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# PENNSYLVANIA BULLETIN

Volume 39

Number 18

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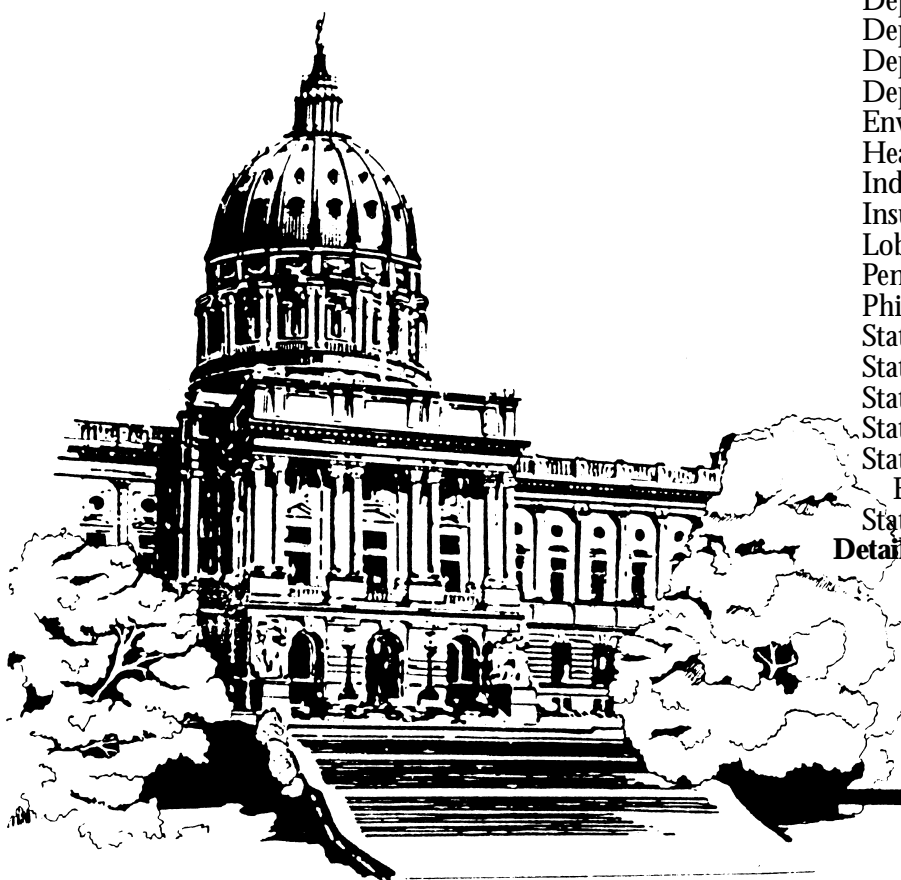
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## Part I

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State Police

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

**No. 414, May 2009**

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

## ***Pennsylvania Bulletin***

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

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

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

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

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

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

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

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

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

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

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

### ***Pennsylvania Code***

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

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

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

### **How to Find Documents**

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

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

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

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### Printing Format

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

### Fiscal Notes

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

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

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## List of Pa. Code Chapters Affected

The following numerical guide is a list of the chapters of each title of the *Pennsylvania Code* affected by documents published in the *Pennsylvania Bulletin* during 2009.

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# THE COURTS

## Title 204—JUDICIAL SYSTEM GENERAL PROVISIONS

[ 204 PA. CODE CH. 83 ]

Amendment of the Pennsylvania Rules of Disciplinary Enforcement and Rule 1.17 of the Pennsylvania Rules of Professional Conduct; Disciplinary Rules Doc. No. 1; No. 75

### Order

*Per Curiam:*

And now, this 16th day of April, 2009, Rules 102, 201, 204, 205, 217, 218, 219, 502 and 531 of the Pennsylvania Rules of Disciplinary Enforcement are amended to read as set forth in Annex A hereto and Rule 1.17 of the Pennsylvania Rules of Professional Conduct is amended to read as set forth in Annex B hereto.

This Order shall be processed in accordance with Rule 103(b) of the Pennsylvania Rules of Judicial Administration. The amendments to Rules 102, 201, 204, 205, 217, 218, 219, 502 and 531 and Rule of Professional Conduct 1.17 shall take effect upon publication in the *Pennsylvania Bulletin* and shall govern all matters thereafter commenced and, insofar as just and practicable, matters then pending.

The amendments to Rules 102, 201, 204, 217, 218 and 219 relating to administrative suspensions for failure to meet the requirements of Rule 219, Pa.R.D.E. and Rule 111(b), Pa.R.C.L.E., retired status, and assessing inactive fees shall be applicable beginning with the 2009-2010 assessment year.

### Annex A

#### TITLE 204. JUDICIAL SYSTEM GENERAL PROVISIONS

#### PART V. PROFESSIONAL ETHICS AND CONDUCT

#### Subpart B. DISCIPLINARY ENFORCEMENT

#### CHAPTER 83. PENNSYLVANIA RULES OF DISCIPLINARY ENFORCEMENT

#### Subchapter A. PRELIMINARY PROVISIONS

#### Rule 102. Definitions.

(a) *General Rule.* Subject to additional definitions contained in subsequent provisions of these rules which are applicable to specific provisions of these rules, the following words and phrases when used in these rules shall have, unless the context clearly indicates otherwise, the meanings given to them in this rule:

\* \* \* \* \*

**Administrative suspension**—Status of an attorney, after Court order, who: failed to pay the annual fee and/or file the form required by subdivisions (a) and (d) of Enforcement Rule 219; was reported to the Court by the Pennsylvania Continuing Legal Education Board under Rule 111(b), Pa.R.C.L.E., for having failed to satisfy the requirements of the Pennsylvania Rules for Continuing Legal Education; failed to pay any expenses taxed pursuant to

Enforcement Rule 208(g); or failed to meet the requirements for maintaining a limited law license as a Limited In-House Corporate Counsel, a foreign legal consultant, an attorney participant in defender and legal services programs pursuant to Pa.B.A.R. 311, or a military attorney.

\* \* \* \* \*

**Attorney Registration Office**—The administrative division of the Disciplinary Board which governs the annual registration of every attorney admitted to, or engaging in, the practice of law in this Commonwealth, with the exception of attorneys admitted to practice *pro hac vice* under Pa.B.A.R. 301.

\* \* \* \* \*

**Formerly admitted attorney**—A disbarred, suspended, **administratively suspended**, **retired** or inactive attorney.

\* \* \* \* \*

**Petitioner-attorney**—Includes any person subject to these rules who has filed a petition for reinstatement to the practice of law.

\* \* \* \* \*

### Subchapter B. MISCONDUCT

#### Rule 201. Jurisdiction.

(a) The exclusive disciplinary jurisdiction of the Supreme Court and the Board under these rules extends to:

\* \* \* \* \*

(3) Any formerly admitted attorney, with respect to acts prior to suspension, disbarment, **administrative suspension**, or transfer to **retired** or inactive status, or with respect to acts subsequent thereto which amount to the practice of law or constitute the violation of **the Disciplinary Rules**, these rules or rules of the Board adopted pursuant hereto.

\* \* \* \* \*

#### Rule 204. Types of discipline.

\* \* \* \* \*

(c) A reference in these rules to disbarment, suspension, temporary suspension, **administrative suspension**, or transfer to or assumption of retired or inactive status shall be deemed to mean, in the case of a respondent-attorney who holds a Limited In-House Corporate Counsel License, expiration of that license. A respondent-attorney whose Limited In-House Corporate Counsel License expires for any reason:

(1) shall be deemed to be a formerly admitted attorney for purposes of Rule 217 (relating to formerly admitted attorneys); and

(2) shall not be entitled to seek reinstatement under Rule 218 (relating to reinstatement) or [ **Rule 219(h) or (i)** ] **Rule 219** (relating to periodic assessment of attorneys; voluntary inactive status) and instead must reapply for a Limited In-House Corporate Counsel License under Pennsylvania Bar Admission Rule 302.

#### Rule 205. The Disciplinary Board of the Supreme Court of Pennsylvania.

\* \* \* \* \*

(c) The Board shall have the power and duty:

\* \* \* \* \*

(7) To assign periodically, through its Secretary, senior or experienced hearing committee members within each disciplinary district to:

\* \* \* \* \*

(iii) consider a petition for reinstatement to active status from inactive status under Enforcement Rule [ 218(c)(3)(ii) ] 218 (relating to reinstatement) of a formerly admitted attorney who has not been suspended or disbarred.

\* \* \* \* \*

**Rule 217. Formerly admitted attorneys.**

(a) A formerly admitted attorney shall promptly notify, or cause to be notified, by registered or certified mail, return receipt requested, all clients being represented in pending matters, other than litigation or administrative proceedings, of the disbarment, suspension, **administrative suspension** or transfer to inactive status and the consequent inability of the formerly admitted attorney to act as an attorney after the effective date of the disbarment, suspension, **administrative suspension** or transfer to inactive status and shall advise said clients to seek legal advice elsewhere.

(b) A formerly admitted attorney shall promptly notify, or cause to be notified, by registered or certified mail, return receipt requested, all clients who are involved in pending litigation or administrative proceedings, and the attorney or attorneys for each adverse party in such matter or proceeding, of the disbarment, suspension, **administrative suspension** or transfer to inactive status and consequent inability of the formerly admitted attorney to act as an attorney after the effective date of the disbarment, suspension, **administrative suspension** or transfer to inactive status. The notice to be given to the client shall advise the prompt substitution of another attorney or attorneys in place of the formerly admitted attorney. In the event the client does not obtain substitute counsel before the effective date of the disbarment, suspension, **administrative suspension** or transfer to inactive status, it shall be the responsibility of the formerly admitted attorney to move in the court or agency in which the proceeding is pending for leave to withdraw. The notice to be given to the attorney or attorneys for an adverse party shall state the place of residence of the client of the formerly admitted attorney.

(c) A formerly admitted attorney shall promptly notify, or cause to be notified, of the disbarment, suspension, **administrative suspension** or transfer to inactive status, by registered or certified mail, return receipt requested:

(1) all persons or their agents or guardians to whom a fiduciary duty is or may be owed at any time after the disbarment, suspension, **administrative suspension** or transfer to inactive status, and

(2) all other persons with whom the formerly admitted attorney may at any time expect to have professional contacts under circumstances where there is a reasonable probability that they may infer that he or she continues as an attorney in good standing.

The responsibility of the formerly admitted attorney to provide the notice required by this subdivision shall continue for as long as the formerly admitted attorney is disbarred, suspended, **administratively suspended** or on inactive status.

(d) Orders imposing suspension, disbarment, **administrative suspension** or transfer to inactive status shall be effective 30 days after entry. The formerly admitted attorney, after entry of the disbarment, suspension, **administrative suspension** or transfer to inactive status order, shall not accept any new retainer or engage as attorney for another in any new case or legal matter of any nature. However, during the period from the entry date of the order and its effective date the formerly admitted attorney may wind up and complete, on behalf of any client, all matters which were pending on the entry date.

(e) Within ten days after the effective date of the disbarment, suspension, **administrative suspension** or transfer to inactive status order, the formerly admitted attorney shall file with the Board a verified statement showing:

(1) that the provisions of the order and these rules have been fully complied with; and

(2) all other state, federal and administrative jurisdictions to which such person is admitted to practice. Such statement shall also set forth the residence or other address of the formerly admitted attorney where communications to such person may thereafter be directed.

(f) The Board shall cause a notice of the suspension, disbarment, **administrative suspension** or transfer to inactive status to be published in the legal journal and a newspaper of general circulation in the county in which the formerly admitted attorney practiced.

(g) The Board shall promptly transmit a certified copy of the order of suspension, disbarment, **administrative suspension** or transfer to inactive status to the president judge of the court of common pleas in the judicial district in which the formerly admitted attorney practiced. The president judge shall make such further order as may be necessary to fully protect the rights of the clients of the formerly admitted attorney.

(h) Within ten days after the effective date of an order of disbarment or suspension for a period longer than one year, the formerly admitted attorney shall surrender to the Board the certificate issued by the [ **Court Administrator of Pennsylvania** ] **Attorney Registration Office** under Rule 219(e) (relating to periodic assessment of attorneys; voluntary inactive status) for the current year, along with any certificate of good standing issued under Pennsylvania Bar Admission Rule 201(d) (relating to certification of good standing), certificate of admission issued under Pennsylvania Bar Admission Rule 231(d)(3) (relating to action by Prothonotary), certificate of licensure issued under Pennsylvania Bar Admission Rule 341(e)(3) (relating to motion for licensure), Limited In-House Corporate Counsel License issued under Pennsylvania Bar Admission Rule 302 (relating to limited in-house corporate counsel license) or limited certificate of admission issued under Pennsylvania Bar Admission Rule 303 (relating to limited admission of military attorneys). The Board may destroy the annual certificate issued under Rule 219(e), but shall retain any other documents surrendered under this subdivision and shall return those documents to the formerly admitted attorney in the event that he or she is subsequently reinstated.

(i) A formerly admitted attorney shall keep and maintain records of the various steps taken by such person under these rules so that, upon any subsequent proceeding instituted by or against such person, proof of compliance with these rules and with the disbarment, suspension, **administrative suspension** or transfer to inactive

status order will be available. Proof of compliance with these rules shall be a condition precedent to any petition for reinstatement.

\* \* \* \* \*

**Rule 218. Reinstatement.**

(a) **[ No attorney suspended for a period exceeding one year, transferred to inactive status for more than three years prior to resumption of practice or transferred to inactive status as a result of the sale of his or her practice pursuant to Rule 1.17 of the Pennsylvania Rules of Professional Conduct, or disbarred may resume practice until reinstated by order of the Supreme Court after petition therefor pursuant to these rules. ]** An attorney may not resume practice until reinstated by order of the Supreme Court after petition pursuant to this rule if the attorney was:

- (1) **suspended for a period exceeding one year;**
- (2) **retired, on inactive status or on administrative suspension for more than three years;**
- (3) **transferred to inactive status as a result of the sale of his or her practice pursuant to Rule 1.17 of the Pennsylvania Rules of Professional Conduct; or**
- (4) **disbarred.**

(b) A person who has been disbarred may not apply for reinstatement until the expiration of at least five years from the effective date of the disbarment, except that a person who has been disbarred pursuant to Rule 216 (relating to reciprocal discipline) may apply for reinstatement at any earlier date on which reinstatement may be sought in the jurisdiction of initial discipline.

(c) **The procedure for petitioning for reinstatement from suspension for a period exceeding one year or disbarment is as follows:**

(1) Petitions for reinstatement **[ by formerly admitted attorneys ]** shall be filed with the Board.

(2) Within 60 days after the filing of a petition for reinstatement, Disciplinary Counsel shall file a response thereto with the Board and serve a copy on the formerly admitted attorney. Upon receipt of the response, the Board shall refer the petition and response to a hearing committee in the disciplinary district in which the formerly admitted attorney maintained an office at the time of the disbarment[, ] or suspension **[ or transfer to inactive status ]**. If any other formal disciplinary proceedings are then pending or have been authorized against the formerly admitted attorney, the reinstatement and disciplinary matters may be heard by the same hearing committee. In such case the combined hearing shall be held not later than 45 days after receipt by the Board of the response to the petition for reinstatement.

**Official Note:** If Disciplinary Counsel objects to reinstatement of the formerly admitted attorney, the response to the petition for reinstatement should explain in reasonable detail the reasons for the objection.

(3) The hearing committee shall promptly schedule a hearing at which **[ : ]**

**[ (i) A ]** a disbarred or suspended attorney shall have the burden of demonstrating by clear and convincing evidence that such person has the moral qualifications, competency and learning in law required for admission to

practice law in this Commonwealth and that the resumption of the practice of law within the Commonwealth by such person will be neither detrimental to the integrity and standing of the bar or the administration of justice nor subversive of the public interest.

**Official Note:** When the petitioner-attorney is seeking reinstatement from disbarment, the threshold inquiry articulated in *Office of Disciplinary Counsel v. Keller*, 509 Pa. 573, 579, 506 A.2d 872, 875 (1986) and its progeny applies.

**[ (ii) A formerly admitted attorney who has been on inactive status shall have the burden of demonstrating that such person has the moral qualifications, competency and learning in the law required for admission to practice in the Commonwealth. ]**

(4) At the conclusion of the hearing, the hearing committee shall promptly file a report containing its findings and recommendations and transmit same, together with the record, to the Board.

(5) The Board shall review the report of the hearing committee and the record and shall promptly file its own findings and recommendations, together with the briefs, if any, before the Board and the entire record, with the Supreme Court.

(6) In the event the Board recommends reinstatement and the Supreme Court, after consideration of that recommendation, is of the view that a rule to show cause should be served upon the **[ respondent-attorney ] petitioner-attorney** why an order denying reinstatement should not be entered, the same shall be issued setting forth the areas of the Court's concern. A copy of the rule shall be served on Disciplinary Counsel. Within 20 days after service of the rule, **[ respondent-attorney ] petitioner-attorney**, as well as Disciplinary Counsel, may submit to the Supreme Court a response thereto. Unless otherwise ordered, matters arising under this rule will be considered without oral argument.

**[ (7) A petition for reinstatement to active status from inactive status by a formerly admitted attorney who has not been suspended or disbarred shall be considered by a single senior or experienced hearing committee member who shall perform the functions of a hearing committee under this subdivision (c), and the rules of the Board may provide for abbreviated procedures to be followed by that hearing committee member. ]**

(d) **The procedure for petitioning for reinstatement from retired status for more than three years, inactive status for more than three years or administrative suspension for more than three years, or after transfer to inactive status as a result of the sale of a law practice pursuant to Rule 1.17 of the Pennsylvania Rules of Professional Conduct is as follows:**

(1) **Petitions for reinstatement shall be filed with the Board.**

(2) **Within 60 days after the filing of a petition for reinstatement, Disciplinary Counsel shall either:**

(i) **file a response thereto with the Board and serve a copy on the formerly admitted attorney; or**

(ii) **file a certification with the Board Secretary stating that after a review of the petition for reinstatement and reasonably diligent inquiry, Disciplinary Counsel has determined that there is no**

impediment to reinstatement and that the petitioner-attorney will meet his or her burden of proof under paragraph (d)(3) if the petition were to proceed to hearing under (d)(4).

**Official Note:** If Disciplinary Counsel objects to reinstatement of the formerly admitted attorney under (d)(2)(i), the response to the petition for reinstatement should explain in reasonable detail the reasons for the objection.

(3) A formerly admitted attorney who has been on retired status, inactive status or administrative suspension shall have the burden of demonstrating that such person has the moral qualifications, competency and learning in the law required for admission to practice in the Commonwealth.

(4) Upon receipt of a response under (d)(2)(i), the Board shall refer the petition and response to a single senior or experienced hearing committee member in the disciplinary district in which the formerly admitted attorney maintained an office at the time of transfer to or assumption of retired or inactive status, or transfer to administrative suspension; the single senior or experienced hearing committee member shall promptly schedule a hearing during which the hearing committee member shall perform the functions of a hearing committee under this subdivision (d). The rules of the Board may provide for abbreviated procedures to be followed by the hearing committee member, except that the abbreviated procedure shall not be available at any hearing conducted after review by a designated Board Member pursuant to paragraph (d)(6) of this rule. If any other formal disciplinary proceedings are then pending or have been authorized against the formerly admitted attorney, the reinstatement and disciplinary matters may be heard by the same hearing committee. In such case the combined hearing shall be held not later than 45 days after receipt by the Board of the response to the petition for reinstatement.

(5) At the conclusion of the hearing, the hearing committee member shall promptly file a report containing the member's findings and recommendations and transmit same, together with the record, to the Board. Thereafter, the matter will proceed in accordance with the provisions of (c)(5) and (c)(6) of this rule.

(6) Upon receipt of a certification filed by Disciplinary Counsel under (d)(2)(ii), the Board Chair shall designate a single member of the Board to review the record and certification and to issue a report and recommendation.

(i) If the Board Member decides that reinstatement should be denied or that a hearing on the petition is warranted, the designated Board Member shall issue a report setting forth the areas of the designated Board Member's concern and direct the Board Secretary to schedule the matter for hearing pursuant to subdivision (d)(4) of this rule.

(ii) Upon receipt of a report and recommendation for an order of reinstatement, the Court may enter an order reinstating the formerly admitted attorney to active status and direct that the necessary expenses incurred in the investigation and processing of the petition be paid by the petitioner-attorney. The Chief Justice may delegate the processing and entry of orders under this subdivision to the Prothonotary.

[ (d) ] (e) In all proceedings upon a petition for reinstatement, cross-examination of the [ **respondent-attorney's** ] **petitioner-attorney's** witnesses and the submission of evidence, if any, in opposition to the petition shall be conducted by Disciplinary Counsel.

[ (e) ] (f) The Supreme Court in its discretion may direct that the necessary expenses incurred in the investigation and processing of the petition for reinstatement be paid by the [ **respondent-attorney** ] **petitioner-attorney**. A reinstatement fee of \$300 shall be assessed against a petitioner-attorney who was administratively suspended at the time of the filing of the petition. The annual fee required by Rule 219(a) and the reinstatement fee, if applicable, shall be paid to the Attorney Registration Office after the Supreme Court order is entered.

[ (f) ] (g) (1) Upon the expiration of any term of suspension not exceeding one year and upon the filing thereafter by the formerly admitted attorney with the Board of a verified statement showing compliance with all the terms and conditions of the order of suspension and of Enforcement Rule 217 (relating to formerly admitted attorneys), the Board shall certify such fact to the Supreme Court, which shall immediately enter an order reinstating the formerly admitted attorney to active status, unless such person is subject to another outstanding order of suspension or disbarment.

(2) Paragraph (1) of this subdivision shall not be applicable and a formerly admitted attorney shall be subject instead to the other provisions of this rule requiring the filing of a petition for reinstatement, if:

(i) other formal disciplinary proceedings are then pending or have been authorized against the formerly admitted attorney;

(ii) the formerly admitted attorney has been on inactive status or **administrative suspension** for more than three years; or

(iii) the order of suspension has been in effect for more than three years.

[ (g) ] (h) Attorneys who have been on inactive status, **retired status** or **administrative suspension** for three years or less may be reinstated pursuant to Enforcement Rule 219(h), (i), [ **or** ] (j), (k) or (m) (relating to periodic assessment of attorneys) as appropriate. This subdivision [ (g) ] (h) does not apply to an attorney who has sold his or her practice pursuant to Rule 1.17 of the Pennsylvania Rules of Professional Conduct.

[ (h) ] (i) The Board may cause a notice of the reinstatement to be published in one or more appropriate legal journals and newspapers of general circulation.

[ (i) ] (j) The Board when appropriate shall promptly transmit to the president judge of the court of common pleas in the judicial district in which the formerly admitted attorney practiced a copy of:

(1) the certification filed with the Prothonotary under Enforcement Rule 219(h) or [ (i) ] (m); or

(2) any other order of reinstatement entered under these rules.

[ (j) ] (k) If Disciplinary Counsel shall have probable cause to believe that any formerly admitted attorney:

(1) has failed to comply with this rule or Rule 217 (relating to formerly admitted attorneys), or

(2) is otherwise continuing to practice law, Disciplinary Counsel may bring an action in any court of competent jurisdiction for such injunctive and other relief as may be appropriate.

**Rule 219. Periodic assessment of attorneys; voluntary inactive status.**

(a) Every attorney admitted to practice law in this Commonwealth[, **other than a military attorney holding a limited certificate of admission issued under Pennsylvania Bar Admission Rule 303 (relating to limited admission of military attorneys)**], shall pay an annual fee of \$140.00 under this rule. The annual fee shall be collected under the supervision of the **[ Administrative ] Attorney Registration** Office, which shall send and receive, or cause to be sent and received, the notices and **[ statements ] forms** provided for in this rule. The said fee shall be used to defray the costs of disciplinary administration and enforcement under these rules, and for such other purposes as the Board shall, with the approval of the Supreme Court, from time to time determine.

(b) **The following shall be exempt from paying the annual fee required by subdivision (a):**

(1) **Justices [ and ] or [ Judges ] judges serving in the following Pennsylvania courts of record shall be exempt for such time as they serve in office[.]: Supreme, Superior, Commonwealth, Common Pleas, and Philadelphia Municipal; and justices or judges serving an appointment for life on any federal court;**

(2) **retired attorneys; and**

(3) **military attorneys holding a limited certificate of admission issued under Pa.B.A.R. 303 (relating to admission of military attorneys).**

**Official Note:** The exemption created by subdivision (b)(1) does not include Philadelphia Traffic Court judges, Pittsburgh Municipal Court judges, magisterial district judges, arraignment court magistrates or administrative law judges.

(c) On or before May 15 of each year the **[ Administrative ] Attorney Registration** Office shall transmit by ordinary mail to all persons required by this rule to pay an annual fee a form **[ for completing the statement ]** required by subdivision (d) of this rule.

(d) On or before July 1 of each year all persons required by this rule to pay an annual fee shall file with the **[ Administrative ] Attorney Registration** Office a signed **[ statement on the ]** form prescribed by the **[ Administrative ] Attorney Registration** Office in accordance with the following procedures:

(1) The **[ statement ] form** shall set forth:

(i) The date on which the attorney was **[ first ]** admitted to practice, licensed as a foreign legal consultant, **granted limited admission as an attorney participant in defender and legal services programs pursuant to Pa.B.A.R. 311**, or issued a Limited In-House Corporate Counsel License, and a list of all courts (except courts of this Commonwealth) and jurisdictions in which the person has ever been licensed to practice law, with the current status thereof.

(ii) The current residence and office addresses of the attorney, each of which shall be an actual street address

or rural route box number, and the **[ Administrative ] Attorney Registration** Office shall refuse to accept a **[ statement ] form** that sets forth only a post office box number for either required address. A preferred mailing address different from those addresses may also be provided on the **[ statement ] form** and may be a post office box number. The attorney shall indicate which of the addresses, the residence, office or mailing address, will be accessible through the website of the Board (<http://www.padisiplinaryboard.org/>) and by written or oral request to the Board.

**Official Note:** Public web docket sheets will show the attorney's address as entered on the court docket.

(iii) The name of each financial institution in this Commonwealth in which the attorney on May 1 of the current year or at any time during the preceding 12 months held funds of a client or a third person subject to Rule 1.15 of the Pennsylvania Rules of Professional Conduct. The **[ statement ] form** shall include the name and account number for each account in which the lawyer holds such funds, and each IOLTA Account shall be identified as such. The **[ statement ] form** provided to a person holding a Limited In-House Corporate Counsel License or a **Foreign Legal Consultant License** need not request the information required by this subparagraph.

(iv) A statement that the attorney is familiar and in compliance with Rule 1.15 of the Pennsylvania Rules of Professional Conduct regarding the handling of funds and other property of clients and others and the maintenance of IOLTA Accounts, and with Rule 221 of the Pennsylvania Rules of Disciplinary Enforcement regarding the mandatory reporting of overdrafts on fiduciary accounts.

(v) A statement that any action brought against the attorney by the Pennsylvania Lawyers Fund for Client Security for the recovery of monies paid by the Fund as a result of claims against the attorney may be brought in the Court of Common Pleas of Allegheny, Dauphin or Philadelphia County.

(vi) Such other information as the **[ Administrative ] Attorney Registration** Office may from time to time direct.

(2) Payment of the annual fee shall accompany the **[ statement ] form**. Where a check in payment of the annual fee has been returned to the Board unpaid, the annual fee shall not be deemed to have been paid until a collection fee shall also have been paid. The amount of the collection fee shall be established by the Board annually after giving due regard to the direct and indirect costs incurred by the Board during the preceding year for checks returned to the Board unpaid.

(3) Every person who has filed such a **[ statement ] form** shall notify the **[ Administrative ] Attorney Registration** Office in writing of any change in the information previously submitted within 30 days after such change.

(4) Upon original admission to the bar of this Commonwealth, licensure as a **[ foreign legal ] Foreign Legal [ consultant ] Consultant**, **[ or ]** issuance of a Limited In-House Corporate Counsel License, or **limited admission as an attorney participant in defender and legal services programs pursuant to Pa.B.A.R. 311**, a person shall concurrently file a **[ statement ] form** under this subdivision for the current assessment year,

but no annual fee shall be payable for the assessment year in which originally admitted or licensed.

(e) **[ Within 20 days of the ]** Upon receipt of a **[ statement ]** form, or notice of change of information contained therein, filed by an attorney in accordance with the provisions of subdivision (d) of this rule, and of payment of **[ any ]** the required annual fee *to practice law in this Commonwealth*, receipt thereof shall be acknowledged **[ , ]** on a certificate **[ issued by the Court Administrator of Pennsylvania, evidencing compliance with such subdivision ]** or *license*.

(f) The **[ Administrative ]** Attorney Registration Office shall transmit by **[ certified ]** ordinary mail **[ , return receipt requested, ]** to every attorney who fails to timely file the **[ statement ]** form and pay the annual fee required by this rule, addressed to the last known mailing address of the attorney, a notice stating:

(1) That unless the attorney shall comply with the requirements of subdivision (d) of this rule within 30 days after the date of the notice, such failure to comply will be deemed a request **[ for transfer to inactive status ]** to be administratively suspended, and at the end of such period the name of the attorney will be certified to the Supreme Court, which will **[ immediately ]** enter an order **[ transferring the attorney to inactive status ]** administratively suspending the attorney.

(2) That upon the entry of an order **[ transferring the attorney to inactive status ]** of administrative suspension, the attorney shall comply with Enforcement Rule 217 (relating to formerly admitted attorneys), a copy of which shall be enclosed with the notice.

(g) The **[ Administrative ]** Attorney Registration Office **[ or the Board ]** shall certify to the Supreme Court the names of every attorney who has failed to respond to a notice issued pursuant to subdivisions (f) and **[ (k) ]** (1) of this rule within the 30-day period provided therein and the Court shall **[ immediately ]** enter an order **[ transferring the attorney to inactive status ]** administratively suspending the attorney. A copy of any such certification from the **[ Administrative ]** Attorney Registration Office to the Supreme Court shall be given to the Board Secretary. The Chief Justice may delegate the processing and entry of orders under this subdivision to the Prothonotary.

(h) **The procedure for reinstatement of an attorney who has been administratively suspended for three years or less pursuant to subdivision (g) is as follows:**

(1) **[ Upon compliance by the formerly admitted attorney with the provisions of subdivision (d) of this rule, including payment of all arrears due from the date to which such person was last paid ]** The formerly admitted attorney shall submit to the Attorney Registration Office the form required by subdivision (d)(1) along with payment of:

- (i) the current annual fee;
- (ii) the annual fee that was due in the year in which the attorney was administratively suspended;
- (iii) the late payment penalty required by paragraph (3);

(iv) a reinstatement fee of \$300.00.

(2) Upon receipt of the annual fee form, a verified statement showing compliance with Enforcement Rule 217 (relating to formerly admitted attorneys), and the payments required by paragraph (1), the **[ Administrative ]** Attorney Registration Office shall so certify to the Board Secretary and to the Supreme Court. Unless **[ such person ]** the formerly admitted attorney is subject to another outstanding order of suspension or disbarment or the order has been in effect for more than three years, the filing of the certification from the **[ Administrative ]** Attorney Registration Office with the Prothonotary of the Supreme Court shall operate as an order reinstating the person to active status.

**[ (2) For the purposes of this rule arrearages shall include a late payment penalty payable by every attorney to whom a notice has been transmitted under subdivision (f) of this rule plus the actual cost of any publication effected pursuant to Enforcement Rule 217(f). ]** (3) A formerly admitted attorney who is administratively suspended pursuant to subdivision (g) must pay a late payment penalty with respect to that year. The amount of the late payment penalty shall be established by the Board annually after giving due regard to such factors as it considers relevant, including the direct and indirect costs incurred by the Board during the preceding year in processing the records of attorneys who fail to timely file the statement required by subdivision (d) of this rule.

(i) **Retired Status:** An attorney who has retired **[ , is not engaged in practice or who has sold his or her practice pursuant to Rule 1.17 of the Pennsylvania Rules of Professional Conduct ]** shall file with the **[ Administrative ]** Attorney Registration Office **[ a notice in writing that the attorney desires voluntarily to assume inactive status and discontinue the practice of law ]** an application for retirement. Upon the transmission of such **[ notice ]** application from the **[ Administrative ]** Attorney Registration Office to the Supreme Court, the Court shall enter an order transferring the attorney to **[ inactive ]** retired status, and the attorney shall no longer be eligible to practice law **[ but shall continue to file the statement required by this rule for six years thereafter in order that the formerly admitted attorney can be located in the event complaints are made about the conduct of such person while such person was engaged in practice ]**. The **[ formerly admitted ]** retired attorney **[ , however, ]** will be relieved from the payment of the fee imposed by this rule upon active practitioners and Enforcement Rule 217 (relating to formerly admitted attorneys) shall not be applicable to the formerly admitted attorney unless ordered by the Court in connection with the entry of an order of suspension or disbarment under another provision of these rules. An attorney on retired status for three years or less may be reinstated in the same manner as an inactive attorney, except that the retired attorney shall pay the annual active fee for the three most recent years or such shorter period in which the attorney was on retired status instead of the amounts required to be paid by an inactive attorney seeking reinstatement. The Chief Justice may delegate the processing and entry of orders under this subdivision to the Prothonotary.

(j) *Inactive Status*: [ Upon the filing of a notice voluntarily to assume inactive status, an ] An attorney who is not engaged in practice in Pennsylvania, has sold his or her practice pursuant to Rule 1.17 of the Pennsylvania Rules of Professional Conduct, or is not required by virtue of his or her practice elsewhere to maintain active licensure in the Commonwealth may request voluntary inactive status or continue that status once assumed. The attorney shall be removed from the roll of those classified as active until such person requests and is granted reinstatement to the active rolls.

(1) An inactive attorney under this subdivision (j) shall continue to file the annual form required by subdivision (d) and shall pay an annual fee of \$70.00. Noncompliance with this provision will result in the inactive attorney being placed on administrative suspension after the Attorney Registration Office provides notice in accordance with the provisions of paragraph (f). An attorney who voluntarily assumed inactive status under former subdivision (j) of this rule shall continue to file the annual form required by subdivision (d) and pay an annual fee of \$70.00 commencing with the next regular assessment year. Noncompliance with this provision will result in the inactive attorney being placed on administrative suspension after notice in accordance with the provisions of paragraph (f).

(2) Reinstatement shall be granted unless the [ formerly admitted ] inactive attorney is subject to an outstanding order of suspension or disbarment or unless the [ order ] inactive status has been in effect for more than three years, upon the payment of [ any assessment in effect ] *the active fee* for the assessment year in which the [ request ] application for resumption of active status is made or the difference between the active fee and the inactive fee that has been paid for that year, and any arrears accumulated prior to [ transfer to ] the assumption of inactive status.

(3) [ Disciplinary proceedings may be initiated and maintained against a formerly admitted attorney who has voluntarily assumed inactive status. See Rule 201(a)(3). ] In transmitting the annual fee form under subdivision (c) of this rule, the Attorney Registration Office shall include a notice of this subdivision (j).

*Official Note*: Under prior practice, an attorney who was neither retiring nor selling his or her law practice was given the option of assuming or continuing inactive status and ceasing the practice of law in Pennsylvania, and no annual fee was required. Under new subdivision (j), payment of an annual fee is required to assume and continue inactive status, and failure to pay the annual fee required by subdivision (j) and file the form required by subdivision (d) will result in an order administratively suspending the attorney.

(k) On the effective date of this subdivision (k), any attorney who is on inactive status:

(1) by order after having failed to pay the annual fee or file the form required by subdivisions (a) and (d) of this rule,

(2) by order pursuant to Rule 111(b), Pa.R.C.L.E., after having failed to satisfy the requirements of the Pennsylvania Rules for Continuing Legal Education,

(3) by order after having failed to pay any expenses taxed pursuant to Enforcement Rule 208(g), or

(4) by order after having failed to meet the requirements for maintaining a limited law license as a Limited In-House Corporate Counsel, a foreign legal consultant, an attorney participant in defender legal services programs pursuant to Pa.B.A.R. 311, or a military attorney, shall have a grace period of one year, commencing on July 1 of the year in which the next annual form under paragraph (d) is due, in which to request reinstatement to active status under an applicable provision of this rule, or to be reinstated to active status under Rule 218(a), as the case may be. Failure to achieve active status before the expiration of the grace period shall be deemed a request to be administratively suspended. An attorney who is on inactive status by court order will not be eligible to transfer to voluntary inactive status under subdivision (j) of this rule until the attorney first achieves active status. During the grace period, the inactive attorney shall remain ineligible to practice law. In transmitting the annual form under subdivision (c) of this rule, the Attorney Registration Office shall include a notice of this subdivision (k).

*Official Note*: Attorneys who voluntarily assumed inactive status under former paragraph (j) of Enforcement Rule 219 are governed by the provisions of paragraph (j). Attorneys who were transferred to inactive status by order after having failed to pay any expenses taxed pursuant to Enforcement Rule 208(g) are governed by the provisions of paragraph (m).

[ (k) ] (l) The Board shall transmit by certified mail, return receipt requested, to every attorney who fails to pay any expenses taxed pursuant to Enforcement Rule 208(g) (relating to costs), addressed to the last known address of the attorney, a notice stating:

(1) That unless the attorney shall pay all such expenses within 30 days after the date of the notice, such failure to pay will be deemed a request [ for transfer to inactive status ] to be administratively suspended, and at the end of such period the name of the attorney will be certified to the Supreme Court, which will [ immediately ] enter an order [ transferring the attorney to inactive status ] administratively suspending the attorney.

(2) That upon entry of the order [ transferring the attorney to inactive status ] of administrative suspension, the attorney shall comply with Enforcement Rule 217 (relating to formerly admitted attorneys), a copy of which shall be enclosed with the notice.

[ (l) ] (m) Upon payment of all expenses taxed pursuant to Enforcement Rule 208(g) by a formerly admitted attorney [ transferred to inactive status ] on administrative suspension solely for failure to comply with subdivision [ (k) ] (l) of this rule, the Board shall so certify to the Supreme Court. Unless such person is subject to another outstanding order of suspension or disbarment or the order has been in effect for more than



three years, the filing of the certification from the Board with the Prothonotary of the Supreme Court shall operate as an order reinstating the person to active status.

**[(m)] (n)** A former or retired justice or judge who is not the subject of an outstanding order of discipline affecting his or her right to practice law and who wishes to resume the practice of law shall file with the **[Administrative] Attorney Registration Office** a notice in writing to that effect. The notice shall:

(i) describe:

(A) any discipline imposed within six years before the date of the notice upon the justice or judge by the Court of Judicial Discipline **[or the former Judicial Inquiry and Review Board]**;

(B) any proceeding before the Judicial Conduct Board or the Court of Judicial Discipline settled within six years before the date of the notice on the condition that the justice or judge resign from judicial office or enter a rehabilitation program;

(ii) include a waiver by the justice or judge, if the notice discloses a proceeding described in paragraph (i), of the confidentiality of the record in that proceeding for the limited purpose of making the record available to the Board in any subsequent proceeding under these rules;

(iii) be accompanied by payment of the full annual fee for the assessment year in which the notice is filed.

**Subchapter E. PENNSYLVANIA LAWYERS FUND FOR CLIENT SECURITY  
GENERAL PROVISIONS**

**Rule 502. Pennsylvania Lawyers Fund for Client Security.**

\* \* \* \* \*

(b) *Additional assessment.* Every attorney who is required to pay an **active** annual assessment under Rule 219 (relating to periodic assessment of attorneys; voluntary inactive status) shall pay an additional annual fee of \$35.00 for use by the Fund. Such additional assessment shall be added to, and collected with and in the same manner as, the basic annual assessment, but the statement mailed by the **[Administrative] Attorney Registration Office** pursuant to Rule 219 shall separately identify the additional assessment imposed pursuant to this subdivision. All amounts received pursuant to this subdivision shall be credited to the Fund.

(c) *Transfers to Fund.* The Administrative Office and **Attorney Registration Office** shall transfer to the Fund all bequests and gifts hereafter made for use by the Fund. All monies or other assets of the Fund shall constitute a trust and shall be held in the name of the Fund, subject to the direction of the Board.

\* \* \* \* \*

**REINSTATEMENT**

**Rule 531. Restitution a condition for reinstatement.**

The Board shall file with the Supreme Court a list containing the names of all formerly admitted attorneys with respect to the Dishonest Conduct of which the Board has made unrecovered disbursements from the Fund. No person will be reinstated by the Supreme Court under Rule 218 (relating to reinstatement), **[Rule 219(h)] Rule 219** (relating to periodic assessment of attorneys;

voluntary inactive status), Rule 301(h) (relating to proceedings where an attorney is declared to be incompetent or is alleged to be incapacitated), Pennsylvania Rules of Continuing Legal Education, Rule 111(b) (relating to noncompliance with continuing legal education rules) or who has been suspended from the practice of law for any period of time, including, but not limited to suspensions under Rule 208(f) (relating to emergency temporary suspension) and **219(f) (relating to administrative suspension)** until the Fund has been repaid in full, plus 10% per annum interest, for all disbursements made from the Fund with respect to the Dishonest Conduct of such person.

**Annex B**

**TITLE 204. JUDICIAL SYSTEM GENERAL PROVISIONS**

**PART V. PROFESSIONAL ETHICS AND CONDUCT**

**Subpart A. RULES OF PROFESSIONAL CONDUCT**

**Subchapter A. RULES OF PROFESSIONAL CONDUCT**

**Rule 1.17. Sale of Law Practice.**

\* \* \* \* \*

(f) In the case of a sale by reason of disability, if a proceeding under Rule 301 of the Pennsylvania Rules of Disciplinary Enforcement has not been commenced against the selling lawyer, the selling lawyer shall file the notice and request for transfer to voluntary inactive status, as of the date of the sale, pursuant to Rule **[219(i)] 219(j)** thereof.

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**Title 255—LOCAL COURT RULES**

**SNYDER AND UNION COUNTIES**

**Booking Center Fee; 17th Judicial District**

**Order**

*And Now*, this 15th day of April, 2009, a county-wide booking center plan having been adopted, it is hereby *Ordered* that anyone placed on probation without verdict pursuant to the provisions of 35 P. S. § 780-117, anyone who receives Accelerated Rehabilitative Disposition for, pleads guilty to or nolo contendere to, or is convicted of a crime under 18 Pa.C.S. § 106(a) (relating to classes of offenses), 75 Pa.C.S. § 3735 (relating to homicide by vehicle while driving under influence), 75 Pa.C.S. § 3802 (relating to driving under influence of alcohol or controlled substance), or a violation of The Controlled Substance Drug Device, and Cosmetic Act shall be required to pay a booking center fund fee of \$75.00.

*By the Court*

HAROLD F. WOELFEL, Jr.,  
*President Judge*

[Pa.B. Doc. No. 09-793. Filed for public inspection May 1, 2009, 9:00 a.m.]

**WESTMORELAND COUNTY**

**Rescinding Rules W1920.55-2(d) and W1920.55-2a(f) and Adopting New Rules W1920.55-2(d) and W1920.55-2a(f); No. 3 of 2009**

**Order**

And Now, this 16th day of April, 2009, *It Is Hereby Ordered* that Westmoreland County Rules of Civil Procedure W1920.55-2(d) and W1920.55-2a(f) are rescinded and new Rules W1920.55-2(d) and W1920.55-2a(f) are adopted. This change is effective 30 days after publication in the *Pennsylvania Bulletin*.

*By the Court*

JOHN E. BLAHOVEC,  
*President Judge*

**Rule W1920.55-2. Master's Report. Notice. Exceptions. Final Decree.**

(d) If no party files Exceptions to the Master's Report within 20 days of the date of receipt or the date of mailing of the report, whichever occurs first, the prothonotary shall immediately deliver the file to the court for entry of the decree.

**Rule W1920.55-2a. All Counts Master's Report. Notice. Exceptions. Final Decree.**

(f) If no party files exceptions within 20 days of the date of receipt or the date of mailing of the report, whichever occurs first, the order shall be final.

[Pa.B. Doc. No. 09-794. Filed for public inspection May 1, 2009, 9:00 a.m.]

**DISCIPLINARY BOARD OF THE SUPREME COURT**

**Collection Fee and Late Payment Penalty for 2009-2010 Assessment Year**

Notice is hereby given that in accordance with Pennsylvania Rule of Disciplinary Enforcement 219(d)(2) and 219(h)(3), The Disciplinary Board of the Supreme Court of Pennsylvania (Board) has established the collection fee for checks returned as unpaid and the late payment penalty for the 2009-2010 Assessment Year as follows:

Where a check in payment of the annual registration fee for attorneys has been returned to the Board unpaid, the collection fee will be \$50 per returned item.

At the time the final notices are transmitted by certified mail to an attorney who fails to timely file an annual registration form and pay the fee, the late payment penalty will be \$100. After 30 days, the names of every attorney who has failed to respond to the notice shall be certified to the Supreme Court, at which time the late payment penalty will be increased to \$200.

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

[Pa.B. Doc. No. 09-795. Filed for public inspection May 1, 2009, 9:00 a.m.]

**Notice to Attorneys**

Notice is hereby given that under Rule 221(b), Pa.R.D.E., the following List of Financial Institutions have been approved by the Supreme Court of Pennsylvania for the maintenance of fiduciary accounts of attorneys. Each financial institution has agreed to comply with the requirements of Rule 221, Pa.R.D.E, which provides for trust account overdraft notification.

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

**List of Approved PA Financial Institutions Who Have Been Approved as Depositories for Fiduciary Accounts of Attorneys**

<b>Bank Code</b>	<b>A.</b>
595	Abacus Federal Savings Bank
374	<b>Abington Bank</b>
2	Adams County National Bank
477	Advest, Inc.
572	<b>Affinity Bank of Pennsylvania</b>
613	Allegent Community Federal Credit Union
302	Allegheny Valley Bank of Pittsburgh
548	Allegiance Bank of North America
579	Alliance Bank
375	Altoona First Savings Bank
376	Ambler Savings Bank
532	<b>American Bank</b>
502	American Eagle Savings Bank
581	American Home Bank, N.A.
615	Americhoice Federal Credit Union
116	<b>Ameriserv Financial</b>
377	Apollo Trust Company
568	Arc Federal Credit Union
<b>Bank Code</b>	<b>B.</b>
558	Bancorp Bank (The)
485	Bank of America
138	Bank of Canton
415	Bank of Landisburg
5	BNY Mellon, National Association
519	Beaver Valley Federal Credit Union
501	BELCO Community Credit Union
397	<b>Beneficial Bank</b>
582	Berkshire Bank
392	<b>Brentwood Bank</b>
495	Brown Brothers Harriman & Co.
161	Bryn Mawr Trust Company
156	Bucks County Bank
<b>Bank Code</b>	<b>C.</b>
540	C & G Savings Bank
480	Cambria County Federal Savings & Loan Assoc.
622	Carrollton Bank
459	Centra Bank
136	<b>Centric Bank</b>
394	<b>Charleroi Federal Savings Bank</b>
623	Chemung Canal Trust Company
599	Citibank N.A.
238	Citizens & Northern Bank
561	Citizens Bank of PA
420	Citizens National Bank—Myersdale
206	Citizens Savings Bank
602	<b>City National Bank of New Jersey</b>
576	Clarion County Community Bank
16	<b>Clearfield Bank &amp; Trust Co.</b>

591	Clearview Federal Credit Union	198	<b>First National Bank of Minersville</b>
23	CNB Bank	426	First National Bank of Palmerton
354	Coatesville Savings Bank	48	First National Bank of Pennsylvania
603	Colonial American Bank	427	First National Bank of Port Allegany
250	Commerce Bank	175	<b>First National Community Bank</b>
18	Commerce Bank/Harrisburg, NA	549	First National Community Bank (Midland)
223	Commercial Bank & Trust of Pennsylvania	604	First Priority Bank
21	<b>Community Bank</b>	592	<b>First Resource Bank</b>
310	Community Bank & Trust Company	40	First Savings Bank of Perkasio
533	Community First Bank	349	First Star Savings Bank
430	Community National Bank of Northwestern PA	158	First Summit Bank
132	Community State Bank of Orbisonia	408	First United National Bank
170	<b>Conestoga Bank</b>	151	Firsttrust Bank
590	Continental Bank	416	Fleetwood Bank
380	County Savings Bank	493	<b>FNB Bank, N.A.</b>
		291	Fox Chase Bank
		241	Franklin Mint Federal Credit Union
<b>Bank Code D.</b>		612	<b>Franklin Security Bank</b>
339	Dime Bank (The)	58	<b>Fulton Bank</b>
239	DNB First, National Assoc.		
27	Dollar Bank	<b>Bank Code G.</b>	
423	Dwelling House Savings & Loan Association	588	Gateway Bank of Pennsylvania
		499	Gratz National Bank (The)
<b>Bank Code E.</b>		593	<b>Graystone Bank</b>
357	Eagle National Bank	498	Greenville Savings Bank
569	Earthstar Bank		
424	East Penn Bank	<b>Bank Code H.</b>	
597	East River Bank	402	<b>Halifax National Bank</b>
340	East Stroudsburg Savings Association	244	Hamlin Bank & Trust Co.
500	Elderton State Bank	64	Harleysville National Bank
567	Embassy Bank	362	Harleysville Savings Bank
541	Enterprise Bank	363	Hatboro Federal Savings
28	Ephrata National Bank (The)	463	Haverford Trust Company (The)
616	Eriebank, a division of CNB	410	Herndon National Bank (The)
383	<b>ESB Bank, F.S.B.</b>	559	Home Savings & Loan Co.
601	<b>Esquire Bank</b>	68	Honesdale National Bank (The)
552	Eureka Bank	350	HSBC Bank of USA
		364	<b>Huntingdon Valley Bank</b>
<b>Bank Code F.</b>		605	Huntington National Bank
478	Farmers & Merchants Bank of Western PA, N.A.	608	<b>Hyperion Bank</b>
31	Farmers & Merchants Trust Company		
205	<b>Farmers National Bank of Emlenton</b>	<b>Bank Code I.</b>	
311	Fidelity Bank	365	Indiana First Savings Bank
34	Fidelity Deposit & Discount Bank	575	Integrity Bank
343	Fidelity Savings & Loan of Bucks County	557	<b>Investment Savings Bank</b>
583	<b>Fifth Third Bank</b>	526	Iron Workers Bank
174	First Citizens National Bank		
191	First Columbia Bank & Trust Co.	<b>Bank Code J.</b>	
539	<b>First Commonwealth Bank</b>	70	Jersey Shore State Bank
551	First Cornerstone Bank	127	Jim Thorpe National Bank
369	First Federal of Bucks County	488	<b>Jonestown Bank and Trust Co.</b>
504	First Federal Savings & Loan Assoc. of Greene County	72	<b>Juniata Valley Bank (The)</b>
388	<b>First Federal Savings Bank</b>		
525	First Heritage Federal Credit Union	<b>Bank Code K.</b>	
228	First Keystone Bank	403	KNBT, a division of National Penn Bank
42	<b>First Keystone National Bank</b>	414	Kish Bank
371	First Liberty Bank & Trust		
263	FirstMerit Bank, N.A.	<b>Bank Code L.</b>	
51	<b>First National Bank &amp; Trust Co. of Newtown (The)</b>	74	<b>Lafayette Ambassador Bank</b>
52	First National Bank of Chester County	554	Landmark Community Bank
421	First National Bank of Fredericksburg	78	Luzeerne National Bank
322	First National Bank of Greencastle		
417	First National Bank of Lilly	<b>Bank Code M.</b>	
418	First National Bank of Liverpool	361	M & T Bank
43	First National Bank of Marysville	454	Mainline National Bank
46	First National Bank of Mercersburg	386	Malvern Federal Savings Bank
419	First National Bank of Mifflintown	412	Manor Bank
		510	Marion Center Bank
		387	Marquette Savings Bank
		81	Mars National Bank

367	Mauch Chunk Trust Company	460	Second Federal Savings & Loan Assoc. of Philadelphia
619	MB Financial Bank, NA	516	Sentry Federal Credit Union
555	Mercer County State Bank	458	Sharon Savings Bank
192	Merchants National Bank of Bangor	462	Slovenian Savings & Loan Assoc. of Franklin-Conemaugh
610	Meridian Bank	486	Somerset Trust Company
294	Mid Penn Bank	316	Sovereign Bank, F.S.B.
511	Mifflin County Savings Bank	465	St. Edmonds Federal Savings Bank
276	Mifflinburg Bank & Trust Company	518	Standard Bank, PASB
617	Milestone Bank	542	Stonebridge Bank
457	Milton Savings Bank	440	SunTrust
345	Miners Bank	30	Susquehanna Bank
614	Monument Bank	236	<b>Swineford National Bank</b>
596	<b>Morebank</b>		
484	Muncy Bank & Trust Company		
<b>Bank Code N.</b>		<b>Bank Code T.</b>	
433	National Bank of Malvern	143	<b>TD Bank, N.A.</b>
337	National City Bank of PA	594	<b>Team Capital Bank</b>
88	National Penn Bank	26	Third Federal Bank
347	Neffs National Bank	609	Tristate Capital Bank
372	Nesquehoning Savings Bank	467	Turbotville National Bank
536	New Century Bank	<b>Bank Code U.</b>	
434	New Tripoli Bank	113	Union Bank and Trust Company
15	<b>Nextier Bank</b>	481	Union Building and Loan Savings Bank
492	North Penn Bank	483	<b>Union National Bank of Mount Carmel</b>
439	<b>Northumberland National Bank</b>	133	Union National Community Bank
93	Northwest Savings Bank	472	United Bank of Philadelphia
546	<b>Nova Savings Bank</b>	475	United Savings Bank
<b>Bank Code O.</b>		600	Unity Bank
348	Old Forge Bank	232	Univest National Bank & Trust Co.
489	OMEGA Federal Credit Union	<b>Bank Code V.</b>	
94	Orrstown Bank	589	Valley Green Bank
<b>Bank Code P.</b>		607	<b>Vantage Point Bank</b>
598	<b>Parke Bank</b>	182	Vist Bank
267	Parkvale Bank	611	Victory Bank (The)
584	Parkview Community Federal Credit Union	<b>Bank Code W.</b>	
580	Penn Liberty Bank	338	Wachovia Bank, N.A.
97	Penn Security Bank & Trust Company	119	Washington Federal Savings Bank
168	Pennstar Bank	121	Wayne Bank
544	<b>Pennsylvania Business Bank</b>	553	WesBanco Bank
447	Peoples National Bank	122	West Milton State Bank
491	Peoples State Bank (The)	494	West View Savings Bank
99	PeoplesBank	473	Westmoreland Federal Savings
556	Philadelphia Federal Credit Union	476	William Penn Bank
448	Phoenixville Federal Bank & Trust	160	<b>Wilmington Trust of PA</b>
620	Pittsburgh Central Federal Credit Union	272	Woodlands Bank
79	PNC Bank, N.A.	573	Woori America Bank
528	Polonia Bank	<b>Bank Code X.</b>	
449	Port Richmond Savings	<b>Bank Code Y.</b>	
451	Progressive Home Federal	577	York Traditions Bank
456	Prudential Savings Bank	<b>Bank Code Z.</b>	
618	Public Savings Bank	<b>Platinum Leader Banks</b>	
<b>Bank Code Q.</b>		The Boldfaced Eligible Institutions are Platinum Leader Banks—Institutions that go above and beyond eligibility requirements to foster the IOLTA Program. These Institutions pay a net yield of 60% or more of the Federal Funds Target Rate on all PA IOLTA accounts. They are committed to ensuring the success of the IOLTA Program and increased funding for legal aid.	
560	Quaint Oak Savings Bank	[Pa.B. Doc. No. 09-796. Filed for public inspection May 1, 2009, 9:00 a.m.]	
107	<b>QNB Bank</b>		
<b>Bank Code R.</b>			
452	<b>Reliance Bank</b>		
220	Republic First Bank		
208	Royal Bank America		
<b>Bank Code S.</b>			
153	S&T Bank		
464	Scottdale Bank & Trust Company		

# RULES AND REGULATIONS

## Title 51—PUBLIC OFFICERS

### LOBBYING DISCLOSURE REGULATIONS COMMITTEE

[ 51 PA. CODE CHS. 31, 33, 35,  
37, 39, 41, 43 AND 45 ]

#### Lobbying Disclosure

An error appeared at 39 Pa.B. 1939, 1949 (April 11, 2009) regarding the ordering language. Part II of Title 51 was proposed to be rescinded at 38 Pa.B. 435 (January 19, 2008). The final rulemaking listed all changes from the proposal. The rescissions were omitted from the ordering language. The correct version of the ordering language appears as follows, with ellipses referring to the existing text of the order:

\* \* \* \* \*

#### Order

The Committee therefore orders that:

(a) Title 51 of the Pa. Code is amended by deleting §§ 31.1—31.14, 33.1—33.5, 35.1, 35.2, 37.1, 37.2, 39.1—39.3, 41.1—41.5, 43.1—43.7, 45.1 and 45.2 to read as set forth at 38 Pa.B. 435 (January 19, 2008); and by adding §§ 51.1—51.11, 53.1—53.7, 55.1—55.4, 57.1, 57.2, 59.1—59.3, 61.1—61.6, 63.1—63.7, 65.1, 65.2, 67.1 and 69.1 to read as set forth in Annex A.

