Department a completion certification provided by the Department stating that work has been performed in accordance with the terms and conditions of the permit or other Department authorization; the approved maps, plans, profiles and specifications; and applicable laws and the provisions of this title. The completion certification must contain the following:

- (1) Original signature of the permittee or owner.
- (2) Seal and original signature of the supervising engineer.
- (3) Design cost.
- (4) Construction cost.
- (5) Construction inspection cost.
- (6) Estimated percentage of the total cost for each major feature of the project.

§ 105.109. As-built plans.

Within 90 days after the final inspection or completion of the work, if the final inspection is waived by the Department, the permittee or owner shall file with the Department "as built" plans for the project, indicating revisions from the original plans and specifications.

[WATER] STORAGE AND DISCHARGE

§ 105.111. Commencement of [water] storage of water, fluid or semifluid.

(a) The permittee shall notify the Department, in writing, at least [1 week] 7 days in advance of the date proposed for the commencement of [water] storage of water, fluid or semifluid in the reservoir [or pond] created by the dam for which the permit is issued.

(b) The Department may [, at its discretion,] require that a reservoir filling plan be developed and approved by the Department prior to commencement of storage of water, fluid or semifluid. This plan will provide the acceptable rate of rise of the reservoir and, if necessary, elevations and durations for constant reservoir levels within the filling period. This plan may also require lowering of the reservoir level if the prescribed rate of rise is not controlled or attained. The plan may also require monitoring of instrumentation of the dam.

(c) The Department may require that a representative of the Department be at the site before or during the filling of the [pond or] reservoir.

(d) The initial storage in the reservoir of new dams and refilling of reservoirs of rehabilitated dams may not commence prior to the submission of the information required in § 105.108 (relating to completion certification and project costs) and the acceptance of the certification, in writing, from the Department.

§ 105.112. Stream flow during construction, filling and repair.

During the period of construction, [alteration] modification, enlargement or repair and during the period

that the [**pond or**] reservoir is being filled, the permittee shall allow a sufficient flow of water, as determined by the Department, into the stream below the dam to support fish and other aquatic life and to preserve the water quality in the stream.

§ 105.113. Releases.

(a) The Department will impose general and special conditions regarding release rates in a permit for a dam or reservoir that it deems necessary to maintain stream flows for the purposes of protection of public health, water quality control, conservation of fisheries and aquatic habitat, improvement of recreation and protection of instream and downstream water uses. The appropriate release rates for the dams and reservoirs [**shall**] will be established in accordance with subsections (b) and (c).

* * * * *

(d) Every dam [**shall**] **must** at all times be operated in [**such**] a manner [**as**] to allow the required flow of water into the stream below the dam as established under this section, and as otherwise necessary to support fish and other aquatic life and to assure compliance with the water quality [**criteria set forth**] standards in Chapter 93 (relating to water quality standards) and to provide for other instream uses for the affected stream.

PROTECTION AND RESTORATION OF AQUATIC LIFE

§ 105.121. Fishways.

Upon the request of the Fish and Boat Commission, the permittee shall install and maintain chutes, slopes, fishways, gates or other devices that the Fish and Boat Commission may require [**under sections 185—187 of The Fish Law of 1959 (30 P. S. §§ 185—187) (Repealed)**] under 30 Pa.C.S. §§ 3501—3505.

§ 105.122. Drawdown of impounded waters.

Impounded waters which are inhabited by fish may not be drawn down except with the written approval of the Fish and Boat Commission [**issued under section 191 of The Fish Law of 1959 (30 P. S. § 191) (Repealed)**] under 30 Pa.C.S. § 3506 (relating to drawing off or interference with dams or devices).

§ 105.123. Restoration of aquatic life.

If the Department finds that construction of a dam or reservoir has [**so**] substantially disrupted aquatic life [**as**] to preclude natural restoration of the stream ecology within a reasonable period of time, the permittee shall be required to submit and implement a plan to restore the aquatic life of the stream to its prior condition, to the maximum extent possible. The plan shall be subject to review and modification by the Department in consultation with the Fish and Boat Commission and [**shall**] **must** include, but not be limited to, the following:

* * * * *

OPERATION, MAINTENANCE AND EMERGENCIES

§ 105.131. Operation, **maintenance** and monitoring [**plans**].

(a) In addition to the requirements of §§ 105.51—105.54 (relating to operation, maintenance and inspection), the permittee or owner of a dam [**or reservoir**] shall follow the [**method and schedule of operation**

of] **operation and maintenance manual for the dam [or reservoir], [including] and the emergency action plan if required [by] under § 105.134** (relating to emergency action plan), as approved by the Department and shall implement a **monitoring plan [approved by the Department for permanent monitoring of performance by instrument installation in the dam] as required under § 105.81(a)(4) (relating to permit applications for construction and modification of dams and reservoirs).**