\* \* \* \* \*

[Pa.B. Doc. No. 09-691. Filed for public inspection April 10, 2009, 9:00 a.m.]

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# PROPOSED RULEMAKING

## DEPARTMENT OF STATE

[ 49 PA. CODE CH. 43b ]

### Continuing Education Enforcement

The Commissioner of Professional and Occupational Affairs (Commissioner) proposes to amend § 43b.6 (relating to schedule of civil penalties—funeral directors and funeral establishments) to read as set forth in Annex A.

#### *Effective Date*

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

#### *Statutory Authority*

Section 5(a) of the act of July 2, 1993 (P. L. 345, No. 48) (Act 48) (63 P. S. § 2205(a)) authorizes the Commissioner, after consultation with licensing boards in the Bureau of Professional and Occupational Affairs (Bureau), to promulgate a schedule of civil penalties for violations of the acts or regulations of these licensing boards. Section 11(a)(6) of the Funeral Director Law (act) (63 P. S. § 479.11(a)(6)) authorizes the State Board of Funeral Directors to take disciplinary action against a licensee for violating any provisions of the act or regulations of the Board. Section 17(b) of the act (63 P. S. § 479.17(b)) authorizes the Board to levy a civil penalty of up to \$1,000 on any licensee who violates any provision of the act.

#### *Background and Need for the Amendment*

Act 48 authorizes agents of the Bureau to issue citations and impose civil penalties under schedules adopted by the Commissioner in consultation with the Bureau's licensing boards. Act 48 citations streamline the disciplinary process by eliminating the need for formal orders to show cause, answers, adjudications and orders, and consent agreements. At the same time, licensees who receive an Act 48 citation have the right to a hearing and retain their due process right of appeal prior to the imposition of discipline. The use of Act 48 citations has increased steadily since 1996, when the program was first implemented, and they have become an important part of the Bureau's enforcement efforts, with approximately 30% of all sanctions imposed by the licensing boards being accomplished through the Act 48 citation process. The Board has had an Act 48 schedule of civil penalties since 1997 (See, 27 Pa.B. 6467 (December 12, 2009)).

Section 10(b)(2) of the act (63 P. S. § 479.10(b)(2)) requires licensees to complete 6 hours of mandatory continuing education during each biennial renewal period as a condition of license renewal. In accordance with section 10(b)(1) of the act (63 P. S. § 479.10(b)(1)), in 2005 the Board promulgated regulations to implement the continuing education requirement. Under the current regulations, any failure to comply with the continuing education requirements could lead to formal disciplinary action. As is being done for other licensing boards with continuing education requirements, the Commissioner is proposing a civil penalty schedule for violation of the continuing education requirements for licensees of the Board, because the Commissioner and Board believe the Act 48 citation process will be a much more efficient method of handling violations, while still ensuring licensees retain their right to due process of law. Payment of the civil penalty will not relieve a licensee of the obliga-

tion to complete the required amount of mandatory continuing education. Under the separate rulemaking being proposed by the Board, a licensee who fails to complete the required amount of mandatory continuing education during the biennial renewal period will also be required to complete the required continuing education during the first 6 months of the renewal period; failure to complete the required continuing education by that deadline with subject the licensee to formal disciplinary action.

#### *Description of the Proposed Amendments*

The Commissioner, in consultation with the Board, proposes for a first offense violation of failing to complete the required amount of mandatory continuing education during the biennial renewal period a civil penalty \$175 for each credit hour that the licensee is deficient, up to a maximum of \$1,000. Second and subsequent offenses would not be subject to an Act 48 citation, but rather, would proceed through the formal disciplinary process.

#### *Compliance with Executive Order 1996-1*

The Board considered and approved the proposed amendments at regularly scheduled public meetings. The Commissioner reviewed the proposed amendments and considered their purpose and likely impact upon the public and the regulated community under the directives of Executive Order 1996-1. The proposed rulemaking addresses a compelling public interest as described in this Preamble and otherwise complies with Executive Order 1996-1.

#### *Fiscal Impact and Paperwork Requirements*

The proposed rulemaking should have no adverse fiscal impact on the Commonwealth, its political subdivisions, or the private sector. The proposed rulemaking will impose no additional paperwork requirements upon the Commonwealth, its political subdivisions, or the private sector. Instead, the proposed rulemaking will reduce the paperwork requirements of both the Commonwealth and the regulated community by eliminating the need for orders to show cause, answers, consent agreements and adjudications/orders for those violations subject to the Act 48 citation process.

#### *Sunset Date*

Professional licensure statutes require each board to be self-supporting. Therefore, the Commissioner and the boards continuously monitor the cost effectiveness of their regulations. As a result, 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 22, 2009, the Commissioner submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the 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, recommendations or objections regarding this proposed rulemaking to Regulatory Unit Counsel, Department of State, at P. O. Box 2649, Harrisburg, PA 17105-2649 or ST-FUNERAL@state.pa.us, within 30 days of publication of this proposed rulemaking in the *Pennsylvania Bulletin*. Please reference No. 16-47 (funeral board CE enforcement), when submitting comments.

BASIL L. MERENDA,  
*Commissioner of Professional  
and Occupational Affairs*

**Fiscal Note:** 16-47. No fiscal impact; (8) recommends adopted.

**Annex A**

**TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS**

**PART I. DEPARTMENT OF STATE**

**Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS**

**CHAPTER 43b. COMMISSIONER OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS**

**SCHEDULE OF CIVIL PENALTIES, GUIDELINES FOR IMPOSITION OF CIVIL PENALTIES AND PROCEDURES FOR APPEAL**

**§ 43b.6. Schedule of civil penalties—funeral directors and funeral establishments.**

**STATE BOARD OF FUNERAL DIRECTORS**

**Violation Under**

**63 P. S.**

**Title/Description Penalties**

**Section 479.10(b)**

**Failure to complete the required amount of continuing education**

**First offense—\$175 per hour of deficiency, not to exceed \$1,000  
Second offense—formal action**

\* \* \* \* \*

[Pa.B. Doc. No. 09-797. Filed for public inspection May 1, 2009, 9:00 a.m.]

**[ 49 PA. CODE CH. 43b ]**

**Schedule of Civil Penalties—Engineers, Land Surveyors and Geologists**

The Commissioner of Professional and Occupational Affairs (Commissioner) proposes to amend § 43b.13a (relating to schedule of civil penalties—engineers, land surveyors and geologists) to read as set forth in Annex A.

*Effective date*

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

*Statutory Authority*

Section 5(a) of the act of July 2, 1993 (P. L. 345, No. 48) (Act 48) (63 P. S. § 2205(a)) authorizes the Commissioner, after consultation with licensing boards in the Bureau of Professional and Occupational Affairs (the Bureau), to promulgate a schedule of civil penalties for violations of the acts or regulations of these licensing boards. Section 4(g) of the Engineer, Land Surveyor and Geologist Registration Law (act) (63 P. S. § 151(g)) authorizes the State Registration Board for Professional Engineers, Land Surveyors and Geologists to take disciplinary action against a licensee for violating any provisions of the act or regulations of the Board. Section 11(b) of the act (63 P. S. § 158(b)) authorizes the Board to levy a civil penalty of up to \$1,000 on any licensee who violates any provision of the act.

*Background and Need for the Amendment*

Act 48 authorizes agents of the Bureau to issue citations and impose civil penalties under schedules adopted by the Commissioner in consultation with the Bureau's licensing boards. Act 48 citations streamline the disciplinary process by eliminating the need for formal orders to show cause, answers, adjudications and orders, and consent agreements. At the same time, licensees who receive an Act 48 citation retain their due process right of appeal prior to the imposition of discipline. The use of Act 48 citations has increased steadily since 1996, when the program was first implemented, and they have become an important part of the Bureau's enforcement efforts, with approximately 30% of all sanctions imposed by the licensing boards being accomplished through the Act 48 citation process. The Board has had an Act 48 schedule of civil penalties since 2001 (See, 31 Pa.B. 1227 (March 3, 2004)).

Act 170 of 2006 added to the act section 4.5 (relating to mandatory continuing education). Section 4.5(a) of the act (63 P. S. § 151.5(a)) requires licensees to complete 24 hours of mandatory continuing education during each biennial renewal period as a condition of license renewal and requires the Board to promulgate regulations to enforce the continuing education requirement. The Board is proposing through a separate rulemaking regulations to implement the mandatory continuing education requirements. As is being done for other licensing boards with continuing education requirements, the Commissioner is proposing a civil penalty schedule for violation of the continuing education requirements for licensees of the Board, because the Commissioner and Board believe the Act 48 citation process will be a much more efficient

method of handling violations, while still ensuring licensees due process. Payment of the civil penalty will not relieve a licensee of the obligation to complete the required amount of mandatory continuing education. Under the separate rulemaking being proposed by the Board, a licensee who fails to complete the required amount of mandatory continuing education during the biennial renewal period will also be required to complete the required continuing education during the next 6 months; failure to complete the required continuing education by that deadline with subject the licensee to formal disciplinary action.

*Description of the Proposed Amendments*

The Commissioner, in consultation with the Board, proposes for a first offense violation of failing to complete the required amount of mandatory continuing education during the biennial renewal period a civil penalty \$50 for each credit hour that the licensee is deficient, up to a maximum of \$1,000. Second and subsequent offenses would not be subject to an Act 48 citation, but rather, would proceed through the formal disciplinary process.

*Compliance with Executive Order 1996-1*

The Board considered and approved the proposed amendments at regularly scheduled public meetings. The Commissioner reviewed the proposed amendments and considered their purpose and likely impact upon the public and the regulated community under the directives of Executive Order 1996-1. The proposed rulemaking addresses a compelling public interest as described in this Preamble and otherwise complies with Executive Order 1996-1.

*Fiscal Impact and Paperwork Requirements*

The proposed rulemaking should have no adverse fiscal impact on the Commonwealth, its political subdivisions or the private sector. The proposed rulemaking will impose no additional paperwork requirements upon the Commonwealth, its political subdivisions or the private sector. Instead, the proposed rulemaking will reduce the paperwork requirements of both the Commonwealth and the regulated community by eliminating the need for orders to show cause, answers, consent agreements and adjudications/orders for those violations subject to the Act 48 citation process.

*Sunset Date*

Professional licensure statutes require each board to be self-supporting. Therefore, the Commissioner and the boards continuously monitor the cost effectiveness of their regulations. As a result, 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 22, 2009, the Commissioner submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the 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-form 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, recommendations or objections regarding this proposed rulemaking to Regulatory Unit Counsel, Department of State, P. O. Box 2649, Harrisburg, PA 17105-2649 or by e-mail at ST-ENGINEER@state.pa.us, within 30 days of publication of this proposed rulemaking in the *Pennsylvania Bulletin*. Reference No. 16-43 (Act 48 engineer CE), when submitting comments.

BASIL L. MERENDA,  
*Commissioner*

**Fiscal Note:** 16-43. 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 43b. COMMISSIONER OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS SCHEDULE OF CIVIL PENALTIES, GUIDELINES FOR IMPOSITION OF CIVIL PENALTIES AND PROCEDURES FOR APPEAL**

**§ 43b.13a. Schedule of civil penalties—engineers, land surveyors and geologists.**

**STATE REGISTRATION BOARD FOR PROFESSIONAL ENGINEERS, LAND SURVEYORS AND GEOLOGISTS**

<i>Violation Under</i>	<i>Title/</i>	<i>Penalties</i>
<i>63 P. S.</i>	<i>Description</i>	
	* * * * *	
<b>Section 151. 5(a)</b>	<b>Failure to complete the required amount of continuing education</b>	<b>First offense—\$50 per hour of deficiency, not to exceed \$1,000 Subsequent offense—formal action</b>

[Pa.B. Doc. No. 09-798. Filed for public inspection May 1, 2009, 9:00 a.m.]



# STATE BOARD OF ACCOUNTANCY

## [ 49 PA. CODE CH. 11 ] Biennial Renewal Fees

The State Board of Accountancy (Board) proposes to amend § 11.4 (relating to fees) to read as set forth in Annex A.

### *Description of Proposed Rulemaking*

Section 11.4 sets forth a schedule of fees charged by the Board. The proposed rulemaking would raise the biennial renewal fee for certified public accountants, public accountants and public accounting firms from \$45 to \$100 and the biennial renewal fee for continuing education program sponsors from \$120 to \$150. The proposed rulemaking also would make an editorial change by deleting a now-unnecessary reference to the date that the current biennial renewal fee for program sponsors took effect.

### *Background and Need for Proposed Rulemaking*

Section 6 of the CPA Law (63 P. S. § 9.6) provides that the Board's biennial revenues from fees, fines and civil penalties shall meet or exceed the Board's biennial expenditures. Because fines and civil penalties have historically accounted for a small percentage of the Board's total revenues, the Board must generate most of its revenues from fees.

The Board's principal sources of fee revenues are the fees charged to certified public accountants, public accountants and public accounting firms for biennial renewal of their licenses and to continuing education program sponsors for biennial renewal of their approvals. The Board's biennial renewal fees currently account for approximately 84% of the Board's fee revenues during each biennial renewal period. The biennial renewal fees defray general operating expenses and overhead—primarily in the areas of investigation, prosecution and enforcement—that are not susceptible of being apportioned to individual credential-holders in the regulated community.

The biennial renewal fee for certified public accountants, public accountants and public accounting firms was last raised in June 1990, going from \$30 to \$45, and currently applies to 23,128 active licensees. The biennial renewal fee for continuing education program sponsors was established in January 2001 and was first assessed on renewing program sponsors for the biennial renewal period that began January 1, 2004. It currently applies to 746 active program sponsors.

According to an analysis prepared by the Department of State's Bureau of Finance and Operations (BFO), the Board's current biennial renewal fee structure is inadequate to meet the Board's revenue needs. Unless the biennial renewal fees are increased, the Board faces large deficits in the coming years, as reflected in the following projections made by the BFO:

<i>Financial Status</i>	<i>FY07-08</i>	<i>FY08-09</i>	<i>FY09-10</i>	<i>FY10-11</i>	<i>FY11-12</i>
Beginning Balance:	(\$61,682.47)	\$312,936.92	(\$616,063.08)	(\$579,063.08)	(\$1,577,063.08)
Revenue:	\$1,200,000.00	\$200,000.00	\$1,200,000.00	\$200,000.00	\$1,200,000.00
Prior Yr. Returned Funds:	\$329,014.63	0	0	0	0
Total Revenue:	\$1,467,331.96	\$512,936.92	\$583,936.92	(\$379,063.08)	(\$377,063.08)
Adjust. For Prior Year Expenses:	\$58,395.04	0	0	0	0
Expenses:	\$1,096,000.00	\$1,129,000.00	\$1,163,000.00	\$1,198,000.00	\$1,258,000.00
Remaining Balance:	\$312,936.92	(\$616,063.08)	(\$579,063.08)	(\$1,577,063.08)	(\$1,635,063.08)

Based on fiscal information provided by the BFO, the Board determined that it would need to increase its biennial renewal fee for certified public accountants, public accountants and public accounting firms by approximately 125% in order to have sufficient biennial revenues to offset its biennial expenditures over the next nine years. Accordingly, the Board has opted to raise the biennial renewal fee from \$45 to \$100—a 122% increase—effective with the biennial renewal period that begins January 1, 2010. The revenues from the higher biennial renewal fee should defer the need for a further fee increase until the biennial renewal period that begins January 1, 2018.

The Board has also opted for a 25% increase in the \$120 biennial renewal fee for continuing education program sponsors, effective with the biennial renewal period that begins January 1, 2010. When establishing program sponsor fees in 2001 as part of a restructuring of its regulatory scheme for approving program sponsors, the Board estimated that there would be approximately 1,150 active Board-approved program sponsors as of the start of the first biennial renewal period on January 1, 2004. (Program sponsors approved by the National Association of State Boards of Accountancy are exempt from the Board's approval requirements.) The Board's estimate proved too optimistic; at present there are 35% fewer active Board-approved program sponsors than originally

estimated. The 25% increase in the biennial renewal fee for program sponsors would recapture a portion of the revenues that had been projected when the fee was initially established.

According to the BFO, the higher biennial renewal fees would raise biennial renewal revenues from the current \$1,130,280 to \$2,424,700. The BFO estimates that these additional biennial revenues would enable the Board to maintain positive biennial revenue balances through the end of FY15-16, when the revenue balance is projected to be \$512,936.92.

*Fiscal Impact*

The proposed rulemaking would generate approximately \$1,294,420 in additional biennial renewal revenues, broken down as follows:

<i>Regulated Class</i>	<i>Number of Renewing Credential-holders</i>	<i>Fee Increase</i>	<i>Additional Revenues</i>
Certified Public Accountant	21,581	× \$55	\$1,186,955
Public Accountant	264	× \$55	\$14,520
Public Accounting Firm	1,283	× \$55	\$70,565
Continuing Education Program Sponsor	746	× \$30	\$22,380

*Paperwork Requirements*

The proposed rulemaking would require the Board to change its biennial renewal forms to reflect the new fees. The proposed rulemaking would not create additional paperwork for the regulated community.

*Effective Date*

The proposed rulemaking would become effective upon publication of final-form rulemaking in the *Pennsylvania Bulletin*. The new biennial renewal fees would apply to those that renew their licenses or approvals for the biennial renewal period that begins January 1, 2010.

*Statutory Authority*

Section 6 of the CPA Law requires the Board to establish fees by regulation and to ensure that revenues derived from fees, fines and civil penalties are adequate to cover the Board's expenditures over a biennial period.

The Board considers the proposed rulemaking to be both required by law and the least restrictive means of covering the cost of activities that the Board is required to perform.

*Regulatory Review*

On April 22, 2009, as required under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), the Board submitted copies of this proposed rulemaking, a Regulatory Analysis Form and Fee Report Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the Senate Standing Committee on Consumer Protection and Professional Licensure and the House Standing Committee on Professional Licensure. Copies of the Regulatory Analysis Form and Fee Report Form are available to the public upon request.

Under section 5(g) of the Regulatory Review Act (71 P. S. § 745.5(g)), IRRC may convey any comments, recommendations or objections to the proposed rulemaking within 30 days after the close of the public comment period. The comments, recommendations or objections must specify the regulatory review criteria that have not been met. The Regulatory Review Act sets forth detailed procedures that permit the Board, the General Assembly and the Governor to review any comments, recommendations or objections prior to final publication of the rulemaking.

*Public Comment*

The Board invites interested persons to submit written comments, suggestions or objections regarding the proposed rulemaking to Steven Wennberg, Counsel, State Board of Accountancy, P. O. Box 2649, Harrisburg, PA 17105-2649 within 30 days following publication of this proposed rulemaking in the *Pennsylvania Bulletin*.

SAMUEL J. STEPHENSON, CPA,  
*Chairperson*

**Fiscal Note:** 16A-5512. 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 11. STATE BOARD OF ACCOUNTANCY  
GENERAL PROVISIONS**

**§ 11.4. Fees.**

Following is the schedule of fees charged by the Board:

\* \* \* \* \*

Biennial renewal of license of certified public accountant, public accountant or public accounting firm. . . . . [ \$45 ] \$100

\* \* \* \* \*

Biennial renewal of approval of program sponsor [ beginning January 1, 2004 ] . . . . . [ \$120 ] \$150

[Pa.B. Doc. No. 09-799. Filed for public inspection May 1, 2009, 9:00 a.m.]

# STATE BOARD OF FUNERAL DIRECTORS

[ 49 PA. CODE CH. 13 ]

## Continuing Education Enforcement

The State Board of Funeral Directors (Board) proposes to amend §§ 13.231 and 13.401 (relating to biennial registration; unregistered status and inactive status; failure to renew; and credit hour requirements), to read as set forth in Annex A.

### *Effective Date*

The amendments will be effective upon publication of the final-form regulation in the *Pennsylvania Bulletin*.

### *Statutory Authority*

This proposed rulemaking is authorized under sections 10(b) and 16(a) of the Funeral Director Law (act) (63 P. S. §§ 479.10(b) and 479.16(a)).

### *Background and Need for the Amendment*

Section 10(b)(2) of the act requires licensees to complete 6 hours of mandatory continuing education during each biennial renewal period as a condition of license renewal. Under section 11(a)(6) of the act, the Board may take disciplinary action against any licensee who fails to comply with any provision of the act or Board regulations. Disciplinary actions for failing to complete the continuing education requirement in a timely manner invariably result in the licensee being required to pay a civil penalty proportionate to the amount of deficiency and to make up the deficiency promptly. Accordingly, the Board proposes to utilize the more streamlined procedures under section 5(a) of the act of July 2, 1993 (P. L. 345, No. 48) (Act 48) (63 P. S. § 2205(a)) (Commissioner of Professional and Occupational Affairs, after consultation with licensing boards in the Bureau of Professional and Occupational Affairs, may promulgate a schedule of civil penalties for violations of the acts or regulations of these licensing boards).

### *Description of the Proposed Amendments*

Under proposed § 13.401(d), a licensee who has not completed the required amount of continuing education would be required to pay a civil penalty, under 49 Pa. Code § 43b.6 (related to schedule of civil penalties—funeral directors and funeral establishments). The civil penalty schedule for continuing education violations (first offense) will be promulgated by the Commissioner of Professional and Occupational Affairs in a separate rule-making package. See 39 Pa.B. 2210 (May 2, 2009). Second or subsequent offenses will subject the licensee to discipline under section 11(a)(6) of the act, which authorizes the Board to discipline a licensee for violating the act or a regulation of the Board. A licensee who did not complete the required amount of continuing education would be required to complete the entire amount of mandatory continuing education and provide the Board with proof within the first 6 months of the renewal period.

The proposed rulemaking would also revise the requirement of § 13.231(a) (unless excused for good cause, the Board will not renew a funeral director's licensee unless the licensee has certified that the licensee completed the required amount of continuing education). Instead, the licensee would only be required to certify that the licensee has complied with the continuing education requirements "in accordance with §§ 13.401—13.406 (relating to con-

tinuing education)." As discussed previously, the proposed rulemaking would revise those provisions to permit renewal by a licensee who has not completed the required amount of continuing education, conditioned upon paying a civil penalty and making up the deficient hours of continuing education within the first 6 months of the renewal period.

### *Fiscal Impact and Paperwork Requirements*

The proposed rulemaking should have no adverse fiscal impact on the Commonwealth, its political subdivisions or the private sector. The proposed rulemaking will impose no additional paperwork requirements upon the Commonwealth, its political subdivisions or the private sector.

### *Sunset Date*

The Board continuously monitors the cost 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 22, 2009, 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 Chairpersons of 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, recommendations or objections regarding this proposed rulemaking to Regulatory Unit Counsel, Department of State, P. O. Box 2649, Harrisburg, PA 17105-2649 or by e-mail at ST-FUNERAL@state.pa.us, within 30 days of publication of this proposed rulemaking in the *Pennsylvania Bulletin*. Reference No. 16A-4818 (continuing education enforcement), when submitting comments.

MICHAEL J. YEOSOCK, FD  
*Chairperson*

**Fiscal Note:** 16A-4818. No fiscal impact; (8) recommends adoption.

### **Annex A**

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

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

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

#### **CHAPTER 13. STATE BOARD OF FUNERAL DIRECTORS**

#### **LICENSE RENEWAL**

#### **§ 13.231. Biennial registration; unregistered status and inactive status; failure to renew.**

(a) A licensee shall register each biennial period to retain the right to practice. Initial registration shall

automatically occur when a license is issued. Registration for a biennial period expires on the first day of February of every even number year. Unless excused by the Board for good cause under section 10(b)(4) of the act (63 P. S. § 479.10(4)), the Board will not grant an application for renewal of a funeral director license unless the licensee has certified that the licensee has **[completed the amount of continuing education required by § 13.401 (relating to credit hour requirements) complied with the continuing education requirements mandated by section 10(b) of the act during the biennial period immediately preceding the application for renewal in accordance with §§ 13.401—13.406 (relating to continuing education).**

\* \* \* \* \*

**CONTINUING EDUCATION**

**§ 13.401. Credit hour requirements.**

\* \* \* \* \*

**(d) Unless otherwise excused as authorized under the act or this chapter, failure to complete the minimum required amount of continuing education during the applicable renewal period will subject the licensee to discipline under section 17(b) of the act (63 P. S. § 479.17(b)) in accordance with the schedule of civil penalties in § 43b.6 (relating to schedule of civil penalties—funeral directors and funeral establishments). A second or subsequent violation will subject the licensee to disciplinary action under section 11(a)(6) of the act (63 P. S. § 479.11(a)(6)). Within 6 months after the end of the renewal period during which the required amount of continuing education was not completed, the licensee shall make up the deficiency and shall provide proof of attendance at continuing education courses during the previous biennial registration period as required under § 13.402 (relating to reporting completion of continuing education). In addition to any civil penalty assessed under this subsection, failure to provide the Board with proof of the required amount of continuing education within 6 months after the beginning of a biennial period in which the licensee renewed without having completed the required amount of continuing education shall subject the licensee to disciplinary action under section 11(a)(6) of the act (63 P. S. § 479.11(a)(6)).**

[Pa.B. Doc. No. 09-800. Filed for public inspection May 1, 2009, 9:00 a.m.]

**STATE BOARD OF  
PSYCHOLOGY**

**[ 49 PA. CODE CH. 41 ]**

**Qualifications**

The State Board of Psychology (Board) proposes to amend §§ 41.1, 41.31, 41.32 and 41.41 and to add § 41.30 (relating to qualifications and documentation necessary for licensure), to read as set forth in Annex A.

*A. Effective Date*

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

*B. Statutory Authority*

The amendments are proposed under the authority of sections 3.2(1), 6(a) and 8(a)(6) of the Professional Psychologists Practice Act (act) (63 P. S. §§ 1203.2(1), 1206(a)(2) and 1208(a)(6)).

*C. Purpose and Background*

This proposed rulemaking has three purposes: (1) reorganize the examination, education and experience provisions into three separate sections; (2) clarify the experience and supervisions requirements; and (3) permit graduates of doctoral degree programs in psychology and a field related to psychology to take the licensing examination after completing their education.

*Reorganization*

To obtain a license as a psychologist, applicants shall complete educational, experience and examination requirements. The current regulations interweave these requirements. Current §§ 41.31(a) and 41.41 (relating to qualifications for taking licensing examination; and examinations) contain examination provisions; current § 41.31(b) contains the educational requirements; and current experience and supervision requirements are contained in subsection (c). Additionally, current §§ 41.31(c) and 41.32 (relating to standards for supervisors) contains experience and supervision requirements.

In this proposed rulemaking, the Board would reorganize the education, examination and experience requirements into three separate sections—§ 41.31 for educational requirements, § 41.32 for experience requirements and § 41.41 for examination requirements.

*Clarification of experience and supervision requirements*

The act requires 2 years of supervised experience to obtain a license. One year of that experience is obtained as part of the doctoral degree program and is administered by the program's internship director. The other year of supervision is completed after graduation. The Board currently defines the year as 1,500 hours of supervised experience of which 50% of the hours must be obtained in clinical practice. The remaining hours may be in clinical practice or in research. In reviewing this experience, the Board determined that 1,750 hours more accurately reflects an actual year of practice calculated at an average of 35 hours per week excluding vacations, holidays and sick days. This increased time frame is also consistent with the experience required in neighboring jurisdictions, including New York, New Jersey, Maryland, Ohio and the District of Columbia.

Additionally, the Board receives numerous telephone, mail and e-mail inquiries from students pursuing their doctoral degrees, doctoral degree graduates, primary and delegated supervisors and potential primary and delegated supervisors seeking clarification about experience timing, settings and supervisory responsibilities and prohibitions. The Board believes that the proposed amendments will provide clarity with regard to these issues.

*Examination changes*

Current examination requirements prohibit applicants from taking the licensure examination until after completing their experience. In this proposed rulemaking, the Board proposes to remove this prohibition and permit applicants to take the examination at any time after

graduation. The Board believes that these graduates should be permitted to take their examinations closer in time to when they graduate. Further, 41 states—including New York and Virginia—permit doctoral degree graduates to take the licensure examinations prior to obtaining their postdoctoral experience.

*D. Description of Proposed Amendments:*

*§ 41.1—Definitions.*

The Board proposes to add five definitions to this section. Two of the definitions—“delegated supervisor” and “primary supervisor”—identify the types of supervisors referred to in the amendments to § 41.32 (relating to experience qualifications). These supervisors are assigned various responsibilities and duties over individuals who provide psychology services but who are not yet licensed. Under the proposed definition, a delegated supervisor may include another psychology resident when that psychology resident falls within the exemptions in section 3(4)—(8) of the act (63 P. S. § 1203(4)—(8)) or holds a license in another health profession. The Board believes that in such a circumstance, the delegated supervisor has expertise in an area outside of psychology that may be beneficial to the psychology resident.

Two definitions are proposed to identify individuals who are seeking licensure: “psychology interns,” who have not yet obtained their doctoral degree and are participating in a predoctoral internship, and “psychology residents,” who have obtained their doctoral degree and are fulfilling their postdoctoral experience requirements. Additionally, the Board proposes adding a definition for the term “psychology trainee” to describe both psychology interns and psychology residents.

*§ 41.30—Qualifications and documentation necessary for licensure.*

The Board proposes to add this new section to identify the qualifications and documentation necessary for licensure. Proposed subsection (a) references the educational, experience and examination requirements. Proposed subsection (b) sets forth the three documents currently required to obtain a license: the experience verifications completed by the applicant’s supervisor or supervisors, the criminal background verification completed by the State Police and the Child Abuse History Clearance completed by the Department of Public Welfare.

The criminal background verification proposed in subsection (b)(2) provides the Board with documentation used to determine whether the applicant has acceptable moral character required by section 6(a)(1) of the act whether the applicant has been convicted of a felony under The Controlled Substance, Drug, Device and Cosmetic Act (35 P. S. §§ 780-101—780-144) required under section 6(a)(5) of the act (63 P. S. § 1206(a)(5)); and whether the applicant has been convicted of any felony or a misdemeanor in the practice of psychology as required by section 8(a)(6) of the act. Similarly, the Child Abuse History Clearance proposed in subsection (b)(3) provides the Board with documentation used to determine whether the applicant has acceptable moral character required by section 6(a)(1) of the act. This clearance is already required for individuals employed by schools and childcare agencies under 23 Pa.C.S. Chapter 63 (relating to child protective services). Both verifications are available online. The criminal background check may be completed online at <http://epatch.state.pa.us>. Applicants who want to submit the background check request by mail may download the form at: <http://www.dpw.state.pa.us/Resources/Documents/>

[Pdf/FillInForms/statepolice-bkgd.pdf](http://www.dpw.state.pa.us/Resources/Documents/Pdf/FillInForms/statepolice-bkgd.pdf). The Child Abuse History Clearance form may be downloaded at: <http://www.dpw.state.pa.us/Resources/Documents/Pdf/FillInForms/DPWchildabuse.pdf> and must be mailed to the Department of Public Welfare for processing.

*§ 41.31—Educational qualifications.*

The Board proposes removing the administrative procedures for taking the examination in subsection (a) and moving them to new § 41.41(d) and (e) with the other examination requirements.

The only proposed change to the educational requirements in current subsection (b) is the addition of “a field related to psychology” in paragraph (4). This requirement was inadvertently omitted from prior rulemaking.

Like the examination provisions in current subsection (a), the Board proposes eliminating subsection (c) and incorporating the postdoctoral experience provisions currently in subsection (c)(1) into § 41.32. The Board proposes eliminating the 1 year predoctoral experience requirement in current § 41.31(c)(2) because that experience is part of the internship governed by the doctoral degree program necessary for graduation. Under amendments published in the *Pennsylvania Bulletin* at 36 Pa.B. 2680 (June 2, 2006), the Board no longer reviews specific doctoral education or internships, but rather considers only whether the program is accredited or designated.

*§ 41.32—Experience qualifications.*

In addition to the standards for supervisors in current § 41.32, the Board proposes adding timing requirements and specific responsibilities and prohibitions for primary and delegated supervisors.

The new text addresses repeated questions about the length of the experience. Under proposed paragraph (1)(i) and (iv), psychology residents will be required to obtain at least 12 months of experience consisting of at least 1,750 hours within 10 years of the application for licensure. At least half of the hours must be obtained within 5 years of the application. The proposed rulemaking would increase the total experience hours required from 1,500 hours to 1,750 hours to more accurately reflect the actual number of hours of experience that would be gained during the course of 1 year.

Regardless of the actual number of hours worked, under proposed paragraph (i)(ii), a psychology resident will only receive licensure credit for a maximum of 45 hours per week. Experience lasting less than 15 hours per week will not be credited. Experience hours less than the minimum or over the maximum amounts cannot be bundled with other hours to reach minimums. As is currently required, new paragraph (1)(ii) would require that 50% of the required experience hours must involve clinical practice—performing diagnosis, assessment, therapy or other interventions, supervision or consultation. The remaining 50% could be obtained in clinical practice, teaching psychologists in an organized psychology program or research.

The psychology resident may obtain the experience for more than one entity, as explained in proposed paragraph (1)(ii); however, for that experience to be credited for licensure, the psychology resident shall work for each entity for more than 6 months at a minimum of 15 hours per week, but no more than 45 hours per week total under the supervision requirements in proposed paragraph (3).

In addition to the time frames in paragraph (1), in order for the experience to be credited for licensure, proposed paragraph (2) would retain the current requirement that a psychology resident must practice at an entity that is consistent with the psychology resident's education and training but wherein the psychology resident does not act independently, for example, as a qualified member of another recognized profession.

New paragraph (3) delineates the supervisory requirements. Regardless of the number of settings where the experience is obtained, a psychology resident must have a primary supervisor at each setting. Similarly, as is currently required, paragraph (3)(ii) provides that the primary supervisor may delegate up to 1 hour per week of supervision to a delegated supervisor.

Proposed paragraph (3)(iii) delineates specific duties of primary and delegated supervisors. Duties currently in § 41.32(3)—(9) and (12)—(14) would be moved to subsection (c)(4), dealing with prohibitions on primary and delegated supervisors, and to paragraph (3)(v), which provided for additional duties of primary supervisors.

Proposed paragraph (3)(v) contains a new requirement that the primary supervisor practiced psychology for 2 years prior to commencing supervision and completed prescribed education in supervision prior to commencing supervision. The Board believes that this additional experience and training will be of value to both the supervisor and the psychology resident.

New paragraphs (4) and (6) replace current § 41.31(c)(3) and (5). Under new paragraph (4), in exceptional circumstances psychology residents who cannot comply with the supervisory requirements must submit a detailed written plan for supervision and obtain the Board's approval prior to implementing the supervisory plan. New paragraph (6) continues the requirement that psychology residents either continue to be supervised after obtaining their required hours or practice in an exempt setting until they receive their license.

New paragraph (5) is a transitioning provision. Applicants who commence their supervision within 6 months after the effective date of this proposed rulemaking will continue to have their supervision and experience evaluated under the regulations as they currently exist. Applicants who commence their supervision at any time after 6 months from publication in the *Pennsylvania Bulletin* will have their supervision and experience evaluated under these new regulations.

§ 41.41—Examinations.

New subsection (a) authorizes applicants to take the licensing examination after the degree requirements in § 41.31 are met. New subsections (c) and (d) were formerly found in § 41.31(a).

E. Fiscal Impact and Paperwork Requirements

The proposed amendments should have a positive fiscal impact on the Commonwealth because the Board should not have to return as many applications or seek additional clarification or supplemental information about the supervisor or the experience. Board members will continue to review applicants' experience; however, there are no additional costs associated with Board member review because that review is conducted at the end of the monthly Board meetings.

The proposed amendments should decrease paperwork required from applicants and supervisors.

F. Sunset Date

The Commission reviews the effectiveness of its regulations on an ongoing basis. Therefore, no sunset date has been assigned.

G. Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on April 22, 2009, 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 Chairpersons of 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.

H. Public Comment

Interested persons are invited to submit written comments, recommendations or objections regarding the proposed amendments to Judith Pachter Schulder, Counsel, State Board of Psychology, Penn Center, 2601 North Third Street, P. O. Box 2649, Harrisburg, PA 17105-2649, within 30 days following publication of this proposed rulemaking in the *Pennsylvania Bulletin*.

KAREN W. EDELSTEIN, Psy.D.,  
Chairperson

**Fiscal Note:** 16-A 6315. 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 41. STATE BOARD OF PSYCHOLOGY

GENERAL

§ 41.1 Definitions.

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

\* \* \* \* \*

**Delegated supervisor**—A currently licensed health professional or a person who is exempt from licensure under section 3(4)—(8) of the act (63 P. S. § 1203(4)—(8)), who possesses special expertise or skills to whom the primary supervisor has delegated up to 1 hour of the 2 hours of required weekly supervision.

\* \* \* \* \*

**Primary supervisor**—A currently licensed psychologist having primary responsibility for directing and supervising the psychology resident.

\* \* \* \* \*

**Psychology intern**—A student participating in an internship as part of a doctoral degree program in psychology or a field related to psychology.

**Psychology resident**—An individual who has obtained a doctoral degree and is fulfilling the supervised experience requirement for licensure, or an applicant for licensure who is continuing training under § 41.31(b)(4) (relating to educational qualifications).

**Psychology trainee**—[ An individual who is fulfilling the supervised experience requirement for licensure, or an applicant for licensure who is continuing training under § 41.31(c)(5) (relating to qualifications for taking licensing examination) ] A psychology intern or psychology resident.

\* \* \* \* \*

**QUALIFICATIONS**

§ 41.30. Qualifications and documentation necessary for licensure.

(a) To qualify for licensure, an applicant shall complete the educational requirements in § 41.31 (relating to education qualifications), the experience requirements in § 41.32 (relating to experience qualifications) and the examination requirements in § 41.41 (relating to examinations).

(b) An applicant for licensure shall submit an application and fee to the Board with the following:

(1) Verification of postdoctoral experience and quarterly evaluations prepared during the course of supervision in a sealed envelope signed by the primary supervisors on the envelope flap.

(2) A criminal background check completed by the Pennsylvania State Police dated within 6 months of the application. If the applicant resides outside of the Commonwealth, the background check shall be completed by the applicable law enforcement agency in the jurisdiction where the applicant resides.

(3) Child Abuse History Clearance completed by the Pennsylvania Department of Public Welfare dated within 6 months of the application.

§ 41.31 [ Qualifications for taking licensing examination ] Educational qualifications.

[ (a) *Administrative procedures.*

(1) Applications to take the licensing examination and instructions for applicants, including deadlines for filing, may be secured from the Board. If an applicant, without reasons satisfactory to the Board, fails to report for both the first examination and the one subsequent to it, the applicant's application will be considered to have been withdrawn. If the applicant wishes to take a future examination, a new application shall be submitted to the Board. The application will be reviewed on the basis of the law and the regulations existing at the time.

(2) An applicant who has been deemed ineligible to take the examination shall be notified in writing of the reasons for ineligibility, whereupon the applicant may within 30 days of the notice correct the causes for the ineligibility or file a request for reconsideration. A request for reconsideration shall give the reasons for the applicant's request, shall be accompanied by documentary materials not previously submitted which the applicant wishes the Board to consider, and may include a request for an informal interview before the Board.

(b) *Education.* Before an applicant seeking ] To meet the education requirements for licensure under section 6 of the act (63 P. S. § 1206), an applicant shall [ be permitted to take the licensing examination, the Board must be satisfied that the applicant has complied with ] complete the requirements for a doctoral degree in psychology or a field related to psychology as defined in § 41.1 (relating to definitions). The following documentation evidences compliance:

\* \* \* \* \*

(4) First-time applicants who [ enroll ] were enrolled in a graduate degree program in psychology or a field related to psychology on or after July 1, 2008, will be evaluated under this chapter. Applicants enrolled prior to July 1, 2008, will be evaluated under regulations in effect at the time of enrollment. Reapplicants under subsection (a)(1) or § 41.42(b) (relating to reexamination) will be evaluated under regulations in effect at the time of reapplication.

\* \* \* \* \*

[ (c) *Experience.* To meet the experience requirements for licensure under section 6 of the act (63 P. S. § 1206), an applicant shall submit evidence of having completed 2 years of supervised experience which trained the applicant for the independent practice of psychology. At least 1 year of this supervised experience shall be obtained subsequent to the granting of the doctoral degree. For purposes of calculating experience the Board has defined a year as 1,500 hours. All supervised experience must be acceptable to the Board. Acceptable predoctoral experience is limited to formal integrated internships—that is, internships which are integrated in terms of both the applicant's educational background and all aspects of the professional practice in which the applicant intends to engage.

(1) *Postdoctoral experience.*

(i) Experience acceptable to the Board means experience as a psychology trainee in a professional setting that is organized to prepare the applicant for the practice of psychology consistent with the applicant's education and training. At least one-half of the experience shall consist of providing services in one or more of the following areas: diagnosis, assessment, therapy, other interventions, consultation. Acceptable experience does not include the following:

(A) Independent private practice as a qualified member of another recognized profession under section 3(3) of the act (63 P. S. § 1203(3)).

(B) Independent private practice as a certified school psychologist under section 3(10) of the act.

(C) Practice as an independent contractor.

(ii) A psychology trainee shall, in every professional setting in which the trainee gains experience, be supervised by a psychologist holding a current license issued by this Board or by a statutory board of psychologist examiners of another state, if, in the opinion of the Board, the requirements for licensure are substantially equivalent to the requirements of the act.

(A) The supervisor shall own, be employed by or be in contract status with the professional setting in which the psychology trainee is employed.

(B) The supervisor shall be responsible for ensuring that the minimum requirements for acceptable supervised experience are met.

(C) Psychological activities of the psychology trainee shall be performed pursuant to the delegation, order and control of the supervisor, who shall accept full professional responsibility for the psychology trainee's performance. Accordingly, the ultimate responsibility for the welfare of the client/patient shall be in the hands of the supervising licensed psychologist.

(I) The supervisor may delegate clearly defined areas of the psychology trainee's supervision to other professionals affiliated with the professional setting whose competence in the delegated areas has been demonstrated by previous education, training and experience.

(II) Although the supervisor shall continue to bear the ultimate responsibility for the supervision, those to whom supervisory responsibilities are delegated shall be individually responsible for activities of the psychology trainee performed under their supervision.

(D) The supervisor shall ensure that clients/patients of the psychology trainee are aware of the trainee's status and of the supervisor's overall responsibility for the services they receive.

(E) The supervisor shall meet individually with the psychology trainee for an average of at least 2 hours a week. If the supervisor has delegated supervisory responsibilities to other professionals, 1 hour of this minimum may be allocated, at the direction of the supervisor, between or among them.

(F) Reports, records and other communications prepared by the psychology trainee for distribution outside the professional setting shall be signed by the trainee and countersigned as "reviewed and approved by" the supervisor or other delegated professional.

(G) A supervisor who is temporarily unable to provide supervision shall designate a qualified substitute and shall ensure that the psychology trainee's clients/patients are informed of the temporary substitution.

(H) A supervisor who wishes to terminate supervision during the training period shall give the trainee notice reasonably calculated to enable the trainee to obtain another qualified supervisor. In no event shall a supervisor terminate supervision when termination would result in abandonment of the trainee's clients/patients.

(I) The supervisor shall observe the standards in § 41.32 (relating to standards for supervisors) and ensure that those to whom supervisory responsibilities are delegated comply with these standards.

(iii) Supervised work activity will be counted toward satisfying the experience requirement only if it takes place in a single setting for either, first, at least 30 hours per week but no more than 40 hours per week during at least a 3-month period or, second, at least 15 hours per week for a period of at least 6 months. The experience shall have been obtained within the most recent 10 calendar years, at least half within the most recent 5 calendar years.

(2) *Predoctoral experience.* Predoctoral integrated internships shall meet the requirements in paragraph (1) and satisfy the following additional criteria:

(i) Upon entering the internship the psychology trainee shall have had supervised training for 450 or more hours.

(ii) During the internship the psychology trainee shall have a sequence of experiences designed to enhance professional attitudes, responsibilities and technical skills.

(iii) The psychology trainees shall participate in learning activities for an average of at least 2 hours per week, in addition to the supervision referred to in paragraph (1)(ii)(E).

(iv) The psychology trainee shall interact formally and informally with psychologists, other service providers and other trainees.

(v) The internship shall extend for a year and include at least 1,500 hours of experience with at least 25% of the time (375 hours) in direct client/patient contact and no more than 25% of the time in research, or the internship shall extend for 2 years half-time and meet the other requirements in this subparagraph.

(3) *Exception.* A psychology trainee who cannot make the supervisory arrangements required by this section may request the Board to approve a detailed written plan for supervision. The granting of such a request shall be at the Board's discretion. The Board will evaluate each plan submitted and each trainee's situation on a case-by-case basis.

(4) *Timing.* First-time applicants who commenced postdoctoral supervised experience prior to March 23, 1991, will have their postdoctoral experience credentials evaluated under regulations in effect at that time. Reapplicants under subsection (a)(1) or § 41.42(b) (relating to reexamination) will be evaluated under regulations in effect at the time of reapplication.

(5) *Continued training.* Applicants for admission to the Board's licensing examination may continue in training in a professional setting consistent with



good professional practice until they pass the examination. This continued training shall be supervised by a licensed psychologist, who shall be ultimately responsible for the psychological activities of the applicant. Applicants may also practice in settings exempted from the licensure requirement under section 3(4), (6), (8) and (10) of the act (63 P. S. § 1203(4), (6), (8) and (10)). ]

§ 41.32. [Standards for supervisors ] Experience qualifications.

To [ ensure the quality of supervised experience, the Board requires that supervisors and those to whom supervisory responsibilities are delegated under § 41.31(c)(2)(iii)(A) (relating to qualifications for taking licensing examination) comply with the standards in paragraphs (1)—(19). Supervisors will be asked to attest to compliance on the verification of experience form which shall accompany the supervisee's application to take the Board's licensing examination. The Board reserves the right to require a supervisor by documentation or otherwise to establish to the Board's satisfaction that compliance occurred. ] meet the experience requirements for licensure under section 6 of the act (63 P. S. § 1206), an applicant shall complete 1 year of acceptable postdoctoral supervised experience.

(1) *Timing.*

(i) One year is calculated as a period of at least 12 months consisting of at least 1,750 hours of experience.

(ii) No more than 45 hours but no less than 15 hours of experience may be counted per week.

(iii) Fifty percent of the required hours must be obtained performing diagnosis, assessment, therapy, other interventions, supervision or consultation and receiving supervision or consultation. The remaining required hours may be obtained by teaching in association with an organized psychology program preparing practicing psychologists or a postdoctoral training program, psychological research or any of the above categories.

(iv) The total experience must be obtained within 10 calendar years of the application for licensure. At least half must be obtained within the most recent 5 calendar years.

(v) The required experience may be obtained at more than one entity simultaneously, if the following criteria are met:

(A) The experience is obtained for each entity for a minimum of 6 consecutive months.

(B) The experience occurs for a minimum of 15 hours per week at each setting.

(C) The total experience for all settings does not exceed 45 hours per week.

(D) The experience complies with the supervision requirements in subsection (c).

(2) *Acceptable experience.*

(i) The practice at an entity in which experience is obtained must be consistent with the psychology resident's education and training.

(ii) Experience may not be obtained when the psychology resident acts independently (for ex-

ample, as a qualified member of another recognized profession under section 3(3) of the act (63 P. S. § 1203(3)).

(3) *Supervision.* Experience, including that obtained during consultation, must be obtained under the supervision of a primary supervisor.

(i) *Primary supervisors.* If the experience is obtained for more than one entity, the psychology resident shall obtain a primary supervisor for each entity.

(ii) *Delegated supervisors.* The primary supervisor may delegate supervision over the psychology resident to a delegated supervisor for up to 1 hour per week.

(iii) *Qualifications and duties of primary and delegated supervisors.* Primary and delegated supervisors are required to:

(A) Be currently licensed while providing supervision.

[ (1) The supervisor shall be ] (B) Be qualified by training and experience to practice in the [ supervisee's ] psychology resident's areas of supervised practice.

[ (2) The supervisor shall be the owner of, ] (C) Own, be an [ employe ] employee of, or be in contract status with the [ professional setting ] entity employing the [ supervisee and may not be subject in any way to the supervisee's control or influence ] psychology resident.

[ (3) The supervisor shall be accessible to the supervisee for consultation.

(4) The supervisor shall be accessible to clients/patients of the supervisee for the purpose of answering questions and responding to concerns.

(5) The supervisor shall be responsible for the supervisee's services to each client/patient.

(6) The supervisor shall be empowered to interrupt or terminate the supervisee's activities in providing services to a client/patient and, if necessary, to terminate the supervisory relationship.

(7) The supervisor may not be a relative of the supervisee by blood or marriage, may not be involved in a dual relationship which obliges the supervisor to the supervisee and may not engage in treatment of the supervisee.

(8) The supervisor may not be the subject of a disciplinary action by a licensing board.

(9) The supervisor shall establish objectives to be achieved by the supervisee during supervision.

(10) The supervisor shall review ] (D) Review issues of practice and ethics with the [ supervisee ] psychology resident.

(E) Meet individually face-to-face with the psychology resident for an average supervisory total of at least 2 hours per week.

[ (11) The supervisor shall maintain ] (F) Maintain notes or records of scheduled supervisory sessions until the psychology resident obtains a license or for at least 10 years, whichever is greater.

[ (12) The supervisor shall observe client/patient sessions of the supervisee or review verbatim recordings of these sessions on a regular basis.

(13) In regularly scheduled supervisory meetings, the supervisor shall discuss the supervisee's level of work—for example, the supervisee's areas of competence and areas of needed improvement.

(14) The supervisor shall provide to the supervisee recommendations bearing on further development, shall encourage the supervisee to read widely in the professional literature and shall help the supervisee gain a level of skill necessary for independent practice.

(15) The supervisor shall prepare written evaluations or reports of progress which shall delineate the supervisee's strengths and weaknesses. These evaluations or reports shall be discussed with the supervisee on at least a quarterly basis.

(16) The supervisor shall encourage the supervisee to work with professionals in other disciplines as indicated by the needs of each client/patient and shall periodically observe these cooperative encounters.

(17) The supervisor may not accept fees, honoraria, favors or gifts from the supervisee.

(18) The supervisor shall ensure ] (G) Ensure that the [ supervisee's status as a ] psychology [ trainee ] resident's status is made known to client/patients and to third-party payors.

[ (19) The supervisor shall ensure that the supervisee has access to multidisciplinary consultation, as necessary. ]

(iv) *Prohibitions on primary and delegated supervisors.* Primary and delegated supervisors may not:

(A) Be subject to the psychology resident's control or influence.

(B) Be related to the psychology resident by blood or marriage.

(C) Be involved in a dual relationship, as defined in Principle 6(b) of the Code of Ethics (See § 41.61, Principle 6(b) (relating to welfare of the consumer)), with the psychology resident.

(D) Treat or have treated the psychology resident.

(E) Be the subject of active discipline by a licensing board. In the event that disciplinary action is taken against the supervisor during the supervisory period, the supervisor shall immediately notify the psychology resident and assist the psychology resident in immediately obtaining a new supervisor.

(F) Accept fees, honoraria, favors or gifts from the psychology resident.

(v) *Additional responsibilities of primary supervisors.* In addition to the responsibilities for primary and delegated supervisors in subparagraph (iii), primary supervisors shall:

(A) Hold an active license to practice psychology for at least 2 years prior to commencing supervision and complete either a course in supervision from a psychology doctoral degree program or 3

hours of continuing education in supervision prior to the period of supervision.

(B) Develop with the psychology resident objectives to be achieved during supervision.

(C) Be accessible to the psychology resident for consultation and to clients/patients of the psychology resident to answer questions and respond to concerns.

(D) Be responsible to each client/patient for psychology services provided by the psychology residents.

(E) Be authorized to interrupt or terminate the services being provided by the psychology resident to a client/patient and, if necessary, to terminate the supervisory relationship.

(F) Observe client/patient sessions of the psychology resident or review verbatim recordings of these sessions on a regular basis.

(G) In regularly scheduled supervisory meetings, evaluate and apprise the psychology resident about areas of progress and needed improvement, recommend applicable professional literature and assist the resident in gaining a level of skill necessary for independent practice.

(H) Prepare written evaluations/progress reports at least quarterly delineating the psychology resident's strengths and weaknesses. These evaluations/reports shall be included with applicant's application for licensure.

(I) Assist the psychology resident in working with professionals in other disciplines as indicated by the needs of each client/patient and periodically observe these cooperative encounters.

(J) Ensure that the psychology resident has access to multidisciplinary consultation, as necessary.

(K) Monitor the supervision provided by any delegated supervisor.

(L) Review issues of practice and ethics with the psychology resident.

(M) At the conclusion of the period of supervision, evaluate the psychology resident's level of professional competence and theoretical knowledge in the areas of assessment, diagnosis, effective interventions, consultation, evaluation of programs, supervision of others, strategies of scholarly inquiry, cultural/individual diversity and professional conduct. This evaluation shall be signed and included as part of the verification of post doctoral experience submitted to the Board with the applicant's application for licensure.

(4) *Exceptional circumstances.* A psychology resident who cannot comply with the supervisory requirements, may, upon a showing of exceptional circumstances, request the Board to approve a detailed written plan for supervision. The granting of such a request is at the Board's discretion. The Board will evaluate each plan submitted and each psychology resident's situation on a case-by-case basis.

(5) *Effective date.* First-time applicants for licensure who commenced postdoctoral supervised experience prior to (Editor's Note: The blank refers to a date 6 months after the effective date of adoption of this proposed rulemaking.) will have

their postdoctoral experience credentials evaluated under regulations in effect prior to that date. Applicants who commence postdoctoral supervised experience after that date will have their postdoctoral experience evaluated under the regulations in effect at that time.

(6) *Supervised practice following completion of training.* Upon completion of the required supervisory hours, a psychology resident may practice psychology under the supervision of a licensed psychologist until the psychology resident obtains a license, under § 41.58 (relating to standards for the employment and supervision of unlicensed persons with graduate training in psychology) or may practice psychology in exempt settings under section 3(4), (6), (8) and (10) of the act (63 P. S. § 1203(4), (6), (8) and (10)).

#### EXAMINATIONS

##### § 41.41. Examinations.

(a) To be eligible to take either portion of the licensure examination, the applicant shall have obtained a doctoral degree in psychology or a field related to psychology and completed all degree requirements set forth in § 41.31 (relating to educational qualifications).

(b) The licensure examination is composed of [ a ] two portions: the National Examination for Professional Practice in Psychology (EPPP) and [ State portion ] the Pennsylvania Psychology Law Examination (PPLE). Applicants shall obtain a passing score [ to qualify for licensure ] on each portion. Information about the contents of the examination is available from the Board office.

(c) If an applicant, without reasons satisfactory to the Board, fails to report for both the first examination and the one subsequent to it, the applicant's application will be considered to have been withdrawn. If the applicant wishes to take a future examination, a new application shall be submitted to the Board. The application will be reviewed on the basis of the law and the regulations existing at the time of submission.

(d) An applicant who has been deemed ineligible to take the examination will be notified in writing of the reasons for ineligibility, whereupon the applicant may correct the causes for the ineligibility and resubmit an application, or, within 30 days of the notice, file a request for reconsideration or an appeal under 2 Pa.C.S. §§ 501—507 and 701—704 (relating to Administrative Agency Law) and 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure). A request for reconsideration must give the reasons for the applicant's request, must be accompanied by documentary materials not previously submitted which the applicant wishes the Board to consider, and may include a request for an informal interview before the Board.

[Pa.B. Doc. No. 09-801. Filed for public inspection May 1, 2009, 9:00 a.m.]

# STATE REGISTRATION BOARD FOR PROFESSIONAL ENGINEERS, LAND SURVEYORS AND GEOLOGISTS

[ 49 PA. CODE CH. 37 ]

Continuing Education

The State Registration Board for Professional Engineers, Land Surveyors and Geologists (Board) proposes to amend §§ 37.1, 37.17 and 37.18 (relating to definitions; schedule of examination fees; and reactivation of licensure status) and to add § 37.19 (relating to biennial renewal of licensure status) and §§ 37.111—37.115 (relating to continuing education), to read as set forth in Annex A.

#### *Effective Date*

The amendments will be effective upon publication of the final-form regulations in the *Pennsylvania Bulletin*. The Board anticipates that licensees will first be required to complete continuing education during the September 1, 2009, through August 31, 2011, biennial renewal period.

#### *Statutory Authority*

This proposed rulemaking is authorized under sections 4(l) and 4.5(a) of the Engineer, Land Surveyor and Geologist Registration Law (act) (63 P. S. §§ 151.4(l) and 151.4.5 (a)).

#### *Background and Need for the Amendment*

Act 170 of 2006 added to the act section 4.5 regarding mandatory continuing education. Section 4.5(a) of the act (63 P. S. § 151.4.5(a)) requires licensees to complete 24 hours of mandatory continuing education during each biennial renewal period as a condition of license renewal and requires the Board to promulgate regulations to enforce the continuing education requirement.

#### *Description of the Proposed Amendments*

##### *Proposed § 37.1 (relating to definitions)*

Existing § 37.1 would be amended to include definitions of additional terms used in the continuing education regulations. First, an hour of continuing education would be defined as 60 minutes of actual instruction in an approved course.

Section 4.5(e) of the act prohibits credit being given for any course in practice building, but the act does not define this term. Proposed § 37.1 would define the term "practice building" as marketing or any other activity having as its primary purpose increasing the business volume or revenue of a licensee or employer and does not involve the practice of engineering, land surveying or geology, as defined in section 2 of the act. However, section 2 of the act (63 P. S. § 149) defines the practice of land surveying to include "procuring or attempting to procure land surveying work" and managing any business that solicits or practices land surveying. The Board has included this activity, along with analogous activity by engineers or geologists, in the definition of "practice building."

*Proposed § 37.17 (relating to schedule of fees)*

Section 37.17 would be amended to provide that the fee to review an application for continuing education course approval, as described in proposed § 37.114 (relating to approval of continuing education courses) is \$100. The fee was determined as the amount necessary to recover the Board's cost of providing the service.

*Proposed § 37.18 (relating to reactivation of licensure status)*

The proposed rulemaking would amend § 37.18(1) to require that a licensee applying to reactivate licensure status include proof of completion of mandatory continuing education during the prior biennium. Because continuing education is generally required as a condition of renewal, a licensee who has not completed the mandatory continuing education may, without any penalty, permit his license and registration to become inactive until the licensee completes the required amount of continuing education. Proposed § 37.18(1) would permit of a licensee seeking reactivation to complete the required continuing education during the current biennium, an exception to the general rule of proposed § 37.111(b) regarding continuing education may satisfy the credit hour requirements only for the biennium in which it was completed. Notwithstanding proposed § 37.111(d) (licensee who fails to complete mandatory continuing education may renew but must pay a civil penalty and complete the required amount of continuing education within 6 months, providing to the Board proof of completion), reactivation would not be granted until the licensee completes the required continuing education of the prior biennium.

*Proposed § 37.19 (relating to biennial renewal of licensure status)*

The Board's current regulations do not include any provisions for biennial renewal of registration. The proposed rulemaking would add § 37.19 to set forth standard provisions for licensure renewal. Proposed § 37.19(a) would set the expiration date of each biennial renewal period as September 30 of each odd-numbered year and require licensees to renew each biennial period to be permitted to practice. Proposed § 37.19(b) would require a licensee to notify the Board of the licensee's current address and note that, although the Board will send renewal documentation to the address of record, it is the licensee's responsibility to renew the license. A licensee may renew online or submit a written, paper application for renewal. Proposed § 37.19(c) would require each licensee, in applying to renew, to complete and submit the application with the required fee, disclose any other license to practice engineering, land surveying or geology, and disclose any disciplinary action taken or pending in any other jurisdiction by an appropriate licensing authority.

Specific to continuing education, proposed § 37.19(c)(4) would require the licensee to verify that the licensee has complied with the continuing education requirements or acknowledge that the licensee will be subject to the sanctions of proposed § 37.114(d).

*Proposed § 37.111 (relating to credit hour requirements)*

The proposed rulemaking would add § 37.111 to set forth the general credit hour requirements. In proposed § 37.111(a), each licensee would be required to complete at least 24 hours of approved continuing education. A licensee who holds multiple licenses would have to complete the required amount of continuing education for each license. However, if a licensee completes continuing education that is appropriate to more than one licensure

class, the credit could be applied to all licenses for which the course is appropriate. Under proposed § 37.111(b), continuing education could only be applied to satisfy the requirement for the biennial period in which it was earned. However, credits made up in order to reactivate an expired license or upon Board order for missed credits may be applied to the prior biennium instead of the current biennium. Credit, of course, could not be applied more than once. Proposed § 37.111(c) would set the initial obligation to complete continuing education with the October 1, 2009, through September 30, 2011, biennial renewal period.

Under proposed § 37.111(d), a licensee who has not completed the required amount of continuing education would be required to pay a civil penalty under 49 Pa. Code § 43b.13a (related to schedule of civil penalties—engineers, land surveyors and geologists). The civil penalty schedule for continuing education violations (first offense) will be promulgated by the Commissioner of Professional and Occupational Affairs in a separate rulemaking package. See 39 Pa.B. 2210 (May 2, 2009). Second or subsequent offenses will subject the licensee to discipline under section 4(g) of the act (63 P.S. § 151(g), which authorizes the Board to discipline a licensee for violating the act or a regulation of the Board. A licensee who did not complete the required amount of continuing education would be required to complete the entire amount of mandatory continuing education and provide the Board with proof within 6 months.

Section 4.5(c) of the act (63 P.S. § 151.4.5(c)) provides that a licensee may request a waiver of the continuing education requirement due to demonstrated hardship, such as serious illness or military service. The request must be in writing, with appropriate documentation attached, and show why the licensee is unable to comply with the continuing education requirement. The Board must consider each request on a case-by-case basis and notify the licensee in writing of its decision. Because the statute addresses all substantive requirements, proposed § 37.111(e) would only require that the request be submitted at least 90 days in advance of the end of the renewal period and note that the waiver may include extending the deadline to complete the required continuing education.

*Proposed § 37.112 (relating to reporting completion of continuing education)*

Under proposed § 37.112(a), a licensee could prove completion of a continuing education course through a certified continuing education record, as proposed § 37.115(a)(6) requires the provider to issue to the attendee. Proposed § 37.112(b) would require licensees to maintain proof of completion of the continuing education for 5 years. In proposed § 37.112(c), the Board announces that it will verify compliance with the continuing education requirements by auditing licensees.

*Proposed § 37.113 (relating to credit for approved continuing education)*

Proposed § 37.113 sets forth the types of courses for which a licensee may obtain credit. Under proposed § 37.113(a), credit is only available for courses either preapproved by the Board under proposed § 37.114(a) (application not required) or explicitly approved by the Board. Proposed § 37.113(b) would permit credit for continuing education in any course on any subject matter falling within the definitions of the practice of engineering, land surveying or geology in section 2 of the act, as appropriate to the license. As prohibited by section 4.5(e)

of the act, credit may not be earned in any course in practice building or office management. Under proposed § 37.113(c), credit may be awarded to an attendee for only one presentation of a particular course during a given renewal period. However, proposed § 37.113(d) would permit an instructor of continuing education to receive credit for attending the course and also to receive credit for preparing for the course—not to exceed the amount of credit available for attending. Proposed § 37.113(e) would prohibit continuing education credit for authoring an article, participating in a professional society or obtaining a patent.

*Proposed § 37.114 (relating to approval of continuing education courses)*

Section 4.5(e) of the act requires that “all courses, locations, instructors and providers of mandatory continuing education shall be approved by the Board.” The Board anticipates that, for its approximately 37,000 licensees each taking 24 hours of continuing education in each renewal period, between 7,500 and 10,000 courses, will be offered for licensees each year. Because the Board does not have the resources to evaluate in full this large a number of courses in advance, while still complying with the statutory commandment to approve courses and the like, proposed § 37.114(a) would relieve from the obligation to apply for approval courses offered by various pre-approved providers, so long as the course is in appropriate subject matter and the course provider issues to each attending licensee a certified continuing education record. The list of preapproved courses/providers includes: advanced level courses offered by those programs whose graduates would qualify to sit for the various licensure examinations; graduate level courses in engineering, land surveying or geology; courses offered by accredited colleges or universities that are designed for continuing education, rather than qualification for licensure; courses offered by providers certified by an organization approved by the United States Department of Education to certify providers of continuing education; courses offered or approved by professional licensing authorities or organizations of professional licensing authorities; courses offered by agencies of the Federal government; courses offered by agencies of the various state governments; courses offered by the various professional societies; and courses offered by organizations recognized in their field to set standards of design, construction or practice. It must be kept in mind that, as provided in proposed § 37.113, credit may be obtained only for courses in subject matter within the scope of practice of engineering, land surveying or geology, as appropriate to the license.

Proposed § 37.114(b) would provide a safety valve and permit any course offered by a provider who is not preapproved to be reviewed and approved by the Board.

*Proposed § 37.115 (relating to approval of continuing education courses upon application)*

Proposed § 37.115 sets forth the process for Board approval of courses of continuing education, which includes approval of the location, instructor and provider, for those courses and providers that are not preapproved, as well as the obligations of providers whose courses are approved by the Board upon application. Proposed § 37.114(b) would require the filing of a completed application and payment of the required fee for Board review of the course.

Under proposed § 37.115(b), a separate application would be required for each course, including multiple presentations at various locations and multiple offerings.

Significant changes to the course content or change of instructors would require Board additional approval. If the location of a course is essential to presentation of course content, such as certain geology courses, a change in the location is a significant change in the course, and the provider must again seek approval.

Under proposed § 37.115(c), the Board notes its authority to deny course approval when the provider has previously failed or is not currently able to comply with the provider responsibilities of proposed § 37.115(e) or the course does not qualify under proposed § 37.113. The Board may deny approval when the course or application does not comply with the act or the Board's regulations. The Board may approve a portion of a course and deny the balance, that is, approve a course for fewer hours than sought by the applicant.

If an applicant has made false statements or grounds for denial later appear under proposed § 37.115(d) the Board would be able to terminate its prior approval of a course. A licensee who has completed a course prior to termination of the Board's approval would not lose that credit.

Proposed § 37.115(e) would set forth the responsibilities for providers of continuing education whose courses are approved by the Board upon application. A provider would be required to disclose in advance to prospective students the objectives, content, teaching method and the number of hours of continuing education credit approved by the Board; provide adequate physical facilities for the number of anticipated participants and the teaching methods to be used; provide accurate instructional materials; utilize qualified instructors who are knowledgeable in the subject matter; evaluate the program through the use of questionnaires of the participants and instructors; issue a certified continuing education record to each participant; and retain attendance records, written outlines, and a summary of evaluations for 5 years. A provider would be required to include in the continuing education record the name of the participant, the name of the provider, the date or dates of the course, the name and any Board issued approval number of the course, and the number of hours of continuing education credit.

Under proposed § 37.115(f), the Board will maintain a list of approved courses in a form accessible to licensees and the public.

Because a provider might not seek Board approval for a course that is not preapproved, but a licensee attending the course might want credit, proposed § 37.115(g) would permit a licensee to apply for course approval and to do so after the course has been given. When more than one attendee of a course applies for approval, the Board will consolidate the applications and will not collect more than one fee for that review.

*Fiscal Impact and Paperwork Requirements*

The proposed rulemaking should have no adverse fiscal impact on the Commonwealth, its political subdivisions, or the private sector. The proposed rulemaking will impose no additional paperwork requirements upon the Commonwealth, its political subdivisions or the private sector.

*Sunset Date*

The Board continuously monitors the cost 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 22, 2009, 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 Chairpersons of 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, recommendations or objections regarding this proposed rulemaking to Regulatory Unit Counsel, Department of State, P. O. Box 2649, Harrisburg, PA 17105-2649 or by e-mail at ST-ENGINEER@state.pa.us, within 30 days of publication of this proposed rulemaking in the Pennsylvania Bulletin. Reference No. 16A-4710 (continuing education), when submitting comments.

ROBERT C. GRUBIC, P. E., PLS,
President

Fiscal Note: 16A-4710. 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 37. STATE REGISTRATION BOARD FOR PROFESSIONAL ENGINEERS, LAND SURVEYORS AND GEOLOGISTS

GENERAL PROVISIONS

§ 37.1. Definitions.

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

\* \* \* \* \*

Hour of continuing education—Sixty minutes of actual instruction in an approved course of continuing education.

Practice building—Marketing or any other activity that has as its primary purpose increasing the business volume or revenue of a licensee or employer and does not involve the practice of engineering, land surveying or geology as defined in section 2 of the act (63 P. S. § 149).

(i) The term includes "procuring or offering to procure land surveying work for himself or others; managing or conducting as managers, proprietors or agent any place of business from which land surveying work is solicited, performed, or practiced" as included in the definition of "practice of

land surveying" in section 2(d) of the act. The term includes procuring or offering to procure engineering or geologist work for himself or others; managing or conducting as managers, proprietors or agent any place of business from which engineering or geologist work is solicited, performed or practiced.

(ii) The term does not include education in a professional area merely because it would expand the licensee's skills enabling the licensee to practice in an additional area.

\* \* \* \* \*

QUALIFICATIONS FOR LICENSURE

§ 37.17. Schedule of fees.

\* \* \* \* \*

(c) Other fees. The Board will charge the following fees:

Application for continuing education course approval ..... \$100

\* \* \* \* \*

§ 37.18. Reactivation of licensure status.

A licensed engineer, land surveyor or geologist who has allowed his licensure status to lapse by failing to register biennially with the Board may apply to the Board for reactivation of licensure status by satisfying the requirements of paragraph (1) on forms prescribed by the Board.

(1) A licensee applying for reactivation of licensure status is required to pay the current registration fee and submit a [ notarized affidavit setting forth ] reactivation application verifying the period of time in which the licensee did not practice in this Commonwealth. An application for reactivation must also include the documentation required under § 37.112 (relating to reporting completion of continuing education) for those courses sufficient to satisfy the requirement for the immediately preceding biennium, and those courses may be completed during the current biennium. Unless excused by the Board for good cause under section 4.5(c) of the act (63 P. S. § 151.5(c)), the Board will not reactivate any license until the required continuing education for the preceding biennium has been completed.

\* \* \* \* \*

§ 37.19. Biennial renewal of licensure status.

(a) A licensee shall register each biennial period to retain the right to practice in this Commonwealth. Initial registration shall automatically occur when a license is issued. Registration for a biennial period shall expire on September 30 of every odd numbered year.

(b) If a licensee changes the mailing address of record, the licensee shall notify the Board in writing within 10 days thereafter. Notice of renewal will be forwarded to the licensee's last known address on file with the Board. Failure of the Board to send or of the licensee to receive a biennial registration application does not relieve the licensee of the biennial registration responsibility.

(c) A licensee applying for biennial license renewal shall:

(1) Complete and submit the renewal application, including payment of the biennial renewal fee as set forth in § 37.17 (relating to schedule of fees).

(2) Disclose any license to practice engineering, land surveying or geology in another state, territory, possession or country.

(3) Disclose any disciplinary action taken or pending before the appropriate licensing authority in any other jurisdiction since the most recent application for renewal. A licensee shall disclose disciplinary action in another jurisdiction whether or not the licensee holds an active license to practice in the other jurisdiction.

(4) Disclose any pending criminal charges and any finding or verdict of guilt, admission of guilt, plea of *nolo contendere*, or other criminal conviction since the most recent application for renewal.

(5) Verify that the licensee has complied with the continuing education requirements mandated by section 4.5 of the act (63 P. S. § 151.5) during the biennial period immediately preceding the period for which renewal is sought in accordance with §§ 37.111—37.115 (relating to continuing education) or acknowledge that the licensee will be subject to the sanctions under § 37.111(d) (relating to credit hour requirements).

#### CONTINUING EDUCATION

##### § 37.111. Credit hour requirements.

(a) During each biennial renewal period, a licensee shall complete 24 hours of continuing education. A licensee who holds more than one license from the Board shall complete the required hours of continuing education to renew each license. A licensee who completes a course applicable to more than one class of license may apply the credit to each license held by the licensee for which the course is applicable.

(b) Except as necessary to comply with § 37.18(1) (relating to reactivation of licensure status), as permitted under subsection (d), or as directed by the Board, continuing education may satisfy the requirement of subsection (a) only for the biennium during which it was completed. No hour of continuing education may be used to satisfy the requirement of subsection (a) for more than one biennium.

(c) The requirement of subsection (a) will first take effect as follows:

(1) During the October 1, 2009, through September 30, 2011, biennial renewal period, a licensee shall complete 24 hours of continuing education.

(2) During each biennial renewal period subsequent to September 30, 2011, a licensee shall complete 24 hours of continuing education.

(d) Unless otherwise excused by the act or this chapter, failure to complete the minimum required amount of continuing education during the applicable renewal period will subject the licensee to discipline under section 11(b) of the act (63 P. S. § 158(b)) in accordance with the schedule of civil penalties in § 43b.13a (relating to schedule of civil penalties—engineers, land surveyors and geologists). Within 6 months after the end of the renewal period for which the required amount of continuing education was not completed, the licensee shall make up the deficiency and provide proof of the entire required amount of continuing education as set forth in § 37.112 (relating to reporting completion of continuing education). In addition to any

civil penalty assessed under this subsection, failure to provide the Board with proof of the required amount of continuing education within 6 months after the beginning of a biennial period for which the licensee renewed without having completed the required amount of continuing education shall subject the licensee to disciplinary action under section 4(g) of the act (63 P. S. § 151(g)). Failure to complete the required amount of continuing education within 6 months after the beginning of a biennial period for which the licensee renewed without having completed the required amount of continuing education shall subject the licensee to disciplinary action under section 4(g) of the act.

(e) A licensee seeking waiver of the continuing education requirements under section 4.5(c) of the act (63 P. S. § 151.5(c)) shall submit the request with all supporting documentation to the Board at least 90 days prior to end of the renewal period for which waiver is sought. Waiver may include extending the deadline by which the required continuing education must be completed.

##### § 37.112. Reporting completion of continuing education.

(a) Proof of completion of a course of continuing education shall consist of a certified continuing education record issued by the course provider, including:

(1) The name of the participant.

(2) The name of the provider.

(3) The date or dates of the course.

(4) The name and any Board issued approval number of the course.

(5) The number of hours of continuing education or academic credit.

(b) A licensee shall retain proof of completion of continuing education for 5 years after completion of the continuing education or after the completion of the renewal period during which the continuing education was required, whichever is later.

(c) The Board will audit licensees to verify compliance with continuing education requirements.

##### § 37.113. Credit for approved continuing education.

(a) Credit for continuing education will be granted only for courses exempt from approval under § 37.114(a) (relating to approval of continuing education courses) or approved by the Board under § 37.114(b).

(b) Unless limited by this section, continuing education credit may be earned in a course on any subject matter falling within the definitions of the practice of engineering, land surveying or geology in section 2 of the act (63 P. S. § 149), as appropriate to the license. Continuing education credit may not be earned in courses in practice building or office management.

(c) A licensee may not receive credit for more than one presentation of a particular course in a given renewal period.

(d) A licensee teaching a course of continuing education may receive the same credit that a licensee attending the course would receive and may

also receive credit for time spent in preparation. Credit for time spent in preparation may not exceed the credit available for a licensee attending the course.

(e) No continuing education credit may be received for authoring an article, participating in a professional society or obtaining a patent.

**§ 37.114. Approval of continuing education courses.**

(a) The following continuing education courses, provided they otherwise meet the requirements of § 37.113 (relating to credit for approved continuing education) and the course provider issues to each attending licensee a certified continuing education record in accordance with § 37.112(a) (relating to reporting completion of continuing education), are exempt from the approval requirement:

(1) A junior/senior or above level course offered as part of a program that satisfies the educational requirements for licensure under § 37.31(1)(i) or (ii), § 37.36(1), or § 37.47(1)(i) or (ii) (relating to eligibility for certification or licensure, or both; eligibility for licensure; and eligibility for certification or licensure, or both).

(2) A graduate course offered as part of an engineering, land surveying or geology program of an accredited college or university.

(3) A course offered by an accredited college or university that offers a program that satisfies the educational requirements for licensure under §§ 37.31(1)(i) or (ii), 37.36(1) or 37.47(1)(i) or (ii) that is designed for continuing education and not for the educational program required for licensure.

(4) A course offered by a provider certified by an organization approved by the United States Department of Education to certify providers of continuing education.

(5) A course offered or approved by a professional licensing authority or National organization of professional licensing authorities or affiliate.

(6) A course offered by an agency of the United States government.

(7) A course offered by an agency of the government of a state or territory of the United States or the District of Columbia.

(8) A course offered by a National professional society or affiliate or subsidiary.

(9) A course offered by a Statewide professional society or affiliate or subsidiary.

(10) A course concerning the standards it sets by an association or other organization or its affiliate or subsidiary that is recognized in its field to set standards for design, construction, or other aspect of professional practice.

(b) The following continuing education courses are approved:

(1) A course approved by the Board under § 37.115(a)–(f) (relating to approval of continuing education courses upon application) upon application of the provider.

(2) A course approved by the Board under § 37.115(g) upon application of an attending licensee.

**§ 37.115. Approval of continuing education courses upon application.**

(a) A provider of continuing education other than those in § 37.114(a) (relating to approval of continuing education courses) seeking approval of a course of continuing education shall apply for approval on forms provided by the Board and shall provide the information required by those application forms for the Board to fulfill its duties under this section. The application shall be submitted to the Board with payment of the fee as required in § 37.17 (relating to schedule of fees).

(b) A provider shall apply for approval of each course of continuing education, which may include multiple presentations of the course at various locations and multiple offerings of the course. Prior to making any significant change in course content or using instructors other than those described in the provider's approved continuing education application, the provider shall obtain approval from the Board for the proposed changes. If the location is essential to presentation of the course content, any change in location constitutes a change in the course, and approval must again be sought from the Board.

(c) The Board may deny approval of a course of continuing education when the provider has previously failed or is not currently able to comply with the provider responsibilities of subsection (f) or the course does not qualify under § 37.113 (relating to credit for approved continuing education). The Board may approve in part and deny in part an application for approval of a course. The Board may deny an application for course approval that does not comply with the act or this chapter.

(d) The Board may terminate its prior approval of a course of continuing education when the applicant made one or more false or misleading material statements on the application. The Board may also terminate in part or in whole its prior approval of a course when it is later determined that the Board has grounds to deny approval in accordance with this section. Termination of approval will not forfeit credit for a course completed prior to termination of approval.

(e) For each course of continuing education, the provider shall:

(1) Disclose in advance to prospective attendees the objectives, content, teaching method and the number of hours of continuing education credit approved by the Board.

(2) Provide adequate physical facilities for the number of anticipated participants and the teaching methods to be used.

(3) Provide accurate instructional materials.

(4) Utilize qualified instructors who are knowledgeable in the subject matter.

(5) Evaluate the program through the use of questionnaires of the participants and instructors.

(6) Issue a certified continuing education record to each participant.

(7) Retain attendance records, written outlines, and a summary of evaluations for 5 years.



**(f) The Board will maintain a list of approved courses in a form accessible to licensees and the public.**

**(g) If a course is not exempt from approval under § 37.114(a) and the provider has not separately sought approval under subsections (a)—(f), a licensee attending the course may apply for approval of a course of continuing education as set forth in subsection (a). An attendee may seek approval after completion of the course, though the Board may deny approval as otherwise provided in this subchapter. The Board may waive the requirements of subsections (b) and (e) when a licensee attending a course applies for approval. The Board will not collect more than one fee from attendees for review of applications for approval of the same course.**

[Pa.B. Doc. No. 09-802. Filed for public inspection May 1, 2009, 9:00 a.m.]

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# NOTICES

## 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 9, 2002 (P. L. 1572, No. 207), known as the Credit Union Code, has taken the following action on applications received for the week ending April 21, 2009.

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

#### Mutual Holding Company Reorganizations

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
4-20-2009	Reliance Savings Bank Altoona Blair County	Altoona	Effective
<p>Reorganization into a two-tier mutual holding company structure whereby Reliance Savings Bank, Altoona, became a wholly-owned subsidiary of Reliance Bancorp, Inc., Altoona, a newly-formed, mid-tier bank holding company that is a wholly-owned subsidiary of Reliance Bancorp, MHC, Altoona, a newly-formed mutual holding company. In conjunction with the reorganization, Reliance Savings Bank, Altoona, converted from a mutual savings bank to a stock savings bank.</p>			

#### Branch Applications

##### De Novo Branches

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
4-17-2009	Jonestown Bank and Trust Company of Jonestown, PA Jonestown Lebanon County	101 Northside Commons Palmyra Lebanon County	Filed
4-17-2009	Graystone Tower Bank Lancaster Lancaster County	1001 Carlisle Street Hanover York County	Approved

#### Branch Relocations

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
4-17-2009	Citizens Bank of Pennsylvania Philadelphia Philadelphia County	<p><i>To:</i> 48 West Skippack Pike Ambler Montgomery County</p> <p><i>From:</i> 7004 Butler Pike Broad Axe Montgomery County</p>	Approved

#### Branch Consolidations

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
4-17-2009	Peoples State Bank of Wyalusing Pa. Wyalusing Bradford County	<p><i>Into:</i> Route 6 Wysox Bradford County</p> <p><i>From:</i> P&amp;C Food Market Bradford Towne Centre Wysox Bradford County</p>	Approved

**Branch Discontinuances**

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
4-17-2009	Citizens Bank of Pennsylvania Philadelphia Philadelphia County	1006 North Elmira Street Sayre Bradford County	Approved
4-17-2009	United-American Savings Bank Pittsburgh Allegheny County	3353 SR 130 Harrison City Westmoreland County	Approved
4-21-2009	Beneficial Mutual Savings Bank Philadelphia Philadelphia County	604 Main Street Riverton Burlington County, NJ	Filed

**SAVINGS INSTITUTIONS**

No activity.

**CREDIT UNIONS****Branch Applications****De Novo Branches**

<i>Date</i>	<i>Name of Credit Union</i>	<i>Location</i>	<i>Action</i>
4-14-2009	Belco Community Credit Union Harrisburg Dauphin County	Paxton Street and Eisenhower Boulevard Harrisburg Dauphin County	Authorization Surrendered

**Branch Relocations**

<i>Date</i>	<i>Name of Credit Union</i>	<i>Location</i>	<i>Action</i>
4-21-2009	Belco Community Credit Union Harrisburg Dauphin County	<i>To:</i> 1063 York Road Gettysburg Adams County  <i>From:</i> 39 North Washington Street Gettysburg Adams County	Approved

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

STEVEN KAPLAN,  
*Secretary*

[Pa.B. Doc. No. 09-803. Filed for public inspection May 1, 2009, 9:00 a.m.]

## DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT

### Homelessness Prevention and Rapid Re-Housing Program

The Department of Community and Economic Development (Department) is proposing an amendment to the Commonwealth's Action Plan for FFY 2008 and the Program Year that began on January 1, 2008. The 2008 Action Plan is an update of the Commonwealth's Consolidated Plan for FFY 2004-2008. This amendment contains the Action Plan for the distribution and use of Homelessness Prevention and Rapid Re-Housing Program (HPRP) funds.

The United States Department of Housing and Urban Development (HUD) awarded the Commonwealth an allocation of \$23,411,484 in HPRP funds, as authorized by the American Recovery and Reinvestment Act of 2009.

The purpose of HPRP is to provide temporary financial assistance and/or services to help individuals and families attain housing stability. HPRP includes the following eligible activities:

- Financial Assistance to include short/medium term rental assistance or assistance with costs associated with moving into permanent housing.
- Housing relocation and stabilization services.
- Data collection and evaluation.
- Administrative costs.

The Action Plan and supporting documentation is available for a 12-day public comment period and can be obtained on the Department web site under the "Publications" section at [www.newpa.com/strengthen-your-community/technical-assistance/index.aspx](http://www.newpa.com/strengthen-your-community/technical-assistance/index.aspx). The final version of this Action Plan will be submitted to HUD by May 18, 2009.

Potential grantees will follow the instructions in this Action Plan in preparing applications, and the application kit will also be available on the Department's web site once it is completed.

Persons who would like to comment on this amendment may send those comments to Karen Overly Smith, Department of Community and Economic Development, Center for Community Development, 400 North Street, 4th Floor, Harrisburg, PA 17120. Comments must be received before 5 p.m. on May 13, 2009.

GEORGE E. CORNELIUS,  
*Acting Secretary*

[Pa.B. Doc. No. 09-804. Filed for public inspection May 1, 2009, 9:00 a.m.]

## DEPARTMENT OF ENVIRONMENTAL PROTECTION

### Applications, Actions and Special Notices

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#### APPLICATIONS

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### THE CLEAN STREAMS LAW AND THE FEDERAL CLEAN WATER ACT APPLICATIONS FOR NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES) PERMITS AND WATER QUALITY MANAGEMENT (WQM) PERMITS

This notice provides information about persons who have applied for a new, amended or renewed NPDES or WQM permit, a permit waiver for certain stormwater discharges or submitted a Notice of Intent (NOI) for coverage under a general permit. The applications concern, but are not limited to, discharges related to industrial, animal or sewage waste, discharges to groundwater, discharges associated with municipal separate storm sewer systems (MS4), stormwater associated with construction activities or concentrated animal feeding operations (CAFOs). This notice is provided in accordance with 25 Pa. Code Chapters 91 and 92 and 40 CFR Part 122, implementing The Clean Streams Law (35 P. S. §§ 691.1—691.1001) and the Federal Clean Water Act.

<i>Location</i>	<i>Permit Authority</i>	<i>Application Type or Category</i>
Section I	NPDES	Renewals
Section II	NPDES	New or amendment
Section III	WQM	Industrial, sewage or animal waste; discharge into groundwater
Section IV	NPDES	MS4 individual permit
Section V	NPDES	MS4 permit waiver
Section VI	NPDES	Individual permit stormwater construction
Section VII	NPDES	NOI for coverage under NPDES general permits

For NPDES renewal applications in Section I, the Department of Environmental Protection (Department) has made a tentative determination to reissue these permits for 5 years subject to effluent limitations and monitoring and reporting requirements in their current permits, with appropriate and necessary updated requirements to reflect new and changed regulations and other requirements.

For applications for new NPDES permits and renewal applications with major changes in Section II, as well as applications for MS4 individual permits and individual stormwater construction permits in Sections IV and VI, the Department, based upon preliminary reviews, has made a tentative determination of proposed effluent limitations and other terms and conditions for the permit applications. These determinations are published as proposed actions for comments prior to taking final actions.

Unless indicated otherwise, the Environmental Protection Agency (EPA) Region III Administrator has waived the right to review or object to proposed NPDES permit actions under the waiver provision in 40 CFR 123.24(d).

Persons wishing to comment on an NPDES application are invited to submit a statement to the regional office noted before an application within 30 days from the date of this public notice. Persons wishing to comment on a WQM permit application are invited to submit a statement to the regional office noted before the application within 15 days from the date of this public notice. Comments received within the respective comment periods will be considered in the final determinations regarding the applications. Comments should include the name, address and telephone number of the writer and a concise statement to inform the Department of the exact basis of a comment and the relevant facts upon which it is based.

The Department will also accept requests for a public hearing on applications. A public hearing may be held if the responsible office considers the public response significant. If a hearing is scheduled, a notice of the hearing will be published in the *Pennsylvania Bulletin* and a newspaper of general circulation within the relevant geographical area. The Department will postpone its final determination until after a public hearing is held.

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

### I. NPDES Renewal Applications

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

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0036285 (Sew)	ATG Properties Brookhaven MHP P. O. Box 677 Morgantown, PA 19543	York County Hellam Township	Dee Run 7H	Y
PA0081515 (Sew)	Lancaster County Career and Technology Center—Brownstown Campus 1730 Hans Herr Drive Willow Street, PA 17584	Lancaster West Earl Township	Conestoga River 7J	Y
PA0247154 (IW)	Possum Valley Municipal Authority P. O. Box 420 Bendersville, PA 17306	Adams Menallen Township	Possum Creek 7F	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0114316 (Sewage)	John and Sandra Erdley 175 Eagle Lane Millmont, PA 17845	Hartley Township Union County	UNT to Penns Creek HQ-CWF	Y
PA0209724 (Sewage)	H. H. Knoebel Sons, Inc. Lake Glory Campground WWTP P. O. Box 317 Elysburg, PA 17824-0317	Cleveland Township Columbia County	Roaring Creek 5E	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.*

**PA0050644**, Industrial Waste, SIC Code 4941, **Borough of East Greenville**, P. O. Box 128, East Greenville, PA 18041. This proposed facility is located in East Greenville Borough, **Montgomery County**.

The permittee request renewal of an NPDES permit to discharge filter backwash water and sedimentation basin cleaning water from East Greenville Water filtration plant located at 1200 Water Street, East Greenville, PA 18041. This is an existing discharge to Perkiomen Creek.

The receiving stream, Perkiomen Creek, is in the State Water Plan Watershed 3E and is classified for: TSF. The nearest downstream public water supply intake for Aqua Pennsylvania, Pickering Creek water treatment plant is on Perkiomen Creek and is 26.84 miles below point of discharge.

The proposed effluent limits for Outfall 001 are based on a design flow of 0.016 mgd:

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		<i>Instantaneous Maximum</i>
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	
Total Suspended Solids			30	60	75
Iron, Total			2.0	4.0	5.0
Aluminum, Total			4.0	8.0	10.0
Manganese, Total			1.0	2.0	2.5
Total residual Chlorine			0.5	1.0	1.3
pH (Standard Units)	Within Limits of 6.0 to 9.0 Standard Units at all times.				

The EPA waiver is in effect.

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

1. Remedial Measures.
2. Proper Sludge Disposal.
3. TMDL Limits.

4. Laboratory Certifications.
5. Sedimentation Basin Cleaning.

**PA0051802**, Industrial Waste, SIC 2752, **Brown Printing Company**, 899 Gravel Pike, East Greenville, PA 18041. This facility is located in Upper Hanover Township, **Montgomery County**.

The application is for renewal of an NPDES permit to discharge 13,000 gpd treated process water and sewage from Brown Printing Company WWTP (Outfall 001) located in Upper Hanover Township, Montgomery County. This is an existing discharge to UNT (Stream Code 01472) to Perkiomen Creek. At point of discharge stream is intermittent, which discharge into Perkiomen Creek, is in the State Water Plan Watershed 3E and is classified for TSF. The facility has two stormwater outfalls (Outfalls 002 and 003), which discharges stormwater from the facility by means of retention basins to the same creek.

The proposed effluent limits for Outfall 001, based on an average flow of 13,000 gpd are as follows:

<i>Parameter</i>	<i>Effluent Concentration limitations (mg/l)</i>		
	<i>Average Month</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>
CBOD <sub>5</sub>			
(5-1 to 10-31)	15	30	38
(11-1 to 4-30)	25	50	63
Total Suspended Solids	30	60	75
NH <sub>3</sub> -N			
(5-1 to 10-31)	1.5	3.0	3.8
(11-1 to 4-30)	4.5	9.0	11.0
Phosphorus as P	0.5	1.0	1.25
Total Dissolved Solids	1,500	2,000	2,500
Oil and Grease	15	30	30
Fecal Coliform	200		
Dissolved Oxygen	3.0 Instantaneous Minimum		
pH (Standard Units)	6.0 Instantaneous Minimum		9.0
Copper, Total	Monitor and Report		

The proposed effluent limits for Outfalls 002 and 003, based on stormwater event are as follows:

<i>Parameter</i>	<i>Effluent Concentration limitations (mg/l)</i>		
	<i>Instantaneous Minimum</i>	<i>Average Monthly</i>	<i>Daily Maximum</i>
CBOD <sub>5</sub>			Monitor and Report
COD			Monitor and Report
Oil and Grease			Monitor and Report
pH (Standard Units)			Monitor and Report
Total Suspended Solids			Monitor and Report
Total Kjeldahl Nitrogen			Monitor and Report
Total Phosphorus			Monitor and Report
Iron (Dissolved)			Monitor and Report

The EPA waiver is not in effect due to TMDL.

Other Requirements:

1. Effective Disinfection.
2. Remedial Measures.
3. Abandon of Discharge if STP Available.
4. Applicable BAT/BCT analysis.
5. Approved Test Method.
6. Change in Ownership.
7. Proper Sludge Disposal.
8. Watershed TMDL/WAL Analysis.
9. I-Max Definitions.
10. Stormwater Requirements.
11. Laboratory Certification.
12. Submission of PPC Plan.
13. Approved Chemical Usage Rates.
14. Chemical Additives Requirements.

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

**Application No. PA 0088897**, CAFO, Hissong Dairy Farm, 6841 Buchanan Trail West, Mercersburg, PA 17236.

Hissong Farmstead, Inc. has submitted an NPDES permit renewal application for the Hissong Dairy Farm, an existing dairy operation in Peters and Montgomery Townships, Franklin County. The CAFO is situated near a UNT to West Branch Conococheague Creek, which is classified as a TSF. The CAFO has a target animal population of approximately 1,445 animal equivalent units consisting of 690 milk cows, 120 dry cows, 350 heifers and 205 calves. A release or discharge to waters of the Commonwealth under normal operating conditions is not expected. Normal operating conditions are defined as conditions below a 25-year, 24-hour storm event.

The Department of Environmental Protection (Department) has conducted administrative and technical reviews of the application. Based on the preliminary review and application of lawful standards and regulations, the Department has made a tentative determination to issue the NPDES permit for the operation subject to the terms and conditions and monitoring and reporting requirements specified in the permit. The permit application and draft permit are on file at the Southcentral Regional Office of the Department.

Persons may make an appointment to review the Department's files by calling the file review coordinator at (717) 705-4732.

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

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

**PA0233650**, Industrial Waste, SIC 1380, **TerrAqua Resource Management, LLC**, 1000 Commerce Park Drive, P. O. Box 487, Williamsport, PA 17703-0487. This proposed facility will be located in the City of Williamsport, **Lycoming County**.

Description of Proposed Activity: TerrAqua Resource Management, LLC proposes the construction of the 0.4 mgd Water Tower Square Gas Well Wastewater Processing Facility. This facility proposes to process wastewater generated from the drilling, development and use of natural gas wells in north central PA and discharge the treated effluent.

The receiving stream, West Branch Susquehanna River, is in the State Water Plan Watershed 10B and is classified for: WWF. The nearest downstream public water supply intake for Pennsylvania-American Water Company, located 28.5 river miles below the point of discharge.

The proposed effluent limits for Outfall 001 are based on a design flow of 0.4 mgd.

The following limits will be in effect from Permit Effective Date until Permit Expiration Date:

Parameter	Mass (lb/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
BOD <sub>5</sub>			53	163	
Total Suspended Solids			61.3	216	
Oil and Grease				15	30
pH				6.0 to 9.0 at all times	
Ammonia-N			25	50	
Aluminum, Total			0.75	1.5	
Acetone			7.97	30.2	
Acetophenone			0.056	0.114	
2-Butanone			1.85	4.81	
o-Cresol			0.561	1.92	
p-Cresol			0.205	0.698	
Phenol			1.08	3.65	
Pyridine			0.182	0.370	
2,4,6-Trichlorophenol			0.106	0.155	
Copper, Total			0.321	0.501	
Zinc, Total			0.420	0.497	
Barium, Total			10	20	
Strontium, Total			10	20	
Iron, Total			3.0	6.0	
Manganese, Total			2.0	4.0	
Iron, Dissolved			Monitor	Monitor	7
Silver, Total			0.093	0.145	
Boron, Total			Monitor	Monitor	
Cobalt, Total			Monitor	Monitor	
Arsenic, Total			Monitor	Monitor	
Cadmium, Total			Monitor	Monitor	
Lead, Total			Monitor	Monitor	
Mercury, Total			Monitor	Monitor	
Nickel, Total			Monitor	Monitor	

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Selenium, Total			Monitor	Monitor	
Benzene			Monitor	Monitor	
Toluene			Monitor	Monitor	
Alkalinity, Total as CaCO <sub>3</sub>			Monitor	Monitor	
Beryllium			Monitor	Monitor	
Bromide			Monitor	Monitor	
Calcium			Monitor	Monitor	
Chemical Oxygen Demand			Monitor	Monitor	
Chromium, Total			Monitor	Monitor	
Ethylene Glycol			Monitor	Monitor	
Hardness, Total as CaCO <sub>3</sub>			Monitor	Monitor	
Lithium			Monitor	Monitor	
Magnesium			Monitor	Monitor	
MBAS (Surfactants)			Monitor	Monitor	
Molybdenum			Monitor	Monitor	
Nickel			Monitor	Monitor	
Osmotic Pressure			Monitor	Monitor	
Sodium			Monitor	Monitor	
Specific Conductance			Monitor	Monitor	

The following limits will also be in effect from Permit Effective Date until Permit Expiration Date:

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>	
	<i>Monthly</i>	<i>Annual</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>
Ammonia-N	Report	Report	Report	
Kjeldahl-N	Report		Report	
Nitrate-Nitrite as N	Report		Report	
Total Nitrogen	Report	Report	Report	
Total Phosphorus	Report	Report	Report	
Net Total Nitrogen	Report	0.00		
Net Total Phosphorus	Report	0.00		

These limits will be in effect from Permit Effective Date until December 31, 2010:

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
TDS—January	Monitor	204,174	Monitor	Monitor	
TDS—February	Monitor	284,618	Monitor	Monitor	
TDS—March	Monitor	478,183	Monitor	Monitor	
TDS—April	Monitor	522,245	Monitor	Monitor	
TDS—May	Monitor	297,643	Monitor	Monitor	
TDS—June	Monitor	144,950	Monitor	Monitor	
TDS—July	Monitor	85,708	Monitor	Monitor	
TDS—August	Monitor	56,447	Monitor	Monitor	
TDS—September	Monitor	54,412	Monitor	Monitor	
TDS—October	Monitor	71,877	Monitor	Monitor	
TDS—November	Monitor	113,231	Monitor	Monitor	
TDS—December	Monitor	217,695	Monitor	Monitor	
Chlorides			Monitor	Monitor	
Sulfates			Monitor	Monitor	

The following limits will be in effect from January 1, 2011, to Permit Expiration Date:

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
TDS	Monitor		500	1,000	
Chlorides			250	500	
Sulfates			250	500	

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

1. Chesapeake Bay Nutrient Requirements.
2. Residual Waste Supplemental Discharge Monitoring Report.



3. Chemical Additives.

4. Stormwater No Exposure Certification.

**PA0233757**, Industrial Waste, SIC 5411, **Thomas and Deborah Finkbiner**, P. O. Box 1, Route 414, Slate Run, PA 17769. This proposed facility is located in Brown Township, **Lycoming County**.

Description of Proposed Activity: This application is for a new NPDES permit for a discharge from a groundwater remediation system.

The receiving stream, Pine Creek, is in the State Water Plan Watershed 9A and is classified for: HQ-TSF. The nearest downstream public water supply intake for Pennsylvania-American Water Company at Milton is located on West Branch Susquehanna River and is approximately 77 miles below the point of discharge.

*Outfall 001*

The proposed effluent limits, based on a design flow of 0.0004 mgd, are:

Parameter	Concentration (mg/l)		
	Average Monthly	Maximum Daily	Instantaneous Maximum (mg/l)
Benzene	ND*	ND*	ND*
Toluene	ND*	ND*	ND*
Ethylbenzene	ND*	ND*	ND*
Cumene	ND*	ND*	ND*
Naphthalene	ND*	ND*	ND*
Fluorene	ND*	ND*	ND*
Phenanthrene	ND*	ND*	ND*
Oil and Grease	10		25
Total Suspended Solids	30		75
pH	6.8 to 9.0 Standard Units at all times		

The EPA Waiver is in effect.

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

**PA0205869**, Sewage, **West Branch Sewer Authority**, 901 Maple Avenue, Suite 2, Northern Cambria, PA 15714-1331. This application is for renewal of an NPDES permit to discharge treated sewage from West Branch Sewer Authority Wastewater Treatment Plant in Susquehanna Township, **Cambria County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as West Branch Susquehanna River, which are classified as a CWF 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 PA American Water Company-Milton Division.

*Outfall 001: existing discharge, design flow of 0.9 mgd.*

Parameter	Concentration (mg/l)				Mass (lbs)	
	Monthly Average	Weekly Average	Daily Maximum	Instantaneous Maximum	Monthly Load	Annual Load
CBOD <sub>5</sub>	25	37.5		50		
Total Suspended Solids	30	45		60		
Fecal Coliform (5-1 to 9-30)	200/100 ml as a Geometric Mean					
(10-1 to 4-30)	2,000/100 ml as a Geometric Mean					
pH	not less than 6.0 nor greater than 9.0					
Ammonia-N	Report				Report	Report
Kjeldahl-N	Report				Report	
Nitrate-Nitrite as N	Report				Report	
Total Nitrogen	Report				Report	Report
Total Phosphorus	Report				Report	Report
Net Total Nitrogen	Report				Report	16,438*
Net Total Phosphorus	Report				Report	2,192*

\* This permit contains a condition which authorizes the permittee to apply nutrient reduction credits to meet the Net Total Nitrogen and the Net Total Phosphorus effluent mass limits, under the Department of Environmental Protection's (Department) Trading of Nutrients and Sediment Reduction Credits Policy and Guidelines (Document No. 392-0900-001, December 30, 2006). The condition includes the requirement to report the application of these credits in Supplemental Discharge Monitoring Reports (DMRs) submitted to the Department.

\* The compliance date for Net Total Nitrogen and Net Total Phosphorus will begin on October 1, 2012. Since these reporting requirements are annual loads, the reporting on the compliance with the annual limitations will be required to

be reported on the Supplemental DMR—Annual Nutrient Summary by November 28, 2012. This facility is required to monitor and report for Net Total Nitrogen and Net Total Phosphorus from the effective date of the permit until September 30, 2012.

Other Conditions \_\_\_\_\_

The EPA waiver is not in effect.

**PA0027219-A1**, Sewage, **Greater Uniontown Joint Sewer Plant Authority**, 90 Romeo Lane, Uniontown, PA 15401. This application is for renewal of an NPDES permit to discharge treated sewage from Uniontown STP in North Union Township, **Fayette County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Redstone Creek, which are classified as a WWF 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 Washington Township Municipal Authority.

*Outfall 001*: existing discharge, design flow of 9.4 mgd.

Parameter	Concentration (mg/l)			
	Average Monthly	Average Weekly	Maximum Daily	Instantaneous Maximum
CBOD <sub>5</sub>				
(5-1 to 10-30)	10	15		20
(11-1 to 4-30)	20	30		40
Suspended Solids	30	45		60
Ammonia Nitrogen				
(5-1 to 10-31)	2.3	3.5		4.6
(11-1 to 4-30)	5.2	7.8		10.4
Fecal Coliform				
(5-1 to 9-30)	200/100 ml as a Geometric Mean			
(10-1 to 4-30)	2,000/100 ml as a Geometric Mean			
Dissolved Oxygen	not less than 5.0 mg/l			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is not in effect.

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

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

**WQM Permit No. 4009408**, Sewerage, **Dallas Area Municipal Authority**, 530 South Memorial Highway, Shavertown, PA 18708. This proposed facility is located in Kingston Township, **Luzerne County**.

Description of Proposed Action/Activity: This project consists of replacement of multiple existing concrete equalization tanks with a 2.8 million gallon steel equalization tank and an equalization pump station.

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

**WQM Permit No. 0109201**, CAFO, **Mason Dixon Farms, Inc.**, 1800 Mason Dixon Road, Gettysburg, PA 17325. This proposed facility is located in Freedom and Cumberland Townships, **Adams County**.

Description of Proposed Action/Activity: Construction/Operation of HDPE lining of two existing earthen manure storages.

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

**WQM Permit No. 0309202**, Industrial Waste, **Reliant Energy Northeast Management Company**, 121 Champion Way, Suite 200, Canonsburg, PA 15317. This proposed facility is located in Plum Creek Township, **Armstrong County**.

Description of Proposed Action/Activity: Application for the construction and operation of a settling basin.

**WQM Permit No. 6509403**, Sewerage, **Hempfield Township Municipal Authority**, 1146 Woodward Drive, Greensburg, PA 15601. This proposed facility is located in Hempfield Township, **Westmoreland County**.

Description of Proposed Action/Activity: Application for the construction and operation of the Lincoln Heights Interceptor.

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

**WQM Permit No. 6372404-A1**, Sewerage, **Carroll Township Authority**, P. O. Box 661, Donora, PA 15033. This existing facility is located in Carroll Township, **Washington County**.

Description of Proposed Action/Activity: Application for pump station design capacity increases.

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

**WQM Permit No. 2082402**, Sewerage, **Amendment No. 1, Shangri-La Mobile Home Court**, 25368 Maple Lane, Cochran, PA 16314. This proposed facility is located in West Shenango Township, **Crawford County**.

Description of Proposed Action/Activity: Installation of a new chlorination facility, chlorine contact tank and outfall sewer to meet current design standards for wastewater treatment facilities.

**WQM Permit No. 4296403**, Sewerage, **Borough of Port Allegany**, 45 West Maple Street, Port Allegany, PA 16743-1318. This proposed facility is located in Port Allegany Township, **McKean County**.

Description of Proposed Action/Activity: To install a fine screen device to facilitate more efficient operation of the treatment plant through the removal of nonorganic material from the influent stream. The fine screen will be sized to treat the maximum flow of 3.75 mgd from the approved Act 537 Plan.

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

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

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

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

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI01 1503070-R	Valley Park Realty Associates, LP P. O. Box 1906 West Chester, PA 19382	Chester	Schuylkill Township	Pickering Creek HQ-TSF
PAI01 1509016	Southeastern PA Transportation Authority 1234 Market Street 12th Floor Philadelphia, PA 19107	Chester	Malvern Borough	Valley Creek EV
PAI01 1509017	Chester Co. Parks and Recreation Department 601 Westtown Road Suite 160 West Chester, PA 19380-0990	Chester	West Brandwyne, West Caln, West Nottingham, Wallace and Warwick Townships	French Creek Watershed EV
PAI01 2309001	Whelan Properties, LLC 7 Hickory lane Chadds Ford, PA 19317	Delaware	Lower Chichester Township	Delaware River WWF, MF

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

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

### **STATE CONSERVATION COMMISSION**

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

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

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

Persons wishing to comment on an NMP are invited to submit a statement outlining their comments on the plan to the CCD, with a copy to the SCC for each NMP, within 30 days from the date of this public notice. Comments received within the respective comment periods will be considered in the final determinations regarding the NMPs. Comments should

include the name, address and telephone number of the writer and a concise statement to inform the SCC of the exact basis of the comments and the relevant facts upon which they are based.

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

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

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

<i>Agricultural Operation Name and Address</i>	<i>County</i>	<i>Total Acres</i>	<i>Animal Equivalent Units</i>	<i>Animal Type</i>	<i>Special Protection Waters (HQ or EV or NA)</i>	<i>Renewal/New</i>
Willow Behrer Farm 3288 Behrer Lane Spruce Creek, PA 16683	Huntingdon	1,156.1	1,347.5	Dairy	HQ	Renewal

**PUBLIC WATER SUPPLY (PWS) PERMIT**

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

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

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

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

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

**SAFE DRINKING WATER**

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

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

**Application No. 1308501**, Public Water Supply.  
Applicant **Northside Heights Mobile Home Estates, Inc.**

East Penn Township  
**Carbon County**  
Responsible Official Duane Schleicher, Owner  
97 Sam Brooke Circle  
Lehighton, PA 18235  
Type of Facility Community Water System  
Consulting Engineer Harry E. Garman, P. E.  
Barry Isett & Associates, Inc.  
85 South Route 100 and Kressler Lane  
P. O. Box 147  
Trexlerstown, PA 18087-0147  
(610) 398-0904  
Application Received Date June 17, 2008  
Description of Action Application for installation of a manganese dioxide media system for removal of arsenic at the Northside Heights community water system.

*Southcentral Region: Water Supply Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.*

**Permit No. 3808506**, Public Water Supply.  
Applicant **Iona Swim Club**  
Municipality South Lebanon Township  
County **Lebanon**  
Responsible Official Scott C. Laicha, Manager  
c/o Scott Laicha  
540 Zinns Mill Road  
Lebanon, PA 17042  
Type of Facility Public Water Supply  
Consulting Engineer Scott M. Rights, P. E.  
Steckbeck Engineering Associates  
279 North Zinns Mill Road  
Lebanon, PA 17042  
Application Received December 1, 2008  
Description of Action Installation of softening and nitrate treatment.

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

**Permit No. 2609502, Public Water Supply.**

Applicant **Municipal Authority of Westmoreland County**  
124 Park and Pool Road  
New Stanton, PA 15672

Township or Borough Hempfield Township

Responsible Official Curtis Fontaine  
Operations Manager Engineering  
Municipal Authority of  
Westmoreland County  
124 Park and Pool Road  
New Stanton, PA 15672

Type of Facility Water treatment plant

Consulting Engineer GAI Consultants  
385 East Waterfront Drive  
Homestead, PA 15120

Application Received Date April 9, 2009

Description of Action Installation of a 48 transmission line to replace a 20 inch main.

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

**Application No. 1008502, Public Water Supply.**

Applicant **Lancon Water Company, Inc.**

Township or Borough Connoquenessing and Lancaster Townships  
**Butler County**

Responsible Official Kenneth R. Brennan  
Vice President

Consulting Engineer Don A. Gilmore, P. E.  
Dakota Engineering Associates,  
Inc.  
Etna Technical Center  
Suite 200  
35 Wilson Street  
Pittsburgh, PA 15223

Application Received Date December 1, 2008

Description of Action Construction of groundwater wells, new treatment and distribution system to serve existing and proposed residential development of approximately 227 customers.

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

**Permit No. 9996402, Public Water Supply.**

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

Township or Borough Framingham, MA

Responsible Official Isabella Favato, Quality Assurance Manager

Type of Facility Out-of-State Bottled Water System

Application Received Date April 15, 2009

Description of Action Applicant requesting Department of Environmental Protection approval to use three new spring water sources (Poland, White Cedar and Bradbury Springs) and the Framingham Municipal source. Bottled water produced from the spring sources will be sold in Pennsylvania under the brand names; Poland Springs Natural Spring Water and Great Bear Spring Water. Water from the municipal source will be used to produce the Ice Mountain Drinking Water.

**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.*

**WA56-1005, Water Allocations—Resubmittal. The Municipal Authority of the Borough of Berlin, 700 North Street, Berlin, PA 15530, Somerset County.** The applicant is requesting the right to withdraw 406,000 gallons of water per day, combined total, from Boose Spring, Spring Nos. 1, 2 and 4. The applicant is also requesting a nonpotable withdrawal of 50,000 gallons of water per day from Reservoir No. 1.

**Biosolids Individual Permits (PABIG and PABIS)**

The following parties have applied for either an Individual Site Permit (PABIS) or an Individual Generator Permit (PABIG) for beneficial use of sewage sludge (biosolids) by land application. Unless otherwise indicated, on the basis of preliminary review and application of lawful standards and regulations, the Department of Environmental Protection (Department) proposes to issue a permit to land apply biosolids subject to certain requirements set forth in the permit.

Persons wishing to comment on the proposed permit are invited to submit a statement to the responsible Department Regional Office noted previously the application 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 application. Responses should include the name, address and telephone number of the writer and a concise statement of a 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, the Water Management Regional Manager will make a final determination regarding the proposed permit. Notice of this determination will be published in the *Pennsylvania Bulletin* at which time this determination may be appealed to the Environmental Hearing Board (Board).

The application and related documents, comments received and other information are on file and may be inspected and arrangements made for copying at the responsible Department Regional Office indicated previously.

Persons with a disability that require an auxiliary aid, service or other accommodation to participate in the proceedings should contact the Secretary to the Board at (717) 787-3483. TDD users may contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

*Pennsylvania Department of Environmental Protection: Water Management Program, 909 Elmerton Avenue, Harrisburg, PA 17110.*

**PABIS 3502**, Newville Borough Water and Sewer Authority, 99 Cove Avenue, Newville, PA 17241, Newville Borough, **Cumberland County**, has applied to beneficially use their biosolids on the Dennis McCullough Farm in West Pennsboro Township, Cumberland County.

Special Conditions; None

## LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

PREAMBLE 1

### Acknowledgment of Notices of Intent to Remediate Submitted under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908).

Sections 302—305 of the Land Recycling and Environmental Remediation Standards Act (act) require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* an acknowledgment noting receipt of Notices of Intent to Remediate. An acknowledgment of the receipt of a Notice of Intent to Remediate is used to identify a site where a person proposes to, or has been required to, respond to a release of a regulated substance at a site. Persons intending to use the Background Standard, Statewide Health Standard, the Site-Specific Standard or who intend to remediate a site as a special industrial area must file a Notice of Intent to Remediate with the Department. A Notice of Intent to Remediate filed with the Department provides a brief description of the location of the site, a list of known or suspected contaminants at the site, the proposed remediation measures for the site and a description of the intended future use of the site. A person who demonstrates attainment of one, a combination of the cleanup standards or who receives approval of a special industrial area remediation identified under the act will be relieved of further liability for the remediation of the site for any contamination identified in reports submitted to and approved by the Department. Furthermore, the person shall not be subject to citizen suits or other contribution actions brought by responsible persons not participating in the remediation.

Under sections 304(n)(1)(ii) and 305(c)(2) of the act, there is a 30-day public and municipal comment period for sites proposed for remediation using a Site-Specific Standard, in whole or in part, and for sites remediated as a special industrial area. This period begins when a summary of the Notice of Intent to Remediate is published in a newspaper of general circulation in the area of the site. For the sites identified, proposed for remediation to a Site-Specific Standard or as a special industrial area, the municipality within which the site is located may request to be involved in the development of the remediation and reuse plans for the site if the request is made within 30 days of the date specified. During this comment period, the municipality may request that the person identified as the remediator of the site develop and

implement a public involvement plan. Requests to be involved and comments should be directed to the remediator of the site.