(b) A permittee or owner of a dam or reservoir may not modify or cease implementation of all or part of the approved plans and methods of operation or monitoring without the prior approval of the Department **by permit, Letter of Amendment, or Letter of Authorization. The permit will be issued in accordance with § 105.82 (relating to permit applications for operation and maintenance of existing dams and reservoirs). The letter of amendment or letter of authorization will be issued only after review and approval of necessary engineering calculations, construction plans and construction specifications. If the project impacts wetlands or exceptional value waters, or if the project requires 401 water quality certification, an environmental assessment shall also be submitted to the Department for review and approval under § 105.15 (relating to environmental assessment). Modifications of a dam are subject to the construction requirements and procedures under Subchapters A and B (relating to general provisions; and dams and reservoirs), unless specifically waived by the Department.**

(c) The permittee or owner of a dam or reservoir shall operate and maintain the dam in accordance with the authorized plans and specifications. [**Normal repairs and**] **Routine** maintenance of the dam and the reservoir's design storage capacity will not require further authorization **under this chapter** except as provided in § 105.122 (relating to drawdown of impounded waters).

§ 105.132. [**Inspection**] (Reserved).

[**The permittee or owner of a dam or reservoir shall follow the inspection schedule set forth in § 105.53 (relating to inspections by owners and inspection reports).**]

§ 105.133. Directed repairs.

The permittee **or owner** shall immediately take steps that the Department may prescribe as necessary to preserve the structural stability and integrity of the dam and protect health, safety [**and**], property **and the environment.**

§ 105.134. EAP.

(a) The permittee or owner of [**a**] an existing or proposed **Hazard Potential Category 1, Category 2 or Category 3 dam [or reservoir that may cause loss of life or serious damage to property if a failure of the dam occurs,] as classified in § 105.91 (relating to classification of dams and reservoirs)** shall develop an [**emergency action plan**] EAP to be followed in the event of a dam hazard emergency **as defined in § 105.135 (relating to dam hazard emergencies).** The [**emergency action plan**] EAP shall be submitted to **the Department** and approved by the

Department and [local emergency management officials] the Pennsylvania Emergency Management Agency (PEMA).

(1) Prior to submitting the EAP for review or approval, the permittee or owner shall schedule a meeting with the county emergency management coordinators for those counties affected by the dam's failure.

(2) Each submission of the EAP must be signed by the dam owners, the dam operators, and the county emergency management coordinators for those counties affected by the dam's failure signifying concurrence with the EAP.

(3) In the case of a proposed dam, the EAP shall be submitted to the Department and approved by the Department and PEMA prior to commencement of [water] storage [in the reservoir or pond created by the dam during any stage of construction of the dam] of water, fluid or semifluid.

(4) The [emergency action plan shall, at a minimum, contain the following elements:] EAP must be prepared in accordance with the most recent EAP guidelines developed by the Department and PEMA.

[(1) An identification of the area below the dam which may be threatened with loss of life or serious damage to property if a failure of the dam occurs.

(2) A listing of key municipal and emergency management officials and their telephone numbers. The list shall be readily available at the dam site near a telephone or other means of communication, if available.

(3) An identification of handicapped or other persons who may have difficulty evacuating the area which may be threatened if a failure of the dam occurs. Procedures for identifying and evacuating these people in a dam hazard emergency shall be developed in cooperation with local and emergency management officials.]

(b) [For an existing dam or reservoir that may cause loss of life or serious damage to property if failure of the dam occurs, an emergency action plan shall be submitted to and approved by the Department and local emergency management officials.] Upon approval of the EAP, the permittee or owner shall provide a copy of the signed approved EAP to the municipal emergency management agencies and the emergency response agencies listed in the EAP.

(c) Within 60 days of the date of the Department's approval letter, the permittee or owner shall provide the Department a written statement certifying that a signed approved copy of the EAP has been provided to each municipal emergency management agency and to each emergency response agency listed in the EAP.

[(c)] (d) In addition to the requirements in subsections (a) [and], (b) and (c), the permittee or owner of a [high hazard potential] Hazard Potential Category 1 or Category 2 dam shall post notices in public [places] locations in areas that may be affected by the failure of the dam [; for example, areas where public

water or sewage service may be interrupted]. The notice [shall] must indicate that copies of the [emergency action plan] EAP are available for review at the appropriate county and municipal emergency management offices. Also, the notice shall be posted by the permittee or owner in [the following] public places within each political subdivision situated within the inundation area downstream of the dam [:]. The notice shall be posted in the city, borough, and township buildings in the affected municipalities, with the management's permission. Additionally, the notice shall be posted in locations within the inundation area, such as, post offices, libraries, grocery stores, or gas stations, with the management's permission.

(e) Within 60 days of the date of the Department's approval letter, the permittee or owner shall provide the Department a written statement certifying that the notice has been posted in the locations listed in the EAP. The permittee or owner shall certify in each subsequent annual inspection report, as required in § 105.53(a), that the notices remain posted or were reposted in the locations listed in the EAP.

[(1) The city, borough or township building.

(2) The police department offices.

(3) The fire company halls.

(4) The tax collector's office.]

(f) The EAP shall be reviewed and updated every 5 years or the frequency interval indicated in the most recent EAP guidelines developed by the Department and PEMA.