For further information concerning the content of a Notice of Intent to Remediate, contact the environmental cleanup program manager in the Department regional office before which the notice appears. If information concerning this acknowledgment is required in an alternative form, contact the community relations coordinator at the appropriate regional office. TDD users may telephone the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

The Department has received the following Notices of Intent to Remediate:

*Southeast Region: Environmental Cleanup Program Manager, 2 East Main Street, Norristown, PA 19401.*

**Department of Transportation District 603 Maintenance Facility**, Middletown Township, **Delaware County**. Peter Chronowski, Apex Companies, LLC, 269 Great Valley Parkway, Malvern, PA 19355, Joseph Maule, Apex Companies, LLC, 269 Great Valley Parkway, Malvern, PA 19355 on behalf of James Fogel, Department of Transportation Engineering District 6-0, 700 Geerdes Boulevard, King of Prussia, PA 19406 has submitted a Notice of Intent to Remediate. Soil at the site has been impacted with the release of groundwater and soil. The intended future use of the property is to remain nonresidential as a maintenance facility for Department of Transportation.

**211 Belmont Avenue Site**, Lower Merion Township, **Montgomery County**. Jeff Walsh, Penn Environmental and Remediation, Inc., 2755 Bergey Road, Hatfield, PA 19440, Darryl Borrelli, Manko, Gold, Katcher & Fox, LLP, 401 City Avenue, Suite 500, Bala Cynwyd, PA 19004 on behalf of Kevin Kyle, 211 Belmont Avenue, Associated, LP, 2701 Renaissance Boulevard, 4th Floor, King of Prussia, PA 19406 has submitted a Notice of Intent to Remediate. Groundwater and soil at the site has been impacted with the release of leaded gasoline and lead. The future use of the property will be mixed use, consisting of apartments, retail and commercial.

**2181 Bennett Road Property**, City of Philadelphia, **Philadelphia County**. Michael Christie, Pen E&R, Inc., 2755 Bergey Road, Hatfield, PA 19440 on behalf of Harold Janow, 2181 Bennett Road, Inc., 203 Albon Road, Hewlett, NY 11557 has submitted a Notice of Intent to Remediate. Groundwater and soil at the site has been impacted with the release of chlorinated solvents. The proposed future use of the property will be nonresidential for light industrial purpose.

**Bustleton Partners Seamans**, City of Philadelphia, **Philadelphia County**. Amanda Lofink, ATC Associates, Inc., 920 Germantown Pike, Suite 200, Plymouth Meeting, PA 19462 on behalf of William Wegmann, Kimco Realty Corporation, 170 West Ridgley Road, Lutherville, MD 21903 has submitted a Notice of Intent to Remediate. Soil at the site has been impacted with the release of No. 5 fuel oil. The future use of this property is commercial.

**Morton Garage**, Morton Borough, **Delaware County**. Amanda Lofink, ATC Associates, Inc., 920 Germantown Pike, Suite 200, Plymouth Meeting, PA 19462 on behalf of William Heffner, FEA Industries, Inc., 1 North Morton Avenue, Morton, PA 19070 has submitted a Notice of Intent to Remediate. Groundwater at the site has been impacted with the release of PAH. The subject property was formerly a Verizon garage and is being renovated for commercial use.

## RESIDUAL 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 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 WMGR063B. Advanced Recycling Technologies, Inc.,** 1080 Opportunity Avenue, Chambersburg, PA 17201. General Permit Number WMGR063B authorizes processing of various metal-bearing wastes (combustion residues, metallurgical process residues, sludges and scales, chemical wastes, generic manufacturing wastes, spent catalysts, non-hazardous batteries, and nonhazardous residues from treatment of hazardous waste) for use as feedstock for beneficial use by various industries. The approved processing is limited to grinding, drying, blending and combustion. The application is for a major modification to General Permit Number WMGR063B to include additional metals that may be accepted and a change in the minimum acceptable concentration for chromium. The application was deemed administratively complete by Central Office on April 15, 2009.

Comments concerning the application should be directed to Ronald C. Hassinger, Chief, 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 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.**

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

**39-309-075: Lafarge North America** (5160 Main Street, Whitehall, PA 18052) for modification of the sulfur limit for kilns 2 and 3 at their facility in Whitehall Township, **Lehigh County**.

**54-302-078: County of Schuylkill—Schuylkill County Prison** (401 North Second Street, Pottsville, PA 17901) for installation of a new dual fired boiler at their facility in Pottsville, **Schuylkill County**.

**54-302-079: County of Schuylkill—Schuylkill County Courthouse** (401 North Second Street, Pottsville, PA 17901) for installation of a new dual fired boiler at their facility in Pottsville, **Schuylkill County**.

*Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481, George Monasky, New Source Review Chief, (814) 332-6940.*

**10-356A: Linde North America, Inc.** (575 Mountain Avenue, Murray Hill, NJ 07974) for construction of an air separation unit, which includes an oxygen vaporizer and mole sieve regenerator, both fired by natural gas burners at the their facility, in Butler Township, **Butler County**. This facility is a support facility to AK Steel's Butler Works.

**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.**

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

**58-329-005: Cabot Oil & Gas Corp.** (900 Lee Street East, Suite 1700, Charleston, WV 25301) for construction and operation of a CAT Lean Burn Engine at their facility in Springville Township, **Susquehanna County**. The sources main emission is NO<sub>x</sub> and VOC's. The plan approval will include all appropriate testing, monitoring, recordkeeping and reporting requirements designed to keep the operations within all applicable air quality requirements.

*Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110, William R. Weaver, New Source Review Chief, (717) 705-4702.*

**05-03005A: Kennametal, Inc.** (442 Chalybeate Road, Bedford, PA 15522) for construction of various foundry equipment and installation of several fabric collectors to control PM emissions in Bedford Township, **Bedford County**. The plan approval will contain monitoring, recordkeeping and reporting conditions to ensure the facility complies with the applicable air quality requirements.

**34-03005D: Energex American, Inc.** (R. R. 5, Box 343, Mifflintown, PA 17059) for installation of a replacement wood-fired dryer and wet scrubber emissions control system at their plant in Walker Township, **Juniata County**. The installation of the new units will not appreciably impact PM emissions from the facility. The plan approval and State-only operating permit will include emission limits along with monitoring, recordkeeping and reporting requirements to ensure the facility complies with the applicable air quality regulations.

*Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481, George Monasky, New Source Review Chief, (814) 332-6940.*

**16-132H: Clarion Boards, Inc.** (P. O. Box 340, 143 Fiberboard Road, Shippensburg, PA 16254-0340) for NSR application for VOC emissions as a result of testing performed that showed the facility is major for VOC in Paint Township, **Clarion County**. This is a Title V facility. The public notice is required for sources required to obtain a Plan Approval in accordance with 25 Pa. Code § 127.44. This plan approval will, in accordance with 25 Pa. Code § 127.450, be incorporated into the State-only operating permit through an administrative amendment at a later date. The source shall comply with the following conditions, which will satisfy the requirements of 25 Pa. Code § 127.12b (relating to plan approval terms and conditions) and will demonstrate BAT for the source:

- The total VOC emissions from the parts washers shall not exceed the 0.33 tpy based on a consecutive 12-month period.

- The facility shall not operate more than 8,280 hours per year (based on a 12-month rolling total).

- A stack test for VOC (NMOC) shall be performed at both the inlet and outlet of the RTO (C101C) every 2 years. The first test shall be within 24-months of plan approval issuance and each subsequent test shall be

conducted within 12 to 24 months of the last test. The stack test shall be performed while the source is operating at the maximum or normal rated capacity as stated on the application.

- Within 12 to 18 months prior to the expiration of the facility operating permit, a stack test for VOC (NMOC) shall be performed while the source is operating at the maximum or normal rated capacity as stated on the application. The stack test shall be conducted at the following locations:

- Inlet and Outlet of RTO (C101C).
- Outlet of Mat Shave Off and Side Trim Baghouse (C104).
- Outlet of Mat Reject/Recycle Baghouse (C107).
- Press In-Feed Vent (S018).
- Press Out-Feed Vent (S109).
- Board Storage and Building Vent (S128).
- Splitter and Cut-Off Sawdust Baghouse (C110).
- Primary Sander Dust Baghouse (C111).
- Secondary Sander Dust Baghouse (C112).
- Refiner Startup Dump Cyclone (C123).
- Emission Reduction Credit Requirements.
- The company shall not operate the modified source until the required emission reduction credits are provided to and processed through the ERC registry.

- The company has entered into an agreement with ALCOA to purchase emission reduction credits in the amount of 145 tpy of VOCs to offset the contemporaneous increase in VOC emissions of 124.62 tpy flue emissions and 0.87 tpy fugitive emissions. The VOC ERCs were generated and created by the permanent shutdown of the ALCOA's Lebanon facility in Lebanon County. The Department of Environmental Protection (Department) has approved the request to transfer 150 tpy of VOC ERCs to Clarion Boards, Inc. from ALCOA, Inc. in Lebanon, PA and has revised the ERC Registry System accordingly on February 4, 2009.

- If the amount of required emission reduction credits increases, the company shall secure emission offsets according to a schedule determined by the Department.

- The facility is subject to 40 CFR 63, Subpart DDDD (NESHAP: Plywood and Composite Wood Products).

- Source 099 (Natural Gas fired heaters and furnaces):

- Subject to 25 Pa. Code §§ 123.13 and 123.21.

- The total VOC emissions shall not exceed 0.46 tpy based on a consecutive 12-month period.

- The source shall only burn natural gas as a fuel.

- Records shall be maintained of the amount of fuel (natural gas) burned monthly.

- Source 101 (EPI Energy Unit and Fiber Drying System).

- The total VOC emissions shall not exceed the following:

- RTO Outlet (including 1st and 2nd Stage Dryers, 3rd Stage Fiber Conditioning System, Press emissions): 22.92 lbs/hr or

- 94.89 tpy based on a consecutive 12-month period.

- The emissions from the outlet of the RTO shall not exceed the following:



- PM: 8.0 lbs/hr and 33.1 tpy based on a consecutive 12-month period.
- NOx: 27.5 lbs/hr based on a rolling 24-hour average and 113.9 tpy based on a consecutive 12-month period.
- CO: 44.0 lbs/hr and 182.2 tpy based on a consecutive 12-month period.
- Yearly, the facility shall demonstrate that ammonia slippage is less than 10 parts per million (ppm) by volume on a dry basis.
- The facility shall maintain a log of all preventative maintenance inspections of the control device. The inspection logs at a minimum shall contain the dates of the inspections, any potential problems or defects that were encountered, the steps taken to correct them and the measured pressure drop and flow rate of the scrubber system.
- The press enclosure shall be maintained and operated in compliance with EPA Method 204—"Criteria for and verification of a permanent or temporary total enclosure." The exhaust gasses from the enclosure shall be ducted to the EPI combustion unit and the Regenerative Thermal Oxidizer (RTO). A test to demonstrate compliance with Method 204 shall be conducted every 3 years (at a minimum).
- The minimum temperature of the RTO shall be maintained at or above 1,500° F. If the facility chooses to operate at a lower temperature, the facility shall demonstrate compliance with the emissions above by performing additional stack tests at the lower temperature.
- The minimum destruction efficiency through the RTO shall be 90%.
- The facility shall assure adequate flow through the RTO and retention in the towers by maintaining a continuous flow monitor in the outlet stack of the thermal oxidizer. The permittee shall monitor and record flow rates within the operating range established during performance testing, with a maximum flow not to exceed 425,000 ACFM. Flow records shall be maintained onsite and made available to the Department upon request.
- The facility shall install, maintain and operate a continuous strip chart recorder (or Department approved equivalent) for the minimum RTO temperature. Records of the temperature shall be maintained by the facility for at least 5 years and made available to the Department upon request.
- The design of the Selective Non-Catalytic Reduction (SNCR) system to control NOx emissions from the EPI combustor shall maintain an ammonia slip of less than 10 ppm by volume on a dry basis.
- The facility shall continuously monitor the feed rate for the SNCR to ensure that the feed rate is consistent with the feed rate during the annual ammonia stack test. The feed rate shall be recorded; the records shall be maintained for a minimum of 5 years.
- A NOx monitor shall be installed in the exhaust stack for the RTO. The monitor shall be operated and maintained in accordance with the latest version of the Department's "Continuous Source Monitoring Manual." Continuous monitoring shall be conducted in accordance with 25 Pa. Code Chapter 139 and approved by the Department. Reporting information for the monitor shall be based on a 24-hour clock average (based on a rolling 24-hour average). The monitor shall provide information on NOx emissions in lbs/hr and tpy.
- The emissions from the first stage dryer twin cyclones and the fiber conditioning system baghouse shall be ducted to the TurboVenturi Scrubber followed by the Cyclonic Separator and the existing RTO except for emissions that may be recycled to the inlet of the second stage dryer. The emissions from the second stage dryer shall continue to be ducted to the primary dryer for use as conveying air for the primary dryer. The emissions from the press enclosure will be ducted to the EPI Energy Unit and Fiber Drying System (Source 101).
- A magnehelic gauge, pH meter, and rotameter (or equivalent instrumentation as determined by the Department) shall be permanently installed and maintained at a conveniently readable location to indicate the pressure drop, pH and flow rate across the scrubber system. Individual meters for flow measurement shall be used to indicate the flow of the TurboVenturi quench inlets, tangential inlets and the throat inlets. Separate gauges to measure the pressure drop shall be used for the TurboVenturi and the Separator.
- Whenever a condition in this permit requires the measurement of pressure drop across any part of the unit or its control device, the gauge employed shall have a scale such that the expected normal reading shall be no less than 20% of full scale and be accurate within  $\pm 2\%$  of full scale reading.
- The operating range for pH and pressure drop for the scrubber system shall be determined within 30 days of startup of the control device, and shall be indicated to the Department in writing. The pH and pressure drop range measured during the initial compliance emission testing shall become standard operating parameters for the control device. Scrubber pH and pressure drop ranges shall be made part of the facility operating permit.
- The facility shall perform weekly preventative maintenance inspections of the venturi scrubber, separator, and rotary filter (at a minimum), and record the pressure drop, pH, and flow rates at least once each day.
- The control device shall be maintained and operated in accordance with the manufacturer's recommendations and good air pollution control practices.
- The primary dryer shall not be operated without the scrubber system and RTO.
- Source 104 (Mat Forming System).
- The total VOC emissions shall not exceed 0.80 lbs/hr or 3.31 tpy based on a consecutive 12-month period.
- Source 107 (Mat Reject).
- The total VOC emissions shall not exceed 0.83 lbs/hr or 3.44 tpy based on a consecutive 12-month period.
- Source 109 (Building Vents).
- The total VOC emissions shall not exceed the following:
  - MDF Press Building Vent (Source 28): 1.14 lbs/hr or 4.72 tpy based on a consecutive 12-month period. (This condition replaces the previous limit of 0.63 lbs/hr VOC or 2.6 tpy VOC.)
  - MDF Press Building Vent (Source 9): 0.85 lbs/hr or 3.52 tpy based on a consecutive 12-month period. (This condition replaces the previous limit of 0.97 lbs/hr VOC or 4.0 tpy VOC.)
  - MDF Press Building Vent (Source 8): 0.54 lbs/hr or 2.24 tpy based on a consecutive 12-month period. (This condition replaces the previous limit of 0.83 lbs/hr VOC or 3.4 tpy VOC.)

- The particulate emission rate from each of the vents shall not exceed the following:

- MDF Press Building Vent (Source 28): 0.26 lbs/hr or 1.1 tpy based on a consecutive 12-month period.

- MDF Press Building Vent (Source 9): 0.41 lbs/hr or 1.7 tpy based on a consecutive 12-month period.

- MDF Press Building Vent (Source 8): 0.41 lbs/hr or 1.7 tpy based on a consecutive 12-month period.

- Records shall be maintained of the number of board feet produced monthly.

- Source 110 (Splitter and Cut-Off Sawdust Collection).

- The total VOC emissions shall not exceed the following:

- System 10 (Hogger/Cut Saws): 1.75 lbs/hr or 7.25 tpy based on a consecutive 12-month period.

- System 13 (Splitter/Cut/Trim Saws): 0.15 lbs/hr or 0.62 tpy based on a consecutive 12-month period.

- Source 111 (Primary Sander System).

- The total VOC emissions shall not exceed 0.59 lbs/hr or 2.44 tpy based on a consecutive 12-month period.

- Source 112 (Secondary Sander System).

- The total VOC emissions shall not exceed 0.53 lbs/hr or 2.19 tpy based on a consecutive 12-month period.

- Source 123 (Refiner Startup Dump).

- The total VOC emissions shall not exceed 5.80 lbs/hr or 0.08 tpy based on a consecutive 12-month period.

- The particulate emissions from the refiner startup dump cyclone shall not exceed 10.17 lbs/hr. and 0.4 tpy, respectively. (This condition supercedes the condition from 16-132B which also required the overall PM efficiency of the cyclone to be 99.99% or greater.)

- The refinery startup dump cyclone shall be operated for startup purposes only and shall be limited to 25 hrs/yr as stated in the application. (This condition replaces the previous limit of 80 hrs/yr.)

- Records shall be maintained of the hours of operation monthly.

- Records shall be maintained of the amount of fiber dumped monthly.

- Sources 099, 101, 104, 107, 109—112 and 123.

- Records shall be maintained of the VOC emissions monthly.

- The source and control devices shall be maintained and operated in accordance with the manufacturer's specifications and in accordance with good air pollution control practices.

- Sources 104, 107 and 110—112.

- The PM emission rate from each of the fabric collectors, which exhaust directly to the atmosphere, shall not exceed 0.004 gr/dscf.

- For each fabric collector, 20% of the total number of bags in the baghouse is required to be on hand for replacement as necessary.

- Records shall be maintained of the number of board feet produced monthly.

## 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.

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

**39-00055: B. Braun Medical, Inc.** (901 Marcon Boulevard, Allentown, PA 18109) for operation of a surgical and medical instruments and apparatus manufacturing facility and the modification to the permit to include an adjacent building formerly owner by SureFit, Inc. and permitted under permit number 39-00038, located in Hanover Township, **Lehigh County**. This is a modification and renewal of the Title V Operating Permit.

### 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, Janine Tulloch-Reid, Facilities Permitting Chief, (484) 250-5920.*

**09-00041: Costa Penn Farm** (6071 Durham Road, Pipersville, PA 18947) for renewal of the original State-only Operating Permit (Synthetic Minor), which was issued on March 4, 2004, and was amended on June 28, 2007, in Plumstead Township, **Bucks County**. There have been no other changes made to the permit since it was amended on June 28, 2007. The permit includes monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

**46-00261: U.S. Tape Company, Inc.** (2452 Quakertown Road, Pennsburg, PA 18073) for a State-only, Synthetic Minor Operating Permit in Upper Hanover Township, **Montgomery County**. The company has a nickel plating operation and a special printing operation to print on measuring tapes. The facility is limited to VOC emissions of 24.9 tpy on a 12-month rolling basis. The permit will include monitoring, recordkeeping and reporting requirements designed to address all applicable air quality requirements.

*Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110, William R. Weaver, New Source Review Chief, (717) 705-4702.*

**01-03030: Cooperative Milling, Inc.** (1892 York Road, Gettysburg, PA 17325) for operation of their feed mill in Straban Township, **Adams County**. This is a renewal of the State-only operating permit issued in 2004.

**67-03038: Formit Steel Co.** (775 Lombard Road, Red Lion, PA 17356) for operation of their steel fabrication facility in Windsor Township, **York County**. This is a renewal of the State-only operating permit issued in 2004.

*Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, Barbara Hatch, Facilities Permitting Chief, (412) 442-4174.*

**04-00226: Hanson Aggregates BMC, Inc.** (2200 Springfield Pike, Connellsville, PA 15425-6412) for operation of a hot-mix asphalt plant at their Sewickley Creek facility in Economy Borough, **Butler County**. This is a renewal of their synthetic minor operating permit, issued in 2004.

**26-00288: Hanson Aggregates BMC, Inc.** (2200 Springfield Pike, Connellsville, PA 15425-6412) for operation of aggregate-processing and hot-mix asphalt plants at their Springfield Pike Quarry and Asphalt facility in Connellsville Township, **Fayette County**. This is a renewal of their synthetic minor operating permit, issued in 2004.

**63-00629: Hanson Aggregates BMC, Inc.** (2200 Springfield Pike, Connellsville, PA 15425-6412) for operation of a hot-mix asphalt plant at their Dunningville facility in Somerset Township, **Washington County**. This is a renewal of their synthetic minor operating permit, issued in 2004.

**65-00073: Hanson Aggregates BMC, Inc.** (2200 Springfield Pike, Connellsville, PA 15425-6412) for operation of aggregate-crushing and hot-mix asphalt plants at their Latrobe Quarry and Asphalt facility in Ligonier Township, **Westmoreland County**. This is a renewal of their synthetic minor operating permit, issued in 2004.

**65-00659: Hanson Aggregates BMC, Inc.** (2200 Springfield Pike, Connellsville, PA 15425-6412), for operation of a hot-mix asphalt plant at their Adamsburg facility in Hempfield Township, **Westmoreland County**. This is a renewal of their synthetic minor operating permit, issued in 2004.

*Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481, Matthew Williams, New Source Review Chief, (814) 332-6940.*

**10-00171: Butler Color Press** (P. O. Box 31, 119 Bonnie Drive, Butler, PA 16003) to issue a renewal of the State-only Synthetic Minor Operating Permit for their facility in the City of Butler, **Butler County**. The facility prints circulars and advertisements for newspapers. The primary processes at the facility are space heaters, Line 900 Print Line & Dryer, Lines 400 and 450 Print Line & Dryer and clean up solvent use. The VOC emissions from Line 900 are controlled by a catalytic oxidizer and Lines 400 and 450 are controlled by a thermal oxidizer. The plant-wide VOC emissions are limited to 49.9 tpy. The facility individual HAP emissions are limited to 9.9 tpy and the combined HAP emissions are limited to 24.9 tpy.

**33-00148: Brockway Mould, Inc.** (4189 Route 219, Brockport, PA 15823-3819) for reissuance of a Natural Minor Operating Permit to operate a manufacturing process creating molds used in the bottle industry in Snyder Township, **Jefferson County**. The primary emission sources include miscellaneous natural gas combustion, milling machines, processing machines, polishers, welding stations and woodworking stations.

*Department of Public Health, Air Management Services: 321 University Avenue, Philadelphia, PA 19104, Edward Brawn, Chief, (215) 685-9476.*

**S09-007: LaSalle University** (1900 West Olney Avenue, Philadelphia, PA 19141-1199) for operation of a university in the City of Philadelphia, **Philadelphia County**. The facility's air emissions sources include: five emergency generators firing diesel, four boilers greater than 10 mmBtu/hr firing either natural gas or No. 2 fuel oil and 45 boilers less than 10 mmBtu/hr firing either natural gas or No. 2 fuel oil.

The operating permit will be issued under the 25 Pa. Code, Philadelphia Code Title 3 and Air Management Regulation XIII. Permit copies and other supporting information are available for public inspection at AMS, 321 University Avenue, Philadelphia, PA 19104. For further information, contact Edward Wiener at (215) 685-9426.

Persons wishing to file protest or comments on the previous operating permit must submit the protest or comments within 30 days from the date of this notice. Any protests or comments filed with AMS must include a concise statement of the objections to the permit issuance and the relevant facts upon which the objections are based. Based upon the information received during the public comment period, AMS may modify the operating permit or schedule a public hearing. The hearing notice will be published in the *Pennsylvania Bulletin* and a local newspaper at least 30 days before the hearing.

#### PLAN APPROVALS

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

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

**09-0152B: Gelest, Inc.** (11 East Steel Road, Morrisville, PA 19067) for an application to move a dust collector outside the building which will control PM emissions from the existing blenders and mills, at their facility located in Falls Township, **Bucks County**. This facility is a Minor facility. There will be increase of 0.016 tons of PM emissions due to this modification. The Plan Approval will contain monitoring and recordkeeping requirements to keep the source operating within the allowable emissions and all applicable air quality requirements.

#### COAL AND NONCOAL MINING ACTIVITY APPLICATIONS

Applications under the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.19a); the Noncoal Surface Mining Conservation and Reclamation Act (52 P. S. §§ 3301—3326); The Clean Streams Law (35 P. S. §§ 691.1—691.1001); the Coal Refuse Disposal Act (52 P. S. §§ 30.51—30.66); The Bituminous Mine Subsidence and Land Conservation Act (52 P. S. §§ 1406.1—1406.21). Mining activity permits issued in response to such applications will also address the applicable permitting requirements of the following statutes: the Air Pollution Control Act (35 P. S. §§ 4001—4015); the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003).

The following permit applications to conduct mining activities have been received by the Department of Environmental Protection (Department). A copy of the application is available for inspection at the District Mining Office indicated above each application. Where a 401 Water Quality Certification is needed for any aspect of a particular proposed mining activity, the submittal of the permit application will serve as the request for the certification.

Written comments or objections, or requests for an informal conference, or a public hearing, as applicable, on a mining permit application may be submitted by any person or any officer or head of any Federal, State or local government agency or authority to the Department at the address of the district mining office indicated above

each application within 30 days of this publication, or within 30 days after the last publication of the applicant's newspaper advertisement, as provided by 25 Pa. Code §§ 77.121–77.123 and 86.31–86.34.

Written comments or objections related to a mining permit application should contain the name, address and telephone number of persons submitting comments or objections; application number; and a statement of sufficient detail to inform the Department on the basis of comment or objection and relevant facts upon which it is based.

Requests for an informal conference, or a public hearing, as applicable, on a mining permit application, as provided by 25 Pa. Code §§ 77.123 or 86.34, must contain the name, address and telephone number of the requestor; the application number; a brief summary of the issues to be raised by the requestor at the conference; and a statement whether the requestor desires to have the conference conducted in the locality of the proposed mining activities.

Where 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:

<i>Parameter</i>	<i>30-Day Average</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>
Iron (Total)	1.5 to 3.0 mg/l	3.0 to 6.0 mg/l	3.5 to 7.0 mg/l
Manganese (Total)	1.0 to 2.0 mg/l	2.0 to 4.0 mg/l	2.5 to 5.0 mg/l
Suspended solids	10 to 35 mg/l	20 to 70 mg/l	25 to 90 mg/l
Aluminum (Total)	0.75 to 2.0 mg/l	1.5 to 4.0 mg/l	2.0 to 5.0 mg/l
pH <sup>1</sup>		greater than 6.0; less than 9.0	
Alkalinity greater than acidity <sup>1</sup>			

<sup>1</sup>The parameter is applicable at all times.

A settleable solids instantaneous maximum limit of 0.5 ml/l applied to: surface runoff (resulting from a precipitation event of less than or equal to a 10-year 24-hour event) from active mining areas; active areas disturbed by coal refuse disposal activities; and mined areas backfilled and revegetated; and drainage (resulting from a precipitation event of less than or equal to a 1-year 24-hour event) from coal refuse disposal piles.

*California District Office: 25 Technology Drive, Coal Center, PA 15423, (724) 769-1100.*

**17921603 and NPDES Permit No. PA0214612, Hepburnia Coal Company**, (P. O. Box I, Grampian, PA 16838), to renew the permit for the Bells Landing Tipple in Greenwood Township, **Clearfield County** and related NPDES permit. No additional discharges. Application received February 23, 2009.

*Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, (814) 472-1900.*

**56080102 and NPDES No. PA0262609. Sherpa Mining Contractors, Inc.**, 337 Benny Road, Hooversville, PA 15936, permit revision for the continued operation and restoration of a bituminous surface mine to request a variance to conduct surface mining activities including blasting, within 100 feet of the right-of-way of Township Road 717 beginning at a point 950 feet northeast of the intersection of SR 1021 and T-717 then continuing northeast and then southwest along both sides of the road, a distance of 4,800 feet and then continuing southwest along the west side of the road an additional 400 feet. Variance is also requested beginning at the previously-referenced starting point and then continuing southeast along the north side of the paved portion of T-717, a distance of approximately 650 feet. Variance to temporarily close and mine through a portion of T-717 is also requested beginning at a point approximately 1,750 feet northeast of the intersection of SR 1021 and T-717 and continues on the unmaintained portion of T-717 northeast approximately 3,250 feet and then southwest approximately 400 feet to a power line. The temporary closure is subject to Sherpa Mining Contractors, Inc. maintaining an access road at all times to the cemetery located on the Cook Property in Shade Township, Somerset County, affecting 346.5 acres. Receiving streams: UNTs to/and Hinson River; UNTs to/and Miller Run; Shade Creek classified for the following use: CWF. The first downstream potable water supply intake from the point of discharge is Cambria Somerset Authority Stonycreek SWI. Application received April 13, 2009.

**05090101 and NPDES No. PA0262781. Robindale Energy Services, Inc.**, 224 Grange Hall Road, Armagh, PA 15920, commencement, operation and restoration of a bituminous surface mine in Broad Top Township, Bedford County, affecting 159.0 acres. Receiving streams: Longs and Sandy Runs classified for the following use: WWF. There are no potable water supply intakes within 10 miles downstream. Application received April 9, 2009.

*Greensburg District Mining Office: Armbrust Professional Center, 8205 Route 819, Greensburg, PA 15601, (724) 925-5500.*

**03793072 and NPDES Permit No. PA061237. Keystone Coal Mining Corporation** (P. O. Box 219, Shelocta, PA 15774). NPDES renewal application for reclamation and water treatment only of a bituminous surface mine, located in Kiskiminetas and Young Townships, **Armstrong and Indiana Counties**, affecting 302 acres. Receiving streams: UNT to Long and Big Runs, classified for the following use: WWF. There is no potable water supply intake within 10 miles downstream from the point of discharge. Renewal application received April 13, 2009.

**03060103 and NPDES Permit No. PA0250911. State Industries, Inc.** (P. O. Box 1022, Kittanning, PA 16201).

Renewal application for commencement, operation and reclamation of a bituminous surface mine, located in Burrell Township, **Armstrong County**, affecting 75.3 acres. Receiving streams: UNT "C" to Crooked Creek and Crooked Creek, classified for the following use: WWF. There is no potable water supply intake within 10 miles downstream from the point of discharge. Renewal application received April 13, 2009.

**03090102 and NPDES Permit No. PA0251623. Thomas J. Smith, Inc.** (2340 Smith Road, Shelocta, PA 15774). Application for commencement, operation and reclamation of a bituminous surface mine, located in Plumcreek Township, **Armstrong County**, affecting 25.5 acres. Receiving streams: Plum Creek, classified for the following use: TSF. There is no potable water supply intake within 10 miles downstream from the point of discharge. Application received April 6, 2009.

*Knox District Mining Office: P. O. Box 669, 310 Best Avenue, Knox, PA 16232-0669, (814) 797-1191.*

**24890102 and NPDES Permit No. PA0207331. Energy Resources, Inc.** (c/o Ohio American Energy, Inc., 34 Kelley Way, Suite 100, Brilliant, OH 43913). Renewal of an existing bituminous surface strip, auger and beneficial use of lime mud operation in Horton Township, **Elk County** affecting 316.0 acres. Receiving streams: UNTs of Mead Run and Mead Run, classified for the following use: CWF. There are no potable surface water supply intakes within 10 miles downstream. Application for reclamation only. Application received April 13, 2009.

**24890101 and NPDES Permit No. PA0105082. Energy Resources, Inc.** (c/o Ohio American Energy, Inc. 34 Kelley Way, Suite 100, Brilliant, OH 43913). Renewal of an existing bituminous surface strip, tippel refuse disposal, use of a co-product, and coal ash placement operation in Fox and Horton Townships, **Elk County** affecting 377.0 acres. Boderocco Run and Brandy Camp Creek to Little Toby Creek; UNT to Little Toby Creek to Toby Creek, classified for the following use: CWF. The first downstream potable water supply intake from the point of discharge is Brandy Camp. Application for reclamation only. Application received April 13, 2009.

*Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, (814) 342-8200.*

**17753180 and NPDES No. PA0609439. Penn Coal Land, Inc.** (P. O. Box 68, Boswell, PA 15531), permit renewal for the continued operation and restoration of a bituminous surface mine in Boggs Township, **Clearfield County**, affecting 140 acres. Receiving stream: UNT to Laurel Run, classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received March 5, 2009.

*Noncoal Applications Received*

*Effluent Limits*—The following effluent limits will apply to NPDES permits issued in conjunction with a noncoal mining permit:

Parameter	Table 2		
	30-day Average	Daily Maximum	Instantaneous Maximum
Suspended solids	10 to 35 mg/l	20 to 70 mg/l	25 to 90 mg/l
Alkalinity exceeding acidity* pH*		greater than 6.0; less than 9.0	

\* The parameter is applicable at all times.

A settleable solids instantaneous maximum limit of 0.5 ml/l applied to surface runoff resulting from a precipitation event of less than or equal to a 10-year 24-hour event. If coal will be extracted incidental to the extraction of noncoal minerals, at a minimum, the technology-based effluent limitations identified under coal applications will apply to discharges of wastewater to streams.

*Knox District Mining Office: P. O. Box 669, 310 Best Avenue, Knox, PA 16232-0669, (814) 797-1191.*

**25990303. Waste Management Disposal Services of PA, Inc.** (1000 New Ford Mill Road, Morrisville, PA 19067) Renewal of NPDES Permit No. PA0227994, Summit Township, **Erie County**. Receiving streams: UNT to Walnut Creek, classified for the following uses: CWF, MF. There are no potable surface water supply intakes within 10 miles downstream. NPDES Renewal application received April 14, 2009.

**3076SM8. Conneaut Lake Sand & Gravel, Inc.** (P. O. Box 529, West Middlesex, PA 16159-0529). Revision to an existing sand and gravel operation in Sadsbury Township, **Crawford County** affecting 32.3 acres. Receiving streams: UNT to Watson Run, classified for the following use: WWF and UNT to Conneaut Outlet, classified for the following HQ-WWF. There are no potable surface water supply intakes within 10 miles downstream. Revision to add 3.5 acres to the permit. Application received April 3, 2009.

*Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, (570) 621-3118.*

**06980301C3 and NPDES Permit No. PA0223883. 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: UNT to Bernhart Creek, classified for the following use: WWF. Application received April 13, 2009.

**64062803. Keystone Bluestone, Inc.**, (214 Exchange Street, Susquehanna, PA 18847), Stages I and II bond release for a quarry operation in Starrucca Township, **Wayne County** affecting 2.0 acres on property owned by David Soden. Application received April 13, 2009.

**64020807. Arthur S. Spangenberg**, (221 Shehawken Road, Starrucca, PA 18642), Stages I and II bond release for a quarry operation in Preston Township, **Wayne County** affecting 2.0 acres on property owned by Arthur S. and Margot E. Spangenberg. Application received April 14, 2009.

**58920301T and NPDES Permit No. PA0595845. Reading Materials, Inc.**, (P. O. Box 1467, Skippack, PA 19474), transfer of an existing quarry operation from New Milford Sand and Gravel, Inc. in New Milford Township, **Susquehanna County** affecting 131.8 acres, receiving stream: Beaver Creek. Application received April 14, 2009.

**PA0224138. Stoudt's Ferry Preparation Co., Inc.**, (P. O. Box 279, St. Clair, PA 17970), renewal of NPDES Permit for discharge of treated mine drainage at the Auburn Impoundment Basin in West Brunswick Township and Landingville Borough, **Schuylkill County**, receiving stream: Schuylkill River, classified for the following use: WWF. Application received April 15, 2009.

## FEDERAL WATER POLLUTION CONTROL ACT, SECTION 401

The following permit applications, requests for Environmental Assessment approval and requests for 401 Water Quality Certification have been received by the Department of Environmental Protection (Department). Section 401 of the Federal Water Pollution Control Act (FWPCA) (33 U.S.C.A. § 1341) requires the State to certify that the involved projects will not violate the applicable provisions of sections 301—303, 306 and 307 of the FWPCA (33 U.S.C.A. §§ 1311—1313, 1316 and 1317) as well as relevant State requirements. Persons objecting to approval of a request for certification under section 401 of the FWPCA or to the issuance of a Dam Permit, Water Obstruction and Encroachment Permit or the approval of an Environmental Assessment must submit comments, suggestions or objections within 30 days of the date of this notice, as well as questions, to the regional office noted before the application. Comments should contain the name, address and telephone number of the person commenting, identification of the certification request to which the comments or objections are addressed and a concise statement of comments, objections or suggestions including the relevant facts upon which they are based.

The Department may conduct a fact-finding hearing or an informal conference in response to comments if deemed necessary. Individuals will be notified, in writing, of the time and place of a scheduled hearing or conference concerning the certification request to which the comment, objection or suggestion relates. Maps, drawings and other data pertinent to the certification request are available for inspection between 8 a.m. and 4 p.m. on each working day at the regional office noted before the application.

Persons with a disability who wish to attend a hearing and require an auxiliary aid, service or other accommodation to participate in the proceedings should contact the specified program. TDD users should contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

**Applications received under the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27) and section 302 of the Flood Plain 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

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

**E09-937. Bucks County Water and Sewer Authority**, 1275 Almhouse Road, Warrington, PA 18976, Bensalem Township, **Bucks County**, United States Army Corps of Engineers, Philadelphia District.

#### **Bucks County Water and Sewer Authority Chamber 11 Pump Station Project**

Bucks County Water and Sewer Authority proposed to construct a pump house, a generator control facility, three sets of approximately 500 linear feet of underground utility pipes and the extension of an existing building within the floodway of the Poquessing Creek (WWF).

The project is approximately 262 feet North of the intersection of Georgia and Regina Avenues in Bensalem Township, Bucks County (Beverly, PA Quadrangle N: 14.38 inches; W: 11.96 inches).

*Southcentral Region: Watershed Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110, (717) 705-4707.*

**E36-848: Ware Trust, Paul Ware**, 229 North Duke Street, Lancaster, PA 17601, Lancaster Township, **Lancaster County**, United States Army Corps of Engineers, Baltimore District.

To remove an existing 13.5-foot long by 6.2-foot wide stone arch pedestrian footbridge having a normal span of 5.0 feet, an 18.1-foot long by 4.2-foot wide wooden deck pedestrian footbridge having a normal span of 10.3 feet, and an 11.6-foot long by 1.5-foot wide and 3.5-foot high stone weir all in a UNT to the Little Conestoga Creek (WWF). Also to remove 2,346.0 cubic yards of floodplain material to convert 600.0 feet of a UNT to the Little Conestoga Creek (WWF) to 0.347 acre of emergent wetlands for the purpose of achieving improved downstream channel stability (Lancaster, PA Quadrangle: 8.5-inches North; 11.65-inches West, Latitude: 40° 02' 48" N; Longitude: 76° 19' 60" W) in Lancaster Township, Lancaster County.

*Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701, (570) 327-3636.*

**E14-520. Shem S. Swarey**, 149 Back Road, Rebersburg, PA 16872. Shem's Pasture Fields Bridge, in Miles Township, **Centre County**, United States Army Corps of Engineers, Baltimore District (Millheim, PA Quadrangle Latitude: 40° 56' 26.9"; Longitude: 77° 26' 2.1").

To construct and maintain a steel I-beam, wood deck, concrete wingwall abutment bank-to-bank bridge having a 24-foot clear span and a 6-foot underclearance for private agricultural-use-only, located 1,900 feet northeast of the intersection of Town Lane and Back Road

(Smullton Road). This project proposes to indirectly impact 20 linear feet of Elk Creek, which is classified as an EVWT perennial waterway.

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

**E11-336. Pegasus Sewer Authority**, 1296 Clapboard Run Road, Johnstown, PA 15094. To construct and maintain road crossing in Conemaugh Township, **Cambria County**, United States Army Corps of Engineers, Pittsburgh District (Geistown, PA Quadrangle North 15.3'; West 17.1', Latitude: 40° 20' 03"; Longitude: 78° 52' 21"). The applicant proposes to construct and maintain a 5' diameter, approximately 65' long Corrugated Metal Pipe Culvert road crossing on Peggy's Run (WWF), to place approximately 32 linear feet of R-6 rip-rap below the culvert, and the placement of 90' by 43' of fill, with a maximum depth of approximately 18', in the floodway of Peggy's Run, for the purpose of constructing an access roadway for the construction and maintenance of a Sanitary Sewer. The project is located approximately 120' south of Truman Boulevard, West of the village of Bon Air.

**E65-929. Municipality of Murrysville**, 4100 Sardis Road, Murrysville, PA 15668.

To construct a stream enclosure in the Municipality of Murrysville, **Westmoreland County**, United States Army Corps of Engineers, Pittsburgh District (Murrysville, PA Quadrangle N: 8.5 inches; W: 6.1 inches, Latitude: 40° 25' 19"; Longitude: 79° 40' 07"). The applicant proposes to construct and maintain a steam enclosure by adding a 95' long, 48" diameter extension to an existing 80' long, 48" diameter reinforced concrete pipe, on a UNT to Turtle Creek (TSF), for the purpose of creating a parking area. The project is located in Duff Park in the Municipality of Murrysville.

## 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 free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

### I. NPDES Renewal Permit Actions

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

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0060658 (Sewage)	Little Washington Wastewater Company 762 West Lancaster Avenue Bryn Mawr, PA 19010-3489	Washington Township Wyoming County	UNT to Susquehanna River 4G	Y
PA0060895 (Minor Sewage)	Pocono Mountains Industries, Inc. 300 Community Drive Tobyhanna, PA 18466	Monroe County Coolbaugh Township	UNT to Red Run 2A	Y
PAS802219	United States Postal Service—Lehigh Valley VMF 17 South Commerce Way Lehigh Valley, PA 18002-9731	Northampton County Bethlehem Township	UNT to Monacacy Creek 2C	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0088595 (CAFO)	Wide Awake Farms Partnership 411 Chestnut Street Lebanon, PA 17042  Pork Champ 572 Waldo-Fulton Road Waldo, OH 43356	Bedford County Monroe Township	Watershed 13-B	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0113948 SN	Department of Corrections 2520 Lisburn Road Camp Hill, PA 17011-0598	Clearfield County Karthaus Township	Marks Run 8D	Y

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

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

**NPDES Permit No. PA0261271**, Sewage, **David E. Graham**, 11 Valentine Acres Road, Clearville, PA 15535. This proposed facility is located in Southampton Township, **Bedford County**.

Description of Proposed Action/Activity: Authorization for discharge to Watershed 13-A.

**NPDES Permit No. PA0037141, Amendment No. 1**, Industrial Waste, Fish and Boat Commission, Huntsdale State Fish Hatchery, 4540 Robinson Lane, Bellefonte, PA 16823-9620. This proposed facility is located in Penn Township, **Cumberland County**.

Description of Proposed Action/Activity: Authorization to discharge to the Yellow Breeches Creek and a UNT in Watershed 7-E.



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

**NPDES Permit No. PA0021610-A1**, Sewage, **Blairsville Municipal Authority**, 203 Market Street, Blairsville, PA 15717. This existing facility is located in Burrell Township, **Indiana County**.

Description of Proposed Action/Activity: Permit issuance to discharge an expanded flow from a facility located at Blairsville Municipal Authority STP, Burrell Township, Indiana County to receiving waters named Conemaugh River.

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

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

**WQM Permit No. 0509401**, Sewage, **David E. Graham**, 117 Valentine Acres Road, Clearville, PA 15535. This proposed facility is located in Southampton Township, **Bedford County**.

Description of Proposed Action/Activity: Approval for construction/operation of a small flow, single-family residence sewage treatment facility with a dual compartment septic tank, pump tank, EcoFlo Peat filter and disinfection.

**WQM Permit No. 0672403, Amendment 09-1**, Sewage, **Oley Township Municipal Authority**, P. O. Box 19, Oley, PA 19547. This proposed facility is located in Oley Township, **Berks County**.

Description of Proposed Action/Activity: Amendment approves the construction and modification of sewerage facilities consisting of installing an effluent pump located in the chlorine contact tank, a flap valve in the outfall sewer, raising the walls of a effluent manhole, adding a 10- and 12-inch decanter line with a magnetic flow meter from SBR No. 2 to the chlorine contact tank, meter pit, new chart recorder to record flows from SBR No. 1 and SBR No. 2 and totalize both flows and removal of the bypass piping.

**WQM Permit No. 2109401**, Sewage, **Hampden Township**, 230 South Sporting Hill Road, Mechanicsburg, PA 17050. This proposed facility is located in Hampden Township, **Cumberland County**.

Description of Proposed Action/Activity: Approval for the construction/operation of sewerage facilities consisting of pump station, 6" DIP force main and 12" sewer extension.

**WQM Permit No. 6786429, Amendment 08-1**, Sewage, **Northeastern York County Sewer Authority**, 175 Chestnut Street, P. O. Box 516, Mount Wolf, PA 17347. This proposed facility is located in East Manchester Township, **York County**.

Description of Proposed Action/Activity: Approval for the construction of sewage facilities consisting of: Upgrade for biological nutrient removal.

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

**WQM Permit No. 467S021-A4**, Sewerage, **Masontown Municipal Authority**, 2 Court Avenue, Masontown, PA 15461-1841. This existing facility is located in Masontown Borough, **Fayette County**.

Description of Proposed Action/Activity: Permit issuance for the construction and operation of sludge processing facilities at the Big Run Sewage Treatment Plant.

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

**WQM Permit No. 467S035-A3**, Sewerage, **Masontown Municipal Authority**, 2 Court Avenue, Masontown, PA 15461-1841. This existing facility is located in German Township, **Fayette County**.

Description of Proposed Action/Activity: Permit issuance for the construction and operation of sludge processing facilities at the Cat's Run Sewage Treatment Plant.

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

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

**WQM Permit No. WQG018690**, Sewerage, **Jack R. Loughner**, 14971 West Vernon Road, Meadville, PA 16335-7267. This proposed facility is located in Vernon Township, **Crawford 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**

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

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI030608022	LaFerrovia, LLC 35 Robin Lea Lane Fleetwood, PA 19522	Berks	Ruscombmanor Township	UNT to Laurel Run CWF
PAI033108001	Turnpike Commission Gary Graham 700 South Eisenhower Boulevard Middletown, PA 17057	Huntingdon	Dublin Township	UNT to North Branch Little Aughwick Creek HQ-CWF
PAI032108013	Jerry G. Woomer Fish and Boat Commission 450 Robinson Lane Bellefonte, PA 16823	Cumberland	Lower Frankford Township	Opossum Creek HQ-TSF
PAI032103001-R	Donald E. Diehl The Diehl Partnership Four East High Street Carlisle, PA 17013	Cumberland	South Middleton Township	Yellow Breeches Creek HQ-CWF

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

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

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI056304002	North Strabane Township Municipal Authority 1929B Route 519 South Canonsburg, PA 15317	Washington	North Strabane Township	Little Chartiers Creek HQ-WWF

**VII. Approvals to Use NPDES and/or Other General Permits**

The EPA Region III Administrator has waived the right to review or object to this permit action under the waiver provision 40 CFR 123.23(d).

**List of NPDES and/or Other General Permit Types**

PAG-1	General Permit for Discharges From Stripper Oil Well Facilities
PAG-2	General Permit for Discharges of Stormwater Associated With Construction Activities (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 Groundwater Remediation Systems
PAG-6	General Permit for Wet Weather Overflow Discharges From Combined Sewer Systems (CSO)
PAG-7	General Permit for Beneficial Use of Exceptional Quality Sewage Sludge by Land Application
PAG-8	General Permit for Beneficial Use of 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-02**Facility Location:*

<i>Municipality &amp; County</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
Warwick Township Bucks County	PAG200 0908095	Anthony Mastrocco 2204 Dogwood Court Warrington, PA 18976	Neshaminy Creek TWF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Upper Makefield Township Bucks County	PAG200 0909011	Tri-State Dredging, Inc. 4300 Holmesburg Avenue Philadelphia, PA 19136	Jericho Creek WWF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Wrightstown Township Bucks County	PAG200 0907132	Penns Park Associates 2288 Second Street Pike Penns Park, PA 18940	Neshaminy Creek WWF, MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Middletown Township Bucks County	PAG200 0908057	SS Heritage Inn of Langhorne, Inc. 1201 Page Drive South Fargo, ND 58103-2339	Queen Ann and Oxford Valley Mall Creeks, Silver Lake, Otter Creek and Delaware River WWF, MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
East Rockhill Township Bucks County	PAG200 0903147-R	Pennridge Airport, Inc. 1100 North Ridge Road Perkasie, PA 18944	Three Mile Run TSF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Warminster Township Bucks County	PAG200 0909022	Nina Way, LLC 1530 Jacksonville Road Ivylnd, PA 18974	Little Neshaminy Creek WWF, MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Westtown Township Chester County	PAG200 1503100-R	St. Simon and Jude Church 8 Cavanaugh Court West Chester, PA 19382	UNT East Branch Chester Creek TSF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
West Chester Borough Chester County	PAG200 1509003	College Arms Partners, LP 500 Barnegat Boulevard North Building 100 Barnegat, NJ 08005	Chester Creek TSF, MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
East Marlborough Township Chester County	PAG200 1508066	Edward B. Deseta P. O. Box 4549 Greenville, DE 19807	UNT Pocopson Creek TSF, MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
New Hanover Township Montgomery County	PAG200 4608152	Jeff Clemens 513 Main Street Harleysville, PA 19438	Deep Creek TSF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Upper Providence Township Montgomery County	PAG200 4603236-R	Toll Brothers, Inc. 250 Gibraltar Road Horsham, PA 19044	Schuylkill River WWF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Susquehanna Township Dauphin County	PAG2002204016-R	Mark DiSanto Triple Crown Corporation 5351 Jaycee Avenue Harrisburg, PA 17112	Paxton Creek WWF	Dauphin County Conservation District 1451 Peters Mountain Road Dauphin, PA 17018 (717) 921-8100
West Hanover Township Dauphin County	PAG2002208013-1	Girish Patel SKHK, LLC 300 Commerce Drive New Cumberland, PA 17070	Manada Creek WWF	Dauphin County Conservation District 1451 Peters Mountain Road Dauphin, PA 17018 (717) 921-8100

NOTICES

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*Facility Location:  
Municipality &  
County*

*Permit No.*

*Applicant Name &  
Address*

*Receiving  
Water/Use*

*Contact Office &  
Phone No.*

Susquehanna Township Dauphin County	PAG2002204034-R	Brent Stoltzfoos Thea Drive Associates, LLC 474 Mount Sidney Road Lancaster, PA 17602	Paxton Creek WWF	Dauphin County Conservation District 1451 Peters Mountain Road Dauphin, PA 17018 (717) 921-8100
Northeast Madison Township Perry County	PAG2035009002	Church of the Living Christ of Loysville David McMillen P. O. Box 180 Loysville, PA 17047	Bixler Run CWF	Perry County Conservation District P. O. Box 36 31 West Main Street New Bloomfield, PA 17068 (717) 582-5119
York Township York County	PAG2006708087	Debra Hatley York Township Recreation Department 190 Oak Road Dallastown, PA 17313	South Branch Codorus Creek WWF	York County Conservation District 118 Pleasant Acres Road York, PA 17402 (717) 840-7430
Springettsbury Township York County	PAR10Y409R-2	Orchard Hills Real Estate 450 Spangler Road New Oxford, PA 17350	Kreutz Creek WWF	York County Conservation District 118 Pleasant Acres Road York, PA 17402 (717) 840-7430
Belfast Township Fulton County	PAG2002909002	Vince Greenland, P. E. Department of Transportation Engineering District 9-0 1620 North Juniata Street Hollidaysburg, PA 16648	Licking Creek CWF	Fulton County Conservation District 216 North Second Street McConnellsburg, PA 17233 (717) 485-3547, Ext. 122
Bethel Township Berks County	PAG2000609007	Ralph Moyer 91 Frystown Road Myerstown, PA 17067	Little Swatara Creek CWF	Berks County Conservation District 1238 County Welfare Road Suite 200 Leesport, PA 19533-9710 (610) 372-4657, Ext. 201
Lower Heidelberg Township Berks County	PAG2000608062	Warren Angstadt 661 Church Road Wernersville, PA 19565	Tulpehocken Creek— UNT to Little Cacoosing Creek WWF	Berks County Conservation District 1238 County Welfare Road Suite 200 Leesport, PA 19533-9710 (610) 372-4657, Ext. 201
Tilden Township Berks County	PAG2000606083-1	Tilden Township Board of Supervisors 874 Hex Highway Hamburg, PA 19526	Hassler Run—Mill Creek—Schuylkill River TSF-WWF-MF	Berks County Conservation District 1238 County Welfare Road Suite 200 Leesport, PA 19533-9710 (610) 372-4657, Ext. 201
Tioga County Clymer Township	PAG2005909003	Kevin Zink Dominion Transmission 5094 Route 349 Westfield, PA 16950	Mill Creek CWF	Tioga County Conservation District 50 Plaza Lane Wellsboro, PA 16901 (570) 724-1801, Ext. 3

*Facility Location:  
Municipality &  
County*

<i>Facility Location: Municipality &amp; County</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
Union County Kelly Township	PAG2006009002	Michael O'Keefe Evangelical Community Hospital 1 Hospital Drive Lewisburg, PA 17837	UNT to Buffalo Creek CWF	Union County Conservation District Union County Government Center 155 North 15th Street Lewisburg, PA 17837 (570) 524-3860
Cambria County Geistown Borough	PAG2001109006	Robert Gardill c/o Cambria Hardware 1765 Goucher Street Johnstown, PA 15905	UNT to Solomon Run WWF	Cambria County Conservation District (814) 472-2120
Butler County Muddy Creek Township Butler County Slippery Rock Township Lawrence County	PAG2001009003	SR 0019 Section 252 over SR 0422 (McConnell's Mill Bridge) Department of Transportation District 10-0 2550 Oakland Avenue P. O. Box 429 Indiana, PA 15701	Muddy and Slippery Rock Creeks CWF	Butler County Conservation District (724) 284-5270
Clarion County Ashland Township	PAG2061609003	Billings Station West 3R Department of Transportation 10-0 2550 Oakland Avenue P. O. Box 429 Indiana, PA 15701-0429	Pine Run and Little East Sandy Creek CWF	DEP 230 Chestnut Street Meadville, PA 16335 (814) 332-6984
Erie County City of Erie	PAG2002509005	Cathedral Prep Events Center Cathedral Prep 225 West 9th Street Erie, PA 16501	Lake Erie WWF	Erie County Conservation District (814) 825-6403
Erie County Millcreek Township	PAR10K206R-1	Sterling Ridge Phase V Maleno Developers, Inc. 2340 West Grandview Boulevard Erie, PA 16506	UNT Millcreek WWF	Erie County Conservation District (814) 825-6403
Jefferson County Perry Township	PAG2003307002(1)	Fairman Residential Dwelling and Private Golf Driving Range Frank Fairman 137 Aspen Road Punxsutawney, PA 15757	Sawmill Run UNT to Mahoning Creek CWF	Jefferson County Conservation District (814) 849-7463
Lawrence County Neshannock Township	PAG2003708009	Tinstman Development Company Attn: Joel Tinstman 1240 Oakhill Drive Pittsburgh, PA 15239	UNT to Shenango River WWF	Lawrence County Conservation District (724) 652-4512
McKean County Bradford Township	PAG2004209001	Janet Gregory P. O. Box 946 Warren, PA 16365	East Branch Tunungwant Creek CWF	McKean County Conservation District (814) 887-4001

*General Permit Type—PAG-3*

*Facility Location:  
Municipality &  
County*

<i>Facility Location: Municipality &amp; County</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
Berks County Kutztown Borough Maxatawny Township	PAR213506	Berks Products Corporation Kutztown Building Materials 80—140 Willow Street Kutztown, PA 19530	Sacony Creek CWF	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707

*Facility Location:  
Municipality &  
County*

<i>Facility Location: Municipality &amp; County</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
Juniata County Beale Township	PAR213550	Marstellar Oil and Concrete 17004 Route 35 South Port Royal, PA 17082	Markee Creek CWF	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
Franklin County Greene Township	PAR803553	IESI Blue Ridge Landfill Corporation Blue Ridge Landfill P. O. Box 399 Scotland, PA 17254	Phillaman Run CWF	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
Lycoming County Armstrong Township	PAR804873	Choice Fuel Corp., Inc. 2344 Sylvan Dell Road South Williamsport, PA 17702	West Branch Susquehanna River WWF	Northcentral Regional Office Water Management Program 208 West Third Street Suite 101 Williamsport, PA 17701 (570) 327-3664
Oil City Venango County	PAR208359	Witherup Fabrication and Erection, Inc. 431 Kennerdell Road P. O. Box 55 Kennerdell, PA 16374-0055	Storm sewer to the Allegheny River	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Bradford City McKean County	PAR238312	Graham Packaging Company, LP 2401 Pleasant Valley Road York, PA 17403	Tunungwant Creek	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Vernon Township Crawford County	PAG049512	Jack R. Loughner 14971 West Vernon Road Meadville, PA 16335-7267	UNT to Conneaut Outlet 16-D	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942

*General Permit Type—PAG-5**Facility Location:  
Municipality &  
County*

<i>Facility Location: Municipality &amp; County</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
Rome Borough Bradford County	PAG054837	Williams Oil Company, Inc. York Avenue North P. O. Box 207 Towanda, PA 18848	UNT to Wysox Creek CWF	Northcentral Regional Office Water Management Program 208 West Third Street Suite 101 Williamsport, PA 17701 (570) 327-3664

*General Permit Type—PAG-8**Facility Location:  
Municipality &  
County*

<i>Facility Location: Municipality &amp; County</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Site Name &amp; Location</i>	<i>Contact Office &amp; Phone No.</i>
Union Township Lebanon County	PAG083531	Northern Lebanon County Authority P. O. Box 434 Jonestown, PA 17038	Jonestown Wastewater Treatment Plant 400 Jonestown Road Jonestown, PA 17038	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110-8200 (717) 705-4707

*General Permit Type—PAG-8 (SSN)**Facility Location:  
Municipality &  
County**Permit No.**Applicant Name &  
Address**Site Name &  
Location**Contact Office &  
Phone No.*Windsor Township  
Berks CountyPAG080002  
PAG080005  
PAG080011  
PAG080013  
PAG080017  
PAG080018  
PAG080020  
PAG083518  
PAG083522  
PAG083533  
PAG083551Jesse Baro, Inc.  
157 Quarry Road  
Douglasville, PA 19518Ray, Barbara and Keith  
Seidel FarmsDEP—SCRO  
909 Elmerton Avenue  
Harrisburg, PA  
17110-8200  
(717) 705-4707*General Permit Type—PAG-10**Facility Location:  
Municipality &  
County**Permit No.**Applicant Name &  
Address**Receiving  
Water/Use**Contact Office &  
Phone No.*Chanceford,  
Hellam,  
Lower Chanceford,  
Lower Windsor  
and  
Windsor Townships  
York County

PAG053535

Texas Eastern  
Transmission, LP  
890 Winter Street  
Suite 300  
Waltham, MA 02451UNT to Otter Creek  
CWF  
Beaver Creek  
CWF  
UNT to Mill Branch  
WWF  
and South Fork Otter  
Creek  
WWF  
Susquehanna River  
WWF  
UNT of Kreutz Creek  
WWF  
and Kreutz Creek  
WWF  
Wallace Run  
CWF  
and UNT to Muddy  
Creek  
TSF  
UNT to Kreutz Creek  
WWF  
Fishing Creek  
TSF  
and UNT to Fishing  
Creek  
CWFDEP—SCRO  
909 Elmerton Avenue  
Harrisburg, PA 17110  
(717) 705-4800East Donegal  
Township  
Lancaster County

PAG053536

Texas Eastern  
Transmission, LP  
890 Winter Street  
Suite 300  
Waltham, MA 02451Susquehanna River  
WWFDEP—SCRO  
909 Elmerton Avenue  
Harrisburg, PA 17110  
(717) 705-4800Saint Thomas,  
Hamilton and  
Guilford Townships  
Franklin County

PAG053537

Texas Eastern  
Transmission, LP  
890 Winter Street  
Suite 300  
Waltham, MA 02451UNT to Campbell Run  
CWF  
UNT to Conococheague  
Creek  
WWF  
and  
Conococheague Creek  
WWF  
UNT to Conococheague  
Creek  
WWFDEP—SCRO  
909 Elmerton Avenue  
Harrisburg, PA 17110  
(717) 705-4800

*Facility Location:  
Municipality &  
County*

Reading and  
Tyrone Townships  
Adams County

*Permit No.*  
PAG053538

*Applicant Name &  
Address*

Texas Eastern  
Transmission, LP  
890 Winter Street  
Suite 300  
Waltham, MA 02451

*Receiving  
Water/Use*

South Branch Mud Run  
WWF  
UNT of Conewago Creek  
WWF

*Contact Office &  
Phone No.*

DEP—SCRO  
909 Elmerton Avenue  
Harrisburg, PA 17110  
(717) 705-4800

Harrison Township  
Bedford County

PAG053539

Texas Eastern  
Transmission, LP  
890 Winter Street  
Suite 300  
Waltham, MA 02451

Milligan Run  
WWF  
UNT to Buffalo Run  
WWF

DEP—SCRO  
909 Elmerton Avenue  
Harrisburg, PA 17110  
(717) 705-4800

*General Permit Type—PAG-12*

*Facility Location:  
Municipality &  
County*

Lancaster County  
Pequea Township

*Permit No.*  
PAG123677

*Applicant Name &  
Address*

Jonathon M. Hess  
1402 West Penn Grant  
Road  
Lancaster, PA  
17603-9664

*Receiving  
Water/Use*

Silver Mine Run  
TSF/7K

*Contact Office &  
Phone No.*

DEP—SCRO  
Watershed Management  
909 Elmerton Avenue  
Harrisburg, PA 17110  
(717) 705-4802

**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>
McClay's Farm 7597 McClays Mill Road Newburg, PA 17240	Franklin	162	639.3	Swine	NA	Approved



## PUBLIC WATER SUPPLY (PWS) PERMITS

The Department of Environmental Protection has taken the following actions on applications received under the Pennsylvania Safe Drinking Water Act (35 P.S. §§ 721.1—721.17) for the construction, substantial modification or operation of a public water system.

Persons aggrieved by an action may appeal, under section 4 of the Environmental Hearing Board Act (35 P.S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania AT&T Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

For individuals who wish to challenge an action, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

### SAFE DRINKING WATER

#### Actions taken under the Pennsylvania Safe Drinking Water Act

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

**Permit No. 4008506**, Public Water Supply.

Applicant	<b>CAN DO, Inc.</b> 125 South Church Street Hazleton, PA 18201 Butler Township
County	<b>Luzerne</b>
Type of Facility	PWS
Consulting Engineer	Jacqueline A. Peleschak, P. E. Alfred Benesch & Company 400 One Norwegian Plaza P. O. Box 1090 Pottsville, PA 17901
Permit to Construct Issued	April 13, 2009

*Southcentral Region: Water Supply Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.*

**Permit No. 3608524**, Public Water Supply.

Applicant	<b>City of Lancaster</b>
Municipality	Manheim Township

County	<b>Lancaster</b>
Type of Facility	Installation of a new chlorine booster station at Hess Boulevard
Consulting Engineer	Matthew D. Warfel The ARRO Group, Inc. 270 Granite Run Drive Lancaster, PA 17601-6804
Permit to Construct Issued	April 14, 2009

**Permit No. 2208507**, Public Water Supply.

Applicant	<b>Tulpehocken Spring Water, Inc.</b>
Municipality	Gratz Borough
County	<b>Dauphin</b>
Type of Facility	Reconstruction of the spring source.
Consulting Engineer	Thomas G. Pullar, P. E. EarthRes Group, Inc. P. O. Box 468 Pipersville, PA 18947
Permit to Construct Issued	April 14, 2009

**Operations Permit** issued to **Bedford Township Municipal Authority**, 4050037, Bedford Borough, **Bedford County** on April 14, 2009, for the operation of facilities approved under Construction Permit No. 0506503.

**Operations Permit** issued to **Harpers Tavern**, 7380375, East Hanover Township, **Lebanon County** on April 16, 2009, for the operation of facilities approved under Construction Permit No. 3807504.

**Operations Permit** issued to **Mary Couch**, 4310875, Jackson Township, **Huntingdon County** on April 8, 2009, for the operation of facilities approved under Construction Permit No. 3108503.

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

**Permit No. Minor Amendment—Construction**, Public Water Supply.

Applicant	<b>Williamsport Municipal Water Authority</b>
Municipality	City of Williamsport
County	<b>Lycoming</b>
Type of Facility	Sandblasting and repainting of East Tank T-2
Consulting Engineer	LaRue VanZile 253 West Fourth Street Williamsport, PA 17701-6113
Permit to Construct Issued	March 23, 2009

**Operations Permit** issued to **Suburban Lock Haven Water Authority**, 326 Main Street, Mill Hall, PA 17751, (PWSID No. 4180049) Lock Haven Area, **Clinton County** on April 15, 2009, to add a finished water storage tank for the Lamar Township Business Park and upgrade the pump station to accommodate the tank under Construction Permit No. 1807503.

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

**Operations Permit** issued to **Municipal Authority of Westmoreland County**, 124 Park and Pool Road, New Stanton, PA 15601, (PWSID No. 5650032) Allegheny Township, **Westmoreland County** on April 9, 2009, for the operation of facilities approved under Construction Permit No. 6507510MA.

**Permit No. 6509501MA, Minor Amendment, Public Water Supply.**

Applicant	<b>Municipal Authority of Westmoreland County</b> 124 Park and Pool Road New Stanton, PA 15601
Borough or Township	City of Greensburg
County	<b>Westmoreland</b>
Type of Facility	Cabin Hill water storage tank
Consulting Engineer	The EADS Group, Inc. 450 Aberdeen Drive Somerset, PA 15501
Permit to Construct Issued	April 9, 2009

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

**Permit No. 8303W-MA7, Public Water Supply.**

Applicant	<b>Sharpsville Borough</b>
Township or Borough	Sharpsville Borough
County	<b>Mercer County</b>
Type of Facility	Public Water Supply
Consulting Engineer	Mark V. Glenn, P. E.
Permit to Construct Issued	April 15, 2009

**Permit No. 4308501, Public Water Supply.**

Applicant	<b>South Pymatuning Township</b>
Township or Borough	South Pymatuning Township
County	<b>Mercer County</b>
Type of Facility	Public Water Supply
Consulting Engineer	Peter Kusky, P. E.
Permit to Construct Issued	April 15, 2009

#### WATER ALLOCATIONS

**Actions taken on applications received under the act of June 24, 1939 (P. L. 842, No. 365) (35 P. S. §§ 631—641) relating to the acquisition of rights to divert waters of this Commonwealth**

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

**Permit WA 43-1004. Borough of Sharpsville, 1** South Walnut Street, Sharpsville, PA 16150-1258, Sharpsville Borough, **Mercer County**. The permit grants the applicant's right to acquire a maximum of 1,500,000 gpd on a peak day basis, through the interconnections at: 1) North Buhl Farm and Rockwell Drives; and 2) Hall Avenue and 18th Street, from Aqua Pennsylvania, Inc. The Borough of Sharpsville serves customers located in Sharpsville Borough and South Pymatuning Township, **Mercer County**.

Permit issued April 15, 2009.

## LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

### PREAMBLE 2

**The following plans and reports were submitted under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908).**

Provisions of Chapter 3 of the Land Recycling and Environmental Remediation Standards Act (act) require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* a notice of submission of plans and reports. A final report is submitted to document cleanup of a release of a regulated substance at a site to one of the act's remediation standards. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis for selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed and summaries of sampling analytical results which demonstrate that remediation has attained the cleanup standard selected. Submission of plans and reports, other than the final report, shall also be published in the *Pennsylvania Bulletin*. These include the remedial investigation report, risk assessment report and cleanup plan for a Site-Specific Standard remediation. A remedial investigation report includes conclusions from the site investigation, concentration of regulated substances in environmental media; benefits of refuse of the property and, in some circumstances, a fate and transport analysis. If required, a risk assessment report describes potential adverse effects caused by the presence of regulated substances. If required, a cleanup plan evaluates the abilities of potential remedies to achieve remedy requirements.

For further information concerning plans or reports, contact the Environmental Cleanup Program manager in the Department regional office after which the notice of receipt of plans or reports appears. If information concerning plans or reports is required in an alternative form, contact the Community Relations Coordinator at the appropriate regional office. TDD users may telephone the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

The Department has received the following plans and reports:

*Southeast Region: Environmental Cleanup Program Manager, 2 East Main Street, Norristown, PA 19401.*

**Mench Residence, Concord Township, Delaware County.** Dan Ruch, Underwood Engineering, 143 Harding Avenue, Bellmawr, NJ 18031 on behalf of Robert Mench, 1120 Clayton Greenspring Road, Smyra, DE, 19977 has submitted a Final Report concerning remediation of site soil and groundwater contaminated with unleaded gasoline and lead. The report is intended to document remediation of the site to meet the Statewide Health Standard.

**Franklin Commons, Phoenixville Borough, Chester County.** Shaun Gilday, Environmental Standards, 1140 Valley Forge Road, Valley Forge, PA 19460, Roger Tartaglia, Center Point Tank Services, 563 East Benjamin Franklin Highway, Douglassville, PA 19518 on behalf of David Moskowicz, Palma, LP, 400 Franklin Avenue,

Phoenixville, PA 19460 has submitted a Final Report concerning remediation of site soil contaminated with use motor oil and new motor oil. The report is intended to document remediation of the site to meet the Statewide Health Standard.

**Cogins Corporation**, Lower Gwynedd Township, **Montgomery County**. John Ash, AMO Environmental Decision, 4327 Point Pleasant Pike, P. O. Box 410 on behalf of Edward Vanyo, Cognis Corporation, 300 Brookside Avenue, Ambler, PA 19002 has submitted a Final Report concerning remediation of site groundwater and soil contaminated with other organic. The report is intended to document remediation of the site to meet the Statewide Health and Site-Specific Standards.

*Northeast Region: Ronald S. Brezinski, Environmental Cleanup Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.*

**2020 Building**, 2020 Hamilton Street, Allentown City, **Lehigh County**. Alexander Ulmer, Barry Isett & Associates, Inc., P. O. Box 147, Trexlertown, PA 18087-0147 has submitted a Final Report (on behalf of his clients Raymond and Thelma Holland, c/o Timothy Fallon, 405 West Linden Street, Allentown, PA 18102-3454), concerning the remediation of soil found to have been impacted by hexavalent chromium within a former process water vault as a result of metal cleaning and painting operations at a former facility located at this property. The report was submitted to document attainment of the Statewide Health Standard. A public notice regarding the submission of the Final Report was published in *The Morning Call* on March 13, 2009.

**Former Grube Service Station**, 228 Cattell Street, Easton City, **Northampton County**. Christopher T. Kotch and Keith A. Valentine, Barry Isett & Associates, Inc., P. O. Box 147, 85 South Route 100 and Kessler Lane, Trexlertown, PA 18087 have submitted a Final Report (on behalf of their client, Lafayette College, 630 Parson Street, Easton, PA 18042), concerning the remediation of soils found to have been impacted by waste oil/lead as a result of an accidental release from an unregulated underground storage tank. The report was submitted to document attainment of the Statewide Health Standard. A public notice regarding the submission of the Final Report was published in *The Morning Call* on March 21, 2009.

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

**Cumberland Technology Park Site**, Hampden Township, **Cumberland County**. BL Companies, 213 Market Street, 6th Floor, Harrisburg, PA 17101, on behalf of John Harbilas, 33 North Second Street, Harrisburg, PA 17011, submitted a Final Report concerning remediation of groundwater contaminated with chlorinated solvents. The report is intended to document remediation of the site to meet a combination of the Statewide Health and Site-Specific Standards.

*Northcentral Region: Environmental Cleanup Program Manager, 208 West Third Street, Williamsport, PA 17701.*

**Growmark F.S., Inc. (Pleasant Gap Crop Center)**, Spring Township, **Centre County**. Groundwater Sciences Corp., 2601 Market Place Street, Suite 310, Harrisburg, PA 17701 on behalf of Growmark F.S., Inc., 308 NE Front Street, Milford, DE 19963 has submitted a Final Report concerning remediation of site soil and groundwater contaminated with herbicides and fertilizers. The report is intended to document remediation of the site to meet the Site-Specific Standard.

**Bulkmatic**, Old Lycoming Township, **Lycoming County**. Northridge Group, Inc., 1172 Ridge Road, Northumberland, PA 17857 on behalf of Bulkmatic, 2001 North Cline Avenue, Griffith, IN 46319 has submitted a Final Report within 90-days of the release concerning remediation of site soil contaminated with diesel fuel at the Stroehman's Bakery facility. The report is intended to document remediation of the site to meet the Statewide Health Standard.

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

**Erie Golf Course Expansion Parcel 33-186-553-25**, Millcreek Township, **Erie County**. Environmental Remediation & Recovery, Inc., 4250 Route 6N, Edinboro, PA 16412 on behalf of The City of Erie, 626 State Street, Erie, PA 16501, has submitted a Remedial Investigation Report and Cleanup Plan concerning remediation of site soil contaminated with arsenic and nonmedia solids including glass, rubber, wood, concrete and small metal containers and site groundwater contaminated with trichloroethylene and vinyl chloride. The Remedial Investigation Report and Cleanup Plan are intended to document the investigation and remediation of the site soil and nonmedia solids to meet the Site-Specific Standard and groundwater to meet the Statewide Health Standard.

## LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

### UNDER ACT 2, 1995

#### PREAMBLE 3

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**The Department has taken action on the following plans and reports under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908).**

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Provisions of 25 Pa. Code § 250.8, administration of the Land Recycling and Environmental Remediation Standards Act (act), require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* a notice of final actions on plans and reports. A final report is submitted to document cleanup of a release of a regulated substance at a site to one of the remediation standards of the act. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis of selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed and summaries of sampling methodology and analytical results which demonstrate that the remediation has attained the cleanup standard selected. Plans and reports required by provisions of the act for compliance with selection of remediation to a Site-Specific Standard, in addition to a final report, include a remedial investigation report, risk assessment report and cleanup plan. A remedial investigation report includes conclusions from the site investigation, concentration of regulated substances in environmental media, benefits of refuse of the property and, in some circumstances, a fate and transport analysis. If required, a risk assessment report describes potential adverse effects caused by the presence of regulated substances. If required, a cleanup plan evaluates the abilities of potential remedies to achieve remedy requirements. A work plan for conducting a baseline remedial investigation is required by provisions of the act for compliance with selection of a special industrial area remediation. The baseline remedial investigation, based on the work plan,

is compiled into the baseline environmental report to establish a reference point to show existing contamination, describe proposed remediation to be done and include a description of existing or potential public benefits of the use or reuse of the property. The Department may approve or disapprove plans and reports submitted. This notice provides the Department's decision and, if relevant, the basis for disapproval.

For further information concerning the plans and reports, contact the Environmental Cleanup Program manager in the Department regional office before which the notice of the plan or report appears. If information concerning a final report is required in an alternative form, contact the Community Relations Coordinator at the appropriate regional office. TDD users may telephone the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

The Department has received the following plans and reports:

*Southeast Region: Environmental Cleanup Program Manager, 2 East Main Street, Norristown, PA 19401.*

**Rite Aid**, Pennsburg Borough, **Montgomery County**. John Kane, Kane Environmental, 3831 Stone Way North, Seattle, WA 98103 on behalf of Ray Renner, Gundaker Commercial Group, 100 Chesterfield Business Parkway, Suite 300, St. Louis, MD 63005 has submitted a Final Report concerning the remediation of site groundwater and soil contaminated with leaded gasoline. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department of Environmental Protection on April 3.

*Northeast Region: Ronald S. Brezinski, Environmental Cleanup Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.*

**Bourdeau Property**, 137 South 11th Street, Easton City, **Northampton County**. Shaun Gilday, Environmental Standards, Inc., P. O. Box 810, Valley Forge, PA 19482 submitted a Final Report (on behalf of his client, James Bourdeau, 4200 Myriah Court, Bethlehem, PA 18020), concerning the remediation of soil found to have been impacted by No. 2 fuel oil as a result of a release, which caused an overflow to the basement floor during the refueling of a nonregulated 275-gallon aboveground storage tank and a release from the mouth of the fill port of the aboveground storage tank to the concrete sidewalk area. The report documented attainment of the Residential Statewide Health Standard and was approved on April 6, 2009. The report was originally submitted within 90 days of the release.

**Central Air Freight Services, Inc.**, 23rd and Peace Streets, Hazle Township, **Luzerne County**. Douglas E. Fiske, United Environmental Services, Inc., 86 Hillside Drive, Drums, PA 18222 submitted a Final Report and multiple addendums (on behalf of his client, Triple K Leasing, LLC, 425 Jaycee Drive, West Hazleton, PA 18202), concerning the remediation of soils found to have been impacted by No. 2 fuel oil as a result of an accidental release, during tank closure activities, from an unregulated underground storage tank. The report documented attainment of the Residential Statewide Health Standard and was approved on April 13, 2009.

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

**Former Getty Service Station 67628**, Hanover Borough, **York County**. Tyree Environmental Corporation, 2702 Cindel Drive, Suite 7, Cinnaminon, NJ 08077, on

behalf of Getty Realty Group, 125 Jericho Turnpike, Suite 103, Jericho, NY 11753, submitted a Final Report concerning remediation of site soils contaminated with No. 2 fuel oil. The Final Report demonstrated attainment of the Residential Statewide Health Standard and was approved by the Department of Environmental Protection on April 17, 2009.

**Appalachian RV Resort**, Upper Bern Township, **Berks County**. BL Companies, 213 Market Street, 6th Floor, Harrisburg, PA 17101, on behalf of MHC Appalachian, LP, Two North Riverside Plaza, Suite 800, Chicago, IL 60606, submitted a Final Report concerning remediation of site soils contaminated with arsenic and lead. The Final Report demonstrated attainment of the Residential Statewide Health Standard and was approved by the Department of Environmental Protection on April 17, 2009.

*Northcentral Region: Environmental Cleanup Program Manager, 208 West Third Street, Williamsport, PA 17701.*

**Rohrer Bus Co., Fairfield Road Accident**, East Buffalo Township, **Union County**. Northridge Group Inc., 1172 Ridge Road, Northumberland, PA 17857 on behalf of Rohrer Bus Co., P. O. Box 100, Duncannon, PA 17028 has submitted a Final Report within 90 days of the release concerning remediation of site soil contaminated with motor oil. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department of Environmental Protection on April 13, 2009.

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

**Erie Golf Course Expansion Parcel 33-186-553-25**, Millcreek Township, **Erie County**. Environmental Remediation & Recovery, Inc., 4250 Route 6N, Edinboro, PA 16412 on behalf of The City of Erie, 626 State Street, Erie, PA 16501, has submitted a Remedial Investigation Report and Cleanup Plan concerning remediation of site soil contaminated with arsenic and nonmedia solids including glass, rubber, wood, concrete and small metal containers and site groundwater contaminated with trichloroethylene and vinyl chloride. The Remedial Investigation Report and Cleanup Plan were approved by the Department of Environmental Protection on April 10, 2009.

**Honeywell Farmers Valley South of Cole Creek (Farmers Valley Wax Plant—Area South of Cole Creek)**, Keating Township, **McKean County**. URS Corporation, Foster Plaza 4, 501 Holiday Drive, Suite 300, Pittsburgh, PA 15220, on behalf of Pennzoil-Quaker State Company, d/b/a SOPUS Products, 12700 Northborough Drive 300 E-11, Houston, TX 77067, has submitted a Cleanup Plan concerning remediation of site soil and site groundwater contaminated with compounds related to petroleum refining. The Cleanup Plan was approved by the Department of Environmental Protection on April 20, 2009.

#### RESIDUAL WASTE GENERAL PERMITS

**Permit Renewal Issued under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003); the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904); and 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 No. WMGR096SE003.** Jones & Losito, Inc., P. O. Box 485, 181 Willow Street, Toughkenamon, PA 19374. The beneficial use of regulated fill, as defined in Guidance Document 258-2182-773, as a construction material. The permit was renewed by the Division of Municipal and Residual Waste on April 13, 2009.

Persons interested in reviewing the general permit should contact the 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 should 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. WMGR064R003.** Liberty Township, 2873 Mercer Butler Pike, Grover City, PA 16127.

General Permit Number WMGR064 authorizes the beneficial use of natural gas well brines for roadway pre-wetting, anti-icing and for roadway de-icing purposes to minimize the formation or development of bonded snow and ice to roadways and walkways. Central Office approved this registration for coverage under the general permit on April 15, 2009.

Persons interested in obtaining more information, or obtaining copies of the general permit should contact Ronald C. Hassinger, Chief, General Permits and Beneficial Use Section, Division of Municipal and Residual Waste, Bureau of Land Recycling and Waste Management, Rachel Carson State Office Building, P. O. Box 8472, Harrisburg, PA 17105-8472, (717) 787-7381. TDD users should contact the Department of Environmental Protection through the Pennsylvania AT&T Relay Service, (800) 654-5984.

#### **DETERMINATION FOR APPLICABILITY FOR MUNICIPAL WASTE GENERAL PERMITS**

**Permits Issued under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003); the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904); and Municipal Waste Regulations for a General Permit to Operate Municipal Waste Processing Facilities and the Beneficial Use of Municipal Waste.**

*Central Office: Division of Municipal and Residual Waste, Rachel Carson State Office Building, 14th Floor, 400 Market Street, Harrisburg, PA 17105-8472.*

**General Permit Application No. WMGM019D006.** Rohrer's Quarry, Inc., 70 Lititz Road, Lititz, PA 17543.

**General Permit Number WMGM019D006** is for the processing and beneficial use of: (i) concrete and asphalt as construction material; (ii) hardwood timber and uncontaminated soil to create topsoil and mulch for commercial purposes; and (iii) leaf and yard waste to produce compost generated at the Rohrer's Quarry, Inc. (Rohrer) facility, located in the Lititz Borough, **Lancaster County**. The general permit was issued by Central Office on April 15, 2009.

Persons interested in reviewing the general permit should contact Ronald C. Hassinger, Chief, General Permits and Beneficial Use Section, Division of Municipal and Residual Waste, Bureau of Land Recycling and Waste Management, P. O. Box 8472, Harrisburg, PA 17105-8472, (717) 787-7381. TDD users should contact the Department of Environmental Protection through the Pennsylvania AT&T Relay Service, (800) 654-5984.

#### **OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE**

**Permit issued under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003), the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904) and Regulations to Operate Solid Waste Processing or Disposal Area or Site.**

*Northwest Region: Regional Solid Waste Manager, 230 Chestnut Street, Meadville, PA 16335-3481.*

**Permit Application No. 101603.** Veolia ES Solid Waste of PA, R. D. 1, Route 6, Pittsfield, PA 16340, Pittsfield Township, **Warren County**. The application was for a major permit modification for daily tonnage increase at the Warren County Transfer Station. The permit was issued by the Northwest Regional Office on April 21, 2009.

#### **AIR QUALITY**

**General Plan Approval and Operating Permit Usage Authorized under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127 to construct, modify, reactivate or operate air contamination sources and associated air cleaning devices.**

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

**58-399-002GP5: Cabot Oil & Gas Corp.** (900 Lee Street East, Charleston, WV 25301) on April 7, 2009, to construct and operate a third Natural Gas Compressor engine at their Teel Compressor Station site in Springville Township, **Susquehanna County**.

*Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110, William R. Weaver, New Source Review Chief, (717) 705-4702.*

**GP3-22-03081: John W. Gleim, Jr., Inc.** (625 Hamilton Street, Carlisle, PA 17013) on April 15, 2009, for a Portable Nonmetallic Mineral Processing Plant under GP3 in Swatara Township, **Dauphin County**.

**GP4-67-03064: Motor Technology, Inc.** (515 Willow Springs Lane, York, PA 17406) on April 14, 2009, for a Burn Off Oven under GP4 in East Manchester Township, **York County**. This is a renewal of the GP4 permit.

**GP9-2-05-03010: New Enterprise Stone & Lime Company, Inc.** (P. O. Box 77, New Enterprise, PA 16664) on April 16, 2009, for Diesel or No. 2 fuel-fired Internal Combustion Engines in Snake Spring Township, **Bedford County**.

**GP11-22-03081: John W. Gleim, Jr., Inc.** (625 Hamilton Street, Carlisle, PA 17013) on April 15, 2009, for Nonroad Engines under GP11 in Swatara Township, **Dauphin County**.

**GP19-36-03012: Herr & Sacco, Inc.** (P. O. Box 99, Landisville, PA 17538) on April 16, 2009, for Dry Abrasive Blasting Operations under GP19 in Hempfield Township, **Lancaster County**.

*Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, Mark Gorog and Barb Hatch, Environmental Engineer Managers, (412) 442-4163/5226.*

**GP14-26-00521: Uniontown Cremation Services** (136 North Gallatin Avenue, Uniontown, PA 15401) on April 17, 2009, to operate one natural gas fired All Crematory Model No. 2000 Elite human crematory rated at 100 pph at their facility in the City of Uniontown, **Fayette County**.

**GP5-63-00936A: MarkWest Liberty Midstream and Resources, LLC** (1515 Arapahoe Street, Tower 2, Suite 700, Denver, CO 80202-2126) on April 17, 2009, a change of ownership to operate a Wakesha L7042GSI compressor engine rated at 1,232 bhp/hr equipped with catalytic converter, an Ajax 2802 LE engine rated at 384 bhp/hr and a TEG Dehydrator rated at .250 mmBtu/hr controlled by a flare at their Houston Gas Processing Plant at Chartiers Township, **Washington County**.

**GP5-63-00942: MarkWest Liberty Midstream and Resources, LLC** (1515 Arapahoe Street, Tower 2, Suite 700, Denver, CO 80202-2126) on April 17, 2009, a Change of Ownership to operate two Caterpillar G3516 LE compressor engines each rated at 1,340 bhp/hr, a Natco Dehydrator rated at .275 mmBtu/hr controlled by an open flare and two 400-bbl condensate tanks equipped with vapor recovery at their Dryer Booster Compressor Station at Independence Township, **Washington County**.

**GP5-63-00933A: MarkWest Liberty Midstream and Resources, LLC** (1515 Arapahoe Street, Tower 2, Suite 700, Denver, CO 80202-2126) on April 17, 2009, a Change of Ownership to operate four Caterpillar G3516 LE compressor engines each rated at 1,340 bhp/hr equipped with Miratech oxidation catalyst, two Natco Dehydrator each rated at .275 mmBtu/hr controlled by an open flare and two 400-bbl condensate tanks equipped with vapor recovery at their Johnston Booster Compressor Station located at Chartiers Township, **Washington County**.

**GP5-63-00934A: MarkWest Liberty Midstream and Resources, LLC** (1515 Arapahoe Street, Tower 2, Suite 700, Denver, CO 80202-2126) on April 15, 2009, a Change of Ownership to operate four Caterpillar G3516 LE compressor engines each rated at 1,340 bhp/hr and two Natco Dehydrators each rated at .275 mmBtu/hr controlled by a flare at their Godwin Booster Compressor Station at Mount Pleasant Township, **Washington County**.

**GP5-63-00938: MarkWest Liberty Midstream and Resources, LLC** (1515 Arapahoe Street, Tower 2, Suite 700, Denver, CO 80202-2126) on April 15, 2009, a Change of Ownership to operate two Caterpillar G3516 LE compressor engines each rated at 1,340 bhp/hr and a Natco Dehydrators rated at .275 mmBtu/hr controlled by a flare

at their Hoskins Booster Compressor Station at Donegal Township, **Washington County**.

**GP5-63-00937A: MarkWest Liberty Midstream and Resources, LLC** (1515 Arapahoe Street, Tower 2, Suite 700, Denver, CO 80202-2126) on April 15, 2009, a Change of Ownership for to operate two Caterpillar G3516 LE compressor engines each rated at 1,340 bhp/hr and a Natco Dehydrators rated at .275 mmBtu/hr controlled by a flare at their Fulton Booster Compressor Station located at Mount Pleasant Township, **Washington County**.

**GP5-63-00939: MarkWest Liberty and Resources, LLC** (1515 Arapahoe Street, Tower 2, Suite 700, Denver, CO 80202-2126) on April 15, 2009, a Change of Ownership to operate two Caterpillar G3516 LE compressor engines each rated at 1,340 bhp/hr and a Natco Dehydrator rated at .275 mmBtu/hr controlled by an open flare at their Nancy Stewart Compressor Station at Mount Pleasant Township, **Washington County**.

**GP5-63-00940A: MarkWest Liberty and Resources, LLC** (1515 Arapahoe Street, Tower 2, Suite 700, Denver, CO 80202-2126) on April 15, 2009, a Change of Ownership to operate four Caterpillar G3516 LE compressor engines each rated at 1,340 bhp/hr equipped with Miratech oxidation catalyst and two Natco Dehydrator each rated at .275 mmBtu/hr controlled by an open flare at their Shaw Booster Compressor Station at Chartiers Township, **Washington County**.

**GP5-63-00947: MarkWest Liberty and Resources, LLC** (1515 Arapahoe Street, Tower 2, Suite 700, Denver, CO 80202-2126) on April 15, 2009, a Change of Ownership to operate of four Caterpillar G3516 LE compressor engines each rated at 1,340 bhp/hr and a Natco Dehydrator rated at .275 mmBtu/hr controlled by a flare at their Lowry Booster Compressor Station at Hopewell Township, **Washington County**.

*Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481, George Monasky, New Source Review Chief, (814) 332-6940.*

**GP-20-294A: International Waxes, Inc.** (1100 East Main Street, Titusville, PA 16354) on April 15, 2009, to operate a small gas and No. 2 Oil Fired Combustion Unit (BAQ-GPA/GP-1) in Titusville, **Crawford County**.

**GP-20-299B: Kastle Resources Enterprises, Inc.—Pierpont Compressor Station** (Partch Road and Route 198, Linesville, PA 16424) on April 16, 2009, to operate a natural gas fired compressor engine (BAQ-GPA/GP-5) in Beaver Township, **Crawford County**.

**GP-62-172C: Glenn O. Hawbaker, Inc.—Brokenstraw Facility—Plant No. 22** (110 Muzzleloaders Lane, Pittsfield, PA 16340) on April 20, 2009, to operate a portable nonmetallic mineral processing plant (BAQ-GPA/GP-3) in Pittsfield Township, **Warren 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.**

*Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790, Ray Kempa, New Source Review Chief, (570) 826-2531.*

**48-302-104: Reliant Energy Mid-Atlantic Power Holdings, LLC** (121 Champion Way, Suite 200, Canonsburg, PA 15317-7625) on April 21, 2009, to install

a test control device on each of the two main boilers (Units 1 and 2) at the Portland Generating Station in Upper Mt. Bethel Township, **Northampton County**.

*Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110, William R. Weaver, New Source Review Chief, (717) 705-4702.*

**36-03121C: Cadmus Journal Services, Inc.** (3575 Hempland Road, Lancaster, PA 17601-6912) on April 13, 2009, to install another web heatset offset printing press in their facility in West Hempfield Township, **Lancaster County**.

*Department of Public Health, Air Management Services: 321 University Avenue, Philadelphia, PA 19104, Edward Braun, Chief, (215) 685-9476.*

**AMS 09006: Naval Support Activity** (700 Robbins, Philadelphia, PA 19111-5098) on April 6, 2009, to replace to two existing boilers with two 32.65 mmBtu/hr Cleaver Brooks boilers firing No. 6 oil/natural gas in the City of Philadelphia, **Philadelphia County**. The new boilers will have the following combined potential annual emissions: 28.61 tons of PM. The Facility will be limited to less than 25 tons of NOx and 100 tons of SOx emissions per year.

**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.**

*Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481, George Monasky, New Source Review Chief, (814) 332-6940.*

**61-210B: Glenn O. Hawbaker, Inc.—Harrisville Plant** (1041 Stevenson Road, Harrisville, PA 16038) on April 15, 2009, to modify a stack testing condition in an existing plan approval to construct an asphalt plant in Barkeyville Borough, **Venango County**.

**Title V Operating Permits Issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter G.**

*Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790, Norman Frederick, Facilities Permitting Chief, (570) 826-2507*

**66-00001: P & G Paper Products Co.** (P. O. Box 32, Route 87, South, Mehoopany, PA 18629) on April 14, 2009, to operate a facility Title V Operating Permit in Washington Township, **Wyoming County**.

*Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481, Matthew Williams, Facilities Permitting Chief, (814) 332-6940.*

**16-00010: Owens-Illinois, Inc.—Plant No. 17** (151 Grand Avenue, Clarion, PA 16214) on April 16, 2009, to re-issue a Title V Permit to operate a glass containers manufacturing facility in Clarion Borough, **Clarion County**. The facility's major emission sources include two glass melting furnaces, two refiners, seven forehearth, seven lehrs, raw material handling/storage, cullet handling/storage, batch gathering and mixing, hot end surface treatment, seven container forming machines, miscellaneous combustion sources, 66 space heaters, grit blasting, road fugitives and four degreaser units. The facility is major facility for Title V due to its potential to emit of NOx and SOx and not subject to CAM rule.

**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, Ray Kempa, New Source Review Chief, (570) 826-2507.*

**39-00022: Sunoco Partners MKT & Terminal LP—Fullerton Terminal** (1735 Market Street, Philadelphia, PA 19103-7501) on April 7, 2009, to operate Bulk Petroleum Stations and Terminals in Whitehall Township, **Lehigh County**. This is a State-only Synthetic Minor operating permit.

*Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110, William R. Weaver, New Source Review Chief, (717) 705-4702.*

**06-05076: Quadrant EEP, Inc.** (2120 Fairmont Avenue, P. O. Box 14235, Reading, PA 19612) on April 13, 2009, to operate their existing specialty plastic manufacturing operation in the City of Reading, **Berks County**. This is a renewal of the State-only operating permit.

**36-03078: Hamilton Precision Metals** (1780 Rohrerstown Road, Lancaster, PA 17601-2320) on April 14, 2009, to operate a metal rolling and finishing manufacturing facility in East Hempfield Township, **Lancaster County**. This is a renewal of the State-only operating permit.

**67-03111: Fry Communications, Inc.** (3310 Connelly Road, Emigsville, PA 17318) on April 16, 2009, for their lithographic printing operation at Building No. 5 in Manchester Township, **York County**. This is a renewal of the State-only operating permit.

*Department of Public Health, Air Management Services: 321 University Avenue, Philadelphia, PA 19104, Edward Braun, Chief, (215) 685-9476.*

**S01-001: The Purolite Company** (3620 G Street, Philadelphia, PA 19134) on April 9, 2009, to operate an ion exchange manufacturing facility in the City of Philadelphia, **Philadelphia County**. The facility's air emissions sources include one 4.2 mmBtu/hr boiler, two 8.4 mmBtu/hr boilers, a polymerization process (includes a Carrier Dryer, a Witte Dryer with a baghouse, a Fitzpatrick Dryer, an Aeromatic Dryer, a monomer tank that vents to a carbon adsorption unit and two reactors with a Perry Products Condenser), a sulfonation process, two 40,000-gal wastewater equalization tanks, a 11,000-gal styrene storage tank, copolymer fugitives and copolymer wastewater.

**Operating Permits Denied, Terminated, Suspended or Revoked under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code §§ 127.431 and 127.461.**

*Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401, Janine Tulloch-Reid, Facilities Permitting Chief, (484) 250-5920.*

**09-00052: Equipment Depot** (10 Runway Road, Suite G, Levittown, PA 19057) on April 16, 2009, for operation of the spray booth at the manufacturing plant located in the Bristol Township, **Bucks County**. This operating permit (Natural Minor Operating Permit) was revoked because the facility is no longer in operation. All sources are shut down and have been removed from the site.

## 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*

*California District Office: 25 Technology Drive, Coal Center, PA 15423, (724) 769-1100.*

**30841602 and NPDES Permit No. PA0215562, Duquesne Light Company**, (1800 Seymour Street, S-Loft, Pittsburgh, PA 15233), to revise the permit for the Warwick Mine No. 2 Preparation Plant in Monongahela Township, **Greene County** and related NPDES permit to dispose of gas well waste water into Warwick No. 2 Mine pool and increase NPDES effluent limits. Receiving stream: Whiteley Creek, classified for the following use: WWF. Application received September 2, 2008. Application withdrawn April 13, 2009.

*Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, (570) 621-3118.*

**49080103 and NPDES Permit No. PA0224707. Fox Coal Company, Inc.**, (1380 Tioga Street, Coal Township, PA 17866), commencement, operation and restoration of an anthracite surface mine and coal refuse reprocessing operation in Coal Township, **Northumberland County** affecting 674.0 acres, receiving stream: Coal Run and/or Shamokin Creek. Application received July 14, 2008. Application returned April 20, 2009.

### *Coal Permits Actions*

*Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, (814) 472-1900.*

**11813015 and NPDES No. PA0607991. Cooney Brothers Coal Company**, P. O. Box 246, Cresson, PA 16630, permit renewal for reclamation only of a bituminous surface mine in Gallitzin and Logan Townships, **Cambria and Blair Counties**, affecting 170.6 acres. Receiving streams: UNT to/and Kittanning Run, UNT to Glenwhite Run classified for the following use: CWF. The first downstream potable water supply intake from the point of discharge is Altoona City Blair County Authority Burgoon Run Glenwhite SWI. (There are no potable water supply intakes within 10 miles downstream.) Application received February 18, 2009. Permit issued April 14, 2009.

**11803024 and NPDES No. PA0124524. Cooney Brothers Coal Company**, P. O. Box 246, Cresson, PA 16630, permit renewal for reclamation only of a bituminous surface and auger mine in Dean Township, **Cambria County**, affecting 327.0 acres. Receiving streams: UNTs to/and Brubaker Run classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received February 18, 2009. Permit issued April 14, 2009.

**32040102 and NPDES No. PA0249491. Britt Energies, Inc.**, 2450 Philadelphia Street, Indiana, PA 15701, permit renewal for reclamation only of a bituminous surface and auger mine in Center Township, **Indiana County**, affecting 201.2 acres. Receiving streams: UNT to Yellow Creek classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received February 12, 2009. Permit issued April 14, 2009.

*Greensburg District Mining Office: Armbrust Professional Center, 8205 Route 819, Greensburg, PA 15601, (724) 925-5500.*

**02860201 and NPDES Permit No. PA0588407. IP Harmor Holdings, LLC** (2929 Allen Parkway, Suite 2200, Houston, TX 77019). Transfer permit from Minerals Technology, Inc. for operation and reclamation of a coal refuse reprocessing surface mine, located in Harmor Township, **Allegheny County**, affecting 168.3 acres. Receiving stream: Guys Run. Transfer application received December 12, 2007. Permit issued April 14, 2009.

**26030103 and NPDES Permit No. PA0250503. Amerikohl Mining, Inc.** (202 Sunset Drive, Butler, PA 16001). Permit renewal issued for reclamation only of a bituminous surface mining site located in Nicholson Township, **Fayette County**, affecting 88.5 acres. Receiving streams: UNT to Cats Run and UNT to Jacobs Creek. Application received February 26, 2009. Renewal issued April 17, 2009.

*Knox District Mining Office: P. O. Box 669, 310 Best Avenue, Knox, PA 16232-0669, (814) 797-1191.*

**24980102 and NPDES Permit No. PA0227781. Tamburlin Brothers Coal Co., Inc.** (P. O. Box 1419, Clearfield, PA 16830) Renewal of an existing bituminous strip and auger operation in Fox Township, **Elk County** affecting 196.0 acres. Receiving streams: Limestone Run and Little Toby Creek. Application received February 11, 2009. Permit issued April 13, 2009.

**61980103 and NPDES Permit No. PA0227846. Ben Hal Mining Company** (389 Irishtown Road, Grove City, PA 16127) Renewal of an existing bituminous strip and limestone processing operation in Irwin Township, **Jefferson County** affecting 111.0 acres. Receiving streams: Five UNTs to Scrubgrass Creek. Application received February 18, 2009. Permit issued April 14, 2009.

**33040102 and NPDES Permit No. PA0242519. MSM Coal Company, Inc.** (P. O. Box 243, DuBois, PA 15801) Renewal of an existing bituminous strip operation in Union Township, **Jefferson County** affecting 35.0 acres. This renewal is issued for reclamation only. Receiving streams: UNT No. 1 to Little Mill Creek. Application received February 23, 2009. Permit issued April 15, 2009.

*Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, (814) 342-8200.*



**17070115 and NPDES No. PA0256641. Swisher Contracting, Inc.** (P. O. Box 1223, Clearfield, PA 16830). Commencement, operation and restoration of a bituminous surface coal mine in Bradford Township, **Clearfield County**, affecting 36.2 acres. Receiving streams: Abes Run to the West Branch Susquehanna River, classified for the following use: CWF There are no potable water supply intakes within 10 miles downstream. Application received August 20, 2007. Permit issued April 14, 2009.

*Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, (570) 621-3118.*

**49080101. John P. Shingara**, (6624 SR 225, Shamokin, PA 17972), commencement, operation and restoration of an anthracite surface mine operation in Zerbe Township, **Northumberland County** affecting 108.5 acres, receiving stream: none. Application received January 8, 2008. Permit issued April 16, 2009.

*Noncoal Permits Actions*

*Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, (814) 472-1900.*

**05920301 and NPDES Permit No. PA0212261. New Enterprise Stone & Lime Company, Inc.**, P. O. Box 77, Church Street, New Enterprise, PA 16664, renewal of NPDES Permit, Snake Spring Valley Township, **Bedford County**. Receiving streams: Cove Creek and Raystown Branch of the Juniata River classified for the following uses: EV and TSF. There are no potable water supply intakes within 10 miles downstream. Application received February 18, 2009. Permit issued April 14, 2009.

*Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, (814) 342-8200.*

**08080814. Harry Silvers** (P. O. Box 13, Burlington, PA 18814). Commencement, operation and restoration of a quarry operation (flagstone) in Herrick Township, **Bradford County**, affecting 1.0 acre. Receiving streams: none. Application received October 20, 2008. Permit issued April 14, 2009.

*Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, (570) 621-3118.*

**39880302A1C6. Coplay Aggregates, Inc.**, (P. O. Box 58, Northampton, PA 18067), correction to an existing quarry operation in Whitehall Township, **Lehigh County** to delete 4.79 acres from the permitted area for a total of 29.29 permitted acres, receiving stream: none. Application received July 2, 2008. Correction issued April 15, 2009.

**06070301 and NPDES Permit No. PA0224588. Glen-Gery Corporation**, (P. O. Box 7001, Wyomissing, PA 19610), commencement, operation and restoration of a quarry operation and NPDES Permit for discharge of treated mine drainage in Perry Township, **Berks County** affecting 184.2 acres, receiving stream: UNTs to Schuylkill River. Application received May 2, 2007. Permit issued April 16, 2009.

**58080834. Norman N. Norton, Sr.**, (R. R. 2, Box 135 C, New Milford, PA 18834), commencement, operation and restoration of a quarry operation in New Milford Township, **Susquehanna County** affecting 5.0 acres, receiving stream: none. Application received May 27, 2008. Permit issued April 16, 2009.

**ACTIONS ON BLASTING ACTIVITY APPLICATIONS**

**Actions on applications under the Explosives Acts of 1937 and 1957 (43 P.S. §§ 151–161); and 25 Pa. Code § 211.124 (relating to blasting activity permits). Blasting activity performed as part of a coal or noncoal mining activity will be regulated by the mining permit for that coal or noncoal mining activity.**

*Blasting Permits Actions*

*Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, (814) 472-1900.*

**21094108. M & J Explosives, Inc.**, P. O. Box 608, Carlisle, PA 17013-0608, blasting activity permit issued for single dwelling development in South Middleton Township, **Cumberland County**. Blasting activity permit end date is March 31, 2010. Permit issued April 8, 2009.

**21094110. M & J Explosives, Inc.**, P. O. Box 608, Carlisle, PA 17013-0608, blasting activity permit issued for highway/road development in Carlisle Borough and South Middleton Township, **Cumberland County**. Blasting activity permit end date is April 30, 2010. Permit issued April 8, 2009.

**28094104. David H. Martin Excavating, Inc.**, 4961 Cumberland Highway, Chambersburg, PA 17201-9655, blasting activity permit issued for pipeline development in Letterkenny Township, **Franklin County**. Blasting activity permit end date is April 6, 2010. Permit issued April 8, 2009.

**21094111. M & J Explosives, Inc.**, P. O. Box 608, Carlisle, PA 17013-0608, blasting activity permit issued for sanitary sewer development in Silver Spring Township, **Cumberland County**. Blasting activity permit end date is April 30, 2010. Permit issued April 9, 2009.

*Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, (570) 621-3118.*

**67094109. Warren's Excavating & Drilling, Inc.**, (P. O. Box 214, Myerstown, PA 17067), construction blasting for Arm & Hammer in Jackson Township, **York County** with an expiration of April 9, 2010. Permit issued April 14, 2009.

**36094118. Warren's Excavating & Drilling, Inc.**, (P. O. Box 214, Myerstown, PA 17067), construction blasting for Lancaster County Bible Church in Rapho Township, **Lancaster County** with an expiration date of April 9, 2010. Permit issued April 15, 2009.

**36094119. Warren's Excavating & Drilling, Inc.**, (P. O. Box 214, Myerstown, PA 17067), construction blasting for The Farm at Quarry Road in Manheim Township, **Lancaster County** with an expiration date of April 9, 2010. Permit issued April 15, 2009.

**39094106. Warren's Excavating & Drilling, Inc.**, (P. O. Box 214, Myerstown, PA 17067), construction blasting for Hamilton Court in South Whitehall Township, **Lehigh County** with an expiration date of April 9, 2010. Permit issued April 15, 2009.

**38094105. Abel Construction Co., Inc.**, (P. O. Box 476, Mountville, PA 17554), construction blasting for Arbor Greene in North Londonderry Township and Palmyra Borough, **Lebanon County** with an expiration date of April 13, 2010. Permit issued April 16, 2009.

## FEDERAL WATER POLLUTION CONTROL ACT SECTION 401

The Department of Environmental Protection (Department) has taken the following actions on previously received permit applications, requests for Environmental Assessment approval and requests for Water Quality Certification under section 401 of the Federal Water Pollution Control Act (FWPCA) (33 U.S.C.A. § 1341).

Except as otherwise noted, the Department has granted 401 Water Quality Certification certifying that the construction and operation described will comply with the applicable provisions of sections 301—303, 306 and 307 of the FWPCA (33 U.S.C.A. §§ 1311—1313, 1316 and 1317) and that the construction will not violate applicable Federal and State water quality standards.

Persons aggrieved by an action may appeal, under section 4 of the Environmental Hearing Board Act (35 P.S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P.O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania AT&T Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

For individuals who wish to challenge an action, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

**Actions on applications for the following activities filed under the Dam Safety and Encroachments Act (32 P.S. §§ 693.1—693.27), section 302 of the Flood Plain Management Act (32 P.S. § 679.302) and The Clean Streams Law (35 P.S. §§ 691.1—691.702) and Notice of Final Action for Certification under section 401 of the FWPCA (33 U.S.C.A. § 1341).**

*Permits, Environmental Assessments and 401 Water Quality Certifications Issued*

### WATER OBSTRUCTIONS AND ENCROACHMENTS

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

**E09-930. Department of Transportation, 7000 Geerdes Boulevard, King of Prussia, PA 19406.** New Britain Township, **Bucks County**, United States Army Corp of Engineers, Philadelphia District.

To construct and maintain a 22-foot wide, 5.20-foot rise box culvert across a UNT of the North Branch of Neshaminy Creek (TSF/MF). This project will temporarily impact 90 linear feet of stream and will permanently

impact 41 liner feet of stream. This work also includes the replacement of a 36-inch diameter CMP and associated riprap across a secondary UNT of the North Branch of Neshaminy Creek.

The project is located approximately 656 feet northeast of the intersection of Limekiln Pike (SR 0152) and New Galena Road (SR 4001) along New Galena Road in New Britain Township, Bucks County (Doylestown, PA USGS Quadrangle N: 10.47 inches; W: 13.04 inches).

The issuance of this permit also constitutes approval of a Water Quality Certification under section 401(a) of the Federal Water Pollution Control Act (33 U.S.C.A. § 1341(a)).

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

**E31-216: Turnpike Commission, P. O. Box 67676, Harrisburg, PA 17106-8706, Dublin Township, Huntingdon County, United States Army Corps of Engineers, Baltimore District.**

To construct and maintain a 6-inch depressed, 95-inch wide by 67-inch high by 70-foot long corrugated metal arch pipe culvert in a UNT to North Branch Little Augwick Creek (HQ-CWF) and associated improvements to construct Frontage Road (T-301) and provide continued access for area residents, with the project located approximately 3,000 feet west of the Tuscarora Tunnel (Fannettsburg, PA Quadrangle N: 16.45 inches; W: 16.0 inches, Latitude: 40° 05' 26"; Longitude: 77° 51' 52") in Dublin Township, Huntingdon County.

**E05-347: Borough of Everett Municipal Authority, Ronald R. Wright, Manager, 100 Mechanic Street, Everett, PA 15537-1177, Everett Borough, Bedford County, United States Army Corps of Engineers, Baltimore District.**

To remove 3 units of 25-foot by 34-foot plastic media sludge drying beds and a 55-foot by 43-foot gravity sand sludge drying bed and then to construct and maintain 4 units of 60-foot by 50-foot and 3 units of 60-foot 45-foot reed sludge drying beds and related improvements at the existing sewage treatment plant, to improve the conditions located along the left bank floodplain of the Raystown Branch Juniata River about 2,000 feet south-east of the East Main Street and River Lane intersection (Everett East, PA Quadrangle N: 1.60 inches; W: 15.20 inches, Latitude: 40° 00' 30"; Longitude: 78° 21' 31") in Everett Borough, Bedford County.

*Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701, (570) 327-3636.*

**E14-516. College Township, 1481 East College Avenue, State College, PA 16801.** Walnut Run Pedestrian Bridge, in College Township, **Centre County**, United States Army Corps of Engineers, Baltimore District (State College, PA Quadrangle Latitude: 40° 48' 22"; Longitude: 77° 50' 13").

To construct and maintain a 4-foot wide by 28.5 foot long wooden bank-to-bank pedestrian bridge (to be known as the Walnut Run Pedestrian Bridge) with a maximum underclearance of 4 feet over Walnut Run located 75 feet southwest of the intersection of East College Avenue and Puddintown Road. This permit was issued under Section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

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

**E04-325. Department of Transportation, District 11-0**, 45 Thoms Run Road, Bridgeville, PA 15017. To construct and maintain single span bridge in Marion Township, **Beaver County**, United States Army Corps of Engineers, Pittsburgh District (Zelienople, PA Quadrangle N: 6.25 inches; W: 15.4 inches, Latitude: 40° 47' 03", Longitude: 80° 14' 11"). To construct and maintain a 34.1 ft wide, 100 ft long single span bridge skewed 70° with an underclearance of 5.1 ft to replace the existing SR 588, 22 ft wide, 78 ft long, single span bridge skewed 55° with an underclearance of 4.5 ft over Brush Creek (WWF) with a drainage area of 47.8 square miles; construct and maintain associated rip rap scour protection; temporary stream diversion for construction; relocate or shift 20 feet southward 222 feet of adjoining Brush Creek; fill and maintain 0.04 acre of adjoining deminimum PEM wetland; and to construct and maintain stormwater outfalls. The new bridge is located upstream and adjacent to the existing bridge. The project is located approximately 6 miles west of Zelienople.

**E26-345-R. Joseph A. Hardy Connellsville Airport**, 874 Airport Road, Lemont Furnace, PA 15456. To place and maintain fill and to construct and maintain channel relocation for the purpose of construction of an embankment at the south end of Runway 5/23 in Dunbar and North Union Townships, **Fayette County**, United States Army Corps of Engineers, Pittsburgh District (Uniontown, PA Quadrangle N: 14.9 inches; W: 5.3 inches, Latitude: 39° 57' 25"; Longitude: 79° 39' 47").

1. To place and maintain fill for a distance of approximately 639 linear feet in a UNT No. 1 of Redstone Creek (WWF);

2. To place and maintain fill for a distance of approximately 340 linear feet in a UNT No. 3 of Redstone Creek (WWF);

3. To construct and maintain a channel relocation for a length of 865 feet to replace the loss of a UNT No. 1 of Redstone Creek (WWF) and a UNT No. 3 of Redstone Creek (WWF);

4. To place and maintain fill within the floodway of 550 linear feet of the channel described previously;

5. To construct and maintain an outfall structure and emergency spillway of a stormwater detention pond to a UNT No. 1 of Redstone Creek (WWF);

6. To place and maintain fill in 0.36 acre of wetland and to indirectly impact 0.03 acre of wetland;

7. To add natural substrate for a distance of approximately 150 linear feet in a UNT No. 4 of Redstone Creek (WWF);

8. To add rip rap for a distance of approximately 10 linear feet in a UNT No. 4 of Redstone Creek (WWF);

9. To compensate for the wetland impact, the applicant will construct and maintain 0.42 acre of wetland onsite;

10. To construct a temporary crossing across a UNT No. 1 of Redstone Creek (WWF) for the purpose of construction of an embankment at the south end of Runway 5/23 at the Joseph Hardy Connellsville Airport.

*Northwest Region: Watershed Management Program Manager, 230 Chestnut Street, Meadville, 16335.*

**E10-435, Community Development Corporation of Butler County**, 122 Woody Drive, Butler, PA 16001. Pullman Center Business Park, in Butler Township and City of Butler, **Butler County**, United States Army Corps of Engineers, Pittsburgh District (Butler, PA Quadrangle N: 41° 51' 00"; W: 79° 54' 29").

To install and maintain a 42-inch diameter stormwater outfall, concrete endwall and rock riprap outlet protection apron along the right bank of Connoquenessing Creek approximately 1,150 feet upstream of the SR 3001 bridge for the discharge of stormwater from the proposed Pullman Center Business Park commercial/industrial development expansion on the former Trinity Industries, Inc. (a/k/a Pullman Standard) site along SR 3001.

**E25-718, Laughlin Stream Enclosure Project**. Jerry and Elizabeth Laughlin, 9058 Paula Way, McKean, PA 16426, in McKean Borough, **Erie County**, United States Army Corps of Engineers, Pittsburgh District (Edinboro North, PA Quadrangle N: 41° 59' 42"; W: 80° 8' 49").