(g) The Department may require the EAP be updated, as necessary, if there is a new owner or operator, if changes occur in the downstream inundation area or in the Hazard Potential Category.

§ 105.135. Dam hazard emergencies.

(a) For the purposes of this section, a dam hazard emergency means a condition which the Department, permittee or owner of the dam reasonably finds constitutes an imminent threat to life or property above or below a dam, whether arising from the condition of the dam and appurtenant works or extraordinary natural conditions, affecting the safety and stability of the dam, including [, but not limited to,] flood, earthquake [, fire] and ice jam.

(b) The emergency procedures and the [emergency warning system and operation plan] EAP required [by] under §§ 105.63 and 105.134 (relating to emergency procedures; and [emergency action plan] EAP) shall be followed by the permittee and owner of a dam or reservoir in the event of an actual or potential dam hazard emergency.

(c) If a dam hazard emergency exists, [the Department and] the permittee or owner of the dam shall immediately notify appropriate emergency management officials of the existence of the hazard and request the authorities to initiate appropriate action to assure protection of life and property; and the permittee or owner shall immediately take [the steps as are] actions as authorized by the Department necessary to prevent dam failure or loss of life or property [, including, but not limited to, the following:].

- [(1) Draw down of the reservoir.
- (2) Reinforcement of the dam structure.
- (3) Breach or removal of the dam.
- (4) Removal of debris.
- (5) Repair or installation of structures necessary to assure the stability and safety of the dam.]

(d) The Department, upon determining that a dam hazard emergency exists, will notify the owner immediately to take [steps] actions the Department determines are necessary to prevent dam failure or loss of life or property.

§ 105.136. Unsafe dams.

* * * * *

(b) The owner of an unsafe dam shall do the following:

(1) Immediately notify the Department upon receipt of any information indicating the dam is unsafe.

(2) Drain the [dam] reservoir as [approved or] required and approved by the Department and in accordance with § 105.122 (relating to drawdown of impounded waters).

* * * * *

(c) The Department may issue a permit for modification of an unsafe dam, under section 9 of the act (32 P. S. § 693.9), which authorizes the owner of an unsafe dam to modify the dam within the time prescribed in the permit to meet the requirements of the act and this chapter. The permit shall be conditioned upon:

* * * * *

(2) Implementation by the owner of the dam of measures deemed necessary by the Department to reduce risks to health [and] , safety and the environment pending correction or modification of the unsafe condition, including, but not limited to, special provisions relating to operation, emergency planning, monitoring and warning systems, and development of an alternative source of water supply if the dam serves as a water supply dam.

(d) In determining whether to require removal of an unsafe dam or to permit the owner to modify the dam, the Department will consider whether there is a substantial adverse impact to the public health [and] , safety and the environment which will result from the draining and removal of the dam [, and whether that]. If the Department determines that this adverse impact outweighs the danger to public health [and] , safety [, which outweighing will result in allowing] and the environment resulting from leaving the dam in place, the Department may decide to allow the unsafe dam to remain until it has been modified.

* * * * *

(f) If the Department finds that conditions upon which the permit [authorizing modification] , letter of amendment, or letter of authorization was issued

have substantially changed or that the owner does not meet the schedule for modification contained in the permit, letter of amendment, or letter of authorization, the Department will review the status of the dam. An extension of the time period for completion of a modification may be issued by the Department if the owner has proceeded in good faith with the previous schedule of modification and the requirements of subsections (c) and (d) are met.

(g) Nothing in this section may be construed to limit the power of the Department to take immediate action, prior to public hearing, to do one or more of the following:

(1) Revoke or suspend a permit [where] , Letter of Amendment, or Letter of Authorization when deemed necessary by the Department to protect public health [and] , safety and the environment.

* * * * *

Subchapter K. DISBURSEMENTS OF MONIES FROM THE DAMS AND ENCROACHMENTS FUND

§ 105.431. General provisions.

* * * * *

(b) Moneys paid into the Dams and Encroachments Fund may be disbursed at the discretion of the Department for use in the elimination of hazards to life, property and the environment resulting from unsafe dams, water obstructions and encroachments. [The moneys shall be available for use by the Bureau of Dams and Waterway Management in addition to funds otherwise available to it.]

(c) For purposes of this chapter, the full and normal range of program activities [of the Bureau] necessary to administer this chapter will be considered to contribute to the elimination of hazards from unsafe dams, water obstructions and encroachments [under subsection (b)]. Disbursement of moneys from the Dams and Encroachments Fund moneys may therefore be made for, but will not be limited to, the following purposes:

* * * * *

§ 105.432. [Authorization for disbursement] (Reserved).

[The Director of the Bureau of Dams and Waterway Management will authorize the use of monies disbursed from the Dams and Encroachments Fund consistent with the established policies and procedures of the Department. For disbursements from the fund not falling within the explicit categories established in § 105.431 (relating to general provisions), the Director of the Bureau of Dams and Waterway Management will submit a request to the Secretary of the Department requesting an authorization to disburse the funds for the project in question.]

[Pa.B. Doc. No. 10-757. Filed for public inspection April 23, 2010, 9:00 a.m.]