To construct and maintain a 160-foot-long, 4.5-foot-diameter HDPE plastic stream enclosure in a UNT Lamson Run on the property at 9058 Paula Way to protect an existing home adjacent to the stream. Lamson Run is a perennial stream classified as a MF and a CWF. This project proposes to impact approximately 170 feet of stream.

**E42-343, University of Pittsburgh**, 3400 Forbes Avenue, Pittsburgh, PA 15260. Bradford Campus Chapel and Multipurpose Facility, **McKean County**, United States Army Corps of Engineers, Pittsburgh District (Bradford, PA Quadrangle N: 41° 56' 31"; W: 78° 40' 24").

The applicant proposes to remove the existing tennis courts and to construct and maintain a chapel and multipurpose facility on the University of Pittsburgh Bradford Campus within the FEMA 100-year floodplain of the West Branch of Tunungwant Creek involving a net removal of 22 cubic yards of material/earth from the FEMA floodplain. West Branch of Tunungwant Creek is a perennial stream classified as a CWF.

#### DAM SAFETY

*Central Office: Bureau of Waterways Engineering, 400 Market Street, Floor 3, P. O. Box 8554, Harrisburg, PA 17105-8554.*

**D64-190. Terrance Campbell**, 5 Pine Street, Honesdale, PA 18431. To modify, operate and maintain Rosner Pond Dam across a tributary to the Lackawaxen River (HQ-CWF), with no proposed impacts to wetlands or the stream channel, for the purpose of rehabilitating the existing dam and increasing spillway capacity to ensure compliance with Commonwealth Regulations (Aldenville, PA Quadrangle N: 4.7 inches; W: 14.4 inches) in Clinton Township, **Wayne County**.

#### 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 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 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 individu-

als should show this notice to a lawyer at once. If individuals cannot afford a lawyer, individuals may qualify for free pro bono representation. Call the Secretary to the Board (717) 787-3483 for more information.

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

<i>ESCP No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
ESCGP-1 0809811-04	Fortuna Energy, Inc. 337 Daniel Zenker Drive Horseheads, NY 14845	Bradford	Troy Township	South Branch Sugar Creek TSF
ESCGP-1 0809811-05	Fortuna Energy, Inc. 337 Daniel Zenker Drive Horseheads, NY 14845	Bradford	Troy Township	South Branch Sugar Creek TSF
ESCGP-1 5909801	Doug Kepler Seneca Resources 300 Essjay Road, Suite 150 Williamsville, NY 14221	Tioga	Covington Township	UNT to Tioga River CWF
ESCGP-1 5909804	Scott Blauvelt East Resources, Inc. 351 Brush Creek Road Warrendale, PA 15086	Tioga	Charleston and Richmond Townships	UNT to Tioga River CWF
ESCGP-1 5909805	Scott Blauvelt East Resources, Inc. 351 Brush Creek Road Warrendale, PA 15086	Tioga	Covington Township	UNT to Tioga River CWF

## SPECIAL NOTICES

### Public Notice of Extension to Pennsylvania General NPDES Permit for Stormwater Discharges Associated with Industrial Activities (PAG-03)

Under The Pennsylvania Clean Streams Law (35 P. S. §§ 691.1—691.101), sections and 1905-A, 1917-A and 1920-A of The Administrative Code of 1929 (71 P. S. §§ 510-5, 510-17 and 510-20), the Department of Environmental Protection (Department) by this notice informs the public of the extension to Department's NPDES Stormwater General Permit (PAG-03) for Discharges of Stormwater Associated with Industrial Activities, the Notice of Intent and other related permit documents, for 1 year, effective from June 5, 2009, through June 4, 2010. The current General Permit will expire at midnight June 4, 2009, unless rescinded by the Department at an earlier date. The Department is extending this permit to adequately complete the renewal of PAG-03.

This General Permit will continue to be not applicable for stormwater discharges to "high quality" and "exceptional value" waters designated under 25 Pa. Code Chapter 93. An individual permit is required for such discharges.

The Department will continue to use Standard Industrial Classification Codes, as per the Environmental Protection Agencies guidance, to define the categories of industrial activities covered by this permit.

The permit documents package will continue to be available at the Department's central and regional offices until they are updated or replaced.

In addition, the permit documents package can still be accessed at the Department's web site at [www.dep.state.pa.us](http://www.dep.state.pa.us)

By selecting Permits, Licensing & Certification in the left side column under "Quick Access,"

Select The Department-Wide Permits/Authorization Packages in the middle of the 4th paragraph, to get to the Department's eLibrary.

Select Permit & Authorization Packages,

Select Water Management,

Select NPDES,

Select General Permits,

Select PAG-03 Discharges of Stormwater Associated with Industrial Activities.

The document number is: 3800-PM-WSFR008a through z.

or by contacting the Department's Bureau of Water Standards and Facility Regulation, P. O. Box 8467, Harrisburg, PA 17105-8467, (717) 787-8184, [gmaduka@state.pa.us](mailto:gmaduka@state.pa.us)

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).

JOHN HANGER,  
*Secretary*

[Pa.B. Doc. No. 09-805. Filed for public inspection May 1, 2009, 9:00 a.m.]

### Availability for Public Comment; Proposal to Establish a Mercury Thermostat Collection and Recycling Program

The Department of Environmental Protection (Department) has received a plan to establish a Mercury Thermostat Collection and Recycling Program from EWC Controls, Inc., Englishtown, NJ. The submittal of this plan is required by the Mercury-Free Thermostat Act (Act 97 of 2008). Act 97 requires each manufacturer of mercury thermostats that have been sold in this Commonwealth to, individually or collectively, establish and maintain a Department-approved collection and recycling program for out-of-service mercury thermostats from wholesalers, contractors and retailers, service technicians and homeowners. This notice announces the opportunity for interested parties to review and comment on this proposed plan.

Written comments concerning EWC Controls, Inc.'s proposed Mercury Thermostat Collection and Recycling Program plan may be submitted to Glenn Mitzel, Department of Environmental Protection, Bureau of Waste Management, Division of Hazardous Waste Management, P. O. Box 8471, Harrisburg, PA 17105. Public comments on this proposed plan must be received by June 1, 2009. Comments submitted by facsimile will not be accepted. Comments received within the comment period will be considered in the review and approval of EWC Controls, Inc.'s Collection and Recycling Program. 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 the comment.

Persons interested in obtaining more information or a paper copy of the proposed plan should contact Glenn Mitzel by e-mail at [glmitzel@state.pa.us](mailto:glmitzel@state.pa.us) or by telephone at (717) 787-6239. TDD users may contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984 to obtain a copy of the proposed plan or to submit comments. The proposed plan is also accessible on the Department's web site at [www.depweb.state.pa.us](http://www.depweb.state.pa.us) (DEP Keyword: Mercury). The Department will provide public notice upon final approval of the plan.

JOHN HANGER,  
*Secretary*

[Pa.B. Doc. No. 09-806. Filed for public inspection May 1, 2009, 9:00 a.m.]

### Pennsylvania's 2010 Ambient Air Monitoring Network Plan Available for Public Inspection

On October 17, 2006, the United States Environmental Protection Agency (EPA) promulgated final amendments to the National ambient air monitoring requirements for criteria pollutants at 40 CFR Parts 53 and 58 (relating to ambient air monitoring reference and equivalent methods; and ambient air quality surveillance). See 71 FR 61236 (October 17, 2006). The EPA's final rule requires state and local agencies to enhance air monitoring to "improve public health protection and better inform the public about air quality in their communities." Section 58.10 of 40 CFR (relating to annual monitoring network plan and periodic network assessment) requires that monitoring agencies adopt an annual air-monitoring network plan, and make the plan available for public inspection for at least 30 days prior to final submission to the EPA Regional Administrator. The plan, which is due July 1, 2009, must include a statement of purpose for each monitor and evidence that siting and operation of

each monitor meets Federal requirements. The EPA may also provide an opportunity for review and comment prior to approving or disapproving a State's Monitoring Network Plan.

On November 12, 2008, the EPA promulgated revisions to the ambient lead particulate National Ambient Air Quality Standard (NAAQS) at 40 CFR Parts 50, 51, 53 and 58. See 73 FR 66964 (November 12, 2008). The EPA's final rule lowered the NAAQS to 0.15 micrograms per cubic meter based on a 3-month running average and provided new monitoring requirements for lead. Monitoring is required around sources emitting 1 ton per year or more of lead unless dispersion modeling shows that the maximum 3-month running average is less than 50% of the NAAQS. There are ten facilities in this Commonwealth where the Department of Environmental Protection (Department) is responsible for monitoring that meets the criteria for source-oriented monitoring.

The Department is also implementing a strategy to replace manual PM<sub>2.5</sub> samplers with continuous automated samplers that meet EPA's requirement of a Federal Equivalent Method (FEM). Use of the FEM samplers will improve the ability of the Department to provide real-time data on air quality as it relates to PM<sub>2.5</sub> particulate matter, provide operational cost savings, and will still be used in determination of compliance with the NAAQS.

On May 1, 2009, the 2010 Annual Air Monitoring Network Plan, including the plan to install new source-oriented lead monitors and upgrade PM<sub>2.5</sub> particulate monitors, was made available for public comment on the Department's web site at [www.dep.state.pa.us/dep/deputate/airwaste/aq/default.htm](http://www.dep.state.pa.us/dep/deputate/airwaste/aq/default.htm).

The Department must receive comments by June 2, 2009. Written comments should be sent to the attention of Jeffrey Miller, Chief, Division of Air Quality Monitoring, Bureau of Air Quality, P. O. Box 8468, Harrisburg, PA 17105-8468 or by means of e-mail to [jeffreemill@state.pa.us](mailto:jeffreemill@state.pa.us). Use "Annual Monitoring Network Plan" as the mail addressee or in the subject line.

JOHN HANGER,  
*Secretary*

[Pa.B. Doc. No. 09-807. Filed for public inspection May 1, 2009, 9:00 a.m.]

## DEPARTMENT OF GENERAL SERVICES

### Real Estate for Sale Westmoreland County

The Department of General Services (Department) will accept bids for the purchase of 0.32-acre ± of land and building formerly known as the Latrobe National Guard Armory located at 1017 Ridge Avenue, City of Latrobe, Westmoreland County. Bids are due Wednesday, June 17, 2009. Interested parties wishing to receive a copy of Solicitation No. 94277 should view the Department's web site at [www.dgs.state.pa.us](http://www.dgs.state.pa.us) or call Lisa Kettering at (717) 787-1321.

JAMES P. CREEDON,  
*Secretary*

[Pa.B. Doc. No. 09-808. Filed for public inspection May 1, 2009, 9:00 a.m.]

# DEPARTMENT OF LABOR AND INDUSTRY

## Current Prevailing Wage Act Debarments

The contractors referenced have been determined to have intentionally violated the Pennsylvania Prevailing Wage Act (act) (43 P. S. §§ 165-1—165-17). This notice is published for the information and convenience of public bodies subject to the act. Under section 11(e) of the act (43 P. S. § 165-11(e)), these persons and firms, or any firms, corporations or partnerships in which these persons and firms have an interest, shall be awarded no contract for 3 years after the date listed.

SANDI VITO,  
*Acting Secretary*

<i>Contractor</i>	<i>Address</i>	<i>Date of Debarment</i>
Brick Fronts, LLC and Peter Jach, Individually	6 Corbin Lane Morrisville, PA 19067	4/16/09

[Pa.B. Doc. No. 09-809. Filed for public inspection May 1, 2009, 9:00 a.m.]

### Range of Fees Charged by Utilization Review Organizations and Peer Review Organizations for Services Performed under the Workers' Compensation Act

Under 34 Pa. Code § 127.667(b) (relating to compensation policy) the Department of Labor and Industry (Department), Bureau of Workers' Compensation gives notice of the range of fees charged by Utilization Review Organizations and Peer Review Organizations for services performed under the Workers' Compensation Act (77 P. S. §§ 1—1041.4 and 2501—2626) during 2008.

#### 2008 URO/PRO

<i>URO</i>	<i>Range of Fees</i>	
	<i>Minimum</i>	<i>Maximum</i>
Alico Services, LTD	\$225.00	\$857.43
American Review Systems, Inc.	\$274.11	\$1,466.43
CAB Medical Consultants	\$275.00	\$805.00
Caduceus Lex Medical Auditing, Inc.	\$350.00	\$830.00
CEC, Inc.	\$245.00	\$1,093.95
Chiro Med Review Co.	\$250.00	\$900.00
De Novo Management	\$136.26	\$1,661.46
DLB Services	\$168.42	\$1,574.60
First Managed Care Option	\$188.27	\$1,904.47
Hajduk and Associates	\$275.00	\$830.00
Industrial Rehabilitation Associates	\$315.00	\$765.00
KVS Consulting Services	\$340.54	\$1,867.38
Laurel Reviews	\$131.74	\$2,523.05
Margroff Review Services	\$233.95	\$1,667.01
McBride and McBride Associates	\$250.00	\$795.00

<i>URO</i>	<i>Range of Fees</i>	
	<i>Minimum</i>	<i>Maximum</i>
Procura Management, Inc.	\$255.69	\$997.56
Quality Assurance Reviews, Inc.	\$455.00	\$1,071.08
Rehabilitation Planning	\$240.63	\$1,114.88
T & G Reviews	\$350.00	\$950.00
TX Review, Inc.	\$.01	\$953.28
Uniontown Medical Rehabilitation	\$100.44	\$1,848.83
Watson Review Services	\$126.72	\$1,683.32
West Penn Ime, Inc.	\$212.16	\$1,399.17

SANDI VITO,  
*Secretary*

[Pa.B. Doc. No. 09-810. Filed for public inspection May 1, 2009, 9:00 a.m.]

# DEPARTMENT OF REVENUE

## Pennsylvania \$60,000 Spin Instant Lottery Game

Under the State Lottery Law (72 P. S. §§ 3761-101—3761-314) and 61 Pa. Code § 819.203 (relating to notice of instant game rules), the Secretary of Revenue hereby provides public notice of the rules for the following instant lottery game:

- Name:* The name of the game is Pennsylvania \$60,000 Spin.
- Price:* The price of a Pennsylvania \$60,000 Spin instant lottery game ticket is \$3.
- Play Symbols:* Each Pennsylvania \$60,000 Spin instant lottery game ticket will contain one play area consisting of "SPIN 1," "SPIN 2," "SPIN 3," "SPIN 4," "SPIN 5," "SPIN 6," "SPIN 7" and "SPIN 8." Each "SPIN" is played separately, and each may have a different play method. Each "SPIN" features a "YOUR BETS" area, a "SPIN RESULTS" area and a "prize" area. One or more of the play symbols, and their captions, printed in red ink, that may be located in the "YOUR BETS" area of each "SPIN" are: ANY RED NUMBER (RED), 1 (ONE), 3 (THREE), 5 (FIVE), 7 (SEVEN), 9 (NINE), 12 (TWLV), 14 (FORTN), 16 (SIXTN), 18 (EGHTN), 19 (NINTN), 21 (TWYONE), 23 (TWYTHR), 25 (TWYFIV), 27 (TWYSVN), 30 (THIRTY), 32 (THYTWO), 34 (THYFOR) and 36 (THYSIX). One or more of the play symbols, and their captions, printed in black ink, that may be located in the "YOUR BETS" area of each "SPIN" are: ANY BLACK NUMBER (BLACK), ANY EVEN NUMBER (EVEN), ANY ODD NUMBER (ODD), 2 (TWO), 4 (FOUR), 6 (SIX), 8 (EIGHT), 10 (TEN), 11 (ELEVN), 13 (THRTN), 15 (FIFTN), 17 (SVNTN), 20 (TWENT), 22 (TWYTW), 24 (TWYFOR), 26 (TWYSIX), 28 (TWYEGT), 29 (TWYNIN), 31 (THYONE), 33 (THYTHR) and 35 (THYFIV). The play symbols, and their captions, printed in red ink, one of which may be located in the "SPIN RESULTS" area of each "SPIN" are: 1 (ONE), 3 (THREE), 5 (FIVE), 7 (SEVEN), 9 (NINE), 12 (TWLV), 14 (FORTN), 16 (SIXTN), 18 (EGHTN), 19 (NINTN), 21 (TWYONE), 23 (TWYTHR), 25 (TWYFIV), 27 (TWYSVN), 30 (THIRTY), 32 (THYTWO), 34 (THYFOR) and 36 (THYSIX). The play



*When Your Bet Matches The Spin Result In The Same Spin, Win The Prize Shown For That Spin. Win With Prize(s) Of:*

<i>Prize(s) Of:</i>	<i>Win:</i>	<i>Approximate Odds Are 1 In:</i>	<i>Approximate No. Of Winners Per 4,800,000 Tickets</i>
(\$40 × 5) + (\$100 × 3)	\$500	12,000	400
(\$50 × 6) + (\$100 × 2)	\$500	12,000	400
\$100 × 5	\$500	12,000	400
\$500	\$500	12,000	400
(\$100 × 5) + \$500	\$1,000	24,000	200
\$500 × 2	\$1,000	24,000	200
\$1,000	\$1,000	24,000	200
(\$500 × 3) + \$1,000	\$2,500	192,000	25
\$500 × 5	\$2,500	192,000	25
\$2,500	\$2,500	192,000	25
\$30,000	\$30,000	960,000	5
\$60,000	\$60,000	960,000	5

Prizes, including top prizes, are subject to availability at the time of purchase.

9. *Retailer Incentive Awards:* The Lottery may conduct a separate Retailer Incentive Game for retailers who sell Pennsylvania \$60,000 Spin instant lottery game tickets. The conduct of the game will be governed by 61 Pa. Code § 819.222 (relating to retailer bonuses and incentive).

10. *Unclaimed Prize Money:* For a period of 1 year from the announced close of Pennsylvania \$60,000 Spin, prize money from winning Pennsylvania \$60,000 Spin instant lottery game tickets will be retained by the Secretary for payment to the persons entitled thereto. If no claim is made within 1 year of the announced close of the Pennsylvania \$60,000 Spin instant lottery game, the right of a ticket holder to claim the prize represented by the ticket, if any, will expire and the prize money will be paid into the State Lottery Fund and used for purposes provided for by statute.

11. *Governing Law:* In purchasing a ticket, the customer agrees to comply with and abide by the State Lottery Law (72 P. S. §§ 3761-101—3761-314), 61 Pa. Code Part V (relating to State Lotteries) and the provisions contained in this notice.

12. *Termination of the Game:* The Secretary may announce a termination date, after which no further tickets from this game may be sold. The announcement will be disseminated through media used to advertise or promote Pennsylvania \$60,000 Spin or through normal communications methods.

STEPHEN H. STETLER,  
*Secretary*

[Pa.B. Doc. No. 09-811. Filed for public inspection May 1, 2009, 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 Growth Investors Group, LP (Eisenhower Mart, LLC, an Exxon branded gasoline and convenience

store), seeking to lease highway right-of-way located at 770 Eisenhower Boulevard, Harrisburg PA 17105-1677, Swatara Township, Dauphin County, 11,970 square feet +/- adjacent to LR 22019 for the purpose of placement of temporary signage and landscaped entryway to the gas station and convenience store.

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 Michael Gillespie, P. E., Acting District Engineer, Engineering District 8-0, 2140 Herr Street, Harrisburg, PA 17103-1699.

Questions regarding this application or the proposed use may be directed to Paulette Broody Alexander, Right-of-Way Representative, 2140 Herr Street, Harrisburg, PA 17103-1699, (717) 787-1419.

ALLEN D. BIEHLER, P. E.,  
*Secretary*

[Pa.B. Doc. No. 09-812. Filed for public inspection May 1, 2009, 9:00 a.m.]

### Contemplated Sale of Land No Longer Needed for Transportation Purposes

The Department of Transportation (Department), under section 2003(e)(7) of The Administrative Code of 1929 (71 P. S. § 513(e)(7)), intends to sell certain land owned by the Department.

The following property is available for sale by the Department.

1. Parcel No. 4—Marshall Township, Allegheny County. The parcel contains approximately 39,870 +/- square feet of unimproved land located in Marshall Township, 778 Wexford Bayne Road. The estimated fair market value of the parcel is \$34,000.

Interested public entities are invited to express their interest in purchasing this parcel within 30 calendar days from the date of publication of this notice to H. Daniel Cessna, P. E., District Executive, Department of Transportation, Engineering District 11-0, 45 Thoms Run Road, Bridgeville, PA, 15017.

ALLEN D. BIEHLER, P. E.,  
*Secretary*

[Pa.B. Doc. No. 09-813. Filed for public inspection May 1, 2009, 9:00 a.m.]



### Receipt of Applications for Funding under the Section 5310 Program; Fiscal Year 2009-2010

The Department of Transportation, Bureau of Public Transportation, under the authority contained in Section 5310 of the Federal Transit Laws (49 U.S.C.A. § 5310), gives notice that it will receive applications for the State-administered Section 5310 Program. Under this program, private nonprofit organizations and designated public bodies may apply for Federal capital assistance to pay up to 80% of the purchase cost of new wheelchair accessible small transit vehicles and other equipment used to provide needed transportation services for senior citizens and persons with disabilities who cannot be reasonably accommodated by existing transportation providers. Additional information can be obtained by calling Ben Brosius of the Bureau of Public Transportation at (717) 787-1211. Questions, comments or suggestions may be directed to Ben Brosius, Section 5310 Program Manager, P. O. Box 3151, Harrisburg, PA 17105-3151.

ALLEN D. BIEHLER, P.E.,  
*Secretary*

[Pa.B. Doc. No. 09-814. Filed for public inspection May 1, 2009, 9:00 a.m.]

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## ENVIRONMENTAL QUALITY BOARD

### Acceptance of Rulemaking Petitions for Study

On April 21, 2009, the Environmental Quality Board (EQB) accepted two rulemaking petitions for study under 25 Pa. Code Chapter 23 (relating to Environmental Quality Board policy for processing petitions—statement of policy). The first petition, submitted by Bushkill Township, Northampton County, requests the redesignation of Sobers Run (main stem, east and west branch) from High Quality-Cold Water Fishes (HQ-CWF) to Exceptional Value (EV). Under 25 Pa. Code § 93.4d (relating to processing of petitions, evaluations and assessments to change a designated use), the Department of Environmental Protection (Department) is required to publish a notice of intent to assess candidate waters. The Department's assessment notice for Sobers Run will appear in a future issue of the *Pennsylvania Bulletin*.

The second petition, submitted by Waste Management Disposal Services of Pennsylvania, Inc., requests the amendment of 25 Pa. Code Chapter 261a (relating to identification and listing of hazardous waste) to increase the annual volume of filter cake that the petitioner may dispose of in a Subtitle D landfill. Currently, the petitioner's existing exclusion allows up to an annual volume of

2,000 cubic yards of filter cake to be disposed. The filter cake results from the treatment of a multisource hazardous waste leachate generated at a closed portion of the petitioner's Morrisville landfill. The petitioner is requesting that an amendment to increase the annual volume limit in its existing exclusion be amended from 2,000 cubic yards to 4,000 cubic yards. Under 25 Pa. Code § 23.6(1) (relating to notice of acceptance and Department report), the Department will prepare a report evaluating the petition. The Department's report will include a recommendation on whether the EQB should approve the action requested in the petition. If the Department's recommendation is to change a regulation, the report will specify the anticipated date that the EQB will consider a proposed rulemaking. The report must be completed within 60 days from the date the petition was accepted by the EQB. If the report cannot be completed within the 60-day time period, at the next EQB meeting, the Department will state how much additional time is necessary to complete the report.

The previously-referenced petitions are available to the public by contacting the Environmental Quality Board, P. O. Box 8477, Harrisburg, PA 17105-8477, (717) 787-4526, and are accessible on the Department's web site at [www.depweb.state.pa.us](http://www.depweb.state.pa.us) (DEP Keywords: "EQB" ("EQB Meeting/Agendas/Handouts/Minutes; April 21, 2009")).

JOHN HANGER,  
*Chairperson*

[Pa.B. Doc. No. 09-815. Filed for public inspection May 1, 2009, 9:00 a.m.]

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## HEALTH CARE COST CONTAINMENT COUNCIL

### Meetings Scheduled

The following meetings of the Health Care Cost Containment Council have been scheduled: Thursday, May 7, 2009, 9 a.m., Executive Committee and 10 a.m. Council meeting. The scheduled meetings will be held in the conference room at the Council Office, 225 Market Street, Suite 400, Harrisburg, PA 17101. The public is invited to attend. Persons in need of accommodations due to a disability and want to attend the meetings should contact Cherie Elias, Health Care Cost Containment Council, 225 Market Street, Harrisburg, PA 17101 or call (717) 232-6787 at least 24 hours in advance so that arrangements can be made.

DAVID H. WILDERMAN,  
*Acting Executive Director*

[Pa.B. Doc. No. 09-816. Filed for public inspection May 1, 2009, 9:00 a.m.]

# INDEPENDENT REGULATORY REVIEW COMMISSION

## Notice of Comments Issued

Section 5(g) of the Regulatory Review Act (71 P. S. § 745.5(g)) provides that the Independent Regulatory Review Commission (Commission) may issue comments within 30 days of the close of the public comment period. The Commission comments are based upon the criteria contained in section 5.2 of the Regulatory Review Act (71 P. S. § 645.5b).

The Commission has issued comments on the following proposed 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>
18-413	Department of Transportation Interstate Motor Carrier Safety Requirements 39 Pa.B. 997 (February 21, 2009)	3/23/09	4/22/09
18-414	Department of Transportation Intrastate Motor Carrier Safety Requirements 39 Pa.B. 999 (February 21, 2009)	3/23/09	4/22/09
16A-4317	State Board of Chiropractic Needle Acupuncture 39 Pa.B. 1004 (February 21, 2009)	3/23/09	4/22/09
16A-6212	State Board of Examiners of Nursing Home Administrators Continuing Education 39 Pa.B. 1005 (February 21, 2009)	3/23/09	4/22/09
125-97	Pennsylvania Gaming Control Board Vendor Permission to Conduct Business Prior to Certification or Registration 39 Pa.B. 1003 (February 21, 2009)	3/23/09	4/22/09

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### Department of Transportation Regulation #18-413 (IRRC #2744)

#### Interstate Motor Carrier Safety Requirements

**April 22, 2009**

We submit for your consideration the following comments on the proposed rulemaking published in the February 21, 2009 *Pennsylvania Bulletin*. Our comments are based on criteria in section 5.2 of the Regulatory Review Act (71 P. S. § 745.5b). Section 5.1(a) of the Regulatory Review Act (71 P. S. § 745.5a(a)) directs the Department of Transportation (Department) to respond to all comments received from us or any other source.

#### **Section 229.17. Adoption of interpretation of Federal Motor Carrier Safety Regulations.—Need; Reasonableness; Clarity.**

The Department has used this section to adopt certain interpretations of the Federal Motor Carrier Safety Regulations as statements of policy. Because this is nonregulatory language, we question why the Department has chosen to include it in the proposed regulation. This section should be deleted from the final-form regulation.

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### Department of Transportation Regulation #18-414 (IRRC #2745)

#### Intrastate Motor Carrier Safety Requirements

**April 22, 2009**

We submit for your consideration the following comments on the proposed rulemaking published in the February 21, 2009 *Pennsylvania Bulletin*. Our comments are based on criteria in section 5.2 of the Regulatory Review Act (71 P. S. § 745.5b). Section 5.1(a) of the Regulatory Review Act (71 P. S. § 745.5a(a)) directs the Department of Transportation (Department) to respond to all comments received from us or any other source.

#### **General.—Reasonableness.**

The Pennsylvania Division of the Federal Motor Carrier Safety Administration (FMCSA) submitted comments noting changes to this regulation that need to be made in order to be in full compliance with Federal rules. We share the same concerns and recommendations raised by FMCSA and incorporate them into the Commission's comments on this proposed rulemaking.

Also, the Pennsylvania Farm Bureau (PFB) submitted comments expressing concerns with the elimination of certain exemptions for farm vehicles, while acknowledg-

ing the consequences for not removing the exemptions. The Department should address the concerns raised by PFB and explain its rationale for removing these exemptions for farm vehicles.

**1. Section 231.10. Adoption of interpretation of Federal Motor Carrier Safety Regulations.—Need; Reasonableness; Clarity.**

The Department has used this section to adopt certain interpretations of the Federal Motor Carrier Safety Regulations as statements of policy. Because this is nonregulatory language, we question why the Department has chosen to include it in the proposed regulation. This section should be deleted from the final-form regulation.

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**State Board of Chiropractic  
Regulation #16A-4317 (IRRC #2746)**

**Needle Acupuncture**

**April 22, 2009**

We submit for your consideration the following comments on the proposed rulemaking published in the February 21, 2009 *Pennsylvania Bulletin*. Our comments are based on criteria in section 5.2 of the Regulatory Review Act (71 P. S. § 745.5b). Section 5.1(a) of the Regulatory Review Act (71 P. S. § 745.5a(a)) directs the State Board of Chiropractic (Board) to respond to all comments received from us or any other source.

**1. Section 5.81.—Unprofessional and immoral conduct.—Clarity.**

The proposed changes to Subsection 5.81(1)(xv) would permit a licensee of the Board to practice or advertise needle acupuncture, provided that certain qualifications have been met.

The proposed regulation states that the licensee must act in accordance with the Acupuncture Registration Act. (63 P. S. §§ 1801—1806.1) However, the House Professional Licensure Committee (Committee) noted that Act 91 of 2008 changed this law to re-designate registration to licensure. Therefore, the Committee suggested that any appropriate reference be made to the now titled Acupuncture Licensure Act (Act 91 of 2008) (Act) and that the regulation use appropriate language noting “licensure” and not “registration,” as now required by the Act. We agree with the Committee and recommend that these changes be made to the final-form regulation.

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**State Board of Examiners of Nursing Home  
Administrators  
Regulation #16A-6212 (IRRC #2747)**

**Continuing Education**

**April 22, 2009**

We submit for your consideration the following comments on the proposed rulemaking published in the February 21, 2009 *Pennsylvania Bulletin*. Our comments are based on criteria in section 5.2 of the Regulatory Review Act (71 P. S. § 745.5b). Section 5.1(a) of the Regulatory Review Act (71 P. S. § 745.5a(a)) directs the State Board of Examiners of Nursing Home Administrators (Board) to respond to all comments received from us or any other source.

**Section 39.61. Requirements.—Need; Reasonableness; Implementation procedures.**

Subsection (f) is being amended to allow the Board to grant an extension of time for a licensee to complete

continuing education requirements if the licensee has *not* met the “illness, emergency or hardship” requirement. We have four concerns. First, the Board has failed to explain why this subsection is being amended. What is the need for this provision?

Second, the Board should explain why is it reasonable to grant an extension of time to a licensee that has *not* met the “illness, emergency or hardship” requirement found in the existing regulation.

Third, how will the Board implement this provision if the regulation contains no standards for granting an extension of time? On what grounds will the Board base its decision?

Fourth, how and when will licensees be notified of the Board’s decision to grant a waiver or extension of time? We note that although existing language of Subsection (f) allows the Board to waive continuing education requirements for reasons related to “illness, emergency or hardship,” it does not specify how and when the licensee will be notified of the Board’s decision. We suggest that the Board add language to this subsection that specifies how and when a licensee will be notified of the Board’s decision.

—————

**Pennsylvania Gaming Control Board  
Regulation #125-97 (IRRC #2748)**

**Vendor Permission to Conduct Business Prior to  
Certification or Registration**

**April 22, 2009**

We submit for your consideration the following comments on the proposed rulemaking published in the February 21, 2009 *Pennsylvania Bulletin*. Our comments are based on criteria in section 5.2 of the Regulatory Review Act (71 P. S. § 745.5b). Section 5.1(a) of the Regulatory Review Act (71 P. S. § 745.5a(a)) directs the Pennsylvania Gaming Control Board (Board) to respond to all comments received from us or any other source.

**Section 437a.9. Permission to conduct business prior to certification or registration.—Fiscal impact; Reasonableness; Implementation procedure; Feasibility; Clarity.**

*Due notice—form and delivery method*

New language in both Subsections (b) and (c) refers to an Office or Bureau of the Board issuing a “notice” or “notifying” parties that they are to “immediately cease conducting business.” However, there is no explanation of how these notices will be delivered. One commentator contends that a telephone call or facsimile from the agency would not be sufficient notice. It suggests that the notice should be in the form of a letter. The final-form regulation should be amended to specify the delivery methods for the notices (such as electronic, hand-delivery or first class mail) and to state that the notices will be in writing.

*Grace period*

Commentators expressed concerns with the potential delays, disruptions, work stoppages and additional costs that this proposed regulation could cause. As alternatives or amendments to the proposed regulation, commentators suggested that vendors should be afforded an opportunity to respond to the issues that led to the “Recommendation for Denial” by the Office of Enforcement Counsel. One commentator suggested that the regulation include a “30 day winding-up period” before ordering a cessation of business between the vendor and a licensee.

It should be noted that under the Board's existing regulations, the approval, which allows vendor applicants to conduct business before registration or certification, exists only for 6 months. The Board may extend this arrangement for additional 6-month periods. Consequently, licensees should be cautious about committing to long-term projects with such vendors. Nevertheless, licensees and vendors may be engaged in contracts and business projects that could take several weeks or months to complete. Therefore, the Board needs to address concerns of these parties with the prospect of being forced to immediately terminate their business interactions. The addition of some form of grace period to the final-form regulation could reduce concerns over the fiscal impact of this regulation.

*Due process*

Under § 437a.9(c), a vendor applicant's privilege to do business with a licensee is suspended upon issuance of a Notice of Recommendation for Denial. Commentators are concerned that such a suspension could infringe on the due process rights of vendor applicants. The Preamble and proposed regulation do not explain whether or how the Board would act on such a recommendation, how the vendor applicant could protest the action of the Office of Enforcement Counsel or the Board, or whether this section requires Office of Enforcement Counsel to fill a prosecutorial role in violation of the decision in *Lyness v. State Board of Medicine*, 529 Pa. 535, 605 A.2d 1204 (1992).

The final-form regulation should clarify how and when the Board takes action in this circumstance, how the vendor applicant's due process rights will be affected, and the nature of the role of the Office of Enforcement Counsel.

*Need for the rule; Reasonableness*

Currently, § 437a.9 allows applicants for vendor registration or certification to do business with licensees before their applications are approved. The proposed regulation provides for the cessation of these pre-registration or certification transactions. We have two questions concerning this section. Why are vendor applicants allowed to engage in business with licensees before their applications are fully examined and approved? What is the need for this arrangement? The Board should explain the rationale and justification for both the existing section and the proposed regulation in the preamble to the final-form regulation.

ARTHUR COCCODRILLI,  
*Chairperson*

[Pa.B. Doc. No. 09-817. Filed for public inspection May 1, 2009, 9:00 a.m.]

## INSURANCE DEPARTMENT

### Application and Request for a Certificate of Authority to Provide a Continuing Care Retirement Community by Brookmont Healthcare Center, LLC

Brookmont Healthcare Center, LLC has applied for a Certificate of Authority to operate a Continuing Care Retirement Community at Brookmont Healthcare Center,

LLC in Effort, PA. The initial filing was received on April 10, 2009, and was made under the requirements set forth under the Continuing Care Provider Registration and Disclosure Act (40 P. S. §§ 3201—3225). Persons wishing to comment on the grounds of public or private interest to the issuance of a Certificate of Authority are invited to submit a written statement to the Insurance Department (Department) within 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, syerger@state.pa.us.

JOEL SCOTT ARIO,  
*Insurance Commissioner*

[Pa.B. Doc. No. 09-818. Filed for public inspection May 1, 2009, 9:00 a.m.]

### Richard Greenberg, M. D.; Prehearing

#### Appeal of Richard Greenberg, M. D. under the Medical Care Availability and Reduction of Error (MCARE) Act (40 P. S. §§ 1303.101—1303.910); Doc. No. MM09-04-009

The proceedings in this matter will be governed by 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law); 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure); and 31 Pa. Code Chapter 56 (relating to special rules of administrative practice and procedure).

On or before May 4, 2009, the appellant shall file a concise statement setting forth the factual and/or legal basis for the disagreement with MCARE's March 10, 2009, determination. The statement may be in narrative form or in numbered paragraphs, but in either event shall not exceed two pages. A prehearing telephone conference initiated by this office is scheduled for June 2, 2009, at 9:30 a.m. Each party shall provide a telephone number to be used for the telephone conference to the Hearings Administrator on or before May 29, 2009. A hearing date shall be determined, if necessary, at the prehearing telephone conference.

Motions preliminary to those at hearing, protests, petitions to intervene or notices of intervention, if any, must be filed on or before May 18, 2009, with the Hearings Administrator, Administrative Hearings Office, Capitol Associates Building, Room 200, 901 North Seventh Street, Harrisburg, PA 17102. Answer to petitions to intervene, if any shall be filed on or before June 1, 2009.

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) 705-3873.

JOEL SCOTT ARIO,  
*Insurance Commissioner*

[Pa.B. Doc. No. 09-819. Filed for public inspection May 1, 2009, 9:00 a.m.]

**Greene County Memorial Hospital; Prehearing****Appeal of Green County Memorial Hospital under the Medical Care Availability and Reduction of Error (MCARE) Act (40 P. S. §§ 1303.101—1303.910); Doc. No. MM09-04-008**

The proceedings in this matter will be governed by 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law); 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure); and 31 Pa. Code Chapter 56 (relating to special rules of administrative practice and procedure).

On or before May 4, 2009, the appellant shall file a concise statement setting forth the factual and/or legal basis for the disagreement with MCARE's February 11, 2009, determination. The statement may be in narrative form or in numbered paragraphs, but in either event shall not exceed two pages. A prehearing telephone conference initiated by this office is scheduled for June 3, 2009, at 10 a.m. Each party shall provide a telephone number to be used for the telephone conference to the Hearings Administrator on or before June 1, 2009. A hearing date shall be determined, if necessary, at the prehearing telephone conference.

Motions preliminary to those at hearing, protests, petitions to intervene or notices of intervention, if any, must be filed on or before May 19, 2009, with the Hearings Administrator, Administrative Hearings Office, Capitol Associates Building, Room 200, 901 North Seventh Street, Harrisburg, PA 17102. Answer to petitions to intervene, if any shall be filed on or before June 2, 2009.

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) 705-3873.

JOEL SCOTT ARIO,  
*Insurance Commissioner*

[Pa.B. Doc. No. 09-820. Filed for public inspection May 1, 2009, 9:00 a.m.]

**Mountain Laurel Risk Retention Group; Prehearing****Appeal of Mountain Laurel Risk Retention Group under the Medical Care Availability and Reduction of Error (MCARE) Act (40 P. S. §§ 1303.101—1303.910); Doc. No. MM09-04-007**

The proceedings in this matter will be governed by 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law); 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure); and 31 Pa. Code Chapter 56 (relating to special rules of administrative practice and procedure).

On or before May 4, 2009, the appellant shall file a concise statement setting forth the factual and/or legal basis for the disagreement with MCARE's March 10, 2009, determination. The statement may be in narrative form or in numbered paragraphs, but in either event shall not exceed two pages. A prehearing telephone conference initiated by this office is scheduled for June 2, 2009, at 10 a.m. Each party shall provide a telephone number to be used for the telephone conference to the Hearings Administrator on or before May 29, 2009. A

hearing date shall be determined, if necessary, at the prehearing telephone conference.

Motions preliminary to those at hearing, protests, petitions to intervene or notices of intervention, if any, must be filed on or before May 18, 2009, with the Hearings Administrator, Administrative Hearings Office, Capitol Associates Building, Room 200, 901 North Seventh Street, Harrisburg, PA 17102. Answer to petitions to intervene, if any shall be filed on or before June 1, 2009.

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) 705-3873.

JOEL SCOTT ARIO,  
*Insurance Commissioner*

[Pa.B. Doc. No. 09-821. Filed for public inspection May 1, 2009, 9:00 a.m.]

**Review Procedure Hearings; Cancellation or Refusal of Insurance**

The following insureds have requested a hearing as authorized by the act of June 17, 1998 (P. L. 464, No. 68) (Act 68) in connection with the termination of the insureds' automobile policies. The hearings will be held in accordance with the requirements of Act 68; 1 Pa. Code Part II (relating to the General Rules of Administrative Practice and Procedure); and 31 Pa. Code §§ 56.1—56.3 (relating to Special Rules of Administrative Practice and Procedure). The administrative hearings will be held in the Insurance Department's regional offices in Harrisburg and Philadelphia, PA. Failure by an appellant to appear at the scheduled hearing may result in dismissal with prejudice.

The following hearings will be held in the Administrative Hearings Office, Capitol Associates Building, Room 200, 901 North Seventh Street, Harrisburg, PA 17102.

Appeal of Eileen Fazio; file no. 09-181-67876; Erie Insurance Exchange; Doc No. P09-04-011; June 2, 2009, 1 p.m.

Appeal of John T. Keith; file no. 09-130-64788; Safe Auto Insurance Company; Doc. No. P09-03-025; May 13, 2009, 1 p.m.

The following hearing will be held in the Philadelphia Regional Office, Room 1701, State Office Building, 1400 Spring Garden Street, Philadelphia, PA 19130.

Appeal of Lisa Joel; file no. 09-216-66642; Allstate Fire and Casualty Insurance Company; Doc. No. PH09-04-005; June 17, 2009, 3 p.m.

Parties may appear with or without counsel and offer relevant testimony 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) 705-3873.

JOEL SCOTT ARIO,  
Insurance Commissioner

[Pa.B. Doc. No. 09-822. Filed for public inspection May 1, 2009, 9:00 a.m.]

### The Travelers Indemnity Company; Farmington Casualty Company; The Phoenix Insurance Company; Homeowners Rate Revision; Rate Filing

On April 13, 2009, the Insurance Department (Department) received from The Travelers Indemnity Company, Farmington Casualty Company and The Phoenix Insurance Company a filing for a rate level change for homeowners insurance.

The companies request an overall 2.7% increase amounting to \$3,465,472 annually, to be effective September 15, 2009.

Unless formal administrative action is taken prior to May 13, 2009, the subject filing may be deemed approved by operation of law.

A copy of the filing is available on the Department's web site at [www.ins.state.pa.us](http://www.ins.state.pa.us). To access the filing, under "Quick Links" click on "Rate Filings Published in the PA Bulletin."

Interested parties are invited to submit written comments, suggestions or objections to Michael McKenney, Insurance Department, Office of Insurance Product Regulation, 1311 Strawberry Square, Harrisburg, PA 17120, [mmckenney@state.pa.us](mailto:mmckenney@state.pa.us) within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

JOEL SCOTT ARIO,  
Insurance Commissioner

[Pa.B. Doc. No. 09-823. Filed for public inspection May 1, 2009, 9:00 a.m.]

## PENNSYLVANIA PUBLIC UTILITY COMMISSION

### Order

Public Meeting held  
April 16, 2009

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

*Extension of the Fuel Cost Recovery; Surcharge Special Permission 28207; R-2009-2094616*

### Order

*By the Commission*

Tristate Household Goods Conference, Inc. (Tristate), a tariff publishing agency, represents approximately 275 PUC household good carriers. Substantially large increases in the cost of diesel fuel, which were unanticipated, motivated Tristate to request the implementation of the Fuel Cost Recovery Surcharge. The Fuel Cost Recovery Surcharge Special Permission 28207 was approved in Public Meeting held April 17, 2003, and extended in the Public Meetings held April 15, 2004, April 7, 2005, March 16, 2006, April 13, 2007, and April 9, 2008. The extension was approved for duration of one year unless changed, cancelled or extended. The current surcharge grants approval to temporarily increase the Tristate tariff to recover temporarily increased fuel costs when transporting household goods for moves more than 40 miles (weight and distance) and moves that are 40 miles or less (hourly) by the use of a Fuel Cost Recovery Surcharge. Tristate filed a request on February 19, 2009, to permit members of its conference to continue assessing a fuel cost recovery surcharge to defray the continuing rise in costs of diesel fuel.

The surcharge is determined by a formula which attempts to approximate the amount of fuel used on a particular trip and multiplies that amount by the increased cost of fuel, allowing the carrier to recover only the additional fuel charges incurred. The formula includes the following constant factors: (1) base price per gallon of fuel<sup>1</sup>; (2) average vehicle fuel consumption of 5 miles per gallon; and (3) a terminal factor which allows the carrier to recover the additional cost of fuel used in traveling to and from the carrier's terminal to the origin point of the move. The formula also includes one variable factor, the current month's diesel fuel price.<sup>2</sup>

Moves of **40 miles or less** will be divided into 4 categories according to *average mileage*: 5 mile average for trips ranging from 1 to 10 miles, 15 mile average for trips ranging from 10 to 20 miles, 25 mile average for trips ranging from 20 to 30 miles, and 35 mile average for trips ranging from 30 to 40 miles. An example calculation for an 8 mile move is as follows<sup>3</sup>:

Origin of move to destination	8 miles	= 5 miles average
Terminal factor		= 40 miles

<sup>1</sup>The proposed base price is \$1.267, which was the price of a gallon of diesel fuel according to the Department of Energy report of Retail On-Highway Diesel Prices for the Central Atlantic Region as of February 15, 2002. Tristate proposes this as a base price since fuel prices have steadily increased from that date.

<sup>2</sup>This figure is determined by the Department of Energy's report of Retail On-Highway Diesel Prices for the Central Atlantic Region. The current month's diesel fuel price will be effective beginning the 15th day of each month through the 14th day of the subsequent month.

<sup>3</sup>All fuel surcharges shall be calculated and provided to the customer as part of the Estimate of Charges.

Total miles	= 45 miles
Average miles per gallon	= 5
Fuel used	= 9 gallons
DOE current Fuel Price as of 3/17/03	= \$1.949
Base fuel Price	= \$1.267
Fuel price difference	= \$ .682
Gallons X Fuel price difference	= $9 \times .682 = \$6.14$

Moves of **more than 40 miles** will be calculated using actual mileage from the move's origin to destination and return. An example calculation for a 100 mile move is as follows:

Origin of move to destination	= 100 miles
Empty Return (dest. to origin)	= 100 miles
Terminal factor	= 40 miles
Total miles	= 240 miles
Average miles per gallon	= 5
Fuel used	= 48 gallons
DOE current Fuel Price as of 3/17/03	= \$1.949
Base fuel Price	= \$1.267
Fuel price difference	= \$ .682
Gallons X Fuel price difference	= $48 \times .682 = \$32.75$

On February 19, 2009, Tristate filed a request to again extend the Fuel Cost Recovery Surcharge. The request was filed in response to the volatile nature of the petroleum market, which continues to produce unanticipated increases in diesel fuel prices.

In support of the request for extension, Tristate has submitted data from the Department of Energy for the Central Atlantic Region. The average price of diesel fuel for the period of January 2008 to December 2008 was \$4.02 per gallon, an increase of 36.8% per gallon over the previous year.

Additional support for an extension can be found in the March 14, 2008, edition of *Short Term Energy Outlook*, in which the Department of Energy reported that several factors will result in continued price fluctuations in the market. Instability in the relations with OPEC nations has kept the prices of crude at a high level. Demand was also increased as a result of greater need for home heating oil.

The Federal Department of Transportation has responded to the escalating fuel costs for interstate transportation by approving a fuel surcharge on a similar sliding scale. The Federal Fuel Surcharge became effective May 15, 2000, and continues in effect.

Pursuant to 66 Pa.C.S. § 1301, the Commission is required to ensure that all rates charged by a public utility are just and reasonable. Additionally, the Commission is obligated to address industry-wide problems "without creating a chaotic rate structure impossible to manage or police." *Emergency Fuel Surcharge*, 47 Pa. P.U.C. 389, 391 (1974). The current surcharge addresses the problem of rising fuel costs, while being just and reasonable in that carriers are compensated only for the additional cost of the fuel used.

Based on our review, it appears that the extension of the Fuel Cost Recovery Surcharge for transportation of household goods is necessary, is an appropriate means to address this regulatory problem and will result in just and reasonable rates. In order to prevent financial hardship, it is imperative that Pennsylvania household goods carriers be afforded an opportunity to temporarily adjust rates to offset escalating fuel costs using the proposed extended Fuel Cost Recovery Surcharge and, accordingly,

we shall allow the proposed extended surcharge to become effective for a period of one year unless changed, cancelled or further extended.

*Therefore,*

*It Is Ordered That:*

1. Tristate members rendering service under authority of this Commission shall charge a Fuel Cost Recovery Surcharge on transportation provided for over 40 mile charges and for 40 miles or less hourly charges in accordance with all other tariff rules of this Commission. The Fuel Cost Recovery Surcharge is to be extended effective April 18, 2009.

2. The Extended Fuel Cost Recovery Surcharge shall be in effect for one year to April 18, 2010, unless changed, cancelled or further extended by the Commission.

3. Copies of this order shall be served by the Secretary to the Office of Consumer Advocate and Office of Small Business Advocate. The Secretary shall forward this Order to the *Pennsylvania Bulletin* for publication.

4. Each carrier shall post a copy of this Extended Fuel Cost Recovery Surcharge along with the original Fuel Cost Recovery Surcharge dated April 17, 2003, in a conspicuous place in the office and vehicles. In addition, each carrier shall include the surcharge as a separate line item of the Estimate of Charges provided to prospective shippers and on the Bill of Lading.

5. The rates collected to the Extended Fuel Cost Recovery Surcharge are subject to refund in the event that any formal complaints are filed, within 30 days of the date of publication of this order, and are successful in challenging the surcharge.

*By the Commission*

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 09-824. Filed for public inspection May 1, 2009, 9:00 a.m.]

### Service of Notice of Motor Carrier Applications

The following temporary authority and/or permanent authority applications for the right to render service as a common carrier or contract carrier in this Commonwealth have been filed with the Pennsylvania Public Utility Commission. Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). A protest shall indicate whether it applies to the temporary authority application, the permanent authority application, or both. Filings must be made with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant by May 18, 2009. Documents filed in support of the applications are available for inspection and copying at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday, and at the business address of the respective applicant.

**Applications of the following for approval to *begin operating as common carriers for transportation of persons as described under each application.***

**A-2009-2101111. Rashid Transportation, LLC** (P. O. Box 7494, Steelton, Dauphin County, PA 17113), a corporation of the Commonwealth, persons in paratransit service from points in Dauphin County to points in Pennsylvania, and return.

**A-2009-2101661. Midway Volunteer Fire Co. No. 1 of Adams County** (202 Linden Avenue, Hanover, Adams County, PA 17331), for the right to begin to transport persons, in paratransit service to and from hospitals and nursing homes between points in Adams and York Counties.

**Application of the following for approval to begin operating as contract carriers for transportation of persons as described under this application.**

**A-2009-2101281. Dwight Lewis t/a Donut Transportation System** (6200 Wayne Avenue A104, Philadelphia, Philadelphia County, PA 19144)—for the right to begin to transport, as a contract carrier, by motor vehicle, persons in paratransit service for Logisticare Solutions, LLC, in the City and County of Philadelphia.

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 09-825. Filed for public inspection May 1, 2009, 9:00 a.m.]

### Sewer Service

**A-2009-2101498. Uwchlan Township.** Application of Uwchlan Township for a certificate of public convenience to provide sewer service to the public in a limited portion of Upper Uwchlan Township, PA.

Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). Filings must be made with the Secretary of the Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant, on or before May 18, 2009. 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:* Uwchlan Township

*Through and By Counsel:* Michael D. Klein, Esquire, Dewey and LeBoeuf, LLP, 1101 New York Avenue, NW Washington, DC 20005-4213

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 09-826. Filed for public inspection May 1, 2009, 9:00 a.m.]

### Telecommunications

**A-2009-2101296. Windstream Pennsylvania, LLC and Full Service Computing Corporation, d/b/a Full Service Network.** Joint petition of Windstream Pennsylvania, LLC and Full Service Computing Corporation, d/b/a Full Service Network for approval of an interconnection agreement under section 252(i) of the Telecommunications Act of 1996

Windstream Pennsylvania, LLC and Full Service Computing Corporation, d/b/a Full Service Network, by its counsel, filed on April 13, 2009, at the Pennsylvania Public Utility Commission (Commission), a joint petition for approval of an interconnection agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania

Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days after the date of publication of this notice. Copies of the Windstream Pennsylvania, LLC and Full Service Computing Corporation, d/b/a Full Service Network 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. 09-827. Filed for public inspection May 1, 2009, 9:00 a.m.]

### Tentative Order

Public Meeting held  
April 16, 2009

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

*Implementation of Act 129 of 2008 Phase 4—Relating to the Alternative Energy Portfolio Standards Act; Doc. No. M-2009-2093383*

### Tentative Order

*By the Commission:*

This Tentative Order initiates a new phase in the Pennsylvania Public Utility Commission's implementation of Act 129 of 2008. In addition to the creation of an energy efficiency and conservation program, Act 129 expanded the definition of alternative energy sources in the Alternative Energy Portfolio Standards Act that qualify as Tier I alternative energy sources.<sup>1</sup> The General Assembly also charged the Commission with increasing, at least quarterly, the percentage share of Tier I resources to be sold by electric distribution companies and electric generation suppliers to reflect the new Tier I resources. This Tentative Order proposes guidelines for qualifying the additional Tier I resources, reporting requirements and related procedures for the Commission to make the required adjustments to the Tier I percentage requirements.

*Background and History of this Proceeding*

Governor Edward Rendell signed the Alternative Energy Portfolio Standards Act of 2004, P. L. 1672, No. 213, (AEPS Act) into law on November 30, 2004. 73 P. S. §§ 1648.1 *et seq.* The AEPS Act, which took effect on February 28, 2005, established an alternative energy portfolio standard for Pennsylvania. Generally, the Act requires that an annually increasing percentage of electricity sold to retail customers in Pennsylvania by electric distribution companies (EDCs) and electric generation suppliers (EGSs) be derived from alternative energy resources. The Commission has been charged with using its general powers to carry out, execute and enforce the provisions of the AEPS Act. The Pennsylvania Department of Environmental Protection (DEP) has been specifically charged with ensuring compliance with all environmental, health and safety laws and standards relevant to the AEPS Act's implementation. The Commission and the

<sup>1</sup> See Act 129 of 2008, section 5, codified in the *Pennsylvania Consolidated Statutes* at 66 Pa.C.S. § 2814.



DEP are to jointly monitor compliance with the Act, the development of the alternative energy market, the costs of alternative energy and to conduct an ongoing alternative energy planning assessment. The Commission and the DEP are to report their findings and any recommendations for changes to the Act to the General Assembly on a regular basis.

Governor Edward Rendell signed Act 129 of 2008, P. L. 1592, (Act 129) into law on October 15, 2008, which took effect 30 days thereafter on November 14, 2008. Section 5 of Act 129 adds Section 2814 to the Pennsylvania Public Utility Code. See 66 Pa.C.S. § 2814. Section 2814 expands the types of alternative energy sources that qualify as Tier I alternative energy sources under the AEPS Act to include specific categories of low impact hydropower and biomass energy. 66 Pa.C.S. § 2814(a) and (b). Section 2814 also requires the Commission to increase, at least quarterly, the percentage share of Tier I resources to be sold by EDCs and EGSs to reflect any new Tier I resources added as a result of this amendment. 66 Pa.C.S. § 2814(c).

#### *Discussion*

With this Tentative Order the Commission is proposing procedures and guidelines that low-impact hydropower facilities and generators utilizing by-products of pulping and wood manufacturing processes must follow to qualify as a Tier I resource. This Tentative Order also proposes reporting requirements and related procedures that the Commission will use to adjust AEPS Act Tier I requirements to account for the newly qualified Tier I resources. The reporting requirements and related procedures proposed in this Tentative Order are not limited to the newly eligible Tier I sources. In order for the Commission to increase the Tier I percentage requirement to account for the newly eligible sources, the Commission proposes to increase the reporting requirements of EDCs and EGSs, with AEPS compliance obligations.

#### *A. Alternative Energy Resource Qualification*

Section 2814 expands the type of alternative energy sources that qualify as Tier I resources under the AEPS Act by also including certain categories of low-impact hydropower and biomass energy. The General Assembly established specific criteria these alternative energy sources must meet to be qualified as a Tier I resource. The Commission is proposing the following specific reporting requirements and related procedures for qualifying the output of these sources as Tier I alternative energy credits (AECs).

##### *1. Low-Impact Hydropower Facilities*

Section 2814 expands the low impact hydropower category of "alternative energy sources" in Section 2 of the AEPS Act<sup>2</sup> to include low-impact hydropower with a maximum capacity of 21 megawatts that were licensed by the Federal Energy Regulatory Commission (FERC) on or prior to January 1, 1984, and held, at least in part, by a Commonwealth municipality or electric cooperative on July 1, 2007. 66 Pa.C.S. § 2814(a)(1). The Commission interprets this language in Act 129 as supplementing the definition of qualifying low-impact hydropower, rather than replacing the existing definition of low-impact hydropower. As such, all previously qualified and any other low-impact hydropower that meets the definition of low-impact hydropower found in Section 2 of the AEPS Act, 73 P. S. § 1648.2, will continue to qualify as a Tier I alternative energy resource.

<sup>2</sup> 73 P. S. § 1648.2.

In order to be qualified as a Tier I low-impact hydropower alternative energy source, any facility that meets the criteria contained in 66 Pa.C.S. § 2814(a) must submit an application with supporting documentation to the Commission's AEPS program administrator. This application requirement applies regardless of whether the facility is already qualified as a Tier II resource. In addition, each facility qualified under 66 Pa.C.S. § 2814(a) must comply with the reporting requirements outlined below in Section B of this order.

##### *2. Biomass Facilities*

Section 2814 supplements the definition of "biomass energy" in Section 2 of the AEPS Act<sup>3</sup> to include electricity generated "utilizing by-products of the pulping process and wood manufacturing process, including bark, wood chips, sawdust and lignins in spent pulping liquors." 66 Pa.C.S. § 2814(b). Section 2814 further states that "[e]lectricity from biomass energy under this subsection generated inside this Commonwealth shall be eligible as a Tier I alternative energy source." *Id.* Finally, Section 2814 states that "[e]lectricity from biomass energy under this subsection generated outside this Commonwealth shall be eligible as a Tier II alternative energy source." *Id.*

The Commission notes that Section 2 of the AEPS Act, 73 P. S. § 1648.2, defines Tier II alternative energy sources as including the "[g]eneration of electricity utilizing by-products of the pulping process and wood manufacturing process, including bark, wood chips, sawdust and lignin in spent pulping liquors." 73 P. S. § 1648.2. Therefore, any facility located in this Commonwealth that generates electricity by utilizing by-products of the pulping process and wood manufacturing desiring to be qualified as a Tier I resource must submit an application with supporting documentation to the Commission's AEPS program administrator. This application requirement applies regardless of whether the facility is already qualified as a Tier II resource. In addition, each facility qualified under 66 Pa.C.S. § 2814(b) must comply with the reporting requirements outlined below in Section B of this order.

##### *B. Adjustment to Tier I Alternative Energy Source Requirements*

Section 2814(c) specifically requires this Commission to increase, at least quarterly, the percentage share of EDC and EGS Tier I requirements in Section 3 of the AEPS Act<sup>4</sup> to reflect any new low-impact hydropower and biomass resources that qualify as a Tier I resource. 66 Pa.C.S. § 2814(c). Furthermore, Section 2814 states that no new qualifying low-impact hydropower or biomass facilities "shall be eligible to generate Tier I alternative energy credits until the Commission has increased the percentage share of Tier I to reflect these additional resources." *Id.* In this section the Commission proposes its procedures for determining the amount and frequency of the increase in Tier I percentage requirements.

At the outset, we note that there are several steps that must be taken before we can adjust periodically the percentage shares stated in Section 3 of the AEPS Act and Section 75.61(b) of the Commission's regulations. These steps are necessary because the AEPS Act's tier percentage shares apply to EDC and EGS sales of generation and not to the generation from qualified alternative energy sources.

The Commission believes that as the General Assembly required adjustments to the Tier I requirements on at

<sup>3</sup> 73 P. S. § 1648.2.

<sup>4</sup> 73 P. S. § 1648.3(b)(1).

least a quarterly basis, such adjustments must be based on the actual output of the newly qualified low-impact hydropower and biomass in relation to the actual EDC and EGS sales. As such, the Commission will initially be calculating each EDC's and EGS' Tier I nonsolar photovoltaic (PV) requirements on at least a quarterly basis. This quarterly adjustment will coincide with the AEPS Act compliance year quarters.<sup>5</sup> Each EDC's and EGS' quarterly Tier I nonsolar PV requirements will be added together at the end of the year to determine their total annual Tier I nonsolar PV requirements. Tier I solar PV and Tier II requirements will be computed only annually under existing procedures. See 52 Pa. Code § 75.61.

The Commission believes that it was not the intent of the General Assembly for Act 129 to increase the Tier I solar PV requirements, as the expanded Tier I eligible resources are nonsolar resources. As such, the Commission will calculate each EDC's and EGS' Tier I solar PV requirements based on the annual Tier I requirements contained in 52 Pa. Code § 75.61(b). For example, for compliance year 2009-2010 the Tier I requirement is 2.5% of all retail sales, of which at least 0.0120% must come from solar PV. Assume that EDC X had total annual retail sales of 4,800,000 MWh. Under this scenario, EDC X would have a total annual Tier I solar PV requirement of 14.<sup>6</sup>

The Commission will determine each EDC's and EGS' new quarterly Tier I requirements as follows:

1. Tier I quarterly percentage increase equals the ratio of the available new Tier I megawatt-hour (MWh) sales to total quarterly EDC and EGS MWh sales (New Tier I MWh/EDC and EGS MWh = Tier I % increase).

2. New quarterly Tier I requirement equals the sum of the new Tier I percentage increase and the annual nonsolar Tier I percentage requirement in 52 Pa. Code § 75.61(b) (Tier I % increase + annual Tier I = quarterly Tier I requirement).

3. EDC and EGS quarterly MWh sales multiplied by quarterly Tier I requirement (EDC and EGS quarterly MWh × quarterly Tier I % = EDC and EGS quarterly Tier I requirement).

To demonstrate this quarterly adjustment calculation for the first quarter in the 2009-2010 compliance year, assume that the total EDC and EGS MWh sales for the quarter is 4,130,000 MWh and the total new Tier I MWh sales for the quarter is 132,000 MWh. Also assume that the total quarterly MWh sales of EDC X is 1,200,000 MWh.

The quarterly adjustment calculation for EDC X would be as follows:

1.  $132,000/4,130,000 = 0.032$  or 3.2%.
2.  $0.032 + 0.02488^7 = 0.05688$  or 5.688% of total retail sales.
3.  $1,200,000 \times 0.05688 = 68,256$  total nonsolar Tier I credits required for the quarter. (Prior to adjustment total Tier I credits required would have been 29,856 ( $1,200,000 \times 0.02488$ ) for a difference of 38,400 nonsolar Tier I credits.)

<sup>5</sup> The quarters will be as follows: 1st quarter—June, July and August; 2nd quarter—September, October and November; 3rd quarter—December, January and February; and 4th quarter—March, April and May.

<sup>6</sup>  $4,800,000 \times 0.025 = 120,000 \times 0.000120 = 14.4$ .

<sup>7</sup> Under 52 Pa. Code § 75.61(b)(4) the following are the Tier I requirements for the 2009-2010 compliance year. The Tier I requirement is 2.5% of all retail sales. This includes 0.0120% solar photovoltaic. Therefore, the nonsolar PV Tier I requirement is 2.488%.

To accomplish the quarterly adjustments as described above, the Commission directs all EDCs and EGSs with AEPS compliance requirements to report total retail sales data to the Commission's AEPS program administrator on a monthly basis. The monthly sales figures are to be submitted by the fifteenth day of the following month.

In addition, all facilities qualifying as a Tier I resource under 66 Pa.C.S. §§ 2814(a) and (b) must provide the Commission, on a monthly basis, sufficient information for the Commission to determine the amount of generation that qualifies for Tier I credits. This information will include at least the following:

1. The facility's total generation from qualifying alternative energy sources for the month in MWh, broken down by source;

2. The amount of AECs sold in the month to each EDC and EGS with a compliance obligation under the AEPS Act;

3. The amount of AECs sold in the month to any other entity, including utilities, suppliers and users for compliance with another state's alternative/renewable energy portfolio standard or sold on the voluntary market;

4. The amount of AECs created and eligible for sale during the month but not yet sold;

5. The sale or other disposition of AECs created in prior months and transferred in the month—broken down by compliance status (Pennsylvania AEPS, other state compliance, voluntary market).

The Commission intends to limit the Tier I percentage share modifications to exclude credits which are committed for compliance with another state's portfolio standard or are not otherwise available to be used for Pennsylvania compliance. See 73 P.S. § 1648.4 and 52 Pa. Code § 75.63(c). Credits unavailable to EDCs and EGSs for Pennsylvania AEPS compliance are no different than unused generation capacity and must therefore be excluded from consideration when increasing the Tier I percentage requirement. The Commission believes that it was the intent of the General Assembly that the addition of any new Tier I resources have a neutral impact on the value of Tier I credits. As such, including only those credits that are available for AEPS compliance in the calculation of the Tier I percentage requirement will accomplish this intent. The monthly reporting data listed above will be used to identify the amount of credits available for Pennsylvania AEPS compliance.

The new Tier I facilities must provide this information to the Commission's Bureau of Conservation, Economics and Energy Planning (CEEP) and to the Commission's AEPS program administrator by the fifteenth day of the following month. CEEP may prepare a form (or a facility specific form) consistent with the order and direct each facility to report this information using such form(s). All such information is subject to audit by the Commission or its AEPS program administrator.

These facilities must also provide the AEPS program administrator access to the facility's GATS account so that the program administrator can track and confirm the number of additional Tier I credits available for Pennsylvania AEPS compliance. Any alternative energy facility that fails to report its qualifying generation for any given month will be disqualified from generating Tier I credits for the quarter in which that month falls.

An open and transparent Tier I credit market is essential to maintaining market integrity. In addition, all EDCs, EGSs and Tier I facilities will need to know what

the quarterly requirements in a timely manner to meet the AEPS requirements at a reasonable price. To facilitate the need for an open and transparent Tier I market, the Commission intends to post each new quarterly Tier I percentage requirement on the Commission's AEPS Web Site at <http://paaeps.com/credit/> and in the Pennsylvania Bulletin within 45 days of the end of each quarter.

#### *Conclusion*

The Commission believes that these proposed procedures capture the General Assembly's intent for the limited expansion of qualifying Tier I alternative energy sources. In addition, the proposed procedures for calculating the increase in the percentage share of Tier I credits in proportion to the increase in the number of new Tier I resources available accurately captures the General Assembly's intent to allow for an expansion of qualifying Tier I resources without adversely affecting the previously established Tier I resources credit prices. Given the complex nature of the issues involved in implementing this section of Act 129, we find it appropriate to seek public comment before adopting final implementation standards. After reviewing the comments, the Commission will issue a final order identifying the standards adopted for implementation of this provision of Act 129 for the AEPS compliance year beginning on June 1, 2009. *Therefore,*

#### *It Is Ordered That:*

1. Interested parties file an original and 15 copies of any written comments on this Tentative Order be submitted within 20 days of the entry date of this Tentative Order to the Pennsylvania Public Utility Commission, Attn.: Secretary James J. McNulty, P. O. Box 3265, Harrisburg, PA 17105-3265. This Tentative Order and all comments will be posted on the Commission's Alternative Energy web page at [http://www.puc.state.pa.us/electric/electric\\_alt\\_energy.aspx](http://www.puc.state.pa.us/electric/electric_alt_energy.aspx); accordingly service on other parties is not required. To facilitate posting, all filed comments should be forwarded by means of electronic mail to Kriss Brown at [kribrown@state.pa.us](mailto:kribrown@state.pa.us) and Charles Covage at [ccovage@state.pa.us](mailto:ccovage@state.pa.us).

2. This Tentative Order be published in the *Pennsylvania Bulletin* and a copy served on all jurisdictional electric distribution companies, all licensed electric generation suppliers, the Office of Consumer Advocate, the Office of Small Business Advocate, the Office of Trial Staff, and the Pennsylvania Department of Environmental Protection. In addition, the Commission directs the Bureau of Conservation, Economics and Energy Planning to identify potential new Tier I alternative energy resources eligible under section 5 of Act 129, 66 Pa.C.S. § 2814(a) and (b), to be served as well.

JAMES J. MCNULTY,  
*Secretary*

#### *Statement of Commissioner Kim Pizzingrilli*

The General Assembly, through Act 129 of 2008, addressed a number of important and interrelated issues involving the regulation of retail electric service. These include energy efficiency and peak demand reduction, the procurement of energy supply for retail customers, and the utilization of alternative energy sources. The Commission has been tasked with developing the standards necessary to implement these provisions of Act 129. Throughout the first few months of 2009, the Commission

has focused on complying with the timetable identified in Act 129 for the implementation of the energy conservation and demand reduction provisions of the Act. The Commission must establish a process and identify guidelines to enable electric distribution companies to develop and file their energy conservation and demand reduction compliance plans by July 1, 2009, and, separately, their smart meter procurement and installation plans by August 14, 2009.

Today the Commission is addressing Act 129's amendments to the Alternative Energy Portfolio Standards Act of 2004. This Tentative Order identifies proposed standards governing the inclusion of low impact hydro and biomass in the Tier I alternative energy source category. We encourage all AEPS Act stakeholders to review and comment on this Tentative Order, as implementation of this provision will require a coordination of certain reporting activities by generators, electric distribution companies, and electric generation suppliers.

This is also an appropriate opportunity to provide a snapshot of the status of Act 129 implementation. The Commission has taken final action on the following issues in the past few months:

- Adoption of the program identifying the standards which the Commission will review proposed implementation plans, monitor execution, and enforce compliance with the efficiency provisions of the Act at the January 15, 2009 Public Meeting.
- Adoption of the rules for the Conservation Services Provider Registry, and the development of a standard application package, at the February 5, 2009 Public Meeting.
- Quantification of the energy consumption and peak demand reduction targets for Act 129 at the March 26, 2009 Public Meeting.

Implementation continues to proceed on four separate tracks on the following issues:

- The development of a standard filing template for the July 1, 2009 compliance plan. A draft template has been circulated to the stakeholder working group for comment.
- Revision of the technical reference manual that establishes levels of deemed savings for certain energy efficiency and conservation measures. Revisions have been released for public comment, and the Commission has hosted a technical conference on the matter.
- The development of standards by which the Commission will review and evaluate smart meter installation and procurement plans. A draft proposal has been circulated to the stakeholder working group for comment.
- The development of a Request for Proposal for the statewide energy efficiency and conservation program evaluator. The Commission expects to issue this Request for Proposal in the near future.

In conclusion, I would like to commend our staff for their work on these issues, and the stakeholders for their many constructive comments and participation in the technical conferences we have hosted.

KIM PIZZINGRILLI,  
*Commissioner*

[Pa.B. Doc. No. 09-828. Filed for public inspection May 1, 2009, 9:00 a.m.]

**Water Service**

**A-2009-2101493. Pennsylvania-American Water Company.** Application of Pennsylvania-American Water Company for approval to offer, render, furnish or supply water service to the public in additional portions of Mount Pleasant Township, Washington County, PA.

Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). Filings must be made with the Secretary of the Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant on or before May 18, 2009. 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

*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. 09-829. Filed for public inspection May 1, 2009, 9:00 a.m.]

**PHILADELPHIA REGIONAL  
PORT AUTHORITY**

**Request for Bids**

The Philadelphia Regional Port Authority (PRPA) will accept sealed bids for Project No. 09-053.1, roofing investigation and repairs at various PRPA Piers until 2 p.m., Thursday, May 28, 2009, mandatory prebid job site meeting, 10 a.m., Thursday, May 14, 2009, 10 a.m., PRPA office. The bid documents can be obtained from the Director of Procurement, PRPA, 3460 North Delaware Avenue, 2nd Floor, Philadelphia, PA 19134, (215) 426-2600 and are available May 5, 2009. The cost of the bid document is \$35 (includes 7% PA Sales Tax) and is nonrefundable. Bidders must provide to the Procurement Department in writing (24 hours prior to the meeting), the names of individuals that will be attending, fax to (215) 426-6800, Attn: Procurement Department. PRPA is an equal opportunity employer. Contractor must comply with all applicable EEO laws. Additional information and project listings may be found at [www.philaport.com](http://www.philaport.com).

JAMES T. MCDERMOTT, Jr.,  
*Executive Director*

[Pa.B. Doc. No. 09-830. Filed for public inspection May 1, 2009, 9:00 a.m.]

**STATE POLICE**

**Approved Registration Sites under the Registration of Sexual Offenders Act**

The Commissioner of the Pennsylvania State Police, under 42 Pa.C.S. Chapter 97, Subchapter H (relating to registration of sexual offenders), shall publish a list of approved registration sites located throughout this Commonwealth where individuals subject to the requirements of 42 Pa.C.S. §§ 9795.1 and 9796 (relating to registration; and verification of residence) can report to fulfill these requirements.

The approved registration sites are:

<i>County</i>	<i>Police Station</i>	<i>Address</i>	<i>Phone</i>
Adams	PSP Gettysburg	3033 Old Harrisburg Road Gettysburg, PA 17325	(717) 334-8111
Adams	Adams County Prison Central Booking	45 Major Bell Lane Gettysburg, PA 17325	(717) 334-1911
Allegheny	PSP Pittsburgh	449 McCormick Road Moon Township, PA 15108	(412) 787-2000
Allegheny	PSP Gibsonia (Turnpike)	3000 Haberlein Road Gibsonia, PA 15044	(724) 443-5907
Allegheny	Allegheny County Police	400 North Lexington Street Pittsburgh, PA 15208	(412) 473-1200
Armstrong	PSP Kittanning	184 Nolte Drive Kittanning, PA 16201	(724) 543-2011
Beaver	PSP Beaver	1400 Brighton Road Beaver, PA 15009	(724) 773-7400
Beaver	Beaver County Sheriff	810 Third Street Beaver, PA 15009	(724) 728-3934 Ext. 11243
Bedford	PSP Bedford	171 Arthur L. Hershey Drive Bedford, PA 15522	(814) 623-6133
Bedford	PSP Everett (Turnpike)	1605 Ashcom Road Suite 2 Everett, PA 15537	(814) 652-6131

<i>County</i>	<i>Police Station</i>	<i>Address</i>	<i>Phone</i>
Berks	Berks County Sheriff	633 Court Street 3rd Floor Reading, PA 19601	(610) 478-6240
Berks	PSP Reading	600 Kenhorst Boulevard Reading, PA 19611	(610) 378-4011
Berks	PSP Hamburg	90 Industrial Drive Hamburg, PA 19526	(610) 562-6885
Blair	PSP Hollidaysburg	1510 North Juniata Street Hollidaysburg, PA 16648	(814) 696-6100
Bradford	PSP Towanda	R. D. 1 Towanda, PA 18848	(570) 265-2186
Bucks	PSP Dublin	3218 Rickert Road Perkasie, PA 18944	(215) 249-9191
Bucks	PSP Trevoise	3501 Neshaminy Boulevard Bensalem, PA 19020	(215) 942-3900
Bucks	Bensalem Township Police	2400 Byberry Road Bensalem, PA 19020	(215) 633-3700
Bucks	Upper Makefield Township Police	1076 Eagle Road Newtown, PA 18940	(215) 968-3020
Bucks	Perkasie Police	620 West Chestnut Street Perkasie, PA 18944	(215) 257-6876
Butler	PSP Butler	200 Barracks Road Butler, PA 16001	(724) 284-8100
Butler	Butler City Police	200 West New Castle Street Butler, PA 16001	(724) 287-5045
Butler	Butler County Day Reporting Center	227 West Cunningham Street Butler, PA 16001	(724) 284-5259
Butler	Cranberry Township Police	2525 Rochester Road Suite 500 Cranberry Township, PA 16066	(724) 776-5180
Cambria	PSP Ebensburg	100 Casale Court Ebensburg, PA 15931	(814) 471-6500
Cambria	Richland Township Police	322 Schoolhouse Road Johnstown, PA 15904	(814) 266-8333
Cameron	PSP Emporium	12921 Route 120 Emporium, PA 15834	(814) 486-3321
Carbon	PSP Pocono (Turnpike)	HCR 1 P. O. Box 18 White Haven, PA 18661	(570) 443-9511
Carbon	PSP Lehighton	5730 Interchange Road Lehighton, PA 18235	(610) 377-4270
Centre	PSP Philipsburg	3104 Port Matilda Highway Phillipsburg, PA 16866	(814) 342-3370
Centre	PSP Rockview	745 South Eagle Valley Road Bellefonte, PA 16823	(814) 355-7545
Centre	Centre County Prison	700 Rishel Hill Road Bellefonte, PA 16823	(814) 355-6868
Chester	Chester County Prison	501 South Wawaset Road West Chester, PA 19380	(610) 793-1510
Chester	Coatesville Police	1 City Hall Place Coatesville, PA 19320	(610) 384-2300 Ext. 0
Chester	Tredyffrin Township Police	1100 DuPortail Road Berwyn, PA 19312	(610) 644-3221
Chester	West Goshen Township Police	1025 Paoli Pike West Chester, PA 19380	(610) 696-7400
Chester	West Whiteland Township Police	222 North Pottstown Pike Exton, PA 19341	(610) 363-0200

<i>County</i>	<i>Police Station</i>	<i>Address</i>	<i>Phone</i>
Chester	PSP Embreeville	997 Lieds Road Coatesville, PA 19320	(484) 340-3241
Chester	PSP Avondale	2 Moxley Lane Avondale, PA 19311	(610) 268-2022
Clarion	PSP Clarion	209 Commerce Road Clarion, PA 16214	(814) 226-1710
Clarion	Clarion County Prison	309 Amsler Avenue Shippensburg, PA 16254	(814) 226-9615
Clearfield	PSP Clearfield	147 Doe Hill Road Woodland, PA 16881	(814) 857-3800
Clinton	PSP Lamar	7127 Nittany Valley Drive Mill Hall, PA 17751	(570) 726-6000
Columbia	Bloomsburg Police	301 East 2nd Street Bloomsburg, PA 17815	(570) 784-4155
Columbia	PSP Bloomsburg	6850 Hidlay Church Road Bloomsburg, PA 17815	(570) 387-4701
Crawford	PSP Meadville	11176 Murray Road Meadville, PA 16335	(814) 332-6911
Cumberland	PSP Carlisle	1538 Commerce Avenue Carlisle, PA 17015	(717) 249-2121
Cumberland	PSP Newville (Turnpike)	248 Center Road Newville, PA 17241	(717) 776-3135
Cumberland	Cumberland County Prison Central Booking	1101 Claremont Road Carlisle, PA 17013	(717) 245-8787
Dauphin	Derry Township Police	620 Clearwater Road Hershey, PA 17033	(717) 534-2201
Dauphin	Lower Paxton Township Police	425 Prince Street Harrisburg, PA 17109	(717) 657-5656
Dauphin	PSP Highspire (Turnpike)	Turnpike Building Route 283 and Eisenhower Boulevard Harrisburg, PA 17106	(717) 939-9551 Ext. 4290
Dauphin	PSP Harrisburg	8000 Bretz Drive Harrisburg, PA 17112	(717) 671-7500
Dauphin	PSP Lykens	301 State Drive Elizabethville, PA 17023	(717) 362-8700
Delaware	Media Borough Police	301 North Jackson Street Media, PA 19063	(717) 565-6655
Delaware	PSP Media	1342 West Baltimore Pike Media, PA 19063	(484) 840-1000
Delaware	Marple Township Police	225 South Sproul Road Broomall, PA 19008	(610) 356-1501
Delaware	Radnor Township Police	301 Iven Avenue Wayne, PA 19087	(610) 688-0503
Delaware	Ridley Township Police	100 East MacDade Boulevard Folson, PA 19033	(610) 532-4001
Delaware	Springfield Township Police	50 Powell Road Springfield, PA 19064	(610) 544-1100
Delaware	Upper Chichester Township Police	8400 Furey Road Boothwyn, PA 19061	(610) 485-8400
Elk	PSP Ridgway	15010 Boot Jack Road Ridgway, PA 15853	(814) 776-6136
Erie	PSP Erie	4320 Iroquois Avenue Erie, PA 16511	(814) 898-1641
Erie	PSP Corry	11088 Route 6 East Union City, PA 16438	(814) 663-2043

<i>County</i>	<i>Police Station</i>	<i>Address</i>	<i>Phone</i>
Erie	PSP Girard	5950 Meadville Road Girard, PA 16417	(814) 774-9611
Fayette	PSP Uniontown	1070 Eberly Way Lemont Furnace, PA 15456	(724) 439-7111
Forest	PSP Tionesta	R. D. 1 Box 43 DD Tionesta, PA 16353	(814) 755-3565
Franklin	PSP Chambersburg	679 Franklin Farm Lane Chambersburg, PA 17202	(717) 264-5161
Fulton	PSP McConnellsburg	23170 Great Cove Road McConnellsburg, PA 17233	(717) 485-3131
Greene	PSP Waynesburg	255 Elm Drive Waynesburg, PA 15370	(724) 627-6151
Huntingdon	PSP Huntingdon	10637 Raystown Road Huntingdon, PA 16652	(814) 627-3161
Indiana	PSP Indiana	4221 Route 286 Highway West Indiana, PA 15701	(724) 357-1960
Jefferson	PSP DuBois	101 Preston Way Falls Creek, PA, 15840	(814) 371-4652
Jefferson	PSP Punxsutawney	485 North Findley Street Punxsutawney, PA 15767	(814) 938-0510
Juniata	PSP Lewistown	34 Arch Rock Road Mifflintown, PA 17059	(717) 320-1010
Lackawanna	PSP Dunmore	85 Keystone Industrial Park Dunmore, PA 18512	(570) 963-3156
Lackawanna	Scranton Police	100 South Washington Avenue Scranton, PA 18503	(570) 348-4134
Lancaster	PSP Bowmansville (Turnpike)	443 Panorama Drive Denver, PA 17517	(717) 445-6716
Lancaster	Elizabethtown Police	600 South Hanover Street Elizabethtown, PA 17022	(717) 367-6540
Lancaster	PSP Ephrata	21 Springhouse Road Ephrata, PA 17522	(717) 721-7667
Lancaster	PSP Lancaster	2099 Lincoln Highway East Lancaster, PA 17602	(717) 299-7650
Lancaster	Lancaster City Police	39 West Chestnut Street Lancaster, PA 17603	(717) 735-3300
Lawrence	PSP New Castle	3539 Wilimington Road New Castle, PA 16105	(724) 598-2211
Lawrence	New Castle Police	230 North Jefferson Street New Castle, PA 16101	(724) 656-9300
Lebanon	PSP Jonestown	2632 SR 72 Jonestown, PA 17038	(717) 865-2194
Lebanon	Lebanon County Central Booking	400 South 8th Street Lebanon, PA 17042	(717) 228-4413
Lehigh	PSP Fogelsville	8320 Schantz Road Breinigsville, PA 18031	(610) 395-1438
Lehigh	PSP Bethlehem	2930 Airport Road Bethlehem, PA 18017	(610) 861-2026
Lehigh	Lehigh County Prison Central Booking	38 North Fourth Street Allentown, PA 18102	(610) 782-3270
Luzerne	PSP Hazleton	250 Dessen Drive West Hazleton, PA 18202	(570) 459-3890
Luzerne	Butler Township Police	415 West Butler Drive Drums, PA 18222	(570) 788-4111

<i>County</i>	<i>Police Station</i>	<i>Address</i>	<i>Phone</i>
Luzerne	Hazleton Police Department	40 North Church Street Hazleton, PA 18201	(570) 459-4940
Luzerne	Kingston Police	500 Wyoming Avenue Kingston, PA 18704	(570) 288-3674
Luzerne	Luzerne County Correctional Facility	99 Water Street Wilkes-Barre, PA 18702	(570) 825-1666
Luzerne	PSP Shickshinny	872 Salem Boulevard Berwick, PA 18603	(570) 542-4117
Luzerne	PSP Wyoming	475 Wyoming Avenue Wyoming, PA 18644	(570) 697-2000
Lycoming	PSP Montoursville	899 Cherry Street Montoursville, PA 17754	(570) 368-5700
McKean	PSP Kane	3178 Route 219 Kane, PA 16735	(814) 778-5555
Mercer	PSP Mercer	826 Franklin Road Mercer, PA 16137	(724) 662-6162
Mercer	Southwest Regional Police	500 Roemer Boulevard Farrell, PA 16121	(724) 983-2720
Mifflin	PSP Lewistown	34 Arch Rock Road Mifflintown, PA 17059	(717) 320-1010
Mifflin	Mifflin County Prison Central Booking	103 West Market Street Lewistown, PA 17044	(717) 248-1130
Monroe	PSP Swiftwater	HC 1, Box 121 Swiftwater, PA 18370	(570) 839-7701
Monroe	PSP Fern Ridge	P. O. Box 1440 Blakeslee, PA 18610	(570) 646-2271
Montgomery	Abington Township Police	1166 Old York Road Abington, PA 19001	(267) 536-1100
Montgomery	Cheltenham Township Police	8230 Old York Road Elkins Park, PA 19027	(215) 885-1600
Montgomery	PSP King of Prussia (Turnpike)	251 Flint Hill Road King of Prussia, PA 19406	(610) 279-1605
Montgomery	PSP Skippack	2047C Bridge Road Schwenksville, PA 19473	(610) 410-3835
Montgomery	Montgomery Township Police	1001 Stump Road Montgomeryville, PA 18936	(215) 362-2300
Montgomery	Plymouth Township Police	700 Belvoir Road Plymouth, PA 19462	(610) 279-1900
Montgomery	Towamencin Township Police	1090 Troxel Road Lansdale, PA 19446	(215) 368-7606
Northampton	PSP Belfast	654 Bangor Road Nazareth, PA 18064	(610) 258-0816
Northumberland	PSP Stonington	2465 SR 61 Sunbury, PA 17801	(570) 286-5601
Northumberland	PSP Milton	50 Lawton Lane Milton, PA 17847	(570) 524-2662
Northumberland	Sunbury Police	440 Market Street Sunbury, PA 17801	(570) 286-4584
Perry	PSP Newport	52 Red Hill Court Newport, PA 17074	(717) 567-3110
Philadelphia	PSP Philadelphia	2201 Belmont Avenue Philadelphia, PA 19131	(215) 965-5870
Pike	PSP Blooming Grove	434 Route 402 Hawley, PA 18428	(570) 226-5720
Potter	PSP Coudersport	3140 East Second Street Coudersport, PA 16915	(814) 274-8690



<i>County</i>	<i>Police Station</i>	<i>Address</i>	<i>Phone</i>
Schuylkill	PSP Schuylkill Haven	23 Meadowbrook Drive Schuylkill Haven, PA 17972	(570) 593-2000
Schuylkill	PSP Frackville	31 Eleanor Drive Frackville, PA 17931	(570) 874-5300
Snyder	PSP Selinsgrove	204 Universal Road Selinsgrove, PA 17870	(570) 374-8145
Snyder	Snyder County Sheriff	12 South Main Street Middleburg, PA 17842	(570) 837-3311
Somerset	PSP Somerset	142 Sagamore Street Somerset, PA 15501	(814) 445-4104
Somerset	PSP Somerset (Turnpike)	177 Menser Road Somerset, PA 15501	(814) 445-9606
Somerset	Somerset Borough Police	340 West Union Street Somerset, PA 15501	(814) 445-4596
Sullivan	PSP Laporte	5837 Route 220 Laporte, PA 18626	(570) 946-4610
Susquehanna	PSP Gibson	2856 SR 848 New Milford, PA 18834	(570) 465-3154
Tioga	PSP Mansfield	1745 Valley Road Mansfield, PA 16933	(570) 662-2151
Tioga	Tioga County Probation Department	118 Main Street Wellsboro, PA 16901	(570) 724-9340
Union	Union County Courthouse	103 South Second Street Lewisburg, PA 17837	(570) 524-2943
Venango	PSP Franklin	6724 US 322 Franklin, PA 16323	(814) 676-6596
Venango	Franklin Police	430 13th Street Franklin, PA 16323	(814) 437-1644
Warren	PSP Warren	22001 Route 6 Warren, PA 16365	(814) 728-3600
Warren	Warren County Jail	407 Market Street Warren, PA 16365	(814) 723-7553
Washington	PSP Washington	83 Murtland Avenue Washington, PA 15301	(724) 223-5200
Washington	Washington County Family Court Center	29 West Cherry Avenue Washington, PA 15301	(724) 228-6999
Wayne	PSP Honesdale	R. R. 6 14 Collan Park Honesdale, PA 18431	(570) 251-7207
Westmoreland	PSP Greensburg	100 North Westmoreland Avenue Greensburg, PA 15601	(724) 832-3288
Westmoreland	PSP Belle Vernon	560 Circle Drive Belle Vernon, PA 15012	(724) 929-6262
Westmoreland	PSP New Stanton (Turnpike)	2200 North Center Avenue New Stanton, PA 15672	(724) 755-9463
Westmoreland	PSP Kiski Valley	4451 SR 66 Apollo, PA 15613	(724) 727-3434
Westmoreland	Greensburg Police	416 South Main Street Greensburg, PA 15601	(724) 834-3800
Westmoreland	Rostraver Township Police	205 Municipal Drive Belle Vernon, PA 15012	(724) 929-8811
Westmoreland	Murrysville Police	4120 Sardis Road Murrysville, PA 15668	(724) 327-2111
Westmoreland	New Kensington Police	301 11th Street New Kensington, PA 15068	(724) 339-7533

**NOTICES**

**2289**

<i>County</i>	<i>Police Station</i>	<i>Address</i>	<i>Phone</i>
Wyoming	PSP Tunkhannock	915 SR6W Tunkhannock, PA 18657	(570) 836-2141
York	PSP York	110 North Street York, PA 17403	(717) 428-1011
York	York County Sheriff	45 North George Street York, PA 17401	(717) 771-9601

Comments, suggestions or questions may be directed to the Pennsylvania State Police, Megan's Law Section, 1800 Elmerton Avenue, Harrisburg, PA 17110. Individuals with a disability and require an alternative format of this document (that is, large print, audio tape, Braille) contact the Megan's Law Section so that necessary arrangements can be made.

COLONEL FRANK E. PAWLOWSKI,  
*Commissioner*

[Pa.B. Doc. No. 09-831. Filed for public inspection May 1, 2009, 9:00 a.m.]



# PROPOSED RULEMAKING

## DEPARTMENT OF LABOR AND INDUSTRY

[ 34 PA. CODE CH. 125 ]

### Workers' Compensation; Individual Self-Insurance

The Department of Labor and Industry (Department), Bureau of Workers' Compensation (Bureau), proposes the following amendments to Chapter 125, Subchapter A (relating to individual self-insurance), to read as set forth in Annex A. This rulemaking updates and clarifies the standards and procedures which govern the processing of applications for and the administration of self-insurance for individual employers under the Workers' Compensation Act (act) (77 P. S. §§ 1—1041.4, 2501—2506 and 2701—2708) and the Pennsylvania Occupational Disease Act (Occupational Disease Act) (77 P. S. §§ 1201—1603).

#### *Statutory Authority*

This proposed rulemaking is published under the authority in sections 305(a) and 435(a) of the act (77 P. S. §§ 501 and 991(a)) and section 2205 of The Administrative Code of 1929 (71 P. S. § 565).

#### *Background*

Under section 305(a) of the act (77 P. S. § 501(a)) and under section 305 of the Occupational Disease Act (77 P. S. § 1405), an employer liable for the payment of benefits under those acts may be granted an exemption from the necessity of insuring the payment of its liability with an authorized insurer. The grant of an exemption, which is commonly referred to as self-insurance status, is based on the employer demonstrating to the Department that it has the financial ability to pay the compensation provided under the acts. Subchapter A addresses technical issues such as the application procedures for self-insurance by individual employers, the materials and information that must be provided with the application, minimum requirements to be considered for self-insurance, factors used in assessing the financial ability to self-insure, financial security and excess insurance requirements and requirements to service a self-insurer's claims.

These regulations were adopted on October 13, 1995, and have seen only very limited regulatory amendments in the last 13 years. The most recent regulatory amendments followed the act of June 24, 1996 (P. L. 350, No. 57), which among other things amended sections 305 and 802 of the act (77 P. S. §§ 501 and 1036.2) and added section 819 of the act (77 P. S. § 1036.19) affecting matters relating to the requirements for self-insurance. The Department then amended, in pertinent part, §§ 125.2 and 125.9 (relating to definitions; and security requirements) at 28 Pa.B. 5459 (October 24, 1998).

By this proposed rulemaking, the Department seeks to increase clarity and consistency through the introduction of new standard terms that may be used throughout the regulations, to provide more objective standards for qualifying for and maintaining self-insurance status, and to improve and strengthen the Department's ability to efficiently and effectively monitor and regulate workers' compensation self-insurance in this Commonwealth.

On November 14, 2005, the Department held a stakeholder meeting to discuss this proposed rulemaking. All

791 employers self-insured in this Commonwealth as well as the 335 employers in runoff status were invited to the meeting. Subsequently, the Department received written comments from Henry L. Martin, of National Fuel Gas Distribution and Richard White, of Wegman's Food Markets, Inc.

Additionally, the following individuals made presentations at the meeting: Gregory Gross, of Whirley Industries; Kimberly Rzomp, of Summit Health; Patrick Larkin, of Brokerage Professionals, Inc.; Jonathan H. Rudd, Esquire, on behalf of Royal Ahold; and Lou Ann Kauffman, of the Pennsylvania State System of Higher Education.

All comments and suggestions have been reviewed and considered.

#### *Summary of Proposed Regulations*

The Department proposes to amend § 125.1 (relating to purpose) to clarify existing language.

The Department proposes to amend § 125.2 (relating to definitions) to clarify existing language, to delete the existing definition of "excess insurer," and to include definitions of the following terms: "active self-insurer," "adequate accident and illness prevention program," "authorized retention amount," "catastrophic loss estimation," "default multiplier," "default multiplier-calculated security factor," "excess indemnity insurance," "excess insurance," "financial ability to self-insure," "investment grade long-term credit or debit rating," "liability limit," "long-term credit or debit rating," "maximum quick asset exposure amount," "minimum funding amount," "minimum security amount," "nonprocurement registration number," "non-workers' compensation insurer," "NRSRO," "self-insurance loss portfolio transfer policy," "special retention amount," "standard retention amount," "workers' compensation excess insurance," "workers' compensation excess insurance recoveries" and "workers' compensation insurer."

The Department proposes to amend § 125.3 (relating to application) so that the section better reflects the application requirements. The Department proposes to replace the existing affidavit requirement with a verified statement. Under § 125.3(b), the Department proposes to allow renewal applicants to file their application 3 months before the expiration of the current permit, which is 1 month earlier than under the current language. Under § 125.3(c)(1), the Department specifies the application fees required for affiliates or subsidiaries who file a consolidated application under § 125.4 (relating to application for affiliates and subsidiaries). The Department proposes to amend § 125.3(c)(2)(i) to require that the monetary values presented in the financial statements must be in United States dollars and that the text must be in English, as well as to require that parent companies provide consolidated financial statements for both themselves and their subsidiaries. The Department proposes to amend § 125.3(c)(5) and (6) to require that loss information must be filed on each employer requesting self-insurance for an initial application, and that a report on incurred loss must be filed on each self-insurer for a renewal application. Also, proposed § 125.3(c)(6) allows applicants that have retained an actuary to submit that actuary's report with the application.

The Department proposes to add requirements that applicants include evidence of long-term credit or debt

ratings, if any, in § 125.3(c)(9), as well as a listing of all Pennsylvania workers' compensation claims previously incurred as a self-insurer in § 125.3(c)(8). This will replace existing language related to the OSHA No. 200 report, which has not been utilized since the promulgation of Chapter 129 (relating to workers' compensation health and safety). The Department proposes to amend § 125.3(d) to require applicants to provide all data, information, explanations, corrections and missing items regarding an application within the time period prescribed in writing by the Bureau. Otherwise the application will be deemed withdrawn and a renewal applicant will have to obtain insurance coverage by the expiration of such time period. The Department proposes to amend § 125.3(e) to clarify that the Bureau will not issue a decision on an application until all data, information, explanations, corrections and missing items have been submitted. The Department also proposes to clarify existing language and reference currently recognized auditing standards where applicable.

The Department proposes to amend § 125.4 to allow for a variation in the submission of audit reports and financial information for applicants that are subsidiaries of a foreign parent company. The Department proposes to delete the provision in subsection (a) requiring that a parent company of a consolidated program be incorporated under the laws of a state of the United States, because this incorporation requirement is extended to all applicants in § 125.5 (relating to preliminary requirements). The Department also proposes to delete the requirement that a Bureau form be used by an applicant to delete an affiliate or subsidiary from a consolidated permit, because a specific form for this purpose is unnecessary.

The Department proposes to amend § 125.5 to require, for enforcement purposes, that an applicant must be incorporated or organized under the laws of a state of the United States, as well as to require that the applicant must have an adequate accident and illness prevention program under Chapter 129. The Department proposes to delete existing language in § 125.5(b)—(d), because this information is addressed in § 125.6 (relating to decision on application).

The Department proposes to amend § 125.6(a) to add new paragraphs which set forth objective standards that an applicant must satisfy to demonstrate its financial ability to self-insure, including that the applicant has adequate financial capacity and adequate financial health. The criteria for adequate financial health depends upon whether the applicant is a public or private employer. For a private employer, the Department proposes to require an investment grade long-term credit or debt rating, or a long-term credit or debt rating that it is one grade below investment grade as issued by a rating organization or estimated by the Bureau. This will ensure that a private employer applicant which is approved to self-insure will have adequate, current financial health to meet its obligations, including its self-insurance liability, into the reasonably foreseeable future. The Department also proposes to add language in § 125.6(a) to grandfather existing self-insurers who do not meet the rating requirements under certain conditions.

The Department also proposes to amend § 125.6(a) to streamline the factors to be considered in assessing an application. The Department further proposes to clarify the information, standards and procedures pertaining to initial decisions, compliance with conditional approvals, issuance of permits, reconsideration requests and deci-

sions, and appeals from reconsideration decisions to standardize and streamline the process and identify the necessary time frames involved.

The Department proposes to reduce the time period for compliance with conditional approvals in § 125.6 from 60 to 45 days. The Department proposes to modify the hearing procedures following a reconsideration decision to replace the *de novo* hearing process with an appeal hearing process that will be conducted according to these regulations and 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure) to the extent not specifically superseded by these regulations.

The Department proposes to amend § 125.7 (relating to permit) to clarify the nature and applicability of the automatic extension of an existing permit, providing safeguards for renewal applicants where the Bureau fails to issue an initial decision on a renewal application before the permit's expiration, or where a renewal applicant is in the process of timely satisfying conditions set forth in the Bureau's decision at the time an existing permit is set to expire.

The Department proposes to rescind § 125.8 (relating to denial of renewal application) because it currently contains information that is duplicated in § 125.6.

The Department proposes to amend § 125.9 (relating to security requirements) to clarify existing language and to replace the use of the outdated security constant with the new term, minimum security amount. The Department will also modify the requirements relating to the forms of acceptable security, the procedures for posting and replacing security and the methods for calculating security amounts. The Department also proposes to add requirements for stand-by arrangements with claims service companies in the event of a default.

The Department proposes to amend § 125.9(b)(3) to delete Alaska and Hawaii as states in which a bank's branch office may issue a securing letter of credit to the Bureau, because time zone differences hamper the Bureau's ability to promptly draw down a letter of credit with a bank located in these states. The Department proposes to amend § 125.9(b)(3)(iii) to require a trustee of a letter of credit trust to obtain a Commonwealth of Pennsylvania Nonprocurement registration number to facilitate the transfer of the proceeds of a letter of credit from the Commonwealth to a trustee, and to allow the Bureau to draw down on a letter of credit and use the proceeds to finance the maintenance of a letter of credit trust arrangement should a self-insurer fail to do so. The Department proposes to amend the various methods for calculating the required amount of security for private employers under § 125.9(d) to set forth in detail the factors for calculating security depending upon the status and duration of the private employer's self-insurance program.

The Department also proposes to add a specific security discount table in § 125.9(l), based on the self-insurer's investment grade long-term credit or debt rating, if any, pursuant to which all security amounts calculated under subsection (d) may be discounted. The Department further proposes to replace the language in § 125.9(f) permitting present value discounting of liability projected in an actuary's report, which may result in an inadequate security amount, with language allowing the Bureau to use the overall experience of all self-insurers or of self-insurers in the self-insurer's industry in its selection of loss development factors under certain circumstances.

The Department also proposes to amend § 125.9(g) to clarify that the Bureau may make adjustments and use alternative methods other than loss development for calculating a self-insurer's required security amount in certain situations, and to amend § 125.9(j) to allow for a phase-in of any increased security requirements under subsection (d) over a period of up to 2 years. It also amends § 125.9(k) to specify the circumstances under which the Bureau may release a runoff self-insurer of the obligation to provide security.

The Department proposes to amend § 125.10 (relating to funding by public employers) to focus on short-term solvency rather than long-term reserves by requiring public employers to maintain sufficient dedicated cash reserves to meet payments over the next year for benefits and expenses in order to self-insure. The Department proposes to amend § 125.10(a) to provide that a public employer must maintain a dedicated asset account, which no longer needs to be a trust fund, and include the Commonwealth but not certain runoff self-insurer public employers who do not meet the threshold for average annual payout of benefits on self-insurance claims. The Department proposes to delete the current language in § 125.10(b) and (c) regarding long-term reserves and to add new subsections (b) through (e) which set forth in detail the various methods and factors for calculating the required asset level of a public employer's dedicated asset account depending upon the status and duration of the public employer's self-insurance program.

The Department proposes to amend § 125.11 (relating to excess insurance) to replace the current requirements and limits of excess insurance with new language addressing excess insurance in terms of adequate financial capacity and the coverage of a possible catastrophic loss. Under § 125.11(a), the Department proposes to add the requirement that, where excess insurance is required to demonstrate adequate financial capacity, the applicant's retention amount must at least equal its authorized retention amount and the applicant's liability limit of its insurance must be in an amount acceptable to the Bureau to cover adequately a catastrophic loss. The Department proposes to delete existing requirements for aggregate excess insurance found in § 125.11(b), as these requirements are no longer necessary. The Department also proposes to delete existing language in § 125.11(c)(1), because it currently contains information that is duplicated in the definitions of "excess indemnity insurance" and "workers' compensation excess insurance."

The Department proposes to amend § 125.12 (relating to payment, handling and adjusting of claims) to require self-insurers to notify the Bureau when they change claims handling or adjusting arrangements, whether self-administered or administered by a registered claims services company. The insurers will also have to provide a summary of the self-insurer's claims data to the Bureau, upon request, to explain discrepancies or problems that may arise due to the change in claims handling responsibilities.

The Department proposes to amend § 125.13 (relating to special funds assessments) to include the Uninsured Employers Guaranty Fund as one of the listed special funds for which a self-insurer is liable to pay assessments. That fund was newly established in sections 1601—1608 of the act (77 P. S. §§ 2701—2708) by Act 147 of 2006, which was signed into law on November 9, 2006. The Department also proposes to allow the Bureau to require a self-insurer to retain the services of its certified

public accountant to resolve questions about the accuracy of annual compensation payments reported by the self-insurer.

The Department proposes to amend § 125.15 (relating to workers' compensation liability) to clarify existing language, including specific reference to self-insurance loss portfolio transfer policies.

The Department proposes to amend § 125.16 (relating to reporting by runoff self-insurer) to clarify existing language regarding the timing, format and contents of the runoff report, and to specify the procedure for a runoff self-insurer to request adjustment of its security amount.

The Department proposes to amend § 125.17 (relating to claims service companies) to set forth the continuing obligation of claims service companies to assist the self-insurer and the Bureau in providing data and information on the self-insurer's claims serviced by that company.

The Department proposes to amend § 125.19 (relating to additional powers of Bureau and orders to show cause) to explain the procedures by which the Bureau may address changes in the financial condition of active self-insurers and violations of the act and this subchapter. The Department proposes to add subsection (a) to set forth procedures whereby the Bureau may review the qualifications for self-insurance, and revoke an existing permit, where necessary, for active self-insurers whose financial condition declines before the expiration of an existing permit. Under paragraph (1), the Bureau will issue a letter to the self-insurer outlining its concerns. The Department further proposes to add specific language pertaining to the Bureau's ability to suspend or revoke a permit following the issuance of an order to show cause, which will proceed in the manner set forth in the order to show cause provisions contained within Chapter 121 (relating to general provisions), when a self-insurer unreasonably fails to pay compensation for which it is liable or fails to submit any report or pay any assessment made under the act.

The Department proposes to amend § 125.20 (relating to computation of time) to adjust the manner in which a period of time will be computed under this chapter to be consistent with the time computation provisions under Chapter 121.

The Department proposes to add § 125.21 (relating to self-insurance loss portfolio transfer policy) to establish procedures and guidelines for the transfer of a self-insurer's workers' compensation liability to an insurance carrier through the use of a self-insurance loss portfolio transfer policy.

#### *Affected Persons*

Active self-insurers, runoff self-insurers and employers applying for self-insurance in the future will all be affected by this proposed rulemaking in various degrees. The procedural amendments will affect all categories of self-insurers and applicants for self-insurance. A number of the substantive amendments, including those relating to loss development calculations and security discounts, will affect existing private sector self-insurers. New and existing public sector self-insurers also will be affected by the amendments to funding requirements. Self-insurance claims services companies, sureties and trustees will also be impacted by this proposed rulemaking.

#### *Fiscal Impact*

Private employer applicants with a strong financial rating will likely see no significant, direct impact to their overall costs from the current regulations. These appli-

cants could possibly experience reduced costs, due to the greater security discounts proposed for employers having strong financial ratings. Private employer applicants with lesser financial ratings, however, could experience some increase in costs as a result of the changes to security and excess insurance requirements.

The vast majority of public sector applicants would realize substantially reduced funding requirements under the proposed regulations. The Bureau estimates that required funding amounts would decline by an average of 49% under the proposed regulations for 35 of the 55 public self-insurers. Of the remaining 20, eight public employers with existing funding requirements would be required to increase their workers' compensation funding by an average of 77%, amortized over a 6-year period. Another eight public employers who do not have funding requirements under the existing regulations would have such requirements under the proposal. However, these employers would experience no practical change since they voluntarily maintain funding accounts that meet or exceed the proposed funding requirements. Four additional public employers who do not currently fund any of their outstanding liability would have to make annual deposits into dedicated accounts of up to 5% of their prior year's payment of compensation for up to 6 years.

Some additional costs resulting from the requirement that the trustee maintain a standby arrangement with a claims service company are likely for those posting a letter of credit as security. Those costs would vary, but could be as much as a few thousand dollars.

Some one-time additional costs associated with the implementation of the proposed amendments are likely for the Bureau. The costs, which will not be substantial, would mostly result from the reprogramming of the computer system used to monitor self-insurers and to decide applications.

#### *Reporting, Recordkeeping and Paperwork Requirements*

The major reporting, recordkeeping and paperwork requirements resulting from these proposed amendments are as follows:

- An active or runoff self-insurer is required to annually file, in electronic format prescribed by the Bureau, a listing of its open and closed claims incurred after the effective date of these amendments.
- An active or runoff self-insurer may be required to file with the Bureau summary data on its claims when it changes claims handling arrangements.
- A security or letter of credit trustee is required to show that it maintains a standby arrangement with a claims services company.

#### *Effective Date*

These proposed amendments will take effect when published as final-form regulations in the *Pennsylvania Bulletin*.

#### *Sunset Date*

No sunset date is necessary for the proposed regulatory amendments. The regulations are continuously monitored by the Workers' Compensation Advisory Council and by the Bureau in the day-to-day handling and processing of individual self-insurance applications. If needed, corrections can be initiated based on information obtained by these operations.

#### *Public Comment and Contact Person*

Interested persons may submit written comments to the proposed rulemaking to George Knehr, Chief, Self-Insurance Division, Bureau of Workers' Compensation, Department of Labor and Industry, Chapter 125 Regulations—Comments, P. O. Box 15121, Harrisburg, PA 17105 or gknehr@state.pa.us. Written comments must be received within 30 days of the publication of this proposed rulemaking in the *Pennsylvania Bulletin*.

#### *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on April 20, 2009, the Department submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the Senate Committee on Labor and Industry and the House Labor Relations 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 must specify the regulatory review criteria which have not been met. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Department, the General Assembly and the Governor of comments, recommendations or objections raised.

SANDI VITO,  
*Secretary*

**Fiscal Note:** 12-85. No fiscal impact; (8) recommends adoption.

#### **Annex A**

#### **TITLE 34. LABOR AND INDUSTRY**

#### **PART VIII. BUREAU OF WORKERS' COMPENSATION**

#### **CHAPTER 125. WORKERS' COMPENSATION SELF-INSURANCE**

#### **Subchapter A. INDIVIDUAL SELF-INSURANCE.**

#### **§ 125.1. Purpose.**

This subchapter is promulgated under section 435 of the act (77 P. S. § 991) to provide regulatory guidelines for the uniform and orderly administration of self-insurance for individual employers. This subchapter ensures full payment of compensation when due to [ **employees** ] **employees** of self-insured employers and to their dependents under the act and the Occupational Disease Act.

#### **§ 125.2. Definitions.**

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

*Act*—The Workers' Compensation Act (77 P. S. §§ 1—[ **1038.2** ] **1041.4, 2501—2506 and 2701—2708**).

*Active self-insurer*—A self-insurer that is not a runoff self-insurer.

\* \* \* \* \*

*Adequate accident and illness prevention program*—A determination by the Bureau under Chapter 129 (relating to workers' compensation health and safety) that an applicant's accident and illness

prevention services fulfill the program and service requirements as stated in that chapter.

\* \* \* \* \*

*Aggregate excess insurance*—Insurance under which [ provides that ] the [ excess ] insurer pays on behalf of or reimburses a self-insurer for its payment of benefits on claims incurred during a policy period in excess of the retention amount to the [ excess ] insurer's [ limit of ] liability limit and that meets the requirements of § 125.11(b) (relating to excess insurance).

\* \* \* \* \*

*Authorized retention amount*—A retention amount that is equal to or is less than a self-insurer's maximum quick assets exposure amount or the current standard retention amount, whichever is less, or the special retention amount approved by the Bureau.

\* \* \* \* \*

*Cash flow protection amount*—The maximum amount of benefits a self-insurer pays over a 2-year period on an occurrence without reimbursement from [ an excess ] a nonworkers' compensation insurer or a workers' compensation insurer under a specific excess insurance policy with a per year per occurrence cash protection plan.

*Catastrophic loss estimation*—The greater of the following:

(i) The largest number of employees usually working at one time at the largest location in this Commonwealth in terms of the applicant's employment, or the employment of any of its affiliates or subsidiaries under a consolidated permit under § 125.4 (relating to application for affiliates and subsidiaries), multiplied by the current Statewide average weekly wage multiplied by 500.

(ii) The current Statewide average weekly wage multiplied by 5,000.

\* \* \* \* \*

*Default multiplier*—A multiplier calculated by the Bureau, and published annually in the *Pennsylvania Bulletin*, based upon the Bureau's analysis of the total costs and expenses to liquidate defaulted self-insurers' claims compared to those self-insurers' average annual benefits payments in years preceding the defaults, as derived from the experience of the Self-Insurance Guaranty Fund and of sureties and others paying the claims of defaulted self-insurers.

*Default multiplier-calculated security factor*—The self-insurer's average annual payout of benefits, net of workers' compensation excess insurance recoveries, over the last 3 completed calendar years multiplied by the default multiplier.

\* \* \* \* \*

*Excess indemnity insurance*—Aggregate excess insurance or specific excess insurance that does not meet the definition of workers' compensation excess insurance but that is provided by a workers' compensation insurer or a nonworkers' compensation insurer that possesses an A.M. Best rating of A- or better or a Standard & Poor's insurer financial strength rating of A or better or a comparable rating of another NRSRO.

[ *Excess insurer*—An insurance company authorized to transact the class of insurance listed in section 202(c)(14) of The Insurance Company Law of 1921 (40 P. S. § 382(c)(14)). ]

*Excess insurance*—Excess indemnity insurance or workers' compensation excess insurance.

*Financial ability to self-insure*—Possession of adequate financial capacity and adequate financial health, as specified in § 125.6(a) (relating to decision on application).

\* \* \* \* \*

*Investment grade long-term credit or debt rating*—A long-term credit or debt rating identified as investment grade by the NRSRO that issued it.

*Liability limit*—The maximum amount of benefits for which a nonworkers' compensation insurer or a workers' compensation insurer indemnifies a self-insurer under an excess insurance policy.

*Long-term credit or debt rating*—A measurement by a NRSRO of an applicant's willingness and intrinsic capacity to meet its long-term financial commitments as the commitments become due, exclusive of the effects of any guaranties, insurance or other forms of credit enhancements or legal priorities on any of the applicant's financial obligations.

\* \* \* \* \*

*Maximum quick assets exposure amount*—Five percent of an applicant's average year-end quick assets amount for its last 2 completed fiscal years.

*Minimum funding amount*—The lower of the following:

(i) The current Statewide average weekly wage multiplied by 1,000.

(ii) The retention amount of the applicant's current or any proposed excess insurance, if applicable.

*Minimum security amount*—The lower of the following:

(i) The current Statewide average weekly wage multiplied by 1,000.

(ii) The retention amount of the applicant's current or any proposed excess insurance, if applicable.

*NRSRO*—A designated Nationally-recognized statistical rating organization of the United States Securities and Exchange Commission or its successor.

*Nonprocurement registration number*—An identification number issued by the Commonwealth, Department of General Services, Central Management Vendor Unit, to entities who may receive payments from the Commonwealth that are not associated with a contract or purchase order.

*Nonworkers' compensation insurer*—An insurance company authorized to transact any class of insurance under the Insurance Company Law of 1921 (40 P. S. §§ 341—991.2361) other than the insurance under section 202(c)(14) (40 P. S. § 382(c)(14)), or an insurance company designated as an eligible surplus lines insurer as defined in section 1602 (40 P. S. § 991.1602).



\* \* \* \* \*

\* \* \* \* \*

**Quick assets**—The sum of an applicant's cash, cash equivalents, current receivables and marketable securities or, if the applicant is a public employer who uses fund accounting, the total of the applicant's general fund assets.

**Retention amount**—

(i) The maximum amount of benefits a self-insurer pays without reimbursement from the [excess] non-workers' compensation insurer or the workers' compensation insurer under an aggregate excess insurance policy or under a specific excess insurance policy which does not include an annual cash flow protection plan.

(ii) The term also includes the lower of the maximum amount of benefits a self-insurer pays on each occurrence without reimbursement from the excess insurer[, if any,] or the cash flow protection amount under a specific excess insurance policy which includes an annual cash flow protection plan.

\* \* \* \* \*

[ **Security constant**—The Statewide average weekly wage multiplied by 300. ]

**Self-insurance**—The privilege granted to an employer which has been exempted by the Bureau from insuring its liability under section 305(a) of the act (77 P. S. § 501(a)) and section 305 of the Occupational Disease Act (77 P. S. § 1405).

**Self-insurance loss portfolio transfer policy**—A policy of insurance accepted by the Bureau as meeting the requirements of § 125.21 (relating to self-insurance loss portfolio transfer policy) under which a self-insurer transfers liability incurred as a self-insurer to a workers' compensation insurer.

\* \* \* \* \*

**Special retention amount**—A retention amount that exceeds the applicant's maximum quick assets exposure amount or the standard retention amount requested by the applicant and approved by the Bureau based on a determination that the applicant has sufficient quick assets to easily liquidate all losses from a catastrophic event at the requested greater retention amount. For an applicant whose self-insurance status began before \_\_\_\_\_ (Editor's Note: The blank refers to the effective date of adoption of this proposed rulemaking.), this may also be based on a determination that the requested retention amount is less than or is approximately equal to the retention amount of the applicant's excess insurance in effect on \_\_\_\_\_ (Editor's Note: The blank refers to the effective date of adoption of this proposed rulemaking.).

**Specific excess insurance**—Insurance under which [provides that] the [excess] insurer pays on behalf of or reimburses a self-insurer for its payment of benefits on each occurrence in excess of the retention amount to the [excess] insurer's [limit of] liability limit and that meets the requirements of § 125.11(b) (relating to excess insurance).

**Standard retention amount**—The retention amount generally required for a self-insurer's excess insurance published annually by the Bureau in the *Pennsylvania Bulletin* that is based on a retention amount commonly used by current self-insurers and determined appropriate by the Bureau.

**Workers' compensation excess insurance**—Aggregate excess insurance or specific excess insurance provided by a workers' compensation insurer that includes the premium collected for the insurance in data used by the Workers' Compensation Security Fund set forth in the Workers' Compensation Security Fund Act (77 P. S. §§ 1051–1066) to calculate assessments against workers' compensation insurers to finance the operations of that fund.

**Workers' compensation excess insurance recoveries**—Payments made to a self-insurer under a policy of workers' compensation excess insurance or payments receivable under a policy of workers' compensation excess insurance in the future that the insurer has agreed in writing that it is liable to pay.

**Workers' compensation insurer**—An insurance company authorized to transact the class of insurance listed in section 202(c)(14) of The Insurance Company Law of 1921.

### § 125.3. Application.

(a) An applicant shall file an application on a form prescribed by the Bureau. [Questions] All questions on the application shall be answered [thoroughly and] completely and accurately with the most recent information available. A rider may be attached if more space is necessary. The application shall be signed by the applicant, or if a corporation, an officer of the corporation[, and attested to]. The application, including any attached riders and applicable forms, shall be verified as set forth on the application[. Attached riders and applicable forms enclosed with the application shall be verified to in the sworn affidavit requested on the application], subject to the penalties of 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities).

(b) Initial applications shall be filed with the Bureau no later than 3 months prior to the requested effective date of self-insurance. Renewal applications shall be filed with the Bureau no later than [2] 3 months prior to the expiration of the current permit.

(c) With the application, the applicant shall include:

(1) The nonrefundable statutory fee in the amount of \$500 for initial applicants or \$100 for renewal applicants required [by] under section 305(a) of the act (77 P. S. § 501(a)), payable to the "Commonwealth of Pennsylvania." A statutory fee is required in the amount of \$500 [for initial applicants or \$100 for renewal applicants is required] for each affiliate or subsidiary [included] being initially added or in the amount of \$100 for each affiliate or subsidiary renewing under a consolidated application under § 125.4 (relating to application for affiliates and subsidiaries).

(2) Its [Security] Securities and Exchange Commission (SEC) Form 10-K for the last complete fiscal year, if applicable. The SEC Form 10-K does not serve as a substitute for the full completion of the application form.

(3) Its latest audit report issued by a licensed certified public accountant or accounting firm. The report [shall] must cover the last complete fiscal-year period immediately prior to the date of application. If the most current audited period precedes the application date by more than 6 months, the applicant's latest SEC Form 10-Q or

unaudited interim financial statements [ **shall** ] **must** be submitted. The audit report [ **shall meet the following criteria** ] **must include the following**:

(i) [ **It shall include financial** ] **Financial** statements which are presented in conformance with applicable generally accepted accounting principles as promulgated by the Financial Accounting Standards Board or the Government Accounting Standards Board or with international [ **accounting** ] **financial reporting** standards promulgated by the International Accounting Standards Board. **The monetary values presented in the financial statements must be in United States dollars and the text of the financial statements and their accompanying notes must be in the English language. If the applicant is a parent company, consolidated financial statements of the applicant and its subsidiaries shall be provided.**

(ii) [ **It shall state** ] **A statement that the audit [ meets the reporting requirements defined either in the applicable ] was conducted in accordance with generally accepted auditing standards [ promulgated by the AICPA or the applicable generally accepted governmental auditing standards promulgated by the Comptroller General of the United States in "Government Auditing Standards," referred to as the Yellow Book ] in the United States or in accordance with the standards of the Public Company Accounting Oversight Board (United States) or the International Standards on Auditing. An unqualified or qualified opinion shall be stated on the most recent audited financial statements.**

(4) **Audit reports covering the applicant's second and third most recent complete fiscal-year periods prior to the date of the application, if an initial application. If audit reports covering those periods are not available, financial statements reviewed by a certified public accountant in accordance with standards established by the [ AICPA ] American Institute of Certified Public Accountants covering the second and third most recent complete fiscal year periods will be accepted.**

(5) **A report of the [ applicant's ] paid and incurred workers' compensation loss experience in this Commonwealth under each of the 3 complete policy years prior to the application of each employer requesting self-insurance, if an initial application. [ Affiliates' paid and incurred workers' compensation loss experience shall be submitted if applicable. ] The loss information for each policy year shall be valued within 3 months prior to the date of the submission of the application.**

(6) **A report on a form prescribed by the Bureau stating the costs of claims incurred by [ the applicant ] each employer requesting self-insurance by annual periods and projecting the total value of its outstanding liability under the act and the Occupational Disease Act, if a renewal application. [ Applicants are encouraged, but not required, to have their projection of outstanding liability prepared by an actuary ] **A renewal applicant that has retained the services of an actuary to project the total value of its outstanding liability may submit the actuary's report with its application.****

(7) **A report for each employer requesting self-insurance on a form prescribed by the Bureau summa-**

**rizing the existence of the accident and illness prevention program required under section 1001(b) of the act (77 P. S. § 1038.1) and regulations promulgated thereunder[ , if a renewal applicant ] .**

(8) [ **At the direction of the Bureau, an applicant's annual summaries of occupational injuries and illnesses, OSHA No. 200, if the applicant is required to keep Occupational Safety and Health Administration records. ] **A listing for each employer requesting self-insurance, in a Bureau-prescribed electronic format, of the employer's Pennsylvania workers' compensation claims incurred as a self-insurer, including claims currently in litigation, and information such as payments and reserves on each claim. The listing must include:****

- (i) **All opens claims at the time of submission.**
- (ii) **All claims closed in the past if these claims are available. If a listing of all claims closed in the past is not available, the listing must at least include all claims closed on or after \_\_\_\_\_ (Editor's Note: The blank refers to the effective date of adoption of this proposed rulemaking.)**
- (iii) **Case reserves provided in the listing must be established according to instructions prescribed by the Bureau.**

(9) **Written verification of the applicant's current long-term credit or debt ratings, if any.**

(d) **The applicant shall provide additional data [ and ], information and explanation that the Bureau deems pertinent to its review of the application based on the factors enumerated under § 125.6(a) (relating to decision on application), and shall make any corrections determined necessary by the Bureau, and provide any items under subsection (c) determined missing or insufficient by the Bureau. The applicant shall provide the data [ and ], information, explanation, corrections or missing items within the time period prescribed by the Bureau[ , which will be reasonable based on the extent and availability of the data and information required ]. If the applicant does not provide the data, information, explanation, corrections or missing items within the time period prescribed in writing by the Bureau, the application will be deemed withdrawn. A renewal applicant that does not provide the data, information, explanation, corrections or missing items within the time period prescribed in writing by the Bureau shall obtain workers' compensation insurance coverage effective the expiration of that time period and shall provide evidence of the coverage to the Bureau no later than the coverage's effective date.**

(e) **The Bureau will not [ begin its review of ] issue a decision on the application under § 125.6 (relating to decision on application) until the application [ and the required supporting materials as outlined in this section ], including all items required under subsection (c) and all additional data, information, explanation and corrections under subsection (d), have been submitted.**

\* \* \* \* \*

**§ 125.4. Application for affiliates and subsidiaries.**

(a) **An affiliate or subsidiary may be included under an application submitted by another affiliate or its parent**

company [if the parent company or affiliate is incorporated under the laws of a state of the United States] by providing information and data on the affiliate or subsidiary on a form prescribed by the Bureau. The related entities will be included under one consolidated permit if the application is approved. A written request shall be made [on a form prescribed by the Bureau] by the applicant to [add or] delete an affiliate or a subsidiary [to or] from a consolidated permit after its issuance.

\* \* \* \* \*

(d) If an affiliate or subsidiary not included under a consolidated application as outlined in subsection (a) wishes to self-insure, it shall submit an application in its own name and provide its own audit reports in the manner indicated in § 125.3 (relating to application). The Bureau may require the parent company to furnish appropriate financial information within a [reasonable] time [according to the extent and nature of the requested information] period prescribed by the Bureau.

(e) If the applicant is a direct or indirect subsidiary of a parent company that is not incorporated or organized under the laws of a state of the United States, the applicant may submit its parent company's consolidated audit report and an unaudited consolidated balance sheet of the applicant's financial condition, or other financial information on the applicant that the Bureau deems pertinent to its review of the application, to satisfy the financial reporting requirements of § 125.3(c), provided the parent company's audit report complies with the § 125.3(c)(3)(i) and (ii).

#### § 125.5. [Minimum] Preliminary requirements.

(a) An [initial] applicant [must] shall have been in business for at least 3 consecutive years prior to application.

(b) [A private employer applicant shall demonstrate that 10% of its quick assets or 20% of its cash and cash equivalents at the end of 2 of the last 3 fiscal-year periods exceed a proposed cash flow protection amount or the proposed retention amount of its aggregate excess or specific excess insurance, whichever is less] An applicant shall be incorporated or organized under the laws of a state of the United States.

(c) [A public employer applicant shall demonstrate that 10% of its general fund quick assets at the end of 2 of the last 3 fiscal-year periods exceed a proposed cash flow protection amount or the proposed retention amount of its aggregate excess or specific excess insurance, whichever is less] Each employer requesting self-insurance shall have an adequate accident and illness prevention program.

[(d) Subsections (b) and (c) do not apply to applicants which are not required to obtain specific excess insurance under § 125.11 (relating to specific excess insurance and aggregate excess insurance) nor to applicants which are self-insured prior to October 14, 1995.]

#### § 125.6. Decision on application.

(a) The application of an applicant which meets the requirements of § 125.5 (relating to [minimum] preliminary requirements) will be approved if the Bureau determines that the applicant has demonstrated[, with reasonable certainty, the ability to meet all obligations under the act and the Occupational Disease Act] that it possesses the financial ability to self-insure.

(1) An applicant shall demonstrate that it has adequate financial capacity by showing one of the following:

(i) The retention amount of the applicant's current or proposed excess insurance equals or is less than its authorized retention amount.

(ii) The applicant's catastrophic loss estimation is equal to or is less than its maximum quick assets exposure amount.

(2) An applicant shall demonstrate that it has adequate financial health, as follows:

(i) If a public employer, the applicant satisfies or will satisfy the requirements established for it under § 125.10 (relating to funding by public employers).

(ii) If a private employer, the applicant's level of financial stability, solvency and liquidity is such that it satisfies one of the following:

(A) The applicant possesses an investment-grade long-term credit or debt rating, or such a rating that is one generic rating classification below investment grade.

(B) For applicants who do not receive a long-term credit or debit rating by an NRSRO, the Bureau estimates that the applicant would merit an investment grade long-term credit or debt rating, or a rating that is one generic rating classification below investment grade, if it were rated.

(C) An applicant that was approved to self-insure as of \_\_\_\_\_ (*Editor's Note: The blank refers to the effective date of adoption of this proposed rule-making.*) that possesses an actual or Bureau-estimated long-term credit or debt rating more than one generic rating classification below investment grade shall be deemed to possess adequate financial health if its generic rating does not decline further. This exception will no longer apply if the applicant's actual or Bureau-estimated long-term credit or debt rating increases to one generic rating classification below investment grade or higher.

(b) The Bureau will [include] consider the following [factors] information in assessing an applicant's financial ability to [meet those obligations] self-insure:

(1) The [audit opinion required under § 125.3(c)(3) (relating to application).] applicant's level of financial health based upon its long-term credit or debt rating, if any, or upon an evaluation by the Bureau of one or more of the following:

(i) The applicant's financial statements, which may include comparisons of the applicant's financial ratios to general or to industry ratios and cash flow analysis.

(ii) Public documents and reports filed with other state and Federal agencies including the United States Securities and Exchange Commission.

(iii) Other financial analysis information provided to or considered by the Bureau.

(2) The [length of time that the applicant has been doing business under its present corporate identity] amount of the applicant's quick assets at the end of its last 2 completed fiscal years as shown on the audited financial statements provided to the Bureau under § 125.3 (relating to application).

(3) The [applicant's overall solvency, identified as its ability to meet its financial obligations as they come due] terms, conditions and limits of the applicant's existing or proposed excess insurance.

(4) [The applicant's organizational structure and management background.] For a public employer, its ability to satisfy or its past history in satisfying the requirements established under § 125.10.

[ (5) The nature of the applicant's operations and its industry.

(6) Financial analysis appropriate for the particular applicant, including for example, industry ratio and cash flow analyses.

(7) The applicant's debt ratings from National financial rating agencies, if any.

(8) The applicant's workers' compensation loss history and insurance history.

(9) The applicant's potential financial workers' compensation obligations, including average expected claims and maximum possible loss as limited by the excess insurance coverage obtained by the applicant, if any.

(10) The applicant's claims administration history and compliance with the act, the Occupational Disease Act and this part.

(11) The existence and adequacy of the applicant's accident and illness prevention program required under section 1001(b) of the act (77 P. S. § 1038.1(b)) and regulations thereunder.

(b) (c) If the [Bureau's assessment] Bureau finds under subsection (a) [is] that the applicant [can meet its obligations] possesses the financial ability to self-insure, it will send to the applicant [a preliminary approval notice of] an initial decision approving the application and a list of conditions as set forth under subsection [ (d) ](c)(2) that [shall] must be met before the applicant will be issued a permit. The Bureau [may] will issue a permit to a renewal applicant [subject to] at the time of the initial decision when the renewal applicant [complying] is currently in compliance with the conditions set forth by the Bureau.

[ (c) ] (1) An applicant has [ 60 ] 45 days from the receipt of the [ preliminary approval notice ] initial decision approving the application to comply with the conditions set forth by the Bureau.

(i) The applicant may toll the [ 60 ] 45-day compliance period by filing a request for a conference or notifica-

tion of its intent to submit additional written information under subsection [ (f) ] (e).

(ii) An applicant may be granted a 30-day extension to meet the conditions if the applicant requests an extension in writing [ to the ]. The Bureau must receive the extension request within the initial [ 60 ] 45-day compliance period.

(iii) [The application of an] Unless a timely reconsideration is initiated under subsection (e), when the applicant [which] does not meet the conditions within this compliance period, the application will be deemed [ withdrawn ] denied.

(iv) A renewal applicant that does not meet the conditions within this compliance period and that has not timely initiated the procedures outlined in subsection (e) shall obtain workers' compensation insurance coverage effective the expiration date of the compliance period and provide evidence of the coverage to the Bureau no later than the coverage's effective date.

[ (d) ] (2) The applicant will be issued a permit [which is effective no sooner than 15 days] after all of the following [has] have been filed with the Bureau:

[ (1) ] (i) Security in an amount as set forth in § 125.9 (relating to security requirements) or funding as set forth in § 125.10 [relating to funding by public employers].

[ (2) ] (ii) A certificate providing evidence [of] that the applicant has obtained excess insurance [as required by the Bureau] coverage with limits set forth under § 125.11(a) (relating to excess insurance), if required.

[ (3) ] (iii) A guarantee agreement executed by its parent company or an affiliate as set forth in § 125.4 (relating to application for affiliates and subsidiaries), if required.

(iv) Contact information on the claims services company or in-house staff that will be handling the applicant's claims.

[ (4) ] (v) Documents relating to any other requirement set by the Bureau to protect the compensation rights of [employees] employees.

[ (e) ] (d) If an applicant does not meet the requirements of § 125.5 or if upon review [of the pertinent data] under subsection (a) the Bureau finds that the applicant has not demonstrated [its ability to meet its obligations, it will] that it possesses the financial ability to self-insure, [it will] the Bureau will send to the applicant [a preliminary denial notice of] an initial decision denying the application. The [notice] initial decision will state the documents, [evidence and other data] data, information, explanation and corrections received from the applicant or otherwise reviewed or considered by the Bureau in rendering its [preliminary determination] initial decision. A renewal applicant shall obtain workers' compensation insurance coverage effective no later than 30 days after its receipt of an initial decision denying the renewal application and shall provide evidence of the coverage to the Bureau no later

than the coverage's effective date, unless the applicant has timely initiated the procedures outlined in subsection (e).

(e) The applicant may request a conference with the Bureau to submit additional materials to support its application or the alteration of the conditions required in the initial decision, or to challenge the accuracy of underlying calculations made or data considered by the Bureau in its decision or conditions. The applicant may also notify the Bureau of its intention to submit these materials directly in writing without a conference. The Bureau must receive a request or notification within 20 days of the date of the Bureau's initial decision.

(1) Upon its receipt of the request or notification, the Bureau will schedule a conference. If a conference is not requested, the Bureau will establish a deadline, not to exceed 30 days from the Bureau's date of receipt of the notification, for the submission of the additional materials.

(2) The prior permit of a renewal applicant that has filed a timely request for a conference or notification of intent to submit additional materials will be automatically extended under the prior conditions established by the Bureau beyond the permit's original expiration date until the Bureau issues a reconsideration decision on the renewal application under subsection (f).

(f) [ The applicant may request a conference with the Bureau upon receipt of the Bureau's preliminary approval notice or denial notice. A conference request shall be made in writing within 20 days after the receipt of the preliminary notice. At the conference, the applicant may present additional evidence or data to support its application or the alteration of the conditions required in the preliminary approval notice. The applicant may present that information to the Bureau in writing, or in person, or both ] After a conference or the receipt of additional materials, the Chief of the Self-Insurance Division of the Bureau will review the entire record of the application and will issue a reconsideration decision on the application.

(1) The applicant shall have 30 days from its receipt of a reconsideration decision approving an application to comply with any conditions set forth by the Bureau in that decision.

(i) Unless a timely appeal is filed under subsection (g), when the applicant does not meet the conditions within this 30-day period, the application will be deemed denied.

(ii) A renewal applicant that does not meet the conditions within this 30-day period shall obtain workers' compensation insurance coverage effective the expiration of the compliance period and shall provide evidence of the coverage to the Bureau no later than the coverage's effective date, unless the applicant has timely initiated the procedures outlined in subsection (g).

(2) Upon the issuance of a reconsideration decision denying a renewal application, the renewal applicant shall obtain workers' compensation insurance coverage effective no later than 30 days after its receipt of the reconsideration decision and shall provide evidence of the coverage to the Bureau no

later than the coverage's effective date unless the applicant has timely initiated the procedures outlined in subsection (g).

(g) [ After a conference and the receipt of written submissions, the Chief of the Self-Insurance Division of the Bureau will promptly review the entire record of the application and will issue a reconsideration decision on the application.

(h) ] An applicant shall have the right to appeal a reconsideration decision issued under subsection [ (g) with the ] (f). The Bureau must receive the appeal within 30 days of the [ receipt ] date of the reconsideration decision. The prior permit of a renewal applicant that filed a timely appeal shall be automatically extended under the prior conditions established by the Bureau beyond the permit's original expiration date, until a presiding officer issues a written decision on the appeal. Untimely appeals will be dismissed without further action by the Bureau.

(1) The Director of the Bureau will assign the appeal to a [ hearing ] presiding officer who will schedule a [ de novo ] hearing on the appeal from the [ initial ] reconsideration decision. [ The applicant will receive reasonable ] The presiding officer will provide notice to the parties of the hearing date, time and place.

(2) The hearing will be conducted [ in a manner to provide the applicant and the Bureau the opportunity to be heard. The hearing officer will not be bound by strict rules of evidence. Relevant evidence of reasonably probative value may be received into evidence. Reasonable examination and cross-examination of witnesses will be permitted ] under this subsection and 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure) to the extent not superseded in paragraph (6). The presiding officer will not be bound by strict rules of evidence.

(3) [ Testimony will be recorded and a full record kept of the proceedings. The Bureau and the applicant will be provided the opportunity to submit briefs addressing issues raised ] Hearings will be stenographically recorded. The transcript of the proceedings will be part of the record.

(4) [ Following the close of the record, the hearing officer will promptly issue a written decision and order. The decision will include relevant findings and conclusions, and state the rationale for the decision. The decision will be served upon the applicant, the Bureau and counsel of record. The decision will include a notification to the applicant and the Bureau of further appeal rights to Commonwealth Court ] The presiding officer will issue a written decision and order under 1 Pa. Code Chapter 35, Subchapters G and H (relating to proposed reports; and agency action) to the extent not superseded in paragraph (6). The presiding officer will determine whether the Bureau abused its discretion or acted arbitrarily under this subchapter in the reconsideration decision. The applicant has the burden to prove that the Bureau abused its discretion or acted arbitrarily in the reconsideration decision.

(5) **[The applicant or the Bureau,]** A party aggrieved by a decision rendered **[on an appeal]** by the presiding officer, may **[file a further]** appeal the decision to Commonwealth Court.

**(6) This subsection supersedes 1 Pa. Code §§ 35.131, 35.190, 35.201, 35.211—35.214 and 35.221.**

**[(i)] (h)** An applicant which has been denied self-insurance may reapply after an annual audit report is published subsequent to the latest one submitted with the denied application.

**§ 125.7. Permit.**

(a) A permit is issued for 1 year, except that the Bureau may shorten or extend the effective period of a permit by not more than 6 months to facilitate the filing of timely audit reports with the next renewal application.

(b) If the Bureau fails to issue **[a] an initial** decision with respect to a renewal application **under § 125.6 (relating to decision on application)** prior to the expiration of the permit for the prior year, the prior permit **[shall]** will be automatically extended **under the prior conditions established by the Bureau beyond the permit's original expiration date**, until a **[final]** decision on the renewal application is **[made]** issued by the Bureau. This automatic extension applies only in cases **[where]** when the renewal application has been timely filed under § 125.3 (relating to application) **and the applicant has submitted or is submitting all data, information, explanation, corrections and missing items, or has corrected or is correcting inaccurate data, within the time period prescribed in writing by the Bureau.**

(c) If a renewal applicant's permit for the prior year expires while the applicant is in the process of satisfying conditions set forth in an initial or reconsideration decision, the prior permit will be automatically extended beyond its original expiration date, pending satisfaction of the conditions within the time period prescribed in writing by the Bureau.

**§ 125.8. [Denial of renewal application] (Reserved).**

**[The applicant shall immediately secure workers' compensation insurance coverage upon the preliminary denial of a renewal application unless the applicant has initiated the procedures outlined under § 125.6 (f)—(h) (relating to decision on application). The applicant shall provide to the Bureau a certificate of insurance evidencing workers' compensation coverage within 30 days following receipt of a final decision denying its renewal application.]**

**§ 125.9. Security requirements.**

(a) This section applies to self-insured employers except the Commonwealth and political subdivisions. A private employer shall provide security in an amount as set forth in subsection (d). An instrumentality of the Commonwealth shall provide security in **[the minimum]** an amount **[of the security constant]** equal to the minimum security amount rounded upward to the nearest hundred thousand or in a greater amount as determined by the Bureau to protect **[employees]** employees and their dependents against temporary interruptions in the payment of benefits by the self-insurer. The security required in this section is not a substitute

for the applicant demonstrating its financial ability to **[pay compensation under the act and the Occupational Disease Act]** self-insure. A self-insurer's security may be adjusted annually or more frequently as determined by the Bureau.

(b) The following forms of security are acceptable:

(1) A surety bond on a form prescribed by the Bureau issued by a company authorized to transact surety business in this Commonwealth by the Insurance Department.

(i) **[The]** At the time of the issuance of the bond, the surety company shall possess a current A. M. Best Rating of **[B+]** A- or better or a Standard **[and]** & Poor's insurer's financial strength rating **[of claims paying ability]** of A or better or a comparable rating by another NRSRO.

(ii) The self-insurer shall replace the bond with a new bond issued by a surety company with an acceptable rating or with another acceptable form of security if the surety company's highest rating falls below **[the acceptable rating]** an A. M. Best Rating of B+, a Standard & Poor's insurer's financial strength rating of A- or a comparable rating by another NRSRO after the bond is issued. If the bond is not replaced within **[60]** 45 days, the Bureau will have discretion to draw on the surety bond and deposit the proceeds with the State Treasurer to secure the self-insurer's liability and to revoke the current permit if the bond exclusively secures claims currently being incurred against the self-insurer.

(iii) An active self-insurer that does not post another bond or another acceptable form of security to cover claims currently being incurred against the self-insurer, after the surety of a bond that exclusively secures the claims provides notification of its intention to terminate the bond, shall obtain workers' compensation insurance coverage effective the bond's termination date. The self-insurer shall provide evidence of the coverage to the Bureau no later than the coverage's effective date.

(2) A security deposit held under a trust agreement prescribed by the Bureau and maintained for the benefit of **[employees]** employees of the self-insurer:

(i) The deposit **[shall]** must consist of cash; bonds or other evidence of indebtedness issued, assumed or guaranteed by the United States of America, or by an agency or instrumentality of the United States; investments in common funds or regulated investment companies which invest primarily in United States Government or Government agency obligations; or bonds or other security issued by the Commonwealth and backed by the Commonwealth's full faith and credit.

(ii) The securities **[shall]** must be held in a Commonwealth chartered bank and trust company or trust company as defined in section 102 of the Banking Code of 1965 (7 P.S. § 102) or a Federally-chartered bank or foreign bank with a branch office and trust powers in this Commonwealth.

(iii) The trustee shall maintain a standby arrangement with a claims service company for the administration and the payment of the self-insurer's claims on behalf of the trust in the event

**of the self-insurer's default on its liability. Evidence of the standby arrangement shall be provided annually to the Bureau.**

(3) An irrevocable letter of credit using language required by the Bureau issued by and payable at a branch office of a commercial bank located in the continental United States [ , Alaska or Hawaii ]. The letter of credit [ shall ] must state that the terms of the letter of credit automatically renew annually unless the letter of credit is specifically nonrenewed by the issuing bank 60 days or more prior to the anniversary date of its issuance[ : ].

(i) At the time of issuance of the letter of credit, the issuing bank or its holding company shall have a B/C or better rating or 2.5 or better **credit evaluation** score by **Fitch Ratings, as successor to the rating services of Thomson BankWatch**, or the issuing bank shall have a **CD or long-term issuer credit** rating of BBB or better or a **short-term issuer credit rating of A-2 or better** by Standard & Poor's [ Corporation ] or a **comparable rating by another NRSRO**.

(ii) The self-insurer shall replace the letter of credit with a new letter of credit issued by a bank with an acceptable credit rating or with another acceptable form of security if [ a ] the **issuing bank's highest** rating falls below the acceptable rating **outlined in subparagraph (i)** after the letter of credit is issued. If the letter of credit is not replaced within [ 60 ] 45 days, the Bureau will draw on the letter of credit and will deposit the proceeds to secure the self-insurer's liability.

(iii) The applicant shall execute **and maintain** a trust agreement on a form prescribed by the Bureau with a Commonwealth-chartered bank and trust company or trust company as defined in section 102 of the Banking Code of 1965 or a Federally-chartered bank or foreign bank with a branch office and trust powers in this Commonwealth. **The bank and trust company or trust company shall have a nonprocurement registration number.** The trust agreement will accommodate proceeds from a letter of credit drawn on by the Bureau. **The Bureau may draw down on a letter of credit posted by a self-insurer to finance the maintenance of the trust arrangement if the self-insurer fails to maintain this arrangement.**

(iv) The trustee of the trust agreement required under subparagraph (iii) shall maintain a standby arrangement with a claims service company for the administration and the payment of the self-insurer's claims on behalf of the trust in the event of the self-insurer's default on its liability and the deposit of the proceeds of the letter of credit in the trust fund. **Evidence of the standby arrangement shall be provided annually to the Bureau.**

(c) Affiliates included under a consolidated permit under § 125.4(a) (relating to application for affiliates and subsidiaries) must be included together under the forms of security provided. For purposes of this section, affiliates [ included under a consolidated permit are considered to be one self-insurer ] that are runoff self-insurers are considered to be active self-insurers if they were included under a consolidated permit with affiliates that remain active self-insurers.

(d) The amount of security required of [ self-insured ] private employers is **determined** as [ described ] set forth in paragraphs (1)—[ (4) ] (6).

(1) For a new self-insurer, the Bureau will determine the **initial** amount of security [ . **The initial security will** ], to be calculated as follows:

(i) **An amount** no less than **two times** the amount of the applicant's total greatest annual insured incurred workers' compensation losses in this Commonwealth during the **last 3 [ complete ] completed** policy years prior to its application [ plus ], or the **minimum** security [ constant and rounded ] amount, whichever is greater.

(ii) **Discounted by the percentage outlined under subsection (i) for the applicant's highest current long-term credit or debt rating, if any.**

(iii) **Rounded** upward to the nearest hundred thousand.

(2) For those **active self-insurers** who have been approved [ for self-insurance ] to self-insure for more than 1 year but less than 3 years, the amount of security is [ the ] calculated as follows:

(i) **The greater of [ that ]:**

(A) **The amount** outlined in paragraph (1) [ or 100% ].

(B) **One hundred percent** of the **Bureau's calculation of the self-insurer's undiscounted** outstanding liability based on loss development, net of workers' compensation excess insurance recoveries [ , as adjusted by its history of loss development by the Bureau or as projected by an actuary, plus the security constant and rounded ].

(ii) **Discounted by the percentage outlined under subsection (I) for the applicant's highest current long-term credit or debt rating, if any.**

(iii) **Rounded** upward to the nearest hundred thousand.

(3) For those **active self-insurers** who have been approved [ for self-insurance ] to self-insure for 3 or more years, the amount of security is [ 100% ] calculated as follows:

(i) **One hundred percent** of the **Bureau's calculation of the self-insurer's undiscounted** outstanding liability based on loss development, net of workers' compensation excess insurance recoveries, [ as adjusted by its history of loss development by the Bureau or as projected by an actuary, plus ] or the **minimum** security [ constant and rounded ] amount, whichever is greater.

(ii) **Discounted by the percentage outlined under subsection (I) for the applicant's highest current long-term credit or debt rating, if any.**

(iii) **Rounded** upward to the nearest hundred thousand.

(4) [ Notwithstanding this subsection, the Bureau may require security in an amount greater than outlined in this section if it finds that the security resulting from the description in paragraphs (1)—(3) would not be adequate to secure fully and guarantee the payment of incurred and future benefits to each self-insurer's employes. ] When multiple affiliates are included under a consolidated

permit, the required amount of security for the consolidated program is calculated as follows:

(i) The sum of each individual affiliate's required amount of security as calculated under the applicable paragraphs above but excluding the effects of any rounding or minimum applicable to the individual affiliates, or the minimum security amount, whichever is greater.

(ii) Discounted by the percentage outlined under subsection (l) for the applicant's highest current long-term credit or debt rating, if any.

(iii) Rounded upward to the nearest hundred thousand.

(5) For runoff self-insurers, the amount of security is calculated as follows:

(i) One hundred percent of the Bureau's calculation of the runoff's undiscounted outstanding liability based on loss development, net of workers' compensation excess insurance recoveries.

(ii) Discounted by the percentage outlined under subsection (l) for the runoff's highest current long-term credit or debt rating, if any.

(iii) Rounded upward to either:

(A) The nearest ten thousand if the Bureau's calculated undiscounted outstanding liability, net of workers' compensation excess insurance recoveries, discounted by the percentage outlined under subsection (l) for the runoff's highest current long-term credit or debt rating, if any, is \$50,000 or less.

(B) The nearest hundred thousand.

(6) When multiple runoff self-insurers are included under one security instrument, the required amount of security is calculated as follows:

(i) The sum of each individual runoff self-insurer's required amount of security as calculated under paragraph (5) but excluding the effects of any rounding applicable to the individual runoff self-insurers.

(ii) Discounted by the percentage outlined under subsection (l) for the runoff self-insurers' highest current long-term credit or debt rating, if any.

(iii) Rounded upward to either:

(A) The nearest ten thousand if the Bureau's calculated undiscounted outstanding liability, net of workers' compensation excess insurance recoveries, discounted by the percentage outlined under subsection (l) for the runoffs' highest current long-term credit or debt rating, if any, is \$50,000 or less.

(B) The nearest hundred thousand.

(e) [ A self-insurer wishing to refute the Bureau's adjustment of its outstanding liability by its history of loss development may do so by providing a report prepared by an actuary. ] The Bureau may consider the analyses and projections of a report prepared by an actuary retained by a self-insurer. The Bureau is not required to accept or use the actuary's analyses or projections in calculating its projection of the self-insurer's outstanding liability under subsection (d).

(f) [ Only a projection of a self-insurer's outstanding liability prepared by an actuary may be discounted to present value. The present value dis-

count rate will be no more than the current yield of a 30-year United States Treasury bond. ] The Bureau may incorporate or use the overall Commonwealth's workers' compensation experience of insured or self-insured employers in the self-insurer's industry or of all insured or self-insured employers in its selection of loss development factors under subsection (d) if the claim volume or experience of the self-insurer is not sufficient to be considered fully credible based on generally accepted actuarial procedures. The loss development factors selected by the Bureau and its other judgments in its calculation of a self-insurer's outstanding liability will be sufficiently conservative to ensure the adequate provision of security.

(g) The Bureau may make any adjustments to the loss development procedures under subsection (d) it deems appropriate under the circumstances, or it may use methods other than loss development it determines to be reasonable to calculate the amount of the self-insurer's outstanding liability, if the Bureau believes that a self-insurer has changed its reserving methodology in such a way as to invalidate loss development factors based on past experience. [ The Bureau may further require the self-insurer to obtain the services of an actuary to project its outstanding liability or require an appropriate party to conduct an audit of the self-insurer's claims reserves. ]

(1) The Bureau may substitute the self-insurer's default multiplier-calculated security factor for the outstanding liability amount based on loss development in calculating the self-insurer's required amount of security if the Bureau believes that the paid, incurred or case reserve data reported under § 125.3 (relating to application) or under § 125.16 (relating to reporting by runoff self-insurer) is substantially inaccurate and cannot be accurately replaced within a reasonable period of time.

(2) In applying the default multiplier-calculated security factor, the Bureau may adjust a self-insurer's annual payout of benefits to correct any material underpayment of benefits the Bureau believes results from the self-insurer's failure to pay compensation for which it is liable during the evaluation period or if the Bureau finds that the factor would inadequately estimate the self-insurer's outstanding liability, including liability from a significant infusion of claims.

\* \* \* \* \*

(i) The Bureau may reduce the amount of security required of a self-insurer under subsection (d) to no less than the minimum security [ constant ] amount rounded upward to the nearest hundred thousand if the self-insurer establishes a funding trust to provide a source of funds for the payment of its liability. A self-insurer may elect to establish a funding trust or it may be required by the Bureau to establish a funding trust where the Bureau determines that a dedicated source of funds is needed to further ensure the timely payment of the self-insurer's liability. In either case, the following conditions shall be met:

(1) The trust agreement [ shall ] must be in a form prescribed by the Bureau.

(2) The trust assets [ shall ] must be held in a Commonwealth chartered bank and trust company or trust company as defined in section 102 of the Banking



Code of 1965 or a Federally chartered bank or foreign bank with a branch office and trust powers in this Commonwealth.

(3) The value of the trust fund [shall] must be adjusted at least annually to the required funding level as determined by the Bureau [or an actuary].

(j) A self-insurer with security [as of October 14, 1995,] which is less than the level of security required by subsection (d) may be permitted to phase in the level of required security over a maximum of [3] 2 years. The Bureau will determine the terms of the phase-in period, including the length of time and the annual [adjustments] phase-in amounts.

(k) [The Bureau will not grant a request for a reduction in or release of security by a runoff self-insurer until at least 1 year has passed since the termination of its self-insurance status or the runoff self-insurer provides a certificate of insurance evidencing that its self-insurance liability has been assumed by an authorized workers' compensation carrier. Requests shall be supported by a report prepared by an actuary projecting the runoff self-insurer's outstanding workers' compensation obligation, a claims reserves analysis prepared by an appropriate party or a certificate of insurance evidencing assumption of self-insurance liability. The Bureau will consider but is not bound by the findings of the reports in deciding security reduction or release requests.] The Bureau may release a runoff self-insurer of its obligation to provide security if either of the following occurs:

(1) The runoff self-insurer provides evidence that its liability was assumed under a self-insurance loss portfolio transfer policy.

(2) If the runoff self-insurer made no payments on its liability over the past 2 years, all claims against the runoff self-insurer are closed and the runoff self-insurer presents evidence acceptable to the Bureau that it is unlikely that any new claims will be filed or that any closed claims will be reopened.

(l) The [amount of security required of a self-insurer under subsection (d)] shall be discounted by 40% and rounded upward to the nearest hundred thousand if the [following discount percentages shall be applied in calculating a self-insurer's required amount of security under subsection (d)] based on the highest long-term credit or debt rating of the self-insurer or of the affiliate guarantying the self-insurer's liability: [is rated Aaa or Aa by Moody's Investors Services or AAA or AA by Standard & Poor's Corporation. The amount of security required of a self-insurer under subsection (d)] shall be discounted by 20% and rounded upward to the nearest hundred thousand if the debt of the self-insurer or of the affiliate guarantying the self-insurer's liability is rated A or Baa by Moody's Investors Services or A or BBB by Standard & Poor's Corporation. A self-insurer receiving one of the discounts outlined in this subsection shall increase its security to the amount required under subsection (d) as limited by this subsection, if applicable, if the debt rating of the self-insurer or of its guarantying affiliate is downgraded to below the rating qualifying it for the discount.]

#### Security Discount Table

<i>Moody's Investors Service</i>	<i>Standard &amp; Poor's, Fitch Ratings, or Dominion Bond Rating Service</i>	<i>Security Discount</i>
Aaa	AAA	75%
Aa1	AA+	65%
Aa2	AA	60%
Aa3	AA-	55%
A1	A+	45%
A2	A	40%
A3	A-	35%
Baa1	BBB+	25%
Baa2	BBB	20%
Baa3	BBB-	15%
Ba1 and lower	BB+ and lower	0%

(m) [Termination of self-insurance status may not relieve a runoff self-insurer from the obligation to provide security under this section, including the obligation to provide additional security due to increases in the value of its outstanding liability.] The Bureau may revise the table in subsection (l) through publication of a notice in the *Pennsylvania Bulletin*, to assign security discount rates for revisions to the long-term credit or debt ratings of the outlined NRSROs or for the long-term credit or debt ratings of other NRSROs.

#### § 125.10. Funding by public employers.

(a) A self-insured public employer shall establish and maintain a [trust fund] dedicated asset account to provide a source of funds for the payment of benefits and other obligations and expenses relating to its self-insurance program. [The trust agreement shall be in a form prescribed by the Bureau.] This section does not apply to [the Commonwealth] a runoff self-insured public employer whose average annual payout of benefits on self-insurance claims over its last 3 completed calendar years, net of workers' compensation excess insurance recoveries, is less than the current Statewide average weekly wage multiplied by 100.

(b) [For a public employer whose self-insurance status began or begins on or after October 14, 1995, the funding level of the trust fund established under subsection (a) shall be maintained at a level which is at least equal to the self-insurer's outstanding liability.] For a new self-insured public employer and for an active self-insured public employer that has been self-insured for less than 3 consecutive years, the required asset level of the dedicated asset account established under subsection (a) is calculated as follows:

(1) An amount greater than or equal to 20% of the public employer's modified manual premium calculated in accordance with § 125.202 (relating to definitions) or the minimum funding amount, whichever is greater.

(2) Discounted by the percentage outlined under § 125.9(l) (relating to security requirements) for the self-insurer's highest current long-term credit or debt rating, if any.

(3) The dedicated asset account must equal the above prescribed asset level no later than 30 days before the effective date of the public employer's initial permit and may not be reduced below this asset level for the first 3 years of self-insurance.

(c) For an active self-insured public employer that has been self-insured for more than 3 consecutive years but less than 7 consecutive years, the required asset level of the dedicated asset account established under subsection (a) is calculated as follows:

(1) An amount greater than or equal to the greater of the following:

(i) The self-insurer's greatest annual payout of benefits since its initial approval to self-insure, net of workers' compensation excess insurance recoveries, plus 20% of that annual payment amount.

(ii) The minimum funding amount.

(2) Discounted by the percentage outlined under § 125.9(l) for the self-insurer's highest current long-term credit or debt rating, if any.

(3) The dedicated asset account must be equal to or exceed the prescribed asset level 120 days before the beginning of the self-insurer's next fiscal year or at a later date agreed to by the Bureau.

(4) The Bureau may adjust the self-insurer's greatest annual benefit payout amount to correct any material underpayment of benefits the Bureau believes is the result of the self-insurer's failure to pay compensation for which it is liable during the evaluation period.

(d) For an active self-insured public employer that has been self-insured for 7 or more consecutive years, the required asset level of the dedicated asset account established under subsection (a) is calculated as follows:

(1) An amount greater than or equal to the greater of the following:

(i) The self-insurer's average annual payout of benefits over its three most recent completed calendar years, net of workers' compensation excess insurance recoveries, plus 20% of that average payment amount.

(ii) The minimum funding amount.

(2) Discounted by the percentage outlined under § 125.9(l) for the self-insurer's highest current long-term credit or debt rating, if any.

(3) For good cause shown, the Bureau may permit an active self-insurer, who is self-insured on \_\_\_\_\_ (*Editor's Note:* The blank refers to the effective date of adoption of this proposed rulemaking.) and whose existing workers' compensation account or trust fund is funded below the required level under subparagraphs (i) and (ii), to phase-in compliance with the required funding amount of this subsection within a time period prescribed by the Bureau. The following also apply to this arrangement:

(i) The phase-in must not diminish the injured workers' guaranty of benefits or provide inad-

equately funding for the proper administration of the self-insurer's claims or for the timely payment of other obligations relating to the self-insurance program.

(ii) The self-insurer shall make annual deposits into the dedicated asset account in the minimum amount of 5% of its payout of benefits in the prior calendar year, or \$100,000, whichever is greater.

(iii) During the phase-in period, the self-insurer may not withdraw any assets from the dedicated asset account without the approval of the Bureau until the required funding level of the account under paragraphs (1) and (2) is met.

(iv) If the asset level of the self-insurer's dedicated asset account remains below the required level under paragraphs (1) and (2) after six annual deposits under clause (A), thereafter the required asset level of the account established under subsection (a) is calculated as follows:

(A) The actual asset value of the dedicated asset account at the time of the sixth annual deposit under clause A divided by the amount required under paragraphs (1) and (2) at that time.

(B) Multiplied by the amount required to be in the designated asset account under subparagraphs (1) and (2) for the current year.

(4) The dedicated asset account must equal or exceed the prescribed asset level 120 days before the beginning of the self-insurer's next fiscal year or at a later date agreed to by the Bureau.

(5) The Bureau may adjust the self-insurer's average annual payout of benefits to correct any material underpayment of benefits the Bureau believes is the result of the self-insurer's failure to pay compensation for which it is liable during the evaluation period.

(e) For a runoff self-insured public employer, the asset level of the dedicated asset account established under subsection (a) is that outlined under subsection (d), except that the minimum funding amount does not apply.

[ (c) For a public employer whose self-insurance status began prior to October 14, 1995, the funding level of the trust fund established under subsection (a) shall be maintained at a level which is at least equal to the difference between the self-insurer's outstanding liability as of a date determined by the Bureau following October 14, 1995, and its current outstanding liability or at a level which is greater than this amount as determined by the Bureau due to the financial condition or the workers' compensation loss experience or funding history of the self-insurer. ] (f) If a public employer self-insurer does not possess an investment grade long-term credit or debt rating, the Bureau may require that the asset level of its dedicated asset account established under subsection (a) be greater than that outlined under subsection (b), (c) or (d), in any amount which the Bureau determines will guaranty that the self-insurer will have sufficient funding to meet fully its claims payments and other obligations and expenses relating to its self-insurance program as they come due over the self-insurer's next fiscal year.

§ 125.11. [ Specific excess insurance and aggregate excess ] Excess insurance.

(a) [ A self-insured private employer with quick assets of less than the Statewide average weekly wage multiplied by 200,000 or with cash and cash equivalents of less than the Statewide average weekly wage multiplied by 100,000 or a self-insured public employer with general fund quick assets of less than the Statewide average weekly wage multiplied by 50,000 shall obtain specific excess insurance with a liability limit acceptable to the Bureau and a retention amount or cash flow protection amount which is less than 10% of its quick assets. The Bureau may waive this requirement upon written request if the self-insurer demonstrates that it has sufficient financial strength and liquidity to assure that all obligations under the act and the Occupational Disease Act will be promptly met without the protection of an excess insurance policy. ] An applicant whose catastrophic loss estimation is greater than its maximum quick assets exposure amount shall obtain aggregate excess insurance or specific excess insurance with a retention amount that is no more than its authorized retention amount and a liability limit acceptable to the Bureau to provide an adequate level of protection to cover the losses from a catastrophic event.

(b) [ Aggregate excess insurance may be obtained by a self-insurer. The Bureau will not recognize a contract or policy of aggregate excess insurance in considering the ability of an applicant to fulfill its financial obligations under the act and the Occupational Disease Act unless the contract or policy complies with subsection (c).

(c) The ] A contract or policy of [ aggregate ] excess insurance [ or specific excess insurance, or both, shall ] must comply with the following:

(1) [ It shall be issued by an excess insurer which possesses an A. M. Best Rating of B+ or better or a Standard and Poor's rating of claims paying ability of A or better.

(2) ] It [ shall ] must state that it is not cancelable or nonrenewable unless written notice by registered or certified mail is given to the other party to the policy and to the Bureau at least 45 days before termination by the party desiring to cancel or not renew the policy.

[ (3) ] (2) It [ shall ] must state that if a self-insurer is unable to make benefit payments under the act and the Occupational Disease Act due to insolvency or bankruptcy, the excess carrier shall make payments to other parties involved in the paying of the self-insurer's liability, as directed by the Bureau, subject to the policy's retentions and limits.

[ (4) ] (3) It [ shall ] must state that the following apply toward reaching the retention amount in the excess contract:

\* \* \* \* \*

[ (5) ] (4) It [ shall ] must state that it applies to any losses of a self-insurer under the act and the Occupational Disease Act [ ; it ]. It may not exclude coverage for any categories of injuries or diseases compensable under the act and the Occupational Disease Act.

[ (d) ] (c) A certificate of the excess insurance obtained by the self-insurer [ shall ] must be filed with the Bureau together with a certification that the policy fully complies with subsection [ (c) ] (b).

§ 125.12. Payment, handling and adjusting of claims.

\* \* \* \* \*

(c) A self-insurer shall notify the Bureau when it changes arrangements for the handling or adjusting of its claims, including the initiation, modification or termination of self-administration arrangements or the initiation, termination, expiration or modification of services with a registered claims services company. Upon the Bureau's request, the self-insurer shall forward to the Bureau a summary of data on its claims, such as cumulative payments sorted by year of loss, in a Bureau-prescribed format and in a time-frame agreed to by the Bureau if the Bureau determines that this data is necessary to maintain the integrity of past data on the claims filed or to rectify or explain discrepancies or questions raised by the data summary.

§ 125.13. Special funds assessments.

(a) A self-insurer is responsible for the payment of assessments to maintain funds under the act, including:

\* \* \* \* \*

(5) The Uninsured Employers Guaranty Fund.

\* \* \* \* \*

(c) A self-insurer shall keep accurate records of compensation paid on a calendar year basis, including payment for disability of all types, death benefits, medical benefits and funeral expenses, for the purposes of assessments under the act and the Occupational Disease Act. The records [ shall ] must be available for audit or physical inspection by Bureau [ employes ] employees or other designated persons, whether in the possession of the self-insurer or a service company. If the Bureau has a reasonable basis to question the annual compensation payments reported by the self-insurer, it may require the self-insurer to retain the services of the self-insurer's licensed certified public accounting firm to audit the data reported to provide confirmation or make necessary adjustments.

§ 125.15. Workers' compensation liability.

(a) Notwithstanding the terms of a guarantee and assumption agreement executed under § 125.4(b) (relating to application for affiliates and subsidiaries), a self-insurer or a runoff self-insurer remains liable for workers' compensation on injuries or disease exposures occurring during its period of self-insurance. With application to and permission from the Bureau, liability can be transferred to another employer. Liability also may be transferred [ to a company authorized to write workers' compensation insurance in this Commonwealth if the employer gives written notice to the Bureau within 10 days of the transfer ] through a self-insurance loss portfolio transfer policy.

(b) A self-insurer which liquidates or dissolves shall transfer its liability to a third party, subject to the approval of the Bureau, or shall [ insure its liability with a company authorized to write workers' compensation insurance in this Commonwealth ] obtain a self-insurance loss portfolio transfer policy covering the liability.

(c) If a self-insurer sells or divests a part of itself, self-insurance coverage ends for the separated parts on the date of separation. The self-insurer remains [ responsible ] liable for claims incurred against the separated part occurring up to the date of separation unless the Bureau approves [ an alternative arrangement for the payment of ] a request to transfer the self-insurer's liability to another entity.

§ 125.16. Reporting by runoff self-insurer.

(a) A runoff self-insurer shall file an annual report with the Bureau by a date prescribed by the Bureau on a prescribed form.

(b) The runoff report [ shall ] must include a [ list of the runoff self-insurer's open cases, the reserves on those cases, the administrator of those cases and the runoff self-insurer's payout for workers' compensation benefits in the preceding calendar year ] listing in a Bureau-prescribed electronic format of the runoff's Pennsylvania workers' compensation claims, including all claims currently in litigation, and information such as payments and reserves on each claim. The listing must include all opens claims at the time of submission and, if available, all claims closed in the past. If a listing of all claims closed in the past is not available, the listing must at least include all claims closed on or after \_\_\_\_\_ (Editor's Note: The blank refers to the effective date of adoption of this proposed rulemaking.). Case reserves provided in the listing must be established according to the Bureau's instructions. This report [ shall ] must be filed until all cases incurred during the runoff self-insurer's period of self-insurance are closed for at least 2 years.

(c) A runoff self-insurer that is a private employer shall make any request for the adjustment of its amount of security in writing when it submits its runoff report. If the runoff self-insurer disagrees with the Bureau's decision on the request, it may request reconsideration of this decision under § 125.6(e) (relating to decision on application).

§ 125.17. Claims service companies.

\* \* \* \* \*

(c) The claims service company shall employ at least one person on a full-time basis who has the knowledge and experience necessary to service claims properly under the act and the Occupational Disease Act. A resume covering that person's background [ shall ] must be attached to the registration form of the claims service company.

(d) A claims services company whose engagement to handle or adjust the claims of a self-insurer is terminating or expiring, or has terminated or expired, shall provide reasonable assistance to the self-insurer and the Bureau in providing data and information on the claims serviced to maintain the integrity of past data on the claims filed with the Bureau, to rectify or explain discrepancies or questions on the claims data raised by the Bureau, or to address other related issues identified by the Bureau.

§ 125.19. Additional powers of Bureau and orders to show cause.

[ In addition to the powers enumerated elsewhere in this subchapter, the act and the Occupational

Disease Act, the Bureau will have the authority, after notice and opportunity for hearing, to suspend a self-insurer's permit, to issue cease and desist orders and to order corrective actions if a self-insurer is in violation of this subchapter, the act or the Occupational Disease Act. ] (a) If the Bureau has reason to question whether a self-insurer continues to maintain the financial ability to self-insure during the pendency of a permit, authorized under section 305(a)(3) of the act (77 P. S. § 501(a)(3)) and under section 305 of the Occupational Disease Act (77 P. S. § 1405), it may issue a letter to the self-insurer noting the reasons for its concerns and outlining the documents, data and information upon which the Bureau's concerns are based. The following also apply:

(1) The Bureau's letter is treated for procedural purposes as if it were an initial decision denying a renewal application under § 125.6(d) (relating to decision on application).

(2) When the Bureau determines that the self-insurer no longer possesses the financial ability to self-insure, the self-insurer's current permit will be revoked, unless the self-insurer timely initiates the procedures outlined under § 125.6(e)—(g).

(3) The self-insurer shall obtain workers' compensation insurance coverage effective no later than 30 days after its receipt of a notice of revocation by the Bureau and provide evidence of the coverage to the Bureau no later than the coverage's effective date.

(b) The Department may serve upon a self-insurer an order to show cause why its self-insurance status should not be suspended or revoked under section 441(b) of the act (77 P. S. § 997(b)) for unreasonably failing to pay compensation for which it is liable, or for failing to submit any report or to pay any assessment made under the act.

(1) The order to show cause proceedings are governed by provisions in Chapter 121 (relating to general provisions), found in § 121.27 (relating to orders to show cause).

(2) The self-insurer shall obtain workers' compensation insurance coverage effective no later than 30 days after its receipt of an order revoking or suspending its self-insurance status and provide evidence of the coverage to the Department no later than the coverage's effective date.

§ 125.20. Computation of time.

[ Unless otherwise provided, reference to the term "days" in this subchapter means calendar days. For purposes of determining timeliness of filing and receipt of documents transmitted by mail, 3 days shall be presumed added to the prescribed period. If the last day for filing a document is a Saturday, Sunday, legal holiday or a day on which the Bureau's offices are closed, the time for filing shall be extended to the next business day. Transmittal by mail shall mean by first-class mail. ] Except as otherwise provided by law, in computing a period of time prescribed or allowed by this chapter, the day of the act, event or default after which the designated period of time begins to run may not be included. The last day of the period so computed shall be included, unless it is Saturday,

Sunday or a legal holiday in this Commonwealth, in which event the period shall run until the end of the next day which is neither a Saturday, Sunday nor a holiday. A part-day holiday shall be considered as other days and not as a holiday. Intermediate Saturdays, Sundays and holidays shall be included in the computation.

**§ 125.21. Self-insurance loss portfolio transfer policy.**

A self-insurance loss portfolio transfer policy must comply with all of the following:

(1) The insurance carrier must be a workers' compensation insurer.

(2) The policy must provide statutory coverage limits and state that the insurer is responsible to defend, adjust and handle all open, reopened and incurred but not reported claims against the self-insurer for the period of time covered by the policy.

(3) The policy must be retrospective, providing coverage for a consecutive period of time of self-insurance.

(4) The policy must be noncancelable by either the insurance carrier or the self-insurer for any reason.

(5) The amount of annual compensation paid by the insurance carrier on any claims assumed under

the policy must be included as compensation paid on the data reports filed with the Insurance Department.

(6) The insurance carrier must include the premium received on the policy in the amount of net written workers' compensation premium it annually reports to the Insurance Department or to the National Association of Insurance Commissioners.

(7) The insurance carrier must notify existing claimants with injuries or diseases covered by the policy that it has assumed liability for the payment and handling of their claims.

(8) The insurance carrier must file the policy with a rating organization approved by the Insurance Commissioner and identify it as a special self-insurance loss portfolio transfer policy. The insurance carrier should not report statistical information on claims assumed under the policy to the rating organization.

(9) The insurance carrier must enter an appearance with the appropriate workers' compensation judge, the Workers' Compensation Appeal Board and any appellate court on each pending claim in adjudication against the self-insurer for injuries or disease exposures occurring during the time period covered by the policy.

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